

Approved 3-10-92  
Date

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 6, 1992 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:

Chairman Ehrlich called the meeting to order at 10:00 a.m.

**Action on SB 182:**

The Chairman announced continuation of **Action on SB 182**. A motion was on the floor by Senator Salisbury, seconded by Senator Langworthy regarding due process. Committee discussion continued with clarification of balloon language by staff on (b) and (c) of the bill, (civil penalties and fines). Senator Salisbury withdrew her motion, and Senator Langworthy withdrew her second. It was the consensus of the Committee that language be amended by staff regarding due process. Senator Walker made a motion to adopt the second paragraph of the balloon amendment, page 1, line 21, insert after not, " to exceed \$1,000 per day per violation but the maximum shall not exceed \$10,000.", seconded by Senator Strick. No discussion followed. The motion carried. Senator Langworthy made a motion to recommend SB 182 as amended favorably for passage, seconded by Senator Strick. No discussion followed. The motion carried. Senator Walker will carry the bill. (Attachment 1)

**Action on SB 631:**

Senator Walker made a motion to recommend SB 631 favorably for passage, seconded by Senator Strick. After Committee discussion on the bill and fiscal note, the motion carried. Senator Walker will carry the bill.

**Action on SB 553:**

Senator Walker made a motion that a letter be sent from the Chairman of the Senate Public Health and Welfare Committee to the Chairman of the Joint Committee on Health Care Decisions for the 1990's Committee and the Director of the 403 Commission, recommending SB 553 be reviewed and studied, seconded by Senator Kanan. No discussion followed. The motion carried.

**Action on SB 647:**

Senator Langworthy made a motion that a letter be sent from the Chairman of the Senate Public Health and Welfare Committee to the Chairman of the Joint Committee on Health Care Decisions for the 1990's Committee recommending SB 647 be reviewed and studied by that Committee, seconded by Senator Strick. No discussion followed. The motion carried. Senator Vidricksen requested his vote be recorded as "No."

As Subcommittee chairman on SB 458, Senator Langworthy reported the bill will need to be worked and presently in Senate Ways and Means Committee.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,  
room 526-S Statehouse, at 10:00 a.m. on March 6, 1992

**Action on SB 674:**

Senator Walker made a motion on page 1, line 17, to amend three dollars to two dollars, that would make a 2 to 1 match corresponding with the action taken in the House, seconded by Senator Salisbury. No discussion followed. The motion carried. Senator Walker made a motion to recommend **SB 674 as amended** favorably for passage, seconded by Senator Strick. No discussion followed. The motion carried. Senator Salisbury will carry the bill.

**Action on SB 532:**

The Chairman stated that a Memo had been distributed from Senator Winter regarding a compromise with the Kansas Medical Society and SRS and a balloon version of the bill was attached with the amendments which have been agreed to by the Kansas Medical Society, SRS, Douglas County Public Health Department and Senator Winter. Jerry Slaughter, KMS, addressed the Committee and explained the balloon of the bill which added new language on page 1, and page 2, Section 5, relating to risk assessment profile, referral, that no criminal cause of action against a health care provider rendering or failure to render services, and deletion of Section 4 and 9. The Chairman asked for wishes of the Committee on SB 532. Senator Langworthy made a motion to adopt the amendments on **SB 532** and to recommend **SB 532 as amended** favorably for passage, seconded by Senator Strick. No discussion followed. The motion carried. Senator Winter will be asked to carry the bill. (Attachment 2)

**Action on SB 693:**

In reference to leaving the restrictions for 12,000 population, plus the addition of criteria for critically medically underserved, Senator Walker discussed removing the restriction on the population and leave the critically medically underserved definition. Staff brought attention to problems with language on page 6 regarding doubling money received as a penalty, 15% annual interest rate and to whom it would apply. Senator Walker made a motion to amend the language on page 2, section 2, delete language relating to the 12,000 population barrier and keep the critically medically underserved language intact, seconded by Senator Strick. Discussion was held regarding the medical scholarship program and Senator Salisbury made a substitute motion to recommend the bill be reported adversely, seconded by Senator Langworthy. Discussion followed regarding the scholarship program not working and possibly redirect the program in order to improve it, the bill would send a bad message, and the Committee sharing a common goal to provide health care providers in underserved areas. The Chairman called for a vote on the substitute motion. The motion lost. The Chairman announced back on the original motion to amend page 2, section 2. Staff clarified the 12,000 population language and stated in subsection (3), the 12,000 population would be eliminated as a standard and going to critically medically underserved, but still excluding the big counties. Senator Walker withdrew his motion and Senator Strick withdrew his second.

The meeting was adjourned at 11:00 a.m. The next meeting of the Committee is scheduled for March 9, 1992, 10:00 a.m., Room 526-S.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-6-92

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

JOHN KIEFHABER

KS. HEALTH CARE ASSN.

