

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 February 6, 2002 in Room 210 Memorial Hall

All members were present except: Representative Nancy Kirk, Excused

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

Others attending: See Attached Sheet

Chairperson Welshimer moved and Representative Morrison seconded bill introduction to license radiologic technologists. The motion carried.

Representative Showalter moved and Representative Storm seconded bill introduction concerning appropriations for the fiscal years ending June 30, 2002, and June 30, 2003, for the Department of Health and Environment relating to additional aid to public health departments for bio-terrorism infrastructure and authorizing certain transfers and fees, imposing certain restrictions and limitations and directing or authorizing certain receipts, disbursements, capital improvements and acts incidental to the forgoing. The motion carried.

Representative Storm moved and Representative Showalter seconded prompt payment of refunds to consumers. The motion carried.

Representative Storm moved and Representative Welshimer seconded to fill prescriptions for a 90 day period rather than a 30 day period to save on the environment. The motion carried.

The Chairperson opened the hearing on **HB 2733 - Presumptive death law, catastrophic events or disasters.**

Staff gave a briefing on **HB 2733.**

Representative Morrison asked if the missing person does reappear, what happens to the insurance that was paid – does it have to be paid back?

Staff said they would research that question.

Dr. Lorne A. Phillips, Director and State Registrar, Center for Health and Environmental Statistics, testified as a proponent to **HB 2733**, stating this is a mechanism to authorize state officials to file a presumptive death certificate in the event of a catastrophe in which a body for an individual cannot be found. Very few states have presumptive death law and need to change the statutes.

In light of the disasters of September 11 in New York and Washington, D.C. issues have arisen related to the registration of death certificates for individuals for which no body is found. The current statute K.S.A. 59-2704, requires that an absentee is presumed dead if they have not been heard from for a period of five years and if a diligent search has been conducted. This provision would pose a hardship on families in the event of a catastrophic event.

To address this, it is proposed that K.S.A. 59-2704 be amended to establish a procedure to declare a catastrophic event that will supercede the provisions in K.S.A. 59-2704 and shorten the time period for declaring an individual deceased and allow for the registration, certification and issuance of death certificates.

This legislation would allow, if the Governor and/or President were to declare an emergency

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210,  
Memorial Hall at 1:30 p.m. on February 6, 2002.

either due to a catastrophic event or a war, that expedited procedures for the declaration of death and the creation of a death certificate would be allowed (Attachment 1).

The Chairperson closed the hearing on **HB 2733**.

The Chairperson opened the hearing on **HB 2734 - University of Kansas Hospital Authority Amendment**.

Staff gave a briefing on the bill.

William W. Sneed, Legislative Counsel for the University of Kansas Hospital Authority, testified as a proponent to **HB 2734**. This bill represents several technical changes to the statutes that govern the operation of UKHA. The legislature separated the hospital from the University of Kansas system and placed it under the independent University of Kansas Hospital Authority in 1998 (Attachment 2).

Rob Browning, Polsinelli, Shalton, Welte stated there were not a lot of changes in the KPERs. The testimony shows the proposed changes were approved by the board but it was actually the executive committee that approved, not the board.

Glenn Deck, KPERs stated he was neither a proponent or opponent to the bill. There were some concerns about this being made retroactive to move people out of KPERs. After discussion with representatives from the University of Kansas Hospital Authority, I don't feel there is a problem but if there is an amendment would like it to be clearer.

There were questions as to how many people were employees and the number under KPERs. The Board of Directors has the decision as to which plan employees are enrolled in.

The Chairperson asked the conferees to keep apprised and come back when the bill is worked.

The Chairperson closed the hearing on **HB 2734**.

The meeting adjourned at 3:10 p.m. The next meeting will be February 7, 2002.





