

Approved _____

Date

3-13-89

✓

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 27, 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. Stanley Grant, Secretary-Department of Health and Environment
Dick Hummel, Executive V. President, Kansas Health Care Association
Richard Gannon, Executive Director/Ks. Board Healing Arts
Bob Williams, Executive Director, Kansas Pharmacists Association
Pat Parker, President of Ks. Board of Pharmacy/Director of Pharmacy
and IV Therapy of Lawrence Memorial Hospital
Mary Ann Gabel, Executive Director of Behavioral Sciences Regulatory
Board.
Robert C. Barnum, Commissioner of Youth Services, Department of Social
Rehabilitation Services.
Chip Wheelen, Kansas Medical Society, (written testimony only)

Chair called meeting to order when quorum was present. He welcomed back Representative Weimer to Committee after a recent illness. All members are grateful Frank is well once again.

Chair drew attention to Hearings scheduled this date on HB 2386, HB 2387, HB 2426, HB 2434.

HEARINGS BEGAN ON HB 2386.

Dr. Stanley Grant, Secretary of Department of Health and Environment spoke to HB 2386, noting that in 1988 Session, SB 585 was enacted which sets out to strengthen enforcement of nursing home rules through a civil penalty process. He is informed by staff attorneys their Department is in full compliance with the principles and specific requirements of administrative law in the administration of the program. To establish detailed internal procedures in regulations would reduce their flexibility by requiring frequent regulation revisions in response to staffing and other changes that routinely occur. He feels HB 2386 is unnecessary and he recommended it be reported unfavorably. He noted (Attachment No.1, testimony, 1-A Nursing Home Fact Sheet, 1-B, Policy/Procedure, 1-C, list of civil penalties assessed. He answered numerous questions, i.e., yes, a ban is automatically lifted when the operator is back in compliance.

Dick Hummel, Vice President of Kansas Health Care Association, offered hand-out, (Attachment No.2), and spoke in support of HB 2386. He noted they are asking the system of intermediate sanctions, (monetary fines, ban on admissions, and the administration of such authority be uniform and consistent. Their Association believes the provider has the right to know how a statute is being interpreted and enforced, and what their rights are under this Statute. They feel this section of the law is difficult to understand. Are concerned that policies can be changed or altered at anytime, upon a whim without any public input. Regulations can't. He noted they have yet to see anything in writing regarding the steps in the process which lead to an order stopping admissions, and what is required to have that order lifted.

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 27, 1989

HEARINGS CONTINUED ON HB 2386:-

Mr. Hummel continued, noting inconsistency in language as "shall", and "may", and the interpretation of law, and its enforcement. He feels HB 2386 will clarify language, and would instill fair play and balance in the adult care home licensure/enforcement program. He answered numerous questions, i.e., no, I do not think regulations are consistent, i.e., Sec. 3, Chapter 146; yes, we need to know more clearly what the rules of the game are; is concerned with language, "Secretary may issue ban at any time".

HEARING CLOSED ON HB 2386.

HEARINGS BEGAN ON HB 2387.

Richard Gannon, Executive Director, Ks. Board of Healing Arts, (Attachment No. 3) spoke to the support of HB 2387. This legislation would require that plaintiffs in cases brought for medical malpractice provide to the State Board of Healing Arts a copy of the petition filed in the case if it names as a defendant, any person licensed, registered, by their Board. Presently these petitions have to be obtained from the Department of Insurance, and there are times that the Insurance Commissioner's office would not receive petitions due to those times when the plaintiff may not wish to hold the Health Care Stabilization Fund liable for any judgment or settlement. He asked for favorable passage of HB 2387. He answered questions, i.e., it was noted perhaps this information could be obtained from the Judicial Administrator's files since it requested for statistical purposes; some felt sanctions in bill are too severe; some felt the bill unnecessary; Board feels they do not have accurate data on how many malpractice suits have been filed; some feel language requiring notice of petition within 10 day period too strong.

HEARING CLOSED ON HB 2387.

HEARING BEGAN ON HB 2426.

Bob Williams, Executive Director of Kansas Pharmacists Association, (Attachment No.4) spoke in support of HB 2426, noting the dramatic increase in individuals receiving the benefits of drug therapy, the increase of over-the-counter and prescriptions medications. This increase has also caused the possibility of increased risk of adverse drug interactions. This is the reason the Board of Pharmacy supports maintaining of a patient profile. He answered numerous questions, i.e., no, this will not address the over-the-counter medications purchased; yes, there will be profiles on the same person at various pharmacy businesses, but still with the requirement of a profile, it could help eliminate a serious reaction to a mixture of medications; yes, pharmacies do keep in contact with each other. It was noted this legislation was studied on 1987, and the section regarding patient profile was struck.

Mr. Pat Parker, President of Ks. State Board of Pharmacy offered hand-out, (Attachment No.5). He explained what a profile is, how it is used. Basically the best benefit from such a profile is to screen what drugs a patient might be allergic to, and which may interact and cause undue toxicity. He noted over 90% of pharmacists use profiles, and HB 2426 would allow their Board to require the other 10% to do the same, and help them in the protection of the customer. He answered questions, i.e., yes, there are times I would refuse to fill a prescription, but would check with the physician to confirm if in fact it is properly prescribed; many doctors appreciate this.

HEARINGS CLOSED ON HB 2426.

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 27, _____, 1989

HEARINGS BEGAN HB 2434:--

Mary Ann Gabel, Executive Director of Behavioral Sciences Regulatory Board spoke in support of HB 2434. (Attachment No.6). She detailed residency requirements, and noted their legal counsel believes this requirement could be challenged as being unconstitutional. She then detailed temporary permits and fees; immunity Statute; revocation of Psychology Statutes; form and service of petitions. She requested favorable consideration of HB 2434. She answered questions, i.e., some had concerns with language in lines 215-227; she explained process of procedures of issuance of temporary permit, receipt of exam scores; issuance of license. She explained process of persons being able to practice only under direct supervision.

Robert C. Barnum, Commissioner of Youth Services, SRS, (Attachment No.7). He drew attention to a balloon, (Attachment No.7-A) and proposed amendments on page 6 of HB 2434. He detailed amendment, explained their problem in procuring qualified personnel to fill Social Work positions, and their Department's struggle with recruitment and licensing issues in the past. He noted concerns with the required certification process. He feels this would be as time consuming as regular licensure. They at SRS would like to see legislation authorizing them to hire on the basis of a degree in Social Work, and any other considerations civil services practices dictate. The applicant would then be required to sit for the next available examination. He asked for favorable passage of their amendments to HB 2434. He answered questions, i.e., yes, we are working on the problem of recruiting; yes, we do have persons apply for positions in our department from other states who are qualified for those positions; in regard to the temporary license, the Western part of the State presents more of a problem than Urban areas in regard to the "direct supervision".

