

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Jim Morrison at 1:30 p.m. on February 12, 2004, in Room 526-S of the Capitol.

All members were present except:

Representative Brenda Landwehr- excused
Representative Sue Storm- excused
Representative Joe McLeland - excused

Committee staff present:

Dr. William Wolff, Legislative Research Department
Rena Jefferies, Office of Revisor of Statutes
Gary Deeter, Secretary

Conferees appearing before the committee:

Theresa Nuckolls, Assistant Attorney General
Representative Jene Vickrey
Rod Bremby, Secretary, Kansas Department of Health and Environment
Jane O'Bryan, Member, Board of Adult Care Home Administrators
Lou Esplund, Chair, Board of Adult Care Home Administrators
Dawn Veh, Vice President, Health Services, Wesley Towers, Hutchinson
Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging

Others attending:

See Attached List.

The Chair welcomed Theresa Nuckolls, Assistant Attorney General, who briefed the Committee on the Open Meetings Act. ([Attachment 1](#)) She reviewed the statutes, which state that all meetings of elected officials in Kansas must be conducted openly. (**K.S.A 75-4317 et seq**) She then outlined what constituted a meeting:

- A gathering, assembly, telephone call, or other interactive means of communication, which includes e-mails, notes, instant messaging. She said if members have a discussion, the law applies. If communication is only one-way and not interactive, the law does not apply.
- To be a meeting, there must be a majority of a quorum: take the total members, divide twice by 2, rounding up each time.
- The discussion must be in relation to the affairs of the body. A meeting for purely social purposes where no discussion involves the purpose of the body does not constitute a meeting.

Ms. Nuckolls commented that the appearance of impropriety is not a violation. She said that discussions between two members is not a violation, but serial conversations are a violation, noting that the means of

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communication is not the issue.

The Chair thanked Ms. Nuckolls, then turned the meeting over to Representatives Roger Reitz and R. J. Wilson, who chaired hearings on two bills.

Representative Reitz opened the hearing on [HB 2634](#), testing for West Nile virus in humans. The chair reviewed the history of reporting of the virus in Kansas, noting that reporting varies from state to state, depending on the symptoms are categorized. He said the one unique symptom of the West Nile virus is flaccid paralysis. Commenting on the bill, he stated that an issue of public concern is requiring a laboratory to run a specific test based on certain symptoms.

Representative Vickrey testified about the experience of one of his constituents, who, when requesting a West Nile test from the Kansas Department of Health and Environment, was refused the test because her husband's symptoms did not meet the criteria for the test. The Chair noted that there is no treatment for West Nile, but it is important to know that it might be some other disease which could be treated.

Rod Bremby, Secretary, Kansas Department of Health and Environment, said KDHE is required to run a test to confirm West Nile virus whenever it is requested by a physician. ([Attachment 2](#)) He said there are several types of tests for West Nile with concomitant variation in costs. He estimated an additional cost to the agency of \$164,000 if the bill passes. He also noted that private laboratories are available to conduct such tests, obviating the need for this legislation. In comparing reporting variations among states, he said Colorado includes a wider array of symptoms than other states and therefore has the appearance of a much higher incidence of the virus.

Answering questions, Mr. Bremby said that testing for West Nile virus can be done by a physician or local clinic, and that sending the sample to KDHE would delay the diagnosis by several days, noting that a physician would be expected to treat the patient from his or her own evaluation rather than waiting for a report from KDHE. He replied that KDHE is usually not the first line of defense for infectious diseases unless the presenting symptoms or substances are unique or unusual.

Dr. Gail Hansen, Acting State Epidemiologist, said KDHE is sometimes the first to conduct a test and sometimes acts as a confirmation of a private laboratory's test. She said a physician's first choice should be to send the sample to a private lab, and, for certain symptoms, also send another sample to the KDHE laboratory for confirmation. She said the Centers for Disease Control (CDC) have specific criteria for West Nile; if the symptoms do not meet the criteria, KDHE will not conduct a test.