**KANSAS**  
**DEPARTMENT OF HEALTH & ENVIRONMENT**  
BILL GRAVES, GOVERNOR  
Clyde D. Graeber, Secretary

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**Testimony on Request for Authority to Issue Presumptive Death Certificates (HB 2733)**  
**to**  
**House Committee on Health and Human Services**

**Presented by Dr. Lorne A. Phillips**  
**Director and State Registrar**  
**Center for Health and Environmental Statistics**

**February 6, 2002**

Chairperson Boston and members of the Health and Human Services Committee, I am pleased to appear before you today to discuss legislation which would establish a mechanism to authorize state officials to file a presumptive death certificate in the event of a catastrophe in which a body for an individual cannot be found.

In light of the disasters of September 11 in New York and Washington D.C. issues have arisen related to the registration of death certificates for individuals for which no body is found. I believe there is a need to change the Kansas statutes related to an "absentee presumed dead" or K.S.A. 59-2704 to effectively address the needs of family members in settling the affairs of the deceased. These "affairs" include the claim for a life insurance policy which may be needed due to lost income, settling of bank accounts, Social Security and other personal affairs including inheritance issues.

The current statute K.S.A 59-2704, requires that an absentee is presumed dead if they have not been heard from for a period of five years and if a diligent search has been conducted. This provision would pose a hardship on families in the event of a catastrophic event.

To address this issue I propose that K.S.A. 59-2704 be amended to establish:

-A procedure to declare a catastrophic event that will supersede the provisions in K.S.A. 59-2704 and shorten the time period for declaring an individual deceased and allow for the registration, certification and issuance of death certificates.

This legislation would:

-Allow, if the Governor and/or President were to declare an emergency either due to a

catastrophic event or a war, that expedited procedures for the declaration of death and the creation of a death certificate would be allowed.

-Provide procedures in which evidence would be presented to declare the individual deceased.

-This evidence would be presented to the appropriate official, in this case to the district court. The evidence would include that the individual was at the site of the catastrophic event at the time of the event and the body cannot be found or recovered.

-The court, upon a finding of presumptive death, would order the coroner in the county of death to prepare a death certificate with the cause of death being due to the catastrophic event.

-Upon receipt of the death certificate from the coroner, the state registrar will register and make available certified copies of the death certificate.

-Language also is included that will allow for amendments to the record in case new information or the body is found and also, for the ability to rescind the death certificate if the person is subsequently found to be alive.

The remainder of the bill deals with the manner in which the estate of individual will be handled.

Thank you for the opportunity to appear before the House Health and Human Services Committee. I will be pleased to respond to any questions members of the committee may have regarding this topic.

# Polsinelli | Shalton | Welte

A Professional Corporation

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## Memorandum

**TO:** REPRESENTATIVE GARRY BOSTON, CHAIRMAN  
HOUSE HEALTH & HUMAN SERVICES COMMITTEE

**FROM:** WILLIAM W. SNEED

**RE:** H.B. 2734

**DATE:** FEBRUARY 6, 2002

Mr. Chairman, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the University of Kansas Hospital Authority ("UKHA"). At our request, this Committee introduced H.B. 2734. This bill represents several technical changes to the statutes that govern the operation of UKHA.

In 1998, the Kansas Legislature separated the hospital from the University of Kansas system and placed it under the independent University of Kansas Hospital Authority. The hospital adopted the name the public had called it for years, KU Med.

KU Med's governing structure has allowed it to invest in quality patient care while operating in a competitive marketplace. The hospital continues its affiliation with the University of Kansas Schools of Medicine, Nursing and Allied Health in supporting education and research.

In addition to our written testimony, I am attached several items: first, a listing of our Board of Directors and Officers; second, an organizational charge of the UKHA; and finally, a copy of our 2001 Annual Report.

As we stated in our bill introduction, over the last several months, the University of Kansas Hospital Authority's Board of Directors has analyzed certain provisions of the University of Kansas Hospital Authority Act (the "Act") to propose possible amendments to the Act to the 2002 Kansas Legislature.

Those discussions have led to the language found in H.B. 2734. Further, the proposed changes have been unanimously approved by our board. With that, please accept the following as an explanation of the proposed changes incorporated in H.B. 2734.

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Atch #2



1. **State Employees: KSA § 76-3303(h).** This is found on page 2, lines 3-7.

