

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

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

10 a.m./~~p.m.~~ on February 22, 1984 in room 526-S of the Capitol.

All members were present except:
No absentees

Committee staff present:

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

Conferees appearing before the committee:

Lynda Crawl, Pioneer Village
Marilyn Bradt, Kansans for Improvement of Nursing Homes
Dick Hummel, Kansas Health Care Association
Joe Hollowell, Kansas Department of Health and Enviroment
John Schneider, Social Rehabilitation Services
Gary Pitz, Kansas Department on Aging

SB 656 - Senator Meyers reviewed the difference in HB 2368 and SB 656. Testimony was heard from KDHE, SRS, and Kansas Department on Aging, as well as Kansans for Improvement of Nursing Homes, all of whom supported the bill. Dick Hummel of KHCA did not oppose the bill, but questioned whether it would accomplish anything. Testimony is attached.

HB 2368 - KDHE suggested some amendments to HB 2368 and questioned whether surety bonds would be available in the market. SRS supported the bill. Dick Hummel, KHCA, ask the Chairman to distribute his testimony from last April opposing this bill. Lynda Crawl, Pioneer Village also opposed the bill. Testimony is attached.

Joe Hollowell, KDHE, offered testimony supporting SB 658, which eliminates the three day waiting period before marraige and provides for an expiration date of a marraige license when not used within six months.

Meeting adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 2-22-84

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

✓ LYNDA CROWL	PIONEER VILLAGES
Carney Rooney	KDHE
Margaret Scheufler	Ed. Co. Commissioner
Edward E. Scheufler	Ed. Co.
✓ Marian Brust	KWHA Improvement & Research
Steve Crowl	
Birnie Bottorff	KSNA
Christine Lisa	Schools 10/1/84
Kerrin Perry	Close-Up Kansas
Carolyn Hall	"
✓ Dick Hummel	KHCA
Kim Haggis	4-H
Rita Kerschen	4-H
Jill Host	4-H
Kim Datterer	4-H
Tom Gleason	4-H
Leta K Landis	CHRISTIAN SOCIETY UNIVERSITY ON PROGRESSIVE FOR KANSAS
Eric A. M.	Bedworth County 4-H Agent
Mrs. J. Kerschen	Goddard 4-H Club
Andrea Mason	Goddard 4-H Club
Helene Kerschen	Goddard 4-H Club
Robert Hudson	4-H
Dick Macrissey	KDHE
✓ Joe Morrow	KDHE
B. Appel	KDHE

TESTIMONY S.B. 656
SENATE PUBLIC HEALTH AND WELFARE
By Kansas Department on Aging
February 22, 1984
10:00 A.M. Room 526-S

Bill Brief:

Permits the State (H & E and S.R.S.) to recover the costs of nursing home operation under receivership from the owner or licensee.

Bill Provisions:

Any payments made by S.R.S. to support operation of a nursing home in receivership are owed to S.R.S. by the owner or licensee.

Expenses of H & E are billable to the owner or licensee.

Any unpaid obligations to either department shall constitute a lien against personal and real property of the owner or licensee.

Testimony:

The Kansas Department on Aging endorses S.B. 656.

The Department thinks that Kansas' nursing home receivership law needs the improvement that this bill would make. Present law is a good law; it permits restoration of quality care or orderly transfer of nursing home residents who reside in dangerous or tumultous situations. But it places too much financial burden on the State and it does not sufficiently require owners and operators of nursing homes put into receivership to bear enough of the consequences of actions that brought about the receivership.

Current law allows the receiver to collect revenues from operating the nursing home. But is also requires the receiver to pay a monthly rent as well as to meet all contract obligations of the owner.

Most states that have receivership laws recognize that quality of care problems that caused a receivership may be due to misallocation of funds by the facility, and authorize the receiver to petition the court to set aside contracts with affiliates which require excessive prices for goods and services. And most states only permit the owner whatever profits are left once the receivership is terminated.

The law sets up a fund within S.R.S. that can be used to pay expenses of receivership. But it is more reasonable and would allow for no hold back due to fiscal constraints in bringing receivership action if more of the financial responsibility could be placed on the owner, as proposed in this bill.

The measures proposed in this bill have also been recommended by the Commission on Legal Problems of the Elderly of the American Bar Association.

KDOA asks favorable consideration of the bill.

