

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 27, 19 85 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Research  
Sue Hill, Secy. to Committee

Conferees appearing before the committee:

Barbara Sabol, Secy. Department of Health and Environment  
Dick Morrissey, Dept. of Health and Environment  
Dick Hummel, Kansas Health Care Association  
John Grace, Executive Director of Ks. Homes for Aging  
Judy Hollinger, Ks. Department on Aging  
Lynelle King, Ks. State Nurses Association  
Sylvia Houglund, Secy. of Department on Aging  
Marilyn Bradt, Kansans for Improvement of Nursing Homes  
Visitor's register, (see Attachment No. 1.)

Chairman called meeting to order at 1:55 p.m., following adjournment of House.

Hearings began on HB 2436:

Secy. Sabol gave hand-out to committee members, (see Attachment No. 2), for details. She spoke in support of HB 2436, saying that to date there have been four receiverships, and the receiver has been the Secretary in each case. HB 2436 is intended to address this type of situation by authorizing the Secretary to adopt rules and regulations setting forth qualifications of persons to be designated receivers and a method for selecting designees. We envision, she said, establishment of a list of persons who would be qualified to act as receivers, rather than have the Secretary of Health and Environment always in that role. She asked for favorable consideration of HB 2436.

She answered questions from committee, and gave out a fact sheet, (see Attachment No. 3), for details that would speak to several concerns. Mr. Dick Morrissey, also of the Dept. of Health and Environment answered questions with Ms. Sabol.

Dick Hummel, Executive Director of Ks. Health Care Association distributed hand-out of his testimony on three bills, HB 2436, HB 2439, HB 2449, (refer to Attachment No. 4) for details on each of these bills as he testified.

HB 2436 he stated would define procedures when receivership action is necessary by permitting the Secretary of Health and Environment to develop criteria and qualifications for persons interested to serve as the receiver. HB 2436 is supported by their Association.

Hearings closed on HB 2436.

Hearings began on HB 2438:

Secy Sabol gave hand-out to committee of testimony on HB 2438, (see Attachment No. 5), for details. She stated this proposed legislation would prohibit the Ks. Dept. of Health and Environment from publicly disclosing restricted information on licensing records and reports if disclosure would make it possible to identify individuals. Also authorize hearing officers to close administrative hearings if enforcement action is based on information the disclosure of which is restricted by other statutes, or which would allow unwarranted invasion of personal privacy. Our Department respectfully recommends this committee report HB 2438 favorably for passage, she said. There were a few questions from staff and committee.

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 27, 1985

Hearings closed on HB 2438.

Hearings began on HB 2439:

Secretary Sabol distributed hand-out of her testimony, (see attachment No. 6), for details. She stated HB 2439 addresses the issue of authority being given to the Secretary of Health and Environment to decertify a medication aide who violates specified standards of conduct, by maintaining a list of said aides, and to then remove an individual's name from the list for violations of specified standards. We recognize, she said, nurse aides are not certified in the regulatory sense of that term, but are certified as having completed a required training course, but there presently is no authority to terminate them if violation of duties occurs. She asked for favorable consideration of HB 2439.

Ms. Savol and Dick Morrissey both answered questions from committee.

Dick Hummel spoke to HB 2439, (see again Attachment No. 4, page 2) for details. He stated that up to now, those completing the required amount of training, once granted, was a life-time proposition, and this will serve to monitor situation more closely. There are concerns, i.e., lines 0033 through 0036, and suggested that language "in the reulations" might be substituted, and lines 0037 through 0038, that language be replaced with "knowingly and willfully". This should more clearly speak to concerns of our Association. He then answered questions from committee.

John Grace, Exec. Director of Ks. Association of Homes for the Aging, distributed printed testimony, (see Attachment No. 7), for details. He spoke to the support of HB 2439, saying the certified nurse aide, or medication aide can become the most significant person in the older persons life, and it is therefore appropriate that the state propose a method of properly certifying and decertifying as well, those persons who have abused their responsibilities.

