

Approved FEB 19 1991 Gary Blumenthal
Date

MINUTES OF THE House COMMITTEE ON Governmental Organization

The meeting was called to order by Rep. Gary Blumenthal at
Chairperson

9:00 a.m./~~pm~~ on February 12, 1991 in room 522-S of the Capitol.

All members were present except:

Rep. Al Ramirez, excused

Committee staff present:

Carolyn Rampey, Research Dept.
Avis Swartzman, Revisors
Nita Shively, Committee Secretary

Conferees appearing before the committee:

Rep. Frank Weimer
Rep. Nancy Brown
Rep. Henry Helgerson
Richard Morrissey, Deputy Director, Division of Health
Lila Paslay, Chairperson, State Legislative Affairs
Ethel May Miller, Parent Advocate
Yo Bestgen, KARF
Wendel Lewis, Chairperson, KS Planning Council on Developmental Disabilities
Services
Janice Johnson, R.N., Kansas State Nurses Assoc.
Wayne Wiannecki, President/Executive Director, KS Public Employees Union,
Council 62 - AFSCME

Chair opened the meeting by recognizing Rep. Frank Weimer who asked that the committee sponsor a bill, requested by Rep. Vancrum, which would clarify the relationship between Investment Advisors and C.P.A.'s when both are working with the same client, (Attachment 1). Motion was made by Rep. Lahti, seconded by Rep. Brown, motion carried.

Rep. Brown requested that a bill be drafted requiring land surveyors to participate in the continuing education program. Motion was made by Rep. Brown, seconded by Rep. Lahti, motion carried.

HB 2084 - AN ACT establishing the governor's commission on mental retardation and other developmental disabilities; relating to the composition thereof; prescribing functions therefor.

Chair recognized Rep. Helgerson who provided background information on this bill. He pointed out that the last two legislatures worked similar bills in compliance with the federal mandate (Public Law 99-660) and public pressure; both efforts failed. Rep. Helgerson promised to furnish written testimony to the committee secretary.

Richard Morrissey testified and furnished written testimony regarding the important role of KDHE in health prevention activities, mentioning some of their key programs, (Attachment 2). In addition to supporting HB 2084, the Department recommends that the bill be amended to include the Secretary of KDHE or the Secretary's designee as a member of the Commission.

Lila Paslay appeared in support of HB 2084 and furnished written testimony, (Attachment 3). The main thrust of her presentation is that equal access to services be available to anyone in need wherever they reside.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Governmental Organization,
room 522-S, Statehouse, at 9:00 a.m.~~pm~~ on February 12, 1991

Ethel May Miller testified and presented written testimony in favor of HB 2084, (Attachment 4). Her feeling that a Governor's Commission would be very advantageous is based on her many years of experience working as a volunteer in various MR/DD programs--serving on numerous commissions and committees. She outlined the importance of Section 2, item D requiring reports and recommendations be referred to the Governor and legislature for their consideration.

Yo Bestgen appeared in support of HB 2084 furnishing written testimony, (Attachment 5). Although endorsing the bill, she also recommended two changes; both changes involve adding additional members to the Commission--one more advocate (line 28) and one member representing the Kansas Planning Council on Developmental Disabilities Services.

Wendel Lewis testified and provided written testimony which included a fact sheet and a paper outlining the Kansas Planning Council on Developmental Disabilities Services goals, (Attachment 6). Mr. Lewis spoke of two concerns regarding this bill; the lack of a member of KPCDDS on the Commission and the duplication of services between KPCDDS and the Commission.

Janice Johnson testified and presented written testimony in favor of HB 2084 (Attachment 7). She reiterated the support of the Kansas State Nurses' Association and also her own feelings as both a nurse in the MR field and the mother of a handicapped child.

Wayne Wiannecki testified that both he and the Union he represents fully support HB 2084. He did suggest, however, that a change be made regarding the current employee representation provision; either modify that employee organization representation or add a certified employee organization. The latter would add three people to the Commission.

Questions were asked by committee members after each conferee testified.

Chair announced that we will work HB 2084 at our next meeting, Monday, February 18th and the gender bill on Tuesday, February 19th.

Meeting adjourned at 9:50 a.m.

HOUSE BILL NO. _____

By Representative Vancrum

AN ACT concerning certified public accountants; relating to referral of clients for professional investment advice; making certain acts unlawful; amending K.S.A. 1990 Supp. 1-316 and repealing the existing section.

