Approved 3-22-88
Date

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 15, 1988 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

Dottie Musselman, Acting Secretary to Committee
Emalene Correll, Research
Norman Furse, Revisor

Conferees appearing before the committee:

Larry Buening, Legal Council for Ks. Board Healing Arts
Dr. Charles Hartman, KU Medical Center
Harold Riehm, Ks. Association of Osteopathic Medicine
Steve Menke, President of Central Kansas MEDICAL Cntr/
Larned, and Great Bend, Kansas
Wayne Stratton, Attorney for Central Hospital Association
Dick Morrissey, Department of Health and Environment
Dick Hummel, Kansas Health Care Association
Representative Susan Roenbaugh

Chairman called meeting to order, calling attention to a letter he had received from a Ms. Mildred Lowry in regard to an upsetting questionaire about the Dietitians licensure bill. He noted to committee members he intends to respond to this letter in behalf of committee.

Hearings began on HB 3033:

Larry Buening, Ks. Board of Healing Arts (Attachment No. 1), spoke to HB 3033. Their Board has conducted inspection tours at Winfield State Hospital and Kansas state Penitentiary, and feel both facilities would benefit from additional physician personnel. However, there is difficulity in attracting qualified personnel. HB 3033 would speak to solving this concern. Lines 30-32 if deleted, would allow their Board to accept either the Educational Commission for Foreign medical Graduates (ECFMG or the FLEX exam). This would not result in any reduction of competency or qualifications of applicants. He noted deletion requested in line 33 is purely of technical nature. He answered questions, testing is not done outside the English language; it is the feeling of their Board this will not affect many people.

Hearings closed on HB 3033.

Hearings began on HB 3034:

Larry Buening, Board of Healing Arts, (Attachment No. 2), and he noted concerns with present statutory language in respect to clinical residency programs in Kansas. A National trend is different in that required by Kansas. The Board of Healing Arts position is that graduates from medical school be given a one year period in which to pass the required basic science exam, but not be precluded from engaging in postgraduate training programs in Kansas during that time period. HB 3034 would enable persons to receive temporary permits. After that one year time period the student would need to meet requirements and pass the required examination. No questions.

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 //a.m./p.m. on March 15, 19 88

Hearings continue on HB 3034:-
Dr. Charles Hartman, KU Medical Center Chief of Staff, spoke to the support of HB 3034. They wish to comply with State Statutes. Since the trend is getting away from requiring passing of the National Boards, Part 1 and Part 2, (American Regulated Board Exams), HB 3034 will speak to their concerns, he said. He asked for favorable consideration. He answered questions.

Harold Riehm, Ks. Association of Osteopathic Medicine, stated his Association is in agreement with Dr. Hartman's remarks. He cited a logistics problem of a student that would be contacted June 1st, when examinations would be taken, before their training would be completed.

Questions of Larry Buening, i.e., are lines 100-106 necessary, and he replied he felt for others there must be a purpose for this language, but not necessary on their behalf.

Chairman asked Mr. Furse to explain reasons for language in lines 100-106 of HB 3034. Mr. Furse indicated this appears in a number of licensure acts. The Agency has the authority to fix fees by rules and regulations. Ms. Correll said the language goes back to the 1950's, so perhaps isn't applicable now in light of the fact the Board has to annually prepare their budget. Lines 69-70 intends to allow the Board to take away temporary permits if they are practicing outside the residency program. Perhaps this is an attempt for the Board to have KUMC enforce its policy in this regard.

Ms. Correll asked about HB 3033, is this proposal supported by SRS. Mr. Buehing replied they met together and discussed possible changes. Mr. Furse indicated fees are fixed by Rules and Regulations.

Hearings closed on HB 3034.

Hearings began on HB 3035:

Tom Bell, Kansas Hospital Association stated HB 3035 is specifically a response to a situation. The Department of Health and Environment, and their Association have concerns, and conferees this date will offer amendments to speak to those concerns.

Mr. Steve Menke, President of Central Kansas Medical Center, Great Bend and Larned, Kansas offered hand-out, (Attachment No.3). HB 3035 will address a major concern of people living in rural Kansas, the accessibility to health care services. Concerns are, i.e., Federal Medicare Program is reimbursing rural hospitals 20% less than urban counterparts for identical services; there is concern about availability of trained personnel; there are physicians shortages; malpractice insurance rates have increased dramatically; regional competition is also a concern. He asked committee to consider specifically St. Joseph Memorial Hospital in Larned. They are dealing with financial problems and have merged with Central Kansas Medical Center in Great Bend. HB 3035 would provide for hospitals merging to apply for a single license, thus giving them the opportunity to consolidate administrative overhead and operate as a single entity. Basic services to patients would continue. He answered questions, i.e., tax money availability; yes, Sisters of Dominican are the single stock holders of this Corporation since the merger.

