

Approved _____

2/13/90
Date *rh*

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 12, 1990 in room 423-S of the Capitol.

All members were present except:

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 HB 2594 scheduled today on list of bills to be worked. He noted the hand-out from Department of Human Resources on HB 2594, (see Attachment No. 1) contains information regarding other legislation as well. Chair recommended committee members, and staff should review this packet. After sufficient review, the bill could be brought up for discussion and action.

Chair drew attention to a letter from William Pitsenberger, Blue Cross/Blue Shield, (Attachment No. 2). that was sent to the Chairman in regard to statements made during February 8th meeting. Chair made this letter available to all committee members this date and noted the rest of the packet of information would be available in his office.

Chair then drew attention to HB 2756.

Discussion began on HB 2756.

Chair called on Revisor, Norman Furse. Mr. Furse had researched statutes to verify all instances referring to office of local registrar. HB 2756 would pick up all but one instance. He noted hand-out, (see attachment No.3), copy of statutes 22a-237. He read pertinent language, i.e., results from analysis of reporting on blood of accident victim must be reported to local registrar by the coroner. Mr. Furse suggested language in the bill could be amended into HB 2756 and state this reporting should be sent direct to the office of the State registrar. This would be amending 22a-237 into HB 2756.

Rep. Amos made motion to amend 22a237 into HB 2756 as suggested by Revisor, seconded by Rep. Borum, motion carried.

On the bill as a whole, Rep. Amos moved to pass favorably HB 2756 as amended, seconded by Rep. Scott. No discussion, motion carried.

Discussion began on HB 2758.

Chair invited Revisor to explain proposed changes in HB 2758. Mr. Furse called attention to amendment proposed by Department of Health and Environment in a balloon at an earlier meeting. (See Attachment No. 4). He noted the proposed balloon would reinsert language in line 12, page 2, to put the \$100 back in for the renewal fee; Section 2, 65-3504 be inserted to change the examination fee from \$100 to \$200. He noted this was requested because the costs of examinations have continued to increase over the years. There had been discussion from staff in regard to language, "good moral character and suitability", however, the Department of Health and Environment had requested the change in the examination fee. At this point there was discussion in regard to the "moral character" concept.

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 12, 1990

DICSUSSION CONTINUED ON HB 2758.

In some cases the language, "good moral characted" is being omitted from statutes; some felt "convicted of felony" might be changed to say, "convicted of a crime".

At this point, Rep. Shallenburger made a motion to amend HB 2758 on page 3, (d) to delete this new language in lines 25,26,27. Motion seconded by Rep. Hochhauser. No further discussion, vote taken, motion carried.

Discussion ensued, i.e., in regard to the \$100 fee for the renewal fee. Chair invited Dick Morrissey, Department of Health and Environment to explain their recommendations. Mr. Morrissey noted their original draft was in error due to the fact that they only wanted to increase the application fee, not bother the renewal fee, and they have corrected it in the balloon that is being discussedd. Discussion continued.

Rep. Hochhauser moved to take out Section 2 , Page 2, of HB 2758, seconded by Rep. Shallenburger. Lengthy discussion ensued. Vote taken, motion carried.

Rep. Branson made a motion to adopt balloon in regard to the \$200 cap on the examination fee, seconded by Rep. Buehler. Discussion continued, i.e., Ms. Correll noted she had asked the Board and they have no specific rules and regs to deal with "moral character", there is no standard way to deal with it, and that is the reason it is being omitted from statutes as legislative changes are being made that affect this subject. vote taken, division called, show of hands indicated 3 for, motion failed.

Rep. Shallenburger made a motion to change language in Section 2, Page 2 of HB 2758, from \$200 examination fee to \$150. Motion seconded by Rep. Amos. Discussion ensued, i.e., it is costly to continue to change statutes; some felt to double the fee was excessive. Vote taken, motion failed.

Rep. Branson moved to adopt Section 2, Page 2 of HB 2758 after the fee amount, to delete , "submits evidence of good moral characater and suitability prescribed by the board in its rules and regulations". Discussion continued, question called for, vote taken, motion carried.

