

Approved 2-24-83  
Date sk

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 17, 1983 in room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Research Department  
Bill Wolff, Research Department  
Bruce Hurd, Revisor's Office  
Sue Hill, Secretary to Committee

Conferees appearing before the committee:

Stu Entz, (KAHA), Kansas Assn. Homes For The Aged  
Dick Hummel, Kansas Health Care Association  
Dr. Joseph G. Hollowell, Div. of Health- Kansas Dept. of Health & Environment

Visitor's register, see (Attachment No. 1.)  
Fiscal note on HB 2149 distributed to committee, see (Attachment No.2.)

Chairman called meeting to order.

Hearings on HB 2026 and HB 2027 continue today:---

Mr. Stu Entz stated that HB 2026 was technical in nature and he would not need to comment on it.

HB 2027- Mr. Entz guided the committee to a visual aide that had been prepared, showing a Continuum Care Chart, and the different kinds of health and social care that people need at different ages. This was broken down into groups - Home, Adult Family Home, and Adult Care Home. He stated that everyone is trying to branch out trying to provide expended services without having a high dollar cost. He questioned whether the 1 & 2 bed client facility differs from the others only in the regulatory process.

Mr. Entz feels HB 2027 has eliminated all that has built up in structured ideas in proper care, social care, and has placed it back into a new situation, new setting, and from his view leaves a lot to be desired.

He feels it it not a choice bill, but a lack of choice bill. Mr. Entz stated the bill needs much more clarity. Feels there is a great lack of requirements in the language of the bill, not enough regulation in the assistance with the distribution of medications, and this is in contrast to the regulations we have worked on for years, he commented, to make sure people were properly trained to do these functions. Feels the bill is overall full of inconsistencies. He doesn't feel the bill is necessary. If the committee thinks otherwise, he seriously suggests that some stronger safeguards be imposed into the bill for regulation inspection, manditory inspection, a closer review of those who are in charge of this type of facility. Mr. Entz answered many questions from committee members.

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 ~~AM~~/p.m. on February 17,, 1983

Hearings on HB 2026 and HB 2027 continue:--

Mr. Dick Hummel of Kansas Health Care Assn. stated that those he represents feel HB 2026 is a good bill to clarify the definition of services in that type of services with the exception of the amendment that makes reference to Adult Family Homes in bill.

On HB 2027, he spoke from printed hand-out to committee, see (Attachment No. 3.), outlining his comments to the eligibility of those individuals to receive home community based services. He stated concerns with HB 2027. Some being that no provisions for on-going monitoring of an adult family home client. No provisions for the renewal of registration, and feels an annual renewal of registration is not unrealistic. He urged for additional amendments i.e.- line 0027, pg. 1, after "live independently", add, and are ambulatory. Line 0029, pg. 1, change "The home is not required to furnish", to-- "The home is not authorized to furnish skilled nursing care, supervised nursing care or simple nursing care."

Mr. Hummel urged committee to defeat this bill, further saying he thought it was a veiled attempt to establish a new category of a facility to address the health care needs of the elderly, and displaced from standards an enforcement agency statutorily responsible to these Kansans.

Dr. Robert Harder of SRS was present and answered numerous questions by committee.

Hearings concluded on HB 2026 and HB 2027.

Dr. Joseph Hollowell, of Dept. of Health and Environment requested a committee bill. This bill if drafted would allow no hospital to claim they provide an advanced capability of emergency care for any critical care area, until this had been determined and certified by Secy. of Health and Environment. Such criteria would be established by the Secy. for each critical care area. (i.e. trauma, spinal cord, burns, neonatal). For further details, see (Attachment No. 4.).

Dr. Hollowell answered many questions from committee in regard to this bill request.

A motion by Rep. Branson to request the revisor's office draft this bill in the language as requested, seconded by Rep. Blumenthal. More discussion followed in regard to staffing, fiscal note, and inspections.

Chairman directed committee's attention back to the motion made, voice vote then taken, and motion carried. The bill will be drafted.

Chairman asked for a motion on Committee minutes from February 10th through February 16th. Motion by Rep. Green to approve these minutes, seconded by Rep. Long, and motion carried.

