

Approved _____

Date

2/6/86
sh

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 4, 1986 in room 423-S of the Capitol.

All members were present except:
Representative Pottorff, excused

Committee staff present:

Emalene Correll, Research
Norman Furse, Revisor
Sue Hill, Secretary to Committee

Conferees appearing before the committee:

Dick Morrissey, Department of Health and Environment
Dick Hummel, Executive Director, Ks. Health Care Association
John Grace, Executive Director, Ks. Association of Homes for the Aging
Marilyn Bradt, Kansans for Improvement of Nursing Homes, Inc.

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

Chairman called meeting to order and recognized Rep. Friedeman for a bill request. Mr. Friedeman stated he had had a bill drafted by Revisor's office. This will add to the controlled substance act in schedule IV. Butyl nitrate and its salts, isomers, esters, ethers or their salts. This is shown in Attachment No. 2. Rep. Friedeman moved this bill be introduced and returned to this committee for consideration, seconded by Rep. Hassler, motion carried.

Chairman noted a revised agenda for the remainder of this week is before members today. Chair noted further, there is printed testimony from Mr. John Smith of Wichita, Ks. on HB 2663. It too, is to be considered when this bill is discussed. (Attachment No.3. is Mr. Smith's testimony).

Chair noted in regard to HB 2439 and HB 2449, he had urged members to study the Interim Committee report in respect to these two bills. Chair recommended one of two things can be done, either follow the Interim Committees recommendation that they both be not passed, or they can be scheduled for future hearings in this committee. Rep. Green moved to comply with Interim Committee's recommendation on HB 2439 and HB 2449, that they both be not passed. Motion seconded by Rep. Williams, motion carried.

Hearings began on HB 2492:--

Chair recognized Mr. Dick Morrissey of Health and Environment. He gave hand-out to committee, (see Attachment No. 4.) He stated HB 2492 would amend the statutes authorizing the assessment of civil penalties in adult care homes to remove the requirement that a citation be issued when an adult care home fails to make the corrections specified in a correction order. He said, this is expensive to administer and it serves to encourage delays in making the corrections required by the correction order. Without this second step, their department feels it will serve to shorten the procedure, reduce costs to the Department, reduce the time involved in getting from the list of infractions to the correction of them. He urged for favorable passage of HB 2492, and answered numerous questions from members. The correction order process does work, he said. They are pleased with having been able to narrow down the number of Homes in the process of correcting infractions. This bill will significantly cut down on time for correcting infractions. He noted there is a different time element involved for different citations, i.e., building items in noncompliance would of course be given a longer period of time than that of a citation issued because of an infraction in regard to a patient's health. He spoke to the provision for an appeal if the Home cited so wishes. At this point, he commented on the limitation of a \$500 penalty fee. Their Department is concerned this fee is too low to be adequate to serve its proper purpose in some cases. He understands there will be a bill introduced in the Senate that speaks to this and wanted to make this committee aware of this.

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 4, 1986

Hearings continued on HB 2492:

Dick Hummel of Ks. Health Care Association gave printed testimony to members, (see Attachment No. 5.) for details for testimony and copies of citation orders.

Mr. Hummel stated this is the same testimony he presented to this committee in March of 1985, and their position still stands in opposition of HB 2492. Their Association disagrees with a need to stream-line the civil penalty process. His hand-out described the procedures and he elaborated on same. This process has worked effectively to bring violations committed in Homes, into compliance with certain set standards. We contend, he said, that in a process like this, where an agency performs an administrative accusatory and adjudicatory function, that rights of due process are very important, and should not be swept aside for the sake of administrative expediency. Thinks HB 2492 is unnecessary, and urged for the defeat of this legislation. He had committee note some citation orders in his hand-out. He answered questions from members

Mr. John Grace, Ks. Association of Homes for the Aging gave hand-out to committee, see (Attachment No.6.). Their Association believes the law currently provides for adequate authority to protect the health and welfare of residents residing in adult care homes. He outlined steps currently taken after the inspection survey is taken of a facility, and feels the average lag time of five months between inspection and imposed fine on the facility is too long, and that the Department should develop a more timely system. Current law does allow the investigative and corrective steps to occur quickly, for example, within a 30-60 day period of time, if circumstances are critical to health and welfare of the residents. They feel that current statutes have adequate flexibility for the State in protecting the health and welfare of residents of adult care homes, and they are in opposition of HB 2492. He answered questions from committee.

