Approved: March 28, 2000
Date

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on March 21, 2000 in Room 423-S of the Capitol.

All members were present except: Representative Brenda Landwehr, Excused

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Norman Furse, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: John G. Carney, Public Policy Committee, Association of Kansas Hospices
Karen Weichert, Executive Director, Midland Hospice Care, Inc.

Others attending: See Attached Sheet

The Chairperson opened the hearing on **HB 3027 - Concerning hospice; relating to hospice homes and pain management** and stated staff gave a briefing yesterday.

Staff distributed copies of Kansas Statutes 65-1637a - Institutional drug rooms; supervision and record-keeping; rules and regulations (See Attachment #1).

The Chairperson stated the balloon replaces **HB 3027** in the bill books.

John G. Carney, Public Policy Committee, Association of Kansas Hospices, testified **HB 3027** addressed medication needs, an immediate and urgent issue, of dying Kansans being cared for in a freestanding hospice inpatient facility.

Hospice care is provided by medicare certified programs to terminally ill patients in their own homes, nursing facilities or hospital inpatient settings. Midland Hospice is the first program in Kansas to establish its own inpatient facility. Kansas licensure law, adopted in 1994, recognized the eventuality of this type of facility. Apparently, the statute does not sufficiently address the issue of medications for critically ill dying patients being cared for in this type of facility. The position of the Association of Kansas Hospices is that a long term resolution should be more detailed and descriptive, similar in scope, perhaps to an institutional drug room than what is described in the proposed legislation (See Attachment #2).

Karren Weichert, Executive Director, Midland Hospice Care, Inc., testified that hospice patients have a life-limiting illness and a prognosis of 6 months or less. Hospices need to retain emergency medications on site so they can be administered quickly. **HB 3027** needs to be amended to include use of an institutional drug room by hospice. An institutional drug room would provide safe administration of prescription-only drugs (See Attachment #3).

Representative Long moved and Representative Bethell seconded to have a substitute bill drafted that strikes all of **HB 3027** and replace with balloon allowing institutional drug room effective on publication in the Kansas Register. The motion carried

Larry Froelich, Executive Director, Kansas Board of Pharmacy, stated that **SB 541 - Non-human institutional drug rooms** had not had a hearing and this allows Kansas State University Veterinary School to have an institutional drug room for animals and could be amended into **HB3027**.

Representative Henry requested Mr. Froelich provide a letter explaining what is requested in **SB 541** and **HB 3027** because it will be needed in Conference Committee (See Attachment #4).

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

Representative Bethell moved and Representative Light seconded to amend **HB 3027** into **SB541**, effective on publication in the Kansas Register and move out favorably. The motion carried.

The meeting adjourned at 2:45 p.m. No further meetings are scheduled.

HUMAN AND HEALTH SERVICES

DATE March 21, 2000

NAME	REPRESENTING
Karren Weickert	Midland Hospice Care
John G Carney	Association of Kansas Hospices
LARRY BUENING	BD OF HEALING ARTS
Rich Guthrie	Health Midwest
Kevin Barone	Menorah Ctr.
LARRY FROELICH	Bd of PHARMACY
TIM WOOD	VCHS
Jessica Bourque	KS Health Care
Tom Bruno	Assn. of KS Hospices
Michelle Peterson	Peterson Public Affairs Group

65-1637a

Chapter 65.--PUBLIC HEALTH
Article 16.--REGULATION OFPHARMACISTS

65-1637a. Institutional drug rooms; supervision and record-keeping; rules and regulations. (a) An institutional drug room shall be under the supervision of a pharmacist or a practitioner, who may be retained on a part-time basis and who shall be responsible for recordkeeping and storage of drugs by such drug room. For the purposes of this section, "practitioner" means any person licensed to practice medicine and surgery.

(b) The board shall adopt such rules and regulations relating to record-keeping and storage of drugs by institutional drug rooms as necessary for proper control of drugs by such drug rooms.

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

History: L. 1979, ch. 193, § 5; L. 1986, ch. 231, § 26; June 1.

