

Approved: 3-31-99
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 March 18, 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:

Connie Hubbell, Commissioner, MH&DD, SRS
Jody Boeding, Assistant Counsel, Unified Government, WY Co/KC
Tom Laing, Executive Director, InterHab
Ellen Piekalkiewicz, Assn. of Community Mental Health Centers of Ks
Daniel Lord, Ph.D., Behavioral Sciences Regulatory Board
Ron Hein, Mental Health Credentialing Coalition

Others attending: See attached list

Hearing on: HB 2227 - Community mental health and mental retardation governing board

Connie Hubbell, Commissioner, MH&DD, SRS, testified before the Committee in support of **HB 2227**. Passage of the bill would authorize the Unified Government Board of Commissioners in Wyandotte County to serve as the governing board of the community mental health center and the community mental retardation facility located in that county. An amendment in the House of Representatives would create a task force on mental health and developmental disabilities. Commissioner Hubbell requested the bill be further amended to expand the membership on that task force as noted in her written testimony. (Attachment 1) During Committee discussion concern was expressed on the necessity of creating another task force.

Jody Boeding, Assistant Counsel, Unified Government, WY Co/KC, spoke in support of **HB 2227** and noted that the Unified Government of Wyandotte County does not have a position on the merits of the task force amendment, but does not want it to impede the passage of the first part of the bill. (Attachment 2)

Tom Laing, Executive Director, InterHab, expressed his support for the bill and recommended that the bill be further amended to strike language in the bill relating to "mental retardation" and insert "developmental disabilities", and also adding language relating to the composition of the advisory board and task force as shown in his written testimony. (Attachment 3) During Committee discussion Mr. Laing noted that he would support the removal of reference to a task force in the bill so as not to jeopardize the intent of the bill for Wyandotte County. The Chair suggested that a letter be drafted recommending the SRS Transition Oversight Committee devote sufficient time to study such developmental disabilities issues as brought before the Committee.

Ellen Piekalkiewicz, Association of Community Mental Health Centers of Kansas, noted that the Association supports the creation of a task force with the following suggestions: that it be clearly understood what specifically the task force will be charged with accomplishing; the composition of the task force language be amended to mandate that at least two members of the task force be CMHC executive directors; and that consumers and family members be included as well. (Attachment 4)

There were no opponents to the bill.

Hearing and Action on: HB 2033 - Temporary licensure of mental health services providers

Daniel Lord, Ph.D., Behavioral Sciences Regulatory Board, expressed his support for **HB 2033** that would bring statutory consistency to the use of the temporary license in each of the professions licensed by the

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S, Statehouse, at 10:00 a.m. on March 18, 1999.

BSRB. Dr. Lord also requested the Committee amend the bill by changing the time period of the temporary license for psychologists from one year to two years as shown in a balloon of the bill. (Attachment 5)

Also speaking in support of **HB 2033** was Ron Hein representing the Mental Health Credentialing Coalition. (Attachment 6)

After Committee discussion, Senator Salmans made a motion to adopt the amendments that would change the time period of the temporary license for psychologists from one year to two years as shown in the balloon of the bill, and that the Committee recommend **HB 2033 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried.

Action on: SB 350 - Sale of non-prescription medicines and drugs through vending machines

Staff briefed the Committee on amendments to **SB 350** as shown in a balloon of the bill. (Attachment 7) The Committee discussed language in the balloon of the bill relating to controlled substances and the number of feet that a vending machine could be located next to another machine. Senator Becker made a motion to adopt the balloon of the bill but delete the language in reference to controlled substance and the distance between one vending machine to the other, and that the Committee recommend **SB 350 as amended** favorably for passage, seconded by Senator Jones. The motion carried.

Announcements

The Chair appointed a subcommittee to study naturopathy, and appointed Senator Hardenburger as Chair, with Senator Salmans and Senator Steineger as members.