Marilyn Bradt, Kansans for Improvement of Nursing Homes, Inc., gave hand-out, (see Attachment No.7.), stating though the changes proposed in HB 2492 are not major ones their Association supports these changes, and urges for the support of this bill. Primary shortcomings of Kansas' civil penalties provision are, (1), the system is slow to enforce compliance with regulations needed for the protection of nursing home residents and (2), penalty limitation of \$500 is not adequate to assure compliance. HB 2492 however does speak to the first of these by eliminating one step in this process. We can see no reason to delay imposition of a civil penalty if that timetable is not met. This bill would permit immediate assessment of a penalty without the necessity for the citation step required in current law, and she urged for passage of HB 2492. She answered questions from committee.

Mr. Dick Morrissey returned to the microphone to answer further questions from committee, i.e., there are several administrative steps that some may not be aware of. For example, there is an extensive review process that once the surveyor initiates the recommendation that particular deficiencies would be appropriate for correction this is then reviewed by another department, next reviewed by our office, then goes through a committee process that makes a review the determination. Each stage, the correction order, the citation, the assessment of the penalty all takes time. The alternative we would have to achieve a time savings in this process without taking out one of the steps, (the citation step we've asked to be eliminated), would be to reduce the amount of time spent in this reviewing process I have just outlined, he said. Numerous other questions were answered at this point, citing examples of deficiencies found in homes, appeal process.

Hearings closed on HB 2492.

Chair noted possibly there will be discussion and possible action taken on HB 2492 on Thursday this week. He reminded committee of agenda business for meeting tomorrow.

He thanked visitors for their interest in attending our meeting this date.

Meeting adjourned at 2:35 p.m.

GUEST REGISTER

DATE 2/4/86

HOUSE

PUBLIC HEALTH AND WELFARE

Date 2/4/86

NAME	ORGANIZATION	ADDRESS
John Grue	KANA	Topeka
Harriet Nelson	KINH	Lawrence
Peteley Cery	KINH	
Marilyn Bradt	KINH	Lawrence
Dick Hummel	ICACA	Topeka
Faye McAfee	KHCA	Topeka
Jean Russell	KHCA	Topeka
Jane King	KHCA	Coffeyville
Londa Howard	KHCA	Coffeyville
Ann Moriarty	KS Nat. Org. for Womening for	Topeka
Mar Ann	KHCA	"
RALPH GARRISON	KHCA	GOESSEL
Mary Swords	KHCA	Lakin Kansas
Kathy Hunt	KHCA	Wichita, KS
Candy Byers	KHCA	Wichita, KS
Joyce Kuntz	KHCA	Sedgewick, KS
Jamie Mason	KHCA	Wichita, KS
Kat Kukwood	ICACH	SEDGWICK, KS
Butch Eaton	KHCA	Topeka
Blaine Hull	KHCA	Overbroom

Attachment 1
2-4-86
Hs. P.H.W

HOUSE BILL NO. _____

*Attn. # 2
2/4/86*

By

AN ACT concerning the uniform controlled substances act; relating to substances included in schedule IV; amending K.S.A. 65-4111 and repealing the existing section.

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

Section 1. K.S.A. 65-4111 is hereby amended to read as follows: 65-4111. (a) The controlled substances listed in this section are included in schedule IV and the number set forth opposite each drug or substance is the DEA controlled substances code which has been assigned to it.

(b) Any material, compound, mixture or preparation which contains any quantity of the following substances including its salts, isomers and salts of isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation and having a potential for abuse associated with a depressant effect on the central nervous system:

- (1) Alprazolam.....2882
- (2) Barbital.....2145
- (3) Bromazepam.....2748
- (4) Camazepam.....2749
- (5) Chloral betaine.....2460
- (6) Chloral hydrate.....2465
- (7) Chlordiazepoxide.....2744
- (8) Clobazam.....2751
- (9) Clonazepam.....2737
- (10) Clorazepate.....2768
- (11) Clotiazepam.....2752
- (12) Cloxazolam.....2753
- (13) Delorazepam.....2754

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(14)	Diazepam.....	2765
(15)	Estazolam.....	2756
(16)	Ethchlorvynol.....	2540
(17)	Ethinamate.....	2545
(18)	Ethyl loflazepate.....	2758
(19)	Pludiazepam.....	2759
(20)	Flunitrazepam.....	2763
(21)	Flurazepam.....	2767
(22)	Halazepam.....	2762
(23)	Haloxazolam.....	2771
(24)	Ketazolam.....	2772
(25)	Loprazolam.....	2773
(26)	Lorazepam.....	2885
(27)	Lormetazepam.....	2774
(28)	Mebutamate.....	2800
(29)	Medazepam.....	2836
(30)	Meprobamate.....	2820
(31)	Methohexital.....	2264
(32)	Methylphenobarbital (mephobarbital).....	2250
(33)	Nimetazepam.....	2837
(34)	Nitrazepam.....	2834
(35)	Nordiazepam.....	2838
(36)	Oxazepam.....	2835
(37)	Oxazolam.....	2839
(38)	Paraldehyde.....	2585
(39)	Petrichloral.....	2591
(40)	Phenobarbital.....	2285
(41)	Pinazepam.....	2883
(42)	Prazepam.....	2764
(43)	Temazepam.....	2925
(44)	Tetrazepam.....	2886
(45)	Triazolam.....	2887

