

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Senator Roy M. Ehrlich at
Chairperson

10:00 a.m./~~10:00~~ on March 27, 1985 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Conferees appearing before the committee:

Linda Crowl, Pioneer Village, Topeka
Representative Sandy Duncan
Don Strohle, Board of Healing Arts

Others Attending: See attached list

HB-2304 - licensure of nursing care homes for the mentally retarded

Linda Crowl testified and presented written testimony in support of HB-2304. Ms. Crowl explained difficulties encountered in efforts for licensing should Pioneer Village move to a new location. Attachment I

Senator Salisbury made a motion to pass favorably HB-2304. Senator Anderson seconded the motion and it carried.

The subcommittee report on SB-113 was presented by Senator Vidricksen, chairman of the subcommittee. The revised SB-113 balloon was presented to the committee members. Attachment II

Staff member, Emalene Correll, called the attention of the committee to the fact that another bill related to SB-113 with reference to licensing was being held so the two may be worked together.

Senator Morris made the motion that we adopt the amendments to the balloon with a second by Senator Vidricksen. The motion carried.

Senator Morris made the motion that SB-113 as amended be passed out favorable. Senator Anderson seconded the motion and the motion carried.

The subcommittee chairman, Senator Walker, reported that two meetings had been held on SB-273. Senator Walker stated that the committee struggled with the potential cost factors involved if this bill were mandated either through SB-273 or by rules and regulations directed through the department of health and environment. The subcommittee eventually settled on a Senate Concurrent Resolution which would give a two year trial period and provide for data to be reported to the 1986 legislature on progress toward 24-hour nursing care, the cost thereof, and the effect on resident care and any problems involved. Attachment III

Senator Walker was commended by Senators Morris, Francisco and Hayden for the fine work done chairing this committee and other subcommittees he has handled this session.

Senator David Kerr made a motion to add "and 1987" to follow "1986" on the 8th line from the end of the resolution. The motion was seconded by Senator Anderson and the motion carried.

It was moved by Senator Walker that the Senate Concurrent Resolution with the recommended change be directed out of the committee directly to the committee of the whole. The motion was seconded by Senator Anderson and the motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 27, 1985

Senator Morris moved that SB-273 be tabled and Senator Salisbury seconded the motion. The motion carried.

Chairman Ehrlich thanked the subcommittee of Chairman Walker, Senators Vidricksen, Hayden, Francisco, and Kerr for their work on this difficult subject.

HB-2338 - relating to granting temporary permits and to licensure by examination; providing standards of approval of school of medicine

Representative Sandy Duncan testified supporting the need for HB-2338. Representative Duncan stated that it came to his attention that the Board of Healing Arts did not have the authority in their statutes to provide criteria to regulate the issuance of permits and licenses to doctors who were not natives of the United States during the period when they were engaged in a postgraduate training program. It was also stated that he preferred to have the original Section 4 reinstated or have the whole section 4 as it now stands dropped.

Don Strohle testified in support of HB-2338. He stated that it was not felt that two years of working under a fellowship license was equivalent to a year working in a post graduate status. Attachment IV Attachment V

Due to the complexity and the problems with this bill, Chairman Ehrlich appointed a subcommittee to look at HB-2338. Senator David Kerr, Senator Salisbury and Senator Anderson will serve on the subcommittee with Senator Kerr serving as chairman.

Written testimony submitted by Michael L. Bailey who testified on HB-2018 on March 26, 1985 was handed to the committee. Attachment VI

Written testimony submitted by Dick Hummell on HB-2436 was presented to the committee. Attachment VII

Meeting adjourned.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 3-27-85

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Ethel R. Spaul - 2001 SW Wayne Topeka

Charles V. Hamm Forbes Field

JG Kollowall

Lynelle King

Marilyn Bradt

Dr Lois R. Scibetta

Elizabeth W Carlson - Topeka

Barbara Remert

Jimmy Schmitt

Don Stule

Dwight M. Goering

Ray Petty

Sheli buck Topeka

DARREN STEARNS Topeka

PAT SUAFER TOPEKA

visitor

KDHE

KDHE

Ks St Nurses' Assn.

KINH

KS B of N

Bd of Healing Arts

Planned Parenthood of KS.

IDS

Bd of Healing Art

Maunderidge H.S. faculty

KACEH / DHR

KACEH / DHR

Consel. of Churches

DIVISION OF BUDGET

PIONEER



VILLAGE

410 Arter
Topeka, Kansas 66607

(913) 233-1922

Pioneer Village, Inc., is home for 60 mentally retarded adults here in Topeka. Our present facilities are located in the Eastboro section of East Topeka in renovated apartment buildings. In late 1983, Pioneer Village was approached by a local developer who was willing to construct new office and residential buildings; and, after a lease term, eventually donating the new facility to Pioneer Village, Inc.

Accordingly, in March, 1984, a letter of intent to file an application for a certificate of need was filed with the Department of Health and Environment. In April, the application for the CON was filed. On May 1, 1984, Kansas Administrative Reg. 28-39-77 was amended in part to provide that the residential buildings could not be located on the same or contiguous sites. On May 30, 1984, Secretary Sabol informed us that she and Dr. Harder had discussed the matter and were willing to grandfather the new facility.

