

Approved 2-10-83
Date sh

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin Littlejohn at
Chairperson

1:30 A.M./p.m. on February 3,, 1983 in room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Sue Hill, Secretary to the Committee

Conferees appearing before the committee:

- Barbara Sabol, Kansas Department of Health and Environment, Secy.
- Nickie Stein, Kansas State Nurses Association
- Dick Hummel, Dir. Kansas Health Care Association
- Melissa Hungerford, Kansas Hospital Association
- Guillermo Barreto-Vega, Health Systems Agency of Northeast Kansas
- Jerry Slaughter, Kansas Medical Society
- Ron Schmidt, Kansas Department of Health and Environment

Visitor's register, see (Attachment No. 1.)

Chairman called meeting to order.

Chair asked for approval of amended minutes of January 27, 1983. Motion by Representative Roenbaugh, seconded by Representative Harder. Motion carried.

Also minutes of January 31, and February 1, were approved with the correction of than changed to that, on second to last paragraph of the Feb. 1 minutes. This motion was made by Rep. Hassler, and seconded by Rep. Green, motion carried.

Hearings on HB 2012 as follows:

Barbara Sabol of Health and Environment presented written comments, see (Attachment No.2.), stating that by using the SHCC, the information required and objectives outlined by this bill could be generated without the necessity of forming another study commission, and her Department would be happy to provide any assistance needed. No questions of Ms. Sabol at this time.

Nickie Stein, of Kansas State Nurses Association stated that those she is representing feel the make up of the Commission is broad and a good mix of rural and urban, and of various backgrounds, but, since nurses make up a sizable segment of health care, they feel it would be good to have a nurse included on this commission. After a period of questions, she replied KSNA does not wish to un-seat anyone, but perhaps an additional seat could be added. Nurses of Kansas are ready to help in this respect.

Chairman noted in reply to a question from committee in regard to SHCC and it's background and functions, there will be forthcoming a briefing to committee on this commission.

Dick Hummel of Kansas Health Care Association distributed his prepared statement. (Attachment No. 3.), suggesting that line 0025 be amended as follows: "the hospital industry, one of whom shall represent the adult care home industry... The group he represents feels that it would be a grave omission not to have someone from the adult care home industry on this planning body and hopes committee will take this into consideration.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a.m./p.m. on February 3, 1983

Melissa Hungerford, representing Kansas Hospital Association, presented committee with her printed statement, (Attachment No. 4.). Her views expressed support of this bill, however the K.H.A. feels the committee membership should be expanded to have representation from the insurance industry, and representation from long-term care in addition to hospital representative, thus having the commission covered by all those active in the health planning process.

Mr. Guillermo Barreto-Vega, representing Health Systems Agency of Northeast Kansas, handed to committee his printed statement, (Attachment No. 5.), expressing that the National Health Planning bill soon will be introduced in the U. S. House, by U. S. Representative Harry Waxman, and this bill will address issues as shown in attached hand-out. (Attachment No. 5.) They feel since their HSANEK Board of Directors has expertise in health planning issues, they would be most eager to nominate a member of their Board to the proposed Health Planning Review Commission.

Mr. Jerry Slaughter of Kansas Medical Society distributed his printed statement, (Attachment No. 6.), and stated their strong support of this bill. They further feel the concept of a Health Planning Review Commission will be the first opportunity for elected officials and lay persons to work cooperatively towards better health for Kansans.

With questions and replies after conferee's testimony, hearings on HB 2012 were concluded.

Representative Branson introduced to committee, her Legislative Intern, Brian Levinson, a student at University of Kansas.

Testimony on HB 2014 began after Chairman noted that two additional conferees who were to appear today had been unable to attend as scheduled, due to incimate weather, and are to be re-scheduled for Monday, February 7, 1983.

