

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:30 p.m. on February 24, 2004 in Room 231-N of the Capitol.

All members were present except:

Senator Chris Steineger- absent
Senator Karin Brownlee - excused
Senator Pete Brungardt - excused

Committee staff present:

Ms. Emalene Correll, Legislative Research
Mr. Norm Furse, Revisor of Statutes
Mrs. Diana Lee, Revisor of Statutes
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee:

Ms. Linda Kenney, Director of the Bureau for Children, Youth, and Families

Others attending:

Please See Attached List

Action on SB452 - concerning dentistry; relating to the administering of sedation and anesthetics

Upon calling the meeting to order, the Chair announced she would like to take action on SB452, concerning dentistry; relating to administering of sedation and anesthetics, and called upon Mr. Furse to pass out the balloon. The Chair went on to state that when the Committee had a hearing on this bill, the Board of Behavioral Sciences testified they wanted to do away with the language dealing with the unlicensed assistants because the section had become obsolete since they have allowed for licensure of different areas in the psychiatric fields. And there were concerns, she said, when dealing with the bill that without really wanting to, by striking the whole paragraph, they were also making it so that a corporation could not hire a licensed psychiatrist; thus the amendment. She then asked Mr. Furse to explain. His highlights included three changes:

1) Change the effective date, which currently in the bill is July 1, 2007 to publication in the statute book which would make it July 1 of this year (2004);

2) Change the language in sub (b), page 2 of the balloon, and as the Chair stated, testimony of the Board related to the elimination of the licensed assistants from the language and yet they struck out the whole subsection relating to other things. So on page 2 of this balloon, the language would be eliminated that related to unlicensed assistant, removing the word "not" and leave the current law language in that it says nothing in the act would prevent the employment by a person, association, partnership or a corporation furnishing psychological services for remuneration of persons licensed as psychologists, and by taking the "not" out, it would eliminate the unlicensed person;

3) The third change would cover Senator Salman's concern regarding testimony of one unlicensed person being used by a licensed psychologist under this subsection (k) and read, if you were practicing before the effective date of the act, you can continue to still be subject to the provisions of the act or under the supervision of a licensed psychologist. He stated, as long as you were doing this you had protection. A copy of the balloon is (Attachment1) attached hereto and incorporated into the Minutes as referenced.

The Chair followed up by stating there was only one individual the Board of Behavioral Sciences had found that was working in this situation, but in case there were more, the Board thought they would make the effective date 2007 which is usually not extended that far into the future, so this is a cleaner way to handle this, with a grandfather clause.

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As there were no questions of the Committee, a motion was made to move the amendment as outlined by Mr. Furse and indicated in the balloon, and pass the bill favorably as well. This was seconded by Senator Jordan and the motion carried

Action on SB453 - an act concerning the regulation of child care facilities; relating to exemptions therefrom

The next order of business was working SB453, an act concerning the regulation of child care facilities; relating to exemptions therefrom, which the Chair stated was heard at the February 23rd meeting. She then asked for comments from the Committee.

Senators Barnett, Haley, Steineger, and Brownlee, had questions for two conferees, Ms. Kathy Damron and Ms. Diane Kramer, from the February 23-04 meeting, ranging from is the balloon language agreeable to both sides of the issue, concerns of the state board standards and on school property, after a person is hired does the school district perform background checks and who pays for it, the maintenance of student records/cumulative folders, (regarding #6 of the balloon) will this negatively impact the Tiny K Program, to what about those school districts that own or lease. Senator Steineger did ask that "owned or leased" be inserted into #4 of the balloon. A copy of the balloon is (Attachment 2) attached hereto and incorporated into the Minutes as referenced.

Highlights of concerns of the balloon were covered by Senator Barnett, including:

- 1) The teacher and administrator have to be certified;
- 2) Background checks will be done by KBI;
- 3) Building and fire codes must be followed;
- 4) Children under the age of 3 are not allowed; and,
- 5) Must be certified by the Board to the Secretary on or before November 1.

Senator Barnett also wanted to share information that Ms. Kramer had brought information from Emporia, looking at ratios none higher than 1 to 10 (The state standard is 1 to 12) and compared the standards of the Department of Education versus the Department of Health and Environment for child care regulations and the education standards far exceed KDHE (ex. 124 college credit hours resulting in a 4-year degree versus a 18-year-old high school student or one with a GED.) A copy of Ms. Kramer's information is (Attachment 3) attached hereto and incorporated into the Minutes as referenced.