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

Section 1. K.S.A. 1990 Supp. 1-316 is hereby amended to read as follows: 1-316. (a) It is unlawful for any person, except the holder of a valid permit issued under K.S.A. 1-310 or K.S.A. ~~1989~~ 1990 Supp. 1-320, and amendments thereto, or any partnership or professional corporation, unless it is registered under the provisions of K.S.A. 1-308, and amendments thereto, to affix or cause to be affixed the signature of any such person, partnership or professional corporation to any accounting or financial statement, to any opinion on, report on or certificate to any accounting or financial statement with any word indicating that such person or partnership, or its members, or professional corporation, or its officers or employees, are certified public accountants.

(b) It is unlawful for any person, except the holder of a valid Kansas certificate or the holder of a temporary permit issued under the laws of this state, to use or assume the title "certified public accountant" or to use the abbreviation "C.P.A." or any other title, designation, words, letters, abbreviation, sign, card, or device likely to be confused with "certified public accountant."

(c) (1) It is unlawful for any person who is the holder of a valid permit issued under K.S.A. 1-310 or K.S.A. 1990 Supp. 1-320, and amendments thereto, to receive compensation with respect to the referral of any client of the permit holder for

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professional investment advice to any other person unless:

(A) The compensation is paid pursuant to a written agreement to which the permit holder is a party and both the permit holder and the person paying the compensation have entered into the agreement before the referral is made; and

(B) the permit holder maintains in the principal office or place of business of the holder a copy of each written agreement required under subpart (A); and

(C) the compensation is paid to the permit holder by an investment advisor or is paid to a permit holder who is also a registered representative or is paid to the permit holder for the purpose of assisting clients in obtaining professional investment guidance; and

(D) the relationship between the permit holder and registered representative or investment advisor paying the compensation is disclosed in writing by means of a written disclosure statement and a copy of the written agreement between the permit holder and the person paying the compensation. Both the disclosure statement and the agreement shall be delivered to the client at the time of the referral and a copy of each written disclosure statement which is delivered to each such client shall be kept on file at the principal office or place of business of the permit holder; and

(E) The investment advisor or registered representative receives from the client, prior to, or at the time of, entering into any written investment advisory contract with such client, a signed and dated acknowledgment of receipt of the investment advisor's written disclosure statement and the written agreement with the permit holder required under subpart (A).

(2) The written agreement required to be furnished to the client pursuant to subpart (A) of provision (1) shall contain the following information:

(A) The name of the permit holder; and

(B) the name of the registered representative or investment advisor; and

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(C) the nature of the relationship, including any affiliation, between the permit holder and the registered representative or investment advisor; and

(D) a statement that the permit holder will be compensated for the holder's services in assisting the client find professional investment guidance; and

(E) the terms of the compensation arrangement, including a description of the compensation paid or to be paid to the permit holder.

(3) For the purposes of this subsection, the following definitions shall apply:

(A) "Investment advisor" means any person properly licensed under the federal investment company act of 1940.

(B) "Registered representative" means any person who is employed by or licensed under a broker dealer properly registered with the securities and exchange commission and licensed by the Kansas securities commissioner.

(4) Notwithstanding the foregoing provisions of this subsection, any permit holder who is in compliance with the provisions of the consent agreement between the federal trade commission and the A.I.C.P.A., as published in the federal register Vol. 54, No. 63 at page 13529 on April 4, 1989, shall be deemed to be in full compliance with the requirements of this subsection.

~~(e)~~ (d) Any person who violates any provision of this section shall be guilty of a misdemeanor, and upon conviction thereof, shall be subject to a fine of not more than \$500, or to imprisonment for not more than one year, or by both such fine and imprisonment.

Sec. 2. K.S.A. 1990 Supp. 1-316 is hereby repealed.

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

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State of Kansas

Joan Finney, Governor

Department of Health and Environment

Division of Health

Landon State Office Bldg., Topeka, KS 66612-1290

Stanley C. Grant, Ph.D., Acting Secretary

Reply to: _____

FAX (913) 296-6231

Testimony presented to
House Governmental Organization Committee

by

The Kansas Department of Health and Environment

House Bill 2084

The mission of the Division of Health, Kansas Department of Health and Environment (KDHE), is to protect and promote the health of Kansans through a variety of public health service delivery and regulatory programs. A number of these programs specifically address the areas of mental retardation and development disabilities. For this reason, representation by KDHE should be included in the formation of such a commission.

