Approved 3-5-85
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Senator Roy M. Ehrlich at
Chairperson

10:00 a.m. on March 1, 1985 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Conferees appearing before the committee:

Jerry Slaughter, Kansas Medical Society
Jan Bergman, RNC, Crestview Manor, Seneca
Alice Adam Young, PhD, RN, Dean of School of Nursing, Washburn University
Marilyn Bradt, Kansans for Improvement of Nursing Homes, Inc.
Jim Behan, Kansas Coalition on Aging
Mary Jane Hamilton, Silver Haired Legislature
John Grace, Kansas Association of Homes for the Aging
Secretary Barbara Sabol, written testimony only

Jerry Slaughter testified in support of SB-273 and went on to state that his organization had decided to go on record this year in favor of the concept of around the clock nurses. He further testified that they also had adopted a policy position and sent it to the legislature basing consideration on the financial burden on homes in rural areas and that the homes should be reimbursed for this cost.

Jan Bergman, RNC, testified and presented written testimony supporting the concept of SB-273. Ms. Bergman expressed concerns about conditions requiring types and numbers of licensed nurses at facilities as needs of nurses are dependent on the facility in question. Attachment I

Chairman Ehrlich introduced his two pages from Great Bend, Tawnia Gorn and Amy Lindberg.

Alice Adam Young, PhD, RN, testified and submitted written testimony in support of SB-273 and set out concerns with certain sections of the bill, namely A, D and E. Attachment II

Marilyn Bradt testified and presented written testimony supporting the concept of 24 hour licensed nursing care. Ms. Bradt stated that KINH believes there are cost savings to be realized from better care since poor care can result in unnecessary hospitalization. Attachment III

Jim Behan, Satanta, testified and presented written testimony in support of 24 hour licensed nursing care. Mr. Behan further stated that as older citizens they understand they will have to pay additional costs both as taxpayers supporting the medicaid system and as private pay residents of nursing homes. Attachment IV

Mary Jane Hamilton testified and presented written testimony stating that the Silver Haired Legislature support the concept of 24 hour licensed nursing care in Intermediate Care Facilities but did not support conditions for such staffing included in SB-273. Attachment V

John Grace testified and presented written testimony supporting 24 hour nursing care in Intermediate Care Facilities. Mr. Grace testified that with people leaving hospitals earlier the need for more care was evident and that funds included in the SRS budget would reimburse costs of higher staffing levels. He also stated that in all fairness, flexibility was necessary due to the fact that difficulties in securing help could be a problem in some areas. Attachment VI

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526-S, Statehouse, at 10:00 a.m./p.m. on March 1, 1985.

Written testimony from Secretary Sabol was presented to the committee along with a balloon on SB-273. Attachment VII

Due to lack of time Chairman Ehrlich asked committee members to address the various department heads with any questions they had concerning this issue.

Meeting adjourned.

SENATE

PUBLIC HEALTH AND WELFARE COMMITTEE

DATE March 1, 1985

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Nickie Stein	KS St. Nurses' Assn.
Jan Bergman	Ks. State Nurse's Assn.
Allie Adam Young	Ks. State Nurses' Assoc.
Lynell of Ks	K S t Nurses Assn
Jean Behan — Salina, Ks	AARP & KCOA
Mary Jane Hamilton Topeka	Silver-Haired Legislature
Marilyn Bradt	KINH
Barbara Reinert	Planned Parenthood (?)
John Peterson	Ks Assn of Prof Psychologists
Mel Morrissey	NDA+R
Barbara Sabol	NDA+R
Ralph Hayes	KDOA
John Grace	Ks Homes for Aging
DICK HUMMEL	KS HEALTH CARE ASSN

3-1-85

TESTIMONY BEFORE THE SENATE COMMITTEE ON PUBLIC HEALTH & WELFARE
SENATE BILL No. 273

by
Jan Bergman, R.N.C., C.N.A.
Crestview Manor
Seneca, Kansas 66538

February 28, 1985

Chairman Ehrlich and Committee Members:

As a nationally certified gerontological nurse, a nationally certified nursing administrator and as co-owner and director of nursing services in a 50 bed intermediate care facility for the past 17 years, I appreciate this opportunity to discuss Senate Bill No. 273. (If Committee Members want additional information regarding my expertise in this area, Senator Ehrlich has been furnished with a copy of my complete resume'.)

I support the concept of 24 hours a day licensed nursing personnel in intermediate care facilities in Kansas. Crestview Manor, our family owned 50 bed ICF, has been staffed with licensed nurses for the past seven and one half years. Review of our survey records indicate we offer a high level of nursing care at an affordable cost. Our facility was one of fifteen nursing homes receiving the lowest reimbursement in Kansas of the 60 adult care homes that were studied in detail by the Legislative Division of Post Audit in 1984. Yet, we staff our 50 bed facility with seven (7) licensed nurses - 5 registered nurses and 2 licensed practical nurses.

I wish to express my concerns about several of the conditions required for 24 hour licensed nursing coverage as stated in SB 273. Condition A (lines 60 - 63) construes such coverage to mean "not more than one licensed practical nurse per facility for each of the second and third shifts." This is unduly restrictive and gives no consideration to the number of residents in a facility and the nursing care needed. Regulations are established for minimum requirements and should not restrict facilities from exceeding those minimum requirements.

As a nursing administrator with 22 years of staffing experience in acute and long-term care facilities, I find it necessary to staff with R.N.'s on the first and second shifts and L.P.N.'s on the third shift in order to meet the health care needs of our fifty residents. The type and number of licensed nurses per facility should be determined by the health care needs of the residents. Therefore I recommend that "not more than" in line 61 be amended to read "not less than" and "one licensed practical nurse" be amended to read "one licensed nurse". Lines 60-63 would then read "not less than one licensed nurse for each of the second and third shifts." We as nursing home owners and nursing administrators must have the flexibility to provide the appropriate nursing care to our clients.

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The increasing need and urgency for licensed nursing personnel 24 hours a day in ICF's are very apparent. Legally, the registered nurse is responsible and accountable for the acts of unlicensed personnel. Many Nurses are unwilling to jeopardize their license by being responsible for unlicensed personnel who are not under their supervision. It is unreasonable to expect nurses to risk their licenses when they are not present in a facility and are not directly supervising the unlicensed personnel.

The need for licensed nursing coverage 24 hours a day is further indicated by the rapidly increasing number of residents admitted to nursing homes who have more severe health care needs. This is due, at least in part, to the institution of diagnostic related groups based reimbursement in hospitals - the DRG's. This system provides an incentive for hospitals to cut cost by shortening the length of hospital stay. As a result, older patients who have more critical health care needs are being transferred to nursing homes. Intermediate care facilities must staff to meet the needs and provide the services required if they are accepting these patients.

I would support the approach as proposed by the Secretaries of Health & Environment, Social & Rehabilitation Services and Aging. I believe that 24 hour licensed nursing coverage can most appropriately and effectively be implemented through rules and regulations.

As an advocate and provider of nursing services to the older adults for the past 17 years, I believe that we cannot afford to jeopardize the health and lives of the frail elderly and handicapped persons admitted to intermediate care facilities. Our family owned ICF has been able to contain costs while ensuring a high level of care by providing 24 hour licensed nursing for the past seven and one half years.

Thank you for allowing me to speak on Senate Bill No. 273.

Statement by Alice Adam Young, Ph.D., R.N., Dean of the School of Nursing at Washburn University of Topeka before the Committee on Public Health and Welfare February 28, 1985.

