

Approved \_\_\_\_\_  
Date 4-6-88

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 30, 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, Kansas Medical Society, HB-2643  
Written testimony, William C. Rein, JD, Director of Quality Assurance/Risk  
Management, Bureau of Adult & Child Care  
Written testimony, W. H. Whiteside, MD, HB-2777

The Chairman called the meeting to order at 12:10 p.m. stating HB-2978 had been sent to the Senate Committee on Ways and Means.

The Chairman requested a subcommittee report on SB-609. Senator Anderson reported they had scheduled a meeting April 7. The District Attorney from Sedgwick County has not been available to meet prior to that time. This bill has been rereferred from Federal and State Affairs. The subcommittee meeting will be held at 12 noon, April 7, Room 531-N.

The chairman placed HB-2505 before the committee. Senator Francisco stated that the Kansas Pharmacists Association and the Kansas Board of Pharmacy respectfully request no action be taken on HB-2505 this legislative session.

The chairman placed HB-2659 before the committee. A bill balloon was presented showing proposed amendments on HB-2659. Following discussion Senator Bond stated he would take the amendments one at a time.  
Attachment 1

Senator Bond moved to adopt the amendment proposed striking language 0034-0039. Senator Anderson seconded the motion.

Senator Reilly made a substitute motion to conceptually amend this language to apply only to sex crimes. Senator Kerr seconded the motion. The motion carried.

Senator Bond moved to change "shall" to "may" line 0046. Senator Anderson seconded the motion. The motion carried.

Senator Bond moved to accept technical relettering and to remove "in the community where performed" and strike "Kansas Register" and insert "statute book." Senator Francisco seconded the motion and the motion carried.

Senator Bond moved to pass out HB-2659 favorable as amended. Senator Kerr seconded the motion.

Senator Reilly made a substitute motion to retain wording "Kansas Register" line 0014. Senator Mulich seconded the motion and the motion carried.

The original motion that HB-2659 be passed out favorable as amended carried. Senator Bond will carry HB-2659.

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 30, 1988

The chairman placed HB-2643 before the committee. Staff presented a balloon bill with combined amendments. Attachment 2

Senator Francisco moved to add Physicians Assistants to the list of health care providers. Senator Mulich seconded the motion and the motion carried.

Senator Hayden moved to accept all language on page 2 of the balloon bill. Senator Vidricksen seconded the motion and the motion carried.

Senator Francisco moved to conceptually change page 7 to conform removing "medical care facility." Senator Mulich seconded the motion and the motion carried.

Senator Kerr moved to strike the entire Section 8. Senator Reilly seconded the motion and the motion carried.

Senator Kerr made a motion to recommend HB-2643 favorable for passage as amended. Senator Reilly seconded the motion and the motion carried. Senaotr Kerr will carry HB-2643.

The chairman placed HB-2901 before the committee for action. Staff presented a balloon bill of HB-2901. Attachment 3

Senator Francisco made a motion to adopt the amendments as presented. Senator Vidricksen seconded the motion.

Senator Hayden made a substitute motion to report HB-2901 unfavorable. Senator Morris seconded the motion. The motion failed.

Senator Reilly made a substitute motion to strike the language "no extra charge" line 0032. Senator Kerr seconded the motion and the motion carried.

The original motion to adopt the amendments in HB-2901 carried.

Senator Kerr moved to pass out HB-2901 favorble for passage as amended. Senator Francisco seconded the motion and the motion carried. Senator Francisco will carry HB-2901.

The chairman placed HB-2972 before the committee for action.

Senator Morris made the motion to report HB-2972 unfavorable. Senator Vidricksen seconded the motion and the motion carried.

Due to the fact that some committee members needed to attend another committee meeting the chairman requested the wishes of the committee concerning HB2464, HB-2777 and HB-2717.

Senator Mulich made a motion to refer HB-2464, HB-2777 and HB-2717 to keep them alive to be returned to Senate Public Health and Welfare Committee. Senator Salisbury seconded the motion. The question was called with the chair in doubt. Division was called with 3 YEA and 3 NAY votes. The motion was lost.

Senator Morris made a motion to kill HB-2717. Senator Hayden seconded the motion.

A substitute motion was made by Senator Reilly to refer HB-2464, HB-2717 and HB-2777 to Federal and State Affairs. Senator Francisco seconded the motion. Division was called for with a 3 YEA and 3 NAY vote. The chair voted YEA, making 4 YEA votes and 3 NAY votes. The motion carried.

Written testimony was presented for clarification purposes by the Kansas Medical Society with a balloon of HB-2643. Attachment 4

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON SENATE PUBLIC HEALTH & WELFARE,  
room 526-S Statehouse, at 10:00 a.m./~~p.m.~~ on March 30, 1988.

