

Approved _____

Date

3-14-88
SK

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at
Chairperson

1:30 ~~a.m.~~/p.m. on February 29, 1988 in room 423-S of the Capitol.

All members were present except:

Representative Neufeld, excused

Committee staff present:

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

Conferees appearing before the committee:

Representative Sughrue
Richard Parker, D.V.M., Director Bureau Epidemiology/
Department of Health & Environment
Representative Carol Sader
Richard Morrissey, Director Bureau Adult/Child Care
Health and Environment
Irene Hart, Director Sedgwick County Dept. on Aging
Dick Hummel, Ks. Health Care Association
Marilyn Bradt, Kansans for Improvement of Nursing Homes, Inc.
Mr. Charles Simmons, Department of Corrections.

Chair called meeting to order, and asked wishes of committee in regard to minutes. Rep. Amos made a motion minutes of February 22, 23, 24, 25 be approved as written, seconded by Rep. Weimer, motion carried.

Briefings began on HB 2874:

Mr. Furse explained HB 2874, noting amendment, (Attachment No.1). The amendment would specify only reporting of AIDS and HIV to Secretary of Health and Environment, while other contagious diseases could be reported to Local Health Departments.

Representative Sughrue offered hand-out, (Attachment No.2), and stated HB 2874 deals with confidentiality in reporting. Section 2-c, lines 102-106 provide for an agreement between Local Health Departments and Health and Environment. She detailed penalty sections, noting reasons for maintaining confidentiality, i.e., protecting family structure; discrimination against persons in respect to housing, education, insurance, protection for physicians and other care givers in regard to insurance. She noted what other states are doing in respect to confidentiality in reporting AIDS.

Richard Parker, Health & Environment (Attachment No.3), noted they agree with amended language, but without it, could not support the bill. He drew attention to Section 5 which would repeal four acts which are essential for their Department to conduct its' business. (It was noted at this point, Section 5 would not be affected with this amendment in place). Mr. Parker, said, duly noted...

Elizabeth Taylor, Association of Local Health Departments spoke in opposition of HB 2874, and proposed amendment as well. Persons tested positive with AIDS and HIV need to reported locally so that counseling and voluntary contact follow-up can help prevent the spread of this disease. She urged for defeat of HB 2874. She stated their position is also supported by Ks. Public Health Association.

Hearings closed on HB 2874.

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 29, 1988.

Hearings began on HB 2992:

Mr. Charles Simmons, Department of Corrections stated HB 2992 is proposed to abolish 3 statutes that are currently in place that have not been used in 15 years, and they have no plans to utilize them in the future. He explained rationale, i.e., blood donations from a prison setting are regarded as a form of involuntary participation. He urged for favorable consideration of striking these unnecessary statutes from the books. No questions.

Hearings closed on HB 2992.

HB 2925 was given staff briefing by Ms. Correll. She noted changes and gave a section by section explanation.

Hearings began on HB 2925:

Representative Sader offered hand-out, (Attachment No.4), noting the basic intent of HB 2925 is to reduce the increasing incidence of elder abuse, particularly in private residences throughout Kansas. New language in Section 1. (a) (3) speaks to individuals residing in private residences, makes it clear abuse by family care-givers will be dealt with, and expands powers of SRS in cases of abused or neglected adults residing outside adult care homes and adult family homes. Further, it adds "fiduciary abuse" to list of unlawful acts; deletes medical care facilities from the purview of the act; involves law enforcement when SRS services are not in operation; inserts a time frame for processing complaints, implementing corrective action. In short, the bill coordinates into one statute, procedures to address the core of this problem. There is no fiscal impact. She answered questions, yes, there is a fine line between neglect, and self neglect.

Dick Morrissey, Health and Environment, (Attachment No. 5), gave background of this issue, i.e., investigating and resolving reporting of abuse in adult care homes was given to SRS, because it was viewed as a "protective service". Experience has taught investigation and resolution of complaints of abuse/neglect in adult care homes varies differently than in community settings. Current programs are not oriented towards enforcement, and HB 2925 will continue to leave SRS with no authority to enforce compliance when abuse/neglect is confirmed. Their Department recommends this committee would allow the Department of H & E, and SRS to jointly negotiate a different response to concerns about abuse/neglect and to complete a process they are currently working towards. They do not believe HB 2925 will resolve the key issue of concern. He answered questions.

Irene Hart, Sedgwick County, Department on Aging, (Attachment No.6) spoke in regard to findings of a survey conducted by their Education Committee by 52 individuals representing 38 Agencies. Findings, i.e., Abuse/Neglect/Exploitation (ANE), is a serious problem; more education and training is desired for care-givers; many not reluctant to report ANE; many knew proper Agency to report to. She stated HB 2925 is a good bill that corrects weaknesses in existing law at no cost to taxpayer. Speaks to concerns currently absent from statutes. She recommended the following, SRS still denied access to victim by caretaker or other individual, and they should be allowed to interview such victim; registry of reporting too limited in use as Agencies should be provided names of persons who have been violators so they would not be hired; establishing a hot line for reporting ANE. She answered questions.

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 29, 1988.

Hearings continued on HB 2925:-

Dick Hummel, Ks. Health Care Association, (Attachment No.7) spoke to HB 2925, citing recommendations, i.e., why have Medical Facilities been excluded from the bill; inclusion of state operated facilities for mentally ill and mentally retarded as well; Adult Care Home would need to receive a summary of the investigative findings in order to comply with requirements; further, corrective action plan unnecessary since the employment of abuser is terminated taking care of that concern. He stressed importance of register of names of violaters be made available so these persons would not be hired by other facilities. He noted his commends are directed to Institutional Facilities.

Marilyn Bradt, Kansans for Improvement of Nursing Homes, (Attachment No.8). There may be problems in trying to draw together both Institutional and Non-Institutional abuse investigations into a single system. They are very different situations. They would like to see Health and Environment involved much earlier than proposed in HB 2925. Immediate intervention by H. & E is vital, and failure to utilize their expertise is the most serious flaw in HB 2925. She noted perhaps the Department of H. & E. might be given approval to require implementation of corrective action before the 45 days H. & E. and Department on Aging should have access to registry of reported abusers; timely exchange of information; H. & E. surveyors would be better trained to conduct investigations rather than Local Health departments in many instances; H. & E., and SRS, and Department on Aging to develop a coordinated plan to address these concerns of abuse/complaint investigations.

Hearings closed on HB 2925.

Chair noted fiscal notes recorded as Attachments, i.e., (HB 2104 as Attachment No. 9, HB 2414 as Attachment No. 10).

Chair called attention to HB 2992.

Rep. Buehler made a motion to pass HB 2992 favorably out of committee and place it on consent calendar, motion seconded by Rep. Branson. No discussion, vote taken, motion carried.

HB 2972:

An amendment was provided, (Attachment No. 11) that inserts language in line 31, "for guide dogs or in or upon any of the places listed in K.S.A. 39-1107 and amendments thereto for hearing assistance dogs". Mr. Furse explained this amendment.

Rep. Gatlin moved to insert the amended language into HB 2972, and to pass the bill out favorably as amended, seconded by Rep. Weimer. Discussion ensued. Mr. Furse read statutes to clarify language for some. Question called for by Rep. Buehler, vote taken, motion carried.

Chair called attention to HB 2643:

Discussion held in regard to proposed amendment that would take into consideration recommendations from various Associations. It was consensus of committee to defer further discussion on HB 2643 until tomorrow. (Attachment 12)

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 29, 1988

Chair drew attention to HB 2901:---

This bill will have amendments offered and will be discussed at a later date.

HB 2655:

Rep. Gatlin moved HB 2655 be passed favorably out of committee, Rep. Whiteman seconded. No discussion. Vote taken, motion carried.

HB 2830:

Rep. Buehler made motion to report HB 2830 unfavorably, seconded by Rep. Cribbs. Discussion ensued, i.e., concerns with language that prohibit sale of tobacco products with coupons offered in newspaper and magazines at a discounted price; perhaps this language could be deleted from bill; testimony stated distribution to minors is not being done; concerns of some disagree with that information. Question called for by Rep. Buehler, vote taken, division requested, show of hands indicated 4 to report adversely, 7 against. Motion failed.

Chair noted at this time there is a heavy agenda for meetings the balance of the week and he urged all to be on time.

Meeting adjourned 3:16 p.m.

