

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 a.m. on March 22, 2004 in Room 514-S of the Capitol.

All members were present.

Committee staff present:

Alan Conroy, Legislative Research  
Amy VanHouse, Legislative Research  
Michele Alishahi, Legislative Research  
Susan Kannarr, Legislative Research  
Jim Wilson, Revisor of Statutes  
Mike Corrigan, Revisor of Statutes  
Nikki Feuerborn, Administrative Analyst  
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Others attending:

See Attached List.

- Attachment 1 Budget Committee Report on **HB 2890**
- Attachment 2 Budget Committee Report on **SB 336**
- Attachment 3 Proposed House Substitute for **SB 336**
- Attachment 4 Written testimony on **SB 336** from Debra Zehr, Kansas Association of Homes & Services for the Aging
- Attachment 5 Written testimony on **SB 336** from Linda Berndt, Kansas Health Care Association (KHCA)
- Attachment 6 Written testimony on **SB 336** from Janice Jones, Kansas State Nurses Association (KSNA)
- Attachment 7 Written testimony on **SB 336** from Phyllis Kelly, Kansas Adult Care Executives Association (KACE)
- Attachment 8 Written testimony on **SB 336** from Deanne Bacco, Kansas Advocated for Better Care

**Discussion and Action on HB 2890 - Prescribing procedures for certain persons with infectious and contagious diseases.**

Representative Landwehr, Chair of the Social Services Budget Committee, presented the Budget Committee report on **HB 2890** and moved to recommend **HB 2890** favorable for passage (Attachment 1). The motion was seconded by Representative Bethell. Motion carried.

Representative Bethell moved to add an amendment to **HB 2890** inserting language to Page 1, Line 29, after the word "disease", to add "which is potentially life-threatening". The motion was seconded by Representative Landwehr. Motion failed.

The Committee voiced concern about:

- The meaning of "potentially life-threatening";
- Who would be responsible for the cost of the group quarantine;
- Who would have the authority to declare a disease "life-threatening".

Chairman Neufeld recognized Richard Morrissey, Kansas Department of Health and Environment (KDHE), who answered questions from the Committee. Mr. Morrissey noted that the agency looked at other states with similar legislation before the language in **HB 2890** was proposed. Mr. Morrissey stated this legislation would give the State authority to quarantine a specific group of people and allow for due process. Mr. Morrissey noted that the State has not had a contagious disease outbreak for the past ten years; however, the legislation is proposed in case of a potential outbreak.

CONTINUATION SHEET

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE at 9:00 a.m. on March 22, 2004 in Room 514-S of the Capitol.

**Discussion and Action on SB 336 - Establishment of a tobacco use prevention and control program.**

Representative Bethell, member of the Social Services Budget Committee, presented the Budget Committee report on **SB 336** (Attachment 2). Representative Bethell stated that the Social Services Budget Committee deleted all language in the original **SB 336** and inserted language relating to adult care home licensure and paid nutrition assistants (Attachment 3). The Budget Committee also changed certain references to the Department on Aging to the Department of Health and Environment to reflect change in administration of adult care homes.

Chairman Neufeld allowed written testimony on **SB 336** to be distributed to the Committee from Debra Zehr, Kansas Association of Homes & Services for the Aging (Attachment 4); Linda Berndt, Kansas Health Care Association (KHCA) (Attachment 5); Janice Jones, Kansas State Nurses Association (KSNA) (Attachment 6); Phyllis Kelly, Kansas Adult Care Executives Association (KACE) (Attachment 7) and Deanne Bacco, Kansas Advocates for Better Care (Attachment 8).

Jim Wilson, Revisor of Statutes, stated that a technical correction is needed in the definition section of the substitute bill regarding the reference to 42 C.F.R. 483-160 that should be expanded to include additional language concerning training qualifications and instruction.

Representative Bethell moved to amend the proposed language in Section 2; (c) (1), by striking the words "secretary of health and environment" and inserting "secretary of aging". The motion was seconded by Representative Henry. Motion carried.

