

Approved _____

Date 2/9/1984
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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 6, 1984 in room 423-S of the Capitol.

All members were present except:

Rep. Theo Cribbs, excused

Rep. Ken King, excused

Committee staff present:

Emalene Correll, Research

Bill Wolff, Research

Norm Furse, Revisor

Sue Hill, Secy. to Committee

Conferees appearing before the committee:

Dr. Robert Harder, Department of SRS

Marilyn Bradt, Ks. for Improvement of Nursing Homes

Dick Hummel, Ks. Health Care Association

Sylvia Hougland, Department on Aging

(Attachment No. 1.), for visitor's register.

Chairman called meeting to order, stating there is fiscal note on HB 2715 as hand-out this date. (See Attachment No. 2.), for details.

Staff Briefings on HB 2761, HB 2762, HB 2763, HB 2783, HB 2784.

Emalene Correll and Norm Furse, giving very comprehensive briefings on the above bills. It was then noted by Chairman there would be no briefings on HCR 5063, and HCR 5069 this date as scheduled. A recent Attorney General's opinion issued in regard to rules and regulations on these two HCR's, will be evaluated and hearings re-scheduled.

Hearings on HB 2762:

Dr. Robert Harder spoke to HB 2762. (See Attachment No. 3.), for details. This is an act concerning amending K.S.A. 1983 supp. 39.1402, and repealing the existing section to read that, certified psychologists, employees of adult care homes and medical facilities, and law enforcement officials report suspected incidences of abuse or neglect. If these individuals did not report, it would be a class B--Misdemeanor.

Dr. Harder fielded many questions from committee and staff, i.e., yes, 2 bed nursing homes are included; administrators of homes are obligated to educate personnel along these lines, that reporting abuse is mandatory; how can the added influx of reporting be handled; just what is the definition of abuse and neglect.--(This was read to committee from statute books.)

Marilyn Bradt, representing Kansans for Improvement of Nursing Homes distributed her testimony to committee. (See Attachment No. 4.), for details. She stated their association is in support of a penalty being imposed. Feels that without a penalty the law is unenforceable, and urged committee for their support of HB 2762, saying KINH cannot accept abuse or neglect of older citizens. Ms. Bradt then answered questions from committee.

Dick Hummel, Kansas Health Care Association distributed his testimony to committee. (See Attachment No. 5.), for details. He stated that at the present time, anyone going into a nursing care facility has the right to report abuse or neglect if they see it. He feels HB 2762 is unnecessary and asked committee to report the bill unfavorably. Further, considering that over 9 million patient days of care are given annually by adult care homes, limited instances of abuse--by residents to residents, by

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 ~~a.m.~~/p.m. on February 6, 1984

HB 2762 hearings continued:

residents to employees, and by employees to residents-- do occur some-times. They don't like it, and if it is proven, naturally that employee would lose their job. He then answered extensive questioning from committee. Summarizing his remarks, stating his Association is against HB 2762.

Sylvia Hougland, Department on Aging spoke to HB 2762, in that it is the hope of her department that this bill be passed out of committee favorably. She spoke to strong support of mandatory reporting of abuse or neglect. She then answered questions from committee, i.e., about possibility of protecting those who report abuse rather than fine them for not reporting. Is there any objection if the bill were to be amended to read that those people who do not do hands-on care would be exempt from reporting abuse? Ms. Hougland stated it might be advisable to convene with the bill sponsor to discuss this possibility.

Chairman stated that hearings on HB 2101 would have to be held at a later date due to time restraints this date.

Dr. Harder spoke to HB 2105, in that the Department of SRS and Dept. of Health and Environment would convene on it, do further research, then report back to committee next year.

Meeting adjourned at 3:00 p.m.

Fiscal Note
1984 Session
February 1, 1984

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. 2715 by Committee
on Public Health and Welfare

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2715 is respectfully submitted to your committee.

House Bill No. 2715 expands existing legislation regarding the utilization and appointment of interpreters for deaf, hearing or speech impaired persons. The bill provides that governmental entities shall appoint a qualified interpreter for persons who are deaf, hearing impaired, or speech impaired and whose primary communication is nonverbal or through the use of sign language. Such interpreters shall be appointed for grand jury proceedings, court proceedings, commission meetings, and legislative meetings. Interpreters shall be appointed from a list of qualified interpreters maintained by the Kansas Commission for the Deaf and Hearing Impaired. The governmental entity that conducts the proceedings which requires the use of an interpreter shall pay for the services of the interpreter at the rate established by the Kansas Commission for the Deaf and Hearing Impaired.

The Department of Social and Rehabilitation Services which is the parent agency for the Kansas Commission for the Deaf and Hearing Impaired estimates that the per hour rate for the utilization of an interpreter could be approximately \$15 per hour. However, the Department is unable to estimate how many hours of interpreter service would be required in FY 1985. Any additional cost would be financed from available resources to the appropriate governmental entity. Any additional state expenditures required by the passage of House Bill No. 2715 will be in addition to amounts contained in the FY 1985 Governor's Budget Report.



