

Approved: January 19, 1994
Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Joann Flower at 1:30 p.m. on January 12, 1994, in Room 423-S of the Capitol.

All members were present except:
Rep. Bishop, absent

Committee staff present: Emalene Correll, Legislative Research Department
William Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Sue Hill, Committee Secretary

Conferees appearing before the committee:
Greg Reser, Director of Hospital and Medical Programs, Department of Health/Environment

Others attending: See attached list

Chair Flower called the meeting to order then directed attention to the agenda and discussion on SB 397, Hospice licensure bill.

Chair requested that Mr. Furse bring Committee members up to date on SB 397. Chair noted the bill had been sent back for the drafting of amendments proposed by members in October, 1993. (Interim Committee). Mr. Furse offered a handout, (Attachment No.1), a balloon copy of SB 397. He stated in October of 1993, the Committee had requested the amendments that now appear in the prepared balloon, (see Attachment No.1), and be reported back during the 1994 Session. He drew attention to the cover page with the balloon on SB 397, explaining in detail each of the six items that are indicated. He detailed the balloon noting the directed changes were to reflect registration for Hospice, rather than licensure for Hospice. Mr. Furse detailed the amendments line by line where changes were recommended. He explained technical changes, policy changes.

Mr. Furse offered a hand-out, (Attachment No 2), statutes on License (Practice) section 65-5903, and Registration (Title) section 65-6403. He carefully and comprehensively explained the differences in these terms, i.e., registration and license. He drew attention to key wording, i.e., licensure protects the scope of practice and in addition, licensure acts protect the title of the profession. Registration on the other hand does not protect the scope of practice, but protects the terminology that goes with the profession, so that the person credentialed under registration or title act is protected from anyone else using whatever their title or term is. Numerous questions were asked of Mr. Furse.

Chairperson Flower then requested Mr. Gary Reser, Director of Hospital and Medical Programs to also field questions from members of Committee. He did so. Mr. Reser provided a hand-out to members, (Attachment No.3) a cover letter from Mr. Reser, and a revised fiscal note on SB 397, and a letter from Health Care Financing Administration, (HCFA). He gave a detailed explanation of the revised fiscal note.

Further questions of staff and Mr. Reser continued. It was the consensus of members this particular issue is confusing.

Chair Flower stated, it was evident to her there are many points in these issues being discussed this date that are unclear and so out of respect the importance of Hospice functions and all those people involved in working with this issue, she would appoint a sub-committee on SB 397 to study it further. Rep. Samuelson as Chair, with Rep. Neufeld and Rep. Sader also serving.

Chair thanked Mr. Reser for his cooperation and help.
Chair adjourned the meeting at 2:30 p.m.

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Jan. 12, 1994

[illegible]

SENATE BILL NO. 397 (Hospice)

At the October 22, 1993, committee meeting, the committee directed staff to develop the following amendments to S.B. No. 397 (As Amended by Senate Committee):

1. Bill be changed to registration rather than licensure thus ensuring the name "registered hospice" and "hospice" are protected.
2. Medicare certification be part of the requirements for registration.
3. The limitation of application of the bill to not-for-profit hospices be deleted.
4. Hospices registered under the new legislation be exempt from home health licensing laws.
5. Make provisional registration available.
6. Include necessary technical changes.

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attn #1

SENATE BILL No. 397

By Committee on Federal and State Affairs

2-26

AN ACT enacting the hospice ~~licensure~~ act; providing for ~~licensing~~ hospices; granting certain powers to and imposing certain duties upon the secretary of health and environment; providing for administrative procedures relating to ~~licensure~~; amending K.S.A. 65-5112 and repealing the existing section.

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registration

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

Section 1. ~~This~~ act shall be known and may be cited as the hospice ~~licensure~~ act.

Sections 1 to 10, inclusive, and amendments thereto, of this

Sec. 2. As used in this act, unless the context otherwise requires:

(a) "Department" means the Kansas department of health and environment.

registration

(b) "Hospice" means a legally constituted ~~not for profit~~ organization, or agency, centrally administered, medically directed, nurse coordinated program providing comprehensive, continuous outpatient and home-like inpatient care for terminally ill patients and their families. It systematically joins together employed professionals and trained volunteers to form an interdisciplinary group, to assist in providing palliative and supportive care to meet the special needs arising out of the physical, emotional, spiritual, social and economic stresses which are experienced during the final stages of illness and during the dying and bereavement processes, regardless of ability to pay.

sections 1 to 10, inclusive, and amendments thereto, of

(c) "Hospice inpatient facility" means that the hospice provides inpatient care in compliance with ~~section 418.100 of the code of federal regulations~~.

