

Approved \_\_\_\_\_

Date

2-8-89  
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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 February 7, 1989 in room 423-S of the Capitol.

All members were present except:

Rep. Weimer, excused

Committee staff present:

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

Conferees appearing before the committee:

Mary Ann Gabel, Executive Director, Board of Behavioral Sciences

Chairman called meeting to order, inviting those will Bill requests to present them.

Mary Ann Gabel, Executive Director, Board of Behavioral Sciences stated their Department had requests for legislation as follows:-- to repeal two Psychology Statutes that are in Kansas Procedures Act; to delete some language in the Social Work and Professional Counselor Statutes that state a requirement for residency for working in the State of Kansas; in respect to Social Work Statutes, their Board would like the authority to expand the issuance of temporary permits in direct response to concerns raised by Social Rehabilitation Services; and the authority to set fees for those temporary permits; to provide immunity status, for persons who would file complaints with the Board of Behavioral Sciences in good faith and would be protected from litigation.

There were no questions after her requests, and Chair asked wishes of Committee in regard to this request.

Rep. Buehler made motion to introduce these bill requests and have them returned to this Committee, seconded by Rep. Green, motion carried.

At this time Chair asked Rep. Amos to give an updated report on Rep. Weimer's condition. Mrs. Weimer had informed Rep. Amos that her husband had had successful treatment on compacted arteries, has been taken out of Intensive Care Unit and returned to a private room for recovery. Rep. Amos said, it looks as though he is on his way back....

Chair asked Rep. Amos at this time to present the Sub-Committee report on HB 2012.

Sub-Committee report is indicated as (Attachment No.1)

Rep. Amos drew attention to balloon copy of HB 2012, noting he, Rep. Scott, Rep. Green had held two Sub-Committee meetings, had had input from Staff members, and persons from interested groups. He then detailed changes proposed in Balloon, (Attachment No.2). (These changes are comprehensively defined in Attachment.)

Questions were asked as explanation was given by Rep. Amos, i.e., in lines 48-50, those who are physically capable to direct their own care is the group of individuals that this bill will address; those who do not wish to direct care, or those who are mentally unqualified to do so would not even be interested in this particular piece of legislation; "physically" could be omitted, but the bill applies only to those who are "functionally disabled".

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 423-S Statehouse, at 1:30 a.m./p.m. on February 7, 1989

The three interested groups who signed on these proposed amendments are, Kansas Nurses Association, Kansas Home Care Association, Department of Human Services.

There was discussion in regard to all these groups being satisfied, and it was noted the language in lines 48-50 of balloon were just finalized yesterday, and it seems now that all groups are satisfied with it as presented.

Revisor, Mr. Furse indicated the Sub-Committee had taken care of the technical aspects of the bill as they worked on each phase of it.

Further questions, i.e., discussion on determination of how it is to be established for those who are capable of directing their own care.

After discussion completed, Chair asked wishes of members in regard to HB 2012.

Rep. Amos made a motion to adopt HB 2012 with amendments proposed in balloon offered this date, and to recommend for favorable passage as amended. Motion seconded by Rep. Green. No discussion. Vote taken, motion carried. (Unanimously).

Chair thanked the Sub-Committee and Staff for the yeoman job done on a difficult piece of Legislation, and it is hoped that the majority of persons involved will be happy with the results.

Chair drew attention to Committee Minutes.

Rep. Green made a motion to approve committee minutes as written for February 2, and February 6, seconded by Rep. Scott, motion carried.

May it be noted this date, Fiscal Notes on HB 2012 and HB 2122 are recorded as Attachments No. 3 and No. 4 respectively.

Meeting adjourned.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date February 7, 1989

Name	Organization	Address
Elizabeth C. Taylor	Ks Fed. of CPNs	Topeka
Allyn Gorkson	L.R.S.	"
Vicki Fund	W.U. Social Work Student	Topeka
Romy R. Haggar	W.U. Social Work Student	Topeka
Belva Chang	KSBN	Topeka
Mark Intermill	KCOA	Topeka
Marilyn Braedt	KINH	Lawrence
Gary A. Dwyer	Aging	Topeka
KETTY R. LADDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Fred Spencer	SRS - Topeka Area	
FRANCES KASTNER	Ks Physical Therapy Assn	Topeka -
GREG LESSER	KDAE	TOPEKA
Richard Morrissey	KDAE	TOPEKA
Janet Schalamsky	SRS	Topeka
Mary R. Hillin	SRS	Topeka
Linda Lubensky	Ks. Home Care Assn.	Lawrence
Mike Oxford	KALFH	Topeka
Mike Lechner	"	"
Lina Letin	Emporia Presby. Manor	Emporia
Mary Ann Mabel	BSRB	Topeka
Nancy LeClair	Newman Hospital	Emporia
Sharon Benson	Emporia Chamber of Commerce	Emporia
Terri Roberts	KSNA	Topeka
Jo Bestgen	KARF	Topeka