RE: SENATE BILL NO. 273

Mr. Chairman and Members of the Committee:

My name is Alice Young. I am Dean of the School of Nursing at Washburn University. I have been in the field of Nursing Education for twenty years and Nursing Education Administration in Kansas for eleven years. I am here today to speak to some concerns I have about provisions in S.B. 273.

In principle I am supportive of the provision in this bill for licensed nursing coverage in intermediate nursing care homes as well as in skilled nursing homes. My concern stems from the conditions required for such staffing. I speak specifically to conditions A, D, and E.

I fail to understand the justification for limiting the 24 hour coverage to "not more than one licensed practical nurse per facility for second tha third shifts." What is the reason that only LPNs would meet the definition of "licensed personnel" on second and third shifts, whereas on the day shift licensed personnel means RN or LPN? I would ask that you note that the educational training in gerontological nursing is more rigorous and extensive for registered nurses than for LPNs. RNs would be better qualified to assume the responsibilities required in 24 hour nursing coverage on all shifts. Another related concern I have is the absence in the bill of any mention of numbers or severity of condition of patients to be cared for by one LPN on evening and night shifts. It is my understanding that there are qualified RNs and LPNs available for employment in nursing homes when there are favorable employment conditions.

Section D states that "any licensed practical nurse or any registered professional nurse who receives federal or state financial assistance in their nursing education program shall be required to be employed in an adult care home for a period of one year." My concern is

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with the administration of this. How is "federal or state financial assistance" to be defined? And how can the requirement be enforced? Does this mean that nursing school graduates who have received any form of federal or state financial assistance will be subject to such a mandate? Is their employment to be constricted to this one area of nursing service? Irregardless of the graduates' desires or proficiencies? Note that according to Section A, under this registered nurses would not qualify for employment in an intermediate care facility during the second and third shifts. Would they all have to be employed on the day shifts? Would nursing homes be able to absorb all these nurses? How would nursing homes be equipped financially to employ all the new graduates who need to meet the service requirement incurred during their educational program? It is my understanding that currently the largest percentage of LPN graduates are seeking employment in geriatric facilities. This occurs for a couple of reasons: 1) there are very few positions available for LPNs in the acute care hospitals; 2) the largest percentage of students in LPN programs are geriatric trained aids who plan to return to nursing homes for employment. One LPN educator shared with me that she forsees this trend continuing.

Under Section E, all practical and professional nursing education programs in the state of Kansas would be required to include in their curriculum a minimum of 25 percent course content in geriatric nursing care. How was the 25% determined? Is this to be in numbers of courses of a total program or in clock hours? Was a nurse educator consulted in drawing up this provision? It is important to note that there is a wide differential in the total amount of educational content for LPNs and RNs. It could range from ten months for LPNs to four or five years for baccalaureate nurse graduates. Would the same measure be applied to all types of educational programs when S.B. 273 addresses primarily the employment of LPNs?

Some nursing programs may currently meet the 25 percent of gerontological content in the curriculum. Some would not have that high of a percentage, but all nursing programs (LPN and RN) do have content on geriatric nursing care in their curriculum. Let me point out that in most programs geriatric content may be included in an integrative fashion in several courses. It would be difficult to "break out" the precise percentage of course content directed to gerontology. Professional nursing groups (i.e., Kansas State Board of Nursing; National League for Nursing) have already established standards requiring geriatric nursing care in all types of nursing programs. It is in the judgment of those groups, and I am in basic agreement, that our nursing graduates are already receiving substantial geriatric nursing content. They are already prepared to work in geriatric nursing facilities. The problem of providing 24 hour licensed nursing coverage in nursing homes is not with the educational programs, but rather with the adult care home facilities. Gerontologically prepared LPNs and RNs are available . Nursing care homes in general have not been willing to employ qualified licensed nursing personnel to work in these facilities at wage incentive levels. It is my belief that it is inappropriate to legislate the percentage of a nursing curriculum that should be devoted to a specific area of understanding and practice when schools are already meeting professional standards for accrediataion and quality control.

Nurse educators are supportive of a strong gerontological component in the curriculum and all nursing programs currently include that theoretical content and clinical practicum.

Others before me have provided testimony concerning different aspects of this legislation. I simply want to call your attention to what seems to me to be points of ambiguity in the bill as it now stands. I feel that nursing educators could lend support to S.B.273 with amendment of the items I have addressed.

Thank you for giving me this opportunity to speak to you.

Ⓒ Marilyn Chadd - SB-273 - 3-1-85

KINH Kansans for Improvement of Nursing Homes, Inc.
913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842 3088

TESTIMONY PRESENTED TO THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
CONCERNING 24-HOUR LICENSED NURSING CARE
SB 273

THE NEED FOR 24-HOUR LICENSED NURSING CARE IN INTERMEDIATE CARE FACILITIES

Licensed nursing care around the clock in Intermediate Care Facilities is not a new idea. As long ago as 1980 the Governor's Task Force on Comprehensive Recruitment and Training for Adult Care Home Aides recognized the need for full-time supervision of nursing home aides by licensed nursing staff. The Task Force noted with concern that, "Existing regulations require licensed nurses 8 hours a day (day shift), leaving the possibility that aides with relatively little formal training will have the total responsibility for care of elderly, chronically ill, patients the remaining 16 hours of the day." In the years since that recommendation the problem has become still more acute, but the regulatory standards for licensed staffing have not changed to reflect the need.

Demographic trends clearly show that the segment of the older population most likely to need institutional care will increase greatly over the next twenty years. There are simply more people in the nursing home age group -- the older elderly. Further, concerted efforts are being made to keep people in their own homes as long as possible, through a variety of community services. Increasingly, those who cannot remain in their own homes -- who must have nursing home care -- are older, sicker and in need of a much higher level of nursing care than in the past. The standards set some years ago by Health and Environment do not reflect the current need for a much more sophisticated level of nursing care. The trend is further exacerbated by recent developments in the health care delivery system, such as the Diagnostic Related Groupings (DRGs), which put pressure on hospitals to discharge patients, often to nursing homes, at an earlier stage in their recuperation.

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In view of these known trends, KINH strongly supports the concept of requiring nursing care by licensed nurses on all shifts in Intermediate Care Facilities in order to provide the higher level of nursing expertise essential to care for the complex needs of the elderly population in nursing homes, and to provide better supervision of non-professional nursing staff.

COSTS

The cost estimate of $900,000 in additional state medicaid funding to implement this program seems to us very modest indeed for the clear benefits around the clock licensed nursing care will provide to the frail elderly in nursing homes. Further, KINH believes there are cost savings to be realized from better care. Poor care costs dearly in unnecessary hospitalizations. While increasing the number of professional staff would certainly not eliminate hospital admissions from nursing homes, we believe it would decrease unnecessary hospitalizations from conditions such as decubitus ulcers, urinary tract infections, or dehydration, resulting from inadequately supervised care.

AVAILABILITY OF LICENSED NURSES

It was earlier assumed that there were not enough nurses available to staff these positions throughout the state. That perception, we understand, has changed somewhat with more recent information. KINH is convinced that the need can be met in most parts of the state, but that some accommodation can and should be made for areas in which there is a documented shortage of licensed nurses.

SB 273

We have observed that in the past 2 years a substantial number of nursing homes have recognized that they were not able to provide adequate care for this changed population of elderly with licensed staff only 8 hours a day, 5 days a week, and have been adding licensed nurses on other shifts. Kansas Health Care Association is to be commended for officially recognizing the need for 24-hour licensed care.

