

Approved 3-29-88
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at
Chairperson

10:00 a.m./~~p.m.~~ on March 25, 1988 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Norman Furse, Revisors Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Written testimony was presented by Under Secretary Gary Huelett, Kansas
Department of Health and Environment
Written testimony was presented by Tom Bell, Kansas Hospital Association
Written testimony on HB-2901 was presented by David S. Rosenthal, Exec.
Dir., Kansas Commission for the Deaf and Hearing Impaired

The chairman called the meeting to order stating that SB-678 was still
before the committee. On March 24, 1988, a conceptual motion was made
by Senator Francisco to adopt civil penalties not to exceed \$500 per day.
Senator Reilly seconded the motion and the motion carried.

Staff presented a balloon bill to committee members for consideration.
This includes a new Section 3. Attachment 1

Gary Huelett, Under Secretary, KDHE presented written testimony concerning
SB-678. Attachment 2

Senator Bond made the motion to adopt the balloon bill. Senator Francisco
seconded the motion and the motion carried.

Senator Reilly moved to adopt SB-678 as amended and pass out favorable
for passage. Senator Anderson seconded the motion and the motion carried.
Senator Kerr will carry SB-678.

House Bill 2835 was placed before the committee for consideration.
Senator Francisco moved to pass out HB-2835 as amended favorable for
passage. Senator Morris seconded the motion.

A substitute motion was made by Senator Reilly that an individual certi-
fied in the use of automated defibrillators may perform defibrillation.
Senator Francisco seconded the motion and the motion carried.

The committee voted on the original motion to pass out HB-2835 as amended
favorable for passage. The motion carried. Senator Reilly will carry
HB-2835.

House Bill 2759 was presented for committee consideration. Staff
presented a balloon bill of HB-2759 which deals with technical changes
other than Section 2(b) and Section 3. Section 2(b) deals with exceptions
and Section 3 deals with confidentiality. Attachment 3

Senator Bond moved to change "examinations" to "tests" throughout the bill
and Section 2(b) to exempt physicians' offices. Senator Francisco
seconded the motion and the motion carried.

Senator Bond moved the adoption of the balloon amendments as amended.
Senator Francisco seconded the motion and the motion carried.

Senator Francisco moved to pass out HB-2759 as amended favorable for

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S Statehouse, at 10:00 a.m./~~p.m.~~ on March 25, 1988

passage. Senator Vidricksen seconded the motion and the motion carried.
, Senator Anderson will carry HB-2759.

House Bill 2505 was placed before the committee for consideration.

Senator Francisco made a motion to adopt HB-2505 favorable for passage.
Senator Reilly seconded the motion.

Senator Morris made a substitute motion to amend HB-2505 as suggested by
Mark Beshears, representing Medco Containment services, Inc. on page 1
and page 2, attachment 2, March 21, 1988. Senator Kerr seconded the
motion.

Following discussion Senator Morris, with permission of the second,
withdrew his substitute motion.

The question was called on the original motion with the chair in doubt.
The vote was 4 Yea votes and 4 Nay votes. The motion was lost.

Senator Francisco moved that HB-2505 be tabled until no later than
Tuesday, March 29. The motion failed due to lack of a second.

Senator Reilly moved that HB-2505 be referred to Federal and State Affairs
Committee. Senator Bond seconded the motion and the motion carried.

The chairman placed HB-2643 before the committee for consideration. The
Kansas Hospital Association presented written testimony. Attachment 4

Senator Morris made the motion to accept the amendments offered by the
Kansas Medical Society and the Kansas Hospital Association which would
strike Section 8. Senator Vidricksen seconded the motion.

Written testimony by David S. Rosenthal, Executive Director of the Kansas
Commission for the Deaf and Hearing Impaired on HB-2901 was presented to
the committee. In his statement Mr. Rosenthal stated this bill provides
added safety measures for hearing impaired persons when they sleep in
hotels and motels in Kansas. Attachment 5

The meeting adjourned at 11 a.m. and will convene on Monday, March 28,
1988, at 10:00 a.m. in room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 25, 1988