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 15, 1988.

Hearings continued on HB 3035:---

Mr. Wayne Stratton, Attorney for Kansas Hospital Association offered hand-out, (Attachment No. 4). The balloon copy of HB 3035 offered indicated changes, i.e., Page 3 speaks to permitting two facilities to merge, provide services required by Section 3, with a single Administrator and Medical Staff. Page 4, deletes the word, "facility", and inserts in lieu thereof, "establishment"; strikes the word "arrangements", and inserts in lieu thereof, "provisions'. He gave rationale of this request and answered questions, i.e., the word arrangement was too broad; there would be a single Administrator, single staff of medical personnel.

Dick Morrissey, Department of Health and Environment, (Attachment No.5), spoke to HB 3035. Their Department does not oppose the merger of hospitals if it allows for greater economy in providing services, however, the concept of a community hospital licensed to provide services can be maintained only if certain limitations are placed on separate facilities involved in a merger. He cited certain limitations and qualifications required. Their Department has currently confronted the issue of hospital mergers with respect to licensing. He cited reasons why a single license was granted, and although their Department agreed to issue a single license in the case of two facilities in the same community, was aware that in future cases, each would need to be reviewed on their own merits.

Mr. Morrissey offered changes in HB 3035, i.e., in new language proposed by Mr. Stratton, after the word for, (in new language), add "two", and strike the words, "on two separate parcels of land which are located". He agrees with the change proposed in the word "provisions', rather than "arrangements" on Page 4. He answered questions.

Dick Hummel, Kansas Health Care Association cited concern with line 138. He agrees with the amendment offered by the Hospital Association, and perhaps line 138 of HB 3035 should be deleted as it carried a lot of implications that could cause problems.

Representative Susan Roenbaugh stated she thought HB 3035 is a very simple solution to a complex problem. There is a need to keep both hospitals open in Great Bend and Larned, Kansas she stated, and urged all on this committee, (if you are serious about rural health care), to approve this proposal since it is a good answer to our problems in rural Kansas.

Chairman noted to Rep. Roenbaugh, perhaps it is not a complete solution, but it would be at least a band-aid.

Meeting adjourned.

GUEST REGISTER

HOUSE

PUBLIC HEALTH AND WELFARE COMMITTEE

HB-3033
HB-3034
HB-3035

Date 3-15-88

NAME	ORGANIZATION	ADDRESS
Rick Hemmel	Ks Health Cons. Assn	2218 SW 33, Topeka, KS.
Joseph F Kroll	KDHE	LSOB
Bill Bain	KDHE	LSOB
Bob Corkins	KHA	Topeka
Vickie Morris	KU MC	Lawrence
Dirk Hartman	KUMC	Kansas City, Kans.
Emma L Schroeder	Private Practice SW	Buhler, Ks.
David J Schroeder	Retired Contractor	Buhler Ks
Rep Jessie Louchheim	Leg	Dennis Ks.
Harold Ruthen	KADM	TOPEKA
Myrtle Lupelt	retired/student	2201 N Juliette, Manhattan, KS

STATE OF KANSAS

BOARD OF HEALING ARTS

OFFICE OF

RICHARD A. UHLIG, D.O., SECRETARY
CHARLENE K. ABBOTT, EXECUTIVE SECRETARY
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LANDON STATE OFFICE BUILDING
900 S.W. JACKSON, SUITE 553
TOPEKA, KS 66612-1256
(913) 296-7413

TO: House Committee on Public Health & Welfare

FROM: Lawrence T. Buening, Jr., General Counsel
Kansas State Board of Healing Arts

DATE: March 15, 1988

RE: HB-3033

At its meeting February 6, 1988, the State Board of Healing Arts directed that a bill proposal be submitted which would provide the Board with somewhat more flexibility and latitude in the granting of Institutional Licenses.