A written report concerning the progress of the medical care facility risk management program was presented to committee members by William C. Rein, JD, Director of Quality Assurance/Risk Management, Bureau of Adult and Child Care. Attachment 5

Written testimony presented by W. H. Whiteside, MD, on HB-2777 stating that the "bill needs to be passed with no exceptions, i.e., as before amended." Attachment 6

The meeting adjourned at 1:05 p.m. No further meetings are scheduled at the present time.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 30, 1988

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Ken Baker Topeka	Ks. Dietetic Assn
Living Niles Lyndon	-
Glen McManis, R.D. Manhattan	Ks. Dietetic Assoc
Lynne King R.D. Manhattan	Ks. Dietetic Assoc.
Carol Niles R.D. Lyndon	" " "
Chip Wheeler Topeka	Ks Medical Society
Bobbi Williams Topeka	Ks. Pharmacist Assoc
Allegor Johnson "	SRS
Bill Mourssey	KDHE
G. K. Hulet	KDHE
Frances Kastner	Ks Food Dealers Assn
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Carolyn Mendenhall	KSNHA
18 Lois J. Schubert	KSNB
Margie Green	Ks Dietetic Assoc
Ann Hunter	Ks Dietetic Assoc. - Pres.
Pam Henry	Ks Dietetic Assoc.
James Halley	" " "
Guay Hall	Ks. Dietetic Assoc.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-30-88

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Judy Johnston, RD  
Riverside Hospital, Wichita  
Kansas Dietetic Assoc.

Cheryl Maus R.D. <sup>6508 Millbrook</sup>  
5116 Rock Creek Ln  
K.C.D.A.

Marilyn Lucas  
Mission, KS  
K. U. Med. Center  
Ks Dietetic Assoc

Jack Dunham  
KS. Occupational Therapy Assn

HOUSE BILL No. 2659

By Representatives Buehler, Dyck and Moomaw

1-13

Proposed Amendments

0021 AN ACT concerning AIDS; ~~requiring relating to testing of cer-~~  
0022 ~~tain persons convicted of certain crimes; [authorizing coun-~~  
0023 ~~seling for certain victims thereof;] providing for counseling for~~  
0024 ~~certain victims thereof confidentiality of certain information.~~

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

0026 Section 1. (a) As used in this section:

0027 (1) "AIDS test" means a test approved by the secretary of  
0028 health and environment to detect antibodies to the probable  
0029 causative agent for the disease acquired immune deficiency  
0030 syndrome.

0031 (2) "A positive reaction" means a positive AIDS test with a  
0032 positive confirmatory test as specified by the secretary of health  
0033 and environment.

0034 (b) [At the time of an appearance before a magistrate under  
0035 K.S.A. 22-2901 and amendments thereto, the magistrate shall  
0036 inform every person arrested and charged with a crime of the  
0037 availability of AIDS testing and counseling and shall cause the  
0038 alleged victim of a crime, if any, to be notified that AIDS testing  
0039 and counseling is available.]

0040 (b) [c] Upon conviction of a person for any crime under  
0041 article 35 of chapter 21 of the Kansas Statutes Annotated, the  
0042 crime of incest under K.S.A. 21-3603 and amendments thereto or  
0043 the crime of aggravated incest under K.S.A. 21-3603 and amend-  
0044 ments thereto which the court determines from the facts of the  
0045 case involved or was likely to have involved the transmission of  
0046 body fluids from one person to another, the court [shall] order the [may]  
convicted person to submit to an AIDS test. If an AIDS test is

ordered under this subsection ~~[(c)]~~, the victim of the crime, if any, (b)  
 0049 who is not a minor shall designate a health care provider or  
 0050 counselor to receive such information on behalf of the victim. If  
 0051 the victim is a minor, the parent or legal guardian of the victim  
 0052 shall designate the health care provider or counselor to receive  
 0053 such information. If the test results in a negative reaction, the  
 0054 court shall order the convicted person to submit to another AIDS  
 0055 test six months after the first test was administered.

~~(e)~~ ~~[(d)]~~ The results of any AIDS test ordered under this sec- (c)  
 0056 tion shall be disclosed to the court which ordered the test, the  
 0057 convicted person and to the person designated under subsection

~~[(c)]~~ by the victim or victims of the crimes for which the person (b)  
 0059 was convicted. If a victim is a minor, the test results shall be  
 0060 disclosed to the parent or legal guardian of the minor crime or by  
 0061 the parent or legal guardian of a victim if the victim is a minor. If  
 0062 an AIDS test ordered under this section results in a positive  
 0063 reaction, the results shall be reported to the secretary of health  
 0064 and environment and such counseling as directed by the secre-  
 0065 tary of health and environment shall be provided to the victim or  
 0066 victims and to the secretary of corrections, and such counseling  
 0067 as directed by the secretary of health and environment shall be  
 0068 provided to the victim or victims].

