Approved 4-11-92
Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Carol H. Sader
Chairperson
at

1:30 a.m./p.m. on March 23, 1992 in room 423-S of the Capitol.

All members were present except:

Representative Flottman, excused

Committee staff present:

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

Conferees appearing before the committee:

Senator Doug Walker
Commissioner Robert Epps, Department of SRS
Linda Kenney, Acting Director, Bureau of Family Health, Department of Health/Environment
John Holmgren, Catholic Health Association
Kendra Bartlett, Kansas Area Representative, Concerned Women for America
Joseph Kroll, Director, Bureau of Adult/Child Care, Department of Health and Environment
Marilyn Bradt, Kansans for Improvement of Nursing Homes

Chair called meeting to order drawing attention to Committee minutes. After members had read minutes, Rep. Wiard moved to approve the minutes for March 4, 1992 as presented, seconded by Rep. Amos. No discussion. Motion carried.

On a point of personal privilege, Rep. Scott introduced Dr. Don Garry, family practitioner of Coldwater, Kansas who was serving as Doctor of the Day today. Rep. Scott welcomed him as did Chair and members.

Chairperson Sader recognized former Representative Betty Sue Shumway, and former seat-mate of the Chair who was in attendance. Mrs. Shumway was warmly welcomed.

Chair announced that Mr. Mark Mathews a conferee on **HB 3156** had testified on March 19th and the question was asked if Mr. Mathews was representing the University of Kansas in his remarks, or were his comments representative of his personal point of view. Chair noted we had been told on March 19th, after Mr. Mathews left, that his remarks reflected those of the University. Mr. Mathews was later contacted and stated his comments reflected his personal point of view, not those of the University Gerontology Department.

Chair announced the early start of the Committee meeting today would allow extra time for discussion and action on bills previously heard. At 1:30 Chair would return to the scheduled hearings on **SB 631, SB 182.**

Chair requested staff to give background information on **SB 539**.

BRIEFING ON SB 539.

Mr. Furse gave a detailed explanation of **SB 539,** noting the intent of amendments is to delete requirements that home health agency licenses be renewed annually to allow a license to remain in effect unless suspended or revoked by the licensing agency. He detailed the proposed language.

DISCUSSION BEGAN ON SB 539.

Rep. Praeger moved to report **SB 539** out favorably and request it be placed on the Consent Calendar, seconded by Rep. Samuelson. Discussion held in regard to the amount of fees, definition of "normal business hours". Vote taken. Motion carried.

DISCUSSION BEGAN ON SB 540.

Ms. Correll gave background information on **SB 540.**

Mr. Furse detailed amendments in balloon prepared,(see Attachment No. 1). He noted the balloon had been prepared at the request of the Chair in order that Committee could look at recut of proposed amendments.
Rep. Wiard moved to adopt the balloon amendment on **SB 540,** seconded by Rep. White. Lengthy discussion ensued. Vote taken. Motion carried.

Discussion continued in regard to the course requirements for nurse aides. It was noted the term certified was used, but statutorily this is not an accurate term.

On **SB 540** as a whole, Rep. Lynch moved to pass it out favorably as amended, seconded by Rep. Cozine. No discussion. Vote taken. Motion carried.

Rep. Lynch agreed to carry **SB 540** on the floor of the House.

DISCUSSION BEGAN ON HB 2925.

Rep. Neufeld moved to pass **HB 2925** out favorably and place it on consent calendar, seconded by Rep. Cozine. Discussion began in regard to the certification of interpreters; levels of skills being recognized; a proposed change in the title of the Commission, and rationale for this change. Vote taken. Motion Failed.

Rep. Hackler moved to amend **HB 2925** by changing the name of the Commission to "Kansas Commission for the Deaf and Hard of Hearing" throughout the language of **HB 2925** where applicable. Motion seconded by Rep. Amos. No discussion. Vote taken. Motion carried.

Rep. Hackler moved to pass **HB 2925** out favorably as amended, seconded by Rep. Scott. No discussion. Motion carried.

Rep. Hackler agreed to carry **HB 2925** on the floor of the House.

DISCUSSION BEGAN ON HB 3041.

Attention was drawn to a hand-out, (see Attachment No. 2) from Allen F. Kossoy, D.O.,member of Kansas Thoracic Society/American Lung Association.

At the request of Chairperson Sader, Mr. Furse gave background information on **HB 3041.**

Discussion ensued, i.e., some view the responsibility of a smoking ban in hospitals up to the Hospital Administration; concerns with long-term care residents and those in psychiatric hospitals not being permitted to smoke; those individuals who are residents in long-term care facilities who will not be allowed to smoke.

At this point Chair requested Vice-Chair Wiard conduct the meeting while Chairperson Sader left to present testimony at another meeting.

DISCUSSION CONTINUED ON HB 3041.

Rep. Praeger moved to conceptually amend **HB 3041** by adding language i.e., "may provide a well ventilated smoking room in a long-term care facility". Motion seconded by Rep. Samuelson. Discussion ensued.

After lengthy discussion, vote taken, Vice-Chair in doubt. Show of hands indicated 7 in favor, 6 against. Motion carried.

Rep. Wagle moved to amend **HB 3041** to exempt psychiatric facilities or treatment centers from the smoking ban. Motion seconded by Rep. Samuelson. Discussion continued.

Chair returned and stated, since it was evident more discussion would be necessary on **HB 3041**, she suggested it be deferred until tomorrow in order that the scheduled hearings could be conducted this date. An early meeting time is scheduled again for Committee tomorrow and discussion could be continued then regarding the motion on the table to amend **HB 3041.** Chair thanked members for their cooperation.

Chair drew attention to hearings scheduled on **SB 631, SB 182.**

BRIEFING ON SB 631.

Mr. Furse detailed the bill section by section.

HEARINGS BEGAN ON SB 631.

Senator Doug Walker, a member of Joint Committee on Health Care Decisions for the 1990s and a supporter of **SB 631,** offered hand-out. He detailed rationale for **SB 631.** He noted the 25 different programs that will be studied to formulate a plan whereby a program can be coordinated to ensure access to primary care for children's health programs into a single program by FY 1998 that will eliminate gaps in care for those not covered by insurance or government programs. He noted **SB 631** will start these agencies down the path of health care reform planning. Its focus will be a single health program to address the health needs of children and explore the benefits and drawbacks to such an approach. We are asking the agencies to study this option and present a plan. He answered numerous questions. (See Attachment No.3).

Commissioner Robert Epps, Department of SRS, stated several observations, (See Attachment No. 4). The Department of SRS does support the concept of comprehensive prenatal/child health care, however, some administrative problems will be created with the plan proposed. SRS cannot release its authority to function as the single agency for administering the Medicaid program. He noted **SB 631** would mandate a proposal be developed, however, eventually the implementation of such a plan would have a dramatic impact on SRS, i.e., mandating services for all pregnant women/children in Kansas would result in major budgetary increases. He noted some federal funding for those Medicaid eligible may become available, but in the absence of that federal funding, the program would have to be totally state funded. There is no income or asset qualifying tests for services, which is a concern. He noted a single point of access to services should be provided and a great degree of coordination among services and additional staff would be involved in this process. He answered numerous questions. Fiscal impact was discussed.

It was noted there are certain aspects of **SB 631** that seem to parallel the Robert Wood Johnson Foundation Grant.

HEARINGS CONTINUED ON SB 631.

