

Approved _____

Date

2-28-85
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at _____
Chairperson

1:30 a/m//p.m. on February 25, 1985 in room 423-S of the Capitol.

All members were present except:

Rep. Judy Runnels, excused Rep. Jess Harder, excused
Rep. Bill Bryant, excused
Rep. Blumenthal, excused
Committee staff present:

Emalene Correll, Research
Norman Furse, Revisor
Sue Hill, Secy. to Committee

Conferees appearing before the committee:

Visitor's register, see (Attachment No. 1.)

Chairman called meeting to order, and asked committee wishes in regard to minutes of meetings for February 14, 17, 18, 19, 20th. Motion by Rep. Friedeman to approve these minutes as written, seconded by Rep. Neufeld, motion carried.

Briefings this date on: HB 2221, HB 2301, HB 2304, HB 2436, HB 2438, HB 2439, HB 2449.

HB 2221:

Revisor Norman Furse conducted briefings on this bill, and offered (Attachment No. 2), as a comparing HB 2221 to current law. (see attachment for details.) Mr. Furse explained to what specific instances an interpreter will be provided. There was discussion on the fiscal impact, copy of which had been earlier presented to members of this committee. He answered questions from committee.

HB 2301:

Emalene Correll, Research, gave briefing on this bill, stating it requires suitable fingerprinting information of a newborn child.

HB 2304:

Briefed by Ms. Correll, this bill amends act in which Adult Care Homes are licensed and regulated. She spoke to specifics, i.e., page 3, line 105, page 5, line 174, and that this primarily speaks to a facility in Topeka, Kansas, but would apply to 5 others at the present time operating under similar circumstances.

HB 2436:

Norman Furse briefed this bill, and he cited new language in lines 32 through 35. Currently the Secy. of Health and Environment may adopt rules and regulations which may set forth necessary qualifications of persons designated to be receivers.

HB 2438:

Ms. Correll briefed HB 2438, saying that it creates a statute that makes the information received by the licensing agent, confidential, and such information not to be made available publicly.

HB 2439:

Briefed by Norman Furse, pertains to medication aides, and provides for a list to be maintained of those aides, and to establish procedure for removing those names from the list. Under K.S.A. 65-121, these aides are required to be certified and have continuing education and training. The removal from said list, i.e., request for removal; habitually indulge in alcohol or drugs; performing acts beyond that which is prescribed; keeping inaccurate or falsifying records; or physically or verbally abuses a resident, etc. He answered questions from committee.

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 HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 a.m./p.m. on February 25, 19 85

HB 2449:

Bill briefed by Mr. Furse, and this bill speaks to trained un-licensed employees in Adult Care Homes that provide individual care to residents. Provides for the Secretary of Health and Environment to maintain a list of such employees, and also sets out the language for what is appropriate to have names removed from said list. He cited some specifics, stricken language in line 129 through 134 that speaks to an employee who was licensed in another state. There were questions from members of committee.

HB 2145:

Chair recognized Rep. Williams as chairman of sub-committee appointed on this bill, and he distributed a balloon copy of HB 2145, and thanked his committee, Rep. Harder Rep. Friedeman for their long hours of work at trying to resolve language changes for amendments on this bill. (See Attachment No. 3), for details of balloon. He spoke to specific line changes, language changes, etc. There were numerous questions by committee members, and much discussion on the proposed amendments. There was further discussion on Section (e), then motion made by Rep. Branson to add language suggested by staff (that would encompass most from liability). There was no second. Motion Failed.

Rep. Green moved to adopt the sub committee report, seconded by Rep. Williams.
Discussion ensued in regard to section (e). Vote taken, motion carried.

Rep. Williams then moved to pass HB 2145 out of committee favorably as amended,
seconded by Rep. Hassler. More discussion, i.e., fiscal impact, intent of committee, etc. Vote taken, motion carried.

HB 2077:

Chair recognized Rep. Neufeld, member of sub-committee appointed on HB 2077, for their report. He introduced a balloon copy of proposed amendments, and explained language and line changes, (See Attachment No. 4), for details. The proposed amendment speaks to :-- pharmacists may dispense a bioequivalent drug product of the same generic name even though not specified for dispensing under plan developed by SRS, and may dispense the prescribed drug, whichever is the lesser cost. There was lengthy disucssion following the proposed amendment.

Rep. Friedeman moved to accept this proposed amendment, along with deleting the language in said amendment after the phrase "If the pharmacist", delete "who receives the prescription order under this subsection (b)". Motion was seconded by Rep. Pottorff, more discussion followed, Vote taken, motion carried.

Rep. Neufeld moved to pass HB 2077 favorably as amended out of committee, seconded by Rep. Friedeman, motion carried.

Rep. Branson and Rep. Cribbs wished to be recorded as voting no on HB 2077.

Meeting adjourned at 3:05 p.m.