Representative Bethell moved to recommend replacing **SB 336** with the substitute bill, make technical corrections concerning C.F.R. references to the substitute bill and recommend the substitute bill favorable for passage as amended. The motion was seconded by Representative Landwehr. Motion carried.

**Discussion and Action on HB 2925 - Medical student loan act, definition of service commitment areas.**

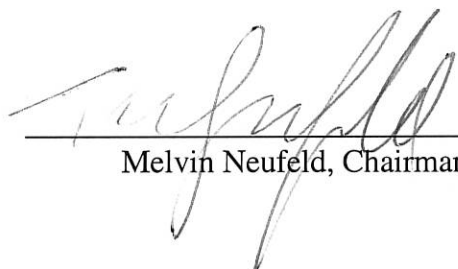
Jim Wilson, Revisor of Statutes, explained that a proposed amendment to **HB 2925** with regard to the "service commitment area" would add a fifth category under subsection (c) allowing any community in Wyandotte County for purposes of any service obligation under a medical student loan agreement entered into by a person, who is enrolled for the first time at the University of Kansas School of Medicine in the course of study and degree as a doctor of medicine, after July 1, 2004. The amendment would restore Wyandotte County to the bill and limit the effect to those students enrolled after July 1, 2004.

Representative Feuerborn moved to adopt the proposed amendment to **HB 2925**. The motion was seconded by Representative Ballard. Motion carried.

Representative Bethell moved to amend the amendment to **HB 2925** to include doctors of osteopathy and make technical corrections as necessary. The motion was seconded by Representative Feuerborn. Motion carried.

Representative Sharp moved to recommend **HB 2925** favorable for passage as amended. The motion was seconded by Representative Feuerborn. Motion carried.

The meeting was adjourned at 9:50 a.m. The next meeting will be held at 9:00 a.m. on March 23, 2004.

  
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Melvin Neufeld, Chairman



**Social Services Budget Committee  
Report on H.B. 2890**

**Background**

H.B. 2890 amends current law regarding the isolation or quarantine of groups of people. Current statutes deal with single instances of quarantine but does not contain due process provisions and does not address the quarantine of groups. This type of authority, where large groups need to be isolated, has not been tested yet in the United States although it has been adopted in a number of states. According to KDHE testimony, this legislation attempts to anticipate the need for such authority to protect the public health while balancing it with the need to preserve individual rights.

**Bill Explanation**

As amended by the Social Services Budget Committee, H.B. 2890:

- Provides certain powers to a local health officer or the Secretary of KDHE in the investigation of actual or potential exposures to infectious or contagious diseases. The section provides the authority to issue an order to:
  - require an individual to seek appropriate and necessary evaluation and treatment if they have reason to believe the person has been exposed to an infectious or contagious disease;
  - require an individual or a group of individuals to go to and remain in isolation or quarantine until they no longer poses a substantial risk of transmitting the disease or condition to the public quarantine or isolate a competent individual over 18 who refuses vaccination, medical examination, treatment or testing where it is believed to be necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease; and
  - require law enforcement officials to assist in the execution or enforcement of an order
- An order may be issued prior to the issuance of an emergency proclamation by the Governor, if the local health officer or secretary determines the disease or outbreak can be medically contained by the department and health care providers or as necessary to implement an order of emergency by the Governor.
- The bill specifies the contents of the order and requires it to be written. Further, the order must be given to the affected persons unless this is impractical and then the best possible means must be used including posting in conspicuous place in the isolation or quarantine premises.
- A person affected by the order has the right to a hearing in a district court to contest the isolation or quarantine but this request will not stay or enjoin the order. Courts are required to conduct the hearing within 72 hours of the request although

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extensions may be allowed under certain circumstances and the bill gives the guidelines for courts to use in granting such extensions.

