

Approved \_\_\_\_\_ Date 4-2-91

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at \_\_\_\_\_  
Chairperson

10:00 a.m. ~~p.m.~~ on March 26, 1991 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research  
Norman Furse, Revisor's Office  
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Joseph F. Kroll, Director, Bureau of Adult and Child Care,  
Kansas Department of Health and Environment

Chairman Ehrlich called the meeting to order at 10:00 a.m. asking for approval or correction to the minutes of March 18, 19, 20 and 21, 1991. Senator Walker made the motion to approve the minutes as presented, seconded by Senator Langworthy. The motion carried.

HB 2529 - Reports of abuse, neglect or exploitation of residents forwarded to state regulatory authorities.

Joseph Kroll, Department of Health and Environment, submitted written testimony and appeared in support of HB 2529. Mr. Kroll stated the bill was introduced at the request of the Department of Health and Environment to seek clarification of procedures which must be followed in referring persons alleged to have committed abuse, neglect, or exploitation to appropriate state authority when such person is licensed, registered, or otherwise authorized to provide services in Kansas. (Attachment 1) The Chairman asked if there were opponents of the bill. None appeared. The Chairman asked for wishes of the committee on HB 2529. Senator Burke made the motion to recommend HB 2529 favorably for passage, seconded by Senator Hayden. No discussion followed. The motion carried. HB 2529 will be carried by Senator Langworthy.

SB 377 - Long term-care planning commission created.

The Chairman announced hearing on SB 377 was held March 13, 1991. The wishes of the committee were asked on SB 377. Discussion followed regarding language in the bill on expenditures relating to the number of meetings of the commission. Senator Burke moved to provide that the operations of the commission would be subject to appropriations. The motion was seconded by Senator Langworthy. No discussion followed. The motion carried. Discussion followed regarding appropriation of money for meetings by Ways and Means Committee. Senator Walker made the motion to recommend SB 377 as amended favorably for passage. The motion was seconded by Senator Langworthy. No discussion followed. The motion carried. Senator Walker will carry the bill.

Staff Wolff briefed the committee on SCR 1615. The Joint Committee on Administrative Rules and Regulations recommended the introduction of this Concurrent Resolution to raise the issue with the legislature whether or not general fund monies are to be used, under certain circumstances, for transplants. The Resolution takes the proposed amendment out and returns the regulation to its original form or language. Discussion followed regarding transplants at facilities other than the K.U. Medical Center and out-of-state transplant funding. Statement was made by Staff Wolff if SCR 1615 passed, the Resolution would become the authority for SRS to amend their rules and regulations back to former language, but SRS may not choose to do that. Regulations on page 2 and 4 of the Resolution and testimony from Wichita Hospital

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526-S, Statehouse, at 10:00 a.m./~~p.m.~~ on March 26, \_\_\_\_\_, 1991.

conferees were also discussed. The wishes of the committee were asked on SCR 1615. No action was taken.

HB 2084 - Governor's commission on mental retardation and other developmental disabilities.

Staff Furse explained a technical change was needed on page 1, line 24 of HB 2084, the word "Kansas" should be stricken and the word "state" inserted to read the "state planning council." Senator Langworthy made the motion to strike the word, "Kansas", and insert the word, "state", on page 1, line 24 of the bill. The motion was seconded by Senator Reilly. Discussion was held regarding a representative on the commission of an institutional parent and language in the bill that would provide that representation. Rural, urban and autistic representation, sunset of bill or commission, advocacy groups and duplication of elements of the Kansas Planning Council on Developmental Disability Services and additional commissions were discussed. The Chairman asked for wishes of the committee on HB 2084. No action was taken.

