

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 March 23, 1983 in room 526-S of the Capitol.

All members were present ~~XXXXX~~

Committee staff present:

Emalene Correll, Legislative Research Department  
Norman Furse, Revisor of Statutes office  
Bill Wolff, Legislative Research Department

Conferees appearing before the committee:

Dr. Robert Harder, SRS  
Richard J. Morrissey, Director, Office of Health Facilities, DH&E  
Dick Hummel, Kansas Health Care Association  
Sister Judith Sutera, Kansas Association of Home Health Agencies  
Marilyn Bradt, KINH

Others present: see attached list

Senator Meyers called the meeting to order, and Senator Vidricksen introduced 47 students and 2 sponsors from Salina South Junior High School, who were visiting today.

Senator Meyers asked for conferees on HB 2026 and 2027.

HB 2026 - Adult care homes, affecting definitions of classifications

HB 2027 - Adult family homes, registration with Secretary of SRS

Dr. Robert Harder, SRS, testified in support of HB 2026 and HB 2027, and said that these two bills are companion bills. He distributed testimony stating that the purpose of HB 2026 is to clarify existing legislation as it relates to licensing of adult care homes, and recommends passage of the bill. (Attachment #1). Dr. Harder also distributed testimony in support of HB 2027 which stated that the purpose of this bill is to establish authority for SRS to register homes to be used as adult family homes. This would simplify the current licensing procedure which requires full licensure from DH&E, and would clearly distinguish between adult family homes and adult care homes. (Attachment #2).

Senator Meyers questioned the reason for the amendment to HB 2027, on page 5, Section (c), allowing unannounced inspections. Dr. Harder replied that the House Committee thought there was merit in assuring that there be some type of unannounced visit. He stated that the department did not oppose the amendment because they did not want to be a deterrent to the bill's being passed.

Richard J. Morrissey, Director, Office of Health Facilities, DH&E, testified in support of HB 2026 and 2027, and distributed testimony stating that these bills will promote the development of a needed service for elderly and disabled persons who require a supportive residential environment, but who do not require the intensive nursing services of an adult care home. They are consistent with the basic principle of providing care in the least restrictive environment. (Attachment #3).

Dick Hummel, Kansas Health Care Association, testified in support of HB 2026, but said that he had some concerns about HB 2027. He submitted

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526-S, Statehouse, at 10 a.m. ~~4:30~~ on March 23, 1983.

testimony which stated that a potentially dangerous policy precedence is being established with this bill by placing standard setting and funding control under one agency. KHCA proposes that the bill be amended so that a registered nurse is a party to the annual announced inspection, and that Section 6, lines 166-169 be stricken. KHCA feels that health services for the infirm and chronically ill can be only delivered by properly licensed, trained and qualified personnel, and does not believe that regulatory and funding authority should be vested in one agency. KHCA urges defeat of this bill. (Attachment #4).

Senator Johnston expressed his displeasure with Mr. Hummel's testimony and stated that this bill was the unanimous recommendation of an 11-member panel, of which he was chairman, and all of whom had genuine concern for the standards and safeguards for the people who will reside in an alternate setting.

Sister Judith Sutera, representing the Kansas Association of Home Health Agencies, testified that their members have been deeply involved and hope the adult family care home will become an alternative to the nursing home. KAAH believes that in order to be effective, the program will have to be carefully monitored, and they are grateful for the inspection standards which the House added to the bill. Sister Sutera declared that their agencies are involved in the initial screening program, and wondered what role their members will have in an on-going program. Foster care, well implemented, is certainly an improvement over institutions.

Marilyn Bradt, KINH, testified that they support the concept of alternative care homes, but that the condition of elderly persons can change very rapidly and they must be carefully monitored. KINH does support unannounced visits, and supports the concept of some training for licensees, such training undertaken by the local health department.

Senator Hayden asked if she saw the well-being of people going down. Ms. Bradt replied that the condition of elderly tends to deteriorate in nursing homes. The more personal attention a person receives in a small home would be to their advantage.

Senator Meyers asked Dr. Harder to comment as to the kind of close management procedure he had in mind. Dr. Harder said the screening is done by a social worker and a nurse. The same kind of team would be available to assist anyone who is in an adult family home. Additionally, he said, they would expect to have a review of their own by a nurse and social worker to determine the medical and social condition of the people. There would need to be a review on a regular basis. They do use case managers, and that individual is responsible for working in conjunction with the social worker, maybe as much as once a month.

