

Approved 3-31-92
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 24, 19⁹² in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Bill Wolff, Legislative Research
Norman Furse, Revisor's Office
Jo Ann Buntten, Committee Secretary

Conferees appearing before the committee:

Marilyn Bradt, Kansans for Improvement of Nursing Homes
Joe Kroll, Health and Environment
John Grace, Kansas Association of Homes for Aging
John Kiefhaber, Kansas Health Care Association
Josie Torrez, Families Together, Inc.
Bob Geers, Association for Retarded Citizens of Kansas, Inc.
Marnie Campbell, Health and Environment
Nancy Peterson, Kansas Coordinating Council on Early Childhood Developmental Services
Eileen M. Hassett, Kansas State Board of Cosmetology
Chip Wheelen, Kansas Medical Society
Richard Morrissey, Health and Environment

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

Hearing on HB 2702 - Adult care homes must admit or treat AIDS/HIV individuals for grounds to suspend license.

Marilyn Bradt, KINH, submitted written testimony in support of HB 2702 and stated her organization believes that all nursing homes must maintain a level of care sufficient to accommodate any person needing subacute nursing care which does not require extraordinary equipment or unusual skills. The bill, as amended by the House, provides an appropriate civil penalty fitting for the nature of the violation, with revocation of license only in the case of repeated violations of the act. (Attachment 1)

Joseph Kroll, Health and Environment, submitted written testimony and recommended two amendments to HB 2702: (1) language stricken in the bill would make the bill's provisions apply only to providers who receive federal or state money, and (2) the bill should include provisions that subject providers to the same sanctions should they refuse to admit or treat any individual on the basis of any discrimination prohibited by state or federal law. (Attachment 2)

Written testimony in support of the bill was received from Joan Strickler, Kansas Advocacy and Protective Services, Inc., Carolyn Middendorf, Kansas State Nurses Association, and Gordon Risk, M.D., ACLU. (Attachments 3, 4, and 5)

John Kiefhaber, Kansas Health Care Association, submitted written testimony and stated nursing facilities in Kansas are already admitting HIV/AIDS patients around the state, and as they have more time to prepare programs of treatment and education that are required by the Department of Health and Environment and the federal government, more admissions can be expected. HB 2702 will not help the situation and could cause forced admission of HIV/AIDS patients where proper services are not available, and this would do a great disservice to the patient and facility. (Attachment 6)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526-S Statehouse, at 10:00 a.m./p.m. on March 24, 1992

Written testimony was received from John Grace, KAHA, with a balloon of **HB 2702** with suggested language that stated: (c) The Secretary of Health and Environment shall refer the first violation of (b) by an adult care home, licensed home health agency or provider of hospice service to the Kansas Commission on Human Rights, and the KHRC shall follow its regulations and procedures to investigate and resolve the violation and then report any findings and/or actions to the Secretary of Health and Environment. (Attachment 7)

Hearing on HB 2759 - Early intervention for infants and toddlers with disabilities.

Submitting written testimony and appearing in support of **HB 2759** (a bill that would allow Health and Environment to create rules and regulations necessary to set up a statewide early intervention system in accordance with Federal legislation and define the role of the State Interagency Coordinating Council) were Josie Torrez from Families Together, Inc., Bob Geers, Association for Retarded Citizens of Kansas, Inc., Marnie Campbell, Department of Health and Environment, and Nancy Peterson, Kansas Interagency Coordinating Council on Early Childhood Developmental Services. (Attachments 8, 9, 10, and 11) The fiscal impact of the bill was discussed and more detailed information will be provided to the Committee.

Hearing on HB 2796 - Tanning facility regulation.

Eileen M. Hassett, Kansas State Board of Cosmetology, submitted written testimony in support of **HB 2796** which would place the licensing, inspection and administration of tanning devices and tanning facilities under the jurisdiction of the Kansas State Board of Cosmetology. (Attachment 12)

Chip Wheelen, Kansas Medical Society, submitted written testimony and stated the bill was introduced at the request of KMS because of physician concerns about patients who use tanning facilities without being informed of the risks involved. The costs of administration and inspection of tanning facilities would be financed entirely by licensure fees. A balloon of the bill was distributed that added language on page 4, (f): "In addition to the fee for renewal of a license, the Board may establish a fee not to exceed \$150 for delinquent renewal of a license and a fee not to exceed \$200 for reinstatement of a license." (Attachment 13)

Richard Morrissey, Health and Environment, submitted written testimony in support of **HB 2796** and recommended KDHE be included in the development of regulations and training of inspectors. (Attachment 14)

Pages assisting at the Committee meeting were sponsored by Senator Kanan.