Judy Hollinger, Department on aging gave hand-out to committee, (see Attachment No. 8), for details. She stated that accurate dosages of medications must be properly administered to patients, proper charts maintained, and the competence and character of persons performing these services is vital. Criteria should be established so that qualified personnel will provide residents with the best possible care. Ks. Department on Aging supports HB 2439, and asks committee for their favorable passage of this bill. She then answered questions from committee.

Sylvia Houglan, secretary of Department On Aging also answered questions along with Ms. Hollinger in response to testimony.

Marilyn Bradt, Kansans for Improvement of Nursing Homes, Inc. gave hand-out to members, (see Attachment No. 9), for details. She spoke in support of both HB 2439 and HB 2449, saying there is a need for authority to be granted to Secy. of Health and Environment to remove names of persons from registry or list of those certified as aides, or medication aides who are in violation of required standards of care and conduct. She urged for passage of both bills.

Lynelle King, Ks. State Nurses Association spoke in support of HB 2439, and hopes that with this legislation, patient care would be made more safe. Their organization however does not support the use of medication aides, but feels this bill would authorize the Secretary for removal of those aides when necessary. She spoke to the importance of good record keeping, and chart keeping. She answered questions.

Hearings closed on HB 2439.

Hearings began on HB 2449:

Secretary Sabol gave hand-out to members, see (Attachment No. 10), for details. She spoke in support of HB 2449, and spoke to similarities between this bill and HB 2439. This legislation speaks to the "unlicensed employees of adult care homes who provide direct individual care to residents under the supervision of qualified personnel, and who do not administer medication. A list of said employees would be kep, and those violating set standards would be removed from such a list. She then answered questions from committee.

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 27, 1985

Hearings on HB 2449 continue:

Dick Hummel, referred to printed testimony, (Attachment No. 4, pg. 2 and 3). He stated the reasons for their Association's support are the same as for HB 2439, but with the same technical concerns. Lines 0017 through 0019, replace with the language, "in the rules and regulations", and line 0121, replace "records inaccurately", with language "knowingly and willfully". He urged for passage of HB 2449.

Others in support of HB 2449, John Gray, Marilyn Bradt, and Lynelle King who stood to state their support.

Hearings closed on HB 2449.

Chairman adjourned meeting at 3:00 p.m.





Attn. # 2  
2-27-85

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HOUSE BILL 2436

PRESENTED TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

PRESENTED ON FEBRUARY 27, 1985

This is the official position taken by the Kansas Department of Health and Environment on House Bill 2436.

BACKGROUND INFORMATION:

The statutes authorizing receiverships in adult care homes were enacted in 1978. Since that time, the department has operated four homes in receivership, with the fourth home, Countryside Villa in Hutchinson, currently being operated by the department through a management company.

KSA 39-954 has always included language authorizing the court to appoint the Secretary of Health and Environment or "the designee of the Secretary" as receiver for an adult care home. In the four receiverships to date, the receiver has been the Secretary in each case.

ISSUES:

The Secretary has not designated someone else to act as receiver in the past partly because there has not been a process, nor the authority to establish a process, for selecting persons who would have the resources and capabilities to operate a home in receivership in advance of the urgent need to appoint a receiver. House Bill 2436 is intended to address this situation by authorizing the Secretary to adopt rules and regulations setting forth the necessary qualifications of persons to be designated receivers and a method for selecting designees.

We envision establishing a list of person who would be qualified to act as receivers so that in future receiverships there would be a greater opportunity to appoint individuals other than the Secretary of Health and Environment as receivers. This will significantly decrease the direct staff involvement and cost to the Department of Health and Environment in operating a receivership. This cost impacts on the department by diverting our staff and resources from the purposes for which they are budgeted - enforcing the established standards in nursing homes, hospitals, and other health agencies.

