

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 February 8, 1984 in room 526-S of the Capitol.

All members were present except:

Senator Francisco, excused

Committee staff present:

Emalene Correll, Legislative Research Department

Conferees appearing before the committee:

Barbara Sabol, Secretary, Department of Health and Environment
Rebecca Kupper, Kansas Hospital Association
Marla Luckert, Attorney, representing KHA
Wayne Stallard, Attorney, Onaga, Kansas

Others present: see attached list

SB 586 - concerning medication aides; providing for registration thereof

Barbara Sabol, Secretary, DH&E, distributed testimony giving background and citing specific provisions in SB 586 about which DH&E is concerned. She said that in some adult care homes, non-certified aides administer medication, and suggested that the committee may want to consider an additional provision directed to adult care home licensees or administrators who have the ultimate responsibility for employing and assigning responsibilities to individuals who are properly trained and perform competently. (Attachment #1).

Rebecca Kupper, KHA, said that yesterday she had distributed copies of amendments to HB 2002 and 2003, which KHA is proposing, and that Marla Lucker, attorney with Goodell, Stratton, Edmonds, Palmer & Wright, and general counsel for KHA, would review the amendments for the committee.

Marla Lucker reviewed Sections 3, 5, 6, 14, and New Section 27 of HB 2002, and explained the amendments proposed by KHA. The amendments concerned overlapping territories of two hospitals; allowing the hospitals to continue with the present system of selecting boards; guaranteeing that all hospitals be operated by a board; allowing hospital boards to arrange for the management of the hospital under a management contract; allowing board members to be elected on a non-partisan basis; allowing elected boards to levy taxes and issue bonds; requiring approval of plans for hospital building and additions only where bond proceeds were being used for construction; and amending the county home rule statute to allow the establishment of a county hospital where there is a district hospital. (Attachment #2). Ms. Luckert was questioned by the committee concerning all of these proposals.

Rebecca Kupper, KHA, said that hospitals with appointed boards want to continue that way, and hospitals with elected boards do not want to change either. Ms. Luckert said that Clay County Hospital is the only hospital which has an elected board.

Wayne Stallard, Onaga, Kansas, said the study committee considered a county bill and a district bill, and they should have been considered together. The problems have been resolved and they are in agreement.

Senator Meyers said the committee would hear further from Ms. Luckert tomorrow.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10 a.m.~~pm~~ on February 8, 1984.

Senator Don Montgomery distributed copies of proposed amendment and changes to HB 2003, and explained them to the committee. (Attachment #3).

Senator Meyers said the hearing on the hospital bills would be continued tomorrow.

Senator Ehrlich moved that the minutes of February 6, 1984, be approved. Senator Gordon seconded the motion and it carried.

The meeting was adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-8-84

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Kerry Burkhardt - 204 Coolidge - Great Bend	Close-Up - Great Bend
Charley Gowdy - 2508 Paces - Great Bend	Close-Up - Great Bend Senior High
Beverly Williams - 2400 Broadway - Great Bend	Close-Up - Great Bend Senior High
Judy Jackson 3212 25 th Great Bend	Close-Up Great Bend Senior High
Jolene Arnold 5954 Aspen Great Bend	Close-up Great Bend Senior High
JACKIE Appel 1612 Monroe Great Bend	Close-up Great Bend Senior High
Kim Keller 4211 Quail Creek Drive, Great Bend	Close-up - Great Bend Senior High
Dr Lois R. Schutte	KS BAN
Dick Hummel	KS HEALTH CARE ASSN
PAT WIESNER 2632 S. Mosley Wichita	CLOSE-UP KANSAS
Stephanie Lawry Rt 3 Olathe	Close-up Kansas
Michelle Zemitas Rt. 1 Olathe	Close-up Kansas
Steve Haggard Exchange Wichita	Close-up "
Peggy O'Kinley, 78 Fairway, Ft. Scott	Close-up Kansas
Linda Miller, 600 Summit, Ft. Scott	Close-up Kansas
Leid Long 1083 Fort Scott	Close-up Kansas
Jay Latta 1024 National Ft. Scott	Close-up Kansas
Ingrid Greiff Paris France	Close up KS
Byron Slawson 1306 S. Little	Close up: KS, Ft. Scott
Jan Brunder 533 W. Central, El Dorado	Close UP Kansas
P. Faber Topeka	KANAE
Joe H. Howell Topeka	KINE
Rich Bruce Whitewater	Education

