

Approved 2-24-87
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./~~p.m.~~ on February 19, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research
Norman Furse, Revisor of Statutes Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Dub Rakestraw, Topeka, Kansas
Ralph Wright, Member AARP Legislative Committee, Pittsburg, Kansas
Frank Lawler, Vice Chairman, State Committee, AARP, Leawood, Kansas
Jean Wesley, Gerontology Nurse Specialist, Director of Geriatric Education,
Education and Consulting, representing Coalition on Aging in Reno County
Dr. Ronald Harper, Kansas Department on Aging
Irving E. Peterson, Silver Haired Legislator, Riley County, Kansas
Robert C. Guthrie, Topeka, Kansas

Others attending: see attached list

Chairman Ehrlich welcomed the nurses and nursing students visiting the Senate Public Health and Welfare Committee, also District 7 Nurses from the Hutchinson area and Nurse Williams and Sister Louise from the Great Bend area.

Dub Rakestraw appeared before the committee to request a committee bill concerning the practice of psychology; providing for the registration of certain persons working in licensed community mental health centers or state or other governmental or educational institutions; granting certain powers to and imposing certain duties upon the behavioral sciences regulatory board. Mr. Rakestraw stated that this group had completed the credentialing process through the SHEC committee and were now requesting registration with the state of Kansas. (attachment 1)

Senator Bond moved that the committee accept this bill as a committee bill.
Senator Hayden seconded the motion and the motion carried.

SB-264 - An act concerning medical assistance; relating to determination of persons eligible therefor; concerning recovery of medical assistance paid;

Ralph Wright testified and presented written testimony in support of SB-264. Mr. Wright stated that the passage of such legislation will enhance the life quality of the people in Kansas. Fear of sacrificing their life style delays seeking medical help until their condition is serious and leads to destructive and expensive situations. It was further stated that if the well spouse is impoverished as is now required, they will characteristically become a welfare case. (attachment 2) Senator Salisbury questioned Mr. Wright as to what the actual costs in California were compared to projected costs for Kansas. The costs were not known by Mr. Wright. (attachment 2)

Frank Lawler testified and presented written testimony in support of SB-264. Mr. Lawler stated that the state Legislative Committee of AARP had as their number one priority for 1987, legislation providing for the division of assets of elderly couples. It was further stated that couples with a need for medical assistance must, by regulation, spend down their assets and the problem is further complicated by the Kansas law which requires each spouse to be responsible for the other irrespective of the consequences. (attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

room 526-S, Statehouse, at 10:00 a.m. ~~xxx~~ on February 19, 1987

Senator Bond requested information as to whether or not the fiscal note included the well spouse and the costs of eventually caring for them. Senator Hayden also requested inclusion of the expectancy of the number of people falling under this situation and the increased costs involved in the extended period of time.

Jean Wesley testified and presented written testimony in support of SB-264. Ms. Wesley stated that although this bill will increase the number of persons in long term care facilities being paid by medicare, the fact is that we have a moral obligation to the healthy persons in this state to provide quality care but not at the sacrifice of the older persons who can maintain themselves at home. (attachment 4)

Dr. Ronald Harper testified and presented written testimony endorsing a division of assets and income. It was further stated that spouses ought not to be forced into poverty when a catastrophic illness strikes a husband or wife. A division of assets and income will not prevent impoverishment but the bill will make it less likely that the state rules and regulations will force someone to choose between help and dependency, divorce and destitution. Mr. Harper presented a balloon which would define "qualified applicant." It was stated that line 0150 concerning the imposition of a lien for medical assistance paid against the property of a spouse was unclear. The spouse's obligation for future medical support needs clarification. Will the spouse's assets accumulated after the division be subject to the lien? Will a subsequent spouse share joint indivisible property subject to the lien? (attachment 5)

Senator Bond asked whether or not a balloon had been prepared concerning the lien referred to on line 0150 and Mr. Harper said there was none at the present time.

Irving E. Peterson testified and presented written testimony in support of SB-264. Mr. Peterson stated he was personally acquainted with families where one spouse is a victim of long-time decreasing health due to disease where total resources have been depleted. (attachment 6)

Robert C. Guthrie testified and presented written testimony in support of SB-264. Mr. Guthrie stated he felt it was unfair for open heart surgery and other high cost illness expenses to be covered and still refuse coverage for an organic disease which destroys brain cells just as heart disease destroys heart cells. Concern was also stated about the amount spent on research and pilot projects while assistance for present victims is beyond reach. (attachment 7)

The committee will meet Friday, February 20, 1987, at 10:00 a.m. in room 526-S.