The meeting was adjourned at 11:00 a.m. The next meeting is scheduled for March 25, 1992, 10:00 a.m., Room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-24-92

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

John L. Kiefhaber	Ks. Health Care Assn.
Jim Sullinger	JCS TAG
Annette Siebert	KAMA
Marnie Campbell	KDHE
Judy Molen	Kansas ICC
Nancy Peterson	Kansas Interagency Coordinating Council for Early Childhood Dev. Services
Richard Morrissey	KDHE
Donnie Surjanic	American Cancer Society
Renee Gardner	Governor's Office
Robert Epps	JRS
Chrys Wheelen	Ks Medical Society
Linda Alb	KDHE
Virginia Mars	Private Citizen
Cleta Renyer	Right to Life of Ks
Kay Blythe	Private Citizen
Vera Brinkman	" "
Fileen M. Hassett Ex. Director	Bd of Cosmetology
Nancy Butts	Bd. of Cosmetology
Noreen Ruddy	Bd. of Cosmetology

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3-24-91

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Shelby Smith - Wichita

- Wesley Foundation

John Peterson

Ks Assoc Prof Psychology

Gary Blitsch

Self

Arvo Fiino

Board of Cosmology

Kevin Jay

Bd. of Cosmology

Roger Freundt

Ks Govt Consultant

Patricia Mober

KDHE

Joseph Kroll

KDHE

Bill Muesch

St. Bldg Ed.

Bob Geers

ARC/KS



Kansans for Improvement of Nursing Homes, Inc.

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

TESTIMONY PRESENTED TO THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE CONCERNING HB 2702

March 23, 1992

Mr. Chairman and Members of the Senate Public Health and Welfare Committee:

Kansans for Improvement of Nursing Homes believes that all nursing homes must maintain a level of care sufficient to accommodate any person needing subacute nursing care which does not require extraordinary equipment or unusual skills. Persons who have tested positive for HIV infection or have been diagnosed with AIDS are included in this general category until such time as the disease or its manifestations may have progressed to the point of requiring hospitalization. We believe, therefore, that nursing homes should be required to admit and treat such persons.

The infection control precautions required by state and federal nursing home regulations to prevent the spread of communicable diseases are no different for HIV/AIDS patients than for Hepatitis B or any other such infectious disease. It is incumbent upon every nursing home to observe universal precautions with regard to communicable diseases in the care of all residents.

It is important to note that the language of the bill says that individuals may not be denied admission solely on the grounds of having tested positive for HIV or AIDS. That is a distinction that makes clear that in the event that the disease manifests itself in ways a given nursing home is unable to manage safely, the home has the responsibility not to accept or retain a patient it cannot care for. That is current regulation.

Federal regulation prohibits discrimination against qualified handicapped persons in programs receiving federal financial assistance, including persons who have AIDS or AIDS-related conditions. That means that nursing homes participating in the Medicaid program may not discriminate against those persons. While that could be taken to show that HB 2702 is unnecessary, we believe, to the contrary, that a state statute would provide useful additional emphasis, and spells out the procedure for enforcement.

HB 2702 as amended by the House provides, we believe, an appropriate civil penalty fitting for the nature of the violation, with revocation of license only in the case of repeated violations of the act. KINH asks your support of HB 2702 as amended.

Marilyn Bradt
Legislative Coordinator

Senate P. H&W

*Attach. #
3-24-92*



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

Reply to:

Testimony presented to
The Senate Public Health and Welfare Committee
by
The Kansas Department of Health and Environment
Amended House Bill 2702

The Kansas Department of Health and Environment (KDHE) believes that adult care homes and other providers who refuse admission or treatment to an individual who has tested positive for a HIV infection or has been diagnosed with AIDS should be sanctioned. This agency spoke in support of the concept of House Bill 2702 when it was before the House Committee, but recommended sanctions other than license revocation. We are pleased that the House has included our recommendations for civil penalty in lieu of revocation. The provision in the amended version that authorizes a prohibition on new admissions as yet another sanction is acceptable to this agency.

Because we support that providers who so discriminate should be sanctioned, we also support provisions in the amended bill that subject home health agencies and providers of hospice services to civil penalty as well; and license revocation for home health agencies who repeatedly violate the discrimination provisions of this bill.

We do recommend two amendments to House Bill 2702. First, language in the bill which makes the bill's provisions apply only to providers who receive federal or state money should be stricken. There are adult care homes and home health agencies who receive no federal or state money. We believe these providers should be subject to the same anti-discrimination provisions as those that do receive such money. Secondly, we believe that the bill should include provisions that subject providers to the same sanctions should they refuse to admit or treat any individual on the basis of any discrimination prohibited by state or federal law.

We find it curious that a bill that seeks to enhance anti-discrimination laws is discriminatory in itself. The bill is discriminatory in itself because it seeks to enhance protection against discrimination for only one class of persons. Certainly, an adult care home that refuses to admit a person based on race should be subject to the same kind of sanction they would be if they refused to admit one on the basis of diagnosis.

The Kansas Department of Health and Environment respectfully requests that House Bill 2702 be reported favorably as recommended for amendment above.

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

Senate P.H.W.
Attachment # 2
3-24-92

Kansas Advocacy & Protective Services, Inc.



