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M I N U T E S

SPECIAL COMMITTEE ON HEALTH AND HUMAN RESOURCES

September 18 and 19, 1975

Members Present

- Representative Richard Walker, Chairman
- Senator Elwaine Pomeroy, Vice-Chairman
- Senator William Mulich
- Senator John Vermillion
- Representative J. Santford Duncan
- Representative Sharon Hess
- Representative Norman Justice
- Representative Marvin Littlejohn
- Representative Anita Niles

Staff Present

- Emalene Correll, Legislative Research Department
- Norman Furse, Revisor of Statutes Office

Others Present

- Sister M. Noel Walter, Kansas Catholic Conference, Atchison
- Mrs. Bert Falley, Topeka
- Nelson Tilden, Kansas Hospital Association, Topeka
- Peteris Dajevskis, Division of State Planning and Research
- Mary Wiersma, Kansas Farm Bureau, Manhattan
- Ira Dennis Hawver, Kansas Department of Health and Environment
- Gary Robbins, Kansas State Nurses Association
- Frank Gentry, Kansas Hospital Association

The meeting was called to order by the Chairman, Representative Richard Walker who welcomed Representative Marvin Littlejohn as a new Committee member. Representative Littlejohn replaces Representative Brokaw who resigned because of ill health.

A motion was made and seconded to amend the minutes of the August meeting on page 6, third full paragraph by changing it to read ", health departments (county, city-county, multi-county) and boards of health (county and joint)" and "or the secretary's designee" instead of "his designee", and to approve the minutes as amended. Motion carried.

Staff noted that a second group of statutes may need to be amended to bring them into line with policy decisions the Committee makes.

Staff submitted a draft bill as directed by the Committee at the August meeting. It was agreed that minor changes in the bill would be made by consensus unless an objection was raised in which case the chair would call for a vote.

Section 1 - Delete "so" before "constructed" and insert "so" after "constructed"; delete "shall" after "bodies".

Section 2 - Page 1, delete "any" and insert "the" before "local". Page 2, line 8, insert "cemetery district" after "firm"; line 9, delete "And" and capitalize the "i" in "if".

Section 4 - Page 7, line 11, delete "or city" and insert in lieu thereof ", city-county or multi-county"; line 13, delete "county or city" and insert in lieu thereof "local".

Section 7 - Page 8, lines 13 through 22, after considerable discussion regarding wording, it was agreed that Representative Duncan would meet with staff and submit a proposed amendment at a later point in the meeting.

Section 11 - When the legislature changed language establishing special funds when fees are collected, this statute was not amended. Staff will call this to the attention of the Special Committee on Social and Rehabilitation Services Institutions. Page 10, line 18, delete "will" and insert in lieu thereof "shall"; line 21, delete "charge" and insert in lieu thereof "fee"; line 22, delete "which" and insert in lieu thereof "and".

It was noted there may be a conflict between the bottom of page 9 and Section 11. The persons named in the application may not be the administrator. There is some possibility that this might indicate a whole new license would be required. Staff stated it would be appropriate for the Special Committee on Social and Rehabilitation Institutions to consider this point. If they do not, staff is to bring it back to this Committee.

In answer to a question, staff stated they will coordinate changes made by this Committee and the other Committees in cases where they are working on the same statutes.

Section 12 - Page 12, line 5, delete "board" and insert in lieu thereof "secretary of health and environment"; line 7, delete "board" and insert in lieu thereof "secretary of health and environment".

Section 14 - Concern was expressed by a member of the Committee over the phrase "without notice to the operators". For some inspections advance notice is needed so the administrator will have time to pull charts, histories and other records required

by those doing the inspection. It was pointed out this applies primarily to inspections for certification for Medicare and Medicaid. Concern was also expressed that compliance with this section might necessitate longer time periods to complete inspections. By consensus the new clause is to be left in.

Section 18 - Page 14, line 16, insert "or joint" before "board"; line 17, insert "local" before "health officer"; line 25, delete "local" and insert in lieu thereof "county or joint"; line 26, insert "local" before "health officer"; line 28, insert "local" before "health"; line 29, delete "physician" and insert in lieu thereof "person" since this could be someone other than a physician such as a nurse or nurse clinician; line 31, delete "local" and insert in lieu thereof "county or joint" and insert "local" before "health officer".

Section 19 - Page 15, lines 1 and 2, this amendment keys the language to the current practice. Staff noted this section does not cover pre-school. If the intent of the legislature was to cover places where children might be in groups, this language is not sufficient. It was noted it would be difficult to enforce this statute in regard to Sunday schools. A motion was made and seconded to insert "or licensed day care facility" where appropriate in the first and second sentences of Section 19 and to delete "Sunday school". Motion carried. Line 10, delete "physician" and insert the terminology now used and insert "local" before "health officer".

Section 20 through Section 22 - It was noted that these statutes as well as some others may need to be included in a separate bill to comply with the Committee's policy decision to delete names of specific diseases since the subject matter of the statutes is not the same as that of this bill. By consensus, K.S.A. 65-117 through 65-129 are to be considered separately.

Section 23 - Page 16, line 10, delete "local" and insert in lieu thereof "county or joint"; line 17, delete "local" and insert in lieu thereof "county or joint".

New Section 24 - Page 16, line 30, delete "local" and insert in lieu thereof "county or joint".

Section 26 - Page 17, lines 27, 28 and 32, delete "local" and insert in lieu thereof "county". This will clarify the term where it is used in other statutes; page 18, line 7, delete "his".