(d) The costs of any test ordered under this section and the  
 0070 cost of any counseling provided under this section shall be paid  
 0071 from amounts appropriated for such purposes upon warrants of  
 0072 the director of accounts and reports issued pursuant to vouchers  
 0073 approved by the secretary of health and environment or a person  
 0074 designated by the secretary.

~~[(e)]~~ [The costs of any counseling provided under subsection (d)  
 0076 (d) by the secretary of health and environment shall be paid from  
 0077 amounts appropriated for such purpose to the department of  
 0078 health and environment.] Restitution to the state [for payment of  
 0079 the costs of any counseling provided under this section and] for  
 0080 payment of such the costs of any test ordered under this section  
 0081 shall be included by the court in any order requiring the con-  
 0082 victed person to pay restitution.

~~(e)~~ ~~[(f)]~~ When a court orders a convicted person to submit to an (e)

IDS test under this section, the withdrawal of the blood may be performed only by: (1) A person licensed to practice medicine and surgery or a person acting under the supervision of any such licensed person; (2) a registered licensed professional nurse or a licensed practical nurse; or (3) a qualified medical technician. No person authorized by this subsection to withdraw blood, no person assisting in the performance of the AIDS test nor any medical care facility where blood is withdrawn or tested that has been ordered by the court to withdraw or test blood shall be liable in any civil or criminal action when the act is performed in a reasonable manner according to generally accepted medical practices in the community where performed.

(f) The results of tests and reports to the secretary of health and environment required under this section, and information contained therein, shall be confidential and shall not be divulged or open to inspection to any person other than the secretary of health and environment or the secretary's authorized representatives except upon written permission of the person or persons affected. Any person who divulges or opens to inspection such

(g) The results of tests or reports, or information therein, obtained under this section shall be confidential and shall not be divulged to any person not authorized by this section to receive the same. Any violation of this section is guilty of a misdemeanor punishable by a fine of not more than \$10,000 for each violation.

(f)

(g) The secretary of health and environment shall adopt such rules and regulations as necessary to implement the provisions of this section.

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

statute book



**HOUSE BILL No. 2643**

By Special Committee on Public Health and Welfare

Re Proposal No. 29

12-16

0022 AN ACT concerning certain health care providers; relating to  
0023 regulation, risk management and peer review; amending  
0024 K.S.A. 65-4216 and 65-4217 and K.S.A. 1987 Supp. 65-430,  
0025 65-4915, 65-4921, 65-4923, 65-4924 and 65-4930 and repealing  
0026 the existing sections.

0027 *Be it enacted by the Legislature of the State of Kansas:*

0028 Section 1. K.S.A. 1987 Supp. 65-4915 is hereby amended to  
0029 read as follows: 65-4915. (a) As used in this section:

0030 (1) "Health care provider" has the meaning provided by  
0031 means: (A) Those persons and entities defined as a health care  
0032 provider under K.S.A. 40-3401 and amendments thereto; and (B)  
0033 a dentist licensed by the Kansas dental board, a dental hygienist  
0034 licensed by the Kansas dental board, a professional nurse li-  
0035 censed by the board of nursing, a practical nurse licensed by the  
0036 board of nursing, a mental health technician licensed by the  
0037 board of nursing, a physical therapist assistant certified by the  
0038 state board of healing arts, an occupational therapist registered  
0039 by the state board of healing arts, an occupational therapy  
0040 assistant registered by the state board of healing arts and a  
0041 respiratory therapist registered by the state board of healing  
0042 arts.

0043 (2) "Health care provider group" means:

0044 (A) A state or local association of health care providers;

0045 (B) the board of governors created under K.S.A. 40-3403 and  
0046 amendments thereto;

0047 (C) an organization of health care providers formed pursuant

Add physician's assistant registered by the state board of healing arts to this list of health care providers?

0049 state or federal law and authorized to evaluate medical and health care services;

0050 (D) a review committee operating pursuant to K.S.A. 65-2840b through 65-2840d, and amendments thereto;

0052 (E) an organized medical staff of a licensed medical care facility as defined by K.S.A. 65-425 and amendments thereto; [or] a private psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto;

0056 (F) a health care provider; [or] (G) a professional society of health care providers or one or more committees thereof;

0059 (3) "Peer review" means any of the following functions:

0060 (A) Evaluate and improve the quality of health care services rendered by health care providers;

0062 (B) determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care;

0065 (C) determine that the cost of health care rendered was considered reasonable by the providers of professional health services in this area;

0068 (D) evaluate the qualifications, competence and performance of the providers of health care or to act upon matters relating to the discipline of any individual provider of health care;

