

Approved _____ Date 4-7-83

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by _____ at _____
Chairperson

11:50 A.M./p.m. on March 25, 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:

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

Chairman called meeting to order immediately after adjournment of the House.

Chairman directed committee's attention to SB 13.

Rep. Branson made a motion to amend SB 13 as per (Attachment No. 2.) on page 3, line 84, before "medical", by inserting "selected"; and in line 84, strike all after "functions"; and in line 85, by striking all before the word "according".

Rep. King made a substitute motion to amend SB 13 to delete lines 83, through 87. Rep. Helgeson seconded substitute motion. Discussion followed, i.e.- procedures, rules and reg., broader range of authority for Registered Practical Nurses, etc. Voice vote taken, chair in doubt, show of hands indicated 11 in favor, 6 opposed. Motion carried, and amendment to delete lines 83 through 87 in SB 13 prevailed.

Rep. King moved to pass SB 13 out favorably, seconded by Blumenthal, question been called, voice vote taken, and motion carried. SB 13 passed out favorably as amended.

SB 285

Discussion on whether bill should contain language "certified", and depth and controversy in regard to this bill. Rep. Green moved to table SB 285 until next year. Rep. Walker seconded, and more disucssion followed. Some committee indicating Interim study is necessary to get health care costs in line, others wishing to deal with the bill now. Chair asked for voice vote and motion carried. SB 285 is tabled until next year.

SB 362

Staff noted to committee that Governmental Organization committee had put on SB 362. Ms. Correll directed attention to the bill, and pg. 7 line 246 through 249 were struck and inserted the language that Mr. Keith Landis proposed to this committee yesterday on Christian Science amendment. Further, Page 10, line 366, strike year, 1985, and insert 1986, line 379, struck 24, and insert 30.

Rep. Harder moved to report SB 362 favorable for passage as amended by Governmental Organization committee. Seconded by Rep. Hassler, and motion carried.

Chairman shared with Committee a letter received from Dr. Robert Harder regarding the written testimony presented by Bruce Roby, SRS attorney, on March 23, 1983, whereby he asked to "officially withdraw the testimony on page 5 and continuing to the end of the document."

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 11:50 a.m./p.m. on March 25, 1983

See (Attachment No. 3.) for details of Dr. Harder's letter to Chairman Littlejohn.

SB 11.

Staff briefed committee on technical amendments, page 4, line 128, strike "main application", and insert, "filed a petition", further on page 4, line 145, strike "or guardian, or both". There are also some printing errors that staff will correct as bill is rewritten in SB 11.

Rep. Friedeman moved to accept these amendments noted by Ms. Correll in SB 11. Rep. Roenbaugh seconded and motion carried.

Further proposed amendments followed, see (Attachment No. 4.) for details. Page 23, line 839, delete words "best and". Line 853, a new sentence reading, "Except as otherwise provided by law, a ward may voluntarily consent to the admission of oneself to such a facility or institution if able and permitted to do so according to the court's findings of fact set forth in the court's order issued at the conclusion of the hearing on the petition for guardianship".

Rep. Wagon moved to incorporate these amendments in SB 11, seconded by Rep. Helgerson, motion carried.

Last proposed amendment on SB 11, Ms. Correll explained to committee SB 314 amends K.S.A. 77.201, which is also amended into SB 11. In order to keep 2 versions of this statute in the books, there is need to amend the provision of SB 341 into SB 11. Rep. Green moved to accept this provision amendment of SB 11, so that there is not a duplication. Motion seconded by Rep. Wagon, and motion carried.

Rep. Blumenthal then moved to pass SB 11 out favorably as amended. Seconded by Rep. Branson, and discussion followed.

Rep. Walker made a substitute motion to amend SB 11 further by adding item (3) on Judicial Council's proposed amendments, (see Attachment No. 5.) for details. i.e.- "59-3031. Hearing on accounting. On the hearing, unless otherwise ordered, the conservator shall, and other persons may, be examined. The conservator shall produce for examination by the court or a duly authorized clerk or other appointee thereof, evidence of balances on deposit and investments reported in the accounting which shall be described in such account in sufficient detail so that they may be identified. If the account is correct, it shall be settled, and allowed. The order of settlement and allowance shall show the amount of the personal property remaining. Upon settlement of the final account, and upon delivery of the property on hand to the person entitled thereto, the court shall discharge the conservator and the conservator's sureties."

This substitute motion to amend SB 11 was seconded by Rep. Green, and motion carried.

Motion to move SB 11 out as amended favorably for passage made by Rep. Branson, seconded by Rep. Buehler. Motion carried.

