

Approved 4-7-3  
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 March 17, 1983 in room 423-S of the Capitol.

All members were present except: Dennis Spaniol, excused.

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:

Jerry Slaughter, Kansas Medical Society  
Elizabeth Carlson, Board of Healing Arts  
Sylvia Hougland, Department on Aging  
Sister Judith Sutera, Kansas Association of Home Health Agencies  
Dr. Robert Harder, Social Rehabilitation Services  
Keith R. Landis, Christian Science Committee on Publication for Ks.  
Dick Hummel, Kansas Health Care Association

Vice-Chairman, Rep. King called meeting to order.

Hearings began on SB 294:

Mr. Jerry Slaughter, Ks. Medical Society distributed a printed statement to committee in support of SB 294. (See Attachment No. 1.). Language in amendments to the law make it now applicable across the country. definitions of "false advertisement" and advertisement" clarify the law and provide for unusual circumstances, and he urged committee to report SB 294 favorably.

Ms. Elizabeth Carlson spoke in support of SB 294. Stated that the bill will help to clear up the law. She concurred with Mr. Slaughter's comments.

Hearings concluded on SB 294.

Hearings began on SB 32:

Sylvia Hougland, Dept. on Aging, distributed printed statement to committee. (Attachment No. 2.) Ms. Hougland comments that earlier screening increases diversion and decreases state costs, allows for greater care planning and assistance to families. (See attachment No.2. for details of statement. Early assessment, before application will allow more time for coordinating alternative services for the patients, thereby increasing diversion. She commented, once someone is placed in a home, it is difficult to de-institutionalize. Had no concerns about SB 32, and supports this bill, and SB 33 as well.

Sister Judith Sutera stated that they are in favor of offering this screening service referred to in SB 32. They are very willing to undertake this task, and they hope it will help people become aware of alternative services. Hope it will provide for earlier exploration of service possibilities, so that people can make choices. They do have some administrative concerns. Their agencies are not able to financially subsidize the SRS services, so it is their hope that a sufficient fee will be offered for services given. It is hoped that SB 32 will become a constructive part in better handling of pre-screening programs.

Dr. Harder spoke in support of SB 32. This is a further enhancement of freedom of choice for individuals even though they may be over 65 or 70 years of age. The bill is designed in such a way that it is self supporting.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
 room 423-S, Statehouse, at 1:30 /a.m./p.m. on March 17, 1983

Hearings on SB 32 concluded.

Hearings on SB 33 began:

Keith Landis, Christian Science Publications, provided committee with printed statement, see (Attachment No. 3.) for details. Mr. Landis noted the amendment in lines 66 through 70 were added by their request, and it supports the provision that a person relying on spiritual means through prayer for treatment shall not, for that reason alone, be considered abused or neglected. He urged the members of committee to consider the retention of this requested amendment in SB 33. Mr. Landis then answered questions from committee.

Chairman directed committee's attention to a printed statement from Kansas Department of Health and Environment, presented by Dick Morrissey, Director of H. & E. Mr. Morrissey unable to testify in person before the committee this date, wishes the statement be considered, and his Department recommends that SB 33 be favorably passed. (See Attachment No. 4.) for details.

Dr. Robert Harder distributed a balloon copy of SB 33 to committee for consideration. (See Attachment No. 5.) for details. Citing several specifics in this balloon copy, i.e., Sec. 3, line 99, dealing with immunity of civil or criminal liability for people involved in the work of SRS. Dr. Harder urged committee's support of this amendment to SB 33. Many questions from committee followed Dr. Harder's remarks.

Dick Hummel, Kansas Health Care Association distributed his printed statement to committee, see (Attachment No. 6.) for details. Mr. Hummel stated their endorsement of SB 33's extension of the protection of the adult care home abuse reporting act to clients of one-two bed adult family homes, and consider this provision extremely important. Questions from committee to Mr. Hummel and much discussion followed.

Hearings on SB 33 concluded.