KINH does, however, have some reservations about several sections of SB 273. We are not convinced that statutory change is necessary to achieve the goal. If the legislature decides that it is necessary, we believe the statutory provision should be much less complex than in SB 273. It should simply define the ICF as providing 24-hour licensed care and instruct the Department of Health and Environment to establish criteria in the rules and regulations for waiving the requirement on a case by case basis when there is a demonstrated shortage of nurses in a given area of the state. Most of the remaining language in the bill appears to improperly restrict the authority of both the Department of Health and Environment and SRS to promulgate rules and regulations, almost with the appearance of assuring that the conditions set out in the bill could not reasonably be met.

Several sections of the bill are of particular concern:

(B) We object specifically to the provision that the costs of providing licensed nurses not be subject to the percentile limitations for the health care cost center of the medicaid reimbursement system. We note that some nursing homes in Kansas are now providing licensed nursing 24 hours a day under the 90th percentile limitation for the health care cost center.

(C) We have no objection, as we have already indicated, to a waiver provision under criteria set out by H & E in regulations. Nor do we object to a one year compliance period. We do not, however, believe it is appropriate that the burden of proof for "good faith effort" be upon the state.

(D) KINH has in the past supported the concept of state funding of nursing scholarships targeted to make nurses available in underserved areas. Sec. (D), affecting all nurses whose education is supported in part by state or federal funds, does not seem to us realistic.

(E) We understand the nursing curriculum to be the province of the State Board of Nursing and the accredited schools of nursing. The Legislature has generally declined to dictate curriculum in any field of education.

And, finally, since we do not agree with a number of the conditions set forth in SB 273, we cannot agree with the provision that would nullify the standard of 24-hour licensed nursing care in the event that not all the conditions are met.

CONCLUSION

The need for licensed nursing care 24 hours a day in Intermediate Care Facilities is well established; all state agencies directly involved in the state's nursing home program, consumer groups and providers agree that the benefits to Kansas' most fragile and vulnerable elderly citizens are worth the cost. We urge you either to direct the state agencies to proceed with implementing the concept of 24-hour licensed nursing care in Intermediate Care Facilities through appropriate Rules and Regulations, or to support a simple, workable bill to accomplish that same goal.

S - SB 273 - 3-1-85
Jim Behan

24-HOUR LICENSED NURSING CARE IN INTERMEDIATE CARE FACILITIES
TESTIMONY BY THE KANSAS COALITION ON AGING
February 28, 1985

Thank you, Mr. Chairman and Members of the Committee, for this opportunity to testify. I am Jim Behan from Satanta, Kansas. I am a member of the Legislative Committee of AARP, and am speaking for the Kansas Coalition on Aging, of which my organization is a part. KCOA is a coalition of 24 organizations such as AARP, the Kansas Citizens Council on Aging, the Retired Officers Association, Retired Veteran Railway Employees, and the National Association of Mature Persons, to name just a few. Coalition members must vote by a 2/3 majority to adopt any position. Twenty-four hour licensed nursing care was adopted as one of KCOA's top priorities for 1985.

My interest in around-the-clock nursing care is not only an official position of KCOA and AARP, it is a personal concern for the quality of care in nursing homes. My mother was in a nursing home for a short time until her recent death. My experience and observations during the period of time she resided in a nursing home lead me to believe that, if that nursing home and others I have recently visited are typical, there can be no question that the residents of nursing homes today are very old, very frail, and must be under constant careful observation for a variety of chronic and disabling physical and mental conditions. During my visits I have seen aides and CMAs on evening and night shifts try to cope with the many problems due to the changing mix in the nursing home population. KCOA believes all nursing home care should be under the immediate supervision of a licensed nurse 24 hours every day.

I have in hand a letter from the Health Services Supervisor employed by the Oakley Manor, located in Oakley, Kansas. The letter says in part, "the LPN staff and the RN consultant are in favor of the concept of 24-hour licensed care in ICFs", further stating that it would improve their nursing care and

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their ability to assess the needs of their patients.

With regard to SB 273, we call your attention to several specific provisions of the bill, some of which we support, some of which we question:
KCOA would support a waiver of the requirement of 24 hour licensed care if the nursing home is able to show that nursing personnel are not available in their area. We believe it should be the responsibility of the nursing home to show that a good faith effort was made to find nurses.

KCOA opposes exempting the cost of additional licensed nurses from the cost center limitations of medicaid. I have carefully read the report of the Legislative Post Audit Committee on nursing home costs, and have concluded that such limitations are a cost containment measure that is important and necessary. We believe SRS must have authority to control excessive costs.

As older citizens, we understand that we will have to pay some additional cost, both as taxpayers supporting the medicaid system and as private pay residents of nursing homes. We are willing to pay for the higher level of staffing required to meet the needs of our aging parents, our friends, or perhaps, someday, ourselves. We strongly support legislation and/or rules and regulations that will require licensed nurses around the clock in Intermediate Care Facilities.

(6) SB 273 - Mary Jane Hamilton 3-1-85

My name is Mary Jane Hamilton. I am a member of the Kansas Council of Silver Haired Legislators and a delegate to the Silver Haired Legislature from Shawnee County. I am here today to speak in support of the concept of 24-hour licensed nursing care in intermediate care facilities. But, I do not support the conditions for such staffing which are included in SB 273.

The Kansas Silver Haired Legislaure passed SHL 116 by a vote of 86-28 during its 1984 session. The effect of SHL 116, if enacted into law, would be to require employment of licensed nursing personnel 24 hours a day in intermediate care facilities. Current law requires licensed nursing personnel to be employed for at least 8 hours a day, five days a week.

A bill similar to SHL 116 was considered during the 1983 session of the Silver Haired Legislature. SHL 8 was pased out of committee, but was killed in final action by a vote of 49-72.

The two primary concerns which led to the defeat of SHL 8 during the 1983 were the cost of the proposal and the question of whether licensed nursing personnel would be available throughout the state, particularly in rural areas.

The information presented to the Silver Haired Legislature during the 1983 session on the cost of 24-hour nursing care was based upon the assumption that all intermediate care facilities were meeting only the minimum mandatory staffing levels. Since many nursing homes have already recognized the need to have nurses on all shifts, the premise was inaccurate and led to an overestimate of cost. During the 1984 session, when the Silver Haired Legislature was presented with accurate information on the cost of the proposal, the vast majority of delegates felt 24-hours nursing care was affordable.

The successful resolution of the issue of availability of nursing personnel in rural areas was probably the critical factor leading to passage of SHL 116. Most of the delegates to the Silver Haired Legislature reside in counties with populations of less than 10,000. Some delegates from these counties felt that the requirements of SHL 116 could not be met by some nursing homes, because there would not be nurses available in those communities to staff three shifts, seven days a week. These concerns were resolved in the Silver Haired Legislature by amending the bill so as to allow the Secretary of the Department of Health and Environment the authority to grant a waiver of the 24-hour staffing requirement to a nursing home in an area which has an inadequate supply of nursing personnel.

The wording of that amendment was as follows. "The requirement of 24 hours a day nursing personnel may be waived by the licensing agency, upon application by the facility, if the licensing agency finds that an inadequate supply of licensed nursing personnel exists in the geographic area in which the facility is located. Any waiver so granted shall be reviewed periodically by the licensing agency."

By including this amendment, the Silver Haired Legislature allowed nursing homes which could not meet the requirement, due to the lack of licensed nurses in their area, an opportunity to continue to operate without sanctions being imposed. It provides a broad framework in which a waiver process could be established. Moreover, it does not attempt to regulate by statute as does SB 273 in Section 1 Paragraph 3,

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Subparagraphs A-F. The contents of those subparagraphs are administrative issues which should be addressed by the licensing agency through rulemaking.

