Approved January 28, 198_
Date

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY.

The meeting was called to order by Senator Robert Frey at
Chairperson

10:00 a.m./~~p.m.~~ on January 23, 1985 in room 514-S of the Capitol.

All members were present ~~except~~: Senators Frey, Hoferer, Burke, Feleciano, Gaines, Langworthy, Parrish, Steineger, Talkington, Winter, and Yost.

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Conferees appearing before the committee:

Jerry Slaughter, Kansas Medical Society
Randy Hearrell, Kansas Judicial Council
Jim Turner, Kansas League of Savings Institutions
Gerald Goodell, Kansas League of Savings Institutions
Matt Lynch, Kansas Judicial Council
Tom Bell, Kansas Hospital Association
Marjorie Van Buren, Office of Judicial Administrator

Jerry Slaughter presented a proposal for a bill to be introduced as a committee bill concerning medical malpractice actions. Following his explanation, Senator Gaines moved to introduce the proposal as a committee bill. Senator Hoferer seconded the motion. The motion carried. A copy of his proposal is attached (See Attachment I).

Senate Bill 24 - Establishment of associate district judge positions in sixth judicial district.

Senator Talkington, the author of the bill, explained the bill establishes an associate district judgeship in Bourbon County. This does not add a judge but changes the office of judge from Miami to Bourbon County. Senator Gaines moved to report the bill favorably, Senator Burke seconded the motion, and the motion carried.

Senate Bill 34 - Corporate fiduciary's appointment as guardian.

Randy Hearrell explained the bill will amend the language of K.S.A. 59-1707 to that of K.S.A. 59-3037, relating to permission of non-profit corporations to act as guardians. Copies of the handouts are attached (See Attachments II).

Jim Turner handed out a copy of the league's proposed amendments that would correct an apparent conflict in the Kansas statutes concerning the exercise of trust powers by a savings and loan association or savings bank authorized by federal law or by K.S.A. 17-5830 to act as trustees (See Attachment III).

Gerald Goodell appeared to explain the four proposals of the Kansas League of Savings Institutions.

Senate Bill 37 - Subpoena of business records.

Matt Lynch explained the bill amends the business records statutes to provide a means for a nonparty to comply by mail to a subpoena for production of business records.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON JUDICIARY,

room 514-S, Statehouse, at 10:00 a.m./~~p.m.~~ on January 23, 1985, 19__.

Senate Bill 37 continued

Tom Bell appeared before the committee in support of the bill. A copy of his testimony is attached (See Attachment IV).

Marjorie Van Buren pointed out the amendatory language requested by the Judicial Administrator's office has been incorporated into the bill.

Senate Bill 34 - Corporate fiduciary's appointment as guardian.

Senator Talkington moved the committee accept the amendments proposed by the Kansas League of Savings Institutions. Senator Parrish seconded the motion. The motion carried. Senator Burke moved to report the bill favorably as amended. Senator Feleciano seconded the motion. The motion carried.

Senate Bill 37-Subpoena of business records.

Senator Gaines moved to report the bill favorably. Senator Hoferer seconded the motion, and the motion carried.

The minutes of January 16, 1985, were approved by the committee.

The meeting adjourned.

The guest list is attached (See Attachment V).

GUEST LIST

COMMITTEE: SENATE JUDICIARY COMMITTEE DATE: 1-23-85

NAME (PLEASE PRINT)	ADDRESS	COMPANY/ORGANIZATION
Matt Lynch	301 W 10th	Judicial Council
Randy M. Hearrell	Topeka	Judicial Council
Patricia Henshall	Topeka	Office Jud Adm
[illegible]	TOPEKA	[illegible]
KICKHEMEWOLD	"	AT&T
M. Haave	"	Cap-Journal
Gerald L. Goodell	Ks League-Topeka	Topeka
KAREN BALL	Topeka	AP
[illegible]	Larned Ks	District Magistrate Judges
[illegible]	KLSI	Topeka
Tom Bell	Topeka	KHA
Ron Smith	Topeka	Ks Bar Assn
[illegible]	"	K.C. Times

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Bill

AN ACT relating to health care providers, concerning professional liability, admissibility of evidence of payments or services received by an injured party from collateral sources, limitations on damage awards in medical malpractice actions, attorney fees allowable in medical malpractice litigation, permitting periodic payment of certain medical and related benefits, the abolition of punitive damage awards against health care providers, and amending K.S.A. 40-3403.