0071 (E) reduce morbidity or mortality;

0072 (F) establish and enforce guidelines designed to keep within reasonable bounds the cost of health care;

0074 (G) conduct of research;

0075 (H) determine if a hospital's facilities are being properly utilized;

0077 (I) supervise, discipline, admit, determine privileges or control members of a hospital's medical staff;

0079 (J) review the professional qualifications or activities of health care providers;

0081 (K) evaluate the quantity, quality and timeliness of health care services rendered to patients in the facility;

0083 (L) evaluate, review or improve methods, procedures or treatments being utilized by the medical care facility or by

[ ] an organized medical staff of

[or] an organized medical staff of a state psychiatric hospital or state institution for the mentally retarded, as follows: Larned state hospital, Osawatomie state hospital, Rainbown mental health facility, Topeka state hospital, Kansas neurological institute, Norton state hospital, Parsons state hospital and training center and Winfield state hospital and training center

[ ] or

[ ] (H) a Kansas corporation whose stockholders or members are health care providers or an association of health care providers, which corporation evaluates medical and health care services.

0160 *assistant registered by the state board of healing arts and a*  
0161 *respiratory therapist registered by the state board of healing*  
0162 *arts.*

0163 (d) "License," "licensee" and "licensing" include compara-  
0164 ble terms which relate to regulation similar to licensure, such as  
0165 ~~certification or registration.~~

0166 (e) "Medical care facility" has the meaning provided by  
0167 *means: (1) A medical care facility licensed under K.S.A. 65-425*  
0168 *et seq. and amendments thereto; and (2) a private psychiatric*  
0169 *hospital licensed under K.S.A. 75-3307b and amendments*  
0170 *thereto; and (3) state psychiatric hospitals and state institutions*  
0171 *for the mentally retarded, as follows: Larned state hospital,*  
0172 *Osawatomie state hospital, Rainbow mental health facility, To-*  
0173 *peka state hospital, Kansas neurological institute, Norton state*  
0174 *hospital, Parsons state hospital and training center and Winfield*  
0175 *state hospital and training center.*

0176 (f) "Reportable incident" means an act by a health care  
0177 provider which: (1) Is or may be below the applicable standard of  
0178 care and has a reasonable probability of causing injury to a  
0179 patient; or (2) may be grounds for disciplinary action by the  
0180 appropriate licensing agency.

0181 (g) "Risk manager" means the individual designated by a  
0182 medical care facility to administer its internal risk management  
0183 program and to receive reports of reportable incidents within the  
0184 facility.

0185 (h) "Secretary" means the secretary of health and environ-  
0186 ment.

0187 Sec. 3. K.S.A. 1987 Supp. 65-4923 is hereby amended to read  
0188 as follows: 65-4923. (a) If a health care provider, or a medical care  
0189 facility agent or employee who is directly involved in the deliv-  
0190 ery of health care services, has knowledge that a health care  
0191 provider has committed a reportable incident, such health care  
0192 provider, agent or employee shall report such knowledge as  
0193 follows:

0194 (1) If the reportable incident did not occur in a medical care  
0195 facility, the report shall be made to the appropriate state or  
0196 county professional society or organization, which shall refer the

01       tter to a professional practices review committee duly consti-  
015.     ted pursuant to the society's or organization's bylaws. The  
0198 committee shall investigate all such reports and take appropriate  
0199 action. The committee shall have the duty to report to the  
0200 appropriate state licensing agency any finding by the committee  
0201 that a health care provider acted below the applicable standard  
0202 of care which action had a reasonable probability of causing  
0203 injury to a patient, or in a manner which may be grounds for  
0204 disciplinary action by the appropriate licensing agency, so that  
0205 the agency may take appropriate disciplinary measures.

0206     (2) If the reportable incident occurred within a medical care  
0207 facility, the report shall be made to the chief of the medical staff,  
0208 chief administrative officer or risk manager of the facility. The  
0209 chief of the medical staff, chief administrative officer or risk  
0210 manager shall refer the report to the appropriate executive com-  
0211 mittee or professional practices peer review committee which is  
0212 duly constituted pursuant to the bylaws of the facility. The  
0213 committee shall investigate all such reports and take appropriate  
0214 action, including recommendation of a restriction of privileges at  
0215 the appropriate medical care facility. In making its investigation,  
0216 the committee may also consider treatment rendered by the  
0217 health care provider outside the facility. The committee shall  
0218 have the duty to report to the appropriate state licensing agency  
0219 any finding by the committee that a health care provider acted  
0220 below the applicable standard of care which action had a rea-  
0221 sonable probability of causing injury to a patient, or in a manner  
0222 which may be grounds for disciplinary action by the appropriate  
0223 licensing agency, so that the agency may take appropriate disci-  
0224 plinary measures.