*This provision defines a “state employee” as a person employed by the State of Kansas, whether or not a classified or unclassified employee in the state personnel system.*

Issue: Nothing in the Act currently specifies that all Authority employees and other personnel are not state employees. If any Authority employee would ever be deemed a state employee, such an interpretation would conflict with the general intent of creating the Authority as an entity that is independent of the laws that generally apply to state employees.

Proposed Revisions: Revise K.S.A. 76-3303(h) and clarify provision to specify that the definition of “state employee” does not include any employee or other personnel of the Authority.

2. **Hospital Employees: KSA § 76-3303(n).** This is found on page 2, lines 21-30.

*This provision defines a “Hospital employee” as an individual that performs services for the Hospital and whose salary is paid in whole or in part from the Hospital revenue fund.*

Issue: This Act provision does not clearly specify that a “Hospital employee” does not include any “state employee.” In addition, the defined term “Hospital employee” is not technically accurate because the Authority, not the Hospital, is the entity that employs applicable individuals performing services at the Hospital.

Proposed Revisions: Revise K.S.A. 76-3303(n) to specify that a “Hospital employee” shall not include any state employee. In addition, for clarification, revise provision to specify that a Hospital employee is an employee of the Authority.

3. **Board of Directors: KSA § 76-3304(b).** This is found on page 2, lines 40-41, and on page 3, lines 2-3 and 7-8.

*This provision provides a description of the Authority’s Board of Directors (the “Board”). The Board consists of fourteen (14) members, including eight (8) representatives of the general public (with at least one member from each Kansas congressional district), three (3) ex officio voting members consisting of the Chancellor of the University of Kansas, the Executive Vice Chancellor of the University and the Executive Dean of the University School of Medicine, and three (3) ex officio non-voting members consisting of the Chief of Staff of the Hospital, the President of the Authority and the Dean of the University School of Nursing.*

Issue: Shortly after the first meeting of the Board, the Board adopted bylaws which provided for the establishment of several Board committees. Since the adoption of the bylaws, the Board has established numerous committees, including the Executive Committee, the Nominating Committee, the Executive Compensation Committee, the Finance Committee, the Strategic Planning Committee, and the Quality Committee. In addition, certain ad hoc committees have been appointed to deal with specific situations,

including the recent Task Force for the Cardiology Program. As the Board has matured, and will continue to mature in the years to come, it is very likely that more and more of the Board's groundwork will be done in the committee setting.

With the understanding that more time and commitment will be expected from Board members, we examined whether the present size of the Board was adequate for the future. With the exception of the president of the Authority, all other 13 members of the Board have full-time careers and responsibilities that are unrelated to the Authority. With respect to those Board members who represent the general public, the Authority has been able to attract community and business leaders, all of whom have significant and busy careers. The Authority should want to attract and needs to attract such leaders in the future. As such, there has to be some concern as to whether it is reasonable to expect more time commitment from Board members, especially those Board members who represent the general public, or whether it would be preferable to increase the size of the Board.

In order to compare the Authority's situation with other hospitals in the metropolitan area, we have studied the board size of the following hospitals. In some instances, the hospital is also a member of a larger health system. In such event, the health system has a holding company board of directors that also takes part in the governance of the hospital. The results of our review showed the following:

St. Luke's Hospital of Kansas City	- 76 directors*
Shawnee Mission Medical Center	- 19 directors*
Stormont - Vail Health Center (Topeka)	- 26 directors
Providence Medical Center	- 21 directors*
St. Joseph Health Center	- 53 directors*
Research Medical Center	- 24 directors*
Baptist Medical Center	- 22 directors*
Truman Medical Center	- 84 directors

\* - Holding company system with an additional board of directors.

For all of these reasons, which are critical to the continued timely and efficient operation of the Board, we propose that the Board of Directors be increased by five (5) additional members, from the current fourteen (14) Board members to nineteen (19) Board members. The five (5) additional members would be representatives of the general public. A side benefit of the addition of five (5) additional members would be added flexibility for the Board's Nominating Committee in the selection of nominees. The Act requires that certain members of the Board represent the congressional districts in Kansas. Sometimes such a requirement may prove to be inflexible if the Board is in need of certain skill sets or in need of additional representatives from the Kansas City metropolitan area, the Authority's principal marketplace.

