

Approved _____

Date 3-14-88

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 March 3, 1988 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Research
Carolyn Rampey, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chairman called meeting to order, noting hand-outs, (Attachment No. 1, is letter from Jim Snyder, Kansas Funeral Director's Association), and (Attachment No. 2, letter from Reverend Dick Taylor).

Chair noted heavy agenda, and work on a large number of bills is necessary this date. Work proceeded.

HB 2823:

(Attachment No. 3, indicated as amendment for HB 2823 was handed out, Chair had asked sponsors of the bill to work together and clarify language and again present to full committee when the bill was ready to be worked. (Amendment is self-explanatory). Rep. Harder made a motion to adopt the amendment for HB 2823, seconded by Rep. Hassler. On the bill as a whole, Rep. Branson moved to report HB 2823 out favorably as amended, seconded by Rep. Amos. Discussion ensued, intent of bill is good, however, reality of enforcing this measure is unrealistic; some schools have already implemented their own regulations without State intervention. Question called for by Rep. Buehler, vote taken, motion carried.

HB 2777:

Chair invited Mr. Furse to explain Amendment on HB 2777, (Attachment No. 4). He gave a detailed explanation. Rep. Hassler made a motion to accept the recommendation of the balloon on HB 2777 with the exception of the first suggested changes line 29, seconded by Rep. Amos. Discussion ensued, i.e., some see a need for this language regarding police custody, some did not. Vote taken, motion carried.

Rep. Gatlin made a motion to accept the language offered in balloon on page 2-3, line 29, to insert, "or when in police custody, or when in jail or correctional institution,". Motion seconded by Rep. Whiteman, vote taken, motion carried.

Rep. Blumenthal made a conceptual motion that a new section be added to include Religious Groups be exempted from having autopsies performed, seconded by Rep. Whiteman. Discussion ensued. Mr. Furse was asked to insert this language where appropriate. Vote taken, motion carried.

Rep. Neufeld made a motion at recommendation of Ks. Department of Health and Environment to insert on line 37, after "liveborn person", "in the first year of life". Motion seconded by Rep. Hassler, vote taken, motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-§ Statehouse, at 1:30 /a.m./p.m. on March 3, 1988.

Action continues on HB 2777:-

HB 2777 as a whole: Rep. Buehler moved to report HB 2777 favorably as amended, seconded by Rep. Whiteman. No discussion. Vote taken, motion carried.

It was noted at this time, perhaps this would be recommended for Interim Study.

HB 2978:

There was a suggested amendment (on back of Attachment No. 1). Line 30 would have language added after the word prepare, "or authorize". Further, Chair asked Mr. Furse to explain an amendment on balloon that had been drafted per a request, (Attachment No. 5). Discussion held, i.e., in absence of physician, a family member would make the report of whether or not the person died had a contagious disease; but the family may not realize the law; if in nursing care facility then the responsibility of personnel at that facility.

Rep. Buehler moved to adopt proposed amendments on HB 2978, seconded by Rep. Branson. Question called for by Rep. Buehler, vote taken, motion carried.

Rep. Buehler moved to pass HB 2978 favorably out as amended, seconded by Rep. Branson, motion carried.

HB 2980:

Mr. Furse drew attention to amendment on HB 2980, (Attachment No. 6). Mr. Furse explained the amendment and rationale for appropriate time to give notice. Rep. Branson moved to adopt amendments as proposed in balloon copy of HB 2980, seconded by Rep. Shallenburger, motion carried.

HB 2980 as a whole: Rep. Amos moved to pass HB 2980 out favorably as amended, seconded by Rep. Sader. Discussion followed, i.e., concerns with inability to notify next of kin when no address is available; approval for cremation must be obtained; John Doe would be buried, not cremated. Question called for by Rep. Green, vote taken, motion carried.

Chair noted it would be necessary to pass over HB 3032 this date since there are some technical concerns.

HB 3030 and HB 3031:

Rep. Neufeld noted that since HB 3030 and HB 3031 have only been in effect a few months, it is too soon to change that legislation, and he moved to table HB 3030, and HB 3031, motion seconded by Rep. Blumenthal. Discussion ensued. Vote taken, motion failed.

HB 3030:

It was noted there is need for cleanup in HB 3030, i.e., lines 37 and 38, to add new (g) the language that appears in lines 135-140. This will make language uniform. Rep. Whiteman moved to add new (g) in line 37, using the language appearing in lines 135-40, motion seconded by Rep. Harder, no discussion, vote taken motion carried.

HB 3030 as a whole, Rep. Hassler moved to pass the bill out favorably as amended, seconded by Rep. Harder. Vote taken, motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 1:30 //a.m./p.m. on March 3, 1988.

HB 3031:

Rep. Amos moved to pass HB 3031 favorably out of committee, seconded by Rep. Buehler. No discussion. Vote taken, motion carried.

HB 2901:

Rep. Gatlin made a motion to accept the proposed amendments shown in balloon copy of HB 2901, (attachment No. 7), seconded by Rep. Green. Discussion ensued. Vote taken, motion carried.

HB 2901 as a whole: Rep. Green moved to report HB 2901 favorably out of committee as amended, seconded by Rep. Hassler, motion carried.

HB 2977:

(Attachment No. 8) was provided as proposed amendment to HB 2977. Rep. Neufeld explained amendment, i.e., language in Sec. (7) is no longer needed, so the proposed amendment is a repealer of existing language. He moved to amend HB 2977 as indicated in Attachment No. 8, motion seconded by Rep. Amos. Discussion ensued, i.e., it was indicated, the law deals with a lot more than just reporting; reporting helps local investigators go forward with examinations if arson is suspected; gives the Fire Marshal one more tool with which to handle an investigation. Division requested, vote taken, Chair in doubt. Show of hands indicated 7 in favor 11 against, motion failed. (Amendment defeated)

HB 2977. Motion by Rep. Cribbs to pass HB 2977 out favorably seconded by Rep. Buehler. Question called for, vote taken, motion carried. Representative Neufeld recorded as NO vote.

HB 2984:

Chair called attention to letter that was distributed an earlier date from Harold Riehm in response to a question from Ms. Correll. (Recorded this date as Attachment No.9). Chair read the letter verbatim. It explains that Ks. Osteopathic Association views HB 2984 as necessary legislation.

Rep. Gatlin offered an amendment to HB 2984, to add in line 44 following "ing", "or by requiring approval of post graduate training by an organization that does not normally provide such approval for a practitioner's branch of the healing arts".)

Chair at this point invited Mr. Riehm to explain Amendment. He noted how their Association would be affected by addition of this language in HB 2984. Mr. Wheelen was invited to respond. He did saying, there are some programs approved by the American Medical Association that Doctors of Osteopathy are not eligible for. This language would prohibit discrimination on that basis. Kansas Medical Society is not opposed to any legal provision that would improve access to health care in our State. Discussion continued.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 // AM/p.m. on March 3, 1988

Discussion continued on HB 2984.

Rep. Gatlin made a motion to amend HB 2984 as suggested in proposed amendment, (Attachment No. 9-B, seconded by Rep. Buehler. Vote taken, division requested, show of hands indicated motion carried.

HB 2984 as a whole:

Rep. Gatlin made a motion to pass HB 2984 out favorably as amended, seconded by Rep. Branson. Vote taken, motion carried.

HB 2874:

Chair noted an earlier proposed amendment would require reporting of AIDS and HIV to Department of Health and Environment only and reporting of other infectious diseases to Local Health Departments as is current law.. Chair noted it might be advisable to have a conceptional motion to have Revisor, Mr. Furse follow directions on the proposed amendment, since there are numerous changes necessary in regard to what reporting is made to what Departments or ask to have HB 2874 protected.

