

Approved: 3-3-99
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on February 22, 1999 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
 Norman Furse, Revisor of Statutes
 JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging
Kerrie Ruhlman, Executive Director, Kansas Professional Nursing Home Administrators Assn.
Steve Jack, Business Finance and Workforce Training, Ks. Dept. of Commerce & Housing

Others attending: See attached list

Hearing on: SB 187 - Long-term care training program

Debra Zehr, Kansas Association of Homes and Services for the Aging, testified before the Committee in support of **SB 187**. Ms. Zehr noted that the Long-Term Care Task Force devoted significant time and energy to the study of long-term care issues which recommended additional training funds be made available for the training of front-line care givers. The proposed legislation would establish the Kansas Long-Term Care Training Program, and the Secretary of Commerce and Housing would be responsible for administering the program. Ms. Zehr pointed out that the Kansas Department on Aging would also be an appropriate administrative agency for the training program. (Attachment 1)

Kerrie Ruhlman, Kansas Professional Nursing Home Administrators Association, spoke in favor of the bill and also gave her support for the Department on Aging being an appropriate administrative agency for the training program. (Attachment 2)

Steve Jack, Kansas Department of Commerce and Housing, testified in opposition to the Kansas Long-Term Care Training Program being administered by the Department of Commerce and Housing. He felt the creation of the training program in the Department of Commerce and Housing would be a dramatic departure from their existing mission, and recommended it be placed with the Department on Aging or KDHE. (Attachment 3) Committee discussion related to the fiscal note of the bill, which is estimated to be \$2,149,559 from the State General Fund, low wages and curriculum of care givers, and whether or not the training program should be administered by the Kansas Department on Aging instead of Commerce and Housing.

The Chair noted that no action on **SB 187** would be taken today, but the bill would be "blessed" for possible consideration at a later date.

Written testimony in support of the bill was also received from the Kansas Coalition on Aging, (Attachment 4).

Consideration of: SB 193 - Prescribing drugs by physicians' assistance

After discussion on the bill by Committee and staff, the Chair recommended that **SB 193** be "blessed" and considered at a later date, possibly when the Committee has a hearing on **HB 2168** that relates to ARNPs prescribing written orders for scheduled drugs.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S, Statehouse, at 10:00 a.m. on February 22, 1999.

Action on: SB 267 - Pharmacy act amendments including board of pharmacy procedures and definition of prescription-only drugs

Staff briefed the Committee on balloon amendments to the bill clarifying current law that assisted suicide is not legal in Kansas, and repealing K.S.A. 1998 Supp. 65-1627i. (Attachment 5)

It was also noted by Larry Froelich, Executive Director, Kansas Board of Pharmacy, that the Board of Veterinary Medicine had no objection to the bill. After Committee discussion, Senator Salmans made a motion the Committee adopt the balloon amendments to the bill, and that the Committee recommend SB 267 as amended favorably for passage, seconded by Senator Steineger. The motion carried.

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 23, 1999.



KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

TESTIMONY IN SUPPORT OF SENATE BILL 187

To: Senator Sandy Praeger, Chair, and Members
Senate Public Health and Welfare Committee

From: Debra Zehr, RN, Vice President

Date: February 22, 1999

Thank you, Madam Chair, and Members of the Committee, for this opportunity to testify in support of Senate Bill 187. The Kansas Association of Homes and Services for the Aging represents 160 not-for-profit long-term health care, housing, and community-service providers throughout Kansas.

Last year the Long-Term Care Task Force devoted significant time and energy to the study of long-term care issues. The Task Force received powerful testimony from Wichita State University (WSU) Professor Mary Lescoe-Long about her research in Kansas' nursing homes and the need for intensive training to address some of the root causes of poor staff retention. In the end, the Task Force recommended that additional training funds be made available for the training of front-line caregivers.

Senate Bill 187 coincides with the findings of the WSU study and the recommendation of the Long-Term Care Task Force. It would create a flexible workforce training program designed to meet the specific training and retraining needs of adult care homes, hospital long-term care units, and home health agencies. The KLTC Training Program would serve the public good by contributing to the stabilization of the long-term care workforce, increasing consistency and quality of care for frail elder Kansans, and reducing costs to the State associated with staffing shortages and turnover.

In our state, we have already deemed it good public policy to support training and retraining efforts of workers in "basic" industries such as manufacturing, agriculture, mining, interstate transportation, tourism, and distribution. The Kansas Department of Housing and Commerce (KDOCH) administers various programs (KIT, KIR, IMPACT) that provide millions of dollars per year to train thousands of basic industry workers. For example, KDOCH has awarded training grants of nearly \$400,000 to Southwestern Bell and \$800,000 to a major meat processor. Dozens of other companies have received lesser amounts, from \$5,000 to \$125,000.