John Aron

K AHA

JOHN H HOLMGREN

CHA-K

George Dugger

Aging

Marilyn Bradt

KINHH

David Hanzlick

KS Dental Assoc

~~John Aron~~

KSMS

LISA Getz

WICHITA Hospitals

Carolyn Bloom

KS Physical Therapy Assoc

Lester Clark

KS Physical Therapy Assoc

SENATE BILL No. 182

By Senator Winter

2-12

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

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

12 Section 1. (a) If the secretary of health and environment deter-  
13 mines that an adult care home is in violation of or has violated any  
14 requirements, standards or rules and regulations established under  
15 the adult care home licensure act which violation ~~placed a resident~~  
16 ~~of the adult care home in substantial risk of serious physical harm~~  
17 ~~or resulted in actual physical harm to a resident~~, the secretary in  
18 accordance with proceedings under the Kansas administrative pro-  
19 cedure act, may assess a civil penalty against the licensee of such  
20 adult care home in an amount of not ~~less than \$5,000 per day for~~  
21 ~~such day~~ the secretary finds that the adult care home was not in  
22 compliance with such requirements, standards or rules and  
23 regulations.

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

30 (e) This section shall be part of and supplemental to the adult  
31 care home licensure act.

32 Sec. 2. This act shall take effect and be in force from and after  
33 its publication in the statute book.  
34

can reasonably be determined to have resulted in, or caused serious  
physical harm to a resident

to exceed \$1000 per day per violation but the maximum shall not  
exceed \$10,000.

(b) All civil penalties assessed shall be due and payable in accordance with K.S.A. 39-947  
and within 10 days after written notice of assessment is served on the licensee, unless a longer  
period of time is granted by the secretary. If a civil penalty is not paid within the applicable  
time period, the secretary of health and environment may file a certified copy of the notice of  
assessment with the clerk of the district court in the county where the adult care home is located.  
The notice of assessment shall be enforced in the same manner as a judgement of the district court.

(c) The Kansas Department of Health and Environment may promulgate  
rules and regulations for the issuance of civil penalties relating to  
nursing facilities.

*which shall include the following provisions*  
*1. The notice of assessment shall be enforced in the same manner as a judgement of the district court.*  
46

*Amendment*  
*Senator P. H. W.*  
*Attachment #1*  
*3-6-92*

COMMITTEE ASSIGNMENTS

CHAIRMAN: JUDICIARY  
VICE-CHAIRMAN: WAYS AND MEANS  
MEMBER: ECONOMIC DEVELOPMENT  
JOINT COMMITTEE ON SPECIAL CLAIMS  
AGAINST THE STATE  
KANSAS JUDICIAL COUNCIL  
KANSAS PUBLIC EMPLOYEE RETIREMENT  
STUDY COMMISSION



TOPEKA

SENATE CHAMBER

WINT WINTER, JR.  
SENATOR, SECOND DISTRICT  
DOUGLAS COUNTY  
737 INDIANA  
BOX 189  
LAWRENCE, KANSAS 66044

STATE CAPITOL, ROOM 120-S  
TOPEKA, KS 66612-1594  
(913) 296-7364

LEGISLATIVE HOTLINE:  
1-800-432-3924

M E M O R A N D U M

TO: Senator Roy Ehrlich  
FROM: Senator Wint Winter, Jr. *Wint*  
DATE: March 4, 1992  
RE: SB 532 Compromise

We have reached a compromise with the Kansas Medical Society and SRS and attached is a balloon version of the bill with the amendments which have been agreed to by the Kansas Medical Society, SRS, Nancy Jorn (Douglas County Public Health Department) and me. The amendments also eliminate the fiscal note from SRS. I've also attached a letter from Jerry Slaughter of the Kansas Medical Society which indicates their support of the balloon version.

We would very much appreciate it if you would take this up with the Committee and suggest the option of the agreed balloon version. If you would like me to drop by the Committee to explain any of this, I would be pleased to do so.

Best regards.

WW:ac

CC: Nancy Jorn	Senator Oleen
Senator Bond	Senator Parrish
Senator Brady	Senator Petty
Senator Burke	Senator Reilly
Senator Hayden	Senator Salisbury
Senator Kanan	Senator Strick
Senator Karr	Senator Vidricksen
Senator D. Kerr	Senator Walker
Senator Langworthy	Senator Ward
Senator Martin	

*Senate P. H. W.  
Attachment #2  
3-6-92*

**LAWRENCE-DOUGLAS COUNTY HEALTH DEPARTMENT**

336 Missouri, Suite 201  
Lawrence, Kansas 66044-1389  
913-843-0721

**M E M O R A N D U M**

DATE: March 3, 1992  
TO: Senator Wint Winter, Jr.  
FROM: Nancy Jorn  
RE: SB532

Accompanying this memo is an amended version of SB532 incorporating changes requested by the Kansas Medical Society in a phone conversation between Jerry Slaughter and myself on March 2 as well as those agreed to in the meeting on February 27 with SRS and KMS.