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-8-84

(PLEASE PRINT)
NAME AND ADDRESS

KEITH R. LANDIS TOPEKA
Marla Luckert Topeka
Rebecca Kupper "
Wesley M. Stallard Oraga
Lynelle King Topeka
Frank Bentley "
~~CHARLES J. SANDER SRA~~ "
Fred Allen
Joseph Engelken
Senator Don Thompson

ORGANIZATION

CHRISTIAN SCIENCE COMMITTEE
ON PUBLICATIONS FOR KANSAS
Kansas Hospital Ass'n - Atty w/
Goodell, Stanton et al
KHA
Community Hospital Oraga, Ks
Ks state Nurses Assn
Ks Hospital Assoc.
R. A. C.
Community Hospital, Oraga Ks

KANSAS STATE DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on S. B. 586

by

Barbara J. Sabol, Secretary

Before

Senate Public Health & Welfare
February 7, 1984

Background

The characteristics of the adult care home clients have changed significantly over the past ten (10) years. The population is older with more chronic disorders and higher levels of functional disability. The fact that the adult care home population is a more functionally disabled population is due, in large part, to the successes of the Kansas home and community based system, including homemaker services, home health, etc. Many adults who were formerly placed in adult care homes before they really needed to be there are residing in their own homes, adult foster care type facilities, senior citizen congregate living centers, etc.

This trend toward keeping people in their own homes as long as they can and care to be speaks positively of the aggressive in-home support policies of the state and the public-private partnership to develop a continuum of services in the community.

You have recently received testimony regarding potential impacts of the DRG and other payment systems. As you heard, it is likely that these systems may well have impact on the degree of disability and need of patients who will receive care post-hospitalization in adult care homes.

✓ The patients have changed, the environment is changing, and perhaps this bill is a good opportunity to view the policy of medication aides for old, sick people and others in Kansas adult care homes and reassess whether or not the responsibility of administration of medication to vulnerable groups of people should be the responsibility of an unlicensed person.

S.B. 586 Provisions

1) Insulin Administration:

.There are over 1,300,000 nursing home residents in the United States. Of these, 20 percent have diabetes, compared with only eight (8) percent of the total elderly population who have diabetes. (Source: HEW, 1977)

.Fifty-four (54) percent of nursing home patients receive seven (7) or more drugs at a time with some receiving as many as 23 drugs. (Source: HEW, 1976)

- .Patients over 65 experince more adverse drug reactions than younger persons because their cardiovascular and nervous systems are more sensitive to some drug actions and because drugs often accumulate in the body when there is poor liver circulation or when the kidneys function inefficiently.
- .As a group, long term care patients (usually the elderly) take several drugs which make them more susceptible to adverse drug reactions.
- .Elderly patients normally have more than one chronic medical condition which adds to the risk of taking drugs because a drug used to treat one condition may be contraindicated due to the presence of other conditions.
- .The delivery of injections is a potentially dangerous process which can result in nerve damage, use of improper concentration or volume of medications, use of improper injection site, and the possibility of inducing infection. A certified medication aide may not be the health care team member best equipped to provide the safest level of service to adult care home residents who require insulin injections.

2) Other Provisions:

Line 0024: The Secretary may refuse to place on or may remove a person's name from the register. Should not this be required in some circumstances? Do some of these violations warrant a shall?

Line 0038 "inaccurately records" is given the same weight as falsifies and alters information.

Line 0045 Before action is taken on a certification, should a hearing be required?

Should the state approved course in insulin administration be approved by the State Board of Nursing since insulin administration is a complex nursing function?

Yesterday, you heard testimony that non-certified aides administer medication. Our records indicate that this does happen in adult care homes. Thus, the Committee may want to consider an additional provision directed to adult care home licensees and or adult care home administrators who have the ultimate responsibility for employing and assigning responsibilities to individuals who are properly trained and perform competently.

This very briefly sets out the concerns and questions regarding S.B. 586.

TESTIMONY OF THE KANSAS HOSPITAL ASSOCIATION
Before the Senate Public Health & Welfare Committee

February 8, 1984

House Bills 2002, 2003, 2004, 2005, 2006, 2007

Thank you, Madame Chairperson and members of the committee. I am Marla Luckert, of the law firm of Goodell, Stratton, Edmonds, Palmer & Wright, which is general counsel for the Kansas Hospital Association. The Kansas Hospital Association appreciates the opportunity to comment on the bills before you today. As you are aware, there have been two legislative interim studies on public hospital laws during which there has been a great deal of debate, revision and redrafting. We have now passed through a third interim period during which the Kansas Hospital Association met to again discuss H.B. 2002 and 2003. As has been explained, the consensus of the public county and district hospitals is reflected in the amendments which have been given to you.