The meeting adjourned at 10:47 a.m.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2/19/87

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Rebecca Scott 307 Olive Street, Peabody, Ks. 67454 - RN	RN
Janis Petrie 2460 Alma Wichita Ks	RN
Judy Grimmig 2819 M th Alister, Top. Ks.	Washburn Univ. Nursing Student
STEPHEN FLYE 8343 NW 1 ST TOPEKA	WASHBURN UNIVERSITY NURSING ST.
Donna Haas 7128 Woodcroft Topeka	Washburn Univ. Nursing Student
Mary Haynes 3707 SW 29 th Inn Topeka	Washburn Univ - Nsg.
Karen O'Connor 1301 Mulvane, Apt #3 Topeka	Washburn Univ - Neuro.
Carl Mankland 1301 Belle Topeka	Mature Outlook
Katy Fosdick 1919 Olathe Blvd, 102 KC, KS 64103	Ku. Nursing student
Janne Martin 3602 Rainbow #306 K.C., Ks	K-U nursing student
Julie Hill " "	Ku nursing student
Cheryl Fillmore, 2029 N. Woodlawn #522 Wichita 67208	KSNA
Diana Gannestad 2513 Timpani Dr. Hoys	KSNA, WSLU Grad. Student
Lurana Day 202 E. 14 th Ellis, Ks. 67637	Consultant - L.T.C.F., KSNA - WSLU Grad. Stud.
Susan Jones 3602 Rainbow Blvd Apt. 305 Kansas City KS, 64103	KU nursing student
TOM MELER 8853 GLENWOOD CT #2903	KU NURSING STUDENT
Mary Ann Russo 5811 Maple #3 Mission, Ks. 66202	Ku Nursing Student
Chasly Simpson 5543 Outlook Mission, Ks. 66202	" " "
Teddy Williamson, Hoisington.	KSNA RN

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE February 19, 1987

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Sister Louise Herrman, ABC - Great Bend

KSNA - RN

Kevin D. McFarland

Ks. Assc. of Homes for Aging

Brenda Stapp

KDOA

J. H. Sund

KS SILVER HAIR^{NARFE} LEG

CLARENCE W. ARNDT ^{O.P.} KS.

KS SILVER HAIR^{NARFE} LEG.

Robert C. Guthrie ADIRDA

Topeka KS

Robert K. Kuhlmann, Rubek

AARP State Representative

Loy E. Gibson

" " " "

John O. Miller

AARP " " "

Frank Lawler

AARP Vice Chairman

Gerald J. Duree

AARP TOP

Loy Johnson

ADARA Telling

Jena O'Brien

Kansas City Pres. Manor

Maryann Hendricks

Kansas City Pres. Mann / ADARA

Margie Hill

Kansas City Pres. Mann. ^{NARFE}

PAT BREER

Shownee KS. Clinique Home Health

RUTHELLA M'BRIDE

SEK-AREA AGENCY ON AGING

KETH R. LANDIS

CHRISTIAN SCIENCE COMMITTEE

Carl Schmitthenner

ON PUBLICATION FOR KANSAS

Mature Outlook, Topeka

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2/19/87

(PLEASE PRINT)
NAME AND ADDRESS

ORGANIZATION

Jean Sokun ^{8825-Records}
8825-Records D. Park, KS.

Older Women's League

Pat Donahue ^{PST DONAHUE}

KANSAS LEGAL SERVICES INC.

John Briery ^{336SE49th Topeka}

AARD

Catrina A. Schmitz

Mature Outlook

Basil Covey

KRTA

Ruth Walburn

S.S.

Anne Nees

Kansas Imp Nursing Homes

Edith M. Brice

Observer

Jim M. Brice

Observer

Darin Priest

SRS

Debra Wilkins

KUSN

Carolyn Williams

KUSN

Marilyn Chamberlain

KSNA

Barbara Letton

SEK-AAA

Marcella D. Briery

ADRNA

Julia Madrigal

KUSN

Mathew Stale

KUSN

Laurie Zimmerman

K. Bar Association

Linda J. Jilka

KUSN

SENATE BILL NO. _____

AN ACT concerning the practice of psychology; providing for the registration of certain persons working in licensed community mental health centers or state or other governmental or educational institutions; granting certain powers to and imposing certain duties upon the behavioral sciences regulatory board; amending K.S.A. 1986 Supp. 74-5344 and repealing the existing section.

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

New Section 1. As used in this act:

(a) "Practice of psychology" shall have the meaning ascribed thereto in K.S.A. 74-5302 and amendments thereto.

(b) "Board" means the behavioral sciences regulatory board created by K.S.A. 74-7501 and amendments thereto.

(c) "Registered masters level psychologist" means a person registered by the board under the provisions of this act.

New Sec. 2. (a) Any person who is registered under the provisions of this act as a registered masters level psychologist shall have the right to practice in a licensed community mental health center or one of its contracted affiliates, in any federal, state, county or municipal agency, or other political subdivision, or in a duly chartered educational institution insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer, so long as such practice is under the direction of a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of psychological disorders. Such person may use the title registered masters level psychologist and the abbreviation RMLP. No other person shall assume such title, use such

*S P/H/W
2-19-87
Attachment 1*

abbreviation or any word or letter, signs, figures or devices to indicate that such person using the same is registered as such under provisions of this act.

(b) Any violation of this section shall constitute a class C misdemeanor.

New Sec. 3. (a) Any person who desires to be registered under this act shall apply to the board in writing, on forms prepared and furnished by the board. Each application shall contain appropriate documentation of the particular qualifications required by the board and shall be accompanied by the required fee.

(b) The board shall register as a registered masters level psychologist any person who pays a fee prescribed by the board under section 5, which shall not be refunded, and who has satisfied the board as to such person's training. Any person paying the fee must also submit evidence verified under oath and satisfactory to the board that such person: (1) Is at least 21 years of age; (2) has received at least a master's degree in clinical psychology based on a program of studies in psychology from an educational institution having a graduate program in psychology consistent with state universities of Kansas or has received a master's degree in psychology and during such graduate program completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology; and 750 clock hours of academically supervised practicum or 1,500 clock hours of postgraduate supervised work experience; and (3) is in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or

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municipal agency, or other political subdivision, or a duly chartered educational institution and whose practice is a part of the duties of such person's paid position and is performed solely on behalf of the employer.