42 code of federal regulations, chapter IV,

(d) "Hospice patient" means a patient diagnosed or referred, or both, to a hospice as terminally ill by an attending physician, who alone, or in conjunction with designated family members, has voluntarily requested admission into a ~~licensed~~ hospice program or whose guardian has requested admission on behalf of such patient into a ~~licensed~~ hospice program and who has been accepted into a ~~licensed~~ hospice program.

registered

(e) "Hospice patient's family" means the hospice patient's immediate family, including a spouse, brother, sister, child or parent.

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Other relations and individuals with significant personal ties to the hospice patient may be designated as members of the hospice patient's family by mutual agreement among the hospice patient, the relation or individual and the hospice team.

(f) "Hospice team or interdisciplinary group" means the attending physician, and the following hospice personnel: Physician, licensed professional or licensed practical nurse, ~~nurse~~ licensed social worker, pastoral or other counselor. Providers of special services, such as mental health, pharmacy, home health aides, trained volunteers and any other appropriate allied health services shall also be included on the interdisciplinary group as the needs of the patient dictate.

(g) "Identifiable hospice administration" means an administrative group, individual or legal entity that has an identifiable organizational structure, accountable to a governing board directly or through a chief executive officer. This administration shall be responsible for the management of all aspects of the program.

(h) "Medically directed" means that the delivery of medical care is directed by a physician who is employed by the hospice for the purposes of providing ongoing palliative care as a participating member of the hospice team.

(i) "Nurse coordinated" means the hospice must designate a registered licensed professional nurse to coordinate the implementation of the plan of care for each patient.

(j) "Palliative care" means treatment directed at controlling pain, relieving other physical and emotional symptoms and focusing on the special needs of the hospice patient and the hospice patient's family, as they experience the dying process rather than treatment aimed at investigation and intervention for the purpose of cure or prolongation of life.

(k) "Physician" means a person licensed to practice medicine and surgery.

(l) "Secretary" means the secretary of health and environment.

Sec. 3. (a) The hospice shall provide access to planned, coordinated medical and nursing services to hospice patients on a 24-hour basis, seven days per week.

(b) The hospice shall establish formal admission criteria that reflect the patient's and family's desire and need for hospice care.

(c) The admission criteria shall reflect, to the extent possible, that the hospice will admit patients regardless of diagnosis or ability to pay for services.

(d) The hospice shall organize its services to respond to patient and family needs whenever and wherever they arise. The hospice shall provide both structure and staff to ensure continuation of the

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1 hospice care plan in home, outpatient and home-like inpatient
2 settings.

3 (e) The hospice shall provide coordinated access to inpatient care,
4 made available either directly by a hospice inpatient facility or
5 through arrangement with a licensed inpatient facility, assuring the
6 continued involvement of the interdisciplinary group on a 24-hour-
7 a-day basis.

8 (f) The hospice program shall provide evidence that it has es-
9 tablished written policies for an interdisciplinary plan of care, in-
10 cluding but not limited to:

11 (1) Assessments, identified problems, proposed interventions,
12 level and frequency of services and goals;

13 (2) policies and procedures for maintaining appropriate reports,
14 patient bill of rights, informed consent, quality assurance and util-
15 ization review programs;

16 (3) policies and procedures for conducting ongoing assessments
17 reflecting the interdisciplinary natures of hospice services, including
18 assessments of volunteer participation and bereavement counseling;
19 and

20 (4) policies and procedures for maintaining accurate, current, in-
21 tegrated clinical records for all patient and family units and assurances
22 for the confidentiality of these records.

23 (g) The hospice program shall provide opportunities for appro-
24 priate continuing education of its interdisciplinary group members,
25 as well as assuring the competent training and supervision of its
26 volunteers and bereavement counselors.

27 (h) The hospice shall provide bereavement services under the
28 supervision of a qualified professional. The plan of care for these
29 services shall reflect family needs as well as a clear delineation of
30 services to be provided for not ~~more~~ less than one year following
31 the death of the patient.

32 (i) The hospice shall offer trained volunteer support to each pa-
33 tient and patient's family admitted to its program of care. Volunteers
34 shall be used in defined roles, under the supervision of designated
35 hospice staff.

36 Sec. 4. (a) No agency, organization or individual shall hold itself
37 out as providing hospice or hospice-like care a licensed hospice
38 or as a hospice unless licensed in accordance with the provisions of
39 this act.

40 (b) The provisions of this act shall not apply to any person or
41 organization conducting a program by and for the adherents of any
42 recognized church or religious denomination or sect for the purpose
43 of providing for the care of the dying who depend upon prayer or

(j) The hospice shall be certified under the hospice medicare benefit regardless of whether the hospice obtains or seeks medicare reimbursement.