DEPARTMENT'S POSITION:

The department respectfully recommends that the committee report House Bill 2436 favorably for passage.

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

Attn. # 2  
2-27-85

## KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Adult Care Home Receivership

KSA 39-954 - KSA 39-963

*Attn #3  
2-27-85*FACT SHEETStatutes

The adult care home receivership statutes were enacted in 1978 and have not been amended since that time.

KSA 39-954 authorizes the Secretary of Health and Environment or the owner or licensee to petition to the district court for a receivership whenever:

- (a) conditions exist in the adult care home that are life threatening or endangering to the residents of the adult care home;
- (b) the adult care home is insolvent; or
- (c) the secretary of health and environment has issued an order revoking the license of the adult care home.

History

The department has applied to a district court to have a receiver appointed on five occasions; four of the applications were approved and the Secretary was appointed a receiver in each case. The fifth application was not approved because the licensee corrected the life-threatening conditions after the application but before a hearing was held by the district court.

No applications for receiverships have been filed by owners or licensees. The current receivership was filed at the request of the owners' attorney.

<u>Year</u>	<u>Home</u>	<u>Ownership</u>	<u>Reason</u>
1979	Brookwood Nursing Home, Topeka	Proprietary	Insolvency (b)
1980	Reno County Adult Care Home, Hutchinson	County-leased proprietary corporation	License revoked (c)
1982	Special Care Development Center of Winfield, Winfield	Proprietary	Life threatening conditions (a)
11/20/84 to date	Countryside Villa Care Center, Hutchinson	Proprietary	Insolvency (b)

Fiscal Control

The department has developed a special receivership chart of accounts for fiscal control. We have contracted with a certified public accountant firm to act as fiscal agent for receiverships - that firm has automated the accounting system.

*Attn. #3  
2-27-85*

The Brookwood receivership occurred soon after the legislation was enacted and before the present fiscal system was developed. We have not calculated the net cost to the state for that receivership.

The net cost of the Reno County receivership was \$67,000 plus the cost of the Department of Health and Environment's direct staff time and travel expenses.

The net cost of the Winfield receivership was \$126,000 plus the Department of Health and Environment's direct staff time and travel expenses (approximately \$46,000).

The estimated net operating loss of the Countryside Villa receivership from November 20, 1984 to date is \$11,657. Subsequent to the receivership the Department of Health and Environment hired a management firm who is currently operating the facility. The start up cost for direct staff time and travel by the Department of Social and Rehabilitation Services and the Department of Health and Environment was approximately \$6,000.



TESTIMONY PRESENTED BEFORE THE  
HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

By

Dick Hummel, Executive Director  
Kansas Health Care Association

February 27, 1985

- H.B. No. 2436: Adult Care Home Receivers
- H.B. No. 2439: Decertifying Medication Aides
- H.B. No. 2449: Removal of Nurses Aides from List

Mr. Chairman and Committee Members:

On behalf of the Kansas Health Care Association (KHCA), a voluntary organization representing 250 licensed adult care homes, both tax-paying and non-profit, large and small ownership interests, thank you for this opportunity to appear in support of the three above captioned bills.

Our supportive comments are as follows:

1. H.B. No. 2436 (Receivership). Nursing home receivership is an intermediate sanction short of the drastic step of licensure revocation. While receivership action by the State has been sparingly used since the adoption of the original act, when used the Kansas Department of Health & Environment has found it to be both an administratively burdensome and costly proposition in conducting the day-by-day operations of a nursing home.

In most instances when available, the agency has opted for a "designee" to handle the operation, i.e., an experienced nursing home management firm.

H.B. 2436 would further define these procedures by permitting the Secretary to develop the criteria and qualifications for persons interested, when needed, to serve as the receiver.

We're supportive and would be available to assist in the development of the standards and methods for selecting such receiver designees.

attn #4  
2-27-85  
"We Care"



2. H.B. No. 2439 (Medication Aides). There are approximately 2500-3000 certified medication aides employed in adult care homes and hospital-based long term care units.