0225     (3) If the health care provider involved in the reportable  
0226 incident is a medical care facility, the report shall be made to the  
0227 chief of the medical staff, chief administrative officer or risk  
0228 manager of the facility. The chief of the medical staff, chief  
0229 administrative officer or risk manager shall refer the report to the  
0230 appropriate executive committee which is duly constituted pur-  
0231 suant to the bylaws of the facility. The executive committee shall  
0232 investigate all such reports and take appropriate action. The

01 committee shall have the duty to report to the department of  
 02 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, secretary 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- subsections (a) (2) and (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

all reports pursuant to this section to be made directly to the agency.

0272 (f) The provisions of this section shall not apply to a health  
0273 care provider acting solely as a consultant or providing review at  
0274 the request of any person or party.

0275 Sec. 4. K.S.A. 1987 Supp. 65-4930 is hereby amended to read  
0276 as follows: 65-4930. The provisions of K.S.A. ~~4986~~ 1987 Supp.  
0277 65-4921 through 65-4929 shall be supplemental to K.S.A. 65-  
0278 28,121, 65-28,122, 65-4216 and 65-4909, and amendments  
0279 ~~thereto to such sections~~, and shall not be construed to repeal or  
0280 modify those sections.

0281 Sec. 5. K.S.A. 1987 Supp. 65-430 is hereby amended to read  
0282 as follows: 65-430. The licensing agency may deny, suspend or  
0283 revoke a license in any case in which it finds that there has been  
0284 a substantial failure to comply with the requirements established  
0285 under this law, a failure to report any information required to be  
0286 reported by K.S.A. 65-28,121 or 65-4216 and amendments  
0287 ~~thereto to such sections~~, or a failure to maintain a risk manage-  
0288 ment program as required by K.S.A. ~~4986~~ 1987 Supp. 65-4922  
0289 ~~and amendments thereto~~, after notice and an opportunity for  
0290 hearing to the applicant or licensee in accordance with the  
0291 provisions of the Kansas administrative procedure act.

0292 Sec. 6. K.S.A. 65-4216 is hereby amended to read as follows:  
0293 65-4216. (a) *Subject to the provisions of subsection (c) of K.S.A.*  
0294 *1987 Supp. 65-4923, and amendments thereto:* (a) (1) Every  
0295 ~~person employing employer of a mental health technician and~~  
0296 ~~the chief administrative officer of any firm, corporation, institu-~~  
0297 ~~tion or association employing a mental health technician; any of~~  
0298 ~~whom has reasonable cause to believe that a mental health~~  
0299 ~~technician is guilty of any of the actions specified in K.S.A.~~  
0300 ~~65-4200; and amendments thereto; as a ground for disciplinary~~  
0301 ~~action or any of whom has taken disciplinary action therefor or~~  
0302 ~~has accepted the resignation of a mental health technician in lieu~~  
0303 ~~of taking disciplinary action therefor; shall immediately report~~  
0304 ~~the same, under oath, to the board of nursing shall report under~~  
0305 ~~oath to the board of nursing any information such employer has~~  
0306 ~~which appears to show that a mental health technician has~~

ion were made in good faith and did not represent as true any matter not reasonably believed to be true.

0383 Sec. 8. K.S.A. 1987 Supp. 65-4924 is hereby amended to read  
 0384 as follows: 65-4924. (a) If a report to a state licensing agency  
 0385 pursuant to subsection (a)(1) or (2) of K.S.A. ~~1986~~ 1987 Supp.  
 0386 65-4923 and amendments thereto or any other report or com-  
 0387 plaint filed with such agency relates to a health care provider's  
 0388 inability to practice the provider's profession with reasonable  
 0389 skill and safety due to physical or mental disabilities, including  
 0390 deterioration through the aging process, loss of motor skill or  
 0391 abuse of drugs or alcohol, the agency may refer the matter to an  
 0392 impaired provider committee of the appropriate state or county  
 0393 professional society or organization.

0394 (b) The state licensing agency shall have the authority to  
 0395 enter into an agreement with the impaired provider committee of  
 0396 the appropriate state or county professional society or organiza-  
 0397 tion to undertake those functions and responsibilities specified  
 0398 in the agreement and to provide for payment therefor from  
 0399 moneys appropriated to the agency for that purpose *which*  
 0400 *moneys shall be matched on a dollar-for-dollar basis by the state*  
 0401 *or county professional society or organization which is a party*  
 0402 *to the agreement*], except that this matching requirement shall  
 0403 not apply to a state or county professional society or organization  
 0404 of any provider defined as a health care provider under K.S.A.  
 0405 40-3401 and amendments thereto]. Such functions and responsi-  
 0406 bilities may include any or all of the following:

- 0407 (1) Contracting with providers of treatment programs;
- 0408 (2) receiving and evaluating reports of suspected impairment  
 0409 from any source;
- 0410 (3) intervening in cases of verified impairment;
- 0411 (4) referring impaired providers to treatment programs;
- 0412 (5) monitoring the treatment and rehabilitation of impaired  
 0413 health care providers;
- 0414 (6) providing posttreatment monitoring and support of reha-  
 0415 bilitated impaired health care providers; and
- 0416 (7) performing such other activities as agreed upon by the  
 0417 licensing agency and the impaired provider committee.

