

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 31, 2000 in Room 423-S of the Capitol.

All members were present except: Representative Peggy Long, Excused
Representative Dale Swenson, Excused

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Dr. William Wolff, Kansas Legislative Research Department
Norman Furse, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: Representative Gary Hayzlett
Debbie Folkerts, ARNT, Kansas State Nurses Association
Jim Sperry, Kansas Academy of Physician Assistants
Chris Collins, Kansas Medical Society
Lesa Bray, Kansas Department of Health and Environment
Debra Zehr, Kansas Association of Homes and Services for the Aging
John Keifaber, Kansas Health Care Association

Others attending: See Attached Sheet

The Chairperson asked for bill introductions:

Representative Geringer moved and Representative Morrison seconded to introduce legislation that mirrors SB 232 with the following changes: the Secretary asked for financing of services, both public and private and expand the task force from 16 members to 19 members. The motion carried.

The Chairperson opened the hearing on: **HB 2701 - School districts, persons authorized to sign employee certification of health.**

Staff gave a briefing on **HB 2701** amending K.S.A. Supp. 72-5213, and addresses situation in school districts relating to authorization of certificates of health by employees of school districts. Requires all employees of that school district that have contact with pupils on a regular basis have certain health information available on file in the school district. The certification is to be signed by a person licensed to practice medicine, an M.D. or D.O. The new language would add, "or by a person holding a certificate of qualification to practice such as an advanced registered nurse practitioner under the laws of the state. The change is that the certificate could be certified by an ANRP.

Representative Gary Hayzlett testified in support of **HB 2701** very important to Kearny County as there are two full time family physicians and one obstetrictrion/gynecologist and are very busy with in the hospital, long term clinic, and emergency settings. There are times when they are away for education or other leave and there has been many times in the past year they have been completely booked. There are two ARNPs working with the physicians and this bill would allow the physicians the flexibility to assign the primary care tasks of certifying school district employees health certificates to the physicians or ARNPs and the patients feel this is most appropriate. This alleviates the problems is rural areas where the physicians are so busy and sometimes out of town.

Debbie Folkerts, ARNP, Kansas State Nurses Association, testified in support of **HB 2701**, stated this bill is very straightforward and simple, it expands by including Advanced Registered Nurse Practitioners (ANRP's) as health providers that can perform and sign "certifications of health" for employees of school districts. The change in the statute would reduce one barrier for ANRP's services by permitting them to perform and sign the forms required by school districts for their new employees (See Attachment #1).

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Jim Sperry, Kansas Academy of Physician Assistant, testified in support of **HB 2701** and requested that Physician Assistants be amended into the bill. On page 1, lines 22,38 and page 2, line 10 add “or a registered physician’s assistant” between “practitioner and under” (See Attachment #2).

Chris Collins, Director of Government Affairs, Kansas Medical Society, testified that KMS supported the concept of **HB 2701**; however, such activities should not be done independently and outside of the framework of the physician-directed health care team. KMS recommends the addition of the following language at the end of line 22: “when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery.” Similar language should also be included in (b) and (c) (See Attachment #3).

The Chairperson closed the hearing on **HB 2701**.

Representative Geringer moved and Representative Morrison seconded to pass **HB 2701** out as amended with the amended recommended by KMS. The motion carried.

Representative Henry moved and Representative Bethell seconded a substitute motion to amend **HB 2701** by adding “physician assistant” on page 1 in lines 22, and 38 and on page 2 line 10 between “practitioner” and “under and incorporate Representative Geiger’s motion and move out favorably as amended. The motion carried.

The Chairperson opened the hearing on **HB 2700 - Providers Care Services’ employment of persons by such providers**.

Staff gave a briefing on **HB 2700** which states no person shall knowingly operate an adult care home if, in the adult care home, there works any person who has been convicted of or has been adjudicated a juvenile offender because of having committed an act which if done by an adult would constitute the commission of capital murder.