Adjournment

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

The next meeting is scheduled for March 22, 1999.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-18-99

NAME	REPRESENTING
Kay Fasching	Wyandotte Developmental Disabilities Services
Sharon Vogel	WYANDOTTE DEVELOPMENTAL DISABILITIES SERVICES
Ann Kellogg	
Mr. Don Ford	BSAB
Gordon Criswell	Unified Govt. wyc/kck
Jody Boeding	Unified Govt. wyc/bct
Bonnie Bennie	Families Together, Inc
Sandra Adams	Old & Chron. G. Sp. C. Co. (K) Edward, K.
Michelle Peterson	Peterson Public Affairs Group
Rich Peterson	Health Midwest
Craig Kahler	KS COUNCIL ON DD
JOHN HOUSE	SRS
Mike Huffles	SRS
Connie Hubbell	SRS - MH/DD
Roslyn James-Martin	SRS - Children & Family Services
Jean Krain	KS G-ship Prog.
Tom Lamp	Intel Lab
Elle Piholka	Assoc. of G. com. & c. s
Nancy Groman	USD # 282-283-286

Kansas Department of Social and Rehabilitation Services
Rochelle Chronister, Secretary

Senate Public Health and Welfare
House Bill 2227

March 18, 1999

Madame Chairperson and members of the Committee, I appreciate the opportunity to speak before you on House Bill 2227, as amended by the House Committee on Governmental Organization and Elections. I am Connie Hubbell, Commissioner of Mental Health and Developmental Disabilities (MH&DD).

MH&DD supports the bill as amended, which is to allow Wyandotte County Board of Commissioners to serve as the community mental health or mental retardation governing board for the county.

If the Legislature proceeds with the amended language (new Section 3), MH&DD has information which I believe would be helpful to such a task force. We welcome the opportunity for such an entity to further examine the broad issues as well as specific issues which lie within.

I would also like to offer the following recommendations for changes in membership of the task force, as provided for on page 4, Section 3(b) of the legislation, if the Committee chooses to support this task force:

1. Add the Commissioner of Mental Health and Developmental Disabilities;
2. Add a representative of the Governor's Office; and
3. Increase the public members to six -- three from mental health and three from developmental disabilities (Section 3(b)(5)).

Thank you for allowing me to present this information. I would be happy to take your questions.

TESTIMONY ON HB 2227
BEFORE THE SENATE COMMITTEE
ON PUBLIC HEALTH

MARCH 18, 1999

Jody Boeding
Assistant Counsel
Unified Government of Wyandotte County/Kansas City, Kansas

The Unified Government is seeking an amendment of state law as it relates to services for the developmentally disabled in Wyandotte County. Representative Ray Cox originally introduced HB 2227, amending K.S.A. 19-4002a. K.S.A. 19-4002a now pertains to Sedgwick County only; HB 2227 originally applied 19-4002a to all counties in the state. The House Committee on Governmental Organizations and Elections amended HB 2227 so that 19-4002a would only apply to Sedgwick and Wyandotte Counties. When the bill was presented to the full House, another amendment was added to create a task force on mental health and developmental disabilities services. The Unified Government does not have a position on the merits of the task force amendment, but does not want it to impede the passage of the first part of the bill.

A short overview of the present statutory scheme shows that K.S.A. 19-4001 *et seq.* was the original statute governing facilities and services for the mentally retarded. The same set of statutes also governs mental health centers. In 1995, however, the Legislature adopted the Developmental Disabilities Reform Act, K.S.A. 39-1801 *et seq.* The latter statute, although revamping services to the developmentally disabled, refers to and incorporates the organizations created earlier by K.S.A. 19-4001 *et seq.* The DD Reform Act sets up a system of community developmental disabilities organizations (CDDOs) and community service providers (CSPs). In Wyandotte County both of those functions are currently being performed by a single agency - Wyandotte Developmental Disabilities Services (WDDS).

In K.S.A. 19-4002a and 19-4002b, both Sedgwick and Johnson Counties currently have special legislation allowing the board of county commissioners to serve as the mental retardation governing board in lieu of appointing a governing board as provided by K.S.A. 19-4002. The Unified Government is requesting legislation similar to K.S.A. 19-4002a and 19-4002b for Wyandotte County that would permit the CDDO function under the DD Reform Act to be performed by a department of the Unified Government, similar to the organizational structure in Sedgwick County.