Section 27 - Page 18, line 17, delete "county" and insert in lieu thereof "local" to comply with terminology used in other statutes, line 24, delete "or local"; page 19, lines 10 and 14, add "s" to "inspection"; line 27, delete "local" and insert in lieu thereof "county".

The meeting was recessed at 12:00 noon and reconvened by the Chairman at 1:45 p.m.

Staff noted that the Committee had asked them to draft a bill giving the Secretary of Health and Environment the authority to close schools under certain conditions but did not specify which schools were to be included. After discussion, the consensus was to include public, private and parochial elementary and secondary schools.

Section 28 - Page 20, line 22, delete "Provided, That" and change "i" to "I" in the word "in"; line 25, delete "for such purposes and also" as this is redundant since there is no longer a mill limit on the levy.

Section 29(b) - It was noted that this amendment made a substantive change in a definition and that other statutes should also be considered in conjunction therewith. One member expressed concern over allowing nurses to provide services in hospitals. Staff will look into this and report on this issue.

Section 30 - Page 21, lines 19 through 26, delete the first sentence and reinsert the second sentence. Since this is a section of a licensing act, the second sentence is necessary and the first sentence is not; lines 28 and 29, staff was asked to change terms referring to licensed, certificate, and registered to current terminology.

K.S.A. 72-5208 - The Committee had asked staff to change the definition of school in this statute to conform to the definition currently used by the Department of Education. The definition now in this section does conform so the statute was not included in this bill.

Section 7 - Page 8, lines 13 through 22, Representative Duncan presented a proposed amendment as requested by the Committee. The section is to be amended to read as follows: "Such family planning centers, upon the request of any person or upon referral by a person licensed to practice medicine and surgery, may furnish and disseminate information concerning the means and methods of planned parenthood and may furnish such contraceptive devices as recommended by the secretary of health and environment to any resident of this state." A motion was made and seconded to adopt this as an amendment to the bill. Motion carried.

A motion was made and seconded to approve all changes made in the bill, except those in Sections 18 through 22 such sections to be put in a separate bill, a draft of which is to be presented to the Committee at the October 3 meeting.

The Chairman referred to the meeting he and staff had with representatives of the State Department of Health and Environment and representatives of the Regional Office of Health, Education and Welfare. They discussed P.L. 93-641, isolating areas in which the state should take action, areas in which the state has some latitude, and clarifying some things the state can do. The Chairman and staff reviewed this meeting.

In answer to a question, it was determined that the Secretary of HEW has approved the HSA boundary change recommended by Governor Bennett.

By consensus the Committee will discuss local health services in terms of minimum standards at the meeting on October 3.

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

The meeting was called to order by the Chairman Representative Richard Walker at 9:00 a.m., September 19.

Staff reported that if the definition of community nursing care is changed as drafted in Section 29(b), K.S.A. 65-221 and 65-222 may also need to be amended. After discussion, a motion was made and seconded to delete "institution" in Section 29(b). A substitute motion was made and seconded to accept Section 29(b) as proposed in the draft being considered. The substitute motion carried 4 to 2. Representative Littlejohn recorded a "No" vote.

A motion was made and seconded to add K.S.A. 65-221 and 65-222 to the bill being considered adding "institution" to 65-221, deleting "anywhere" in 65-222, and updating language as appropriate. Motion carried.

Staff reported on Title IV, National Health Planning and Resources Act including a review of duties and responsibilities at the federal, state and local level.

The meeting was adjourned at 11:30 a.m.

Prepared by Emalene Correll

Approved by Committee on:

10/3/75

(Date)

_____ BILL NO. _____

By Special Committee on Public Health and Human Resources

AN ACT relating to local health boards, departments and officials; amending K. S. A. 23-308, 23-310, 39-928, 39-933, 39-935, 65-116h, 65-122, 65-1456 and 72-5210 and K. S. A. 1975 Supp. 17-1325, 17-1326, 19-2704a, 23-301, 23-501, 23-502, 39-925, 39-930, 39-931, 65-102, 65-116a, 65-119, 65-126, 65-128, 65-129, 65-159, 65-1,105, 65-201, 65-202, 65-204, 65-220 and 65-3413 and repealing the existing sections; and also repealing K. S. A. 65-118, 65-125, 65-153c, 65-203 and 65-301.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K. S. A. 1975 Supp. 17-1325 is hereby amended to read as follows: 17-1325. All crypts and catacombs, if any be placed therein in such mausoleum, vault, or other structure, shall be so constructed that all parts thereof may be readily and easily examined by the secretary of health and environment ~~or any other~~ or the secretary's designee or by a local health officer, and such crypts or catacombs shall be hermetically sealed after such deceased bodies shall have been placed therein so that no offensive or unhealthful odor or effluvia may escape therefrom.

Sec. 2. K. S. A. 1975 Supp. 17-1326 is hereby amended to read as follows: 17-1326. Should any firm, person or corporation fail to hermetically seal such crypts or catacombs ~~so~~ placed or constructed in such mausoleum, vault, or other burial structure and by reason of such failure, or other reasons, offensive odors or effluvia arise therefrom, the secretary of health and environment or the secretary's designee or any local health officer of the ~~state or~~ county in which such mausoleum, vault or other burial structure shall be situated shall upon the complaint

of any ~~city health officer or~~ resident of the ~~township~~ county where such mausoleum, vault or other structure may be situated, compel the sexton or other persons in charge of such mausoleum, vault or other burial structure to immediately place such mausoleum, vault or other burial structure in perfect and sanitary condition or immediately remove said deceased body or bodies therefrom, and properly inter the same at the expense of the person, firm or corporation, owning such mausoleum, vault or other burial structure. ~~And~~ If no such person, firm, cemetery district or corporation can be found in the county where the same may be located, then such interment shall be at the expense of the township or city where such structure may be situated.