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

<u>Roger Carlson Topeka</u>	<u>Ks Dept. Health & Environ.</u>
<u>Bill Mausey</u>	<u>KDHE</u>
<u>Carolyn Maddendrop</u>	<u>KSWA</u>
<u>Dr. Lois F. Scibetta</u>	<u>KSBN</u>
<u>Carol J. Smith</u>	<u>KDOA</u>
<u>FRANCES KASTNEK</u>	<u>KS Food Dealers Assn</u>
<u>Ramona Lowry, Wichita</u>	
<u>Mildred Lowry, El Dorado</u>	
<u>Ralph Fryzelka Topeka</u>	
<u>GARY Robbins Topeka</u>	<u>Ks Opt Assn</u>
<u>Don Stuelo Lawrence</u>	<u>KS Ass. of Phys. Asst.</u>
<u>KEITH R LANDIS TOPEKA</u>	<u>CHRISTIAN SCIENCE COMMITTEE</u>
<u>DAN STATION W. KS.</u>	<u>ON PUBLICATION FOR KANSAS</u>
<u>FRED THORP K.C.</u>	<u>REGION W.E.M.S. COUNCIL INC</u>
<u>Carroll Miles Lyndon</u>	<u>W. CO. E.M.S.</u>
<u>John P. Young Tyndal</u>	<u>Region IV EHAS Council</u>
<u>James J. James</u>	<u>K.C. FIRE DEPT</u>
<u>Jerry K. Hulbert</u>	<u>Kansas Dietetics Assn.</u>
	<u>Ks. Dietetic Assn</u>
	<u>Sen. Mollen</u>
	<u>KDHE</u>

SENATE BILL No. 678

By Committee on Public Health and Welfare

2-22

016 AN ACT concerning the secretary of health and environment;
017 relating to the regulation of maternity hospitals or homes and
018 homes for children; amending K.S.A. 65-504 and K.S.A. 1987
019 Supp. 65-521 and repealing the existing sections.

authorizing civil fines;

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

021 Section 1. K.S.A. 65-504 is hereby amended to read as fol-
022 lows: 65-504. (a) The secretary of health and environment shall
023 have the power to grant a license to a person, firm, corporation or
024 association to maintain a maternity hospital or home, or a board-
025 ing home for children under 16 years of age. The license shall
026 state the name of the licensee, describe the particular premises
027 in or at which the business shall be carried on, whether it shall
028 receive and care for women or children, and the number of
029 women or children that may be treated, maintained, boarded or
030 cared for at any one time. No greater number of women or
031 children than is authorized in the license shall be kept in those
032 premises and the business shall not be carried on in a building or
033 place not designated in the license. The license shall be kept
034 posted in a conspicuous place in the hospital or house in which
035 the business is conducted. No license shall be granted for a term
036 exceeding one year. The secretary of health and environment
037 shall grant no license in any case until careful inspection of the
038 maternity hospital or home, or home for children shall have been
039 made according to the terms of this act and until such maternity
040 hospital or home, or home for children has complied with all the
041 requirements of this act. No license shall be granted without the
042 approval of the secretary of social and rehabilitation services,
043 except that the secretary of health and environment may issue,
044 without the approval of the secretary of social and rehabilitation

045 es, a temporary permit to operate for a period not to exceed
046 30 days upon receipt of an initial application for license.

047 (b) In all cases where the secretary of social and rehabilita-
048 tion services deems it necessary, an investigation of the home
049 shall be made under the supervision of the secretary of social and
050 rehabilitation services or other designated qualified agents. For
051 that purpose and for any subsequent investigations they shall
052 have the right of entry and access to the premises of the home
053 and to any information deemed necessary to the completion of
054 the investigation. In all cases where an investigation is made, a
055 report of the investigation of such home shall be filed with the
056 secretary of health and environment. In cases where neither
057 approval or disapproval can be given within a period of 30 days
058 following formal request for such a study, the secretary of health
059 and environment may issue a temporary license without fee
060 pending final approval or disapproval of the home or facility.

061 (c) Whenever the secretary of health and environment re-
062 fuses to grant a license to an applicant, the secretary shall issue
063 an order to that effect stating the reasons for such denial and
064 within five days after the issuance of such order shall notify the
065 applicant of the refusal. Upon application not more than 20 days
066 after the date of its issuance a hearing on the order shall be held
067 in accordance with the provisions of the Kansas administrative
068 procedure act.

069 (d) When the secretary of health and environment finds upon
070 investigation or is advised by the secretary of social and rehabil-
071 itation services that any of the provisions of this act are being
072 violated, or such maternity hospital or home, or home for chil-
073 dren is maintained without due regard to the health, comfort or
074 morality of the residents, the secretary of health and environ-
075 ment shall, after giving notice and conducting a hearing in
076 accordance with the provisions of the Kansas administrative
077 procedure act, issue an order revoking such license and such
078 order shall clearly state the reason for such revocation.

