

Approved: February 16, 2000
Date

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
Lesla 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/gynocologist 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).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the Capitol at 1:30 p.m. on January 31, 2000.

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

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the Capitol at 1:30 p.m. on January 31, 2000.

accessible to private contractors in unknown.

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.



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January 31, 2000

H.B. 2701 ARNP's authorized to perform School Employee Physical Exams for *Certifications of Health*

Good afternoon Chairperson Boston and members of the House Health and Human Services Committee, my name is Debbie Folkerts ARNP and I am an advanced registered nurse practitioner here today to provide testimony in support of H.B. 2701 on behalf of the KANSAS STATE NURSES ASSOCIATION. I currently work in Manhattan as a family nurse practitioner with a Urology group, and for three years before that I was the sole community provider in Glasco, Kansas in a rural health clinic.

This bill is very straightforward and simple, it expands by including Advanced Registered Nurse Practitioners (ARNP's) as health providers that can perform and sign "certifications of health" for employees of school districts. ARNP's now perform employee, well woman, well baby and general physicals every day on hundreds of Kansans. This change in the statute would reduce one barrier for ARNP's services by permitting them to perform and sign the forms required by school districts for their new employees. Currently there are 2258 ARNP's in Kansas (989 Nurse Practitioners, 695 Clinical Nurse Specialists, 48 Nurse Midwives and 526 Nurse Anesthetists). In Kansas there are currently four state schools that have programs preparing ARNP's (Wichita State University, Pittsburg State University, Fort Hays State University and Kansas University), with about eighty graduates every year. Nurse practitioners throughout our state have been delivering primary care for over twenty years now, making care in many communities much more accessible.

Currently Kansas has over 150 rural health clinics providing primary care to Kansas citizens, and rural health clinics by definition must be staffed at least half-time by either a Nurse Practitioner or Physician Assistant. Most Kansas rural health clinics are staffed with nurse practitioners, and they are responsible for providing primary care in their communities and making appropriate referrals to physician and medical specialties when indicated. Additionally, primary care clinics in health departments and clinics serving the uninsured are predominantly staffed with nurse practitioners.

We appreciate the opportunity to testify on this proposed legislation and ask for your support of H.B. 2701.

Thank You.

Debbie Folkerts ARNP-C
1808 Little Kitten Avenue
Manhattan, Kansas 66502

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The mission of the Kansas State Nurses Association is to promote professional nursing, to provide a unified voice for nursing in Kansas and to advocate for the health and well-being of all people.

Constituent of The American Nurses Association

HHS
1-31-2000
Atch #1

**CERTIFICATION OF HEALTH FOR SCHOOL PERSONNEL
K.S.A. 72-5213**

To be completed by the Applicant/Employee:
(Form to become part of the personnel file)

Name: _____ Social Security Number: _____

Address: _____ Birthdate: _____
(Street, City and Zip Code)

Job Title: _____ Work Site: _____

Tuberculin Testing Results
(To be completed by Health Care Professional)

Tuberculosis has been ruled out by:

Test	Date of Test	Date Test Read	Result
Mantoux/PPD	_____	_____	_____ mm induration (Positive)
Chest X-Ray:	_____	_____	_____ (Negative) _____ (Negative/Positive)

Testing Conducted by: _____
Individual Who Read Test: _____ (Health Facility)
(Signature)

Physician's Statement

I have, this date, examined _____ and find no evidence of any physical condition that would conflict with the health, safety, or welfare of the pupils or would prevent the individual from working in a safe and healthful manner.
(Employee Name)
List limitations or restrictions, if any.

Comments: _____

(Signature of Licensed Physician) (Examination Date)

(Address)

Every board of education shall require all employees of the school district, who come in regular contact with the pupils of the school district, to submit a certification of health signed by a person licensed to practice medicine and surgery under the laws of any state on a form prescribed by the secretary of health and environment. The certification shall include a statement that there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis has been established by chest x-ray or negative tuberculin skin test. K.S.A. 1999 Supp. 72-5213

Kansas Academy of Physician Assistants

January 31, 2000
House Health and Human Service Committee

Amendment to House Bill No. 2701

The Kansas Academy of Physician Assistants requests consideration of the following amendments to **House Bill No. 2701**:

- Insert on Line 22 the following:

as an advanced registered nurse practitioner or a registered physicians' assistant under the laws of this state.