Sec. 3. K. S. A. 1975 Supp. 19-2704a is hereby amended to read as follows: 19-2704a. Either with or without having had a preliminary survey prepared as provided in K. S. A. 1975 Supp. 19-2704, the board of county commissioners of any county in the state, for the purpose of providing for the expenses of storm and sanitary sewerage, may upon presentation of a petition signed by the owners, or others having expressly reserved the right to do so, of fifty-one percent (51%) or more of the acreage in the main sewer districts, lateral or joint sewer districts or taxing districts sought to be created, provide one or more taxing districts in such county or divide such county into such number of taxing districts as it may deem best. All public roads, public parks and public cemeteries in such districts shall be exempt from assessment. The board of county commissioners shall not have the power to create any such district within or to extend any district into the limits of any incorporated city without the consent of the governing body of such city. In the creation of main sewer districts, lateral sewer districts or joint sewer districts, no such order shall be adopted until said board of county commissioners shall have published a notice of its intention to adopt the same. Such notice need not be given when the petition is signed by the owners of one hundred percent (100%) of the area of land subject to assessment within any lateral sewer district

sought to be created. Such notice shall describe the boundary lines of said proposed sewer district or the property within said boundary lines in sufficient detail to advise the owners of property within such proposed sewer district, or other persons interested in the formation of such district, of the proposed organization of such sewer district and shall inform such owners or interested persons that the board of county commissioners will meet at a specified time and place to consider the petition and the adoption of a resolution forming the sewer district and to hear objections thereto. Such notice shall be published once a week for two (2) consecutive weeks in a newspaper having general circulation within such county. In addition, the board shall notify the owners of property within a proposed lateral sewer district of the hearing held for the creation of such lateral sewer district and shall also notify said property owners as to the hearing for the apportionment of the costs. Said notices shall be mailed at least ten (10) days prior to the date fixed for the hearing. The failure of any property owner to receive such notice shall not invalidate the hearing or apportionment of the costs. Whenever the secretary of health and environment or the ~~county~~ local health officer of any county shall determine and shall certify to the board of county commissioners of such county that insanitary conditions exist or are expected to develop within any area of such county, describing the same, which may be removed or prevented by the installation and utilization of sewers, such board of county commissioners may proceed without the receipt of any petition to create and establish a sewer district consisting of the area described in the certificate of the secretary of health and environment or the ~~county~~ local health officer together with any other contiguous land, lying within the same natural drainage area, which the board of county commissioners shall determine necessary for the purpose of providing necessary sewer service to such area, and to provide for the construction of sewers therein. No sewer district shall be established by the board of county commissioners of any such county

until the notice and hearing procedure specified in this section has been carried out.

When additional storm or sanitary sewers are constructed after a part but not all of the sewers shall have been constructed in any lateral sewer district, the cost of the construction of such additional sewers shall be charged to the property served by said sewers and none other. The cost of any improvement apportioned and assessed pursuant to the provisions hereof, in the sewer district, shall become a lien on the property against which the assessment is made, from the date of the last publication of notice of apportionment required by this section.

If subsequent to the making of any special improvement assessment against any parcel or tract of land authorized herein, the owner thereof desires to plat or replat such property and dedicate streets and roads, or parts thereof, for public use, the governing body shall have the power to release such land proposed to be dedicated from the lien and effect of any such special assessment. The owner or owners thereof shall in or on the instrument making such dedication, consent and agree in appropriate form that the amount of the unpaid special assessment on such land so dedicated shall become and remain a lien on the remainder of such owner's land fronting or abutting on such dedicated road or street.

The board of county commissioners by resolution may combine any sewer districts which have been created under this act and which are served by the same treatment plant into a single main sewer district; and the cost of any future enlargements of any main sewers or treatment facilities that are used by all the districts within the main sewer district so created shall be levied against the properties in said main sewer district. All bonded indebtedness existing on the effective date of any such combination of districts shall remain a lien against and an obligation of the individual districts the same as before such combination.

Whenever it is necessary to enlarge a sewerage system originally constructed under the provisions of this act, the cost of

said enlargements shall be charged against all of the property in the entire main sewer district if the enlarged facilities are to be used by and benefit the entire main sewer district. Where such sewer enlargements will serve only a part of the main sewer district the cost shall be charged against only those properties located in the district which will use or be benefited by the same. The cost of all such enlargements shall be paid by levying a tax at a uniform rate on all the property in the entire main sewer district if the enlarged facilities are to be used by and benefit the entire main sewer district, but if only a part of the main sewer district is to use and benefit from such enlarged facilities then such tax shall only be levied on the properties in said part of the main sewer district. Said tax shall be levied and collected, in addition to other taxes and assessments, and shall be by the county clerk, when so ordered by the board of county commissioners, placed upon the tax roll for collection subject to the same penalties and collected in the same manner as other taxes. The board of county commissioners may provide for the payment of the costs of such enlargement by installments instead of levying the entire tax for such cost at one time and may issue and sell general obligation bonds of the county in like manner as is provided by the general bond law, except as herein otherwise specifically provided. Such bonds shall run not longer than twenty (20) years, shall bear interest at a rate not to exceed the maximum rate prescribed by K. S. A. 10-1009, and shall be issued to mature in installments of approximately equal amounts each year. Each bond shall specify the state of its separate maturity, and shall be in such denomination as the board of county commissioners shall direct. Such bonds shall be in addition to and may exceed the limits of bonds for any other purpose as provided by law.

