

Approved Thomas F. Walker
Date 4/6/87

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION

The meeting was called to order by Representative Thomas F. Walker at
Chairperson

9:00 a.m./p.m. on March 31, 1987 in room 522-S of the Capitol.

All members were present except:

Representative Graeber
Representative Peterson

Committee staff present:

Avis Swartzman - Revisor
Carolyn Rampey - Legislative Research
Mary Galligan - Legislative Research
Jackie Breymeyer - Secretary

Conferees appearing before the committee:

The Chairman called the meeting to order. A reminder was given so as not to forget the dinner at DiPasquales Wednesday evening. The Chairman thanked the committee for its hard work and good humour that saw it through the work of the session. The minutes stand approved at the end of the meeting if there are no corrections or additions.

The Library Subcommittee Report was presented.
Representative Hassler moved to accept the report. Representative Weimer gave a second to the motion. The motion carried.

There was no discussion or debate on the report.

Representative Harder moved to adopt the Library Subcommittee Report. Representative Hassler gave a second to the motion. The motion carried.

Mary Galligan took the committee through the Board of Nursing Report.
Representative Hassler moved to accept the report. Representative Sughrue gave a second to the motion. The motion carried.

A brief history of the development of the Peer Assistance Program was given. Since its inception in 1983, 84 nurses have participated in the program. The Committee expects the Board of Nursing to work with the various associations such as the Kansas Association of Licensed Practical Nurses and the Kansas State Nurses Association and report to the Committee in 1988 with recommendations for a program that will serve them.

The Chairman commented on the reporting bill that the committee had received copies of. There are three options with regard to the bill: Introduce it and do nothing with it until next sess; ask Federal & State Affairs to introduce it and work on it now or to simply do nothing with the bill at all. (See Attachment 1)

The Chairman, with the concurrence of the Vice-Chairperson and Ranking Minority Member suggests it be filed and introduced.

Representative Sebelius moved the introduction of the bill. Representative Barr gave a second to the motion. The motion carried.

Representative Sughrue moved the adoption of the Committee Report. Representative Weimer gave a second to the motion. The motion carried.

The Chairman announced HB 2570 will be held in committee.

The Committee turned its attention to HB 2569, concerning water rights. David Pope was again present to answer numerous questions from the committee.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON GOVERNMENTAL ORGANIZATION,
room 522-S, Statehouse, at 9:00 a.m./p.m. on March 31, 1987.

Representative Sprague moved amendments on pages 1 and 2 of the balloon copy of HB 2569 which should be integrated into the bill for purposes of clarification. Representative Sebelius gave a second to the motion. The motion carried.

Representative Sprague moved to clarify language on lines 25 through 28 of the balloon copy of HB 2569. Representative Barr gave a second to the motion. The motion carried.

The question of public trust was discussed. Ramon Powers, Legislative Research, stated the issue of public trust has always been very unclear in Kansas law.

Representative Sprague moved to reconsider the amendments. Representative Sebelius gave a second to the motion. The motion carried.

Further discussion ensued.

Representative Sebelius moved to table HB 2569. Representative Barr gave a second to the motion. The motion failed.

Representative Sprague moved to pass HB 2569 favorably with the technical amendments. Representative Hassler gave a second to the motion. The motion carried.

The committee directed its attention to SB 197, Efficiency in Government Hotline. Senator Vidricksen was present to clear up several items about the bill. Amendments from a previous meeting included removing Subsection 1 of Section 1 and the date change.

Other amendments will be added by consent.

Representative Sprague moved to pass SB 197 favorably as amended. Representative Brown gave a second to the motion. The motion carried.

The K-BITS audit will be taken up at a later date.

The meeting was adjourned.

HOUSE BILL NO. _____

By Committee on Federal and State Affairs

AN ACT concerning health care providers regulated by the board of nursing; relating to reports of acts which may be grounds for disciplinary action; authorizing agreements with certain professional societies or organizations for the performance of functions and responsibilities with respect to the regulation of impaired health care providers; amending K.S.A. 65-4216 and K.S.A. 1986 Supp. 65-4921, 65-4923, 65-4926 and 65-4930, and repealing the existing sections.

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

New Section 1. (a) Subject to the provisions of subsection (c) of K.S.A. 1986 Supp. 65-4923, and amendments thereto:

(1) Every employer of a nurse shall report under oath to the board of nursing any information such employer has which appears to show that a nurse has committed an act which may be a ground for disciplinary action pursuant to K.S.A. 65-1120, and amendments thereto, or that the employer has taken disciplinary action against a nurse for committing any such act or has accepted the resignation of a nurse in lieu of taking disciplinary action therefor.

(2) Every health care provider shall report under oath to the board of nursing any information such health care provider has which appears to show that a nurse has committed an act which may be a ground for disciplinary action pursuant to K.S.A. 65-1120, and amendments thereto.

