

Approved 2-16-87  
Date sh

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 12, 1987 in room 423-S of the Capitol.

All members were present except:

Chairman Littlejohn, Representative Pottorff, both excused.

Committee staff present:

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

Conferees appearing before the committee:

Ken Schafermeyer, Kansas Pharmacists Association

Vice-Chairman called meeting to order and invited Mr. Schafermeyer to offer his Bill requests. (This had been postponed from meeting on Wednesday, 2/11/87).

Ken Schafermeyer, offered attachments, (No. 1, and 1-A), see for details. He stated the request is to clarify the Pharmacy Act in regard to inspection of drugs by Board; samples; analyses; publication of results-(65-1629). He indicated changes shown in attachment, i.e., only in state pharmacies are inspected, but if out of state pharmacies sell in state, and are licensed in the State of Kansas, then they too should be covered in the inspection as stated in 65-1629. The Attorney General's opinion, shown in Attachment No.1-A indicates same.

Representative Neufeld moved we introduce this legislation and have it returned to this committee, seconded by Rep. Amos. No Discussion. Motion carried.

On a point of personal privilege, Representative Blumenthal complemented the Committee Secretary in the manner in which the committee minutes are written. Secretary Hill was very pleased with the compliment.....Thanks all of you.....

Ms. Correll briefed committee on HB 2205.

HB 2205 will amend the statute on who is eligible to be admitted to the Soldier's Home. The amendments on page 1 of the bill are merely technical, the only real policy change appears on Page 2, lines 63 through 66. This would change statutes to authorize admitting a veteran if convicted of a felon and having been adequately rehabilitated. This is not particularly unusual language she said, it is found in other acts. There are no other policy changes in the bill.

Vice-Chair then asked members for their wishes in regard to minutes of February 5, 9, 10, 11. Rep. Amos moved all these minutes be approved as written, seconded by Rep. Cribbs. Motion carried.

Vice-Chair called attention to HB 2015, and he gave a brief background, saying this bill was the result of a Summer Interim Study. Comments to concerns with this bill were voiced, conferees feel there are still not enough vocational programs; perhaps it would be better to wait and take action at a later date after language is made more clear; don't want to risk having programs backfire; as there is an attempt to expand programs, some will choose to not expand at all if they cannot expand residential programs along with vocational programs.

At this point, Rep. Blumenthal moved to table this issue until it can be improved upon. Chair would not accept motion at this time until more discussion and in-put from others who served on the Interim Committee could be brought before this committee this date.

Other comments, i.e., there are problems in Southeast Kansas where a new facility was built for vocational programs only and not residential Services. Dollars were drawn from

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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 12, 1987

tax dollars as if they had a complete facility. To allow indiscriminate expansion of facilities that are not complete facilities is unfair. Other concerns, i.e., the tax base problem is of grave concern and individuals will be left without needed vocational programs. There is no intent to harm the bill, but it needs to be clarified and refined it was felt. Perhaps a definition of "program" would be beneficial.

At this point, there was discussion in regard to the balloon amendment from Dr. Harder. of SRS, i.e., all groups that testified the day of hearings were in agreement with the proposed amendment, but feel the solutions not yet clear. Discussion continued.

At this point, Rep. Blumenthal moved to table HB 2015, seconded by Rep. Gatlin. Discussion ensued, vote taken, Chair in doubt, show of hands indicated 7 for and 7 against, motion failed because of a tie.

Rep. Hassler made a motion to amend HB 2015 to include language proposed by Dr. Harder's amendment recorded as Attachment No. 2 on January 28, 1987. Page 2, line 57, add after language secretary of SRS, "Such approval shall only be granted if the proposed new or expanded vocational program includes an approved plan for providing needed residential programming to support the proposed new or expanded vocational program. Rep. Harder seconded. Discussion ensued, i.e., the problem will not totally be solved by this action, still could be an administrative nightmare; there are some necessary technical changes Mr. Furse agreed to clean up; yes, if more programs are desired the Secretary of SRS still must give approval. Staff noted, any new vocational programs or expansion programs will have to be approved by Secy. of SRS. Vote taken, motion carried.