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1 spiritual means for support and consolation in the practice of the
2 religion of such church, religious denomination or sect.

3 (c) A license issued under this act is not assignable or transferable
4 and must be separate from any existing license and is subject to
5 suspension or revocation at any time for failure to comply with the
6 provisions of this act or with appropriate rules and regulations
7 adopted by the secretary. A license issued under this act shall expire
8 one year after its date of issuance and may be renewed upon ap-
9 plication of the hospice as provided by rules and regulations of the
10 secretary. An application for renewal of a license shall be accom-
11 panied by the license renewal fee fixed by rules and regulations of
12 the secretary under section 6 and amendments thereto.

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13 Sec. 5. (a) A hospice certified under the hospice medicare
14 benefit, regardless of whether the hospice obtains or seeks
15 medicare reimbursement, shall be licensed by the secretary
16 after receipt of proof confirming the hospice is certified ac-
17 cording to the standards and conditions of the hospice medicare
18 benefit.

19 (b) Any organization or agency, operational as of January 1,
20 1993, which provides one or more hospice services as defined
21 in this act, but is not in complete compliance with the pro-
22 visions of this act, may petition the secretary for a provisional
23 license, in order to fulfill the requirements for hospice licen-
24 sure established by this act. The deadline for demonstrating
25 complete compliance shall be January 1, 1996. If any such
26 organization, or agency fails to comply with the provisions of
27 this act by the stated date, such organization or agency shall
28 no longer be called a hospice.

29 (c) Any organization or agency which does not qualify under
30 subsections (a) or (b) and which wishes to establish and hold
31 itself out as providing hospice or hospice-like care shall be
32 licensed according to the provisions of this act.

33 (d) Any organization or agency which wishes to be licensed
34 as a hospice shall file a written application with the secretary
35 on a form prescribed by the secretary. The application shall
36 be accompanied by a license fee fixed by rules and regulations
37 of the secretary under section 6 and amendments thereto. Any
38 organization or agency may file a written application with the sec-
39 retary for licensure as a hospice. The application shall be filed on
40 a form prescribed by the secretary and shall be accompanied by a
41 license fee fixed by rules and regulations of the secretary under
42 section 6 and amendments thereto.

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43 (b) Any organization or agency which as of January 1, 1993,

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1 provided one or more hospice services and which is not in complete
 2 compliance with the provisions of this act, may apply to the secretary
 3 for a provisional ~~license~~. The application for a provisional ~~license~~
 4 shall be accompanied by a provisional ~~license~~ fee fixed by rules and
 5 regulations of the secretary under section 6 and amendments thereto.

6 A provisional ~~license~~ shall expire on January 1, ~~1994~~. If an organ-
 7 ization or agency has failed to comply with the provisions of this
 8 act by the expiration of the provisional ~~license~~, such organization
 9 or agency shall not be ~~licensed~~ under this act until such time as the
 10 organization or agency qualifies for ~~licensure~~ under this act.

11 Sec. 6. ~~(a)~~ The secretary may adopt rules and regulations nec-
 12 essary to carry out the provisions of this act. ~~The rules and regulations~~
 13 ~~shall be initially adopted within one year after the effective date of~~
 14 ~~this act.~~

15 ~~(b) The rules and regulations adopted by the secretary under the~~
 16 ~~provisions of this act shall apply to all organizations and agencies~~
 17 ~~providing hospice care.~~

18 ~~(c) The secretary may fix, charge and collect ~~license~~ fees, pro-~~
 19 ~~visional ~~license~~ fees and ~~license~~ renewal fees as may be necessary~~
 20 ~~to cover the expenses incurred in administering the provisions of~~
 21 ~~this act.~~

22 Sec. 7. (a) There is hereby created within the department the
 23 hospice advisory council which shall advise and make recommen-
 24 dations to the secretary relating to the rules and regulations adopted
 25 and the implementation and administration of this act. All budgeting,
 26 purchasing and related management functions of the council shall
 27 be administered under the direction and supervision of the secretary.
 28 All vouchers for expenditures and all payrolls of the council shall be
 29 approved by the chairperson of the council and the secretary.

30 (b) The hospice advisory council shall be composed of five mem-
 31 bers. All members of the hospice advisory council shall be residents
 32 of Kansas and shall be appointed by the secretary for a term which
 33 shall expire on the expiration date of this section under subsection
 34 (e). The five members of the council shall be representatives of
 35 hospice programs. A vacancy on the hospice advisory council shall
 36 be filled by appointment of the secretary until expiration of this
 37 section under subsection (e).

