

MEMORANDUM

TO: House Health and Human Services Committee

FROM: Lawrence T. Buening, Jr.
Executive Director

RE: **H.B. No. 2829**

DATE: February 13, 2006

Thank you for the opportunity to appear before you and express the opposition of the Kansas Board of Healing Arts to H.B. No. 2829. The Board met on Friday and Saturday, February 10 and 11, 2006, and reviewed this bill in detail. The Board took action to direct that I inform the Committee of the Board's opposition to this bill.

Separate written testimony has been provided by Mark A. McCune, M.D., one of the 15 members of the Kansas Board of Healing Arts. Also present today is Roger Warren, M.D., the current president of the Board. Dr. Warren practices general surgery in Hanover, Kansas, and is here to answer any questions you might have regarding the Board position on this bill.

The Board's concerns regarding this bill primarily involved the duplication of administrative oversight and the costs of the bill. Dr. McCune's testimony reviews the Board's efforts in adopting guidelines for office-based surgery. The Board's rules and regulations first became effective on a temporary basis on August 22, 2005. The rules and regulations were re-adopted as temporary regulations effective December 20, 2005, and those will continue in effect until April 18, 2006. However, at the meeting held on Saturday, February 11, 2006 Board did adopt these as permanent regulations which will become effective 15 days following publication in the Kansas Register. A copy of these rules and regulations can be viewed from the Board's website at www.ksbha.org, clicking on "Rules and Regs" and then clicking on "100-25. Office Requirements".

In preparation for the enforcement of these rules and regulations, an Office-Based Surgery Survey was mailed to approximately 6000 licensees on February 10. This survey was mailed to all medical doctors, osteopathic doctors, and podiatric doctors with an active Kansas license who have a practice address in Kansas or Kansas City, Missouri. A copy of the survey is attached. Also, the Board directed that the Committee that developed the rules and regulations continue to meet and discuss the process by which the Board will conduct inspections and investigations of offices. It is expected that this Committee will meet in March and have recommendations for presentation to the Board as a whole at the regular meeting to be held April 8.

The other primary concern for the Board is the provision in last sentence of Section 6 (page 4, lines 16 through 19). This sentence provides that the Board would be responsible to pay to the Kansas Department of Health and Environment for the costs of inspections conducted by KDHE. KDHE has indicated a fiscal note of \$2.2 million. The Board is totally funded by the fees it collects from the approximately 20,500 individuals it regulates in 13 health care professions. Currently, the Board's total expenditure limitation for FY2006 is \$2,639,456 (L. 2005, Chapter 206, Section 66). Based on current statutory maximums for the regulated professions, it would not be possible for the Board to pay KDHE for the costs of inspections. Further, the 2005 Legislature directed that \$750,000 be transferred from the Board's fee fund in addition to other transfers to the general fund the Board is required to make (L. 2005, Chapter 174, Section 14). As a result, the Board's fee fund has been severely depleted and steps are currently ongoing to arrange to delay payment of bills during March, April and May.

Thank you for the opportunity to appear before you and provide you with the Board's position on H.B. No. 2829. I would be happy to respond to any questions.