TESTIMONY PRESENTED BEFORE THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

By
Dick Hummel, Executive Director
Kansas Health Care Association

February 22, 1984

SENATE BILL 656

"AN ACT relating to adult care homes; concerning
recovery of costs of receivership."

Senator Meyers and Committee Members:

On behalf of the Kansas Health Care Association, an organization that represents over 200 adult care homes, both proprietary and non-profit, thank you for this opportunity to appear before the committee.

S.B. 656 amends the adult care home receivership procedures to hold the owner or licensee liable for costs arising from receivership actions.

Receivership, an intermediate sanction short of closing a facility, has been used sparingly by the enforcement agency, but when it has it has been a costly proposition for the state.

Interestingly, state net expenditures have sometimes been double that of the adult care home's previous Medicaid rate.

Not here to oppose the bill, we rather question if anything really is going to be accomplished by making an insolvent operation liable for expenses; we also note that a prior secured creditor would have priority in the order of liens attached to a property (lines 0046-0048).

Perhaps it is time to evaluate the effectiveness and efficiency of the entire receivership process. We maintain that if an adult care home is in the due conditions enumerated in this Act (life-threatening situation, license is revoked, or is insolvent) it should be closed and operations ceased.

Thank you again for this opportunity.

"We Care"





Kansans for Improvement of Nursing Homes, Inc.

~~927 MASSACHUSETTS ST. #2~~
913 Tennessee, #2

LAWRENCE, KANSAS 66044

842-3088 — Area Code 913

February 21, 1984

TESTIMONY SUBMITTED TO
THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
CONCERNING SENATE BILL 656

Kansas may take pride in being among the early states to adopt a nursing home receivership law in 1978. Further, the state has been ahead of the pack in designing the receivership statute not only as a final step in closing a nursing home and providing for an orderly relocation of residents, but also to be used as a means of improving the quality of care in a seriously deficient facility, thus enabling the home to remain in operation and avoiding the trauma that often occurs when elderly residents must be transferred to another facility.

Kansans for Improvement of Nursing Homes strongly supports the receivership concept. It has been a matter of some concern, however, that the state has been faced with a sizeable price tag for its efforts and that the costs of receivership have not been fully recoverable. Whether that price tag has had an inhibiting effect upon the state's readiness to undertake receiverships we cannot say, though that may well be the case. KINH believes SB 656 provides an appropriate and needed mechanism for recovering the costs of receivership for the state. We urge the committee to support this legislation.

A POSITION PAPER AGAINST HB 2368 AND SB 656SENATE PUBLIC HEALTH AND WELFARE COMMITTEE HEARING . 2-22-84

Pioneer Village, Inc., is an intermediate care facility for the mentally retarded. We are a residential training center for mentally retarded adults, admission ages 16 through 65. We are a private, not-for-profit corporation with 4, 15-bed residential units, an office and gym, and a work activity center. With the exception of two residents, all of our residents are funded by Title XIX and social security or other types of benefits. Our services include training in the following areas:

Personal development

Social development

Household management

Academics

At-home leisure

Community leisure

Work habits and attitude

Pre-vocational & vocational skills

Additionally, we have two full-time qualified mental retardation professionals with special education degrees, a social worker, a recreation director, a vocational director, two LPN's and an R.N. in addition to a professional consulting staff in psychology, occupational therapy, physical therapy, a physician and dentist, dietary, pharmacy, speech pathology, and audiology.

Because HB2368 affects not only Pioneer Village and other adult care homes already in operation, but the establishment of future facilities by small independent entities, it is extremely important that you not recommend this bill for approval by the Senate.

It is understood that HB2368 is intended to protect the state of Kansas, the employees and other affected parties when an adult care home fails to meet its financial obligations. The broader implications of this bill are alarming and must be considered.

- 1) The language in this bill is vague and leaves a high degree of latitude in making the judgement about whether or not to require the surety bond. The wording in line 0050 "insufficient net worth or inefficient operation and managment" does not specify exact criteria for requiring the bond.
- 2) The cost of a requirement such as this to the state will be high. We computed our monthly expenditures and contacted our insurer requesting the cost of such a bond. The first problem was that it is very likely that such a bond would require collateral. The only possible significant collateral we might be able to use would be the EDS payment that is always outstanding. This happens because service has been rendered before we bill EDS-Federal for reimbursement. The second problem was that such a bond would cost \$20.00 per \$1000.00. The approximate cost for Pioneer Village would be \$7500.00 based on 2 months expenditures. This \$7500.00 then becomes an allowable cost and the state would reimburse it as a cost of operation.

