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Date

Feb. 5, 87
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Vice-Chairman Frank Buehler at
Chairperson

1:30 a/m./p.m. on February 2, 1987 in room 423-S of the Capitol.

All members were present except:

Chairman Littlejohn, excused, Representative Weimer, excused, absence.

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

John Peterson, Kansas Dietetic Association.
Dr. Robert C. Harder, Secy. Department of Social Rehabilitation Services.
Dick Morrissey, Department of Health and Environment
Dr. Ron Harper, Department on Aging

Vice-Chairman, Frank Buehler called meeting to order when quorum was present, calling attention to absence of Chairman Littlejohn, saying he was in all our thoughts and we all wish him well. He stated his door is open and he will try very hard to proceed with the business of Public Health and Welfare Committee in a positive manner and asked for cooperation from each member.

He then invited Ms. Correll to brief HB 2018.

Ms. Correll gave a very comprehensive briefing on HB 2018 and answered questions from members, i.e., how does enactment of HB 2018 change things for clients, and she stated she felt very little change would take place as far as client service was concerned since the codes and requirements would all remain the same. Further, the concern about abuse was brought up and it was noted that there is already regulation that speak to this concern. (There is a yearly inspection of homes).

Chair then recognized John Peterson for bill requests.

Mr. Peterson gave hand out to members, (see Attachment NO.1), for details of his bill request. He stated this draft has not gone through the Revisor's office, but is a rough draft that outlines their request for legislation to license Dietitians. He explained the bill and asked for introduction of same. Vice-Chairman asked if there were questions, there were none, and Rep. Blumenthal made a motion to introduce this bill and have it returned to his committee, motion seconded by Rep. Amos, motion carried.

Dr. Robert C. Harder spoke to Committee in regard to bill requests from the Department of SRS, and he gave hand-out to members, (see Attachment NO.2), for details. He explained requests for 5 bills, i.e., treatment facilities for alcoholics; treatment facilities for drub abuse; licensing blind vendors at state highway rest stops; allowing Secretary of SRS to charge a reasonable publication fee to rehabilitation facilities who advertise products/services on their department's advertising list of products; and the prohibition of the maintenance thereof by certain persons in certain homes for children.

He asked for introduction of these bills and that they might be referred to the appropriate committees. Motion made by Rep. Hassler to introduce these bills and they be sent to appropriate committees, seconded by Rep. Branson, motion carried.

Vice-Chairman Buehler invited Conferees to speak to HB 2018.

Hearings began on HB 2018.

Dick Morrissey, Department of Health and Environment gave hand-out to members, (see Attachment No. 3), for details. He stated at the outset their Department viewed HB 2018 as to how it relates to HB 2017 which is also before this committee. He stated that HB 2018 would transfer the responsibility for administering the registration program for adult family homes from Social Rehabilitation services to Health and Environment. He cautioned that HB 2017 includes a unique factor in the definition of adult residential

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 2, 19 87

Hearings continue on HB 2018

living facility that allows fewer than 3 beds to operate without a license and if HB 2017 or a similar bill is passed the adult family home statutes could be revoked and such facilities could operate without state approval. He answered numerous questions from members.

Dr. Robert C. Harder, Secy. Department of SRS spoke to HB 2018, and gave printed testimony as hand-out to members, (see Attachment No.4) for details. The purpose of HB 2018 would transfer all powers, duties, functions that relate to Adult Family Homes from SRS to the Department of Health and Environment. All current Adult Family Home regulations of SRS shall be deemed to be regulations of H&E.

He stated that their department is proposing an amendment that H&E and SRS jointly study personnel needs and ramifications of HB 2018 and, if necessary, should submit for gubernatorial approval any transfer of employee positions or request for additional positions. He stated in conclusion that passage of this legislation without the amendment would present implementation problems.

Dr. Harder then presented the balloon copy amendment (see Attachment No. 4-A) for details. He explained the changes noted in lines 43,63, 64 and 74 of the bill. (Detailed in Attachment 4-A).

Dr. Harder answered questions from committee, i.e., yes, we will want to work closely with H. & E. There has been a door opened which allows greater flexibility for placement of individuals by families in social service setting rather than a medical setting, and we want to guard against moving everything to a medical setting as this would result in much higher costs.

Dr. Ron Harper, Department on Aging spoke to HB 2018, saying that after hearing the testimony of Mr. Morrissey and Dr. Harder, their Department would offer an amendment that would speak to their concerns about abuse and or exploitation. They have no objection to the transfer of administration from SRS to H&E as defined in HB 2018, but have concerns with implementation. If perhaps HB 2017 and HB 2018 are combined, they would ask the Ombudsman have access to records so history could be studied and we could make determinations from those findings. They are concerned about abuse potential. There were few questions.

