

Approved \_\_\_\_\_

1-30-89  
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 January 25, 1989 in room 423-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Dr. Gary Hulett, Department of Health and Environment

Chairman called meeting to order, noting there would be request for legislation this date. He called on Dr. Hulett.

Dr. Hulett, Department of Health and Environment provided hand-outs for members, then explained their Departments requests for three bills.

(Attachment No. 1), This bill request would take the cap off license fee concerning child care licensing and registration. This would increase the rate of reimbursement to H&E. Proposed amendment to the bill is to remove the \$75. maximum their Department charges. The money would go into the General Fund, but would ultimately help to off-set an increase to aid counties in licensing work. He then answered questions, i.e., presently Centers who have 200 children would pay the same license fee as Centers who have 40 children. There is a \$35 base fee, plus \$1 per child. By removing the cap of \$75, we could go up to the max of \$300.

(Attachment NO. 2). This bill request will correct an oversight in language of a bill from last year. These amendments would prohibit licensure or registration for a year after legal closure of a child care facility. We found that those facilities having been closed would reapply the next day for new licenses, so we did not in fact stop the care as was our intent. This should correct that problem.

(Attachment No. 3). This bill request will be to change statutes, so that penalties may be imposed where necessary. Anyone who violates Article 5 of the Child Care Licensing Act is guilty of a misdemeanor, so that unregulated, care would be subject to penalty provisions.  
Rep. Branson moved to introduce all three of the recommendations from Department of Health and Environment, seconded by Rep. Amos. Motion carried.

Chair made announcements in regard to Agenda from next week.

Chair asked wishes of members in regard to Committee Minutes from January 17, 18, 19, 23, 24th. Rep. Green moved these minutes be approved as written, seconded by Rep. Weimer. Discussion ensued, i.e., Rep. Hochhauser noted page one of January 24th needed the word "not" added before "duly trained" in testimony of Elizabeth Taylor. Chair noted same, and correction will be made to correct these minutes. Vote then taken, motion carried.

Chair opened discussion on HB 2012.

Rep. Green stated, as a member of Interim Committee, have heard a lot of testimony then, and now. We have led these persons concerned to a higher level of living independently, now it seems we are going to ask them to go down again to a lower level. Some parts do need to be clarified.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S, Statehouse, at 1:30 a.m./p.m. on January 25, 1989

DISCUSSION CONTINUED ON HB 2012:--

Rep. Green continued, during the Interim, I suggested we go with parts of the Pennsylvania ruling. We have an obligation to these people to take care of them.

Rep. Reinert stated he sees this as two groups involved. The group who gave testimony before this committee who can speak for themselves and who can direct their care, and those who cannot speak for themselves, and could not testify before this committee, and who cannot direct their lives. The levels of care are as different. These are the issues we need to address.

Rep. Buehler stated his concern is on the training of care giver, Who will do the training of those administering the care. After we solve this portion of the bill, perhaps we can move forward to the other sections and address those concerns.

Chair asked Mr. Furse for concerns in reference to the technical aspects of the bill. Mr. Furse noted the Department of Health and Environment raised the issue of Home Health Agencies regulations in Statutes. Mr. Furse provided a hand-out, (Attachment No. 4) which indicates the statutes they brought out in their testimony. Committee might want to consider amending language that would address these concerns. Item of concern is 65-5112, which creates certain exemptions.

Rep. Cribbs noted he feels those wishing to direct their personal care have the right to hire, fire, etc., should be their right. He too is concerned with the proper manner in how to address those individuals who cannot direct their care, but feels an answer can be resolved.

Rep. Flower noted many who testified referred to lines 49, she feels strongly that line 49 should read, training given under the supervision of a Registered Nurse to the care attendant of the individual in need of in-home care. Also line 52 should read, disabled adult, not "individual".

Rep. Branson noted Board of Nursing seems to be saying the scope of the bill should be limited. It appears we need to separate out the well-disabled so they can in fact direct care. Those who are ill-disabled would need more surveillance in regard to their Health Care.

There was discussion on trying to amend language in lines 46 through 50.

Rep. Shumway asked for clarification in the definition of limitations of Registered Nurses, Licensed Practical Nurses.

