

Approved January 26, 1983
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Jan Meyers at
Chairperson

10 a.m./~~p.m.~~ on January 25, 1983 in room 526-S of the Capitol.

All members were present except:

Senator Bogina

Committee staff present:

Emalene Correll, Norman Furse, and Bill Wolff

Conferees appearing before the committee:

- Barbara Sabol, Secretary, Department of Health and Environment
- Dr. Joseph Hollowell, Director, Department of Health and Environment
- Jack Gumb, Adult Care Section, SRS
- Sylvia Houglan, Secretary, Department on Aging
- Marilyn Bradt, KINH
- Dick Hummel, Kansas Health Care Association
- Stewart Entz, Kansas Association of Homes for the Aging
- Frances Kastner, Kansas Food Dealers Association
- Jim Aiken, Division of Environment, DH&E

Others present: see attached list

SB 10 - limiting number of persons authorized to operate certain adult care homes

Barbara Sabol, Secretary, Department of Health and Environment, testified in favor of SB 10. She said this bill constitutes a key step in assuring that persons who own and operate adult care homes are concerned and accountable with how homes are operated. This bill would limit the number of persons who may be licensed to operate an adult care home to 3. This will assist the department in identifying the key decision makers concerning the operation of a home. The Department of Health and Environment strongly endorses SB 10, and urges the committee to report the bill favorably. (Attachment #1).

Dr. Joseph Hollowell, Director, Division of Health, DH&E, testified in favor of SB 10. Dr. Hollowell said the responsibility for the home goes beyond the person who is on the license. These homes operate under a Certificate of Need and have to be accountable.

Jack Gumb, Administrator, Adult Care Section, SRS, testified in favor of SB 10. Mr. Gumb said SRS is in favor of the bill for the same reasons, and that they also have had a problem determining ownership of homes.

Sylvia Houglan, Secretary, Department on Aging, testified in favor of SB 10. Ms. Houglan said that when SB 902 was passed, it addressed one specific problem - to get at multi-layered corporate structure. SB 10 is an adjunct to that bill and will allow DH&E greater access to tracking that corporate level. Rather than being a past bill, it would focus on the future. The Department on Aging strongly supports SB 10.

Marilyn Bradt, Kansans for the Improvement of Nursing Homes, testified in favor of SB 10. Ms. Bradt said that KINH supported SB 902 and supports SB 10, as well. She stated that when dealing with the most vulnerable aspect of our society, the state has a responsibility to limit corporate structure to protect the elderly.

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 SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526-S, Statehouse, at 10 a.m. ~~p.m.~~ on January 25, 1983.

Dick Hummel, Kansas Health Care Association, testified against SB 10. Mr. Hummel stated that KHCA was concerned with both its necessity and its implications, and that DH&E has police power sanctions which can be applied against any recalcitrant nursing home. He questioned why the figure "3" was picked instead of another, and also questioned the constitutionality of the bill. KHCA feels that SB 10 is unnecessary, and with grandfathering would have no impact on the current situation. (Attachment #2).

Stewart Entz, Kansas Association for the Aging, testified in favor of SB 10. Mr. Entz stated that this is a needed bill, which addressed a legitimate question, and we shouldn't allow our elderly citizens to be used as tax shelters. The owner is the one who is ultimately responsible for care, and this bill should address owners of the facilities and not the operators.

There were several questions directed to the conferees concerning limiting to 3 the number of authorized persons, the corporate structure, use of the word "persons" vs. "corporations", etc.

Dr. Hollowell stated that only 6 of 365 homes registered with DH&E would have more than 3 operators.

Senator Francisco spoke to the committee about introducing a bill concerning restroom facilities in stores that handle food.

Frances Kastner, Kansas Food Dealers Association, stated that she was concerned that 600 grocery stores would be closed because of having to open employees' restrooms. Restroom facilities are open to employees and patrons at all times, if those stores provide on-premises consumption for 10 or fewer people. She said these stores would be required to have 2 restrooms unless Rules and Regulations would exempt them as food consumption stores.

Jim Aiken, Division of Environment, DH&E, said that if the committee wanted to introduce that resolution, he had suggested wording for it.

Senator Johnston moved to introduce a resolution that would alter Rules and Regulations so that grocery stores that have on-premises consumption for 10 or fewer customers do not have to have 2 separate restrooms. Senator Francisco seconded the motion and it carried.