A letter from Carl Schmitthenner, Kansas State Dental Association, describing the Veterans' Administration program regarding identification of dentures was distributed to committee members. (Attachment #5).

Senator Morris moved that the minutes of March 22, 1983, be approved. Senator Francisco seconded the motion and it carried.

The meeting was adjourned.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-23-83

(PLEASE PRINT)

NAME AND ADDRESS

ORGANIZATION

Dick Morrissey

KDHA

Dick Hammel

KUCA

Sr. Judith Sideras

Ks. Assoc. Home Health

Joan Kemp

observer

Sammy Johnson

Sedg Co. Deleg Legislative Indem

Bob Glynn

Observer

John Rathlef

So. Jr. High - Salina, Ks.

(47 students + 2 sponsors)

3-23-83 21

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

House Bill No. 2026

1. Short Title of Bill:

An Act concerning adult care homes; affecting definitions of the various classifications thereof; amending K.S.A. 1982 Supp. 39-923 and repealing the existing section.

2. Purpose of Bill:

To clarify existing legislation as it relates to licensing of adult care homes.

3. Why the Bill:

To clarify existing legislation as it relates to licensing of adult care homes.

4. Background of the Bill:

During the past year there was some confusion as to the responsibility of licensing certain types of adult care homes which required supervision.

5. SRS Recommendations:

SRS recommends support of the bill.

Office of the Secretary  
March 23, 1983

Attch. 1

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

House Bill No.2027

1. Short Title of Bill:

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

2. Purpose of Bill:

Establishes authority for SRS to register homes to be used as adult family homes.

3. Why the Bill:

Simplify the current licensing procedure which requires full licensure from Health and Environment, and to clearly distinguish between adult family homes and adult care homes.

4. Background of the Bill:

Approximately 15 months ago SRS began to develop adult family homes to fill in one of the gaps between living independently and living in an adult care home. An Attorney General's opinion indicated that the adult family home fell into the category of a boarding home in the adult care home statutes and must be licensed by Health and Environment. After hearing testimony, the SRS Review Commission recommended the introduction of this bill to simplify the procedure and to clarify that adult family homes were non-medical in nature.

5. SRS Recommendations:

Recommend approval of the bill.

Office of the Secretary  
March 23, 1983

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HOUSE BILLS NO. 2026 and NO. 2027

PRESENTED MARCH 23, 1983

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

House Bill No. 2027 creates a program within SRS to register one- or two-bed adult family homes with the intent of providing a community-based residential program for adults similar to the foster home program for children. House Bill No. 2026 amends the definition of one- and two-bed adult care homes to clarify that such facilities require an adult care home license only if they provide nursing care. Three- or four-bed adult family homes would continue to require a license as an adult care home.

These bills will promote the development of a needed service in the continuum of care for elderly and disabled persons providing an alternative for adults who require a supportive residential environment but who do not require the intensive nursing services of an adult care home. They are consistent with the basic principle of providing care in the least restrictive environment possible.

DEPARTMENT'S POSITION:

The Department of Health and Environment participated in the development of this proposal with SRS and the SRS Review Commission and recommends that the committee report House Bill No. 2026 and House Bill No. 2027 favorably for passage.

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

3-23-83

#4

Member of



Kansas Health Care Association



TESTIMONY BEFORE THE SENATE COMMITTEE  
ON PUBLIC HEALTH AND WELFARE

By

Dick Hummel  
Executive Director

March 23, 1983

HOUSE BILL NO. 2027 AMENDED

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

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, thank you for this opportunity to appear on H.B. 2027.

It establishes a new category of a facility, that of a 1-2 bed adult family home under the regulatory control of the Department of Social and Rehabilitation Services. The family home is but one of various "alternate care" programs under its Home and Community Based Services (HCBS) Program. While we have no objections to the development of alternate services to institutional care for those individuals who truly do not require the professional skills and knowledge of institutional providers, and even look forward to and are expanding our service delivery, we do have a concern with the potentially dangerous policy precedence being established with this bill, i.e., placing standard setting and funding control under one agency.