Linda Kenney, Acting Director, Bureau of Family Health, Department of Health/Environment, provided hand-out (Attachment No. 5). She stated concerns with **SB 631** that appear unclear, i.e., how a mental health assessment will be completed for a child at birth; how each family member with a child entering a program is assigned a case manager; the issue of financing; federal waivers possible for existing programs to allow consolidation of services or resources; is one year enough time to develop such a plan as described; do the three primary state agencies have the will to collaborate on this type of plan. She stated there would not be time or expertise to develop a far-reaching/complex proposal such as providing health care coverage for all pregnant women and children. The Department supports health care reform for all Kansans, but would need additional expertise/resources to develop a plan of this complexity. She noted there were no fiscal provisions included in the Governor's budget for this project. She answered numerous questions.

Dr. Robert Harder, representing the Robert Wood Johnson Grant Foundation, also answered questions.

Tom Bell, Kansas Hospital Association, offered hand-out (Attachment No.6). He stated support, noting **SB 631** will set out a plan to include collaboration among the different state agencies that deals directly with various health issues, and such collaboration is absolutely necessary. **SB 631** would allow the Commission to assume that role. He noted a grant proposal had been submitted to the Robert Wood Johnson Foundation to help in developing/implementing a "Child Health Access Program", a program that in principle is very much like **SB 631.** He answered questions.

John Holmgren, Executive Director, Catholic Health Association of Kansas, stated support for the concept outlined in **SB 631.** (Attachment No. 7). He does not believe this proposal requires a new state agency. A new agency would be too complicated and too costly. He thinks an increase in inter-agency agreements should be the method used to increase the degree of consolidation and effectiveness. He believes the Department of Health/Environment has considerable experience with case management systems through programs with children with special care needs. He urged support.

Kendra Bartlett, Concerned Women For America (Attachment No. 8), stated her organization finds no fault with the intent of **SB 631** as stated in Section 1, but is concerned with the scope of the bill in that it could infringe on the parents' and children's rights. Taking rights away from parents to provide proper medical/dental care is of concern to them. She noted they do not think that taking over the responsibilities of parents is a way to strengthen the family. When parents are made to feel they are not accountable and responsible, that eliminates their motivation to be good parents and fosters the attitude that they don't have to try since the government will step in and do what they will not. She asked Committee to look long and hard at the provisions and modify them so the program would benefit all families of Kansas and not work to undermine them. She answered questions.

Written only testimony from Amy Bixler, recorded as (Attachment No.9). Written only testimony from Maureen Collins recorded as (Attachment No. 10).

HEARINGS CLOSED ON SB 631.

STAFF BRIEFING ON SB 182.

Mr. Wolff gave a detailed explanation of **SB 182.**

HEARINGS BEGAN ON SB 182.

Joe Kroll, Department of Health/Environment, provided hand-out (Attachment No. 11). He noted **SB 182** would address the problem of authorizing the Secretary to assess a civil penalty without first giving the facility an opportunity to correct the violation committed. He gave a detailed explanation, and detailed procedures that follow after a correction order has been issued for a violation of regulations. He cited specific cases wherein investigations of alleged abuse had occurred. Authority such as proposed in **SB 182** would have resulted in the Secretary having the authority to assess a civil penalty when the deficiency was first documented in the cases he cited. A cash penalty should prove to be a very effective tool when dealing with this problem. He answered questions, i.e., sanctions should equate to the severity of the violation, and **SB 182** defines that concept.

Marilyn Bradt, Kansans for Improvement of Nursing Homes (KINH), offered handout (Attachment No. 12). She stated Senator Winter, sponsor of this bill, had requested she convey his support for **SB 182** to Committee. Ms. Bradt views **SB 182** as a means to help close a gap in current statute that allows a nursing home owner to go unpenalized in some instances for serious violations of state and federal regulations. Current statute does provide sound enforcement procedures in dealing with repeated violations. However, KINH believes some violations are so grave in their potential for harm to a resident, they should never occur at all. As a deterrent, **SB 182** provides for severe consequences. She detailed changes in language that had been worked out on the Senate side and the amended version before Committee currently reflects a cooperative effort of the Department of Health/Environment, KINH, and the Kansas Association of Homes for the Aging. She urged support.

Written only testimony was provided by John Grace, Association of Homes for the Aging, (see Attachment No. 13).

Written only testimony provided by Carolyn Middendorf, Kansas State Nurses Association, (see Attachment No. 14).

Written only testimony provided by Joan Strickler, Kansas Advocacy/Protective Services, (see Attachment No. 15).

At this point, Chair requested those conferees who had not had the opportunity to offer comments today to please return tomorrow. Mr. John Kiefhaber agreed to do so.

Rep. Scott asked for documentation on abuse allegations in a nursing home as pointed out by Ms. Bradt. She agreed to provide same.

Chair reminded Committee members the meeting will begin tomorrow again an hour earlier at 12:30 p.m. Chair noted the motions for **HB 3041** are still on the table and will be dealt with at the meeting tomorrow. She urged members to be prompt.

Chair adjourned the meeting at 3:05 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-23-92

NAME	ORGANIZATION	ADDRESS
Marilyn Bradt	KUMH	Lawrence
Bettie Sue Shumway	AMRT Capitol City Lodge	Ottawa
Lynda Dunn	KDOA	Topeka
John L. Kiefhaber	Ks Health Care Assn.	Topeka
Kenda Bartlett	CWA of KS	Leavenworth
Billie Young	CWA of KS	Valley Center KS
Jack Carter	Ks Assn of Ment Psych Inpatients	Tyler
Bob Harder	Self	Topeka
KEITH R HANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
Donald D. Gerring, MD	KMS	Coldwater
David Hanzlick	KS Dental Ass'n	Topeka
LISA GETZ	WICHITA Hospitals	WICHITA
Ellen G. Elliston	St. Francis Reg Medical Cntr	Wichita
[illegible]	SRS	Topeka
[illegible]	KDOA	Topeka
Korey Hartwick	Sen Walker	Lawrence
John N Holmyer	Catholic Health Assn	Topeka

SENATE BILL No. 540

By Committee on Public Health and Welfare

1-29

AN ACT concerning adult care homes; state registry of certified nurse aides; requirement to inquire for information from registry; fees for certified nurse aides; amending K.S.A. 1991 Supp. 39-936 and repealing the existing section.

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

Section 1. K.S.A. 1991 Supp. 39-936 is hereby amended to read as follows: 39-936. (a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such services and the adult care home shall keep a copy of such statement in the resident's file. No such statement shall be construed to relieve any adult care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

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

(c) ~~(1) Unlicensed employees of an adult care home who provide direct, individual care to residents under the supervision of qualified personnel and who do not administer medications to residents shall not be required by the licensing agency to complete a course of education or training or to successfully complete an examination as a condition of employment or continued employment by an adult care home during their first 90 days of employment.~~

~~(2)~~ *(1)* The licensing agency shall require unlicensed employees of an adult care home employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed

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a course of education and training relating to resident care and treatment approved by the licensing agency or are not participating in such a course on the effective date of this act to complete successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the licensing agency shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the licensing agency. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training required by the licensing agency under subsection ~~(c)(3)~~ *(c)(2)*.

~~(3)~~ *(2)* The licensing agency may require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home may be conducted on the premises of the adult care home which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the licensing agency shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction. Unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be prescribed by the licensing agency, shall be reasonably related to the duties performed by unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents and shall be the same examination given by the licensing agency to all unlicensed employees of adult care homes who provide direct, individual care

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to residents and who do not administer medications.

~~(4)~~ *(3)* The licensing agency shall fix, charge and collect ~~an examination fee~~ *the certification fee* to cover all or any part of ~~the cost of the examination and~~ certification under this subsection (c). The ~~examination fee~~ *certification fee* shall be fixed by rules and regulations of the licensing agency. The ~~examination fee~~ *certification fee* shall be deposited in the state treasury and credited to the state general fund.