(c) Until July 1, 1988, the board shall waive the educational or degree and supervision requirements, or all such requirements, under subsection (b) so long as the person applying for registration as a registered masters level psychologist has a master's degree and either (1) has been employed for at least three years as a psychologist by a licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution; or (2) as of July 1, 1987, was recognized as a masters level psychologist by the professional standards committee of the association of community mental health centers of Kansas and employed by a licensed community mental health center or one of its contracted affiliates.

New Sec. 4. Any person registered as a registered masters level psychologist shall be required to complete 25 hours of continuing education each two-year period.

New Sec. 5. The application and renewal fee for registration under this act shall be fixed by the board by rules and regulations in an amount not to exceed \$50.

New Sec. 6. (a) All registrations shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) Registration may be renewed by the payment of the renewal fee and the execution and submission of a signed statement, on a form provided by the board, attesting that the applicant's registration has been neither revoked nor currently suspended and that the applicant has met the requirements for continuing education set forth in this act.

(c) The application for renewal shall be made on or before the date of the expiration of the registration.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the registration, the registration is void, and no registration shall be reinstated except upon payment of the required renewal fee, plus a penalty equal to the renewal fee, and proof satisfactory to the board of compliance with the continuing education requirements. Upon receipt of such payment and proof, the board shall reinstate the registration, except that no registration shall be reinstated if such payment and proof is received more than one year after the date of expiration of the registration.

(e) A duplicate registration shall be issued by the board upon receipt of a \$20 fee.

New Sec. 7. (a) The board may issue a temporary permit to practice as a registered masters level psychologist to any person who pays a fee prescribed by the board under this section, which shall not be refunded, and who: (1) Meets all the requirements for licensure under the licensure of psychologists act of the state of Kansas except the requirement of two-year postdoctorate supervision or the requirement of successful completion of an examination, or both such requirements; (2) meets all the requirements for registration under this act as a registered masters level psychologist, but whose application for registration is pending; or (3) meets all the requirements for registration under this act as a registered masters level psychologist except the requirement of postgraduate supervised work experience.

(b) A temporary permit issued by the board under clause (1) of subsection (a) shall expire two years after the date of issuance and may be renewed for one additional one-year period of time. A temporary permit issued by the board under clause (2) of subsection (a) shall expire at such time as final action on the application is completed, but all temporary permits shall expire one year after the date of issuance of the permit. A temporary permit issued by the board under clause (3) of subsection (a)

shall expire six months after the date of issuance and may be renewed for one additional six-month period if the board finds that satisfactory progress toward the supervised experience requirement is being met.

(c) The board shall fix by rules and regulations fees for application and renewal of each type of temporary permit under this section. The application and renewal fee shall not exceed \$50 except that the fee for application for and renewal of the two-year temporary permit under clause (1) of subsection (a) shall not exceed \$100.

(d) The application for a temporary permit may be denied or a temporary permit which has been issued may be suspended or revoked on the same grounds as provided for suspension or revocation of a registration under section 9.

New Sec. 8. (a) The board shall establish a masters level psychologist registration committee consisting of three members appointed by the chairperson of the board.

(b) All members of the committee shall be registered masters level psychologists. Each member of the committee shall be a citizen of the United States and resident of this state.

(c) Each member of the committee shall serve for three years except that the terms on the committee first appointed shall be as follows: One member shall be appointed for a one-year term, one member shall be appointed for a two-year term and one member shall be appointed for a three-year term. The chairperson of the board shall designate the term for each member first appointed to the committee. No member of the committee shall be appointed for more than two successive terms. Upon the expiration of a member's term on the committee, the chairperson shall appoint a qualified successor. Each member shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the committee prior to the expiration of a term, the chairperson of the board shall appoint a qualified successor to fill the unexpired term. The chairperson of the

board may remove any member of the committee for misconduct, incompetency or neglect of duty.

(d) The committee shall organize annually at its first meeting subsequent to June 30 and shall select from its members a chairperson. Other meetings shall be held as the committee designates. Two members of the committee shall constitute a quorum for the transaction of business.

(e) The committee shall receive all applications for registration as a registered masters level psychologist; review the applications for compliance with this act; and make their recommendations for acceptance, rejection or other actions to be taken by the board. The board shall accept and act on the committee's recommendations so long as the recommendations are in compliance with this act.

(f) The board shall make support staff available to the committee.

(g) Members of the committee attending meetings of the committee authorized by the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223 and amendments thereto.

New Sec. 9. An application for registration under this act may be denied or a registration granted under this act may be suspended or revoked by the board upon proof that the applicant or registered masters level psychologist:

(a) Has been convicted of a felony involving moral turpitude;

(b) has been found guilty of fraud or deceit in connection with the rendering of professional services or in establishing such person's qualifications under this act;

(c) has aided or abetted a person not licensed as a psychologist, registered under this act or an uncertified assistant, to hold oneself out as a psychologist in this state;

(d) has been guilty of unprofessional conduct as defined by rules and regulations of the board; or

(e) has been guilty of neglect or wrongful duties in the

performance of duties.