On August 13, 1984, Secretary Sabol issued her order approving the CON, but requested documentation that the facility at 25th and California would be a replacement facility for the present facility. The Board of Directors of Pioneer Village gave the Secretary the assurance she requested, but she was not satisfied and said the assurance was not sufficient.

At this point it became clear that the problem was that on September 1, 1983, as a result of a Department of Health and Environment interpretation of KSA 39-924 (13) it was required that our landlord be included on the licenses, even though he is a passive lessor. KSA 39-924(13) was amended to define "operate an adult care home" as meaning "to own, lease, establish, maintain, conduct the affairs of or manage an adult care home..."

HB 2304 would enable Pioneer Village to apply for new licenses should we move to a new location.

Marlene Putnam - Administrator

3/27/85
Attachment I

SENATE BILL No. 113

By Senators Vidricksen, Allen, Arasmith, Burke, Harder,
F. Kerr, Montgomery, Salisbury, Talkington, Thiessen,
Walker, Werts and Winter

1-29

0019 AN ACT concerning the secretary of health and environment;
0020 relating to the regulation of persons and business entities
0021 engaging in the removal or encapsulation of asbestos; impos-
0022 ing civil and criminal penalties for violations.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. As used in this act:

0025 (a) "Asbestos project" means an activity involving the re-
0026 ~~moval or encapsulation of asbestos.~~

0027 (b) "Business entity" means a partnership, firm, association,
0028 corporation, sole proprietorship, or other business concern.

0029 (c) "Certificate" means an authorization issued by the secre-
0030 tary permitting an individual person to engage in an asbestos
0031 project.

0032 (d) "License" means an authorization issued by the secretary
0033 permitting a business entity to engage in an asbestos project.

0034 (e) "Secretary" means the secretary of health and environ-
0035 ment.

0036 Sec. 2. (a) Except as otherwise provided in this act, no busi-
0037 ness entity shall engage in an asbestos project unless the entity
0038 holds a license issued by the secretary for that purpose

0039 (b) Except as provided in this subsection, the provisions of
0040 this act do not apply to a business entity which uses its own
0041 employees in removing or encapsulating asbestos for the pur-
0042 pose of renovating, maintaining or repairing its own facilities. A
0043 business entity which is exempted from applicability of the
0044 provisions of this act and which assigns an employee to remove
0045 or encapsulate asbestos shall provide training on the health and

Delete

undertaken to remove or encapsulate friable asbestos containing materials.

(f) "Friable asbestos containing material" means any material that contains more than 1 percent asbestos, by weight, which is applied to ceilings, walls, structural members, piping, ductwork or any other part of a building and which, when dry, may be crumbled, pulverized or reduced to powder by hand pressure.

(g) "Asbestos" means that asbestiform varieties of: chrysotile, crocidolite, amosite, anthophyllite, tremolite and actinolite.

notification to the Secretary in the manner prescribed by the Secretary of their intent to conduct such activities and shall provide

Attachment II

Atch. II
3/27/85

00 safety aspects of the removal or encapsulation including the
 0041 federal and state standards applicable to asbestos projects. The
 0048 training program shall be available for inspection, review and
 0049 approval by the secretary.

0050 Sec. 3. The secretary shall administer the provisions of this
 0051 act. In administering the provisions of this act, the secretary
 0052 shall:

0053 (a) Prescribe fees for the issuance and renewal of certificates
 0054 and licenses. The fees shall be based upon the amount of
 0055 revenue determined by the secretary to be required for proper
 0056 administration of the provisions of this act;

0057 (b) at least once during an actual asbestos project, conduct an
 0058 on-site inspection of procedures being utilized for removing and
 0059 encapsulating asbestos;

0060 (c) inspect and approve asbestos disposal sites; and

0061 (d) adopt rules and regulations necessary for the administra-
 0062 tion of this act.

0063 Sec. 4. In order to qualify for a license, a business entity
 0064 shall:

0065 (a) Ensure that each employee or agent of the business entity
 0066 who will come into contact with asbestos or who will engage in
 0067 an asbestos project is certified;

0068 (b) demonstrate to the satisfaction of the secretary that the
 0069 business entity is capable of complying with all applicable
 0070 requirements, procedures and standards of the United States
 0071 environmental protection agency and the United States occupa-
 0072 tional safety and health administration;

0073 (c) have access to at least one approved asbestos disposal site
 0074 for deposit of all asbestos waste that the business entity will
 0075 generate during the term of the license; and

0076 (d) comply with all rules and regulations adopted by the
 0077 secretary under this act.

0078 Sec. 5. (a) To apply for a license, a business entity shall
 0079 submit an application to the secretary in the form required by the
 0080 secretary and shall pay the fee prescribed by the secretary.