KDHE, SRS, and KMS should be delivering letters endorsing this amended version to your office on March 3.

I am philosophical about the changes to Sections 4 and 5--recognizing that it's probably impossible to legislate behavior changes anyway prior to education of health care providers.

Thanks again for keeping this bill moving along.

P.S. I'm working on Kay to accommodate Ms. Hower's recommendation that I "...take a nice long vacation somewhere...preferably out of state." Sounds good to me!

*NJ*



**KANSAS MEDICAL SOCIETY**

623 W. 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383  
WATS 800-332-0156 FAX 913-235-5114

March 3, 1992

The Honorable Wint Winter  
Kansas Senate  
State Capitol Building  
300 SW 10th Avenue, Room 120-S  
Topeka, Kansas 66612

Dear Senator Winter:

Following our meeting on SB 532, we have given some additional thought to possible amendments, taking into consideration the discussions held at the meeting. I also talked at length with Nancy Jom, and we discussed the proposed amendments in detail. Enclosed with this letter is a balloon version of SB 532 with amendments which Nancy and I agreed to in our conversation. We can support the bill with the addition of these amendments.

If you have any questions about the amendments, please do not hesitate to give me a call.

Sincerely yours,

Jerry Slaughter  
Executive Director

JS:ns

Enc.

# SENATE BILL No. 532

By Senators Winter, Bond, Brady, Burke, Ehrlich, Hayden,  
Kanan, Karr, D. Kerr, Langworthy, Martin, Oleen, Parrish and  
Petty

1-28

10 AN ACT concerning the use of certain substances; providing for  
11 public education concerning the perinatal effects of using certain  
12 substances; providing education and treatment programs for preg-  
13 nant women relating thereto; establishing risk assessment profiles  
14 to identify high-risk pregnancies; authorizing service coordination  
15 services to certain families; ~~providing for the protection of certain~~  
16 ~~children.~~

delete

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

19 Section 1. The secretary of health and environment shall conduct  
20 an ongoing public awareness campaign directed to both men and  
21 women regarding the preconceptual and perinatal effects of the use  
22 of tobacco, the use of alcohol and the use of any controlled substance  
23 as defined in schedule I, II or III of the uniform controlled substances  
24 act for nonmedical purposes.

25 Sec. 2. The secretary of health and environment shall provide  
26 educational materials and guidance to health care professionals who  
27 provide health services to pregnant women for the purpose of as-  
28 suring accurate and appropriate patient education. Such materials  
29 and guidance shall address ~~the perinatal effects of the use of tobacco,~~  
30 the use of alcohol and the use of any controlled substance as defined  
31 in schedule I, II or III of the uniform controlled substances act for  
32 nonmedical purposes.

the services which are available to pregnant women  
from local health departments and .

33 Sec. 3. The secretary of health and environment, in collaboration  
34 with the secretary of social and rehabilitation services, shall provide  
35 an educational program to health care professionals who provide  
36 health care services to pregnant women for the purpose of:

- 37 (1) Assuring accurate and appropriate patient education regarding
- 38 the effects of drugs on pregnancy and fetal outcome;
- 39 (2) taking accurate and complete drug histories;
- 40 (3) counseling techniques for drug abusing women to improve
- 41 referral to and compliance with drug treatment programs; and
- 42 (4) other additional topics as deemed necessary.

43 ~~Sec. 4. On and after January 1, 1993, every health care provider~~

delete Section 4

2-4



1 ~~who provides obstetrical or gynecological care shall counsel all preg-~~  
 2 ~~nant patients as to the perinatal effects of the use of tobacco, the~~  
 3 ~~use of alcohol and the use of any controlled substance as defined in~~  
 4 ~~schedule I, II or III of the uniform controlled substances act for~~  
 5 ~~nonmedical purposes. Such health care providers shall further have~~  
 6 ~~all patients sign a written statement, the form of which shall be~~  
 7 ~~prepared by the secretary of health and environment, certifying that~~  
 8 ~~such counseling has been received. All such executed statements~~  
 9 ~~shall be maintained as part of that patient's medical file.~~

10 ~~Sec. 5. (a) The secretary of health and environment shall prom-~~  
 11 ~~ulgate protocols based on a risk assessment profile for substance~~  
 12 ~~abuse to be used by health care providers to identify pregnant women~~  
 13 ~~at risk for prenatal substance abuse.~~