- The bill outlines the guidelines for courts to use in deciding whether to grant relief from the order and directs a court to grant relief unless it determines that the isolation or quarantine is necessary and reasonable to prevent or reduce the spread of the disease or outbreak believed to have been caused by the exposure to an infectious or contagious disease. The court may consider the means of transmission, the degree of contagion, and the degree of public exposure to the disease. An order authorizing isolation or quarantine order is prohibited from lasting more than 30 days.
- The bill provides for the consolidation individual claims into group claims under specified circumstances and for the appointment of counsel to represent individuals not otherwise represented.
- The bill makes it unlawful for any public or private employer to discharge an employee who is under an order of isolation or quarantine or because of such an order.

### **Fiscal Note**

The fiscal note is unknown at this time because of an inability to estimate the number of cases it would apply to and what the costs would be should there be a large-scale emergency. The bill could also have a fiscal effect of the courts, municipalities, and counties regarding enforcement, legal counsel and the implementation of quarantine procedures but the precise impact is unknown.

### **Budget Committee amendments**

Amendments requested by KDHE and adopted by the Budget Committee:

- Make a technical amendment to the bill on page 4, line 2 by striking "or" and inserting "and".
- Make other technical amendments to make the language consistent by changing "directive" to "order" in a number of places and on Pg. 3, Line 7 by striking "catastrophic"
- Change the timeframe for court hearing after a request on Pg. 2, Line 42 by striking "three working days" and inserting "72 hours"
- Pg. 4, Line 7 by striking "shall" and inserting "may"

**The Social Services Budget Committee recommends the bill be passed as amended.**

**Social Services Budget Committee  
Report on S.B. 336**

S.B. 336 as amended by the Senate Committee established a tobacco use and control program at the Kansas Department of Health and Environment (KDHE).

The House Social Services Budget Committee deleted all language in the existing bill and inserted language relating to adult care home licensure and paid nutrition assistants. The Budget Committee also changed all references to the Department on Aging to the Department of Health and Environment.

As amended by the Budget Committee, the bill:

- Amends K.S.A. 39-923(a) to include the definition of "Paid nutrition assistant". As defined in this act a "Paid nutrition assistant" is "an individual paid to feed residents of an adult care home or who is used under an arrangement with another agency or organization who is trained by a person meeting nurse aide instructor qualifications as defined in 42 CFR 483.152 and who provides such assistance under the supervision of a registered professional or licensed practical nurse"
- Amends K.S.A. 39-936(c)(1) and (2) regarding unlicensed employees to specify the training required for such assistants.

**The Social Services Budget Committee recommends the bill be passed as amended.**

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## HOUSE Substitute for SENATE BILL NO. 336

By Committee on Appropriations

AN ACT concerning adult care homes; relating to paid nutrition assistants; amending K.S.A. 2003 Supp. 39-923 and 39-936 and repealing the existing sections.

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

Section 1. K.S.A. 2003 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any nursing facility, nursing facility for mental health, intermediate care facility for the mentally retarded, assisted living facility, residential health care facility, home plus, boarding care home and adult day care facility, all of which classifications of adult care homes are required to be licensed by the secretary of aging.

(2) "Nursing facility" means any place or facility operating 24 hours a day, seven days a week, caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care to compensate for activities of daily living limitations.

(3) "Nursing facility for mental health" means any place or facility operating 24 hours a day, seven days a week caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments, need skilled nursing care and special mental health services to compensate for activities of daily living limitations.

(4) "Intermediate care facility for the mentally retarded" means any place or facility operating 24 hours a day, seven days a week caring for six or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who, due to functional impairments caused by mental retardation or related conditions need services to compensate for activities of daily living limitations.