0081 (b) The application shall include:

0082 (1) The name and address of the business entity;

conduct at least one on-site inspection annually of procedures being utilized by a
licensee for removing and encapsulating asbestos during an actual asbestos project;

including, but not limited to, requirements, procedures and standards relating to
asbestos projects as are necessary to protect the public health and safety

and the secretary

0083 (2) a description of the protective clothing and respirators
0084 that the business entity will use;

0085 (3) the name and address of each asbestos disposal site that
0086 the business entity will use;

0087 (4) a description of the site decontamination procedures that
0088 the business entity will use;

0089 (5) a description of the removal and encapsulation methods
0090 that the business entity will use;

0091 (6) a description of the procedures that the business entity
0092 will use for handling waste containing asbestos;

0093 (7) a description of the air monitoring procedures that the
0094 business entity will use;

0095 (8) a description of the procedures that the business entity
0096 will use in cleaning up after completion of the asbestos project;

0097 (9) the signature of the chief executive officer of the business
0098 entity or a designee of the chief executive officer; and

0099 (10) any other information which may be required by the
0100 secretary.

0101 Sec. 6. (a) A license expires one year from its effective date
0102 unless it is renewed for a one-year term as provided in this
0103 section.

0104 (b) Not less than one month before a license expires, the
0105 secretary shall send to the licensee, at the last known address of
0106 the licensee, a renewal notice that states:

0107 (1) The date on which the current license expires;

0108 (2) the date by which the renewal application must be re-
0109 ceived by the secretary for the renewal license to be issued and
0110 mailed before the current license expires; and

0111 (3) the amount of the renewal fee.

0112 (c) Before a license expires, the licensee periodically may
0113 renew it for an additional one-year term, if the business entity:

0114 (1) Otherwise is entitled to be licensed;

0115 (2) submits a renewal application to the secretary in the form
0116 required by the secretary; and

0117 (3) pays the renewal fee prescribed by the secretary.

0118 Sec. 7. Every licensee shall keep a record of each asbestos
0119 project it performs and shall make the record available to the

(a)

0120 secretary at any reasonable time. Records required by this sec-
0121 tion shall be kept for not less than six years. The record shall
0122 include:

0123 ~~(a)~~ The name, address and certificate number of the individ- Delete
0124 ual person who supervised the asbestos project and of each (1)
0125 employee or agent of the licensee who worked on the project;

0126 ~~(b)~~ the location and a description of the project and the Delete
0127 amount of asbestos material that was removed;

0128 ~~(c)~~ the starting and completion dates of each instance of (2)
0129 removal or encapsulation;

0130 ~~(d)~~ a summary of the procedures that were used to comply Delete
0131 with all applicable standards; (3)

0132 ~~(e)~~ the name and address of each asbestos disposal site where Delete
0133 the waste containing asbestos was deposited; and

0134 ~~(f)~~ any other information which may be required by the (4)
0135 secretary.

0136 Sec. 8. ~~(a)~~ Except as otherwise provided in this act, no indi- Delete
0137 vidual person shall engage in an asbestos project unless the (5)
0138 person holds a certificate issued by the secretary for that pur- Delete
0139 pose.

0140 ~~(b)~~ The provisions of this act do not apply to an individual (6)
0141 person who is an employee of a business entity which is ex-
0142 empted from the provisions of this act by subsection (b) of
0143 section 2.

0144 ~~(c)~~ In order to qualify for a certificate, an individual person
0145 must have successfully completed a basic course, approved by
0146 the secretary, on the health and safety aspects of the removal and
0147 encapsulation of asbestos including the federal and state stan-
0148 dards applicable to asbestos projects, and must have been exam-
0149 ined by a physician within the preceding year and declared by
0150 the physician to be physically capable of working while wearing
0151 a respirator.
0152 ~~(d)~~ In order to qualify for renewal of a certificate, an individ-
0153 ual person must have successfully completed an annual review
0154 course approved by the secretary and have been reexamined and
0155 approved by a physician as physically eligible for renewal of the
0156 certificate.
(b) Every licensee, state agency or political or taxing subdivision
of the state that engages in an asbestos project shall notify the
secretary, in the manner prescribed by the secretary, of the proposed
date on which the project is to be initiated.

0157 (e) Applications for certificates and renewals shall be sub-
0158 mitted to the secretary on forms prescribed by the secretary and
0159 shall be accompanied by a fee prescribed by the secretary.

0160 (f) A certificate expires one year from its effective date unless
0161 it is renewed for a one-year term as provided by this section.

0162 Sec. 9. (a) The secretary shall establish by rules and regula-
0163 tions a reasonable schedule of fees for licensure or for certifica-
0164 tion under this act. The fee schedule shall be established on the
0165 basis of determination by the secretary of the amount of revenue
0166 required for administration of the provisions of this act.

0167 (b) The secretary shall remit all moneys received from the
0168 fees established pursuant to this section to the state treasurer at
0169 least monthly. Upon receipt of such remittance, the state trea-
0170 surer shall deposit the entire amount thereof in the state treasury
0171 to the credit of the state general fund.

0172 Sec. 10. (a) The secretary may deny, suspend or revoke any
0173 license issued under this act if the secretary finds, after notice
0174 and hearing conducted in accordance with the provisions of the
0175 Kansas administrative procedure act, that the applicant for li-
0176 cense or licensee, whichever is applicable, has:

0177 (1) Fraudulently or deceptively obtained or attempted to
0178 obtain a license;

0179 (2) failed at any time to meet the qualifications for a license
0180 or to comply with any provision or requirement of this act or any
0181 rules and regulations adopted by the secretary under this act;

0182 (3) failed at any time to meet any applicable federal or state
0183 standard for removal or encapsulation of asbestos; or

0184 (4) employed or permitted an uncertified individual person
0185 to work on an asbestos project.