Date: 2-25-85

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE

NAME	ORGANIZATION	ADDRESS
Judy Hollinger	Ks Dept. on Aging	601 West Teub
Walker Walker	"	"
John Grace	Ks Homes For Aging	Tijula
KW Schafermeyer	KS Pharmacists Assoc.	"
Noyl Buellett	Kumc	KC
John Kelly	D.O. Council / MH-RS	Topeka

Attn #1
2-25-85

Attn. # 2
2-25-5

Comparison HB2221 to Current Law

	<u>Current Law</u>	<u>HB No. 2221</u>
1. Persons Covered	Deaf Mute Non-English Speaking	Deaf Hearing Imp. Speech Impaired
2. Appointment Required:		
a) Grand Jury when witness	Yes	Yes
b) Court proceed.-defendant	Yes	Yes
c) Civil proceed. generally	Yes	Yes
d) Court proceed. generally	No	Yes
e) Government-principal party	Yes	Yes
f) Government-witness	No	Yes
g) Government-requests appt.	No	Yes
h) Legislative body-testimony	No	Yes
i) When arrested	Yes	Yes
j) When on jury duty	No	Yes
3. Interpreters:		
a) Appointed from list (KCDHI)	No	Yes
b) Appointed by Gov. Entity	Yes	Yes
4. Payment		
Rate established by KCDHI	No	Yes

State & Local

KCDHI = Kansas Commission on the Deaf and Hearing Impaired

Attn. # 2
2-25-85

HOUSE BILL No. 2145

By Committee on Public Health and Welfare

2-1

*Attn. #3
2-25-3*

17 AN ACT prohibiting the maintaining of certain homes for chil-
18 dren by certain persons; amending K.S.A. 1984 Supp. 65-516
19 and repealing the existing section.

20 *Be it enacted by the Legislature of the State of Kansas:*

21 Section 1. K.S.A. 1984 Supp. 65-516 is hereby amended to
22 read as follows: 65-516. (a) No person shall maintain a boarding
23 home for children or maintain a family day care home if, in such
24 boarding home or family day care home, there resides, works or
25 regularly volunteers any person who:

knowingly

26 (1) Has a felony conviction or has a conviction of any act
27 which is described in articles 34, 35 or 36 of chapter 21 of the
28 Kansas Statutes Annotated or has committed an act of physical,
29 mental or emotional abuse or neglect or sexual abuse as vali-
30 dated by the department of social and rehabilitation services
31 pursuant to K.S.A. 1983 Supp. 38-1523 and amendments thereto
32 has been convicted of any act which is described in K.S.A.
33 21-4301 or 21-4301a and amendments thereto or similar statutes
34 of other states or the federal government;

for a crime against persons, or has a felony conviction
under the uniform controlled substances act

or acts amendatory thereof or supplemental thereto

35 (2) Has committed an act of physical, mental or emotional
36 abuse or neglect or sexual abuse as validated by the department
37 of social and rehabilitation services pursuant to K.S.A. 1984
38 Supp. 38-1523 and amendments thereto;

in this or any other state.

39 (3) (3) has had a child declared in a court order to be de-
40 prived or a child in need of care following a hearing pursuant to
41 K.S.A. 1984 Supp. 38-1581 and amendments thereto or a stipu-
42 lation entered pursuant to K.S.A. 1984 Supp. 38-1553 and
43 amendments thereto;

based on an allegation of physical, mental or emotional
abuse or neglect or sexual abuse

44 (3) (4) has had a child removed from the home parental
45 rights terminated pursuant to the Kansas juvenile code or the

*Atch. 3
2/25/3*

Struck *add*

0046 ~~Kansas code for care of children~~ or a similar statute of other
0047 states;

Kansas juvenile code or K.S.A. 1984 Supp. 38-1581 to
38-1584, inclusive, and amendments thereto

0048 (4) (5) has signed a diversion agreement pursuant to K.S.A.
0049 22-2906 *et seq.*, and amendments thereto, or pursuant to K.S.A.
0050 ~~4983~~ 1984 Supp. 38-1635 and amendments thereto involving a
0051 charge of child abuse or a sexual offense; or

0052 (5) has been found to be unfit to have custody of a minor
0053 child pursuant to K.S.A. 60-1610 and amendments thereto; or

0054 (6) has an infectious or contagious disease, *as defined by the*
0055 *secretary of health and environment pursuant to K.S.A. 65-128*
0056 *and amendments thereto.*

0057 (b) No person shall maintain a boarding home for children or
0058 maintain a family day care home if such person has been found to
0059 be a disabled person in need of a guardian or conservator, or
0060 both.

0061 (c) Any person who resides in the home and who has been
0062 found to be a disabled person in need of a guardian or conserva-
0063 tor, or both, shall be counted in the total number of children
0064 allowed in care.

Insert -

In accordance with the provisions of this subsection
(d), the

0065 (d) The secretary shall have access to any court orders or
0066 adjudications of any court of record or any records of such orders
0067 or adjudications and any report of investigations as authorized by
0068 subsection (e) of K.S.A. ~~4983~~ 1984 Supp. 38-1523 and amend-
0069 ments thereto in the possession of the department of social and
0070 rehabilitation services *or court of this state* concerning persons
0071 *working, regularly volunteering or residing in a boarding home*
0072 *for children or a family day care home* in order to determine
0073 whether or not the home meets the requirements of K.S.A.
0074 65-516 and 65-519 and amendments thereto.