Vice-Chairman Buehler closed the hearings on HB 2018.

Announcements made that there would be bill requests made at meeting tomorrow. Also the Staff will give a presentation on the Credentialing Process to refresh our minds about this process since we will be dealing with this subject matter in Committee. Vice-Chairman thanked Staff for presenting this Refresher Course on short notice.

Chair asked for wishes of committee in regard to minutes of January 27th. Rep. Blumenthal moved the minutes approved as written, seconded by Rep. Hassler seconded, motion carried.

Meeting adjourned at 2:22 p.m.

PROPOSED BILL FOR LICENSING
DIETITIANS

SECTION 1. This Act shall be known as the
Dietitians Licensing Act.

SECTION 2 For the purposes of this Act:

(a) "Secretary" means the Secretary of the state
department of Health and Environment.

(b) "Department" means the Kansas Department of
Health and Environment.

(c) "Board" means the State Advisory Board and
Dietitians/Nutritionists.

(d) "Degree" means a degree received from a college or
university that was regionally accredited at the time the degree
was confirmed.

(e) "Licensed dietitian" means a person licensed
under this Act.

(f) "Provisionally licensed dietitian" means a person
provisionally licensed under this Act.

(g) "Dietetics practice" means the integration and
application of principles derived from the sciences of nutrition,
biochemistry food physiology, management and behavioral and
social sciences to achieve and maintain peoples' health through
the provision of nutrition care services.

(h) "Nutrition care services" means:

(1) assessing the nutritional needs of indivi-
duals and groups, and determining resources and constraints in
the practice setting;

(2) establishing priorities, goals, and objec-
tives that meet nutritional needs and are consistent with
available resources and constrains;

(3) providing nutritional counselling in
health and disease;

(4) developing implementing and managing nutrition care systems

(5) evaluating making changes in and maintaining appropriate standards of quality in food and nutrition care services.

(i) "Nutritional assessment" means the evaluation of the nutritional needs of individuals and groups based upon appropriate biochemical anthropometric, physical and dietary data to determine nutrient needs and recommend appropriate nutritional intake including enteral and parental nutrition.

(j) "Nutrition counselling" means advising and assisting individuals or groups on appropriate nutritional intake by integrating information from the nutritional assessment with information on food and other sources of nutrients and meal preparation consistent with cultural background and social economic status.

(k) "Dietitian" means one engaged in dietetics practice.

SECTION 3. Only a person licensed or otherwise authorized to practice under this Act shall practice dietetics. Only a person licensed under this Act shall use the title "dietitian", "nutritionist", "licensed dietitian", alone or in combination with other titles or use the letters L.D. or any facsimile thereof.

SECTION 4. There is hereby created the State Advisory Board on Dietitians which shall be advisory to the Secretary of Health and Environment. That board shall consist of five members, three of whom shall be licensed dietitians under this Act, and two of whom shall be members of the public. All members shall be appointed by the governor and shall serve terms of three years except that for the initial appointment, two shall be appointed for a term of three years, one for a term of two years and two for a term of one year. Each dietitian appointed

years and two for a term of one year. Each dietitian appointed to the board shall have been engaged in the practice of dietetics for not less than five years.

SECTION 5. The secretary shall have the authority to promulgate rules and regulations necessary for the implementation of this act including the adoption of a code of ethics, setting standards to determine the qualifications and fitness of applicants, setting procedures and fees for the issuance and reissuance of licenses, for the revocation, suspension or denial of licenses, for the receiving and processing of complaints and for the providing for an examination for applicants.

SECTION 6. No person shall be granted a license as a dietitian unless they have:

(a) Filed an application and paid the required application fee.

(b) Received a baccalaureate or post baccalaureate degree from a regionally accredited college or university with a major course of study in human nutrition, food and nutrition, dietetics or food service management.

(c) Have completed a board approved, planned continuous program of dietetic experience of not less than 900 hours under the supervision of a licensed dietitian or have received a masters or doctorate degree from a regionally accredited university in nutrition or a related subject.

(d) Pass an examination approved by the board.

(e) Licenses shall be issued for a period of two (2) years.

SECTION 7. A provisional permit to practice as a dietitian may be issued by the secretary upon the filing of an application and submission of evidence of successful completion of the education requirements.

(a) The limited permit shall expire one year from the date of issuance. Renewals may be issued for periods not to exceed six months upon submission to the Department of a satisfactory explanation for the applicants failure to become licensed within the original period.