Meeting adjourned . Next scheduled meeting will be 1:00 p.m. Monday, March 28, 1983.

It was noted that (Attachment No. 6.) was distributed to committee members. It is a statement of American College of Nurse-Midwives.

PROPOSED AMENDMENT FOR SENATE BILL NO. 13

On page 3, in line 84, before "medical", by inserting "selected"; also in line 84, by striking all after "functions"; in line 85, by striking all before "according"

(Attachment
No. 2.)



STATE OF KANSAS

JOHN CARLIN, GOVERNOR

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

ROBERT C. HARDER, SECRETARY

March 24, 1983

STATE OFFICE BUILDING
TOPEKA, KANSAS 66612

The Honorable Marvin Littlejohn
Statehouse
Topeka, Kansas 66612

Dear Representative Littlejohn:

Thank you for calling attention to the testimony presented by Bruce Roby, SRS Attorney, March 24, 1983

I recognize the possible legal problems involved in the testimony beginning with the section entitled, SUGGESTIONS, p. 5.

I wish to officially withdraw the testimony beginning on page 5 and continuing to the end of the document.

Thank you for your attention to this matter.

Sincerely yours,

Robert C. Harder
Secretary

RCH:mao
0931E

(Attachment
No. 3.)

0825 (c) A limited guardian shall have only such of the general
 0826 duties and powers herein set out as shall be specifically set forth
 0827 in the dispositional order pursuant to K.S.A. 59-3013 and
 0828 amendments thereto and as shall also be specifically set forth in
 0829 "Letters of Limited Guardianship" pursuant to K.S.A. 59-3014
 0830 and amendments thereto.

0831 (d) A guardian shall have all of the general duties and
 0832 powers as set out herein and as also set out in the dispositional
 0833 order and in the letters of guardianship.

0834 (e) The general powers and duties of a guardian shall be to
 0835 take charge of the person of the ward and to provide for the
 0836 ward's care, treatment, habilitation, education, support and
 0837 maintenance and to file an annual accounting. The powers and
 0838 duties shall include, but not be limited to, the following:

0839 (1) Assuring that the ward resides in the best and least
 0840 restrictive setting reasonably available;

0841 (2) assuring that the ward receives medical care or non-
 0842 medical remedial care and other services that are needed;

0843 (3) promoting and protecting the care, comfort, safety,
 0844 health and welfare of the ward;

0845 (4) providing required consents on behalf of the ward;

0846 (5) exercising all powers and discharging all duties neces-
 0847 sary or proper to implement the provisions of this section.

0848 (f) A guardian of a ward is not obligated by virtue of the
 0849 guardian's appointment to use the guardian's own financial
 0850 resources for the support of the ward.

0851 (g) A guardian shall not have the power: (1) To place a ward
 0852 in a facility or institution unless such placement has been
 0853 approved for that person by the court. A ward may voluntarily
 0854 admit oneself to such a facility or institution.

0855 (2) To consent, on behalf of a ward, to sterilization, psycho-
 0856 surgery, removal of a bodily organ, or amputation of a limb
 0857 unless the procedure is first approved by order of the court or is
 0858 necessary, in an emergency situation, to preserve the life or
 0859 prevent serious impairment of the physical health of the ward.

0860 (3) To consent on behalf of the ward to the withholding of
 0861 life-saving medical procedures, except in accordance with pro-

(Attachment
 No. 4.)

Except as otherwise provided by law, a
 consent to the admission of

if able and permitted to do so according to the
 court's findings of fact set forth in the court's
 order issued at the conclusion of the hearing on
 the petition for guardianship

PROPOSED CHANGES IN S. B. 11

Summary

1. Strike new § 20 relating to annual review.
2. Strike subsection (c) of new § 21 relating to "standby" guardians.
3. Add 59-3031, as amended.

(1) The Judicial Council proposes that § 20 of S.B. 11 be stricken. The Judicial Council agrees that guardians and conservators should be held more accountable but does not agree that the periodic review in § 20 is the best method of accomplishing that accountability. It is the opinion of the Judicial Council that other actions taken by this bill and proposed by the Judicial Council, meet the need for more accountability.

Presently, there are nine thousand guardians or conservators, or both, in the state. Only 30% of the conservators and none of the guardians file annual reports. Under S.B. 11 all guardians and conservators will be required to file annual reports on forms prescribed by rule of the Supreme Court. If this bill passes, the Judicial Council will design those forms for the Supreme Court. ~~and~~ The determination to be made under § 20 will become questions on the reports. The Judicial Council believes the filing is the key to more accountability.