Delete K.S.A. 1987 Supp. 65-4924 from bill, title and repealer?

If section not deleted from bill, insert "an" in lieu of "the" in lines 395 and 396?

(c) The impaired provider committee shall develop procedures in consultation with the licensing agency for:

0420 (1) Periodic reporting of statistical information regarding im-  
0421 paired provider program activity;

0422 (2) periodic disclosure and joint review of such information  
0423 as the licensing agency considers appropriate regarding reports  
0424 received, contacts or investigations made and the disposition of  
0425 each report;

0426 (3) immediate reporting to the licensing agency of the name  
0427 and results of any contact or investigation regarding any im-  
0428 paired provider who is believed to constitute an imminent  
0429 danger to the public or to self;

0430 (4) reporting to the licensing agency, in a timely fashion, any  
0431 impaired provider who refuses to cooperate with the committee  
0432 or refuses to submit to treatment, or whose impairment is not  
0433 substantially alleviated through treatment, and who in the opin-  
0434 ion of the committee exhibits professional incompetence; and

0435 (5) informing each participant of the impaired provider com-  
0436 mittee of the procedures, the responsibilities of participants and  
0437 the possible consequences of noncompliance.

0438 (d) If the licensing agency has reasonable cause to believe  
0439 that a health care provider is impaired, the licensing agency may  
0440 cause an evaluation of such health care provider to be conducted  
0441 by the impaired provider committee or its designee for the  
0442 purpose of determining if there is an impairment. The impaired  
0443 provider committee or its designee shall report the findings of its  
0444 evaluation to the licensing agency.

0445 (e) An impaired health care provider may submit a written  
0446 request to the licensing agency for a restriction of the provider's  
0447 license. The agency may grant such request for restriction and  
0448 shall have authority to attach conditions to the licensure of the  
0449 provider to practice within specified limitations. Removal of a  
0450 voluntary restriction on licensure to practice shall be subject to  
0451 the statutory procedure for reinstatement of license.

0452 (f) A report to the impaired provider committee shall be  
0453 deemed to be a report to the licensing agency for the purposes of  
0454 any mandated reporting of provider impairment otherwise pro-



vided for by the law of this state.

0456 (g) An impaired provider who is participating in, or has  
0457 successfully completed, a treatment program pursuant to this  
0458 section shall not be excluded from any medical care facility staff  
0459 solely because of such participation. However, the medical care  
0460 facility may consider any impairment in determining the extent  
0461 of privileges granted to a health care provider.

0462 (h) Notwithstanding any other provision of law, a state or  
0463 county professional society or organization and the members  
0464 thereof shall not be liable to any person for any acts, omissions or  
0465 recommendations made in good faith while acting within the  
0466 scope of the responsibilities imposed pursuant to this section.

0467 Sec. 8 9. K.S.A. 65-4216 and 65-4217 and K.S.A. 1987 Supp.  
0468 65-430, 65-4915, 65-4921, 65-4923, 65-4924 and 65-4930 are  
0469 hereby repealed.

0470 Sec. 9 10. This act shall take effect and be in force from and  
0471 after its publication in the statute book.

HOUSE BILL No. 2901

By Representative Brown

2-10

0018 AN ACT concerning the food service and lodging act; requiring  
0019 hotels to provide portable smoke detectors or rooms located in  
0020 certain places in the hotel for deaf and hearing impaired  
0021 guests.

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

0023 Section 1. (a) Every licensed lodging establishment desig-  
0024 nated as a hotel shall provide to deaf and hearing impaired  
0025 guests, upon request of such guests, portable smoke detectors of  
0026 the type suitable for providing visual and vibrating warning to  
0027 such guests. In lieu of providing such portable smoke detectors,  
0028 the hotel shall provide deaf or hearing impaired guests with  
0029 rooms on the lowest floor of such hotel on which guest rooms are  
0030 located and shall provide such rooms at a rate not more than the  
0031 rate for rooms in other areas of the hotel which were requested  
0032 by portable smoke detectors at no extra charge to such guests.  
0033 Such licensed lodging establishments shall have available por-  
0034 table smoke detectors for not less than 10% of the total guest  
0035 rooms of the hotel, but no such lodging establishment shall be  
0036 required to have more than a total of 10 such smoke detectors nor  
0037 shall any such lodging establishment have less than two such  
0038 smoke detectors.