0186 (b) The secretary may deny, suspend or revoke any certifi-
0187 cate issued under this act if the secretary finds, after notice and
0188 hearing conducted in accordance with the provisions of the
0189 Kansas administrative procedure act, that the applicant for cer-
0190 tificate or certificate holder, whichever is applicable, has:

0191 (1) Fraudulently or deceptively obtained or attempted to
0192 obtain a certificate; or

0193 (2) failed at any time to meet the qualifications for a certifi-

0194 cate or to comply with any provision or requirement of this act or
0195 any rules and regulations adopted by the secretary under this act.
0196 (c) Before any license or certificate is denied, suspended or
0197 revoked, the secretary shall conduct a hearing thereon in ac-
0198 cordance with the provisions of the Kansas administrative pro-
0199 cedure act.

0200 (d) Any individual person or business entity aggrieved by a
0201 decision or order of the secretary may appeal the order or
0202 decision in accordance with the provisions of the act for judicial
0203 review and civil enforcement of agency actions.

0204 (e) (1) If the secretary finds that the public health or safety is
0205 endangered by the continuation of an asbestos project, the sec-
0206 retary may temporarily suspend, without notice or hearing in
0207 accordance with the emergency adjudication procedures of the
0208 provisions of the Kansas administrative procedure act, the li-
0209 cense of the business entity ~~engaging in such asbestos project.~~

or the certificate of any person

0210 (2) In no case shall a temporary suspension of a license ~~under~~
0211 this section be in effect for a period of time in excess of 90 days.

or certificate

0212 At the end of such period of time, the ~~licensee~~ shall be reinstated
0213 ~~to full licensure~~ unless the secretary has suspended or revoked
0214 the license ~~after notice and hearing, or the license has expired as~~
0215 otherwise provided under this act.

Delete
license or certificate

Delete
or certificate

0216 Sec. 11. (a) In an emergency that results from a sudden,
0217 unexpected event that is not a planned renovation or demolition,
0218 the secretary may waive the requirement for a license.

Delete

0219 (b) The secretary may approve, on a case-by-case basis, an
0220 alternative to a required ~~worker~~ protection procedure for an
0221 asbestos project if the business entity submits a written descrip-
0222 tion of the alternative procedure to the secretary and demon-
0223 strates to the satisfaction of the secretary that the proposed
0224 alternative procedure provides equivalent ~~worker~~ protection.

public health

or state or political or taxing subdivision of the state

Delete

0225 (c) If a business entity is not primarily engaged in the re-
0226 moval or encapsulation of asbestos, the secretary may waive the
0227 requirement for a license ~~if worker~~ protection requirements are
0228 met or an alternative procedure is approved under subsection
0229 (b).

or state or political or taxing subdivision of the state

Delete

or employee certification if public health

0230 Sec. 12. ~~No state agency or political or taxing subdivision of~~

(a)

0231 the state shall accept a bid in connection with any asbestos
0232 project from a business entity which does not hold a license at
0233 the time the bid is submitted.

0234 Sec. 13. (a) Any individual person who willfully violates any
0235 provision of this act or any rules and regulations adopted under
0236 this act is guilty:

0237 (1) For a first offense, of a class C misdemeanor; and

0238 (2) for a second offense, of a class B misdemeanor.

0239 (b) Any business entity which willfully violates any provi-
0240 sion of this act or any rules and regulations adopted under this
0241 act is guilty:

0242 (1) For a first offense, of a class A misdemeanor; and

0243 (2) for a second offense, of a class E felony.

0244 Sec. 14. (a) Any business entity which violates any provision
0245 of this act or any rules and regulations adopted under this act, in
0246 addition to any other penalty provided by law, may incur a civil
0247 penalty imposed under subsection (b) in an amount not to exceed
0248 \$5,000 for each violation and, in the case of a continuing viola-
0249 tion, every day such violation continues shall be deemed a
0250 separate violation.

0251 (b) The secretary, upon a finding that a business entity has
0252 violated any provision of this act or any rules and regulations
0253 adopted under this act, may impose a civil penalty within the
0254 limits provided in this section upon such business entity, which
0255 civil penalty shall be in an amount to constitute an actual and
0256 substantial economic deterrent to the violation for which the
0257 civil penalty is assessed.

0258 (c) No civil penalty shall be imposed under this section
0259 except upon the written order of the secretary after notification
0260 and hearing in accordance with the provisions of the Kansas
0261 administrative procedure act.

0262 (d) Any business entity aggrieved by an order of the secretary
0263 made under this section may appeal such order to the district
0264 court in the manner provided by the act for judicial review and
0265 civil enforcement of agency actions. An appeal to the district
0266 court or to an appellate court shall not stay the payment of the
0267 civil penalty. If the court sustains the appeal, the secretary shall

(b) No state agency or political or taxing subdivision of the state shall carry out any asbestos project using its own employees except in compliance with the requirements of Section 4 that also apply to business entities.

