

Approved \_\_\_\_\_

Date 3-15-9  
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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 March 1, 1989 in room 423-S of the Capitol.

All members were present except:

Rep. Foster, excused

Committee staff present:

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

Conferees appearing before the committee:

Chair called meeting to order drawing attention to discussion and action on bills previously heard.

Chair noted there were fiscal notes handed out on February 27th, but will be recorded in minutes this date. (Attachment No.1-fiscal note on HB 2387,) (Attachment No.2-fiscal note on HB 2426).

**Chair drew attention to HB 2254,** noting this was introduced by Rep. Hensley, in regard to transfer and discharge of patients from Adult Care Homes. He asked Mr. Furse to highlight a balloon that had been drawn.

Mr. Furse explained in detail balloon on HB 2254, (Attachment No.3) proposed changes are indicated on Page 3, lines 116-117; Page 4, lines 119-120. (See Attachment for details). He explained the Department of Health and Environment recommended the emergency situation not be by Rules and Regs; several conferees recommended the notice be in writing; some pointed out the Federal Government had an Act with similar requirements, but with dates that were unclear, i.e., 10-1989, or 10-1990.

There was discussion in regard to exemptions on 30 day written notice, i.e., if they had not been a patient for 30 days, they could not be given a 30 day notice. Discussion continued in regard to "in writing" in lines 119, and 121.

Rep. Amos moved to amend HB 2254 by striking "in writing" on line 119, leave "in writing" in on line 121, and to incorporate the balance of suggested amendments in balloon, (Attachment No. 3), as explained by Rep. Sader and Mr. Furse. Motion seconded by Rep. Wells. Discussion continued, i.e., Mr. Morrissey was asked questions and he noted there is confusion in regard to Federal regulation/ and no, the Federal laws could not pre-empt our State regulation in this case because they aren't more stringent.

There was further discussion in regard to eliminating parts (3) and (4) of the amendment proposed on Page 4, dealing with confusion in effective date. Rep. Amos withdrew his motion to amend HB 2254, Rep. Wells refused to withdraw her second, saying she felt the bill had merit and she asked members to consider it.

Vote taken on amending HB 2254 as explained in Attachment No 3), and with other "in writing" amended from line 119. Motion carried with no negative votes.

On the bill as a whole, (There were no comments, so--) Chairman stated he would hold the bill until later and perhaps there could be some positive action taken at that time.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

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

HB 2386.--

Chair drew attention to HB 2386, noting it relates to Adult Care Homes, and covers civil penalties. He noted there would be only one change, to amend, "may" to "shall", on line 21 of the bill.

Rep. Shallenburger moved to pass HB 2386 out favorably and have it placed on consent calendar, seconded by Rep. Flower. Discussion ensued, i.e., if language is changed to "shall", this will effect the emergency situation, it was noted Department of Health/Environment opposed the bill, they are already in compliance; concerns with Facility operators having to wait 3 or more weeks after they have corrected infractions and are in compliance, but still must wait for inspectors to return to reinstate their facility; HB 2386 won't correct this problem.

Vote taken, Division requested, show of hands indicated 7 in favor, 10 against, motion failed.

Rep. Branson moved to report HB 2386 adversely, seconded by Rep. Green. No discussion. Vote taken, motion carried.

HB 2387. - Chair explained HB 2387 was requested by Board of Healing Arts, and noted a letter from that Agency had been provided to all members this date. (Attachment No.4). This bill relates to a petition being filed in certain actions, such petition should be given to the Board of Healing Arts. The letter indicates the information that was thought to be available from the Judicial Administrator's office is not in fact available.

Mr. Furse indicated there is a proviso in Appropriations Committee this year that will speak to this problem in regard to receiving statistical information. Discussion on dismissal of a petition being filed; basically the Board of Healing Arts needs this information to follow-up on whether or not the case filed has merit. Statistical information received by their Board currently is not sufficient.

Rep. Hochhauser made motion to include language in balloon offered, on HB 2387, (Attachment No. 4-A) to delete language indicated in lines 25-27, and to insert language provided in balloon. Motion seconded by Rep. Wiard. Discussion ensued, i.e., some concerned with "may", not "shall", and it was noted that using "may" actually is more protective of the plaintiff. Vote taken, motion carried.