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

Section 1. Purpose.

New measures are required to assure that affordable professional liability insurance will continue to be available to health care providers. The availability of reasonable and adequate insurance coverage is essential to assure the continued availability of health care services to the citizens of Kansas at a reasonable cost. A redefinition of the potential liability of such providers based upon any error, omission, neglect or other wrongdoing in the rendering of or in the failure to render professional services shall be as codified in this Act. In no event shall the provisions of this act be construed to repeal K.S.A. 60-1901. This act shall be liberally construed and applied to promote the foregoing purposes.

Section 2. In this act unless the context otherwise requires:

A. Medical malpractice means the negligent rendering or failure to render professional services by a health care provider in a manner which causes injury to a patient.

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B. The terms "basic coverage", "commissioner", "fund", "health care provider", "insurer" and "professional liability insurance" shall have the meanings ascribed to them in K.S.A. 40-3401 as amended.

C. Claimant means any person asserting a claim for damages for medical malpractice.

Section 3. If any provision or clause of this act or application thereof to any person or circumstances is held invalid such invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application and to this end the provisions of this act are declared to be severable.

Section 4. Recovery of Damages in Medical Malpractice Actions

A. Standard of Care

(1) In determining negligence in a medical malpractice liability action, the fact finder shall be instructed on and make its assessment of liability according to the following standard of care:

(i) Such reasonable care, diligence and skill as a health care provider in the same general geographic location and in the same school of medicine ordinarily exercises in a like situation;

(ii) The law does not require that treatments given by a health care provider to a patient shall attain nearly perfect results. A health care

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provider is not responsible in damages for lack of success or honest mistakes or errors of judgment unless it be shown that the health care provider did not exercise that degree of care, skill and dilgence used by health care providers generally in the community or similar communities in the same general geographic location. A health care provider is presumed to have exercised the required degree of care, skill and diligence, and negligence may not be presumed from the mere fact of injury or adverse result.

(iii) No health care provider shall be held liable for failure to disclose or accurately describe facts, opinions, or other information relating to a patient's condition or to a proposed treatment and its consequences except upon proof that such disclosure would have been made by a reasonable medical practitioner under the same or similar circumstances and that adequate disclosure could reasonably have been expected to cause the patient to decline the treatment or procedure because of knowledge of the risk or danger that actually resulted in harm to the patient.

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(2) In determining a health care provider's liability for any act of medical malpractice, the claimant shall establish causation by a preponderance of evidence disclosing facts and circumstances proving that the health care provider's negligence was more likely than not the cause of the injury. Except where negligence and harmful results are sufficiently obvious to lie within the fact finder's common knowledge, the claimant shall establish causation by expert medical testimony.

(3) In an action for malpractice against a physician or hospital no person shall testify as a medical expert as to the standard of care unless that person is licensed to practice medicine and surgery in Kansas or a contiguous state, has current personal experience and practical familiarity with the medical subject forming the basis of the litigation and is actively engaged in direct patient care.

(4) In any action for medical malpractice the court, if requested by either party and if the tax laws so provide, shall instruct the jury that any damage award is not subject to state or federal income taxation.

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B. Evidence of Collateral Source Reimbursement.

(1) In determining damages in a medical malpractice liability action, evidence shall be admitted for consideration by the trier of fact to establish that any damages or expenses incurred or reasonably expected to be incurred by the claimant were indemnified or replaced, or may be indemnified or replaced, in part or whole, from any collateral source.

(2) When evidence of a claimant's entitlement to collateral source benefits is introduced, the claimant may present evidence of any amounts paid to secure a right to such benefits, or that the right to recovery is subject to a lien or subrogation.