, if a hearing is requested,

0267 refund forthwith the payment of any civil penalty to the business
0269 entity with interest at the rate established by K.S.A. 16-204, and
0270 amendments thereto, from the date of payment of the penalty.

0271 (e) Any penalty recovered pursuant to the provisions of this
0272 section shall be remitted to the state treasurer, deposited in the
0273 state treasury and credited to the state general fund.

0274 Sec. 15. Notwithstanding the existence or pursuit of any
0275 other remedy, the secretary may maintain, in the manner pro-
0276 vided by the act for judicial review and civil enforcement of
0277 agency actions, an action in the name of the state of Kansas for
0278 injunction or other process against any business entity to restrain
0279 or prevent any violation of the provisions of this act or of any
0280 rules and regulations adopted under this act.

0281 Sec. 16. This act shall take effect and be in force from and
0282 after its publication in the statute book.

January 1, 1986, and

SENATE CONCURRENT RESOLUTION NO. _____

A CONCURRENT RESOLUTION concerning 24-hour-a-day licensed nursing care in adult care homes which are intermediate care facilities.

WHEREAS, The providing of 24-hour-a-day licensed nursing care in adult care homes which are intermediate care facilities is a goal which should have a high priority for this state; and

WHEREAS, Due to problems of implementation of such goal by such adult care homes and the fiscal effects of such goal on the state, on such adult care homes and on residents thereof, any such implementation should be voluntary and phased in over a period of several years; and

WHEREAS, The state of Kansas should encourage the achievement of such goal through reimbursement incentives to such adult care homes over a period of several years: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That the secretary of health and environment is hereby directed not to require by rules and regulations 24-hour-a-day licensed nursing care in adult care homes which are intermediate care facilities prior to July 1, 1987; and

Be it further resolved: That the secretary of health and environment and the secretary of social and rehabilitation services provide data to the 1986 legislature on progress toward 24-hour-a-day nursing care, the cost thereof, the effect on resident care and any problems involved in implementing 24-hour-a-day licensed nursing care; and

Be it further resolved, That the secretary of state be directed to transmit copies of this resolution to the secretary of health and environment and to the secretary of social and rehabilitation services.

3/27/85
Attachment III

TESTIMONY OF THE BOARD OF HEALING ARTS
BEFORE THE HOUSE PUBLIC HEALTH AND WELFARE
COMMITTEE ON HB 2338

HB 2338 is a major piece of legislation which, if pursued, will help insure that only well trained and well qualified persons will become licensed to practice medicine and surgery in the State of Kansas. It's major provision, Sec. 3 will allow the Board to establish criteria by which medical schools are to be judged. Presently, the Board does not have such criteria or the criteria it has it woefully inadequate to deal with the complexity of the problem of licensing graduates of medical schools, especially foreign medical schools.

In 1957 when the Healing Arts Act was adopted there was not a significant problem regarding the quality of medical schools either in the U.S. or foreign schools. Thus, a standard simply stating that a school should be equivalent to the University of Kansas Medical School was sufficient. In the early 1970's however, numerous schools began to crop up, especially in the Carribean, Mexico, India, the Philippines and Pakistan. Many of these schools were established primarily for American students who were unable to get into an American Medical School. Many of them also charged a very high tuition, thus, there was in some instances a profit motive behind their establishment as well.

The problems with some of these schools became apparent after awhile. For example, some of the schools did not and still do not have adequate laboratories, libraries, clinical facilities, faculty etc. The Board has great difficulty in differentiating between the good schools and the bad schools in these regions.

Worldwide there are over 1,000 foreign medical schools. Thus, simply obtaining sufficient information about many of them is a difficult task. This is where sections 3(c) and (d) will be quite helpful. The Federation of State Medical Boards has established a fact gathering commission to assist in obtaining the necessary information for State Medical Boards. Section 3(d) will allow our Board to obtain the information gathered by this commission. Therefore, when making a determination about whether to approve a given

3/27/85
Attachment IV

school, the Board should be in much better position after the passage of this bill.

New Section 2(c) addresses another aspect of licensing foreign medical graduates. It would allow a person to become licensed if he or she meets the conditions specified therein, even if that person has not graduated from an approved school. The Board believes the conditions in (c)(1) and (c)(2) are sufficient alternative safeguards to ensure that the person is adequately qualified and trained for licensure. There are certain schools, especially in communist countries where neither the applicant nor the Board can obtain the necessary information to approve or disapprove the school. However, the Board believes that because of the postgraduated training received in the U.S. or another approved school, the person should be granted a license. Since most of these schools have been in existence for over 15 years, the Board believes that at least the school has a decent track record and probably was not established purely for profit reasons.

New Section 3(b) gives the Board specific authority to adopt rules and regulations establishing the criteria for medical schools. The present statute simply states that the school should be equivalent to the University of Kansas Medical School, but does not define "equivalency". The amendments would define the standards by which schools should be judged, and thus, would take care of a possible broad delegation problem we have now.