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 Senate Committee on Public Health and Welfare,
Senator Roy Ehrlich, Chairperson

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

DATE: March 23, 1992

Re: H.B. 2702

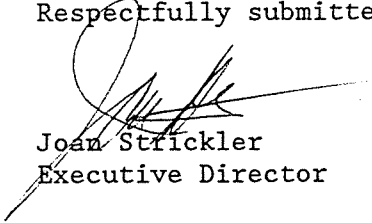
KAPS is the agency designated in Kansas to provide protection and advocacy pursuant to two federal laws - the Developmental Disabilities Act and the Protection and Advocacy for Mentally Ill Individuals Act. We also administer the Kansas Guardianship Program, a program funded by and unique to Kansas.

Through the Guardianship Program, we recruit volunteers to become guardians and conservators for persons who are dependent upon public support and without immediate family members willing or able to assume such responsibilities. All requests come to us from SRS social workers after, presumably, other alternatives have been exhausted. We are currently serving approximately 1400 Kansans, many of whom reside in adult care homes throughout the State.

While we are not presently aware that any of the persons served have tested positive for HIV infection or been diagnosed with AIDS, we have to believe that time will come.

It makes good sense to anticipate these future needs by making it clear to adult care homes that this is a population they must be willing to serve and be prepared to serve.

Respectfully submitted,


Joan Strickler
Executive Director

KAPS has been charged with developing systems of advocacy and protective services in Kansas relevant to the provisions of Sec. 113 of P.L. 94-103, as amended; the Developmental Disabilities Services and Facilities Construction Act, and P.L. 99-319, the Protection and Advocacy for Mentally Ill Individuals Act.

Senate P. HFW
Attachment
#3
3-24-92

FOR MORE INFORMATION CONTACT:

Terri Roberts, J.D., R.N.
Executive Director
Kansas State Nurses' Association
700 S.W. Jackson Suite 601
Topeka, Kansas 66603-3731
(913) 233-8638
March 23, 1992

H.B. 2702 ADULT CARE FACILITIES ACCEPTANCE OF HIV POSITIVE CLIENTS

Senator Erhlich and members of the Committee for Public Health and Welfare: 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 in Kansas. Thank you for letting me offer this written testimony in support of H.B. 2702 which requires adult care facilities to accept for admission those persons who are victims of HIV and provide treatment appropriately recommended for them.

These persons who are victims of HIV have the right to adequate and appropriate health care. Most of them prefer to remain the community as long as possible; however, the time comes when they are no longer able to care for themselves. Hospitalization may not be necessary, but at this time there are few options for them besides acute care. This legislation will provide an option from which they are now being refused--a kind of discrimination.

Facilities complain they cannot adequately provide for the victims of HIV; however, education as to the method of transmission and the use of universal precautions is now basic nursing education information. The techniques are considered adequate for the protection of client and staff.

Civil penalties are outlined in this legislation as a means of enforcing compliance. I hope the facilities will initiate programs to include these individuals without penalties. As nurses we advocate on behalf of AIDS clients and seek opportunities for adequate health care and attention.

Thank you for your attention.

a:hb2702
Testimony 1992

Kansas State Nurses' Association Constituent of The American Nurses Association

700 S.W. Jackson, Suite 601 • Topeka, Kansas 66603-3731 • (913) 233-8638 • FAX (913) 233-5222
Michele Hinds, M.N., R.N.—President • Terri Roberts, J.D., R.N.—Executive Director

Senate P. Hall
attachment
of
3-24-92

ACLU on HB 2702
Gordon Risk, M.D.

This legislation is badly needed. Discrimination against HIV infected individuals by adult care homes has been rampant in the state. The discrimination has been based on fear and ignorance and has not been responsive to reason, information, or persuasion. There has never been a documented case of HIV transmission through vomitus, urine, feces, tears or saliva. There are no public health reasons to justify exclusion of HIV infected individuals, including those with AIDS, from adult care homes. Adult care homes receiving substantial amounts of federal and state money are denying HIV infected individuals equal access. This legislation, which would provide equal protection, is badly overdue.

Senate P. 190
Attachment
5
3 24-92



KHCA

Member of
ahca

Kansas Health Care Association

221 SOUTHWEST 33rd STREET
TOPEKA, KANSAS 66611-2263
(913) 267-6003 • FAX (913) 267-0833

TESTIMONY

before the

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

by

John L. Kiefhaber, Exec. Vice President

KANSAS HEALTH CARE ASSOCIATION

House Bill No. 2702

"AN ACT ...relating to licensed adult care homes ...admitting or treating individuals who have tested positive for HIV infection or have been diagnosed with AIDS..."

Chairman Ehrlich and Committee Members:

The Kansas Health Care Association, representing over 200 professional nursing facilities across the State, appreciates the opportunity to speak in opposition to the passage of House Bill 2702. This bill would impose new and duplicative sanctions on nursing facilities who are already admitting this special class of patient and who are training their health care staff to treat and care for HIV/AIDS patients.