HEARING CLOSED ON HB 2434.

May it be recorded, (Attachment No. 8), is written testimony only from Mr. Chip Wheelen, Kansas Medical Society.

Vice-Chairman Buehler was now conducting meeting, (Chair had to attend Appropriations Committee last few minutes of meeting). Vice-Chair asked wishes of members in regard to minutes.

Rep. Green made motion committee minutes for February 21, 22, 23rd be approved as written, seconded by Rep. Cribbs, motion carried.

Meeting adjourned 3:02 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date 2-24-89

Name	Organization	Address
Mark Intermill	Kansas Coalition on Aging	Topeka
Richard Morrissey	KDHE	Topeka
Chip Wheelen	Ks Medical Society	Topeka
Larry Swearing	Bd of Nursing Arts	Topeka
Richard Hanson	"	"
Bob Williams	Ks Pharmacists Assoc.	Topeka
Alfred Johnson	SRS	"
Harold C. Pitts	KCOA	"
Tom Hitchcock	Bd. of Pharmacy	"
PAT PARKER	Bd. of Pharmacy	LAWRENCE
Dick Hummel	Ks Health Care Assn	Topeka
Uly L. Folsom	Ks Health Care Assn	Topeka
JACK GUMB	SRS	Topeka
Gerald Blah	KDHE	"
Ken Bahr	Ks Assoc of Prof. Psy.	Topeka
Mary Ann Habel	BSRB	Topeka
Peggy Shinn	Abol Personnel	Topeka
Bob Sam	SRS	"
Uire McClintock	Agency	"
James Fyfe	SHR / JAAA	"
Marilyn Bracht	KINHT	Lawrence
KETRAK. LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Richard M. Mann	SRS	"



DEPARTMENT OF HEALTH AND ENVIRONMENT

Forbes Field

Topeka, Kansas 66620-0001

Phone (913) 296-1500

Mike Hayden, Governor

Stanley C. Grant, Ph.D., Secretary

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

Testimony presented to
House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill No. 2386

Mr. Chairman, Members of the Committee:

The Legislature passed Senate Bill No. 585 in the last session in order to strengthen enforcement of nursing homes rules through the civil penalty process. Senate Bill 585 eliminated one of the inspections required before a civil penalty could be assessed (two are now required) and added authority to ban new admissions to a home until corrections had been made. The bill also specified that the Secretary should publish an annual report of violations for which a correction order had been issued or civil penalty assessed.

Attachment 1 is a copy of the report of correction orders and civil penalty violations included in the fourth quarter 1988 edition of the Adult Care Home Fact Sheet. A report of violations cited in correction orders and civil penalty assessments is now included in each quarterly issue of the Fact Sheet that is sent to each licensed adult care home.

Attachment 2 is a copy of the administrative policy and procedure now in effect relative to correction orders and civil penalties. These procedures are a matter of public record. However, you will note that they are directed to defining the internal process used in the Department.

Attachment 3 is a list of each civil penalty assessed between July 1, 1988 and January 24, 1989. The list includes various relevant dates, the amount of the civil penalty assessed, and indicates when a ban on admissions was issued if any. Some bans on admission were issued based on denials or revocations of license as well as on correction orders.

PHW
attn #1
2-27-9


Testimony, SB 2386
February 27, 1989
Page 2

The Federal Omnibus Budget Reconciliation Act of 1987 included significant nursing home reform amendments, one of which was a requirement that states have authority to assess civil penalties for non-compliance with patient care standards. We may need to come back next year with a bill recommending changes in the civil penalty statutes to comply with federal law.


Issues

The KDHE staff has attempted to fairly and effectively implement the authority to assess civil penalties and the other provisions of Senate Bill No. 585. My staff attorneys assure me that we are in full compliance with the principles and specific requirements of administrative law in the administration of the program. In fact, they advise that it would be contrary to established practice to promulgate regulations that only direct the agency's internal actions.

Establishing detailed internal procedures in regulations would reduce the agency's flexibility by requiring frequent regulation revisions in response to staffing and other organizational changes that occur routinely.

 If the issue behind House Bill No. 2386 is, indeed, one of confusion and lack of understanding on the part of adult care home operators, developing a new layer of regulations seems a poor solution. If the issue behind House Bill 2386 is that the Department is, in fact, implementing the statutory authority to assess civil penalties, the appropriate forum is the legislature, not the administrative process.

Department Position

 I believe that House Bill No. 2386 is unnecessary and I recommend that the committee report it unfavorably.

Thank you.

Presented by: Stanley C. Grant, Ph.D.
Secretary
Kansas Department of Health and Environment
February 27, 1989

#1
292
2-24-9

Censure Category	Correction Order Quarters 1988			Civil Penalty Quarters 1988		
	1st	2nd	3rd	1st	2nd	3rd
Inadequate or inappropriate hygiene and skin care.....	25	26	22	1	2	7
Inadequate or unqualified staffing.....	12	25	15	0	1	1
Inoperable or inaccessible call system.....	11	8	8	0	0	0
Inappropriate or unauthorized use of restraints.....	20	35	36	0	1	7
Unsafe medication administration or storage.....	19	28	24	0	0	3
Inadequate nursing services other than skin care.....	21	24	27	1	1	7
Inadequate or inappropriate asepsis technique.....	13	20	19	0	1	2
Inadequate or inappropriate dietary/nutritional services.....	6	12	16	0	0	2
Unsafe storage of hazardous or toxic substances.....	1	4	7	0	0	2
Failure to maintain equipment.....	5	0	8	0	0	1
Resident right violations.....	7	9	10	0	0	2
Unsafe high water temperature.....	9	8	4	0	0	0
Inadequate hot water.....	1	0	0	0	0	0
General sanitation and safety.....	3	2	3	0	0	2
Other (including inappropriate admission).....	1	0	0	0	0	0
Inadequate rehabilitation service.....	0	3	3	0	0	0
Total Correction Orders	46	43	49			
Total Civil Penalties				2	2	11

Published by:

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Mike Hayden, Governor

Stanley C. Grant, Ph.D., Secretary

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

Greg Crawford, Director of Public Information

Bureau of Adult and Child Care,

900 SW Jackson, Landon State Office Bldg., Suite 1001, Topeka, KS 66612-1290 (913) 296-1240

Reprinting of articles should credit the Kansas Department of Health and Environment

PNW
Attm
1-A
2-27-9

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

Bureau of Adult & Child Care

POLICY AND PROCEDURE

Authority: KSA 39-945

Subject: Correction Orders

Date: July 1, 1988

Supersedes Correction Order policy of February 20, 1987

POLICY

Under KSA 39-945, the Secretary is empowered to issue a correction order when deficiencies affect significantly and adversely the health, safety, nutrition, or sanitation of the adult care home resident(s).

