

Approved _____

Date

2-7-90

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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at
Chairperson

1:30 a.m./p.m. on February 5, 1990 in room 423-S of the Capitol.

All members were present except:

Representative Jessie Branson, excused
Representative Steve Wiard, excused

Committee staff present:

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

Conferees appearing before the committee:

Tim Owens, General Counsel for Department of SRS
Joe Kroll, Director Bureau Adult & Child Care, Health and Environment
John Grace, President/CEO of Kansas Association of Homes for Aging
Printed testimony only from Michael Donnelly, Executive Director of
Three Rivers/Independent Living Resource Center

Chair called meeting to order and made announcements.

Representative Branson, Ranking Minority Leader is excused this date due to the death of her Mother. Jessie will be absent for a few days. Our sympathy goes out to her.

Chair recognized students and advisors from Great Bend's Close-Up Foundation. They will be at the Capitol for a few days, monitoring meetings.

Chair drew attention to Bill Requests.

Tim Owens, Legal Counsel from Department of SRS offered hand-out, see Attachments No. 1 through No. 7).

Tim Owens, (Attachment No. 2), noted the first draft bill would allow their agency to employ a social worker, who has completed all requirements for a degree in social work, under a temporary licenses until such time he or she passes the social worker license examination the next time it is administered by the Behavioral Sciences Regulatory Board.

Chair noted this subject had been discussed at great length during Interim Studies this summer.

Rep. Weimer made a motion to introduce this legislation as a Committee Bill, seconded by Rep. Buehler, motion carried.

The second request from SRS, (Attachment No. 3) would allow a social worker to enter an inactive status by allowing their license to lapse/then to reactivate and become licensed again by providing proof of completion of 60 hours of continuing education within the past two years and by paying the license fee.

Rep. Buehler moved to introduce draft #1871 as a committee bill and ask it be returned to this committee for action, seconded by Representative Cribbs, 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 February 5, 1990

Third draft request would allow agencies, such as independent living centers, to be exempt from requirements that they be home-health agencies in order to provide attendant care services under HB 2012 which was enacted in 1989. (Attachment No.4).

Rep. Amos moved this legislation be introduced and referred back to this committee, seconded by Rep. Flower, motion carried.

The fourth drafted request (see Attachment No. 5) places personal care attendants in unclassified positions in order to implement HB 2012. Rep. Green moved to introduce this bill, seconded by Rep. Scott, motion carried.

Fifth drafted request, (see Attachment No. 6), amends the statute which requires all State agency written communications contain the name, address, phone number of the principal office. It was noted there had been confusion in regard to what is the principal office, and it is hoped this legislation will clear that concern.

Motion to introduce this legislation made by Rep. Wells, seconded by Rep. Green, motion carried.

Sixth requested draft (see Attachment No. 7), clarifies provided alleged perpetrators of abuse or neglect, provides the agency with the authority to appoint multi-disciplinary teams for children prior to their adjudication as children in need of care/ authorizes explicitly the appointment of standing teams prior to adjudication.

Chair noted he was in receipt of a letter that had upsetting circumstances in regard to abuse/negled, and he noted he would be happy to provide copies of this information to all members of committee. Chair moved this legislation be introduced, seconded by Rep. Amos, motion carried.

Mr. Owens thanked members of committee for their cooperation in introducing this legislation, and he looks forward to working with Committee.

HB 2758.

Chair invited Staff to give a briefing on HB 2758. Mr. Furse detailed changes and language deletions; fee changes; pertinent Federal authority; Board authority in retaining or releasing persons involved in felony convictions.

HEARINGS BEGAN ON HB 2758.

Joe Kroll, Director of Bureau of Adult/Child Care, Department of Health/Environment offered hand-out, (Attachment No. 8) He noted the attached balloon copy of HB 2758 in his testimony. He detailed proposed amendments, i.e., Section 1, line 26, delete "previously", to make it clear the Board may revoke/suspend a license or take disciplinary action against a person currently licensed when necessary. Page 2, line 2 deletion of language; Section 2 then would become Section 3, amending KSA 65-3504 in regard to raising examination fee from \$100 to \$200. He explained the difficulty in keeping the fees down. Further he recommended (c) in line 17 language that clarifies the Boards authority. The most important amendment they are requesting is in line 25, in new Section 4, (d) which allows the Board to take action against a licensee who has been found guilty of a crime that has direct bearing on whether that person should be entrusted to serve as an Administrator. He cited specifics where a person had been convicted of a misdemeanor battery charge. He then recommended support of these proposed amendments and asked for favorable consideration of HB 2758. He answered numerous questions. There was discussion in regard to deleting the term "felony"; fee maximums; how is "good moral character" defined; how liable would the Department of Health and Environment become with this broad language.