Section 4 amends the present Fellowship License Statute to allow a person to keep a Fellowship License indefinitely. The Board opposes the statute as is and suggests the attached amendments, which I understand SRS agrees with. The House Committee in attempt to deal with the doctor in Larned simply went to far. The Board has been able pursuant to its current statutes and regulations to deal with the doctor in Larned. Thus, this statute does not need to address that situation. The persons in our State Institutions deserve adequate medical care. The amendments we propose would essentially equate the Fellowship License upon renewal with the Permanent License, because the Fellowship Licensees would

Testimony HB 2338
Page 3

have to pass the same examination that the permanent licensees have to pass. Thus,
I urge that you adopt our proposed amendments.

Thank you for the opportunity to appear before you.

HOUSE BILL No. 2338

By Representative Duncan

2-13

0017 AN ACT concerning the Kansas healing arts act; relating to the
 0018 granting of temporary permits and to licensure by examina-
 0019 tion; providing standards for the approval of schools of medi-
 0020 cine; ~~creating institutional permits;~~ amending K.S.A. 65-2873
 0021 ~~and 65-2874, 65-2874 and 65-2895 and K.S.A. 1984 Supp.~~
 0022 65-2811 and repealing the existing sections; ~~and also repeal-~~
 0023 ~~ing K.S.A. 65-2895.~~

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 Section 1. K.S.A. 1984 Supp. 65-2811 is hereby amended to
 0026 read as follows: 65-2811. (a) The secretary of the board may issue
 0027 a temporary permit to practice the appropriate branch of the
 0028 healing arts to any person:

0029 (a) (1) Who has made proper application for a license by
 0030 endorsement, has the required qualifications for such license
 0031 and has paid the prescribed fees, and such permit, when issued,
 0032 shall authorize the person receiving the permit to practice within
 0033 the limits of the permit until the license is issued or denied by
 0034 the board, but no more than one such temporary permit shall be
 0035 issued to any one person without the approval of ²/₃ of the
 0036 members of the board.

0037 (b) (2) Who is engaged in a full-time approved postgraduate
 0038 training program, has made proper application for such tempo-
 0039 rary permit upon forms approved by the board, meets all quali-
 0040 fications of licensure, except ~~examinations~~ *the examination re-*
 0041 *quired under paragraph (3) of subsection (a) of K.S.A. 65-2873*
 0042 *and amendments thereto* and postgraduate training, as required
 0043 by this act ~~and~~, has paid the prescribed fees as established by the
 0044 board for such temporary permit, *after July 1, 1986, has passed*
 0045 *an examination in the basic and clinical sciences approved by*

HB-2338 - 3-27-85 - Don Strahle -

3/27/85
Attachment IV



Vertical text or stamp on the right side of the page.

0046 the board and if the applicant is a graduate of a foreign medical
0047 school, has passed an examination given by the ~~American medical~~
0048 ~~and osteopathic~~ educational council for foreign medical gradu-
0049 ates.

commission (technical)

0050 (b) The permit, when issued, shall authorize the person re-
0051 ceiving the permit to practice the appropriate branch of the
0052 healing arts in the postgraduate training program while contin-
0053 uously so engaged but shall not authorize the person receiving
0054 the permit to engage in the private practice of the healing arts.
0055 Nothing in this act shall affect the expiration date of any
0056 temporary permit to practice any branch of the healing arts
0057 issued under this section prior to the effective date of this act.
0058 Such temporary permit shall continue to be effective until the
0059 date of expiration of the permit.

0060 Sec. 2. K.S.A. 65-2573 is hereby amended to read as follows:
0061 65-2573. (a) Each applicant for a license by examination to
0062 practice any branch of the healing arts in this state shall:

0063 (1) Present to the board evidence of proficiency in the basic
0064 sciences issued by the national board of medical examiners, the
0065 board of examiners of osteopathic physicians and surgeons or the
0066 national board of chiropractic examiners or such other examining
0067 body as may be approved by the board or in lieu thereof pass
0068 such examination as the board may require in the basic science
0069 subjects:

0070 (2) present proof that ~~he or she~~ the applicant is a graduate of
0071 an accredited healing arts school or college; and
0072 (3) pass an examination prescribed and conducted by the
0073 board covering the subjects incident to the practice of the branch
0074 of healing art for which the applicant applies.

0075 (b) Any person seeking a license to practice medicine and
0076 surgery shall present proof that ~~he or she~~ such person has
0077 completed acceptable postgraduate study as may be required by
0078 the board by regulations.

0079 (c) The board may authorize an applicant who does not meet
0080 the requirements of paragraph (2) of subsection (a) to take the
0081 examination for licensure if the applicant:

0082 (1) Has completed three years of postgraduate training.

0083 approved by the board.

0084 (2) is a graduate of a school which has been in operation for
0085 not less than 15 years and the graduates of which have been
0086 licensed in another state or states which has standards similar
0087 to Kansas; and

0088 (3) meets all other requirements for taking the examination
0089 for licensure of the Kansas healing arts act.