Section 5. Amount of Awards in Medical Malpractice Lawsuits.

A. Limitation of recovery.

1. Punitive damages shall not be awarded in any action against a health care provider arising out of the rendering of or the failure to render professional services.

2. The total amount recoverable for all malpractice claims for injuries to or death of a patient, exclusive of future medical care and related benefits shall not exceed $500,000.

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3. Notwithstanding the foregoing limitation, the total amount of damages recoverable for pain and suffering by a claimant for injury in a medical malpractice action shall not exceed one hundred thousand ($100,000) dollars.

4. Payments for future medical care and related benefits shall be paid without regard to the $500,000 limitation on recovery, however, the total amount which may be recovered for all malpractice claims for injuries to or death or a patient inclusive of future medical care and related benefits, shall not exceed $3,200,000.

5. In no event shall a health care provider who has qualified for and paid the applicable surcharge to the Fund be personally liable in any amount.

B. Future medical care and related benefits.

1. Future medical care and related benefits means all reasonable medical, surgical, hospitalization, physical rehabilitation, and custodial services; including drugs, prosthetic devices and other similar materials reasonably necessary in the provision of medical services caused by the medical malpractice of the liable health care provider. Future medical care and related benefits does not mean nonessential specialty items or devices of convenience.

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2. The amount of future medical care and related benefits shall be reduced or apportioned pursuant to the provisions of K.S.A. 60-258(a) as the same may be applied by the court or jury.

3. In arriving at the amount of future medical care and related benefits the court or jury shall consider all other benefits available to the claimant from other sources to make the amount of future medical care and related benefits supplementary to collateral source benefits and avoid duplication of such amounts.

4. In all medical malpractice claims proceeding to trial the jury shall be given a special interrogatory asking if the claimant is in need of future medical care and related benefits and the current monthly amount of such care and benefits. In all medical malpractice claims tried to the court, the court's findings shall include a recitation whether the patient is in need of future medical care and related benefits and the current monthly amount thereof.

5. The court shall enter judgment for the amount of the jury verdict, as limited by the provisions of this section, and the amount of the current monthly future medical care and related benefits found by the court or jury. The amount of monthly future medical care and related benefits shall

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automatically become a judgment each month thereafter until either modified by the court or abated, as hereinafter set forth.

6. The court shall retain jurisdiction of the action and modify the amount of future medical care and related benefits from time to time as the same may reasonably be required by the needs of the patient. Any party may seek modification at any time by filing a motion for modification.

7. The claimant shall from time to time, but no more often than annually, submit to a physical examination requested by the health care provider, the expenses of which shall be paid by the health care provider. A copy of the report of such examination shall be furnished to the claimant. When requested, the claimant shall furnish authorizations permitting the health care provider to obtain copies of medical records of health care providers providing treatment to the claimant.

8. The obligation of a health care provider to reimburse the claimant for future medical care and related benefits shall abate upon the death of the claimant or at such time as the claimant no longer needs medical care and related benefits.

9. If the health care provider has obtained the basic limits of professional liability insurance required by K.S.A. 40-3402 and paid the applicable

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surcharge for the period in which the claim of the patient is made, such insurer and the Fund shall pay, to the extent of the limits of the applicable policy, this Act and K.S.A. 1984 Supp. 40-3403(e), the amount of any judgment. After any such judgment becomes final, the insurer or the Commissioner may be substituted for the judgment debtor upon motion of any party. The insurer or Commissioner shall thereafter be the judgment debtor as to any judgments entered under subsection 5 of this section. Upon such substitution any judgment lien rendered against a health care provider pursuant to K.S.A. 60-2202 shall be released.

10. Any determination by a court or jury of the amount of future medical care and related benefits shall be subject to appellate review. In the event any insurer or the Fund fails, for a period of sixty (60) days, to pay the amount of future medical care and related benefits finally determined to be due, the court may award reasonable attorneys fees to the claimant's attorney for services incurred in collecting such amount.

