

Approved: 3-6-96
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 12, 1996 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Gary Robbins, Kansas Optometric Association
Jerry Slaughter, Kansas Medical Society
Jeff Chanay, Kansas Professional Nursing Home Administrators Association
Dr. Steve Potsic, KDHE

Others attending: See attached list

Introduction of bills

Gary Robbins, Kansas Optometric Association, along with Jerry Slaughter, KMS, requested introduction of a bill relating to updating the optometry law. Senator Ramirez made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Langworthy. The motion carried.

Jeff Chanay, Kansas Professional Nursing Home Administrators Association, requested introduction of a bill that would provide for the separation of the Board of Adult Care Home Administrators and the Kansas Department of Health and Environment. (Attachment 1) Senator Langworthy made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Walker. The motion carried.

Action on SB 536 - Cancer registry

Dr. Steve Potsic, KDHE, briefed the Committee on the balloon amendments to **SB 536**. (Attachment 2) After Committee discussion, Senator Langworthy made a motion the Committee adopt the balloon amendments, seconded by Senator Hardenburger. The motion carried.

Senator Langworthy made a motion the Committee recommend **SB 536 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried.

Adjournment

The meeting was adjourned at 10:30 a.m.

The next meeting is scheduled for February 13, 1996.

KANSAS PROFESSIONAL NURSING HOME ADMINISTRATORS ASSOCIATION

3601 West 29th
Topeka, Kansas 66614
Phone: 913—273-4393



Memorandum

TO: Senate Public Health & Welfare Committee

FROM: Jeffrey A. Chanay, General Counsel
Kansas Professional Nursing Home Administrators Association

RE: Board of Adult Care Home Administrators

DATE: February 12, 1996

On behalf of the Kansas Professional Nursing Home Administrators Association, I respectfully request the introduction of a bill by the Committee providing for the clear separation of the Board of Adult Care Home Administrators and the Kansas Department of Health and Environment. The purpose of this request is to ensure the independence of the Board in evaluating, referring, and determining licensure actions against licensed nursing home administrators. Due to cost considerations, a complete break between the Board and KDHE is impracticable and unrealistic. However, the Board needs to be given a certain level of independence and separation from KDHE to remove KDHE predispositions and prejudices from the licensure action decision making process.

The provisions regarding the licensure of adult care home administrators are found at K.S.A. 65-3501 - 65-3508. Nearly all revisions that need to be made to the law will be made to K.S.A. 65-3506 and 65-3508. Minor conforming amendments may be needed in K.S.A. 65-3503.

The following is a list of the amendments to Kansas law suggested by KPNHAA:

1. A provision stating that the Board is to be appointed by the Governor, with three of the seven members being licensed adult care home administrators, and with each administrator member being chosen from a list of three nominees provided by KPNHAA, the Kansas Association of Homes and Services for the Aging, and the Kansas Health Care Association. Two of the members would be representatives of professions and institutions concerned with

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the care and treatment of chronically ill or infirm elderly residents, and there would be two consumer representatives. No more than four members could be licensed adult care home administrators.

2. A provision declaring that no licensure action may be commenced against an administrator without prior notice to the administrator and the opportunity for the administrator to present a statement of position.
3. A provision declaring that KDHE retains investigatorial powers, prosecutorial powers only upon referral from the Board, and will provide a hearing officer to make findings of fact, conclusions of law, and recommendations of discipline within the parameters of law or Board regulation.
4. A provision creating the part-time position of Executive Director for the Board of Adult Care Home Administrators. The Executive Director would be an attorney in the unclassified service under the Kansas Civil Service Act, and whose compensation would be determined and paid by the Board with the approval of the Governor. The Executive Director would serve as the liaison between the Board and KDHE, and would be responsible for making independent reviews of KDHE investigations, and would consult with the Board in regard to disciplinary actions. The Executive Director would further consult with the Board in regard to the adoption of rules and regulations.
5. A provision allowing the Board to contract with such other part-time individuals as are necessary to carry out the work of the Board.
6. A provision applying K.S.A. 65-3508(e) only where the failure is willful or the result of negligence.
7. A provision allowing the transfer of certain current KDHE regulations regarding licensure and administrators to the sole auspices of the Board, which will be assigned Agency Number 119 within the Kansas Administrative Regulations.
8. A provision allowing the Board to enter into agreements with KDHE regarding the maintenance of permanent records.

9. A provision declaring the costs associated with the Board, except those functions retained by the Board, will be allocated either by the transfer of certain line item costs from the budget appropriation of KDHE or an additional annual administrator fee assessment, not to exceed \$50.00, to meet the costs of the Board.

If this measure is introduced, KPNHAA is prepared to present evidence justifying the revisions sought, including due process and regulatory considerations.

Thank you for your consideration of this request.

SENATE BILL No. 536

By Committee on Public Health and Welfare

1-25

9 AN ACT establishing a cancer registry in the state of Kansas and providing
10 for rules and regulations for the operation thereof.