38 (c) The hospice advisory council shall meet not less than quar-
 39 terly, or as necessary, at a place, day and hour determined by the
 40 council. The council may also meet at such other times and places
 41 as may be designated by the chairperson or upon the request of the
 42 majority of the members of the council.

43 (d) Members of the hospice advisory council attending meetings

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1 of the council, or attending subcommittee meetings thereof author-
 2 ized by the council, shall be paid amounts provided in subsection
 3 (e) of K.S.A. 75-3223 and amendments thereto.

4 (e) The provisions of this section shall expire on July 1, ~~1994~~

5 Sec. 8. (a) Any person may make a complaint against a hospice
 6 ~~licensed~~ under the provisions of the act by filing a complaint in
 7 writing with the secretary stating the details and facts supporting
 8 the complaint.

9 (b) If the secretary determines after an investigation that the
 10 charges are sufficient to warrant a hearing to determine whether the
 11 ~~license~~ of the hospice should be suspended or revoked, the secretary
 12 shall fix a time and place for a hearing and require the hospice to
 13 appear and defend against the complaint in accordance with the
 14 provisions of the Kansas administrative procedures act.

15 (c) A copy of the complaint shall be given to the hospice at the
 16 time it is notified of the hearing. The notice of the hearing shall be
 17 given at least 20 days prior to the date of the hearing.

18 Sec. 9. (a) The secretary shall refuse to issue, ~~shall refuse to~~
 19 ~~renew~~, shall suspend or shall revoke the ~~license~~ of any hospice (1)
 20 for failure to ~~substantially~~ comply with any provision of this act or
 21 with any rule and regulation of the secretary adopted under the
 22 provisions of this act or (2) for obtaining the ~~license~~ by means of
 23 fraud, misrepresentation or concealment of material facts. A hospice
 24 which has been ~~licensed~~ by the secretary and which is certified under
 25 the hospice medicare benefit, regardless of whether the hospice ob-
 26 tains or seeks medicare reimbursement, may be granted a ~~license~~
 27 renewal based upon such certification.

28 (b) Any hospice agency which has been refused a ~~license~~, which
 29 has been refused the renewal of a ~~license~~ or which has had its ~~license~~
 30 suspended or revoked by the secretary may request a hearing which
 31 shall be conducted in accordance with the provisions of the Kansas
 32 administrative procedures act.

33 Sec. 10. The secretary may maintain, in the manner provided
 34 by the act for judicial review and civil enforcement of agency actions,
 35 an action in the name of the state of Kansas for injunction or other
 36 process against any person to restrain or prevent any violation of
 37 the provisions of the hospice ~~license~~ act or any rule and regulation
 38 adopted pursuant thereto.

39 Sec. 11. K.S.A. 65-5112 is hereby amended to read as follows:
 40 65-5112. The provisions of this act shall not apply to:

41 (a) Individuals who personally provide one or more home health
 42 services if such persons are not under the direct control and doing
 43 work for and employed by a home health agency;

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(b) individuals performing attendant care services directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are defined under K.S.A. 65-6201 and amendments thereto, if the individuals performing such services are not under the direct control and doing work for and employed by a home health agency; or

(c) any person or organization conducting a home health agency by and for the adherents of any recognized church or religious denomination or sect for the purpose of providing services for the care or treatment of the sick or infirm who depend upon prayer or spiritual means for healing in the practice of the religion of such church, religious denomination or sect; or

(d) a hospice ~~licensed~~ under the hospice ~~licensure~~ act.

Sec. 12. K.S.A. 65-5112 is hereby repealed.

Sec. ~~11~~ 13. This act shall take effect and be in force from and after its publication in the statute book.

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H. H. H.

License (Practice) Section

65-5903. (a) Beginning one year after the date the rules and regulations first adopted under this act become effective, only a person licensed or otherwise authorized to practice under this act shall **practice** dietetics. Only a person licensed under this act shall use the title "dietitian" or "licensed dietitian" alone or in combination with other titles or use the letters L.D. or any other words or letters to indicate that the person using the same is a licensed dietitian.

(b) Violation of this section is a class C misdemeanor.

(c) In lieu of or in addition to prosecution under subsection (b), the secretary may bring an action to enjoin an alleged violation of this section.

Registration (Title) Section

65-6403. (a) On and after July 1, 1992, no person shall **represent** that such person is a registered marriage and family therapist or a marriage and family therapist without having first obtained a registration as a registered marriage and family therapist under the marriage and family therapist registration act.

(b) Violation of this section is a class B misdemeanor.