The board of county commissioners may by resolution establish sewer connection charges for the privilege of making connection to any sewer constructed under this act. Such charges may be graduated based on the sewer capacity required to service the

property to which the connection is made and where the connection is made to property consisting of more than one family living unit said sewer connection charge shall be based on the number of family living ~~unit~~ units. No such resolution shall be adopted until said board of county commissioners shall publish a notice of its intention to adopt the same; and such notice shall describe the proposed sewer connection charges in sufficient detail to advise the owners of the property within the district or districts wherein they are to be applicable as to the amount and application thereof; and shall inform such owners that the board of county commissioners will meet at a specified time and place to consider the adoption of a resolution establishing sewer connection charges. Such notice shall be published once a week for two (2) consecutive weeks in a newspaper having general circulation within such county. All moneys derived from the imposition of such sewer connection charges shall be placed in a special account and shall only be used for the enlargement of the sewers, pumping station or treatment plant serving the district wherein the charges were collected. Such sewer connection charges shall be collected before a sewer connection permit is issued.

Sec. 4. K. S. A. 1975 Supp. 23-301 is hereby amended to read as follows: 23-301. Before any probate judge shall issue a marriage license, each applicant therefor shall file with such judge a certificate signed by a ~~physician--legally--qualified~~ person licensed to practice medicine and surgery under the laws of the state of Kansas or of the state of the applicant's residence, which certificate shall state that the applicant has been given an examination, including a standard serological test for the discovery of syphilis, made not more than thirty (30) days prior to the date of issuance of such license, and stating whether or not in the opinion of the ~~physician~~ person licensed to practice medicine and surgery making such certificate, the applicant is infected with syphilis, or shows symptoms indicating infection with other venereal disease, and, if so infected, fur-

ther stating whether or not in the ~~physician's~~ opinion of the person licensed to practice medicine and surgery the disease is in a stage which is or may become communicable to a marital partner.

Any person who by law is legally able to obtain a marriage license in this state shall also be legally able to consent to any examination and test required by this act. Any specimen submitted to a laboratory for serological test under the provisions of this act shall be designated that it is a premarital test. Serological tests shall be made without charge by the secretary of health and environment at the request of any county or city health department and shall be accepted under the provisions of this act. Any county or city health officer shall, upon request of any applicant, perform the examination and make the certificate required hereunder, without charge.

Sec. 5. K. S. A. 23-308 is hereby amended to read as follows: 23-308. Certificates, laboratory statements or reports, applications and court orders, files and records, in this act referred to and the information therein contained, other than the marriage license and the application therefor, shall be confidential and shall not be divulged to or open to inspection by any person other than ~~state~~ the secretary of health and environment or the secretary's designee or local health officers or their duly authorized representatives, except by written permission of the party or parties affected. Any person who shall divulge such information or open to inspection such certificates, statements, reports, applications or court orders, without authority, to any person not by law entitled to the same shall be guilty of a class C misdemeanor ~~and, upon conviction, shall be fined not less than one hundred dollars nor more than five hundred dollars.~~

Sec. 6. K. S. A. 23-310 is hereby amended to read as follows: 23-310. The probate judge of any probate court may destroy any certificates of premarital examinations and tests which have been on file in said probate court for at least five ~~(5)~~ two (2) years. ~~Such destruction shall be accomplished by~~

~~burning the certificates, which burning shall be done in the presence of the probate judge, and in such a manner as to not divulge any of the information on any such certificate to any person other than state or local health officers or their duly authorized representatives.~~ The probate judge shall provide for the destruction of such certificates in a manner which will not disclose the contents thereof.

Sec. 7. K. S. A. 1975 Supp. 23-501 is hereby amended to read as follows: 23-501. The secretary of health and environment shall establish and maintain family planning centers in cooperation with ~~state social welfare offices~~ the secretary of social and rehabilitation services and county, city-county and multicounty health departments. Such family planning centers, upon ~~the request of any person who is over eighteen (18) years of age and who is married or who has been referred to said center by a licensed physician and who resides in~~ is a resident of this state or upon the referral to such family planning center by a person licensed to practice medicine and surgery of a person who is a resident of this state, may furnish and disseminate information concerning, and means and methods of planned parenthood, including such contraceptive devices as recommended by the secretary of health and environment. Such methods and means shall be consistent with the religious and personal convictions of the individual to whom furnished.

Sec. 8. K. S. A. 1975 Supp. 23-502 is hereby amended to read as follows: 23-502. The secretary of social and rehabilitation services and county, city-county and multicounty health departments shall cooperate with and assist the secretary of health and environment in the establishment, maintenance and operation of the family planning centers required to be established and maintained by K. S. A. 1975 Supp. 23-501, as amended.

Sec. 9. K. S. A. 1975 Supp. 39-925 is hereby amended to read as follows: 39-925. The administration of this act shall be under the secretary of health and environment as the licensing

agency in conjunction with the state fire marshal, and shall have the assistance of the ~~local~~ county, city-county or multicounty health departments, fire and safety authorities and other agencies of government in this state.