14 ~~(b) Any health care provider who provides services to pregnant~~  
 15 ~~women shall utilize protocols pursuant to this section to identify~~  
 16 ~~pregnant women who are at risk for perinatal substance abuse. The~~  
 17 ~~health care provider shall upon identification inform such women of~~  
 18 ~~the availability of services and the option of referral to the local~~  
 19 ~~health department for service coordination.~~

20 ~~(c) Upon consent by the woman identified as having a high risk~~  
 21 ~~pregnancy, the physician or health care provider shall make a referral~~  
 22 ~~for service coordination within 72 hours to the local health~~  
 23 ~~department.~~

24 ~~(d) Any health care provider complying with the provisions of~~  
 25 ~~this section, in good faith, shall have immunity from any civil liability~~  
 26 ~~that might otherwise result by reason of such actions.~~

27 (e) Referral and associated documentation provided for in this  
 28 section shall be confidential and shall not be used in any criminal  
 29 prosecution.

30 (f) The consent required by subsection (c) shall be deemed a  
 31 waiver of the physician-patient privilege solely for the purpose of  
 32 making the report pursuant to subsection (c).

33 Sec. 6. Upon referral pursuant to subsection (c) of section 5, the  
 34 local health department shall offer service coordination to the preg-  
 35 nant woman and her family. The local health department shall co-  
 36 ordinate social services, health care, mental health services and  
 37 needed education and rehabilitation services. Service coordination  
 38 shall be initiated within 72 hours of referral.

39 Sec. 7. A pregnant woman referred for substance abuse treat-  
 40 ment shall be a first priority user of substance abuse treatment  
 41 available through social and rehabilitation services. All records and  
 42 reports regarding such pregnant woman shall be kept confidential.  
 43 The secretary of social and rehabilitation services shall ensure that

(a) The secretary of health and environment shall develop a risk assessment profile to assist health care providers screen pregnant women for prenatal substance abuse.

(b) Any health care provider who identifies a pregnant woman who is at risk for prenatal substance abuse may refer such woman with her consent to the local health department for service coordination by providing such woman's name to the local health department or the Kansas Department of Health and Environment within five (5) working days.

(c) There shall be no civil or criminal cause of action against a health care provider related to the rendering or failure to render any services under this section.

1 family oriented substance abuse treatment is available. Substance  
2 abuse treatment facilities which receive public funds shall not refuse  
3 to treat women solely because they are pregnant.

4 Sec. 8. The secretary of health and environment shall maintain  
5 a toll free information line for the purpose of providing information  
6 on resources for substance abuse treatment and for assisting with  
7 referral for substance abusing pregnant women.

8 Sec. 9. ~~(a) Any physician or other health care provider shall refer~~  
9 ~~to the secretary of social and rehabilitation services child protective~~  
10 ~~service families in which a newborn child may have been exposed~~  
11 ~~to a controlled substance listed in schedules I, II and III of the~~  
12 ~~uniform controlled substances act or alcohol as evidenced by:~~

13 ~~(1) Medical documentation of signs and symptoms consistent with~~  
14 ~~controlled substances or alcohol exposure in the child at birth, or~~

15 ~~(2) results of a confirmed toxicology test for controlled substances~~  
16 ~~performed at birth on the mother or the child; and~~

17 ~~(3) a written assessment made or approved by a physician, health~~  
18 ~~care provider or by the department of social and rehabilitation serv-~~  
19 ~~ices which documents the child as being at risk of abuse or neglect.~~

20 ~~(b) Nothing in this section shall preclude a physician or other~~  
21 ~~individual from reporting abuse or neglect of a child as required~~  
22 ~~under K.S.A. 28-1522 and amendments thereto.~~

23 ~~(c) Upon notification pursuant to subsection (a), the secretary of~~  
24 ~~social and rehabilitation services shall conduct a child protective~~  
25 ~~service investigation and intervene according to regulations of the~~  
26 ~~secretary of social and rehabilitation services based on the results of~~  
27 ~~the investigation. Child protective services shall be initiated within~~  
28 ~~72 hours of notification. If the local health department was involved~~  
29 ~~with the family during the perinatal period, the secretary of social~~  
30 ~~and rehabilitation services and the local health department will co-~~  
31 ~~ordinate provision of services to the family.~~

32 ~~(d) Any health care provider complying with the provisions of~~  
33 ~~this section, in good faith, shall have immunity from any civil liability~~  
34 ~~that might otherwise result by reason of such actions.~~

35 ~~(e) Referral and associated documentation provided for in this~~  
36 ~~section shall be confidential and shall not be used in any criminal~~  
37 ~~prosecution.~~

38 Sec. 10. This act shall take effect and be in force from and after  
39 January 1, 1993, and its publication in the statute book.

delete Section 9