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE COMMITTEE

Date 2-29-88

NAME	ORGANIZATION	ADDRESS
Charles Simmons	Dept. of Corrections	Topeka
Kathryn Sughame	State Repro	
Dech Hummel	Ks. Women's Soc. Assn.	Topeka
Eric Okeson		Wesham
Celeste Bussan		Whitace
Man L. Nemick	Goodland High School	Goodland KS
Susan Brien	Goodland High School	Goodland KS
Doris R. Hunt	KDOA - LTC OMBUDSMAN	TOPEKA
Gene Hart	Sedgwick Co. Dep. on Aging	Wichita
Richard Morsussen	KDHE	TOPEKA
Bailey James-Martin	SRS - Adult Services	Topeka
Janna Norton	OS	Haysville
Nicole Paert	Girl Scouts	Wichita
Saul Renszella	Lobbyist	Lawrence
Lawrence Blah	Visitor	Dodge City
Terry Klein	St. Francis	Dr. of the Day
Gary K. Hulott	KDHE	Topeka
Bob Corbins	KHA	Topeka
Marilyn Bradt	KINHT	Lawrence
KATH R LANDIS	CHILDREN'S SERVICE COMMITTEE and PUBLICATION FOR KANSAS	TOPEKA
R L PARKER	KDHE	Topeka
Brandy Dixon	Girl Scouts	Haysville
Mary Harper	Farmer	Scott City
Lore Rutledge	SRS - Youth Services	Topeka

HOUSE BILL No. 2874

Representatives Sughrue, Green, Gross and Kennard

2-10

0017 AN ACT concerning infectious or contagious diseases; granting
 0018 certain powers to and imposing certain duties upon the sec-
 0019 retary of health and environment; providing for confidential-
 0020 ity of certain information; declaring certain acts unlawful and
 0021 providing penalties for violations; amending K.S.A. 65-118,
 0022 65-119, 65-127 and 65-129 and repealing the existing sections.

0023 *Be it enacted by the Legislature of the State of Kansas:*
 0024 Section 1. K.S.A. 65-118 is hereby amended to read as fol-
 0025 lows: 65-118. (a) Whenever any person licensed to practice the
 0026 healing arts or engaged in a postgraduate training program ap-
 0027 proved by the state board of healing arts, licensed dentist,
 0028 physician's assistant whose name has been entered on the regis-
 0029 ter of physicians' assistants by the state board of healing arts,
 0030 licensed social worker, teacher or school administrator knows or
 0031 has information indicating that a person is suffering from or has
 0032 died from an infectious or contagious disease, such knowledge or
 0033 information shall be reported immediately to the ~~county or joint~~
 0034 ~~board of health or the local health officer~~ *secretary of health and*
 0035 *environment*, together with the name and address of the person
 0036 who has or is suspected of having the infectious or contagious
 0037 disease, or the name and former address of the deceased indi-
 0038 vidual who had or was suspected of having such a disease.
 0039 (b) Any person who is an individual member of a class of
 0040 persons designated under subsection (a) of this section and who
 0041 reports the information required to be reported under such
 0042 subsection in good faith and without malice to a ~~county or joint~~
 0043 ~~board of health or a local health officer~~ *the secretary of health*
 0044 *and environment* shall have immunity from any liability, civil or
 0045 criminal, that might otherwise be incurred or imposed in an
 0046 action resulting from such report. Any such person shall have the

Proposed Amendment

Change bill to require reporting of AIDS and HIV to secretary of health and environment.

Leave reporting of other infectious or contagious disease with local health departments as in current law.

*Attn #1
2-29-8
P&K*

K. Sughrue

*Attn #1-
2-29-8
P&K*

KATHRYN SUGHRUE
REPRESENTATIVE, 116TH DISTRICT
FORD COUNTY
1809 LA MESA DRIVE
DODGE CITY, KANSAS 67801



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: FEDERAL AND STATE AFFAIRS
ENERGY AND NATURAL RESOURCES
RANKING MINORITY MEMBER: GOVERNMENTAL
ORGANIZATION
MEMBER: MIDWESTERN CONFERENCE ON
HEALTH—COMMISSIONER ON
INTERSTATE COOPERATION

February 29, 1988

Thank you Chairman Littlejohn and members of the Health Committee for granting a hearing on H.B. 2874.

This bill concerns the H.I.V. virus grants powers and imposes certain duties upon the secretary of health and environment providing for confidentiality and penalties for violation.

You have heard the explanation of the bill with changes that we felt were necessary. Certainly we do not want to by pass the duties of the board of health or the local health officers. I believe with Sec. 2 C - lines 102-106 does provide for an agreement. Since we are dealing with a deadly virus for which there is no known cure at this time, there must be the strictest law possible to protect the confidentiality of the victim.

In looking at the statutes the confidentiality law was enacted in 1901. There were a few changes in 1917 and 1976, but these were before we knew anything about AIDS.

The penalty for violation has not changed. In 1901 it was established at \$25 to \$100. H.B. 2874 makes the violation of confidentiality - a Class B misdemeanor with 6 months - \$1,000 or both.

Confidentiality is necessary because there is no vaccine to prevent AIDS, nor is there a cure.

After a person has had a test often they are afraid to pick up the results for fear it will be positive.

*Attn. #2
2-29-8
PX/UC*

Those infected with AIDS go underground out of reach for health care or education for this reason privacy must be protected.

There are many reasons why confidentiality is a must:

- (1) Protects the family structure. To take a test and have it come out positive can be quite traumatic for most people. It can cause friction with the family - divorces - unhappiness, loss of jobs - isolation by family members.
- (2) Job Protection - Lawyers say the largest number of AIDS cases involve jobs - employment conflicts.
- (3) Housing - Refusal to sell or rent to persons known to have AIDS. Families have been encouraged to leave a community or are isolated from society.
- (4) Education of Children - The saddest cases involve children. There have been several cases where children with the virus have been refused schooling.
- (5) Protection for medical professionals. - There have been cases where doctors have been refused a renewal of physicians lease because he treated AID patients on the premises.
- (6) Health & Life Insurance Protection. - Insurance companies have been known to deny coverage if they know a client has a positive H.I.V. test, also refuse to insure not only the victim, but their family members.

WHAT ARE OTHER STATES DOING

An informal poll taken Jan. 1 this year showed that 34 states are considering some form of action to protect AIDS victims from possible discrimination and infringement of privacy rights.

Three states: California, Wisconsin, Florida and the District of Columbia have enacted legislation to control the use of the test and the disclosure of the test results.

In California they require informed consent and a description of intended disclosure prior to participation with the test.

OUR CHALLENGE

Hopefully Kansas can arrive at an up-to-date law on confidentiality that is agreeable with the professionals involved.

Lawmakers need to balance concern about the danger to public health at large against the individuals right of HIV infected or suspected carriers.

All efforts by legislators and public health officials to understand and control this disease have to address some serious confidentiality issues.

Any changes to improve the bill will be welcome. This bill is narrow in scope and does address a serious need for confidentiality.

Thank you.

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

Forbes Field

Topeka, Kansas 66620-0001

Phone (913) 296-1500

Mike Hayden, Governor

Stanley C. Grant, Ph.D., Secretary

Gary K. Hulett, Ph.D., Under Secretary

Testimony Presented to

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2874

This bill would simplify the process of infectious disease reporting and supervision by eliminating the county health officer from the reporting chain. This would be done by requiring that clinical practitioners report cases directly to the Secretary of Health and Environment, rather than to the county health officer. However, we do not support this concept because it creates unintended consequences that outweigh the advantages accruing from a simplified reporting process of infectious disease directly to the Secretary of Health and Environment. These disadvantages are as follows:

- * County health officers have a critical need to know disease incidence and activity in their area of jurisdiction. Their statutory responsibility for case investigation extends beyond K.S.A. 65-119.
- * If reporting is to be direct from the practitioner to the Secretary, then the Secretary must be responsible for case management, which includes administration of specified periods of isolation or quarantine. This is best managed at the county level.
- * Although the bill would allow the Secretary to establish local agreements that would continue the role of the county health officer in disease reporting and supervision, a physician who sees a patient from out-of-county would not always know whether to report the case to his local health officer, to the health officer of the patient's county, or directly to the Secretary. The issue of case supervision would be similarly complicated.