Chairman directed committee's attention to the proposal by Dr. Harder and SRS on SB 33.

Rep. Walker moved to incorporate in SB 33, the balloon amendment provided by the Secretary of SRS. Motion seconded by Rep. Wagnon. Discussion followed at great length, touching on; reporting of abuse, malicious reporting of abuse, screening of reports, confidentiality of reports, etc. Records are sealed and are not available only under court order for court action. Voice vote then taken and motion carried.

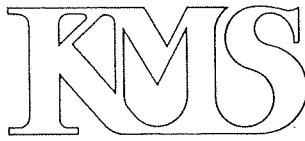
Rep. Wagnon moved to report SB favorable for passage, as amended. Motion seconded by Rep. Harder.

Rep. Blumenthal made a substitute motion to include language, "unlicensed personnel", in Sec. 2. Motion seconded by Rep. Branson. Discussion held. Voice vote then taken on substitute motion and NO's have it, motion failed.

Rep. Friedeman made a substitute motion that SB 33 be tabled until Monday, March 21st, for final action. Seconded by Rep. Long. Discussion held, voice vote taken, and motion passed. SB 33 is tabled until March 21st.

Minutes of committee meetings through March 16th were approved. Motion to approve by Rep. Harder, seconded by Rep. Cribbs, motion carried.

Meeting adjourned at 3:07 p.m. until next scheduled meeting, Monday March 21, 1983 at 1:30 p.m.



# Kansas Medical Society

*Incorporated 1859*

March 16, 1983

To: House Public Health & Welfare Committee

From: Jerry Slaughter  
Director of Governmental Affairs

Subject: SB 294; concerning advertising

The Kansas Medical Society has requested this bill for one basic reason: for the past couple of years the Board of Healing Arts has not enforced sanctions against inappropriate advertising by licensees of the board. When portions of the statute were declared unconstitutional two years ago, the board revoked its regulations prohibiting certain advertising practices.

Our amendments to the law would simply put in place those restrictions currently allowed by case law. There has been a long succession of Supreme Court opinions and administrative interpretations by the FTC, which make the standard of "false and fraudulent" applicable across the country. We have included definitions of "false advertisement" and "advertisement" to further clarify the law, and provide for unusual circumstances.

We encourage you to report SB 294 favorably. Thank you.

*(Attachment  
no. 1.)*

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TESTIMONY ON SB-32  
by  
Kansas Department on Aging

KDOA supports the extension of the Pre-Admission Screening Program to Non-Medicaid Eligible clients for several reasons:

1. Earlier screening increases diversion and decreases state costs.
2. Earlier screening allows for greater care planning and assistance to families.
3. Current screening is limited to point of entry to application for Medicaid.

If pre-admission screening occurs prior to the time of application for nursing home placement, there is a greater chance of diversion, more likelihood of having the time to develop the appropriate level and mix of long term care services and a greater chance of long term care cost containment.

Our existing pre-admission screening program is limited to those who are Medicaid eligible, or likely to be Medicaid eligible, and is provided at the time of a request for admission to a nursing home or on Medicaid application. Certainly, there is great benefit to the present program. The Pre-Admission Screening Program includes both a health and social service component and a common assessment document developed through coordination of the Long Term Care Sub-Committee. It fulfills one of the main purposes of pre-admission screening: to prevent payment for a higher level of services than is necessary and to divert citizens to the most appropriate level of care.

However, there are some limits when screening is provided only to those who apply for Medicaid or Medicaid admission to a nursing home. Often the decision for admission has already been made because a "crisis" stage has been reached.

The KDOA Nursing Home Needs Survey showed that spouses and families made the decision for nursing home placement after "multiple" incidents. The Survey also showed that most did not know of or did not use any community services; did not know what or if services were available; did not know where to turn for professional assistance

(Attachment  
No. 2.)

in their decision making; and did not get professional help or consultation on the decision to place in a nursing home. Pre-admission screening at this point is often too late.

