

Approved

2-22-88  
Date

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 16, 1988n room 423-S of the Capitol.

All members were present except:

Chairman Littlejohn, Representative Cribbs, both excused

Committee staff present:

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

Conferees appearing before the committee:

Vice Chairman called meeting to order, announcing the Chairman is ill this date with flu.

Briefings began on HB 2656:

Ms. Correll spoke of amendatory language lines 34-39, which will allow the physical therapist assistant to initiate treatment on physicians's orders according to written protocol established by the physical therapist. This is the change in policy of current law. Questions, i.e., HB 2656 is similar to other legislation, and similar specifically to HB 3061 enacted in 1986.

Briefing on HB 2688:

Mr. Furse explained thoroughly language of bill, and cited section in regard to penalties. Questions, i.e., yes, this is new legislation; no, there is no defined statute in respect to "current address"; yes, perhaps the homeless would be excluded since they have no known address; it was noted the Council of State Governments in Omaha had a bill like this, even though blood donations are screened, there is no way to contact the donor if necessary, so it would seem important to have donor give address; there may be concerns in regard to confidentiality.

Briefing on HB 2758:

Ms. Correll noted one statute is amended in HB 2758, i.e. 39-930. The fee for license of Adult Care Homes. Some licenses are for one year, some for longer periods of time. License fee is a base fee, then an additional amount for each bed, and this will not change. Questions, i.e., no all fees do not come due at the same time, and it was noted the Homes always know when license fees are due and an expected inspection will take place; yes this is a Department of Health and Environment bill.

Briefing on HB 2823:

Ms. Correll noted this is new legislation that creates a flat prohibition on the use of tobacco products in public schools. She explained the term, "school building". She explained the intent is for building itself used by school and or other organizations or businesses. Intent is not for school grounds. She explained the penalty section. Questions, i.e., no, it is not intended to include school grounds.

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 16, 1988

Vice-Chairman called attention to hand-out, presented by Mr. Harold Riehm, (Attachment No.1)

Mr. Riehm indicated this is a request for legislation saying that a hospital could not discriminate against any physician licensed to do medicine and surgery solely on the basis of where that physician went to school, or the institution at which they did their residency training. There are some hospitals that recognize only M.D.'s, and we are asking they recognize others. Questions, i.e., yes, in the past there have been other times the Legislature has intervened to equate the M.D.'s and the D.O's. yes, I hope this is one of the last times we will need to equate these professions.

Rep. Branson moved committee introduce this legislation as a committee bill, seconded by Rep. Gatlin, motion carried.

Vice-Chairman noted he and Chairman Littlejohn had been approached by the Kansas Hospital Society for a bill request. He indicated a letter he had that gave the thrust of the bill would allow a hospital in rural area in limited population areas, with one license operate two facilities. One facility that has all the equipment and doctors and the second facility have an Adult Care Home all operating under one license. (Attachment #2).

Rep. Blumenthal moved to introduce this as a committee bill, seconded by Rep. Whiteman, motion carried.

Vice-Chairman called attention to HB 2614:

Rep. Wells offered an amendment, (Attachment No.3). She explained changes that speak to exempt adult care homes for mentally retarded and personal care homes from the Act, and to include hospital long term care units since they provide nursing home services under the Federal Act.

It was recommended the amendments be divided and voted on individually.

Rep. Wells moved to amend HB 2614 by deleting lines 42 through 46 and to re-letter sub sections accordingly, motion seconded by Rep. Blumenthal.

Rep. Wells moved to add language in line 68 (g), "Except from the provision of this act are intermediate care facilities for the mentally retarded and intermediate personal care homes". Motion seconded by Rep. Hassler. Discussion held in regard to, are there two separate policy questions, yes, there are two separate licensure categories; the intent is to relate only to sections (b) through (g). Vote taken, motion carried.

Rep. Wells moved to amend finally in line 58 to add, "and hospital based long term units certified for participation as a skilled nursing facility or intermediate care facility under Title XVIII or Title XIX of the Social Security Act. Motion failed for lack of a second.

Rep. Blumenthal moved to table HB 2614, seconded by Rep. Green. Vote taken, chair in doubt, show of hands indicated 8 in favor, 6 against. Motion carried. (HB 2614 TABLED).