Rep. Gatlin moved to report HB 2874 unfavorably, seconded by Rep. Pottorff. Discussion ensued. Vote taken, motion failed.

Rep. Green moved to ask Leadership to protect this bill and have this committee work the bill at a later date, seconded by Rep. Branson, vote taken, motion carried.

HB 2925:

Rep. Sader explained in detail the proposed amendments on HB 2925, (Attachment No. 10). Basically, she said, the two statutes are separated, one for institutional statute in tact, with HB 2925 addressing only the community residential situations. It puts in place all the protection that deals with abuse of elderly in a residence. In addition to proposed amendments outlined in the balloon, also to strike language in lines 96-98. Rep. Sader made a motion to approve amendments proposed as she outlined in balloon, seconded by Rep. Hassler. Discussion ensued.

Rep. Shallenburger made a substitute motion to have HB 2925 sent to Appropriations Committee to have it protected then returned to this committee to take a longer look at all these policy issues involved. Motion seconded by Rep. Neufeld. Discussion ensued, i.e., Health & Environment hope to develop a more effective plan, which may take a year; this is a bad day to go into deep discussion on this particular legislation; there is no fiscal note; may be several policy issues however; some do feel there would be a fiscal note.

Vote taken on substitute motion on HB 2925 to have bill protected, vote taken, division requested, show of hands indicated 6 in favor, 9 opposed, motion failed.

Discussion continued on original motion to adopt balloon amendments, i.e., perhaps SRS is not the Department to handle this; major policy issues here; there are already adult abuse laws in place. Chair noted, Health and Environment can support HB 2925 with proposed amendments. Question called for by Rep. Green, vote taken, motion carried.

HB 2925 as a whole: Rep. Whiteman moved to pass HB 2925 out favorably as amended, seconded by Rep. Branson, vote taken, Chair in doubt. Show of hands indicated 12 in favor, 5 against, motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 /a.m./p.m. on March 3, 1988.

HB 3029:

Chair called attention to amendment, (Attachment No. 11), and asked Mr. Furse to explain balloon to members. Mr. Furse gave a detailed explanation of amendments proposed by sponsor of the bill, i.e., Rep. Freeman.

Rep. Neufeld moved to amend HB 3029 as indicated in balloon copy explained by Mr. Furse, seconded by Rep. Hassler. Discussion ensued, i.e., concern about showers in facilities; should be a bonding section to protect the consumer. Vote taken, motion carried.

HB 3029 as a whole: Rep. Whiteman moved HB 3029 be tabled, seconded by Rep. Harder. Discussion ensued, i.e., perhaps this is over-legislating, this industry seems to be doing a good job of regulating themselves; there are Federal regulations in place to some degree. Vote taken, motion carried. Rep. Neufeld recorded as NO vote.

HB 2830:

Rep. Buehler moved to report HB 2830 unfavorably, seconded by Rep. Cribbs. Chair asked for discussion, question called for by Rep. Buehler, vote taken, Chair in doubt, show of hands indicated 6 in favor of reporting unfavorably, 10 opposed, motion failed.

Rep. Shallenburger made a motion to adjourn the meeting, seconded by Rep. Buehler. Chair ruled motion undebatable. Vote taken, motion carried.

Meeting adjourned 3:15 p.m.

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE COMMITTEE

Date 3-3-88

NAME	ORGANIZATION	ADDRESS
MACK Smith	Mortuary Arts Bd	Topeka
Mark Intermill	KCOA	Topeka
Marilyn Bradt	KINH	Lawrence
John Peterson	Ks. Ass. Prof. Psych. - 1, 2, 3, 4	
Chip Wheelen	Ks Med Society	Topeka
Will. D. Hoff m.d.		Topeka, Ks.
R. D. ...	AG	"
Mary Ann Valiel	BSRB	"
Garth Dulse	KDRA 2	"
Harold S. Riegan	KAOM	Topeka Ks
Apple D...	Gov	"
Elizabeth Baker	Gov.	Topeka Ks
DeNavis		
Burd Reinhardt	—	Chanute Ks
Phyllis McDaniel	B.V.H.S.	Stilwell, KS
Wendie Dear	B.V.H.S.	Stilwell, ks
Mary Fisher	Blue Valley	Stilwell, ks
Jan Dear	Life at its Best	Topeka
Dick Joylon	Life at its Best	Topeka
KATH & LANDIS	CHRISTIAN SCIENCE COMMITTEE ONE PUBLICATION FOR KANSAS	TOPEKA
Mark Beshers	Tobacco Institute	Topeka
JIM SNYDER	Ks Funeral Directors	Topeka
LINDA McGill	KFDA	"
KEVIN ROBERTSON	Ks. Lodging Assn.	Topeka
Bill Henry	Phillip Morris	Topeka



THE KANSAS FUNERAL DIRECTORS AND EMBALMERS ASSOCIATION, INC.

EXECUTIVE OFFICE — 1200 KANSAS AVENUE, P.O. BOX 1904

TOPEKA, KANSAS 66601

PHONE 913-232-7789

AFFILIATED WITH N. F. D. A.

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LARRY ENFIELD
Norton

JERRY LARRISON
Pratt

March 4, 1988

TO: MEMBERS, HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

RE: HOUSE BILL 2978

We would like to comment on some of the remarks at the hearing this past Tuesday on House Bill 2978.

In the first place, the Regulation referred to by Dr. Parker did provide for counseling of the pick-up person by a physician if the dead person had died of a contagious disease. However, this was unenforceable in that the Board of Mortuary Arts has no jurisdiction over physicians, etc. Therefore, that part of the regulation has been repealed effective May 1 of this year.

The comments presented by Jerry Slaughter have been resolved. He was discussing AIDS only and we have worked with him and have inserted suitable language into a Senate Bill (SB 686) which will meet our needs and address what Jerry was discussing.

However, we still need HB 2978 for the rest of the contagious diseases and would appreciate your support.

The concern of Representative Wells, I believe, can be corrected with the attached proposed amendment...or language similar to it.

Thank you.

On behalf of the Kansas Funeral Profession:

Jim Snyder
Executive Director

Attn #1
3-3-8
PHW

HOUSE BILL No. 2978

By Committee on Public Health and Welfare

2-17

0017 AN ACT concerning infectious or contagious diseases; requiring
0018 that the body of a dead person who has died from an infectious
0019 or contagious disease be accompanied by a written notifica-
0020 tion of such information; providing confidentiality of certain
0021 information; establishing penalties for failure to comply with
0022 certain requirements.

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

0024 Section 1. (a) For the purposes of this act, "infectious or
0025 contagious disease" means a disease designated as infectious or
0026 contagious by the secretary of health and environment by rules
0027 and regulations under K.S.A. 65-128 and amendments thereto.

0028 (b) (1) When a person who has been diagnosed as having an
0029 infectious or contagious disease dies in a medical care facility or
0030 other health care facility, the attending physician shall prepare a
0031 written notification describing such disease to accompany the
0032 body when it is transported for disposition.

0033 (2) When a person dies outside of a medical care facility or
0034 other health care facility and without an attending physician, any
0035 family member or person making arrangements for the disposi-
0036 tion of the dead body who knows that such dead person had been
0037 diagnosed as having an infectious or contagious disease at the
0038 time of death shall prepare a written notification describing such
0039 disease to accompany the body when it is transported for dispo-
0040 sition.

0041 (3) Any person who transports a dead body for disposition
0042 and who has been notified that the person had been diagnosed as
0043 having an infectious or contagious disease at the time of death
0044 pursuant to the provisions of paragraph (1) or (2) of this subsec-
0045 tion (b) shall present such notification accompanying the dead
0046 body to any embalmer, funeral director or other person taking

or authorize

March 3, 1988

Dear Members of the House Public Health and Welfare Committee,

Since 1974 when doctors told me, a non-smoker, that second hand smoke may have caused cancer on my vocal chord, I have worked for better health through less smoking. In schools across Kansas I have played a few minutes of my voice on tape before cancer and then told students, parents, and teachers that if they want to keep their voice, they can reduce their risk of cancer by just saying NO to tobacco and by avoiding second hand smoke.