(3) Any person, other than those persons specified in provisions (1) and (2), may report under oath to the board of nursing any information such person has which appears to show that a nurse has committed an act which may be a ground for disciplinary action pursuant to K.S.A. 65-1120, and amendments

thereto.

(b) Any medical care facility which fails to report within 30 days after the receipt of information required to be reported by this section shall be reported by the board of nursing to the secretary of health and environment and shall be subject, after proper notice and an opportunity to be heard, to a civil fine assessed by the board of nursing in an amount not exceeding \$1,000 per day for each day thereafter that the incident is not reported. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

(c) As used in this section:

(1) "Nurse" means any professional nurse and any practical nurse, as such terms are defined in K.S.A. 65-1113, and amendments thereto.

(2) "Medical care facility" has the meaning provided by K.S.A. 65-425, and amendments thereto.

(3) "Health care provider" has the meaning provided by K.S.A. 1986 Supp. 65-4921, and amendments thereto.

Sec. 2. K.S.A. 65-4216 is hereby amended to read as follows: 65-4216. (a) Subject to the provisions of subsection (c) of K.S.A. 1986 Supp. 65-4923, and amendments thereto:

(1) Every person-employing employer of a mental health technician and--the--chief--administrative--officer--of--any--firm, corporation, institution or association employing a mental health technician, any of whom has reasonable cause to believe that a mental health technician is guilty of any of the actions specified in K.S.A. 65-4209, and amendments thereto, as a ground for disciplinary action or any of whom has taken disciplinary action therefor or has accepted the resignation of a mental health technician in lieu of taking disciplinary action therefor, shall immediately report the same, under oath, to the board of nursing shall report under oath to the board of nursing any information such employer has which appears to show that a mental

health technician has committed an act which may be a ground for disciplinary action pursuant to K.S.A. 65-4209, and amendments thereto, or that the employer has taken disciplinary action against a mental health technician for committing any such act or has accepted the resignation of a mental health technician in lieu of taking disciplinary action therefor.

~~(b) (2) Every person licensed to practice any branch of the healing arts, every licensed social worker, every licensed professional or practical nurse and every licensed mental health technician, any of whom has reasonable cause to believe that a mental health technician is guilty of any of the actions specified in K.S.A. 65-4209, and amendments thereto, as a ground for disciplinary action, shall report the same, under oath, to the board of nursing~~ health care provider shall report under oath to the board of nursing any information such health care provider has which appears to show that a mental health technician has committed an act which may be a ground for disciplinary action pursuant to K.S.A. 65-4209, and amendments thereto.

~~(e) (3) Any person, other than those persons specified in subsections (a) and (b) provisions (1) and (2), who has reasonable cause to believe that a mental health technician is guilty of any of the actions specified in K.S.A. 65-4209, and amendments thereto, as a ground for disciplinary action, may report the same, under oath, to the board of nursing~~ may report under oath to the board of nursing any information such person has which appears to show that a mental health technician has committed an act which may be a ground for disciplinary action pursuant to K.S.A. 65-4209, and amendments thereto.

~~(d) Any report made pursuant to this section shall contain the name and address of the person making the report and of the accused mental health technician, information regarding the actions reported, and any other information which the person making the report believes might be helpful in an investigation of the case.~~

(b) Any medical care facility which fails to report within

30 days after the receipt of information required to be reported by this section shall be reported by the board of nursing to the secretary of health and environment and shall be subject, after proper notice and an opportunity to be heard, to a civil fine assessed by the board of nursing in an amount not exceeding \$1,000 per day for each day thereafter that the incident is not reported. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

(c) As used in this section:

(1) "Medical care facility" has the meaning provided by K.S.A. 65-425, and amendments thereto.

(2) "Health care provider" has the meaning provided by K.S.A. 1986 Supp. 65-4921, and amendments thereto.

Sec. 3. K.S.A. 1986 Supp. 65-4921 is hereby amended to read as follows: 65-4921. As used in K.S.A. 1986 Supp. 65-4921 through 65-4930, and amendments to such sections:

(a) "Department" means the department of health and environment.

(b) ~~"Health care provider" has--the--meaning--provided--by K.S.A.--40-3401--and--amendments--thereto.~~ means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the department of health and environment, a health maintenance organization issued a certificate of authority by the commissioner of insurance, an optometrist licensed by the board of examiners in optometry, a podiatrist registered by the state board of healing arts, a pharmacist licensed by the state board of pharmacy, a professional nurse licensed by the board of nursing, a practical nurse licensed by the board of nursing, a mental health

technician licensed by the board of nursing, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899 and amendments thereto, a physical therapist registered by the state board of healing arts, or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation services, except that health care provider does not include (1) any state institution for the mentally retarded or (2) any state psychiatric hospital.

(c) "License," "licensee" and "licensing" include comparable terms which relate to regulation similar to licensure, such as certification or registration.

(d) "Medical care facility" has the meaning provided by K.S.A. 65-425 and amendments thereto.

(e) "State institution for the mentally retarded" has the meaning provided by K.S.A. 40-3401 and amendments thereto.