Rep. Hochhauser made a motion to amend HB 2758 on page 3, Sec. 3 (d) to include both sets of language, "felony", "other crime". Motion seconded by Rep. Buehler. Lengthy discussion ensued, vote taken, motion carried.

On HB 2758 as a whole, Rep. Buehler moved to recommend HB 2758 favorable for passage as amended, seconded by Rep. Flower, motion carried.

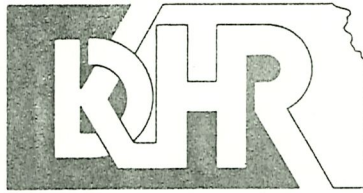
Recorded as (Attachment No. 5) is fiscal note on HB 2756.

Recorded as (Attachment No. 6) is fiscal note HB 2758.

Recorded as (Attachment No. 7) is fiscal note on HB 2594.

Chair recognized Rep. Branson, and she thanked the Committee members and Staff for their kindness to her and the beautiful card she received at the time of her Mother's death.

Chair adjourned meeting 2:25 p.m.



COMMISSION ON DISABILITY CONCERNS

1430 S.W. Topeka Boulevard, Topeka, Kansas 66612-1877
913-296-1722 (Voice) ● 913-296-5044 (TDD) ● 561-1722 (KANS-A-N)

Mike Hayden, Governor

Ray D. Siehndel, Acting Secretary

February 9, 1990

TO: Members, House Committee on Public Health & Welfare
FROM: Michael Lechner, Executive Director *[Signature]*
SUBJECT: HB 2594, HB 2803, HB 2830, HB 2833

Enclosed are suggested amendments to House Bills 2594, 2830 and 2833. The suggested amendments to HB 2594 are presented for the purpose of making attendant care services available to the greatest population possible. These suggested amendments will in no way exclude or limit the ability of self-directed individuals from accessing attendant care services as envisioned by HB 2012.

Suggested amendments to HB 2594 would allow family members to access attendant care services when such services are being delivered to disabled minors or adult family members who cannot direct their own care; it would allow home health agencies to provide attendant care services [see below]; it would allow independent living service providers to provide attendant care services.

*PHW
2-12-90
attn. #1*

hphw2

page 2

[Although licensed home health agencies could not provide attendant care services as structured under HB 2012 without losing their Medicare certification, these amendments will allow those licensed home health agencies who are not Medicare certified to deliver attendant care services by unlicensed people.]

It is recommended that HB 2803 not be passed because the amendments suggested to HB 2594 above should satisfy the concern about disabled minors. The provision of medical equipment, dental services, physical therapy, etc. cannot be mandated through the current HCBS program as HB 2803 attempts to do. If the committee wishes to pursue this objective, another route must be found, such as rewriting the waiver.

Amendments to HB 2830 are suggested to more clearly establish the kinds of agencies who qualify to provide attendant care services and to clarify the kinds of services which can be delivered. It is recommended that the amendments in HB 2830 be incorporated into Section 3 of HB 2594. If this recommendation is adopted, there will only be two bills to consider: HB 2594 and HB 2833.

PHW
2-12-90
Alt #1
292.

hphw2

page 3

Amendments to HB 2833 are suggested to allow personal care attendants to perform the full range of attendant care services, rather than just health maintenance activities.

hphw2

*PHW
2-12-90
Attn. #1
29.3.*

(g) "person responsible for in-home care" means a self-directed individual in need of in-home care and, in cases where the individual in need of in-home care is incapable of directing his or her own care, family members or guardians.

This allows the person who is responsible for directing the in-home care to access attendant care services.

2: Strike lines 16-21; Strike (n) on line 30 and replace with (m) and the following language:

(m) performance of attendant care services for directed-by or-on-behalf-of an individual in need of in-home care and directed by a person responsible for in-home care, the source from which attendant care services are [provided] purchased not withstanding, as the terms "attendant care services", and "individual in need of in-home care" and "person responsible for in-home care" are defined under K.S.A. Supp. 65-6201 and amendments thereto.