11. The insurer of a health care provider or the Fund may, notwithstanding the provisions of this act, contract with the claimant or the claimant's representative to compromise and settle all or

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part of the claimant's claims. Any agreement which shall require payment by the Fund shall not be effective until approved by the court after notice to the commissioner. Such agreement shall finally fix and determine the liability to the party claiming compensation and may fully or partially modify any obligation to provide future care and related benefits.

Section 6. Attorney Fees

A. With respect to any proceedings or claims against a health care provider, any claim of any attorney for service rendered in connection with the securing of compensation for any person shall be reasonable and fair, considering the difficulty and effort required to establish liability, the nature and difficulty of the issues involved in the case and the time reasonably necessary to prepare and present the same.

B. With respect to any and all proceedings in connection with any claim resulting in payment from the Fund, no claim of any attorney for services rendered shall exceed 15 percent (15%) of the amount of payments made from the Fund, in addition to actual expenses incurred.

C. All attorneys fees shall be fixed pursuant to a written contract between the attorney and the party seeking compensation or such party's representative, and the attorney shall file his contract with the court in

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which the action is pending, who shall approve any payment of fees only if the same are in accordance with provisions of this section. Any contracts for attorneys fees not in excess of limits provided in this section and approved by the court shall be enforceable as a lien on the compensation due or to become due.

D. The limitations upon payment from the Fund shall not be circumvented by contractual provisions permitting an inordinate or unreasonable fee upon that portion of the recovery payable from the basic limits of insurance.

Section 7. K.S.A. 1983 Supp. 40-3403 as amended by 1984 Kan. Sess. Laws Ch. 238 is hereby amended to read as follows:

40-3403. (a) For the purpose of paying damages for personal injury or death arising out of the rendering of or the failure to render professional services by a health care provider, self-insurer or inactive health care provider subsequent to the time that such health care provider or self-insurer has qualified for coverage under the provisions of this act, there is hereby established the health care stabilization fund. The fund shall be held in trust in a segregated fund in the state treasury. The commissioner shall administer the fund or contract for the administration of the fund with an insurance company authorized to do business in this state.

(b)(1) There is hereby created a board of governors. The board of governors shall provide:

(A) Technical assistance with respect to administration of the fund;

(B) such expertise as the commissioner may reasonably request with respect to evaluation of claims or potential claims;

(C) advice, information and testimony to the appropriate licensing or disciplinary authority regarding the qualifications of a health care provider.

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(2) The board shall consist of 13 persons appointed by the commissioner of insurance, as follows: (A) The commissioner of insurance, or the designee of the commissioner, who shall act as chairperson; (B) one member appointed from the public at large who is not affiliated with any health care provider; (C) three members licensed to practice medicine and surgery in Kansas who are doctors of medicine; (D) three members who are representatives of Kansas hospitals; (E) two members licensed to practice medicine and surgery in Kansas who are doctors of osteopathic medicine; (F) one member licensed to practice chiropractic in Kansas; and (G) two members of other categories of health care providers. Meetings shall be called by the chairperson or by a written notice signed by three members of the board. The board, in addition to other duties imposed by this act, shall study and evaluate the operation of the fund and make such recommendations to the legislature as may be appropriate to ensure the viability of the fund.

(3) The board shall be attached to the insurance department and shall be within the insurance department as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the commissioner of insurance. All vouchers for expenditures of the board shall be approved by the commissioner of insurance or a person designated by the commissioner.

(c) Subject to subsections (d), (e), (f) and ~~(g)~~, (h) the fund shall be liable to pay: (1) Any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable resident health care providers or resident self-insurers for any such injury or death arising out of the rendering of or the failure to render professional services within or without this state; (2) any amount due from a judgment or settlement which is in excess of the basic coverage liability of all liable nonresident health care providers or nonresident self-insurers for any such injury or death arising out of the rendering or the failure to render professional services within this state. In no event shall the fund be obligated for claims against nonresident health care providers or nonresident self-insurers who have not