Discussion continued on HB 2387. It was felt the Board of Healing Arts is doing a good job, but there is concern they may want this information for investigative purposes also; it was noted there are many frivolous law suits.

Rep. Shallenburger made motion to pass HB 2387 unfavorably, seconded by Rep. Scott. Discussion continued, it was noted there is already an elaborate system set up for Health Providers reporting to the Board of Healing Arts; some felt the Board needed this information more promptly, and this bill would answer that problem; whether or not the Board received information about a petition being filed depends on the amount of the claim.

Vote taken, motion carried. (HB 2387 reported adversely.)

HB 2426. Chair noted bill requested by Pharmacy Board, in regard to patient profiles. Rep. Branson moved that HB 2426 be reported favorably for passage, seconded by Rep. Borum. No discussion. Vote taken, motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

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

HB 2434.

Chairman noted HB 2434 was requested by the Board of Behavioral Sciences, and he drew attention to a letter from Mary Ann Gabel that had been sent to all members of this committee, and is recorded this date as (Attachment No.5).

Mr. Furse noted to members technical amendments necessary in HB 2434, i.e., lines 222, 223, delete, "will automatically be revoked. He suggested the words "shall expire" be used instead. Line 226 delete the word "permit" and insert in lieu thereof, "license"; line 258 and 262 delete "or certified". He explained rationale.

Rep. Scott moved to amend HB 2434 as proposed by Mr. Furse, seconded by Rep. Weimer. Motion carried.

On the bill as a whole, Rep. Cribbs moved to pass HB 2434 out favorably as amended, seconded by Rep. Green. Discussion continued, i.e., Staff mentioned there had been a suggested amendment by SRS that was not discussed during deliberation on the bill. Vote taken, motion carried. (One NO vote).

**HB 2442, and HB 2443.**

Chair noted there had been a lot of contact in regard to holding both these bills over, especially since the Commission has now been granted an extension.

It was noted by Staff, that the Department of Health and Environment has to prepare testimony on legislation far in advance of hearings and in the case of HB 2442, Dr. Konigsberg had not been given the opportunity to read the Commission's Report before giving his testimony on February 28th. It is now felt that the Department on Health and Environment does now understand the Commission's recommendations.

Chair noted at this time if members felt extended hearings were necessary Committee could request these bills be sent to Federal and State Affairs Committee.

Discussion continued, i.e., it was noted some felt HB 2443 had been misunderstood in committee. The only thing it does is make legal what SRS and Health and Environment are attempting to do. There were different views on whether or not there would be a fiscal note on HB 2443.

At this point, Rep. Wiard moved to table HB 2442, seconded by Rep. Shallenburger. No discussion. Vote taken, motion carried.

Rep. Branson made motion to pass HB 2443 favorably, seconded by Rep. Cribbs. Discussion ensued, i.e., lines 55-56 perhaps could be just empty promises; some feel any help given that might help homeless children would be beneficial; the bill would allow SRS to re-direct some staff to get out with the people and see the needs that are a reality; it was noted many who do not carry Insurance coverage by choice; some feel more cannot afford coverage than choose not to carry it.

At this time Question called for, vote taken, motion carried.

CONTINUATION SHEET

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

HB 2554:---

Chairman asked if members wished to re-consider HB 2554.

Rep. Sader made a motion to reconsider action on amendment on HB 2254, seconded by Rep. Green. Vote taken, Chair in doubt, show of hands indicated 10 in favor, Motion carried.

With the motion to reconsider action to amend HB 2254, Rep. Sader then moved to amend HB 2254 as explained before, with the exception of (3) and (4) on Page 4 of the balloon. Motion seconded by Rep. Hochhauser.

Discussion continued, concerns of who pays Medicaid of a patient and Doctor disagree on dismissal; concerns on transferring patients from one level of care to another. Vote taken, motion failed.

Chair noted HB 2254 is back where we began this date. He asked wishes of committee.

Rep. Buehler moved to report HB 2254 unfavorably, seconded by Rep. Shallenburger. Discussion continued. At this point, Chair stated it appears members cannot agree on further action on HB 2254. He stated if he heard from enough members that were interested in seriously further considering HB 2254, he would hold a committee meeting tomorrow to work specifically on HB 2254. If he did not hear from members, there will be no committee meeting tomorrow, March 2, 1989.