Correction order deficiencies should generally have a direct significant and adverse impact on a resident or residents. For example, correction orders may be issued when physician orders for medications, restraints, treatments, or restorative nursing services and other specific orders by the physician are not followed and the resident may be significantly and adversely affected. In addition, there are many items affecting resident care, such as restraints not being released in a timely manner, incontinent residents not being changed in a timely manner, or residents being abused, which significantly and adversely affect the residents' care.

In situations where a deficiency indirectly impacts on a resident(s), the threat should be immediate and substantial to be considered significant and adverse. Deficiencies such as the lack of a calling system for residents to notify nurses when they need help or situations which would allow residents to be exposed to electrical shock or burns would significantly and adversely affect residents.

It is necessary for the surveyor to exercise independent judgment in determining whether the deficiencies significantly and adversely affect the health and safety of residents.

PN+U
attm#
1-B
2-27-9

PROCEDURE


- 1 When a survey or other visit or investigation is completed and a surveyor makes the judgment that certain deficiencies justify a correction order, the surveyor will complete the correction order referral sheet for review. The completed form will be referred to the regional manager or supervisor for review. The regional manager or supervisor will then forward the form with recommendations to Field Services.
- 2 The directors of Adult & Child Care, Adult Care Home Program and Field Services Program will review the information and determine whether a correction order and/or an order prohibiting new admissions should be issued. The correction order cover letter will include notification that the facility can provide the surveyor with written documentation of good faith effort exercised by the adult care home to correct the violations at the time of the correction order revisit.
- 3 After a correction order is issued, three days will be allowed for mail and a follow-up visit report will be made within 14 calendar days. A follow-up visit report will be returned to the regional manager or supervisor noting all corrected and uncorrected deficiencies along with a recommendation. The regional manager or supervisor will review the information and submit their recommendation and the report to Field Services. The regional manager will retain a copy of each correction order and revisit.
- 4 The director of Adult & Child Care, Adult Care Home Program, Field Services Program, Complaint Coordinator, and Adult Care Home Program nurse consultant will each receive a copy of the report and will rate the severity of each violation on a scale of 1 to 5 on the form provided. The average of the severity ratings will determine the severity rating for each item. When additional information is desired regarding severity, a conference call will be held with the regional manager.
- 5 The amount of assessment will be determined considering the severity of the violations. The assessment may be reduced when the licensee has provided documentation of a good faith effort to correct the violation and the licensee has a good history of compliance with adult care home regulations. Licenses denied or revoked, correction orders, citations, assessments, or any provisional licenses within the last three years will be deemed not a good history of compliance. Field Services will determine if any of the deficiencies have previously been cited in a correction order within 18 months prior to the inspection or investigation which resulted in the correction order

1-B
2
2-27-9

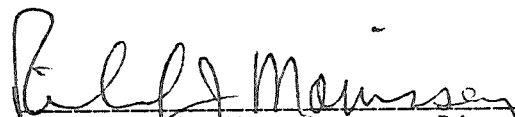
denial or revocation being issued. Any repeat deficiency may double the amount of the fine for the deficiency.

6 A proposed order assessing the civil penalty will be forwarded to the Director of Health or other medical doctor for review.

7 After review by a medical doctor, the proposed order is forwarded to the Secretary for approval.



Gerald A. Block
Director, Field Services



Richard J. Morrissey, Director
Bureau of Adult & Child Care

1-B
Pg 3
2-27-9

ADULT CARE HOME CIVIL PENALTIES
JULY 1, 1988 TO JANUARY 24, 1989

NAME	CITY	CASE #	LAST DATE OF SURVEY	DATE CORRECTION ORDER ISSUED	LAST DATE OF REVISIT	DATE CIVIL PENALTY ISSUED	AMOUNT OF CIVIL PENALTY	BAN ON ADMISSION CASE #	DATE BAN ISSUED	DATE BAN RELEASED	DEFICIENCIES FOUND
		88-109	88/06/28	88/07/21	88/08/5	88/09/20	\$2,500	88-ACFB-02	88/09/20	88/10/20	<p>INCONTINENT RESIDENTS NOT CLEANED PROMPTLY INADEQUATE INFECTION CONTROL PRACTICES THERAPEUTIC DIETS NOT SERVED AS ORDERED MEDICATIONS NOT SAFELY STORED RESIDENT CARE EQUIPMENT NOT MAINTAINED IN SAFE & SANITARY CONDITION HOUSEKEEPING & MAINTENANCE NOT PROVIDED TO MAINTAIN SANITARY & SAFE ENVIRONMENT TOXIC SUBSTANCES ACCESSIBLE TO RESIDENTS TREATMENTS NOT GIVEN AS ORDERED BEDFAST RESIDENTS NOT BATHED EVERY OTHER DAY</p>
		88-113	88/07/15	88/07/21	88/07/28	88/08/16	\$1,900	88-ACFB-01	88/07/21	CLOSED	<p>RESTRAINTS NOT RELEASED TIMELY RESIDENT RIGHTS VIOLATIONS - CALL LIGHTS OUT OF REACH OF RESIDENTS, WATER PITCHERS OUT OF REACH OF RESIDENTS INADEQUATE RESTORATIVE NURSING PROVIDED INADEQUATE INFECTION CONTROL PRACTICES MEDICATIONS NOT ADMINISTERED PER PHYSICIANS ORDERS</p>
		88-118	88/07/09	88/08/24	88/08/24	88/09/21	\$2,600	88-ACFB-06	88/09/21	88/10/12	<p>REPEAT - MEDICATIONS NOT GIVEN AS ORDERED REPEAT - INADEQUATE SKIN CARE TO PREVENT SKIN BREAKDOWN REPEAT - RESTRAINTS NOT RELEASED TIMELY</p>
		88-119	88/07/15	88/08/09	88/08/24	88/09/20	\$400				<p>RESTRAINTS NOT RELEASED TIMELY</p>
		88-131	88/08/16	88/08/29	88/09/15	88/09/27	\$5,000	88-ACFB-07	88/09/27	88/12/30	<p>REPEAT - ADEQUATE PERSONAL HYGIENE OF RESIDENTS NOT MAINTAINED REPEAT - RESTRAINTS NOT RELEASED TIMELY REPEAT - INADEQUATE STAFF TO MEET RESIDENTS NEEDS RESIDENTS NOT MAINTAINED IN PROPER BODY ALIGNMENT REPEAT - RESIDENTS NOT TRANSFERRED FROM BED OR CHAIR SAFELY REPEAT - BEDFAST RESIDENTS NOT TURNED EVERY TWO HOURS BETWEEN MEAL NOURISHMENTS NOT PROVIDED TO RESIDENTS WITH WEIGHT LOSS PROBLEMS AS NEEDED</p>