One program with a specific focus on developmental disabilities is the Kansas Infant-Toddler Program (PL 99-457, H). PL 99-457 is a federal law which is a 1986 amendment to PL 94-142, the Individuals with Disabilities Education Act (IDEA), formerly known as the Education of the Handicapped Act (EHA). This law extends special education and early intervention services to birth through five year old children. KDHE is designated by the Governor as the "lead agency" for the portion of the law, Part H, dealing with services to infants and toddlers (birth-two years of age) and their families. The Department of Education oversees the program for the 3-5 year olds. The Infant-Toddler program is administered under the umbrella of Services for Children with Special Health Care Needs (the State Crippled Children's program). It is designed to: enhance the development of handicapped infants and toddlers; decrease their potential for developing developmental delay; reduce the need for institutionalization, special education and related services when the child reaches school age; maximize the potential for independent living after eighteen years of age; and enhance the capacity of families to meet the special needs of their infant and toddler with handicaps.

The Infant-Toddler program is considered a model that fits within KDHE's overall focus and emphasis on health prevention activities. Specific to the area of mental retardation and developmental disabilities, KDHE has been an active participant over the last two years in a multi-agency/organizational effort to develop a State Plan for the Prevention of Developmental Disabilities. This document identifies KDHE as a "key player" in addressing primary and secondary prevention of mental retardation and developmental disabilities. This role is supported by the agency. The promotion of

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attachment 2*

Charles Konigsberg, Jr., M.D., M.P.H.
Director of Health
(913) 296-1343

James Power, P.E.
Director of Environment
(913) 296-1535

Lorne Phillips, Ph.D.
Director of Information
Systems
(913) 296-1415

Roger Carlson, Ph.D.
Director of the Kansas Health
and Environment Laboratory
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prevention efforts is consistent, as well, with the conclusion by the SRS Task Force Study, that increased efforts relative to the prevention of mental retardation and developmental disabilities is needed.

Finally, in addition to service programs which address mental retardation and developmental disabilities, KDHE has the regulatory responsibility for ICF-MRs. With institutionalization a major issue for this population, KDHE would contribute to the overall effectiveness of the commission.

Recommendation

The Department recommends that the committee amend House Bill No. 2084 to include the Secretary of Health and Environment or the Secretary's designee as a member of the Commission and report the bill favorably for passage.

Testimony presented by: Richard Morrissey
Deputy Director
Division of Health
February 12, 1991

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Hope through understanding

February 12, 1991

TO: Rep. Gary Blumenthal, Chairman
Members, Governmental Organization Committee

FROM: Lila Paslay, Chairperson
Legislative Affairs

RE: H.B. 2084

Today I am representing the members of the Association for Retarded Citizens of Kansas. The primary purpose of the association is to advocate on behalf of persons in Kansas with mental retardation. The association has a membership of approximately 5,000 individuals who belong to the 37 local ARC units across the state.

We are in support of H.B. 2084.

We believe that Kansas is in desperate need of coordination of ensuring that the planning for Kansans in need of services due to mental retardation/developmental disabilities have equal access to those services regardless of their level of need or where they reside.

The long history of planning and coordination in the state has not been good. There have been numerous state plans developed by task forces, committees and SRS staff. There has been difficulty in the past in communication between the parents/advocates, providers and SRS regarding the existing programs and the needed expansion. We believe a Governor's Commission on Mental Retardation can provide the forum for some assurance of appropriate and needed services being given the priority for decision making at the executive level.

There are policies in place which we believe are a deterrent to the provision of services in Kansas. A Commission would be the appropriate body to address those deterrents. It is often difficult to determine whether barriers to services are regulations developed by governmental agencies, policies developed by the state, or simply an oversight on the part of providers.

We believe the responsibilities assigned through H.B. 2084 could assist as we continue to work toward the provision of quality programs addressing the needs of all Kansans with mental retardation.

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To: Governmental Organization Committee
House of Representatives
Rep. Gary Blumenthal, Chr.

