

## MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Brenda Landwehr at 1:30 p.m. on March 18, 2009 in Room 784 of the Docking State Office Building.

All members were present.

Committee staff present:

Norm Furse, Office of the Revisor of Statutes  
Melissa Calderwood, Kansas Legislative Research Department  
Reed Holwegner, Kansas Legislative Research Department  
Janet Grace, Committee Assistant

Conferees appearing before the Committee:

none

Others attending:

See attached list.

Action on **SB 25 - State-wide prohibition on smoking in indoor public areas.**

Representative Siegfried moved to report SB25 out adversely. Representative Neighbor seconded the motion.

Representative Schwab offered a substitute motion to table SB 25 to obtain more information. Representative Otto seconded the motion. The motion passed and the bill was tabled. A division vote was called; 11 yes, 7 no.

**HB 2356 - Child care facilities; inspection.** Revisor Norm Furse reviewed the bill and the changes.  
(Attachment 1)

Representative Crum moved to approve the amendments to HB 2356 found in Attachment 1. Representative Schwab seconded the motion. The motion carried.

Representative Schwab moved to report the bill favorably as amended. Representative Hermanson seconded the motion. Motion carried.

Action on **SB 147 - Department of Health and Environment; HIV screening for pregnant women and newborn children; rules and regulations.** Revisor Norm Furse, reviewed the bill and proposed amendments. (Attachment 2)

The Committee voiced concern about the assurance that the mother must sign a form that she received the information and she could opt out due to conflict of religious tenets and practices.

Representative Landwehr moved to adopt the above described amendment as recommended by the Committee. Representative Crum seconded the motion. The motion carried.

Representative Flaharty moved to accept the editorial amendment. (Attachment 2). Representative Neighbor seconded the motion. The motion carried.

Representative Ward moved to add \$1.2 million of the stimulus money to the SCHIP fund through KHPA.

Chairman Landwehr ruled his motion was out of order as those decisions regarding the stimulus funds would appear in the budget designed by the Appropriations Committee at Omnibus. She stated her reluctance to what would be viewed as an override unless so directed by leadership. It was not the responsibility of the Health and Human Services Committee to appropriate money. Representative Ward challenged the ruling by the Chair, leaving her two options: (a) a vote by the Committee to either support her ruling on the motion being out of order or the right of Representative Ward to make the motion; (b) adjourn the meeting.

A lengthy discussion was held by Committee members who cited incidents in recent legislation whereby the

## CONTINUATION SHEET

Minutes of the House Health and Human Services Committee at 1:30 p.m. on , in Room 784 of the Docking State Office Building.

Health and Human Services Committee had requested funding for certain projects such as in SB11 and SB 81 from the 2008 session. Reduced revenues in the state coffers and the more pressing problems for the really needy were discussed.

Representative Landwehr asked for a voice vote in which “yes” would mean supporting the ruling of the chair regarding the “out of order” decision; “no” would mean an override of the Chair and a forced vote on the use of stimulus money for SCHIP. When the vote was taken, the Chair declared the “yes” votes as being in the majority. Division was called: 10 yes; 8 no.

Representative Schwab moved to report SB 147 as favorable for passage as amended. Motion seconded by Representative Siegfried. Motion carried.

Representative Siegfried moved for the approval of the minutes of February 11. The motion was seconded by Representative Slattery. Motion carried.

The meeting was adjourned at 2:41 p.m.

The next meeting is on call of the Chair.

# HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 3-18-09

NAME	REPRESENTING
Craig Gunther	KSNA
Traci Neff	KDHE
Andrea Bozarth	AARP
Tracy Russell	American Cancer Society
DAVE HEINEMANN	" "
Susan King	KDHE
Chris Tom Bess	KDHE
Jeff F. Koon	KDHE
Jessy Buehl	YOUTHVILLE
Sandra Gasca	Youthville
Colleen Pederson	DECCA
Robin Clements	Public Solutions LLC
Linda DeCourney	American Heart Assn
Patrick Vogelberg	Kearney and Assoc.
Chad Austin	KHPA
Michelle Butler	Capital Strategies
Effie Swanson	KHPA
Dustin Mayer	KHPA
Barbara Gibson	Ks Faith alliance for Health Reform