(5) "Assisted living facility" means any place or facility caring for six or more individuals not related within the third

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degree of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes apartments for residents and provides or coordinates a range of services including personal care or supervised nursing care available 24 hours a day, seven days a week for the support of resident independence. The provision of skilled nursing procedures to a resident in an assisted living facility is not prohibited by this act. Generally, the skilled services provided in an assisted living facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(6) "Residential health care facility" means any place or facility, or a contiguous portion of a place or facility, caring for six or more individuals not related within the third degree or of relationship to the administrator, operator or owner by blood or marriage and who, by choice or due to functional impairments, may need personal care and may need supervised nursing care to compensate for activities of daily living limitations and in which the place or facility includes individual living units and provides or coordinates personal care or supervised nursing care available on a 24-hour, seven-day-a-week basis for the support of resident independence. The provision of skilled nursing procedures to a resident in a residential health care facility is not prohibited by this act. Generally, the skilled services provided in a residential health care facility shall be provided on an intermittent or limited term basis, or if limited in scope, a regular basis.

(7) "Home plus" means any residence or facility caring for not more than eight individuals not related within the third degree of relationship to the operator or owner by blood or marriage unless the resident in need of care is approved for placement by the secretary of the department of social and



rehabilitation services, and who, due to functional impairment, needs personal care and may need supervised nursing care to compensate for activities of daily living limitations. The level of care provided residents shall be determined by preparation of the staff and rules and regulations developed by the department on aging. An adult care home may convert a portion of one wing of the facility to a not less than five-bed and not more than eight-bed home plus facility provided that the home plus facility remains separate from the adult care home, and each facility must remain contiguous.

(8) "Boarding care home" means any place or facility operating 24 hours a day, seven days a week, caring for not more than 10 individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment, need supervision of activities of daily living but who are ambulatory and essentially capable of managing their own care and affairs.

(9) "Adult day care" means any place or facility operating less than 24 hours a day caring for individuals not related within the third degree of relationship to the operator or owner by blood or marriage and who, due to functional impairment need supervision of or assistance with activities of daily living.

(10) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(11) "Skilled nursing care" means services performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel. Skilled nursing includes administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions which require substantial nursing judgment and skill based on the knowledge and application of scientific principles.

(12) "Supervised nursing care" means services provided by or

under the guidance of a licensed nurse with initial direction for nursing procedures and periodic inspection of the actual act of accomplishing the procedures; administration of medications and treatments as prescribed by a licensed physician or dentist and assistance of residents with the performance of activities of daily living.

(13) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(14) "Person" means any individual, firm, partnership, corporation, company, association or joint-stock association, and the legal successor thereof.

(15) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home purchased or constructed through the sale of bonds.

(16) "Licensing agency" means the secretary of aging.

(17) "Skilled nursing home" means a nursing facility.

(18) "Intermediate nursing care home" means a nursing facility.

(19) "Apartment" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, a kitchen, sleeping, living and storage area and a lockable door.

(20) "Individual living unit" means a private unit which includes, but is not limited to, a toilet room with bathing facilities, sleeping, living and storage area and a lockable door.

(21) "Operator" means an individual who operates an assisted living facility or residential health care facility with fewer than 61 residents, a home plus or adult day care facility and has completed a course approved by the secretary of health and environment on principles of assisted living and has successfully passed an examination approved by the secretary of health and

environment on principles of assisted living and such other requirements as may be established by the secretary of health and environment by rules and regulations.

(22) "Activities of daily living" means those personal, functional activities required by an individual for continued well-being, including but not limited to eating, nutrition, dressing, personal hygiene, mobility, toileting.

(23) "Personal care" means care provided by staff to assist an individual with, or to perform activities of daily living.

(24) "Functional impairment" means an individual has experienced a decline in physical, mental and psychosocial well-being and as a result, is unable to compensate for the effects of the decline.

(25) "Kitchen" means a food preparation area that includes a sink, refrigerator and a microwave oven or stove.

(26) The term "intermediate personal care home" for purposes of those individuals applying for or receiving veterans' benefits means residential health care facility.

