

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:30 p.m. on February 24, 2004, in Room 526-S of the Capitol.

All members were present except:

Representative Frank Miller- excused
Representative Tom Holland- excused
Representative Joe McLeland - excused

Committee staff present:

Dr. William Wolff, Legislative Research Department
Renaë Jefferies, Office of Revisor of Statutes
Gary Deeter, Secretary

Conferees appearing before the committee:

Richard Morrissey, Interim Director, Division of Health, Kansas Department of Health and Environment
John Peterson, Governmental Affairs Consultant, Kansas Hospital Association

Others attending:

See Attached List.

The minutes were approved for February 18, February 19, February 20, and February 23.

Staff Bill Wolff commented on **HB 2735**. He said last year a law was passed requiring pharmacy technicians to be registered, stating that the present bill expands the disciplinary authority of the Kansas Pharmacy Board to allow to them to deny, revoke, or suspend the registration of a pharmacy technician.

Representative Storm as Chair opened the hearing on **HB 2735**.

Representative Don Hill briefly reviewed the pharmacy technician bill passed the previous year, noting that this bill expands the oversight the Board may exercise over pharmacy technicians.

Debra Billingsley, Executive Director for the Board, said last year's law is in the process of developing rules and regulations and that this bill clarifies the responsibility of the Board.

The Chair closed the hearing on **HB 2735** after noting that there was no fiscal impact on the state. (Attachment 1)

A motion was made and seconded to pass favorably **HB 2735**. The motion passed.

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at 1:30 p.m. on February 24, 2004, in Room 526-S of the Capitol.

Staff Bill Wolff commented that **HB 2760** brings critical care hospitals into conformity with new federal regulations, raising the number of beds from 15 to 25 and providing 10 psychiatric and 10 rehabilitation beds.

Representative Hill as Chair, after opening the hearing on **HB 2760**, welcomed Richard Morrissey, Interim Director, Division of Health, Kansas Department of Health and Environment (KDHE). (Attachment 2) He said the bill takes advantage of federal regulations promulgated by Medicare reform in two areas: first, that the 25 beds can be used for long-term care or acute care, opening up more services to constituents; and, second, that a hospital may have two distinct units (psychiatric and rehabilitative), expanding the range of services. He said that presently Kansas has 71 critical-care hospitals in 18 rural health networks; however, a change in the law that gives a window of opportunity for other hospitals to become critical-access facilities may prompt some of the 93 rural hospitals to meet the critical-access qualifications. Mr. Morrissey requested two technical amendments, one changing the 15 to 25 on the first page, and the other that the enacting clause become publication in the *Kansas Register*.

John Peterson, Governmental Affairs Consultant, Kansas Hospital Association, spoke in favor of the bill. (Attachment 3) He said it updates current law to be consistent with the Medicare Modernizations Act of 2003, stating that it is essential for Kansas law to match federal law to maximize service to communities and continue to provide effective services.

A fiscal note stated that the bill would have no monetary impact on the state. (Attachment 4)

The Chair closed the hearing on **HB 2760**.

A motion was made to amend **HB 2760** as suggested by the conferee. The motion passed.

By proper motion and second, the Committee voted to recommend that **HB 2760** be considered favorable for passage as amended. The motion passed.

Chairman Morrison opened Committee discussion on bills previously heard.

Representative Bethell stated that he had talked with nursing home professionals regarding **HB 2867**, noting that their consensus was to submit the issue to an interim study. A motion was made and seconded to recommend the issues expressed in **HB 2867** for an interim study.

During discussion, members agreed that the issue has complex ramifications and needs more scrutiny.

The motion passed.

The Committee began discussion on **HB 2634**, which requires KDHE to test for West Nile virus if it receives a request for such a test, noting that the author of the bill had submitted an amendment requiring

CONTINUATION SHEET

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE at 1:30 p.m. on February 24, 2004, in Room 526-S of the Capitol.