It should also be noted that the Judicial Council has drafted a proposed Supreme Court Rule which will require judges to set an annual reporting date for guardians and conservators. If the reports are not filed to call the guardians and conservators not filing such reports before the court. This rule will be submitted to the Supreme Court along with the rules setting forth the forms for reports and accountings. It is the opinion of the Judicial Council that a "time related" hearing after a decision has been reached will be expensive, bog down the system and not only raise costs and fees to the parties but, in terms of judge and staff time, will require heavy public expense. The Judicial Council noted that when any procedure becomes too structured and expensive the people will avoid using that procedure.

It should be noted that by not allowing conservators report to be waived there is more accountability. Also note my proposed amendment to 59-3031 that follows.

In summary, there is no conflict between the goals of § 20 and the goals of the Judicial Council, but it is the belief of the Council that the same end can be reached with less expense without § 20.

*(Attachment
No. 5.)*

(2) The Judicial Council proposes that subsection (c) of new § 21 relating to standby guardians be stricken.

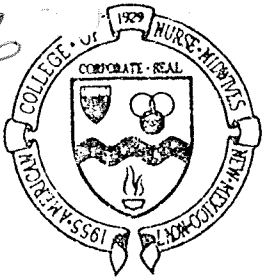
The Judicial Council believes that the section relating to a standby guardian or conservator should be removed from S.B. 11. The reasons are largely because of anticipated legal problems. It is not likely that any doctor or hospital will accept the consent of a standby guardian unless letters of guardianship or letters of limited guardianships have been issued to the standby guardian or unless there is proof of resignation, disability, temporary absence, or death.

The Council sympathizes with the objective of this subsection, but questions its workability.

(3) The Judicial Council recommends that K.S.A. 59-3031 be amended as follows and be added to S.B. 11.

"59-3031. Hearing on accounting. On the hearing, unless otherwise ordered, the conservator shall, and other persons may, be examined. The conservator shall produce for examination by the court of a duly authorized clerk or other appointee thereof, evidence of balances on deposit and investments reported in the accounting which shall be described in such account in sufficient detail so that they may be identified. If the account is correct, it shall be settled, and allowed. The order of settlement and allowance shall show the amount of the personal property remaining. Upon settlement of the final account, and upon delivery of the property on hand to the person entitled thereto, the court shall discharge the conservator and the conservator's sureties."

This proposed amendment is a part of the Judicial Council concept of making the conservator more accountable. It is somewhat similar to a procedure found in 73-509 of the curators for veterans statutes.



AMERICAN COLLEGE OF NURSE - MIDWIVES

1000 Vermont Avenue, N.W., Washington, D.C. 20005

202/628-4642

PHILOSOPHY

AMERICAN COLLEGE OF NURSE-MIDWIVES

The Philosophy of the American College of Nurse-Midwives is based on the beliefs that:

Every childbearing family has a right to a safe, satisfying experience with respect for human dignity and worth; for variety in cultural forms; and for the parents' right to self determination.

Comprehensive maternity care, including educational and emotional support as well as management of physical care throughout the childbearing years, is a major means for intercession into, and improvement and maintenance of, the health of the nation's families. Comprehensive maternity care is most effectively and efficiently delivered by interdependent health disciplines.

Nurse-midwifery is an interdependent health discipline focusing on the family and exhibiting responsibility for insuring that its practitioners are provided with excellence in preparation and that those practitioners demonstrate professional behavior in keeping with these stated beliefs.

Adopted, 1972

FUNCTIONS, STANDARDS AND QUALIFICATIONS

Qualifications for the Practice of Nurse-Midwifery

1. Certification by the American College of Nurse-Midwives
 - a. Active licensure as a registered nurse in one of the 50 states or Territories including the District of Columbia
 - b. Completion of a nurse-midwifery educational program approved by the American College of Nurse-Midwives
2. Compliance with legal requirements of the jurisdiction in which nurse-midwifery practice will occur

*(Attachment
No. 6.)*

FUNCTIONS, STANDARDS AND QUALIFICATIONS

Standards for the Practice of Nurse-Midwifery

Nurse-Midwifery practice:

1. Strives to provide continuity of care to the woman and her family during the maternity cycle, continuing interconceptionally throughout the childbearing years.
2. Fosters the delivery of safe and satisfying care.
3. Recognizes that childbearing is a family experience and encourages the active involvement of family members in care.
4. Upholds the right to self-determination of consumers within the boundaries of safe care.
5. Focuses on health and growth as developmental processes during the reproductive years.
6. Stimulates community awareness and responsiveness to the needs for delivery of quality family-centered care.
7. Occurs interdependently within a health care delivery system.
8. Occurs within a formal written alliance with an obstetrician; or another physician, or a group of physicians, who has/have a formal consultative arrangement with an obstetrician-gynecologist.
9. Exists within a framework of medically approved protocols.
10. Occurs within the realm of professional competence.
11. Requires opportunities for continuing professional growth and development.
12. Includes an on-going process of evaluation.