The vote of the Kansas Silver Haired Legislature indicates strong support for the requirement of 24-hour licensed nursing care in intermediate care facilities with an opportunity for those homes which cannot obtain licensed nursing personnel to receive a waiver of the requirements. The Council of Silver Haired Legislators also supports the concept of 24-hour licensed nursing personnel in intermediate care facilities with a provision for a waiver in the event that licensed nurses are not available. But we do oppose the conditions for such staffing as set forth in Section 1 Paragraph 1, Subparagraphs A-F of SB 273,

(1) SB-273 - John Grace - 3-1-85 -

KAHA
The Organization of Nonprofit Homes and Services for the Elderly

Kansas Association of Homes for the Aging
One Townsite Plaza
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913-233-7443

TESTIMONY ON
24 HOUR NURSING CARE (Senate Bill 273)
IN INTERMEDIATE CARE FACILITIES OF KANSAS

by John R. Grace, Executive Director
Kansas Association of Homes for the Aging

Thank you Mr. Chairman and Members of the Committee.

The Kansas Association of Homes for the Aging is a non-profit organization that represents the community, religious, governmental and fraternal not-for-profit adult care homes, retirement communities and social services for older adults of Kansas.

Our Association supports 24 hour nursing care in Intermediate Care Facilities.

The committee has heard extensive testimony on Senate Bill 273. I will narrow my comments to three components of this legislation. First of all, is 24 Hour Nursing needed?

The residents entering and residing in our adult care homes are much sicker, and frail than they have been in years past. Two major trends are influencing the population of adult care homes:

> The Diagnostic and Related Group Program initiated in the hospital acute care system is forcing people out of hospitals into the adult care homes in a much quicker manner. Therefore those persons who are entering the institutions have more acute illnesses and require the supervision of more professional nursing staff.
>
> Secondly the trend both from the federal government and state policy is to encourage older persons to stay in their own home and utilize a variety of home and community based services. The persons then entering the institution are much sicker and more frail.

We believe 24 hour nursing care is a basic standard of care for the older citizens of our state. An analogy can be drawn from the public school system. Our law requires teachers to achieve a certain level of professional standard to be in charge of a class room. The state has set up certain guidelines to assure that those persons in charge of the students are qualified and capable of supervising our children. With the growing number of older people who have

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chronic illnesses and disabilities it is appropriate that facilities employ persons who have achieved a similiar level of training, to oversee the care of residents of that home.

The next issue relates to funding for the requirement. SRS has included in their budget 1.8 million, what we believe to be a reasonable estimate, to address the reimbursement for those facilities that incur additional costs for staffing levels. Some homes will incur sugnificant costs to meet the requirement. Other homes who are already providing 24 Hour Nursing will incur no additional costs. The significant issue is that SRS should allow for those costs as reasonable and reimburse facilities for those costs.

Because of the growing frailty of our adult care home population, we do believe the health care cost center should be raised in the near future to properly reflect the rising costs facilities are incuring for heavier care residents.

The last component is a question of fairness to providers. You've heard a number of administrators and staff of facilities indicate that they are attempting to locate nurses. We have a few members in rural areas that have difficulty in securing qualified and reputable nurses. Therefore, it is only fair that the Department of Health and Enviornment be flexible in its application of the new requirement, grant waivers where needed, and provide for 6 months to 1 year compliance time.

We are amendable to inclusion of these factors either in statute or regulation; we would prefer regulation.

In summary, by addressing these three components, the state will be assuring a higher quality of care for our elderly Kansans and at the same time treating fairly adult care homes providers.

Thank you Mr. Chairman and Members of the committee.

SB-273 2-1-85 Social

KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

TESTIMONY ON SENATE BILL 273

PRESENTED TO THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

FEBRUARY 27, 1985

This is the official position taken by the Kansas Department of Health and Environment.

BACKGROUND INFORMATION:

In no health care setting, other than nursing homes, do we expect modern health care services to be delivered with so little professional care and supervision. We have known for a long time that over 90 percent of the care delivered in nursing homes is provided by unlicensed persons with minimal training and minimal supervision. In the vast majority of nursing homes in this state there is not even a licensed nurse in the building for 16 out of 24 hours each day.

This situation is becoming more acute by the day because of changes that are occurring in the long-term care marketplace. The resident population in nursing homes is changing. Changes in the Medicare and Medicaid reimbursement systems and the fact that our population is aging overall are resulting in more nursing home residents who are over 75 and suffer more severe conditions of ill health.

The present staffing requirements for nursing homes were first adopted in 1977 when many nursing home residents were capable of a higher level of self-care. Since then, the needs of residents for nursing care have increased and many homes have voluntarily increased their level of staffing by licensed nurses but the minimum requirements for licensed nurse staffing have not increased.

A 1983 national survey by the National Geriatric Society reveals that 13 other states already require 24-hour coverage by licensed nursing personnel in intermediate care homes. Here, in Kansas, nearly every organization, association, and agency associated with the provision of nursing home care agree that increasing the services provided by licensed nursing personnel in intermediate care homes is an idea whose time has come.

ISSUES:

Senate Bill 273 would establish authority for the Secretary of Health and Environment to require 24-hour coverage by licensed nursing personnel in intermediate care homes by rule and regulation, provided that a long laundry list of conditions was met. Only two of the issues addressed in those conditions appear to be directly relevant to implementing a requirement for 24-hour licensed nurse coverage in intermediate care homes. The requirement for 24-hour licensed nurse coverage should not be applied to intermediate care homes for the mentally retarded or to intermediate care homes for the mentally ill. In addition,

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authority should be provided to exempt some small and rural homes that may prove unable to comply with the requirements for increased coverage.

The Department of Health and Environment believes that the most effective means of implementing a requirement for 24-hour licensed nurse coverage with the necessary flexibility is through the adoption of appropriate rules and regulations.

DEPARTMENT'S POSITION:

The Department of Health and Environment fully supports the concept of requiring 24-hour licensed nurse coverage in all intermediate care homes. We believe that the most effective means of implementing such a requirement is through rules and regulations. However, should the committee decide to recommend a bill to establish a requirement for 24-hour licensed nurse coverage, we have attached a balloon showing amendments to Senate Bill 273 that would accomplish this goal.

Presented by: Barbara J. Sabol, Secretary
Kansas Department of Health
and Environment

Session of 1985

SENATE BILL No. 273

By Committee on Public Health and Welfare

2-19

AN ACT relating to adult care homes; authorizing 24 hours a day licensed nursing personnel under certain conditions; amending K.S.A. 1984 Supp. 39-923 and repealing the existing section.

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

Section 1. K.S.A. 1984 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any skilled nursing home, intermediate nursing care home, intermediate personal care home, one-bed adult care home and two-bed adult care home and any boarding care home, all of which classifications of adult care homes are required to be licensed by the secretary of health and environment. Adult care home does not mean adult family home.

(2) "Skilled nursing home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves, and for whom reception, accommodation, board and skilled nursing care and treatment is provided, and which place or facility is staffed to provide 24 hours a day licensed nursing personnel plus additional staff, and is maintained and equipped primarily for the accommodation of individuals who are not acutely ill and are not in need of hospital care but who require skilled nursing care.