0090 (d) In addition to the examination required under paragraph
0091 (3) of subsection (a), if the applicant is a foreign medical gradu-
0092 ate the applicant shall pass an examination given by the ~~American~~
0093 ~~can medical association's~~ educational ~~council~~ for foreign medi-
0094 cal graduates.

commission (technical)

0095 (e) No person licensed to practice and actively engaged in
0096 the practice of the healing arts shall attach to his or her such
0097 person's name any title, or any word or abbreviation indicating
0098 that he or she such person is a doctor of any branch of the healing
0099 arts other than the branch of the healing arts in which such
0100 person holds a license; but shall attach to his or her such person's
0101 name the degree or degrees to which he or she such person is
0102 entitled by reason of his or her such person's diploma.

0103 Sec. 3. K.S.A. 65-2874 is hereby amended to read as follows:
0104 65-2874. (a) An accredited school of medicine for the purpose of
0105 this act shall be a school or college which requires the study of
0106 medicine and surgery in all of its branches, which the board shall
0107 determine to have a standard of education not below that of
0108 substantially equivalent to the university of Kansas school of
0109 medicine. All such schools shall be approved by the board.

0110 (b) The board shall adopt rules and regulations establishing
0111 the criteria which a school shall satisfy in meeting the standard
0112 established under subsection (a). The criteria shall establish the
0113 minimum standards in the following areas:

0114 (1) Admission requirements;

0115 (2) basic science coursework;

0116 (3) clinical coursework;

0117 (4) qualification of faculty;

0118 (5) ratio of faculty to students;

0119 (6) library;

0120 (7) clinical facilities;
0121 (8) laboratories;
0122 (9) equipment;
0123 (10) specimens;
0124 (11) financial qualifications; and
0125 (12) accreditation by independent agency.
0126 (c) The board may send a questionnaire developed by the
0127 board to any school for which the board does not have sufficient
0128 information to determine whether the school meets the require-
0129 ments of this statute or rules and regulations adopted pursuant
0130 to this statute. The questionnaire providing the necessary in-
0131 formation shall be completed and returned to the board in order
0132 for the school to be considered for approval.
0133 (d) The board is authorized to contract with investigative
0134 agencies, commissions or consultants to assist the board in
0135 obtaining information about schools. In entering such contracts
0136 the authority to approve schools shall remain solely with the
0137 board.

0138 New Sec. 4. (a) There is hereby created an institutional
0139 permit which may be issued by the secretary to a person who is a
0140 graduate of an accredited school of the healing arts or a school
0141 which has been in operation for at least 15 years and whose
0142 graduates have received licensure in another state or states with
0143 standards similar to Kansas, who has successfully completed an
0144 examination in the basic and clinical sciences approved by the
0145 board and who is employed by the department of social and
0146 rehabilitation services or employed by any institution within the
0147 department of corrections. If the applicant is a foreign medical
0148 graduate, the applicant shall pass an examination given by the
0149 American medical association's council for foreign medical
0150 graduates. The institutional permit shall confer upon the holder
0151 the right and privilege to practice that branch of the healing arts
0152 in which the holder of the institutional permit is proficient and
0153 shall obligate the holder to comply with all requirements of such
0154 license.

0155 (b) The practice privileges of institutional permit holders are
0156 restricted as follows: The institutional permit shall be valid only

0157 during the period in which the institutional permit holder is
0158 employed by the department of social and rehabilitation services
0159 or employed by any institution within the department of correc-
0160 tions and only within the institution to which the institutional
0161 permit holder is assigned; but no institutional permit shall be
0162 valid for more than two consecutive years following the date of
0163 original issuance. The institutional permit may be renewed after
0164 such two-year period if the applicant is eligible to obtain an
0165 institutional permit under this section.

0166 (c) Any person who holds a valid fellowship license under
0167 K.S.A. 65-2895 and amendments thereto on the day immediately
0168 preceding the effective date of this act shall be considered for the
0169 purposes of this section to hold an institutional permit which
0170 institutional permit shall continue to be effective until the date
0171 when the fellowship license was to expire and shall expire on
0172 that date.

0173 (d) This section shall be part of and supplemental to the
0174 Kansas healing arts act.

0175 Sec. 4. K.S.A. 65-2595 is hereby amended to read as follows:
0176 65-2895. (a) There is hereby created a designation of fellowship
0177 license which may be issued by the secretary to a person who is a
0178 graduate of an accredited school of the healing arts, who has
0179 successfully completed the examination given by the American
0180 medical association's educational council, commission for foreign
0181 medical graduates and who is employed by the department of
0182 social and rehabilitation services or employed by any institution
0183 within the department of corrections. The fellowship license
0184 shall confer upon the holder the right and privilege to practice
0185 that branch of the healing arts in which the holder of the
0186 fellowship license is proficient and shall obligate the holder to
0187 comply with all requirements of such license. Practice privileges
0188 are restricted as follows: The fellowship license shall be valid
0189 only during the period in which the holder is employed by the
0190 department of social and rehabilitation services or employed by
0191 any institution within the department of corrections, and only
0192 within the institution to which he or she the holder is assigned;
0193 but no fellowship license shall be valid for more than two (2)

or a school which has been in operation for
not less than 15 years and the graduates of
which have been licensed in another state
or states which have standards similar to
Kansas

educational

0194 consecutive years following the date of original issuance. If such
0195 license was in effect on the effective date of this act, the date on
0196 which this act becomes effective shall constitute the date of
0197 original issuance of the fellowship license for the purpose of
0198 computing such two (2) year limitation. No fellowship license
0199 shall be renewable after such two (2) year period. A fellowship
0200 license may be renewed after such two-year period if the appli-
0201 cant is eligible to obtain a fellowship license under this section.
0202 Any fellowship license which expired on or after January 1,
0203 1985, and prior to the effective date of this act may be renewed
0204 in accordance with the provisions of this section.