HB 2014 hearings follow:

Barbara Sabol, Secy of Health and Environment, presented committee with her printed statement on this bill, (Attachment No. 7.), commenting that the position of her Department is to restrain unnecessary health care costs. Presently Federal regulations require reviews for both additions and terminations of health facility beds and services. Kansas law at present, reviews additions, and we feel if there is an oversupply of beds and services, we should make it possible to let people go out of business if they so wish. The language in this bill will bring the bill into compliance with Federal regulations. Her Department recommends that HB 2014 be passed with the amendments: - Sec. 2 (a)(2), lines 94-thru-98 should be amended, and Sec.2 (a)(8), lines 127-thru-129 should be amended as well. With these amendments in place, her Department feels the Certificate of Need, (CON), review of purchases of major medical equipment will be justly applied.

Questions of Ms. Sabol and her associate, Ron Schmidt on some points of her comments, and aspects of CON took place. Example:- when you have more services than are needed, it will continue to cause increased costs. It is important, Mr. Schmidt stated, that each CON must be reviewed on an individual basis.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 ~~/p.m.~~/p.m. on February 3, 1983.

Melissa Hungerford appeared further on the position of KHA on HB 2014, in that for the most part they support this bill which extends the CON law in Kansas. However, they urge for revision on language in Sec. 2 (a) (10), beginning on Page 4, line 135, that will bring to termination unwanted health facility services. KHA also supports the amendment to delete lines 128 and 129 on Page 4, Sec. 2 (a) (8). (See Attachment No. 8.)

Mr. Barreto-Vega returned to voice the views of HSANEK on HB 2014, (See latter part of Attachment No. 5.). HSANEK support passage of this bill in order to change the Kansas CON law to be in compliance with Public Law 96-79. Net effect here will add a termination of services clause to those groups who are contemplating discontinuing health care services to go through the CON process, and this will ensure services will not be eliminated over-night and cause hardships.

Mr. Slaughter returned to voice views of Ks. Medical Society, (see latter part of Attachment No. 6.), stating that HB 2014 makes no substantive changes in our Kansas CON law. It merely brings us into compliance with the Federal requirements. Those he represents do not support any significant policy changes in the CON law at this time. He stated that it is well known that Kansas has a shortage of physicians, and when the cost of CON is in a range of \$5,000 to \$10,000, more or less, it will continue to discourage young physicians from coming to the rural areas of Kansas. On one hand these physicians are encouraged to come to these areas, and on the other hand, they are restricted.

Questions and replies after conferees testified on HB 2014 concluded, and Chairman adjourned the meeting at 2:55 p.m. Next meeting scheduled for Monday, February 7th.

GUEST REGISTER

DATE Feb 3, 83

LETTER

Please

~~PRINT~~

HOUSE
PUBLIC HEALTH & WELFARE COMMITTEE

NAME

ORGANIZATION

ADDRESS

Michele Hinds	Leg. Intern	Topeka, Ks.
Ron Schmidt	D H & E	Topeka, Ks
Guillermo Barreto-Vega	HSA NEK	Topeka, Ks
Barbara Jabre	KDH&E	Topeka, Ks.
Dick Hummel	Ks Health Care Assn	TOPEKA
Rebecca Kupper	Ks. Hospital Assoc.	"
Conrad Meitzl	Ks. Hospital Assoc.	Topeka
Melissa Humberford	Ks. Hosp. Assn	TOPEKA
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
CARL C. OSSMANN	SELF	"
Nickie Stein	Ks St. Nurses' Assn.	Topeka
Brien Levinson	Leg Intern	Lawrence
DEAN Edson	Ks. Assoc. of Homes for the Aging	TOPEKA

(Attachment
No 1.)

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HOUSE BILL NO. 2012

PRESENTED ON FEBRUARY 3, 1983

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

House Bill 2012 creates a study commission to evaluate the current health planning program in Kansas; examine future goals, structure, and financing for this program; and report its findings to the Governor and the Legislature by December 15, 1983. Health Planning is a very important program and has received much attention from the Legislature over the years. This will be the fourth legislative study since 1976 when the current program was enacted. I am pleased with your interest in the program and the concern for its future funding if federal funds are terminated.