Meeting adjourned at 2:50 p.m., next scheduled meeting Monday, Feb.21,1983.







Fiscal Note  
1983 Session  
February 16, 1983

Bill No.

The Honorable Marvin Littlejohn, Chairperson  
Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal note for House Bill No. 2149 by  
Representatives Cribbs and Grotewiel

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2149 is respectfully submitted to your committee.

HB 2149 provides for the licensure of midwives and establishes the Advisory Council on Midwifery appointed by the Governor. It gives the Secretary of Health and Environment the authority to administer the provisions of HB 2149, including adoption of rules and regulations. It requires the Secretary of Health and Environment to maintain a register of persons licensed to practice and to administer examinations to applicants for licensure. The bill provides for a midwifery fee fund in which fees would be deposited less 20 percent deposited to the general fund.


HB 2149 provides for an original license fee of \$50, a \$25 biennial renewal fee, and a \$2 per month penalty for each month the license has been allowed to lapse. However, the Department of Health and Environment could not provide an estimate of revenues since the numbers of persons licensed are not known.

Kansas Department of Health and Environment estimates that \$46,286 would be required to implement HB 2149 in FY 1984. This includes funding for one public health nurse VI, one clerk typist II, at an estimated cost of \$40,701. The Department estimates that the advisory committee will require expenditures of \$1,050. The remaining funds will be utilized for other program operating expenses.

Expenditures for FY 1984 would be from the State General Fund; any revenues would not be realized in time to make operating expenditures. Therefore expenditures resulting from HB 2149 would be in addition to the 1984 GBR.

(attachment  
no. 2.)

Any appropriation or expenditures resulting from passage of this act would be in addition to the expenditure estimates contained in the budget report submitted to the 1983 Legislature by the Governor.

  
Mary Fischman  
Chief Policy Analyst  
For the Director of the Budget

MF:sr



Kansas Health Care Association

Member of  
**ahca**

TESTIMONY BEFORE THE HOUSE COMMITTEE  
ON PUBLIC HEALTH AND WELFARE

By

Dick Hummel, Executive Director

February 17, 1983

HOUSE BILL NO. 2027

"AN ACT concerning adult family homes as therein defined; relating to registration thereof with the secretary of social and rehabilitation services."

Mr. Chairman and Committee Members:

On behalf of the Kansas Health Care Association, a voluntary non-profit organization representing over 200 licensed adult care homes (nursing homes), collectively accounting for more than 17,000 beds, both proprietary and non-proprietary ownership interests, we appreciate this opportunity to appear on H.B. 2027.

Although we have no objections to the development of home and community based services (HCBS) for those individuals who do not require the professional skills and knowledge of institutional providers, and even look forward to our greater participation in alternate care services, the concept proposed in H.B. 2027 should not be a part of the HCBS program as it establishes a dangerous shift in public policy for the care of the aged and infirmed.

We wish to first discuss client eligibility for HCBS, then compare the tenets of H.B. 2027 to H.B. 2026 (which we support with the exception of the balloon amendments), review public policy for health care delivery in Kansas, and finally to request your swift defeat of this bill.

HCBS ELIGIBILITY

In order for an individual to be eligible for and to receive HCBS, a person:

- must be Medicaid eligible.
- must be "determined" likely to need nursing home care (skilled or 24 hour a day nursing care; intermediate or 8 hours a day nursing care).
- must be given the option, or freedom-of-choice, of selecting nursing home care or HCBS.

The individual must also be under a physician's written plan of care.

*"We Care"*  
*Attachment*  
*No. 3.*



H.B. 2027 (1-2 Bed Family Homes) v.  
H.B. 2026 (1-2 Bed Adult Care Homes)

In H.B. 2027 a family home operator (anyone over 18 years old) would be permitted to care for a person in the above category, but could not directly provide skilled, supervised or simple nursing care. Nursing care could be provided by an outside resource.

We note in lines 0077-0084 specific functions that a family home provider could perform for a client -- such as taking of medications, assistance with eating and bathing, and transferring from a wheelchair.

