

Approved: 3-22-93
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on March 12, 1993 in Room 526-S of the Capitol.

All members were present except: Senator Langworthy, Excused

Committee staff present: Norman Furse, Revisor of Statutes
Emalene Correll, Legislative Research Department
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Action on **SB 397** - Hospice licensure act.

Staff briefed the Committee on the Kansas Act on Credentialing, which some states call the "Sunshine Act", that provides for the pre-legislative review of the need for credentialing of health care providers. Credentialing means the formal recognition of professional or technical competence through the process of registration, licensure or other statutory regulation. Certification means the process by which a nongovernmental agency or association or the federal government grants recognition to an individual who has met certain predetermined qualifications specified by the nongovernmental agency, federal government or the association. Many of the health care provider groups have national associations that have their own credentialing process. Registration under the credentialing act means the process by which the state identifies and lists on an official register, those persons who meet predetermined qualifications and who will be the only persons who can use a designated title. Licensure is a means of regulation by which the state grants permission to persons who meet predetermined qualifications to engage in an occupation or profession, and to engage in such occupation or profession without a license is unlawful. In answer to a member's question, home health agencies are licensed. Statutes pertaining to the credentialing criteria that is followed by the technical committee when making recommendations to the Secretary of KDHE and legislature were distributed to the Committee (K.S.A. 65-5006 and 65-5007) for review. (Attachment 1)

Committee discussion related to when the credentialing process was enacted, the procedure used by the applicant group, whether the bill is deviating from the normal procedure, whether the Hospice representatives were aware of the technical review and credentialing process, the possibility of sending the bill to a subcommittee to discuss different options, and writing a letter to the Secretary of KDHE and Hospice requesting clarification of issues involved. The Chair will discuss the certification process with the Hospice group and report back to the Committee.

Action on **HB 2118** - Lodging establishment licensing requirements.

Senator Walker made a motion that the food service establishment application fee cap be restored up to \$100, seconded by Senator Jones. During Committee discussion it was noted that senior citizens' congregate meal sites do pay the same as any food service establishment, KDHE contracts with local health departments to do inspections and the local health departments receive 80% of the fees collected. Other concern related to small establishments and their ability to pay, and it was noted that the cost of these inspections was the same for each establishment regardless of size. A call was made for the previous question. The motion carried. Senator Walker made a motion **HB 2118 as amended** be recommended favorably for passage, seconded by Senator Ramirez. The motion carried.

The meeting was adjourned at 11:00 A.M.

The next meeting is scheduled for March 15, 1993.

GUEST LIST

COMMITTEE: SENATE PUBLIC HEALTH AND WELFARE

DATE: 3-12-93

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has met all the criteria established by law or by rules and regulations for credentialing and that credentialing by the state is appropriate, the technical committee shall recommend the application for credentialing be approved. If the technical committee recommends that the application for credentialing be approved, there shall be included in the committee's report a recommendation of the level or levels of credentialing, and such recommendation shall be based upon a finding by the technical committee, stated in the report, that all criteria established by law or by rules and regulations for the recommended level or levels of credentialing have been met. This recommendation shall be based on the criteria established in K.S.A. 65-5007 and amendments thereto.

History: L. 1980, ch. 181, § 3; L. 1986, ch. 246, § 3; L. 1987, ch. 232, § 4; July 1.

65-5004.

History: L. 1980, ch. 181, § 4; L. 1986, ch. 246, § 4; Repealed, L. 1987, ch. 232, § 11; July 1.

65-5005. Same; review of reports by secretary; recommendations of secretary; final report to legislature. (a) Within 120 days after receiving the report and recommendations of the technical committee relating to a credentialing application, the secretary shall prepare a final report for the legislature. In preparing the final report, the secretary shall apply the criteria established by K.S.A. 65-5006 and 65-5007 and amendments to these sections. The final report shall be submitted to the speaker of the house of representatives, to the president of the senate and to the chairpersons of the committees on public health and welfare for consideration by their respective committees. The secretary shall include the report of the technical committee in the final report prepared for submission to the legislature. The secretary need not be bound by the recommendations of a technical committee.

(b) If the secretary determines after consideration of the report of the technical committee and the evidence and testimony presented to the technical committee that all criteria established by law or by rules and regulations for credentialing have not been met and that credentialing is not appropriate, the secretary shall recommend that no legislative action be taken on a credentialing application. If the secretary determines that clear and convincing evidence which was more than hypothetical examples or testimonials was presented

to the technical committee that the applicant occupational or professional group of health care personnel should be credentialed by the state, that the applicant occupational or professional group of health care personnel has met all the criteria established by law or by rules and regulations for credentialing and that credentialing by the state is appropriate, the secretary shall recommend that the occupational or professional group of health care personnel be credentialed. If the secretary recommends that an occupational or professional group of health care personnel be credentialed, the secretary shall recommend: (1) The level or levels of credentialing, and such recommendation shall be based upon a finding by the secretary, stated in the report, that all criteria established by law or by rules and regulations concerning the recommended level or levels of credentialing have been met; (2) an agency to be responsible for the credentialing process and the level or levels of credentialing; and (3) such matters as the secretary deems appropriate for possible inclusion in legislation relating to the recommendation for credentialing.