(b) A provisional or limited permit shall permit the holder to practice only under the supervision of a dietitian licensed in this state.

SECTION 8. For one year beginning on the effective date of this Act, the secretary shall waive the examination requirement and grant a license to a person who:

(a) Meets the educational and experienced requirements set forth by the Act on the effective date of the Act or

(b) Meets the educational requirements and on the effective date of the Act and has been employed as a dietitian for at least three of the five years preceding the effective date of this Act.

SECTION 9. Licenses may be renewed upon payment of renewal fee and successful completion of at least 15 hours continuing education.

SECTION 10. Reciprocity shall be provided for licensed dietitian from other states providing that the standards for licensing in that state are not less than those provided for in this Act.

SECTION 11: So long as the person does not hold themselves out to the public to be a licensed dietitian, nutritionist, L.D. or combinations thereof, nothing in this act shall prohibit:

(a) A student enrolled in an approved academic program in dietitian/nutrition from engaging in the practice of

dietetics/nutrition under the supervision of a person licensed under this Act as part of such education program.

(b) Licensed health care professionals whose licensing or regulatory statutes provide or allow the giving of dietetic or nutritional advice within the scope of their practice.

(c) Any person having received a baccalaureate degree in home economics insofar as the services and activities are within the scope of that person's education and training.

SECTION 12. This Act shall take effect and be in force from and after its publication in the statute book.

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STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

REVISED 1987 LEGISLATIVE AGENDA

February 2, 1987

ALCOHOL AND DRUG ABUSE SERVICES

AN ACT concerning treatment facilities for alcoholics; relating to license renewal, licensing fees and inspections; amending K.S.A. 65-4013, 65-4014 and 65-4018 and repealing the existing sections.

-- The agency is proposing that the Secretary be given the authority to (1) issue a license renewable at the end of one, two or three years, depending upon a facility's level of compliance with the standards developed for such facilities; and (2) set an application fee not to exceed \$100.

AN ACT concerning drug abuse treatment facilities; relating to license renewal, licensing fees and inspections; amending K.S.A. 65-4603, 65-4604 and 65-4605 and repealing the existing sections.

-- The agency is proposing that the Secretary be given the authority to (1) issue a license renewable at the end of one, two or three years, depending upon a facility's level of compliance with the standards developed for such facilities; and (2) set an application fee not to exceed \$100.

REHABILITATION SERVICES

AN ACT relating to the display of goods on state highway right of way; concerning sale of products by blind persons; amending K.S.A. 68-432 and repealing the existing section.

-- The agency is proposing that blind vendors licensed by the agency be allowed to place vending machines at state highway rest stops.

AN ACT concerning products and services offered to state agencies and unified school districts by the Kansas industries for the blind division, rehabilitation services or other rehabilitation facilities; amending K.S.A. 1985 Supp. 75-3319 and 75-3320 and repealing the existing sections.

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attm. # 2
2-2-87*

- The agency is proposing to allow the secretary to charge a reasonable publication fee to those rehabilitation facilities who advertise their products or services on the department's advertising list of products.

YOUTH SERVICES

AN ACT concerning certain homes for children; the prohibition of the maintenance thereof by certain persons; amending K.S.A. 65-516 and repealing the existing section.

- The agency is proposing that the prohibition against employment because of the department's validation of physical, mental or emotional abuse or neglect or sexual abuse be restricted to those situations when the act is sufficiently aggravated as to warrant a belief that children should not be entrusted to said person's care or the person has failed to successfully complete a corrective action plan. Further, the department is proposing that it be granted authority to create an expungement procedure.

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON HOUSE BILL 2018

PRESENTED TO THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

January 28, 1987

This is the official position taken by the Kansas Department of Health and Environment on House Bill 2018.

BACKGROUND INFORMATION:

House Bill 2018 would transfer the responsibility for administering the registration program for adult family homes from the Department of Social and Rehabilitation Services to the Department of Health and Environment. The bill was recommended by the Special Committee on Public Health and Welfare related to its study of Proposal No. 25 concerning residential facilities for handicapped, elderly, mentally ill, and functionally disabled adults.

STRENGTHS: The special committee concluded that the authority for regulation of adult residential facilities be located within the state agency with primary responsibility for the type of functional disability which gives rise to specific residential services. The special committee recommended House Bill 2018 to partially implement this recommendation.