In Kansas, the pre-admission screening team is often the only existing professional assessment assistance available. By allowing non-medicaid recipients to receive this support at a fee, future costs may be reduced. Earlier assessment, before application, allows greater time for coordinating alternative services thereby increasing diversion. Once someone is placed in a home, it is difficult and often inhumane to de-institutionalize.

We have no concerns about SB-32. KDOA urges wide dissemination about the new service so that those who need this service know about it.

There are two future concerns not related to this but related to the least costly level of service. Two gaps exist:

1. Monitoring follow up and case management on a fee basis - no existing system.
2. Gaps in the service system.

3

# Christian Science Committee on Publication For Kansas

820 Quincy Suite K  
Topeka, Kansas 66612

Office Phone  
913/233-7483

To: House Committee on Public Health and Welfare

Re: SB 33

Existing language in K.S.A. 39-936 states: "No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment."

The amendment in lines 0066-0070 of Senate Bill 33, added by the Senate Committee on Public Health and Welfare at our request, supports that provision by making clear that a person relying on spiritual means through prayer for treatment shall not, for that reason alone, be considered abused or neglected.

It is possible that other circumstances might be present in a situation which would justify a complaint of abuse or neglect. It is not our intent to prevent a report or investigation of such a case.

Through the years, we have been grateful that the Kansas Legislature has responded favorably to our requests for provisions in the statutes which will allow our members and adherents to practice their religious beliefs peacefully and without interference. We will appreciate the retention of the requested amendment in this bill.



Keith R. Landis  
Committee on Publication  
for Kansas

(Attachment  
no. 3.)

4

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE BILL NO. 33

PRESENTED MARCH 17, 1983

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

This is the official position taken by the Kansas Department of Health and Environment on Senate Bill No. 33.

Background

Senate Bill No. 33 is a companion bill to House Bill No. 2026 and House Bill No. 2027 establishing a program for registering adult family homes by the Department of Social and Rehabilitation Services. Both house bills have been passed by this committee and the House.

Need For

Senate Bill No. 33 includes residents of adult family homes in the statutes requiring the reporting and investigation of suspected abuse or neglect of residents of state hospitals and adult care homes. Since adult family homes registered under House Bill No. 2027 will not be licensed as adult care homes, Senate Bill No. 33 is necessary to assure that adult family home residents have the services and protection authorized by the abuse and neglect statutes.

DEPARTMENT'S POSITION:

The department recommends that the committee report Senate Bill No. 33 favorably for passage.

PRESENTED BY: Richard J. Morrissey, Director  
Office of Health Facilities  
Kansas Department of Health and Environment

(Attachment  
No. 4.)

SENATE BILL No. 33

By Senator Johnston

(By Request of the Social and Rehabilitation  
Services Review Commission)

1-11

0020 AN ACT concerning the provision of services for the protection  
0021 of certain persons from abuse or neglect; amending K.S.A.  
0022 39-1401, 39-1402 and 39-1404 and repealing the existing sec-  
0023 tions.

, 39-1403

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. K.S.A. 39-1401 is hereby amended to read as fol-  
0026 lows: 39-1401. As used in this act:

0027 (a) "Resident" means:

0028 (1) Any resident, as defined by K.S.A. 39-923 and amend-  
0029 ments thereto; or

0030 (2) *any client cared for in an adult family home; or*

0031 ~~(2)~~ (3) any individual kept, cared for, treated, boarded or  
0032 otherwise accommodated in a medical facility, as defined by  
0033 K.S.A. 65-425 and amendments thereto, which is operated by the  
0034 state or federal government.

0035 (b) "Adult care home" has the meaning ascribed thereto in  
0036 K.S.A. 39-923 and amendments thereto.

0037 (c) "Adult family home" has the meaning ascribed thereto in  
0038 section 1 of 1983 House Bill No. 2027.