Richard E. Koerth
Principal Budget Analyst
For the Director of the Budget

REK:dh

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2-6-84

#3 -
2-6-84

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

Statement Regarding House Bill 2762

I. Short Title of Bill

An act concerning mandatory reporting of incidents of abuse or neglect of residents of adult care homes, adult family homes and certain medical facilities; amending K.S.A. 1983 Supp. 39-1402 and repealing the existing section.

II. Background

The current law only requires certain professionals (any person licensed to practice any branch of the healing arts, the chief administrative officer of a medical care facility, an adult care home administrator, an adult family home administrator, a licensed social worker, a licensed professional nurse, and a licensed practical nurse) to report incidences of abuse and neglect and allows other persons (aides, maintenance staff, kitchen help, volunteers) to report.

Currently aides and non-professional help in adult care homes or other medical facilities are not required by law to file reports; neither are ministers or persons visiting the adult care homes or medical facilities for one reason or another.

III. Discussion

The current statute KSA 39-1401-1410 does not have any teeth in it. If House Bill 2762 is passed it would make it mandatory that certified psychologists, employees of adult care homes and medical facilities, and law enforcement officials report suspected incidences of abuse or neglect. If these individuals did not report it would be a class B misdemeanor. While it cannot be validated, it is said that nursing home administrators and professional social workers have failed to report instances of abuse in their facilities. Also, one verbal, unofficial report was received that an adult care home administrator fired three non-professional staff persons who reported incidences of abuse and neglect in his facility. This bill would prevent possible termination of non-professional staff because it would mandate them to report. The current law makes provision for immunity of the reporter.

IV. SRS Position

SRS supports this legislation because it will require non-professional persons and certified psychologists to report; and make provision for a class B misdemeanor when not reporting.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271
February 2, 1984

Attn. #3
2-6-1984



#4
2-6-84

Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, #2

LAWRENCE, KANSAS 66044

842-3088 — Area Code 913

February 7, 1984

TESTIMONY SUBMITTED TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE
CONCERNING HOUSE BILL 2762

Kansans for Improvement of Nursing Homes has supported the inclusion of a penalty provision for failure to report suspected adult abuse or neglect since the Adult Abuse Act was first considered. We continue to believe that such a penalty is an important tool without which the Act is largely unenforceable. KINH is in support of the penalty provision of HB 2762.

For the State to say, in effect, that certain persons must report suspected abuse or neglect of persons in nursing homes, but that no serious consequences will follow if they do not do so, implies that there is little concern in Kansas to look critically at the way we care for the vulnerable elderly. We believe there is concern and a desire to take strong, positive steps to deal with this real and present problem.

We were heartened by the beginning steps taken by the Adult Abuse Act to recognize the problem and to encourage that incidents of abuse or neglect be reported. HB 2762 would add needed emphasis to those efforts to put a stop to adult abuse by identifying the perpetrators. We urge your support for this measure.

Attn. #4
2-6-84

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2-6-84

TESTIMONY PRESENTED BEFORE THE
HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

By
Dick Hummel, Executive Director
Kansas Health Care Association

February 6, 1984

HOUSE BILL 2762

AN ACT concerning mandatory reporting of incidents of abuse or neglect of residents of adult care homes, adult family homes and certain medical facilities.

Mr. Chairman and Members of the Committee:

On behalf of the Kansas Health Care Association, a voluntary non-profit organization representing over 200 Kansas adult care homes, both proprietary and non-proprietary and single as well as multi-facility ownership interests, thank you for this opportunity to present comments on H.B. 2762, proposed amendments to the abuse reporting act.

Two changes are proposed; the first to add all employees of the adult care home to the list of persons who are mandated to file reports, and the second to impose the sanction of a Class B misdemeanor upon a person who is required to file a report but "knowingly and willfully" fails to do so.

Neither are new propositions. The original draft of the Act in 1980 contained a misdemeanor feature, but was removed.

Senate Bill 170 (adds unlicensed employees of adult care homes to the list of persons required to report and a Class C misdemeanor) was introduced last year, carried-over to this year, and remains in the Senate Judiciary Committee.

H.B. 2762 UNNECESSARY

Our members do not condone the mistreatment or neglect of our residents. Considering that over 9 million patient days of care are given annually by adult care homes, limited instances of abuse -- by residents to residents, by residents to employees, and by employees to residents -- do occur with justice swiftly metted out, e.g., employee discharge, etc.

attn. # 5
2-6-84
"All Care"

1. All employees must report (lines 0027-0028).

Requiring that health professionals (physicians, nurses, social workers, adult care home administrators) report their suspicions is one thing, but placing such responsibility upon other employees (aides, housekeepers, social service designees, etc.) is another matter.