Sec. 10. K.S.A. 1986 Supp. 74-5344 is hereby amended to read as follows: 74-5344. Nothing contained in this act shall be construed: (a) To prevent qualified members of other professional groups such as, but not limited to, ministers, Christian Science practitioners, social workers and sociologists from doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions so long as they do not hold themselves out to the public by any title or description of services incorporating the words "psychologic," "psychological," "psychologist" or "psychology";

(b) in any way to restrict any person from carrying on any of the aforesaid activities in the free expression or exchange of ideas concerning the practice of psychology, the application of its principles, the teaching of such subject matter and the conducting of research on problems relating to human behavior if such person does not represent such person or such person's services in any manner prohibited by this act;

(c) to limit the practice of psychology ~~or use of official title on the part of a person in the employ of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a not-for-profit corporation~~ of a registered masters level psychologist or a person who holds a temporary permit to practice as a registered masters level psychologist insofar as such practice is a part of the duties of any such person's salaried position, and insofar as such practice is performed solely on behalf of such person's employer, or insofar as such person is engaged in public speaking with or without remuneration;

(d) to limit the practice of psychology or services of a student, intern or resident in psychology pursuing a degree in psychology in a school, college, university or other institution, with educational standards consistent with those of the state universities of Kansas if such practice or services are

supervised as a part of such person's degree program. Nothing contained in this section shall be construed as permitting such persons to offer their services as psychologists to any other person and to accept remuneration for such psychological services other than as specifically excepted herein, unless they have been licensed under the provisions of ~~this--act~~ the licensure of psychologists act of the state of Kansas, registered under the provisions of sections 1 to 8, inclusive, and amendments thereto or granted a temporary permit under the provisions of section 7 and amendments thereto;

(e) to prevent the employment, by a person, association, partnership or a corporation furnishing psychological services for remuneration, of persons not licensed as psychologists under the provisions of this act to practice psychology if such persons work under the supervision of a psychologist or psychologists licensed under the provisions of this act and if such persons are not in any manner held out to the public as psychologists licensed under the provisions of ~~this--act~~ the licensure of psychologists act of the state of Kansas, as registered under the provisions of sections 1 to 8, inclusive, and amendments thereto or as holding a temporary permit under the provisions of section 7 and amendments thereto;

(f) to restrict the use of tools, tests, instruments or techniques usually denominated "psychological" so long as the user does not represent oneself to be a licensed psychologist or a registered masters level psychologist;

(g) to permit persons licensed as psychologists, registered as masters level psychologists or holding a temporary permit to practice as a registered masters level psychologist to engage in the practice of medicine as defined in the laws of this state, nor to require such licensed psychologists, registered masters level psychologists or persons holding such temporary permits to comply with the Kansas healing arts act ~~as-amended;~~

(h) to restrict the use of the term "social psychologist" by any person who has received a doctoral degree in sociology or

social psychology from an institution whose credits in sociology or social psychology are acceptable by a school or college as defined in this act, and who has passed comprehensive examination in the field of social psychology as a part of the requirements for the doctoral degree or has had equivalent specialized training in social psychology;

(i) to restrict the practice of psychology by a person who is certified as a school psychologist by the state department of education so long as such practice is conducted as a part of the duties of employment by a unified school district or as part of an independent evaluation conducted in accordance with K.S.A. 72-963 and amendments thereto, including the use of the term "school psychologist" by such person in conjunction with such practice; or

(j) to permit persons licensed as psychologists, registered as masters level psychologists or holding a temporary permit to practice as a registered masters level psychologist to engage in the practice of optometry as defined in the laws of this state.

Sec. 11. K.S.A. 1986 Supp. 74-5344 is hereby repealed.

Sec. 12. This act shall take effect and be in force from and after its publication in the statute book.



1985-1986
KANSAS STATE LEGISLATIVE COMMITTEE

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Mr. Oscar M. Haugh
1512 University Drive
Lawrence, KS 66044

TO PUBLIC HEALTH AND WELFARE COMMITTEE

Ralph W. Wright, AARP, SEK-AAA

The American Association of Retired Persons has for some time been concerned with the Division of Assets issue. The State Legislative Committee of AARP supported House Bill No. 3063 during the 1986 legislative session in Kansas.

Various states have passed legislation to accomplish plans for division of assets. The Kansas State Legislative Committee of AARP will be supportive of such legislation when it comes up in the 1987 legislative session. The support will be rendered as indicated in the following statement which maybe modified and extended as the AARP committee continues to deliberate on this issue.

The following points seem relevant at this time.

- I. The passage of such legislation will enhance the life quality of the people in question. People who qualify for medicaid assistance, by virtue of their economic circumstance, live with great uncertainty about their future. To face the possibility that they may have to divest themselves of artifacts and habits that have been a part of their life style adds significantly to this uncertainty. This uncertainty and worry reduces life quality for these persons.

One consequence of the fear of sacrificing their cherished life style is that they frequently defer seeking medical help until their physical condition is serious and leads to destructive and expensive situations which could be avoided by early intervention. A few days or weeks in hospital can quickly consume

greater cost than assistance available under medicaid.

Additionally the very fear of losing what little has been accumulated over a life time can in itself cause illness or exacerbate conditions which already exist. If available help is forthcoming many illnesses can be averted.