Rep. Shallenburger noted during Interim this same discussion was held. Language changes were discussed identical to those being held today. As he sees the bill, there are two basics, i.e., assessment, who is ill-disabled, who is well-disabled. The second thing it appears we have stepped on some toes, and need to add language saying, "under the supervision of the RN or physician. I do not think the RN is more qualified than the physician. He does not have a problem with the Licensed Nurse being included in the language either. It is apparent those who have testified are certainly more capable of directing their own care and lives than we are... Sometimes freedom is more important than safety.

Rep. Sader noted she feels lines 151-152 unduly restrictive., and in Section D, lines 46, attention needs to be paid to this paragraph as well.

Rep. Scott stated he feels the person supervising the training should be given by a Physician trained in rehabilitation therapy. Assessment should be made on those receiving care when down the line they are no longer able to direct their own care, but until that time should be allowed to direct care.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 423-S Statehouse, at 1:30 /a/m/p.m. on January 25, 1989

DISCUSSION CONTINUED ON HB 2012:-Rep. Wells noted wo do need assessment on self-directed care. There is no indication of how the supervision done by the physician is verified, there is no service plan, no training plan. Persons being trained need to know what they are being trained for, the service plan, time of service hours, goals, etc. This all needs to be defined more clearly. We have heard testimony only from the well-disabled. There are many others who are not well-disabled..

Rep. Hochhauser asked for clarification on activities of the Licensed Practical Nurse being supervised by the Registered Nurses.

At this point, Rep. Shallenburger made a motion to pass out HB 2012 favorably seconded by Rep. Cribbs. Discussion ensued. Vote taken, motion failed.

Chair appointed a Sub-Committee on HB 2012. He recommended the sub-committee take into consideration the concerns expressed today by various committee members, take the advice of Staff into consideration as well. He named Rep. Amos as Chairman, with Rep. Scott and Rep. Green as other sub-Committee members. He set no time limit, but asked them to work as diligently as possible so that the bill can be worked and sent on to the House Floor. Chair said, God Speed, and Good Luck.

Chair noted the Sub-Committee would make announcements when they would meet, and it would be held to their discretion as to whether they will need more input from particular conferees.

Chair made announcements in regard to agenda for next week.

Meeting adjourned 2:25 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date Jan 25<sup>th</sup>, 1989

Name	Organization	Address
Ebie Forgy	KFLPN	244 Box 71 Ottawa Ks
Berniece Smith	Kans Fed Lic Nurses	1016 Ash Ottawa Ks
Dorothy R Hayward	Kans Fed Lic Nurses	Box 205 Marion Ks 66861
Evelene Lasley	KFLPN	7903 Sillette Geneva Ks 66215
Jeanne Barr	KFLPN	7342 The Circle Branche Village Ks 66208
Dorothy Zook	KFLPN	Box 1922, Heaton Ks 66062
Jeff Rockett	St. Francis - Wichita	Topeka
Jennifer Young	KAHA	Stafford, Ks
P. Fayne M. G. G.	KAHA	Lawrence, Ks
Corinna Caley	KAHA	Stafford, KS
Frances Kastner	Ks Physical Therapy Assn	Topeka
Catherine C. Saal	SRS Medical Programs	1503 B 6285
Mark Intermill	Kansas Coalition on Aging	Topeka
Marlene Finney	SRS Adult Ser.	Topeka
Joe Allen	SRS Commissioner <sup>ad. Ser.</sup>	Topeka
Janet Schelansky	Adult Ser SRS	Topeka
Linda Lubensky	KS Home Care Assoc	Lawrence
Gay K. Hulitt	KDHE	TOPEKA
GREG RESEE	KDHE	TOPEKA
George A. T. Duggan	Ks Dept on Aging	
Shirley A. Norris	KDHE	LSOB TOPEKA
KEVIN R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Marilyn Bradt	KINTH	Lawrence



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\_\_\_\_\_BILL NO.\_\_\_\_\_  
BY \_\_\_\_\_

AN ACT to raise the maximum amount of the license fee for child care facilities licensed for 13 or more children, amending K.S.A. 1987 Supp. 65-505; and repealing the existing section.