0039 (b) This section shall be part of and supplemental to the food  
0040 service and lodging act.

0041 Sec. 2. This act shall take effect and be in force from and  
0042 after its publication in the statute book.

for deaf and hearing impaired guests portable smoke detec-  
tors, guest rooms equipped with fixed smoke detectors or  
guest rooms located on the ground level; establishing lim-  
itations on such requirements

at no additional charge

, or a room equipped with fixed visual warning smoke detec-  
tors or a ground floor guest room. Each licensed lodging  
establishment shall have available for such guests not less  
than one portable visual warning smoke detector, or one room  
equipped with a fixed visual warning smoke detector or one  
ground floor guest room for each 50 guest rooms of such lod-  
ging establishment, except that no such lodging establish-  
ment shall be required to have more than a total of six por-  
table visual warning smoke detectors, or rooms equipped with  
fixed visual warning smoke detectors or ground floor guest  
rooms nor shall any such lodging establishment have less  
than one such smoke detector, or rooms equipped with a fixed  
visual warning smoke detector or ground floor guest room

July 1, 1989, and



## KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

March 28, 1988

TO: Senate Public Health and Welfare Committee  
FROM: Kansas Medical Society  
SUBJECT: HB 2643, As Amended by House Committee of the Whole

In order to avoid any confusion we are re-submitting amendments to HB 2643 which were requested by the Kansas Hospital Association as well as the Kansas Medical Society.

1. Attached is a balloon amendment to page 2 which would create a new definition of "health care provider group." This request is made on behalf of the Medical Society of Sedgwick County which incorporated a separate entity to do peer review in order to satisfy Internal Revenue Service requirements pertaining to income tax status.

2. Also attached is a balloon amendment to page 7 which would streamline and consolidate reporting requirements. This new procedure for reporting was agreed to by the State Board of Healing Arts, the Department of Health and Environment, and the Board of Nursing as well as the respective associations involved.

3. The last amendment requested is simply to strike Section 8 from the bill (beginning at page 11). The language amending current law (lines 399-405) would require that impaired provider programs be financed 50 percent from licensure fees and 50 percent from association dues. In most cases, the money originates from the same source, the professional licensee. There are, however, licensees who choose not to belong to their association and therefore pay no dues. These licensees are not immune to impairment and would equally benefit from the availability of an impaired provider program. We believe that it is unfair and therefore poor policy to require association members to finance half a program that would equally benefit non-members.

Thank you very much for considering our requests. HB 2643 contains a number of important amendments to current law which were recommended by the 1987 interim Public Health and Welfare Committee. We urge you to recommend the bill for passage, as amended.

CW:nb

Attachments

Senate Public Health & Welfare  
— March 30, 1988 —  
Attachment 4

0048 to state or federal law and authorized to evaluate medical and  
0049 health care services;

0050 (D) a review committee operating pursuant to K.S.A. 65-  
0051 2840b through 65-2840d, and amendments thereto;

0052 (E) an organized medical staff of a licensed medical care  
0053 facility as defined by K.S.A. 65-425 and amendments thereto or a  
0054 private psychiatric hospital licensed under K.S.A. 75-3307b and  
0055 amendments thereto;

0056 (F) a health care provider; ~~or~~

0057 (G) a professional society of health care providers or one or  
0058 more committees thereof; ~~or~~

0059 (3) "Peer review" means any of the following functions:

0060 (A) Evaluate and improve the quality of health care services  
0061 rendered by health care providers;

0062 (B) determine that health services rendered were profes-  
0063 sionally indicated or were performed in compliance with the  
0064 applicable standard of care;

0065 (C) determine that the cost of health care rendered was  
0066 considered reasonable by the providers of professional health  
0067 services in this area;

0068 (D) evaluate the qualifications, competence and performance  
0069 of the providers of health care or to act upon matters relating to  
0070 the discipline of any individual provider of health care;

0071 (E) reduce morbidity or mortality;

0072 (F) establish and enforce guidelines designed to keep within  
0073 reasonable bounds the cost of health care;

0074 (G) conduct of research;

0075 (H) determine if a hospital's facilities are being properly  
0076 utilized;

0077 (I) supervise, discipline, admit, determine privileges or con-  
0078 trol members of a hospital's medical staff;

0079 (J) review the professional qualifications or activities of  
0080 health care providers;

0081 (K) evaluate the quantity, quality and timeliness of health  
0082 care services rendered to patients in the facility;

0083 (L) evaluate, review or improve methods, procedures or  
0084 treatments being utilized by the medical care facility or by

(H) a Kansas corporation whose stockholders or members are health care providers or an association of health care providers, which corporation evaluates medical and health care services.