As there were no further questions, a motion was made by Senator Barnett to move the balloon with the addition of the language "owned or leased" in item #4, line 2 and include the technical change. This was seconded by Senator Brownlee and the motion carried. Senator Barnett then made a motion to move the bill favorably. It was seconded by Senator Brownlee and the motion carried.

Hearing on SB511 - an act concerning infants; relating to rule and regulation authority for the newborn infant hearing screening program

The next order of business was a hearing on SB511 and the Chair asked Mr. Furse to explain the bill. His highlights included

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1) The bill was introduced by the joint committee on the administration of rules and regs relating to the newborn hearing screening act;

2) Current law, which is being amended here, provides every child born in Kansas within 3 to 5 days of normal birth and 5 to 8 days for premature births, should be given a screening exam for the detection of significant hearing loss;

3) The new language would relate primarily to rules and regs and provide, starting in line 28, that any person performing any screening under the act, would provide to Secretary of Health and Environment, information regarding the exam as required by the rules and regs; and,

4) The second change is on line 43, bottom of page 1, again relates to the Secretary of Health and Environment adopting rules and regs necessary to carry out provisions of the act and “concerning the following matters which include but are not limited to” and then sets out a list of items for consideration for subject matter to be adopted by rules and regs of the Secretary; among them would be the establishment of the equipment used in the screening test, establishment of:

A) Protocol to be followed in performing the screening under the act,

B) Standards for qualifications of training of personnel who perform the screening; and,

C) Responsibilities for medical care facility’s administrators or other personnel necessary to carry out the program under this act.

As there were no questions of Mr. Furse, the Chair called upon the one conferee who was a proponent of the bill, Ms. Linda Kenney, Director, Bureau for Children, Youth and Families, Kansas Department of Health and Environment (KDHE) who stated that they support the bill as amended and suggesting two changes:

1) Revise (b) to read: “Every child born in the state of Kansas, ~~within three to five days for normal births and five to eight days for premature births following birth,~~ *within five days of birth,* unless a different time is medically indicated, will be given a screening examination for detection of significant hearing loss,” leaving the remainder of (b) as is. She stated this would promote clarity in timing of screening and reduce redundancy and that prematurity, home birth, or other would be covered under “unless a different time is medically indicated.”

2) In ©), delete the word “significant” before hearing loss, stating that since the word is not defined in the statute, it could lead to confusion or varying interpretations and it is the intent of the screening to detect the possibility of any hearing loss.

A copy of her testimony is (Attachment 4) attached hereto and incorporated into the Minutes as referenced.

As there was no opponent, neutral, or written testimony, questions of Ms. Kenney came from Senators Wagle, Haley, and Brownlee including: clarification of the main purpose of the bill, rules and regs concerns, did the Secretary have the authority to approve the proposed regulations, why all the detail in the existing law, what is the procedure to test a week old baby, is equipment readily available (within proximity throughout the state), can you identify a discernable difference between general and significant, and can you identify degenerative hearing loss if not tested early?

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The Chair then asked Mr. Furse where the language comes from in the bill, is page 2 necessary, is section (f) typical of other agencies, is this current law, and in section (d) "shall" provide information, is this part of the rules and regs discussion and where did it come from?

As there was no further discussion on the bill, a motion was made by Senator Jordan to amend SB511 by deleting the words "within three to five days for normal births and five to eight days for premature births following birth" and replacing this with "within five days of birth," and secondly, in section ©) deleting the word "significant" before hearing loss and keeping everything else as is. This was seconded by Senator Haley with one discussion that he is waiting to find the information that was suggested by Senator Brownlee and make sure it was not part of the discussion of rules and regs (the mention of the word "shall"). The motion carried

A motion by Senator Jordan, seconded by Senator Brownlee, to move the bill favorably as is. The motion carried.

Adjournment

As there was no further business, the meeting was adjourned. The time was 2:30 p.m.