Date: Feb. 12, 1991

From: Ethel May Miller. (Mrs. Adrian)
Parent Advocate

Re: HB 2084

As a parent of a profoundly retarded, developmentally disabled, multi-handicapped 45 year old daughter, I appreciate having the opportunity of speaking in support of HB 2084 which would establish a Governor's Commission on Mental Retardation and other Developmental Disabilities. I am a charter member of the Topeka and Kansas Associations for Retarded Citizens and a past vice president of the ARC/United States. I also helped organize our Topeka Community Mental Retardation Center, and served as Exec. Director of that Center for 15 years. Our retarded daughter has resided at Winfield State Hospital and Training Center for over 40 years.

Since 1959 I have been privileged to serve on various state committees or commissions involving efforts to obtain services for those, who through no fault of their own, or their parents, happen to be mentally retarded/developmentally disabled. For some I was appointed by the Governor, (George Docking, John Anderson, Robert Docking, and John Carlin.) Others, by the the Secretary of SRS (Dr. Harder), or the Mental Health/Mental Retardation Commissioner. Most recently, from 1985-1990, I served on the Mental Health/Mental Retardation Commission, and supported the formation of the Mental Health Commission and Mental Health Reform Act which meant there was no longer a need for the old MH/MR Commission, as far as Mental Health services were concerned.

While most of us who have been at this all these years are weary of spending a great deal of time and effort on "long-range planning reports" (which end up on shelves somewhere), this is not to say we feel these and other commission tasks

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were wasted efforts by any means. If time permitted we could certainly testify as to the various developments that have come about because of the involvement of representative people from various aspects of mental retardation/ dev. dis. services working with various Governors, legislators, and state administrators. (Not without some frustrations, fears, and tears , but given voluntarily.)

We particularly welcome and support the duties as outlined in HB 2084 as we have learned that commissions that simply meet, without specific tasks, and individual involvement or responsibilities, end up being used primarily as sounding boards for various budget and funding problems.

We believe that commissions, to be truly effective, need to know that their reports and recommendations will be looked at by the Governor and legislators. I welcome the inclusion of such a requirement (to report) as in Sec. 2, item(d)

We have long felt that a priority need in Mental Retardation/ Dev. Dis. Services is to overcome the barriers and/or problems in bringing about the "coordinated and cooperative" development and implementation of needed services whereby state institutions and community programs are perceived as being of equal importance, rather than viewing one as more deserving of state legislative attention and assistance than the other.

We believe the establishment of a Governor's Commission as recommended via HB 2084 will certainly increase the possibilities of this and other goals actually being accomplished. WE urge your support of this bill.

Respectfully submitted,

Ethel May Miller

Ethel May Miller

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Kansas Association of Rehabilitation Facilities

Jayhawk Tower • 700 Jackson • Suite 802
Topeka, Kansas 66603 • 913-235-5103

TO: House Governmental Organization Committee
Rep. Gary Blumenthal, Chair

FROM: Yo Bestgen
Executive Director

RE: HB 2084; Governor's Commission on Mental Retardation and
other Developmental Disabilities

DATE: Feb. 12, 1991

My name is Yo Bestgen and I am the Executive Director of the Kansas Association of Rehabilitation Facilities. I represent forty-two community-based facilities that serve approximately 5,000 children and adults with mental retardation and developmental disabilities in Kansas. In addition community facilities have a waiting list of 1300 individuals desiring community services.

I am speaking in support of HB 2084, a bill to establish the Governor's Commission on Mental Retardation and other Developmental Disabilities.

It is the KARF's desire in supporting this Commission that the needs of people with MR/DD can be brought to a priority level by the Executive and Legislative branches of government. For too long issues for these individuals have been addressed through current practice and the convenience of available funding rather than with vision. It is time that the State direct its efforts to developing, not a plan, but an initiative towards a comprehensive system of services for those currently being served and the unserved citizenry in Kansas.

I would point out to you that this bill was proposed during the 1990 Legislative Session and was passed out favorably from the House Appropriations Committee. It was left on the House calendar due to lack of time at the end of last session.

I would ask that the members of this Committee take seriously the charge of such a Commission. I would request that you support HB 2084 and establish the Governor's Commission on Mental Retardation and other Developmental Disabilities.

I would offer two changes in the current bill. The changes are:

Line 28: Change from three to four members who are advocates.

Rationale: Family members have not been included in previous planning efforts and should be well represented on this Commission.

