

# KANSAS BOARD OF HEALING ARTS

**LAWRENCE T. BUENING, JR.**  
EXECUTIVE DIRECTOR



**KATHLEEN SEBELIUS, GOVERNOR**

**TO:** House Committee on Health and Human Services  
**FROM:** Lawrence T. Buening, Jr.  
Executive Director  
**DATE:** February 13, 2004  
**RE:** House Bill No. 2698

Thank you for the opportunity to appear before you and provide testimony regarding House Bill No. 2698 on behalf of the Kansas State Board of Healing Arts. This bill would place the responsibility on the Board to regulate radiologic technologists and x-ray technicians. The Board is not taking a position either in favor or in opposition to the enactment of this bill.

The Kansas Board of Healing Arts was created in 1957. When the Board was created, the Legislature specified in K.S.A. 65-2801 that its purpose was to insure that "the public shall be properly protected against unprofessional, improper, unauthorized and unqualified practice of the healing arts". That purpose has not changed in the past 47 years and K.S.A. 65-2801 remains as it was enacted in 1957. Today, the Board regulates approximately 17,500 individuals that provide health care in 13 health care professions.

This is the fourth consecutive year that a bill has been introduced in the Legislature to regulate radiologic technologists. During the 2003 Legislative Session, various groups met to try to work out language that would be acceptable to all interested parties. After those meetings in February, very little was accomplished toward reaching a mutually agreeable resolution of the issues raised by this bill. However, at its meeting on December 6, the State Board of Healing Arts reviewed likely proposals for this Legislative Session. One of the items reviewed and discussed by the Board was 2003 H.B. No. 2274 relating to the licensure of radiologic technologists. The Board directed its staff to arrange a meeting with interested parties and to attempt to facilitate a compromise bill that addressed all concerns. Meetings were held on December 17, 2003, and another on January 23, 2004, totaling more than five hours. There has been continued communication among the parties for the past several weeks. Yet, there does not appear to be a compromise on the horizon. The failure to reach a compromise should not be construed to be evidence of lack of good faith or unwillingness to negotiate on the part of any of the interested parties. Rather, there is an honest disagreement as to what is best for the citizens of the state of Kansas and the public's health, safety and welfare.

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In October 1998, the Kansas Society of Radiologic Technologists submitted a credentialing application to the Kansas Department of Health and Environment. The Application was reviewed by a technical committee in accordance with the Kansas Credentialing Act (K.S.A. 65-5001 *et seq.*). On October 13, 1999, the technical committee issued its final findings and conclusions following a public hearing at which both proponents and opponents of the credentialing application were given the opportunity to provide testimony. I would urge each member of this Committee to review these findings and conclusions in detail. The technical committee found that the criteria for credentialing had been met and recommended that licensure for radiologic technologists is the appropriate level of credentialing. Also in that report, the technical committee found there are currently 2532 registered and/or certified radiologic technologists in Kansas. It also estimated that this number was approximately 75% of the persons currently performing radiology services in the state, so of these approximately 25% or 844 are non-credentialed persons performing radiology services who would be negatively affected by licensure. On November 1, 1999, Clyde D. Graeber, Secretary of Health and Environment, issued a final report to the Legislature in which he concurred that radiologic technologists should be licensed. I would urge each of you to review the statutory criteria the Secretary was required to apply to the credentialing application as set forth in K.S.A. 65-5006.

House Bill No. 2698, as introduced, and in the form before you today provides for two rather unique situations. First, although the bill provides for the registration of x-ray technicians, the second sentence of Section 8(c) at page 5, lines 38-39 states that after January 1, 2005, a person must be registered as an x-ray technician in order "to perform the functions of an x-ray technician". This goes beyond mere title protection, but actually creates a scope of practice which has generally been associated with licensure. Secondly, the bill does not allow practitioners to delegate radiologic technology to persons who are not licensed or registered as provided by this bill. This is a unique provision. The Legislature, the courts and the Board have long recognized the ability of practitioners of the healing arts to delegate services to non-credentialed individuals. Specifically, K.S.A. 65-2872(g) states that the practice of the healing arts shall not be construed to include persons "whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act". This delegation authority is recognized in all of the statutes that create a license or registration for professions regulated by the Board. See K.S.A. 2003 Supp. 65-2913(c)(5)---physical therapy; K.S.A. 65-5418(b)(5)---occupational therapy; and K.S.A. 65-5515(b)(5)---respiratory therapy. Even professions not regulated by the Board contain the delegation authority. See K.S.A. 65-1508---optometry; and K.S.A. 65-1125(h)---nursing.

H.B. No. 2698, as introduced, is a hodgepodge of provisions from the three bills introduced in the three previous Legislative Sessions and of discussions that have been held the last few months. It is a difficult bill to read and understand. I have attached to this testimony a draft of the bill containing suggested amendments. These amendments will hopefully address the issues brought to your attention on Friday by Dr. Wolff as well as some other issues we have identified. However, they are not all presented in a balloon amendment format. If these amendments were adopted, the Board should be able to provide for the regulation of radiologic technologists and x-ray technicians. However, whether H.B. No. 2698 should be adopted, with or without any amendments, falls on the shoulders of this Legislature. In making that decision, you may wish to take into consideration the effect this legislation will have on the quality of care and what is necessary to protect the public as well as the effects of accessibility, availability and affordability of health care and, specifically, radiologic technology.

Thank you for the opportunity to appear before you. I would be happy to respond to any questions.