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HB3027 Testimony
Medication Needs In Hospice Inpatient Facilities In Kansas
John G. Carney – Public Policy Committee, Association of Kansas Hospices
March 21, 2000, State Capitol Building, Rm. 423S, 1:30 p.m., Topeka, KS

Public Health and Welfare Committee
Garry Boston, Chairman

One of the cardinal rules of speaking is to never begin ones remarks with an apology. I think in this case, however, it is necessary and may provide some important foundation for our discussion regarding this bill, HB3027. The measure, originally introduced through the Appropriations committee by Representative Nancy Kirk on March 9, 2000, addresses the medication needs, an immediate and urgent issue, of dying Kansans being cared for in a ***freestanding hospice inpatient facility***.

Hospice care is provided by Medicare certified programs to terminally ill patients in their own homes, nursing facilities or hospital inpatient settings. Hospices are required by law to contract directly with nursing facilities and hospitals for the care of patients in need of acute symptom management and respite care, *unless they provide that care directly in their own facility*. Midland Hospice is the first program in Kansas to establish its own inpatient facility.

Though it is the first of its kind in Kansas, our licensure law, adopted in 1994, recognized the eventuality of this type of facility. Apparently, the statute, does not sufficiently address the issues of medications for critically ill dying patients being cared for in this type of facility.

On behalf of the Association of Kansas Hospices, I need to extend an apology to you, Mr. Chairman and the members of this Committee for our lack of foresight. Had we been a little more astute in our legislative maneuvering, we would have addressed this issue with deliberation and foresight. I regret the manner and the hour in which this issue has been brought to you, and I pledge the state hospice association's efforts in doing all we can to bringing about a resolution. I would also like to extend my apologies to the Pharmacy board and its Executive Secretary, Larry Froelich for the urgency of this matter, and to publicly express my appreciation for his considerable attention in assisting us in devising a "fix" to the dilemma we face.

The submission of this bill and our review today is the result of a naivete on the part of the association. We assumed that our licensure law and the pharmacy provisions within the sections addressing **freestanding hospice inpatient care** adequately addressed the medication needs of those patients in such an inpatient facility. Our assumptions, according to those more versed in these matters, were not correct. Let me explain.

With the adoption of the hospice licensure bill in 1994 and its full implementation in 1996, Kansas hospices have been subject to the provisions of the federal rules and regulations governing hospice care in the state. Since 1996, Kansas hospices, have to be Medicare certified

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in order to provide care to terminally ill Kansans, and no organization can hold itself out to be a hospice unless it follows those guidelines.

These provisions, spelled out in law, 42 of the code of federal regulations, chapter 1, section 418.1 *et.seq.* and amendments thereto, govern the delivery of hospice care in both home care and inpatient settings. These provisions were adopted as governing the practice of hospice care in Kansas when the law was adopted in 1994, thus making the federal rules state law.

At the time the law was adopted, all hospice ***inpatient*** care was provided in nursing facility or hospital environments only. That is still the method that most hospice inpatient care is delivered in the state. At the time of our adoption of the law, however, we recognized that at some point in our future, inpatient care in an independent freestanding facility was likely. In order to address this eventual reality, the provisions outlined in the federal guidelines which specifically address **"Hospices that provide inpatient care directly"** were included in the Kansas licensure law.

It was our belief that the standards and specific language in the ***pharmaceutical services*** provisions of this bill spelled out in sufficient detail the requirements that hospices had to meet to *order, administer, control, account, store, and dispose of medications*. Other provisions regarding the *pharmacist* relationship with the hospice and *liability* issues were also spelled out. Karren Weichert, Executive Director of Midland Hospice Care, Inc. will speak in a moment. She will address in more detail what safeguards and measures are in place regarding the medications for patients residing in the facility.

There are two issues that must be resolved. The immediate fix to allow patients in the hospice inpatient facility here in Topeka is paramount. The long term fix to adequately address the medication issues in the management of the complex symptoms of dying patients needing acute care is also critical. While the language in HB3027 is problematic in its reference to the facility where these patients are cared for, the short term solution may be contained in the idea about allowing for emergency supplies of medication. We do not believe, however, that the language in the HB 3027 addresses the long term fix, as the description of what is necessary under federal regulation, and state licensure is far more extensive and detailed as you will hear in Ms. Weichert's testimony.

The position of the Association of Kansas Hospices is that a long term resolution should be more detailed and descriptive, similar in scope, perhaps to an ***institutional drug room*** than what is described in the proposed legislation. The Association stands ready and willing to work with Mr. Froelich and his board, this committee, your research staff and revisor of statute in addressing the long term solution.