The Kansas program, while being a "federally-mandated" program, has focused its energy on Kansas priorities and Kansas health policy. From those efforts, it is clear to me that future programming for health planning must continue its focus on restraining health care costs, while increasing access to needed services and expanding its efforts on chronic disease and the impact the environment has on the health of the population. Perhaps a more integrated policy analysis approach for the future is indicated.

We would point out that the Statewide Health Coordinating Committee (SHCC) is an active committee with broad interests and has the capacity to undertake this study. By using the SHCC the information required and objectives outlined by this bill could be generated without the necessity of forming another study commission.

If this bill is passed, however, in its present form, the Department will be happy to provide any assistance necessary to the study commission.

Presented by: Barbara J. Sabol
Secretary
Department of Health and Environment

(Attachment
No. 2.)

TESTIMONY BEFORE THE HOUSE COMMITTEE
ON PUBLIC HEALTH AND WELFARE

By

Dick Hummel, Executive Director

February 3, 1983

House Bill No. 2012

"AN ACT creating the health planning review commission;
providing for the duties and functions thereof."

Mr. Chairman and Committee Members:

On behalf of the Kansas Health Care Association, a voluntary, non-profit organization which represents over 200 licensed adult care homes (nursing homes) in Kansas, both proprietary and non-proprietary ownership interests, thank you for this opportunity to appear in support of H.B. 2012.

We commend the Interim Committee for its foresightedness in recommending this legislation, a preparatory step towards the possible total State assumption of and responsibility for health planning in Kansas.

SUGGESTED AMENDMENT

We notice that a representative from the long-term care industry is not included on the eleven-member commission and would urge that the bill be amended on line 0025 as follows:

0025 "the hospital industry, one of whom shall represent the adult care home industry,"

It would be a grave omission not to have someone from the adult care home industry on this planning body, in consideration of the facts that:

- approximately 7% of our Kansas population, or 27,000 citizens, reside in adult care homes.
- Kansas ranks eighth nationally with our population age 65 and over.
- The nursing home program commands the greatest percentage of the SRS Medical Assistance budget, approximately 40%.

More importantly as a consideration, however, is the fact that as Kansas continues to explore alternatives to institutional care, adult care home professionals who have years of

"We Care"
Attachment
no. 3

Testimony on H.B. 2012
By Dick Hummel
February 3, 1983
Page Two

of training, knowledge and experience in meeting the unique health care needs of our elderly and infirmed, are eager to participate as partners in the redesign of the system.

Not to include them would be a wasteful loss of time and talent.

Thank you again. I'm prepared to answer any questions the committee may have.

TESTIMONY TO THE HOUSE PUBLIC HEALTH
AND WELFARE COMMITTEE

From the Kansas Hospital Association

HB 2012

Presented by Melissa Levy Hungerford

February 3, 1983

The Kansas Hospital Association is here today to testify in support of HB 2012. KHA supports the establishment of a health planning review commission to make recommendations relative to the future of the state's planning activities. We do, however, feel that the committee membership should be expanded in at least two areas. First, representation from the insurance industry should include both a member from Blue Cross and Blue Shield of Kansas and a member from a commercial carrier. Second, there should be a member representing long-term care in addition to the acute care or hospital representative. KHA feels that these two additions would increase the chances of successful conclusion and implementation of the commission's recommendations. Again, KHA supports the establishment of the commission but feels that the commission membership should represent all of the actors in the health planning process.

(Attachment
no. 4.)

HEALTH SYSTEMS AGENCY
OF NORTHEAST KANSAS
COMMENTS ON THE
KANSAS HOUSE BILLS #2012 AND #2014
PRESENTED TO THE
HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE
STATE CAPITOL, ROOM 423S
FEBRUARY 3, 1983

(Attachment
No. 5.)