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complied with this act or for claims against nonresident health care providers or nonresident self-insurers that arose outside of this state; (3) any amount due from a judgment or settlement against a resident inactive health care provider for any such injury or death; (4) any amount due from a judgment or settlement against a nonresident inactive health care provider for any injury or death arising out of the rendering or failure to render professional services within this state. In no event shall the fund be obligated for claims against: (A) Nonresident inactive health care providers who have not complied with this act; or (B) nonresident inactive health care providers for claims that arose outside of this state, unless such health care provider was a resident health care provider or resident self-insurer at the time such act occurred; (5) reasonable and necessary expenses for attorney fees incurred in defending the fund against claims; (6) any amounts expended for reinsurance obtained to protect the best interests of the fund purchased by commissioner, which purchase shall be subject to the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto but shall not be subject to the provisions of K.S.A. 75-4101 and amendments thereto; (7) reasonable and necessary actuarial expenses incurred in administering the act, which expenditures shall not be subject to the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and amendments thereto; (8) annually to the plan or plans, any amount assessed or assessable from insurers under any plan or plans existing pursuant to K.S.A. 40-3413 and amendments thereto; and (9) reasonable and necessary expenses incurred by the insurance department and the board of governors in the administration of the fund.

(d) All amounts for which the fund is liable pursuant to paragraphs (1), (2), (3) or (4) of subsection (c) of this section shall be paid promptly and in full if less than $300,000, or if $300,000 or more, by installment payments of $300,000 or 10% of the amount of the judgment including interest thereon, whichever is greater, per fiscal year, the first installment to be paid within 60 days after the fund becomes liable and each subsequent installment to be paid annually on the same date of the year the

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first installment was paid, until the claim has been paid in full. Any attorney's fees payable from such installment shall be similarly prorated.

(e)(1) Subject to approval by the Board of Governors, the Commissioner may purchase an annuity to pay any amounts for which the fund is liable pursuant to paragraphs (1), (2), (3) or (4) of subsection (c) of this section; (2) any annuity so purchased shall be exempt from the provisions of subsection (d) of this section.

~~(e)~~ (f) In no event shall the fund be liable to pay in excess of $3,000,000 pursuant to any one judgment or settlement against any one health care provider relating to any injury or death arising out of the rendering of or the failure to render professional services from and after July 1, 1984, subject to an aggregate limitation for all judgments or settlements arising from all claims made in any one fiscal year in the amount of $6,000,000 for each provider.

~~(f)~~ (g) A health care provider shall be deemed to have qualified for coverage under the fund: (1) On and after the effective date of this act if basic coverage is then in effect; (2) subsequent to the effective date of this act, at such time as basic coverage becomes effective; or (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414 and amendments thereto.

~~(g)~~ (h) Notwithstanding the provisions of K.S.A. 40-3402 and amendments thereto, if the board of governors determines that an individual health care provider presents a material risk of significant future liability to the fund, the board of governors is authorized by a vote of a majority of the members thereof, after notice and an opportunity for hearing, to terminate the liability of the fund for all claims against the health care provider for damages for death or personal injury arising out of the rendering of or the failure to render professional services after the date of termination. The date of termination shall be 30 days after the date of the determination by the board of governors. The board of governors, upon termination of the liability of the fund under this subsection (g), shall notify the licensing or other disciplinary board having jurisdiction over

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the health care provider involved of the name of the health care provider and the reasons for the termination.

Section 8. This act shall take effect and be in force from and after its publication in the Kansas register.

(01/14/85)

Attch. I

59-3037. Appointment of corporation as guardian; qualifications; procedure. (a) A private, nonprofit corporation organized under the Kansas general corporation code may act as guardian for an individual found to be in need of a guardian under the act for obtaining a guardian or conservator, or both, if the private, nonprofit corporation has been certified by the secretary of social and rehabilitation services as a suitable agency to perform the duties of a guardian.