We would like to review with you the amendments which the Kansas Hospital Association respectfully submits for your consideration.

House Bill 2002

Section 3. As you may remember, one of the concerns which has been raised during the consideration of these bills is the potential for two hospitals to be formed with overlapping territories. Taxpayers could thus be required to pay taxes to maintain two hospitals. The Kansas Hospital Association proposes that Section 3 of H.B. 2002 be amended so that a county hospital cannot be formed if there is a district hospital presently within the county unless a majority of the qualified electors in the overlapping portion of the district vote to be included in the county hospital should it be established within a period of two years from the date of the election. If the voters approve, the territory will be detached from the district and will join the county hospital. However, a phase-in period is provided which will allow the district hospitals to plan for the loss of the territory. Additionally, bonds which have been issued or authorized will not be affected by the detachment. Taxpayers of the detached area will still be liable on any bonds issued by the district.

Att. 2

The Kansas Hospital Association feels that such a provision will give the electors the choice and thereby avoid the potential for there to be two hospitals formed from the same territory. By allowing the phase-in time both hospitals should be able to plan the transition.

Section 5. One of the amendments which is very important to the hospitals is found in Section (c). This amendment allows the hospitals to continue with the present system of selecting boards. Hence, boards which are elected will continue to be elected. For example, Clay County, which has had an elected board, would be guaranteed they could continue with an elected board unless and until the electors, by referendum, decide otherwise. The new section (c) which is proposed would allow the electors to request a referendum at which the method of selecting a board could be changed from an appointed board to an elected board or vice-versa. In the view of the hospital association, such a procedure would give the electors the power to determine the manner of selection, but yet, not be a procedure whereby a small group of unhappy people could pressure the commission into taking action which a majority of the electors would not support. This method gives the ultimate control to the electors.

The members of the Kansas Hospital Association also propose an amendment to Section 5 of H.B. 2002 which would guarantee that all hospitals be operated by a board. The hospitals feel it is important, even where there is a management contract or lease situation, that a board of local individuals be involved with the direction and control of the hospital. Obviously this makes the hospital more accountable to the local taxpayer rather than allowing divestiture to some removed management group.

Additionally, KHA proposes allowing the hospital boards to arrange for the management of the hospital under a management contract. The county commission would have the right to lease the facility. It seems appropriate that if the hospital board is given the power to manage and control a hospital and, absent a management contract, would be hiring the hospital administrator, that it be the hospital board who would, in essence, hire the manager via the management contract.

A final amendment to Section 5 would clarify that board members would be elected on a nonpartisan basis. It was the opinion of the members of the Kansas Hospital Association that hospital board members should be elected in a manner similar to school boards, i.e., that members should be voted on in an election at large and on a non-partisan basis. A non-partisan election would encourage all qualified candidates to run for the hospital board.

Section 6. Amendments are proposed to Section 6 which would allow elected boards to levy taxes and issue bonds. As the bill now reads only the county commissioners would be able to do these acts. However, where a hospital board is directly elected by the people and are thereby directly answerable to the electors, there is no real purpose in requiring commission action. The Kansas Hospital Association understands the reluctance to give taxing power to non-elected officials. However, where the public elects a board the members will be forced to be responsive to the opinions of the electors.

Section 14. The Kansas Hospital Association proposes an amendment to the provision which would require the approval by the commission of all plans and specifications for hospital buildings and additions. The amendment would require this approval only where bond proceeds were being used for the construction. It was the feeling of the members of the Kansas Hospital Association that if monies from private donations and other sources was used to construct the building that no purpose was served in requiring the commission to review the plans and specifications.

New Section 27. The final proposed amendment to H.B. 2002 is an amendment to K.S.A. 19-101a, the county home rule statute. The proposed amendment would change Section 12. This section was amended last session in conjunction with the changes which were being made to the bills you are now considering. It is now necessary to make that statute consistent with the present amendments which are being proposed.

The present statute does not allow the establishment of a county hospital where there is a district hospital. The amendment which the Kansas Hospital Association has proposed today allows for the detachment of territory and the establishment of the county hospital. K.S.A. 19-101a can be easily adapted by deleting the language which makes an absolute prohibition on the establishment of the hospital but restricts the establishment to the procedure in K.S.A. 19-101a.

Even if the proposed amendments to Section 3 are not adopted and, therefore, K.S.A. 19-101a is not inconsistent with the present statute, the Kansas Hospital Association suggests that portion of the statute still needs amendment. The present statute states that counties may not exempt from or effect changes in the procedure for establishing hospitals "and/or health related facilities." The phrase "and/or health related facilities" creates confusion. The term is not a defined phrase. Nor do the statutes include a provision for establishing any facilities independent of a hospital. Therefore, the Kansas Hospital Association feels that to avoid the ambiguity created and thereby avoid future problems of interpretation, the phrase should be deleted.