Rep. Gatlin moved to report HB 2015 unfavorably, seconded by Rep. Amos. Discussion ensued, vote taken, division requested, show of hands indicated 7 in favor, 9 against, motion failed. HB 2015 is still alive. Discussion continued, Rep. Whiteman moved a sub-committee be appointed so a clean bill can be sent to the House Floor, seconded by Rep. Neufeld. Motion carried. Vice-Chair appointed Rep. O'Neal to chair sub committee, also Rep. Whiteman and Rep. Weimer will serve and said committee will report back to this committee in one week, by February 18th.

Attachment No.2 indicates copy of amended language on HB 2015.

Vice-Chairman at separate intervals welcomed students from Claflin, Kansas High School. There were several classes that visited this committee meeting today, and members of committee welcomed along with Vice-Chairman with applause.

Vice-Chair called attention to HB 2054, and gave background.

HB 2054:

The balloon copy of proposed amendment on HB 2054, (shown as Attachment No.3), indicates changes, i.e., line 22, change the word "costs" to "charges", and on line 25 after the word "individual", add language, "or, in the case of the death of such individual, by the next of kin of such individual. The medical care facility shall provide such itemized statement within 30 days subsequent to the receipt of the request therefor."  
Rep. Weimer moved to pass HB 2054 favorable for passage as amended as indicated in the Attachment NO.4, seconded by Rep. Cribbs, motion carried. Rep. Gatlin recorded as NO vote.

Vice-Chair called attention to HB 2187:

Rep. Neufeld moved to pass HB 2187 out favorable for passage, seconded by Rep. Sader, motion carried.

HB 2096:

There was discussion in regard to the intent of most conferees that screening should be done for clients in the hospital, and not at the time of admittance to a nursing home. Often this constitutes another move for the elderly client. Further, consensus is that proper and increased education needs to be given so the choices of care are made known to clients. The intent is to improve this situation.

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 12, 1987.

HB 2096 continues:

Rep. Wells moved to report HB 2096 unfavorable for passage, seconded by Rep. Amos. Discussion ensued; the language presented by SRS is not clear; perhaps screening is an improper term, and educational process would be better; regardless of screening the client does not (have) to go to a facility they don't choose to go to; infringing on ones rights concerns some; the state does not have authority to tell and individual where they must go for services; too many persons still don't know their options for treatment facilities.

Vote taken, division requested, show of hands indicated 8 in favor of killing HB 2096, 8 in opposition, Vice-Chair voted in favor, motion carried. HB 2096 will be reported unfavorably.

Vice-Chair thanked the Research Staff, and Revisor staff for all their help and expertise in their assistance to this committee.

Meeting adjourned 2:30 p.m.



**65-1628a. Same; appeals; bond.** If the licensee, registrant or permit holder petitions for review, the only bond required shall be one running to the state, in an amount to be fixed by the court for the payment of the costs both before the board and in the district court. Such bond shall be approved by the clerk of the district court. The giving of such a bond by the licensee, registrant or permit holder shall not operate to stay the order of the board or restore the right of the licensee, registrant or permit holder to engage in the profession or business for which the license, registration or permit was issued or remove any condition upon engaging therein pending review, but a stay may be granted in accordance with K.S.A. 77-616 and amendments thereto.

**History:** L. 1975, ch. 318, § 13; L. 1986, ch. 318, § 91, July 1.

**65-1628b. History:** L. 1975, ch. 319, § 14; Repealed, L. 1986, ch. 318, § 146, July 1.

**65-1629. Inspection of drugs by board; samples; analyses; publication of results.** The board and its duly authorized agents and employees may inspect in a lawful manner the drugs kept for sale, offered for sale or for dispensing, or sold ~~in the state of Kansas~~ by any pharmacist, or kept in stock by any duly licensed practitioner or institutional drug room ~~in the state~~ or when such inspection is required by the secretary of health and environment the drugs kept in stock by any medical care facility; and for this purpose shall have the right to enter and inspect during business hours any institutional drug room or any pharmacy or any other place ~~in the state of Kansas~~ where drugs are manufactured, packed, package, made, sold, offered for sale or kept for sale and may collect samples of such drugs upon payment therefor. The samples thus collected may be submitted for analysis to the office of laboratory services of the department of health and environment and the results of the analysis may be published by the state department of health and environment.