We note in lines 0106 that a provider is responsible for supervision at all times and for "provisions of care." *of the client*

In H.B. 2026 the criteria for 1-2 bed adult care homes are defined. Basically such a facility, under the regulatory control of the Department of Health and Environment, may offer directly skilled, supervised or simple nursing care. As defined in K.S.A. 39-923 skilled nursing care includes "the administration of medications and treatments as prescribed by a physician...." (lines 0107-0116)

Simple nursing care as defined in lines 0126-0130 includes acts in the care of the ill, injured or infirm requiring certain knowledge and specialized skills but not requiring the substantialized skills, judgment and knowledge of licensed nursing personnel.

Our point in making this comparison is simple. It is our contention that the services prescribed and the program proposed in H.B. 2027, family homes, are acts of nursing care and should be recognized as such and the bill for what it is -- a subtle, feigned attempt to circumvent the adult care home licensure laws.

Another matter is the deviation in public policy inherent in this bill.

PUBLIC POLICY FOR CARE OF ELDERLY

In 1961 the Kansas Legislature made an important policy decision concerning the care and treatment of its elderly and infirmed. Until that time total responsibility for nursing homes had been vested with county boards of social welfare. This responsibility was for both funding and quality assurance. Rocked by scandalous situations in "county poor farms" the Kansas Legislature in 1961 transferred program control and regulatory responsibility to the State Board of Health, concluding wisely that the funding arm and regulatory quality assurance arm of government should not be synonymous.

In H.B. 2027 SRS is not only given both responsibilities, but also under the federal waiver has the authority to pre-screen clients, and "channel" them into a place such as a family home under its program responsibility.

This, in our opinion, is absolute control and power.



We maintain that the public policy for the care of the elderly should be retained, and oppose any attempt to move or bypass quality assurance responsibility and standards from the Department of Health to SRS.

To do otherwise creates a conflict of interest, particularly in this time of state fiscal shortfalls, and deficits within SRS. We contend that budgetary considerations will take precedence over quality assurance standards.

#### SPECIFIC CONCERNS IN H.B. 2027

Concern has been expressed by other conferees that there are no provisions in the bill for the on-going monitoring of an adult family home client. We share those concerns, particularly in light of the department's admission that staff is limited to perform oversight on a regular basis.

Understanding that an aged, elderly person's condition can change very rapidly, we would urge that there be contained in the bill a requirement for the periodic assessment of a family home client.

It is also noted that there are no provisions for the renewal of registration. Once a family home becomes registered, the registration remains in force forever unless suspended or revoked by the secretary. We believe that requiring at least an annual renewal of registration is not unrealistic, would not be unduely burdensome, and is good policy.

We therefore urge the committee's consideration of the attached amendment which establishes procedures for annual registration renewal.

Also, these additional amendments are encouraged:

1. Line 0027. After "live independently" add and are ambulatory.
2. Line 0029. Change "The home is not required to furnish" to The home is not authorized to furnish skilled nursing care, supervised nursing care or simple nursing care.

#### CONCLUSION

As providers of long-term health care to the elderly in Kansas, up to now we have understood public policy to be that health services for the infirmed and chronically-ill can only be delivered by properly licensed, trained and qualified personnel--regardless of the facility size or number of beds, be they 200 or 2.

H.B. 2027 in our opinion is a total abandonment of this policy. Of equal concern is its attempt to vest both regulatory and funding authority in one agency. It has been argued that such consolidation is similar to the foster care program for children. We contend that they are markedly dissimilar. Meeting and recognizing the rapidly changing health needs of the elderly requires the skills of trained and qualified professionals.

Testimony on H.B. 2027  
February 17, 1983  
by Dick Hummel  
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We urge the committee's defeat of this bill, after fully realizing exactly what it is, i.e., a veiled attempt to establish a new category of a facility to address the health care needs of the elderly, but displaced from the standards and enforcement agency statutorily responsible for the public health and welfare of Kansas citizens.

As mentioned in our opening remarks, we are not opposed to alternatives to institutional care. We will vigorously and staunchly insist, however, that in the development of such programs there be adequate assurances and standards for the health and safety of the elderly, and that for the simple sake of budgetary considerations persons truly needing medical, institutional care are not relegated to surroundings conjuring up the "place them and forget them" stereo-typed, institutional image from fifty years ago.