Less Bray, Director, Health Occupations Credentialing, testified in support of **HB 2700**. The Department of Health and Environment was tasked with implementing provisions of the adult care home and home health agency criminal background check laws upon the passage of **HB 2278** following the 1997 legislative session. The year 2000 legislature has been provided a progress report which identifies the history of a program which faced the challenge of initiating a complex, high-volume telecommunications data transfer between KDHE and KBI. In these 18 months of activity, more than 57,000 requests have been processed, with about 18% or about 10,000 manual reviews of a criminal history record. Staff and KDHE legal counsel have reviewed and submitted 258 notices of prohibition to employers (representing 0.4% of all requests). The turnaround from receipt of a request to the notice of prohibition being issued is less than 15 days in 92% of those prohibited. Research requirements on the record may delay record confirmation, but this is a necessary quality assurance step. Less than 1% is delayed for more than 30 days.

Compliance with the 3-day reporting requirement would require additional staffing. Second, the law requires that the department maintain the background check service regardless of usage level and be capable of providing reports within 3 days regardless of prior service demand. These would require the department to maintain at all times a trained staff capable of a 3-day response to the highest possible level of report generation from KBI, regardless of the fee income generated by requests. Third, compliance with the requirement to send full unredacted criminal record histories or a written letter to the requester would increase printing and mailing costs. Implementing distribution of all responses, affirmative or negative would result in the department incurring considerable costs with increased processing. For 29,000 requests, the additional effort would result in an estimated increased cost for service of \$25,757.

There are not clear provisions as to whether private contractors are held to the same performance standards prescribed for the department regarding the fee limit, providing the unredacted record within three business days, regardless of the content of the record. Whether or not juvenile records would be accessible to private contractors is unknown.

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The department has sought resolution on the issue of “conspiracy” through the Attorney General’s office. If the amendment is made to the law, this would likely resolve the question which has arisen. However, the addition of “conspiracy to commit...” may be misplaced since it would impose permanent prohibition status on some relatively minor crimes with no prohibition for conspiracy to commit more serious crimes (See Attachment #4).

It was asked if the information could be faxed to nursing homes and Ms. Bray stated not knowing was on the receiving end of the fax machine, this would not be a good idea because there is some fairly complex information being sent.

It was felt this bill might go beyond the original intent.

Kyle Smith, Kansas Bureau of Investigation, stated a large group at the legislature wanted to protect the public. The KAI can only provide Kansas records. Through a presidential bill, next year records can be accessed through a national process and go nationwide.

Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging, testified as a proponent to **HB 2700**, stating this is in keeping with the 1997 Legislature’s original intent to protect vulnerable persons who reside in adult care homes or receive home health care, by providing employers with more complete and timely criminal history information. The bill would assist employers in making prudent hiring decisions by giving them criminal record information beyond convictions that statutorily prohibit employment (See Attachment #5).

John L. Kiefhaber, Executive Vice President, Kansas Health Care Association, testified as a proponent to **HB 2700**, stating criminal background checks have been completed on thousands of prospective employees in Kansas under the current program, and have afforded more information for nursing facility management to work with in making the critical decision on hiring staff to care for our infirm seniors and other residents. The new extensions of the program envisioned in the bill concerning conspiracy to commit enumerated crimes, the use of approved private contractors to complete background checks, and the full disclosure of criminal history records to the facility. The potential for increased liability to facilities if they were to hire an individual with non-prohibited convictions when they had complete criminal histories on prospective employees is still be studied (See Attachment #6).

Linda Lubensky, Kansas Home Care Association, in support of **HB 2700**, stating the bill extends the list of prohibited offenses, but also allows greater flexibility for the employer in their choice of contractor. In particular, KHCA applauds the provisions that require timely receipt of information and the inclusion of all unredacted criminal history record information (See Attachment #7).

The Chairperson closed the hearing on **HB 2700** and stated it would be worked at a later date.

Representative Landwehr moved and Representative Bethell seconded approval of the minutes of January 20, 24, 25, and 27. The motion carried.

The meeting adjourned at 3:15 p.m. and the next meeting will be February 1.