Sec. 10. K. S. A. 39-928 is hereby amended to read as follows: 39-928. Upon receipt of an application for license, the licensing agency ~~shall~~ with the approval of the state fire marshal shall issue a license if the applicant is fit and qualified and if the adult care home facilities meet the requirements established under this law. The licensing agency, the state fire marshal, and the ~~local~~ county, city-county or multicounty health departments or their designated representatives shall make such inspections and investigations as are necessary to determine the conditions existing in each case and a written report of such inspections and investigations and the recommendations of the state fire marshal and the ~~local~~ county, city-county or multicounty health department or their authorized agents shall be filed with the licensing agency. The licensing agency and the state fire marshal may designate and use ~~local-health,~~ county, city-county or multicounty health departments and local fire and safety authorities as their agents in making such inspections and investigations as are deemed necessary or advisable. Such local authorities are hereby authorized, empowered and directed to perform such duties as are designated. A copy of any inspection reports required by this section shall be furnished to the applicant.

A license, unless sooner suspended or revoked, shall be renewable annually upon filing by the licensee, and approval by the licensing agency and the state fire marshal or their duly authorized agents, of an annual report and application for renewal upon such uniform dates and containing such information in such form as the licensing agency prescribes. Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable. It shall be posted in a conspicuous place in the adult care home.

If application for renewal is not so filed, such license is automatically canceled as of the date of expiration. Any license granted under the provisions of this act shall state the type of facility for which license is granted, number of residents for which granted, the person or persons to whom granted, the date, the expiration date and such additional information and special limitations as are deemed advisable by the licensing agency.

Sec. 11. K. S. A. 1975 Supp. 39-930 is hereby amended to read as follows: 39-930. The annual fee for license to conduct an adult care home shall be five dollars (\$5) plus one dollar (\$1) for each bed of such home which shall be paid to the secretary of health and environment before the license is issued, and shall be deposited in the general revenue fund unless the evaluation and inspection was made by ~~the local~~ a county, city-county or multicounty health department at the direction of the secretary of health and environment and the papers required are completed and filed with the secretary then ~~two-fifths-(2/5)~~ eighty percent (80%) of whatever fee is collected will be forwarded to ~~the local~~ such county, city-county or multicounty health department. If a facility has a change of administrator after the start of the licensing period, the ~~charge~~ ^{fee} will be fifteen dollars (\$15) ~~which~~ ^{and} shall be deposited in the general revenue fund.

Sec. 12. K. S. A. 1975 Supp. 39-931 is hereby amended to read as follows: 39-931. The licensing agency is authorized to deny, suspend, or revoke a license in any case in which it finds that there has been a substantial failure to comply with the requirements, standards, or rules and regulations established under this act. Whenever the licensing agency finds that there has been a substantial failure to comply with the requirements, standards, or rules and regulations established under this act, it shall make an order denying, suspending, or revoking said the license and ~~said~~ order shall set forth the particular reasons for the action taken. Such order shall be served upon the licensee or the applicant by personal service or ~~may-be-effected~~ by registered mail. Unless appealed from as hereinafter provided, said

order shall become final and effective twenty (20) days from the date of its issuance.

Any applicant or licensee who is aggrieved by said order may appeal within twenty (20) days after its issuance by filing with the secretary of health and environment a written notice of appeal and said notice shall specify wherein said order is unreasonable, unjust, or illegal. Upon receipt of such notice it shall be the duty of the secretary of health and environment to fix a date for hearing which shall not be later than fifteen (15) days after the date of receipt of the notice of appeal. The secretary shall prescribe by rule and regulation the procedure for hearing all appeals and may designate a member or members of the staff of the secretary as an appeals referee or committee who shall have authority to subpoena witnesses, and administer oaths, take testimony, and render decisions. On the basis of any such hearing or upon default of the applicant or licensee, the appeals referee or committee shall make a determination specifying its findings of fact and, where indicated, ~~conclusion~~ conclusions of law.

A copy of such determination shall be sent by registered mail or served personally upon the applicant or licensee. Pending the appeal a license previously issued shall remain in force. In case the decision at the hearing sustains the decision of the licensing agency in denying, suspending, or revoking the license, the applicant or licensee shall be given fifteen (15) days after the decision is mailed or served to comply with the decision made at the appeal hearing ~~+-Provided, however,+-~~ ~~That.~~ Nothing herein shall be construed to prevent the licensing agency from commencing immediately an action for injunction or other process to restrain or prevent the operation of any licensed home which the secretary, upon investigation, shall have found to be operated or maintained in such a manner as to constitute a clear and immediate threat to the lives or health of its residents. Any such action shall be brought in the district court in the county in which the home is located, and shall be filed by the county

attorney of such county or the attorney general. Any applicant or licensee aggrieved by the order of the secretary of health and environment in denying, suspending, or revoking a license may appeal therefrom by filing a petition specifying the action of the ~~board~~^{SEC.} appealed from, in the district court of the county in which the applicant or licensee resides, within fifteen (15) days after receipt of a copy of the order of the ~~board~~^{SEC.}, and said court shall have jurisdiction to affirm, reverse, modify, or vacate the order complained of if the court is of the opinion that the order was arbitrary, unlawful, or unreasonable.

~~Such an appeal shall be tried de novo and the court shall receive and consider any pertinent evidence, oral or documentary, concerning the order of the board from which the appeal is taken.~~ Within seven (7) days after the petition has been filed in the district court, notice of the appeal shall be given to the secretary of health and environment by mailing certified copies of the petition, by certified mail. Upon receipt of such notice, the secretary shall forthwith make available, for examination and inspection, to the applicant and the applicant's attorney all its records pertaining to such matter. From the judgment of the district court, appeal may be taken to the supreme court as in other civil actions. An appeal to the district court or to the supreme court shall not operate to stay the effect of an order of the secretary, unless the judge or the court shall specifically allow such a stay.