Many fine people smoke. Many fine people drink. But concerned smokers do not want to cause cancer in others. Concerned drinkers do not want to cause death and injury to others on our highways. Education, personal responsibility for choices we make, and laws are all part of the answer when it comes to reducing human suffering caused by tobacco.

House bills 2717, 2823, and 2830 are truly public health and welfare measures. All three deserve to be passed. But I believe it was Rep. Gatlin who asked which of the three might be the most important.

My first reaction to that question would be that 2830 is the least important of the three because it would seem to affect me the least. As a non-smoker I could care less about free cigarettes. I am greatly concerned for students in our public schools and for freedom from second hand smoke in restaurants. If the 50% requirement of 2717 applied only to restaurants, it would be a big step in the right direction.

But the hearing on 2830 proved how wrong I was in the above assessment. The room was packed full of tobacco lobbyists from Kansas. When the tobacco lobby flew in a lawyer from Washington, D.C. and a businessman from Long Island to oppose 2830, the message was clear!

The bill that will strike the biggest blow for less smoking is 2830! And less smoking means better health, lower hospital and medical costs, lower fire insurance rates, and increased worker productivity.

Tobacco lobbyists swarm all over this statehouse for one reason, help their clients make money. If money was not an issue, they would not be here. And their testimony at the Hearing would cause great laughter, if human suffering was not the result of smoky and smokeless tobacco usage.

The lawyer from Washington, D.C. tried to tell you 2830 was unconstitutional, yet when pressed about filing a case against the Minnesota law, he was vague. The reason is simple.

By definition under Kansas law, tobacco is a controlled substance but is exempt from control under our Controlled Substance Statute by KSA 65-4102 (d). If you would repeal Section (d), no other Kansas law would be needed to control smoky or smokeless tobacco!

Cocaine, heroin, marijuana, and tobacco are by definition controlled substances. Would the U.S. Supreme Court declare our Controlled Substance Statute unconstitutional? The Tobacco Institute would not like such a court case.

The businessman from Long Island would have you believe free samples are only to "gain conversion." For that reason, the Tobacco Institute claims to oppose 2830.

*attm #2
3-3-88
PH & CW*

But why do we have a Tobacco Institute? To promote the use of tobacco. The Tobacco Institute could care less what brand you smoke or chew, their concern is total consumption.

You heard the Kansas tobacco lobbyist say some might think he would oppose the bill since free samples would be in competition with his clients who make money selling tobacco. He said "sampling does not promote consumption." Yet his support of the bill proves it will help his clients sell tobacco - no matter what the brand!

You heard tobacco lobbyists claim "This is not a health issue." One said "I will not discuss this as a health issue." Why was the bill in the PUBLIC HEALTH & WELFARE COMMITTEE? Pictures of mouths of smokeless tobacco users proves this is a health issue.

The smokeless tobacco lobbyist said their product is "a lawful commodity" and, since "brand competition is the name of the game," you should kill the bill. Repeat KSA 65-4102 (d) and find out if his clients are pushing a "lawful commodity."

If public health and not tobacco profits are your number one concern, please support all three measures. But if only one measure can be passed, maybe it should be 2830 because it is most important to those who make money promoting a product that brings disease, disability, and death. They must replace smokers who quit or die with new smokers. Their opposition to 2830 would indicate this is a very important tool for them.

It would seem that smokers back home would be less upset with passage of 2830. Smokers could care less about free samples since they buy their own and 2830 does not restrict where they smoke.

Concerned smokers do not want to hurt others, in fact they want to prevent suffering for others. The Hearing proved the biggest blow you can strike at the pocketbook of dealers in this deadly drug is passage of 2830. Fewer dollars spent for tobacco means better health and less economic loss for all.

Maybe the strongest reason some lawmakers may oppose 2830 is loss of campaign contributions from R. J. Reynolds Tobacco Company and others who make up the smoky and smokeless tobacco lobby.

Surely better health for Kansans is more important than campaign contributions. Tobacco has many defenders, but no defense.

Respectfully yours,

Richard Taylor

Stanley; Continental Energy G \$100; Kansas Ethanol Association G \$50:

PROFESSIONAL ASSOCIATIONS: Kansas Association of Realtors G \$300; Kansas Chiropractic Association G \$100; Kansas Consulting Engineers G \$100:

TRANSPORTATION: Kansas Motor Carriers G \$75:

UTILITIES: Kansas Electric Cooperatives, Inc. G \$100; Kansas Gas and Electric Company G \$300; Southwestern Bell Telephone Company G \$200:

SENATOR: Richard G. Gannon - District #40
Democrat - Goodland

1984 ELECTION STATS:

Primary - Unopposed

General - Richard G. Gannon (D) (15,054) 59%

Paul M. Steele (R) (10,313) 41%

TOTAL CONTRIBUTIONS: \$23,397.50 (P-\$4,375.50, G-\$31,004)
(PAC'S \$20,625, MISC. \$10,070, Un-I \$4,194, In-K \$490.50)

AGRICULTURE: Bennington Elevator G \$750, G \$400; Berttrand Elevators G \$250; Damar Grain G \$750, G \$750; Jewell Agri. Service G \$750; Kansas Grain & Feed Dealers Assoc./Kansas Fertilizer and Chemical Association G \$500; Kansas Livestock Association G \$200; Logan Grain G \$250; Mid-West Agri. Service G \$750, G \$750; Mueller Grain Co. G \$250, G \$750; Page City Grain G \$250:

ALCOHOLIC BEVERAGES, FOOD: Anheuser-Busch Companies G \$200; Kansas Beer Wholesalers Association G \$400, G \$400; Kansas Wine and Spirits Wholesalers Association G \$150; Strickrey Distributors Inc. G \$100; V & M Distributors G \$200:

BANKS AND FINANCIAL INSTITUTIONS: Kansas Association for Economic Growth G \$500; Kansas Association of Finance Companies G \$100; Kansas Bankers Association G \$200; Kansas Credit Union League and Affiliates G \$200; Kansas League of Savings Institutions G \$100:

BUSINESS AND INDUSTRY: Great Western Sugar. P \$300; Hallmark Cards, Inc. P \$200; Kansas Manufactured Housing Institute G \$100; Kansas Motor Car Dealers Association G \$200; Kansas Soft Drink Association G \$100; R.J. Reynolds Tobacco Company G \$150; Saline Valley Investment Corp. G \$750:

CHAMBERS OF COMMERCE: Kansas Chamber of Commerce and Industry P \$200:

CIVIC AND POLITICAL ORGANIZATIONS: Democratic Senatorial Campaign Comm. G \$750; First District Democrats G \$200;

HOUSE BILL No. 2823

By Representatives Baker, Acheson, Ainos, Apt, Beauchamp, Branson, Buehler, Bunten, C. Campbell, K. Campbell, Chronister, Crumbaker, Dyck, Flottman, Fuller, Harder, Mollenkamp, Moomaw, Neufeld, Ott, Roenbaugh and Schauf

2-8

0020 AN ACT prohibiting the use of tobacco products in public
0021 schools.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. (a) The use of tobacco products in any school
0024 building is hereby prohibited. No board of education of any
0025 school district shall allow any person to use tobacco products in
0026 any school building.

0027 (b) As used in this section, the term "school building" means
0028 any building or structure operated or used for pupil attendance
0029 purposes by the board of education of a unified school district

0030 Sec. 2. This act shall take effect and be in force from and
0031 after its publication in the statute book.

or that part of a building or structure
but shall not include a building or structure, or part thereof, used for residential purposes or leased by the school district for nonschool sponsored activities

Attn #3
3-3-8
D.H.W.