(c) No group of health care personnel shall be credentialed except by an act of the legislature. The final report of the secretary and the report and recommendations of the technical committee shall constitute recommendations to the legislature and shall not be binding upon the legislature. The legislature may dispose of such recommendations and reports as it deems appropriate.

History: L. 1980, ch. 181, § 5; L. 1986, ch. 246, § 5; L. 1987, ch. 232, § 5; July 1.

65-5006. Same; credentialing criteria.

(a) The technical committee appointed pursuant to K.S.A. 65-5003 and amendments thereto and the secretary shall apply the following criteria to each credentialing application:

(1) The unregulated practice of the occupation or profession can harm or endanger the health, safety or welfare of the public and the potential for such harm is recognizable and not remote;

(2) the practice of the occupation or profession requires an identifiable body of knowledge or proficiency in procedures, or both, acquired through a formal period of advanced study or training, and the public needs and will benefit by assurances of initial and continuing occupational or professional ability;

*Senate PHC
Attachment #1
3-12-93*

(3) if the practice of the occupation or profession is performed, for the most part, under the direction of other health care personnel or inpatient facilities providing health care services, such arrangement is not adequate to protect the public from persons performing noncredentialed functions and procedures;

(4) the public is not effectively protected from harm by certification of members of the occupation or profession or by means other than credentialing;

(5) the effect of credentialing of the occupation or profession on the cost of health care to the public is minimal;

(6) the effect of credentialing of the occupation or profession on the availability of health care personnel providing services provided by such occupation or profession is minimal;

(7) the scope of practice of the occupation or profession is identifiable;

(8) the effect of credentialing of the occupation or profession on the scope of practice of other health care personnel, whether or not credentialed under state law, is minimal; and

(9) nationally recognized standards of education or training exist for the practice of the occupation or profession and are identifiable.

(b) Reports of the technical committee, and the secretary shall include specific findings on the criteria set forth in subsection (a). No report of the technical committee or the secretary shall recommend credentialing of any occupational or professional group of health care personnel unless all the criteria set forth in subsection (a) have been met.

History: L. 1980, ch. 181, § 6; L. 1986, ch. 246, § 6; L. 1987, ch. 232, § 6; July 1.

✓ **65-5007.** Same; criteria applicable to levels of credentialing regulation. (a) All recommendations of the technical committee and the secretary which relate to the level or levels of credentialing regulation of a particular group of health care personnel shall be consistent with the policy that the least regulatory means of assuring the protection of the public is preferred and shall be based on alternatives which include, from least regulatory to most regulatory, the following:

(1) Statutory regulation, other than registration or licensure, by the creation or extension of statutory causes of civil action, the creation or extension of criminal prohibitions or the creation or extension of injunctive remedies is the appropriate level when this level

will adequately protect the public's health, safety or welfare.

(2) Registration is the appropriate level when statutory regulation under paragraph (a)(1) is not adequate to protect the public's health, safety or welfare and when registration will adequately protect the public health, safety or welfare by identifying practitioners who possess certain minimum occupational or professional skills so that members of the public may have a substantial basis for relying on the services of such practitioners.

(3) Licensure is the appropriate level when statutory regulation under paragraph (a)(1) and registration under paragraph (a)(2) is not adequate to protect the public's health, safety or welfare and when the occupational or professional groups of health care personnel to be licensed perform functions not ordinarily performed by persons in other occupations or professions.

(b) Reports of the technical committee and the secretary shall include specific findings on the criteria set forth in subsection (a). No report of the technical committee or the secretary shall recommend the level or levels of credentialing of any occupational or professional group of health care personnel unless all the criteria set forth in subsection (a) for the recommended level or levels of credentialing have been met.

History: L. 1980, ch. 181, § 7; L. 1986, ch. 246, § 7; L. 1987, ch. 232, § 7; July 1.

65-5008. Same; periodic review of credentialing status of health care personnel. The secretary shall periodically schedule for review the credentialing status of health care personnel who are credentialed pursuant to existing laws. The procedures to be followed, the criteria to be applied and the reports to be submitted for credentialing applications filed pursuant to K.S.A. 65-5002 and amendments thereto shall apply to credentialing reviews conducted pursuant to this section.

History: L. 1980, ch. 181, § 8; L. 1987, ch. 232, § 8; July 1.

65-5009. Same; records; duties of secretary; rules and regulations; compensation of members of technical committee. (a) The secretary shall provide all necessary professional and clerical services to the technical committee. Records of all official actions and minutes of all business coming before the technical committee shall be kept. The secretary shall