Meeting adjourned 2:55 p.m.

(There was no meeting held March 2nd. Next Committee meeting on Call of Chairman during the week of March 6th.)

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date March 1, 1989

Name	Organization	Address
Bob Williams	Ks Pharmacists Assoc	1308 W 13 66604
Dick Hummel	Ks Heart Lane Assn	Topeka
Bob Corkins	Ks Hospital Assn	Topeka
Jeannine Harman	BS RB	Topeka
Mary Ann Mahel	BS RB	"
Gigi Felus	Ks Nail Assoc of Social Workers	"
Charles Konigsberg	KDHE	Topeka
Garth Hulze	KDHE	Topeka
Tom Hitchcock	Bd. of Pharmacy	"
Allyn Gorkun	L.R.A.	"
Edward Kerpner	AART	Topeka
Suehen Water	KDOT	Topeka
Jean Farrell	LOWV	Manhattan
Carolee Stark	LOWV	Manhattan
Marilyn Bradt	KINH	Lawrence
Rich Amunsey	KDHE	Topeka
Larry Buerling	Denling Arts	Topeka
Hazel Gibbs	Wichita <sup>Seneca</sup> Inter	Wichita

412-5

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

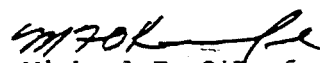
Dear Representative Littlejohn:

SUBJECT: Fiscal Note for HB 2387 by Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2387 is respectfully submitted to your committee.

HB 2387 requires that every plaintiff who initiates a malpractice action against a person licensed, registered or certified by the Board of Healing Arts to serve a copy of the petition in the action upon the board within ten days of its filing. If such action is not taken, the petition will be dismissed upon the motion of any party in the suit.

The bill would have no fiscal impact on the existing staff and expenditure limitation recommended in the FY 1990 Governor's Report on the Budget.

  
Michael F. O'Keefe  
Director of the Budget

MFO:KW:sm

cc: Richard Gannon, Board of Healing Arts

6084

PX/CC  
Attn #1  
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125-5

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 2426 by Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2426 is respectfully submitted to your committee.

HB 2426, as introduced, amends KSA 1988 Supp 65-1642 to require patient profiles to be maintained in a pharmacy.

HB 2426, as introduced, has no effect on the recommended expenditures or receipts contained in the FY 1990 Governor's Report on the Budget.

  
Michael F. Keefe  
Director of the Budget

MFO:SH:dlf

cc: Tom Hitchcock, State Board of Pharmacy

5994

PHWCO  
Attm #2  
3-1-9

## HOUSE BILL No. 2254

By Representative Hensley

2-9

15 AN ACT concerning adult care homes; relating to transfer or dis-  
17 charge of residents; amending K.S.A. 39-936 and repealing the  
18 existing section.

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

20 Section 1. K.S.A. 39-936 is hereby amended to read as follows:  
21 39-936. (a) The presence of each resident in an adult care home shall  
22 be covered by a statement provided at the time of admission, or  
23 prior thereto, setting forth the general responsibilities and services  
24 and daily or monthly charges for such responsibilities and services.  
25 Each resident shall be provided with a copy of such statement, with  
26 a copy going to any individual responsible for payment of such  
27 services and the adult care home shall keep a copy of such statement  
28 in the resident's file. No such statement shall be construed to relieve  
29 any adult care home of any requirement or obligation imposed upon  
31 it by law or by any requirement, standard or rule and regulation  
adopted pursuant thereto.

32 (b) A qualified person or persons shall be in attendance at all  
33 times upon residents receiving accommodation, board, care, training  
34 or treatment in adult care homes. The licensing agency may establish  
35 necessary standards and rules and regulations prescribing the num-  
36 ber, qualifications, training, standards of conduct and integrity for  
37 such qualified person or persons attendant upon the residents.

38 (c) (1) Unlicensed employees of an adult care home who provide  
39 direct, individual care to residents under the supervision of qualified  
40 personnel and who do not administer medications to residents shall  
43 not be required by the licensing agency to complete a course of  
education or training or to successfully complete an examination as  
a condition of employment or continued employment by an adult

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44 care home during their first 90 days of employment.