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 5, 1990

John Grace, President of Kansas Association of Homes for Aging, (see Attachment 9) stated the quality of the Administrator is one of the most important ingredients in the ability of a facility to provide quality care to residents. When, or if, an Administrator violates professional standards, or convicted of a crime, the Board of the Adult Care Home Administrators should have the option/authority to "reprimand, censure, or otherwise discipline" that individual. HB 2758 will provide this opportunity for review. He noted the Administrator has the right to a fair hearing with the Board in accordance with Kansas Administrative Procedures Act.

Hearings closed on HB 2758.

May it be noted in the minutes, (Attachment No. 10,) is from Mike Donnelly of Three Rivers Independent Living Center (printed testimony only) on HB 2594. (Attachment No. 11) corrected testimony from Joe Kroll, Director of Bureau fo Adult/Child Care, Department of Health/Environment on HB 2594.

Chair drew attention to minutes of previous meetings. Rep. Green moved to approve minutes of this committee from January 29, 30, 31st, and February 1, 1990. Motion seconded by Rep. Cribbs, motion carried.

Meeting adjourned 2:20 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date Feb. 5, 1990

Name	Organization	Address
Jim Owens	SRS	DSOB
Marlene Finney	SRS	Westwood - Topeka
Linda Perrier	SRS	D.S.O.B.
Kandy Scott	SRS	DSOB
Juni Shaugnessy	W.U. Soc. Work student	Aburn, KS
Jenny Steiner	W.U. Socialwork student	Topeka, KS
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	KS
Jain McBride	KS 60141	Topeka
Richard Morrissey	KDHE	Topeka
Charles Konigsberg	KDHE	Topeka
Joseph Kross	KDHE	Topeka
John Snow	KS Homes For Aging	Topeka
GARY Robbings	Ks Opt Assn	Topeka
Jim Youally	Kan. Assoc. Supp. Hea. Poo	Overland Park
Julie Jones	Student (Close-Up Kansas)	Great Bend
Janelle Buggan	student (Close-Up Kansas)	Great Bend
Brenda Steitz	Student (close up Kansas)	Great Bend
Ticki Steitz	student (Close-Up Kansas)	Great Bend
Charley Gowdy	Close Up Kansas	Great Bend

Kansas Department of Social and Rehabilitation Services

Testimony Before

The House Committee on Public Health and Welfare

Regarding the

Committee's Introduction

of Agency Bills

in Room 423-S of the Capitol Building

at 1:30 p. m. on February 5, 1990

Winston Barton
Secretary
Telephone: 296-3274

*PH rec'd
2-5-90
attn #1*

Request Of The
House Committee On Public Health and Welfare
To Introduce Agency Bills

Mr. Chairman and members of the Committee. I am Winston Barton, Secretary of Social and Rehabilitation Services.

We respectfully request that the Committee introduce the following draft bills on behalf of the agency. We have provided the Committee and its staff with 24 packets which contain copies of my statement and the bills which have been drafted by the Revisor of Statutes.

We will summarize each draft bill. If the Committee introduces the bill, agency officials will testify in more detail at the hearing each bill.

We will summarize the draft bills in the order which they appear in the packets. We understand that the Committee will act separately on each draft bill. After summarizing each draft bill, we will pause for Committee action on the bill.

- o The first draft bill allows the agency to employ a social worker, who has completed all of the requirements for a degree in social work from an accredited university, under a temporary license until such time that he or she passes the social worker license examination the next time it is administered by the Behavioral Sciences Regulatory Board.

(Pause)

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Attn #1
pg 2*

- o The second draft bill allows a social worker to enter an inactive status by allowing the social work license to lapse, and to reactivate and become licensed again by providing proof of satisfactory completion of 60 hours of continuing education within the past two years and by paying the license fee.

(Pause)

- o The third draft bill allows agencies, such as independent living centers, to be exempt from the requirement that they be home health agencies in order to provide attendant care services under House Bill 2012 which was enacted by the 1989 Kansas Legislature.

(Pause)

- o The fourth draft bill places personal care attendants in unclassified positions in order to implement House Bill 2012.

(Pause)

- o The fifth draft bill amends the statute which requires that all State agency written communications contain the name, address and telephone number of the principal office.

(Pause)

- o The sixth draft bill clarifies the privileges provided alleged perpetrators of abuse or neglect, provides the agency with the authority to appoint multi-disciplinary teams for children prior to their adjudication as children in need of care, and authorizes explicitly the appointment of standing teams prior to adjudication.

(Pause)

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We thank the Committee for introducing the agency's draft bills. We look forward to working with this Committee and other committees to which the bills are assigned.