(27) "Paid nutrition assistant" means an individual who is paid to feed residents of an adult care home, or who is used under an arrangement with another agency or organization, who is trained by a person meeting nurse aide instructor qualifications as defined in 42 CFR 483.152, and who provides such assistance under the supervision of a registered professional or licensed practical nurse.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, except institutions operated by the Kansas commission on veterans affairs, hospitals or institutions for the treatment and care of psychiatric patients, child care facilities, maternity centers, hotels, offices of physicians or hospices which are certified to participate in the medicare program under 42 code of federal regulations, chapter IV, section 418.1 et seq. and amendments thereto and which provide services only to hospice patients.

(c) Nursing facilities in existence on the effective date of

this act changing licensure categories to become residential health care facilities shall be required to provide private bathing facilities in a minimum of 20% of the individual living units.

(d) Facilities licensed under the adult care home licensure act on the day immediately preceding the effective date of this act shall continue to be licensed facilities until the annual renewal date of such license and may renew such license in the appropriate licensure category under the adult care home licensure act subject to the payment of fees and other conditions and limitations of such act.

(e) Nursing facilities with less than 60 beds converting a portion of the facility to residential health care shall have the option of licensing for residential health care for less than six individuals but not less than 10% of the total bed count within a contiguous portion of the facility.

(f) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 2. K.S.A. 2003 Supp. 39-936 is hereby amended to read as follows: 39-936. (a) The presence of each resident in an adult care home shall be covered by a statement provided at the time of admission, or prior thereto, setting forth the general responsibilities and services and daily or monthly charges for such responsibilities and services. Each resident shall be provided with a copy of such statement, with a copy going to any individual responsible for payment of such services and the adult care home shall keep a copy of such statement in the resident's file. No such statement shall be construed to relieve any adult

care home of any requirement or obligation imposed upon it by law or by any requirement, standard or rule and regulation adopted pursuant thereto.

(b) A qualified person or persons shall be in attendance at all times upon residents receiving accommodation, board, care, training or treatment in adult care homes. The licensing agency may establish necessary standards and rules and regulations prescribing the number, qualifications, training, standards of conduct and integrity for such qualified person or persons attendant upon the residents.

(c) (1) The licensing agency shall require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, employed on and after the effective date of this act who provide direct, individual care to residents and who do not administer medications to residents and who have not completed a course of education and training relating to resident care and treatment approved by the secretary of health and environment or are not participating in such a course on the effective date of this act to complete successfully 40 hours of training in basic resident care skills. Any unlicensed person who has not completed 40 hours of training relating to resident care and treatment approved by the secretary of health and environment shall not provide direct, individual care to residents. The 40 hours of training shall be supervised by a registered professional nurse and the content and administration thereof shall comply with rules and regulations adopted by the secretary of health and environment. The 40 hours of training may be prepared and administered by an adult care home or by any other qualified person and may be conducted on the premises of the adult care home. The 40 hours of training required in this section shall be a part of any course of education and training

required by the secretary of health and environment under subsection (c)(2). Training for paid nutrition assistants shall consist of at least eight hours of instruction, at a minimum, which meets the requirements of 42 C.F.R. § 483.160.

(2) The licensing agency may require unlicensed employees of an adult care home, except an adult care home licensed for the provision of services to the mentally retarded which has been granted an exception by the secretary of health and environment upon a finding by the licensing agency that an appropriate training program for unlicensed employees is in place for such adult care home, who provide direct, individual care to residents and who do not administer medications to residents and who do not meet the definition of paid nutrition assistance under paragraph (a)(27) of K.S.A. 39-923, and amendments thereto after 90 days of employment to successfully complete an approved course of instruction and an examination relating to resident care and treatment as a condition to continued employment by an adult care home. A course of instruction may be prepared and administered by any adult care home or by any other qualified person. A course of instruction prepared and administered by an adult care home may be conducted on the premises of the adult care home which prepared and which will administer the course of instruction. The licensing agency shall not require unlicensed employees of an adult care home who provide direct, individual care to residents and who do not administer medications to residents to enroll in any particular approved course of instruction as a condition to the taking of an examination, but the secretary of health and environment shall prepare guidelines for the preparation and administration of courses of instruction and shall approve or disapprove courses of instruction. Unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents may enroll in any approved course of instruction and upon completion of the approved course of instruction shall be eligible to take an examination. The examination shall be prescribed by the secretary

of health and environment, shall be reasonably related to the duties performed by unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications to residents and shall be the same examination given by the secretary of health and environment to all unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications.