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# HOUSE HEALTH & HUMAN SERVICES COMMITTEE

DATE: 3-18-09

NAME	REPRESENTING
Kathryn Utter	KHC
Joyce Morrison	Clean Air Kansas
Jamie Hamilton	" " "
Jim Gortner	Palszelli
Bud Burke	Amur. Heart Assn.
Chris Gligstad	Federico Consulting

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**KDHE PROPOSED CHANGES**

(material within brackets would be deleted, new material in boldface)

HOUSE BILL NO. 2356

By Committee on Appropriations

AN ACT concerning child care facilities; amending K.S.A. 65-504 and 65-512 and repealing the existing sections.

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

Section 1. K.S.A. 65-504 is hereby amended to read as follows: 65-504. (a) **(1)**

The secretary of health and environment shall have the power to grant a license to a person to maintain a maternity center or child care facility for children under 16 years of age. The license shall state the name of the licensee, describe the particular premises in or at which the business shall be carried on, whether it shall receive and care for women or children, and the number of women or children that may be treated, maintained, boarded or cared for at any one time. No greater number of women or children than is authorized in the license shall be kept on those premises and the business shall not be carried on in a building or place not designated in the license. The license shall be kept posted in a conspicuous place on the premises where the business is conducted. ~~The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such~~

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~~maternity center or child care facility has complied with all the requirements of this act. [The authorized agent of the secretary of health and environment shall conduct an inspection before issuing a license to each maternity center and child care facility, unless such maternity center or child care facility is accredited by the joint commission on accreditation of health care organizations, the council on accreditation for children and family services, inc., or the commission on accreditation of rehabilitation facilities.]~~ **The secretary of health and environment shall grant no license in any case until careful inspection of the maternity center or child care facility shall have been made according to the terms of this act and until such maternity center or child care facility has complied with all the requirements of this act. The secretary may grant a license to a maternity center or child care facility if such center or facility is accredited, for the program or services for which the license has been applied for, by the joint commission, or the council on accreditation for children and family services, inc. or the commission on accreditation of rehabilitation facilities. The secretary of health and environment may promulgate rules and regulations for the purpose of recognizing such accreditation. Such rules and regulations shall be promulgated on or before July 1, 2010.**

(2) Except as provided by this subsection, no license shall be granted without

the approval of the secretary of social and rehabilitation services. The secretary of health and environment may issue, without the approval of the secretary of social and rehabilitation services, a temporary permit to operate for a period not to exceed 90 days upon receipt of an initial application for license. The secretary of health and environment may extend, without the approval of the secretary of social and rehabilitation services, the temporary permit to operate for an additional period not to exceed 90 days if an applicant is not in full compliance with the requirements of this act but has made efforts towards full compliance.

(b) (1) In all cases where the secretary of social and rehabilitation services deems it necessary, an investigation of the maternity center or child care facility shall be made under the supervision of the secretary of social and rehabilitation services or other designated qualified agents. For that purpose and for any subsequent investigations they shall have the right of entry and access to the premises of the center or facility and to any information deemed necessary to the completion of the investigation. In all cases where an investigation is made, a report of the investigation of such center or facility shall be filed with the secretary of health and environment.

(2) In cases where neither approval or disapproval can be given within a period of 30 days following formal request for such a study, the secretary of health and environment may issue a temporary license without fee pending final approval or

disapproval of the center or facility.

(c) Whenever the secretary of health and environment refuses to grant a license to an applicant, the secretary shall issue an order to that effect stating the reasons for such denial and within five days after the issuance of such order shall notify the applicant of the refusal. Upon application not more than 15 days after the date of its issuance a hearing on the order shall be held in accordance with the provisions of the Kansas administrative procedure act.

(d) When the secretary of health and environment finds upon investigation or is advised by the secretary of social and rehabilitation services that any of the provisions of this act or the provisions of K.S.A. 59-2123 and amendments thereto are being violated, or that the maternity center or child care facility is maintained without due regard to the health, comfort or welfare of the residents, the secretary of health and environment, after giving notice and conducting a hearing in accordance with the provisions of the Kansas administrative procedure act, shall issue an order revoking such license. The order shall clearly state the reason for the revocation.