PH/ew
Attn 1-C
2-27-9

ADULT CARE HOME CIVIL PENALTIES
 JULY 1, 1988 TO JANUARY 24, 1989

NAME	CITY	CASE #	LAST DATE OF SURVEY	DATE CORRECTION ORDER ISSUED	LAST DATE OF REVISIT	DATE CIVIL PENALTY ISSUED	AMOUNT OF CIVIL PENALTY	BAN ON ADMISSION CASE #	DATE BAN ISSUED	DATE BAN RELEASED	DEFICIENCIES FOUND
		88-137	88/08/18	88/09/12	88/09/22	88/10/25	\$600				REPEAT - RESIDENTS NOT OFFERED THE OPPORTUNITY FOR TOILETING WHEN RELEASED FROM RESTRAINTS
		88-139	88/08/19	88/09/12	88/09/21	88/10/25	\$3,900	88-ACFB-08	88/10/25	88/12/15	REPEAT - RESIDENTS RESTRAINED WITHOUT PHYSICIANS ORDERS REPEAT - RESTRAINTS NOT RELEASED TIMELY TREATMENTS NOT PROVIDED AS ORDERED BY PHYSICIAN INADEQUATE CARE TO PREVENT SKIN BREAKDOWN DECUBITUS CARE NOT PROVIDED AS ORDERED INADEQUATE RESTORATIVE NURSING PROVIDED TOXIC SUBSTANCES ACCESSIBLE TO RESIDENTS
		88-141	88/08/30	88/09/20	88/09/30	88/10/25	\$2,500	88-ACFB-03	88/09/20		VERBAL ABUSE OF RESIDENTS BEDFAST RESIDENTS NOT BATHED AT LEAST EVERY OTHER DAY INADEQUATE CATHETER CARE INADEQUATE RESTORATIVE NURSING CARE TREATMENTS, MEDICATION AND DIETS NOT PROVIDED PER PHYSICIANS ORDER RESTRAINTS NOT RELEASED TIMELY MEDICATIONS NOT ADMINISTERED BY PHYSICIANS ORDERS RESIDENTS NOT MAINTAINED IN PROPER BODY ALIGNMENT CARE NOT PROVIDED TO PREVENT & PROMOTE THE HEALING OF DECUBITUS ULCERS
		88-148	88/09/02	88/09/23	88/10/19	88/11/29	\$1,500				REPEAT - INCONTINENT RESIDENTS NOT CLEANED PROMPTLY DECUBITUS TREATMENTS NOT PROVIDED AS ORDERED BY PHYSICIAN INADEQUATE RESTORATIVE NURSING CARE PROVIDED TO BEDFAST RESIDENTS
		88-151	88/09/16	88/09/30	88/10/13	88/11/29	\$500				MEDICATIONS NOT ADMINISTERED PER PHYSICIANS ORDERS MEDICATIONS NOT ADMINISTERED IN SAFE MANNER
		88-155	88/08/26	88/09/30	88/10/19	88/11/29	\$500				INADEQUATE ASEPSIS, STERILIZATION, & ISOLATION TECHNIQUES

Handwritten:
 09-2
 1-C
 2-27-9

ADULT CARE HOME CIVIL PENALTIES
 JULY 1, 1988 TO JANUARY 24, 1989

NAME	CITY	CASE #	LAST DATE OF SURVEY	DATE CORRECTION ORDER ISSUED	LAST DATE OF REVISIT	DATE CIVIL PENALTY ISSUED	AMOUNT OF CIVIL PENALTY	BAN ON ADMISSION CASE #	DATE BAN ISSUED	DATE BAN RELEASED	DEFICIENCIES FOUND
		88-167	88/10/14	88/10/31	88/11/16	88/12/20	\$400				REHABILITATIVE NURSING ORDERED NOT PROVIDED TOXIC SUBSTANCES ACCESSIBLE TO RESIDENTS
		88-176	88/10/27	88/11/15	88/12/02	88/12/22	\$2,100				RESTRAINTS NOT RELEASED TIMELY BEDFAST RESIDENTS NOT BATHED AT LEAST EVERY OTHER DAY INCONTINENT RESIDENTS NOT CLEANED PROMPTLY INADEQUATE ASEPSIS, STERILIZATION, & ISOLATION TECHNIQUES MEDICATIONS NOT ADMINISTERED PER ORDERS INADEQUATE RESTORATIVE NURSING CARE
		88-180	88/11/01	88/12/02	88/12/12	89/01/03	\$5,000	88-ACFB-10	88/12/02		REPEAT - RESTRAINTS NOT RELEASED TIMELY RESTRAINTS NOT AUTHORIZED BY PHYSICIAN REPEAT - INADEQUATE NURSING CARE PROVIDED REPEAT - ADEQUATE PERSONAL HYGIENE OF RESIDENTS NOT MAINTAINED INADEQUATE ASEPSIS, STERILIZATION, & ISOLATION TECHNIQUES REPEAT - MEDICATIONS NOT ADMINISTERED PER PHYSICIANS ORDERS MEDICATIONS NOT ADMINISTERED IN A SAFE MANNER MENUS NOT PLANNED AND FOLLOWED TO MEET NUTRITIONAL NEEDS FLUIDS NOT ALWAYS AVAILABLE OR OFFERED
		88-184	88/10/28	88/12/19	88/12/19	89/01/24	\$500				ADEQUATE SUPERVISION AND MONITORING NOT PROVIDED TO MENTALLY HANDICAPPED RESIDENTS TO PREVENT WALK-A-WAYS
		88-197	88/12/02	88/12/06	88/12/20	89/01/05	\$600	88-ACFB-13	88/12/06	88/12/21	ADEQUATE SKIN CARE NOT PROVIDED TO PREVENT SKIN BREAKDOWN INADEQUATE INFECTION CONTROL TECHNIQUES USED IN PROVIDING CARE

073
 1-C
 2-27-9



KHCA

Member of
ahca

Kansas Health Care Association

221 SOUTHWEST 33rd STREET
TOPEKA, KANSAS 66611 • 913-267-6003

February 27, 1989

POSITION OF THE KANSAS HEALTH CARE ASSOCIATION

ON

HOUSE BILL NO. 2386

"AN Act requiring the development of rules and regulations on the administration of the adult care home civil penalty process."

TO: House Committee on Public Health and Welfare

The Kansas Health Care Association (KHCA) represents over 200 licensed adult care homes (nursing home) in Kansas. Our membership represents every category of nursing home service and includes both proprietary and non-profit facilities.

We support H.B. 2386 which would require that the Kansas Department of Health and Environment write regulations to explain the administration of the adult care home civil penalty process. It's neither an unreasonable request nor an unprecedented action for the agency to take as we'll point out.