Consider, you'll be requiring non-medically trained personnel to subjectively determine:

Abuse: means neglect, willful infliction of physical or mental injury or willful deprivation by a caretaker of services which are necessary to maintain physical and mental health.

Neglect: means the failure of a caretaker to maintain reasonable care and treatment to such an extent that the resident's health or emotional well-being is injured.

We also point out that the existing law permits any person, in addition to those so required, to file a report (line 0044 H.B. 2762).

2. Criminal Penalty?

A reporting system has been in place since 1980, with documentation showing that reports are being filed, investigated and resolved. Data as evidenced in the record, also shows the number of reports received and the source of the complainant:

DEPARTMENT OF SOCIAL AND
REHABILITATION SERVICES

ADULT SERVICE

ADULT ABUSE/NEGLECT/EXPLOITATION
REPORTING AND INVESTIGATION

<u>YEAR</u>	<u>REPORTS RECEIVED</u>	<u>REPORTS FILED BY MEDICAL PERSONNEL</u>	<u>% OF TOTAL REPORTS FILED BY MEDICAL PERSONNEL</u>
FY 82	384	192	<u>50%</u>
FY 83	359	174	<u>48%</u>

The facts in the record are clear that reports are being filed by medical personnel; if these statistics are not high enough, then what "quota" is satisfactory?

Proponents of this bill will argue that the "hammer" of a misdemeanor is needed to force, and intimidate more reporting; and will probably summarily refute the statistics and evidence as not truly indicative of the "wide-spread" neglect in Kansas nursing homes.

We maintain this is heresay, ask that you consider the facts, and not be swayed by the emotionalism of this issue.

If the figures are too low (according to the proponents) could it not be argued that they are then reflective of the good care being given?

OTHER OVER-SIGHT BODIES

We wish to remind the committee of other mechanisms for the protective over-sight of nursing home residents:

1. Long-Term Care Ombudsman. Within the Department on Aging, this office is responsible for the expeditious resolutions of complaints.
2. Department of Health and Environment. A complaint coordinator is located in the Bureau of Adult and Child Care Facilities.
3. County Health Departments. Many local health departments now conduct monthly "visitation and consultation" stops at nursing homes.

In summary, we do not believe H.B. 2762 is needed based upon the facts in the record. A reporting system is functional; medical personnel are submitting reports.

Please consider the facts, reason with us, and don't be overcome by the emotionalism of this bill.

Your unfavorable reporting of H.B. 2762 is respectfully requested.

State of Kansas
Department of Social and Rehabilitation Services
Adult Services

ADULT ABUSE/NEGLECT/EXPLOITATION REPORTING AND INVESTIGATION
FISCAL YEAR 1983 (July, 1982 through June, 1983)

MEDICAL

REPORTS RECEIVED		June, 1983		Year to Date ✓		PERPETRATORS		June, 1983		Year to Date	
		#	%	#	%			#	%	#	%
Total		31		359 ✓		Abuse:		16		188	
Age Range		18-102		17-105		Self		0	0	2	1
Average Age		70		62		Spouse		1	6	4	2
		#	%	#	%	Family/Relatives		0	0	4	2
Male		10	32	118	33	Guardian/Conservator		0	0	0	0
Female		21	68	241	67	Other/ Staff		15	94	178	95
60 years and older		24	77	232	65	Neglect:		15		164	
						Self		1	7	13	8
INVESTIGATIVE FINDINGS						Family/Relatives		1	7	8	5
Total Reports		31		359		Guardian/Conservator		0	0	0	0
Confirmed		6	19	138	38	Other/Staff		13	87	143	87
Potential Risk		8	26	56	16	Exploitation:		0		25	
Unconfirmed		17	55	165	46	Self		0	0	2	8
						Family/Relatives		0	0	10	40
ABUSE *						Guardian/Conservator		0	0	4	16
Total Reports		16		188		Other/Staff		0	0	9	36
Investigative Findings	Confirmed	2	13	77	41	REPORTERS ✓					
	Pot.Risk	8	50	32	17	Self		2	6	16	4
Spouse Abuse Reports		1		4		Family		6	19	62	18
Investigative Findings	Confirmed	0	0	1	25	Neighbor/Friend		2	6	29	8
	Pot.Risk	0	0	0	0	Guardian/Conservator		0	0	0	0
						Community Agencies		0	0	2	1
NEGLECT *						SRS Staff		1	3	27	8
Total Reports		15		164		Medical Personnel					
Investigative Findings	Confirmed	4	27	58	35	(N.H.-M.D.-Health Dept. Hospital Staff)		19	61	174	48
	Pot.Risk	0	0	25	15	Police		0	0	1	0
						Lawyer/Court Services		0	0	0	0
EXPLOITATION *						Anonymous		1	3	38	11
Total Reports		0		25		Other		0	0	10	3
Investigative Findings	Confirmed	0	0	8	32						
	Pot.Risk	0	0	3	12						

* Some cases are reported in more than one category (abuse, neglect, exploitation)