Attn #3
2-29-8
PH&W

Specifically with regard to AIDS and HIV-antibody reporting, the approach suggested by this bill has merit, should this concept be carried out in a reporting statute dedicated to AIDS and HIV-infection, rather than as an amendment to any existing statute. Such a statute should incorporate all the confidentiality provisions of existing K.S.A. 65-118. It should be noted that AIDS (the disease) is currently reportable under the provisions of K.S.A. 65-118, but the associated HIV-infection is not so reportable.

We do not support passage of House Bill 2874.

Richard Parker, D.V.M., M.P.H.
Director, Bureau of Epidemiology

February 29, 1988

CAROL H. SADER

REPRESENTATIVE, TWENTY-SECOND DISTRICT

JOHNSON COUNTY

8612 LINDEN DR.

SHAWNEE MISSION, KANSAS 66207

(913) 341-9440



TOPEKA

HOUSE OF REPRESENTATIVES

COMMITTEE ASSIGNMENTS

MEMBER: ECONOMIC DEVELOPMENT
JOINT COMMITTEE ON ECONOMIC DEVELOPMENT
PENSIONS, INVESTMENTS AND BENEFITS
PUBLIC HEALTH AND WELFARE

February 29, 1988

Testimony on HB 2925

Public Health and Welfare Committee

My name is Carol Sader. I represent the 22nd Legislative District.

I come before you today to testify as a proponent of HB 2925, a bill which would substantially improve adult protective services legislation in Kansas. The basic intent of this bill is to reduce the increasing incidence of elder abuse, particularly in private residences throughout our state.

Elder abuse generally includes physical abuse, psychological abuse, negligence, and financial exploitation. Like other forms of family violence, unless effectively checked, tends to recur frequently over an extended period and because of the frailty of its victims, it is always serious and sometimes fatal. It is found among families of all socioeconomic levels and estimates of the extent of elder abuse in the U.S. are upwards of a million victims annually. Abusers are usually related to the victim and live in the same household. Most often, the abuser is the victim's primary caregiver and a relative of the victim---daughters, sons, granddaughters, husbands, and siblings. The victims are usually female, over age 75, with some physical or mental impairment.

in that order,

We presently have two statutes governing the reporting and investigation of abused or neglected adults in Kansas. One covers residents of adult care homes and adult family homes (K.S.A. 39-1401-1410) and the other governs adults in general (K.S.A. 39-1421-1429). Neither statute provides the investigatory mechanisms or enforcement procedures required to stem the tide of elder abuse in our state as witnessed by the increasing incidence of its occurrence subsequent to the passage of these laws.

HB 2925 would make the following improvements in our statutory attempt to deal with this problem:

1) It combines the two existing statutes into one, coordinating disparate attempts to control elder abuse in nursing home, adult family home, and residential settings and enlarging the scope of protection for each.

2) It adds in Section 1. (a) (3) "any individual residing in their own home or residing in the home of another individual" making it perfectly clear that this statute is intended to include abuse by

*Attm #4
2-29-88
P/S/W*

family care-givers and expand the powers of SRS in cases of abused or neglected adults residing outside of adult care homes and adult family homes.

3) It adds "fiduciary abuse" to the list of unlawful acts.

4) It deletes medical care facilities (medical hospitals) and state institutions from the purview of the act since these are covered in other statutes.

5) It involves law enforcement in elder abuse by providing that reports shall be made to law enforcement when SRS services are not in operation, and by providing that when a criminal act appears to have occurred, law enforcement shall be notified immediately.

6) It inserts time frames throughout the statute that would require more expeditious processing of complaints and implementation of corrective action. *Sec 4. particularly.*

7) It establishes the requirement of a Corrective Action Plan in all cases that are confirmed in nursing homes and adult family homes. The Corrective Action Plan must specify what corrective action has been taken and what action will be taken to prevent future occurrences. All corrective actions specified in the plan must be carried out by the facility within 45 days of submitting the plan or SRS reports to the appropriate licensing authority for review and determination as a licensure issue.

8) It add a due process requirement for any person identified as a confirmed abuser prior to the entry of the person's name in the statewide registry.

9) It establishes a multi-disciplinary team approach to assist SRS in the implementation of this act through the use of law enforcement, as stipulated earlier, when an adult in a private home is in a life-threatening situation, and through the use of local health departments to help investigate medical reports.

10) It authorizes SRS to solicit necessary records to assist in investigations from private persons and public or private agencies.

In short, this bill coordinates into one statute the procedures to be followed in all cases of elder abuse, provides sanctions for perpetrators of abuse in private residences, and authorizes SRS, with the help of a multi-disciplinary team, to address the core of the problem in addition to providing protective services. And perhaps, best of all, SRS and the Department of Health and Environment have both indicated no fiscal impact on their departments should this bill become law.

Our increasing population of older adults susceptible to abuse requires the enactment of HB 2925.

Thank you.

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

Forbes Field

Topeka, Kansas 66620-0001

Phone (913) 296-1500

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*

Gary K. Hulett, Ph.D., *Under Secretary*

Testimony Presented To

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill No. 2925

BACKGROUND

The responsibility for investigating and resolving allegations of abuse and neglect in adult care homes was given to Social and Rehabilitation Services in 1980 because the program was viewed as a "protective service" function and because SRS had staff located across the state and could investigate complaints more quickly.

Experience has shown that the investigation and resolution of complaints of abuse/neglect in adult care homes is significantly different than in community settings. Adult care homes are already regulated by the Department of Health and Environment under state licensure and federal certification programs. The vast majority of incidents of abuse or neglect also constitute violations of licensure and certification standards. The current program is not oriented toward enforcement of standards protecting all residents of adult care homes, but is instead oriented toward attempting to protect the individual in the institutional environment.

ISSUES

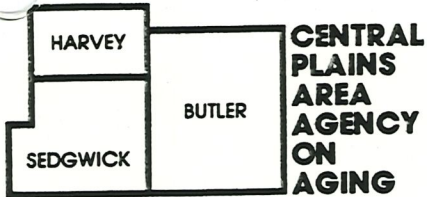
House Bill No. 2925 would continue the present "protective service" orientation of the abuse program in adult care homes and would continue to leave SRS with no authority to enforce compliance when abuse or neglect on the part of a facility is confirmed. For example, the bill gives SRS the authority to require a plan of correction from an adult care home but SRS cannot take any action if the adult care home fails to submit the plan of correction.

*Attn. #5
2-29-8
PSW*

DEPARTMENT POSITION

We recognize the concerns with the existing "protective service" program that gave rise to House Bill 2925 but we are concerned that the bill does not address the key issue with abuse/neglect in adult care homes. We recommend that the committee allow the Department of Health and Environment and the Department of Social and Rehabilitation Services to negotiate a different response to the concerns about abuse/neglect in adult care homes and recommend appropriate legislation to the 1989 legislative session.

Presented by: Richard J. Morrissey
Director, Bureau of Adult and Child Care
February 29, 1988



Sedgwick County, Kansas

Department on Aging

Room 306

COUNTY COURTHOUSE, 510 N. MAIN

WICHITA, KANSAS

TELEPHONE (316) 268-7298
INFORMATION & ASSISTANCE (316) 268-7824

HB 2925 Public Health and Welfare Committee
February 29, 1988

Testimony by Irene Hart, Director
Sedgwick County Department on Aging

Thank you for allowing me the opportunity to speak to you today. My presentation will include information about an Adult Abuse Task Force currently meeting in Sedgwick County, the results of a survey of 65 health and social services organizations in Sedgwick County, and finally, specific comments regarding HB 2925.

In Sedgwick County, we have a board composed of over thirty agencies and organizations that relate to frail or disabled elders. Based on increasing incidence, in the summer of 1987, board members determined that elder abuse in our community needed in-depth investigation. An Adult Abuse Task Force was formed; a listing of task force members is attached to this testimony.

The Task Force formed three committees and invited additional community members to participate. The committees were 1) Education; 2) Services; and 3) Legislative. The Education Committee is developing strategies to increase community awareness of adult abuse, neglect, and exploitation (ANE), increase awareness of community responsibility, and to train professionals to recognize actual and

*Attn #6
2-29-88
D.H. W*

potential situations. The Services Committee is involved in identifying community services necessary for preventing or remediating ANE situations, identifying gaps in the service system, and exploring means by which services can be linked to provide resources to potential or actual victims and perpetrators.