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Attn #1
29.4,

HOUSE BILL NO. _____

By Committee on Public Health and Welfare

AN ACT concerning temporary licensure as social workers; amending K.S.A. 1989 Supp. 65-6309 and repealing the existing section.

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

Section 1. K.S.A. 1989 Supp. 65-6309 is hereby amended to read as follows: 65-6309. (a) An applicant shall be exempted from the requirement for any examination provided for herein if:

(1) The applicant proves to the board that the applicant is licensed or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this act as determined by the board; and

(2) pursuant to the laws of any such state or territory, the applicant has taken and passed an examination similar to that for which exemption is sought, as determined by the board.

(b) An applicant for a license as a baccalaureate social worker who is, on the effective date of this act, employed as a social worker, social work supervisor or a social work administrator and who applied for such license on or before July 1, 1975, shall be exempted from academic and examination requirements imposed under the provisions of this act. An applicant for a license as a baccalaureate social worker who is a social worker, otherwise qualified for licensure as a baccalaureate social worker, and who applied for such license on or before July 1, 1975, shall be exempt from the examination requirements imposed under the provisions of this act.

(c) An applicant for a license as a master social worker who applied for such license on or before July 1, 1975, and who presents proof to the board that such applicant is engaging in the private practice of social work may be exempt from the two

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attn #2*

years' supervised experience otherwise required by this act.

(d) An applicant for a license as a master social worker who has satisfactorily completed a master's program in social work and was awarded a certificate, and who is employed in a position for which the master's degree is normally required and who applied for such license on or before July 1, 1975, shall be exempt from academic and examination requirements for licensing under the provisions of this act. An applicant for a license as a master social worker who is otherwise qualified for such licensure on the effective date of this act and who applied for such license on or before July 1, 1975, shall be exempt from the examination requirements for licensing under the provisions of this act.

(e) An applicant for a license in a social work specialty who has satisfactorily completed two years of graduate social work training and was awarded a certificate, and who is employed in a position for which the master's degree is normally required and who applied for such license on or before July 1, 1975, shall be exempt from academic requirements for licensing under the provisions of this act.

(f) An applicant for a license in a social work specialty who is otherwise qualified for such license on the effective date of this act and who applied for such license on or before July 1, 1975, shall be exempt from the examination requirements for licensing under the provisions of this act.

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

(h) Upon ~~certification---by---the---executive---director~~ application, the board shall issue temporary licenses to persons

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who have ~~met all qualifications for licensure under provisions of this act, except passage of the required examination, who must wait for completion of the next examination~~ completed the requirements for a degree in social work, who have paid the required fee and who have submitted documentation as required by the board under the following provisions: (1) The temporary license shall expire upon receipt and recording of the person's examination score by the board if such person fails the examination or upon the date the board issues or denies the person a license to practice social work if such person passes the examination; (2) such persons shall take the next license examination subsequent to the date of issuance of the temporary license unless there are extenuating circumstances accepted by the board; (3) no person may be granted a temporary license more than once; and (4) no person may work under a temporary license except under the supervision of a licensed social worker. Nothing in this subsection shall affect any temporary permit to practice issued under this subsection prior to the effective date of this act and in effect on the effective date of this act. Such temporary permit shall be subject to the provisions of this subsection in effect at the time of its issuance and shall continue to be effective until the date of expiration of the permit as provided under this subsection at the time of issuance of such temporary permit.

(i) Any individual employed by a hospital and working in the area of hospital social services to patients of such hospital on July 1, 1974, is exempt from the provisions of this act.

(j) If an applicant is denied licensure, the board shall provide the applicant with a written explanation of the denial within 10 days after the decision of the board, excluding Saturdays, Sundays and legal holidays.

Sec. 2. K.S.A. 1989 Supp. 65-6309 is hereby repealed.

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

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2-5-90
Attn. #2
pg. 3

HOUSE BILL NO. _____

By Committee on Public Health and Welfare

AN ACT concerning licensure of social workers; amending K.S.A. 1989 Supp. 65-6313 and repealing the existing section.

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

Section 1. K.S.A. 1989 Supp. 65-6313 is hereby amended to read as follows: 65-6313. (a) All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) Except as otherwise provided in K.S.A. 65-6311 and amendments thereto, a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314 and amendments thereto and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the requirements for continuing education established by the board.

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314 and amendments thereto, ~~plus a penalty equal to the renewal fee,~~ and proof satisfactory to the board of ~~compliance with the~~ completion of 60 hours of continuing education ~~requirements fixed by the board.~~ Upon receipt of such payment the renewal fee and proof, the board ~~may~~ shall reinstate the license, ~~except that no license shall be reinstated--if--such payment--and--proof--is--received--more--than--one--year--after--the--date~~

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attn. #3

of-the-expiration-of-the-license a license shall be reinstated under this subsection upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in K.S.A. 65-6314 and amendments thereto for such duplicate license.