Meeting adjourned 2:15 p.m.



GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE COMMITTEE

Date 2-16-88

NAME	ORGANIZATION	ADDRESS
Tom Gordon	North Central Flint Hills Area Agency on Aging	2601 Anderson Ave Manhattan, KS. 66502
Thirza Thompson	Jayhawk Area Agency on Aging	1195 Buchanan Topeka, KS. 66604
Della Dawson	SWAFAK	Rt 1 Box 145 East City Ken. 67871
Margaret L. Gehlert	H.I.N.H., S.H.R., <sup>Advisory Board</sup> Mental Health	410 E Blue Grass Dr. Bonner Springs, Mo 66012
Mark Intermill	KCOA	Topeka
Shirley Sprule	NR/FAH Area Agency on Aging	Manhattan, KS.
Jo Ann Spradlin	Senior Services of SEK	Coffeyville, KS
Lewis Allen	Kansas Health CARE ASSN.	TOPEKA
Roberta Kunkle	American Lung Association of Kansas	Topeka
Jan Michel	"	"
Jess Rockett	St. Francis Wichita	Topeka
Larry Hinton	SRS/ADHS	Topeka
Ellen Chaplin	Southwestern College	Winfield, KS
Cheryl Freed	Southwestern College	Winfield, KS
Kelly Stewart	Southwestern College	Winfield, KS
Jon Dyer	Life at St. West 1	Topeka, KS
R.L. PARKER	KDHE	Topeka
Cliff Morrison	KDHE	Topeka
Patricia Johnson	KDHE	Topeka
Richard Coe	KAPTA	Topeka
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	"
Bill McDaniel	SRS	Topeka
Bob Bethell	"	Peabody KS





# Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka  
Topeka, Kansas 66612  
(913) 234-5563

February 16, 1988

Mr Chairman and Members of the House Public Health Committee:

The Kansas Association of Osteopathic Medicine respectfully requests that the language below be introduced as a Public Health Committee Bill. It is directed at assuring that hospitals give equal recognition to medical schooling and post graduate training for medical doctors and osteopathic doctors.

## PRESENT K.S.A. 65-431

**65-431. Rules and regulations; selection of professional staff.** The licensing agency shall adopt, amend, promulgate and enforce such rules and regulations and standards with respect to the different types of medical care facilities to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals in medical care facilities in the interest of public health, safety and welfare. No rule or regulation shall be made by the licensing agency which would discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state. Boards of trustees or directors of facilities licensed pursuant to the provisions of this act shall have the right to select the professional staff members of such facilities and to select and employ interns, nurses and other personnel, and no rules and regulations or standards of the licensing agency shall be valid which, if enforced, would interfere in such selection or employment. In formulating rules and regulations, the agency shall give due consideration to the size of the medical care facility, the type of service it is intended to render, the scope of such service and the financial resources in and the needs of the community which such facility serves.

History: L. 1947, ch. 329, § 7; L. 1973, ch. 248, § 5; L. 1976, ch. 266, § 2; July 1.

Rules and regulations, general standards, Vernon's Kansas Forms § 8562.

### Law Review and Bar Journal References:

"Medical Record Guide," 71 J.K.M.S. 450, 453 (1970).

"Hospitals' Role and Responsibility in Health Care Delivery," Alan Rupe, Robert D. Steiger, 14 W.L.J. 580, 593, 595 (1975).

### CASE ANNOTATIONS

1. Hospital board may select staff upon recommendations by its medical staff. *Foot v. Community Hospital of Beloit*, 195 K. 385, 387, 388, 405 P.2d 423.
2. Cited in holding state agency regulations cannot limit scope of discoverable matter. *Wesley Medical Center v. Clark*, 234 K. 13, 17, 669 P.2d 209 (1983).

## ADDITIONAL LANGUAGE SUGGESTED BY KAOM

. . .  
. . . Boards of trustees or directors of facilities licensed pursuant to the provisions of this act shall have the right to select the professional staff members of such facilities and to select and employ interns, nurses and other personnel, and no rules and regulations or standards of the licensing agency shall be valid which, if enforced, interfere in such selection or employment. In the selection of professional staff members, no hospital licensed pursuant to the provisions of this act shall discriminate against any physician licensed to practice medicine and surgery in this state for reasons based solely upon the physicians' branch of the healing arts or the school or health care facility in which the physician received medical schooling or post graduate training. In formulating rules . . .