With these proposed amendments, the Kansas Hospital Association supports H.B. 2002.

H.B. 2003

The Kansas Hospital Association also proposes some amendment to H.B. 2003 which, if adopted, will satisfy the concerns of the member district hospitals.

Section 3. The first amendments are found at Section 3. To avoid any future problems with a hospital district's status with regard to the application of various statutes, the Kansas Hospital Association proposes that it be made clear that the district is a municipal corporation. This amendment is proposed in an effort to avoid future questions.

The second amendment which is proposed to Section 3 is a provision which would prohibit a district hospital from forming over another district hospital. Provision is made, however, for the electors in the overlapping territory to vote to detach from one district and join the new district. Again, these provisions are aimed at avoiding a double taxation situation.

Section 6. The district hospitals propose a new section to Section 6 which would specify a procedure for changing the number of board members. Presently, the section allows changing the number of board members by voting at any annual meeting. The problem with this provision is that a change in the number of board members could easily result in a substantial policy change for the hospital. Yet, by voting at an annual meeting this change could occur by the vote of a handful of people. The district hospitals feel that such changes should only result from the input of a large portion of the electorate. To ensure this is the result, it is necessary to utilize the special question election rather than the annual meeting. The question shall be submitted at the next general election so that the expense of a special election is avoided.

Section 16. The first proposed change is to add the phrase "paying general expenses" to the list of purposes for which the taxes may be levied. K.S.A. 80-2145, K.S.A. 80-2163, K.S.A. 80-2191, and K.S.A. 80-21,113 (the present district hospital statutes) include this phrase. It is felt that the inclusion of this phrase will clarify that taxes in the future may be levied for the same purposes as at the present time. Basically, the purpose of the proposed amendment is to avoid any potential confusion between the wording of the present and the proposed statutes.

The second amendment proposed to Section 16 merely reflects the fact this bill was carried over. The proposal would be to change the reference from 1982 to 1983 so that the levy could be for the amount authorized in the year before these statutes become effective.

The remaining amendments are an attempt to make the collection of the taxes for district hospitals more workable. The method proposed in H.B. 2003 follows the present procedure for township hospitals. However, this is not the procedure most commonly followed by district hospitals. The district hospital statutes contain no real procedure. The amendments which the Kansas Hospital Association proposes approximate the procedure now used. The section borrows heavily from the school district laws. Also, an attempt has been made to tie the proposed statute to the procedures currently used by the Department of Administration, Division of Accounts and Reports.

Section 19. An amendment is proposed to Section 19 which would make it clear that the provisions of K.S.A. 79-2925 to 79-2968 are available to hospital districts. These provisions relate to no-fund warrants. Arguably, the sections which apply to any taxing subdivisions or municipalities would apply. However, this provision would eliminate any ambiguity.

Actually the provisions of those sections are, in many ways, more restrictive than the present Section 19. However, many hospital boards and administrators stated they would be more comfortable in using no-fund warrants if they had to follow the procedures of the general no-fund warrant statute, including the requirement of approval by the Board of Tax Appeals. This provision would make it clear that this option was available to the hospitals and that Section 19 did not displace or eliminate that option.

Section 22. Amendments are proposed which would make Section 22 a detachment and an attachment section. The proposed amendment allows territory to be moved from one hospital district to another. Both hospital boards and the county commission must approve the attachment. The purpose of the procedure is to avoid a detachment simply because of a community fight. Presumably, for both boards to agree there would have to be a valid reason. The amendment incorporates K.S.A. 79-1807 which specifies the effective date for tax purposes of any changes in the boundaries of a taxing district.

Section 23. Section 23 arose as an attempt to provide for the situation where the territory of a district hospital was being detached to join a county hospital. The amendments which have been proposed to H.B. 2002 and to Section 3 and 22 of this bill cover the situation of territory being transferred from one hospital to another. It is the position of the Kansas Hospital

Association that there is no need for a section such as Section 23 which merely allows for the detachment of territory. As stated, through other amendments which the Kansas Hospital Association has proposed, detachment can occur when coupled with attachment. Therefore, Section 23 can be eliminated.

New Section 23. The Kansas Hospital Association proposes a new Section 23 which would provide the power of eminent domain. This is a provision which the district hospitals presently have available to them. (K.S.A. 80-2153; K.S.A. 80-2176; K.S.A. 80-2197; and K.S.A. 80-21,121). This proposed section is the same section as is provided in these statutes. Since the hospital district is a separate political subdivision, it is necessary that they have an eminent domain procedure.