(3) The secretary of health and environment shall fix, charge and collect a fee to cover all or any part of the costs of the licensing agency under this subsection (c). The fee shall be fixed by rules and regulations of the secretary of health and environment. The fee shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

(4) The secretary of health and environment shall establish a state registry containing information about unlicensed employees of adult care homes who provide direct, individual care to residents and who do not administer medications in compliance with the requirements pursuant to PL 100-203, Subtitle C, as amended November 5, 1990.

(5) No adult care home shall use an individual as an unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications unless the facility has inquired of the state registry as to information contained in the registry concerning the individual.

(6) Beginning July 1, 1993, the adult care home must require any unlicensed employee of the adult care home who provides direct, individual care to residents and who does not administer medications and who since passing the examination required under paragraph (2) of this subsection has had a continuous period of 24 consecutive months during none of which the unlicensed

employee provided direct, individual care to residents to complete an approved refresher course. The secretary of health and environment shall prepare guidelines for the preparation and administration of refresher courses and shall approve or disapprove courses.

(d) Any person who has been employed as an unlicensed employee of an adult care home in another state may be so employed in this state without an examination if the secretary of health and environment determines that such other state requires training or examination, or both, for such employees at least equal to that required by this state.

(e) All medical care and treatment shall be given under the direction of a physician authorized to practice under the laws of this state and shall be provided promptly as needed.

(f) No adult care home shall require as a condition of admission to or as a condition to continued residence in the adult care home that a person change from a supplier of medication needs of their choice to a supplier of medication selected by the adult care home. Nothing in this subsection (f) shall be construed to abrogate or affect any agreements entered into prior to the effective date of this act between the adult care home and any person seeking admission to or resident of the adult care home.

(g) Except in emergencies as defined by rules and regulations of the licensing agency and except as otherwise authorized under federal law, no resident may be transferred from or discharged from an adult care home involuntarily unless the resident or legal guardian of the resident has been notified in writing at least 30 days in advance of a transfer or discharge of the resident.

(h) No resident who relies in good faith upon spiritual means or prayer for healing shall, if such resident objects thereto, be required to undergo medical care or treatment.

Sec. 3. K.S.A. 2003 Supp. 39-923 and 39-936 are hereby repealed.



Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.



To: Melvin Neufeld, Chair, and Members,  
House Appropriations Committee  
Fr: Debra Zehr, RN, Vice President  
Date: March 22, 2004

**TESTIMONY IN SUPPORT OF SENATE BILL 336 AS AMENDED  
BY THE HOUSE SOCIAL SERVICES BUDGET COMMITTEE**

Thank you, Chairman Neufeld, and Members of the Committee. The Kansas Association of Homes and Services for the Aging represents 160 not-for-profit long-term care provider organizations throughout the state. Our members serve over 15,300 older people in nursing homes, retirement communities, assisted living and housing units, and community-based service programs.

**KAHSA asks for your support of Senate Bill 336 as amended by the House Social Services Budget Committee to substantially include House Bill 2763, to authorize the use of paid nutrition assistants in Kansas long-term care facilities.**

Good nutrition is especially vital to the health and well being of frail elders who live in nursing homes. With this in mind, after more than two years of study and consideration of public comment, the Centers for Medicare and Medicaid Services (CMS) issued a regulation last fall permitting states to allow the use of specially trained and supervised persons, who are not licensed nurses or certified nurse aides, to help feed certain nursing home residents. The underlying premise of CMS' rule is that, with more one-to-one personal assistance and interaction, nursing home residents' mealtime experience, meal consumption and, ultimately, nutritional status and overall health can be improved.