The Legislative Committee, of which I am a member, reviewed the current ANE law, briefly reviewed laws from other states, and reviewed SRS' proposed changes. My comments regarding HB 2925 are as a result of those analyses. The Legislative Committee has not had time to review this bill, so I am not testifying as their representative, but I do believe my comments will fairly represent the Committee's views.

In addition, I am providing you with the results of an agency and organization survey conducted by the Education Committee. Surveys were returned to the Committee by 52 individuals representing 38 agencies. Some of the findings are as follows:

- * 69% were familiar with ANE terms and had contact with at least one case in 1987.
- * 77% knew the correct agency to which to report ANE cases
- * 73% were not reluctant to report ANE cases
- * The most frequently identified service needed to prevent or resolve ANE was in-home services. Other responses included legal assistance, education, and changes in the SRS system.

- * 71% "agree to strongly agree" that ANE is a serious problem in our community.
- * 96% indicated they would be interested in more education or training
- * 98% "agree to strongly" agree efforts must be made to increase community awareness of the existence of adult abuse, and the appropriate agency to which cases are reported.

Many agencies were concerned about self-neglect, and agency inability to provide assistance because the individuals chose not to avail themselves of the service.

Included in the survey report attached to this testimony is a listing of comments provided by survey respondents in answer to some of the questions. I'd encourage you to review the comments, as they provide a more complete picture of staff member concerns.

Now, for my specific comments regarding HB 2925. I think it's a very good bill in that it corrects many of the weaknesses we have found in the existing law, and makes those corrections at little or no cost to the taxpayer. Particularly noteworthy are the following:

1. HB 2925 combines statutes which treat differently those adults residing in the community, from those residing in care homes or family homes. This reorganization shifts focus to the individual condition rather than their place of residence,

also providing less confusion about compliance with the ANE law.

2. Fiduciary abuse would now be specifically included in the law. Persons who have been made legally responsible for another's money or property will not be able to evade justice.
3. HB 2925 provides a framework for timely reporting of suspected ANE, and insures responsiveness from SRS in completing an investigation.
4. Law enforcement becomes specifically involved in receiving after-hours referrals, in investigating criminal acts, and assisting SRS in its investigation. Law enforcement professionals who have reviewed these proposals support the change.
5. The requirement of a corrective plan of action by care homes and family homes in which an ANE incident has been confirmed is a strong statement for the responsibility of an administrator for employee actions.
6. The statewide registry of all ANE reports and findings is a major step toward reducing opportunity for repeated incidences.
7. HB 2925 maintains protection of individual rights.

I would ask you, however, to consider three refinements to the bill:

1. It appears to me that, under this bill, SRS could attempt to investigate a reported ANE incident but be denied access to the alleged victim by a caretaker or other individual. An SRS investigator should have the ability to interview the alleged victim.
2. A registry of reported ANE incidents is of limited use if only SRS personnel have access to it. A home health agency or adult care home may unknowingly hire someone with a history of confirmed abuse; provision should be made for an employer to check a name through the registry.
3. Consideration should be given to establishing a "Hot line" for reporting ANE, similar to other established "hot lines". Publicity regarding the hot line will increase awareness of ANE and of the appropriate location for reporting suspected incidences.

Again, thank you for allowing me the opportunity to speak, and I'll try to answer any questions you might have.

2/29/88

ADULT ABUSE TASK FORCE MAILING LIST

Revised 10/87

Peggy Gardner 268-5196
Department of Education
St. Francis Regional Medical Center
P.O. Box 1358
Wichita, KS 67201

Dee Buchanan 261-8324
Adult Services Section Chief
Wichita, SRS
P.O. Box 1620
Wichita, KS 67201-1620

Arthur Binford 267-1321
Information and Referral Director
United Way
212 N. Market, #200
Wichita, KS 67202

Lori Marceau 268-4101
Crime Prevention Specialist
Wichita Police Department
455 N. Main
Wichita, KS 67202

Sheriff Mike Hill 268-7264
Sedgwick County Sheriff Department
525 N. Main
Wichita, KS 67203

Ann Walling, M.D. 261-2607
University of Kansas,
School of Medicine- Wichita
1010 N. Kansas
Wichita, KS 67214

William Reals, M.D. 261-2600
University of Kansas
School of Medicine
1010 N. Kansas
Wichita, KS 67214

Alexine Larson 522-2596
1333 Marlboro
Wichita, KS 67217

Frances Rogers 688-3198
HCA Wesley Family Practice Clinic
P.O. Box 47930
Wichita, KS 67201-7930

John Mileham 838-1212
KWCH TV
2815-East 37th Street, North (Box 12)
Wichita, KS 67201

Ronald Wilkinson, Attorney 267-0261
P.O. Box 3886
Wichita, KS 67201

Judge Robert C. Helsel 268-7474
Probate Division District Court
525 N. Main
Wichita, KS 67203

Irene Hart, Director 268-7298
Sedgwick County Department on Aging
510 N. Main
Wichita, KS 67203

The following people are not on the Adult Abuse Task Force, but have requested their names be included on the mailing list for meeting minutes and pertinent materials.

Molly Daniels
Legal Development Specialist
Kansas Department on Aging
610 West 10th Street
Topeka, KS 66612

Clark Owens, District Attorney
Sedgwick County Courthouse
535 N. Main
Wichita, KS 67203

ADULT ABUSE TASK FORCE SURVEY RESULTS

The Adult Abuse Task Force Survey was sent to 65 social service and health provider agencies and organizations in Sedgwick County. Thirty-eight (38) surveys were returned. The response rate (58%) is a good response rate for a mailed survey. Two organizations returned surveys completed by a number of different departments within the organizations. It was possible to separately tabulate the multiple responses from the two organizations. Therefore, there are 52 individual respondents included in the survey results.

1. 69% of respondents were familiar with terms Abuse, Neglect, and Exploitation (ANE) and had contact with at least one case in 1987.
27% of respondents were familiar with terms ANE and had no contact with a case in 1987.
2% of respondents not familiar with terms.
2. 77% of the agencies knew the correct agency to report ANE cases.
23% of the agencies did not know or named an incorrect agency.
SCDOA was the incorrect agency named most often.
3. 73% of respondents were not reluctant to report cases of ANE.
25% of agencies were a little or very reluctant to report.

The reason indicated most frequently for the reluctance to report was not being sure of the facts of the situation.

4. Some respondents indicated they had been in contact with hundreds of cases of self neglect. Many agencies indicated other contacts were estimates: Abuse- 89; Neglect- 66; and Exploitation- 71.
5. Services needed to resolve ANE: 11 mentioned in-home or supportive services. Legal assistance was mentioned by 3 respondents. Two respondents mentioned changes in the current SRS system.
6. Services needed to prevent ANE: 13 respondents mentioned in-home or supportive services. 7 mentioned Education. 6 mentioned a central clearinghouse or change in SRS system. 2 mentioned resource information for public.
7. 71% of respondents "agree to strongly agree" ANE is a serious problem in our community.
8. 96% of respondents indicated their agency would be interested in more education or training.
9. Percentages of total respondents who wanted training or education in the following areas:
79% local resources which may assist abused adults and perpetrators
60% investigation and intervention procedures of agency responsible for these activities
58% prevention strategies
56% recognizing cases of adult abuse, neglect and exploitation
52% identification of potential abusive situations
48% current legislation regarding ANE
37% theories of the causes of adult abuse

10. Generally, smaller agencies indicated 1-5 staff persons would attend a training. Larger agencies indicated many staff persons would attend an on-site training.
11. 98% of respondents "agree to strongly agree" efforts must be made to increase community awareness of the existence of adult abuse, and the appropriate agency to which cases are reported.

QUESTION 3

If you answered "a little reluctant" or "very reluctant", please indicate your reasons.

If the person is alert, they are choosing to stay in that situation, but to protect the client we report it anyway or else use other community resources to assist the patient.

Concern over whether I know the actual facts of a situation when abuse is suspected and when it is not visibly apparent as in the the case of physical abuse. Also whether the person reporting is reliable or competent in making the accusation.

The follow up isn't sufficient- i.e. We had a lady that was being physically abused and exploited; the abusers were allowed to stay in her home for several weeks.

The staff here is reluctant to report cases of abuse, neglect, or exploitation due to the lack of anonymity a person has ,and many times our information is not first hand knowledge.

We need to provide a good deal of information- never learn what is done to help the client and/or how the information we gave might be used.