These employees are certified, or given a certificate, by the State after successfully completing a 60 plus-hour course in medication administration (employee must first be certified as a geriatric aide, a 90-hour course).

We support the bill under the premise that the "power to give" carries with it the responsibility and accountability "to remove" for specific cause. Up to now, the certificate, once granted, is a life-time proposition.

Our medication aides are hard-working and caring individuals, but as in any profession or trade there'll always be a small minority whose performance isn't up to standards.

TECHNICAL CONCERNS:

- A. Lines 0033-0036. "trained as specified by the secretary in the guidelines adopted pursuant to subsection (i) of K.S.A. 65-1124 and amendments thereto."

RECOMMENDATION: We believe this refers to the training manual developed by the Department of Education for the Kansas Department of Health & Environment, and is a rather removed reference of authority.

Perhaps in the regulations should be substituted, which would mean that the same would have to be developed by the Kansas Department of Health & Environment to outline the scope and function of a medication aide. (KDH&E regulations exist for nurses aides.)

- B. Lines 0037-0038. "records inaccurately or falsifies or alters a resident's record."

RECOMMENDATION: What is a bona-fide mistake? We suggest the words be replaced with knowingly and willfully.

3. H.B. 2449 (Nurses Aides). There are approximately 9000 certified nurses aides employed in adult care homes.

Our reasons for support are the same as for H.B. 2439, but with the same technical concerns:

- A. Lines 0117-0119. "...trained as specified by the licensing agency in the guidelines adopted...."

RECOMMENDATION: Delete and replace with in the rules and regulations.

B. Line 0121. "records inaccurately."

RECOMMENDATION: Delete and replace with knowingly  
and willfully.

Thank you again for this opportunity; I'd be happy to respond to any questions.



Attn. #5  
2-27-85

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HB 2438

PRESENTED TO The Public and Health and Welfare Committee

This is the official position taken by the Kansas Department of Health and Environment on HB 2438 .

BACKGROUND INFORMATION:

K.S.A. 1984 Supp. 65-516 mandates KDHE to revoke or deny licenses or registration certificates on information the disclosure of which is restricted by the statutes, but which becomes open information when it is a part of the licensing/registration record or regulatory enforcement proceeding. This information includes alleged physical or sexual abuse of children by family members; legal action involving juveniles; or court removal of children from their parents' custody.

~~This proposed legislation would prohibit KDHE from publicly disclosing restricted information on licensing records and reports if disclosure would make it possible to identify individuals. It would also authorize hearing officers to close administrative hearings if the enforcement action is based on information the disclosure of which is restricted by other statutes, or which would allow an unwarranted invasion of personal privacy.~~

By authorizing records and hearings to be closed, this legislation will protect the privacy of affected individuals while still allowing KDHE to collect and use confidential information as a basis for enforcement proceedings.

DEPARTMENT'S POSITION:

The department respectfully recommends that the committee report HB 2438 favorably for passage.

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

Attn. #5  
2-27-85

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

*attn #6.*  
2-27-85

TESTIMONY ON HOUSE BILL 2439

PRESENTED TO THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

FEBRUARY 27, 1985

This is the official position taken by the Kansas Department of Health and Environment on House Bill 2439.

BACKGROUND INFORMATION:

KSA 65-1124, part of the Nurse Practice Act, authorizes unlicensed individuals who have completed a course of training approved by the Secretary of Health and Environment to administer medications in adult care homes and long-term care units of hospitals. Since that authority was added to the Nurse Practice Act, approximately 5,000 persons have completed training approved by the Secretary. In 1983, a new statute, KSA 65-1,121, was enacted requiring that medication aides complete a program of continuing education every two years in order to continue to function as medication aides for the purposes of KSA 65-1124. That continuing education program has been implemented and regulations have been adopted requiring 10 hours of continuing education every two years.