45 (2) The licensing agency shall require unlicensed employees of  
46 an adult care home employed on and after the effective date of this  
47 act who provide direct, individual care to residents and who do not  
48 administer medications to residents and who have not completed a  
49 course of education and training relating to resident care and treat-  
50 ment approved by the licensing agency or are not participating in  
51 such a course on the effective date of this act to complete successfully  
52 40 hours of training in basic resident care skills. Any unlicensed  
53 person who has not completed 40 hours of training relating to res-  
54 ident care and treatment approved by the licensing agency shall not  
55 provide direct, individual care to residents. The 40 hours of training  
56 shall be supervised by a registered professional nurse and the content  
57 and administration thereof shall comply with rules and regulations  
58 adopted by the licensing agency. The 40 hours of training may be  
59 prepared and administered by an adult care home or by any other  
60 qualified person and may be conducted on the premises of the adult  
61 care home. The 40 hours of training required in this section shall  
62 be a part of any course of education and training required by the  
63 licensing agency under subsection (c)(3).

64 (3) The licensing agency may require unlicensed employees of  
65 an adult care home who provide direct, individual care to residents  
66 and who do not administer medications to residents after 90 days  
67 of employment to successfully complete an approved course of in-  
68 struction and an examination relating to resident care and treatment  
69 as a condition to continued employment by an adult care home. A  
70 course of instruction may be prepared and administered by any adult  
71 care home or by any other qualified person. A course of instruction  
72 prepared and administered by an adult care home may be conducted  
73 on the premises of the adult care home which prepared and which  
74 will administer the course of instruction. The licensing agency shall  
75 not require unlicensed employees of an adult care home who provide  
76 direct, individual care to residents and who do not administer med-  
77 ications to residents to enroll in any particular approved course of  
78 instruction as a condition to the taking of an examination, but the  
79 licensing agency shall prepare guidelines for the preparation and  
80 administration of courses of instruction and shall approve or disap-

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81 prove courses of instruction. Unlicensed employees of adult care  
82 homes who provide direct, individual care to residents and who do  
83 not administer medications to residents may enroll in any approved  
84 course of instruction and upon completion of the approved course  
85 of instruction shall be eligible to take an examination. The exami-  
86 nation shall be prescribed by the licensing agency, shall be reason-  
87 ably related to the duties performed by unlicensed employees of  
88 adult care homes who provide direct, individual care to residents  
89 and who do not administer medications to residents and shall be  
90 the same examination given by the licensing agency to all unlicensed  
91 employees of adult care homes who provide direct, individual care  
92 to residents and who do not administer medications.

93 (4) The licensing agency shall fix, charge and collect an exami-  
94 nation fee to cover all or any part of the cost of the examination  
95 and certification under this subsection (c). The examination fee shall  
96 be fixed by rules and regulations of the licensing agency. The ex-  
97 amination fee shall be deposited in the state treasury and credited  
98 to the state general fund.

99 (d) Any person who has been employed as an unlicensed em-  
100 ployee of an adult care home in another state may be so employed  
101 in this state without an examination if the secretary of health and  
102 environment determines that such other state requires training or  
103 examination, or both, for such employees at least equal to that  
104 required by this state.

105 (e) All medical care and treatment shall be given under the di-  
106 rection of a physician authorized to practice under the laws of this  
107 state and shall be provided promptly as needed.

108 (f) No adult care home shall require as a condition of admission  
109 to or as a condition to continued residence in the adult care home  
110 that a person change from a supplier of medication needs of their  
111 choice to a supplier of medication selected by the adult care home.  
112 Nothing in this subsection (f) shall be construed to abrogate or affect  
113 any agreements entered into prior to the effective date of this act  
114 between the adult care home and any person seeking admission to  
115 or resident of the adult care home.

116 (g) Except in emergencies as defined by rules and regulations of  
the licensing agency, no resident may be transferred or discharged as otherwise provided in this subsection

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116 from an adult care home involuntarily unless the resident or legal  
119 guardian of the resident has been notified at least 30 days in advance  
120 of a transfer or discharge of the resident. \_\_\_\_\_

121 (g) (h) No resident who relies in good faith upon spiritual means  
122 or prayer for healing shall, if such resident objects thereto, be re-  
123 quired to undergo medical care or treatment.