(3) "Intermediate nursing care home" means any place or facility operating for not less than 24 hours in any week and

Attachment VII

caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervised nursing care and treatment is provided, and which place or facility is staffed to provide ~~at least eight hours~~ *24 hours* a day ~~for at least five days a week~~ licensed nursing personnel, *in the event the following stated conditions are found to exist by the licensing agency,* plus additional staff and is maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care or skilled nursing care but who require supervised nursing care. *The conditions required for such staffing are:*

(A) The licensing agency by rule and regulation defines 24 hours a day licensed nursing personnel to mean not more than one licensed practical nurse per facility for each of the second and third shifts, with the exception of intermediate nursing care homes for the mentally retarded and intermediate nursing care homes caring for persons with a primary diagnosis of mental illness as certified by the secretary of social and rehabilitation services; and

(B) The total allowable costs incurred by an adult care home participating in the title XIX medicaid program for providing additional licensed personnel shall be reimbursed to the adult care home within 30 days from the date the adult care home complies with this requirement. Intermediate nursing care homes currently providing additional licensed nursing personnel in excess of eight hours a day five days a week shall be reimbursed their total allowable costs for providing such services within 30 days from the effective date of this act. Such costs shall not be subject to cost center percentile limitations or other limitations established by the secretary of social and rehabilitation services; and

(C) An adult care home shall have one year from the effective date of any rules and regulations adopted by the licensing agency to implement the 24 hours a day staffing requirement

Delete.

The licensing agency, by rule and regulation, may approve less than 24 hour a day supervision by licensed nursing personnel for certain types of intermediate nursing care homes and may establish standards for exempting specific homes from the requirement for 24 hour a day supervision by licensed nursing personnel.

Delete.

Delete.

Delete.

established under this section. The failure of an adult care home to obtain the additional licensed nursing personnel required under this act shall not be grounds for the issuance of a correction order or civil penalty under the provisions of K.S.A. 39-945 and amendments thereto if the adult care home exercised bona fide and good faith efforts to obtain such personnel. The burden of proof shall be upon the licensing agency to prove that bona fide and good faith efforts were not made by the adult care home; and

Delete.

(D) Any licensed practical nurse or registered professional nurse who receives federal or state financial assistance in their nursing education program shall be required to be employed in an adult care home for a period of one year; and

Delete.

(E) All practical and professional nursing education programs in the state of Kansas shall include in their curriculum a minimum of 25% course content in geriatric nursing care; and

Delete.

(F) The licensing agency shall provide upon request at least annually to adult care homes a roster of the names and addresses of licensed practical and registered professional nurses in the state.

Delete.

In the event that all of the above conditions are not found to exist by the licensing agency, the minimum provisions for licensed nursing personnel staffing of an intermediate nursing care home shall be at least eight hours a day, five days a week licensed personnel until the licensing agency finds that all the stated conditions exist.

Delete.

(4) "Intermediate personal care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment or simple nursing care is provided, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care, skilled nursing home care or moderate

nursing care but who require domiciliary care and simple nursing care.

(5) "One-bed adult care home" and "two-bed adult care home" means any place or facility which place or facility may be a private residence and which place or facility is operating for not less than 24 hours in any week and caring for one or two individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment and skilled nursing care, supervised nursing care or simple nursing care is provided by the adult care home, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care but who require domiciliary care and skilled nursing care, supervised nursing care or simple nursing care provided by the adult care home. When the home's capabilities are questioned in writing, the licensing agency shall determine according to its rules and regulations if any restriction will be placed on the care the home will give residents.

(6) "Boarding care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervision is provided and which place or facility is staffed, maintained and equipped primarily to provide shelter to residents who require some supervision, but who are ambulatory and essentially capable of managing their own care and affairs.

(7) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(8) "Skilled nursing care" means services commonly performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel for individuals requiring 24 ~~hour~~ *hours* a day care by licensed nursing personnel including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions requiring substantial specialized judgment and skill based on the knowledge and application of scientific principles.

(9) "Supervised nursing care" means services commonly performed by or under the immediate supervision of licensed nursing personnel at least eight hours a day for at least five days a week including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other selected functions requiring specialized judgment and certain skills based on the knowledge of scientific principles, *except that in the event the licensing agency finds all the conditions exist that are stated in paragraph (3), then by rules and regulations the licensing agency shall define "supervised nursing care" to be consistent with the requirements of paragraph (3).*

Delete.

(10) "Simple nursing care" means selected acts in the care of the ill, injured or infirm requiring certain knowledge and specialized skills but not requiring the substantial specialized skills, judgment and knowledge of licensed nursing personnel.

(11) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(12) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

(13) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home

purchased or constructed through the sale of bonds.

(14) "Licensing agency" means the secretary of health and environment.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, hospitals or institutions for the treatment and care of psychiatric patients, boarding homes for children under the age of 16 years, day nurseries, child caring institutions, maternity homes, hotels or offices of physicians.

(c) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 2. K.S.A. 1984 Supp. 39-923 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

This act shall take effect and be in force on January 1, 1986.

TESTIMONY ON SB-273 TO THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
BY KANSAS DEPARTMENT ON AGING
MARCH 1, 1985

Bill Brief:

S.B. 273 amends K.S.A. 1984 Supp. 39-923 to require 24 hours a day licensed nursing personnel in intermediate care nursing homes under specified and required conditions.

Summary Provisions:

The bill defines numerous terms or phrases: e.g., adult care home, skilled nursing home, intermediate care home, etc. Itemized in the bill are specific "conditions" which, if not met, would preclude implementation of 24 hour coverage.

TESTIMONY:

The Kansas Department on Aging has consistently had as one of its objectives the provision of adequate care in nursing homes. Therefore, the Department is very supportive of the concept of 24-hour licensed nursing care to meet the increased disability levels of current residents. However, the proposed SB-273, without amendments, will not meet the objective of adequate care for the type of residents in intermediate care facilities today.

The elderly population is increasing dramatically with the most significant increase among those 85 and older. It is this group that comprises a large proportion of the nursing home resident population and also the group that has a higher level of disability and therefore needs more extensive nursing care.

There have been major changes in the health care delivery system that have resulted in this increased disability level of intermediate care facility residents. These changes are nursing home preadmission screening programs, increased availability of in-home services, and the change in the Medicare reimbursement system leading to earlier hospital discharges.

The foregoing changes contribute to the need for 24-hour licensed nursing care in ICF's. Currently over 80% of the care in ICF's is provided by aides. Residents with complex medical problems have care needs requiring the skills of a licensed nurse. These care needs (e.g., oxygen administration, problems with catheters, etc.) do not cease at the end of the day shift. Also, it is inappropriate to place the burden of complex care on those who are least prepared to provide it, e.g., aides.

The lack of skilled care can and does lead to preventable hospitalization which is more expensive in terms of both dollars and suffering than the cost of adequate care that could have prevented it in the first place. The lack of adequate care and its consequences are no longer acceptable to the residents, their families, agency personnel, tax payers, or the state and federal government.

The proposed bill with its extensive list of "required conditions" would probably preclude or delay unnecessarily implementation in ICF's of 24-hour care by licensed nurses. Several provisions of the proposed bill are inappropriate inclusions in a bill concerning adult care homes. Others may pose significant legal problems.

Recommendations:

The Kansas Department on Aging is supportive of the concept of 24-hour licensed nursing care in intermediate care nursing homes. Further we believe that this can be accomplished through rules and regulations. However, if the Committee believes that legislation is necessary, then the Department would recommend that SB-273, as printed, be amended as shown on the attached example. The amendments would provide for 1) 24-hour nursing care in intermediate nursing care homes, 2) a phase-in period with appropriate exceptions where availability of licensed nurses might delay good faith implementation efforts.

SH:RH:bms

DETAILED TESTIMONY ON SB-273 TO THE
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
BY THE KANSAS DEPARTMENT ON AGING

The Kansas Department on Aging has consistently had as one of its objectives the provision of adequate care in nursing homes. Therefore, the Department is very supportive of the concept of 24-hour licensed nursing care to meet the increased disability levels of current residents. However, the proposed SB273, without amendments, will not meet the objective of adequate care for the type of residents in intermediate care facilities today.