HOUSE BILL No. 2777

By Representative Cribbs

2-3

0017 AN ACT requiring an autopsy in suspected instances of sudden
0018 infant death syndrome; providing for payment therefor;
0019 amending K.S.A. 19-1031 and 19-1033 and repealing the ex-
0020 isting sections.

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

0022 Section 1. K.S.A. 19-1031 is hereby amended to read as fol-
0023 lows: 19-1031. When any person ~~shall die~~ *dies*, or human body
0024 ~~be is~~ found dead in any county of the state, and the death is
0025 suspected to have been ~~as a~~ *the* result of violence, caused by
0026 unlawful means or by suicide, or by casualty, or suddenly when
0027 the decedent was in apparent health, or when decedent was not
0028 regularly attended by a licensed physician, or in any suspicious
0029 or unusual manner, or in any circumstances specified under
0030 section 2 or when the determination of the cause of a death is
0031 held to be in the public interest, the coroner or deputy coroner of
0032 the county in which such death ~~occurs~~ *occurred* or dead body ~~is~~
0033 *was* found, shall be notified by the physician in attendance, by
0034 any law enforcement officer, by the ~~undertaker~~ *embalmer*, by
0035 any person who is or may in the future be required to notify the
0036 coroner, or by any other person.

0037 New Sec. 2. (a) When a person under two years of age dies
0038 within this state under circumstances indicating that the death
0039 may have been caused by sudden infant death syndrome, or is
0040 found dead, cause unknown, that death shall be immediately
0041 reported to the coroner.

0042 (b) Upon receipt of a report required under subsection (a),
0043 the coroner shall inform the parent or legal guardian of the
0044 deceased that an autopsy will be performed, the costs of which
0045 shall be paid by the state. The autopsy shall be conducted in

or when in police custody, or when in a jail or correctional institution,

liveborn

in which death is not anticipated

*Attn #4
3-3-88
BACW*

0046 accordance with K.S.A. 19-1033 and amendments thereto, and
0047 the coroner shall notify the parent or legal guardian of the results
0048 of the autopsy,

as soon as possible after the completion of the autopsy

0049 (c) The fee for an autopsy performed under this section shall
0050 be the usual and reasonable fee and travel allowance authorized
0051 under K.S.A. 19-1033 and amendments thereto, and shall be paid
0052 from moneys available therefor from appropriations to the de-
0053 partment of health and environment. The reasonableness of all
0054 claims for payment of a fee for an autopsy under this section shall
0055 be determined by the secretary of health and environment.

0056 (d) The coroner shall not make a determination that a death
0057 described in subsection (a) was caused by sudden infant death
0058 syndrome unless an autopsy is performed.

0059 Sec. 3. K.S.A. 19-1033 is hereby amended to read as follows:
0060 19-1033. (a) If, in the opinion of the coroner, it is advisable and in
0061 the public interest that an autopsy be made, or if an autopsy is
0062 requested in writing by the county or district attorney or if the
0063 autopsy is required under section 2 and amendments thereto,

0064 such autopsy shall be made by the coroner or by such competent
0065 pathologist or other licensed physician as may be designated by

performed
a qualified

0066 the coroner for the purpose. A person performing an autopsy, at
0067 the request of a coroner, shall be paid a usual and reasonable fee
0068 to be allowed by the board of county commissioners and shall be
0069 allowed and paid the travel allowance prescribed for coroners
0070 and deputy coroners in accordance with the provisions of K.S.A.
0071 19-1028 and amendments thereto, the same to be paid by the
0072 board of county commissioners of the county in which the cause
0073 of death occurred except that autopsies performed under section
0074 2 and amendments thereto shall be paid for in accordance with
0075 section 2 and amendments thereto.

pathologist

0076 (b) The person performing the autopsy shall remove and
0077 retain, as long as necessary, such specimens as appear to be
0078 necessary in the determination of the cause and circumstances of
0079 death. Unless the next of kin of the decedent specifically pro-
0080 hibits the retention of the pituitary gland of the decedent, the
0081 person performing the autopsy may remove and retain the pitu-
0082 itary gland of the decedent for use in scientific investigation

for a period of three years

0083 research, teaching and the practice of medicine

0084 (c) A full record and report of the facts developed by the
0085 autopsy and findings of the person making such autopsy shall be pathologist performing
0086 promptly made and filed with the coroner and with the clerk of
0087 the district court of the county in which decedent died. If, in any
0088 case in which this act requires that the coroner be notified, the
0089 body is buried without the permission of the coroner, it shall be
0090 the duty of the coroner, upon being advised of such fact, to notify
0091 the county or district attorney, who shall communicate the same
0092 to a district judge, and such judge may order that the body be
0093 exhumed and an autopsy performed.

0094 Sec. 4. K.S.A. 19-1031 and 19-1033 are hereby repealed.

0095 Sec. 5. This act shall take effect and be in force from and
0096 after its publication in the statute book.

Other Suggested Changes

1. Amend K.S.A. 19-1030 to say a coroner may hold an inquest rather than the present "shall hold an inquest."
(Dr. Bridgens)
2. Sunset new sec. 2 after 6 years. (Dr. De Jong)
3. Delete lines 56 to 58. (Dr. De Jong)
4. Oversight committee of pathologists and pediatricians to monitor program on a regular basis. (Dr. De Jong)
5. KDHE:
 - (a) Authorize secretary of health and environment to adopt rules and regulations relating to SIDS autopsy.
 - (b) Change under 2 years of age to "first year of life".
 - (c) Require copy of autopsy report to be forwarded to KDHE.
 - (d) State should pay for autopsies only as payor of last resort. If other funds available use those funds.

HOUSE BILL No. 2978

By Committee on Public Health and Welfare

2-17

0017 AN ACT concerning infectious or contagious diseases; requiring
0018 that the body of a dead person who has died from an infectious
0019 or contagious disease be accompanied by a written notifica-
0020 tion of such information; providing confidentiality of certain
0021 information; establishing penalties for failure to comply with
0022 certain requirements.

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

0024 Section 1. (a) For the purposes of this act, "infectious or
0025 contagious disease" means a disease designated as infectious or
0026 contagious by the secretary of health and environment by rules
0027 and regulations under K.S.A. 65-128 and amendments thereto.

0028 (b) (1) When a person who has been diagnosed as having an
0029 infectious or contagious disease dies in a medical care facility or
0030 other health care facility, the attending physician shall prepare a
0031 written notification describing such disease to accompany the
0032 body when it is transported for disposition.

0033 (2) When a person dies outside of a medical care facility or
0034 other health care facility and without an attending physician, any
0035 family member or person making arrangements for the disposi-
0036 tion of the dead body who knows that such dead person had been
0037 diagnosed as having an infectious or contagious disease at the
0038 time of death shall prepare a written notification describing such
0039 disease to accompany the body when it is transported for dispo-
0040 sition.

0041 (3) Any person who transports a dead body for disposition
0042 and who has been notified that the person had been diagnosed as
0043 having an infectious or contagious disease at the time of death
0044 pursuant to the provisions of paragraph (1) or (2) of this subsec-
0045 tion (b) shall present such notification accompanying the dead
0046 body to any embalmer, funeral director or other person taking

Quere: Should the specific diseases be enumerated?

, the attending physician or, if there is no attending physician, a family member or person making arrangements for the disposition of the dead body who knows of such diagnoses shall prepare or cause to be prepared a written notification to accompany the body when it is transported for disposition.

(c)

*Attn #5
3-3-8
PH&W*

*Attn #5
3-3-8
PH&W*

0047 possession of the dead body.