Legal ramifications and risks involved in process.

Fear of creating a problem of making the client apprehensive toward the agency.

Not being sure of having all the facts; the true picture of the situation.

In the case of our program which serves Hispanics, assuming there are no bilingual case workers to handle the cases.

Not sure how to make the diagnosis and be certain. Sometimes the abuser is threatening to the physician.

Reluctant is not an appropriate word for our institution. Personal choice to live in an environment not conducive to good health or non-compliance with health instructions is one's choice to make.

QUESTION 5

If your agency was involved with any adult abuse, neglect, or exploitation cases in 1987, list any services which you think were needed to resolve the problem, but were unavailable.

Medicaid reimbursement for nursing homes without removing the spouses income from the home. Free pest control for low-income elderly.

With legal assistance and other supportive services most were put back on an even track.

I have found that many of the elderly I have dealt with were unaware of where they could turn for help.

Cooperation with police when an investigation indicates guilt. Cooperation with the state system to revoke a CNA certificate after determination of guilt, or repeated suspected abuse. State system for home health agencies to prevent hiring suspected abusers. Even before a certification is revoked suspicion should dictate that the worker only work in a supervised environment.

Support groups for people taking care of older parents.

Education

A central clearing house for employees and individuals involved in abuse cases.

A respite program for care providers.

Hotline and publicity about it. Anonymity for those who report. For individuals dependent on others for assistance, available respite care is vital and assistance for re-establishing their lives.

Information about agencies presently available to intervene and hours of service.

Respite care, hotline- 24 hours/day, 7 days/week

More authority at SRS-APS

Respite

Individuals to investigate allegations, public education, affordable respite care, daycare, home health care, housing options- congregate assisted living, personal care facilities.

Companion, volunteers willing to relieve caregivers

Shelter arrangements, education, child care

Develop emergency placements for handicapped adults.

Free or low cost counseling for abuser and abused, and transportation to therapy sessions.

More in-home care

Affordable day care for non-medicaid clients

Education to increase awareness on a community level. Translation services for non-English speaking persons. Case workers trained in the cultural attitudes of the many ethnic groups in the community. Less time between reporting and investigation.

More social workers available in field. Informational programs for providers. Higher visibility from SRS.

Our system of instructing a reference provider in being candid about reasons for termination is a direct assault upon the helpless for whom they provide care. While an abusive person could be jailed for injuring a neighbor, he doesn't even miss a days work in the elder care system.

I believe the services were available.

SRS if so overloaded they can't do case management necessary.

Money for more staff to provide companion services for those unable to care form themselves.

Respite care, home health care, and housekeeping assistance

The abuse case we encountered was handled extremely well by the police.

Respite care for caregivers

Advocates are needed. Legal aid is extremely busy, can't take all cases and does not have the resources for completing necessary investigations.

Inexpensive personal care assistance if person doesn't qualify for mill levy and is no longer receiving a skilled service from home health.

Housing, alternate living arrangements, finances, care for children, job placement

We'd like to see affordable legal help more readily available. It is not easy to get quick help from legal aid. The police seem so restricted in what they can do to prevent harm to a client unless the harm is so potential it's practically unavoidable- too late.

More affordable in-home services

Respite care to relieve primary caregivers. Mental health counseling for involuntary clients who are abusers. "Safe houses" for the abused to live temporarily. Support groups for abusers and potential abusers.

Daily home care

Service which would locate and take the mentally ill to the appropriate facility. Emergency medical service.

Unbiased, non-family member to be guardian. Education of public on prevalence and unacceptable manifestation of violence in our society. Financial counseling, more visiting personnel, information on what is available. Evidence that SRS acts on reported cases.

Question 6

List any services you think are needed to prevent adult abuse, neglect, or exploitation, but are presently unavailable.

Private duty help for the frail elderly covered by Medicare and Medicaid.

More programs to teach the community.

Public education so people are more comfortable with admitting to self abuse or other abuse, exploitation, neglect situations involving themselves or others. Hotline for information and assistance with adult abuse cases.

QUESTION 10

How many staff persons in you agency would attend a program of interest?

Generally, smaller agencies indicated 1 to 5 staff persons would attend a training or education program. Larger agencies indicated attendance would include many staff persons if the program was presented on site.

ADULT ABUSE TASK FORCE ADULT ABUSE, NEGLECT AND EXPLOITATION SURVEY

SURVEY PURPOSE:

To assess community problems related to abuse, neglect or exploitation of adults, an Adult Abuse Task Force of community healthcare and service professionals has been formed. This survey is important in defining the scope of the problem in our community. Survey information will be confidential; results will be tabulated; no agency will be identified in the results.

To assist the Task Force in this important function, will you please complete the questions below and return this questionnaire to:

Amy Moore
Sedgwick County Department on Aging
510 N. Main, Room 306
Wichita, Kansas 67203

SURVEY DEFINITIONS:

This survey refers to abuse, neglect, and exploitation occurring in the community, not in nursing homes or other health care institutions.

Adult - For the purposes of this survey, adult refers to any individual 18 years of age or older who due to vulnerability is dependent upon another person. This dependency (typically due to age or handicap) is a contributing factor to the abuse, neglect, or exploitation of the individual.

Abuse - willful infliction of physical or mental injury which is detrimental to adult's well-being, e.g., hitting, sexually molesting, physically restraining, threatening.

Neglect - refusal or failure to fulfill a care-taking obligation which is essential to insure the well-being of the adult, e.g., deliberate abandonment or denial of adequate shelter, food, or health-related services.

Exploitation - unjust or improper use of adult's resources including money and property, e.g., using adult's income for things other than adult's care, taking or selling adult's belongings against adult's wishes, forcing adult to change a will.

Self-neglect - refers to an adult, often living alone, who plays a role in his/her own demise usually because of mental deterioration or physical incapacity, e.g., refusal of needed services or medical care, refusal to leave a residence which is health-threatening.

AGENCY NAME _____

NAME OF PERSON COMPLETING SURVEY _____

POSITION _____

1. Please check one of the following statements.

- | | | |
|-----------|------------|---|
| <u>1</u> | <u>2%</u> | This agency's staff is not familiar with the terms adult abuse, neglect, and exploitation. |
| <u>14</u> | <u>27%</u> | This agency's staff is familiar with the terms adult abuse, neglect, and exploitation and did not come into contact with any situations involving adult abuse, neglect, or exploitation in 1987. |
| <u>36</u> | <u>69%</u> | This agency's staff is familiar with the terms adult abuse, neglect, and exploitation, and came into contact with at least one situation involving adult abuse, neglect, or exploitation in 1987. |

- | | | |
|----------|-----------|-----|
| <u>1</u> | <u>2%</u> | NA* |
|----------|-----------|-----|
2. Does your agency's staff know the agency to which cases of adult abuse in this community should be reported?
- | | | | | | | |
|-----------|------------|-----|-----------|------------|----|---|
| <u>40</u> | <u>77%</u> | yes | <u>12</u> | <u>23%</u> | no | (includes respondents who named incorrect agency below) |
|-----------|------------|-----|-----------|------------|----|---|

Please name the agency to whom your staff would report a case of adult abuse, neglect, or exploitation.

* No Answer

3. How reluctant is your agency's staff to report a case of adult abuse, neglect, or exploitation?
- | | | | | |
|-----------|------------|--------------------|----------|--------------|
| <u>2</u> | 4% | very reluctant | | |
| <u>11</u> | <u>21%</u> | a little reluctant | <u>1</u> | <u>2%</u> NA |
| <u>38</u> | <u>73%</u> | not reluctant | | |

If you answered "a little reluctant" or "very reluctant," please indicate your reasons.

See next page

4. Using the definitions at the beginning of the survey, specify as best you can the number of cases of adult abuse, neglect, and exploitation (definitely or highly suspicious) with which your agency came into contact in 1987.

<u>89</u>	abuse	
<u>66</u>	neglect	
<u>71</u>	exploitation	
<u>100's</u>	self neglect	Many respondents indicated they were in contact with hundreds of cases of self-neglect

5. If your agency was involved with any adult abuse, neglect, or exploitation cases in 1987, list any services which you think were needed to resolve the problem, but were unavailable.

See next page

6. List any services you think are needed to prevent adult abuse, neglect, or exploitation, but are presently unavailable.