One additional proposed change to the Act would be to extend voting rights to all members of the board.



Proposed Revisions:

Revise K.S.A. 3304(b) to increase the number of Board members representing the general public to thirteen (13). Further, provide voting rights for the President of the Authority, the Dean of the School of Nursing, and the Chief of the Medical Staff.

4. **Board Member Appointment: K.S.A. § 76-3304(d).** This is found on page 3, lines 32-43.

*This provision retires the terms of the current Board members and allows the Governor to appoint all Board members for terms of a specific amount of years.*

Issue: Due to the confusion and overlap in Board member terms that would result with the addition of five (5) new members to the Board, the Authority has decided that the existing Board member terms should expire and all members should be appointed at the same time. Therefore, all Board Members will be appointed to a term with a specific number of years by the Governor, and the Governor may choose who will get the longest and shortest terms based upon current years of service on the Board. The method and language of this amendment is nearly identical to what the Legislature did with the terms of the Board of Regents when it reconstituted that Board in 1999. This amendment also confirms that any member who is serving on the Board at the time of the enactment of this legislation will not have to be officially "appointed" to the Board in the same manner as first time appointees.

Proposed Revisions: Revise K.S.A. 76-3304(d) to officially expire the terms of the current Board members on the effective date of this legislation, and have the Governor, in his discretion, appoint all current and new members to terms of a specific amount of years.

5. **Board Member Tenure: KSA § 76-3304(e).** This is found on page 4, lines 3 and 7-10.

*This provision specifies that the term of Board members who represent the general public is limited to three (3) years each and no more than two (2) consecutive three (3)-year terms.*

Issue: Based upon input from the Board and the Authority executive team, a three (3)-year term may be insufficient for a Board member who represents the general public to effectively become acquainted with the Authority and the special needs of a hospital/academic medical center and to participate in and carry out business plans and objectives of the Board. For numerous reasons, it seems Board members who represent the general public generally require several months to start up their activities related to participation on the Board and Board committees. Allowing for an additional year of tenure would help create more stability and efficiency on the Board. By comparison, other state governing boards, for example the Kansas Turnpike Authority and the Kansas Board of Regents, have four (4) year terms for members who represent the general

public. In addition, the term limitation imposed by the Act should be changed as well. There should still be a limitation on the number of terms a Board member may serve. In this instance, a member should be limited to three (3) consecutive four (4) year terms. This change would help bring more stability to the Board and would allow the Authority to retain the services of outstanding Board members.

Proposed Revisions: Revise K.S.A. 76-3304(e) to increase Board member tenure from three-year terms to four-year terms and change limitation on number of terms allowable for each Board member.

6. **Appointment of Board Members: KSA § 76-3304(f).** This is found on page 4, lines 11-20.

*This provision describes the process for Board appointment. In general, the Board's nominating committee forwards a slate of candidates to the Governor for consideration and appointment, subject to Senate confirmation.*

Issues: The Act's current requirement that the Nominating Committee forward a slate of candidates to the Governor for appointment is ambiguous, in that the Act does not specify the number of candidates to include in each slate or the obligation, if any, of the Governor to choose at least one (1) candidate from each slate. Instead, a clearer and more efficient method would be to revise the appointment process in a manner that is similar to a process that is currently in place, the judicial appointment process, so that the Board's Nominating Committee forwards a slate of two (2) or three (3) candidates to the Governor for each vacancy on the Board. The Governor would then be required to appoint one (1) member from each slate and forward the appointed members to the Senate for confirmation. This process should create a fair and impartial appointment procedure and deal with the current ambiguity.

In addition, the Act should be amended so that the Board must give input to the Nominating Committee and that the Board confer with the Nominating Committee during the nominating process.

Proposed Revisions: Revise K.S.A. 76-3304(f) to specify that the Board's Nominating Committee after receiving input from the Board of Directors and after being consulted by the Board of Directors shall forward to the Governor a slate of two (2) or three (3) candidates for each vacancy on the Board and the Governor shall appoint a Board member from each slate.