(c) Any material, compound, mixture, or preparation which contains any quantity of fenfluramine (1670), including its salts, isomers (whether optical, position or geometric) and salts

of such isomers, whenever the existence of such salts, isomers and salts of isomers is possible.

(d) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following substances having a stimulant effect on the central nervous system, including its salts, isomers (whether optical, position or geometric) and salts of such isomers whenever the existence of such salts, isomers and salts of isomers is possible within the specific chemical designation:

- (1) Diethylpropion.....1610
- (2) Mazindol.....1605
- (3) Pemoline (including organometallic complexes and chelates thereof).....1530
- (4) Phentermine.....1640
- (5) Pipradrol.....1750
- (6) SPA((-)-1-dimethylamino-1,2-diphenylethane).....1635

(e) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation which contains any quantity of the following, including salts thereof:

- (1) Pentazocine.....9709

(f) Unless specifically excepted or unless listed in another schedule, any material, compound, mixture or preparation containing any of the following narcotic drugs, or their salts calculated as the free anhydrous base or alkaloid, in limited quantities as set forth below:

- (1) Not more than 1 milligram of difenoxin (9168) and not less than 25 micrograms of atropine sulfate per dosage unit.
- (2) Dextropropoxyphene
(alpha-(+)-4-dimethylamino-1,2-diphenyl-3-methyl-2-propionoxybutane).....9273

(g) Butyl nitrate and its salts, isomers, esters, ethers or their salts.

~~(g)~~ (h) The board may except by rule and regulation any

compound, mixture or preparation containing any depressant substance listed in subsection (b) from the application of all or any part of this act if the compound, mixture or preparation contains one or more active medicinal ingredients not having a depressant effect on the central nervous system, and if the admixtures are included therein in combinations, quantity, proportion or concentration that vitiate the potential for abuse of the substances which have a depressant effect on the central nervous system.

Sec. 2. K.S.A. 65-4111 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

Attn # 3

2/4/86

JOHN P. SMITH
2643 North Pershing Court
Wichita, Kansas 67220
316 681 0509 (Residence)
316 688 2894 (Office)

January 31, 1986

Representative Marvin Littlejohn
Chairperson, Public Health and Welfare Committee
Kansas House of Representatives
Topeka, KS 66605

Dear Marvin:

Due to my schedule at Wesley Medical Center and the short notice of the hearing on House Bill No. 2663, I cannot appear before your committee to present my concerns regarding this bill. I appreciate the opportunity to share my concerns and suggestions via this letter and as we discussed by telephone, I would appreciate your distributing this letter to members of the Committee.

As a member of the Statewide Health Coordinating Council and a practicing medical technologist, I support continuation of the program for credentialing of health care personnel. This program has attracted much national interest since several states are observing our experience with the intentions of initiating similar programs. Now that five years have elapsed since the start of the program and the Council has gained experience in administering the credentialing program, it is time to review and revise where necessary. The Special Committee on Public Health and Welfare has suggested several amendments that will clarify the program. However, it has also included several provisions that are vague, inappropriate or confusing which will increase the work of the Council in carrying out the credentialing program. My comments on the amendments proposed in HB 2663 follow.

Section 1.(b): The provision of a definition for "Certification" is a welcome addition to the act and will clarify and place this term in proper perspective along with licensure, registration and credentialing.

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Hs. PHW

Section 3. Lines 0080-0082: This proposed amendment would restrict those health care professionals who serve as members of the technical committee only to those who are currently credentialed under the laws of this state. This is too restrictive and if this had been in effect during the first years of the act, would have prevented several health care personnel from serving as members of technical committees. Only physicians, dentists, pharmacists, nurses, physical therapists, mental health technicians and chiropractors are now credentialed under the laws of Kansas. Many health care personnel are credentialed by nationally recognized certification and these individuals should not be prevented from serving as members of technical committees. A suggested revision of this section might be: "Three members of the technical committee shall be health care personnel credentialed under the laws of this state or holding certification as health care personnel as defined in this act."