This makes it clear that attendant care services directed by someone other than the individual in need of in home care are exempt from the nurse practice act, regardless of who provides the services.

*PHW
2-12-90
Attn.#1
29.4*

HOUSE BILL No. 2594

By Special Committee on Public Health and Welfare

Re Proposal No. 42

12-21

12 AN ACT concerning in-home care services; providing an exemption
13 from the Kansas nurse practice act; establishing a personal care
14 attendant category of home health agency employee; amending
15 K.S.A. 65-5101 and 65-5115 and K.S.A. 1989 Supp. 65-1124 and
16 repealing the existing sections.
17

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

19 Section 2. K.S.A. 1989 Supp. 65-1124 is hereby amended to read
20 as follows: 65-1124. No provisions of this law shall be construed as
21 prohibiting:

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

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

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

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

29 (e) the practice of nursing by students enrolled in accredited
30 schools of professional or practical nursing nor nursing by graduates
31 of such schools or courses pending the results of the first licensing
32 examination scheduled by the board following such graduation;

33 (f) the practice of nursing in this state by legally qualified nurses
34 of any of the other states as long as the engagement of any such
35 nurse requires the nurse to accompany and care for a patient tem-
36 porarily residing in this state during the period of one such en-
37 gagement not to exceed six months in length, and as long as such
38 nurses do not represent or hold themselves out as nurses licensed
39 to practice in this state;

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

43 (h) auxiliary patient care services performed in medical care fa-

New Section 1. KSA 1989 Supp. 65-6201 is hereby amended to read as follows: 65-6201. Individuals in need of in-home care; definitions. As used in this act:

[verbatim to (e)]

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

This would remove the requirement that individuals in need of in-home care be self-directed adults. This language broadens the population covered by this act to include minors and others who are incapable of directing their own care. It does not exclude self-directed individuals in need of in-home care.

~~(g) "person responsible for in-home care" means a self-directed individual in need of in-home care and, in cases where the individual in need of in-home care is incapable of directing his or her own care; family members, guardians, independent living service providers, the department of social and rehabilitation services, public health agencies and licensed home health agencies.~~

This allows the person who is responsible for directing the in-home care to access attendant care services.

1 cilities, adult care homes or elsewhere by persons under the direction
 2 of a person licensed to practice medicine and surgery or a person
 3 licensed to practice dentistry or the supervision of a registered
 4 professional nurse or a licensed practical nurse;

5 (i) the administration of medications to residents of adult care
 6 homes or to patients in hospital-based long-term care units by an
 7 unlicensed person who has been certified as having satisfactorily
 8 completed a training program in medication administration approved
 9 by the secretary of health and environment and has completed the
 10 program on continuing education adopted by the secretary, or by
 11 an unlicensed person while engaged in and as a part of such training
 12 program in medication administration;

13 (j) the practice of mental health technology by licensed mental
 14 health technicians as authorized under the mental health technicians'
 15 licensure act;

16 (k) ~~performance in the home setting of selected nursing proce-~~
 17 ~~dures, as specified by rules and regulations of the board, under the~~
 18 ~~direction of a licensed professional nurse, which procedures are~~
 19 ~~necessary to accomplish activities of daily living and which are rou-~~
 20 ~~tinely performed by the patient or patient's family in the home~~
 21 ~~setting;~~

22 (l) ~~(h)~~ performance in the school setting of selected nursing pro-
 23 cedures, as specified by rules and regulations of the board, necessary
 24 for handicapped students;

25 (f) ~~(h)~~ ~~(m)~~ performance in the school setting of selected nursing
 26 procedures, as specified by rules and regulations of the board, nec-
 27 essary to accomplish activities of daily living and which are routinely
 28 performed by the student or student's family in the home setting;
 29 or

30 (n) ~~(m)~~ performance of attendant care services directed by or on
 31 behalf of an individual in need of in-home care as the terms "at-
 32 attendant care services" and "individual in need of in-home care" are
 33 defined under K.S.A. 1989 Supp. 65-6201 and amendments thereto.