Sec. 2. K.S.A. 1989 Supp. 65-6313 is hereby repealed.

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

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2-5-90
Attn #3
Pg. 2

HOUSE BILL NO. _____

By Committee on Public Health and Welfare

AN ACT concerning independent living agencies; home health services; amending K.S.A. 65-5101 and repealing the existing section.

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

Section 1. K.S.A. 65-5101 is hereby amended to read as follows: 65-5101. As used in this act, unless the context otherwise requires:

(a) "Council" means the home health services advisory council created by this act;

(b) "home health agency" means a public or private agency or organization or a subdivision or subunit of such agency or organization that provides for a fee one or more home health services at the residence of a patient but does not include local health departments which are not federally certified home health agencies, durable medical equipment companies which provide home health services by use of specialized equipment, the department of social and rehabilitation services and the department of health and environment and independent living agencies;

(c) "home health services" means any of the following services provided at the residence of the patient on a full-time, part-time or intermittent basis: Nursing, physical therapy, speech therapy, nutritional or dietetic consulting, occupational therapy, respiratory therapy, home health aid or medical social service;

(d) "home health aide" means an employee of a home health agency who is not licensed or professionally registered to provide home health services but who assists, under supervision, in the provision of home health services and who provides related health care to patients;

(e) "part-time or intermittent basis" means the providing of

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Attm. #4

home health services in an interrupted interval sequence on the average of not to exceed three hours in any twenty-four-hour period;

(f) "patient's residence" means the actual place of residence of the person receiving home health services, including institutional residences as well as individual dwelling units;

(g) "secretary" means secretary of health and environment;
and

(h) "subunit" or "subdivision" means any organizational unit of a larger organization which can be clearly defined as a separate entity within the larger structure, which can meet all of the requirements of this act independent of the larger organization, which can be held accountable for the care of patients it is serving and which provides to all patients care and services meeting the standards and requirements of this act;
and

(i) "independent living agency" means a public or private agency or organization or a sub-unit of such agency or organization that provides one or more independent living services. Such agencies include independent living centers, programs, service providers and other comparable entities which meet the following quality assurances:

(1) Accreditation by a nationally recognized accrediting body such as the commission on accreditation of rehabilitation facilities, or joint commission on accreditation of hospitals; or

(2) receiving grants from the state or the federal government and currently meets standards for independent living under the rehabilitation act of 1973, title vii, part b, sections a through k, or comparable standards established by the state; or

(3) compliance with requirements established by the federal government under rehabilitation services administration standards for centers for independent living.

Sec. 2. K.S.A. 65-5101 is hereby repealed.

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

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HOUSE BILL NO. _____

By Committee on Public Health and Welfare

AN ACT relating to home health care; personal care attendants; unclassified service of the Kansas civil service act; amending K.S.A. 75-5309a and repealing the existing section.

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

Section 1. K.S.A. 75-5309a is hereby amended to read as follows: 75-5309a. (a) On and after June 18, 1985, all employees of the department of social and rehabilitation services in the coordinator of medical services job class, or any successor job class that may be approved under K.S.A. 75-2938 and amendments thereto and has substantially the same duties and responsibilities, shall be in the unclassified service under the Kansas civil service act.

(b) All persons appointed to personal care attendant positions under the home service programs to provide health maintenance tasks and self-direction shall be in the unclassified service of the Kansas civil service act and all such positions, full-time and part-time equated to full-time equivalent positions, shall be in addition to any position limitation imposed on the department of social and rehabilitation services.

(c) Subject to available appropriations, the governor is authorized and directed to approve a salary plan for personal care attendant under the secretary of social and rehabilitation services. Such salary plan for personal care attendant shall be effective and shall be subject to modification and approval by the governor and to any enactments of the legislature applicable thereto.

Sec. 2. K.S.A. 75-5309a is hereby repealed.

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

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2-5-90
Attn. # 5*

HOUSE BILL NO. _____

By Committee on Public Health and Welfare

AN ACT relating to communications from state agencies; amending K.S.A. 75-3027a and repealing the existing section.

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

Section 1. K.S.A. 75-3027a is hereby amended to read as follows: 75-3027a. (a) ~~On and after July 17, 1989,~~ Every official letter, form or other official written communication issued by a state agency to a citizen of this state shall bear on the face of such document the name of the state agency and the address and phone number of its principal office.

(b) As used in this section, "state agency" means any state office or officer, department, board, commission, institution, bureau or any agency, division or unit within any office, department, board, commission or other state authority.