**History:** L. 1953, ch. 290, § 15; L. 1975, ch. 319, § 15; L. 1979, ch. 193, § 2; July 1.

**65-1630. Rules and Regulations.** The board may adopt and promulgate such reasonable rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes and enforce the provisions of this act, which rules and regulations shall be filed in the office of the revisor of statutes as required by article 4 of chapter 77 of the Kansas Statutes Annotated and any acts amendatory thereof or supplemental thereto.

**History:** L. 1953, ch. 290, § 16; L. 1975, ch. 318, § 16; July 1.

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K. Ph. A.

STATE OF KANSAS

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July 20, 1984

ATTORNEY GENERAL OPINION NO. 84- 71

Lynn E. Ebel  
Attorney, Kansas Board of Pharmacy  
Davis, Davis, McGuire & Thompson  
P.O. Box 69  
400 Shawnee Street  
Leavenworth, Kansas 66048

Re: Public Health -- Examination and Registration of  
Pharmacists -- Registration of Out of State Pharmacists  
Doing Business in Kansas

Synopsis: The requirements of the Kansas Pharmacy Act, K.S.A.  
65-1601 et seq extend to all persons within or without  
the state who deliver prescription drugs in Kansas.  
Cited herein: K.S.A. 65-1636, K.S.A. 1983 Supp.  
65-1626, 65-1631, 65-1643.

\* \* \*

Dear Ms. Ebel:

As counsel for the Kansas Board of Pharmacy, you request our opinion regarding the authority of the board to require out of state pharmacies doing business in Kansas to hold Kansas pharmacy licenses and be subject to the board's regulations.

K.S.A. 65-1636 is contained in the Kansas Pharmacy Act, K.S.A. 65-1625 et seq., and provides:

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Lynn E. Ebel  
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"Except as otherwise provided in this act, the sale and distribution of drugs shall be limited to pharmacies operating under registrations as required by this act and the actual sale or distribution of drugs shall be made by a registered pharmacist or other person acting under his or her immediate personal direction and supervision."

K.S.A. 1983 Supp. 65-1626(i) states that to "distribute means to deliver . . . any drug." Subsection (g) states that to "dispense means to deliver prescription medication to the ultimate user pursuant to the lawful order of a practitioner."

The term pharmacy is defined at K.S.A. 1983 Supp. 65-1626(s) as "premises, laboratory, area or other place (1) where drugs are offered for sale, where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed . . ."

As noted above, only pharmacies operating under the direction of a registered pharmacist may distribute drugs in Kansas under K.S.A. 65-1636. K.S.A. 1983 Supp. 65-1643(f) provides that it is unlawful for "any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board . . ."

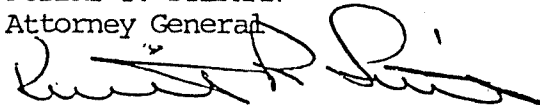
In none of the foregoing statutes is there any language of limitation which suggests that only Kansas residents are subject to the board's control. Rather, Kansas statutes provide for the registration on a reciprocal basis of out of state pharmacists without examination. K.S.A. 1983 Supp. 65-1631(d). We therefore conclude that the language of the Kansas Pharmacy Act does not suggest that its provisions are limited to pharmacies within this state.