(4) The licensing agency shall establish a state registry containing information about ~~certified nurse aides~~ in compliance with the requirements pursuant to PL 100-203, Subtitle C, as amended November 5, 1990.

(5) ~~Each~~ adult care home shall ~~not~~ use an individual as ~~a certified nurse aide~~ unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6) Beginning July 1, 1993, the adult care home must require any ~~certified nurse aide who, since becoming certified as a nurse aide, has had a continuous period of 24 consecutive months during none of which the certified nurse aide performed paid nursing or nursing related services,~~ to complete an approved refresher course. The licensing agency shall prepare guidelines for the preparation and administration of refresher courses and shall approve or disapprove courses.

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

(e) All medical care and treatment shall be given under the direction of a physician authorized to practice under the laws of this state and shall be provided promptly as needed.

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

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult

a fee

the costs of the licensing agency

unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications

No

an unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications

unlicensed employee

unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications and who since passing the examination required under paragraph (2) of this subsection has had a continuous period of 24 consecutive months during none of which the unlicensed employee provided direct, individual care to residents

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care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

Sec. 2. K.S.A. 1991 Supp. 39-936 is hereby repealed.

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

Passed
3-23-92
Att. #1
SB 494

PHHW
3-23-92
Att #1
4-4

COTTON-O'NEIL CLINIC, P.A.
FORMERLY INTERNAL MEDICINE, P.A.

INTERNAL MEDICINE AND DIAGNOSIS
Robert H. O'Neil, M.D., F.A.C.P.
Robert T. Cotton, M.D., F.A.C.P.
(Director Emeritus)
Kent E. Palmberg, M.D.
Edward R. Wood, M.D.
Arnold V. Mueller, M.D.
W. Kiernan O'Callaghan, M.D.
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INTERNAL MEDICINE AND GERIATRICS
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FAMILY PRACTICE — TOPEKA
Robert E. Jacoby, II, M.D.
W. Laurence Coker, M.D.
Stephen Saylor, M.D.
Michael D. Atwood, M.D.
Michael Murphy, M.D.

FAMILY PRACTICE — LYNDON
Gerald W. Marcell, M.D.

HEMATOLOGY AND MEDICAL ONCOLOGY
Maurice R. Cashman, Jr., M.D.
Howard N. Ward, M.D., F.A.C.P.
Stanley J. Vogel, M.D.
David E. Einspahr, M.D.

MEDICAL ONCOLOGY
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Edwin L. Petrik, M.D.

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Robert W. Braun, M.D.
Robert L. Ricci, M.D.
Curtis A. Baum, M.D.

RHEUMATOLOGY AND CONNECTIVE TISSUE DISORDERS
J. Douglas Gardner, M.D.

CARDIOVASCULAR MEDICINE AND CATHETERIZATION
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INFECTIOUS DISEASE
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Jonson Huang, M.D.
David A. Fitzgerald, M.D.

ADMINISTRATOR
Debra L. Yocum, C.P.A.

Date: March 16, 1992

Re: Written testimony for:

House Bill 3041 - Smoking in Medical Community Facilities;

House Bill 3042 - Smoking in the Capitol building;

House Bill 3048 - Increase in Excise Tax for Tobacco Related Items.

By: Allen F. Kossoy, D.O.
Member - Kansas Thoracic Society
Board of Directors - American Lung Association, State of Kansas
Fellow - American College of Allergy and Immunology

PH&W
3-23-92
attm+2

Robert T. Cotton Bldg.
☒ 901 SW Garfield Ave.
Topeka, KS 66606
(913) 354-9591

Robert H. O'Neil Bldg.
☐ 823 SW Mulvane St.
Topeka, KS 66606
(913) 354-9591

☐ 1130 N. Kansas Ave.
Topeka, KS 66608
(913) 233-0022

☐ 211 E. Main
Carbondale, KS 66414
(913) 836-7111

☐ 710 Topeka
Lyndon, KS 66451
(913) 828-3143

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ADMINISTRATOR
Debra L. Yocum, C.P.A.

I, Allen F. Kossoy, D.O., would like to testify by written note since time constraints do not allow me to speak before the committee. I am in favor of all of these bills being passed. My reasons in general, as a health professional, involve government's necessity to protect people when society's best interests are served.

There is no question that the use of tobacco is a significant public health hazard. There are estimates that most of the five leading illnesses in the adult population in the United States would be severely diminished if smoking could be eliminated. This certainly would diminish health costs considerably in the United States.

Recent reports from Scandinavia have shown that as many as 80% of people who live in an environment with a smoker or who on a daily basis have activities that involve them to be in an environment with a smoker, can have further problems of a respiratory nature. These sorts of problems can be such illnesses as emphysema, chronic obstructive pulmonary disease, and asthma. Other illnesses such as recurrent sinusitis, acute and chronic otitis media which are ear infections have an increased incidence. An increase in upper airway viral illnesses is also noted.

Great strides have been made in controlling smoking in public facilities. Hospitals should be off limits to smoking. Certainly a gesture of stopping smoking in the Capitol building would send a signal that the legislators for the State of Kansas are interested in the public's health care. Further, an increase in the tax on tobacco related products will not eliminate the tobacco habit, but it will hopefully make at least some people think twice about their use and perhaps further decrease the number of tobacco abusers.

Thank you for this opportunity to express my opinions to the committee.

Sincerely yours,

Allen F. Kossoy, D.O.

AFK/ksh

PH&W
3-23-92
Attach #2

Robert T. Cotton Bldg.
☒ 901 SW Garfield Ave.
Topeka, KS 66606
(913) 354-9591

Robert H. O'Neil Bldg.
☐ 823 SW Mulvane St.
Topeka, KS 66606
(913) 354-9591

☐ 1130 N. Kansas Ave.
Topeka, KS 66608
(913) 233-0022

☐ 211 E. Main
Carbondale, KS 66414
(913) 836-7111

☐ 710 Topeka
Lyndon, KS 66451
(913) 828-3143

DOUG WALKER
SENATOR, 12TH DISTRICT
MIAMI, BOURBON, LINN,
ANDERSON, ALLEN AND
NEOSHO COUNTIES
212 FIRST
OSAWATOMIE, KANSAS 66064
(913) 755-4192 (HOME)
(913) 296-7380 (STATE CAPITOL)

STATE OF KANSAS

TOPEKA

SENATE CHAMBER

COMMITTEE ASSIGNMENTS

MEMBER: CONFIRMATIONS
EDUCATION
ENERGY AND NATURAL RESOURCES
FEDERAL AND STATE AFFAIRS
PUBLIC HEALTH AND WELFARE

TESTIMONY FAVORING PASSAGE OF SENATE BILL 631

Senate Bill 631 directs Health and Environment, in cooperation with SRS, the Commissioner of Education and the Insurance Commissioner, to submit a plan to the legislature for consolidating all health programs for pregnant women and children into one comprehensive program under a single state agency. This plan should include time lines for implementation and cost estimates. It should identify necessary federal waivers, sources of funding and the services to be provided under the plan. The plan should also make extensive use of case managers.

This bill compliments the recommendations of the SRS Task Force presented by the Prevention sub committee and the Children's Initiatives Committee. I would like to read an excerpt from the Children's Committee Report:

"Currently there are approximately 25 different programs operating in different parts of the state which address child health needs. These programs are administered by schools, the Department of SRS, The Department of Health and Environment, local health departments and other agencies . Coordination between programs is sometimes lacking and gaps in service continue to exist.

"The state should vigorously pursue an avenue to combine all state funds for children's health programs into a single, coordinated program by FY 1998 in order to ensure access to primary health care for every Kansas child and eliminate gaps in care, particularly for young children and adolescents from families not covered by insurance or government programs.