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ADD: One member that shall represent the Kansas Planning Council on Developmental Disabilities Services.

Rationale: The Kansas Planning Council plays an important role in supporting the planning efforts on behalf of the DD population. Their representation would serve as a support to the Commission's initiatives.

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KANSAS PLANNING COUNCIL

JOAN FINNEY
Governor

WENDELL LEWIS
Chairperson

JOHN KELLY
Executive Director

on | DEVELOPMENTAL DISABILITIES SERVICES

Tenth Floor West
Docking State Office Building
Topeka, Kansas 66612-1570
VOICE-TDD
(913) 296-2608

TESTIMONY

House Governmental Organization Committee

February 12, 1991

Chairperson Blumenthal, members of the House Governmental Organization Committee, thank you for the opportunity to speak to you today concerning House Bill 2084.

I am Wendell Lewis, and I represent the Kansas Planning Council on Developmental Disabilities Services (KPCDDS).

The KPCDDS is a 100% federally sponsored state agency whose overall mission is to improve the quality of life, maximize the potential, and assure the participation of persons with developmental disabilities in the privileges and freedoms available to all Kansans.

For your reference during my presentation, I have enclosed two documents which should help to clarify the role of the KPCDDS. The first is entitled "KPCDDS Role." It provides you the federal and state statutes which established the KPCDDS and identifies the powers and duties of this body. The second handout entitled, "Fact Sheet" provides you additional insight into the KPCDDS as well as brief summaries of some major projects we have funded which, as your other conferees would agree, have served to enhance the service delivery system in our state.

Our concern over the bill is twofold. First, the bill intends to identify by statute the advisory committee established by Al Nemec, former Commissioner of Mental Health and Retardation Services. Since its creation, the advisory committee included a KPCDDS member as part of its body. HB 2084, however, does not include a member of the KPCDDS as part of its membership. I would direct the Committee's attention to testimony presented by Commissioner Nemec last year under the bill's former number (HB 2578) in which he suggested the KPCDDS be included in membership.

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The second concern, and we believe one that is best addressed by this committee, is if enacted the bill would create a parallel body to the KPCDDS. Since the composition of the KPCDDS also includes many of the categories proposed by this bill, we could see a situation in which the Governor would be, in effect, appointing the same individuals to serve on similar governmental bodies. This, in itself, often happens but when in combination with some of the same duties set out by KPCDDS statutes, the duplication of effort is not a cost effective means to addressing the tremendous issues which confront and challenge persons with developmental disabilities.

Thank you for your consideration of these issues.

Wendell Lewis, Chairperson
KS Planning Council on
Developmental Disabilities Services
296-2608

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FACT SHEET

on the

KANSAS PLANNING COUNCIL ON DEVELOPMENTAL

DISABILITIES SERVICES

The Federal Developmental Disabilities Program began in Kansas in 1971. Since that time, the complexion of the Kansas Planning Council on Developmental Disabilities Services (KPCDDS) and the Program has changed to reflect the changes in the Federal legislation, as well as the philosophy of those in Kansas.

In 1979, Legislation was established to create the Kansas Planning Council on Developmental Disabilities as it exists today. This KPCDDS consists of fifteen members who are appointed by the Governor, and is chaired by a KPCDDS Member of the Governor's choosing.

The Kansas Planning Council on Developmental Disabilities Services' Mission is to improve the quality of life, maximize the potential, and assure the participation of persons with developmental disabilities in the privileges and freedoms available to all Kansans. The KPCDDS accomplishes this Mission by promoting coordinated planning and action among State Agencies, developing a State Plan, and monitoring and evaluating the Services Delivery System to citizens with developmental disabilities.

Many of the programs which come into the State affect only a small portion of the total needed services for persons with developmental disabilities. Persons with a developmental disability are the most severely and profoundly disabled citizens of Kansas. They comprise a vulnerable population which needs a series of lifelong services. The KPCDDS is the only Agency at the State and Federal level with the responsibility for the coordination and the planning which we hope will result in a Coordinated Service Provision to persons with developmental disabilities.

The strength of the KPCDDS, which allows this to work, is their independent nature of other programs. There are approximately nine Federal Programs which commonly provide services to persons with developmental disabilities. None of these programs, however, have the federal mandate which is placed on Developmental Disabilities Councils in each state. The KPCDDS, with its staff, is able from an external perspective to review and monitor the Services being provided, and to attempt to assure that these Services are coordinated among the various Agencies.