7. **Board Member Expense Reimbursement: KSA § 76-3304(j).** This is found on page 4, lines 37-41.

*This provision specifies that Board members attending meetings of the Board or meetings of subcommittees of the Board shall be paid subsistence allowances in compliance with applicable state law for state employee expense reimbursement.*

Issue: The provision is in direct conflict with KSA § 76-3304(j), which specifies that the Authority may make reasonable payments for expenses incurred on its behalf relating to any of its lawful purposes. Therefore, the Authority should be able to reimburse Board members for reasonable expenses, and should not be subject to the limitations applicable to state employees.

Because Board members are not state employees, the state laws currently referenced in the Act arguably should not apply. Instead, the Authority should retain discretion to provide reimbursement to the Board and other Authority employees for reasonable costs and expenses, as deemed appropriate by the Authority. This revision will help clarify the discrepancy in the Act and help avoid the time-consuming process of determining whether any expenses incurred by Board members appropriately fit within the limitations provided for state employees.

Proposed Revisions: Revise K.S.A. 76-3304(i) to clarify that the Authority may provide reasonable expense reimbursement to the Board.

8. **Laws Applicable to State Employees: KSA § 76-3311.** This is found on page 7, lines 31-33.

*This provision specifies the procedures applicable to the original transfer of University employees to the Authority and certain statutes, policies and procedures applicable to current and future Authority employees.*

Issue: As noted above, nothing in the act specifies that all Authority employees are not state employees. Without clear statutory guidance, there could be a conflict with the general interest creating the Authority as an entity that is independent of such laws.

Proposed Revisions: For clarification, revise K.S.A. 76-3311 to specify that no state law applicable to state employees shall apply to Authority employees.

9. **Subsidiary Corporations and Joint Ventures: KSA § 76-3315.** This is found on page 7, lines 36-41.

*K.S.A. 76-3308(b) and (c) specify that the Authority may create, own or otherwise acquire or dispose of any entity organized for purposes related to or in support of the mission of the Authority. In addition, the Authority may participate in joint ventures with individuals or entities to facilitate activities or programs consistent with the purpose and intent of the Act.*

Issue: The Act clearly specifies that the Kansas Tort Claims Act applies to the Authority. The Kansas Tort Claims Act generally allows lawsuits against state agencies and employees of the state, but provides limitations on damages that can be awarded to plaintiffs. Obviously, the limitations provided under the Kansas Tort Claims Act benefit the Authority and, if applicable, its subsidiaries and joint ventures. The Act and applicable case law and Attorney General opinions provide no clear legal authority regarding whether this law applies to the Authority's subsidiary entities and joint ventures.

Proposed Revisions:

Revise K.S.A. 76-3315 to specify that the Kansas Tort Claims Act applies to all subsidiaries and joint ventures of the Authority.

10. **Record Retention Policies: KSA § 76-3321.** This is found on page 8, line 1.

*K.S.A. 76-3308(a)(9) should allow the Authority to establish its own record retention policies and procedures. However, the Act does not specifically exclude the Authority from the Kansas law that provides specific requirements for record retention by state agencies.*

Issue: Applying the state record retention policies to the Authority could restrict the Authority's ability to develop document retention policies that best suit the Authority's business and legal needs.

Proposed Revisions: Revise the K.S.A. 76-3321 to specifically exempt the Authority from KSA § 45-401 through KSA § 45-413, governing record retention of state agencies. To accomplish this revision, the statutes listed above should be added to the list of statutory provisions which specifically do not apply to the Authority, as provided under the Act (KSA § 76-3321).

11. **Duty to Affiliate with KPERS: KSA § 76-3322.** This is found on page 8, lines 9-12, 22-30, 33-43 and on page 9, lines 1-3.