34 Sec. 2-3, K.S.A. 65-5101 is hereby amended to read as follows:
 35 65-5101. As used in this act, unless the context otherwise requires:

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

38 (b) "home health agency" means a public or private agency or
 39 organization or a subdivision or subunit of such agency or organi-
 40 zation that provides for a fee one or more home health services at
 41 the residence of a patient but does not include local health depart-
 42 ments which are not federally certified home health agencies, durable
 43 medical equipment companies which provide home health services

~~(m) performance of attendant care services directed by or on
 behalf of an individual in need of in-home care or directed by a
 person responsible for in-home care as the terms "attendant care
 services", and "individual in need of in-home care" and "person
 responsible for in-home care" are defined under K.S.A. Supp. 65-
 6201 and amendments thereto.~~

This makes it clear that attendant care services directed by
 someone other than the individual in need of in home care are
 exempt from the nurse practice act.

Adm 1/29/96
 P. 10/20
 2-12-98

1 by use of specialized equipment, the department of social and re-
2 habilitation services and the department of health and environment;

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

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

13 (e) "part-time or intermittent basis" means the providing of home
14 health services in an interrupted interval sequence on the average
15 of not to exceed three hours in any twenty-four-hour period;

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

19 (g) ~~"personal care attendant" means an employee of a home~~
20 ~~health agency who is not licensed or professionally registered to~~
21 ~~provide home health services but who provides, under supervision,~~
22 ~~patient assistance with nutritional and environmental support and~~
23 ~~personal hygiene, feeding, dressing and other related tasks but not~~
24 ~~health-related care;~~

25 (g) (h) "secretary" means secretary of health and environment;
26 and

27 (h) (h) (i) "subunit" or "subdivision" means any organizational unit
28 of a larger organization which can be clearly defined as a separate
29 entity within the larger structure, which can meet all of the re-
30 quirements of this act independent of the larger organization, which
31 can be held accountable for the care of patients it is serving and
32 which provides to all patients care and services meeting the standards
33 and requirements of this act.

34 ~~Sec. 3. K.S.A. 65-5115 is hereby amended to read as follows:~~
35 ~~65-5115. (a) The secretary may require, as a condition to continued~~
36 ~~employment by a home health agency: (1) Home health aides, who~~
37 ~~were employed prior to the effective date of the rules and regulations~~
38 ~~authorized by this act, to take and satisfactorily pass an examination~~
39 ~~prescribed by the secretary and, upon failure to pass the examination,~~
40 ~~to successfully complete an approved course of instruction; and (2)~~
41 ~~home health aides, who are employed after the effective date of the~~
42 ~~rules and regulations authorized by this act, after 90 days of em-~~
43 ~~ployment, to successfully complete an approved course of instruction~~

PHW 2-12-90
O'Brien 1/29/97

1 and to take and satisfactorily pass an examination prescribed by the
 2 secretary; and (3) *personal care attendants employed after June 30,*
 3 *1990, within six months after the date of employment, to successfully*
 4 *complete an approved course of instruction.*

5 (b) A course of instruction may be prepared and administered
 6 by any home health agency or by any other qualified person. A
 7 course of instruction prepared and administered by a home health
 8 agency may be conducted on the premises of the home health agency
 9 which prepared and which will administer the course of instruction.
 10 The secretary shall not require home health aides or *personal care*
 11 *attendants* to enroll in any particular approved course of instruction,
 12 but the secretary shall prepare guidelines for the preparation and
 13 administration of courses of instruction and shall approve or disap-
 14 prove courses of instruction. *Courses of instruction for personal care*
 15 *attendants shall not exceed 40 hours in length.*

16 (c) The secretary may require that home health aides, *but not*
 17 *personal care attendants*, complete the course of instruction and pass
 18 the examination established pursuant to subsection (c)(3) of K.S.A.
 19 39-936 and amendments thereto before enrolling in an approved
 20 course of instruction authorized by this section. Home health aides
 21 *and personal care attendants* may enroll in any approved course of
 22 instruction.

