

Approved: May 10, 2002
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on February 19, 2002 in Room 231-N of the Capitol.

All members were present except: Senator Chris Steineger

Committee staff present: Ms. Emalene Correll, Kansas Legislative Research Department
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Administrative Assistant

Conferees appearing before the committee: Mr. John Kiefhaber - Executive Vice-President of
KS Healthcare Association

Others attending: See attached guest list.

**Hearing on SB568 - an act concerning private employment agencies and temporary help services;
relating to employment in adult care homes.**

With the call to order, Chairperson Wagle announced that before the hearing, Ms. Emalene Correll, Kansas Legislative Research Department, would present a brief overview of the bill.

As Ms. Correll stood before the Committee for questions, Chairperson Wagle recognized Senator Jordan who asked if this bill relieved liability and what does it do to employment agencies. Ms. Correll said that the law stands alone from the bill last year and that there was no specific penalty in the bill but that the agencies and services are licensed, which is the potential liability.

As there were no further questions of Ms. Correll, Chairperson Wagle recognized the one proponent for the bill, Mr. John Kiefhaber, Executive Vice-President of Kansas Healthcare Association, who stated that since the national nursing home reform bill passed in 1990, long-term care facilities have been staffing to a higher level of licensed nursing and certified nurse aide staff. Because of this, many local facilities do not have enough qualified personnel in the community to fill their requirements causing the facilities to rely on temporary staffing agencies. He stated that even though these agencies are responsible for providing trained and certified employees as requested, the facilities have been receiving deficiency reports from KDHE for individuals working without proper licensing or certification. This bill would assure that staffing agencies are held responsible for their part in the process. A copy of his written testimony is (Attachment 1) attached hereto and incorporated into Minutes by reference.

Chairperson Wagle thanked Mr. Kiefhaber and requested comments or questions from the Committee. Questions were asked by Senators Harrington, Salmans, Barnett, and Wagle of Mr. Kiefhaber, ranging from who would perform the inspection at 2:00 a.m. on Saturday and Sunday, what was the discrepancy mentioned in his testimony, KDHE's deficiencies' citations, penalties in rural areas, and, has he communicated to KDHE. Mr. Kiefhaber answered all questions.

The Chairperson then asked if anyone in the audience from KDHE would like to comment about this bill. Mr. Joseph Kroll, Director, Bureau of Health Facilities, said KDHE did not anticipate testifying on this bill because it seemed to be such a straight forward bill that duplicates essentially the old Care Home Act. This act provided for the background checks to be conducted and for the nursing home to check with KDHE before they employ the person from the temporary agency and to document that a background check has been done and for the grace period or conditional period to be available. He asked that if the material would be presented to him regarding the case mentioned by the above conferee, he would be glad to discuss the matter, because he knows of no such incidences being reported to the KDHE.

Chairperson Wagle then asked Mr. Kiefhaber if he would like to respond to Mr. Kroll's statement, that this isn't happening? Mr. Kiefhaber stated that he does have the citations and would be glad to share them with KDHE, but the point would be more to, a gap in the enforcement, there is no action taken right now on temporary employment agencies, and provisions need to be made for this whether it has happened 100 times or three times.

Chairperson Wagle then asked why Mr. Kiefhaber chose to write a separate law and not put this in current law and amend? He responded by saying the employment agencies are not under health statute, but as he understood it, were under the human resources requirements. Ms. Correll stated that the statute stands alone as written and if he wanted to make it possible for the Secretary of Human Resources to suspend or revoke licenses for private employment agencies, then he would need to tie in this bill some way with that act, which would basically be K.S.A. 44-4401 through 44-4412 because Health & Environment does not have the authority over employment agencies; they can't close them down or take any action.

The Chair then asked Mr. Kiefhaber if the Committee could see some of the citations because there seems to be conflicting testimony. He said yes. The Chair stated the Committee's concerns are: we want the patients well taken care of and we want the agencies to fully staff to the best of their ability, without getting their hands slapped for something that is not their responsibility. Senator Salmans then asked if they could also be provided the survey process, a typical number, and where the citations are given as to locations, to get an overall picture of what's taken place. Mr. Kiefhaber said yes and asked if he might add, that the Legislative Post Audit would have much of this information available.

The Chair then asked if there were further questions or concerns and recognized Ms. Julie Hein, representing Heart of America Staffing Services Association. Ms. Hein stated that HOASSA was currently following these guidelines and are curious as to why the additional checking of licensure registration certification isn't just added to the current statute. She also stated she understood it maybe is more tied to penalty or liability, and what concerns them is where the intent of the bill is, and indicated she will be looking into this.

As there was no further discussion, Chairperson Wagle then asked Ms. Hein to please look into this so the Committee can find out the implications of everything that is happening and that the Committee would be looking for Mr. Kiefhaber's information. With that, the Chair announced they would be closing the hearing on the above bill.

Action on SB417 - an act relating to critical access hospitals; concerning the length of a stay for inpatient hospitalizations

The next order of business was discussion on SB417. Chairperson Wagle called on Senator Brungardt regarding his concerns. Senator Brungardt said that he had checked with those concerned and with Legislative Research and the amendment is not needed. Senator Praeger made a motion for the passage of SB417 without an amendment. Senator Brungardt seconded the motion. The motion carried.

Action on SB482 - an act concerning the pharmacy act fees and civil fines

Chairperson Wagle announced that Ms. Lisa Montgomery, Revisor of Statutes, had an amendment to this bill. A copy of the balloon is (Attachment 2) attached hereto and incorporated into the Minutes by reference. The Chair then asked Ms. Correll what the prior concern was regarding this bill. Ms. Correll said the question was asked regarding what the application for a licensure examination fee was, and it turns out that it's actually the license fee for the first two years, except that it doesn't say that. She stated that what this amendment would do, would be to make it clear that this is not an application fee plus an examination fee, but an application fee for the first license by examination and separate from the other license fees.