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1-12-94
attm # 2

Bureau of Adult and Child Care
Kansas Department of Health and Environment
Landon State Office Building, Suite 1001
Topeka, Kansas 66612-1290
(913) 296-3362

State of Kansas

Joan Finney, Governor



Department of Health and Environment

Robert C. Harder, Secretary

January 12, 1994

THE HONORABLE JOANN FLOWER CHAIRPERSON
HOUSE PUBLIC HEALTH & WELFARE COMMITTEE
STATEHOUSE RM 426-S
TOPEKA KS 66612

Dear Representative Flower:

During testimony presented before the House Public Health and Welfare Committee on October 22, 1993, related to Senate Bill 397, a request was made to offer a revised fiscal note, pending committee staff's "balloon" of the bill.

Enclosed is the revised fiscal note and a letter from the Associate Regional Administrator of the Health Care Financing Administration related to possible state/federal funding of a hospice licensure/registration bill.

I hope this information is helpful to the committee. If you have further questions or comments, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script, appearing to read "Greg L. Reser".

Greg L. Reser, Director
Hospital and Medical Programs
Bureau of Adult and Child Care

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Enc.

cc: Members of the House Public Health and Welfare Committee
Joseph Kroll, Director, Bureau of Adult and Child Care

PH&W
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Attn #3



DEPARTMENT OF HEALTH & HUMAN SERVICES

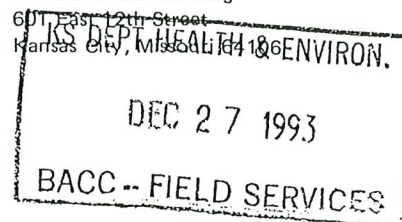
Health Care Financing
Administration

DEC 23 1993

Joseph F. Kroll, Director
Bureau of Adult and Child Care Facilities
Kansas Department of Health and Environment
Landon State Office Building, 10th Floor
900 Southwest Jackson
Topeka, Kansas 66620-0001

Region VII
Federal Office Building

601 East 12th Street
Kansas City, Missouri 64106



Refer to: DS-5-2(94)
SC-25-6

Dear Mr. Kroll:

In your November 29, 1993 letter you ask if Region VII would allow full survey costs for hospices to be charged to Medicare if HCFA regulations are referenced for the State licensure of hospices. You have indicated that a telephone poll conducted by your office showed a number of responses where Medicare certification standards and survey practices are being used for licensure purposes and survey costs are being charged to Medicare.

We recognize that practices may vary by the situation involved. However, it is our opinion that the State should share in the survey costs if the survey process is being used as a determinant for meeting State licensure requirements as well as Federal certification requirements. If Kansas passes a licensure law for hospices, we would wish to review the wording of the State regulation with you and then negotiate a State/Federal split on survey costs. We currently have negotiated rates with you on hospitals and home health agencies where the Federal survey process is used for both State licensure and certification purposes.

If you have any further questions, please let us know. We would appreciate being kept informed on the progress of any hospice licensure act.

Sincerely yours,

John L. Swetnam
Associate Regional Administrator
for Health Standards and Quality

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KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT
FISCAL NOTE WORKSHEET

Bill No: SB 397 (1/12/94)

Detailed Computation of Expenditures to Implement Bill:

FY 1995

Salaries and Wages
By Classifications

Staff to Hospital and Medical Programs	Gross Salary	Fringe Benefit	Total Salary
Health Facility Surveyor I	30,144	5,690	35,834
Office Assistant III	15,990	4,191	20,181
Advisory Council (\$35.00/day x 4 meetings x 5 members)	700	92	<u>792</u>
			56,807

Commodities (list items)

200 Communication - phone instruments & installations; PROFs @ \$2,074 per position	4,148
230 Rent @ \$2,500 per position	5,000
250 Travel (staff) (advisory council \$375 x 4 meetings) (field surveyor out of state training)	8,310

Capital Outlay (list items)

400 Capital Equipment Desk, chair, bookcase @ \$835 per position	1,670
Microcomputer System (professional work center) @ \$4,111 per position	4,111
Lap top computer - field staff -	<u>2,500</u>
	6,611

Subtotal 25,739

TOTAL EXPENDITURES: \$ 82,546

Survey Activity

Funding

State General Revenue	41,273
Medicare	<u>41,273</u>
Total	82,546

If an estimated 40 hospices are licensed/registered, a fee per Section 6 of SB 397 of \$500 per hospice would deposit \$20,000 in State General Revenue fund.

Note: Section 7 of SB 397 contemplates that "all vouchers for expenditures and all payrolls of the council shall be approved by the chairperson of the council and the secretary." Expenses related to operation of the proposed five-member council have been addressed in this revised fiscal note.

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1-12-94
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