Sec. 13. K. S. A. 39-933 is hereby amended to read as follows: 39-933. The licensing agency shall make or cause to be made by the ~~local~~ county, city-county or multicounty health departments such inspections and investigations as it deems necessary. The licensing agency may prescribe by regulation that any licensee or applicant desiring to make specified types of alterations or additions to its facilities or to construct new facilities shall ~~before commencing such alterations, additions or new construction,~~ submit plans and specifications therefor, before commencing such alterations, additions or new construc-

tion, to the licensing agency for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized. Necessary conferences and consultations may be provided.

Sec. 14. K. S. A. 39-935 is hereby amended to read as follows: 39-935. Inspections shall be made, without notice to the operators, and reported in writing by the authorized agents and representatives of the licensing agency and state fire marshal, and of the ~~local~~ county, city-county and multicounty health departments as often and in the manner and form prescribed ~~under~~ by the rules and regulations promulgated under the provisions of this act. Access shall be given to the premises of any adult care home at any time upon presenting adequate identification to carry out the requirements of this section and the provisions and purposes of this act, and failure to provide such access shall constitute grounds for denial or revocation of license. A copy of any inspection reports required by this section shall be furnished to the applicant.

Sec. 15. K. S. A. 1975 Supp. 65-102 is hereby amended to read as follows: 65-102. The secretary of health and environment shall supervise the registration of marriages, births and deaths, and also the registration of forms of disease prevalent in the state; and the director of the division of health shall ~~superintend~~ supervise the registration of the vital statistics of the state. The secretary of health and environment shall prepare the blank forms necessary for obtaining and preserving such records, and forward them to ~~the~~ local health officers ~~of local boards~~ as may be required by physicians, assessors, local boards, and others whose duty it is to gather information in relation to the vital statistics of the state.

The secretary of health and environment shall also prepare the forms and establish the rules by which permits are obtained for transporting the ~~dead~~ bodies of persons for burial beyond the county where the death occurs.

Sec. 16. K. S. A. 1975 Supp. 65-116a is hereby amended to

read as follows: 65-116a. As used in this act: (a) The word "tuberculosis" shall be construed to mean that the disease is in a communicable or infectious stage as established by chest x-ray, microscopical examination of sputum, or other diagnostic procedures approved by the secretary of health and environment; and

(b) the words "health officer" shall include the state secretary of health and environment or the secretary's designee and all local health officers.

Sec. 17. K. S. A. 65-116h is hereby amended to read as follows: 65-116h. Nothing in this act shall be construed or operate to empower or authorize the ~~state health officer~~, secretary of health and environment or his designee or a local health officer to restrict in any manner the individual's right to select the mode of treatment of his choice.

Sec. 18. K. S. A. 1975 Supp. 65-119 is hereby amended to read as follows: 65-119. Any ~~municipal or~~ county board of health or health officer having knowledge of any infectious or contagious disease dangerous to the public health as established by rules and regulations of the secretary of health and environment, or of a death from such disease, within their jurisdiction, shall immediately exercise and maintain a supervision over such case or cases during their continuance, seeing that all such cases are properly cared for and that the provisions of this act as to isolation, restriction of communication, ~~placarding~~ quarantine and disinfection are duly enforced. The local board of health or health officer shall communicate without delay all information as to existing conditions to the secretary of health and environment. Said ^{local} health officer will confer personally, if practicable, otherwise by letter, with the ~~division~~ ^{PERSON} in attendance upon the case, as to its future management and control. The local board of health or health officer is hereby empowered and authorized to prohibit public gatherings when necessary for the control of any and all communicable disease.

Sec. 19. K. S. A. 65-122 is hereby amended to read as follows: 65-122. No person afflicted with any infectious or con-

tagious disease dangerous to the public health as established by rules and regulations of the secretary of health and environment shall be admitted into any public, parochial or private school. It shall be the duty of the parent or guardian, and the principal or other person in charge of any public, parochial, private school or ~~Sunday school~~ to exclude therefrom any child or other person affected with a disease, presumably communicable, until the expiration of the prescribed period of isolation or quarantine for the particular communicable disease. If the attending ~~PERSON~~ ^{LOCAL} or health officer finds upon examination that the person is not suffering from a communicable disease, he may submit a certificate to this effect to the school authority, who shall readmit the person.

Sec. 20. K. S. A. 1975 Supp. 65-126 is hereby amended to read as follows: 65-126. Whenever the local health authorities neglect to properly isolate and quarantine communicable diseases, the secretary of health and environment may quarantine any ~~city or township or county~~ area in which any of these diseases may show a tendency to become epidemic.

Sec. 21. K. S. A. 1975 Supp. 65-128 is hereby amended to read as follows: 65-128. For the better protection of the public health and for the control of communicable diseases, the secretary of health and environment shall designate, by rules and regulations, such diseases as are infectious, contagious or communicable in their nature, and the secretary of health and environment is herewith authorized to make, prescribe and publish rules, regulations and procedures for the isolation and quarantine of such diseases and persons afflicted with or exposed to such diseases as may be necessary to prevent the spread and dissemination of diseases dangerous to the public health.