Nursing facilities that are certified under Medicare and Medicaid have a responsibility to not discriminate against patients based upon type of disease. These facilities also have a responsibility to only accept patients for which they have a care plan that the staff in that facility have the training to carry out. In some cases, a particular facility may not have the staff or a training program fully developed to prepare for HIV/AIDS patients. This

Senate P. H. W.

*Attachment #6
3-24-92*

legislation would sanction them before they can prepare for the many new medical conditions they are beginning to see.

The key to serving the many types of patients who need the services of a modern, professional nursing facility is education -- education of the staff and education of the public -- not coercive sanctions against people and facilities that are still working to prepare for many new responsibilities that have been thrust upon them since the Nursing Home Reform Act took effect in October, 1990.

Nursing facilities in Kansas are already admitting HIV/AIDS patients around the State, and as they have more time to prepare programs of treatment and education that are required by the Department of Health and Environment and the federal government we can expect more such admissions. However, this legislation will not help the situation and could cause forced admission of HIV/AIDS patients where proper services and staff are not available. This would do a great disservice to the patient and the facility.

Thank you for the opportunity to speak in opposition to House Bill 2702.



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

To: Senator Roy Ehrlich
Chairman, Senate Public Health & Welfare
From: John Grace, President/CEO
Kansas Association of Homes for the Aging
Date: March 23, 1992
Re: HB 2702

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 deals with HB 2702, regarding penalties for nursing homes who refuse to admit persons solely on the basis of HIV infection or AIDS.

Both federal and state law currently prohibit discrimination on the basis of AIDS or HIV infection. K.S.A. 65-6002(d) and the Americans With Disabilities Act, 42 U.S.C. 12101 et. seq., both prohibit discrimination based on AIDS or HIV status.

K.S.A. 65-6002(d) prohibits the use of information regarding cases of AIDS or HIV infection in any manner which would lead to discrimination against any individual with regard to provision of medical care or acceptance into any facilities or institutions for medical care, housing, or for the provision of any other goods or services. Any person violating this law is guilty of a class C misdemeanor.

Federal law provides for penalties against nursing homes that discriminate against persons with AIDS or HIV infection. The penalties include loss of medicaid funding (45 C.F.R. 84.4), liability for actual, nominal and/or punitive damages, and/or the prevailing party's attorney's fee (42 U.S.C. 2000a-3).

In addition to the above laws, a person who believes that he/she has been discriminated against in nursing home admission has several other options to pursue. They can make a complaint to the nursing home ombudsman and have the issue resolved in that forum. Also, they can report the facility to the Department of Health & Environment, who has the authority to investigate and to report

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Senator P. H. W.
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complaints to the Office of Civil Rights or to the Kansas Human Rights Commission which can assess the nursing home a \$2,000 fine for pain and suffering as well as require the nursing home to admit the proposed resident.

To avoid unnecessary duplication of effort between H & E and the Kansas Human Rights Commission, I would suggest that the Committee adopt the balloon language attached to my testimony.

The suggested language states that the Secretary of H & E would refer the first violation of (b) of HB 2702 to the Kansas Human Rights Commission. The results of the investigation and any action taken would be reported to the Secretary of H & E. The Secretary of H & E would still have the authority to issue correction orders, but would only issue fines under K.S.A. 39-931 after a facility had attempted to resolve the issue through the Kansas Human Rights Commission and continued to discriminate against persons with HIV infection or AIDS.

Subsequent violations of (b) of HB 2702 would be penalized by the Secretary of H & E, pursuant to K.S.A. 39-931. This section states that the Secretary may revoke a facility's license for repeated discriminatory refusals to admit persons with HIV infection or AIDS and for one or more bans on admissions based on refusal to admit persons with HIV infection or AIDS.

The recommended changes would clarify any potential overlap between HB 2702 and current law.

Thank you, Mr. Chairman and Committee members.

HOUSE BILL No. 2702

By Joint Committee on Health Care Decisions for the 1990s

1-15

9 AN ACT concerning health care; relating to licensed adult care
10 homes, licensed home health agencies and providers of hospice
11 services admitting or treating individuals who have tested positive
12 for HIV infection or have been diagnosed with AIDS; amending
13 K.S.A. 39-931 and K.S.A. 1991 Supp. 39-953a and 65-5108 and
14 repealing the existing section sections.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. (a) As used in this section:

18 (1) "AIDS" means the disease acquired immune deficiency
19 syndrome.

20 (2) "HIV" means the human immunodeficiency virus.

21 (b) Licensed adult care homes, as defined in K.S.A. 39-923 and
22 amendments thereto, licensed home health agencies and providers
23 of hospice services, who receive federal or state money from any
24 federal or state agency, shall not refuse to admit or treat individuals
25 who have tested positive for HIV infection or have been diagnosed
26 as having AIDS solely on the basis that an individual has tested
27 positive for HIV infection or has been diagnosed as having AIDS.