ISSUES:

The problem that has developed with medication aides and with other nursing assistants is that there is no mechanism for removing an individual from the marketplace when that individual violates accepted standards of safe and appropriate care of patients or residents.

House Bill 2439 addresses this issue by authorizing the Secretary of Health and Environment to maintain a list of medication aides and to remove an individual's name from the list for violation of any of a number of specified standards.

We recognize that medication aides and nurse aides are not certified in the regulatory sense of that term but are certified as having completed a required course of training. Nevertheless, these vocational groups are becoming firmly established in the nursing home and hospital market and it is now clear that some means of regulating their performance is necessary. We cannot continue to tolerate the unsafe practice of a relatively small number of these individuals and there does not appear to be another effective means of precluding the continued employment of these people.

DEPARTMENT'S POSITION:

The Department of Health and Environment respectfully recommends that the committee report House Bill 2439 favorably for passage.

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

*attn. #6*  
*2-27-85*



Attn. # 7  
2-27-85



The Organization of  
Nonprofit Homes and  
Services for the Elderly

Kansas Association of Homes for the Aging  
One Townsite Plaza  
Fifth and Kansas Avenue  
Topeka, Kansas 66603

913-233-7443

TESTIMONY  
HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE  
Wednesday, February 27, 1985

by John R. Grace, Executive Director  
Kansas Association of Homes for the Aging

Regarding House Bill 2449 and House Bill 2439.

Thank you Mr. Chairman and good afternoon Members of the Committee.

The Kansas Association of Homes for the Aging is a non profit professional organization that represents the not for profit adult care homes, retirement communities and outreach services for the aging of our state. Not for profit homes are those sponsored by religious organizations, community based organizations, governmental entities and fraternal organizations. Our membership at present is 52 members located across the state from Ashland, Kansas to Kansas City, Kansas.

Our association wholeheartedly supports House Bill No. 2449 and House Bill No. 2439.

In the adult care home setting perhaps no other individual has the influence on the care of older persons than the certified nurse or medication aide. This person can become the most significant person in the older persons life. It is appropriate therefore that the state propose methods properly certifying and decertifying those persons who have abused their responsibilities in caring for older people.

This legislation will authorize the Department of Health and Environment to properly monitor these two categories of professionals in caring for the elderly. We believe that through this process that those persons who have abused their authority of the law will be dealt with and that it will result in a better quality of person employed in certified nurse aide and certified medication aide positions.

Thank you Mr. Chairman and Members of the Committee.

Attn. # 7  
2-27-85

TESTIMONY FOR H.B. 2439  
TO PUBLIC HEALTH & WELFARE

*Attn. #8*  
*2-27-5*

By Kansas Department on Aging  
February 27, 1985

Bill Brief:

Provides for the maintenance of a list of medication aides and a procedure to remove names from the list.

Bill Summary:

1. Requires Secretary of Health & Environment to maintain a list of medication aides certified pursuant to Kansas law.
2. Allows Secretary to remove or refuse to add a name to the list for any of 5 reasons:
  - a) the medication aide requests or consents to the removal;
  - b) the medication aide indulges in the use of narcotic or other habit forming drugs or alcohol;
  - c) the medication aide performs acts beyond the authorized scope of duty;
  - d) the medication aide falsifies, alters or inaccurately records information on a resident's records; or
  - e) the medication aide verbally or physically abuses a resident.
3. Requires notice and a hearing, if requested, before a medication aide's name can be removed or not added to the list.

Background:

There is currently no authority to take any enforcement actions against medication aides who have acted in a manner which jeopardizes residents' welfare. Facilities are also hindered in their attempts to find out if medication aides being considered for employment have ever committed such acts. H.B. 2439 would rectify these problems.