- Insert on Line 38 the following:

nurse practitioner or a registered physicians' assistant under the laws of this state.

- Insert on Page 2, Line 10 the following:

practitioner or a registered physicians' assistant under the laws of this state.

Thank you for your consideration.

Jim Sperry - RPAC
Legislative Chairman
Kansas Academy of Physician Assistants

Ho HS
1-31-2000
Atch #2



KANSAS MEDICAL SOCIETY

To: House Health and Human Services Committee

From: Chris Collins *Chris Collins*
Director of Government Affairs

Date: January 31, 2000

RE: HB 2701; Health Certifications of School Employees

The Kansas Medical Society appreciates the opportunity to testify today on HB 2701 regarding health certifications. The Medical Society supports the concept of the proposed amendment but would respectfully request that this committee consider the amendment suggested below.

HB 2701 requests amendments to K.S.A. 72-5213 which addresses mandatory health screenings for school employees. In its current form, the statute requires that physicians sign a form certifying that they have performed a physical on the school employee and that there is no evidence of a physical condition that would conflict with the health, safety or welfare of the pupils and that freedom from tuberculosis has been established. HB 2701 would amend the statute so that advanced registered nurse practitioners could also independently perform the health examination and sign the health form.

The Kansas Medical Society respects the contributions that advanced registered nurse practitioners and physician assistants bring to the health care team. We understand that the PA's will offer an amendment to be included in this bill. KMS supports the concept that ARNP's and PA's should be able to conduct health examinations and sign health certifications. However, such activities should not be done independently and outside of the framework of the physician-directed health care team. In keeping with this philosophy, KMS would recommend 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).

The Kansas Medical Society appreciates the opportunity to comment on HB 2701 and would respectfully request the committee's adoption of the suggested amendments. Thank you.

Handwritten:
HHS
1-31-2000
Atch #3



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony presented to

Committee on Health and Human Services

by

The Kansas Department of Health and Environment

House Bill 2700

Chairman Boston, members of the committee, I appreciate this opportunity to comment on House Bill 2700. As you know, the Kansas 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 House Bill 2278 following the 1997 legislative session. Since that time, the department has marshaled its forces to provide a sound, responsive service to these industries in partnership with the Kansas Bureau of Investigation. 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, and high-volume telecommunications data transfer between KDHE and KBI. Though this program remains somewhat misunderstood, the mission of the KDHE program staff continues to be to assist the adult care homes and home health agencies in compliance with the law, being mindful of the industry's continual struggle to retain adequate staffing, and provide information in an unbiased and understandable manner. In these 18 months of activity, more than 57,000 requests have been processed, with about 18 percent 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 percent of all requests). The turnaround from receipt of a request to the notice of prohibition being issued is less than 15 days in 92 percent of those prohibited. Research requirements on the record may delay record confirmation, but this is a necessary quality assurance step. Less than 1 percent is delayed for more than 30 days.

Having provided you with a thumbnail sketch of the program, I would like to offer comments on the provisions addressed in House Bill 2700. First, compliance with the 3-day reporting requirement will 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 three 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 will increase printing and mailing costs.

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He HS
1-31-2000
Atch #4

Implementing the distribution of all responses, affirmative or negative, on the criminal history record information 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.

The handling of criminal history record information that is currently undisclosed information would drastically change according to these amendments. Provided there are no laws prohibiting the distribution of the KBI adult and juvenile criminal record history abstracts, the written agreement between the department and KBI would need to be changed since there are currently strict confidentiality provisions which prohibit the unauthorized disclosure of these data.

Current efficiency measures would be eliminated. There is no provision for private contractors to report data to the department. An expanded service was developed this year to identify the most current date a background check was performed and whether it resulted in a prohibition to employers calling the Kansas Nurse Aide Registry (KNAR). This service would have to be stopped. Although this service is limited to certified aides, aides represent more than the 20 other job classification of all the requests received (31 percent). Without a centralized data bank, employers could not be assured of the date of the most recent check.

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. Experience has indicated juvenile criminal history records only constitute 7 percent of all records received from the KBI, but those records constitute 35 percent of the prohibitions that have been issued. The bill does not define "the same or better information," nor assign responsibility for making that determination. The department background check process is not limited solely to KBI data, but can also include communication with courts of jurisdiction and other agencies. Will the same or better requirement include these elements? Are juvenile records public information? If so, how will private contractors provide the same or better background checks?