(f) "State psychiatric hospital" has the meaning provided by K.S.A. 40-3401 and amendments thereto.

~~(e)~~ (g) "Reportable incident" means an act by a health care provider which is or may be below the applicable standard of care.

~~(f)~~ (h) "Risk manager" means the individual designated by a medical care facility to administer its internal risk management program and to receive reports of reportable incidents within the facility.

~~(g)~~ (i) "Secretary" means the secretary of health and environment.

Sec. 4. K.S.A. 1986 Supp. 65-4923 is hereby amended to read

as follows: 65-4923. (a) If a health care provider, or a medical care facility agent or employee who is directly involved in the delivery of health care services, has knowledge that a health care provider has committed an act which is or may be below the applicable standard of care or which is or may be grounds for disciplinary action pursuant to K.S.A. 65-1120, 65-2836, or 65-4209, and amendments thereto to such sections, such health care provider, agent or employee shall report such knowledge as follows:

(1) If the reportable incident did not occur in a medical care facility, the report shall be made to the appropriate state or county professional society or organization, which shall refer the matter to a professional practices review committee duly constituted pursuant to the society's or organization's bylaws. The committee shall investigate all such reports and take appropriate action. The committee shall have the duty to report to the appropriate state licensing agency any finding by the committee that a health care provider acted below the applicable standard of care so that the agency may take appropriate disciplinary measures.

(2) If the reportable incident occurred within a medical care facility, the report shall be made to the chief of the medical staff, chief administrative officer or risk manager of the facility. The chief of the medical staff, chief administrative officer or risk manager shall refer the report to the appropriate executive committee or professional practices peer review committee which is duly constituted pursuant to the bylaws of the facility. The committee shall investigate all such reports and take appropriate action, including recommendation of a restriction of privileges at the appropriate medical care facility. In making its investigation, the committee may also consider treatment rendered by the health care provider outside the facility. The committee shall have the duty to report to the appropriate state licensing agency any finding by the committee that a health care provider acted below the applicable standard

of care so that the agency may take appropriate disciplinary measures.

(3) If the health care provider involved in the reportable incident is a medical care facility, the report shall be made to the chief of the medical staff, chief administrative officer or risk manager of the facility. The chief of the medical staff, chief administrative officer or risk manager shall refer the report to the appropriate executive committee which is duly constituted pursuant to the bylaws of the facility. The executive committee shall investigate all such reports and take appropriate action. The committee shall have the duty to report to the department of health and environment any finding that the facility acted below the applicable standard of care so that appropriate disciplinary measures may be taken.

(b) If a reportable incident is reported to a state agency which licenses health care providers, the agency may investigate the report or may refer the report to a review or executive committee to which the report could have been made under subsection (a) for investigation by such committee.

(c) When a report is made under this section, the person making the report shall not be required to report the reportable incident pursuant to K.S.A. 65-28,122, 65-4216, or section 1, and amendments thereto to such sections. When a report made under this section is investigated pursuant to the procedure set forth under this section, the person or entity to which the report is made shall not be required to report the reportable incident pursuant to K.S.A. 65-28,121 ~~or~~, 65-28,122, 65-4216, or section 1, and amendments thereto to such sections.

(d) Each review and executive committee referred to in subsection (a) shall submit to the appropriate state licensing agency, at least once every three months, a report summarizing the reports received by the committee pursuant to this section. The report shall include the number of reportable incidents reported, whether an investigation was conducted and any action taken.

(e) If a state agency that licenses health care providers determines that a review or executive committee referred to in subsection (a) is not fulfilling its duties under this section, the agency, upon notice and an opportunity to be heard, may require all reports pursuant to this section to be made directly to the agency.

(f) The provisions of this section shall not apply to a health care provider acting solely as a consultant or providing review at the request of any person or party.

Sec. 5. K.S.A. 1986 Supp. 65-4926 is hereby amended to read as follows: 65-4926. Any No person or entity which, in good faith, reports or provides information or investigates any health care provider as authorized by K.S.A. 1986 Supp. 65-4923 or 65-4924, and amendments to such sections, shall not be liable in a civil action for damages or other relief arising from the reporting, providing of information or investigation except upon clear and convincing evidence that the report or information was completely false, or that the investigation was based on false information, and that the falsity was actually known to the person or entity making the report, providing the information or conducting the investigation at the time thereof.

Sec. 6. K.S.A. 1986 Supp. 65-4930 is hereby amended to read as follows: 65-4930. The provisions of K.S.A. 1986 Supp. 65-4921 through 65-4929, and amendments to such sections, shall be supplemental to K.S.A. 65-28,121, 65-28,122, 65-4216 and 65-4909 and section 1, and amendments ~~thereto~~ to such sections, and shall not be construed to repeal or modify those sections.

Sec. 7. K.S.A. 65-4216 and K.S.A. 1986 Supp. 65-4921, 65-4923, 65-4926 and 65-4930 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.