Good afternoon, Mr. Chairman and members of the Public Health and Welfare Committee. My name is Guillermo Barreto-Vega, Executive Director of the Health Systems Agency of Northeast Kansas (HSANEK). The HSANEK is a non-profit organization with a 50 member volunteer Board of Directors that serves the health plan development needs of a twenty-five county area in Northeast Kansas. The volunteer Board of Directors has 25 representatives appointed by each County Commission and the remaining Board members come from a wide range of rural community groups and organizations.

I appreciate this opportunity to present the following testimony on both H.B. 2012 and H.B. 2014.

H.B. 2012

First, we will address our comments on H.B. 2012. It is promising and refreshing to observe the Kansas Legislature, especially the Public Health and Welfare Committee, take a leadership and visionary role in Kansas Health Planning issues.

A brief historical update on the U. S. Congress Health Planning activities during the 97th Session will enable us to focus on the importance of the proposed Health Planning Review Commission (HPRC). The U.S. House of Representatives passed H.R. 7040, the "Health Planning Block Grant Act of 1982" by a vote of 302 in favor and 14 against. The net effect of this bill would have been to extend the health planning federal legislation for two more years and to increase the Certificate of Need (CON) review thresholds on Capital Expenditures to \$5 million; on Major Medical Equipment to \$1 million; and on new Health Facility Service to \$1 million. Further, this Bill would

have transferred the administration of the Health Planning Program to the States through Block grants. Each state would have had the prerogative to request Federal funds to conduct state and local health planning programs tailored to meet their individual needs.

On the other hand, the U.S. Senate introduced S-2720 the "Deregulation Health Planning Act of 1982". However, a last minute hold on the Bill by the late HHS Secretary stopped a compromise amendment to the Bill from passing the U. S. Senate. Since the Senate did not pass a Health Planning Bill, the House-Senate Conference Committee was not able to deal with the Health Planning Program during the ending days of the 97th Congress.

It is our understanding after talking to the American Health Planning Association (AHPA) staff that a Health Planning Bill will be introduced in the U. S. House, Commerce and Energy Committee headed by U. S. Representative Harry Waxman (D-Calif.), in the next couple of weeks.

The proposed National Health Planning Bill will address the following issues: ~~two~~

o Maintaining the level of effort of both state and local health planning agencies.

o Increasing the ^{Certificate of Need} CON program thresholds to \$1,000,000 for capital expenditures; \$500,000 for Medical Equipment and \$500,000 for new health care facility services.

o State Administration of the proposed health planning program.

Consequently, it is very crucial for the State of Kansas, to take a hard look and examine the health planning program structure and priorities during 1983. However, national health planning legislative developments should be taken into consideration, by the proposed HPRC, when designing the health

planning program for Kansas and preparing recommendations to the governor and the legislature.

Finally, the HSANEK Board of Directors has acquired expertise in rural health planning issues. Our Agency's Board of Directors would be delighted to nominate one of their members to represent the Kansas rural health care consumer interests in the proposed Health Planning Review Commission.

For the above cited reasons, the Health Systems Agency of Northeast Kansas strongly supports the passage of H.B. 2012.

H.B. 2014

Second, we will address our comments on H.B. 2014. The HSANEK supports passage of H.B. 2014, in order to change the Kansas Certificate of Need Law to be in compliance with Public Law 96-79.

The net effect of this bill would be to amend existing Kansas CON Law. The bill will add a termination of services clause, which will require health care institutions, which are contemplating the discontinuation of a health care service or closing down an institution, to go through the CON process. This will ensure that needed health care services in rural and urban areas will not be eliminated overnight. The Bill would guarantee that access to these services will continue to be received by residents of these areas.

Since the State of Kansas CON Law does not address this issue properly, the CON law was deemed out of compliance by the US Department of HHS. Consequently, the Kansas State Health Planning and Development Agency, was out of compliance, and therefore was conditionally designated. In order to require State compliance with the CON Law, the PL 96-79 states that: "During

the first twelve months after the date of the expiration of the applicable period, the secretary shall reduce by 25% the amount of each allotment , grant, loan, and loan guarantee made to and each contract entered into with an individual or entity in such state...". Annual reductions at the rate of 25% would follow until the fourth year when no funds on Public Health would be forthcoming to the state.