Sec. 22. K. S. A. 1975 Supp. 65-129 is hereby amended to read as follows: 65-129. Any person violating or refusing, or neglecting to obey any of the rules and regulations ~~or procedures~~ made adopted by the secretary of health and environment for the prevention, suppression and control of dangerous, contagious,

infectious or communicable diseases, or who ~~shall leave~~ leaves any isolation ~~hospital or quarantined house or place~~ area of a hospital or other quarantined area without the consent of the proper health officer having jurisdiction, or who evades or breaks quarantine or knowingly conceals a case of contagious, infectious or communicable disease shall be guilty of a class C misdemeanor.

Sec. 23. K. S. A. 1975 Supp. 65-159 is hereby amended to read as follows: 65-159. The secretary of health and environment and the local boards of health shall have power and authority to examine into all ~~nuisances~~ sources of filth and or causes of sickness that, in their opinion, ~~may, in their opinion~~ be injurious to the health of the inhabitants within any county or municipality in this state; and whenever any such ~~nuisance~~ source of filth or cause of sickness shall be found to exist on any private property or upon any watercourse in this state, the secretary of health and environment or local boards of health shall have power and authority to order, in writing, the owner or occupant thereof, at his or her own expense, to remove the same within twenty-four (24) hours, or within such reasonable time thereafter as such secretary or such board may order; and if the owner or occupant shall neglect so to do, ~~he~~ such owner or occupant, upon conviction, ~~shall on conviction be fined not less than ten dollars-(\$10)-nor more than one hundred dollars--(\$100)~~ be guilty of a class C misdemeanor and each day's continuance of such ~~nuisance~~ or source of filth or cause of sickness, after the owner or occupant thereof shall have been notified to remove same, shall be a separate offense.

New Sec. 24. The secretary of health and environment and the local boards of health shall have power and authority to examine into all nuisances that, in their opinion, may be injurious to the health of the inhabitants within any county or municipality in this state; and whenever any such nuisance shall be found to exist on any private property or upon any watercourse in this state, the secretary of health and environment or local

boards of health shall have power and authority to order, in writing, the owner or occupant thereof, at his or her own expense, to remove the nuisance within twenty-four (24) hours, or within such reasonable time thereafter as such secretary or such board may order; and if the owner or occupant shall neglect so to do, such owner or occupant, upon conviction, shall be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100), and each day's continuance of such nuisance after the owner or occupant thereof shall have been notified to remove same, shall be a separate offense.

Sec. 25. K. S. A. 1975 Supp. 65-1,105 is hereby amended to read as follows: 65-1,105. The secretary of health and environment is hereby authorized to establish a statewide program of blood tests for sickle cell trait and the disease sickle cell anemia and to provide counselling and advice, without cost, to any person requesting such counselling relative to sickle cell anemia or sickle cell trait, its characteristics, symptoms, traits, effects and treatment. In conducting such testing program and counselling the secretary of health and environment is hereby authorized to contract with any city health department, county or joint board of health or with any private health organization to assist in administering such testing and counselling under terms and conditions specified by the secretary of health and environment.

Sec. 26. K. S. A. 1975 Supp. 65-201 is hereby amended to read as follows: 65-201. The county commissioners of the several counties of this state shall act as local boards of health for their respective counties. Each local board thus created shall appoint a physician person licensed to practice medicine and surgery, preference being given to ~~adepts--in--sanitary--science~~ persons who have training in public health, who shall serve in an advisory capacity to the local board of health and as the local health officer. ~~Provided, The,~~ except that the appointing authority of city-county, county or multicounty health units with less than one hundred thousand (100,000) population

may appoint a qualified local health program administrator as the local health officer, if a physician person licensed to practice medicine and surgery or dentist person licensed to practice dentistry is designated as a consultant to direct the administrator on program and related medical and professional matters. The health officer or local health program administrator shall hold ~~the~~ office during at the pleasure of the board, ~~but may be removed for just cause at any regular meeting of the same by a majority of the members voting therefor.~~

~~The local boards of health hereby created shall not supersede or in any way interfere with such boards established by municipal regulations in any of the counties of this state, but all local boards of health of this state, created by this act, or existing by authority of municipal law, shall be governed by the provisions of this act.~~

Sec. 27. K. S. A. 1975 Supp. 65-202 is hereby amended to read as follows: 65-202. The county health officer in each county throughout the state, immediately after his or her appointment, shall take the same oath of office prescribed by law for the county officers, ~~and shall give bond of five hundred dollars (\$500), conditioned for the faithful performance of his or her duties,~~ to keep an accurate record of all the transactions of his or her office, ~~and to~~ turn over to his or her successor in office or to the county or local board of health selecting such officer, on the expiration of his or her term of office, all records, documents and other articles belonging to the office, and to faithfully account to said board and to the county and state for all moneys coming into his or her hands by virtue of the office. Such officer shall ~~further~~ notify the secretary of health and environment of the fact of his or her appointment and qualification, as herein provided for, and give his or her post-office address.

Such officer shall receive and distribute without delay in the county for which he or she is appointed all forms from the secretary of health and environment to the rightful persons, all

returns from ~~physicians~~ persons licensed to practice medicine and surgery, assessors and local boards to said secretary, and shall keep an accurate record of all of the transactions of his or her office, and shall turn over all records and documents kept by such officer, as herein provided, and all other articles belonging to the office to his or her successor in office, or to the county ~~or local~~ or joint board electing such officer, on the expiration of his or her term of office.

Such officer shall upon the opening of the fall term of school, make or have made a ~~sanitary inspection~~ such inspection of each school building and grounds, ~~and shall make or have made such additional inspections thereof~~ as are necessary for the ~~protection of~~ to protect the public health of the students of the school. A copy of the report of such inspection on forms prescribed by the secretary of health and environment shall be sent, within fifteen (15) days of the making of such inspection, to the governing body of the school and to the secretary of health and environment.