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

Section 1. K.S.A. 1987 Supp. 65-505 is hereby amended to read as follows:  
65-505. (a) Except as otherwise provided in this section, the fee for a license to conduct a maternity hospital or home, or home for children shall be fixed by the secretary of health and environment by rules and regulations. Such fee shall not exceed \$15 except that for a hospital or home which is licensed to care for 13 or more residents such fee shall not exceed ~~\$75~~ \$300. Such fee shall be paid to the secretary of health and environment when the license is applied for and is not refundable. No fee shall be charged for a license to conduct a home for children which is a family foster home as defined in K.A.R. 28-4-311 and amendments thereto. The secretary of health and environment shall remit all moneys received by the secretary from fees under the provisions of this section to the state treasurer at least monthly. Upon receipt of any such remittance the state treasurer shall deposit the entire amount thereof in the state treasury, and such amount shall be credited to the state general fund.

(b) The fees established by this section immediately prior to July 1, ~~1986~~ 1989, shall continue in effect until different fees are fixed by rules and regulations in accordance with subsection (a) of this section.

Sec. 2. K.S.A. 1987 Supp. 65-505 is hereby repealed.

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

*P.H.W.*  
*Attn. # 1*  
*1-25-89*

\_\_\_\_\_ BILL NO. \_\_\_\_\_

BY \_\_\_\_\_

AN ACT to prohibit application for a certificate of registration following revocation of a license, amending K.S.A. 1988 Supp. 65-504; to prohibit application for a child care facility license following revocation of a certificate of registration, amending K.S.A. 1988 Supp. 65-521 and repealing the existing sections.

Section 1. K.S.A. 1988 Supp. 65-504 is hereby amended to read as follows:

65-504. (a) The secretary of health and environment shall have the power to grant a license to a person, firm, corporation or association to maintain a maternity hospital or home, or a boarding home for children under 16 years of age. The license shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept in those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place in the hospital or house in which the business is conducted. No license shall be granted for a term exceeding one year. The secretary of health and environment shall grant no license in any case until careful inspection of the maternity hospital or home, or home for children shall have been made according to the terms of this act and until such maternity hospital or home, or home for children has complied with all the requirements of this act. No license shall be granted without the approval of the secretary of social and rehabilitation services, except that the secretary of health and environment may issue, without the approval of the secretary of social and rehabilitation services, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license.

(b) In all cases where the secretary of social and rehabilitation services deems it necessary, an investigation of the home shall be made under the supervision of the secretary of social and rehabilitation services or other designated qualified agents. For that purpose and for any subsequent

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Alt. #2  
1-25-9*

investigations they shall have the right of entry and access to the premises of the home and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such home shall be filed with the secretary of health and environment. In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or disapproval of the home or facility.

(c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than ~~20~~ 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.

(d) When the secretary of health and environment finds upon investigation or is advised by the secretary of social and rehabilitation services that any of the provisions of this act are being violated, or such maternity hospital or home, or home for children is maintained without due regard to the health, comfort or morality of the residents, the secretary of health and environment shall, after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act, issue an order revoking such license and such order shall clearly state the reason for such revocation.

(e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license or for a certificate of registration pursuant to K.S.A. 65-518 for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

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

Sec. 2. K.S.A. 1988 Supp. 65-521 is hereby amended to read as follows:  
65-521. (a) The secretary may deny, revoke or refuse to renew a certificate of registration upon a determination by the secretary that the registrant falsified information on the application or willfully and substantially has

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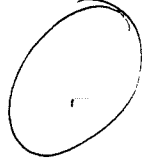


violated K.S.A. 65-516 to 65-522, inclusive, and amendments thereto. The secretary shall not revoke or refuse to renew any certificate without first giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act.

(b) If the secretary revokes or refuses to renew a certificate of registration, the registrant who has had a certificate of registration revoked or not renewed shall not be eligible to apply for a certificate of registration or for a license to conduct a child care facility for a period of one year subsequent to the date such revocation or refusal to renew becomes final.

Sec. 3. K.S.A. 1988 Supp. 65-504 and 65-521 are hereby repealed.

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



\_\_\_\_\_ BILL NO. \_\_\_\_\_  
BY \_\_\_\_\_

AN ACT to include all of Article 5 in the penalty provision of the child care licensing act, amending K.S.A. 65-514 and repealing the existing section.