Senator Salmans still questioned the fees, raising it by \$20, because he has not heard any justification for it, but would not hold up the bill. Senator Praeger commented that if the board wanted to raise the fee, they would have to go through the rules and reg process to do it, mentioning also that the statutory limits were not being changed. Ms. Correll stated that's what the fee is currently. Senator Salmans stated it's based on a false premise of how they got it, and not based on being the first fee.

As there was no further discussion, Chairperson Wagle said she was open for action on the bill. Senator Praeger motioned to move the amendment and pass the bill as amended. This was seconded by Senator Haley. The motion passed.

Action on SB418 - an act concerning adult care home administrators; relating to the board for inpatient hospitalizations

Chairperson Wagle then said that SB418 still had some unresolved issues and will hold off working this bill.

Also, they would wait and see what Mr. Kiefhaber can offer the Committee in the way of documents relating to the deficiencies that the facilities are being charged with.

Adjournment

Adjournment time was at 2:30 p.m.

The next meeting is scheduled for February 20, 2002.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

16 in
att.

DATE: Tuesday 2-19-02

NAME	REPRESENTING
Stephanie Neal	KS Governmental Consulting
Camille Tothe	AG Office
Leso Roberts	KDHE
✓ Josh Koole	KDHE
Stephanie Garijo	Sen Burgardt's Intern
Justin Thohan	Sen. Jim Barnett
Chip Wheeler	Osteopathic Medicine
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Chris Collins	Kansas Medical Society
Julie Heen	HASSA



KHCA



Kansas Health Care Association

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TESTIMONY

Before the

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

By

John L. Kiefhaber, Exec. Vice President

KANSAS HEALTH CARE ASSOCIATION

Chairperson Wagle and members of the Committee:

The Kansas Health Care Association, representing approximately 180 professional nursing facilities, assisted living facilities and long-term care units of hospitals, appreciates the opportunity to speak in support of **Senate Bill 568** concerning private employment agencies.

Since the advent of national nursing home reform in 1990 long-term care facilities have been staffing to a higher and higher level of licensed nursing and certified nurse aide staff. This development is partly because of new and higher national standards for care planning and documentation and partly because of higher acuity patient populations in our facilities. With this increased emphasis on higher staffing levels has come pressure on some localities that do not have enough qualified personnel in the community to fill these staffing requirements. As our Kansas population ages the pressure on rural facilities and some urban facilities continues to grow. Many facilities find themselves going to temporary staffing agencies for help – either for short periods or sometimes for longer periods.

Staffing agencies provide needed professional and certified staffing at a higher cost than the facility would have to pay a permanent employee and is responsible for providing only trained and certified staff as requested by the facility. However, recently professional nursing facilities have begun receiving deficiencies reports from the Kansas Department of Health and Environment for individuals reporting for work without proper licensing or certification. Since 1998 facilities have been responsible for assuring that certified staff by cleared by criminal background checks as well. That check is also supposed to be done by the temporary staffing agency, according to the statute.

Senate Bill 568 would assure that temporary staffing agencies are held responsible for their part in the process – not the professional nursing facility. If temporary staff are properly qualified at the agency there could be no unnecessary and unfair penalties imposed on the nursing facility.

2/19/02

SENATE BILL No. 482

By Committee on Public Health and Welfare

1-31

Material in brackets will be stricken

Senate Public Health and Welfare Committee
Date: February 9, 2002
Attachment 2

9 AN ACT concerning the pharmacy act of the state of Kansas; licensure
10 and fees relating thereto; civil fines; amending K.S.A. 2001 Supp. 65-
11 1631, 65-1632, 65-1645 and 65-1658 and repealing the existing
12 sections.
13

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

15 Section 1. K.S.A. 2001 Supp. 65-1631 is hereby amended to read as
16 follows: 65-1631. (a) It shall be unlawful for any person to practice as a
17 pharmacist in this state unless such person is licensed by the board as a
18 pharmacist. Except as otherwise provided in subsection (d), every appli-
19 cant for licensure as a pharmacist shall be at least 18 years of age, shall
20 be a graduate of a school or college of pharmacy or department of a
21 university recognized and approved by the board, shall file proof satisfac-
22 tory to the board, substantiated by proper affidavits, of a minimum of one
23 year of pharmaceutical experience, acceptable to the board, under the
24 supervision of a preceptor and shall pass an examination administered by
25 the board. Pharmaceutical experience as required in this section shall be
26 under the supervision of a preceptor and shall be predominantly related
27 to the dispensing of prescription medication, compounding prescriptions,
28 preparing pharmaceutical preparations and keeping records and making
29 reports required under state and federal statutes. A school or college of
30 pharmacy or department of a university recognized and approved by the
31 board under this subsection (a) shall have a standard of education not
32 below that of the university of Kansas school of pharmacy. The board
33 shall adopt rules and regulations establishing the criteria which a school
34 or college of pharmacy or department of a university shall satisfy in meet-
35 ing the standard of education established under this subsection (a).

36 (b) All applications for ~~examinations~~ licensure by examination shall
37 be made on a form to be prescribed and furnished by the board and shall
38 be filed with the board at least 30 days before examinations are to be
39 held. Each application must for [licensure] by examination shall be accom-
40 panied by [an] examination [application] fee fixed by the board as provided
41 in K.S.A. 65-1645 and amendments thereto unless the board requires the
42 examination fees be paid directly to an examination service as provided
43 in K.S.A. 65-1645 and amendments thereto.

a new license

a license