While we believe that caring for our oldest, most vulnerable Kansans is at least as important as the manufacturing or distribution of widgets, we are not asking for programs of the magnitude of KIT, KIR, or IMPACT. We seek a public/private partnership approach to ensure adequately trained staff to provide high quality care to frail elders throughout Kansas through an ongoing matching grant program for long-term care staff training.

Senate Bill 187 calls for KDOCH to administer the KLTC Training Program. The Kansas Department on Aging would also be an appropriate administrative agency.

It is heartening that the 1999 Legislature is giving serious consideration to the recommendations of the 1998 Long-Term Care Task Force. I especially thank you for your careful consideration and support of Senate Bill 187. I would be pleased to answer questions.

Activities undertaken by the Kansas Association of Homes and Services for the Aging to implement recommendations of the 1998 Wichita State University State University report entitled *Identifying Behavior Change Intervention Points to Improve Staff Retention in Nursing Homes*:

1. Creation of a Staff Issues Action Team with wide participation from members around the state.
2. Working with WSU researchers through administrative channels to examine the possibility of a new curriculum for nursing home personnel.
3. Partnering with Hutchinson Community College on federal training grant proposal.
4. Pilot project with Hutchinson Community College and three KAHSA member facilities in south central Kansas.
5. Working with a private corporation in Manhattan on a pilot project to provide computer-based "professional mentoring" and other training for long-term care front-line supervisors.
6. Partnering with University of Kansas Geriatric Education Center grant proposal.
7. Incorporating recommendations of the study in 1999 education programming.
8. Applied for a Kansas Health foundation grant in September 1998. Not funded. New proposal to be submitted March 1999.
9. Partnering with the University of Kansas on an interdisciplinary rural clinical team training grant proposal.

KANSAS PROFESSIONAL NURSING HOME ADMINISTRATORS ASSOCIATION

3601 West 29th
Topeka, Kansas 66614
Phone: 785—273-4393



February 22, 1999

SB No. 187

An Act establishing the Kansas long-term care training program; providing for administration thereof by the secretary of commerce.

Madam Chairwoman and members of the Committee:

My name is Kerrie Ruhlman and I am the Executive Director of the Kansas Professional Nursing Home Administrators Association (KPNHAA). KPNHAA represents over 300 adult care home administrators in the state who are involved in all areas of long-term care administration. Our Association is fully committed to the enhancement of quality care for our health care consumers.

I appreciate the opportunity to testify before you today in support of Senate Bill 187. Clearly, this bill addresses a major concern of our members -- the lack of trained employees in our facilities. This problem is very familiar to all of you concerned with health care. Nursing home administrators decry the time and effort they spend in finding and replacing employees, many of whom are ill-prepared for the rigors of nursing home care. During the interim session, the members of the long-term care services task force were told by different industry professionals that staffing and training issues were major problems in nursing homes throughout the state.

The "KLTC training program" is a well-conceived means to meet this glaring deficiency. The Department of Commerce has an excellent reputation in fostering and administering training programs. The Secretary will attract superior training providers and develop training models for replication such that the modest initial state and industry investment will reap returns in better trained employees, particularly the much needed Certified Nurses Aides. Obviously, this will benefit our residents, the true target group of this program.

In short, if you want quality care, have trained employees.

Thank you for your consideration.

Senate Public Health & Welfare
Date: 2-22-99
Attachment No. 2

Testimony on SB 187
Presented to The Senate Committee on Public Health and Welfare
by Steve Jack
Manager, Business Finance and Workforce Training
Kansas Development of Commerce & Housing
Business Development Division
February 22, 1999

Thank you for the opportunity to testify on Senate Bill 187 which would create the Kansas Long-Term Care Training Program administered by the Kansas Department of Commerce and Housing (KDOCH).

Our agency has funded customized workforce training programs for business and industry for many years. This effort includes the Kansas Industrial Training (KIT) program, the Kansas Industrial Retraining (KIR) program, Investments in Major Projects and Comprehensive Training (IMPACT) program, and Training Equipment Grants.

The mission of these workforce training programs is to encourage job growth and job retention in Kansas "basic industries" by assisting those businesses in delivering appropriate skill training to new and existing employees. The programs target basic industries involved in manufacturing, distribution, and national service. Statutes creating these programs focus the funds on jobs that export a service or a product outside the state and import dollars into the state. The programs are intended to respond quickly to short-term training projects targeted at an immediate, unique need with a specific company or group of companies.