Such officer shall make or have made an investigation of each case of ~~smallpox, diphtheria, typhoid fever, scarlet fever, acute anterior poliomyelitis (infantile paralysis), epidemic cerebro-spinal meningitis and such other acute infectious, contagious or communicable diseases~~ infectious or contagious disease as may be required, and shall use ~~all known measures~~ such measures as may be necessary to prevent ~~their~~ the spread of such infectious or contagious disease, and shall perform such other duties as this act, his or her local board, or the secretary of health and environment may require.

Such officer shall receive for his or her services such reasonable compensation as his or her board may allow, and with the approval of his or her local board of health may employ a ~~skilled professional nurse and other~~ additional personnel whenever deemed necessary for the protection of the public health.

All of said several sums allowed shall be paid out of the county treasury; and for any failure or neglect of said health

officer to perform any of the duties prescribed in this act, he or she may be removed from office by the secretary of health and environment, as well as in the manner prescribed by the preceding section. And in addition to removal from office as provided herein, for any failure or neglect to perform any of the duties prescribed by this act, said county or local health officer shall be deemed guilty of a class C misdemeanor and ~~and, upon conviction, be fined not less than ten dollars (\$10) nor more than one hundred dollars (\$100) for each and every offense.~~

Sec. 28. K. S. A. 1975 Supp. 65-204 is hereby amended to read as follows: 65-204. The board of county commissioners of any county of the state may levy a tax upon all taxable tangible property in such county and the proceeds thereof shall be placed into a separate fund designated as "the county health fund," which fund is hereby created, and shall be used only to defray the cost of:

(1) Assisting in the carrying out of the health laws, rules and regulations of the state within such county;

(2) paying the salary of the county health officer;

(3) the employment of additional personnel to assist the county health officer and other health authorities within such counties: Provided, That in all counties having a population over one hundred thousand (100,000) and not more than three hundred thousand (300,000), the board of county commissioners may levy a tax for such purposes and also for the purpose of paying the cost of building or equipping a health building, upon all tangible taxable property in such county. In counties having a population of more than two hundred fifty thousand (250,000), the board of county commissioners may levy an annual tax upon all taxable tangible property in such county for the purpose of financing garbage and trash disposal in such county, either as a joint operation with any city located in such county or as a sole operation of such county. The provisions of this act shall not abrogate or amend any other existing health law, or laws incidental thereto. No levy shall be made by any county for the county health fund in

an amount in excess of that which such county was authorized to levy for the year 1974, without the question of making such levy having been submitted to and approved by a majority of the electors of the county voting thereon at an election called and held thereon or at the next regular election. All such elections shall be noticed, called and held in the manner prescribed in K. S. A. 10-120.

Sec. 29. K. S. A. 1975 Supp. 65-220 is hereby amended to read as follows: 65-220. As used in this act: (a) "County health department" means county health department established pursuant to K. S. A. 1975 Supp. 65-204, as amended or K. S. A. 1975 Supp. 65-205.

(b) "Community nursing care" means ~~eommunity-nursing-and related-care-of~~ service provided by a community nurse for maintenance of health, prevention of illness, evaluation of health status and care for the ill and disabled rendered in a home or in a clinic, institution and clinic settings.

Sec. 30. K. S. A. 65-1456 is hereby amended to read as follows: 65-1456. Public institutions and the ~~health-department-of the--state--of--Kansas~~ secretary of health and environment may employ licensed dental hygienists to practice under the supervision of a licensed dentist. ~~Dental-hygienists-may-remove-lime deposits, accretions and stains from the exposed surfaces of the teeth directly beneath the free margin of the gums, but shall not perform any other operations on the teeth or mouth or any diseased tissues of the mouth.~~ Dental hygienists shall perform their duties only under the supervision of a dentist. The board shall suspend or revoke the license, license certificate and renewal certificate of any registered and licensed dentist who shall permit any dental hygienist operating under his or her supervision to perform any operation other than that permitted under the provision of this act, and shall suspend or revoke the license of any hygienist found guilty of performing any operation other than those permitted under this act.

Sec. 31. K. S. A. 1975 Supp. 65-3413 is hereby amended to

read as follows: 65-3413. The secretary may designate ~~local~~ county, city-county and multicounty health departments to act as his or her agent in carrying out the provisions of this act under such terms and conditions as he or she shall prescribe.

Sec. 32. K. S. A. 72-5210 is hereby amended to read as follows: 72-5210. The local ~~board--of~~ health department, upon application of the school board of any school affected by this section shall, at public expense (to the extent that funds are available) and without delay, provide the test for tuberculosis and the immunizations required by this act to such pupils as are not provided therewith by their parents or guardians and who have not been exempted on religious or medical or personal grounds. The local health officer shall counsel and advise school boards concerning the administration of this act.

Sec. 33. K. S. A. 23-308, 23-310, 39-928, 39-933, 39-935, 65-116h, 65-118, 65-122, 65-125, 65-153c, 65-203, 65-301, 65-1456 and 72-5210 and K. S. A. 1975 Supp. 17-1325, 17-1326, 19-2704a, 23-301, 23-501, 23-502, 39-925, 39-930, 39-931, 65-102, 65-116a, 65-119, 65-126, 65-128, 65-129, 65-159, 65-1,105, 65-201, 65-202, 65-204, 65-220 and 65-3413 are hereby repealed.

Sec. 34. This act shall take effect and be in force from and after its publication in the statute book.