BACKGROUND:

Kansas adult care homes may be subjected to various compliance/enforcement actions by the Department for rules and regulation licensure infractions known as deficiencies. For a deficiency identified as having an "adverse and significant" affect upon residents, a monetary fine may be imposed and/or admissions stopped. Last year the law was amended to increase the amount of the fine, to double the assessment for a repeat violation, and to impose a ban on new resident admissions. (Senate Bill 585, Chapter 146, 1988 Session Laws of Kansas, attached.) The agency may also place a home under temporary receivership, or revoke, suspend or deny a license.

KHCA is not opposed to a system of intermediate sanctions (monetary fines, ban on admissions) as a leverage for licensure compliance. However, the administration of such authority must be uniform and consistent. Likewise, a provider has the right to know how a statute is being interpreted and enforced, and what their rights are under it. This section of the law is complicated to understand just upon its reading.

PHW
Attn. # 2
2-27-89

February 27, 1989
KHCA Position on H.B. 2386
Page Two

PURPOSE OF RULE/REGULATIONS.

One is to publicly disclose an agency's interpretation of a law, its enforcement of it, and its limitations.

To date we've only seen, and that was a month ago, the agency's written policy and procedures pertaining to the civil fine decision-making process. Policies can be changed or altered at anytime, upon a whim without any public input. Regulations can't. We've yet to see anything in writing regarding the steps in the process which lead to an order stopping admissions and what is required to have an order lifted.

REGULATIONS UNREASONABLE REQUEST?

No, and is a matter of fair play. Regulations would explain the rights, responsibilities and duties of all parties.

These are the regulations for the operation and licensure of an adult care home. The rules cover every aspect of an adult care home's operation, from staffing requirements to hallway sizes. An adult care home must comply with them.

These regulations were adopted by KDH&E under the statutory authority of K.S.A. 39-932, which says in part "...agency shall adopt, amend, promulgate, and enforce such rules, regulations as may be deemed practicable, reasonable, and necessary...in promoting safe, proper and adequate treatment and care of individuals in adult care homes."

Another section of the licensure law, addressed in H.B. 2386, establishes the adverse actions that the state may take against a provider for violating the licensure regulations. However, here the agency "may" only have to promulgate regulations to explain what it is doing. This is inconsistent. On one hand a provider has set before him in licensure regulations the state's expectations. On the other, there is nothing (regulations) to explain the state's expectations and obligations when it comes to administering adverse proceedings.

House Bill 2386 instills fair play and balance in the adult care home licensure/enforcement program.

We respectfully request your favorable reporting of the bill.

CONTACT: Dick Hummel, Executive Vice President

2
P92
2-27-9

Sec. 2. K.S.A. 39-930 is hereby repealed.

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

Approved April 7, 1988.

CHAPTER 146

Senate Bill No. 585

AN ACT concerning the adult care home licensure act; relating to the issuance of correction orders, citations and assessments; prohibiting new admissions to adult care homes in certain cases; amending K.S.A. 39-945 and 39-946 and repealing the existing sections.

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

Section 1. K.S.A. 39-945 is hereby amended to read as follows: 39-945. A correction order may be issued by the secretary of health and environment or the secretary's designee to a person licensed to operate an adult care home whenever the state fire marshal or the marshal's representative or a duly authorized representative of the secretary of health and environment inspects or investigates an adult care home and determines that the adult care home is not in compliance with the provisions of article 9 of chapter 39 of the Kansas Statutes Annotated or ~~rule and regulation~~ *rules and regulations* promulgated thereunder which *individually or jointly* affects significantly and adversely the health, safety, nutrition or sanitation of the adult care home residents. The correction order shall be served upon the licensee either personally or by certified mail, return receipt requested. The correction order shall be in writing, shall state the *specific* deficiency, cite the specific statutory provision or rule and regulation alleged to have been violated, and shall specify the time allowed for correction.

Sec. 2. K.S.A. 39-946 is hereby amended to read as follows: 39-946. (a) If upon reinspection by the state fire marshal or the marshal's representative or a duly authorized representative of the secretary of health and environment, *which reinspection shall be conducted within 14 days from the day the correction order is served upon the licensee*, it is found that the licensee of the adult care home which was issued a correction order has not corrected the deficiency or deficiencies specified in the order, the secretary of health and environment ~~or the secretary's designee~~ shall issue a citation listing the uncorrected deficiency or

2
Pg 3
2-27-9

deficiencies. The citation shall be served upon the licensee of the adult care home either personally or by certified mail, return receipt requested. The citation shall also specify whether the uncorrected deficiencies have an endangering relationship to the health, safety or sanitation of the adult care home residents.

(b) The secretary of health and environment may assess a civil penalty in an amount not to exceed ~~one hundred dollars~~ (~~\$100~~) \$500 per day per deficiency against the licensee of an adult care home for each day subsequent to the day following the issuance of a citation pursuant to this section time allowed for correction of the deficiency as specified in the correction order that the adult care home has not corrected the deficiency or deficiencies listed in the ~~citation~~ correction order, but the maximum assessment shall not exceed ~~five hundred dollars~~ (~~\$500~~) \$2,500. Prior to the assessment of a civil penalty, the case shall be reviewed by a person licensed to practice medicine and surgery. A written notice of assessment shall be served upon the licensee of an adult care home either personally or by certified mail, return receipt requested.

(b) Before the assessment of a civil penalty, the secretary shall consider the following factors in determining the amount of the civil penalty to be assessed: (1) The severity of the violation; (2) the good faith effort exercised by the adult care home to correct the violation; and (3) the history of compliance of the ownership of the adult care home with the rules and regulations. If the secretary of health and environment finds that some or all deficiencies cited in the correction order have also been cited against the adult care home as a result of any inspection or investigation which occurred within 18 months prior to the inspection or investigation which resulted in such correction order, the secretary of health and environment may double the civil penalty assessed against the licensee of the adult care home, the maximum not to exceed \$5,000.

(c) All civil penalties assessed shall be due and payable within ~~ten~~ (~~10~~) 10 days after written notice of assessment is served on the licensee, unless a longer period of time is granted by the secretary. If a civil penalty is not paid within the applicable time period, the secretary of health and environment may file a certified copy of the notice of assessment with the clerk of the district court in the county where the adult care home is located. The notice of assessment shall be enforced in the same manner as a judgment of the district court.

New Sec. 3. (a) At any time the secretary of health and environment initiates any action concerning an adult care home

#2
094
2-27-9

in which it is alleged that there has been a substantial failure to comply with the requirements, standards or rules and regulations established under the adult care home licensure act, that conditions exist in the adult care home which are life threatening or endangering to the residents of the adult care home, that the adult care home is insolvent, or that the adult care home has deficiencies which significantly and adversely affect the health, safety, nutrition or sanitation of the adult care home residents, the secretary may issue an order, pursuant to the emergency proceedings provided for under the Kansas administrative procedure act, prohibiting any new admissions into the adult care home until further determination by the secretary. This remedy granted to the secretary is in addition to any other statutory authority the secretary has relating to the licensure and operation of adult care homes and is not be construed to limit any of the powers and duties of the secretary under the adult care home licensure act.