(c) As used in this section, "official written communication" means communications addressed to specific citizens of this state which contain information particular to them. "Official written communication" shall not include general informational notices, brochures, envelope stuffers, or forms which are intended to inform citizens, or written communications which are printed and generated from a central location but upon which the inclusion of a centralized address would serve to mislead, misdirect or otherwise delay receipt of information or services. If a centralized address is not used, a local office address and phone number shall be used if practical.

Sec. 2. K.S.A. 75-3027a is hereby repealed.

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

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HOUSE BILL NO. _____

By Committee on Public Health and Welfare

AN ACT concerning child abuse; limiting privilege of perpetrators; providing for standing multidisciplinary teams; amending K.S.A. 1989 Supp. 38-1523a and repealing the existing section.

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

Section 1. K.S.A. 1989 Supp. 38-1523a is hereby amended to read as follows: 38-1523a. (a) Upon recommendation of the state department of social and rehabilitation services or the county or district attorney, the court may appoint a multidisciplinary team to assist in gathering information regarding a child alleged to be a child in need of care by reason of physical, mental or emotional abuse or neglect or sexual abuse. The team may be a standing multidisciplinary team or may be appointed for a specific child.

~~(b) The state department of social and rehabilitation services, as deemed appropriate, may appoint a multidisciplinary team to assist the department in making recommendations regarding provision of services to a child who has been adjudicated a child in need of care by reason of physical, mental or emotional abuse or neglect or sexual abuse.~~

(c) (b) Any person appointed as a member of a multidisciplinary team may decline to serve and shall incur no civil liability as the result of declining to serve.

~~(d) Any information relating to the child for whom services are being recommended and received by a multidisciplinary team or a member thereof, in confidential communications between such team or member and the perpetrator of the abuse or neglect in the course of carrying out the team's or member's functions under this section shall be privileged and the perpetrator has a~~

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Attn. #7

~~privilege--to:--(1)--Refuse-to-disclose-any-such-communication,--if
the-perpetrator-is--a--witness--in--a--criminal--proceeding,--(2)
prevent--the--team--or--member--from--disclosing-it-in-a-criminal
proceeding,--or--(3)--prevent-any-other-witness-from--disclosing--it
if--it-came-to-the-knowledge-of-such-witness-in-the-course-of-its
transmittal-between-the-perpetrator-and-the-team-or-team-member,
in--a--manner-not-reasonably-to-be-anticipated-by-the-perpetrator
or-as-a-result-of-disclosure-by-the-team-or-team-member.~~

(e) (c) This section shall be part of and supplemental to the Kansas code for care of children.

Sec. 2. K.S.A. 1989 Supp. 38-1523a is hereby repealed.

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

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attn. #7
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State of Kansas

Mike Hayden, Governor

Department of Health and Environment

Division of Health

Stanley C. Grant, Ph.D., Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1343
FAX (913) 296-6231

Testimony Presented To

The House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2758

Background

Since 1970, administrators of adult care homes have been required to be licensed by the state in order to practice. The licensing authority is the Board of Adult Care Home Administrators. The Kansas Department of Health and Environment provides staff support to the board and its activities. This proposal makes revisions to the existing licensure law. The proposed amendments clarify certain language in the current law.

Issues

1. Section 1, subsection (3), authorizes the board to issue licenses and to take action against licensees. This bill deletes the word "previously" to make it clear that the board may revoke or suspend a license or take disciplinary action against a person who is "currently" licensed. In a case before the Court of Appeals, the judge interpreted the language of "previously issued" in such a manner that if a license is subsequently renewed the license previously issued has expired. Therefore, the board is without jurisdiction to take action against the license which was issued at the renewal period. Although we do not feel this interpretation is the intent of the statute, it is legally justifiable.
2. In Section 1, Subsection (b) on page two, language was added so that the statutory citation is properly noted and language was deleted that made reference to an outdated federal regulation.
3. We recommend a balloon, new Section 2, that amends KSA 65-3504 to adjust the limit for the examination fee from \$100.00 to \$200.00. The current cost of the examination is \$100.00 and the source of the exam has notified us of thier intent to raise this fee.
4. We also recommend a balloon (new Section 3), which returns 65-3505 (b) to its existing language. It was not our intent to amend this section.
5. Under Section 3, subsection (c), the paragraph has been reworted to clarify that the board, upon receipt of a renewal application, renews the license rather than issues a new license.