(b) The secretary of social and rehabilitation services shall establish criteria for determining whether a private, nonprofit corporation should be certified as a suitable agency to perform the duties of a guardian. The criteria shall be designed for the protection of the ward and shall include, but not be limited to, the following:

(1) Whether the private, nonprofit corporation is capable of performing the duties of a guardian;

(2) whether the staff of the private, nonprofit corporation is accessible and available to wards and to other persons concerned about their well-being and is adequate in number to properly perform the duties and responsibilities of a guardian;

(3) whether the private, nonprofit corporation is a stable organization which is likely to continue in existence for some time; and

(4) whether the private, nonprofit corporation will agree to submit such reports and answer such questions as the secretary may require in monitoring corporate guardianships.

(c) Application for certification under this section shall be made to the secretary of social and rehabilitation services on forms supplied by the secretary. The secretary of social and rehabilitation services may suspend or revoke certification of a private, nonprofit corporation under this section, after notice and hearing, upon a finding that such corporation has failed to comply with the criteria established by rules and regulations under subsection (b). Such corporation shall not be appointed as a guardian during the period of time the certificate is suspended or revoked.

(d) No private, nonprofit corporation shall be eligible for certification under this section if such corporation provides residential care in an institution or community based program or is the owner, part owner or operator of an adult care home, lodging establishment or institution engaged in the care, treatment or housing of any person physically or mentally handicapped, infirm or aged.

(e) The secretary of social and rehabilitation services may adopt rules and regulations necessary to administer the provisions of this section.

(f) This section shall be part of and supplemental to the act for obtaining a guardian or conservator, or both.

History: L. 1983, ch. 191, § 24; July 1.

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Attach. II

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Attach. II

STAR REGION

Sunday, January 6, 1985 Page 25A

A lasting shield set up for retarded children

Parents turn to guardian corporation to replace their care

By Mike Anton
staff writer

There have been times during the past 24 years when Charlene Curtis has had to speak up for her son, to protect him when his own voice wasn't sufficient.

"He's retarded, not stupid, and so we've always wanted him to be as independent as possible," Mrs. Curtis said of Michael, whose thought processes are slow and whose speech is garbled.

"But we're not always going to be here to help."

The uncertainty over who will care for the young man when his parents no longer can is a concern that grows with the passing years for Mrs. Curtis, 59, and her lawyer husband, Keith, 61, of Overland Park.

It is a fear shared by others.

"These parents, they know their children will outlive them, and it's a frightening thought," said Wayne Zuck, a member of the board of directors for ARCare Inc., a Johnson County group that is the first of its kind in Kansas—a corporation licensed to act as legal guardian to mentally retarded persons whose parents have died, or are themselves disabled.

"We can't replace parents, and we don't intend to try," Mr. Zuck said.

"But we can step in and do many of the things a parent did for that child, even if that child is an adult."

The concept of corporate guardianships is new, but one that is gaining consideration nationwide, social workers say. The guardianships carry out the plans of the parents instead of institutionalizing their children or having them shuttled among relatives.

Missouri law prohibits corporations to act as guardians to individuals. The Kansas Legislature approved corporate guardianships last year.

"It's becoming more of an issue," said Kent Munzer, a licensing specialist with the Kansas Department of Social and Rehabilitation Services.

"For the past 20 years we've been dealing with issues like education and alternative living situations" for the mentally retarded, he said.

"Now we're beginning to consider some other questions—about retirement and the aging process of the retarded and what happens to them when their parents die."

That is where ARCare says it can provide an alternative.

For a $400 enrollment fee the nonprofit corporation, which is affiliated

See Guardians, pg. 28A, col. 1

Guardians

continued from pg. 25A

with the Association for Retarded Citizens of Johnson County, arranges a detailed contract with parents.

In the contract are the social, medical and family histories of the mentally retarded person. It includes specific plans for future education, work and living arrangements. It spells out personality quirks and preferences for food to help smooth the transition from parental supervision to corporate guardianship.

The contract is reviewed annually and updated for $150. When ARCare takes over for the parents, either as a legal guardian or as an adviser to the mentally retarded person, it's at an estimated annual cost of $1,200, which can be paid from the parents' estate.

ARCare, at 8001 Conser St., Suite 211, currently has 21 families enrolled. Information may be obtained by calling 648-2317.

The one person ARCare is looking after is a Johnson County man in his late 20s, whose father died last year and whose mother is in a nursing home with Parkinson's disease.