Before discussing this, we believe it is important to understand the type of client eligible for HCBS. The person must be:

- Medicaid eligible.
- determined likely to need nursing home care.
- given an option, or freedom-of-choice of selecting HCBS or nursing home care.
- under a physician's plan of care.

Therefore, for all practical purposes the person must be in need of some degree of nursing home care -- skilled, intermediate or simple nursing care. (We point out that while the family home itself cannot directly provide nursing care, it can be arranged to be provided by an outside resource. The family home operator, according to the bill, may be any one

"We Care"

Atch. 4

TESTIMONY ON H.B. 2027 AMENDED

By Dick Hummel  
March 23, 1983  
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over age 18. We question the qualifications of such a person, with no medical education or training, in making a determination as to when outside medical care will be needed, appreciating how rapidly an elderly person's health condition can change.)

PUBLIC POLICY FOR CARE OF ELDERLY

The Kansas Legislature in 1961 made an important policy decision concerning the care of its elderly and infirmed. Prior to that time total responsibility for nursing home care had been vested with county boards of social welfare -- responsibility for both program funding and quality assurance standards. Rocked by scandalous situations in "county poor farms", the legislature separated this control by transferring program and standards enforcement to the State Board of Health, wisely concluding that the funder and regulator should not be the same.

Are we not now seeing a reversion to this policy? It is a dangerous step in our opinion and maintain that the public policy for the care of the elderly should be retained and strongly oppose such an attempt to by-pass statutorily defined quality assurance responsibility of the Department of Health and Environment for the sake of alleged "health care cost containment."

To not maintain this public policy smacks of a conflict of interest, particularly in these times of state fiscal shortfalls. We contend that in such a situation budgetary considerations will take precedence over quality assurance concerns.

Consider for a moment the total sphere of control established under this bill, granting SRS authority to:

- pre-screen clients and determine whether nursing home or alternate placement is appropriate, even over-riding a physician's orders.
- establish HCBS as the family home.
- channel clients into its program.
- register family home operators.
- use its employees to inspect the homes and to monitor clients' health conditions.

SPECIFIC CONCERNS IN H.B. 2027

As mentioned, it disturbs us that there are no specific qualifications for a family home operator.

In line 0060 agents and representatives of SRS are required to conduct at least one, annual announced inspection. Who will do this, a case-worker or case-manager? We think that a registered nurse should be a party to the inspection and recommend the bill be so amended.



TESTIMONY ON H.B. 2027 AMENDED

By Dick Hummel

March 23, 1983

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✓ Section 6, lines 0166-0169 exempt from this Act a family home which is caring for private-paying clients. Who will be responsible for monitoring their conditions? We urge this section be stricken.

#### 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.

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 proponents 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 in Kansas.

I'd be happy to respond to any questions.

# Kansas State Dental Association

March 23, 1983

Senator Jan Meyers, Chairman  
Senate Committee on Public Health & Welfare  
Kansas Legislature  
Statehouse  
Topeka, Kansas

Dear Senator Meyers:

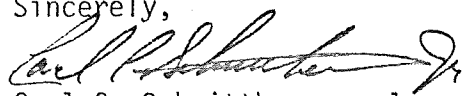
In checking with the Veterans' Administration, I understand that the requirement for identification of all removable prosthetics, unless the patient objects, stems from the Veterans' Administration Dentistry Manual M-4, Chapter 5, Section 2, Paragraph 503 "Dental Laboratory Procedures Common to Dental Service Laboratories", Paragraph b:

All Veterans' Administration laboratories engaged in processing dentures will identify the prosthesis by the permanent placement of the beneficiary's name, or if the area is limited, initials.

The Veterans' Administration does use the same investiture system for marking dentures that is shown in the Ident pamphlet from the American Dental Association.

In response to the question concerning the use of a magic marker, the American Dental Association has run tests for toxicity on a number of markers. It was found that a Sharpy #59 had the least toxicity, and may be safely used. In order to use the marker, however, a section of the acrylic material must be roughed up or scratched. Then the name must be printed on the surface and a thin coating of clear acrylic applied. This process is considered to be temporary and should last from three to six months.

I believe this responds to those questions raised at the hearing March 21. If there are other questions, please let me know. Thank you for your consideration.

Sincerely,  
  
Carl C. Schmitthenner, Jr.  
Executive Director

CCS/gk