0048 (c) Information regarding a deceased's infectious or conta- (d)
0049 gious disease and contained in a notification required to be
0050 prepared pursuant to subsection (b) of this section shall be
0051 privileged and confidential and may only be disclosed as autho-
0052 rized under this section or as authorized under K.S.A. 65-118 and
0053 amendments thereto.

0054 (d) Any person required to perform duties specified under (e)
0055 subsection (b) who knowingly refuses or omits to perform such
0056 duties is guilty of a class C misdemeanor. Any person who
0057 violates any provision of subsection (c) shall be guilty of a class C (d)
0058 misdemeanor.

0059 Sec. 2. This act shall take effect and be in force from and
0060 after its publication in the Kansas register.

HOUSE BILL No. 2980

By Committee on Public Health and Welfare

2-17

*Altman #6
3-3-8
P-draw*

0017 AN ACT concerning the cremation of dead human bodies; au-
0018 thorizing the disposition of unclaimed remains.

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

0020 Section 1. With respect to the cremation of dead bodies, as
0021 such term is defined in subsection (4) of K.S.A. 65-2401 and
0022 amendments thereto, if after a period of 120 days from the time of
0023 cremation the cremated remains have not been claimed, the
0024 funeral establishment may dispose of the cremated remains: (a)
0025 If the funeral establishment has sent by certified mail, return
0026 receipt requested, at least 30 days prior to the end of such period
0027 of time to the last known address of the responsible person who
0028 directed and provided for the method of final disposition of the
0029 dead human remains a notice that such remains will be disposed
0030 of in accordance with the provisions of this section unless
0031 claimed prior to the end of the one-hundred-twenty-day period
0032 of time; and (b) if the remains have not been claimed prior to the
0033 end of such period of time. Such disposal shall include placing
0034 the remains in a cemetery scatter garden or pond, or church
0035 columbarium or otherwise disposing of the remains as provided
0036 by rule and regulation of the board of mortuary arts.

0037 Sec. 2. Funeral establishments which have retained and
0038 stored the remains of deceased persons which were cremated
0039 prior to October 1, 1987, are authorized to dispose of any or all of
0040 these remains by means authorized in section 1 if the remains are
0041 not claimed on or before October 1, 1988.

0042 Sec. 3. This act shall take effect and be in force from and
0043 after its publication in the statute book.

Quere: Sec. 2 would allow disposal of the cremated remains without the notice required under section 1. Should this section be changed to require notice?

more than 90 days
the effective date of this act
If the funeral establishment has sent by certified mail, return receipt requested, at least 30 days prior to September 1, 1988, to the last known address of the responsible person who directed and provided for the method of final disposition of the dead human remains a notice that such remains will be disposed of in accordance with the provisions of section 1 unless claimed prior to September 1, 1988, and
September

*Altman #6
3-3-8
P-draw*

HOUSE BILL No. 2901

By Representative Brown

2-10

*Attm #7
3-3-8
P.H.W.*

0017 AN ACT concerning the food service and lodging act; requiring
0018 hotels to provide portable smoke detectors or rooms located in
0019 certain places in the hotel for deaf and hearing impaired
0020 guests.

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

0022 Section 1. (a) Every licensed lodging establishment desig-
0023 nated as a hotel shall provide to deaf and hearing impaired
0024 guests, upon request of such guests, portable smoke detectors of
0025 the type suitable for providing visual warning to such guests. ~~In~~
0026 ~~lieu of providing such portable smoke detectors, the hotel shall~~
0027 ~~provide deaf or hearing impaired guests with rooms on the~~
0028 ~~lowest floor of such hotel on which guest rooms are located and~~
0029 shall provide such rooms at a rate not more than the rate for
0030 rooms in other areas of the hotel which were requested by such
0031 guests.

or motel

and vibrating

with devices

0032 (b) This section shall be part of and supplemental to the food
0033 service and lodging act.

0034 Sec. 2. This act shall take effect and be in force from and
0035 after its publication in the statute book.

lodging establishments shall have available devices for 10% of their rooms provided no lodging establishment shall be required to have more than 10 or less than 2

*Attm. #7
3-3-8
P.H.W.*

29M

0046 time to time for any purpose, including apartment houses as
0047 defined by K.S.A. 31-132a and amendments thereto, but such
0048 rules and regulations shall not apply to buildings used wholly as
0049 dwelling houses containing no more than two families;

0050 (5) requiring administrators of public and private schools and
0051 educational institutions, except community colleges, colleges
0052 and universities, to conduct at least one fire drill each month at
0053 some time during school hours, aside from the regular dismissal
0054 at the close of the day's session, and prescribing the manner in
0055 which such fire drill is to be conducted;

0056 (6) procedures for the reporting of fires, and explosions and
0057 second and third degree burn wounds caused by fire, explosion,
0058 heat or chemical substance, occurring within the state and for the
0059 investigation thereof;

0060 ~~[(7) procedures for reporting by health care providers of
0061 treatment of second and third degree burn wounds involving
0062 20% or more of the victim's body and requiring hospitalization
0063 of the victim, which reporting is hereby authorized notwith-
0064 standing any provision of K.S.A. 60-427 and amendments
0065 thereto to the contrary;]~~

0066 ~~(7) (8) requiring administrators of public and private schools
0067 and educational institutions, except community colleges, col-
0068 leges and universities, to establish tornado procedures, which
0069 procedures shall provide for at least three tornado drills to be
0070 conducted each year at some time during school hours, aside
0071 from the regular dismissal at the close of the day's session, shall
0072 describe the manner in which such tornado drills are to be
0073 conducted, and shall be subject to approval by the state fire
0074 marshal;~~

0075 ~~(8) (9) requiring administrators of community colleges, col-
0076 leges and universities to establish tornado procedures, which
0077 procedures shall be subject to approval by the director of the
0078 local council of defense in the county or, if there is no such
0079 county director, by the head of the state civil defense division;
0080 and~~

0081 ~~(9) (10) other safeguards, protective measures or means
0082 adapted to render inherently safe from the hazards of fire or the~~

Surked

*Altman #8
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P. New*

And by renumbering subsections accordingly

*Altman #8
3-3-8
P. New*

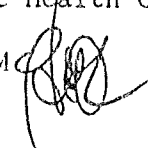
Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

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

March 2, 1988

To: Chairman and Members of the Kansas Public Health Committee

From: Harold E. Riehm, Executive Director, KAOM 

Subject: Comments (additional) on H.B. 2984

Following my testimony on H.B. 2984 on Tuesday, Ms. Correll asked me about the applicability of KSA 65-2837 (b)(9). That provision pertains to various forms of unprofessional conduct by licensees of the Board of Healing Arts.

- (b) Unprofessional conduct means: . . . (9) Participating in any action as a staff member of a medical care facility which is designed to exclude or which results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.

While it appears this provision may be used as a means of challenging the action of the hospital described in my testimony, there are a couple concerns.

First, this act limits discriminatory action only by licensees of the Board of Healing Arts. It does not apply to the action of any lay persons (non-physicians) on a Hospital Executive Committee or Board of Directors. On the ultimate decision making authority board of a hospital (such as a Board of Directors) the majority may be non-physicians.

Again, in the example I presented to you, the departmental medical staff recommended privileges be granted to the D.O., but the decision was overruled by the Executive Committee, consisting partially of physicians and partially of non-physicians. Presumably even a favorable decision at that level could be overruled by the Board of Directors, which is mostly non-physicians. **THUS IT IS QUESTIONABLE WHETHER THIS SECTION OF K.S.A. WOULD ALWAYS LEND ITSELF TO PREVENTING THE TYPE OF DISCRIMINATION AT QUESTION HERE.**

A second concern is that the language above refers only to nonprofit medical care facilities. The language in H.B. 2984 would apply to all hospitals licensed under K.S.A. 65-425 et seq.