The care needs of nursing home residents have changed significantly over the past several years. Policies that may have been adequate are no longer acceptable and must be changed to accommodate the needs of today's residents who have increased levels of disability and dependency. There are several factors that are contributing to an increased disability and dependency level of intermediate care facility residents. Some of the most significant factors are increased chronic illness, increased proportion of residents over 85, earlier release of patients from hospitals due to implementation of the Medicare diagnosis related group based prospective payment system, and increased use of community based care services.

Over 43% of all elderly in Kansas are 75 years of age or older, compared to 37% nationwide. In 1950, only about 500,000 people in the United States were 85 years of age or older. U.S. Census Bureau projections indicate that 5,136,000 people will be 85 or older by the end of this century. Approximately 25% of this age group and older are in nursing homes or other long-term care health facilities at any one time. The average resident in an ICF is 81 years old, female and widowed. Less than half of all residents can walk and most have two or more chronic or crippling disabilities.

A Government Accounting Office report documents the increased dependency as measured by activities of daily living (ADL's). In this study the GAO found that residents of adult care homes in 1977 were more dependent in five of six ADL's than residents were in 1973-74. The trend has continued. A Minnesota study of adult care home admissions indicated that each year between 1976 and 1979, the admitants were increasingly more dependent. In part this may be the result of in-home care services that allow people to live in their homes longer.

Data from a KDOA sponsored study of nursing home residents suggests that the typical Kansas adult care home residents are 75% female, widowed (69%), over 76 years old (83%), and 45% completed only grade 8 or less. Even though they may not have been poor when they entered old age, 60-80% are now poor. Poor health is cited by 76% of residents as the reason for being institutionalized. Staff assessments indicate that 52% of the residents are confused or disoriented in terms of memory. Thus, it seems clear that the average disability of adult care home residents is increasing and the increase is likely to continue, with cognitive impairment in over one-half of the residents.

The foregoing data are several years old and the situation has worsened. Additionally there have been major changes occurring in the health care sector. The new Medicare Prospective Payment System is reducing the lengths of inpatient hospital days, resulting in earlier hospital discharges. Many individuals discharged early from hospitals need skilled care, and therefore create a greater demand for skilled nursing in ICF's.

Increased use of in-home services and the preadmission screening program serve to assist the elderly to live in their homes longer and to preclude unnecessary nursing home admissions. In fact both of these programs add to the increased disability level of nursing home residents, because in the past some residents were in nursing homes because such services were not available. Thus the population in ICF's require more intensive health cares, e.g., oxygen administration, tube feedings, and catheterization. The older, more disabled elderly persons who cannot be supported adequately by informal or formal community services use and will continue to use adult care home services. Without dramatic break-throughs in medicine or technology which could reduce the close relationship between chronic illness, disability, mental impairment, and advanced old age, the potential burden on ICF's is likely to increase.

The case for 24-hour licensed nursing personnel has been made since the 1970's, but now is receiving critical attention. It has been estimated that approximately 80% of the care in long-term care institutions is provided by minimally trained aides. Turnover rate for aides is high and, therefore, potentially compromises both quality and continuity of care. Residents with complex medical problems requiring higher levels of skilled care do not automatically stop needing such care at the end of the day shift. Residents also become ill or need added attention during the rest of the 24-hour period, e.g., changes in oxygen administration or problems with catheters, or other procedures that normally require the supervision of a nurse. Also, it seems unreasonable to place the burden and responsibility of complex care on those unprepared to deliver it, e.g., aides.

The cost of inadequate care is not acceptable to the individual resident, their families, nursing homes, the state, or its taxpayers. For example, the conservative estimate of the cost associated with each of six preventable conditions that often result from inadequate care are shown below. The related cost in human suffering cannot be evaluated in dollars.

Conditions Requiring Hospitalization	Estimated Average Cost Per Hospitalization
Bowel Impaction	$ 800
Dehydration	1,000
Decubitus Ulcer(s)	1,200
Pneumonia	2,000
Urinary Infection	2,400
Accidents (including broken bones)	3,300

More generally, using 1983 data, let us assume that 5% of Kansas nursing home residents (1,250) are admitted to a hospital for a preventable medical problem. Further assume that they in one year have an average length of stay (7.6 days) at the average cost of a hospital stay ($331.25 per day), the cost of the preventable hospitalization would equal $3,146,870. The percentage of nursing home residents who are admitted to a hospital in a year probably ranges between 25 and 35%. Of these percentages the actual number of preventable hospitalizations is not known, but the 5% assumption is probably conservative.

The mix of light and heavy care patients also is changing with a clear trend toward the latter. Shifting patients in need of heavy care to skilled care facilities is not realistic in Kansas owing to the limited number of available skilled beds. In fact, ICF care responsibilities are becoming much more similar to Skilled Nursing Facilities and, therefore, the staffing patterns need to become more similar than was the case in the past.

It is clear that some ICF's are already adjusting to the changes. In December, 1983, of the 312 ICF's in Kansas, 71 had licensed nursing home staff 24 hours a day, 7 days a week. 107 had licensed staff present 16 hours a day, 7 days a week. The remaining 134 facilities had licensed nursing staff only 8 hours a day, 7 days a week.

As noted above, residents of intermediate care facilities have higher levels of disability than in the past, and the number of such persons is dramatically increasing. Persons with these medical problems need the attention of licensed nurses 24 hours a day, not just on the day shift. Licensed nurses, or supervision by licensed nurses, is required owing to the complex nature of the medical problems to assure proper care and safety, thus preventing unnecessary and avoidable medical complications, e.g., urinary infections, dehydration, decubitus ulcers, etc.

The proposed bill with its extensive list of "required conditions" would probably preclude or delay unnecessarily implementation in ICF's of 24-hour care by licensed nurses. Several provisions of the proposed bill are inappropriate inclusions in a bill concerning adult care homes. Others may pose significant legal questions.

Chronic or Irreversible Impairments

Condition	% Persons over 65
1. Arthritis	44
2. Reduced Vision	22
3. Hearing Impairment	29
4. Heart Conditions	20
5. Hypertension	35
6. Mental Impairment	10-15

80% of aged (65+) have 1 or more chronic or irreversible impairments which frequently lead to limitation of activity.

Numbers of Aged with Chronic Conditions

Chronic Condition	#'s in Millions
1. Arthritis	10.3
2. Hypertension	8.9
3. Impaired Hearing	6.6
4. Heart Conditions	6.4
5. Deformities and Orthopedic Impairments	3.8
6. Chronic Sinusitis	3.6
7. Arteriosclerosis	2.9
8. Impaired Vision	2.8
9. Varicose Veins	2.1
10. Diabetes	1.9
11. Mental Health Problems	2.-4.0

Session of 1985

SENATE BILL No. 273

By Committee on Public Health and Welfare

2-19

AN ACT relating to adult care homes; authorizing 24 hours a day licensed nursing personnel under certain conditions; amending K.S.A. 1984 Supp. 39-923 and repealing the existing section.

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

Section 1. K.S.A. 1984 Supp. 39-923 is hereby amended to read as follows: 39-923. (a) As used in this act:

(1) "Adult care home" means any skilled nursing home, intermediate nursing care home, intermediate personal care home, one-bed adult care home and two-bed adult care home and any boarding care home, all of which classifications of adult care homes are required to be licensed by the secretary of health and environment. Adult care home does not mean adult family home.