2-4

0234 committee shall have the duty to report to the department of  
0235 health and environment any finding that the facility acted in a  
0236 manner which is below the applicable standard of care and  
0237 which has a reasonable probability of causing injury to a patient,  
0238 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-  
0263 mittee pursuant to ~~this section.~~ subsection (a)(2) - (a)(3) of  
0264 The report shall include the  
0265 number of reportable incidents reported, whether an investiga-  
0266 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

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT

*Forbes Field*

Topeka, Kansas 66620-0001

Phone (913) 296-1500

Mike Hayden, *Governor*

296-1240

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

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

28 March 1988

THE HONORABLE ROY M EHRLICH  
CHAIRMAN/SENATE PUBLIC HEALTH & WELFARE COMMITTEE  
STATEHOUSE  
TOPEKA KS 66612

MEDICAL CARE FACILITY RISK MANAGEMENT

Senator Ehrlich, the current legislative session has not allowed a convenient opportunity to share with you and members of the committee the department's progress toward implementing the medical care facility risk management program authorized by House Bill 2661 during the 1986 session. The purpose of this letter is to provide basic information concerning implementation of risk management programs in medical care facilities since the new law became effective.

As you may be aware, I accepted the position as Director of Quality Assurance and Risk Management on September 1, 1987. My previous background was primarily in the area of mental health law and I served as Senior Counsel for the Department of Social and Rehabilitation Services within the Mental Health and Retardation Services Section from 1984 to 1987.

As provided by House Bill 2661, every medical care facility in Kansas must establish and maintain an internal risk management program. Plans submitted during calendar 1987 must be approved by the Department of Health and Environment (KDHE) before a facility's license can be issued in 1988.

Formal reviews of risk management plans began October 1, 1987. Plans are being reviewed in the order of a facility's licensure renewal date in 1988. Once a plan is reviewed, each facility's administrator will receive a detailed letter concerning any corrections deemed necessary. The facility will then have 60 days to revise and resubmit its plan to the agency.

Testimony Presented to  
Senate Public Health and Welfare Committee

by

W. H. Whiteside, M.D. Director of Neonatology,  
St. Joseph Medical Center, Wichita, Kansas  
Assistant Professor University of Kansas School of Medicine

House Bill 2777 As Amended

There are many reasons for an infant's unexpected death. Examples include infections, congenital heart disease, severe chronic lung disease, congenital metabolic disorders, child abuse, intentional suffocation, etc. To make a diagnosis of SIDS, the above conditions must be excluded, and the features that characterize SIDS on autopsy should be present. In other words, the only way of making a diagnosis of SIDS, or many of the above mentioned causes, is to obtain an autopsy.

If an individual dies unexpectedly outside a hospital, this automatically becomes a coroners case, and the coroner has the legal right to demand an autopsy. Infants who die unexpectedly at home should be treated no differently. The cause of death needs to be determined, and an autopsy is the only definitive way. The addendum to House Bill No. 2777, New Section 2, lines 66-71 will enable parents to avoid an autopsy being performed on their child, thus contradicting the present legal system. This is a backward step. Cases of child abuse and murder may be missed. Progress in determining the exact nature and etiology of SIDS will be hindered, and appropriate counseling of parents severely impaired.

This bill needs to be passed with no exceptions, i.e., as before being amended. All infants who die unexpectedly should be autopsied, without exception.

March 29, 1988

THE HONORABLE ROY M EHRLICH

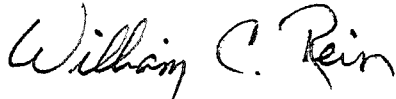
28 March 1988

Page 2

As of March 25, 1988, 93 plans have been reviewed and 56 plans have been approved. In my opinion, most hospitals and ambulatory surgical centers have done a commendable job, not only in writing initial plans but also in revising those plans after receiving a review letter from the agency.

I also want to introduce two new nurses who have accepted positions with the agency in the risk management program: Teresa Glisson, RN, MS, and Virginia Hutson, RN, MN. Teresa and Virginia began their work on January 19, 1988, and have been carefully reviewing risk management statutes, administrative regulations, agency reporting forms, and submitted risk management plans. Both Teresa and Virginia have experience in clinical nursing at the hospital level in addition to various administrative positions involving quality assurance and risk management. Their primary work will involve onsite reviews of risk management programs at medical care facilities throughout the state in an effort to better assure that risk management is actually happening.

I hope this basic information will assist you and your committee members in understanding where we are with implementation of the new risk management law. If I can provide the committee with any further information concerning risk management programs, please feel free to contact me at any time.



William C. Rein, JD  
Director of Quality Assurance/Risk Management  
Bureau of Adult and Child Care

P

cc: Members, Senate Public Health and Welfare Committee