(e) If the secretary revokes or refuses to renew a license, the licensee who had a license revoked or not renewed shall not be eligible to apply for a license or for a certificate of registration to maintain a family day care home under K.S.A. 65-518 and amendments thereto for a period of one year subsequent to the date such



revocation or refusal to renew becomes final.

(f) Any applicant or licensee aggrieved by a final order of the secretary of health and environment denying or revoking a license under this act may appeal the order in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 2. K.S.A. 65-512 is hereby amended to read as follows: 65-512. It is hereby made the duty of the secretary of health and environment to inspect or cause to be inspected at least once every 12 months every maternity center or child care facility [~~that is not accredited by the joint commission on accreditation of health care organizations, the council on accreditation for children and family services, inc., or the commission on accreditation of rehabilitation facilities, and for that~~] **unless the secretary deems such inspection unnecessary due to accreditation of the maternity center or child care facility by the joint commission, the council on accreditation for children and family services, inc. or the commission on accreditation of rehabilitation facilities. For the purpose [it] of inspection, the secretary of health and environment** shall have the right of entry and access thereto in every department and to every place in the premises, shall call for and examine the records which are required to be kept by the provisions of this act and shall make and preserve a record of every inspection. The licensee shall give all reasonable

information to the authorized agent of the secretary of health and environment and shall afford every reasonable facility for viewing the premises and seeing the patients or children therein. No such patient or child without the consent of the patient or child shall be required to be interviewed by any agent unless the agent is an authorized person or a licensed physician.

Sec. 3. K.S.A. 65-504 and 65-512 are hereby repealed.

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

# PROPOSED AMENDMENTS OF REPRESENTATIVE LANDWEHR

(as amended by Senate Committee)  
SENATE BILL NO. 147

By Committee on Public Health and Welfare

AN ACT concerning the department of health and environment; relating to HIV screening for pregnant women and newborn children; rules and regulations.

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

Section 1. (a) A physician or other professional who is otherwise authorized by law to provide medical treatment to a pregnant woman shall take or cause to be taken, during the first trimester, a routine opt-out screening for HIV infection. When the physician or other professional determines certain pregnant women to be at high risk for acquiring HIV infection, such women shall be administered a repeat screening during the third trimester or at the time of labor and delivery. When a pregnant woman's HIV status is unknown for any reason at the time of labor and delivery, such woman shall be screened for HIV infection as soon as possible within medical standards. A pregnant woman shall have the right to refuse such screening at any time. When an HIV rapid test kit is used for screening, a confirmatory sample shall be submitted for serological testing which meets the standards recognized by the United States public health service for the detection of HIV to a laboratory approved by the secretary of health and environment for such serological tests. **Before any screening is performed under this section, the pregnant woman shall be informed in writing of the provisions of this subsection and the purposes and benefits of the screening, and if the pregnant woman consents to such screening, the pregnant woman shall sign a consent form authorizing the screening.**

(b) When the mother's HIV status is unknown because of refusal to take such screening during the pregnancy or any other reasons, such mother's newborn child shall be screened with an

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HIV test as soon as possible within medical standards to determine if prophylaxis is needed. A mother's or a guardian's consent is not required to screen such newborn child, except that this subsection shall not apply to any newborn child whose parents object to the test as being in conflict with their religious tenets and practices. Documentation of a mother's HIV status shall be recorded in both the mother's and newborn's medical records. **The mother of the child shall be informed in writing of the provisions of this subsection and of the purposes and benefits of the screening and shall sign a form stating that the mother has received the information, and does not object to the screening because the test is in conflict with the religious tenets and practices of the parents of the child.**

(c) The secretary of health and environment is hereby authorized to adopt rules and regulations, within [a year] **six months** from the effective date of this act, establishing guidelines for routine HIV infection screening for pregnant women and each newborn child where the HIV status of the mother is unknown at the time of birth. These rules and regulations shall be based on the recommendations and best practices established by the United States centers for disease control and prevention and public health service task force recommendations for use of antiretroviral drugs in pregnant HIV infected women for maternal health and interventions to reduce perinatal HIV transmission in the United States.

(d) As used in this section, physician, HIV and HIV infection have the meanings defined in K.S.A. 65-6001, and amendment thereto.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.