(b) This section shall be part of and supplemental to the adult care home licensure act.

New Sec. 4. (a) The secretary shall issue annually to each adult care home a report summarizing by category of licensure, violation and frequency of occurrence those violations which have resulted in the issuance of correction orders and civil penalties within the preceding twelve-month period.

(b) This section shall be part of and supplemental to the adult care home licensure act.

Sec. 5. K.S.A. 39-945 and 39-946 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 20, 1988.

#2
095
2-27-9

State of Kansas

Office of

RICHARD G. GANNON, EXECUTIVE DIRECTOR
CHARLENE K. ABBOTT, ADMINISTRATIVE ASSISTANT
LAWRENCE T. BUENING, JR., GENERAL COUNSEL
JOSEPH M. FURJANIC, DISCIPLINARY COUNSEL



Landon State Office Building

900 S.W. JACKSON, SUITE 553
TOPEKA, KS 66612-1256
(913) 296-7413

Board of Healing Arts

TO: House Committee on Public Health & Welfare

FROM: Richard G. Gannon, Executive Director

DATE: February 27, 1989

RE: HOUSE BILL NO. 2387

Mr. Chairman and members of the Committee, thank you very much for the opportunity to appear before you and submit testimony on behalf of this bill. As you are aware, this bill was requested by the State Board of Healing Arts to be introduced as a committee bill through your committee.

The bill is very short and would simply require that plaintiffs in cases being brought for medical malpractice provide to the State Board of Healing Arts a copy of the petition filed in the case if it names as a defendant any person who is licensed, registered or certified by the Board.

At the present time, K.S.A. 40-3409 requires that a plaintiff serve a copy of the petition in a medical malpractice case upon the Commissioner of Insurance if the Health Care Stabilization Fund is to be liable for any amount due from any judgment obtained or settlement reached in such a case. To the best of the Board's knowledge and information, this is the only mechanism by which statistics can be compiled to reflect the number of medical malpractice cases being filed in the State of Kansas.

In the 1983 Legislature, K.S.A. 40-3409 was amended to require the Commissioner of Insurance to forward a copy of each petition he receives to the State Board of Healing Arts if it names a health care provider as a defendant who is licensed, registered or certified by the State Board of Healing Arts. Since July 1, 1983, the Board has been receiving these petitions from the Commissioner and is presently maintaining a profile on each individual who has been named as a defendant in any of these petitions received by the Board from the Insurance Department.

For those individuals regulated by the Board, present K.S.A. 40-3409 requires that the Commissioner provide copies of the

MEMBERS OF BOARD

REX A. WRIGHT, D.C., PRESIDENT
TOPEKA

F. CALVIN BIGLER, M.D., VICE PRESIDENT
GARDEN CITY

FRANKLIN G. BICHLMEIER, M.D., SHAWNEE MISSION

HAROLD E. BRYAN, D.C., FORT SCOTT

JIMMY V. BULLER, D.O., PARSONS

EDWARD J. FITZGERALD, M.D., WICHITA

PAUL T. GREENE, JR., D.C., GREAT BEND

JOHN B. HIEBERT, M.D., LAWRENCE

GLENN I. KERBS, DODGE CITY

CAMERON D. KNACKSTEDT, D.O., PHILLIPSBURG

GRACIELA MARION, EUDORA

TOM REHORN, SHAWNEE MISSION

IRWIN WAXMAN, D.P.M., PRAIRIE VILLAGE

KENNETH D. WEDEL, M.D., MINNEAPOLIS

JOHN P. WHITE, D.O., PITTSBURG

PHK
attmt #3
2-27-89

RE: HB-2387
February 27, 1989
Page 2

petitions whenever a medical doctor, osteopathic doctor, chiropractor, podiatrist or physical therapist is named as a defendant in a case. The Board, however, also regulates occupational therapists, respiratory therapists, occupational therapy assistants, physical therapist assistants and physician assistants. These persons are not defined as a "health care provider" under the Health Care Provider Insurance Availability Act. As a result, there is at present no mechanism by which the Board would receive copies of petitions in which these providers are named as defendants.

Passage of HB 2387 would insure that the Board receives all malpractice petitions in which any individual regulated by the Board is named as a defendant. Although the Board and the Insurance Department have developed a good working relationship as far as the Board's receipt of the petitions under K.S.A. 40-3409, there is a question as to whether the Insurance Commissioner is served with copies of all malpractice petitions as there may be those cases in which the plaintiffs, for whatever reason, may not wish to hold the Health Care Stabilization Fund liable for any judgment or settlement. Secondly, passage of HB 2387 would enable the Board to receive copies of petitions in which individuals who are not "health care providers" covered under K.S.A. 40-3409 are named as defendants. Finally, the adoption of HB 2387 would enable the Board to be a central repository for all malpractice cases in the State of Kansas. The Board is presently attempting to upgrade its computer system and when this occurs, more detailed reports and statistics can be provided to the legislature to assist in determining the nature and extent of the medical malpractice cases being filed in the state and what, if any, legislative action should be taken.

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

RGG:LTB:sl

#3
P92
2-27-9



THE KANSAS PHARMACISTS ASSOCIATION

1308 WEST 10TH

PHONE (913) 232-0439

TOPEKA, KANSAS 66604

ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

TESTIMONY

HOUSE BILL 2426

HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

Monday, February 27, 1989

Mr. Chairman, Committee Members, thank you for this opportunity to address the committee concerning HB 2426. I am Bob Williams, Executive Director of the Kansas Pharmacists Association.

Over the past ten years we have seen a dramatic increase in the number of drugs on the market--both over-the-counter and legend. An increased number of individuals are receiving the benefits of drug therapy. With the increased use of over-the-counter and prescription medication also comes the increased risk of adverse drug interactions. For that reason the Kansas Pharmacists Association supports the Board of Pharmacy's action to require the maintaining of patient profiles.

We encourage you to support House Bill 2426.

Thank you.

*PKW
Attn #4
2-27-9*

Kansas State Board of Pharmacy

LONDON STATE OFFICE BUILDING
900 JACKSON AVENUE, ROOM 513
TOPEKA, KANSAS 66612-1220
PHONE (913) 296-4056

STATE OF KANSAS



MIKE HAYDEN
GOVERNOR

HOUSE BILL 2426

MEMBERS

NANCY F. HANNA, MANHATTAN
LAURENCE L. HENDRICKS,
WAKEENEY
KARLA K. KNEEBONE, NEODESHA
KATHLEEN M. MAHANNA, HOXIE
PATRICK E. PARKER, LAWRENCE
BARBARA A. RENICK, GARDEN CITY

EXECUTIVE SECRETARY

TOM C. HITCHCOCK

BOARD ATTORNEY

JOHN C. WHITAKER

Mr. Chairman, Committee Members, my name is Pat Parker. I am Director of Pharmacy and IV Therapy at Lawrence Memorial Hospital and President of the Kansas State Board of Pharmacy.