We in America are a sufficiently fortunate people that we should not require people, who have made the contribution of a life time, to spend their retirement years in conditions of poverty. This panel has heard and are well aware of the income and assets permissible to people on medicaid and must surely be impressed by the stringency and even niggardliness of what is allowed the recipients of medicaid.

II. The program as presented ~~is~~ is economically sound. While there obviously are up front costs as more people qualify for medical assistance, there are certain compensations that will offset some of the cost.

If spouse #2 is impoverished as is now required, they will characteristically become a welfare case. The medicaid client, being ill may not draw on the plan for a great length of time. Spouse #2 on the other hand may be, of necessity, a welfare case for 20 or 30 years. To leave adequate assets to spouse #2 may well avoid a very large and continuous drain on the public purse.

Beyond the above consideration it must be noted that for each dollar spent from the Kansas General Fund an additional dollar comes into our state from Federal match. This is new money in our communities and is promptly dispensed to pay living expenses of the clients involved. Several states have legislation permitting division of assets and will accomplish a benefit from this fact.

Additionally I recommend a re-examination of the costs projected if the bill had been passed in 1986. In a letter of March 19 to representative Robert Miller from Gary L. Stotts, Acting Director of the Budget, fiscal impact of HB 3063 would be \$8,382,552-\$4,191,276 from state general fund. A similar bill was passed in California-Assembly Bill #987 signed by the governor in September, 1985. Legislative analysis dated August 30, 1985 projected the fiscal effect to be \$5.2 million (2.6 million from the general fund). This in a state with ten times the population of Kansas. This cries out for a re-examination of the figures.

III. The question of the constitutionality ~~is~~ has been raised. Since similar legislation has been passed in other states and cases have been settled under this legislation it would appear to be possible to write legislation not unconstitutional under Federal regulations.

IV. The position of AARP during the legislative session in 1987 will probably be to support [REDACTED]. The bill seems to accomplish what is most needed. While the SLC may recommend additional provisions, they will follow the bill closely. In a letter by the Older Womens League of California project directors, dealing with the Spousal Impoverishment Model Bill, they discussed proposals from several states. Concerning the Kansas bill the letter states, "Kansas (bill) appears elegant in its simplicity." This appears to be a high compliment to the work done by the Kansas Legislature and the committees thereof.

AARP will lend its vigorous support to passage of this legislation.

Thank you for your time and kind attention.



1986-1987
KANSAS STATE LEGISLATIVE COMMITTEE

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Mr. Oscar M. Haugh
1512 University Drive
Lawrence, KS 66044
(913) 843-7613

February 19, 1987

Hon. Roy M. Ehrlich, Chairman &
Committee Members
Senate Committee on Public Health & Welfare
Room 138-N, Capitol Building
Topeka, KS 66612

SUBJECT: Senate Bill for Division of Assets

Mr. Chairman and Members of the Committee:

My name is Frank Lawler and I am here representing the State Legislative Committee of the American Association of Retired Persons, of which I am Vice-Chairman.

The number one priority of our association for Kansas in this session is legislation providing for the division of assets of elderly couples. Couples, a man and wife, with a need for medical assistance, must by regulation, "spend-down" their resources to a minimum level of \$1,700 before the ill spouse would be eligible for Medicaid. This is an archaic and inhumane requirement which would effectively serve to impoverish the well spouse. In addition, the problem is compounded for the couple and the extended family by the Kansas law which requires each spouse to be responsible for the other irrespective of the consequences. No recognition is given either by Medicaid or the State to the devastating results from such a regulation, when even divorce is instituted in order to qualify the ill spouse for Medicaid. In an article last October 16th in the Kansas City Star, Daniel Goleman of the New York Times wrote in an article entitled, "Feeling in Control: Key to Mastering Health", he stated "Researchers are finding that the sense of being in control . . . among elderly men and women, living in convalescent homes, increased their alertness, made them happier . . . and lowered their mortality rates over an 18 month period by 50% compared to those in the same homes who did not get the same experience of increased control." Also, "The loss of control under extreme stress seems to trigger a psychological response that can lead to disease."

SPH:W
2-19-87
attachment 3



1986-1987
KANSAS STATE LEGISLATIVE COMMITTEE

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Because the consequences of forced "spend-down" and the disruption of life style could be so traumatic that the well spouse would be much more susceptible to disease, there is a likelihood of early entry into the Medicaid ranks thus necessitating both members, rather than only one, having to be provided Medicaid by the State. By contrast, leaving the well spouse independent and in control not only could extend non-health care time and expense but also leaves the well spouse as a productive segment of the population, contributing to the economy rather than being a drain on the economy.

A handwritten signature in cursive script, which appears to read "Frank Lawler". The signature is written in dark ink and is positioned in the lower right quadrant of the page.

PRINCIPAL LEGISLATIVE PRIORITIES OF OUR KANSAS MEMBERSHIP FOR 1987

PRIORITIES

- Enact "Division of Assets" legislation.
- Expand and coordinate community in-home services offering quality alternatives. Control and expand health care services for low income Kansans.
- Equalizing adult care home rates charged to private pay and public assistance residents.
- Exempt Social Security benefits from state income tax and protect the purchasing power of retirement income.
- Legislation establishing legal representatives for consumers in the utility rate hearing process.