See next page

7. Please circle the reply which best fits this statement: "This agency's staff believes that abuse, neglect, and/or exploitation of dependent adults is a serious problem in this community."
- | | | | | | | | | | | | |
|-----------|-----|----------|-----|-----------|-----|----------|-----|----------|----|----------|-----|
| <u>10</u> | 19% | <u>8</u> | 15% | <u>19</u> | 37% | <u>8</u> | 15% | <u>1</u> | 2% | <u>6</u> | 12% |
| strongly | | slightly | | agree | | slightly | | strongly | | NA | |
| agree | | agree | | | | disagree | | disagree | | | |

8. Would your agency's staff be interested in more training or education regarding adult abuse?

50 96% yes 2 4% no

9. Please check any of the following areas which would be of interest.
- | | | |
|-----------|------------|--|
| <u>29</u> | <u>56%</u> | Recognizing cases of adult abuse, neglect, or exploitation |
| <u>25</u> | <u>48%</u> | Current legislation regarding adult abuse, neglect, and exploitation |
| <u>19</u> | <u>37%</u> | Theories of the causes of adult abuse |
| <u>41</u> | <u>79%</u> | Local resources which may assist abused adults and perpetrators |
| <u>27</u> | <u>52%</u> | Identification of potential abusive situations |
| <u>31</u> | <u>60%</u> | Investigation and intervention procedures of agency responsible for these activities |
| <u>30</u> | <u>58%</u> | Prevention strategies |

10. How many staff persons in your agency would attend a program of interest?

See next page

11. Please circle the reply which best fits this statement:

"This agency's staff believes efforts must be made to increase community awareness of the existence of adult abuse and the appropriate agency to which suspected cases of adult abuse, neglect, and exploitation should be reported."

<u>22</u>	42%	<u>15</u>	29%	<u>14</u>	27%	-0-	-0-	<u>1</u>	2%
strongly		slightly		agree		slightly		strongly	NA
agree		agree				disagree		disagree	



DATE: FEBRUARY 29, 1988
TO: HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE
SUBJECT: HOUSE BILL NO. 2925; ABUSE, NEGLECT AND EXPLOITATION OF CERTAIN ADULTS

REPRESENTATIVE LITTLEJOHN AND COMMITTEE MEMBERS:

ON BEHALF OF THE KANSAS HEALTH CARE ASSOCIATION (KHCA), WHICH REPRESENTS OVER 200 LICENSED ADULT CARE HOMES IN KANSAS, PROPRIETARY AND NON-PROFIT ENTITIES, THANK YOU FOR THIS OPPORTUNITY.

WE SEE THE BILL AS AN ATTEMPT TO COMBINE THE ELEMENTS OF THE INSTITUTIONAL ABUSE REPORTING REQUIREMENTS WITH PROVISIONS OF THE GENERAL ADULT REPORTING REQUIREMENTS AND AN EFFORT TO ESTABLISH SPECIFIC TIME TABLES FOR THE AGENCY TO CONDUCT IT'S REVIEW AND INVESTIGATION OF REPORTED ALLEGATIONS.

THREE RECOMMENDATIONS ARE SUBMITTED FOR YOUR CONSIDERATION:

A. CATEGORY OF FACILITIES COVERED UNDER ACT.
CURRENT LAW INCLUDES MEDICAL FACILITIES AS DEFINED BY K.S.A. 65-435(B), WHICH ARE OPERATED BY THE STATE OR FEDERAL GOVERNMENT. WHY HAVE THEY BEEN EXCLUDED FROM THE BILL?

*Attn #7
2-29-8
PH + WPP* "We Care"

IN ADDITION, WE'D SUGGEST THE INCLUSION OF STATE OPERATED (SRS) FACILITIES FOR THE MENTALLY ILL AND MENTALLY RETARDED, DEFINED IN K.S.A. 75-3307B. THESE WOULD INCLUDE THE SMALL, 40-BED OR LESS, ADULT RESIDENTIAL FACILITIES FOR THE MENTALLY ILL OR RETARDED. IN OUR OPINION, THIS DESERVES SERIOUS CONSIDERATION FOR THE PROTECTION OF PERSONS LIVING IN SUCH FACILITIES.

B. CORRECTIVE ACTION PLAN BY ADULT CARE HOME (PAGE 6, SECTION 5). A CORRECTIVE ACTION PLAN WOULD HAVE TO BE DEVELOPED AND IMPLEMENTED IN 45 DAYS.

OUR READING OF THE BILL DOESN'T INDICATE ANYWHERE THAT THE ADULT CARE HOME WILL RECEIVE A SUMMARY OF THE INVESTIGATIVE FINDINGS (REFERENCE SECTION 4 (A)(3) ABOVE). THIS WOULD BE NEEDED IN ORDER TO COMPLY WITH THE NEW REQUIREMENT.

SECOND, WE'RE NOT CERTAIN THAT THIS SECTION IS REALLY NEEDED. THE CORRECTIVE ACTION PLAN FOR ANY EMPLOYEE FOUND TO HAVE HAD MISTREATED A RESIDENT, STATUTE ASIDE, IS DISCHARGE. THIS TYPE OF UNACCEPTABLE CONDUCT IS COVERED IN FACILITIES' OPERATIONAL AND POLICY AND PROCEDURAL GUIDELINES. OF COURSE, THIS IS AN AFTER-THE-FACT ACTION.

HOUSE COMMITTEE ON PH&W
FEBRUARY 29, 1988
H.B. 2925
PAGE THREE

ADULT CARE HOMES ARE REQUIRED TO CONDUCT, ON-SITE, IN-SERVICE TRAINING PROGRAMS FOR THEIR STAFF. A REQUIRED TOPIC IS PATIENT RIGHTS WHICH INCLUDES TREATING RESIDENTS WITH RESPECT AND DIGNITY. ALSO, THIS ASSOCIATION AND OTHER TRADE ORGANIZATIONS AS WELL AS THE LONG TERM CARE OMBUDMAN, PERIODICALLY HOLD SEMINARS ON THE ABUSE ACT AND ITS REQUIREMENTS.

IF AN ALLEGATION IS FOUNDED BASED UPON SRS'S INVESTIGATION, THIS INFORMATION IS REPORTED TO THE LICENSURE AGENCY. IF CORRECTIVE ACTION IS APPROPRIATE, IT IS THEN HANDLED THROUGH THE NORMAL LICENSURE FUNCTION.

C. DISCLOSURE OF NAMES OF CONFIRMED PERPETRATORS.
MOST WORTHY IN OUR OPINION IS AN AMENDMENT TO THE BILL WHICH WOULD DISCLOSE THE NAMES OF CONFIRMED ABUSERS OF ADULTS TO NOT ONLY ADULT CARE HOMES BUT ALSO TO OTHER ENTITIES WHICH SERVE THE ELDERLY.

WE CERTAINLY DON'T WANT TO HAVE EMPLOYED IN OUR ADULT CARE HOMES PERSONS WHO HAVE BEEN FOUND GUILTY OF MISTREATING ELDERLY ADULTS.

LINE 0237 ON PAGE 7 COULD POSSIBLY HOST SUCH AN AMENDMENT:

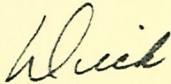
... INDIVIDUAL, EXCEPT SUCH INFORMATION

HOUSE COMMITTEE ON PH&W
FEBRUARY 29, 1988
H.B. 2925
PAGE FOUR

IDENTIFYING THE NAMES OF CONFIRMED PERPETRATORS
MAY BE DISCLOSED TO AN ADULT CARE HOME OR OTHER
PERSONS OR ENTITIES WHICH PROVIDE CARE, TREATMENT
OR ACCOMMODATIONS TO ELDERLY ADULTS.

THANK YOU FOR THIS OPPORTUNITY. I WOULD BE HAPPY TO
RESPOND TO ANY QUESTIONS.

SINCERELY,



DICK HUMMEL
EXECUTIVE VICE PRESIDENT

DH:JN



Kansans for Improvement of Nursing Homes, Inc.

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

TESTIMONY PRESENTED TO THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE
CONCERNING HB 2925

February 29, 1988

Mr. Chairman and Members of the Committee:

HB 2925 is a noteworthy effort to deal with a system of abuse investigation which Kansans for Improvement of Nursing Homes agrees does not always work as well as we would like. However, we see some problems in trying to draw together both institutional and non-institutional abuse investigation into a single system. We believe the requirements of abuse investigation in institutions are quite different from investigations in non-institutional settings.