0039 ~~(b)~~ (d) "In need of protective services" means that a resident  
0040 is unable to perform or obtain services which are necessary to  
0041 maintain physical and mental health.

0042 ~~(e)~~ (e) "Services which are necessary to maintain physical  
0043 and mental health" include, but are not limited to, the provision  
0044 of medical care for physical and mental health needs, the reloca-  
0045 tion of a resident to a facility or institution able to offer such care,

(Attachment  
no. 5.)



0046 assistance in personal hygiene, food, clothing, adequately heated  
0047 and ventilated shelter, protection from health and safety hazards,  
0048 protection from maltreatment the result of which includes, but is  
0049 not limited to, malnutrition, deprivation of necessities or physical  
0050 punishment and transportation necessary to secure any of the  
0051 above stated needs, except that this term shall not include taking  
0052 such person into custody without consent, except as provided in  
0053 this act.

0054 (d) (f) "Protective services" means services provided by the  
0055 state or other governmental or private organizations or individu-  
0056 als which are necessary to prevent abuse or neglect.

0057 (e) (g) "Abuse" means neglect, willful infliction of physical  
0058 or mental injury or willful deprivation by a caretaker of services  
0059 which are necessary to maintain physical and mental health.

0060 (f) (h) "Neglect" means the failure of a caretaker to maintain  
0061 reasonable care and treatment to such an extent that the resident's  
0062 health or emotional well-being is injured.

0063 (g) (i) "Caretaker" means a person or institution who has  
0064 assumed the responsibility for the care of the resident voluntarily,  
0065 by contract or by order of a court of competent jurisdiction.

0066 *No person shall be considered to be abused or neglected for*  
0067 *the sole reason that such person relies upon spiritual means*  
0068 *through prayer alone for treatment in accordance with the*  
0069 *tenets and practices of a recognized church or religious denom-*  
0070 *ination in lieu of medical treatment.*

0071 *Sec. 2. K.S.A. 39-1402 is hereby amended to read as follows:*  
0072 *39-1402. (a) Any person licensed to practice any branch of the*  
0073 *healing arts, the chief administrative officer of a medical care*  
0074 *facility, an adult care home administrator, a licensed social*  
0075 *worker, a licensed professional nurse and a licensed practical*  
0076 *nurse, who has reasonable cause to believe that a resident is*  
0077 *being or has been abused or neglected, or is in a condition which*  
0078 *is the result of such abuse or neglect or is in need of protective*  
0079 *services, shall report immediately such information or cause a*  
0080 *report of such information to be made in any reasonable manner*  
0081 *to the department of social and rehabilitation services.*

0082 (b) *The report made pursuant to subsection (a) shall contain*

0083 the name and address of the person making the report and of the  
 0084 caretaker caring for the resident, the name and address of the  
 0085 involved resident, information regarding the nature and extent  
 0086 of the abuse, neglect or exploitation, the name of the next of kin  
 0087 of the resident, if known, and any other information which the  
 0088 person making the report believes might be helpful in an inves-  
 0089 tigation of the case and the protection of the resident.

0090 (c) Any other person having reasonable cause to suspect or  
 0091 believe that a resident is being or has been abused or neglected,  
 0092 or is in a condition which is the result of such abuse or neglect or  
 0093 is in need of protective services may report such information to  
 0094 the department of social and rehabilitation services.

0095 (d) Notice of the requirements of this act and the department  
 0096 to which a report is to be made under this act shall be posted in a  
 0097 conspicuous place in every adult care home and adult family  
 0098 home in this state.