- 3) *In a facility with a large private pay population, Title XIX would, in effect, subsidize the private monies. Because these monies are a part of the expenditure of the facilities , the bonding would cover those expenditures, and, when being reimbursed allowable costs, it is assumed that the facility would recover this expense. Although this does not apply to Pioneer Village to any great degree, the bulk of the adult care homes are for the elderly generally and have a higher number of private pay residents.*
- 4) *My greatest concern is that when one requires such a large amount of money "up front" so to speak, small organizations such as Pioneer Village will not even be able to start operation. Although the prevailing attitude in the state seems to be a deep concern about large, out-of-state health care corporations buying adult care homes, this bill will allow only that kind of operation to open a home. This type of concern would likely be the only type that would have the capital to present this sort of bond.*

We would also like to briefly present problems that we foresee with SB656. Although it seems just to expect a company to pay the cost of a receivership, the question arises that, in case of insolvency, from where would this money come? Again, it seems that a large corporation would be able to reimburse such a cost, but a small operation would probably not have the assets from which to draw. In the case of Pioneer Village, would the governing body be personally liable for the cost of receivership?

Thank you for your attention and careful consideration of HB2368 and SB656.

*Lynda Crawl, QMRP
Pioneer Village, Inc.*

STATE DEPARTMENT OF SOCIAL & REHABILITATION SERVICES

Testimony on Senate Bill No. 656

Relating to Senate Bill 656, the Kansas Department of Social & Rehabilitation Services supports passage of this bill. This bill amends K.S.A. 39-960, 39-961 and 39-963. Under the present statute, the State Department of Social & Rehabilitation Services cannot collect any payments made when an adult care home is under a receivership by the Department of Health and Environment.

The amendment to K.S.A. 39-960, 39-961 and 39-963 would allow any payments made by the Secretary of Social & Rehabilitation Services to be owed by the owner or licensee and to be repaid to the Secretary of Social & Rehabilitation Services when the receivership is terminated. This amendment would allow that until payments were repaid that a lien against all personal and real property of the owner or licensee would exist.

Under the last receivership - Special Care Development Center of Winfield, the Department of Social & Rehabilitation Services paid out \$396,048.75. This facility is a 96 bed Intermediate Care Facility for the Mentally Retarded (ICF-MR). The period of the receivership was 4-5-82 to 8-31-82. The receivership before Winfield was the Reno County Adult Care Facility leased to Boswell, Inc. The period of receivership was 9-18-80 to 3-18-81. The Department of Social & Rehabilitation Services paid out \$77,111.46. This facility is a 50 bed Intermediate Care Facility (ICF).

Had the Department of Social & Rehabilitation Services been legally able to collect the payments made under these two receiverships, \$473,160.21 could have been returned to the State.

John Schneider, Commissioner
Division of Income Maintenance
and Medical Services
Social & Rehabilitation Services
(913) 296-3271
February 22, 1984

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE BILL NO. 656

PRESENTED FEBRUARY 22, 1984

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

This is the official position taken by the Kansas Department of Health and Environment on Senate Bill No. 656.

NEED FOR:

The Department of Health and Environment may petition a district court for receivership of an adult care home when life-threatening conditions are found in a home, when a home becomes insolvent, or when a home is operating without a license. In a receivership, the Secretary or the Secretary's designee actually assumes operational control of the home. Since the Kansas statutes authorizing receiverships in adult care homes were enacted in 1978, the Department of Health and Environment has operated three homes in receivership. The receivership authority has generally proved to be a useful tool to protect the residents of homes who are placed in jeopardy by the actions or inactions of a licensee.

Perhaps the most significant practical problem which has surfaced in the use of receivership has been the problem of cost. Often by the time receivership is invoked, both the physical plant and the staff of the facility are in an advanced state of deterioration and both capital and cash flow are insufficient to meet the facility's needs. Substantial funds may be necessary to keep the facility open even long enough to transfer residents in an orderly fashion. The Kansas statutes provide for this contingency by authorizing the Secretary of the Department of Social and Rehabilitation Services to approve expenditures for the purpose of operating a home in receivership. The last two receiverships by the department resulted in a net cost to the state of \$67,000 and \$126,000, respectively, over and above the amount payed by the state to purchase care for Medicaid clients. Both of these receiverships lasted approximately six months; however, the second was in a larger facility licensed to provide intermediate care for mentally retarded persons. However, the statutes do not provide a means for the state to recover the costs of a receivership that exceed the revenue generated by the home.