During the past year, several meetings have taken place with SRS and Department of Corrections representatives. The Board has conducted inspection tours of both Winfield State Hospital and Kansas State Penitentiary. In both cases, the members of the inspection team indicated the facilities could benefit from additional physician personnel. However, both agencies expressed great difficulty in the ability to attract qualified applicants to their facilities. The Board has acknowledged this as a problem. The purpose in asking for the passage of HB-3033 is to lessen in some small degree the qualifications an individual must possess to receive an institutional license.

A large majority of physicians in state institutions are graduates of foreign medical schools. Currently, K.S.A. 1987 Supp. 65-2895 requires an applicant for an institutional license, if a foreign medical graduate, to pass the examination given by the Educational Commission for Foreign Medical Graduates and an examination in the basic and clinical sciences approved by the Board. This ECFMG exam is much more comprehensive in its testing of medical knowledge than the previous Visa Qualifying Examination which it replaced. The examination includes questions in both basic medical sciences and clinical sciences. The examination which has been approved by the Board as an acceptable basic and clinical science examination is FLEX I. FLEX I likewise is designed to evaluate knowledge of both basic and clinical science principles. Therefore, the sentence at lines 30-32 is being requested to be deleted so the Board would have the ability to accept either the examination given by ECFMG or FLEX I as the acceptable examination for a foreign medical graduate applying for an institutional license. It is felt this could increase the number of individuals who will qualify for such license and thereby have some positive effect on physician supply to state institutions. However, it is not felt this would result in the reduction of competency or qualifications of

Attm #1
H. Public Health & W.
3-15-88

individuals who receive institutional licenses.

The two words at line 33 are being asked to be stricken for a purely technical reason in order to bring the statutory language more in conformity with the language of K.S.A. 65-2873, a portion of which is referred to in K.S.A. 65-2895. (See line 49 on page 2 of bill)

Thank you very much for the opportunity to appear before you today. I would be happy to respond to any questions you might have.

LTB/sl

STATE OF KANSAS

BOARD OF HEALING ARTS

OFFICE OF

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(913) 296-7413

TO: House Committee on Public Health & Welfare

FROM: Lawrence T. Buening, Jr., General Counsel
Kansas State Board of Healing Arts

DATE: March 15, 1988

RE: HB-3034

At its meeting February 6, 1988, the State Board of Healing Arts considered four alternatives for the modification of K.S.A. 65-2811. The alternative choosen by the Board to pursue was one which would delete passage of an examination in the basic sciences in order to engage in the first year of postgraduate training in this state.

The present statutory language of K.S.A. 65-2811(a)(2) authorizes the Board to issue temporary permits for postgraduate training. To receive this type of temporary permit, the applicant must possess all qualifications for permanent licensure by examination (K.S.A. 65-2873), except passage of an examination covering the practice of the branch of the healing arts involved and, of course, the requisite postgraduate training. As previously explained in the presentation on HB-3033, FLEX I is one of the exams approved by the Board to be this basic science examination. Other acceptable examinations are both parts I and II of National Board of Medical Examiners (NBME) for medical doctors and both parts I and II of the National Board of Osteopathic Medical Examiners for osteopathic physicians.

In the past year, representatives of clinical residency programs in Kansas have advised the Board of the difficulty the present statutory language is causing. Although the University of Kansas Medical School continues to require passage of parts I and II of NBME as a condition of graduation from medical school, there is a national trend away from this requirement. Prominent medical schools such as John Hopkins and Case Western Reserve have deleted passage of any national examination as a requirement for graduation. As a result, many students from medical schools not requiring passage of such a national examination, are not taking these examinations until they commence their first year of internship or residency.

The Board's position was that graduates from medical school should be given a one-year period in which to pass the required basic science examination, but not be precluded from engaging in postgraduate training programs in this state during that one-year period. Some states do not require any state regulation whatsoever for individuals engaged in residency programs. New York state is an example.

#2 House
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3-15-88

However, doing away with temporary permits for postgraduate training did not appear to be a practical alternative to the Board in light of current mandatory insurance requirements, nor did that alternative appear to be in the best interest of the citizens of the State. Furthermore, deleting the basic sciences examination as a requirement for all years of postgraduate training was not an alternative preferred by the Board.