28 ~~(c) The secretary of health and environment, upon finding a~~
29 ~~violation of subsection (b), shall assess a civil penalty of not to exceed~~
30 ~~\$2,500 against the violator. The civil penalty shall be due and~~
31 ~~payable within 10 days after the final decision on the matter by~~
32 ~~the secretary of health and environment. Procedures under this~~
33 ~~subsection shall be conducted in accordance with the provisions of~~
34 ~~the Kansas administrative procedures act. All penalties assessed and~~
35 ~~collected under this subsection shall be remitted to the state treas-~~
36 ~~urer. Upon receipt thereof, the state treasurer shall deposit the~~
37 ~~entire amount in the state treasury to the credit of the state general~~
38 ~~fund.~~

39 Sec. 2. K.S.A. 39-931 is hereby amended to read as follows: 39-
40 931. (a) Whenever the licensing agency finds a substantial failure
41 to comply with the requirements, standards or rules and regulations
42 established under this act or that repeated violations of subsection
43 (b) of section 1 and amendments thereto have occurred and one or

(c) The secretary of health and environment shall refer the first violation of (b) by an adult care home, licensed home health agency or provider of hospice service to the Kansas Commission on Human Rights. The Kansas Commission on Human Rights shall follow its regulations and procedures to investigate and resolve the violation and then report any findings and/or actions to the secretary of health and environment.

1 *more orders prohibiting new admissions under K.S.A. 1991 Supp.*
 2 *39-953a and amendments thereto have been issued because of a*
 3 *violation of subsection (b) of section 1 and amendments thereto or*
 4 *that a receiver has been appointed under K.S.A. 39-958 and amend-*
 5 *ments thereto, it the licensing agency shall make an order denying,*
 6 *suspending or revoking the license after notice and a hearing in*
 7 *accordance with the provisions of the Kansas administrative pro-*
 8 *cedure act.*

9 *(b) Any applicant or licensee who is aggrieved by the order may*
 10 *appeal such order in accordance with the provisions of the act for*
 11 *judicial review and civil enforcement of agency actions.*

12 *Sec. 3. K.S.A. 1991 Supp. 39-953a is hereby amended to read*
 13 *as follows: 39-953a. (a) At any time the secretary of health and*
 14 *environment initiates any action concerning an adult care home in*
 15 *which it is alleged that there has been a substantial failure to comply*
 16 *with the requirements, standards or rules and regulations estab-*
 17 *lished under the adult care home licensure act, that conditions exist*
 18 *in the adult care home which are life threatening or endangering*
 19 *to the residents of the adult care home, that the adult care home*
 20 *is insolvent, or that the adult care home has deficiencies which*
 21 *significantly and adversely affect the health, safety, nutrition or*
 22 *sanitation of the adult care home residents or that the adult care*
 23 *home has violated subsection (b) of section 1 and amendments*
 24 *thereto, the secretary may issue an order, pursuant to the emer-*
 25 *gency proceedings provided for under the Kansas administrative*
 26 *procedure act, prohibiting any new admissions into the adult care*
 27 *home until further determination by the secretary. This remedy*
 28 *granted to the secretary is in addition to any other statutory au-*
 29 *thority the secretary has relating to the licensure and operation of*
 30 *adult care homes and is not to be construed to limit any of the*
 31 *powers and duties of the secretary under the adult care home*
 32 *licensure act.*

33 *(b) This section shall be part of and supplemental to the adult*
 34 *care home licensure act.*

35 *Sec. 4. K.S.A. 1991 Supp. 65-5108 is hereby amended to read*
 36 *as follows: 65-5108. (a) The secretary shall refuse to issue or shall*
 37 *suspend or shall revoke the license of any home health agency for*
 38 *failure to substantially comply with any provision of this act or with*
 39 *any rule and regulation or standard of the secretary adopted under*
 40 *the provisions of this act or for repeated violations of subsection (b)*
 41 *of section 1 and amendments thereto or for obtaining the license*
 42 *by means of fraud, misrepresentation or concealment of material*
 43 *facts.*

1 *(b) Any home health agency which has been refused*
 2 *or which has had its license revoked or suspended by the*
 3 *may request a hearing which shall be conducted in accordance with*
 4 *the provisions of the Kansas administrative procedure act.*

5 *Sec. 5. K.S.A. 39-931 and K.S.A. 1991 Supp. 39-953a and 65-*
 6 *5108 are hereby repealed.*

7 *Sec. 6. This act shall take effect and be in force from and after*
 8 *its publication in the statute book.*

9 *New Section 1. (a) As used in this section:*

10 *(1) "AIDS" means the disease acquired immune deficiency*
 11 *syndrome.*

12 *(2) "HIV" means the human immunodeficiency virus.*

13 *(b) Licensed adult care homes, as defined in K.S.A. 39-923,*
 14 *and amendments thereto, who receive federal or state money*
 15 *from any federal or state agency shall not refuse to admit or*
 16 *treat individuals who have tested positive for HIV infection or*
 17 *are suffering from AIDS.*