Thank you for the opportunity to testify and for your indulgence in this very important matter to all of us caring for Kansans in need of hospice inpatient care.

HB3027 Testimony
Medication Needs In Hospice Inpatient Facilities In Kansas
Karren Weichert, Executive Director Midland Hospice Care, Inc.
March 21, 2000, State Capitol Building, Rm. 423S, 1:30 p.m., Topeka, KS

Public Health and Welfare Committee
Garry Boston, Chairman

Chairman Boston and Members of the committee,

I am Karren Weichert the Executive Director of Midland Hospice Care , a Medicare Certified and Joint Commission Accredited, not-for-profit hospice organization serving 12 counties in eastern Kansas testifying today in support of HB3027 .

Hospices services are for patients who have a life-limiting illness and a prognosis of 6 months or less. A hospice program provides palliative care to terminally ill patients and supportive service to patient, their families and significant others, 24 hours a day in both home and inpatient settings. Physical, emotional and spiritual care is provided during the last stages of illness, during the dying process and during bereavement.

As a hospice provider in the state of Kansas, we are required to meet all Federal regulations for Medicare certification and in so doing are deemed to be licensed by the Hospice Licensure bill adopted in 1994. Under the regulations there are four defined levels of care; routine provided in the patients place of residence; continuous home-care provided during times of medical crises primarily by nursing staff to keep the patients in their homes; inpatient respite provided in an approved facility for brief periods of time to afford caregivers a reprieve when total responsibility becomes too stressful; general inpatient provided in a an approved facility when pain control and symptom management cannot be managed in other settings. General inpatient and respite care can only be provided in a hospital, skilled nursing facility or hospice inpatient facility that meet the federal regulations 418.100 *et.seq.* under state licensure law.

For the past decade we at Midland Hospice have provided the general and respite levels of inpatient care through contractual arrangements with skilled nursing facilities and hospitals. Recently we have opened the first and only hospice inpatient facility in the state of Kansas to meet the needs of patients requiring pain and symptom control not manageable in the home. As the first facility of this type in the state we are breaking new ground for end-of-life care options in Kansas.

Extensive research over a seven year period prepared us for the opening of our 18-bed facility. Through the entire process the we sought to comply with federal regulations/licensure law and Joint Commission standards. One of which requires an inpatient facility to have emergency medications on site. With that knowledge in mind we designed our facility and our program to

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insure the safe storage of all medications. It was just recently when a question arose from our contracting pharmacist regarding emergency medications that the pharmacy board made us aware that the pharmacy statutes did not allow for hospices to retain emergency medications on site.

I'm asking you to make a change in those statues. This committee is concerned for the health and welfare of our citizens , so are we.

Mindful of regulations as defined by federal and state statutes as well as Joint Commission standards, we require all medications coming into the facility be immediately inventoried, logged and secured by a registered nurse. The inventory log contains the patients name, medication and the quantity to be dispensed. The medications are stored in a locked room accessible only by the nurses, pharmacists and physicians. The registered nurses on duty have the only keys. Individual patient medications are kept in a specified cabinet within the medication room designated by patients name, room number, physician and allergy sensitivities. Controlled substances are kept in a separate locked cabinet accessed with a different key again with individual patient information.

Midland Hospice contracts with a licensed pharmacist whose responsibilities include advising on storage, ordering, administration, disposal and record keeping of all drugs and biologicals. The pharmacist is consulted with daily and makes on-site visits at least weekly. Additionally, he may attend the weekly interdisciplinary team meeting and accompany the medical director on patient visits.

Midland Hospice also contracts with three physicians one of whom visits daily when a patient is being served at the inpatient level. Medications are reviewed and changes are implemented as deemed appropriate by the physician. All verbal orders can only be taken by a nurse with written verification to follow.

Staffing is labor intensive and technically skilled. There is one registered nurse and one aide to each 6 patients 24-hours a day seven days a week. Additionally the other members of the team, social workers, chaplains, and volunteers visit intermittently. Ancillary therapy staff are brought in as needed.

At shift change nurses must account for all medications dispensed during their work period. Narcotics must be accounted for as witnessed by the incoming nurse. At the time of death all medications are counted and destroyed in the presence of two witnesses. The medication log is then placed in the patients medical record.