23 (d) The examination required under this section *for home health*
 24 *aides* shall be prescribed by the secretary and shall be reasonably
 25 related to the duties performed by home health aides. The same
 26 examination shall be given by the secretary to all home health aides.

27 ~~(b)~~ (e) The secretary shall fix, charge and collect an examination
 28 fee to cover all or any part of the cost of the examination required
 29 under subsection (a) *for home health aides*. The examination fee shall
 30 be fixed by rules and regulations of the secretary. The examination
 31 fee shall be deposited in the state treasury and credited to the state
 32 general fund.

33 Sec. 4. K.S.A. 65-5101 and 65-5115 and K.S.A. 1989 Supp. 65-
 34 1124 are hereby repealed.

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

HOUSE BILL No. 2830

By Committee on Public Health and Welfare

2-6

9 AN ACT concerning independent living agencies; home health serv-
10 ices; amending K.S.A. 65-5101 and repealing the existing section.
11

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

13 Section 1. K.S.A. 65-5101 is hereby amended to read as follows:
14 65-5101. As used in this act, unless the context otherwise requires:

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

17 (b) "home health agency" means a public or private agency or
18 organization or a subdivision or subunit of such agency or organi-
19 zation that provides for a fee one or more home health services at
20 the residence of a patient but does not include local health depart-
21 ments which are not federally certified home health agencies, durable
22 medical equipment companies which provide home health services
23 by use of specialized equipment, the department of social and re-
24 habilitation services and the department of health and environment
25 *and independent living agencies;*

26 (c) "home health services" means any of the following services
27 provided at the residence of the patient on a full-time, part-time or
28 intermittent basis: Nursing, physical therapy, speech therapy, nu-
29 tritional or dietetic consulting, occupational therapy, ^{respiratory ther-}
30 apy, home health aid ~~or medical-social-service;~~

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

36 (e) "part-time or intermittent basis" means the providing of home
37 health services in an interrupted interval sequence on the average
38 of not to exceed three hours in any twenty-four-hour period;

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

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

43 (h) "subunit" or "subdivision" means any organizational unit of

(b) ... but does not include local health departments... rehabilitation services, and the department of health & environment and independent living agencies service providers;

This new language is suggested in order to avoid confusion between independent living centers and those agencies which are not independent living centers, but provide certain independent living services.

(c) "home health services" means any of the following services provided at the residence of the patient... [line 29] respiratory therapy; or home health aide ~~or other-medical-social service.~~

"Other social medical service is too vague and such services would most likely conflict with "attendant care services".

Attorney #1
Pg. 9
3-12-90

1 a larger organization which can be clearly defined as a separate entity
2 within the larger structure, which can meet all of the requirements
3 of this act independent of the larger organization, which can be held
4 accountable for the care of patients it is serving and which provides
5 to all patients care and services meeting the standards and require-
6 ments of this act; and

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

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

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

20 (3) compliance with requirements established by the federal gov-
21 ernment under rehabilitation services administration standards for
22 centers for independent living.

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

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

(i) independent living agency service provider means a public or private agency or organization or a sub-unit-of such agency or organization that provides one or more core independent living services; as such services are defined under the rehabilitation act of 1973, title vii, part b-Such agencies include-independent-living-centers,-programs,-service-providers, and-other-comparable-entities and which meet any of the following quality assurances:

[This amendment is suggested for improving clarity in the definition.]

*PHS-ED
2-12-00
Return #1.10
99.10*

HOUSE BILL No. 2833

By Committee on Public Health and Welfare

2-6

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

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

13 Section 1. K.S.A. 75-5309a is hereby amended to read as follows:
14 75-5309a. (a) On and after June 18, 1985, all employees of the
15 department of social and rehabilitation services in the coordinator of
16 medical services job class, or any successor job class that may be
17 approved under K.S.A. 75-2938 and amendments thereto and has
18 substantially the same duties and responsibilities, shall be in the
19 unclassified service under the Kansas civil service act.