For these reasons, KAOM is of the opinion that the new language of H.B. 2984 is needed and complements that which now appears in KSA 65-2837 (above).

Thank you for your consideration.

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ph r*

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PHW

POSSIBLE ADDITIONAL LANGUAGE FOR HOUSE BILL NO. 2984:

. . . In the selection of professional staff members, no hospital licensed under K.S.A. 65-425 et seq. shall discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state for reasons based solely upon the practitioner's branch of the healing arts, or the school or health care facility in which the practitioner received medical schooling or postgraduate training, or by requiring approval of post graduate training by an organization that does not normally provide such approval for a practitioner's branch of the healing arts.

Attn # 9-B
3-3-8
PHW

HOUSE BILL No. 2925

By Representative Sader

2-10

0017 AN ACT relating to abuse, neglect and exploitation of certain
0018 adults; requiring reports thereof by certain persons; directing
0019 investigations thereof by the department of social and reha-
0020 bilitation services; directing other persons and public and
0021 private agencies to assist therein; providing for protective
0022 services; declaring certain acts to be unlawful and providing
0023 penalties therefor; repealing K.S.A. 39-1401 to 39-1410, in-
0024 clusive, and 39-1421 to 39-1429, inclusive.

0025 Be it enacted by the Legislature of the State of Kansas:

0026 Section 1. As used in this act:

0027 (a) "Certain adult" means an individual 18 years of age or
0028 older alleged to be unable to protect their own interest and who
0029 is harmed, vulnerable to harm or threatened with harm through
0030 action or inaction by either another individual or through their
0031 own action or inaction. Such term shall include:

0032 (1) Any resident, as defined by K.S.A. 39-923 and amend-
0033 ments thereto; or

0034 (2) any client cared for in an adult family home; or

0035 (3) any individual residing in their own home or residing in
0036 the home of another individual.

0037 (b) "Adult care home" has the meaning ascribed thereto in
0038 K.S.A. 39-923 and amendments thereto.

0039 (c) "Adult family home" has the meaning ascribed thereto in
0040 K.S.A. 39-1501 and amendments thereto.

0041 (d) "Abuse" means the willful infliction of injury, unreason-
0042 able confinement, intimidation, cruel punishment, omission or
0043 deprivation by a caretaker or another person of goods or services
0044 which are necessary to avoid physical or mental harm, anguish or
0045 illness.

0046 (e) "Neglect" means the failure or omission by one's self,

by relettering subsequent subsections accordingly

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JHed

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JHed

0047 caretaker or another person to provide goods or services which
0048 are necessary to ensure safety and well-being and to avoid
0049 physical or mental harm, anguish or illness.

0050 (f) "Exploitation" means taking unfair advantage of an adult's
0051 physical or financial resources for another individual's personal
0052 or financial advantage by the use of undue influence, coercion,
0053 harassment, duress, deception, false representation or false pre-
0054 tense by a caretaker or another person.

0055 (g) "Fiduciary abuse" means a situation in which any person
0056 who has the care or custody of, or who stands in a position of trust
0057 to, an elderly or dependent adult, takes, secretes, or appropriates
0058 their money or property, to any use or purpose not in the due and
0059 lawful execution of such person's trust.

0060 (h) "In need of protective services" means that an adult is
0061 unable to provide for or obtain services which are necessary to
0062 maintain physical or mental health or both.

0063 (i) "Services which are necessary to maintain physical or
0064 mental health or both" include, but are not limited to, the
0065 provision of medical care for physical and mental health needs,
0066 the relocation of an adult to a facility or institution able to offer
0067 such care, assistance in personal hygiene, food, clothing, ade-
0068 quately heated and ventilated shelter, protection from health and
0069 safety hazards, protection from maltreatment the result of which
0070 includes, but is not limited to, malnutrition, deprivation of ne-
0071 cessities or physical punishment and transportation necessary to
0072 secure any of the above stated needs, except that this term shall
0073 not include taking such person into custody without consent
0074 except as provided in this act.

0075 (j) "Protective services" means services provided by the state
0076 or other governmental agency or by private organizations or
0077 individuals which are necessary to prevent abuse, neglect or
0078 exploitation. Such protective services shall include, but shall not
0079 be limited to, evaluation of the need for services, assistance in
0080 obtaining appropriate social services, and assistance in securing
0081 medical and legal services.

0082 (k) "Caretaker" means a person, adult care home or an adult
0083 family home which has assumed the responsibility for an adult's

0084 care or financial management or both. Such assumption of re-
0085 sponsibility may be voluntary, by contract or by order of a court
0086 of competent jurisdiction.

0087 (l) "Secretary" means the secretary of social and rehabilita-
0088 tion services.

0089 (m) "Report" means a report of abuse, neglect ~~or exploitation~~ ^r or fiduciary abuse
0090 under this act.

0091 (n) "Law enforcement" means the public office which is
0092 vested by law with the duty to maintain public order, make
0093 arrests for crimes, investigate criminal acts, and file criminal
0094 charges, whether that duty extends to all crimes or is limited to
0095 specific crimes.

0096 (o) "Local health department" means any county, city-county
0097 or multicounty department of health which has the authority to
0098 provide community nursing care services.

0099 No person shall be considered to be abused, neglected or
0100 exploited or in need of protective services for the sole reason that
0101 such person relies upon spiritual means through prayer alone for
0102 treatment in accordance with the tenets and practices of a rec-
0103 ognized church or religious denomination in lieu of medical
0104 treatment.

0105 Sec. 2. (a) Any person who is licensed to practice any branch
0106 of the healing arts, a licensed psychologist, an adult care home
0107 administrator, a licensed social worker, a licensed professional
0108 nurse and a licensed practical nurse, who has reasonable cause to
0109 believe that an adult is being or has been abused, neglected or
0110 exploited, or is in a condition which is the result of such abuse,
0111 neglect or exploitation, or is in need of protective services shall
0112 report, within six hours from receipt of the information, such
0113 information or cause a report of such information to be made in
0114 any reasonable manner. Other state agencies receiving reports
0115 that are to be referred to the department of social and rehabilita-
0116 tion services, shall submit the report to the department within six
0117 hours, during normal work days, of receiving the information.
0118 Reports shall be made to the department of social and rehabili-
0119 tation services during the normal working week days and hours
0120 of operation. Reports shall be made to law enforcement during

the chief administrative officer of a medical care
facility

0121 the time social and rehabilitation services are not in operation.
0122 Law enforcement shall submit the report and appropriate infor-
0123 mation to the department of social and rehabilitation services on
0124 the first working day that social and rehabilitation services is in
0125 operation.

0126 (b) The report made pursuant to subsection (a) shall contain
0127 the name and address of the person making the report and of the
0128 caretaker caring for the involved adult, the name and address of
0129 the involved adult (reported), information regarding the nature
0130 and extent of the abuse, neglect or exploitation, the name of the
0131 next of kin of the involved adult, if known, and any other
0132 information which the person making the report believes might
0133 be helpful in the investigation of the case and the protection of
0134 the involved adult.

0135 (c) Any other person having reasonable cause to suspect or
0136 believe that an adult is being or has been abused, neglected or
0137 exploited, or is in a condition which is the result of such abuse or
0138 neglect or is in need of protective services may report such
0139 information to the department of social and rehabilitation ser-
0140 vices.

0141 ~~(d) Notice of the requirements of this act and the department~~
0142 ~~to which a report is to be made under this act shall be posted in a~~
0143 ~~conspicuous place in every adult care home and adult family~~
0144 ~~home in this state.~~

0145 ~~(e)~~ Any person required to report information or cause a
0146 report of information to be made under subsection (a) who
0147 knowingly fails to make such report or cause such report not to
0148 be made shall be guilty of a class B misdemeanor.