I am here because the Board of Pharmacy is concerned about the confusion which has surrounded patient profiles in the past

A prior Board attempted to write regulations requiring pharmacies to maintain patient profiles. They used as their statutory authority the statement in K.S.A. 65-1642, which says:

"The Board shall prescribe the minimum of such professional and technical equipment which a pharmacy shall at all times possess..."

Legislative Research felt that this statute was not specific enough to grant statutory authority for promulgation of the regulations.

The addition of "...and patient profiles" that you see before you is an attempt to rectify this apparent ambiguity.

PROFILE: Let me explain very briefly what a profile is, how it is used, and provide some insight about current profile use. A profile is a listing of medications taken by a patient along with a base of information about that patient that generally includes known drug allergies, previously experience untoward reactions to drugs, the patient's age, sex, and race.

It also often contains 3rd party billing information, packaging preferences, delivery information, phone number, and the like.

It is used as a tool by the pharmacist to screen for drugs to which the patient is likely to be allergic, drugs which are similar to drugs which have caused problems with the patient before, drugs which duplicate current therapies, and drugs which may interact and cause the patient undue toxicity.

Since this is tax time, you are probably more familiar with their use as summaries for medical expenses around tax time. That's what you as the public see profiles used for, but that is not their only purpose.

According to the journal Pharmacy Times, December 1987:

*90.2% of retail pharmacists maintain profiles

*68.5% are maintained by computers and the remainder of manual.

Pat Parker
Attn #5
2-27-9

estimony on HB 2426
at Parker

We have every indication that these numbers are now higher in 1989, particularly the growth in computerization.

"The biggest problem arises from patients who go to several doctors--the right hand not knowing what the left is prescribing. Thus, different physicians might prescribe drugs in the same class without the patient being informed about which to take and which to discontinue."

Quote Scott Weinstein, Pharmacist, Pharmacy Times, December 1987

"Patient profiles are required in the State of Washington. I find them very useful in locating misplaced Rxs, etc. However, their real value lies in the medical information they contain--alert us to potential drug interactions or disease/drug interactions."

Quote Bartell Drugs, Pharmacy Times, December 1987

"When a patient brings an OTC to the register, I consult the profile before making the sale--thereby often avoiding a drug interaction. It is impossible to remember every patient's history without such a tool."

Quote Dominic DeRose, Pharmacist, Pharmacy Times, December 1987

I respectfully request that this Committee support the over 90% of pharmacists now actually using profiles, and allow the State Board of Pharmacy to require the small percentage not now using them to do so.

#5
PA 2
2-27-9

JOHN PREBLE, B.S., *Chairperson*
MARY ANN GABEL, B.B.A., *Executive Director*



Landon State Office Building
900 S.W. Jackson, Room 855-S
Topeka, Kansas 66612-1220
913/296-3240 KANS-A-N 561-3240

BOARD MEMBERS:
Public Members
BETTIE E. DUNCAN
DELBERT L. POTTER
JOHN PREBLE, B.S.

Psychology
WILLIAM L. ALBOTT, Ph.D.
C. ROBERT BORRESEN, Ph.D.

Social Work
CLARICE HARRIS, MSW
MARVIN A. KAISER, Ph.D.

BEHAVIORAL SCIENCES REGULATORY BOARD

LICENSED PROFESSIONALS:
Psychologists
Social Workers

REGISTERED PROFESSIONALS:
Master Level Psychologists
Professional Counselors

TESTIMONY BEFORE THE HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

H.B. 2434

FEBRUARY 27, 1989

CHAIRMAN LITTLEJOHN, VICE-CHAIRMAN BUEHLER AND COMMITTEE MEMBERS:

I am Mary Ann Gabel, Executive Director of the Behavioral Sciences Regulatory Board, appearing before you on behalf of the board and in support of H.B. 2434.

This legislation was introduced at the board's request and accomplishes the following: eliminates the residency requirement for professional counselor registration and social work licensure; authorizes the board to expand the issuance of temporary licenses to social work applicants; authorizes the board to charge a fee for temporary permits; provides immunity for persons who in good faith file complaints against licensed, registered, or certified persons; and revokes two psychology statutes, form of petitions and service of petition, which are now governed by the Kansas Administrative Procedures Act.

1) Residency requirements. The current law provides that in order to become a licensed social worker or a registered professional counselor, an applicant must be a legal resident of Kansas or be employed or providing services in Kansas. (Legal counsel to the board believes this requirement can be challenged as being unconstitutional.)

2) Temporary Permits and Fees. SRS has expressed to the board the problems it has been experiencing in recruiting licensed social workers to fill vacant positions and has requested assistance from the board. The board believes the proposed amendments may provide some assistance to SRS. The amendment to K.S.A. 1988 Supp. 75-5354 (h) will enable a greater number of social work applicants to obtain a temporary license. This provision, however, will increase the board staff's work load and will be an added expense to the board. The board believes this expense should be borne by the direct recipients of this service.

PA+CW
Attn #6
2-27-9

- 3) Immunity Statute. Recently, the board has had several instances in which patients have declined to file a complaint against a licensed, registered, or certified person for fear of retaliation. These persons are concerned that the licensee/registrant/certificand will sue the complaining patient for libel or slander.

Common law provides a qualified immunity for persons filing complaints with a regulatory agency. (There is no immunity if a person knowingly and willfully files a false complaint.)

The Board of Healing Arts and Board of Nursing have statutes codifying the common-law immunity. The board and legal counsel believe it would be in the best interests of the consumer of mental health services to have this provision codified in the board's statutes.

- 4) Revocation of Psychology Statutes - Form of Petitions and Service of Petition. K.S.A. 1988 Supp. 74-5329 - Form of petitions; and K.S.A. 1988 Supp. 74-5331 - Service of petition are statutes which should be repealed as each concerns the form of petition and service of petition in actions against the licenses of psychologists. Both these areas are now governed by the Kansas Administrative Procedures Act (KAPA).

The board respectfully requests that you favorably report H.B. 2434 out of committee and recommend its passage as written.

Thank you for providing me an opportunity to address you today. I will be happy to answer any questions you may have.