0205 (b) This section shall be a part of and supplemental to the
0206 Kansas healing arts act.

0207 Sec. 5. K.S.A. 65-2873, 65-2874 and 65-2895 and K.S.A. 1984
0208 Supp. 65-2811 are hereby repealed.

0209 Sec. 6. This act shall take effect and be in force from and
0210 after its publication in the ~~statute book~~ **Kansas register**.

and if the applicant successfully com-
pletes the examination required under
Sec. 2(a)(3) of this act. (This is the
Flex exam, both Part I and II)

MEMORANDUM

TO: Senator Roy M. Ehrlich
Chairman of Senate Public Health and Welfare
Committee and all Committee Members

FROM: Michael L. Bailey, Executive Director *MLB*
Kansas Commission on Civil Rights

RE: Costs for Implementing the Provisions of House
Bill Number 2018

DATE: March 26, 1985

Pursuant to your inquiry in the hearing on the above captioned bill this morning, I have re-evaluated the projected costs for implementing the provisions of H.B. 2018. Rationale and projected cost breakdown is as follows:

Bill No. 2018 would add an additional area of coverage to the Commission's jurisdiction, that of mental disabilities. According to information presented at the hearing there are 80,000 individuals in the State who would be eligible to file a Civil Rights claim in this jurisdictional area. The investigation of complaints of this type would be similar to investigations required for areas currently covered. There is an additional factor involved in investigating complaints of persons with mental disabilities, which the bill would include, of determining exactly how a person's mental disability would affect his or her performance in a particular setting. This necessitates additional work to determine the effect of business necessity as a justifiable reason for failing to hire, promote, etc. an individual possessing a mental disability. Additionally the Commission does not currently have the expertise on staff to determine the scope of a mental disability or provide any type of diagnosis as to the extent. This would necessitate the hiring of professional witnesses ie, psychologists, psychiatrists, counselors to assist in both investigations and public hearings. Our research indicated that these costs range anywhere from \$25 to \$100 per hour depending upon the qualifications and expertise of the persons involved.

Additional costs for expert witnesses is nearly impossible to project at this point. However, presuming that the Commission would receive an additional 60 complaints at an average cost of \$50 per complaint, in the neighborhood of \$3,000 would be necessary for initial analysis. Added costs for in depth diagnosis and hearing costs would probably approach 2,000 dollars. Therefore as a "rough" projection it could be estimated that total cost for this area would be \$5,000.

This agency has in the past contacted the States of Iowa, Missouri, and Nebraska, in order to obtain some base upon which to project possible costs, in view of the fact that all three (3) states have jurisdiction over mental disability. Iowa reported approximately one percent (1%) of their case load or approximately twenty (20) cases per year dealt with this issue, but related that the figure rose significantly in that a large number of persons filed both on the

3/27/85
Attachment VI

basis of mental and physical disability and they had no information available to indicate the total number of complaints involved in which both areas were covered. Missouri reported that seventeen percent (17% of its case load consisted of complaints filed on the basis of mental disability. Nebraska indicated that their case load was approximately forty (40) cases per year on this specific area. In view of the small amount of information available at this point, we can only estimate the increase of complaints we would experience should this bill be enacted. It is our estimation that we would receive between forty (40) to sixty (60) complaints per year, which under current requirements would necessitate the hiring of one (1) additional investigator.

An additional cost factor would be in the area of printing. If jurisdictional areas are expanded the Commission would be required to re-print all present publications and posters which are required by law to be posted by employers (44-1012).

The cost factors are broken down as follows:

1. Additional Investigator	21,405	
(includes all fringe benefits)		
2. Expert Witness Fees	5,000	
3. Revision of Publications	17,405	
Rules & Regs		3,645
Community Education Program Booklet		656
Complaint Procedure Pamphlet		406
Guidelines for Pre-employment Inquiries		350
Employment Posters (English & Spanish)		7,020
Investigator Training Manual		425
Your Civil Rights In Kansas		133
Kansas Act Against Discrimination		4,376
Pre Inquiries Booklet		394
		<u>17,405</u>
4. Equipment for Investigator	1,090	
Desk, Ex		275
Chair, Ex.		275
Bookcase (2 @ 80.00 each)		160
Misc. Items		300
TOTAL	<u>44,900</u>	<u>1,090</u>

If you have any additional questions on this matter, please feel free to contact me.

MLB:nh

cc: Susan Schroeder, Budget Analyst
All Commissioners (7)

Kansas Health Care Association ^{Member of} ahca



TESTIMONY PRESENTED BEFORE THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

By
Dick Hummel, Executive Director
Kansas Health Care Association

March 26, 1985

H.B. No. 2436: Adult Care Home Receivers

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 above captioned bill.

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.

Thank you for this opportunity.

"We Care"

3/27/85