SUPPORT ITEMS

- Legislation or regulations to enhance the quality of nursing home care.
- Support improved retirement benefits for retired teachers and state employees.
- Support efforts to meet health care needs for the uninsured and underinsured.
- Establish regulations and statutes governing and promoting the sale of long-term care insurance.
- Legislative and regulatory actions to restrain health care costs and enhance the quality of health care.

KANSAS STATE LEGISLATIVE COMMITTEE

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KANSAS FACTS FOR YOU TO REMEMBER

1987

KANSAS STATE
LEGISLATIVE COMMITTEE
AMERICAN ASSOCIATION OF
RETIRED PERSONS

KANSAS' OLDER CITIZENS

In Kansas, 436,000 persons are over age 60. They constitute 24.4 percent of the voting-age population in our state. Because persons 60 and over register and vote in much higher proportions than any other group, older people comprise as much as 40-50 percent of the actual voters in many elections.

Many older people are eager to participate in all facets of political life. Quite often, older persons are involved in registering voters, assisting voters in traveling to the polls, and actually conducting poll operations on election day. They believe in the Eisenhower adage, "Politics should be the part-time profession of every citizen."

With increased longevity for the elderly of our nation, the older population of Kansas is expected to continue to grow steadily. During the years 1980-1984, the population aged 60+ realized a 5.8 percent increase. The latest census data indicate that this same age group (60+) constitutes 17.9 percent of our state's total population.

AMERICAN ASSOCIATION OF RETIRED PERSONS

AARP was founded in 1958 as a voluntary nonprofit and nonpartisan organization to help improve the quality of life of not only its members, but all older people. It is dedicated to helping its members meet the challenges of pre-retirement and retirement living and achieve a dynamic maturity of independence and purpose.

In Kansas, 295,130 individuals belong to the American Association of Retired Persons. Association volunteers serve their communities through a variety of programs, from free tax counseling to support for newly widowed persons. The Association also offers a variety of educational and advocacy programs for older workers, who make up one-fourth of AARP's total membership.

AARP is the largest membership organization of older Americans. Nationally, AARP membership totals more than 22 million and is a representative cross section of the older population. There are more than 3,500 local AARP chapters nationwide.

New AARP initiatives marshal Association resources to address health care concerns, the status of minority elderly, issues of concern to mid-life and older women, and the changing role and needs of mid-life and older workers.

KANSAS STATE LEGISLATIVE COMMITTEE

The AARP State Legislative Committee (SLC) decides and promotes the legislative objectives to be sought by the Association in each state legislative session. Composed of volunteers from across the state, the Committee works on behalf of not only AARP members, but all older persons and the state community.

Each year the State Legislative Committee in Kansas selects legislative priorities based on the needs of the state's residents, using guidelines developed by the AARP National Legislative Council. Members of the SLC work with legislators to promote passage of legislation beneficial to Kansas' older population.

The Kansas State Legislative Committee participates responsibly in the legislative process, from a bill's conception to its signing into law and translating its intent into administrative procedures and regulations. Additional AARP volunteers often work under the direction of the State Legislative Committee in monitoring bill movement, attending hearings, and consulting with legislators and staff on SLC priorities.

GERIATRIC EDUCATION & CONSULTING

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Hutchinson, Kansas 67502
(316) 662-0402

*Promoting quality care to the elderly
through education.*

TESTIMONY PRESENTED BEFORE THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

February 19, 1987

Division of Assets Bill

Mr. Chairman and Committee Members:

My name is Jean Wesley, I am a gerontology nurse specialist and director of Geriatric Education and Consulting in Hutchinson, Kansas. I represent the Coalition on Aging in Reno County, a group of agencies that provide services for the aging population in our county. Membership in the Coalition consists of acute care facilities, community agencies, and long term care facilities. I am President of the Coalition. Thank you for this opportunity to speak in regards to the Division of Assets Bill.

The purpose of the bill, to provide a mechanism for an elderly couple to divide their assets would allow an increasing number of well spouses the chance of being spared from facing the possibility of impoverishment. The number of persons 65 and older in the state is approximately 13% which is higher than the nation at 11.3%. In our county and surrounding counties the percent of persons over age 65 is higher than the state and the nation. This means that as the numbers increase the number of people who will be faced with the staggering financial burden of long term care will also increase.

Many people will be presented with making the decision of losing their home and possessions to pay for the care of their loved one with their own finances and be left able to function, but unable to live in the surroundings they have worked to achieve. In one of our long term care facilities, a husband was forced to make the decision of either keeping his frail wife in the facility or losing his farm. He chose to take her out of the facility after only three weeks of care and care for her as best as possible on his farm. Their is extreme concern for her health and well being.

This bill will increase the number of persons in long term care facilities being paid for by Medicaid. In response to that argument comes the fact that we have a moral obligation to the older persons in

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this state to provide quality of care but not at the sacrifice of the older persons who can maintain themselves at home.

Conclusion: This bill would provide the means for a higher quality of life for the older persons in this state. The Coalition on Aging in Reno County asks for your support in implementing the actions in this bill.

TESTIMONY ON SENATE BILL 264
TO
SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
BY THE
KANSAS DEPARTMENT ON AGING
FEBRUARY 19, 1987

Bill Summary:

An Act concerning medical assistance; relating to determination of eligibility; concerning recovery of medical assistance paid.