Senator Ehrlich moved that the minutes of January 24, 1983, be approved. Senator Morris seconded the motion and it carried.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 1-29-83

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

KEITH R LANDIS Topeka

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATION FOR KANSAS

Steve Page Topeka

KDHE

Jim Aiken Topeka

KDHE

Michele Hinds

Legis. Intern / Rep. Runnels

M. Hawier "

Copital - Journal

Stu Entz TOPEKA

KS. ASSN. OF HOMES FOR AGING

Marilyn Bradt Lawrence

Kansans for Improvement of
Nursing Homes

Harriet Nelson "

" " "

Petey Corf "

" " " "

Jack Gumb Topeka

SRS - Topeka

Dick Hummel Topeka

KS BEACTN CARE ASSN

Nickie Stein Topeka

KS NA

Sylvia Hauford

KDOA

Madam Griffin Abilene

Kansas Food Bank Assn

Jim Sheehan Shawnee Mission

#1-125-83

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE BILL NO. 10

PRESENTED JANUARY 25, 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. 10:

NEED FOR:

This bill constitutes a key step in assuring that the persons [as defined in K.S.A. 39-923(a)(12)] who own and operate adult care homes are concerned and accountable with how those homes are operated. Last year the legislature passed Senate Bill No. 902 specifying that persons who own, lease, establish, maintain, conduct the affairs of or manage an adult care home are engaged in operating the home, and thus must be parties to the license. Where numerous persons are involved in the operation of the home, it may still be difficult to hold them accountable for the quality of care provided in the home.

STRENGTHS:

Senate Bill No. 10 would limit the number of persons who may be licensed to operate an adult care home to three. This will assist the Department in identifying the key decision makers concerning the operation of a home, and will facilitate action to enforce licensing standards, when necessary. Since existing arrangements with more than three persons involved are grandfathered by the bill, their economic and contractual interests are protected.

WEAKNESSES:

The Department sees no apparent weaknesses in the bill.

DEPARTMENT'S POSITION:

The Department of Health and Environment strongly endorses Senate Bill No. 10 and urges the committee to report the bill favorably.

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

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1-25-83

Member of



Kansas Health Care Association

TESTIMONY BEFORE THE SENATE COMMITTEE
ON PUBLIC HEALTH AND WELFARE

By

Dick Hummel, Executive Director

January 25, 1983

SB 10

"AN ACT concerning adult care homes; limiting the number of persons licensed to operate certain adult care homes."

Senator Meyers and Committee Members:

On behalf of the Kansas Health Care Association; a voluntary, non-profit organization representing over 200 licensed adult care homes as well as hospital based long term care units in Kansas, both proprietary and non-proprietary, thank you for this opportunity to appear on SB 10.

We have concern both with its necessity and its implications.

The bill's purpose, according to testimony by the Secretary of Health and Environment, is to afford the agency a greater handle of accountability on a random few nursing home owners and operators. We understand that the agency has had a problem, limited in scope, in this area recently.

We neither quibble with accountability, nor that nursing homes be held responsible for providing safe, comfortable and appropriate care to our state's 26,000 nursing home residents.

The department has had for sometime now in its enforcement arsenal police power sanctions which can be applied against any recalcitrant nursing home: the issuance of correction orders and monetary fines, receivership authority to actually take over the operation of a facility, and the power to deny or revoke a license.

It is argued that the bill is needed because the department has had, again in isolated instances, difficulty in identifying the various parties in the nursing home ownership-management hierarchy.

Note that the provisions of SB 902, requested last year by the department which became effective January 1, 1983, requires all persons involved with the operation of an adult care home to be identified and to sign the adult care home licensure application.

"We Care"

Testimony on SB 10
By Dick Hummel
January 25, 1983
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Just on these two points we don't believe the bill is necessary,

The broad implications and questionable constitutionality of the bill are also of concern.

Why were three persons, not four or five chosen? Can the government limit the rights of individuals to own and hold property?

Our premise is that SB 10 is unnecessary; if accountability is the issue, hold the agency responsible for the proper exercise of its enforcement duties. Our position has been that if a facility knows and understands its responsibilities, and continues to openly and flagrantly violate the standards, enforcement action should be swift and just.

Regarding the specific language of the bill, lines 0022-0025 appear to be redundant and perhaps could be clarified by striking all of lines 0022-0023 and the words "under the act" appearing on lines 0024-0025.

Thank you once again for this opportunity.