I'd like to give the Committee a very brief history behind the request. Wyandotte Developmental Disabilities Services (WDDS) is an entity whose legal status is not entirely clear. To the best of our knowledge, it has never been incorporated as a private not-for-profit corporation. It is not a County agency or department, although the former Wyandotte County Commissioners appointed its Board of Directors and, prior to consolidation, there was a relationship between the former County government and WDDS. Shortly after consolidation, the Board of Directors of WDDS resigned, and the Unified Government was faced with the question of what to do with WDDS. In order to take the time to learn all the facts about the organization and to make a considered decision, the Board of Commissioners appointed itself as the WDDS Board of Directors on an interim basis.

Senate Public Health & Welfare
Date: 3-18-99
Attachment No. 2

*Testimony on HB 2227
Before the Senate Committee on Public Health
March 18, 1999
Page 2*

Although the Unified Government Board of Commissioners is currently acting as the WDDS Board of Directors, it is being done purely as an interim measure. Based on a legal analysis of the statutory scheme, it is my opinion that a change to the statute is necessary in order to authorize that action on a permanent basis. Sedgwick and Johnson Counties have separate statutes authorizing their boards of county commissioners to act as their mental retardation governing boards (K.S.A. 19-4002a and 4002b), by implication, no other county is so authorized.

At the time the Board of Commissioners took temporary control of WDDS, it appointed an Advisory Committee consisting of three Commissioners, WDDS staff members, UG staff members, representatives from the families of consumers of WDDS services, and one former Board member to study how to proceed so as not have a lapse of services to our developmentally disabled citizens. The Advisory Committee studied different models from around the state and determined the Sedgwick County model was the best method of providing services to our developmentally disabled population. This model was chosen because we believe it separates the referral and oversight function from providing the services themselves, so as to eliminate any conflict of interest or appearance of conflict of interest.

The Division for the Mentally Retarded and Developmentally Disabled of the State Department of Social and Rehabilitative Services endorsed Wyandotte County's use of the Sedgwick County model. Contingent on the passage of HB 2227, the Unified Government Board of Commissioners plans to adopt an organizational structure in which the CDDO function is made a part of the Unified Government and the CSP function is spun off into a separate private entity.

Accordingly, we are here to ask the Committee's endorsement of HB 2227, at least that portion of it which applies to Wyandotte County. We believe this bill will allow implementation of a structure which will result in the best services for the developmentally disabled residents of Wyandotte County.



Jayhawk Tower ~ 700 SW Jackson ~ Suite 803 ~ Topeka, Kansas 66603-3737
phone 785/ 235-5103 ~ tty 785/ 235-5190 ~ fax 785/ 235-0020
interhab@interhab.org ~ www.interhab.org

March 18, 1999

**Testimony in Support of House Bill 2227
Presented to the Senate Committee on
Public Health and Welfare Committee**

Tom Laing, Executive Director
InterHab: The Resource Network for Kansans with Disabilities

Thank you Senator Praeger and Members of the Committee for this hearing. On behalf of the members of InterHab, which includes among its 48 organizational members each of the State's 28 Community Developmental Disability Organizations (CDDOs), I am here to support House Bill 2227, and to urge your favorable consideration of the bill, with the following additional comments and recommendations.

A. Local Governance Authority:

The principal purpose of HB 2227, embodied in Sections 1 and 2, is to empower the citizens of Wyandotte County to have their elected uni-governmental council to be the governing board of the Wyandotte County CDDO.

Previous legislatures have allowed such a similar governance statute for Johnson and Sedgwick Counties. Wyandotte County therefore should be similarly respected by this Legislature.

InterHab has long believed that the strength of the current community service system is due in part of the ability of local government to select its choices of CDDO and its preferred methodology for governance and local oversight. In the thirty plus years since the first such state/local partnerships were envisioned and enacted, the law has yielded many successes, and only rare failures.