124 Sec. 2. K.S.A. 39-936 is hereby repealed.

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

in writing

The provisions of this subsection requiring notification in writing to a resident shall not apply: (1) If an emergency situation exists; (2) if the transfer or discharge is made for the safety or welfare of other individuals; (3) if the health of the resident improves justifying transfer or discharge; or (4) if the resident has been a resident of the facility for less than 30 days at the time of the transfer or discharge. The resident may appeal to the licensing agency in accordance with rules and regulations of the licensing agency any transfer or discharge descision which would result in the involuntary transfer or discharge of the resident from an adult care home.

Office of

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

State of Kansas



Landon State Office

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

Board of Healing Arts

March 1, 1989

Rep. Marvin Littlejohn, Chairman  
House Committee on Public Health & Welfare  
Statehouse, Room 426-S  
Topeka, KS 66612

RE: HOUSE BILL NO. 2387

Dear Chairman Littlejohn and Members of the Committee:

The Executive Director has requested that I write to you and provide information which the Committee requested during the hearing on HB 2387 held February 27 and also to clarify what may be some misconception as to the purpose for this bill.

Following the committee hearing on this bill, I contacted Lowell Long, Case Management Specialist in the Office of the Judicial Administrator. Mr. Long indicated that statistical information is provided to the Judicial Administrator as to the types of cases which are filed. However, Mr. Long indicated that there is not a specific category for medical malpractice cases. Most of the judicial districts submit reports which generically refer to cases as being torts. Included in this category are not only medical malpractice cases but also any other tort type cases such as fraud, automobile personal injury, etc. The office of the Judicial Administrator does not specifically categorize cases as being medical malpractice.

Mr. Long also indicated that once a year the Judicial Administrator prepares a report on jury verdicts in civil cases. This report does specify whether the cases which resulted in a jury verdict involved medical malpractice. He also indicated that the Judicial Administrator is presently conducting studies to determine how best to analyze cases which are settled prior to jury verdict. At this time, Mr. Long did not know what information these types of reports would include in the future.

Mr. Long further indicated that the Judicial Administrator normally does not know the names of the defendants in cases, the particular health care profession in which the provider is credentialed or the

*PHW  
attn #4  
3-1-89*

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March 1, 1989  
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type of specialty involved in the occurrence which gave rise to the filing of the case.

In summation, the information which the Board would glean from the petitions served upon it pursuant to HB 2387 is not presently available from any other source. From these petitions, the Board would identify the individuals who are named as defendants, be able to ascertain the particular profession in which the individuals are credentialed and also to identify the areas involved which gave rise to the filing of the case.

It should also be clarified that the ability of the Board to compile statistical information from the information contained within the petitions is only a by-product of the primary purpose for the Board's desire to receive these petitions. We have had numerous contacts over the years from a variety of sources, including the legislature, inquiring about the prevalency of malpractice suits, location of the incidents which gave rise to the suits, the specialty areas involved, etc. Receipt of the petitions would enable the Board to compile statistics in this regard. However, the primary purpose for the Board's receipt of the petitions is to be able to review them and ascertain if either due to the number of suits which have been initiated or the severity of the alleged incidents which gave rise to the suit should cause the Board to initiate an investigation to determine if a particular health care professional may be incompetent. The Board presently receives closed claim reports pursuant to K.S.A. 40-1127 which specifies the date and amount judgment or settlement was entered. However, these are received sometimes many years after the incident which gave rise to the suit. By receiving copies of the petitions as soon as filed, the Board would be able to expedite identification of any particular individuals who may be incompetent.

Although not mentioned in the original testimony provided, there is also a concern that the Health Care Provider Insurance Availability Act (K.S.A. 40-3401 et seq.) may be repealed and, thus, leave the Board without any ability to receive information as to medical malpractice cases. At the present time, the Board receives copies of petitions from the Insurance Commissioner only due to the provisions of K.S.A. 40-3409. Should this provision be repealed, there would be no statutory authority for the Board or any other state agency to receive copies of malpractice suits.