" Until such a comprehensive, coordinated, consolidated approach to service delivery can be developed, the following interim strategies, which can be components in such a system, are recommended."

The report goes on to explain several other short term recommendations.

This bill starts these agencies down the path of health care reform planning. Its focus will be a single health program to address the health needs of children and explore the benefits and the drawbacks to such an approach. We are asking the agencies to study this option and present a plan.

PHHW
3-23-92
Att#3

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
On Behalf Of Donna L. Whiteman, Secretary

House Public Health and Welfare Committee
Testimony on Senate Bill 631

March 23, 1992

Madam Chairman and members of the committee, I thank you for the opportunity to comment on SB 631.

SB 631 establishes a task force comprised of the Secretaries of Health and Environment and SRS along with the Commissioners of Education and Insurance to develop a proposal that would consolidate all health programs for children and pregnant women into one comprehensive program under one state agency. Such proposal would be aimed at providing services to all children and pregnant women in the State, regardless of their ability to pay for such services, through a single access point.

Universal access to care for all infants and pregnant women is critical in order to reduce the high infant mortality and morbidity rates. It is important that the state look at any changes that can be made which will help women and children seeking health services to better negotiate a complex, and often fragmented web of programs.

Having reviewed SB 631 we would like to offer the following observations:

- SRS is a proponent of the concept comprehensive prenatal and child health care. Establishing a separate State agency may, however, create certain administrative problems. SRS cannot release it's authority to function as the Single State Agency for administering the Medicaid program. SRS also has in place mechanisms to process health insurance claims and determine eligibility. The agencies mentioned in this Bill are already working together to provide comprehensive prenatal and child health care. These cooperative efforts need to be continued at both the central office and community level.

- While the bill itself only mandates a proposal be developed and, therefore, has only a minimal initial impact, the elements which must be part of the proposal and the ultimate implementation of such would have a dramatic impact on SRS.

- Mandating services for all pregnant women, and children in Kansas and would result in a major budgetary increase. It is presumed that some of the cost would be federally funded for those who are Medicaid eligible. However, there will also be substantial numbers of persons not qualifying for Medicaid who, in the absence of an approved federal waiver, would be totally state funded.

- There appears to be no income or asset test to qualify for services. Services are to be provided regardless of clients' ability to pay.

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- A single point of access to the services offered must be provided. This will require a great degree of coordination among services provided and agency staff involved. This could be problematic as it may require substantial numbers of SRS workers to be outplaced or require that all services be handled through SRS offices.

Robert L. Epps
Commissioner
Income Support/Medical Services
(913) 296-6750

PH+ED
3-23-92
Att #4
pg 2 of 3

MEDICAID SERVICES

PROGRAMS:	Maternal	Children	Hospital	Physician	Home Health	Dental	Durable Medical Equipment	Pharmacy	Home and Community-Based Services for Technology-Assisted Children
	All pregnant women at or under 150% of federal poverty level (FPL)	Age 1 and under at or under 150% FPL Ages 2-5 at or under 133% FPL Ages 6-8 at or under 100% FPL.	All Medicaid eligible	All Medicaid eligible	All Medicaid eligible	All Medicaid eligible under 21 years of age, and adults residing in Intermediate Care Facilities	All Medicaid eligible	All Medicaid eligible	Waiver All children ages 16 and under who would not be Medicaid eligible without severe medical condition. Also must be KAN Be Healthy
SERVICES	Prenatal Care Delivery Postnatal care. Prenatal Health Promotion and Risk Reduction. Nutrition counselling.	Well-child checkups (KAN Be Healthy screenings) up to age 20. Immunizations Newborn Home visits. Attendant Care for Independent Living for chronically disabled children. **All medically necessary services and items for KAN Be Healthy participants.**	Outpatient Services -Emergency Room -Supplies -Diagnostic -Lab -Operating Room -Oxygen -Nursing Inpatient Services -Room -Diagnostic -Supplies -Lab -Drugs -Oxygen -Intensive Care -Rehabilitation Unit -Nursing	12 office visits per year. 24 office visits per year for KAN Be Healthy participants, which can be exceeded with prior authorization. -Diagnostic & Therapeutic Services -Laboratory	Unlimited nursing Oxygen Blood Medically necessary services prescribed by a physician.	KAN Be Healthy -Oral exam -X-rays -Prophylaxis -Fluoride -Sealants -Space maintainers -Amalgams -Resins -Crowns -Endodontia -Root Canal -Peridontia -Apiectomy -Dentures -Orthodontia -Extractions Oral Surgery	DME for purchase and rental. -Wheelchairs -Pumps -Enteral and parenteral nutrition -Ventilators -Oxygen -Patient Lifts -Ostomy -Canes/ Crutches -Glucose Monitor -Dressings -Needles/ Syringes	All products from manufacturers with master rebate contract with Health Care Financing Administration, with the exception of federally allowable exclusions.	Nursing care. All medically necessary equipment and supplies to maintain child at home.

PHSW
3-23-92
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3-3

State of Kansas
Joan Finney, *Governor*

Department of Health and Environment
Azzie Young, Ph.D., *Secretary*

Reply to:

Testimony presented to

House Public Health & Welfare Committee

by

The Kansas Department of Health and Environment

Senate Bill 631

This bill mandates that the secretaries of KDHE, SRS and KSBE and others develop a written plan by January 1, 1993 to consolidate all health programs for pregnant women and children into one comprehensive program under one state agency. Components for the plan and services to be provided are enumerated.

Some aspects of the bill are unclear such as: 1) how a mental health assessment will be completed for a child at birth, 2) how each family member of a child entering the program is assigned a case manager, thus expanding the service population to all Kansas families with children under age 18, and 3) the bill avoids the issue of financing.

There appear to be a number of assumptions underlying this bill. Questions relating to these include the following: 1) Is it assumed that existing resources are adequate to provide the full range of services to all pregnant women and children under age 18? 2) Are federal waivers possible for all existing programs to allow consolidation of services or resources? 3) Is one year sufficient time for developing such a plan? 4) Do existing state agency staff have the time and expertise to develop the plan? 5) Do the three primary state agencies have the will to collaborate on this bill in the best interest of the health of mothers and children? 6) Do the three agencies have sufficiently similar perspectives on the nature of the problem and how to approach it? These questions should be addressed and resolved in order to fully understand the impacts of S.B. 631.

The planning phase of a proposal to provide health care coverage for all pregnant women and children would involve a great deal of staff time. We lack not only the time but also the expertise to develop such a far-reaching and complex proposal.

Recommendations:

KDHE supports health care reform to provide universal health care coverage for all Kansans including comprehensive services for pregnant women and children. The agency supports the development of a proposal but notes a need for additional expertise and resources to develop a plan of this complexity. Cost for development of this plan is estimated at $150,000 per year for two years for consultant services. No fiscal note for this activity is included in the Governor's budget.

Testimony presented by: Linda Kenney, Acting Director
Bureau of Family Health
March 23, 1992

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3-23-92
Attm # 5

KANSAS HOSPITAL ASSOCIATION

Memorandum

Donald A. Wilson
President

March 23, 1992

TO: House Public Health and Welfare Committee

FROM: The Kansas Hospital Association

RE: **SENATE BILL 631**

The Kansas Hospital Association appreciates the opportunity to comment on the provisions of Senate Bill 631. This bill would require the development of a proposal for consolidating all health programs for pregnant women and children into one comprehensive program to assure that all Kansas children receive primary and preventive health care services. There are a number of reasons we think Senate Bill 631 is a good proposal.