Specifically, we would like to see the Department of Health and Environment involved in the procedure in institutions much earlier than would be the case in the proposed legislation. HB 2925 brings in the Department of Health and Environment only after the investigation confirms abuse and a corrective action plan has not been implemented within 45 days. KINH, however, believes that H&E should be involved from the outset of the investigation and in developing the plan of correction in most cases of abuse occurring in nursing homes, since that Department has both the regulatory responsibility and the enforcement authority.

Of the 1078 cases of suspected abuse in institutions reported to SRS in FY 1987, nearly half (518) were confirmed. Of those, well over half (382) were attributed in some part to staff. And in instances involving staff, KINH believes that H&E has an immediate stake in assessing whether violations of state regulations are involved -- failure to train staff properly, failure to supervise adequately, failure to carry out procedures required by law or by regulation. Health and Environment should certainly be a party to approving the corrective action plan. The failure to utilize the expertise and authority of H&E is the most serious flaw we see in this legislation.

We note in Sec. 5(c) that "all corrective actions outlined in the plan shall be implemented by the facility within 45 days of submitting the plan to the department", but it does not provide that the department may require implementation, in some circumstances, before 45 days.

Sec. 6(a) requires that a copy of the report of abuse be forwarded to the Secretary of Health and Environment and to the Secretary on Aging, but does not specify at what stage in the investigation such report is to be forwarded. Again, in the interest of closer coordination of the functions of the three agencies, we believe a timely exchange of information is very important and should be spelled out in the statute. Further, KINH believes that Health and Environment and the Department on Aging should also have access to the registry of reported abusers.

Attn. #8
2-29-8
PACW

Sec. 7 requires that when SRS needs medical expertise to conduct the investigation they must investigate jointly with the local health department. Not all local health departments have either the staff time nor the appropriate training in investigative procedures to conduct such an investigation. While it might be appropriate in some instances to involve local health departments, in others the H&E surveyors would be better able to assist.

KINH would like to see a concerted effort made by the Departments of Social and Rehabilitation Services, Health and Environment, and Aging to develop a coordinated plan that appropriately and efficiently addresses the problems in the current system of abuse and complaint investigation. HB 2925 may be some small improvement -- we are not sure. There remain several fundamental flaws that should be addressed as a unified system.

Marilyn Bradt
Legislative Coordinator

The Honorable Marvin Littlejohn, Chairperson
Committee on Public Health and Welfare
House of Representatives
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for House Bill No. 2104 by Committee on Public Health and Welfare

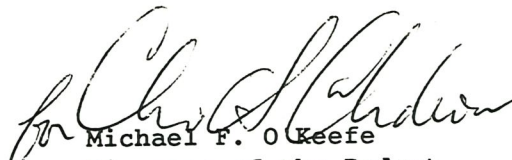
In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2104 is respectfully submitted to your committee.

House Bill No. 2104 amends K.S.A. 75-5397a to allow the Department of Social and Rehabilitation Services to deposit in the Social Welfare Fund monies received by the Kansas Commission for the Deaf and Hearing Impaired from fees collected for providing interpreter services and sign language instruction. Currently the fees are deposited in the State General Fund.

In FY 1987 \$27,046 in fees from these services was deposited in the State General Fund. In FY 1988 it is estimated that \$32,540 will be deposited. Activities of the Commission for the Deaf and Hearing Impaired are funded from State General Fund and federal funds.

If these fees were deposited in the Social Welfare Fund and no reduction in funding was made to SRS's budget, State General Fund revenues would decrease by the same amount. However, if a like amount of state general funds were reduced in the agency's budget, no fiscal impact would result.

This bill would take effect from and after its publication in the statute book.


Michael F. O'Keefe
Director of the Budget

MFO:SKD:sr

cc: Winston Barton, Secretary of Social and Rehabilitation Services

2042

*Attn. #9
2-29-8
PH+W*

Fiscal Note
1988 Session
February 25, 1988

Bill No.

The Honorable Marvin Littlejohn, Chairperson
Committee on Public Health and Welfare
House of Representatives
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for House Bill No. 2414 by Committee on Public Health and Welfare

In accordance with K.S.A. 75-3715a, the following fiscal note concerning House Bill No. 2414 is respectfully submitted to your committee.

House Bill No. 2414 amends K.S.A. 68-432 to allow the sale of products by a blind person within the right-of-way of any state highway subject to rules and regulations adopted by the Secretary of Transportation. The bill pertains to areas outside the limits of any city.

The Department of Transportation has indicated that there would be little or no fiscal impact upon the agency as a result of passage of House Bill No. 2414.

The Department of Social and Rehabilitation Services has indicated that it is not possible at this time to estimate the fiscal impact on the agency as it would be determined by the number of individuals requiring state assistance for establishing a vendor operation.



Michael F. O'Keefe
Director of the Budget

MFO:SD:pks

cc: Winston Barton, Secretary of Social and Rehabilitation Services
Horace Edwards, Secretary of Transportation

2100

*Attn #10
2-29-8
PH & W*

HOUSE BILL No. 2972

By Committee on Public Health and Welfare

2-16

0017 AN ACT concerning training of guide dogs and hearing assist-
0018 ance dogs; authorizing such dogs to accompany their trainers
0019 upon certain premises for training purposes.

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

0021 Section 1. Every person who is participating in a training
0022 program for guide dogs or hearing assistance dogs, or both, to
0023 assist blind, visually or hearing handicapped persons, which
0024 training program has been approved by or is operated under the
0025 auspices of the Kansas state university extension service, shall
0026 have the right to be accompanied by a guide dog or hearing
0027 assistance dog candidate or guide dog or hearing assistance dog
0028 trainee for the purpose of development, socialization or training
0029 of the dog for guide dog or hearing assistance dog purposes, in or
0030 upon any of the places listed in K.S.A. 39-1101 and amendments
0031 thereto without being required to pay an extra charge for the
0032 guide dog or hearing assistance dog candidate or trainee, except
0033 that such person shall be liable for any damage done to the
0034 premises or facilities by such dog.

0035 Sec. 2. This act shall take effect and be in force from and
0036 after its publication in the statute book.

for guide dogs or in or upon any of the places listed in
K.S.A. 39-1107 and amendments thereto for hearing assist-
ance dogs

Attn. # 11
2-29-8
PH+U

Attn. # 11
2-29-8
PH+U

HOUSE BILL No. 2643

By Special Committee on Public Health and Welfare

Re Proposal No. 29

12-16

[material within brackets would be deleted]

0018 AN ACT concerning certain health care providers; relating to
0019 regulation, risk management and peer review; amending
0020 K.S.A. 65-4216 and 65-4217 and K.S.A. 1987 Supp. 65-430,
0021 65-4915, 65-4921, 65-4923 and 65-4930 and repealing the
0022 existing sections.

0023 *Be it enacted by the Legislature of the State of Kansas:*

0024 Section 1. K.S.A. 1987 Supp. 65-4915 is hereby amended to
0025 read as follows: 65-4915. (a) As used in this section:

0026 (1) "Health care provider" has the meaning provided by
0027 means: (A) *Those persons and entities defined as a health care*
0028 *provider under K.S.A. 40-3401 and amendments thereto; and (B)*
0029 *a dentist licensed by the Kansas dental board, a dental hygienist*
0030 *licensed by the Kansas dental board, a professional nurse li-*
0031 *censed by the board of nursing, a practical nurse licensed by the*
0032 *board of nursing, a mental health technician licensed by the*
0033 *board of nursing, a physical therapist assistant certified by the*
0034 *state board of healing arts, an occupational therapist registered*
0035 *by the state board of healing arts, an occupational therapy*
0036 *assistant registered by the state board of healing arts and a*
0037 *respiratory therapist registered by the state board of healing*
0038 *arts.*

0039 (2) "Health care provider group" means:

0040 (A) A state or local association of health care providers;

0041 (B) the board of governors created under K.S.A. 40-3403 and
0042 amendments thereto;

0043 (C) an organization of health care providers formed pursuant
0044 to state or federal law and authorized to evaluate medical and
0045 health care services;

Attn #12
2-29-8
P.H.W.

Attn #12
2-29-8
P.H.W.