With these amendments the Kansas Hospital Association supports the adoption of H.B. 2003.

House Bills 2004, 2005, 2006, 2007

The Kansas Hospital Association supports House Bills 2004, 2005, 2006 and 2007 without amendment.

The Kansas Hospital Association thanks the members of the committee and the staff for your consideration and attention to these matters.

#3-2-884

0046 (c) "hospital moneys" means, but is not limited to, moneys
0047 acquired through the issuance of bonds, the levy of taxes, the
0048 receipt of grants, donations, gifts, bequests, interest earned on
0049 investments authorized by this act and state or federal aid and
0050 from fees and charges for use of and services provided by the
0051 hospital;

0052 (d) "existing hospital" means a hospital established under the
0053 provisions of article 21 of chapter 80 of Kansas Statutes Anno-
0054 tated prior to the effective date of this act and being maintained
0055 and operated on the effective date of this act;

0056 (e) "political subdivision" means a township, a city or a
0057 hospital district established under the provisions of article 21 of
0058 chapter 80 of Kansas Statutes Annotated prior to the effective date
0059 of this act or established under this act;

0060 (f) "qualified elector" means any person who has been a bona
0061 fide resident within the territory included in the taxing district of
0062 a hospital for 30 days prior to the date of any annual meeting or
0063 election provided for in this act and who possesses the qualifica-
0064 tions of an elector provided for in the laws governing general
0065 elections.

0066 Sec. 2. (a) Any existing hospital district and any existing
0067 hospital established under the laws of this state prior to the
0068 effective date of this act are hereby continued in existence and
0069 shall be governed in accordance with the provisions of this act,
0070 and any existing board shall be deemed to be the board for
0071 purposes of this act unless and until a new board is selected in
0072 accordance with the provisions of this act.

0073 (b) This act shall not affect any judicial proceeding pending
0074 or any contract, tax levy, bond issuance or other legal obligation
0075 existing on the effective date of this act.

0076 Sec. 3. (a) Any two or more adjoining political subdivisions
0077 are hereby authorized to join in the establishment of a hospital
0078 district and in the acquisition, construction or reconstruction,
0079 improvement, enlargement, remodeling or repairing of a hospital
0080 within such hospital district and in the operation and mainte-
0081 nance of any such hospital.

0082 (b) Upon the presentation to the board of commissioners of

Any one or more political subdivisions are hereby
authorized to join with each other or to join to-
gether with adjoining or surrounding territories
contiguous

Act 3

0083 the county in which such political subdivisions, or the greater
0084 portion of the area thereof, are located, of a petition setting forth
0085 the boundaries of the proposed hospital district and requesting
0086 the formation of such hospital district signed by not less than
0087 51% of the persons who will become qualified electors of the
0088 proposed district upon its establishment and who reside within
0089 the limits of each political subdivision proposing to join in the
0090 establishment of the hospital district, the sufficiency of such
0091 petitions to be determined by an enumeration taken and verified
0092 for this purpose by some person who will become a qualified
0093 elector of the proposed district, it shall be the duty of the board of
0094 county commissioners, at its next regular meeting, to examine the
0095 petition. If the board of county commissioners finds that the
0096 petition is regular and in due form as is provided in this section,
0097 such board shall enter an order in its proceedings establishing the
0098 hospital district. If any political subdivision within the area of
0099 the proposed district owns and is operating a hospital at the time
0100 the petitions are filed, the petitions shall be accompanied by a
0101 copy of a resolution adopted by the governing body of the
0102 political subdivision within such district which owns the hospi-
0103 tal, which resolution shall state that the political subdivision
0104 agrees to convey the hospital together with all the hospital
0105 equipment and the tract of land upon which the hospital is
0106 located to and for the use of the proposed hospital district. The
0107 governing body of the political subdivision is hereby authorized
0108 and directed to adopt such a resolution and to make such con-
0109 veyance.

0110 Sec. 4. Upon the establishment of a hospital district, the
0111 board of county commissioners shall cause a notice to be pub-
0112 lished, once each week for two consecutive weeks, in a newspa-
0113 per of general circulation in the hospital district stating that a
0114 meeting of the qualified electors of such hospital district will be
0115 held at the time and place fixed in the notice for the purpose of
0116 electing five persons as the first board for such district. The last
0117 publication of such notice shall be made not more than six days
0118 prior to the date fixed for the holding of the meeting. The cost of
0119 such publication shall be borne equally by the political subdivi-

is