STRENGTHS:

Senate Bill No. 656 clearly establishes the responsibility of the licensee for the cost of a receivership for the licensee's facility. This proposal is consistent with actions in the 1982 and 1983 legislative sessions to focus on the accountability of licensees for the quality of care provided. Clearly, the taxpayers of Kansas should not be required to bear the cost of rehabilitating a delinquent nursing home.

WEAKNESSES:

None identified.

DEPARTMENT'S POSITION:

The Department of Health and Environment recommends that the committee report Senate Bill No. 656 favorably for passage.

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

STATE DEPARTMENT OF SOCIAL & REHABILITATION SERVICES

Testimony on House Bill 2368

Relating to House Bill 2368, the Kansas Department of Social & Rehabilitation Services supports passage of this bill. This bill amends K.S.A. Supp. 39-927 of the licensure of adult care homes statute. Under the present statute, there is no requirement for an adult care home licensee to deposit with the licensing agency cash, securities, a surety bond or any combination of these.

This bill would reduce or eliminate the chance of a marginal provider from receiving a license from the licensing agency. Also, this bill would protect employees, vendors and the State from the insolvency of a provider.

It is felt that the Secretary of the Department of Health and Environment needs to have the additional authority that this bill would give.

John Schneider, Commissioner
Division of Income Maintenance
and Medical Services
Social & Rehabilitation Services
(913) 296-3271
February 22, 1984

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HOUSE BILL NO. 2368

PRESENTED FEBRUARY 22, 1984

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The bond required by House Bill No. 2368 would provide some protection for creditors of an adult care home licensee injured by the breach of an obligation by the licensee. For example, employees who were not paid would have some recourse under the bill.

The requirement for a bond would also provide an additional check on the financial capability of a new applicant for license through the financial review and risk assessment performed by the bonding company.

It is not clear that the surety bonds required by the bill would be readily available in the market.

The department recommends that the committee consider the following amendments to the bill:

- 1 Section 1 should be amended to exempt boarding care homes and to exempt licensees who have held licenses for three years or more.
- 2 Section 2 should be amended to exempt licensees who have held licenses for three years or more.
- 3 Section 3 should be amended to be consistent with the three-year time frame recommended for Section 1.
- 4 Section 6(a) should be deleted since it duplicates Section 4.
- 5 Section 6(b) should be amended to specify that the State of Kansas may file a claim against the bond in the event of a receivership or to recover any other funds owed to the state.

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

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SB 658PRESENTED February 21, 1984 SENATE PUBLIC HEALTH AND WELFARE

This is the official position taken by the Kansas Department of Health and Environment on SB 658:

BACKGROUND INFORMATION:

S.B. 658 would amend K.S.A. 23-106 to eliminate the three-day waiting period for issuing marriage licenses, to require the date of birth rather than age on the license, and to provide for an expiration date of the license when not used within six months of issuance.

STRENGTHS:

With elimination of the premarital blood test during the 1981 Legislature, there is no longer a need to wait the three days for the return of the blood test results. During joint meetings between Department personnel and the Clerks of the District Court Advisory Council, the clerks recommended that the Department include the elimination of the three-day waiting period in this proposed legislation since they do not feel there is a need for this time interval to prepare the license. Passage of this bill would therefore cut down on the amount of time required to process each marriage license and would save the applicants that second trip to the courthouse.

Changing the age item to date of birth would greatly eliminate the present confusion as to what age is to be recorded--the age at the time of application, at the time the license is issued or at the time of marriage. Birth date is specific and self explanatory.

Presently there is no expiration date of marriage licenses. Technically, once a license is issued it could conceivably be used at anytime during the lifetime of those individuals which means that the court and the state must maintain marriage license records indefinitely even though the license is not returned within a reasonable amount of time. An expiration date would save storage space and would slightly increase the marriage fees collected.

WEAKNESSES:

None apparent to this Department.

DEPARTMENT'S POSITION:

This bill is basically a clean-up bill. All issues addressed will assist in making the marriage license registration process more efficient and less confusing; therefore, we recommend support.

Presented by: Barbara J. Sabol, Secretary
Kansas Department of Health and Environment