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

Section 1. K.S.A. 65-514 is hereby amended to read as follows: 65-514.  
Any person, firm, corporation or association who violates the provisions of ~~this-act~~ Article 5 shall be guilty of a misdemeanor, and upon conviction shall be fined not less than \$5 nor more than \$50. Each and every day that the person fails or refuses to comply shall be deemed a separate offense under the provisions of ~~this-act~~ Article 5. If for 30 days after any final conviction for such violation or revocation of license the person still fails or refuses so to comply with the orders in the above notice, upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the building or premises where such home is conducted may be closed until all provisions of this act shall have been complied with.

Sec. 2. K.S.A. 65-514 is hereby repealed.

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

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tions; appointment of members; terms; meetings; compensation. (a) There is hereby created within the department of health and environment the home health services advisory council, which shall advise and make recommendations to the secretary relating to the rules and regulations adopted and the implementation and administration of this act. All budgeting, purchasing and related management functions of the council shall be administered under the direction and supervision of the secretary. All vouchers for expenditures and all payrolls of the council shall be approved by the chairperson of the council and by the secretary.

335, § 7; July 1.

(b) Members of the council shall be residents of this state and shall serve until the expiration of this section under subsection (f). The five members of the council shall be representatives of home health agencies.

Issue, suspension grounds; hearing. refuse to issue or revoke the license of for failure to submit provision of this regulation or stan- adopted under the for obtaining the if, misrepresenta- tional facts.

(c) All members of the council shall be appointed by the secretary for a term which shall expire on the expiration date of this section under subsection (f). A vacancy in the office of a member shall be filled by appointment until expiration of this section under subsection (f).

agency which has which has had its ed by the secre- before the sec- designated by the

(d) The council shall meet not less than quarterly, or as necessary, at a place, day and hour determined by the council. The council may also meet at such other times and places as may be designated by the chairperson or upon the request of the majority of the other members of the council.

335, § 8; July 1.

(e) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and amendments thereto.

regulations; appli- may adopt reason- necessary to carry et. The rules and y adopted within date of this act. ulations adopted provisions of this services covered ed to any pame health agency ment for the ser- or place of resi-

(f) The provisions of this section shall expire on July 1, 1985.

335, § 9; L. 1985,

History: L. 1984, ch. 335, § 10; July 1.

**65-5111. Injunction to restrain violations.** The secretary may file an action in the district court for the county in which any home health agency alleged to be violating the provisions of this act resides or may be found for an injunction to restrain the home health agency from continuing the violation.

335, § 9; L. 1985,

History: L. 1984, ch. 335, § 11; July 1.

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**65-5112. Act not applicable to certain individuals or organizations.** (a) The provi-

sions of this act shall not apply to individuals who personally provide one or more home health services if such persons are not under the direct control and doing work for and employed by a home health agency.

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(b) The provisions of this act shall not apply to any person or organization conducting a home health agency by and for the adherents of any recognized church or religious denomination or sect for the purpose of providing services for the care or treatment of the sick or infirm who depend upon prayer or spiritual means for healing in the practice of the religion of such church, religious denomination or sect.

(b) colle part: unde shall secre posit the s: Hi ch. 2

**65-5113. Disposition of moneys.** All moneys received by the secretary under this act shall be deposited in the state treasury and credited to the state general fund.

History: L. 1984, ch. 335, § 13; July 1.

**65-5114. Violation of act; misdemeanor.** Any person who violates any of the provisions of this act is guilty of a class B misdemeanor.

History: L. 1984, ch. 335, § 14; July 1.

**65-5115. Home health aides; requirements for employment; instruction and examination; examination fee, disposition.** (a) The secretary may require, as a condition to continued employment by a home health agency:

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(1) Home health aides, who were employed prior to the effective date of the rules and regulations authorized by this act, to take and satisfactorily pass an examination prescribed by the secretary and, upon failure to pass the examination, to successfully complete an approved course of instruction; and (2) home health aides, who are employed after the effective date of the rules and regulations authorized by this act, after 90 days of employment, to successfully complete an approved course of instruction and to take and satisfactorily pass an examination prescribed by the secretary. A course of instruction may be prepared and administered by any home health agency or by any other qualified person. A course of instruction prepared and administered by a home health agency may be conducted on the premises of the home health agency which prepared and which will administer the course of instruction. The secretary shall not require home health aides to enroll

Cross Act see 5: Tre: 65-40: Dru: see 6:

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1-25-89