First, the bill requires a comprehensive plan to assure access for all pregnant women and children. The Legislature has heard many times of the benefits of preventive and prenatal care, both in terms of quality of life issues and long-term savings.

Second, the bill sets out the plan's guiding principles. These principles include prenatal services, comprehensive medical care for all children under 18, including dental care and sight and hearing tests, an assessment of all children at birth, and a case management system. In so doing, Senate Bill 631 recognizes that this task is huge and can become very complex. It therefore relies initially on as much outside expertise as possible in the development of this plan.

Third, Senate Bill 631 requires collaboration among the different state agencies that currently deal with these various health issues. We think such collaboration is absolutely necessary.

Fourth, Senate Bill 631 recognizes the role of the Commission on the Future of Health Care in Kansas by requiring that the plan be submitted to this Commission. As we have stated before, we think the 403 Commission is the proper place for consideration of any kind of comprehensive health reform proposals. This bill would allow the Commission to assume that role.

PHW
3-23-92
Att. #6

1263 Topeka Avenue • P.O. Box 2308 • Topeka, Kansas 66601 • (913) 233-7436 • FAX (913) 233-6955

Finally, Senate Bill 631 parallels an effort that is currently underway. With the encouragement of the 403 Commission, the state is submitting a grant proposal to the Robert Wood Johnson Foundation to help in development and implementation of a "Child Health Access Program." This program would be based on most of the same principles outlined in Senate Bill 631. The Department of Social and Rehabilitation Services has been the lead agency in developing this proposal. We recommend that the Committee discuss Senate Bill 631 in light of this project to ensure the efforts currently underway are in sync with this bill and can be the focal point of the proposal envisioned by this legislation.

Thank you for your consideration of our comments.

/cdc

3-23-92
Att #6
2-2

Catholic Health Association of Kansas

John H. Holmgren • Executive Director
Jayhawk Tower, 700 Jackson, Suite 801 / Topeka, KS 66603 / (913) 232-6597

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

CAROL SADER, CHAIRPERSON

TESTIMONY
SENATE BILL 631: SUPPORT

MARCH 23, 1992

We support the concept outlined in SB 631 to centralize and consolidate all health programs "for pregnant women and children into one comprehensive program under one state agency."

However, we do not believe that this proposal requires a new state agency. Rather, there should be consideration given for the following:

1. A new state agency would be too complicated and add to the cost.

2. An increase in inter-agency agreements should be the method employed to increase the degree of consolidation and effectiveness;

3. It is suggested that the State Department of Public Health and Environment be assigned the leadership role in this inter-agency activity, since the H & E department promotes program development and is not as concerned with reimbursement alone, as is SRS, in this instance.

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4. The Department of Health and Environment has had considerable experience with case management systems thru programs for children with special care needs, particularly with pre-school disabled, or at risk disabled, and as with nurses in the pre-natal care program.

We believe SB 631 is an excellent bill to help provide, in an orderly way, and in a less costly way, health services for pregnant women and children. We would appreciate your support of SB 631 by use of inter-agency agreements.

John H. Holmgren
Executive Director
(913) 232-6597
Catholic Health Assoc.
and
The Children's Coalition

PH&W
3-23-92
Att #7
2-3

Conditions for children worsen

■ Teen pregnancy, murder rates rising; poverty increasing, national study shows

By BILL BLANKENSHIP
The Capital-Journal

Kansas remains a relatively better place for children, compared with most other states, but as in the rest of the nation conditions for Kansas kids have declined in the 1980s.

Those are the findings of the third annual Kids Count profile, which measures nine benchmarks of child well-being.

Paid for by the Annie E. Casey Foundation, Greenwich, Conn., and compiled by the Center for the Study of Social Policy, Washington, D.C., the report reveals these trends over the decade:

■ The proportion of babies born at-risk because they weighed less than 5.5 pounds at birth increased in the District of Columbia and 34 states, including Kansas.

■ The U.S. infant mortality rate improved nationwide and in every state although the improvement in Kansas was smaller compared with the national figure. The likelihood of a black baby to die during the first year of life remained twice as high as for a white baby.

■ The percentage of children living in poverty increased in Kansas and 39 other states. Children are the poorest age group in America. In 1990, one in five children was poor.

■ The percentage of children living in single-parent homes rose in 44 states, including Kansas.

■ The percentage of all births to unmarried teen-age mothers increased in Kansas and 41 other states. Births to white single teens accounted for the majority of these births nationwide and showed the greatest increase over the decade.

■ The rate of death among 1- to 14-year-olds declined in all states but Arkansas, New Hampshire and North Dakota. The 23 percent improvement in Kansas in this benchmark was above the 18 percent figure for the nation.

■ The chances a teenager, particularly a black teen, would die as a result of an accident, suicide or murder rose in the District of Columbia and 33 states, including Kansas. This increase was driven by a rise in teen suicides and homicides.

■ The percentage of ninth-graders who graduate from high school in four years declined in the District of Columbia and 21 states, including Kansas. There was no significant change in Iowa. Hispanic children are the least likely to complete high school on time.

■ The juvenile custody rate for 10- to 15-year-olds rose in the District of Columbia and 31 states, including Kansas. Kansas ranked 45th in this category, the state's worst performance among the nine indicators.

The data book ranks Kansas 16th among the 50 states and the District of Columbia on the composite score of all nine indicators. That is the same ranking as in 1991 and a one-place drop from the 1990 ranking of 15th.

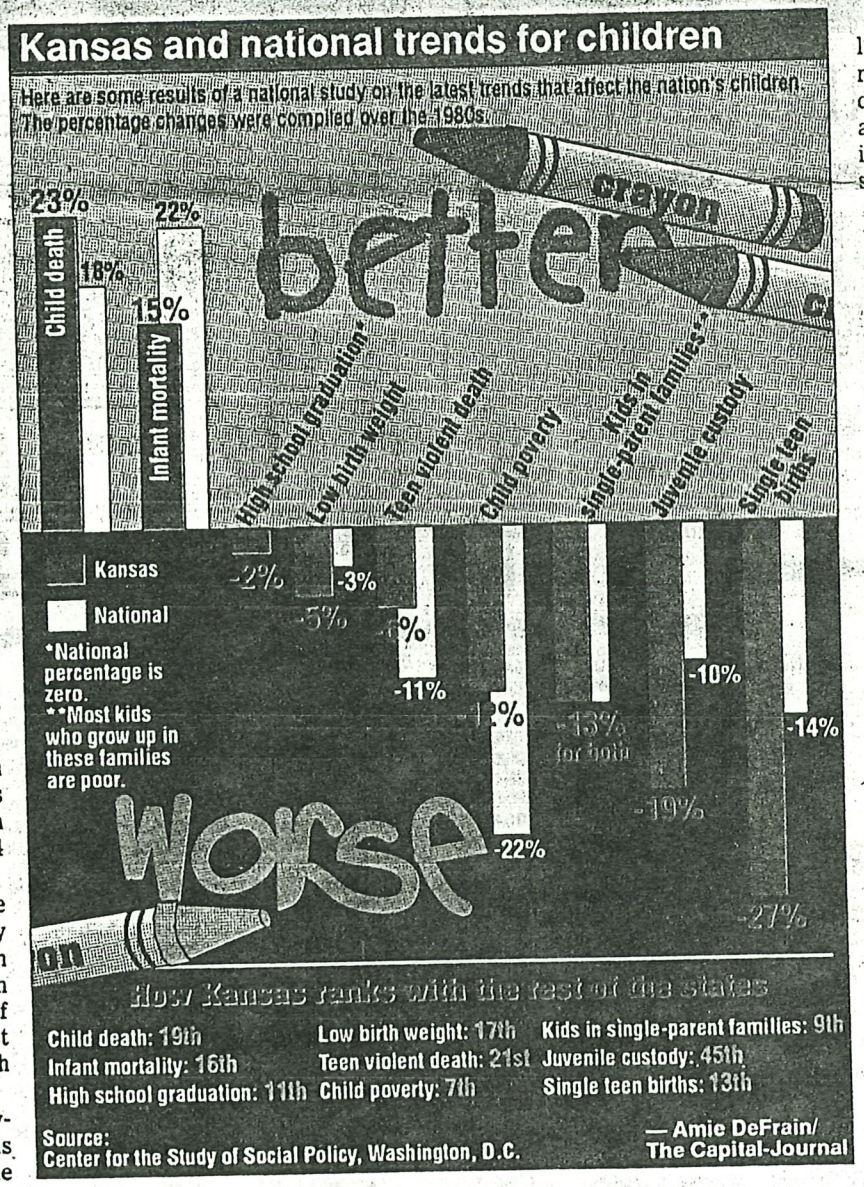
The top five states by composite score were, in order: North Dakota, New Hampshire, Utah, Connecticut, Vermont and Minnesota.