18 *(c) Violation of subsection (b) shall be grounds for denial,*
 19 *revocation or suspension of the adult care home's license.*

20 *Sec. 2. K.S.A. 39-931 is hereby amended to read as follows:*
 21 *39-931. (a) Whenever the licensing agency finds a substantial*
 22 *failure to comply with the requirements, standards or rules and*
 23 *regulations established under this act, the requirements of sec-*
 24 *tion 1, or that a receiver has been appointed under K.S.A. 39-*
 25 *958, and amendments thereto, it the licensing agency shall*
 26 *make an order denying, suspending or revoking the license*
 27 *after notice and a hearing in accordance with the provisions of*
 28 *the Kansas administrative procedure act.*

29 *(b) Any applicant or licensee who is aggrieved by the order*
 30 *may appeal such order in accordance with the provisions of*
 31 *the act for judicial review and civil enforcement of agency*
 32 *actions.*

33 *Sec. 3. K.S.A. 39-931 is hereby repealed.*

34 *Sec. 4. This act shall take effect and be in force from and*
 35 *after its publication in the statute book.*

Bill 2759

I am Josie Torrez from Families Together, Inc. Families Together is the Parent Center for the State of Kansas assisting families across the State that have children with disabilities ranging from very mild to severe. I am also a member of the State Interagency Coordinating Council for Early Childhood and have enclosed our policy statement.

I, myself am a parent of a son who is now six years old. At age 2, he was diagnosed with developmental dealy. He would be classified as "At risk" at that time. He was non-verbal and had low muscle tone. He received early intervention services at the Topeka Association for Retarded Citizens preschool five mornings a week with Occupation Therapy and Speech Therapy. He attended this preschool for three years and is now attending a regular kindergarten classroom at our home school with related services being brought to him, i.e., speech therapy four days a week and occupation therapy two days a week. My husband and I truly feel that without the early intervention services our son, Joey received, he may well have been placed in a special education classroom.

I support Bill 2759. Since I speak to many families everyday at my job at Families Together offering parent assistance, I hear the majority of parents speaking as I also feel. That being the case, we at Families Together and I myself, feel that the Kansas Department of Health and Environment should have the ability to have state rules and regulations so it can be consistent statewide for Infants and Toddlers.

Senate P. Boyd
Attachment # 8
3-24-92

We urge the State of Kansas to assume responsibility to provide funding to meet the individual developmental needs of Kansas children. This responsibility includes the following:

- 1) The School District Equalization Act must be funded at a sufficient level to meet the needs of Kansas Children, including those with disabilities. Children with disabilities must be included in the funding formula down to birth.
- 2) In order to continue receiving significant Federal funds for services to infants and toddlers with disabilities, Kansas must increase the availability of early intervention services throughout the state. This requires greater state support, beginning now and for years to come.
- 3) Services which support children and families, in general, aid citizens with disabilities as well. We support structural changes and financial commitments which enhance children's developmental outcomes and thus prevent greater costs to the State in future years.

c:/cc.ksfund



March 24, 1992

Hope through understanding

TO: Sen. Roy Ehrlich, Chair
Members of the Senate Public Health and Welfare
Committee

FROM: Lila Paslay, Chair
Bob Geers, Coordinator
Legislative Affairs

RE: H.B. 2759

I am here today representing the 5,000 members of the Association for Retarded Citizens of Kansas.

The association has been a strong advocate for prevention and early intervention since it was organized in 1955. We have worked diligently at the state and federal level to provide opportunities for school and other agencies delivering services to take advantage of the technology available for improving the quality of life for children with disabilities and their families.

H.B. 2759 would assist the Department of Health and Environment in putting a statewide system in place for the provision of the services to children birth to two years.

We all know the significant difference early intervention can have for children with disabilities. In a time when research continues to tell us that the best investment we can make is in the area of prevention and early intervention, we hope you will respond by approving this bill for passage and continue to support these efforts through the Department of Health and Environment budget.

We urge your support of H.B. 2789.

Senate P.H.W.
Attachment #9
3-24-92

TESTIMONY PRESENTED TO
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

BY

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

HOUSE BILL 2759

My name is Marnie Campbell, and as Coordinator of Infant-Toddler Services in Kansas, I am testifying in support of House Bill 2759. For nearly four years, the Kansas Department of Health and Environment has been planning and beginning its implementation of Federal legislation for early intervention services to families whose infants and toddlers are disabled.

This early intervention program, also referred to as the Infant-Toddler Services, has been developed by Health and Environment in collaboration with Education and SRS on an interagency basis in order to ensure that Kansas has a comprehensive, multidisciplinary system to serve infants and toddlers with disabilities and their parents.