The Subcommittee on House Bill No. 2012, made up of Representatives Amos, Scott, and Green, held two meetings on proposed amendments to the bill which concerns attendant care services for persons in need of in-home care. The subcommittee did not hear additional testimony, but did have technical input from individuals who attended the subcommittee meetings.

The subcommittee is proposing technical amendments in Sections 1 and 2 of the bill; an amendment to the definition of "health maintenance activities" beginning on line 48; a change in the time for reporting by the Secretary of Social and Rehabilitation Services on attendant care services under the Home and Community Based Services Program; and the addition of a new section to the bill which amends the act under which home health agencies are licensed and regulated.

**Section 1, Paragraph (d)**

The subcommittee amendments would redefine the term "health maintenance activities" to be activities which "in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home." (Underlined language new.)

**Section 1, Paragraph (e)**

The subcommittee amendments in line 52 limit an individual in need of in-home care as the term is defined for the purposes of House Bill No. 2012 to adults and make a technical change in line 52 by changing "in-home" to "attendant care."

**Section 2, Paragraph (b) (2)**

In lines <sup>76</sup> and <sup>77</sup>, the terms "hiring" and "firing" are replaced with the terms "selecting" and "dismissing" which better describe the role of the individual who is in need of in-home care under several of the options that may be made available under the Home and Community Based Care program.

**Section 2, Paragraph (d)**

The subcommittee amendments change the date for reporting to the Governor and Legislature from December 31, 1989, to October 1, 1990, since there would be insufficient time between the effective date of House Bill No. 2012 and December for the appropriate program changes to be made and experience with such changes to be compiled.

**Section 3, Paragraph (m)**

In this section, which creates an exception in the Kansas Nurse Practice Act for the performance of attendant care services, the subcommittee amendment deletes references to services performed "in the residence of" an individual in need of in-home care and changes the reference to services

PHVW  
Attm. #1  
2-7-9

**HOUSE BILL No. 2012**

By Special Committee on Public Health and Welfare

Re Proposal Nos. 37 and 40

12-22

6 AN ACT concerning individuals in need of in-home care; defining  
17 certain terms; directing the secretary of social and rehabilitation  
18 services to perform certain duties as part of the home and com-  
19 munity based services program; providing an exemption from the  
20 Kansas nurse practice act; amending K.S.A. 1988 Supp. 65-1124  
21 and repealing the existing section. 65-5112 and K.S.A.

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

23 New Section 1. As used in this act:

24 (a) "Attendant care services" means those basic and ancillary serv-  
25 ices which enable an individual in need of in-home care to live in  
26 the individual's home and community rather than in an institution  
27 and to carry out functions of daily living, self-care and mobility.

28 (b) "Basic services" shall include, but not be limited to:

29 (1) Getting in and out of bed, wheelchair or motor vehicle, or  
30 both;

31 (2) assistance with routine bodily functions including, but not  
32 limited to:

33 (A) Health maintenance activities;

34 (B) bathing and personal hygiene;

35 (C) dressing and grooming; and

36 (D) feeding, including preparation and cleanup.

37 (c) "Ancillary services" means services ancillary to the basic serv-  
38 ices provided to an individual in need of in-home care who needs  
39 one or more of the basic services, and include the following:

40 (1) Homemaker-type services, including but not limited to, shop-  
41 ping, laundry, cleaning and seasonal chores;

(2) companion-type services including but not limited to, trans-  
portation, letter writing, reading mail and escort; and

PH & W  
attn. #2  
2-7-9

45 (3) assistance with cognitive tasks including, but not limited to,  
46 managing finances, planning activities and making decisions.

47 (d) "Health maintenance activities" include, but are not limited  
48 to, catheter irrigation; administration of medications, enemas and  
49 suppositories; and wound care, if such activities are undertaken after  
50 training by and under supervision of the physician of the individual  
51 in need of in-home care or other health care professional.

in the opinion of the attending physician or licensed professional nurse may be performed by the individual if the individual were physically capable, and the procedure may be safely performed in the home

52 (e) "Individual in need of in-home care" means any functionally  
53 disabled individual in need of in-home services because of physical  
54 impairment who requires assistance to complete functions of daily  
55 living, self-care and mobility, including, but not limited to, those  
56 functions included in the definition of attendant care services.

adult attendant care

57 (f) "Physician" means a person licensed to practice medicine and  
58 surgery.