The creation of the Kansas Long-Term Care Training Program in our agency would be a dramatic departure from our existing mission. It is our understanding that there are two primary reasons driving the need for such training assistance - - (1) a shortage of nurses aides throughout the state exacerbated by a turnover rate of 115 percent each year and (2) ongoing training related to minimum federal requirements, possible future recertification requirements, and deficiencies related to "people skills" identified in the *Report of the Task Force on Long-Term Care Services to the 1999 Legislature*.

This bill models the delivery system for long-term care training after the delivery system of the KIT and KIR programs. These existing programs, though, are customized for the unique needs of each unique company. Long-term care skills are more universal, more systemic, more a continuing educational need which might be better approached through the development of core curriculum delivered through our state's system of post-secondary schools.

If funding of on-the-job training is seen as the consensus need, though, either the Kansas Department on Aging (KDOA) or KDHE might be more appropriate administrators of these grants. KDOA has a much closer relationship to long-term care providers throughout the state than we may ever have. KDHE, on the other hand, has an understanding of the skill requirements of this sector of the workforce far exceeding KDOA's.

There are many sectors of the state's economy which are experiencing labor and skill shortages. Certainly, the availability of trained long-term care employees is important to us all. While our agency would respond to the best of our ability to administer this program if it were to be our responsibility, we are not convinced, however, that this model is necessarily the most appropriate for our mission and training responsibilities.



DEDICATED TO THE IMPROVEMENT IN QUALITY OF LIFE FOR ALL KANSANS

SB 187: NURSE AIDE TRAINING PROGRAM

Written Testimony presented on February 22, 1999

Chairperson Praeger, members of the Senate Committee on Public Health and Welfare, thank you for the opportunity to address the issue of nursing home aides.

The **Kansas Coalition on Aging** is a group of individual members and representatives from organizations serving the older adults in Kansas. In existence since 1977, when their major issue was the creation of a Department on Aging in Kansas, they continue to address issues concerning older adults.

Although the aide certification registry contains many names of individuals who obtained the required credential through educational programs and served older adults in care facilities, the aides often continued their education in both formal and informal ways. The experience and further education provided them with skills to take positions that have more pay or status. Recent statistical data indicates the turnover in nursing home aides and facility ancillary staff is 110% to 118% per year. The industry considers the pool of aides or potential direct care givers critically inadequate.

The proposed Kansas Long Term Care Training Program would assist individuals to have flexible education for working in a variety of long term care situations, and would secure a more stable pool for the workforce in long term care. This educational program ultimately would reduce the costs to the State associated with the rapid turnover of direct care staff in nursing facilities, and would provide a higher quality of care commensurate with the needs of today's health needs.

The KCOA supports the concept of a training program that would reduce the critical inadequate numbers for high quality direct care staff in the long term care, both in facilities and in home care. We feel strongly that the older citizens of Kansas are deserving of quality care wherever their last years are spent. We request your support of SB 187 to develop the long term care training program for nonprofessional nursing staff in Kansas.

For further information, contact Carolyn Middendorf, RN, MN, ARNP-CNS, Topeka, Chairperson, 785-478-3314, or Ray Olson, Topeka, Treasurer, 785-478-0203.

Senate Public Health and Welfare
Date: 2-22-99
Attachment No. 4

SENATE BILL No. 267

By Committee on Public Health and Welfare

2-8

9 AN ACT concerning the pharmacy act of the state of Kansas; board pro-
10 cedures; prescription-only drugs; amending K.S.A. 1998 Supp. 65-
11 1626, 65-1627, 65-1635 and 65-1643 and repealing the existing
12 sections:

also repealing K.S.A. 1998 Supp. 65-1627

13
14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 1998 Supp. 65-1626 is hereby amended to read as
16 follows: 65-1626. For the purposes of this act:

17 (a) "Administer" means the direct application of a drug, whether by
18 injection, inhalation, ingestion or any other means, to the body of a patient
19 or research subject by:

20 (1) A practitioner or pursuant to the lawful direction of a practitioner,
21 or

22 (2) the patient or research subject at the direction and in the presence
23 of the practitioner.

24 (b) "Agent" means an authorized person who acts on behalf of or at
25 the direction of a manufacturer, distributor or dispenser but shall not
26 include a common or contract carrier, public warehouseman or employee
27 of the carrier or warehouseman when acting in the usual and lawful course
28 of the carrier's or warehouseman's business.