KHDE to provide a requesting laboratory with the test kit for West Nile virus. (Attachment 5) A member suggested letting KDHE continue to develop protocols for handling this new virus threat before taking action on the requirements of the bill. Richard Morrissey, responding to a member's comment, said that many private laboratories are not qualified to test for West Nile and have not received the specialized training from the Centers for Disease Control. A member noted that knowing the results of the test would not affect a clinician's ability to treat a patient. Mr. Morrissey stated that KDHE may not have a legal right to release a test kit to a private lab and most labs, even hospital labs, consider it too expensive to train staff for such specialized tasks. A member commented that her county medical society opposed the bill, since it restricted KDHE's flexibility.

A motion was made and seconded to accept the proposed amendment. The motion passed with two dissenting votes.

After further discussion, the question was called.

The motion to pass **HB 2634** failed.

The meeting was adjourned at 2:12 p.m. No further meeting was scheduled.

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
GUEST LIST**

DATE: FEBRUARY 24 2004

| NAME | REPRESENTING |
|-------------------|-------------------------|
| Amber Pdanaky | — |
| DEBORAH STERN | KCHA |
| Chad Austin | KHS |
| Jimelle Austin | Intern |
| Mary Hillebrandt | Conlee Consulting |
| Megan Dunn | Hein Law Firm |
| Matt Glassman | Intern |
| Gwendolyn Cargnel | American Cancer Society |
| Deb Billingsley | KS Board of Pharmacy |
| Dick Morrissey | KDHE |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |
| | |

February 20, 2004

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 171-W
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2735 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2735 is respectfully submitted to your committee.

HB 2735 would give the Board of Pharmacy the ability to limit, suspend, or revoke a pharmacy technician's registration. Under current law the Board could deny an application for registration or renewal, but could not take action for a violation of the Pharmacy Act.

Passage of HB 2735 would have no fiscal effect.

Sincerely,

Duane A. Goossen
Director of the Budget

cc: Debbie Billingsley, Board of Pharmacy

Attachment 1
HHS 2-24-04



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Testimony on HB2760, Concerning Critical Access Hospitals

To

House Committee on Health and Human Services

By Richard Morrissey
Interim Director, Division of Health

February 24, 2004

Chairman Morrison and members of the House Committee on Health and Human Services, I am pleased to appear before you today to discuss House Bill 2760. House Bill 2760 amends the Kansas Critical Access Hospital/Rural Health Network Statute (K.S.A. 65-468) to reflect recent changes in the federal Medicare Conditions of Participation for Critical Access Hospitals. Specifically, this legislation would amend K.S.A. 65-468 (f) to allow Critical Access Hospitals to use up to 25 beds in any mix of acute and skilled (or swing) level care, providing more flexibility than the current statute that allows up to 25 beds, but only 15 for acute care. In addition, a Critical Access Hospital now could have a psychiatric unit, a rehabilitation unit or both. These units could not exceed 10 beds and would not count towards the 25-bed limit; nor would these units contribute to the average 96-hour length of stay that applies to acute care beds. This amendment would make state statute consistent with Medicare Conditions of Participation that were amended by the Medicare Prescription Drug Improvement and Modernization Act of 2003 signed into law late last year.

I would like to note that Page 1 Line 42 should be amended so that the number "15" is struck and replaced with "25." This is necessary to make the statute consistent with the new Medicare Law.

Kansas has 71 designated Critical Access Hospitals that are part of 18 designated health care networks that work together to enhance efficiency and improve health care quality. The 71 Critical Access Hospitals in Kansas are more than any other state in the nation. Conversion to Critical Access status has been crucial in stabilizing the financial viability of many of these facilities. The primary benefit of converting to CAH status is that these facilities receive cost-based payments (rather than prospective payments) from Medicare. Critical Access Hospitals participating in a recent study experienced an average increase of 36% in Medicare inpatient and outpatient payments that resulted in increased annual revenues of approximately \$500,000 a year. Even with these improvements in reimbursement, many facilities continue to experience operating losses, but the program has certainly stabilized the financial condition of nearly every hospital that has made the conversion. Ensuring the stability of these rural hospitals is essential to maintaining access to health care services in rural areas in our state.



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

We expect the number of conversions of rural hospitals to Critical Access status to decline in Kansas, given that the 71 designated facilities already represent a clear majority of the state's 93 rural hospitals. In addition, in 2006 provision in the federal Critical Access Hospital statute will eliminate state flexibility in determining eligibility for the program. At that time no hospital within 35 miles of another hospital facility will be eligible for conversion to Critical Access status.