NOTE: This is the language and concept requested. This may or may not be the appropriate place in the Statutes for it to appear.

Attm. #1  
2-16-88  
PH + CW



BILL NO. \_\_\_\_\_

AN ACT Concerning Medical Care Facilities; Related to the Licensure of Rural Hospitals; Amending K.S.A. 65-425, 65-429 and 65-431 and Repealing the Existing Sections.

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

Sec. 1. K.S.A. 65-425 is hereby amended to read as follows:

65-425. As used in this act: (a) "General hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than twenty-four (24) hours of every day, to provide diagnosis and treatment for four or more nonrelated patients who have a variety of medical conditions.

(b) "Special hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than twenty-four (24) hours of every day, to provide diagnosis and treatment for four or more nonrelated patients who have specified medical conditions.

(c) "Rural hospital" means one or more establishments in one or more counties, each of not more than 50,000 population, and operating as a single entity with permanent facilities that include inpatient beds and with medical services, including physician services, and continued registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment for four or more nonrelated patients who have a variety of medical conditions; to be considered as operating as a single entity, two or more facilities must be under common ownership with a common board of trustees or directors and with a common medical staff and chief executive officer.

(e)(d) "Person" means any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof.

(d)(e) "Governmental unit" means the state, or any county, municipality, or other political subdivision thereof; or any department, division, board or other agency of any of the foregoing.

(e)(f) "Licensing agency" means the department of health and environment.

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(f)(g) "Ambulatory surgical center" means an establishment with an organized medical staff of physicians; with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; with continuous physician services and registered professional nursing services whenever a patient is in the facility; and which does not provide services or other accommodations for patient to stay overnight.

(g)(h) "Recuperation center" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services, for not less than twenty-four (24) hours of every day, to provide treatment for four or more nonrelated patients who require inpatient care but are not in an acute phase of illness, who currently require primary convalescent or restorative services, and who have a variety of medical conditions.

(h)(i) "Medical care facility" means a hospital, ambulatory surgical center or recuperation center.

(i)(j) "Hospital" means "general hospital," ~~or~~ "special hospital" or "rural hospital."

Sec. 2 K.S.A. 65-429 is hereby amended to read as follows:

65-429. Upon receipt of an application for license, the licensing agency shall issue with the approval of the state fire marshal a license provided the applicant and the physical facilities of the medical care facility meet the requirements established under this act. A license, unless suspended or revoked, shall be renewable annually without charge upon the filing by the licensee, and approval by the licensing agency, of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes by regulation. A medical care facility which has been licensed by the licensing agency and which has received certification for participation in federal reimbursement programs and which has been accredited by the joint commission on accreditation of hospitals or the American osteopathic association may be granted a license renewal based on such certification and accreditation. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. A hospital that meets the requirements for both a general hospital and a rural hospital may elect the classification of its license. A single license shall be issued to any rural hospital meeting the requirements of this act. Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 3. K.S.A. 65-431 is hereby amended to read as follows:

65-431. The licensing agency shall adopt, amend, promulgate and enforce such rules and regulations and standards with respect to the different types of medical care facilities to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals in medical care facilities in the interest of public health, safety and welfare. No rule or regulation shall be made by the licensing agency which would discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state. Boards of trustees or directors of facilities licensed pursuant to the provisions of this act shall have the right to select the professional staff members of such facilities and to select and employ interns, nurses and other personnel, and no rules and regulations or standards of the licensing agency shall be valid which, if enforced, would interfere in such selection or employment. In formulating rules and regulations, the agency shall give due consideration to the size of the medical care facility, the type of service it is intended to render, the scope of such service and the financial resources in and the needs of the community which such facility serves. A rural hospital consisting of more than one establishments shall be considered in compliance with the rules and regulations of the licensing agency if all basic services required by the agency are available as a part of the combined operation and if the following basic services are available at each facility: continuous nursing service, continuous physician coverage on duty or on call, basic diagnostic radiological and laboratory facilities, drug room, arrangements for emergency services, food service, arrangements for patient isolation and arrangements for laundry service. Any rural hospital complying with the requirements for a license to operate an adult care home, as defined in K.S.A. 39-923, shall be licensed to provide adult care home services as a part of the license issued to such hospital hereunder.