A consideration of the purpose of the act also suggests that there was no intent to limit the application of the act. The state's interest in establishing and maintaining high standards in the dispensation of prescription drugs is clear. See, e.g., State ex rel. v. Fadely, 180 Kan. 652, 665 (1957). We therefore conclude that both the language and purpose of the Kansas Pharmacy Act require that out of state pharmacies doing business in Kansas hold a Kansas pharmacy license and be subject to all Kansas regulations.

Very truly yours,



ROBERT T. STEPHAN  
Attorney General



Kenneth R. Smith  
Assistant Attorney General

RIS:JEF:KRS:may

## HOUSE BILL No. 2015

By Special Committee on Public Health and Welfare

Re Proposal No. 25

12-15

0017 AN ACT concerning vocational programs serving the mentally  
0018 retarded; placing limitations upon the approval or licensing  
0019 thereof; amending K.S.A. 19-4001 and K.S.A. 1986 Supp. 75-  
0020 3307b and repealing the existing sections.

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

0022 Section 1. K.S.A. 19-4001 is hereby amended to read as fol-  
0023 lows: 19-4001. (a) The board of county commissioners of any  
0024 county or the boards of county commissioners of two (2) or more  
0025 counties jointly may establish a community mental health center,  
0026 ~~and/or~~ or community facility for the mentally retarded, or both,  
0027 which shall be organized, operated, and financed according to  
0028 the provisions of this act.

0029 (b) The mental health center may render the following men-  
0030 tal health services: Outpatient and inpatient diagnostic and  
0031 treatment services; rehabilitation services to individuals return-  
0032 ing to the community from an inpatient facility; consultative  
0033 services to schools, courts, health and welfare agencies, both  
0034 public and private, and conducting, in collaboration with other  
0035 agencies when practical, in-service training for students entering  
0036 the mental health professions, educational programs, informa-  
0037 tion and research.

0038 (c) The community facilities for the mentally retarded may  
0039 render, and a mental retardation governing board which con-  
0040 tracts with nonprofit corporations to provide services for the  
0041 mentally retarded may provide, the following services: Pre-  
0042 school, day care, work activity, sheltered workshops, sheltered  
0043 domiciles, parent and community education and, in collabora-  
0044 tion with other agencies when practical, clinical services, reha-

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0045 bilitation services, in-service training for students entering pro-  
0046 fessions dealing with the above aspects of mental retardation,  
0047 information and research. It may establish consulting ~~and/or~~ or  
0048 referral services, or both, in conjunction with related community  
0049 health, education, and welfare services.

0050 (d) No community mental health center, ~~and/or~~ or facility for  
0051 the mentally retarded, or both, shall be established in said a  
0052 community after the effective date of this act unless and until the  
0053 establishment of the same has been approved by the secretary of

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0054 social and rehabilitation services. ~~No new vocational programs~~  
0055 ~~serving the mentally retarded nor the expansion of an existing~~  
0056 ~~vocational program serving the mentally retarded shall be ap-~~  
0057 ~~proved unless the secretary of social and rehabilitation services~~  
0058 ~~determines that one or more residential programs would be~~  
0059 ~~available to potential clients of such vocational program~~

by

0060 Sec. 2. K.S.A. 1986 Supp. 75-3307b is hereby amended to  
0061 read as follows: 75-3307b. (a) The enforcement of the laws  
0062 relating to the hospitalization of mentally ill persons of this state  
0063 in a psychiatric hospital and the diagnosis, care, training or  
0064 treatment of persons in community mental health centers or  
0065 facilities for the mentally ill, mentally retarded or other handi-  
0066 capped persons is entrusted to the secretary of social and reha-  
0067 bilitation services. The secretary may adopt rules and regula-  
0068 tions on the following matters, so far as the same are not  
0069 inconsistent with any laws of this state:

0070 (1) The licensing, certification or accrediting of private hos-  
0071 pitals as suitable for the detention, care or treatment of mentally  
0072 ill persons, and the withdrawal of licenses granted for causes  
0073 shown;

0074 (2) the forms to be observed relating to the hospitalization,  
0075 admission, transfer, custody and discharge of patients;

0076 (3) the visitation and inspection of psychiatric hospitals and  
0077 of all persons detained therein;

0078 (4) the setting of standards, the inspection and the licensing  
0079 of all community mental health centers which receive or have  
0080 received any state or federal funds, and the withdrawal of li-  
0081 censes granted for causes shown;

Such approval shall only be granted if the proposed new or expanded vocational program includes an approved plan for providing needed residential programming to support the proposed new or expanded vocational program.