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

27 (c) *Subject to available appropriations, the governor is author-*
28 *ized and directed to approve a salary plan for personal care at-*
29 *tendant under the secretary of social and rehabilitation services.*
30 *Such salary plan for personal care attendant shall be effective and*
31 *shall be subject to modification and approval by the governor and*
32 *to any enactments of the legislature applicable thereto.*

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

34 Sec. 3. This act shall take effect and be in force from and after
35 its publication in the statute book.
36

(b) All persons appointed to personal care attendant positions under the home service programs to provide health maintenance-tasks-and-self-direction attendant care services shall be in the unclassified service of the... etc.

This amendment is suggested in order to allow one employee to perform the range of attendant care services, rather than create a necessity for hiring one employee to perform only health maintenance activities and hiring another to perform other attendant care services.

PHC
2-12-90
Attn: #1
Pg. 11



**Blue Cross
Blue Shield**
of Kansas, Inc.

Legal Department

William H. Pitsenberger
General Counsel

Jane Chandler-Holt
Staff Counsel

February 9, 1990

Representative Marvin Littlejohn
State Capitol Building
Room 425-S
Topeka, Kansas 66612

Dear Representative Littlejohn:

In addressing your Committee on Public Health and Welfare on House Bill 2755, I stated in my testimony as follows:

Copies of our Board agendas routinely go to the Kansas Chiropractic Association, as do our minutes.

Steve Dickson, an attorney for the Kansas Chiropractic Association, unequivocally stated as a fact that the Kansas Chiropractic Association never received those agendas or minutes.

I resent that; one of us told you the truth about this, and one of us didn't, and I believe the Committee deserves to know which is which.

I enclose, to set the record straight, photocopies of a sample of the agendas of regular Board meeting of Blue Cross and Blue Shield since 1983, and copies of the transmittal letter accompanying the minutes of these meetings. Please note that on each of these, the KCA is shown as receiving a copy.

I would appreciate your sharing this with the Committee, and including it in the minutes of your hearing on House Bill 2755.

Sincerely,

William H. Pitsenberger
General Counsel

WHP:kr

Enclosures

*PHW
2-12-90
Attn #2*

AB 3756

forming the autopsy or a period of three appear to be neces- the cause of death. port of the facts de- and findings of the h autopsy shall be with the coroner and court of the county If, in any case in at the coroner be d without the per- shall be the duty of dvised of such fact, trict attorney, who to a district judge, that the body be performed.

the coroners or by anyone under the direction or supervision and transcripts certified by the coroner shall be received in any court or administrative body in the state as competent evidence of the matters and facts therein contained. All records filed under this section shall be on a form approved by the director of the Kansas bureau of investigation. The records which shall be admissible under this section shall be records of the results of views and examinations of or autopsies upon the bodies of deceased persons by such coroner or by anyone under such coroner's direct supervision or control, and shall not include statements made by witnesses or other persons.

History: L. 1963, ch. 166, § 10; L. 1965, ch. 164, § 14; L. 1976, ch. 124, § 5; July 1.

Research and Practice Aids:

Coroners - 22.
C.J.S. Coroners § 27.

Attorney General's Opinions:

District coroner; disclosure of coroner's records. 86-5.

CASE ANNOTATIONS

1. First page of coroner's report contained hearsay statements; erroneous omission; direction to excise. State v. Johnson, 220 K. 720, 725, 556 P.2d 168.

22a-236. Same; witness fees to coroner or deputy in criminal proceedings. Whenever any district coroner or deputy district coroner shall be called upon to testify, by reason of his position as district coroner or deputy district coroner, in any criminal proceeding pending before any of the several courts of this state, such court shall allow the district coroner or deputy district coroner witness fees which are commensurate with such person's professional status. Any such witness fees so allowed shall be taxed as costs in the proceeding.

History: L. 1969, ch. 143, § 6; April 25.

22a-237. Same; alcohol and drug tests on accident victims; results reported to local registrar of vital statistics; use by officials for statistical purposes. (a) As used in this section:

(1) "Air, land or watercraft" means any aircraft, as defined by K.S.A. 3-201 and amendments thereto; any vehicle, as defined by K.S.A. 8-1485 and amendments thereto; or any vessel as defined by K.S.A. 82a-802 and amendments thereto.