0149 Sec. 3. (a) Anyone participating in the making of any report
0150 pursuant to this act, or in any follow-up activity to or investiga-
0151 tion of such report or any other report of abuse, neglect or
0152 exploitation of an adult or who testifies in any administrative or
0153 judicial proceeding arising from such report shall not be subject
0154 to any civil or criminal liability on account of such report,
0155 investigation or testimony, unless such person acted in bad faith
0156 or with malicious purpose.

0157 (b) No employer shall terminate the employment of, prevent



(d)

0158 or impair the practice or occupation of or impose any other
0159 sanction on any employee solely for the reason that such em-
0160 ployee made or caused to be made a report, or cooperated with
0161 an investigation, under this act. A court, in addition to other
0162 damages and remedies, may assess reasonable attorney fees
0163 against an employer who has been found to have violated the
0164 provisions of this subsection.

0165 Sec. 4. (a) The department of social and rehabilitation ser-
0166 vices upon receiving a report that an adult is being, or has been
0167 abused, neglected, or exploited, or is in a condition which is the
0168 result of such abuse, neglect or exploitation, or is in need of
0169 protective services, shall:

0170 (1) Make a personal visit with the involved adult:

0171 (A) Within 24 hours when the information from the reporter
0172 indicates imminent danger to the health or welfare of the in-
0173 volved adult;

0174 (B) within three working days for all reports of suspected
0175 abuse, when the information from the reporter indicates no
0176 imminent danger;

0177 (C) within five working days for all reports of neglect or
0178 exploitation when the information from the reporter indicates no
0179 presence of imminent danger;

0180 (D) when a report is received on a deceased person, a per-
0181 sonal visit shall not be made.

0182 (2) Complete, within two weeks of receiving a report, a
0183 thorough investigation and evaluation to determine the situation
0184 relative to the condition of the adult and what action and ser-
0185 vices, if any, are required. The evaluation shall include, but not
0186 be limited to, consultation with those individuals having knowl-
0187 edge of the facts of the particular case. When a criminal act has
0188 appeared to have occurred as per K.S.A. 21-3401 to 21-3428, and
0189 amendments thereto, law enforcement shall be notified imme-
0190 diately.

0191 (3) Prepare, upon completion of the evaluation of each case,
0192 written findings which shall include a finding of whether there is
0193 or has been abuse, neglect or exploitation, recommended action,
0194 a determination of whether protective services are needed, and

and if the alleged perpetrator is licensed, registered or otherwise regulated by a state agency, such state agency also shall be notified immediately

0195 any follow-up.

0196 Sec. 5. ~~(a) In all cases that are confirmed in adult care homes~~
 0197 ~~and adult family homes, there shall be a corrective action plan~~
 0198 ~~developed by the administrator of the facility.~~

0199 ~~(b) The corrective action plan shall be submitted to the~~
 0200 ~~department of social and rehabilitation services within five~~
 0201 ~~working days after receipt of the outcome of the investigation.~~

0202 ~~(c) The corrective action plan shall outline what action has~~
 0203 ~~been taken in regard to the specific case investigated and what~~
 0204 ~~action will be taken to prevent the situation from occurring in the~~
 0205 ~~future with other adults in the facility. All corrective actions~~
 0206 ~~outlined in the plan shall be implemented by the facility within~~
 0207 ~~45 days of submitting the plan to the department.~~

0208 ~~(d) When the corrective action plan has not been imple-~~
 0209 ~~mented within 45 days and when there continues to be reports of~~
 0210 ~~incidents which the corrective action plan addresses, a report~~
 0211 ~~shall be sent to the appropriate licensing authority for review~~
 0212 ~~and determination as a licensure issue.~~

0213 ~~Sec. 6. (a) The secretary of social and rehabilitation services~~
 0214 ~~shall forward a copy of any report of abuse, neglect or exploita-~~
 0215 ~~tion of an adult in an adult care home to the secretary of health~~
 0216 ~~and environment and, in the case of a report of an adult in an~~
 0217 ~~adult care home or an adult family home, to the secretary of~~
 0218 ~~aging.~~

0219 (b) The secretary of social and rehabilitation services shall (a)
 0220 maintain a statewide register of the reports received and the
 0221 findings, evaluations and the actions recommended. The register
 0222 shall be available for inspection by personnel of the department
 0223 of social and rehabilitation services.

0224 (c) Before any person is identified as a confirmed perpetrator (b)
 0225 of abuse, neglect or exploitation, the person will be given due
 0226 process prior to having such person's name entered into the
 0227 statewide registry.

0228 (d) Neither the report nor the written evaluation findings (c)
 0229 shall be deemed a public record or be subject to the provisions of
 0230 K.S.A. 45-201 to 45-203, inclusive, and amendments thereto. The
 0231 name of the person making the original report or any person

0232 mentioned in such report shall not be disclosed unless the
0233 person making the original report specifically requests or agrees
0234 in writing to such disclosure or unless a judicial proceeding
0235 results therefrom. No information contained in the statewide
0236 register shall be made available to the public in such a manner as
0237 to identify individuals.

except such information identifying the names of confirmed perpetrators may be disclosed to a caretaker

0238 Sec. [7]. In performing the duties set forth in this act, the
0239 secretary of social and rehabilitation services may request the
0240 assistance of the staffs and resources of all appropriate state
0241 departments, agencies and commissions and may utilize any
0242 other public or private agencies, groups or individuals who are
0243 appropriate and who may be available. However, in instances of
0244 medical reports in which staff of the department of social and
0245 rehabilitation services needs assistance in conducting the investigation, there shall be a joint investigation by the department of
0246 social and rehabilitation services and the local health department.
0247 Law enforcement shall be contacted to assist the department of social and rehabilitation services when the information
0248 received on the report indicates that an adult, residing in such
0249 adult's own home or the home of another individual, is in a life
0250 threatening situation.

6

0253 Sec. [8]. (a) Any person and public or private agency, including but not limited to hospitals, schools, attorneys, physicians
0254 and other social services agencies shall provide the department
0255 of social and rehabilitation services with the necessary records to
0256 assist in investigations.

7


0258 (b) Any person, department or agency authorized to carry out
0259 the duties enumerated in this act shall have access to all relevant
0260 records.

0261 Sec. [9]. (a) If the secretary finds that an adult is in need of
0262 protective services, the secretary shall provide the necessary
0263 protective services if the adult consents. If the adult fails to
0264 consent and the secretary has reason to believe that the adult
0265 lacks capacity to consent, the secretary shall determine whether
0266 a petition for appointment of a guardian or conservator, or both,
0267 should be filed. The secretary may petition the district court for
0268 appointment of a guardian or conservator, or both, for an adult

8

0269 pursuant to the provisions of the act for obtaining a guardian or
0270 conservator, or both.

0271 (b) If the caretaker of an adult who has consented to the
0272 receipt of reasonable and necessary protective services refuses to
0273 allow the provision of such services to the adult, the secretary
0274 may seek an injunction enjoining the caretaker from interfering
0275 with the provision of protective services to the adult. The peti-
0276 tion in such action shall allege specific facts sufficient to show
0277 that the adult is in need of protective services and consents to
0278 their provision and that the caretaker refuses to allow the provi-
0279 sion of such services. If the judge finds that the adult is in need of
0280 protective services and has been prevented by the caretaker from
0281 receiving such services, the judge shall issue an order enjoining
0282 the caretaker from interfering with the provision of protective
0283 services to the adult.

0284 Sec. 10. If an adult does not consent to the receipt of rea- 9
0285 sonable and necessary protective services, or if such adult with- 
0286 draws the consent, such services shall not be provided or con-
0287 tinued, except that if the secretary of social and rehabilitation
0288 services has reason to believe that such adult lacks capacity to
0289 consent, the secretary may seek court authorization to provide
0290 necessary services, as provided in section 11 of this act.