Section 3.(e)line 0132: The proposed amendment would require that all the criteria established by law or by rules and regulations for credentialing be met. This wording appears throughout the bill. My objections to these amendments are two fold: (1) Requiring all applicant groups to meet all criteria is too stringent. Some of the criteria may not be appropriate for certain health care personnel who practice in a limited area of health care. The experience to date with the credentialing program clearly demonstrates that requiring each applicant group to meet all of the criteria is too rigid. None of the applicant groups that have been recommended for credentialing thus far have clearly met all of the criteria. (2) Requiring that the applicant groups meet all rules and regulations for credentialing effectively requires compliance to rules and regulations before we know what they may require since they have not been written. Spurious rules and regulations may kill serious consideration of applicant groups for credentialing. In summary, I strongly recommend deletion of the requirement that all criteria be met and deletion of the requirement that compliance with rules and regulations that are to be written after the act has been amended be deleted throughout HB 2663.

Section 3.(b)lines 0165-0167: The wording "hypothetical examples or testimonials" appears in several places throughout HB 2663. It appears that the intent of the inclusion of this wording is to put each applicant group to a litmus test regarding their proof that their group should be credentialed. I find that the wording is vague, subject to much interpretation and will therefore cause problems for the credentialing process at each step from technical committee to the statewide health coordinating council and the Secretary of Health and Environment. The sentences containing the wording "hypothetical examples or testimonials" should be stricken from HB 2663.

Section 6.(3)lines 0250-0254: Recommend striking this criteria as it is vague and subject to much interpretation. Furthermore, practice of a health occupation or profession in an institution or under the direction of other health care personnel does not prevent harm from occurring to the public. Those who direct or administer institutions do not have specific knowledge and experience to determine if those who are employed by the institution are competent health care providers. Credentialing would assist in assuring the institution and the public that competent health care providers are employed by the institution. Practicing under the direction of other health care personnel does not assure that the provider is competent. The current malpractice problems demonstrates that institutions and health care providers have difficulty in determining the competency of those who practice within institutions or under their direction of supervision!

Section 6.(5)(6)lines 0260-0262: Delete the addition of these two new criteria. Concern with cost or availability of health care personnel should not take precedence over assuring provision of health care by competent personnel. Somehow we have our priorities confused if we allow this type of criteria to be placed into law.

Section 6.(8)lines 0265-0267: Delete. This is self serving to those health care providers who are already credentialed and is anticompetitive.

Section 6.(9)lines 0268-0270: I applaud the addition of this criterion. This criterion would assist the technical committee, statewide health coordinating council and the Secretary of Health and Environment in evaluating the validity of the applicant group as a bonified health occupation of profession.

In summary I strongly support the continuation of the credentialing program and portions of the proposed amendments. However, the Public Health and Welfare Committee should delete the proposed amendments that would create future problems. Thank you for allowing me to provide the Committee with my comments.

Sincerely,

A handwritten signature in cursive script that reads "John P. Smith". The signature is written in dark ink and is positioned above the typed name.

John P. Smith MS MT(ASCP)SM

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Attn: 4
2-4-86

TESTIMONY ON HOUSE BILL 2492

PRESENTED TO THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

FEBRUARY 4, 1986

This is the official position taken by the Kansas Department of Health and Environment on House Bill 2492.

BACKGROUND INFORMATION:

House Bill 2492 would amend the Kansas statutes authorizing the assessment of civil penalties in adult care homes to remove the requirement that a citation be issued when an adult care home fails to make the corrections specified in a correction order.

KSA 39-945 authorizes the Secretary to issue a correction order to an adult care home when she determines that noncompliance exists which "affects significantly and adversely the health, safety, nutrition, or sanitation of the adult care home residents." The statute also requires that the correction order state the deficiency, cite the specific statutory provision or rule and regulation alleged to have been violated, and specify the time allowed for correction.

The department reinspects following the specified time allowed for correction to determine if the corrections have been made. If the adult care home has not made the corrections, KSA 39-946 requires the department to issue a citation listing the uncorrected deficiency or deficiencies. The department then reinspects and makes a determination as to whether or not the corrections have been made following the issuance of a citation.

If the corrections have still not been made, the Secretary may assess a civil penalty in an amount not to exceed \$100 per day per deficiency but the maximum assessment may not exceed \$500.

In calendar year 1983, the department issued 253 correction orders, 33 citations, and assessed four civil penalties. In calendar year 1984, the department issued 201 correction orders, 57 citations, and assessed eight civil penalties. In calendar year 1985, the department issued 201 correction orders, 64 citations, and assessed nine civil penalties.

