

SESSION OF 2016

**SUPPLEMENTAL NOTE ON HOUSE SUBSTITUTE FOR
SENATE BILL NO. 55**

As Recommended by House Committee on
Insurance and Financial Institutions

Brief*

House Sub. for SB 55 would permit the Secretary for Aging and Disability Services (Secretary), or the Secretary's designee, to issue a correction order to a licensee of a health care facility whenever the Secretary's duly authorized representative determines the facility is not in compliance with the professional liability insurance requirements prescribed by the Health Care Provider Insurance Availability Act (Act) or the rules and regulations promulgated under the Act.

The bill would require the correction order to be in writing and served upon the licensee of the health care facility either personally or by certified mail with return receipt requested. The correction order would need to cite the specific statutory provision or rule and regulation alleged to have been violated and specify the time allowed for correction. If a licensee fails to correct the deficiency or deficiencies specified in the order, the Secretary would be permitted to assess a civil penalty. Under current law, that civil penalty is up to \$500 per day, with the maximum assessment not to exceed \$2,500.

The bill would specify the term "health care facility" has the same meaning as defined in the Act.

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Background

SB 55 was introduced by the Senate Committee on Financial Institutions and Insurance at the request of the Kansas Insurance Department. As introduced, the bill would have amended provisions in the Insurance Code pertaining to permissible fees and expenses associated with certain financial examinations and the frequency rate of a financial examination of the plan administrator for the Kansas Uninsurable Health Insurance Plan Act (an act governing the State High Risk Pool). On March 3, 2016, the House Committee on Insurance and Financial Institutions removed the original contents of SB 55 and inserted the contents of HB 2579, as recommended by the House Committee. The House Committee then recommended a substitute bill.

The original contents of SB 55, as amended by the Senate Committee, were inserted in the May 20, 2015, Conference Committee report for HB 2352 and enacted.

Further background information regarding HB 2579 is provided below.

HB 2579 Background

HB 2579 was introduced by the House Committee on Financial Institutions and Insurance at the request of the Health Care Stabilization Fund Board of Governors (Board). The Executive Director of the Board noted the Act was amended by the 2014 Legislature to define nursing facilities, assisted living facilities, and residential health care facilities as health care providers, which requires those facilities, as of January 1, 2015, to maintain minimum levels of professional liability insurance coverage and meet other requirements associated with participation in the Health Care Stabilization Fund. The representative noted permitting the Secretary to issue correction orders to non-compliant facilities would be a reasonable method of enforcing compliance with the requirements of the Act. Written proponent testimony was

provided by representatives of the Kansas Health Care Association and Kansas Center for Assisted Living, and LeadingAge Kansas.

Neutral written testimony was provided by the Commissioner of the Survey, Certification, and Credentialing Commission of the Kansas Department for Aging and Disability Services (KDADS). No other testimony was provided.

HB 2579 was recommended for passage by the House Committee on February 18, 2016. The bill was placed on the House Calendar, but was later withdrawn and referred to the House Appropriations Committee. The bill was then re-referred back to the House Committee and, on March 3, 2016, the House Committee struck the contents of SB 55, as amended by the Senate Committee, and inserted the contents of HB 2579.

According to the fiscal note prepared by the Division of the Budget, enactment of HB 2579 would have a negligible fiscal effect on KDADS.