Testimony:

Medication aides often work without direct supervision in a critical area of resident care. Accurate dosages of medication must be administered to prevent harm to the patient. It is important that there are established procedures for both certification and decertification of these aides. Residents rely heavily on the competence and character of these individuals. Criteria should be established so that qualified personnel are providing residents with the best possible care.

The Department on Aging supports H.B. 2439. This bill would provide additional assurance that competent staff are providing direct care to Kansas' elderly population.

JH  
2/27/85

*Attn. #8*  
*2-27-85*





**KINH** Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842 3088

TESTIMONY PRESENTED TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE  
CONCERNING HB 2439 AND HB 2449  
February 27, 1985

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

Several bills have been introduced in the 1985 Legislative session that attest to a growing awareness of the need for the state to concern itself with the quality and character of unlicensed staff employed in nursing homes. The problem underlying all these bills is that there is nothing to prevent an unlicensed employee who has been dismissed from a nursing home for any reason whatever, including incompetence or patient abuse, from finding immediate employment at another nursing home, there to continue incompetent or abusive.

This situation is cause for concern particularly in the case of certified nurse aides and certified medication aides, since these are the employees who most directly affect the quality of patient care and treatment. The state does not now have a way to remove from the nursing home employment market aides who are clearly demonstrated to be unsuitable for this demanding and difficult work. HB 2439 and HB 2449 would provide such a mechanism by authorizing the Secretary of Health and Environment to remove the names of such persons from a registry or list of persons certified as aides or medication aides, since certification is required for their continued employment in a nursing home. Both bills also provide adequate safeguards for the employees through an appeal and hearing procedure.

KINH believes HB 2439 and HB 2449 would provide a useful and needed tool for Health and Environment and for the conscientious nursing home administrator seeking to hire well-qualified and temperamentally suitable aides. We urge you to support these measures.

*Attn. # 1*  
*2-27-5*

*Attn. # 9*  
*2-27-5*

Attn. #10  
2-27-85

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HOUSE BILL 2449

PRESENTED TO THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

FEBRUARY 27, 1985

This is the official position taken by the Kansas Department of Health and Environment on House Bill 2449.

BACKGROUND INFORMATION:

In 1978, KSA 39-936 was amended to establish authority for the Secretary to require training for "unlicensed employees of an adult care home who provide direct, individual care to residents under the supervision of qualified personnel and who do not administer medications to residents." This long description in the statute translates to a nurse aide in a nursing home. Since 1978, 25,200 individuals have been certified as having completed the training authorized under KSA 39-936. Approximately 8,000 of these individuals are currently employed in adult care homes and many others are employed in hospitals, clinics, and other health care settings.

ISSUES:

House Bill 2449 would take the statutory requirement for training one step further and would authorize the Secretary to establish a list of persons who have completed the training and would authorize the Secretary to remove from the list the name of a person who violates any of the standards specified in the bill.

Many of the individuals who have been trained under this authority have engaged in practices that are unsafe or unethical and, consequently, present a hazard to the elderly and vulnerable residents of adult care homes. Because of the large number of these persons and the high rates of turnover among these positions, these individuals have been able to continue working as nurse aides after having been terminated by one nursing home for unacceptable behavior.

We recognize the administrative difficulty we face in establishing such a list and have already begun the work necessary to automate the list of names of persons who have been trained. Even though it would be impractical to publish a list of 25,000 names, we believe it is possible to publish and make each nursing home in the industry aware of the names of those individuals who have been removed from the list.

We recognize that the certification these individuals hold indicates only that they have completed the required training and does not connote a regulatory control over their practice. House Bill 2449 is intended to remedy this situation and provide for the minimum authority necessary to protect the residents of adult care homes from those individuals whose past behavior has established that they should not be placed in a position of trust in caring for elderly nursing home residents.

nurse-aides.

Attn. #10  
2-27-85



DEPARTMENT'S POSITION:

The Department of Health and Environment respectfully recommends that the committee report House Bill 2449 favorably for passage.

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