It's a very efficient system as long as no one experiences pain or symptoms off schedule. The reality is, they do. Take for example the 71-year old woman with multiple myeloma admitted last week. Severe fluid build up throughout her body including her lungs. At admission she was very frightened, in severe pain and having difficulty breathing. She was started on oxygen and medications were ordered immediately. Her family seeing her suffering were frightened and

panicked. The medical director and nursing staff tried to calm all of them but it wasn't until the medication arrived from the pharmacy fifty-five minutes later that relief came. She shouldn't have had to wait.

Hospice care is about life. It's about keeping patients free from pain and suffering so that last days my be cherished and lived out in grace and dignity. Uncontrolled pain is neither graceful nor dignified and allowing it is certainly not good hospice care.

I know it's very late in the session and that there is not a lot of time to debate new issues. This is not a new issue it's just something that got overlooked as different statutes and regulations were being written. Your support of this bill will not only allow Midland Hospice and future inpatient hospices to meet required federal and state requirements, but will help ensure end-of-life care with dignity for those we serve.

Thank you.

Kansas Board
Of
Pharmacy

900 SW Jackson, Room # 513
Topeka, KS 66612-1231
(785) 296-4056
(785) 296-8420 Fax

March 21, 2000

The Honorable Jerry Henry
Topeka State Capitol, Room 284-W
Topeka, KS 66612

Dear Representative Henry:

I hope to explain the problems that created HB-3027 and SB-541 – Round pegs that could not fit into square holes. The problems developed because the Board did not have a category to place either of them.

HB-3027:

1. Cannot operate as a **retail pharmacy** - pharmacist has to be "on duty" when open (possibly 24 hours).

2. Cannot operate as a medical care facility pharmacy (**Hospital**) – not categorized as such by H&E.

3. Cannot have an **Emergency Kit** – currently only allowed in Nursing Homes (which H&E license).

4. Cannot operate as a traditional institutional drug room – not within the (current) definition.

With the Hospice situation - **Two solutions** were discussed – either adding verbiage to allow an emergency kit or change the institutional drug room definition.

The inpatient hospice care facility in Topeka wanted **more** than just an emergency kit. They did NOT want restrictions on the number of drugs they could access. They argued that the needs of their patients changed too often to limit the drugs. Please remember that this is the same entity that did not want H&E to write regulations on them. They chose to operate under Federal regulations.

Also, two different entities were before the Committee on Tuesday:

1) Midland Hospice in Topeka – currently the only location in Kansas that offers a freestanding inpatient hospice care facility. Midland wants an answer to their problem immediately, hence the introduction of HB-3027.

2) Hospice Inc. in Wichita which has met the pharmacy requirements and has a pharmacy license at their site. Hospice, Inc anticipates problems down the road, hence the lack of support of HB-3027. They want to maintain their pharmacy license.

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SB-541:

Same arguments as listed above. No current defined category to place this facility under.

We held a meeting with the following people: Dean of the Veterinary Medical Teaching Hospital (VMTH), Director of the VMTH, Director of Pharmacy of the VMTH, Executive Director of the Board of Veterinary Examiners, and the Executive Director of the Kansas Veterinary Medical Association (and me).

Only **one solution** was discussed – define the facility as a "Veterinary medical teaching hospital pharmacy" and add this under the institutional drug room category. Then, all work together to write regulations that will allow them to operate as they have been, licensed by the Board of Pharmacy, AND with a pharmacist responsible for the location.

Finally, very minor adjustments (recommended by KSU) need to be performed on SB-541. The definition under (jj) needs to say: "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of ~~an accredited college of~~ **a veterinary** ~~medicine~~ **medical teaching hospital in an accredited college of veterinary medicine** and from which prescription-only drugs are distributed for use in the treatment of or administration to a non-human. (Page 6, line 7 of current language). Also, changing pharmacist in charge to just pharmacist (Page 10, lines 19 & 20).

I hope that I adequately explained both situations to you. I appreciate that the committee allowed me this opportunity. I would like to be present on the floor during the discussion so that I may help you answer any questions. However, in the meantime, if you have additional questions, contact me at 296-8419.

Sincerely,

Larry Froelich
Executive Secretary

CC: Board members
Honorable Garry Boston