59 New Sec. 2. (a) As used in this section:

60 (1) "Home and community based services program" means the  
61 program established under the state medical assistance program under  
62 waivers as defined in title XIX of the federal social security act  
63 in accordance with the plan adopted under subsection (s) of K.S.A.  
64 39-708c and amendments thereto to provide attendant care services  
65 to individuals in need of in-home care who would require admission  
66 to an institution if the attendant care services were not otherwise  
67 provided.

68 (2) "Secretary" means the secretary of social and rehabilitation  
69 services.

70 (b) On and after July 1, 1989, the secretary as part of the home  
71 and community based services program shall provide that:

72 (1) Priority recipients of attendant care services shall be those  
73 individuals in need of in-home care who are at the greatest risk of  
74 being placed in an institutional setting;

75 (2) individuals in need of in-home care who are recipients of  
76 attendant care services shall have the right to make decisions about,  
77 direct the provisions of and control their attendant care services  
78 including, but not limited to, hiring, training, managing, paying and  
79 firing of an attendant;

selecting dismissing

80 (3) any proposals to provide attendant care services solicited by  
the secretary shall be selected based on service priorities developed

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82 by the secretary, except that priority shall be given to proposals that  
83 will serve those at greatest risk of being placed in an institution as  
determined by the secretary;

84 (4) providers, where appropriate, shall include individuals in  
85 need of in-home care in the planning, startup, delivery and admin-  
86 istration of attendant care services and the training of personal care  
87 attendants; and

88 (5) within the limits of appropriations therefor, the home and  
89 community based services program shall serve eligible individuals  
90 in need of in-home care throughout this state.

91 (c) Within the limits of appropriations therefor, the secretary may  
92 initiate demonstration projects to test new ways of providing at-  
93 tendant care services and may conduct specific research into ways  
94 to best provide attendant care services in both urban and rural  
95 environments.

96 (d) On or before December 31, 1989, the secretary shall submit  
97 a written report to the governor and to the legislature, which report  
98 shall include a summary of attendant care services provided under  
99 the home and community based services program, a description of  
100 the service models utilized as part of the program, the costs by  
101 service model and units of service provided per client, client de-  
102 mographics and such other information as the secretary deems  
103 appropriate.

October 1, 1990

104 Sec. 3. K.S.A. 1988 Supp. 65-1124 is hereby amended to read  
105 as follows: 65-1124. No provisions of this law shall be construed as  
106 prohibiting:

107 (a) Gratuitous nursing by friends or members of the family;

108 (b) the incidental care of the sick by domestic servants or persons  
109 primarily employed as housekeepers;

110 (c) caring for the sick in accordance with tenets and practices of  
111 any church or religious denomination which teaches reliance upon  
112 spiritual means through prayer for healing;

113 (d) nursing assistance in the case of an emergency;

114 (e) the practice of nursing by students enrolled in accredited  
115 schools of professional or practical nursing nor nursing by graduates  
116 of such schools or courses pending the results of the first licensing  
117 examination scheduled by the board following such graduation;

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118 (f) the practice of nursing in this state by legally qualified nurses  
119 of any of the other states as long as the engagement of any such  
120 nurse requires the nurse to accompany and care for a patient tem-  
121 porarily residing in this state during the period of one such en-  
122 gagement not to exceed six months in length, and as long as such  
123 nurses do not represent or hold themselves out as nurses licensed  
124 to practice in this state;

125 (g) the practice by any nurse who is employed by the United  
126 States government or any bureau, division or agency thereof, while  
127 in the discharge of official duties;

128 (h) auxiliary patient care services performed in medical care fa-  
129 cilities, adult care homes or elsewhere by persons under the direction  
130 of a person licensed to practice medicine and surgery or a person  
131 licensed to practice dentistry or the supervision of a registered  
132 professional nurse or a licensed practical nurse;

133 (i) the administration of medications to residents of adult care  
134 homes or to patients in hospital-based long-term care units by an  
135 unlicensed person who has been certified as having satisfactorily  
136 completed a training program in medication administration approved  
137 by the secretary of health and environment and has completed the  
138 program on continuing education adopted by the secretary, or by  
139 an unlicensed person while engaged in and as a part of such training  
140 program in medication administration;

141 (j) the practice of mental health technology by licensed mental  
142 health technicians as authorized under the mental health technicians'  
143 licensure act;

144 (k) performance in the school setting of selected nursing pro-  
145 cedures, as specified by rules and regulations of the board, necessary  
146 for handicapped students; or

147 (l) performance in the school setting of selected nursing proce-  
148 dures, as specified by rules and regulations of the board, necessary  
149 to accomplish activities of daily living and which are routinely per-  
150 formed by the student or student's family in the home setting; or

151 (m) performance of attendant care services in the residence of directed by or on behalf of  
152 an individual in need of in-home care as the terms "attendant care  
153 services" and "individual in need of in-home care" are defined under  
154 section 1.