The present language of HB-3034 would enable a person to receive a temporary permit for postgraduate training in the State of Kansas for one year without first having passed a basic science examination approved by the Board. After that one-year period, the individual would need to meet the requirements of K.S.A. 65-2811(a)(2) and receive a temporary permit under that section in order to continue with additional postgraduate training. In otherwords, the basic sciences examination would have to be passed during that first year. Alternatively, following the first year postgraduate training, a person could apply for and, if qualified, receive full licensure under the provisions of K.S.A. 65-2873. The proposed statutory amendments would not affect what an individual could do under a temporary permit. If a person holds a temporary permit, whether it be for one year under the proposed statutory additions or under K.S.A. 65-2811(a)(2), the individual would not be allowed to engage in any practice of the healing arts outside of the postgraduate training program. In otherwords, "moonlighting" which is not part of the program would remain prohibited. On the other hand, if the person qualifies for and receives permanent licensure under K.S.A. 65-2873 the individual could engage in "moonlighting" if the requisite mandatory professional liability insurance was maintained even if such activities were not part of the training program.

Thank you very much for the opportunity to appear before you. I understand that there may be persons testifying from the residency programs who may better provide you with information on technical aspects of those programs and the practical affects the present statutory language has on the programs. However, I am happy to answer any questions you might have.

LTB/sl

TESTIMONY GIVEN BEFORE THE

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

MARCH 15, 1988

My name is Steve Menke, and I'm the president of Central Kansas Medical Center in Great Bend, which also includes St. Joseph Hospital Division in Larned, and is sponsored by the Dominican Sisters. I would like to take this opportunity to thank all of you for taking time out of your busy schedules to consider House Bill No. 3035.

This afternoon we are asking you to consider a Bill which would allow hospitals which have decided to legally merge to receive a single license from the state. This is important because it would allow the hospitals to consolidate their overhead and continue to be financially viable for the future.

The Bill addresses a major concern of many people who live in rural areas. That issue is the accessibility to health care services. I personally have been involved in health care since 1972. I believe that the challenges for rural hospitals are greater than I have ever seen during my professional career.

#3 attm H Public Health & Welfare 3-15-88

Time does not allow to fully discuss every one of these challenges. However, some of the major issues include the following:

-The Federal Medicare Program is reimbursing rural hospitals approximately 20 percent less than their urban counterparts for identical services.

-A second major issue challenging rural hospitals is the availability of trained personnel. We are beginning to experience a significant shortage of registered nurses. There is an acute need for physical therapists, occupational therapists, and respiratory therapists in rural areas. In order to recruit these individuals, rural hospitals are being forced to dramatically increase salaries.

-The hospitals have experienced and continue to experience physician shortages. In some cases, the lack of physicians has resulted in the elimination of services, such as obstetrics. It has also threatened the closure of some hospitals.

-The malpractice insurance rates have dramatically increased for both the physicians and the hospitals.

-The fifth major problem that I see for rural hospitals is the regional competition.

These problems present overwhelming challenges for the rural hospitals. Almost every expert predicts that there will be major closings of rural hospitals in the future. In Kansas, I believe these closings will dramatically impact the accessibility to hospital services.

To illustrate the significance of these problems, I would ask you to consider St. Joseph Memorial Hospital in Larned, Kansas. St. Joseph's Hospital is a 68 bed facility which provides a combination of hospital, chemical dependency, and long-term care services. The hospital has a debt of $3.5 million. The past few years have been very difficult for the hospital. In 1985, the hospital lost $150,000. In 1986, it lost $481,000. In 1987, it lost approximately $100,000.

Last summer, the hospital recognized that it had serious financial problems. The hospital considered the options of defaulting on its long-term debt, or merging with Central Kansas Medical Center in Great Bend, which also is operated by the Dominican Sisters. Considering the long-term commitment to the people of Larned, the Dominican Sisters and the Boards of Directors of St. Joseph Memorial Hospital and Central Kansas Medical Center decided that a merger would better meet the health care needs of Pawnee County. Therefore, the hospitals merged on January 1 of this year.

One of the fringe benefits of the merger is that the combined institution may be eligible for consideration as a Rural Referral Hospital by the Federal Medicare Program. If the combined hospital has over 5,000 admissions, appropriate medical staff, and sufficient case mix index, the Medicare program may consider it as a Rural Referral Hospital. If so designated, the hospital would receive a higher reimbursement for all Medicare patients.

If this designation had been in effect during the last fiscal year, the hospital would have received an additional $1 million for providing exactly the same services. However, federal law currently indicates that in order to be considered for this designation, the merged hospital must operate as a single entity. The problem is that the state licensing organization has expressed a desire to continue to provide two licenses for the combined organization. Accordingly, we must establish for the federal authorities that we are operating as a single organization, and conversely demonstrate to the Kansas Health Department that we are operating as two organizations. The fact of the matter is that in order to achieve the overhead savings from the merger, we must operate as a single entity.