The bottom five states were, from worse to worst: Alabama, Georgia, South Carolina, Louisiana and Mississippi.

The District of Columbia was ranked below all the states.

"While we can all be proud that Kansas ranks with some of the best states on some of the indicators, we cannot assume that a problem does not exist," said Johannah Bryant, executive director for Kansas Action for Children.

Bryant said that group's goal for this year is to "develop our own Kansas Data Book, covering all 105 counties, so that we can focus efforts in those areas of greatest need."



Concerned Women for America

370 L'Enfant Promenade, S.W., Suite 800 Washington, D.C. 20024 (202) 488-7000
P.O. Box 46 Leavenworth, KS 66048 (913)682-8393

Beverly LaHaye
President

Kenda Bartlett
Kansas
Area Representative

23 March 92

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE
Representative Carol Sader, Chairwomen
SB 631

Madam Chairwoman and members of the Committee, CWA of Kansas rises today in opposition to SB 631. We do not fault the intent of this bill as stated in Section 1. In this time of tight money and budgets it is commendable to try and consolidate services so that services are not duplicated or do not overlap. Such a consolidation should make it easier for the citizens of the state who need these services to tap into the system and use it in a most efficient and effective way.

Our concern is with the scope of this bill. In the list of minimum requirements for the program it is state on lines 32 and 33 that "a physical, developmental and mental health assessment of all children" will be made at birth. Does this mean that every child that is born in the state of Kansas will undergo this assessment? The program requirements include comprehensive medical and dental care for all children under the age of 18. If this means literally all of the children in the state, we are wondering if such a program would even be manageable.

We also must ask the question where are the parents during all of this comprehensive care? This program would establish a "case management system" that would assign each family member a case manager who would then oversee the care of every member of the family. What does this do to parental responsibility in the area of health care for their family? What if I as a parent disagreed with the health care decisions that the case manager might make?

In the Special Committee on Children's Initiatives Interim Study Report's Statement of Committee Philosophy, they stated, "We believe that families and circumstances of family life will remain the most critical factor in determining how children develop. At a time when the family is undergoing extraordinary social, demographic, and economic change and instability, society must ask what it can do to strengthen families and support the healthy development of our children." If this is, in fact,

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the philosophy of the legislature, then the legislature should do all that it can to see that it supports the family in every way possible. We do not think that taking over the responsibilities of parents is a way to strengthen the family. When the parents are made to feel that they are not accountable and responsible, that eliminates their motivation to be good parents. It fosters the attitude that they don't have to try since the government will step in and do what they will not.

We would ask that you look at ways to help the families of Kansas provide for the medical needs of their families in the most unobtrusive ways possible. Prenatal care is very important, and providing proper medical and dental care for children is also important, but this should be a primary function of the family, and the state should work to see that parents are reinforced in their commitment to the care of their children and not have the state usurp their authority.

The Interim study report says "Providing support to families at critical times is an investment strategy that pays big dividends." The state should provide support not take over the role of the parent. Let us provide the parents with all the support they need to make intelligent, healthy choices in regards to their children's health care.

We also have concerns with subsection (7) on page 2. We are aware that there is a concerted effort to see that social services can be accessed through the public school system. HCR 5035, which is now before the Senate Education Committee, addresses this issue. We would hope that the "single point of access" for this program is not in the public schools.

CWA of Kansas would ask that you look long and hard at the provisions of this program and modify its provisions so that this comprehensive program would benefit all the familiesof Kansas and not work to undermine them. Thank you.

Kenda Bartlett

Kenda Bartlett
Area Representative

PHHW
3-23-92
Att #8
2-2

KANSAS

NATIONAL ORGANIZATION FOR WOMEN

To: House Committee on
Public Health and Welfare

From: Amy C. Bixler
National Organization
for Women

Re: In Support of
Senate Bill No. 631

Date: March 23, 1992

Chairperson Sader and Members of the Committee

The National Organization for Women (N.O.W.), as a strong advocate of women's and children's rights, offers our full support for Senate Bill No. 631.

This Bill would establish a joint committee to investigate, consider, and propose legislation for the health and care of children and pregnant women, including the much-needed prenatal care. There has been a great deal of rhetoric in this country lately in support of "children's issues" and "family issues", but little has been done to effectuate this. Our children are indeed our greatest, and unfortunately, our most over-looked resource. Further, the accessibility of affordable health care for all women and children is in many areas simply non-existent. The two are undeniably linked; one cannot consider any women's issues without taking into account issues concerning women of child-bearing age. Logic dictates that child-bearing issues directly influence child care issues, and the cycle continues.

Follow your Senate counterpart's lead, and let Senate Bill 631 be seen as a first step in an on-going effort to provide affordable health care for all women and their children.

PHHW
3-23-92
Att #9

To: House Committee on Public Health and Welfare

From: Maureen Collins,
Planned Parenthood of Kansas

Re: Testimony in Support of Senate Bill 631

Date: March 23, 1992

Chairperson Sader and Members of the Committee,

Planned Parenthood of Kansas enthusiastically supports Senate Bill 631 as a significant effort toward studying the problem of accessing affordable, quality health care for all women and children.

This new joint committee should consider a comprehensive, interdisciplinary, long-range plan that involves both the public and private sectors.

To be effective, the plan should include state intervention into the problem of maternal drug-use and consequently drug-exposed infants.

Further, there must be more of an effort by the state toward providing widespread family planning services. Starting a health care program only after a woman becomes pregnant is short-sighted.

Planned Parenthood applauds this committee's concern for this issue, and will closely monitor the continuing progress of Senate Bill 631.

PHHW
3-23-92
Att #10

State of Kansas
Joan Finney, *Governor*

Department of Health and Environment
Azzie Young, Ph.D., *Secretary*

Reply to:

Testimony presented to the

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

Senate Bill 182

Background

Authority for civil penalties to be assessed against adult care homes was first established by 1978 legislation as recommended by a special gubernatorial task force. Such civil penalties are perceived as "intermediate sanctions," that is, sanctions or penalties levied against a facility for violations that are more than routine but do not meet criteria for denial or revocation of license. The effectiveness of intermediate sanctions such as civil penalties is a key recommendation of the Institute of Medicine study entitled "Improving the Quality of Care in Nursing Homes" and a mandate of the Nursing Home Reform Act of 1987, commonly referred to as OBRA.

To streamline the process, and enhance the use of such sanctions, the Department supported 1988 SB 585, that eliminated a procedural step prior to civil penalty assessment and increased the amount of civil penalty that could be assessed. This same bill also authorized the Secretary to ban admissions when violations are documented that are deemed significant and adverse. SB 182 would further improve these sanctions by closing what many consider a problem in the use of intermediate sanctions, the opportunity for a facility to escape penalty by correcting the violation, even after harm has occurred.