079 (e) If an application for a license is denied or if a license is
080 revoked, the applicant denied a license or licensee who had a the secretary revokes or refuses to renew a license, the
081 license revoked shall not be eligible to apply for a license for a or not renewed

008 *period of one year subsequent to the date such [denial or] revoca-
008. n [becomes final.*

[or refusal to ^{renew} ~~review~~

0084 (e) (f) Any applicant or licensee aggrieved by a final order of
0085 the secretary of health and environment denying or revoking a
0086 license under this act may appeal the order in accordance with
0087 the act for judicial review and civil enforcement of agency
0088 actions.

0089 Sec. 2. K.S.A. 1987 Supp. 65-521 is hereby amended to read
0090 as follows: 65-521. (a) The secretary may deny, revoke or refuse
0091 to renew a certificate of registration upon a determination by the
0092 secretary that the registrant falsified information on the applica-
0093 tion or willfully and substantially has violated K.S.A. 65-516 to
0094 65-522, inclusive, and amendments thereto. The secretary shall
0095 not revoke or refuse to renew any certificate without first giving
0096 notice and conducting a hearing in accordance with the provi-
0097 sions of the Kansas administrative procedure act.

0098 (b) *If [an application for a certificate of registration is denied
0099 or if] the secretary revokes or refuses to renew a certificate of
0100 registration, the [applicant denied a certificate of registration or
0101 the] registrant who has had a certificate of registration revoked
0102 or not renewed shall not be eligible to apply for a certificate of
0103 registration for a period of one year subsequent to the date such
0104 [denial] revocation or refusal to renew becomes final.*

[New Sec. 3. See attached.

0105 Sec. [3] K.S.A. 65-504 and K.S.A. 1987 Supp. 65-521 are
0106 hereby repealed.

[4

0107 Sec. [4] This act shall take effect and be in force from and
0108 after its publication in the statute book.

[5

New Sec. 3. The secretary of health and environment, in addition to any other penalty prescribed under Article 5 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory of the provisions thereof or supplemental thereto, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee or registrant for a violation of such provisions or rules and regulations adopted pursuant thereto which affects significantly and adversely the health, safety or sanitation of children in a boarding home for children or family day care home. A civil fine assessed under this section shall not exceed \$500. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit it to the state general fund.

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

March 25, 1988

THE HONORABLE ROY EHRLICH
CHAIRMAN
SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
THE STATEHOUSE
TOPEKA KS 66612

Dear Senator Ehrlich:

We appreciate your committee's consideration of Senate Bill No. 678. If the Bill passes with the civil penalty amendment added by the committee it will be the Department's policy to limit penalties for facilities with fewer than 12 children to no more than \$50.00 per violation. Approximately 7,000 of the 8,000 licensed child care facilities are day care homes and foster homes that serve less than 12 children.

We believe that this amount will constitute an actual and substantial economic deterrent to non-compliant behavior in these facilities. We would not object to such a limit being added to the bill.

Sincerely,

Handwritten signature of Gary K. Hulett in cursive.

Gary K. Hulett, Ph.D.
Under Secretary

GH:er

HOUSE BILL No. 2759

By Committee on Public Health and Welfare

2-2

0018 AN ACT relating to the secretary of health and environment;
0019 amending K.S.A. 65-1,108 and K.S.A. 1987 Supp. 65-1,107 and
0020 repealing the existing sections.

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

0022 Section 1. K.S.A. 1987 Supp. 65-1,107 is hereby amended to
0023 read as follows: 65-1,107. The secretary of health and environ-
0024 ment is hereby authorized and empowered to promulgate rules
0025 and regulations establishing:

0026 (a) The procedures and qualifications for the ~~registering and~~
0027 ~~approving of~~ laboratories performing *prenatal* serological exam-
0028 *inations for syphilis, serological examinations for human im-*
0029 *munodeficiency virus and tests for controlled substances in-*
0030 *cluded in schedule I or II of the uniform controlled substance*
0031 *act;*

0032 ~~(b) the procedures and methods of examination and approval~~
0033 ~~of persons performing serology tests in approved laboratories;~~