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attm# 8*

6. Under Section 4(d), on page four, language is added that allows the board to take action against a licensee who has been found guilty of a crime that has direct bearing on whether the person should be entrusted to serve as an administrator. For example, a licensed administrator was recently convicted of a misdemeanor battery charge for beating an elderly lady. Because the victim was not connected with the adult care home of the administrator, the misdemeanor battery charge cannot be considered a violation of the licensure laws. The board was unable to discipline the administrator and has requested legislation be considered to remedy this situation.

The Department recommends that the Committee adopt these balloon amendments and favorably pass HB 2758.

Presented by: Joseph F. Kroll, Director, Bureau of Adult and Child Care
Date: February 5, 1990

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2-5-90
Attn # 8
Pg. 2*

HOUSE BILL No. 2758

By Committee on Public Health and Welfare

1-30

9 AN ACT concerning licensure of adult care home administrators;
10 amending K.S.A. 65-3503, 65-3505 and 65-3508 and repealing the
11 existing sections. → 65-3504,
12

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

14 Section 1. K.S.A. 65-3503 is hereby amended to read as follows:
15 65-3503. (a) It shall be the duty of the board to:

16 (1) Develop, impose and enforce standards which shall be met
17 by individuals in order to receive a license as an adult care home
18 administrator, which standards shall be designed to insure that adult
19 care home administrators will be individuals who are of good char-
20 acter and are otherwise suitable, and who, by training or experience
21 in the field of institutional administration, are qualified to serve as
22 adult care home administrators;

23 (2) develop examinations and investigations for determining
24 whether an individual meets such standards;

25 (3) issue licenses to individuals who meet such standards, and
26 → revoke or suspend licenses previously issued by the board or re-
27 primand, censure or otherwise discipline a person holding any such
28 license as provided under K.S.A. 65-3508 and amendments thereto;

delete "previously"

29 (4) establish and carry out procedures designed to insure that
30 individuals licensed as adult care home administrators comply with
31 the requirements of such standards; and

32 (5) receive, investigate and take appropriate action under K.S.A.
33 65-3505 and amendments thereto and rules and regulations adopted
34 by the board with respect to any charge or complaint filed with the
35 board to the effect that any person licensed as an adult care home
36 administrator may be subject to disciplinary action under K.S.A. 65-
37 3505 and 65-3508, and amendments thereto.

38 (b) The board shall also have the power to make rules and reg-
39 ulations, not inconsistent with law, as may be necessary for the
40 proper performance of its duties, and to have subpoenas issued
41 pursuant to K.S.A. 60-245 and amendments thereto in the board's
exercise of its power and to take such other actions as may be
necessary to enable the state to meet the requirements set forth in

*Approved
2-5-90
Attn. # 8 pg 3*

1 section 1908 of the social security act, the federal rules and regu-
2 lations promulgated thereunder, ~~the requirements set forth in 45~~
3 ~~C.F.R. 252.10~~ and other pertinent federal authority.

4 Sec. 2. K.S.A. 65-3505 is hereby amended to read as follows:
5 65-3505. (a) Every individual who holds a valid license as an ad-
6 ministrator issued by the board shall apply to the board for renewal
7 of such license in accordance with rules and regulations adopted by
8 the board and report any facts requested by the board on forms
9 provided for such purpose.

10 (b) Upon making an application for a renewal of license, such
11 individual shall pay a renewal fee to be fixed by rules and regulations
12 of the board, ~~of not more than \$100~~, and shall submit evidence
13 satisfactory to the board that during the period immediately pre-
14 ceding application for renewal the applicant has attended a program
15 or course of study as provided by the rules and regulations of the
16 board.

17 (c) Upon receipt of such application for renewal of license, the
18 renewal fee and the evidence required, the board shall ~~issue a renew~~
19 ~~the~~ license ~~to~~ of such administrator.

20 (d) An administrator who has been duly licensed in this state,
21 whose license has not been revoked or suspended, and whose license
22 has expired because of temporary abandonment of the practice of
23 nursing home administration, or has removed from the state, or for
24 such other reason, may be licensed within the state upon complying
25 with the provisions of this section for renewal of license, and also,
26 filing with the board an affidavit of such facts.

27 (e) Notwithstanding the foregoing provisions of this section the
28 board may enter into reciprocal relations with boards of other states
29 whereby licenses may be granted, without examination and upon
30 payment of the prescribed fees, to duly licensed administrators from
31 other states, provided the requirements for licensure of the state
32 from which the applicant applies are as high as those in Kansas and
33 the applicant is favorably recommended, in writing, by the board of
34 the state in which the applicant is licensed.