ISSUES:

The requirement that a citation be issued when an adult care home fails to make the corrections specified in a correction order is expensive to administer and serves to encourage delays in making the corrections required by correction order. The correction order specifies the deficiencies and the time allowed for correcting the deficiencies and is formally served upon the adult care home and each licensee of the adult care home. When the required corrections are not made within

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Hs. PHW

the specified time period, the department is required to bear the cost of a second inspection of the home on the same issues. Perhaps more important, serious violations may be allowed to continue unnecessarily because of the delay caused by the requirement for issuing a citation.

If House Bill 2492 is passed, adult care homes will continue to have formal notice of deficiencies in a correction order and a specified opportunity to make the corrections. At the same time, consumers will be better protected by allowing more timely imposition of a civil penalty when an adult care home fails to make the corrections required.

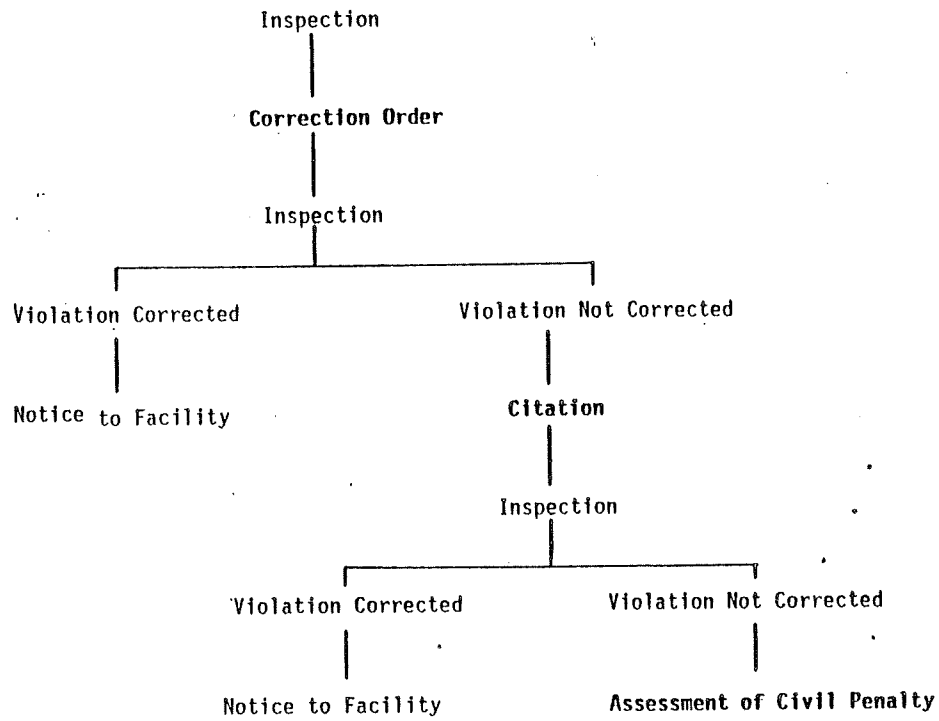
DEPARTMENT'S POSITION:

The Department of Health and Environment respectfully recommends that the committee report House Bill 2492 favorably for passage.

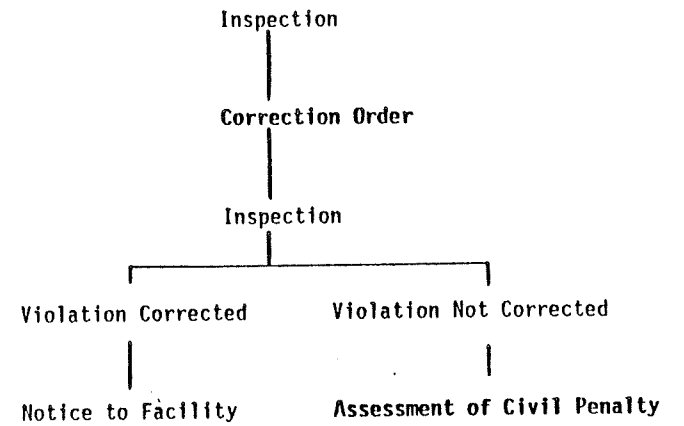
Presented by: Barbara J. Sabol, Secretary
Kansas Department of Health
and Environment

KANSAS ADULT CARE HOME CIVIL PENALTY PROCESS

Current Process



Proposed Process



*attn: #5
2/4/86*

TESTIMONY PRESENTED BEFORE THE
HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

By
Dick Hummel, Executive Director
Kansas Health Care Association

February 4, 1986

HOUSE BILL NO. 2492

"AN ACT relating to adult care homes; providing for assessment of civil penalties."