Some examples of the problems that we have already experienced as a result of being two separately licensed hospital facilities include:

-Inability to participate in a self-insured malpractice pool, which potentially could save thousands of dollars in malpractice premiums.

-Problems in applying for drug administration numbers because of the two licenses.

-Being legally inconsistent in having a merged entity but still being required to operate under two licenses.

-A hospital inspector may require duplication of overhead activities, which would reduce the potential savings of the merger.

Now that we have discussed some of the problems facing rural hospitals, we would like to provide a brief description of what this proposed Bill would do.

Essentially, this Bill provides that if two hospitals legally merge, they will be able to apply for a single license, thus giving them the opportunity to consolidate their administrative overhead and operate as a single entity. However, the basic services traditionally provided would continue. For example, emergency services, 24-hour nursing care, laboratory, and x-ray all would be required in order to serve the community. The activities that would most likely be combined may include administration, malpractice insurance, hospital fees to outside agencies, billing services, and marketing. Thus, the basic direct services to the patients would continue, and indirect administration could be consolidated.

This Bill obviously does not solve all the major challenges facing rural hospitals. However, it does provide some flexibility to allow the local communities to develop innovative solutions to the challenges facing them.

Session of 1988

HOUSE BILL No. 3035

By Committee on Public Health and Welfare

2-24

AN ACT concerning medical care facilities; authorizing the category of rural hospital; amending K.S.A. 65-425, 65-429 and 65-431 and repealing the existing sections.

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

Section 1. K.S.A. 65-425 is hereby amended to read as follows: 65-425. As used in this act: (a) "General hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than ~~twenty four~~ ~~(24)~~ *24* hours of every day, to provide diagnosis and treatment for four or more nonrelated patients who have a variety of medical conditions.

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

~~*(c) "Rural hospital" means:*~~

~~*(1) An establishment with permanent facilities that include inpatient beds and with medical services, including physician services and continued registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment of four or more nonrelated patients who have a variety of medical conditions, which establishment is located in a county having a population of not more than 50,000; or*~~

~~*(2) two or more establishments which operate as a single*~~

~~*entity under common ownership with a common board of trustees or directors and with a common medical staff and chief executive officer with permanent facilities that include inpatient beds and with medical services, including physician services and continued registered professional nursing services for not less than 24 hours of every day, to provide diagnosis and treatment for four or more nonrelated patients who have a variety of medical conditions, none of which establishments are located in a county having a population of more than 50,000.*~~

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

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

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

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

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

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

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

* A separate license is not required for separate establishments located on two separate ~~parcels of land~~ which are located in the same or contiguous counties and provide the services required by Section 3 and which are organized under a single owner or governing board with a single designated administrator and medical staff.

Sec. 2. K.S.A. 65-429 is hereby amended to read as follows: 65-429. Upon receipt of an application for license, the licensing agency shall issue with the approval of the state fire marshal a license provided the applicant and the physical facilities of the medical care facility meet the requirements established under this act. A license, unless suspended or revoked, shall be renewable annually without charge upon the filing by the licensee, and approval by the licensing agency, of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes by regulation. A medical care facility which has been licensed by the licensing agency and which has received certification for participation in federal reimbursement programs and which has been accredited by the joint commission on accreditation of hospitals or the American osteopathic association may be granted a license renewal based on such certification and accreditation. Each license shall be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. ~~*A hospital that meets the requirements for both a general hospital and a rural hospital may elect the classification of its license. A single license shall be issued to any rural hospital meeting the requirements of this act.*~~ Licenses shall be posted in a conspicuous place on the licensed premises.

Sec. 3. K.S.A. 65-431 is hereby amended to read as follows: 65-431. *(a)* The licensing agency shall adopt, amend, promulgate and enforce such rules and regulations and standards with respect to the different types of medical care facilities to be licensed hereunder as may be designed to further the accomplishment of the purposes of this law in promoting safe and adequate treatment of individuals in medical care facilities in the interest of public health, safety and welfare. No rule or regulation shall be made by the licensing agency which would discriminate against any practitioner of the healing arts who is licensed to practice medicine and surgery in this state. Boards of trustees or directors of facilities licensed pursuant to the provisions of this act shall have the right to select the professional staff

members of such facilities and to select and employ interns, nurses and other personnel, and no rules and regulations or standards of the licensing agency shall be valid which, if enforced, would interfere in such selection or employment. In formulating rules and regulations, the agency shall give due consideration to the size of the medical care facility, the type of service it is intended to render, the scope of such service and the financial resources in and the needs of the community which such facility serves.