The next meeting is scheduled for Tuesday, March 2, 2004.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Tuesday, February 24, 2004

NAME	REPRESENTING
Linda Kenney	KDHE
Carolyn Nelson	KDHE
Chris Ross-Baze	KDHE
Angela Harness	intern-Sen. Brungardt
Sally Finney	Ko. Public Health Assn
Loraine L. Michel	KDHE
Kim Sykes	KDHE
Doug Bowman	Coordinating Council on Early Childhood
Rudg Law	MOI
Chris Brown	USD #253
Rob Utter	HEIN LAW FIRM
Ruth Dawn	YMCA of KS
Jim Byrnes	Sen. Salmons off.
James Inten	Boys/BSRB
Phyllis Odmore	BSRB
Chip Wheelen	Assn of Osteo. Med.
Michelle Peterson	Ko. Governmental Consulting

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Sec. . K.S.A. 2003 Supp. 74-5344 is hereby amended to read as follows: 74-5344. Nothing contained in the licensure of psychologists act of the state of Kansas shall be construed: (a) To prevent qualified members of other professional groups such as, but not limited to, ministers, Christian Science practitioners, social workers and sociologists from doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions so long as they do not hold themselves out to the public by any title or description of services incorporating the words "psychologic," "psychological," "psychologist" or "psychology";

(b) in any way to restrict any person from carrying on any of the aforesaid activities in the free expression or exchange of ideas concerning the practice of psychology, the application of its principles, the teaching of such subject matter and the conducting of research on problems relating to human behavior if such person does not represent such person or such person's services in any manner prohibited by such act;

(c) to limit the practice of psychology of a licensed masters level psychologist or a person who holds a temporary license to practice as a licensed masters level psychologist insofar as such practice is a part of the duties of any such person's salaried position, and insofar as such practice is performed solely on behalf of such person's employer or insofar as such person is engaged in public speaking with or without remuneration;

(d) to limit the practice of psychology or services of a student, intern or resident in psychology pursuing a degree in psychology in a school, college, university or other institution, with educational standards consistent with those of the state

Proposed Amendment to SB 452

- (1) Change effective date to statute book
- (2) See amendment to subsection (e) relating to unlicensed assistants
- (3) New subsection (k) on the last page

Senate Public Health & Welfare Committee
Attachment 1
Date: February 24, 2004

versities of Kansas if such practice or services are supervised as a part of such person's degree program. Nothing contained in this section shall be construed as permitting such persons to offer their services as psychologists to any other person and to accept remuneration for such psychological services other than as specifically excepted herein, unless they have been licensed under the provisions of the licensure of psychologists act of the state of Kansas, registered under the provisions of K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto or granted a temporary license under the provisions of K.S.A. 74-5367 and amendments thereto;

(e) to prevent the employment, by a person, association, partnership or a corporation furnishing psychological services for remuneration, of persons ~~not licensed as psychologists under the provisions of such act to practice psychology if such persons work under the supervision of a psychologist or psychologists licensed under the provisions of such act and if such persons are not in any manner held out to the public as psychologists licensed~~ under the provisions of the licensure of psychologists act of the state of Kansas, ~~as registered under the provisions of K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto or as holding a temporary license under the provisions of K.S.A. 74-5367 and amendments thereto;~~

(f) to restrict the use of tools, tests, instruments or techniques usually denominated "psychological" so long as the user does not represent oneself to be a licensed psychologist or a licensed masters level psychologist;

(g) to permit persons licensed as psychologists to engage in the practice of medicine as defined in the laws of this state, nor to require such licensed psychologists to comply with the Kansas

ing arts act;

(h) to restrict the use of the term "social psychologist" by any person who has received a doctoral degree in sociology or social psychology from an institution whose credits in sociology or social psychology are acceptable by a school or college as defined in the licensure of psychologists act of the state of Kansas, and who has passed comprehensive examination in the field of social psychology as a part of the requirements for the doctoral degree or has had equivalent specialized training in social psychology;

(i) to restrict the practice of psychology by a person who is certified as a school psychologist by the state department of education so long as such practice is conducted as a part of the duties of employment by a unified school district or as part of an independent evaluation conducted in accordance with K.S.A. 72-963 and amendments thereto, including the use of the term "school psychologist" by such person in conjunction with such practice; or

(j) to restrict the use of the term psychologist or the practice of psychology by psychologists not licensed under the licensure of psychologists act of the state of Kansas in institutions for the mentally retarded, in a juvenile correctional facility, as defined in K.S.A. 38-1602, and amendments thereto, or in institutions within the department of corrections insofar as such term is used or such practice of psychology is performed solely in conjunction with such person's employment by any such institution or juvenile correctional facility.

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(k) Any person not licensed as a psychologist but who immediately prior to the effective date of this act was engaged in the practice of psychology in accordance with subsection (e) as it existed immediately prior to the effective date of this act under the supervision of a licensed psychologist may continue on and after the effective date of this act to engage in such practice in the manner authorized by subsection (e) as it existed immediately prior to the effective date of this act.