(2) "Skilled nursing home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves, and for whom reception, accommodation, board and skilled nursing care and treatment is provided, and which place or facility is staffed to provide 24 hours a day licensed nursing personnel plus additional staff, and is maintained and equipped primarily for the accommodation of individuals who are not acutely ill and are not in need of hospital care but who require skilled nursing care.

(3) "Intermediate nursing care home" means any place or facility operating for not less than 24 hours in any week and

caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervised nursing care and treatment is provided, and which place or facility is staffed to provide ~~at least eight hours~~ *24 hours* a day ~~for at least five days a week~~ licensed nursing personnel, *in the event the following stated conditions are found to exist by the licensing agency,* plus additional staff and is maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care or skilled nursing care but who require supervised nursing care. *The conditions required for such staffing are:*

(A) The licensing agency by rule and regulation defines 24 hours a day licensed nursing personnel to mean not more than one licensed practical nurse per facility for each of the second and third shifts, with the exception of intermediate nursing care homes for the mentally retarded and intermediate nursing care homes caring for persons with a primary diagnosis of mental illness as certified by the secretary of social and rehabilitation services; and

(B) The total allowable costs incurred by an adult care home participating in the title XIX medicaid program for providing additional licensed personnel shall be reimbursed to the adult care home within 30 days from the date the adult care home complies with this requirement. Intermediate nursing care homes currently providing additional licensed nursing personnel in excess of eight hours a day five days a week shall be reimbursed their total allowable costs for providing such services within 30 days from the effective date of this act. Such costs shall not be subject to cost center percentile limitations or other limitations established by the secretary of social and rehabilitation services; and

(C) An adult care home shall have one year from the effective date of any rules and regulations adopted by the licensing agency to implement the 24 hours a day staffing requirement

Delete.

The licensing agency, by rule and regulation, may approve less than 24 hour a day supervision by licensed nursing personnel for certain types of intermediate nursing care homes and may establish standards for exempting specific homes from the requirement for 24 hour a day supervision by licensed nursing personnel.

Delete.

Delete.

Delete.

established under this section. The failure of an adult care home to obtain the additional licensed nursing personnel required under this act shall not be grounds for the issuance of a correction order or civil penalty under the provisions of K.S.A. 39-945 and amendments thereto if the adult care home exercised bona fide and good faith efforts to obtain such personnel. The burden of proof shall be upon the licensing agency to prove that bona fide and good faith efforts were not made by the adult care home; and

Delete.

(D) Any licensed practical nurse or registered professional nurse who receives federal or state financial assistance in their nursing education program shall be required to be employed in an adult care home for a period of one year; and

Delete.

(E) All practical and professional nursing education programs in the state of Kansas shall include in their curriculum a minimum of 25% course content in geriatric nursing care; and

Delete.

(F) The licensing agency shall provide upon request at least annually to adult care homes a roster of the names and addresses of licensed practical and registered professional nurses in the state.

Delete.

In the event that all of the above conditions are not found to exist by the licensing agency, the minimum provisions for licensed nursing personnel staffing of an intermediate nursing care home shall be at least eight hours a day, five days a week licensed personnel until the licensing agency finds that all the stated conditions exist.

Delete.

(4) "Intermediate personal care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment or simple nursing care is provided, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care, skilled nursing home care or moderate

nursing care but who require domiciliary care and simple nursing care.

(5) "One-bed adult care home" and "two-bed adult care home" means any place or facility which place or facility may be a private residence and which place or facility is operating for not less than 24 hours in any week and caring for one or two individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board, personal care and treatment and skilled nursing care, supervised nursing care or simple nursing care is provided by the adult care home, and which place or facility is staffed, maintained and equipped primarily for the accommodation of individuals not acutely ill or in need of hospital care but who require domiciliary care and skilled nursing care, supervised nursing care or simple nursing care provided by the adult care home. When the home's capabilities are questioned in writing, the licensing agency shall determine according to its rules and regulations if any restriction will be placed on the care the home will give residents.

(6) "Boarding care home" means any place or facility operating for not less than 24 hours in any week and caring for three or more individuals not related within the third degree of relationship to the administrator or owner by blood or marriage and who by reason of aging, illness, disease or physical or mental infirmity are unable to sufficiently or properly care for themselves and for whom reception, accommodation, board and supervision is provided and which place or facility is staffed, maintained and equipped primarily to provide shelter to residents who require some supervision, but who are ambulatory and essentially capable of managing their own care and affairs.

(7) "Place or facility" means a building or any one or more complete floors of a building, or any one or more complete wings of a building, or any one or more complete wings and one or more complete floors of a building, and the term "place or facility" may include multiple buildings.

(8) "Skilled nursing care" means services commonly performed by or under the immediate supervision of a registered professional nurse and additional licensed nursing personnel for individuals requiring 24 ~~hour~~ *hours* a day care by licensed nursing personnel including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other nursing functions requiring substantial specialized judgment and skill based on the knowledge and application of scientific principles.

(9) "Supervised nursing care" means services commonly performed by or under the immediate supervision of licensed nursing personnel at least eight hours a day for at least five days a week including: Acts of observation, care and counsel of the ill, injured or infirm; the administration of medications and treatments as prescribed by a licensed physician or dentist; and other selected functions requiring specialized judgment and certain skills based on the knowledge of scientific principles, *except that in the event the licensing agency finds all the conditions exist that are stated in paragraph (3), then by rules and regulations the licensing agency shall define "supervised nursing care" to be consistent with the requirements of paragraph (3).*

Delete.

(10) "Simple nursing care" means selected acts in the care of the ill, injured or infirm requiring certain knowledge and specialized skills but not requiring the substantial specialized skills, judgment and knowledge of licensed nursing personnel.

(11) "Resident" means all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home.

(12) "Person" means any individual, firm, partnership, corporation, company, association or joint stock association, and the legal successor thereof.

(13) "Operate an adult care home" means to own, lease, establish, maintain, conduct the affairs of or manage an adult care home, except that for the purposes of this definition the word "own" and the word "lease" shall not include hospital districts, cities and counties which hold title to an adult care home

purchased or constructed through the sale of bonds.

(14) "Licensing agency" means the secretary of health and environment.

(b) The term "adult care home" shall not include institutions operated by federal or state governments, hospitals or institutions for the treatment and care of psychiatric patients, boarding homes for children under the age of 16 years, day nurseries, child caring institutions, maternity homes, hotels or offices of physicians.

(c) The licensing agency may by rule and regulation change the name of the different classes of homes when necessary to avoid confusion in terminology and the agency may further amend, substitute, change and in a manner consistent with the definitions established in this section, further define and identify the specific acts and services which shall fall within the respective categories of facilities so long as the above categories for adult care homes are used as guidelines to define and identify the specific acts.

Sec. 2. K.S.A. 1984 Supp. 39-923 is hereby repealed.

Sec. 3. This act shall take effect and be in force from and after its publication in the statute book.

This act shall take effect and be in force on January 1, 1986.

OTHER LONG-TERM CARE NURSES' EXPERIENCES, PROBLEMS

Verna Rundell, R.N., C, Syracuse

Hamilton County Long Term Care Unit is typical of LTCU's in the Western half of Kansas. It was started by Great Plains Lutheran Hospital Association, built adjacent to a small hospital with some shared staffing, licensed for intermediate and/or skilled nursing care and not reimbursed by Medicare.

The Unit was opened September 1, 1973. The first residents required skilled care. The unit stays almost full, with a mixture of skilled and intermediate care. The last three years have seen the pattern change away from skilled care, with persons seeking alternatives to institutional care due to costs. Medicaid payment and institutional care are both avoided as long as possible — Hamilton County is peopled by pioneers. Our county population is typically older than the rest of Kansas.