Mr. Chairman and Committee Members:

On behalf of the Kansas Health Care Association, a voluntary non-profit organization representing 250 licensed adult care homes (nursing homes) both tax-paying and non-profit, large-small, urban-rural, and single as well as multi-facility ownership interests, thank you for this opportunity.

We disagree with a need to change or "stream-line" the civil penalty process, and therefore are opposed to this bill.

The assessment of a civil penalty is an intermediate sanction, short of receivership and licensure revocation, and has been an effective enforcement tool and remedy in our opinion for bringing adult care homes into compliance with regulatory standards; this process is depicted below:

INSPECTION ➡
1. Joint Signing of Preliminary Inspection Report and Record of Deficiencies.
2. Plan of Correction (P.O.C.) prepared by A.C.H.

INSPECTION ➡
REPORT TO
KDH&E BY
FIELD SURVEYOR

REPORT REVIEWED ➡
BY KDH&E CENTRAL
OFFICE WITH CORRECTION
ORDER TO A.C.H.
(Often Sent Before P.O.C. is completed by A.C.H.)

CORRECTION ORDER ➡
RECEIVED BY A.C.H.

INSPECTION BY ➡
KDH&E
Citation if violation is uncorrected.

CITATION ➡
Inspection by
KDH&E

ASSESSMENT OF CIVIL PENALTY
If violation uncorrected.

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Hs. PHW*

"We Care"

House Bill 2492 would remove the citation step from this administrative process, which we feel should remain as a necessary, due process procedural right.

What is the purpose of this process, has it worked, and why should it be changed?

PURPOSE: An enforcement tool to bring homes into compliance with standards.

CORRECTION ORDER ISSUED FOR: violation of standard "which affects significantly and adversely the health, safety, nutrition, or sanitation of the adult care home residents."

CITATION ISSUED FOR: "uncorrected deficiencies that have an endangering relationship to the health, safety or sanitation of the adult care home residents."

Note these two tests are of different and greater severity.

FUNCTION: If it is agreed that the purpose of this process is to bring to the attention of adult care home operators infractions of varying degrees of severity for prompt remedy, with correction orders almost common-place and a "given" now with an inspection, we'd maintain, based upon KDH&E statistics, that the system is functional:

FY 83

CORRECTION ORDERS:	253
CITATIONS:	33
CIVIL PENALTIES:	4

CHANGE? It is charged that the existing process is "cumbersome." What is the reason for a change other than for administrative convenience? We contend that in a process such as this, where an agency performs an administrative, accusatory and adjudicatory function, that rights of due process are very important, and not to be swept aside for the sake of administrative expediency.

CONCLUSION

We believe H.B. 2492 is unnecessary; if conditions exist that are endangering to the health and welfare of residents, we don't find any time prohibition in the statute against the agency rapidly and successively issuing a correction order, citation and civil penalty -- maintaining a vigilance until corrected -- and simultaneously petitioning the court for receivership if imminent life-endangering conditions exist.

We caution against a change justified upon administrative convenience by placing a greater police power within the realm of an administrative agency.

In the event you are interested, attached are copies of two correction orders issued in the past year. It is interesting to compare the deficiency report to the correction order.

I would be happy to respond to any questions.

BEFORE THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

In The Matter Of The Correction Order

CORRECTION ORDER

TO:

Licensee and administrator for the above-captioned facility.

You are hereby notified that [REDACTED] has been determined to be in noncompliance with KAR 28-39-106(d)(2), which provide:

* KAR 28-39-106(d)(2) -- Backflow prevention devices (vacuum breakers) shall be installed on bedpan flushing attachments and on fixtures to which hoses or tubing can be attached.

Relative to this matter [REDACTED] has been inspected on the following occasions: [REDACTED]

[REDACTED]

This facility was determined to be in noncompliance on the following date and was notified by preliminary inspection report dated [REDACTED] and signed by [REDACTED]. Attached as Exhibit A and incorporated herein is a copy of the deficiency report setting forth the factual basis for this order.

* This deficiency (nonconformity) is deemed to significantly and adversely affect the health, safety, nutrition, or sanitation of the residents.