0099 Sec. 2 ~~2~~ <sup>3</sup> K.S.A. 39-1404 is hereby amended to read as fol-  
 0100 lows: 39-1404. (a) The department of social and rehabilitation  
 0101 services upon receiving a report that a resident is being, or has  
 0102 been, abused or neglected, or is in a condition which is the result  
 0103 of such abuse or neglect or is in need of protective services shall,  
 0104 within ~~forty-eight (48)~~ 48 hours of receiving such report, initiate  
 0105 an investigation, including a personal visit with the resident and,  
 0106 within two weeks of receiving such report, shall initiate a thor-  
 0107 ough investigation and evaluation to determine the situation  
 0108 relative to the condition of the resident and what action and  
 0109 services, if any, are required. The evaluation shall include, but  
 0110 not be limited to, a visit to the named resident and consultation  
 0111 with those individuals having knowledge of the facts of the  
 0112 particular case. Upon completion of the evaluation of each case,  
 0113 written findings shall be prepared which shall include a finding  
 0114 of whether there is or has been abuse or neglect, recommended  
 0115 action and a determination of whether protective services are  
 0116 needed.

0117 (b) The secretary of social and rehabilitation services shall  
 0118 maintain a statewide register of the reports received, the findings,  
 0119 evaluations and the actions recommended. The register shall be

Sec. 3. K.S.A. 39-1403 is hereby amended to read as follows: 39-1403.

(a) No person who makes Anyone participating in the making of any report pursuant to this act, or in any follow-up activity to or investigation of such report or any other report of abuse or neglect of an adult or who testifies in any administrative or judicial proceeding arising from such report shall not be subject to any civil or criminal liability on account of such report, investigation or testimony, unless such person acted in bad faith or with malicious purpose.

(b) No employer shall terminate the employment of, prevent or impair the practice or occupation of or impose any other sanction on any employee solely for the reason that such employee made or caused to be made a report under this act.

0120 available for inspection by personnel of the department of social  
0121 and rehabilitation services. The secretary of social and rehabili-  
0122 tation services shall forward a copy of any report of abuse or  
0123 neglect of a resident to the secretary of health and environment  
0124 and, in the case of a report of abuse or neglect of a resident of an  
0125 adult care home *or an adult family home*, to the ~~state nursing~~  
0126 ~~home ombudsman~~ *secretary of aging*.

0127 (c) Neither the report nor the written evaluation findings shall  
0128 be deemed a public record or be subject to the provisions of  
0129 K.S.A. 45-201 to 45-203, inclusive, and any amendments thereto.  
0130 The name of the person making the original report or any person  
0131 mentioned in such report shall not be disclosed unless the person  
0132 making the original report specifically requests or agrees in  
0133 writing to such disclosure or unless a judicial proceeding results  
0134 therefrom. No information contained in the statewide register  
0135 shall be made available to the public in such a manner as to  
0136 identify individuals.

0137 Sec. 3 ~~4~~. K.S.A. 39-1401, ~~39-1402~~ and 39-1404 are hereby  
0138 repealed.

0139 Sec. 4 ~~5~~. This act shall take effect and be in force from and  
0140 after its publication in the Kansas register.

5

, 39-1403

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Member of



# Kansas Health Care Association

## TESTIMONY BEFORE THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

By

Dick Hummel  
Executive Director

March 17, 1983

### SENATE BILL No. 33 AMENDED

"AN ACT concerning the provisions of services for the protection of certain persons from abuse or neglect; amending K.S.A. 39-1401, 39-1402 and 39-1404 and repealing the existing sections."



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, both proprietary and non-profit, thank you for this opportunity to appear in support of S.B. 33 Amended.

We endorse the bill's extension of the protection of the adult care home abuse reporting act to the clients of one-two bed adult family homes.

This safeguard of protective oversight requires that certain professional persons must, and any other person may, report the suspected abuse or neglect of a family home client to SRS for investigative follow-up.

We consider this provision extremely important in view of the minimal supervision family home clients will receive.

An important feature in the bill is the stipulation (lines 0095-0098) that the requirements of this Act be conspicuously posted in an adult family home. This simply means, perhaps most importantly of all, that the client and others know that there is not only a degree of protection afforded them under law but also of the state agency to contact if needed.

Thank you again for this opportunity.

*(Attachment No. 6.)*

*"We Care"*