Bill Brief:

Divides income and assets in half between a husband and wife for the purpose of determining Medicaid eligibility.

Makes income over \$8,600 available for the support of the sick spouse.

Allows a 100% transfer of assets worth \$25,000 or less.

Authorizes the Department of Social and Rehabilitation Services to enforce a lien against the estate of a deceased spouse.

Testimony:

The Kansas Department on Aging endorses a division of assets and income. Spouses ought not to be forced into poverty when a catastrophic illness strikes a husband or wife. A division of assets and income will not prevent impoverishment but the bill will make it less likely that state rules and regulations will force someone to choose between help and dependency, divorce and destitution.

Genesis of the Problem

A recent survey by Louis Harris and Associates found that "most of the 8 million elderly Americans living alone are widows, many of whom are poor and most of whom spend twice as much on medical care as elderly couples."

These people are typically poor because their husbands got sick and needed nursing home care, so they spent all their savings on medical expenses. Once the couple's financial resources were exhausted, Medicaid paid for the remainder but the husband's death then left the widow without any savings.

Men also suffer this fate when their wives are afflicted with catastrophic illnesses. We need to change the Medicaid program so that a husband or wife does not have to be pauperized to provide for a spouse's catastrophic medical expense.

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Essential Features

A Division of Assets and Income should have three essential features.

1. The Kansas Department on Aging supports legislation which would make home and community based services available to the victims of catastrophic illnesses. It is essential that a "demonstrated need" for home care in addition to receipt of institutional care should make an applicant eligible for a division of assets or income.

S.B. 264 should be amended. In lines 43 and 44 a qualified applicant is defined as a person who "is under institutional care or is eligible for home and community based services." In lines 46 and 47 a qualified recipient is defined as a person who "is under institutional care or is receiving home and community based services."

Only Medicaid eligible people can receive home and community based services as defined in lines 26 to 32. A person who has qualified for Medicaid does not have assets or income to divide. Such a person has already exhausted resources and income.

Two other features of the bill are essential.

2. The Department also believes that both an income and a resource division are essential. Current regulations allow only a \$341 a month maintenance allowance for the spouse at home.
3. The third essential feature of an appropriate bill is the 50/50 division. It is only fair that spouses be just as well off married as divorced. Most Older Kansans recoil at the idea of divorce, yet that may be their only current alternative.

One other provision should be clarified. Line 150 imposes a lien for medical assistance paid against the property of the spouse. The language does not seem to clarify the spouse's obligation for future medical support. Will the spouse's assets accumulated after the division be subject to the lien? Will a subsequent spouse share joint indivisible property subject to the lien? These are questions which the language of the bill does not answer clearly.

Recommended Action:

The Department on Aging urges the 1987 Kansas Legislature to pass S.B. 264. It presents a fair solution to a current situation which is unacceptable.

RLH:LD:mj
2/17/87

SENATE BILL No. 264

By Committee on Public Health and Welfare

2-17

0017 AN ACT concerning medical assistance; relating to determina-
0018 tion of persons eligible therefor; concerning recovery of med-
0019 ical assistance paid; amending K.S.A. 21-3605, 39-709 and
0020 39-719a and repealing the existing sections.

0021 *Be it enacted by the Legislature of the State of Kansas:*

0022 New Section 1. As used in sections 1 to 3, inclusive:

0023 (a) "Adult care home" means a skilled nursing home or
0024 intermediate nursing care home licensed under the adult care
0025 home licensure act.

0026 (b) "Home and community based services" means those ser-
0027 vices provided under the state medical assistance program under
0028 waivers as defined in title XIX of the federal social security act in
0029 accordance with the plan adopted under subsection (s) of K.S.A.
0030 39-708c and amendments thereto to recipients who would re-
0031 quire admission to an adult care home if such services were not
0032 otherwise provided.

0033 (c) "Income" means earned income and unearned income as
0034 defined under the state medical assistance program in accord-
0035 ance with the plan adopted under subsection (s) of K.S.A. 39-
0036 708c and amendments thereto to determine eligibility of appli-
0037 cants for medical assistance.

0038 (d) "Institution" means an adult care home or a long-term
0039 care unit of a medical care facility.

0040 (e) "Medical assistance" has the meaning provided under
0041 K.S.A. 39-702 and amendments thereto.

0042 (f) "Qualified applicant" means a person who (1) applies for
0043 medical assistance and (2) is under institutional care or is eligi-
0044 ble for home and community based services.

0045 (g) "Qualified recipient" means a person who (1) receives

NEW SECTION 1.(f) -

"Qualified applicant" means a person who
(1) applies for medical assistance and (2)
is under institutional care or ~~is-eligible~~
~~for~~ NEEDS home and community based services.

Honorable Senator Ehrlich and other Health and Welfare Committee members:
I am Irving Peterson, Silver Haired Legislator, Riley County. I wish to speak concerning Division of Assets.

I am personally acquainted with families where one spouse is a victim of long-time decreasing health due to diseases which have no known cure such as Alzheimers. I know personally of victims in Riley, Washington, and Shawnee Counties. I have acted in support for the well spouse by staying with the unwell spouse to allow the well spouse to accomplish needed activities away from the home. There are thousands of cases in the state where, by the time of death of the unwell spouse, the total resources of both have been depleted through medical costs, doctor bills, hospital bills, and long term care facilities.