0291 Sec. 11. (a) If the secretary of social and rehabilitation ser- 10
0292 vices finds that an adult is being or has been abused, neglected
0293 or exploited or is in a condition which is the result of such abuse,
0294 neglect or exploitation and lacks consent to reasonable and
0295 necessary protective services, the secretary may petition the
0296 district court for appointment of a guardian or conservator, or
0297 both, for the adult pursuant to the provisions of the act for
0298 obtaining a guardian or conservator, or both, in order to obtain
0299 such consent.

0300 (b) In any proceeding in district court pursuant to provisions
0301 of this act, the district court shall appoint an attorney to represent
0302 the adult if the adult is without other legal representation.

0303 Sec. 12. Subsequent to the authorization for the provision of 11
0304 necessary protective services, the secretary of social and reha-
0305 bilitation services shall initiate a review of each case within 45

0306 days to determine where continuation of, or modification in, the
0307 services provided is warranted. A decision to continue the pro-
0308 vision of such services shall comply with the consent provisions
0309 of this act. Reevaluations of the need for protective services shall
0310 be made not less than every six months thereafter.

0311 Sec. 13 The authority of the secretary under this act shall 12
0312 include, but is not limited to, the right to initiate or otherwise
0313 take those actions necessary to assure the health, safety and
0314 welfare of an adult, subject to any specific requirements for
0315 individual consent of the adult.

0316 Sec. 14 Any actions taken under this act shall be consistent 13
0317 with providing protective services and accommodations in a
0318 manner no more restrictive of an individual's personal liberty
0319 and no more intrusive than necessary to achieve acceptable and
0320 treatment objectives.

0321 Sec. 15 K.S.A. 39-1401 to 39-1410, inclusive, and 39-1421 to 14
0322 39-1429, inclusive, are hereby repealed.

0323 Sec. 16 This act shall take effect and be in force from and 15
0324 after its publication in the statute book.

HOUSE BILL No. 3029

By Committee on Public Health and Welfare

2-24

0017 AN ACT concerning tanning facilities; authorizing the operation
0018 thereof in salons, schools of cosmetology or health spas; re-
0019 quiring permits for operation thereof; providing for adminis-
0020 tration by the state board of cosmetology; prohibiting certain
0021 acts and providing penalties for violations.

0022 *Be it enacted by the Legislature of the State of Kansas:*

0023 Section 1. (a) As used in this section:

0024 (1) "Tanning facility" means a room or booth which houses
0025 equipment or beds used for tanning the human skin by the use of
0026 fluorescent sunlamps using ultraviolet or other artificial radia-
0027 tion;

0028 (2) "board" means state board of cosmetology; and

0029 (3) "health spa" means any person, association, partnership
0030 or corporation engaged in the sale of instruction, training or
0031 assistance in a program of physical exercise, which may include
0032 the use of a sauna, whirlpool bath, weight-lifting room, massage,
0033 steam room or other exercising machine or device, or in the sale
0034 of the right or privilege to those facilities, machines or devices.
0035 "Health spa" does not include a bona fide nonprofit organization
0036 which has been granted taxexempt status by the United States
0037 internal revenue service, including but not limited to the young
0038 men's christian association, the young women's christian associ-
0039 ation or other similar organizations whose functions as health
0040 spas are only incidental to their overall functions and purposes.

0041 (b) The owner or operator of a salon or school of cosmetology
0042 licensed under K.S.A. 65-1901 *et seq.* and amendments thereto or
0043 the owner or operator of a health spa may operate tanning
0044 facilities in the salon, school of cosmetology or health spa in
0045 accordance with rules and regulations of the state board of

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0046 cosmetology pertaining to the operation of tanning facilities.

0047 (c) The board shall adopt rules and regulations:

0048 (1) Requiring that tanning facilities be installed and operated
0049 in a manner that ensures the health and safety of consumers
0050 using them;

0051 (2) establishing the procedures governing applications for
0052 permits required by this section; and

0053 (3) setting fees for permits and renewal which cover the costs
0054 incurred by the board in inspecting tanning facilities and en-
0055 forcing the rules of the board, but which in any case shall not
0056 exceed \$200 for a permit or renewal for each location of such
0057 facilities.

\$100 plus \$10 for each bed after the first bed

0058 (d) The rules and regulations adopted under subsection (c)(1)
0059 of this section shall include but not be limited to the following:

0060 (1) A rule and regulation establishing a maximum safe time of
0061 exposure to radiation, a maximum safe temperature at which
0062 sunlamps may be operated and proper ventilation of the area in
0063 which the sunlamps are located;

0064 (2) a rule and regulation requiring that the consumer wear
0065 protective eyeglasses and that the consumer be supervised as to
0066 the length of time the consumer uses a tanning facility;

0067 (3) a rule and regulation requiring the operator to prohibit
0068 consumers from standing too close to sunlamps and to post signs
0069 warning consumers of the potential effects of radiation on per-
0070 sons taking certain medications and of the possible relationship
0071 of the radiation to skin cancer;

0072 (4) a rule and regulation requiring the installation of protec-
0073 tive shielding for sunlamps and handrails for consumers;

0074 (5) a rule and regulation requiring that all employees who
0075 operate the tanning equipment hold an authorization from the
0076 board as having successfully completed a training program ap-
0077 proved by the board in the operation of tanning equipment; and

0078 (6) a rule and regulation requiring that floors be dry during
0079 operation of lamps, that the facility be cleaned after each use and
0080 that showers be available for customers.

0081 (e) No person shall own or operate any tanning facilities that
0082 are offered to the public for a fee or other compensation unless

083 the person holds a valid permit issued by the board. The permit
084 holder shall post the permit in a conspicuous place on any
085 premises where the tanning facilities are located. A person shall
086 obtain a separate permit for each of the premises owned or
087 operated by that person. No person who owns or operates a
088 tanning facility shall allow the sale or consumption of alcohol on
089 the premises or allow an intoxicated person to use the tanning
090 equipment.

091 (f) The board shall issue a permit to any person who files an
092 application on a form prescribed by the board and pays the fee
093 established by the board, if an initial inspection of the premises
094 indicates that the premises and the tanning facilities are installed
095 and will be operated in accordance with any rules and regula-
096 tions adopted under subsection (c)(1) of this section.

097 (g) A permit holder may renew a permit annually upon pay-
098 ment to the board of the annual renewal fee, except that the
099 board may, after a hearing in accordance with the Kansas ad-
100 ministrative procedure act refuse to renew the permit of any
101 owner or operator who has violated the rules and regulations of
102 the board for the safe operation of tanning facilities.

103 (h) The board shall appoint inspectors as needed to make
104 periodic inspections of tanning facilities as specified by the
105 board. The board, after a hearing in accordance with the Kansas
106 administrative procedure act, may suspend any permit where the
107 owner or operator fails to correct any unsafe conditions that exist
108 in violation of the rules and regulations of the board or fails to
109 cooperate in any inspection of tanning facilities by the inspector.

110 (i) If any violation has resulted in a condition deemed by an
111 inspector to create an immediate danger to the health and safety
112 of any person using the tanning facilities, the inspector may
113 suspend the permit without a prior hearing until the unsafe
114 condition is corrected or until a hearing in accordance with the
115 Kansas administrative procedure act is held and the board either
116 upholds the suspension by the inspector or reinstates the permit.

117 (j) A violation of subsection (c) is a misdemeanor punishable
118 by a fine of not to exceed \$5,000.

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

less than \$10 nor more than \$100 or by imprisonment in the
county jail for not less than 10 days nor more than 90 days,
or by both such fine and imprisonment