0034 ~~(c) (b) the procedures, qualifications of personnel and stan-~~
0035 ~~dards of performance in the testing of human breath for law~~
0036 ~~enforcement purposes, including procedures for the periodic~~
0037 ~~inspection of apparatus, equipment and devices, other than pre-~~
0038 ~~liminary screening devices, approved by the advisory commis-~~
0039 ~~sion secretary of health and environment for the testing of~~
0040 ~~human breath for law enforcement purposes;~~

0041 ~~(d) (c) the requirements for the training, certification and~~
0042 ~~periodic testing of persons who operate apparatus, equipment or~~
0043 ~~devices, other than preliminary screening devices, for the testing~~
0044 ~~of human breath for law enforcement purposes;~~

~~(e) (d) criteria for preliminary screening devices for testing of~~

0046 breath for law enforcement purposes, based on health and per-
 0047 formance considerations; and
 0048) (e) a list of preliminary screening devices which are ap-
 0049 proved for testing of breath for law enforcement purposes and
 0050 which law enforcement agencies may purchase and train officers
 0051 in the use of as aids in determining probable cause to arrest and
 0052 grounds for requiring testing pursuant to K.S.A. 8-1001 and
 0053 amendments thereto.

0054 Sec. 2. K.S.A. 65-1,108 is hereby amended to read as follows:

0055 65-1,108. ~~From and after September 1, 1947,~~ (a) It shall be unlawful
 0056 for any person; firm, corporation, city or county or laboratory to
 0057 perform prenatal serological tests in connection with premarital
 0058 or prenatal tests examinations for syphilis, serological examina-
 0059 tions for human immunodeficiency virus or tests for controlled
 0060 substances included in schedule I or II of the uniform controlled
 0061 substance act unless the laboratory in which such tests are
 0062 performed has ~~shall have~~ been registered with, and approved, by the
 0063 secretary of health and environment and unless all persons
 0064 employed therein who perform technical laboratory services
 0065 shall have been approved by the secretary of health and envi-

0066 ronment. to perform such tests Any person violating any of the provisions of this
 0067 section shall be deemed guilty of a class B misdemeanor and
 0068 upon conviction thereof shall be fined not less than twenty five
 0069 dollars (\$25) or more than five hundred dollars (\$500). see attached

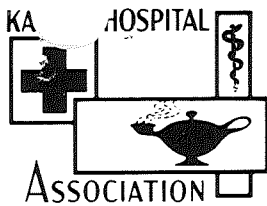
0070 Sec. 3 K.S.A. 65-1,108 and K.S.A. 1987 Supp. 65-1,107 are 4
 0071 hereby repealed.

0072 Sec. 4 This act shall take effect and be in force from and 5
 0073 after its publication in the statute book.

(b) As used in this section, "laboratory" shall not include a blood bank, tissue bank or the Kansas bureau of investigation forensic laboratory.

Sec. 3. (a) Information obtained through laboratory tests for prenatal serological examinations for syphilis, serological examinations for human immunodeficiency virus or serological tests for controlled substances included in schedule I or II of the uniform controlled substances act conducted by a laboratory approved under K.S.A. 65-1,107 and 65-1,108 and amendments thereto by the secretary of health and environment to perform such tests shall be confidential and shall not be disclosed or made public by officers or employees of such laboratory, except that such laboratory test results shall be released only to: (1) The person who ordered that such tests be made; (2) the secretary of health and environment if required by the secretary as part of the approval of the laboratory under K.S.A. 65-1,107 and 65-1,108 and amendments thereto; and (3) the secretary of health and environment for data collection purposes so long as such information is released in such a manner which will not reveal the identity of the person who is the subject of the information.

(b) A violation of this section shall constitute a class C misdemeanor.



Memorandum

Donald A. Wilson
President

March 24, 1988

TO: Senate Public Health and Welfare Committee
FROM: Thomas L. Bell
SUBJECT: H.B. 2643

Attached is a proposed technical amendment to H.B. 2643. This amendment has been agreed to by the Kansas Board of Healing Arts, the Department of Health and Environment, the Board of Nursing, the Kansas State Nurses' Association, the Kansas Medical Society and the Kansas Hospital Association.

This amendment is the result of discussions among a working group formed by the various associations and agencies involved. At a recent meeting of that group, it was agreed that the statistical quarterly reports referred to in K.S.A. 65-4923(d) are useful primarily to the Department of Health and Environment, which has the authority to oversee the implementation of these risk management and reporting systems. Instead of sending seven different quarterly reports to seven different agencies, it was thought the purposes of the law could be met by submitting one overall report to the Department of Health and Environment.