Who could benefit from this additional assistance? Here are two examples:

- A resident with severe rheumatoid arthritis who literally cannot get the food to her mouth without help.
- A resident with dementia who, with one-to-one cueing and occasional hands-on assistance, can continue to feed himself and enjoy mealtime.

Who are likely candidates to become paid nutrition assistants?

- Persons already employed by the nursing home in a non-nursing capacity, such as housekeepers, dietary aides, receptionists or social workers.
- Persons hired and trained specifically to come in and help at mealtimes only.
- Persons interested in taking a first step toward becoming a nurse aide or nurse.

Paid nutrition assistants must be properly trained and supervised, and used in a safe and appropriate manner. To address these needs, federal regulations require that paid nutrition assistants:

- Successfully complete 8 hours of training on nutrition and hydration, feeding techniques, communication skills, appropriate responses to resident behaviors, safety and emergency procedures, infection control, resident rights, and recognizing and reporting changes in residents.
- Be supervised by a licensed nurse.

In addition, residents must be assessed by a nurse on an ongoing basis to determine that they have no complicated feeding problems that might put them at risk for choking.

While not required in the federal regulation, Senate Bill 336 calls for paid nutrition assistant instructors to be Registered Nurses meeting nurse aide instructor qualifications. We support this provision as an added assurance of quality training.

Some other states that have, or are in the process of authorizing the use of paid nutrition assistants include Wisconsin, North Dakota, South Carolina, Ohio and New York.

Thank you for your support of Senate Bill 336 as amended. I would be happy to answer questions.



# KHCA



## Kansas Health Care Association

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To: House Appropriations

Re: SB 336

Date: March 22, 2004

Chairman Neufeld and members of the Committee, thank you for the opportunity to testify before you today regarding SB 336.

I am Linda Berndt, Executive Vice President of Kansas Health Care Association representing nearly 200 nursing and assisted living facilities including nursing facilities for mental health, long-term care units of hospitals, senior housing and community service providers across the state of Kansas.

I am here today in support of the use of paid nutrition assistants for use in nursing facilities. We often talk of culture change in our facilities and one area that has seen much improvement concerns mealtime experiences. Many facilities have flexible hours for residents to dine. They have menus with a variety of choices, doctor permitting. Some facilities have small bistros, fine dining rooms or a restaurant atmosphere similar to a small town café.

All of these choices are great for residents but sometimes put a strain on available staffing. By allowing a facility to hire paid feeding assistants, you free up more highly trained personnel to feed those residents who need a bit of extra care or help.

Another benefit of this new staffing, it offers another opportunity for a job candidate to learn about the geriatric care profession. It is our hope that many will use this as the first step as in a career ladder within long-term care.

Thank you for your consideration and support.

I stand for questions.

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 THE VOICE AND VISION OF NURSING IN KANSAS

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 March 17, 2004

## S.B. 336 Establishment of a tobacco use prevention and control program

Representative Landwehr and members of the House Social Services Budget Committee, the KANSAS STATE NURSES ASSOCIATION is pleased to support S.B. 336 which provides specific direction to the Secretary of the Kansas Department of Health and Environment regarding components of and evaluation for a comprehensive tobacco prevention program.

Registered nurses have been very involved in tobacco prevention efforts in their professional capacities in public health, acute care nursing—working with patients recovering from disease and injury, primary care and school health. Since the 1963 Surgeon Generals first report on tobacco this country has made considerable improvement in reducing adult usage. The past ten years efforts, at least in Kansas have been focused on reducing the prevalence in adolescents—with success in also bringing down consumption rates.