Functions for the Practice of Nurse-Midwifery

The Nurse-Midwife:

1. Assumes responsibility for the management and complete care of the essentially healthy woman, and newborn related to the childbearing processes.
2. Develops with the woman an appropriate plan of care attentive to her interrelated needs.
3. Participates in individual and group counseling and teaching throughout the childbearing processes.
4. Manages, through mutual agreement and collaboration with the physician, that part of care of medically complicated women which is appropriate to the skills and knowledge of nurse-midwives.

FUNCTIONS, STANDARDS AND QUALIFICATIONS

Functions for the Practice of Nurse-Midwifery - Continued

5. Collaborates with other health professionals in the delivery and evaluation of health care.
6. Assesses own professional abilities and functions within identified capabilities.
7. Assumes responsibility for own self-determination within the boundaries of professional practice.
8. Maintains and promotes professional practice in concert with current trends.
9. Utilizes Standards for Evaluation of Nurse-Midwifery Procedural Functions in development and evaluation of practice (Appendix A).
10. Promotes the preparation of nurse-midwifery students.
11. Assists with the education of other health care personnel.
12. Supports the philosophy and official policies of the American College of Nurse-Midwives.

Accepted, 1975

APPENDIX A

STANDARDS FOR EVALUATION OF NURSE-MIDWIFERY PROCEDURAL FUNCTIONS

The following guidelines were adopted by the Executive Board of the American College of Nurse-Midwives as a way of approaching the clinical practice of the nurse-midwife. Practice is continually evolving and it varies depending upon the institution and the demands for service within each setting. Because of this, the nurse-midwife may frequently be in a position of having to evaluate a new function for possible inclusion into her practice. This need for evaluation may be stimulated by the obstetrician, the demands of the patient or community, pressure from other groups, or desires of the nurse-midwife herself. In any case, the answer as to the worth and safety of a new procedure for inclusion into nurse-midwifery may not be clear.

No one of these guidelines can stand alone. It is only by employing each of them and then surveying the whole that an accurate feeling for the safety and suitability of the procedure for nurse-midwifery practice can be obtained. Guidelines help to direct but they do not necessarily guarantee that the direction will be completely clear. Systematic review of new procedures will help to assure that the F.S. & Q. statements are up to date.

1. The procedure assists the nurse-midwife in managing the care of the normal child-bearing woman and infant.
 - a. It does not conflict with the basic philosophy of nurse-midwifery as out-

STANDARDS FOR EVALUATION OF NURSE-MIDWIFERY PROCEDURAL FUNCTIONS - Continued

lined by the ACIM and with that outlined by the nurse-midwifery service.

- b. The procedure can be done competently by the nurse-midwife, i.e., the practitioner has obtained sound theory and supervised clinical experience from qualified faculty.
 - c. The nurse-midwife is prepared to handle possible complications from the procedure until help arrives.
2. The procedure is within accepted obstetrical practice within the institution.
 - a. It is presently an established procedure.
 - b. It is a new procedure that is being instituted by the obstetric service.
 3. The procedure fills a demonstrated need.
 - a. There is consumer demand.
 - b. Within the obstetric team it is appropriate that the nurse-midwife carry out the procedure.
 - c. The nurse-midwife feels the procedure will contribute to the provision of optimal care.
 4. The procedure is evaluated in the literature and/or in practice.
 - a. The literature has been reviewed with both indications and contraindications identified.
 - b. There is consideration of what other institutions and other nurse-midwives are doing.
 5. The procedure is within legal limits.
 6. There is an on-going plan for the evaluation of the procedure.
 - a. The plan is filed with the Clinical Practice Committee at the time of initiation of the procedure.
 - b. Progress reports are periodically submitted to the Clinical Practice Committee.

The Committee requests that if a nurse-midwifery service or a nurse-midwife intends to initiate a new procedure, the Clinical Practice Committee be notified. This will enable the Committee to record changes in practice throughout the United States and will also facilitate the dissemination of information of nurse-midwifery practice. It is hoped that periodic reports to the Committee will be made which are evaluative and in summary form. The collection of this type of data is important to the development of nurse-midwifery and will provide a resource for other services which may be considering the initiation of the same procedures.

Accepted January 27, 1972