[Sec. 4. (see attached)]

Attorney # 2  
2-7-9



Sec. 4. K.S.A. 65-5112 is hereby amended to read as follows: 65-5112. {a} The provisions of this act shall not apply to:

(a) 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;

~~(b) The provisions of this act shall not apply to individuals performing attendant care services directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are defined under section 1, if the individuals performing such services are not under the direct control and doing work for and employed by a home health agency;~~  
or

(c) 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.

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Sec. 4 K.S.A. 1988 Supp. 65-1124 is hereby repealed.

5  
65-5112 and K.S.A.  
6

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

*Attn #2*  
*Page 516*  
*2-7-9*

The Honorable Marvin Littlejohn, Chairperson  
House Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Littlejohn:


SUBJECT: Fiscal Note for HB 2012 by Special Committee on Public Health  
and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB  
2012 is respectfully submitted to your committee.

HB 2012 would amend existing state law pertaining to attendant care  
services provided by the Department of Social and Rehabilitation Services.  
The bill would create new definitions for terms utilized in the Attendant  
Care Program and the Home and Community Based Services Program operated by  
the Department of Social and Rehabilitation Services. The definitions  
define practices that are exempt from the exclusive practice of licensed  
nursing. The definitions are also used in establishing guidelines to be  
followed in the operation of the Home and Community Based Services Program.  
The bill would require the Secretary of the Department of Social and  
Rehabilitation Services to submit a written report to the Governor and the  
Legislature prior to December 31, 1989. The report would include a summary  
of attendant care services provided under the Home and Community Based  
Services Program, a description of the services models utilized as part of  
the program, the cost of service provided per client, client demographics,  
and such other information as the Secretary would deem appropriate.

The Department of Social and Rehabilitation Services estimates that the  
provisions of this bill would require additional expenditures of \$353,274 in  
FY 1990. Of this amount, the State General Fund expenditures would be  
\$215,321. These expenditures would be in addition to amounts contained in  
the FY 1990 Governor's Report on the Budget. The Department estimates that  
FY 1991 costs would be \$596,714 and that the FY 1992 costs would be  
\$617,174.

The fiscal impact is based on 50 current attendant care clients  
requiring additional expenditures of \$202,500. The Department estimates  
that recruitment and training of attendants would require expenditures of  
\$50,000. In order to provide payments under the provisions of this bill  
through the medical assistance payment system, modifications to the existing  
computer systems would require expenditures of \$45,000. In addition to the  
above costs, the Department estimates that 2.0 additional positions (one  
Social Service Administrator III and one Office Assistant II) will be  
required for a cost of \$55,774.

  
Michael F. O'Keefe  
Director of the Budget

MFO:REK:sm

cc: Sandy Duncan  
Social and Rehabilitation Services

*P.H.W.*  
*Attn # 3*  
*2-7-9*

The Honorable Marvin Littlejohn, Chairperson  
Committee on Public Health and Welfare  
House of Representatives  
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for HB 2122 by Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2122 is respectfully submitted to your committee.

Subject act, as introduced, would change the licensure fee for maternity homes or hospitals and homes for children which are licensed to care for 13 or more residents from a maximum of \$75 to \$300 per year. The new fee would go into effect when rules and regulations including the changes are adopted.

The Department of Health and Environment does not indicate how many of the facilities currently licensed under the provisions of KSA 1988 Supp. 65-505 would experience a fee increase as a result of the passage of this act. However, the Department indicates that increased rules and regulations would be adopted that would increase the fee to some amount above \$75 for the 576 centers that have a capacity of 13 or more children. Additional receipts are estimated at \$5,000 to \$10,000.

Any increase in receipts that would occur as a result of this act would be deposited to the State General Fund and would be in addition to amounts included in the FY 1990 Governor's Report on the Budget.



Michael F. O'Keefe  
Director of the Budget

MFO:KW:meh

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*PH/CO  
attn #4  
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