SENATE BILL No. 453

By Committee on Public Health and Welfare

2-5

9 AN ACT concerning the regulation of child care facilities; relating to
10 exemptions therefrom; amending K.S.A. 65-501 and repealing the ex-
11 isting section.

12
13 Be it enacted by the Legislature of the State of Kansas:

14 Section 1. K.S.A. 65-501 is hereby amended to read as follows: 65-
15 501. It shall be unlawful for any person, firm, corporation or association
16 to conduct or maintain a maternity center or a child care facility for chil-
17 dren under 16 years of age without having a license or temporary permit
18 therefor from the secretary of health and environment. ~~Nothing in this~~
19 ~~act shall~~ The provisions of K.S.A. 65-501 et seq., and amendments thereto,
20 shall not apply to:

21 (a) A residential facility or hospital that is operated and maintained
22 by a state agency as defined in K.S.A. 75-3701, and amendments thereto;
23 or

24 (b) a summer instructional camp that:

25 (1) Is operated by a Kansas educational institution as defined in
26 K.S.A. 74-32,120, and amendments thereto, or a postsecondary educa-
27 tional institution as defined in K.S.A. 74-3201b, and amendments thereto;

28 (2) is operated for not more than five weeks;

29 (3) provides instruction to children, all of whom are 10 years of age
30 and older; and

31 (4) is accredited by an agency or organization acceptable to the sec-
32 retary of health and environment; or

33 (c) ~~any facility, program or service operated, or authorized to be op-~~
34 ~~erated,~~ by the board of education of a school district.

35 Sec. 2. K.S.A. 65-501 is hereby repealed.

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

if the board certifies annually, by resolution, that such facility, program or service:

(1) Is supervised by a teacher who holds a certificate to teach and an administrator who holds a school administrator's certificate issued by the state board of education pursuant to law;

(2) conducts, through the Kansas bureau of investigation, criminal background checks on all staff members upon hiring;

(3) provides classroom space comparable to that afforded other district programs;

(4) is offered at a site located on property owned by the school district and which property complies with required building and fire codes;

(5) maintains staff and student records and emergency contact information;

(6) does not allow children under the age of three years to enroll at such facility or in such program or service; and

(7) assists students to achieve academic performance at or above state standards.

A copy of such resolution shall be sent to the secretary on or before November 1 of each year.

Insert Sec. 2. K.S.A. 72-8236 (Attached)

Renumber, title and repealer changes

Senate Public Health & Welfare Committee
Attachment 2
Date: February 24, 2004

72-8236. Child care facilities; authority to establish, operate, and maintain; fees, collection and disposition.

(a) The board of education of any school district may: (1) Establish, operate and maintain a child care facility; (2) enter into cooperative or interlocal agreements with one or more other boards for the establishment, operation and maintenance of a child care facility; (3) contract with private, nonprofit corporations or associations or with any public or private agency or institution, whether located within or outside the state, for the establishment, operation and maintenance of a child care facility; and (4) prescribe and collect fees for providing care at a child care facility.

(b) Fees for providing care at a child care facility established under authority of this section shall be prescribed and collected only to recover the costs incurred as a result of and directly attributable to the establishment, operation and maintenance of the child care facility. Revenues from fees collected by a board under this section shall be deposited in the general fund of the school district and shall be considered reimbursements to the district for the purpose of the school district finance and quality performance act and may be expended whether the same have been budgeted or not and amounts so expended shall not be considered operating expenses.

(c) ~~Every~~ school district which establishes, operates and maintains a child care facility shall be subject to the provisions contained in article 5 of chapter 65 of Kansas Statutes Annotated.

Except as provided in K.S.A. 65-501, and amendments thereto, every

(d) As used in this section, the term "child" means any child who is three years of age or older, and any infant or toddler whose parent or parents are pupils or employees of a school district which establishes, operates and maintains, or cooperates in the establishment, operation and maintenance of, a child care facility under authority of this act.

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I. Should public school programs be required to meet the KDHE standards for child care staff to child ratio?