The Unit's population is growing older and more frail. Seven of 26 residents are over 90 years of age. This change in age has changed nursing care. One change is providing assistance with the maintainance of energy to live. A majority of our residents need much assistance with "Activities of Daily Living." There is more emphasis on care of persons with multiple chronic health problems. These people have survived many acute health problems and our care is aimed at stabilizing them in as healthy a state as possible. Our success is documented by decreased number of hospitalizations in the last 5 years.

Licensed personnel spend much time monitoring health status and teaching families as well as nurse aides to cope with health problems such as Alzheimer's Disease and chronic arthritis-type pain. The greatest challenge is in giving skilled care to the oxygen dependent victim of COPD. Health teaching becomes an enormous daily task, and emotional support is difficult to maintain at the level they request.

At the present time economic factors are working against good nursing care in several ways. 1) Given the same wages, personnel prefer hospital work to the residential institution. 2) No one is admitted until they have exhausted all other alternatives. 3) Reimbursement by Medicaid — 50% of our residents — barely covers staffing for average nursing care, making innovation very costly in energy. 4) Hamilton County is a rural area that initially profited — in numbers of people — from the State-wide economic depression. Now, however, it is at least one year behind in recovery. 5) Alternate methods of care are more expensive due to fewer people.

In 1982 when the State enforced rules about medications being given by licensed personnel in hospital-based LTCU's, the depression aided in drawing LPNs from other areas. When the law was changed, re: hospital-based LTCU's, part of those were replaced by Medication Aides. Administration keeps the number of licensed personnel as low as possible "to save money." There are adequate numbers of R.N.s living in the community, but there are few L.P.N.s. Due to the lack of positions, local young people don't usually seek that license.

Turnover of nurse aides seems to be at least partially due to their preferring the more glamorous and easier work in the hospital — where there are always licensed personnel to take the legal responsibility. In the LTCU the total hours required to provide basic physical care limit the hours and energy left for good psycho-social care. Sometimes physical exhaustion simply blocks out the emotional rewards of the job. Traditional wages are just not enough to keep people working hard for 8 hours every day to provide care around the clock.

DRG's: Forseeing Problems and Needs

by Norma Bush, R.N.C., and Shirley Boltz, R.N., Junction City

With the DRG's requiring earlier dismissals from the hospital, there will be an increasing demand for long term care beds. Due to this, problems and needs must be anticipated so the transition from hospital to long term care will be easier on the patient/resident.

Many hospitals are considering swing beds. The question must be asked, can nurses giving acute care be geared to long term care in an acute care setting? Besides the physical care, can a patient's/resident's psycho-social needs be met in an acute care setting? Long term care facilities attempt to provide a homelike environment. Can this be done in a hospital?

Long term care facilities will have to evaluate their staffing patterns to assure adequate staff to meet the needs of every patient/resident. Due to early dismissal, there is a greater chance for more complications to arise in a long term care facility, and, of course, more time will be required to take care of these conditions. For example, a surgical patient usually would not be dismissed until the sutures were removed and a healing process established in the incision. Now dismissal comes 5 days to 2 weeks before the sutures are removed. This alone requires extra care of the incision and closer observation of the patient's/resident's general condition to prevent complications. The number of admissions and dismissals will increase in long term care facilities, which will require extra time and staff.

With this, there also comes an increased financial burden on a long term care facility. At present, the Medicare cash flow is slow. Will this improve and will another insurance company, such as Blue Cross, provide coverage for those individuals who do not qualify for Medicare?

Many people now will convalesce in a long term care facility who before would have remained in the hospital. This means a younger age group to take care of, which requires different needs to be met. This also indicates thorough discharge planning to include home-going patient/resident teaching and to have a close connection with available home health services.

Better RN coverage is a definite requirement to assure skilled assessment of patient/resident condition. Once in a long term care facility, there is no daily physician visit. The physicians must rely on the nurses' judgement. Physicians must realize they need to visit more frequently and not insist the patient/resident come to their office. This would be unthinkable if the patient/resident were hospitalized.

It is now imperative there be 24-hour licensed professional nurse coverage in long term care facilities to assure quality care and professional judgement.

The "DRG's" have issued a challenge and all gerontological nurses must arise to this challenge and provide quality care for the welfare of all patients/residents.

STATE OF KANSAS

ROY M. EHRLICH
SENATOR, THIRTY-FIFTH DISTRICT
RICE, BARTON, RUSSELL COUNTIES
ROUTE 1, BOX 92
HOISINGTON, KANSAS 67544

TOPEKA

SENATE CHAMBER

March 1, 1985

COMMITTEE ASSIGNMENTS
CHAIRMAN: PUBLIC HEALTH AND WELFARE
MEMBER: FEDERAL AND STATE AFFAIRS
LABOR, INDUSTRY AND SMALL BUSINESS
LOCAL GOVERNMENT
ADVISORY COMMITTEE OF STATE DEPARTMENT ON AGING
NATIONAL CONFERENCE OF STATE LEGISLATURES SPECIAL SELECTED COMMITTEE--HEALTH CARE
NATIONAL SPECIAL SELECT STANDING COMMITTEE OF THE MENTAL HEALTH ASSOCIATION
COUNCIL OF STATE GOVERNMENTS, ENERGY COMMITTEE

Secretary Robert E. Harder
Social and Rehabilitation Services
6th Floor
State Office Building
Topeka, KS

RE: Funding for 24 Hour Care in Intermediate Care Facilities

Dear Dr. Harder:

During testimony on SB-273, I heard references to the funding for 24 hour care in the Governor's budget. I'd appreciate your response to these questions:

1. In the Governor's FY 86 budget there is $1.8 million ($900,000 general funds) to pay for 24 hour care for a year. Will this amount fund the total SRS share and responsibility and not cause the private pay patients to have to absorb more than their share of the SRS costs?

2. How will this be paid by SRS, immediately to homes when they obtain the nurse, or a year-year and a half later?

3. Although perhaps a simplistic approach, I understand that $900,000 is now in the budget. With LPN salary and benefits approximately $15,300 per year on average, the budgeted amount will allow SRS to purchase the services of 59 LPNs, or enough for 20% of intermediate care homes. Is this correct?

Your response by March 8, 1985, would be appreciated. Thank you very much.

Sincerely,

Roy M. Ehrlich
Senator
Thirty-Fifth District

RME:cmw

STATE OF KANSAS

ROY M. EHRLICH
SENATOR THIRTY-FIFTH DISTRICT
RICE, BARTON, RUSSELL COUNTIES
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COUNCIL OF STATE GOVERNMENTS - ENERGY COMMITTEE

March 1, 1985

Secretary Barbara Sabol
Department of Health and Environment
Building 740 Forbes Field
Topeka, KS 66620

RE: Rules and Regulations for additional nurses in Intermediate Care Homes

Dear Secretary Sabol:

During testimony on SB-273 I heard many references to your department adopting rules and regulations for additional nurses in nursing homes.

I would appreciate your response to the following questions:

1. Have you been requiring nursing homes under your current regulations to have more nurses and other nursing personnel? If so, how many and why?

2. Is it your intention to adopt new rules and regulations to require more nurses in Intermediate Care Homes? If so, when, what would be the requirement (how many more per nursing home) and what would be the cost? Would it be for more than one LPN on the 2nd and 3rd shifts?

3. Would you issue a fine against a home if nurses weren't available, even if after a year they couldn't be obtained?

I would appreciate your response by March 8, 1985. Thank you very much.

Sincerely,

Roy M. Ehrlich
Senator
Thirty-Fifth District

RME:cmw