35 (f) The expiration date of each license issued or renewed shall
36 be established by rules and regulations of the board. Subject to the
37 provisions of this subsection each license shall be renewable on a
38 biennial basis upon the filing of a renewal application prior to the
39 expiration date of the license and upon payment of the renewal fee
40 established pursuant to rules and regulations of the board. To provide
41 for a system of biennial renewal of licenses the board may provide
42 by rules and regulations that licenses issued or renewed for the first
time after the effective date of this act may expire less than two

Sec. 2. K.S.A. 65-3504 is hereby amended to read as follows:

65-3504. The board shall admit to examination for licensure as an adult
care home administrator any candidate who pays a fee to be fixed by rules and
regulations of the board of not more than ~~\$100~~ \$200, submits evidence of good
moral character and suitability prescribed by the board in its rules and
regulations, submits evidence that such candidate is at least 18 years old
and has completed preliminary education satisfactory to the board as prescribed
in its rules and regulations.

3

of not more than \$100

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pg. 4

1 years from the date of issuance or renewal. In each case in which
2 a license is issued or renewed for a period of time less than two
3 years, the board shall prorate to the nearest whole month the license
4 or renewal fee established pursuant to rules and regulations. No
5 proration shall be made under this subsection (f) on delinquent li-
6 cense renewals or on temporary licenses.

7 Sec. 3. K.S.A. 65-3508 is hereby amended to read as follows:
8 65-3508. The license of an adult care home administrator or the
9 temporary license of an adult care home administrator may be re-
10 voked or suspended or the adult care home administrator or a person
11 holding a temporary license as an adult care home administrator may
12 be reprimanded, censured or otherwise disciplined by the board,
13 after notice and a hearing conducted by the board in accordance
14 with the provisions of the Kansas administrative procedure act, if
15 the adult care home administrator or person holding a temporary
16 license as an adult care home administrator has:

17 (a) Failed to comply with the provisions of K.S.A. 65-3505 and
18 amendments thereto and continued to act as an adult care home
19 administrator;

20 (b) substantially failed to conform to the requirements of the
21 standards adopted under K.S.A. 65-3503 and amendments thereto;

22 (c) willfully or repeatedly violated any of the provisions of the
23 law or rules and regulations of the licensing agency under the pro-
24 visions of article 9 of chapter 39 of the Kansas Statutes Annotated;

25 (d) been convicted of a ~~felony~~ crime found by the board to have
26 a direct bearing on whether such person should be entrusted to
27 serve the public in the capacity of an adult care home administrator;

28 (e) failed to assure that nutrition, medications and treatments of
29 residents, including the use of restraints, are in accordance with
30 acceptable medical practices;

31 (f) been convicted of the violation of any state or federal drug
32 or narcotic law or any provision of the state or federal controlled
33 substances act or habitually overindulged in alcohol or habitually
34 misused controlled substances; and or

35 (g) been involved in aiding, abetting, sanctioning or condoning
36 any violation of the law or rules and regulations under article 9 of
37 chapter 39 of the Kansas Statutes Annotated.

38 Sec. 4. K.S.A. 65-3503, 65-3505 and 65-3508 are hereby
39 repealed.

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

4

5

6

PKW
2-5-90
attm # 8
pg 5



Kansas Association of Homes for the Aging

Enhancing the quality of life of those we serve since 1953.

1990 KAHA Board and Officers

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Minneola Nursing Home
Minneola

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Sabatha

LeRoy Weddle
The Cedars
McPherson

John Wells
Larksfield Place
Wichita

KAHA Staff

John R. Grace
President/CEO

Kevin McFarland
Chief Operating Officer

Monday February 5, 1990

Testimony Re: HB 2758

Presented by John Grace, President

The Kansas Association of Homes for the Aging is an association of adult care homes, retirement communities and home based services to the elderly of Kansas. We have 126 members located across the state.

We support HB 2758.

The quality of the administrator is one of the most important ingredients in the ability of the facility to provide quality care to the residents.

When an administrator violates professional standards, or is convicted of a crime, the Board of Adult Care Home Administrators should have the option to "reprimand, censure or otherwise discipline" the individual.

HB 2758 will provide for this opportunity for review by the Board.

The Administrator has the right to a fair hearing with the Board in accordance with the Kansas administrative procedures act.

Thank you very much .

Handwritten notes in red ink: PAKW, 2-5-90, Attn #9



Three Rivers Independent Living Resource Center

**Making Our Community
More Accessible**

FEBRUARY 1, 1990

TO: HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

FROM: Michael Donnelly, Executive Director

PURPOSE: Testimony concerning HB 2594

I have come to make a few simple comments on HB 2594. Those of us in the field of disability services are pleased to see the home health agencies desire to begin providing non-medical personal care services as defined here in HB 2594. The results of their participation in the provision of Personal Care Attendants would potentially be that the whole state would be covered for implementation of HB 2012.