There is general agreement among regulators, consumer groups, and the nursing home industry that alternative sanctions should relate in severity to severity of deficiency. Senate Bill 182 would refine this concept and address this problem by authorizing the secretary to assess a civil penalty without first giving the facility an opportunity to correct the violation. The Department of Health and Environment supports SB 182.

Current Law

To understand what Senate Bill 182 is attempting to address, one must first review the current authority of the Secretary to issue civil penalties. K.S.A. 39-945 authorizes the Secretary to issue a correction order to an adult care home when noncompliance with regulations exist that affect significantly and adversely the health, safety, nutrition, or sanitation of the adult care home residents.

3-23-92
Attm #11

This law requires that the correction order state the deficiency, cite the specific statutory provision or rule violated, and specify the time allowed for correction. This law also requires that the adult care home be reinspected within 14 days from receipt of the correction order.

If the deficiency or deficiencies cited in the correction order have been corrected, then no civil penalty can be assessed regardless of the harm caused or possible by the deficiency cited. Attached to this testimony is a summary for the last three years showing the number of correction orders issued and the number of civil penalties assessed. This shows that approximately four out of five correction orders do not result in a civil penalty even though the deficiency causing the correction order would indicate to many people that some penalty or sanction should have been assessed against the adult care home, without the opportunity to correct required by current law.

For example, KDHE investigated an allegation of abuse occurring at an adult care home. The abuse was confirmed and a correction order issued. Upon re-inspection within 14 days, as required by law, it was determined that the abuse had been stopped and the alleged guilty perpetrator terminated from employment. Although harm had already occurred, the Department was unable to assess a civil penalty against the home because corrective action had been taken.

Another example is that of a nursing home resident who was severely burned because they were left unattended in water exceeding the temperature allowed by regulation. A correction order was issued, and after revisit as required, the water temperature was within limits.

The abuse in the first example was intentional, the neglect in the second not justifiable. We believe most people would think additional sanction is justified in cases like this.

Authority such as proposed in SB 182 would have resulted in the Secretary assessing a civil penalty when the deficiency was first documented.

For the reasons noted above, the Department of Health and Environment supports Senate Bill 182.

We respectfully request SB 182 be favorably reported by the Committee.

Presented by: Joseph F. Kroll, Director, Bureau of Adult and Child Care
Kansas Department of Health and Environment
March 23, 1992

ENFORCEMENT STATISTICS FOR
INTERMEDIATE, SKILLED & ICH/MR FACILITIES
1989-1991

1989

Number of Correction Orders Issued 206

Number of Civil Penalties 46

Range of Civil Penalties ..... $200 to $5000

Total Amount of Civil Penalties $60,100

1990

Number of Correction Orders Issued 201

Number of Civil Penalties 35

Range of Civil Penalties ..... $100 to $5000

Total Amount of Civil Penalties $46,700

1991

Number of Correction Orders Issued 246

Number of Civil Penalties Issued 52

Range of Civil Penalties ..... $100 to $4,000

Total Amount of Civil Penalties $44,300

SHHCW
3-23-92
Att #11
3-3

KINH Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842-3088

TESTIMONY PRESENTED TO
THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE
CONCERNING SB 182

March 23, 1992

Madam Chairperson and Members of the Public Health and Welfare Committee:

The intent of SB 182 is to close a gap in Kansas statutes that permits a nursing home owner to go unpenalized in some instances for even the most serious violations of state and federal regulations. The civil penalties statute, enacted in 1988 greatly improved the enforcement capabilities of the Department of Health and Environment. However, the current law goes into effect only after the nursing home has been given an opportunity to correct the violations and has failed to do so. No matter how grossly violated is the standard of care and human decency, the nursing home may "correct" the violation without penalty.

The Government Accounting Office identified the problem in their 1987 report to the U.S. Senate Special Committee on Aging, entitled MEDICARE AND MEDICAID: Stronger Enforcement of Nursing Home Requirements Needed. In that report, which included Kansas among the five states evaluated, the GAO refers repeatedly to the issue:

> "Under Medicare and Medicaid regulations and guidelines, nursing homes that have serious deficiencies -- those that jeopardize patient health and safety or seriously limit the facility's ability to provide adequate care -- are able to remain in the Medicare or Medicaid program without incurring any penalty if the deficiencies are adequately corrected ..."
>
> "An effective enforcement program should both deter noncompliance and achieve lasting corrective action where such noncompliance does occur. The current nursing home enforcement program, however, does neither. It is directed primarily towards achieving corrective action after a deficiency has been identified, rather than deterring noncompliance from the outset. Nursing homes that correct deficiencies incur no penalty. ...nursing homes have little incentive to maintain compliance with nursing home requirements."

The Nursing Home Reform Amendments of OBRA '87 say specifically that a state may provide for a civil money penalty, even though the facility has corrected its violation or violations, for the period of time in which it was not in compliance. There are other states that have enacted statutes with such provisions.

Kansas' current statute, K.S.A 39-946, goes far toward providing a sound enforcement procedure, particularly in its ability to deal with repeated violations. However, KINH believes that there are some violations so grave in their harm or which present so substantial a jeopardy to the health, safety and welfare of the resident or residents that it is not enough to prevent their

P&W
3-23-92
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repetition. They should simply never happen. As a deterrent measure, there should be noteworthy consequences for the licensee on first occurence. SB 182 provides for such a consequence.

The problem came into sharp focus a little over a year ago when some highly publicized incidents of abuse and neglect were found to have occurred in a Kansas nursing home. In one incident, a woman was allegedly found hanging from a restraint and died several hours later. It was not the first occasion upon which this resident's restraint had caused a problem. In another incident a resident's leg was amputated due to complications from a pressure ulcer which had developed in the nursing facility. There were other examples of neglect and outright abuse as well. And problems of this kind are not unique to this one Kansas nursing home.

Disciplinary action was initiated by the Department of Health and Environment through the Board of Adult Care Home Administrators against the licenses of both the nursing home administrator and the administrator-consultant for the nursing home chain, and the two nurses involved were referred to the Kansas State Board of Nursing for possible action.

Those actions, however, in no way penalize the nursing home's ownership. KINH believes that the owner, who profits from the business, has an obligation to assure that the care provided in the home complies with state and federal statutes and regulations.

There were some problems with SB 182 as originally drafted. The bill was held in committee to provide an opportunity to work through those problems with the Department of Health and Environment. The amended bill you see today largely reflects the result of our cooperative efforts plus some amendments added by Kansas Association of Homes for the Aging.

We fully expect that there will be a request to further amend the bill to delete the language referring to violations which "pose imminent risk" of harm. We are aware that the nursing home industry is opposed to this language. KINH believes, to the contrary, that it is very important to provide a penalty not only for harm which has already occurred, but for violations placing residents in jeopardy of serious harm. If the harm has already occurred, the resident harmed has, at least in theory, the opportunity to take civil action against the facility. There is nothing to protect the resident whose day in and day out existence is jeopardized by practices that violate state and federal regulations. Let me suggest, as only one example, the nursing home that allows an aide to administer injections in violation of the regulations which permit only licensed nurses to do so. Not every resident may be injured by such an action, but it will surely have adverse consequences for a resident or residents in the course of time. SB 182 is intended to provide a deterrent to such practices and to safeguard the wellbeing of these very frail, vulnerable Kansans.

KINH believes that SB 182 as amended by the Senate is an important addition to Kansas statute, filling out the full range of enforcement tools that the state may use to deter serious violations of nursing home standards and regulations without closing the facility. We ask your support.