"It's our philosophy that no retarded person should ever have to leave their community," said Susan Smokowicz, executive director of the Association for Retarded Citizens of Johnson County.

The father of the man who is being looked after by ARCare wanted some "peace of mind and insurance" that his son would be cared for, she said.

As a result, one of the three part-time social workers on the ARCare staff sees that the son is treated well at the residential facility where he lives, makes sure he visits his mother in the nursing home and acts as an adviser to the son's bank on money matters.

"In short, we've taken over the parental role," Mrs. Smokowicz said. "I would hope the father would be pleased with what we've done."

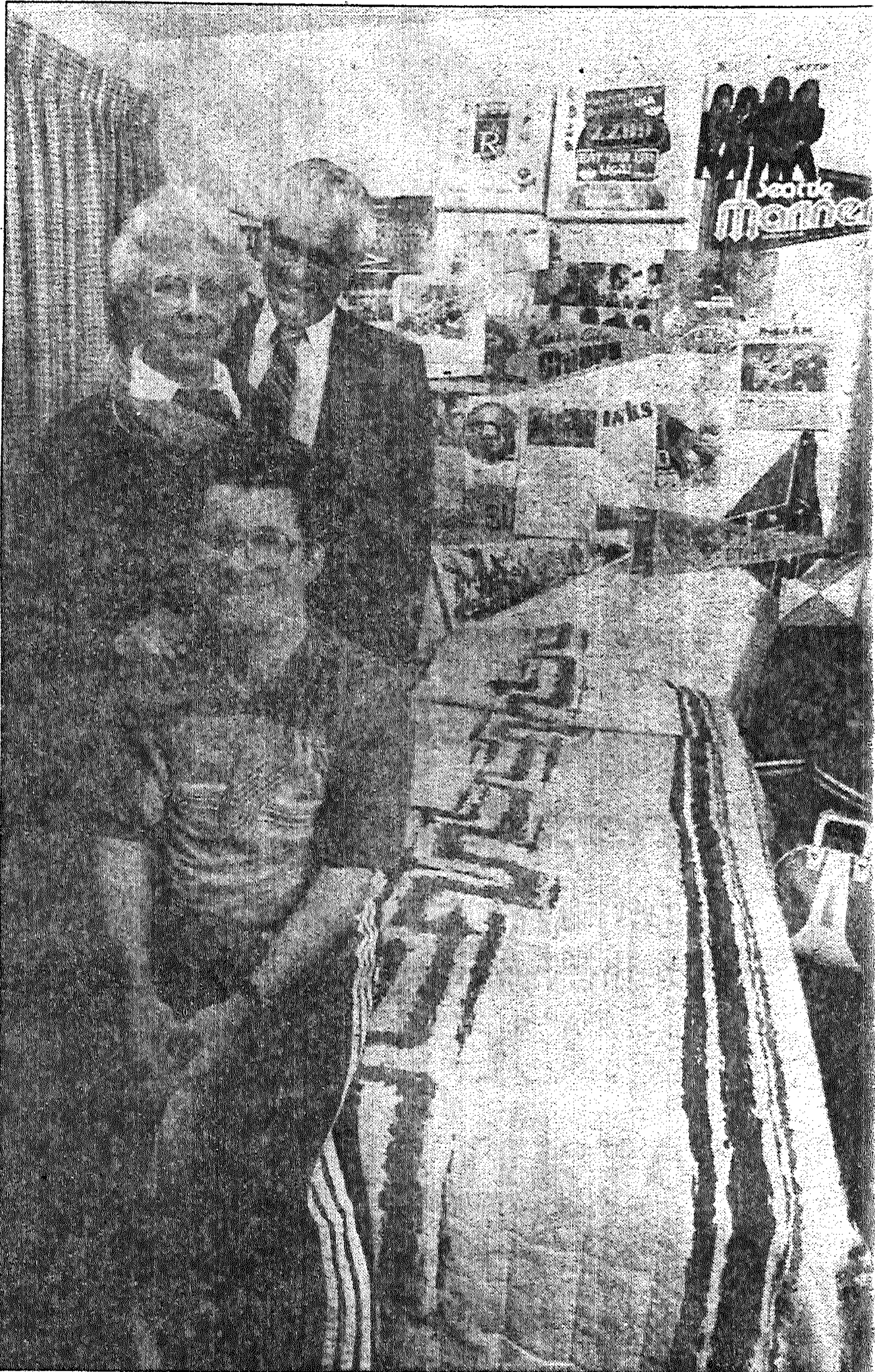
It's the search for a similar peace of mind that has led Mr. and Mrs. Curtis to make arrangements with ARCare for their son, the youngest of their four children.