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.

Thank you for your attention and consideration of these concerns. I would be glad to answer any questions.

Presented by: Lesa Bray, Director
Health Occupations Credentialing
Bureau of Health Facilities



KANSAS ASSOCIATION OF HOMES AND SERVICES FOR THE AGING

Testimony in Support of House Bill 2700

To: Chairman Garry Boston, and Members, House Health and Human Services Committee
From: Debra Zehr, Vice President
Date: January 31, 2000

Thank you Chairman Boston, and Members of the Committee. The Kansas Association of Homes and Services for the Aging represents nearly 170 not-for-profit long-term care providers. Our goal is to assist our members to provide high quality, cost effective services for the elderly Kansans in their care.

We ask for your support of House Bill 2700. It 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.

House Bill 2700 would require notification of employers when a background check comes up clear, just as if they had gone through a private entity or directly through KBI. According to summary reports we periodically receive from the Kansas Department of Health and Environment (KDHE), less than one percent of the 50,000+ background checks completed since July 1, 1998 revealed a prohibited crime. Under the existing system, employers received no notification on the remaining 99% of checks that came up clear. Employers experience uncertainty and frustration with this lack of closure.

House Bill 2700 would assist employers in making prudent hiring decisions by giving them criminal record information beyond convictions that statutorily prohibit employment. KDHE tells us that 15-20% of background checks reveal non-prohibited convictions of a non-violent nature. However, employers are not notified of these convictions under the existing system. In some instances, such as with convictions for theft or forgery, this is important information that has a direct bearing on the safety of vulnerable elderly and their possessions.

House Bill 2700 would permit employers to get background checks through private KBI-approved entities. Employers may get better and quicker information. For example, some private contractors have access to out-of-state information, which is lacking in the KDHE system, and others are moving toward quicker on-line request systems. Permitting a private option could also decrease the burden on KDHE during this time of manpower and budget constraints.

Since December 1999, KDHE has included the date of the last background check as well as individual employment prohibitions on the CNA Registry. (Employers are required to check the Registry prior to hiring a CNA to make sure they have not committed resident abuse and are in good standing.) We respectfully ask that House Bill 2700 be amended to require private contractors to relay employer-requested criminal background information to KDHE, so that this information can be maintained on the Registry.

Thank you. I would be pleased to answer any questions.



KHCA

Member of
ahca

Kansas Health Care Association

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T E S T I M O N Y

Before the

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

By

John L. Kiefhaber, Exec. Vice President

KANSAS HEALTH CARE ASSOCIATION

Chairman Boston and members of the Committee:

The Kansas Health Care Association, representing over 200 professional nursing facilities, assisted living facilities and long-term care units of hospitals, appreciates the opportunity to speak in support of House Bill 2700, concerning background checks for prospective employees of long-term care providers.

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. We support 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. Only with complete information that is available on prospective employees can facilities make the best judgments about whom to hire for their workforce.

I would make one observation, that we are still studying 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.

The Kansas Health Care Association urges you to report House Bill 2700 favorable for passage.

1/31/00

*H & HS
1-31-2000
Atch #6*



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To: House Committee on Health and Human Services
From: Linda Lubensky, Kansas Home Care Association
Date: January 31, 2000
Re: HB 2700, revisions to the background check law

On behalf of the Kansas Home Care Association, I appreciate this opportunity to comment on HB 2700, a bill which makes important revisions to the background check law for adult care homes and home health agencies in our state.

We are in agreement with the necessity for these changes and ask this committee for their support. Not only does HB 2700 extend 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.

Home care has always been concerned about the limited "laundry list" of prohibited offenses. There are other crimes that are equally indicative of potential, and serious, problems. With the provision of this additional material, employers can be more responsible in making decisions about the individuals they choose to employ. Home care is a unique service delivery that requires an increased responsibility due to autonomy of our employees and the vulnerability of our clients. These improvements to the background check law will help us to do a better job in protecting our patients and meeting their needs.

We hope that you are in agreement and will pass HB 2700 favorably out of committee.

H-HS
1-31-2000
Atch #7