(2) "Alcohol concentration" has the meaning provided by K.S.A. 8-1005 and amendments thereto.

(b) When an accident involves an air, land or watercraft and results, within four hours, in

the death of the operator of such craft or a person not a passenger in a craft, the district coroner, or a person designated by the district coroner, shall withdraw blood or another bodily substance from the deceased for the purpose of determining the alcohol concentration and presence of drugs in the deceased's blood. The withdrawal shall occur within eight hours after death.

(c) The forensic laboratory of the Kansas bureau of investigation shall analyze the blood or other bodily substance withdrawn under this section to determine the alcohol concentration or presence of drugs in the deceased's blood.

The results of the analysis shall be reported by the district coroner to the local registrar of vital statistics of the district on a form provided by the secretary of health and environment. Such form shall not disclose the identity of the deceased person. The local registrar shall file such form with the state registrar of vital statistics.

(d) The results of the analysis required by this section may be used by state and local officials only for statistical purposes that do not reveal the identity of the deceased person.

(e) This section shall not require withdrawal of blood or any other bodily substance from a person less than 14 years of age at the time of death unless such person was the operator of an air, land or watercraft involved in the accident.

History: L. 1988, ch. 39, § 1; July 1.

166, § 9; L. 1965, 135, § 1; L. 1975, 124, § 2; L. 1977, 91, § 1; L. 1938,

coroner's records. 86-5.
IONS

though not licensed in es. 367 F.2d 216, 217.

testimony of doctor: no K. 134, 137, 439 F.2d

of-state doctor not com- held discretionary with s, 209 K. 526, 531. 498

phs of deceased person rder prosecution. State 27 P.2d 1333.

d public official; blood ate v. Gordon, 219 K.

e v. Miller, 222 K. 405,

66, § 9; L. 1965, 135, § 1; L. 1975, 45, § 61; Repealed, y 1.

ds of coroner as rds of the coroner district court and coroner made by

PAVW
2-12-90
attn. # 3

22a of inf death. year cumst or is shall 1 (b) subse: ignate or leg topsy shall be co 233 a shall result the c (c) this s fee a K.S.A shall from health of all unde: secre (d) minar (a) w drom Hi:



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 their 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 reworded to clarify that the board, upon receipt of a renewal application, renews the license rather than issues a new license.

Charles Konigsberg, Jr., M.D., M.P.H.,
Director of Health
(913) 296-1343

James Power, P.E.,
Director of Environment
(913) 296-1535

Lorne Phillips, Ph.D.,
Director of Information
Systems
(913) 296-1415

Roger Carlson, Ph.D.,
Director of the Kansas Health
and Environmental Laboratory
(913) 296-1619

PAKCO attm. #4 2-12-90

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

JFK
2-12-90
Attn #4
Pg. 21

HOUSE BILL No. 2758

By Committee on Public Health and Welfare

1-30

Handwritten notes in blue ink: "2-12-90", "H. 2758", "P. 2758", "H. 2758".

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,

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;

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

section 1908 of the social security act, the federal rules and regulations promulgated thereunder, the requirements set forth in 45 C.F.R. 252.10 and other pertinent federal authority.

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

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

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

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

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

(f) The expiration date of each license issued or renewed shall be established by rules and regulations of the board. Subject to the provisions of this subsection each license shall be renewable on a biennial basis upon the filing of a renewal application prior to the expiration date of the license and upon payment of the renewal fee established pursuant to rules and regulations of the board. To provide for a system of biennial renewal of licenses the board may provide 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

150

Handwritten notes: 2-11-90, 2-12-90, 2-13-90, 2-14-90, 2-15-90

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} ~~crime~~ found by the board to have
26 a direct bearing on whether such person should be entrusted to
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.

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

4

5

6

Handwritten notes in blue ink: "Dennis" and "12/12/12" with other illegible scribbles.