11

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

13 Section 1. As used in this act:

14 (a) "Confidential data" means any data which permits the identifi-
15 cation of individuals.

16 (b) "Health care provider" means a person licensed to practice med-
17 icine and surgery, a hospital as defined in K.S.A. 65-425 and amendments
18 thereto, any individual providing health care services or a pathology lab-
19 oratory.

20 (c) "Secretary" means the secretary of the ~~Kansas~~ department of
21 health and environment.

22 Sec. 2. (a) The secretary is hereby authorized to collect data per-
23 taining to all cancers occurring in Kansas into a registry which shall be
24 the cancer registry for the state of Kansas. The secretary shall adopt rules
25 and regulations which use the most efficient, least intrusive means for
26 collecting cancer data consistent with ensuring the quality, timeliness,
27 completeness and confidentiality of the cancer registry. The rules and
28 regulations shall specify who shall report, the data elements to be re-
29 ported, timeliness of reporting and format for collecting and transmitting
30 data to the registry.

31 (b) Hospitals, providers of cancer screening, diagnostic or therapeutic
32 services, and pathology laboratories may be required by rule and regu-
33 lation to report information regarding all persons identified with cancer
34 to the cancer registry.

35 (c) Reporting by persons licensed to practice medicine or surgery
36 and other individuals providing health care services shall be limited to
37 responding to requests for information regarding persons with cancer
38 previously identified by other means.

39 Sec. 3. Uses of registry data which are not confidential in nature
40 include, but are not limited to:

41 (a) The production of statistical data which outline the frequency,
42 distribution, severity at diagnosis, treatment and survival for each type of
43 cancer;

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- 1 (b) the design and implementation of cancer screening programs
- 2 which have been demonstrated to decrease cancer mortality;
- 3 (c) assessing the cancer risk in the Kansas population;
- 4 (d) identifying previously unrecognized risk factors and causes of can-
- 5 cer;
- 6 (e) monitoring the potential health impact of environmental expo-
- 7 sures;
- 8 (f) monitoring health care access and utilization and effectiveness of
- 9 services for the prevention and treatment of cancer; and
- 10 (g) quantifying costs associated with cancer care.

11 Sec. 4. The information contained on the cancer registry shall not be
 12 subject to the provisions of the Kansas open records act. The secretary
 13 shall ensure that the confidentiality of any data collected which might be
 14 used to identify an individual with cancer or a health care provider is
 15 maintained. Storage of cancer data shall be in a manner which will protect
 16 all information which uniquely identifies individuals.

17 Sec. 5. Confidential data shall be securely locked and used only for
 18 the following purposes:

- 19 (a) Ensuring the quality and completeness of the registry data.
- 20 (b) Investigating the nature and cause of abnormal clusterings of can-
- 21 cer.

22 (c) Offering through the personal physician, to persons with cancer,
 23 access to cancer treatments not available except through clinical trials, ~~as~~
 24 long as such trials are conducted with the informed, written consent of
 25 the cancer patient and are approved by existing ethics board (institutional
 26 review board (IRB)), of both the treating institution and Kansas depart-
 27 ment of health and environment.

28 (d) Releasing data back to the institution or individual which reported
 29 cases as long as such release includes only those cases previously reported
 30 by the requesting institution or individual.

31 (e) As part of an exchange agreement with another state, confidential
 32 data collected on a resident of another state may be released to the cancer
 33 registry of that person's state of residence/upon consent, in writing, of
 34 the person who is the subject of the information, or if such person is
 35 under 18 years of age, by such person's parent or guardian.

36 Sec. 6. The secretary shall designate a panel, including at least one
 37 physician licensed to practice medicine in Kansas and the registry direc-
 38 tor, which shall establish policies for release of nonconfidential data and
 39 shall review requests for the confidential registry data. No restrictions are
 placed on release of data which are statistical in nature.

40 Sec. 7. Any health care provider, whether a person or institution,
 41 who reports cancer information to the registry in good faith and without
 42 malice, in accordance with the requirements of this statute, shall have
 43

diagnostics and

as

, the confidential data is approved for release by the secretary for the purpose of such clinical trials and the clinical trials are approved by the clinical entity

if that state has confidentiality requirements that provide assurance of protection of confidentiality equivalent to that provided by Kansas under this act.

(f) Releasing information

1 immunity from any liability, civil or criminal, which might otherwise be
2 incurred or imposed in an action resulting from such report. Nothing in
3 this section shall be construed to apply to the unauthorized disclosure of
4 confidential or privileged information when such disclosure is due to gross
5 negligence or willful misconduct.
6 Sec. 8. This act shall take effect and be in force from and after its
7 publication in the statute book.

Notwithstanding K.S.A. 60-427, there shall be no privilege preventing the furnishing of such information or reports as required by this act by any health care provider.

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