0046 (D) a review committee operating pursuant to K.S.A. 65-
0047 2840b through 65-2840d, and amendments thereto;

0048 (E) an organized medical staff of a licensed medical care [or a private psychiatric hospital licensed under K.S.A.
0049 facility as defined by K.S.A. 65-425 and amendments thereto; 75-3307b and amendments thereto

0050 (F) a health care provider; or

0051 (G) a professional society of health care providers or one or
0052 more committees thereof.

0053 (3) "Peer review" means any of the following functions:

0054 (A) Evaluate and improve the quality of health care services
0055 rendered by health care providers;

0056 (B) determine that health services rendered were profes-
0057 sionally indicated or were performed in compliance with the
0058 applicable standard of care;

0059 (C) determine that the cost of health care rendered was
0060 considered reasonable by the providers of professional health
0061 services in this area;

0062 (D) evaluate the qualifications, competence and performance
0063 of the providers of health care or to act upon matters relating to
0064 the discipline of any individual provider of health care;

0065 (E) reduce morbidity or mortality;

0066 (F) establish and enforce guidelines designed to keep within
0067 reasonable bounds the cost of health care;

0068 (G) conduct of research;

0069 (H) determine if a hospital's facilities are being properly
0070 utilized;

0071 (I) supervise, discipline, admit, determine privileges or con-
0072 trol members of a hospital's medical staff;

0073 (J) review the professional qualifications or activities of
0074 health care providers;

0075 (K) evaluate the quantity, quality and timeliness of health
0076 care services rendered to patients in the facility;

0077 (L) evaluate, review or improve methods, procedures or
0078 treatments being utilized by the medical care facility or by
0079 health care providers in a facility rendering health care.

0080 (4) "Peer review officer or committee" means an individual
0081 employed, designated or appointed by, or a committee of or
0082 employed, designated or appointed by, a health care provider

0083 group and authorized to perform peer review.

0084 (b) Except as provided by K.S.A. 60-437 and amendments
0085 thereto and by subsections (c) and (d), the reports, statements,
0086 memoranda, proceedings, findings and other records of peer
0087 review committees or officers shall be privileged and shall not
0088 be subject to discovery, subpoena or other means of legal com-
0089 pulsion for their release to any person or entity or be admissible
0090 in evidence in any judicial or administrative proceeding. Infor-
0091 mation contained in such records shall not be discoverable or
0092 admissible at trial in the form of testimony by an individual who
0093 participated in the peer review process. This privilege may be
0094 claimed by the legal entity creating the peer review committee
0095 or officer, or by the commissioner of insurance for any records or
0096 proceedings of the board of governors.

0097 (c) Subsection (b) shall not apply to proceedings in which a
0098 health care provider contests the revocation, denial, restriction
0099 or termination of staff privileges or the license, registration,
0100 certification or other authorization to practice of the health care
0101 provider.

0102 (d) Nothing in this section shall limit the authority, which
0103 may otherwise be provided by law, of the commissioner of
0104 insurance, the state board of healing arts or other health care
0105 provider licensing or disciplinary boards of this state to require a
0106 peer review committee or officer to report to it any disciplinary
0107 action or recommendation of such committee or officer; to
0108 transfer to it records of such committee's or officer's proceedings
0109 or actions to restrict or revoke the license, registration, certifica-
0110 tion or other authorization to practice of a health care provider; or
0111 to terminate the liability of the fund for all claims against a
0112 specific health care provider for damages for death or personal
0113 injury pursuant to subsection (i) of K.S.A. 40-3403 and amend-
0114 ments thereto. ~~Prior to the filing of an action initiating a formal~~
0115 ~~disciplinary proceeding against a health care provider by the~~
0116 ~~state board of healing arts or other health care provider licensing~~
0117 ~~or disciplinary boards of this state;~~ Reports and records so fur-
0118 nished shall not be subject to discovery, subpoena or other
0119 means of legal compulsion ~~and for their release to any persons~~

0120 person or entity will not be admissible in evidence in any
 0121 judicial or administrative proceeding. After such an action is
 0122 filed, the reports and records dealing with the licensee and
 0123 related to the action shall be deemed public records and shall
 0124 not be admissible in evidence in any judicial or administrative
 0125 proceeding other than a disciplinary proceeding by the state
 0126 board of healing arts or other health care provider licensing or
 0127 disciplinary boards of this state.

to and discuss
 activities, information and
 other
 committees or officers

0128 (e) A peer review committee or officer may report its findings
 0129 to another peer review committee or officer or to a board of
 0130 directors or an administrative officer of a health care provider
 0131 without waiver of the privilege provided by subsection (b) and
 0132 the records of all such committees or officers relating to such
 0133 report shall be privileged as provided by subsection (b).

0134 Sec. 2. K.S.A. 1987 Supp. 65-4921 is hereby amended to read
 0135 as follows: 65-4921. As used in K.S.A. 1986 1987 Supp. 65-4921
 0136 through 65-4930, and amendments thereto:

0137 (a) "Appropriate licensing agency" means the agency that
 0138 issued the license to the individual or health care provider who
 0139 is the subject of a report under this act.

0140 (b) "Department" means the department of health and envi-
 0141 ronment.

0142 (c) "Health care provider" has the meaning provided by
 0143 means: (1) Those persons and entities defined as a health care
 0144 provider under K.S.A. 40-3401 and amendments thereto; and (2)
 0145 a dentist licensed by the Kansas dental board, a dental hygienist
 0146 licensed by the Kansas dental board, a professional nurse li-
 0147 censed by the board of nursing, a practical nurse licensed by the
 0148 board of nursing, a mental health technician licensed by the
 0149 board of nursing, a physical therapist assistant certified by the
 0150 state board of healing arts, an occupational therapist registered
 0151 by the state board of healing arts, an occupational therapy
 0152 assistant registered by the state board of healing arts and a
 0153 respiratory therapist registered by the state board of healing
 0154 arts.

0155 (d) "License," "licensee" and "licensing" include compara-
 0156 ble terms which relate to regulation similar to licensure, such as

0157 certification or registration.

0158 (e) "Medical care facility" has the meaning provided by
 0159 means: (1) A medical care facility licensed under K.S.A. 65-425
 0160 et seq. and amendments thereto; ~~and~~ (2) a private psychiatric
 0161 hospital licensed under K.S.A. 75-3307b and amendments
 0162 thereto.

0163 (f) "Reportable incident" means an act by a health care
 0164 provider which: (1) Is or may be below the applicable standard of
 0165 care and has a reasonable probability of causing injury to a
 0166 patient; or (2) may be grounds for disciplinary action by the
 0167 appropriate licensing agency.

0168 (g) "Risk manager" means the individual designated by a
 0169 medical care facility to administer its internal risk management
 0170 program and to receive reports of reportable incidents within the
 0171 facility.

0172 (h) "Secretary" means the secretary of health and environ-
 0173 ment.

0174 Sec. 3. K.S.A. 1987 Supp. 65-4923 is hereby amended to read
 0175 as follows: 65-4923. (a) If a health care provider, ~~or a medical care~~
 0176 ~~facility agent or employee who is directly involved in the deliv-~~
 0177 ~~ery of health care services,~~ has knowledge that a health care
 0178 provider has committed a reportable incident, such health care
 0179 provider, ~~agent or employee~~ shall report such knowledge as
 0180 follows:

0181 (1) If the reportable incident did not occur in a medical care
 0182 facility, the report shall be made to the appropriate state or
 0183 county professional society or organization, which shall refer the
 0184 matter to a professional practices review committee duly consti-
 0185 tuted pursuant to the society's or organization's bylaws. The
 0186 committee shall investigate all such reports and take appropriate
 0187 action. The committee shall have the duty to report to the
 0188 appropriate state licensing agency any finding by the committee
 0189 that a health care provider acted below the applicable standard
 0190 of care which action had a reasonable probability of causing
 0191 injury to a patient, or in a manner which may be grounds for
 0192 disciplinary action by the appropriate licensing agency, so that
 0193 the agency may take appropriate disciplinary measures.

; and (3) state psychiatric hospitals and state institu-
 tions for the mentally retarded, as follows: Larned state
 hospital, Osawatomie state hospital, Rainbow mental health
 facility; Topeka state hospital, Kansas neurological insti-
 tute, Norton state hospital, Parsons state hospital and
 training center and Winfield state hospital and training
 center

Note: KDHE is opposed to the deletions in subsection (a).

Note: Representative Shallenburger may offer an amend-
 ment to this bill.