* ON ORDER AT TIME OF SURVEY

CORRECTION ORDER

[REDACTED]

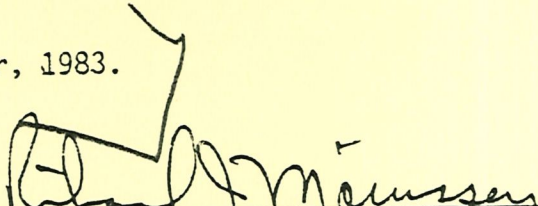
Page 2

IT IS THEREFORE ORDERED pursuant to KSA 39-945 that [REDACTED]

[REDACTED], provide:

1. The backflow prevention devices (vaccum breakers) be installed at the janitor's closet sinks as required by KAR 28-39-106 (d)(2) within ten (10) calendar days of the receipt of this order.

Dated this 14 day of September, 1983.


 Richard J. Morrissey, Director
 Office of Health Facilities

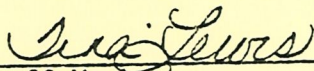
CERTIFICATE OF MAILING

I hereby certify that on the 15 day of September, 1983, a true and correct copy of the foregoing Correction Order was mailed to:

[REDACTED]

[REDACTED]

by depositing the same in a properly addressed envelope, postage prepaid, certified mail, return receipt requested in the U.S. mail.


 Staff Member

Certified Mail # [REDACTED]

Certified Mail # [REDACTED]



PACKING SLIP

A.Y. McDonald MFG. CO.

612 601 MCKINLEY AVE. JOPLIN, MO. 64801
 623 1217 ELM ST. COFFEYVILLE, KS. 67337
 633 211 ELM ST. EBANEN, MO. 65536
 635 515 PRAIRIE ST. FAYETTEVILLE, AR. 72701
 608 3130 TERRACE ST. KANSAS CITY, MO. 64111

PAGE OFF

1
 2
 STOCK 3
 4 SALE 4
 5 UNTER 5
 RESERVE R
 TAG & HOLD T

SOLD TO [REDACTED] SHIP TO *ATT*
 [REDACTED]
 [REDACTED]

In consideration
 of the extension
 of credit for the
 purchase of goods,
 the purchaser agrees
 to assessment of
 late payment
 penalty should
 payment not be
 made when due

SLSMAN CUSTOMER NO. DATE SHIPPED SHIPPED VIA
 1 PICK-UP 3 COLLECT B/L NO. WHEN TO SHIP CUSTOMER ORDER NO.

2 PREPAID 4 PREPAID & CHARGE

33401

QUANT. ORDERED	PART NUMBER	DESCRIPTION	UNIT	QUANT. SHIPPED	B/O	UNIT PRICE	DISC.	NET TOTAL
	30052 30052	VALVE FOR HOT						
	30004 30004	Cold						
	34263	O-Ring						
	41303	CHECK GUIDE 540. H59,						
	20504	GASKET						
	51290	GASKET						
	51289	CHECK PLUNGER						

Received
 8-29-83
 Brown

XM1S002 SALES TAX

BEFORE THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

In The Matter Of The Correction Order

[REDACTED]

CORRECTION ORDER

TO:

[REDACTED]

Licensee and administrator for the above-captioned facility.

You are hereby notified that the [REDACTED] has been determined to be in noncompliance with KAR 28-39-87(a), KAR 28-39-89(f)(4), KAR 28-39-78(a)(7), KAR 28-39-87(e), KAR 28-39-87(f)(2), and KAR 28-39-87(f)(5), which provide:

KAR 28-39-87(a) -- The facility shall provide programs and personnel to meet the nursing needs of the residents.

KAR 28-39-89(f)(4) -- Medications shall be checked against physician's orders, the resident shall be identified prior to administration, and the dose of the medication administered to the resident shall be recorded on the resident's individual medication record by the person who administers the medication.

* KAR 28-39-78(a)(7) -- The resident shall be free from restraints unless the restraints are authorized by a physician for a specified and limited period of time or when necessary to protect the resident from injury to self and others.

* KAR 28-39-87(e) -- There shall be a signed physician's order for any restraint, including justification, type of restraint, and duration of application. A resident shall not be restrained unless, in the written opinion of the attending physician, it is required to prevent injury to the resident or to others, and alternative measures have failed.

* ONE OF TWENTY RECORDS HAD NO PHYSICIAN ORDER.

FOLLOW-UP REPORT

CITY

STREET ADDRESS CITY, STATE, ZIP CODE

ITEM

PRESENT STATUS

#1 KAR 28-39-89 (c)(2)
 Not all prescription medication containers were labeled by the dispensing pharmacist in accordance with KAR 18-7-14 as evidenced by:
 (a) Dialose plus i cap M 10 F - label states M. 10. F. 115. medication sheet documented as given 8^{am}.
 (b) Ascordin 25mg HS - label states as directed
 (c) Prescription label dated 11-2-83 was un-readable as to full name and instructions for use.