29 (c) "Board" means the state board of pharmacy created by K.S.A. 74-
30 1603 and amendments thereto.

31 (d) "Brand exchange" means the dispensing of a different drug prod-
32 uct of the same dosage form and strength and of the same generic name
33 than the brand name drug product prescribed.

34 (e) "Brand name" means the registered trademark name given to a
35 drug product by its manufacturer, labeler or distributor.

36 (f) "Deliver" or "delivery" means the actual, constructive or at-
37 tempted transfer from one person to another of any drug whether or not
38 an agency relationship exists.

39 (g) "Direct supervision" means the process by which the responsible
40 pharmacist shall observe and direct the activities of a pharmacy student
41 or pharmacy technician to a sufficient degree to assure that all such ac-
42 tivities are performed accurately, safely and without risk or harm to pa-
43 tients, and complete the final check before dispensing.

Senate Public Health and Welfare
Date: 2-22-99
Attachment No. 5

5-2

1 compel the attendance of witnesses and the production of all necessary
2 papers, books and records, documentary evidence and materials. Any per-
3 son failing or refusing to appear or testify regarding any matter about
4 which such person may be lawfully questioned or to produce any papers,
5 books, records, documentary evidence or materials in the matter to be
6 heard, after having been required by order of the board or by a subpoena
7 of the board to do so, upon application to any district judge of the state
8 of Kansas, may be ordered to comply with such subpoena, and upon
9 failure to comply with the order of the district judge, the court may com-
10 pel obedience by attachment as for contempt as in the case of disobedi-
11 ence of a similar order or subpoena issued by the court. A subpoena may
12 be served upon any person named therein, anywhere within the state of
13 Kansas with the same fees and mileage by any officer authorized to serve
14 subpoenas in civil actions in the same manner as is prescribed by the code
15 of civil procedure for subpoenas issued out of the district courts of this
16 state.

17 (b) This section shall be part of and supplemental to the pharmacy
18 act of the state of Kansas.

19 Sec. 3. K.S.A. 1998 Supp. 65-1627 is hereby amended to read as
20 follows: 65-1627. (a) The board may revoke, suspend, place in a proba-
21 tionary status or deny a renewal of any license of any pharmacist upon a
22 finding that:

- 23 (1) The license was obtained by fraudulent means;
- 24 (2) the licensee has been convicted of a felony and the licensee fails
25 to show that the licensee has been sufficiently rehabilitated to warrant
26 the public trust;
- 27 (3) the licensee is found by the board to be guilty of unprofessional
28 conduct or professional incompetency;
- 29 (4) the licensee is addicted to the liquor or drug habit to such a degree
30 as to render the licensee unfit to practice the profession of pharmacy;
- 31 (5) the licensee has violated a provision of the federal or state food,
32 drug and cosmetic act, the uniform controlled substances act of the state
33 of Kansas, or any rule and regulation adopted under any such act;
- 34 (6) the licensee is found by the board to have filled a prescription not
35 in strict accordance with the directions of the practitioner;
- 36 (7) the licensee is found to be mentally or physically incapacitated to
37 such a degree as to render the licensee unfit to practice the profession
38 of pharmacy;
- 39 (8) the licensee has violated any of the provisions of the pharmacy
40 act of the state of Kansas or any rule and regulation adopted by the board
41 pursuant to the provisions of such pharmacy act;
- 42 (9) the licensee has failed to comply with the requirements of the
43 board relating to the continuing education of pharmacists;

5-3

1 (10) the licensee as a pharmacist in charge or consultant pharmacist
2 under the provisions of subsection (c) or (d) of K.S.A. 65-1648 and
3 amendments thereto has failed to comply with the requirements of sub-
4 section (c) or (d) of K.S.A. 65-1648 and amendments thereto;

5 (11) the licensee has knowingly submitted a misleading, deceptive,
6 untrue or fraudulent misrepresentation on a claim form, bill or statement;

7 (12) the licensee has had a license to practice pharmacy revoked,
8 suspended or limited, has been censured or has had other disciplinary
9 action taken, or voluntarily surrendered the license after formal proceed-
10 ings have been commenced, or has had an application for license denied,
11 by the proper licensing authority of another state, territory, District of
12 Columbia or other country, a certified copy of the record of the action
13 of the other jurisdiction being conclusive evidence thereof; or

14 (13) the licensee has self-administered any controlled substance with-
15 out a practitioner's prescription order; ~~or~~

16 ~~(14)~~ the licensee has failed to furnish the board, its investigators or
17 its representatives any information legally requested by the board.