Sec. 4 K.S.A. 65-425, 65-429 and 65-431 are hereby repealed.

Sec. 5 This act shall take effect and be in force from and after its publication in the statute book.



# HOUSE BILL No. 2614

By Committee on Appropriations

4-29

PURPOSE:

1. To EXEMPT adult care homes for the mentally retarded and personal care homes from the Act.
2. To INCLUDE hospital long term care units since they provide nursing home services under the Federal Act.

0017 AN ACT concerning the adult care home licensure act; placing  
 0018 certain restrictions on the development of such homes;  
 0019 amending K.S.A. 39-926a and repealing the existing section.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 39-926a is hereby amended to read as fol-  
 0022 lows: 39-926a. (a) Except as otherwise provided in this ~~section~~  
 0023 *subsection (a)*, no more than three different persons shall be  
 0024 licensed to operate any one adult care home under the adult care  
 0025 home licensure act, and no license to operate any one adult care  
 0026 home shall be issued under that act to more than three different  
 0027 persons. The provisions of this ~~section~~ *subsection (a)* shall not  
 0028 apply to any license to operate an adult care home which is in  
 0029 effect on the effective date of this act and which is issued to more  
 0030 than three different persons, or the renewal of any such license,  
 0031 unless subsequent to the effective date of this act three or fewer  
 0032 persons operate the adult care home or the license to operate the  
 0033 adult care home is denied or revoked.

0034 (b) *On and after the effective date of this act, no new license*  
 0035 *to operate an adult care home shall be issued if the bed occu-*  
 0036 *pancy in the construction area in which the adult care home is*  
 0037 *located is 92% or less of the available beds in the construction*  
 0038 *area based upon the quarterly occupancy report prepared by the*  
 0039 *department of health and environment or if construction of new*  
 0040 *beds would result in the bed occupancy of the construction area*  
 0041 *falling below the 92% occupancy level.*

0042 ~~(c) For the purposes of the licensure of intermediate care~~  
 0043 ~~facilities for the mentally retarded, no new license shall be~~  
 0044 ~~granted if the statewide average occupancy of all currently~~  
 0045 ~~licensed intermediate care facilities for the mentally retarded is~~

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0016 ~~less than 92%.~~

0017 ~~(d)~~ Notwithstanding the other provisions of this section to (c)  
0018 the contrary, any adult care home licensed prior to the effective  
0019 date of this act may increase its bed capacity by 10% of current  
0020 capacity or by no more than 10 beds in any two-year period.

0021 ~~(e)~~ The following shall not be subject to the provisions of (d)  
0022 this section: (1) A facility project submitted within 60 days after  
0023 the effective date of this act to the department of health and  
0024 environment with evidence of the permanent financing of the  
0025 project; and (2) available unlicensed beds as described in para-  
0026 graph (2) of subsection (f).

0027 ~~(f)~~ As used in this section: (e)

0028 (1) "Construction area" includes all adult care home beds  
0029 and all certified hospital swing beds within a 25-mile radius  
0030 from the center of the closest incorporated community or city as  
0031 determined by utilizing the state map prepared by the Kansas  
0032 department of transportation and the department of commerce.

TO READ: ...all adult care homes beds, certified hospital swing beds, and hospital based long term care units certified for participation as a skilled nursing facility or intermediate care facility under Title XVIII or Title XIX of the Social Security Act.

0033 (2) "Available beds" includes all licensed or unlicensed  
0034 adult care home beds in the construction area which had been  
0035 licensed as adult care home beds within the previous ten-year  
0036 period and are still available for licensure.

0037 ~~(h)~~ ~~(g)~~ This section shall be part of and supplemental to the (f)  
0038 adult care home licensure act.

Add: (g) Exempt from the provisions of this act are intermediate care facilities for the mentally retarded and intermediate personal care homes.

0039 Sec. 2. K.S.A. 39-926a is hereby repealed.

0040 Sec. 3. This act shall take effect and be in force from and  
0041 after its publication in the Kansas register.