*This section provides that the Authority shall affiliate with the Kansas Public Employees Retirement System (KPERS, a statewide defined benefit pension plan with a 10-year vesting schedule and required employee contributions) with respect to current and future employees. Continued participation in KPERS is required for those former employees of the University whose employment transferred to the Authority upon its creation. For those transferred faculty members who were in the alternative Board of Regents 403(b) program rather than KPERS, the Authority was to either (i) provide a 403(b) program of its own, or (ii) adopt a retirement plan providing substantially similar benefits. (The Authority was not eligible to sponsor a 403(b) program, so it adopted a section 403(a) qualified retirement plan for those employees that provides substantially similar benefits.) The Authority is required to provide death and disability benefits for transferred employees through KPERS.*

*For employees hired by the Authority after the transfer date, the Authority is to designate whether those employees will (i) participate in KPERS, (ii) participate in a 403(b) program sponsored by the Authority, or (iii) participate in another retirement plan sponsored by the Authority. (As noted above, the Authority is not eligible to sponsor a 403(b) program, so there are really only two options: KPERS or a qualified plan sponsored by the Authority. Currently, certain employees (generally director level and above) participate in a section 403(a) plan sponsored by the Authority, and the remaining employees are members of KPERS.) The statute does not specifically require death and disability benefits for employees hired after the transfer date. However, those employees are currently receiving death (life insurance) and long-term disability benefits under KPERS.*

Proposed Revisions

a. The statute makes reference to 403(b) plans sponsored by the Authority, even though the Authority is not eligible to sponsor such plans (which are limited to public schools and section 501(c)(3) organizations). Therefore, for



clarification, any of the provisions which refer to a 403(b) program sponsored by the Authority is being deleted.

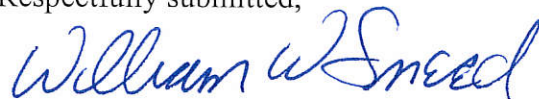
b. The statute currently requires all transferred employees (whether faculty or otherwise) to receive death and disability benefits under KPERS, but does not specifically require such benefits for employees hired after the transfer date. The Authority feels that it should be free to purchase life insurance and long-term disability insurance from the vendor of its choice (rather than the single vendor which underwrites the death/disability benefits under KPERS), and that it should be able to provide such benefits to all employees (whether they are transferred employees or employees hired after the transfer date). Therefore, the statute is being amended to delete the requirement that all transferred employees participate in the death and disability benefits provided through KPERS, and to clarify that employees hired after the transfer date are not required to participate in the KPERS death and disability benefits and, instead, may participate in plans offered by the Authority.

c. The statute provides that the Authority shall “designate” whether employees hired after the transfer date shall participate in KPERS or a retirement plan sponsored by the Authority. KPERS is not an appropriate retirement plan for the Authority’s employees, as its defined benefit feature provides no portability, and its 10-year cliff vesting schedule puts its benefits out of reach for the majority of the Authority’s employees (who do not typically remain employed for the requisite 10 years). Although a literal reading of the statute is that all employees hired after the transfer date could participate in a plan sponsored by the Authority (rather than KPERS), the title of this section (“Affiliation with KPERS”) and the references to “designating” whether employees shall be members of KPERS or whether they shall participate in an Authority-sponsored plan imply that at least some employees must be in the KPERS retirement program. The statute is being amended to clarify that affiliation with KPERS is required only for the transferred employees, who were not in the Board of Regents Plan, and is clearly optional with respect to employees hired after the transfer date.

12. The remaining changes found in the bill are clean-up relating to changes already discussed.

We believe the amendments found in H.B. 2734 provide good public policy and offer to assist our board in its daily governance. We respectfully request your favorable action on H.B. 2734. Again, thank you for your time, and if you have any questions, please feel free to contact me.

Respectfully submitted,



William W. Sneed

**University of Kansas Hospital Authority  
FY 2002**

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Chancellor Robert E. Hemenway  
Robert W. Hanse  
Eric T. Jager  
Ramon Murquia, Esq.  
Edward J. Nazar, Esq.  
Deborah E. Powell, M.D.  
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H. William Barkman  
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Charles T. Sunderland  
H. William Barkman, M.D.  
George J. Farha, M.D., *ex-officio*



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# The University of Kansas Hospital Organizational Chart