18 (b) In determining whether or not the licensee has violated subsec-
19 tion (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion
20 of such violation has authority to compel a licensee to submit to mental
21 or physical examination or drug screen, or any combination thereof, by
22 such persons as the board may designate. To determine whether reason-
23 able suspicion of such violation exists, the investigative information shall
24 be presented to the board as a whole. Information submitted to the board
25 as a whole and all reports, findings and other records shall be confidential
26 and not subject to discovery by or release to any person or entity. The
27 licensee shall submit to the board a release of information authorizing
28 the board to obtain a report of such examination or drug screen, or both.
29 A person affected by this subsection shall be offered, at reasonable in-
30 tervals, an opportunity to demonstrate that such person can resume the
31 competent practice of pharmacy with reasonable skill and safety to pa-
32 tients. For the purpose of this subsection, every person licensed to prac-
33 tice pharmacy and who shall accept the privilege to practice pharmacy in
34 this state by so practicing or by the making and filing of a renewal appli-
35 cation to practice pharmacy in this state shall be deemed to have con-
36 sented to submit to a mental or physical examination or a drug screen, or
37 any combination thereof, when directed in writing by the board and fur-
38 ther to have waived all objections to the admissibility of the testimony,
39 drug screen or examination report of the person conducting such exam-
40 ination or drug screen, or both, at any proceeding or hearing before the
41 board on the ground that such testimony or examination or drug screen
42 report constitutes a privileged communication. In any proceeding by the
43 board pursuant to the provisions of this subsection, the record of such

(14) the licensee has assisted suicide in violation of K.S.A. 21-3406 and amendments thereto as established by any of the following:
(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406 and amendments thereto.
(B) A copy of the record of a judgement of contempt of court for violating an injunction issued under K.S.A. 1998 Supp.60-4404 and amendments thereto.
(C) A copy of the record of a judgement assessing damages under K.S.A. 1998 Supp. 60-4405 and amendments thereto; or

(15)

5-4

1 with the furnishing of samples of drugs to duly licensed practitioners, to
2 pharmacists or to medical care facilities.

3 (f) Except as otherwise provided in this subsection (f), for any person
4 operating a store or place of business to sell, offer for sale or distribute
5 any drugs to the public without first having obtained a registration or
6 permit from the board authorizing such person so to do. No retail dealer
7 who sells 12 or fewer different nonprescription drug products shall be
8 required to obtain a retail dealer's permit under the pharmacy act of the
9 state of Kansas or to pay a retail dealer new permit or permit renewal fee
10 under such act. It shall be lawful for a retail dealer who is the holder of
11 a valid retail dealer's permit issued by the board or for a retail dealer who
12 sells 12 or fewer different nonprescription drug products to sell and dis-
13 tribute nonprescription drugs which are prepackaged, fully prepared by
14 the manufacturer or distributor for use by the consumer and labeled in
15 accordance with the requirements of the state and federal food, drug and
16 cosmetic acts. Such nonprescription drugs shall not include: (1) A con-
17 trolled substance; (2) ~~a drug product the label of which is required to~~
18 ~~bear substantially the statement: "Caution: Federal law prohibits dis-~~
19 ~~persing without prescription" a prescription-only drug; or (3) a drug~~
20 ~~product intended for human use by hypodermic injection; but such a~~
21 ~~retail dealer shall not be authorized to display any of the words listed in~~
22 ~~subsection (u) of K.S.A. 65-1626 and amendments thereto, for the des-~~
23 ~~ignation of a pharmacy or drugstore.~~

24 (g) For any person to sell any drugs manufactured and sold only in
25 the state of Kansas, unless the label and directions on such drugs shall
26 first have been approved by the board.

27 (h) For any person to operate an institutional drug room without first
28 having obtained a registration to do so from the board. Such registration
29 shall be subject to the provisions of K.S.A. 65-1637a and amendments
30 thereto and any rules and regulations adopted pursuant thereto.

31 (i) For any person to be a pharmacy student without first obtaining
32 a registration to do so from the board, in accordance with rules and reg-
33 ulations adopted by the board, and paying a pharmacy student registration
34 fee of \$25 to the board.

35 Sec. 6. K.S.A. 1998 Supp. 65-1626, 65-1627, 65-1635 and 65-1643
36 are hereby repealed.

37 Sec. 7. This act shall take effect and be in force from and after its
38 publication in the statute book.

65-1627i