Marilyn Bradt
Legislative Coordinator

P&HW
3-23-92
Attm #12
3-9-92

KAHA
Kansas Association of Homes for the Aging

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

To: Representative Carol Sader, Chairperson
Public Health & Welfare Committee
From: John Grace, President/CEO
Kansas Association of Homes for the Aging
Date: March 23, 1992
Re: SB 182

The Kansas Association of Homes for the Aging is a trade association of 130 not-for-profit retirement and nursing homes in Kansas.

My testimony today regards SB 182, which provides civil penalties against nursing homes that violate the Department of Health and Environment's rules and regulations and which violations "can reasonably be determined to have resulted in, caused, or posed imminent risk of, serious physical harm to a resident."

KAHA has worked with KINH to achieve a more balanced approach to this Bill. We do not condone any physical harm that occurs to residents. However, we have serious concerns about how to interpret "posed imminent risk" and how the secretary will determine the amount of the civil penalty.

We are concerned about the potential for inconsistent and subjective interpretation of "posed imminent risk." To ensure fair and effective assessments of the fines under this statute, we would request that the Department of H & E promulgate rules and regulations to accurately outline for facilities what situations constitute "posed imminent risk" and are subject to the additional civil penalty.

Currently, situations involving "posed imminent risk" are resolved through the Department of H & E, which has the authority to issue immediate corrective orders and bans on admissions to deal with those situations.

Bans on admissions are very effective measures. They are published in local newspapers and the facility suffers financially as a result of empty beds until the ban is lifted. Additionally, if actual harm does occur, the resident or guardian can pursue civil actions or the local county attorney can pursue criminal actions.

634 SW Harrison
Topeka, Kansas 66603
913-233-7443
Fax: 913-233-9471

PHWell
3-23-92
Attm #13
HB 183

Also, we would request that you consider the suggested language for subsection (b). This language parallels the civil penalty language in K.S.A. 39-946(a)-(b), the statute authorizing H & E to fine facilities. Subsection (b) directs that the case be reviewed by a person licensed to practice medicine and surgery and that the Secretary consider the severity of the violation and the history of compliance of the ownership of the facility before assessing a civil penalty. This would reinforce consistency in how H & E imposes fines against facilities.

Thank you, Madam Chairperson, and Committee members.

P&W
3-23-92
attm #13
pg 2 of 3

[As Amended by Senate Committee of the Whole]

As Amended by Senate Committee

Session of 1991

SENATE BILL No. 182

By Senator Winter

2-12

AN ACT concerning adult care homes; authorizing the secretary of health and environment to assess civil penalties against licensees of such homes for certain violations.

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

Section 1. (a) If the secretary of health and environment determines that an adult care home is in violation of or has violated any requirements, standards or rules and regulations established under the adult care home licensure act which violation ~~placed a resident of the adult care home in substantial risk of serious physical harm or resulted in actual physical harm to a resident~~ *can reasonably be determined to have resulted in, ~~or~~ caused[, or posed imminent risk of] serious physical harm to a resident*, the secretary in accordance with proceedings under the Kansas administrative procedure act, may assess a civil penalty against the licensee of such adult care home in an amount of not ~~less than $5,000 per day for each day~~ *to exceed $1,000 per day per violation for each day* the secretary finds that the adult care home was not in compliance with such requirements, standards or rules and regulations *but the maximum assessment shall not exceed $10,000.*

~~(b)~~ *(c) All civil penalties assessed shall be due and payable in accordance with [subsection (c) of K.S.A. 39-946 and] K.S.A. 39-947 and amendments thereto.*

~~(c)~~ *(d) The secretary of health and environment may adopt rules and regulations which shall include due process procedures for the issuance of civil penalties relating to nursing facilities.*

~~(b)~~ *(d)* The authority to assess civil penalties granted to the secretary of health and environment under this section is in addition to any other statutory authority of the secretary relating to the licensure and operation of adult care homes and is not to be construed to limit any of the powers and duties of the secretary under the adult care home licensure act.

~~(c)~~ *(e)* This section shall be part of and supplemental to the adult care home licensure act.

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

(b) Prior to the assessment of a civil penalty, the case shall be reviewed by a person licensed to practice medicine and surgery. A written notice of assessment shall be served upon the licensee of an adult care home either personally or by certified mail, return receipt requested. In determining the amount of the civil penalty, the secretary shall consider the severity of the violation and the history of compliance of the ownership of the adult care home with the rules and regulations.

Written only

KSNA

the voice of Nursing in Kansas

NURSING
SHAPING THE FUTURE OF HEALTH CARE
NATIONAL NURSES WEEK, MAY 4-10, 1992

For Further Information Contact:

TERRI ROBERTS J.D., R.N.
EXECUTIVE DIRECTOR
KANSAS STATE NURSES' ASSOCIATION
700 JACKSON, SUITE 601
TOPEKA, KANSAS 66603
913-233-8638

MARCH 23, 1992

S.B. 182 ASSESSMENT OF CIVIL PENALTIES AGAINST LICENSEES OF ADULT CARE HOMES

Chairperson Sader and members of the House Public Health and Welfare Commmittee. My name is **Carolyn Middendorf**, and I am a registered professional nurse licensed to practice in the state of Kansas. Presently I am an Assistant Professor of Nursing at Washburn University and I serve as the Legislative Chairperson for the **Kansas State Nurses' Association (KSNA).** Thank you for letting me offer this support for S.B. 182 concerning penalties for violations of nursing home standards.

From time to time there occurs those situations in which violations of standards in adult care facilities are so extreme that physical harm and threat to life may occur. The Kansas State Nurses' Association supports the concept that owners (absent or present) as well as administrators be held accountable in situations in which there is substantial risk for individuals and groups. It should be the concern of all that owners may continue to profit when such risks exist for residents. Financial penalties may be a value that is significant to owners to motivate them to address the violation.

The new language submitted by KDHE that more specifically describes the categories of potential harm is less ambiguious as is the proposed clarification of the amount of the fine per violation of not less than $5000 or greater than $10,000.

It is our hope that specific criteria be agreed upon by nursing home professionals, providers, licensing bodies, and consumers and put into place to alleviate situations in those homes which become a risk of health and life for institutionalized adults.

Thank you for your attention.

PHouse
3-23-92
Attm #14

written only

Kansas Advocacy & Protective Services, Inc.

kaps

513 Leavenworth, Manhattan, KS 66502 (913) 776-1541, FAX (913) 776-5783

Kansas City Area
6700 Squibb Rd.
Suite 104
Mission, KS 66202
(913) 236-5207

Wichita Area
255 N. Hydraulic
Wichita, KS 67214
(316) 269-2525

TO: The Housee Committee on Public Health and Welfare,
Representative Carol Sader, Chairperson

FROM: Kansas Advocacy and Protective Services, Inc.,
Joan Strickler, Executive Director

RE: S.B. 182

DATE: March 23, 1992

S.B. 182 addresses only those violations of requirements, standards, or rules or regulations under the Adult Care Home Licensure Act which can reasonably be determined to have resulted in, or caused serious physical harm to a resident. It is not unreasonable to assess strong, civil penalties against the licensure of such a facility in these situations.

The community services system in Kansas is virtually dependent upon private providers. In this partnership between the private provider and the State, one of the most important responsibilities of the State is that of monitoring for quality of care and for protection from harm of persons served through the system.

If the State is to be able to assure adequately for protection of Kansans who reside in adult care homes, it must have the statutory authority to do so.

Respectfully submitted,

Joan Strickler
Executive Director

Pd Hse
3-23-92
Attm # 15