, criminal history record information in the posses-
sion of the Kansas bureau of investigation

0075 Sec. 2. K.S.A. 1984 Supp. 65-516 is hereby repealed.
0076 Sec. 3. This act shall take effect and be in force from and
0077 after its publication in the statute book.

. The secretary shall have access to these records
for the purpose of conducting random checks
randomly selected homes meet

(e) No boarding home for children or family day care
home or their employees shall be liable for civil
damages when acting in good faith to comply with this
section.

Sec. 2. See following page

Note: Renumber subsequent sections, change repealer
and title to reflect amendment of 65-505.

Sec. 2. K.S.A. 1984 Supp.
65-505 is hereby amended
to read as follows:

65-505. License fees. (a) Except as otherwise provided in this section, the fee for a license to conduct a maternity hospital or home, or home for children shall be fixed by the secretary of health and environment by rules and regulations. Such fee shall not exceed ~~[\$10]~~ except that for a hospital or home which is licensed to care for five or more residents such fee shall not exceed

~~[\$10]~~ **\$12.50**

~~[\$30]~~ Such fee shall be paid to the secretary of health and environment when the license is applied for and is not refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. ~~[1982 Supp.]28-4-~~

~~[\$30]~~ **\$35**

~~311.~~ The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the state general fund.

~~[and amendments thereto]~~

(b) The fees established by this section immediately prior to July 1, 1982, shall continue in effect until different fees are fixed by rules and regulations in accordance with subsection (a) of this section.

History: L. 1919, ch. 210, § 5; R.S. 1923, 65-505; L. 1974, ch. 352, § 87; L. 1978, ch. 236, § 4; L. 1982, ch. 259, § 1; July 1.

2-25-1985

0046 "dispense as written" on the prescription, or
 0047 (3) the prescriber, in the case of a prescription other than one
 0048 in writing signed by the prescriber, expressly indicates the
 0049 prescription is to be dispensed as communicated, or

0050 (4) the federal food and drug administration has determined
 0051 that a drug product of the same generic name is not bioequiva-
 0052 lent to the prescribed brand name prescription medication.

0053 (b) A pharmacist who receives a prescription order for a
 0054 brand name drug product shall exercise brand exchange with a
 0055 view toward achieving ~~a lesser~~ the least cost to the purchaser if the
 0056 prescribed drug is being dispensed under a plan developed by
 0057 the secretary of social and rehabilitation services pursuant to
 0058 subsection (s) of K.S.A. 39-708c and amendments thereto, unless

0059 ~~the~~ federal food and drug administration has determined that a
 0060 drug product of the same generic name is not bioequivalent to
 0061 the prescribed brand name ~~prescription medication or the pre-~~
 0062 scriber transmits ~~with the prescription order a form, provided~~
 0063 ~~by the secretary of social and rehabilitation services, completed~~
 0064 ~~and signed by the prescriber which documents that the specific~~
 0065 ~~brand name drug product prescribed is medically necessary for~~
 0066 ~~the treatment of the person for whom the drug is being pre-~~
 0067 ~~scribed. A pharmacist shall maintain any form filed pursuant to~~
 0068 ~~this subsection with the prescription order record for a period of~~
 0069 ~~five years.~~

0070 (b) (c) Prescription orders shall be recorded in writing by the
 0071 pharmacist and the record so made by the pharmacist shall
 0072 constitute the original prescription to be dispensed by the phar-
 0073 macist. This record, if telephoned by other than the physician
 0074 shall bear the name of the person so telephoning. Nothing in this
 0075 paragraph shall be construed as altering or affecting in any way
 0076 laws of this state or any federal act requiring a written prescrip-
 0077 tion order.

0078 (e) (d) No prescription shall be refilled, if it contains a state-
 0079 ment that it is not to be refilled.

0080 (d) (e) If any prescription order contains a provision that the
 0081 prescription may be refilled a specific number of times within or
 0082 during any particular period, such prescription shall not be

the least

; (1) The

drug; or (2)

in the prescriber's own handwriting on the prescrip-
 tion order form the statement "brand named medically
 necessary"; or (3) the pharmacist who receives the
 prescription order for a brand name drug product does
 not have ~~to~~ stock a drug product of the same generic
 name as that specified for dispensing. (If the phar-
 macist who receives the prescription order under this
 subsection (b) is subject to the provision of item (3)
 of this subsection (b), then the pharmacist may dis-
pende a bioequivalent drug product of the same generic
name even though not specified for dispensing under a
plan developed by the secretary of social and rehabil-
itation services pursuant to subsection (s) of K.S.A.
39-708c and amendments thereto or may dispense the pre-
scribed drug, whichever is the lesser cost