(b) A ~~rural~~ hospital consisting of more than one establishment shall be considered in compliance with the rules and regulations of the licensing agency if all basic services required by the agency are available as a part of the combined operation and if the following basic services are available at each ~~facility.~~ Continuous nursing service, continuous physician coverage on duty or on call, basic diagnostic radiological and laboratory facilities, drug room, **~~arrangements~~ for emergency services, food service, **~~arrangements~~ for patient isolation and **~~arrangements~~ for laundry service. ~~Any rural hospital complying with the requirements for a license to operate an adult care home, as defined in K.S.A. 39-923 and amendments thereto, shall be licensed to provide adult care home services as a part of the license issued to such hospital hereunder.~~*

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

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

*establishment

**provisions

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

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

House Bill 3035

Background

House Bill 3035 would create a third category for hospital licensure to be called a "rural hospital." Current categories for hospitals are "general hospital" and "special hospital."

A "rural hospital" must meet the general requirements set forth for a "general hospital" and be located in a county having a population of not more than 50,000; or meet the general requirements for a "general hospital" and consist of:

> . . . two or more establishments which operate as a single entity under common ownership with a common board of trustees . . . a common medical staff and chief executive officer . . . none of which establishments are located in a county having a population of more than 50,000.

In the event a hospital meets the requirements for both a "general hospital" and a "rural hospital," the hospital may decide which license it wishes to receive.

A. Hospital Mergers

House Bill 3035 was prompted by the emerging issue of hospital mergers which is becoming more prominent every day. Hospitals see combining resources as one means of economic savings. In addition, Medicare regulations provide financial incentives for those hospitals which can qualify as rural referral centers.

Attm - Gen
House Public H
3-15-85

Within the past six months, two different hospitals have requested a single license for merged facilities. However, it has been the policy of the Kansas Department of Health and Environment (KDHE) to issue a separate license for each facility even though the same governing authority is operating separate facilities under a common medical staff and administration.

The general licensing statute for hospitals is KSA 65-425. The statute is not extremely clear on the issue of whether or not a single license can be granted for more than one location even if the separate facilities are owned and operated by the same governing body. However, the statute at least implies that licenses are to be issued on behalf of a facility and not necessarily the governing board who operates it. Under current law, the definition of both a "general hospital" and a "special hospital" means "an establishment with an organized medical staff (emphasis added)." The implication is that each physical structure is to be licensed. In addition, KSA 65-429 states that: "Each license shall be issued only for the premises and persons . . . named in the application . . ."

B. KDHE Experience With Hospital Mergers

KDHE has already confronted the issue of hospital mergers with respect to licensing. On December 4, 1987, the department agreed to issue a single license to a governing body which operated two previously separate facilities located within several blocks of one another in the same community. In the letter announcing this decision to the governing authority, several reasons were offered for granting a single license:

1. The new health care corporation which owned both facilities had a single governing authority.

2. The operation of both facilities was directed by a single administrator.

3. The two previously separate facilities were located in the same city within eight blocks of each other.

4. The single governing authority anticipated and planned that further consolidation of services and resources between the previously separate facilities would continue after the merger.

5. It was expected that patients would receive medical care in both facilities for the treatment of a single injury or illness. Therefore, obtaining professional liability insurance was difficult under separate licenses.

Although the department agreed to issue a single license in the case of two facilities in the same community, it was aware that future cases would need to be reviewed on their own merits. There was no intent to authorize a single license for facilities located in separate communities

where patients would not be routinely treated in both facilities for a single injury or illness.

Recommendations

KDHE does not oppose the merger of hospitals if it allows for greater economy in providing services. However, the traditional concept of a community hospital licensed and available to provide essential services can be maintained only if certain limitations are placed on separate facilities involved in a merger. These limitations would involve both the number of separate facilities which may be licensed as a single hospital and the geographic area being served by the merged facilities. Limiting single licensure to no more than two separate facilities located in the same or contiguous rural counties might serve the needs of facilities currently wanting to merge without changing the historic functions of a community hospital. This would especially be true if each facility in the merger maintained basic emergency services.

Presented by: Richard J. Morrissey, Director
Bureau of Adult and Child Care
March 15, 1988