Senate Public Health & Welfare
Date: 3-18-99
Attachment No. 3

Recommendations:

1. Throughout, there is reference to "mental retardation". We recommend that in keeping with other statutory provisions and our more current recognition of the wide variety of developmental disabilities, that the language in this bill substitute the phrase "developmental disabilities" for "mental retardation".
2. On page three of the bill on lines 1-12, wherein Section 2 specifies the composition of the "advisory board" to be appointed by the uni-government, there is an inadvertent omission of persons who would represent interests relating to the needs of persons with developmental disabilities. InterHab recommends that the committee amend Section 2 (b) such that the "advisory board" is composed of persons who represent both mental health and developmental disability interests. We would provide language if so requested.

B. Task Force on Mental Health and Developmental Disability Services

Section 3, added on the House floor, creates a two-year task force study on issues affecting the community service network. We support such a concept for two reasons.

First, there a variety of issues which arise in each session for which there is insufficient time to adequately provide information and explore challenges and new emerging service concepts.

Secondly, since the passage of the Developmental Disabilities Reform Act, there has been no formal legislative review of the successes and challenges that arise both from the Act and the State's implementation thereof, but of the continuing challenges elsewhere in the field of services and supports for developmental disabilities. A review is due, and we would welcome it.

Recommendations:

1. We had understood that this was to be a task force on Developmental Disability Issues, not Mental Health issues. We recommend that the Task Force be devoted to Developmental Disability issues.

That is not to express a desire to exclude those Mental Health issues that overlap DD issues, such as the co-called "Dual Diagnosis" issue -- the system challenge of serving persons with mental illness who also have a developmental disability. Such issues should be on the agenda.

2. We recommend that this Task Force be solely comprised of legislators. Advocates and other public representatives who have expertise and a desire to participate have the right to participate as conferees, and should be expected to be available at all times as resource persons for the committee. We believe that the issues to be examined by legislators, and the recommendations reached by a legislative task force, should be guided by legislative involvement after having heard the input of the public. To handpick a handful of citizens in a field of so many interested parties is, in my opinion, fraught with political and policy implications as to who would and who would not be picked. If the committee insists on the use of citizen panelists for this legislative task force, we recommend that they be chosen by the legislative leaders rather than the Department.



**Association of Community
Mental Health Centers of Kansas, Inc.**

700 SW Harrison, Suite 1420, Topeka, KS 66603-3755
Telephone (785) 234-4773 Fax (785) 234-3189

**Senate Public Health and Welfare Committee
H B 2227**

March 18, 1999

Ellen Piekalkiewicz

David Wiebe
President
Mission

Patricia Murray
President Elect
Salina

Diane Sullivan
Vice President
Ottawa

Jim Sunderland
Secretary
Hutchinson

Keith Rickard
Treasurer
Leavenworth

James E. Cain
Member at Large
Pomona

Ron Denney
Past President
Independence

Paul M. Klotz
Executive Director
Topeka

The Association of Community Mental Health Centers, Inc. does not oppose H.B. 2227 as amended to allow Wyandotte County Board of Commissioners to serve as the community mental health or mental retardation governing board for the county.

The Association supports the creation of a task force that was added to the bill as a floor amendment with the following suggestions: that it be clearly understood what specifically the task force will be charged with accomplishing; the composition of the task force language be amended to mandate that at least two members of the task force be CMHC executive directors; and that consumers and family members be included as well.

X

Senate Public Health & Welfare
Date: 3-18-99
Attachment No. 4

**SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
TESTIMONY REGARDING HB 2033**

**Presented by Daniel Lord, Ph.D.,
For the Behavioral Sciences Regulatory Board
March 18, 1999**

Madam Chair and Members of the Committee:

Thank you for allowing me to testify briefly this morning. My name is Dan Lord and I am here to testify at the direction of the Behavioral Sciences Regulatory Board, which I serve on as the Marriage and Family Therapy Representative. I also serve as this profession's representative on the Mental Health Service Providers Task Force, whose work is represented in this bill. As the one BSRB member to have been appointed to the Task Force, I served informally as the liaison between these two bodies.