The federal regulation allowing for the changes I have discussed went into effect on January 1 of this year, so we support passage of House Bill 2760 and recommend that Section 3 also be amended to make it effective upon publication in the Kansas Register. I thank you for the opportunity to appear before the House Health and Human Services committee and will gladly stand for questions the committee may have on the topic.

2-2

To: Committee on Health and Human Services

From: Kansas Hospital Association
John Peterson, Governmental Affairs Consultant
Chad Austin, Senior Director of Health Policy and Data

Re: House Bill 2760

Date: February 24, 2004

The Kansas Hospital Association appreciates the opportunity to provide comments in support of House Bill 2760. This bill amends the current law concerning the requirements for critical access hospital designation and brings it up to date with the recently passed Medicare Prescription Drug, Improvement and Modernization Act of 2003.

A correction needs to be made in House Bill 2760 on page 1, line 42. The number of beds that are available for acute care purposes should state no more than "25" acute care beds rather than "15". The federal law permits critical access hospitals to operate up to a total of 25 acute care beds or swing beds by removing the requirement that only 15 of 25 beds be used for acute care at any one time. In addition, critical access hospitals are now eligible to operate a psychiatric or rehabilitation unit.

It is essential to update the Kansas law to match the federal law so that critical access hospitals can maximize their value to their communities. The critical access hospital program is designed to assist rural hospitals so that they may continue providing services that are appropriate to patient care without losing money. Further, the program encourages collaboration with other community health entities and the CAH's supporting hospital to achieve economies of scale. By adopting the federal changes on the state level, we will assure those facilities that are eligible to take advantage of the program have the ability to do so. These changes will allow additional hospitals to pursue critical access hospital designation and will allow them to continue providing quality, accessible care to Kansans and their communities.

Thank you for your consideration of our comments.

Attachment 3
HHS 2-24-04

February 23, 2004

The Honorable Jim Morrison, Chairperson
House Committee on Health and Human Services
Statehouse, Room 171-W
Topeka, Kansas 66612

Dear Representative Morrison:

SUBJECT: Fiscal Note for HB 2760 by House Committee on Health and Human Services

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2760 is respectfully submitted to your committee.

HB 2760 would amend current law regarding critical access hospitals. Currently, the definition of a critical access hospital is a 24-hour emergency care facility that limits the length of stay to 96 hours, limits the number of beds to 25, and further limits to 15 the number of beds that can be used at any time for acute care inpatient services. The bill would remove the 15-patient limit. The bill would also allow a critical access hospital to have a psychiatric or rehabilitation unit, or both. Each unit would be limited to ten beds, and neither unit would count toward a facility's 25-bed limit, or 96-hour length of stay restriction.

The passage of HB 2760 would have no fiscal effect on the Board of Healing Arts or the Department of Health and Environment.

Sincerely,

Duane A. Goossen
Director of the Budget

cc: Susan Kang, KDHE
Betty Johnson, Healing Arts

Attachment 4
HHS 2-24-04

Attachment 5
HHS 2-24-04

HOUSE BILL No. 2634

By Representative Vickrey

1-28

AN ACT concerning testing for west nile virus in humans; amending K.S.A. 75-5608 and repealing the existing section.

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

Section 1. K.S.A. 75-5608 is hereby amended to read as follows: 75-5608. The office of laboratory services shall provide laboratory information and perform laboratory tests and experiments as directed by the secretary of health and environment and shall exercise such other powers, duties and functions as the secretary of health and environment may direct. *Whenever a person licensed to practice medicine and surgery requests that the Kansas department of health and environment run a west nile virus test on a person, the office of laboratory services shall run the test and report back to the requesting party, provided that all applicable fees regularly charged for the testing service are rendered.*

Sec. 2. K.S.A. 75-5608 is hereby repealed.

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

The secretary shall develop a protocol to ensure that whenever a person licensed to practice medicine and surgery requests a test for west nile virus be run, the test shall be available at the laboratory selected by the health care provider requesting the test.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43