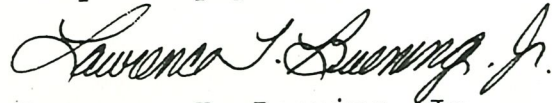
Concern was also expressed by the Board about the dismissal of a case for failure to provide the Board with a copy of the petition as being too punitive in nature. K.S.A. 40-3409(c) presently requires the attorneys of record in a medical malpractice case to

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*Attn #4*  
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Rep. Marvin Littlejohn  
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provide the Board with expert witness reports which have been made available to opposing parties in the case. Although the Board does receive some of these expert reports, we only receive a small portion of these expert witness reports. It is felt that the primary reason for less than total compliance with this provision is the fact that there is no penalty for noncompliance. Certainly, if this Committee feels that the present language of HB 2387 is too punitive for noncompliance with the bill, the Board would have no objection to other language in this regard. However, the Board does feel that some sort of penalty should result from noncompliance to better insure that the petitions will be provided as proposed in the legislation. A proposed amendment as an alternative to dismissal of the case is attached.

Very truly yours,



Lawrence T. Buening, Jr.  
General Counsel

LTB:sl

Attachment

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Attn #4  
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3-1-9

HOUSE BILL No. 2387

By Committee on Public Health and Welfare

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AN ACT requiring a copy of the petition in certain actions filed in this state against persons licensed, registered or certified by the state board of healing arts to be served upon the board.

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

Section 1. In any action filed in this state for personal injury or death arising out of the rendering of or failure to render professional services by any person who is licensed, registered or certified by the state board of healing arts, the plaintiff shall serve a copy of the petition upon the board by certified mail within 10 days from the filing of same, ~~and if such service is not made, the petition shall be dismissed upon the motion of any party to the action based upon insufficiency of service of process.~~

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

Proof of service of a copy of the petition shall be filed in the cause. The court may stay proceedings in the cause until such is filed.

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P. J. W.

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

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February 28, 1989

RE: H.B. 2434

Rep. Marvin Littlejohn  
Chairman  
Public Health and Welfare Committee  
426-S State Capitol  
Topeka, KS 66612

Dear Rep. Littlejohn:

During the hearing on H.B. 2434 on Monday, February 27, Robert Barnum, Commissioner of Youth Services with SRS presented proposed amendments to lines 215-219 and a new section (i) at line 228.

Emalene Correll appeared to express a concern with the board's licensure application review process inasmuch as the board does not review each individual application. Ms. Correll also discussed the possibility of legislation to exempt SRS employees from the requirement of social work licensure. She posed questions to Mr. Barnum regarding the definition of supervision and asked whether SRS could provide the required supervision to persons holding a temporary license.

The purpose of this letter is to express the board's concern with the proposed amendments and to address the questions raised by Ms. Correll.

The legislation as currently drafted requires persons to have met all qualifications for licensure under the provisions of this act, except passage of the required examination [lines 215-218]. The requirements for social work licensure are set out in K.S.A. 1988 Supp. 75-5351 [lines 92-145], which include graduation from an accredited college or university, including completion of a social work program recognized and approved by the board, pursuant to rules and regulations adopted by the board; ability to merit the public trust; and satisfactory completion of the examination. The proposed amendments suggested by SRS established the possibility for applicants to be issued a temporary license who may not otherwise qualify for licensure on the basis of education (as defined in statute and regulation) or merit the public trust. Is it appropriate to establish two sets of educational standards or requirements, one set for licensure and one set for temporary licensure? How then is the public to be protected?

*Added  
item #5  
3-1-9*



The suggested amendment to establish a new (i) on line 228 appears to be unnecessary and, in fact, may conflict with the Kansas Administrative Procedures Act. Applicants who are denied licensure on the basis of K.S.A. 1988 Supp. 75-5351 are notified in writing of the grounds of the denial and provided 30 days in which to request a rehearing on the denial. Applicants who are denied licensure on the basis of K.S.A. 1988 Supp. 75-5356 are provided due process under the Kansas Administrative Procedures Act.

Ms. Correll appeared to express a concern with the board's practice of not reviewing each individual licensure application. The board office receives and processes approximately 500 applications each year. If an applicant is a graduate of an accredited social work program as evidenced by the transcript; merits the public trust, as evidenced by a review of the required reference forms; and if previously or currently licensed in another state, and such state attests to the license being in good standing; the applicant is scheduled for the next available examination and is licensed upon satisfactory completion. The board routinely reviews applications that are recommended for denial on the basis of education, or applications that present "special" problems, such as references with below standard or unsatisfactory evaluations, as evidenced by meeting minutes on file in the board office. Since the board meets approximately every 8-10 weeks, it serves no purpose to unnecessarily delay an applicant's licensure eligibility with such a routine review and determination.