The concerns that we have about HB 2594 deal directly with the issue of what these lower level employees should be called. It seems to me that defining the term Personal Care Attendant (PCA) in HB 2594 may have serious repercussions for disabled consumers that desire to direct their own care. What I mean is this; HB 2594 defines a PCA as "an employee of a Home Health Agency...". HB 2012 was intended to eliminate that requirement although not precluding the possibility. No legislation should be enacted that would threaten the ability of individuals to be self directing.

Perhaps the solution is to use a term other than Personal Care Attendant. The Association of Home Health Agencies proposed the terms Home Health Aide 1 and Home Health Aide 2 in prior discussions with this committee, let's re-examine those terms.

The committee might also want to examine how the intent of this bill would be served by revising HB 2012 or in identifying other proposed legislation allowing for exemptions from the Home Health laws for providers of PCAs. Taking the time to examine all possibilities now will protect us all from having to expend the time and energies revisiting this subject year after year after year.

We know that this committee is committed to insuring self direction for Kansans that are disabled. We simply ask that you protect that ability in this legislation as well.

*PAW
2-5-90
Attn #10*



State of Kansas

Mike Hayden, Governor

Department of Health and Environment Division of Health

Stanley C. Grant, Ph.D., Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1343
FAX (913) 296-6231

296-1240

February 2, 1990

The Honorable Marvin L. Littlejohn
Chairman of Public Health and Welfare
State Capitol, Room 425-S
Topeka, Kansas 66612

Dear Mr. Littlejohn:

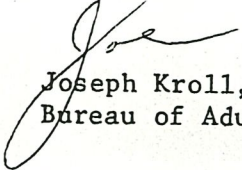
In the Kansas Department of Health and Environment's testimony on House Bill 2594 there was an error which occurred in two places on the handout.

Under "HB 2594 Requirements, PCA - Person Care Attendant," Item 2, PCA training currently reads "minimum" 40 hours' training. The amended reading should reflect a "maximum" 40 hours' training as the course of training for the personal care attendant is not to exceed 40 hours.

The same error occurs under the "Training" narrative for "Proposed Personal Care Attendant."

Enclosed are copies of the amended handout to be distributed for members of the committee. Thank you for your patience and assistance.

Sincerely,


Joseph Kroll, Director
Bureau of Adult and Child Care

P
Enc.

AKW
2-5-90
Attn # 11

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

COMPARATIVE ANALYSIS: CURRENT STATE REQUIREMENTS, FEDERAL REQUIREMENTS, HB 2594 REQUIREMENTS

State Requirements KAR 28-51-112 Current Certified Home Health Aide	OBRA Requirements FEDERAL REGISTER - 8-14-89 Certified Home Health Aide	HB 2594 Requirements PCA - Personal Care Attendant
1 Training and competency required.	1 Training and competency required.	1 Duplicative training - no competency required.
2 HHA training: 90 hours NA + 20 hours HHA = 110 hours required.	2 HHA training: Minimum 75 hours - 16 hours supervised clinical required.	2 PCA training: Maximum 40 hours - no supervised clinical.
3 NA Similar services - inpatient/ residents.	3 NA similar services - inpatients. HHA similar services - homes.	3 Hygiene, feeding, dressing are "direct care" tasks duplicated in HHA which require competency

Training and Competency

- a Current training is built around "core of knowledge" of NA training - 90 hours.
- b No "direct care" is given without training, competency, and direct supervision by RN of the trainee's ability.
- c Competency is built into training through skills checklist.
- d OBRA mandates minimum training and competency.

Training

Training in current programs meet and surpass OBRA minimums:

NA

OBRA 75 hours' minimum.
Entire training directly supervised by RN.
Current KS - 90 hours' minimum.

HHA

OBRA 75 hours' minimum - 16 hours
supervised clinical.
Current KS - 110 hours' minimum -
eight hours recommended super-
vised clinical.

Proposed Personal Care Attendant

Proposed 40 hours' maximum - 0 hours
supervised clinical.
35-hour shortage for OBRA minimum
training.
16-hour shortage for OBRA clinical
supervision.

Similar Services

- a Hygiene, feeding, dressing are "direct care" tasks duplicated in NA and HHA training which requires competency.
- b OBRA: "We believe that it is appropriate to require the same amount of training for home health aides as for nurse aides in these facilities. Nurse aides in these facilities furnish essentially the same services to inpatients and residents of these facilities as home health aides furnish to patients in their homes."
- c KDHE recently (12-89) amended home health agency regulations (KAR 28-51-108) to allow home health agencies increased flexibility in supplementing training of home health aides if specific and adequate training is given and documented by patient's attending physician and/or the supervising nurse.

OBRA #11
 2-5-90
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