It should be noted this amendment will not prevent specific adverse finding reports from being submitted to the individual agency. It only involves the statistical quarterly reports. The amendment will improve the system and remove unnecessary paperwork by both providers and state agencies.

Thank you for your consideration of this amendment.

TLB:mkc
Attachment

0233 committee shall have the duty to report to the department of
0234 health and environment any finding that the facility acted in a
0235 manner which is below the applicable standard of care and
0236 which has a reasonable probability of causing injury to a patient,
0237 so that appropriate disciplinary measures may be taken.

0238 (4) As used in this subsection (a), "knowledge" means famil-
0239 iarity because of direct involvement or observation of the in-
0240 cident.

0241 (5) This subsection (a) shall not be construed to modify or
0242 negate the physician-patient privilege, the psychologist-client
0243 privilege or the social worker-client privilege as codified by
0244 Kansas statutes.

0245 (b) If a reportable incident is reported to a state agency which
0246 licenses health care providers, the agency may investigate the
0247 report or may refer the report to a review or executive committee
0248 to which the report could have been made under subsection (a)
0249 for investigation by such committee.

0250 (c) When a report is made under this section, the person
0251 making the report shall not be required to report the reportable
0252 incident pursuant to K.S.A. 65-28,122 or 65-4216, and amend-
0253 ments ~~thereto to such sections~~. When a report made under this
0254 section is investigated pursuant to the procedure set forth under
0255 this section, the person or entity to which the report is made shall
0256 not be required to report the reportable incident pursuant to
0257 K.S.A. 65-28,121 ~~or~~, 65-28,122 or 65-4216, and amendments
0258 ~~thereto to such sections~~.

0259 (d) Each ~~review and executive committee referred to in sub-~~ medical care facility
0260 ~~section (a)~~ shall submit to the ~~appropriate state licensing agency,~~ department of health and environment
0261 on a form promulgated by such agency, at least once every three
0262 months, a report summarizing the reports received by the ~~com-~~ subsection (a)(2) - (a)(3) of
0263 ~~mittee~~ pursuant to ~~this section~~. The report shall include the
0264 number of reportable incidents reported, whether an investiga-
0265 tion was conducted and any action taken.

0266 (e) If a state agency that licenses health care providers de-
0267 termines that a review or executive committee referred to in
0268 subsection (a) is not fulfilling its duties under this section, the
0269 agency, upon notice and an opportunity to be heard, may require

SOCIAL AND REHABILITATION SERVICES

TESTIMONY FOR HOUSE BILL 2901

Mr. Chairman and members of the Committee, I thank you for the opportunity to testify on behalf of House Bill 2901. I am David S. Rosenthal, Executive Director of the Kansas Commission for the Deaf and Hearing Impaired (KCDHI), which is within Rehabilitation Services.

The Kansas Commission for the Deaf and Hearing Impaired supports House Bill 2901. This bill provides added safety measures for hearing impaired persons while they sleep in hotels and motels in our great state of Kansas. The availability of the visual warning and vibrating smoke detectors for this population will certainly go a long way in making for a more restful and enjoyable sleep.

We know that fire itself does not kill - it is the smoke that is deadly. This bill, if passed, will make it much safer for the hearing impaired population. For this reason, we encourage you to maximize the percentage of rooms in which hotels and motels must make available these smoke detectors for the hearing impaired, and make it effective within six months, or as early as possible.

There are numerous organizations of and for the Deaf in Kansas that occasionally host workshops, meetings, sporting events, and the like on a statewide, regional, or national basis. An example of these events may be a national conference on mental health treatment issues in deafness in Topeka this April sponsored by Menninger's Foundation and the Gallaudet University Regional Center

at Johnson County Community College; and the statewide conference of the Kansas Educators of the Hearing Impaired planned for this fall (not to mention the annual statewide Symposium on Deafness facilitated by KCDHI). Recently, the Olathe Club of the Deaf hosted a regional basketball tournament that drew several hundred hearing impaired players and fans to the area. Not all of them stayed at one hotel. They were scattered among several lodging places.

We hope you will issue a do pass recommendation for this bill. To save even one life as a result of these devices will have been well worth it.

Thank you again for the opportunity to testify.

David S. Rosenthal
Executive Director
Kansas Commission for the Deaf
and Hearing Impaired
March 22, 1988
296-2874