This bill has two main parts: First, it is the enabling legislation so that our agency has the capability to create rules and regulations necessary to set up a statewide early intervention system. This is in accordance with Federal legislation, the Individuals with Disabilities Education Act.

The second part of the bill defines the role of the State Interagency Coordinating Council as: "to advise and assist the lead agency," which in Kansas is the Department of Health and Environment. Incorporating this language into Kansas statute is necessary for our State to be consistent with Federal legislation.

On behalf of Kansas families whose infants and toddlers have disabilities, thank you for your support of this bill.

Presented by:

Marnie Campbell
Coordinator, Infant-Toddler Services
March 24, 1992

Senate P. Hold
Attachment # 10
3-24-92

TESTIMONY PRESENTED TO
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

BY

KANSAS INTERAGENCY COORDINATING COUNCIL ON EARLY
CHILDHOOD DEVELOPMENTAL SERVICES

March 24, 1992

House Bill 2759

Senator Erlich, Members of the Committee:

I am testifying in support of HB 2759 on behalf of the Coordinating Council on Early Childhood Developmental Services. I am the Chair of the Council. The Coordinating Council has a charge by federal statute to advise and assist the lead agency - in this case - the Kansas Department of Health and Environment as they implement services for children 0-3 years of age with disabilities. The passage of this bill would allow KDHE to promulgate rules and regulations in order that this system of early intervention be consistent across the State. This is necessary in order to accomplish the federal initiative of working toward services for children with disabilities 0-5. To the Coordinating Council and those working with children with disabilities, it is important to promote optimal development and overall well being of these children and their families.

In addition, the proposed bill would bring the authorizing state statute for the Coordinating Council into harmony with the federal law by adding to the Coordinating Council's job description, the role of advising and assisting the lead agency.

Thank you for making a difference for the children of Kansas.

Presented by:
Dr. Nancy Peterson
Chair, Coordinating Council on
Early Childhood Developmental Services
Professor of Special Education
University of Kansas

Senate P. H. W.
Attachment #11
3-24-92



STATE OF KANSAS

KANSAS STATE BOARD OF COSMETOLOGY

717 South Kansas Avenue
Topeka, Kansas 66603-3811
PHONE (913) 296-3155

HOUSE BILL NO. 2796

March 24, 1992

First, let me thank you for letting me speak before you today, regarding House Bill # 2796.

Brief analysis of bill:

This bill was introduced by the Kansas Medical Society. This bill would place the licensing, inspection and administration of tanning devices and tanning facilities under the jurisdiction of the Kansas State Board of Cosmetology.

At the present time the Department of Commerce reports that there are approximately 300 tanning facilities in Kansas which advertise. However, this amount does not reflect the tanning facilities located in such places as motels, hotels, spa's, sports clubs, country clubs, YWCA or YMCA'S or other cosmetology establishments not listed. The total number of facilities could very easily double, or triple, the Department of Commerce estimate.

The Kansas State Board of Cosmetology is in full support of House Bill #2796 and encourages favorable passage of this bill.

Additional funding to implement and regulate these tanning facilities and devices and maintain current level of responsibilities, would need to be addressed in the omnibus session or the veto session regarding this matter.

Thank you for your time.

Eileen M. Hassett,

Executive Director, Kansas State Board of Cosmetology

Senate P. HOW
Attachment # 12
3-24-92



KANSAS MEDICAL SOCIETY

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

March 24, 1992

TO: Senate Public Health and Welfare Committee
FROM: Kansas Medical Society *Chris W. Freelen*
SUBJECT: House Bill 2796; Regulation of Tanning Facilities

House Bill 2796 was introduced at the request of the Kansas Medical Society because of physician concerns about patients who use tanning facilities without being informed of the risks involved. While this bill calls for licensure of the "electric beach" industry, the regulations focus almost entirely on consumer education and information.

There has occurred a phenomenal growth in the number of indoor tanning facilities during the 1980s, and in 1987 tanning parlors were the fastest growing advertiser in phone book yellow pages listings. During the same decade, the death rate from malignant melanoma (the most serious form of skin cancer) increased more than 25%. Obviously, this increase in death rate is not entirely attributable to the use of sunlamps, but there is abundant scientific evidence indicating that excessive exposure to ultraviolet radiation causes or contributes to skin cancer. Furthermore, there are numerous cases of serious injury to individuals which are the direct result of improper use of commercial tanning facilities.

Conferees who initially expressed opposition to HB 2796 (primarily owners of tanning facilities) agreed that the industry should be regulated in order to educate clients and improve safety. Industry concerns, such as age restrictions, should have been addressed by way of House Committee amendments.

The principal controversy in the House Committee became the question as to which state agency should be made responsible for administration of the law. A strong argument was made that this law should be supplemental to the Nuclear Energy Development and Radiation Control Act which would bring tanning facilities under jurisdiction of the Department of Health and Environment. This would make a lot of sense if the bill called for regulation of the manufacturing, distribution, and operation of tanning devices. But the manufacturing of all sunlamp products has been regulated by the U.S. Food and Drug Administration since 1986 (21 CFR 1040.20).