WEAKNESSES: Adult family homes provide essentially the same services as would be provided by adult residential living facilities envisioned in House Bill 2017. House Bill 2017 includes a unique factor in the definition of an adult residential living facility that allows facilities of fewer than three beds to operate without a license unless they routinely hold themselves out as providing the residential living service. If House Bill 2017 or a similar bill is passed, the adult family home statutes could be revoked and such facilities could operate without state approval or could be appropriately licensed as adult residential living facilities.

DEPARTMENT'S POSITION:

The department recommends that the committee consider eliminating the adult family home program as part of its consideration of House Bill 2017.

*P. Howell
Attn #3
2-2-7*

STATE DEPARTMENT OF SOCIAL & REHABILITATION SERVICES

Statement Regarding H.B. 2018

1. Title

This is a bill concerning adult family homes and transferring certain powers and duties from SRS to the secretary of health and environment; amending K.S.A. 39-1501 and repealing the existing section.

2. Purpose

HB 2018 transfers all powers, duties, and functions that relate to Adult Family Homes from Social and Rehabilitation Services (SRS) to the Department of Health and Environment (H&E). Social and Rehabilitation Services employees who performed Adult Family Home functions and who in the opinion of the Department of Health and Environment are necessary to perform Adult Family Home functions shall be transferred to and become employees of Health and Environment. All current Adult Family Home regulations of SRS shall be deemed to be regulations of Health and Environment.

3. Background

Adult Family Homes were developed in response to the need for non-medical non-institutional providers who could provide care in a homelike environment which met the social needs of clients.

The 1983 Legislature transferred the registration of Adult Family Homes from Health and Environment to Social and Rehabilitation Services. No staff positions were transferred as part of this reorganization.

During the summer of 1986, a Special Committee on Public Health and Welfare was created to review current state regulatory programs and to determine whether there were gaps or overlaps in state regulatory jurisdictions. This committee recommended the transfer of the registration of Adult Family Homes back to Health and Environment.

SRS notes three parts of the proposed legislation as written that are problematic.

- (1) New Sec. 2. (a) states that all powers, duties and functions that relate to Adult Family Homes shall be transferred to Health and Environment. This could be construed to mean not only the regulatory responsibility but also the SRS responsibility for funding, reviewing of clients quarterly, preparing the service plans, etc. SRS is proposing an amendment to specify the transfer of the regulatory responsibility only.
- (2) New Sec. 2 (d) states that SRS employees who, in the opinion of Health and Environment, are necessary to perform Adult Family Home duties shall become employees of Health and Environment. SRS did not gain any new positions when the 1983 Legislature transferred the registration of

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Adult Family Homes from Health and Environment to SRS. This new section could mean that any SRS employee at Central Office or Area Offices who works on Adult Family Home matters for even a small percentage of time could be sent to Health and Environment with SRS having no power or right to appeal or prevent the transfer. No single SRS employee at any level spends more than 10% of their time on Adult Family Homes matters.

SRS is proposing an amendment that Health and Environment and SRS should jointly study personnel needs and ramifications of this bill and, if necessary, should submit for gubernatorial approval any transfer of employee positions or request for additional positions.

- (3) New Sec. 2 (e) states that SRS rules and regulations for Adult Family Homes shall become the rules and regulations of Health and Environment. However, SRS has not adopted any rules and regulations for the registration of Adult Family Homes. The standards used for registering Adult Family Homes are in KSA 39-1501/04.

4. Effect of Passage

By statute, the license of family foster homes is the responsibility of the Kansas Department of Health and Environment. SRS recruits the homes, performs the review and completes the necessary paperwork which is then sent to the Department of Health and Environment with SRS's recommendation. The Department of Health and Environment issues the license based upon SRS's recommendation.

Passage of this legislation without the amendments would present implementation problems.

5. SRS Recommendation

The Department of Social and Rehabilitation Services takes a neutral position on this bill.

Robert C. Harder, Secretary
Office of the Secretary
Social and Rehabilitation Services
296-3271

HOUSE BILL No. 2018

By Special Committee on Public Health and Welfare

Re Proposal No. 25

12-15

0017 AN ACT concerning adult family homes; relating to administra-
0018 tion of registration of such homes; transferring certain powers
0019 and duties to the secretary of health and environment;
0020 amending K.S.A. 39-1501 and repealing the existing section.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 Section 1. K.S.A. 39-1501 is hereby amended to read as fol-
0023 lows: 39-1501. As used in this act:

0024 (a) "Adult family home" means a private residence in which
0025 care is provided for not less than 24 hours in any week for one or
0026 two adult clients who (1) are not related within the third degree
0027 of relationship to the owner or provider by blood or marriage,
0028 and (2) by reason of aging, illness, disease or physical or mental
0029 infirmity are unable to live independently but are essentially
0030 capable of managing their own care and affairs. The home does
0031 not furnish skilled nursing care, supervised nursing care or
0032 simple nursing care. Adult family home does not mean adult care
0033 home.