However, in the last few months, as far as SHPDA penalty goes, the picture has improved considerably. States that have SHPDAs which are conditionally designated, because they have not complied with Federal requirements no longer face the penalty that calls for 25% cut in their Public Health Service grants. The reprieve is based on the assumption that even though the continuing resolution postpones the penalty only for the length of the resolution, the 98th Congress will resolve the issue permanently.

In Summary, H.B. 2414 will make sure that Kansas is not in jeopardy of losing 25% of its public health funds.

For the above cited reasons, the HSANEK supports the passage of H.B. 2014.



Kansas Medical Society

Incorporated 1859

February 3, 1983

TO: House Public Health and Welfare Committee

FROM: Jerry Slaughter
Director of Governmental Affairs

SUBJECT: HB 2012 and 2014; Concerning Health Planning and
Certificate of Need

The Kansas Medical Society supports both HB 2012 and HB 2014.

Our support is based largely on our belief that Kansas needs to take a new look at the process of health planning. Since 1974, we have been saddled with a program which was imposed federally, and enforced with the threat of loss funds for noncompliance. The concept of a Health Planning Review Commission makes sense. It will be the first opportunity for elected officials and lay persons to cooperatively work towards a new direction in health planning for our state.

HB 2014 makes no substantive changes in our CON law. It merely brings us into compliance with federal requirements. We support the idea of extending our CON law one additional year, as we await the outcome of the Health Planning Review Commission's deliberations, and evaluate action at the federal level. We do not support any significant policy changes in the CON law at this time.

We appreciate the opportunity to appear on these two bills, and appreciate your consideration of our comments. Thank you.

JS:mjp

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*(Attachment
no. 6.)*

7
KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HOUSE BILL NO. 2014

PRESENTED FEBRUARY 3, 1983

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

This is the official position taken by the Kansas Department of Health and Environment on House Bill 2014.

NEED FOR:

The Certificate of Need Program reviews proposals for medical care institutional services and determines if the sponsors have documented that community need exists for the projects. The goal is to restrain unnecessary increases in health care costs through preventing duplication of expensive medical care resources. House Bill 2014 adds language to the Kansas Certificate of Need Statutes that bring the Kansas program into compliance with federal regulations. Federal regulations require reviews for both additions and terminations of health facility beds and services. Kansas law currently only reviews additions. We have felt that since we generally have and oversupply of both beds and services, we should make it easy to let people go out of business. The federal officials have disagreed with this analysis, and have threatened to terminate funding of the Health Planning and Certificate of Need Programs, as well as enforce the provision to terminate all federal public health, mental health, and alcohol program funding. This has not occurred to date, and Congress, in its Continuing Resolution for Funding, extended the time limit for compliance. Regardless of the time limit, we still need to bring the program into compliance, and these amendments will do so. This bill meets the current needs and requirements of federal law.

The following amendments are not required, but should be considered.

Section 2 of this bill, which amends K.S.A. 65-4805, should be further amended in include major equipment purchases by any person. Currently, as you can see in Lines 127-129, Page 4 of the bill, major medical equipment purchases are covered for hospitals and physicians if the equipment is used for inpatient diagnosis or treat-

(attachment
No. 7.)

ment. This allows a physician to purchase a piece of major medical equipment (such as a CT scanner or linear accelerator) without Certificate of Need review while if a hospital wanted to purchase the same equipment, it would require a Certificate of Need. Further, the current language provides a loophole so that a physician can purchase equipment and the hospital lease the building and support staff with the hospital having the option to purchase the equipment at a later date. It seems clear that both should be treated equally since purchase by either or both will have the same impact, if unneeded, on further unnecessary increases in medical care costs.