After a marriage of many years, during which spouses have contributed to secure their future retirement, that resources of both spouses should be used up for one, leaving the other in poverty for the rest of his or her life, is totally unfair and calls for legislation to correct it. This legislation is long overdue, and I hope it will be received favorably by the Senate.

Thank you, Senator Ehrlich and members of the Committee.

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SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
SENATOR ROY M. EHRLICH, CHAIRPERSON
TESTIMONY OF ROBERT C. GUTHRIE, TOPEKA, KANSAS
SENATE BILL NO. 264, DIVISION OF ASSETS AND INCOME
FEBRUARY 19, 1987

Qualifications

My name is Robert C. Guthrie of Topeka, Kansas. I speak in favor of Senate Bill No 264. My brief remarks are made as a member of the Alzheimer's Disease Task Force of 1985 and have, therefore, testified before this Committee on previous occasions. I am a Charter Board Member of the Alzheimer's Disease and Related Disorders Association, Topeka Chapter which is an affiliate of the National ADRDA. I am a graduate of the University of Kansas with a B.S. Degree in Finance and completed graduate studies at Rutgers University in Trust Administration. I worked for 30 years for the First National Bank of Topeka, now Bank IV Topeka, leading to a senior management position. In 1979 upon reaching normal retirement age, I became a part time consultant for the bank and still am. Over these years, I have shared with many families their joys and sorrows, their financial successes and reversals and have learned the meaning to them of good health vs. illness and financial security vs. hardship.

Personal Experience

This bill rightfully has been expanded to cover many catastrophic illnesses requiring long term care in addition to Alzheimer's disease. My own experience, however, has been to witness the slow, steady, irreversible organic brain disease, diagnosed as Alzheimer's disease, slowly incapacitating my bright, talented wife, Marjorie, who was a leader in many community, charitable, church and civic affairs. Since last November, four years after diagnosis, she became a resident of Aldersgate Village Health Care Center because she requires 24 hour a day care. This is my own experience of sorrow and loneliness. Nevertheless, I face no immediate financial crisis because, although we inherited no wealth, we were successful in building up a comfortable "nest egg" which should have seen us through our golden years. Now I can not be sure for the reason that over the next five years, allowing for more intensive care and a small inflation factor, our expenses could fall between \$120,000 and \$150,000. Over the next 10 years, under the same circumstances, my wife's expenses could range between \$300,000 to \$400,000.

Purpose of Testimony

The purpose of my testimony is not to focus on my own situation, but rather to speak on behalf of some 30,000 Kansans who suffer from Alzheimer's Disease and another estimated 23,000 who suffer from other types of organic dementia. Many of these individuals involve married couples who will soon be driven to abject poverty as the system now works. The exemption of the homestead, one car and a few other items of personal property helps, but the spend-down requirement to \$1,800 in my opinion is unreasonable. The so

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called well spouse is left with few assets, little income and usually with a profound loss of self-esteem. Equal division of assets and income, with one-half owned by the well spouse, would still not be a panacea. For example, lets assume a married couple has saved \$40,000 when one of them suffers an illness requiring long term care, for which there is not insurance coverage on the market and which is not covered by Medicare and supplemental insurance, even if the ill spouse qualified for Medicare. Under an even division of assets, the well spouse would have \$20,000 and would give up all income above \$8,600 per annum. This is not much to live on. The ill spouse, with an assumed monthly nursing home bill of \$1,500 would be out of assets in a little over one year. With life savings of \$75,000, the well spouse in this example would be left with \$37,500 to live on, while the ill spouse would be cared for in a nursing home for two years at \$1,500 per month.

Conclusions

Senator Ehrlich and Committee members, I would like in closing, to briefly make five personal observations related to the subject under discussion today which concern me deeply:

1. I know there is little your Committee or the Kansas Legislature can do about it, but I perceive it to be grossly unfair for our nation to pick up the tab for citizens under Medicare and supplemental coverage who are multi-millionaires and who require, for example, open heart surgery or similarly high cost illness, yet refuse coverage for those citizens suffering from acute organic illness such as Alzheimer's disease. Such citizens are not mentally ill; they have an organic disease which destroys the brain cells just as heart disease destroys the heart cells.
2. Our American society, or much of it, considers the marriage vows as sacred. Yet many lawyers feel professionally obligated to advise clients that divorce may be the only way to divide assets. This is tragic.
3. It is said that if a wife or husband is going to have an organic disease, such as Alzheimer's, the couple should either be very wealthy or be very poor. As it stands now, if you are in the middle, you are most unfortunate, because the present rules may drive both spouses to poverty.
4. It seems inconsistent to me that the Federal Government allocated about \$79 million in 1986 for Alzheimer's research and pilot projects, while assistance for the present victims and their families remains beyond reach until the victim and the spouse are driven into abject poverty. With other types of illness, where such intense research efforts are underway, those who are already victims of such diseases automatically receive assistance and their help is not conditioned upon prior impoverishment of their families.

5. In conclusion, I tell you if only my wife, Marj, could have her organically destroyed brain cells restored, giving us back her brilliant mind, her loving personality - her body and her soul, I would gladly give away all of the assets for which we worked and saved, this minute. May I remind you that some of you may face this dilemma in the future, but for you, I hope not.

Thank you.

Robert C. Guthrie
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