0034 (b) "Skilled nursing care," "supervised nursing care" and
0035 "simple nursing care" have the meanings respectively ascribed
0036 thereto in K.S.A. 39-923, and amendments thereof thereto.

0037 (c) "Physician" means any person licensed by the state board
0038 of healing arts to practice medicine and surgery.

0039 (d) "Secretary" means the secretary of ~~social and rehabilita-~~
0040 ~~tion services~~ health and environment.

0041 New Sec. 2. (a) All of the powers, duties and functions of the
0042 secretary of social and rehabilitation services and the department
0043 of social and rehabilitation services which relate to adult family
0044 homes immediately prior to the effective date of this act are

the registration of

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0045 hereby transferred to and conferred upon the secretary of health
0046 and environment and the department of health and environment.

0047 (b) The secretary of health and environment and the depart-
0048 ment of health and environment shall be the successors in every
0049 way to the powers, duties and functions relating to adult family
0050 homes which were vested in the secretary of social and rehabil-
0051 itation services and the department of social and rehabilitation
0052 services prior to the effective date of this act.

0053 (c) Whenever the secretary of social and rehabilitation ser-
0054 vices or the department of social and rehabilitation services, or
0055 words of like effect, is referred to or designated by statute,
0056 contract or other document with regard to the powers, duties and
0057 functions relating to adult family homes, such reference or des-
0058 ignation shall be deemed to apply to the secretary of health and
0059 environment and the department of health and environment.

0060 (d) Officers and employees who immediately prior to the
0061 effective date of this act were engaged in the exercise and
0062 performance of the powers, duties and functions specified in this

0063 section and who, in the opinion of the secretary of health and

0064 environment, are necessary to perform the powers, duties and
0065 functions transferred under this section shall become officers
0066 and employees of the department of health and environment.

0067 Any such officer or employee shall retain all retirement benefits
0068 and all rights of civil service which had accrued to or vested in
0069 such officer or employee prior to the effective date of this act.

0070 The service of each such officer and employee so transferred
0071 shall be deemed to have been continuous. All transfers and any
0072 abolition of personnel positions in the classified service under

0073 the Kansas civil service act shall be in accordance with civil
0074 service laws and any rules and regulations adopted thereunder.

0075 (e) All rules and regulations of the secretary of social and
0076 rehabilitation services adopted under article 15 of chapter 39 of
0077 the Kansas Statutes Annotated and acts amendatory of the provi-
0078 sions thereof or supplemental thereto shall continue to be effec-
0079 tive and shall be deemed to be duly adopted rules and regula-
0080 tions of the secretary of health and environment until revised,
0081 amended, revoked or nullified pursuant to law.

joint

and the secretary of social and
rehabilitation services

Whenever any conflict arises as to the
proposed transfer of any officers and
employees under this section, such con-
flict shall be resolved by the governor,
and the decision of the governor shall
be final.

0082 New Sec. 3. (a) All books, records and other property of the
0083 department of social and rehabilitation services maintained in
0084 the course of administering the provisions of K.S.A. 39-1501 to
0085 39-1505, inclusive, and amendments thereto, are hereby trans-
0086 ferred to the secretary of health and environment and depart-
0087 ment of health and environment on the effective date of this act.

0088 (b) Whenever any conflict arises as to the proper disposition
0089 of any property or records as a result of any transfer made under
0090 this act, or under authority of this act, such conflict shall be
0091 resolved by the governor, and the decision of the governor shall
0092 be final.

0093 New Sec. 4. (a) No suit, action or other proceeding, judicial
0094 or administrative, lawfully commenced, or which could have
0095 been commenced, by or against the secretary of social and
0096 rehabilitation services, the department of social and rehabilita-
0097 tion services or any officer of the state in such officer's official
0098 capacity or in relation to the discharge of such officer's official
0099 duties, shall abate by reason of the taking effect of this act. The
0100 court may allow any such suit, action or other proceeding to be
0101 maintained by or against the department of health and environ-
0102 ment.

0103 (b) No criminal action commenced or which could have been
0104 commenced by the state shall abate by the taking effect of this
0105 act.

0106 Sec. 5. K.S.A. 39-1501 is hereby repealed.

0107 Sec. 6. This act shall take effect and be in force from and
0108 after its publication in the statute book.