STATE OF KANSAS

426-5



DIVISION OF THE BUDGET

MIKE HAYDEN,
Governor
MICHAEL F. O'KEEFE
Director of the Budget

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1575
(913) 296-2436

February 6, 1990

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 2756 by Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2756 is respectfully submitted to your committee.

HB 2756 eliminates in statute all references to local registrars of births and deaths. All duties and powers of such local officials are transferred to the state registrar.

The bill has no fiscal impact.

A handwritten signature in black ink that reads "M F O'Keefe".

Michael F. O'Keefe
Director of the Budget

cc: Laura Epler, Department of Health and Environment

630

PHW
2-12-90
Attn #5



DIVISION OF THE BUDGET

MIKE HAYDEN,
Governor
MICHAEL F. O'KEEFE
Director of the Budget

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1575
(913) 296-2436

February 2, 1990

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 2758 by Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2758 is respectfully submitted to your committee.

House Bill 2758 amends statutes regarding the licensure of adult care home administrators. Clean-up language clarifies the ability of the Board of Adult Care Home Administrators to revoke or suspend a license issued by renewal. Also, the board's authority to set fees for examinations is amended by deletion of a \$100 ceiling on fees. This provision will allow the board to set fees at a higher rate if examination fees are increased by testing companies. The ability to revoke or suspend a license is expanded to allow such action in cases where the board finds that a licensee had committed a crime "found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of an adult care home administrator."

The bill would have no fiscal impact.

A handwritten signature in black ink that reads "M F O'Keefe".

Michael F. O'Keefe
Director of the Budget

cc: Laura Epler, Kansas Department of Health and Environment

578

PK/ed
2-12-90
attm #6

STATE OF KANSAS



DIVISION OF THE BUDGET

MIKE HAYDEN,
Governor
MICHAEL F. O'KEEFE
Director of the Budget

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1575
(913) 296-2436

January 19, 1990

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

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for HB 2594 by Special Committee on Public Health
and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB
2594 is respectfully submitted to your committee.

HB 2594 concerns in home care services and establishes a personal care
attendant category of home health agency employee. The bill provides an
exemption to the licensing requirements of the Kansas Nurse Practice Act.
KSA 65-1124 is amended by adding a paragraph to allow the performance of
selected nursing procedures, specified by the Board of Nursing, by
unlicensed individuals. These allowable procedures are those deemed
necessary to accomplish activities of daily living which are routinely
performed by the patient or the patient's family in the home setting.

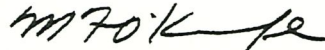
KSA 65-5101 which concerns home health agency licensure is amended to
establish the category of personal care attendant, which is defined as an
employee of a home health agency that is not licensed or professionally
registered, but who provides personal and attendant care services in a
supervised setting. It is clearly pointed out that none of the tasks
performed by the personal care attendant can be considered health related
care. All personal care attendants are required by the bill to complete a
course of instruction that has gained the approval of the Secretary of
Health and Environment, but not to take an examination. The Secretary of
Health and Environment is prevented from requiring a course of instruction
that exceeds 40 hours in length and from requiring the personal care
attendant to complete adult care home aide training and examination [per KSA
39-936(c)(3)], which is the nurse aide training program, as a condition of
continued employment.

Attn. #7
PNW
~~*1-31-90*~~
2-12-90

The Honorable Marvin Littlejohn
January 19, 1990
Page Two

The Board of Nursing indicates that it would need to expend \$2,500 from the Board of Nursing Fee Fund for the establishment of a subcommittee to write rules and regulations to determine the nursing procedures as specified in the bill to be considered allowable for the personal care attendant to perform.

The Department of Health and Environment indicates that \$49,332 from the State General Fund would be required in FY 1991 to hire an Education Program Specialist to study, develop and implement an approved 40 hour personal care attendant curriculum. It estimates that \$34,323 would be expended for salary and \$15,009 for other operating costs. Total cost in future years would be somewhat less as the FY 1991 estimate includes one time expenditures for capital outlay.



Michael F. O'Keefe
Director of the Budget

cc: Pat Johnson, Board of Nursing
Laura Epler, Health and Environment

303

Attn. #7
AKW
1-31-90
Pg 2.