#2 KAR 28-39-89 (c)(3)
 over the counter medications observed in resident medication cabinets lacked the full name of the resident on the container

#3 KAR 28-39-89 (f)(4)
 medications were not always checked against physician's orders as evidenced by: Dialose plus i cap M. 10. F. was documented as given daily.

#4 KAR 28-39-89 (g)(2)
 The pharmacist had not identified all deteriorated medications at the time of monthly drug review as evidenced by:
 (a) ASA supp - expiration date 11-83
 (b) Dulcolax supp - exp. date 11-83 and 12-1-83
 (c) nitrostat ^{tablets} date 5-26-83

#5 X KAR 28-39-78 (v)(1)
 KAR 28-39-87 (e)
 A signed physician's order for use of restraints was lacking on one of twenty resident records reviewed.

DATE SURVEYOR'S SIGNATURE

ADULT CARE HOME REPRESENTATIVE'S SIGNATURE

DATE



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

Attn. #6
2-4-86
Hs. PHW

913-233-7443

Testimony RE: House Bill 2492

Presented to House Public Health and Welfare Committee
February 3, 1986

John Grace, Executive Director
Kansas Association of Homes for the Aging
The organization of community, religious,
and government sponsored homes and services
for the aging.

Thank you Mr. Chairman, and Members of the Committee.

We oppose HB 2492.

In reviewing K.S.A. 39-945, 39-946, and 39-947 we believe the law currently provides for adequate authority to protect the health and welfare of residents residing in adult care homes.

Under current law, the following sequence of investigative steps can be utilized by the Department of Health and Environment:

- Step 1. Survey of Facility
- Step 2. Correction Order Written
39-945...A correction order may be issued...whenever H & E determines that the adult care home is not in compliance of a rule or regulation...which affects significantly and adversely the health, safety, nutrition or sanitation of the adult care home residents.
- Step 3. Re-Survey of Facility
Deficiency not corrected - Citation Issued
39-946...If upon reinspection...it is found that the ...facility has not corrected the deficiency specified in the order...the secretary shall issue a citation...(b) The secretary...may assess a civil penalty...for each day subsequent to the day following the issuance of a citation...
- Step 4. Fine Begins Day after citation issued.

The Department contends that an average of five months lag time occurs between the time of initial survey and the time the fine is actually imposed upon the facility. We believe that the Department should develop a more timely system of dealing with those situations where the health, safety, nutritional or sanitation needs of the residents are significantly and adversely affected. The current law does allow the investigative and corrective steps to occur quickly,

Attn. #6
2-4-86
Hs. PHW

Chairman Marvin Littlejohn
House Public Health and Welfare Committee
Testimony Re: HB2492
February 4, 1986
page 2

for example, within a 30-60 day period of time, if the circumstances are critical to the health and welfare of the residents. During the past three years, a total of 21 fines were imposed upon adult care homes. Assuming these situations significantly and adversely affected the health and welfare of residents, then they should be dealt with as quickly and as effectively as possible.

The K.S.A. 39-945,6, and 7 do allow in our opinion, adequate flexibility for the State in protecting the health and welfare of residents of adult care homes.

Thank you Mr. Chairman and Members of the Committee.



Kansans for Improvement of Nursing Homes, Inc.

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

*Attn. # 1
2/4/86*

TESTIMONY PRESENTED TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE
CONCERNING HB 2492

February 4, 1986

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

As this committee is probably aware, KINH has in the past supported bills intended to make a more useable tool of KSA 39-946, providing for assessing a fine against nursing homes for significant noncompliance with the regulations which safeguard the welfare of nursing home residents. HB 2492 is such a bill. Though the changes it proposes are not major ones, they are improvements, nonetheless, which KINH supports.

The primary shortcomings of Kansas' civil penalties provision are 1) that the system is slow to enforce compliance with the regulations needed for the protection of nursing home residents and 2) that the penalty limitation of \$500 is not adequate to assure compliance.

HB 2492 speaks to the first of these problems by eliminating one step in the process. The Department of Health and Environment does not, in our estimation, issue correction orders lightly for deficiencies that do not affect patient care. The timetable for correction is designed to fit the particular deficiency cited and the urgency of the need for correction, as well as to allow for a reasonable time to correct the problem. We can see no reason to delay imposition of a civil penalty if that timetable is not met. HB 2492 would permit immediate assessment of a penalty without the necessity for the citation step required in current law.

KINH urges your support for HB 2492.

*Attachment 7
2-4-86
Hs. PHW*