HB 2033 is the Task Force's recommendation for bringing statutory consistency to the use of the temporary license in each of the professions licensed by the BSRB. Currently, three of the professions use the term "temporary permit," one of the professions uses "temporary license," and another of the professions has such minimal structure that the temporary license fails to cover persons seeking to complete required postgraduate supervised experience. HB 2033 corrects these problems by applying the same terminology and use of the temporary license throughout all of the licensing acts.

† On Monday, March 8, 1999, the Behavioral Sciences Regulatory Board voted to request that you support this bill with the attached balloon amendment. This is a technical amendment that changes the time period of the temporary ~~permit~~ *license* for psychologists from one year to two years. This change was recommended by the Psychology Advisory Committee and brought to the board by the Psychology Representative, Dr. Larry Hays. In current law, and as written in this bill, all of the other licensed groups have a time period of two years, so this change would bring psychology into conformity with this structure. Dr. Hays reported that this change would be most helpful for psychologists who are working to complete the required postgraduate professional experience while serving in academic settings.

I bring this amendment to your committee at the request of both psychology representatives on the board and at the direction of the board chairperson, Mr. Douglas Wood.

Thank you for your consideration. I would be glad to respond to any questions.

1 following:

2 (1) The temporary license shall expire upon receipt and recording of
3 the temporary licensee's second examination score by the board if such
4 temporary licensee fails the examination after two attempts or upon the
5 date the board issues or denies the temporary licensee a license to practice
6 psychology if such temporary licensee passes the examination;

7 (2) such temporary licensee shall take the next license examination
8 subsequent to the date of issuance of the temporary license unless there
9 are extenuating circumstances approved by the board;

10 (3) the board shall adopt rules and regulations prescribing continuing
11 education requirements for temporary licensees, including, but not limited
12 to, a requirement that temporary licensees shall complete a minimum of
13 25 contact hours of continuing education during the ~~one~~-year period of
14 temporary licensure, which shall include a minimum of three hours in
15 psychology ethics;

two

16 (4) no person may work under a temporary license except under the
17 supervision of a licensed psychologist as prescribed in rules and regula-
18 tions adopted by the board; and

19 (5) the fee for such temporary license shall be fixed by rules and reg-
20 ulations adopted by the board and shall not exceed \$200.

21 (c) Upon application, the board may issue temporary licenses not to
22 exceed ~~one year~~ to persons who have met all qualifications for licensure
23 under provisions of such act, except completion of the postdoctoral su-
24 pervised work experience pursuant to subsection (a)(4) of K.S.A. 74-5310,
25 and amendments thereto, who have paid the required application and
26 temporary license fees and who have submitted documentation as re-
27 quired by the board, under the following:

two years

28 (1) The temporary license shall expire at the end of the ~~one~~-year pe-
29 riod after issuance or if such temporary licensee is denied a license to
30 practice psychology;

two

31 (2) the temporary license may be renewed for one additional ~~one~~-year
32 period after expiration;

two

33 (3) temporary licensees shall take the license examination pursuant
34 to subsection (a)(4) of K.S.A. 74-5310, and amendments thereto, subse-
35 quent to the date of issuance and prior to expiration of the temporary
36 license unless there are extenuating circumstances approved by the board;

37 (4) temporary licensees shall be working toward the completion of the
38 postdoctoral supervised work experience prescribed in subsection (a)(4)
39 of K.S.A. 74-5310, and amendments thereto;

40 (5) the board shall adopt rules and regulations prescribing continuing
41 education requirements for temporary licensees, including, but not limited
42 to, a requirement that temporary licensees shall complete a minimum of
43 25 contact hours of continuing education during the ~~one~~-year period of

two

HEIN AND WEIR, CHARTERED

ATTORNEYS AT LAW

5845 S.W. 29th Street, Topeka, KS 66614-2462

Telephone: (785) 273-1441

Telefax: (785) 273-9243

*Ronald R. Hein
Stephen P. Weir*

SENATE PUBLIC HEALTH & WELFARE COMMITTEE

TESTIMONY RE: HB 2033

Presented by Ronald R. Hein

on behalf of

MENTAL HEALTH CREDENTIALING COALITION

March 18, 1999

Madam Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Mental Health Credentialing Coalition. The Coalition is comprised of the members of the Kansas Association for Marriage and Family Therapy, Kansas Association of Masters Level Psychologists, and the Kansas Counseling Association/Kansas Mental Health Counselors Association.