DEPARTMENT'S POSITION:

The Department recommends that House Bill 2014 be passed, with the following amendments.

Section 2(a)(2), Lines 94-98 should be amended to read:

The obligation of any capital expenditure by or on behalf of a health facility which is associated with increases or decreases in the total number of licensed beds by 10 beds or 10% of the total number of licensed beds, whichever is less, in any two-year period.

The Department feels it is important to identify the specific beds in question.

Section 2(a)(8), Lines 127-129, should be amended to read:

(8) The acquisition of major medical equipment by any person. ~~if such equipment will be used to provide health facility services to persons admitted to a health facility.~~

With this amendment, Certificate of Need review of purchases of major medical equipment will be justly applied.

PRESENTED BY: Barbara J. Sabol, Secretary
Department of Health and Environment

TESTIMONY TO THE HOUSE PUBLIC HEALTH
AND WELFARE COMMITTEE

From the Kansas Hospital Association

HB 2014

Presented by Melissa Levy Hungerford

February 3, 1983

The Kansas Hospital Association supports HB 2014 which extends the Certificate of Need Law in Kansas. For the most part, the revisions made to the existing legislation simply clarify and streamline the program. There is, however, one revision which KHA cannot support and one additional revision which we believe should be made.

KHA cannot support the revised language in Section 2(a)(10) beginning on page 4, line 135, which brings the termination of unwanted health facility services under the auspices of the CON process. In an era where all aspects of the health care system are encouraging efficiency and business-like decisions about the services to be provided, adding the closure of unnecessary services to the regulatory process will do nothing but add to the cost of health care. If an institution or community cannot utilize a service enough to support the service, it should not be there. Even if the CON process determined that the service or facility was not to be closed, the questions of who pays for it and how the decision could be enforced remain unanswered. The intent to assure accessibility to hospital services is excellent, but this approach is unworkable.

We understand that this section is a federal requirement and that the Department of Health & Environment has appealed this issue. We also understand that all sanctions related to non-compliance with P.L. 93-641 have been waived. The Kansas

*(Attachment
No. 8.)*

Hospital Association strongly encourages this committee to delete this contradictory section from this bill.

KHA would also like to voice its support of the amendment to delete lines 128 and 129 on Page 4, Section 2(a)(8) proposed by Secretary Sabol. The question before this committee is whether or not to take action to continue health planning and Certificate of Need in Kansas. The Certificate of Need process is intended to be a cost containment mechanism. Its goal is to reduce the duplication of expensive equipment and services. The law applies to hospitals and nursing homes, but neglects other providers who may offer similar and, therefore, competitive health care services. The concept of competition requires that Certificate of Need be applied equally or not at all. In a transitional phase, all of the actors in the system should play by the same rules. It is for this reason that the Kansas Hospital Association can support the continuation of Certificate of Need for major medical equipment only if it applies to all providers, including physicians. With the current threshold, this process would not prevent rural physicians from establishing a basic office.

Currently, the only instance in which the law requires physicians to obtain a Certificate of Need is when major medical equipment is being purchased to provide services to inpatients. Again, the evolution of health care delivery has made this provision less than effective. In the current climate, insurance carriers and government are limiting their coverage to procedures which can be done on an out-patient basis. Much of the diagnostic technology is included in this shift. The competition between hospitals and physicians as they provide identical equipment is heightened. Hospitals who will also make this equipment available to inpatients must obtain a Certificate of Need, while physicians are exempted from this time consuming and costly process. Even though the health care industry is over regulated, hospitals understand the need to be accountable to their communities. Hospitals cannot, however, support a process which singles out one provider group and fails to regulate others.

Hospitals have a responsibility to provide services to their communities at the lowest possible cost. This cost is currently affected by both the cost of obtaining a Certificate of Need and the cost the community pays to support duplicate services. Without consistent regulation for all providers, Kansas consumers will pay higher health care costs.

That concludes our comments related to this bill. Thank you very much for the opportunity to voice our concerns.