#6
092
2-27-9

TESTIMONY FOR HB 2434

HB 2434 ADDRESSES A CRITICAL DILEMMA WITHIN OUR AGENCY--THE PROCUREMENT OF QUALIFIED PERSONNEL TO FILL SOCIAL WORK POSITIONS. WE HAVE BEEN STRUGGLING WITH RECRUITMENT AND LICENSING ISSUES THIS PAST YEAR. WE HAVE HAD AT VARIOUS POINTS IN TIME ONE HUNDRED OR MORE VACANT POSITIONS, WHICH HAS LEFT SIGNIFICANT GAPS IN OUR CHILD PROTECTION AND THE OVERALL SOCIAL WELFARE SYSTEM. FORTUNATELY, TODAY WE HAVE REDUCED VACANCIES TO FORTY POSITIONS OR LESS.

HB 2434 ALLOWS ISSUANCE OF A TEMPORARY LICENSE UPON CERTIFICATION BY THE BEHAVIORAL SCIENCES REGULATORY BOARD. THIS IS NEEDED. HOWEVER, IF I WERE TO HAVE FORTY DEGREED APPLICANTS WHO IN MANY CASES HAD WORKED IN OTHER AREAS OF THE UNITED STATES OR WHO WERE NEWLY GRADUATED FROM ONE OF OUR UNIVERSITIES, IT WOULD PROBABLY BE SOMETIME IN JULY BEFORE THEY COULD BE EXAMINED. IF THE INDIVIDUAL DOES NOT HAVE THE APPLICATION AND LICENSE FEE IN PRIOR TO APRIL 1, THEY WOULD HAVE TO WAIT UNTIL OCTOBER TO SIT FOR THE EXAM.

THE CONCERN WE HAVE FOR THE BILL AS WRITTEN IS THE CERTIFICATION PROCESS THAT WILL BE REQUIRED. THIS COULD CONCEIVABLY BE AS TIME CONSUMING AS REGULAR LICENSURE. WITHIN SRS WE WOULD LIKE TO SEE THIS LEGISLATION AUTHORIZING OUR AGENCY TO HIRE ON THE BASIS OF A DEGREE IN SOCIAL WORK AND ANY OTHER CONSIDERATIONS CIVIL SERVICES PRACTICES DICTATE. THE APPLICANT WOULD THEN BE REQUIRED TO SIT FOR THE NEXT AVAILABLE EXAMINATION.

WE FURTHER WOULD RECOMMEND THAT THE BILL REQUIRE THE BOARD TO TIMELY NOTIFY AND SHOW CAUSE FOR DENIAL OF ANY TEMPORARY OR PERMANENT APPLICATION.

EFFECT OF PASSAGE: HB 2434 WOULD FACILITATE THE PROMPT FILLING OF VACANT POSITIONS WITH QUALIFIED SOCIAL WORKERS, IF PASSED AS AMENDED. YOUTH SERVICES RESPECTFULLY REQUESTS THAT HB 2434 BE MODIFIED AND THAT, AS MODIFIED, HB 2434 BE RECOMMENDED FOR PASSAGE.

PH & W
Attn # 7
2-27-9

WITH THESE ADDITIONS TO THE BILL, WE BELIEVE WE CAN SIGNIFICANTLY REDUCE
OUR SOCIAL WORK RECRUITMENT AND HIRING PROBLEMS AND PROTECT THE FAMILIES AND
CHILDREN OF KANSAS THAT WE SERVE.

Robert C. Barnum
Commissioner, Youth Services
Social and Rehabilitation
Services
(913) 296-4653

#7
B292
2-21-9

193 (g) An applicant for licensing in a social work specialty who was
 194 engaged in the practice of a specialty approved by the board on the
 195 effective date of this act and who meets the academic requirements
 196 for licensing as a master social worker or qualifies for an exemption
 197 therefrom under the provisions of this section shall be exempt from
 198 the requirement for two years of supervised experience required for
 199 licensing under the provisions of this act.

200 (h) The board may issue, prior to examination, a temporary
 201 permit to practice under the following circumstances: (1) The
 202 applicant has been licensed or certified as a social worker by
 203 a state other than Kansas or has been employed in a state other
 204 than Kansas as a social worker; (2) the applicant is licensed in
 205 Kansas as a social worker and has completed a social work
 206 degree which qualifies the applicant for a different level of
 207 licensure; or (3) the applicant is exempt under subsection (a)
 208 of this section from the requirement for any examination. A
 209 temporary permit shall be effective from the date of its issuance
 210 and shall expire 45 days following the date of the first exam-
 211 ination which the applicant is eligible to take subsequent to
 212 the date of the issuance of the temporary permit. A temporary
 213 permit may not be renewed or a new temporary permit issued
 214 to an applicant who has previously been issued a temporary
 215 permit. Upon ~~certification by the executive director, the board shall~~
 216 ~~issue temporary licenses to persons who have met all qualifications~~
 217 ~~for licensure under provisions of this act, except passage of the~~
 218 ~~required examination, who must wait for completion of the next~~
 219 ~~examination, who have payed the required fee and who have sub-~~
 220 ~~mitted documentation as required by the board under the following~~
 221 ~~provisions: (1) Upon receipt and recording of the person's exami-~~
 222 ~~nation score by the board, the person's temporary license will au-~~
 223 ~~tomatically be revoked; (2) such persons shall take the next licensure~~
 224 ~~examination subsequent to the date of issuance of the temporary~~
 225 ~~license; (3) no person may be granted a temporary license more than~~
 226 ~~once; and (4) no person may work under a temporary permit except~~
 227 ~~under the direct supervision of a licensed social worker.~~

application
 been awarded a degree in
 social work

228 (i) Any individual employed by a hospital and working in the
 229 area of hospital social services to patients of such hospital on July

(i) If an applicant is denied
 licensure, the board shall, with-
 in ten days of their decision,
 provide the applicant with a
 written explanation of the basis
 for denial.

PHW
Attn. #7 A
2-27-9



KANSAS MEDICAL SOCIETY

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

February 27, 1989

TO: House of Public Health and Welfare Committee
FROM: Kansas Medical Society *Cheryl Steelen*
SUBJECT: House Bill 2387, As Introduced

The Kansas Medical Society appreciates this opportunity to express our support of the provisions of HB2387. It is important that the Kansas Board of Healing Arts be granted those powers necessary to fulfill its responsibility. The Kansas Medical Society endorses the aggressive, effective discipline and regulation of physicians licensed to practice medicine and surgery. The provisions of HB2387 would allow the Board of Healing Arts to be made aware any time that there is a legal allegation of substandard health care provided by any professional credentialed by the State Board of Healing Arts. This would enable the Board and its staff to initiate the necessary investigatory processes any time that there appears to be the need to do so.

A benefit derived from this particular legislation, although not important for the purpose of regulating health care providers, would be the collection of aggregate data pertaining to allegations of medical malpractice. This information could provide the opportunity to analyze trends over time which would be more important to elected policy makers, like this Committee, than the Board of Healing Arts.

It is for these reasons that we support the provisions of HB2387 and urge you to recommend the bill for passage. Thank you for your consideration.

CW:lg

*P. H. W.
Attn. #8
2-27-89*