The long-term health care delivery system in Kansas has advanced too far for us to permit this to happen now. While opponents have given examples of a "good" family home, please weigh the possibility of the great, potential abuse of this program. We do not believe that you wish to establish "boot-leg" nursing homes, or to have situations develop in Kansas such as recently reported in an unlicensed boarding home in Mississippi (attached).

AMENDMENT TO H.B. 2027 REQUIRING ANNUAL  
RENEWAL OF REGISTRATION AND ONE  
UNANNOUNCED INSPECTION

Line 0148. Section 5. Add new sections "c" and "d" to read:

(c) Registration, unless sooner suspended or revoked, shall be renewable annually upon filing of the registrant and approved by the secretary and the state fire marshall or their duly authorized agents, of an annual application for renewal upon such information in such form as the secretary prescribes. If application for renewal is not so filed, such registration is automatically cancelled as of the date of expiration.

(d) Authorized agents and representatives of the agency shall conduct at least one unannounced inspection of each adult family home during each year for the purpose of determining whether the adult family home is complying with the provisions of this act and applicable rules and regulations relating to the health and safety of the clients of the adult family home.



AN UNLICENSED BOARDING HOME, NOT LICENSED  
NURSING HOME.

# Officials uncover house of horror

A shocked health official scaled an 8-foot fence and slipped by two snarling guard dogs to uncover the nightmare existence of nine frightened and feeble nursing home patients "practically stacked on top of each other" in a filthy shed.

"It was just horrible," Mendal Kemp of the Mississippi Health Care Commission reported to The NEWS.

"Six of the nine were mentally ill and had been institutionalized for an average of 30 years," Kemp said.

"One was blind, one was bedridden and all of them were starving. The heaviest of them weighed 80 pounds."

Kemp, chief of the commission's licensing and certification division, also discovered that three other patients being housed in the 10-foot square shed died there.

"This case may be more serious than we first thought," Kemp said.

Kemp said the shed was located behind an unlicensed boarding house in Jackson and that a neighbor called to tip him off to what was going on there.

The only window in the shed was boarded up. There was no electricity or running water and a plastic bucket served as

By PETE COOKE

a toilet for the seven women and two men.

"They had no toilet articles, no personal items, no food and no water," said Kemp. "They had to bathe with a garden hose in the backyard. They told me that they were given a bowl of rice in the morning and they got a peanut butter sandwich in the afternoon."

Kemp said there was no one at the boarding house when he discovered the nine desperate patients confined to the shed.

"It was pitiful," he said. "People just don't live that way. My first thought was to get them out of there. One had to be taken by ambulance and the other eight went by car. I had them all taken to a clinic to be checked out by a doctor. They all showed signs of severe neglect and malnutrition and one man had open bedsores and a black eye."

Rosie Franklin, 46, later told authorities she was living in



WEEKLY WORLD NEWS  
December 7, 1982

Rosie Franklin stands before the home that conceals a backyard shed where authorities found nursing home patients living — and starving — in unbelievable squalor.

the boarding house owned by Mildred Davis. She said three people died in the shed between May and October and Mrs. Davis had two of the bodies moved to another Jackson

boarding house she operates. "Mrs. Davis was receiving \$284 every month from the federal government for each of the nine people being housed in that shed," Kemp said. The

attorney general of Mississippi appointed a special prosecutor to investigate the case while District Attorney Ed Peters prepared to present the matter to a grand jury.

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PROPOSAL FOR HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

PRESENTED FEBRUARY 17, 1983

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

The Department of Health and Environment recommends legislation be enacted specifying:

1. No hospital may claim to provide an advanced capability of emergency medical care for any critical care area until that capability has been determined and certified by the Secretary of Health and Environment.
2. Any hospital may request the Secretary to certify that the hospital meets the criteria necessary to provide a level of emergency medical care (I, II or III). Such criteria will be established by the Secretary for each critical care area (trauma, spinal cord, burns, neonatal, and ~~poison~~).
3. The Secretary may inspect any hospital requesting to be certified to determine whether the hospital meets the criteria for which certification is requested.
4. Any hospital which meets the criteria as determined by the Secretary shall be certified as to its capabilities for the critical care areas requested.
5. The Secretary may adopt rules and regulations to carry out the provisions of this act.

(attachment  
no. 4.)