Mr. Barnum was asked whether SRS had discussed the definition of supervision with the board. Ms. Peggy Shinn, SRS Personnel has attended board meetings for the past two years and has discussed with the board the definition of supervision. At the time the board discussed the possibility of requesting legislation to address the issuance of temporary licenses with SRS, Ms. Shinn assured the board that SRS could provide licensed social workers to supervise temporary licensees. It was on the basis of these discussions that the board requested the legislation that is before you at this time.

My final comments address the possibility of proposing legislation to exempt employees of SRS, or any public agency, from the requirement of social work licensure. Are persons who receive public services entitled to receive those services from providers who have satisfied minimal competency requirements leading to licensure and for which these providers are required to practice social work under standards monitored by the board and have a board to whom the recipient of these services can turn when the providers practice unethically. A public agency may argue that it has built-in safeguards which serve to monitor the practice of its providers. However, experience suggests otherwise.

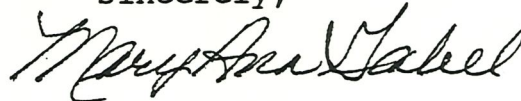
*Added  
attn #5  
P-92  
3-1-9*

In 1983 the board found a SRS employee guilty of violations of statute and regulation and imposed a one-year supervision requirement on the social worker's practice. In 1984 the board revoked the social work license of a SRS employee. In 1988 the board found a SRS employee guilty of violations of statute and regulation and imposed mandatory continuing education and supervision of the social worker's practice. In 1988 the board, through the investigation of a complaint filed against a SRS employee, entered into a stipulated agreement with the social worker. The terms of the agreement have now been satisfied and the complaint was dismissed at the January 13-14, 1989 board meeting. The board is currently investigating five complaints filed against SRS employees, with the possibility of investigating a sixth SRS employee. Similar complaints with resulting disciplinary action have occurred with social workers in other public or not-for-profit agencies. Would the public be protected if this external review and oversight were eliminated?

Licensure of all professional groups is intended to protect the public. I urge you to carefully review the proposed amendments and consider whether these proposed amendments protect the interests of the public or do they protect the interests of the employer.

I will be happy to answer any questions you may have concerning the policies, procedures, or functioning of the board and I thank you for your time and attention to this legislation.

Sincerely,



Mary Ann Gabel  
Executive Director

MAG/jh

#5  
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3-1-9

1989

ATTENDANCE

	3/13/9	3/14/9	3/15/9	3/16/9	3/20/9	3/21/9	3/22/9	3/23/9	3/27/9	3/28/9	3/29/9				
LITTLEJOHN, MARVIN	P	P	P		P	P	P	P	P	P	P				
BUEHLER, FRANK	P	P	P		P	P	P	P	P	P	P				
BRANSON, JESSIE	P	P	P	No meeting	P	P	P	P	P	P	P				
AMOS, GENE	P	P	P		P	P	P	P	P	P	P				
BORUM, BELLE	P	P	P		P	P	P	P	P	P	P				
CRIBBS, THEO	P	P	P		P	P	P	P	P	P	P				
FLOTTMAN, DOROTHY	P	P	P		P	P	P	P	P	P	P				
FLOWER, JOANN	P	P	P		P	P	P	P	P	P	P				
FOSTER, BEN	P	P	P		A	P	P	P	P	P	P				
GREEN, KENNETH	P	P	P		P	P	P	P	P	P	P				
HOCHHAUSER, SHEILA	P	E	P		P	P	P	P	P	P	P				
REINERT, RONALD	P	P	P		P	P	P	P	P	P	P				
SADER, CAROL	P	P	P		P	P	P	P	P	P	P				
SCOTT, ALEX	P	P	P	No meeting	P	P	P	P	P	P	P				
SHALLENBURGER, TIM	P	P	P		P	P	P	P	P	P	P	P			
SHUMWAY, BETTI SUE	P	P	P		P	P	P	P	P	P	P				
WEIMER, FRANK	P	P	P		P	P	P	P	P	P	P				
WIARD, STEVE	P	P	P	No meeting	P	P	P	P	P	P	P				
WELLS, ELAINE	P	P	P		P	A	P	P	P	P	P	P			