"Even his burial has been arranged for," Mrs. Curtis said of the family's contract, which includes such items as Michael's love of sports, museums, rock music and spaghetti.

"We don't want him to end up in an institution," she said. "Even though they've offered, we don't think they (the Curtises' other children) should have to be responsible. They have their own lives to lead."

Since infancy, when damage to Michael's brain brought on expressive aphasia, which has affected his speech, the Mr. and Mrs. Curtis have sought therapists and special education programs for him.

Their efforts have helped Michael develop some independence. He lives in a group home and does packaging work at the Johnson County Mental Retardation Center.



Charlene and Keith Curtis enjoy a moment with their son, Michael, 24, in his room at a group home in Johnson County. The Curtises have contracte with ARCare Inc. to supervise Michael after their deaths. ***(staff photo by Dan Seifert)***

Mr. and Mrs. Curtis, having aided Michael's past, are now laying the groundwork for his future.

"We wanted to be sure that when we die, that Michael's not just thrown int limbo," Mrs. Curtis said.

"We wanted to be sure that Michael's life won't be cut off."

Attach. II

1-23-8_

KLSI Kansas League of Savings Institutions

JAMES R. TURNER, President • Suite 612 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

January 23, 1985

TO: SENATE COMMITTEE ON JUDICIARY

FROM: JIM TURNER, KANSAS LEAGUE OF SAVINGS INSTITUTIONS

RE: AMENDMENTS TO S.B. 34

The Kansas League of Savings Institutions appreciates the opportunity to appear before the Senate Committee on Judiciary to request amendments to S.B. 34 that would correct an apparent conflict in the Kansas statutes concerning the exercise of trust powers by a savings and loan association or savings bank authorized by federal law or by K.S.A. 17-5830 to act as trustees.

The proposed amendments are:

1. Amend page 1, line 24 to read as follows:

   "(1) A bank, savings and loan association or other corporation organized under the laws of. . ."

2. Amend page 1, line 26 to read as follows:

   "(2) a national bank or a federal savings bank or savings and loan association located in this state . . ."

3. Amend page 1, lines 27 to read as follows:

   "(3) a bank, savings and loan institution or other corporation organized under the laws of . . ."

4. Amend page 1, line 32 to read as follows:

   "(4) a national bank or a federal savings bank or savings and loan association located in another state which permits a . . ."

James R. Turner
President

JRT:bw

1/23/85
Attach. III

1-23-85

TESTIMONY OF THE KANSAS HOSPITAL ASSOCIATION
BEFORE THE SENATE JUDICIARY COMMITTEE

January 23, 1985

The Kansas Hospital Association appreciates the opportunity to appear before the Senate Judiciary Committee in support of Senate Bill 37.

Senate Bill 37 establishes a simplified procedure for the production of business records in an action in which the business is not a party. It allows the custodian of the records to comply with a subpoena duces tecum by delivering to the clerk of the court a correct copy of the records along with an affidavit verifying the records' validity. In those instances where the person issuing the subpoena wants to examine the original records or to depose the custodian of the records, Senate Bill 37 provides that the custodian must appear personally with the original records. A similar bill passed the Senate during the 1984 session by a vote of 40-0.

The Kansas Hospital Association supports the provisions of Senate Bill 37. It would simplify the litigation process while allowing a savings of time and money for businesses, litigants, hospitals and attorneys.

1/23/85
Attach. IV