0082 (5) the setting of standards, the inspection and licensing of all  
 0083 facilities for the mentally ill, mentally retarded or other handi-  
 0084 capped persons receiving assistance through the department of  
 0085 social and rehabilitation services which receive or have received  
 0086 after June 30, 1967, any state or federal funds, or facilities where  
 0087 mentally ill, mentally retarded or other handicapped persons  
 0088 reside who require supervision or require limited assistance  
 0089 with the taking of medication, and the withdrawal of licenses  
 0090 granted for causes shown. The secretary may adopt rules and  
 0091 regulations that allow the facility to assist a resident with the  
 0092 taking of medication when the medication is in a labeled con-  
 0093 tainer dispensed by a pharmacist. No license for a residential  
 0094 facility for eight or more persons may be issued under this  
 0095 paragraph unless the secretary of health and environment has  
 0096 approved the facility as meeting the licensing standards for a  
 0097 lodging establishment under the food service and lodging act;

0098 (6) reports and information to be furnished to the secretary by  
 0099 the superintendents or other executive officers of all psychiatric  
 0100 hospitals, community mental health centers or facilities for the  
 0101 mentally retarded and facilities serving other handicapped per-  
 0102 sons receiving assistance through the department of social and  
 0103 rehabilitation services.

0104 (b) An entity holding a license as a community mental health  
 0105 center under paragraph (4) of subsection (a) on the day immedi-  
 0106 ately preceding the effective date of this act, but which does not  
 0107 meet the definition of a community mental health center set forth  
 0108 in this act, shall continue to be licensed as a community mental  
 0109 health center as long as the entity remains affiliated with a  
 0110 licensed community mental health center and continues to meet  
 0111 the licensing standards established by the secretary.

A11 0112 (c) ~~By~~ new vocational programs serving the mentally re-  
 0113 tarded ~~or~~ the expansion of ~~an~~ existing vocational programs  
 0114 serving the mentally retarded shall be licensed under this sec-  
 by 0115 tion ~~unless~~ the secretary of social and rehabilitation services  
 0116 ~~determines that one or more residential programs would be~~  
 0117 ~~available to potential clients of such vocational programs.~~  
 0118 Sec. 3. K.S.A. 19-4001 and K.S.A. 1986 Supp. 75-3307b are

Such approval shall only be granted if the proposed new or expanded vocational program includes an approved plan for providing needed residential programming to support the proposed new or expanded vocational program.

0119 hereby repealed.

0120 Sec. 4. This act shall take effect and be in force from and  
0121 after its publication in the statute book.

# HOUSE BILL No. 2054

By Representatives Buehler and Sughrue

1-14

0017 AN ACT relating to medical care facilities; concerning itemized  
0018 bills.

0019 *Be it enacted by the Legislature of the State of Kansas:*

0020 Section 1. Each medical care facility, as defined by K.S.A.  
0021 65-425 and amendments thereto, licensed to do business in this  
0022 state shall provide a detailed, itemized statement of all costs for  
0023 services provided at the medical care facility to each individual  
0024 who received such services if such detailed, itemized statement  
0025 is requested by such individual.

0026 Sec. 2. The secretary of health and environment shall adopt  
0027 rules and regulations specifying what items shall be included on  
0028 itemized statements required by section 1.

0029 Sec. 3. This act shall take effect and be in force from and  
0030 after its publication in the statute book.

charges

or, in case of the death of such individual, by the next  
of kin of such individual. The medical care facility  
shall provide such itemized statement within 30 days  
subsequent to the receipt of the request therefor

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