- A. No, the Kansas State Department of Education has not established class sizes for public schools. The cost would be prohibitive to do so.
 - 1. Local boards of education are charged with the responsibility of providing appropriate educational programs for the children they serve. Staffing decisions should rest with the local board.
 - 2. Current enrollment in 19 preschool programs operated in the Emporia Public Schools is 311.
 - a. Class sizes range from 13 to 20.
 - b. Pupil/staff ratio in these programs is not higher than 1:10
 - 3. Recent national research found that a pupil/teacher ratio of 1:17 creates an optimal learning environment.
- B. K.A.R. 28-4-428 establishes minimum staff/child ratios for child care providers.
 - 1. Children ages 3 to school age = 1:12
 - 2. Kindergarten children = 1:14
 - 3. School age children = 1:16
- C. What body of research determined the staff/child ratios established by KDHE?

II. Should all public school preschool teachers be required to be endorsed in early childhood?

- A. The Kansas State Department of Education has established strict standards for teacher certification or licensure of instructional support staff. The KSDE requirements should continue to be met by all public school programs.
- B. Teacher qualifications required by the Kansas State Department of Education are higher than those set by KDHE child care regulations.
 - 1. A minimum of 124 college credit hours resulting in a four year degree in approved liberal arts, teaching content, and pedagogy from an accredited institution.
- C. KDHE education/training standards for child care are:
 - 1. Child care provider = at least 18 years of age; high school diploma or GED for those programs enrolling fewer than 13 children.
 - 2. Child care provider = units enrolling up to 24 children shall have observed 5 sessions in a licensed child care center; one year of working in a licensed center; or 7-9 academic credit hours of equivalent training in child development and 3 months experience in a licensed center; or a child development associate credential.

Senate Public Health & Welfare Committee
Attachment 3
Date: February 24, 2004

{C. KDHE education/training standards for child care continued}

3. Child care provider = units enrolling more than 24 children shall have 12 credit hours or equivalent in child development and 6 months experience in a licensed center.

III. Should school districts be required to have an on-site program director/administrator?

- A. The Kansas State Department of Education has not established a requirement for public schools to have an on-site administrator in each school.
 1. Local boards of education should determine their staffing needs.
 2. There are over 160 public schools in Kansas that operate without a full time administrator.
 3. There are over 29 school districts in Kansas that operate without a full time superintendent, a position that is required in statute.
 4. There are many more public school administrators who are assigned to supervise more than one school.
 5. KSDE has established that school administrators must meet state standards through a graduate level program of study which results in administrative endorsement. Endorsement as a principal usually results in a Master's Degree.
- B. KDHE standards for facilities licensed for more than 100 children require a program director and an assistant program director.
 1. KDHE standards may be met by an individual with an A.B. degree in a related academic discipline and 12 hours of academic study or equivalent training in early childhood and 1 year experience as a program director.

IV. Are public schools asking for an exemption from KDHE day care regulations for children under the age of 3?

- A. No.

{C. KDHE education/training standards for child care continued}

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IV. Are public schools asking for an exemption from KDHE day care regulations for children under the age of 3?

- A. No.



K A N S A S

RODERICK L. BREMBY, SECRETARY

KATHLEEN SEBELIUS, GOVERNOR

DEPARTMENT OF HEALTH AND ENVIRONMENT

Amendment to Newborn Hearing Screening Law, SB 511

to

Senate Public Health and Welfare

Linda Kenney
Director, Bureau for Children, Youth and Families
Kansas Department of Health and Environment

February 24, 2004

The Joint Committee on Administrative Rules and Regulations directed that the Newborn Hearing Screening Law K.S.A. 65-1,157a be amended to provide statutory authority for the Secretary to carry out the screening program as in the proposed newborn hearing screening rules and regulations. These proposed rules and regulations were favorably received by the Joint Committee on February 11.

KDHE supports SB 511 as amending the newborn hearing screening laws with these suggested changes:

1) Revise (b) to read: Every child born in the state of Kansas, ~~within three to five days for normal births and five to eight days for premature births following birth,~~ *within five days of birth*, unless a different time is medically indicated, shall be given a screening examination for detection of ~~significant~~ hearing loss. Leave the remainder of (b) as is. This would promote clarity in timing of screening and reduce redundancy. Prematurity, home birth or other would be covered under "unless a different time is medically indicated."

2) In (c) delete the word "significant" before hearing loss. Since the word is not defined in the statute it could lead to confusion or varying interpretations and it is the intent of newborn infant screening to detect the possibility of any hearing loss.

Thank you and we will stand for questions.

*Senate Public Health & Welfare Committee
Attachment 4
Date: February 24, 2004*