Answering further questions, Dr. Duane Bowling, a KDHE chemist, said a West Nile test takes 2-3 days. He said KDHE's lab functions not to make an initial diagnosis, but to ensure that a private laboratory's test result is accurate. He said KDHE reports to the CDC on West Nile only if the more severe symptoms (encephalitis, meningitis) are present.

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Representative Reitz closed the hearing on **HB 2634**.

Representative Wilson opened the hearing on **HB 2716**, which changes the requirements for adult care home administrators. He stated that because of the limited time and because some conferees had come from a distance, the Committee would not follow a strict proponent/opponent sequence.

Jane O'Bryan, Member, Board of Adult Care Home Administrators (BACHA), testified as an opponent of the bill. ([Attachment 3](#)) As an experienced, licensed, long-term care nursing facilitator, she said the bill would reduce the flexibility of the Board to carry out its responsibilities and place undue restrictions on administrators to serve as preceptors. Noting that fewer individuals have been seeking licensing as care-home administrators, she said the bill would further restrict candidates for care-home administrator. Answering a question, Ms. O'Bryan said she would prefer that training not be mandated.

Lou Esplund, Chair, Board of Adult Care Home Administrators, spoke in opposition to the bill. ([Attachment 4](#)) She said she had been an administrator in Kansas for 28 years, noting that the Board sets the standards for long-term care administrators and that the Board sees the bill as a roadblock for finding administrators. She commented that since a preceptor volunteers his or her time, a bill which adds further requirements for preceptors will cause fewer administrators to volunteer. She summarized her comments by saying that the bill presents more barriers than it does incentives in finding capable administrators. Answering a question, she said the licensing test for prospective administrators is based on the national board requirements and that the test is continually updated. She said that adding a 480-hour requirement narrows the focus of requirements; she would prefer a candidate take be free to take courses in areas of their preference.

Dawn Veh, Vice President, Health Services for Wesley Towers, Hutchinson, spoke as a proponent for the bill. ([Attachment 5](#)) She said the goal of the bill is to create training for long-term care administrators that will lead to a customer-focused outcome. She noted the decline in the number of licensed administrators in Kansas, saying that the proposed 480-hour practicum required by the bill is based on the National Association of Boards of Examiners' Domains of Practice for the Long-Term Care Administrator. She said that the 10-hour preceptor training assures quality care for Kansas seniors.

Answering questions, Ms. Veh said the bill will reverse the declining numbers of adult care-home administrators by providing better training and a consistent college curriculum, both which will help administrators become more successful, noting that quality, not numbers, is the issue. She replied that BACHA has not updated the standards since 1972.

Not appearing, but providing written testimony, were the following:

Deanne Bacco, Executive Director, Kansas Advocates for Better Care, a proponent. ([Attachment 6](#))
Debra Zehr, Vice President, Kansas Association of Homes and Service for the Aging, a proponent. ([Attachment 7](#))

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The Chair closed the hearing on **HB 2716**

Staff Bill Wolff briefed the Committee on **HB 2698**, a bill licensing radiologic technologists. He said the bill sets forth a registration act within a licensure act, including the registration of x-ray technicians as well as licensing for radiologic technologists. He noted that in the extensive definitions of what radiologic technologists can do, the x-ray technicians are defined by what they cannot do, suggesting they be defined by what they are allowed to do, further noting that the term “limited radiology,” referring to x-ray technicians, is not defined in the bill. He also identified several redundancies and semantic problems and circumlocutions.

Dr. Wolff said the bill is a classic licensure act with a prescribed scope of practice and a statement of who can do these things and what they are to be called. He said the bill allows the Board of Healing Arts to issue a temporary license, to permit an applicant to take a different examination, or, under certain circumstances, to waive the examination. He noted that the bill allows all present radiologic technologists to be automatically included as licensed if they hold a current registration; likewise x-ray technicians are automatically included as registered until January, 2005, noting that the title of X-ray technician is protected by the bill.

The meeting was adjourned at 3:09 p.m. The next meeting is scheduled for Monday, February 16, 2004.