The meeting was adjourned at 10:55 a.m.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-26-91

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
<i>Joseph F. Kocor</i>	<i>KDHE</i>
<i>William Anderson</i>	<i>KDHE</i>
<i>Tanya Sharp</i>	<i>student - WU</i>
<i>Will Belden</i>	<i>LWOK</i>
<i>KEVIN R LANDIS</i>	<i>CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS</i>
<i>Chang Y.</i>	<i>student of WU</i>
<i>Tom Gress</i>	<i>KS Hosp. Assn.</i>
<i>Wendell Strom</i>	<i>AARP - CCTF</i>
<i>George Goebel</i>	<i>AARP - SLC - CCTF</i>
<i>Alpe Loepden</i>	<i>KSU student</i>
<i>Barbara Beier</i>	<i>Topeka - Sm Co Health Dept</i>
<i>Richard Morrissey</i>	<i>KDHE</i>
<i>Lyndon Dren</i>	<i>RDOA</i>
<i>Peggy Jannan</i>	<i>PCAL</i>
<i>Jelly Kuetala</i>	<i>NOW</i>
<i>Marian Shapiro</i>	<i>Planned Parenthood</i>
<del><i>[scribble]</i></del>	<del><i>[scribble]</i></del>
<i>Jennifer Brandenburg</i>	<i>PCAL</i>



# State of Kansas

Joan Finney, Governor  
Department of Health and Environment

Acting

Division of Health

Reply to: \_\_\_\_\_

Stanley C. Grant, Ph.D., Secretary

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FAX (913) 296-6231

Testimony Presented to the  
Senate Public Health and Welfare Committee

on

House Bill 2529

## Background

House Bill 2529 was introduced at the request of the Kansas Department of Health and Environment. The Department seeks clarification of procedures which must be followed in referring persons alleged to have committed abuse, neglect, or exploitation to appropriate state authority when such person is licensed, registered, or otherwise authorized to provide services in this state.

One of the significant provisions of 1990 House Bill 2800 was the transfer from the Department of Social and Rehabilitation Services to the Department of Health and Environment responsibility for investigating allegations of abuse, neglect, or exploitation affecting residents of adult care homes and medical care facilities. Recognizing that abuse, neglect, or exploitation could be committed by a licensed or registered professional, such as a doctor or nurse, House Bill 2800 also authorized the Department to forward such allegations to the appropriate state authority with provision that the appropriate authority could consider that information in any disciplinary action taken with respect to that provider. This is also in accordance with federal requirements of the 1987 Nursing Home Reform Act.

## Description of the Issues

During the process of developing policies and procedures for the implementation of this new responsibility, we became aware that information regarding allegations of abuse, neglect, or exploitation alleged to have been committed by a licensed or certified provider could not be forwarded to the appropriate board without KDHE first conducting an administrative hearing. KDHE, having been closely involved with 1990 House Bill 2800 does not believe it was legislative intent that KDHE be responsible to provide administrative hearings only for the purpose of forwarding allegations of abuse, neglect, or exploitation to other appropriate state authorities, nor do we want to subject persons to two administrative hearing processes.

Senate P H&W  
Attachment #1  
3-26, 91

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

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 Environment Laboratory  
(913) 296-1619

It is important to know that HB 2529 does not deny any rights that existed prior to the passage of HB 2800 last session. Under the statutes prior to last year, SRS had ~~the~~ responsibility for investigating all adult abuse. When they discovered adult abuse by a licensed professional they were to notify the licensing board that licensed that professional. They were not required to provide a hearing before notifying the board of that finding. In fact, the statute is still in effect for abuse that is investigated by SRS. K.S.A. 39-1404(d). When the responsibility for investigating institutional adult abuse was transferred to KDHE we sought the language requiring due process hearings because we certify nurse aides (CNA's) and federal law mandates that we maintain a public register and give CNA's an opportunity for a hearing before placing them on the register as a confirmed perpetrator of abuse, neglect, or exploitation. We did not intend to change the status quo relating to health professionals licensed by other agencies.

House Bill 2529, as amended by the House Public Health and Welfare Committee, resolves our concern.

KDHE does not seek to deny any person due process prior to any disciplinary action. On the contrary, KDHE believes that due process can best be provided by the state authority which has the authorization to discipline such provider. If the issue House Bill 2529, before you now, is not addressed, persons licensed or registered who are alleged to have perpetrated abuse, neglect, or exploitation will be subject to two administrative appeals processes before any decision is made regarding discipline that might be appropriate. This would also most certainly compromise the sanctioning of inappropriate behavior by licensed persons 1990 House Bill 2800 sought to address.

#### Recommendation

In order to address the issue identified above, the Kansas Department of Health and Environment recommends that House Bill 2529 be favorably passed.

#### Testimony

Presented by: Joseph F. Kroll, Director  
Bureau of Adult and Child Care  
Kansas Department of Health and Environment  
March 26, 1991