Senate P. How
Attachment #13
3-24-92

Senate Public Health and Welfare Committee
Page Two
March 24, 1992

House Bill 2796 regulates instead the operators of these tanning devices and because so many of the operators are also licensed cosmetologists, the House Committee decided that it made more sense to delegate regulatory responsibility to the State Board of Cosmetology. In many instances, inspectors would examine the operation of tanning facilities in conjunction with inspection of the cosmetology salon. Provision is also made in the bill to allow the Board of Cosmetology to consult with the Department of Health and Environment for purposes of drafting administrative regulations to implement this new law.

Currently, we don't know how many of these tanning facilities are in operation throughout Kansas but the costs of administration and inspection would be financed entirely by licensure fees. Although the provisions of HB 2796 would become law on July 1, tanning facilities would not be subject to regulation until January 1993. This allows six months for adoption of administrative regulations and locating those facilities that would come under the new law.

House Bill 2796 constitutes an important improvement in protection of the public health. We urge you to recommend it for passage.

Thank you for considering our position.

CW/cb

13-2

13-2

1 threat of violation.

2 (d) If a person has violated, or is violating or threatening to violate
3 this act, the board, after a hearing in accordance with the admin-
4 istrative procedure act, may suspend the license of a tanning facility
5 until such time that the tanning facility can demonstrate to the board
6 that it has corrected deficiencies and is in compliance with this act
7 and rules and regulations adopted pursuant to this act.

8 (e) On application for injunctive relief and a finding that a person
9 is violating or threatening to violate this act, the district court shall
10 grant any injunctive relief warranted by the facts.

11 Sec. 8 7. (a) On and after January 1, 1993, a person may not
12 operate a tanning facility without a valid license issued by the board.

13 (b) The license shall be displayed in a conspicuous place in the
14 tanning facility.

15 (c) On application, on forms provided by the board, and on re-
16 ceipt of the appropriate fee, a license shall be renewed by the board.

17 (d) The board may adopt a system under which licenses expire
18 on various dates during the year. As part of this system the annual
19 renewal fee may be prorated on a monthly basis to reflect the actual
20 number of months the license is valid.

21 (e) The board may revoke, cancel, suspend or place on probation
22 a license to operate a tanning facility for any of the following reasons:

23 (1) A failure to pay a license fee or an annual renewal fee for a
24 license;

25 (2) the applicant obtained or attempted to obtain a license by
26 fraud or deception;

27 (3) a violation of any of the provisions of this act; or

28 (4) a violation of a regulation of the board adopted under this
29 act.

30 (f) The board shall establish appropriate licensure and renewal
31 fees, not to exceed \$100 per year for each tanning facility, by
32 adoption of rules and regulations. The board may establish the fees
33 based upon the number of beds used for tanning which the facility
34 maintains. ←

35 (g) The executive director of the board shall remit all moneys
36 received from fees under this act to the state treasurer at least
37 monthly. Upon receipt of each such remittance, the state treasurer
38 shall deposit such moneys in the manner specified under K.S.A.
39 74-2704 and amendments thereto.

40 Sec. 9 8. Any person who operates an unlicensed tanning facility
41 in this state or knowingly violates this act or any rules and regulations
42 adopted under this act shall be guilty of a class C misdemeanor.
43

In addition to the fee for renewal of a license,
the Board may establish a fee not to exceed \$150
for delinquent renewal of a license and a fee
not to exceed \$200 for reinstatement of a license.

*drafted by
Chip W. Stulen
Kansas Medical
Society*



Department of Health and Environment

Azzie Young, Ph.D., Secretary

Reply to:

Testimony presented to

Senate Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

House Bill 2796

Passage of House Bill 2796 will establish a licensing/regulatory program for facilities having tanning devices available to the public. The responsibility for implementation of this program would rest with the Kansas State Board of Cosmetology.

In 1986, the Kansas Department of Health and Environment conducted a survey of 1000 physicians regarding injuries related to tanning devices. Over 500 replies to the survey were received by the department indicating more than 500 injuries had been treated in the previous year. Three percent of those injuries were considered to be extreme and nine percent were considered as serious. From this survey and other data the KDHE agrees that tanning devices need to be regulated in order to protect the public health.

KDHE supports a program directed at protecting and reducing injuries associated with tanning devices. In past years, the KDHE has proposed program initiatives that have not received budget support. KSA 48-1601 authorizes the Secretary, Kansas Department of Health and Environment to register and control radiation producing devices.

KDHE supports passage of H. B. 2796 as a means of furthering the protection of consumers using tanning devices. KDHE recommends that the Department be included in the development of regulations and training of inspectors.

Testimony presented by: Richard J. Morrissey
Deputy Director
Division of Health
March 24, 1992

Senate P. Head
Attch. #14
3-24-92