Under existing law, all of the mental health providers licensed by the Board of Behavioral Sciences have legislation authorizing temporary licenses to practice except Psychologists. In the past, when psychologists have moved into the state, or when other circumstances have warranted, they have been unable to get temporary licenses to practice. As a result, numerous ways around the statute have been utilized to permit these psychologists to practice in this state. Granting Psychologists the same ability to obtain temporary licenses as is provided for other providers just makes sense, and will eliminate the game playing.

With regards to masters level psychologists, specifically Section 7 of the bill (K.S.A. 74-5367(a)(2)), the MHCC supports the amendment to delete the words "current employment" and inserting in lieu thereof "completion of licensing exam". This is primarily a technical amendment which was recommended by the BSRB. The law was amended in 1997 to eliminate current employment as a requirement for MLP's, but this section was not corrected at the time.

The MHCC supports HB2033, which passed the House 125-0, and would urge the committee to report the bill favorably.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Senate Public Health & Welfare
Date: 3-18-99
Attachment No. 6

SENATE BILL No. 350

By Committee on Ways and Means

3-11

9 AN ACT concerning the sale of medicines and drugs through vending
10 machines; amending K.S.A. 65-650 and repealing the existing section.
11

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

13 Section 1. K.S.A. 65-650 is hereby amended to read as follows: 65-
14 650. (a) Any person, firm or corporation who shall offer for sale or sell
15 or distribute any *prescription* medicine, *prescription-only* drug or poison
16 through or by means of any vending machine or other mechanical device,
17 or who shall use any vending machine in or for the sale or distribution of
18 any *prescription* medicine, *prescription-only* drug or poison, shall be
19 deemed guilty of a class C nonperson misdemeanor and upon conviction
20 shall be fined not less than ~~twenty-five dollars (\$25)~~ \$25 nor more than
21 ~~five hundred dollars (\$500)~~ \$500.

22 (b) ~~No nonprescription drugs shall be sold through a vending machine~~
23 ~~in anything other than the manufacturer's original, tamper evident and~~
24 ~~expiration-dated packet. Any vending machine in which nonprescription~~
25 ~~drugs are offered for sale or sold shall be located in a climate controlled~~
26 ~~area, and the drugs offered for sale or sold in such vending machine shall~~
27 ~~not be older than the manufacturer's expiration date. A violation of this~~
28 ~~subsection (b) is a class C nonperson misdemeanor and upon conviction~~
29 ~~the violator shall be fined not less than \$25 nor more than \$500.~~

30 Sec. 2. K.S.A. 65-650 is hereby repealed.

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

controlled substance, drug intended for human use
by hypodermic injection

offered for sale or

No more than 12 different nonprescription drugs
products shall be offered for sale or sold through
any one vending machine.

so that the drugs stored in such vending machine
are stored in accordance with drug manufacturer's
requirements. No more than one vending machine
through which nonprescription drugs offered for
sale or sold shall be located within 100 feet of
another vending machine in which nonprescription
drugs are offered for sale or sold. Drugs

Each vending machine through which nonprescription
drugs are offered for sale or sold shall have an
obvious and legible statement on the machine that
identifies the owner of the medicine, a toll-free
telephone number at which the consumer may contact
the owner of the machine, a statement advising the
consumer to check the expiration date of the
product before using the product and the telephone
number of the state board of pharmacy. As used in
this subsection, "nonprescription drug" does not
include any prescription medicine,
prescription-only drug, controlled substance, drug
intended for human use by hypodermic injection or
poison.