Tobacco as the leading cause of preventable death is a major public health concern. It certainly warrants resources and emphasis by the state, in particular the state health agency. This bill has a number of excellent initiatives and focus—but clearly the most important aspect of what is being proposed is the *reporting on an annual basis of the “progress” we are making in addressing this health concern.* This bill provides direction, demands accountability and measurable outcomes and sets an expectation that those of us (health professionals, non-profit health organizations, educators, public health officials) working to reduce tobacco usage properly channel information and research/evaluation findings to the state health agency in a coordinated and deliberate fashion.

KSNA is proud of the work of all the Kansas partners in tobacco control and prevention. We know that this legislation will support us and assist in our continued goal of increasing healthier lifestyles for generations to come, in particular as it relates to tobacco usage.

Thank you for your support.

The mission of the Kansas State Nurses Association is to promote professional nursing as a unified voice for nursing in Kansas and to advocate for the health and well-being of Kansas citizens.

CONSTITUENT OF THE AMERICAN NURSES ASSOCIATION

HOUSE APPROPRIATIONS

DATE 3-22-2004  
 ATTACHMENT 6

Monday, March 22, 2004

(Written Testimony – Proponent)

Written testimony before the House Appropriations Committee on SB 336. An Act concerning nutrition assistants in adult care homes in Kansas.

Chairman Neufeld and Members of the Committee:

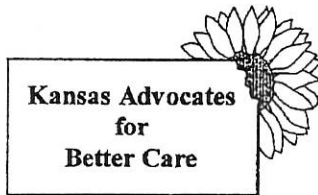
I am Phyllis Kelly, Executive Director of the Kansas Adult Care Executives Association (KACE). Our Association represents over 250 adult care home executives in nursing homes and assisted living facilities throughout Kansas. The KACE Board of Directors and the KACE Legislative Committee have reviewed the components of SB 336. Both of these entities concur that the proposed legislation will help provide better nutrition for the frail and elderly residents in our nursing homes.

The Centers for Medicare and Medicaid Services (CMS) have passed regulations permitting states to use specially trained and supervised persons to help nursing home residents during mealtime. The use of Nutrition Assistants will allow for more one-to-one personal assistance. As a result, residents' nutritional status will be improved. Training and supervision of the Nutritional Assistants will be mandatory.

We urge your support of SB 336.

**HOUSE APPROPRIATIONS**

DATE 3-22-2004  
ATTACHMENT 7



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Promoting Quality Long-term Care since 1975

**SB 336**

**Concerning establishment of a tobacco use  
prevention and control program,  
which includes amended HB 2763 pertaining to  
paid nutrition assistants in nursing homes**

March 2004

Honorable Chairman Neufeld and  
House Appropriations Committee Members:

Kansas Advocates for Better Care (KABC) can support SB 336 with the amendment to add HB 2763 provided it is amended to include the following improved concepts regarding "paid nutrition assistant".

It is true that the federal government, through the Centers for Medicare and Medicaid Services (CMS), has made provision for "paid nutrition assistants" in nursing homes. However, the concept is fraught with great potential for negative outcomes for residents. By federal regulation, nutrition assistants:

- need to work under the supervision of licensed nurses
- may only feed or hydrate residents with no complicated feeding or hydration problems
- do not need to be certified nurse aides
- are not allowed to reposition or touch the residents
- and are required to take a minimum of eight hours of training.

The federal regulation does not address the issue of who can teach a nutrition assistant.

HB 2763 does not address all topics required by federal legislation.

Given that anyone could become a nutrition assistant, the training would certainly need to be extensive. **Consumers' concerns could be greatly alleviated by adding a phrase onto the definition to read: "Paid nutrition assistant" means an individual who is paid to feed and hydrate residents of an adult care home, or who is used under an arrangement with another agency or organization, who provides such assistance under the supervision of a registered professional or licensed practical nurse, and who has successfully completed a State-approved training course that is taught by registered nurses that meet the requirements for instructors who train nurse aides."**

Thank you for this opportunity to comment.

  
Deanne Bacco, Executive Director

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