The Kansas Planning Council has a relatively small budget, compared to many of the Programs which they monitor and evaluate. The federal funds received into the State for FY 90 are \$552,939. These funds must be matched by either State or local dollars, which then expend our total budget to \$691,174. Since 1971, we have awarded 460 grants to community agencies, universities, and state agencies in Kansas.

The KPCDDS has chosen to provide a minimum amount for administration at the State level, and has had a maximum of one professional and one support staff throughout the years.

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Therefore, the majority of the funds has gone to the community where they must be matched by local funds. These funds are normally looked at as start-up funds. In the early years of the Program, these funds were used to offset the costs of starting up sheltered workshops and residential programs.

Although most areas of the State currently have some Services, there continues to be gaps and insufficient Services around the State. The current philosophy of the Council is to attempt to fill these gaps; also to pilot test better technology, identify better methods of providing the services, as well as fund innovative methods of service delivery.

Many exemplary programs in the State began with Federal DD funds awarded by the KPCDDS. Some examples of these are described briefly below:

Statewide Joint Projects: Two grants to the Kansas Association of Rehabilitation Facilities have allowed for smoother delivery of Services with less duplication in administration. The first was the Uniform Accounting System, which was developed jointly with the community rehabilitation facilities and the State Agencies involved which is in use today. The second grant funded the KFMIS as well as the current Kansas Rehabilitation Information System presently located within SRS.

Legal Advocacy Program: This was a grant to Kansas Legal Services in 1979, which allowed them to hire one Staff Attorney, whose responsibility was to become familiar with the developmentally disabled and the law. She in turn trained Legal Services staff throughout the State with the programs associated with persons with developmental disabilities. This program has continued through Kansas Legal Services' own budget.

Rural Service Delivery: Several grants to the Developmental Services of Northwest Kansas have allowed that the agency pilot test an Independent Living Project, an Integrated Community Education Project, One-to-One Advocacy Project as well as Teaching Family Model Homes in the twenty northwest rural counties of Kansas. All of these Programs have continued after the Federal DD grant support ended.

Special Projects and Recreation: A series of grants to the Kansas Association of Retarded Citizens established a Recreation and Special Project Program in the State. These programs consisted of a Tennis Tour, Rodeo for the Handicapped, Performing Arts and others.

Statewide Alcohol Awareness Program: A grant went to the Department of Health and Environment which in cooperation with Alcohol and Drug Services within SRS provided Fetal Alcohol Awareness programming and training throughout the State which continue today.

MR/DD Study: The Council recently provided a grant to the Kansas Association of Rehabilitation Facilities to assist in conducting a statewide survey that focused on the Mental Retardation/Developmental Disability situation in the State of Kansas. The purpose of the survey was a review of the State's MR/DD population-persons being served, those waiting for services, and those not being served-as well as the MR/DD service delivery system. This project is part of an effort to provide baseline data that will allow responsible planning for future service needs.

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HB 2300 Implementation: To assist in the implementation of HB 2300, which mandated the development of transition plans for students with disabilities who are exiting special education, a grant was provided by the KPCDDS to the University of Kansas to develop and conduct statewide training.

Screening ICFs/MR: The KPCDDS recently provided an award to Mental Health and Retardation Services to undertake a functional assessment screening of all ICFs-MR residents. Data to be used in establishing equitable reimbursement rates based on the level of severity of the residents.

State Hospital: The KPCDDS responded to the actual and threatened decertification of Winfield State Hospital and Training Center, Kansas Neurological Institute (Topeka) and other State and private ICF/MR facilities for noncompliance with an active treatment program; provided funding to develop field test and implement a formal active treatment training program (QMRP). The training continues today and provides staff training to QMRP's, program managers, interdisciplinary teams and administrators in skills necessary to achieve active treatment in all Kansas ICF/MR Title XIX facilities.

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KPCDDS ROLE

PROGRAM EXPLANATION:

The Kansas Planning Council on Developmental Disabilities Services (KPCDDS) is a 100% federally sponsored State planning program whose overall purpose is to advocate for persons with developmental disabilities to receive the services and other assistance they need to achieve independence, productivity, and integration into the community.

STATUTORY HISTORY:

The KPCDDS receives direction from state statutes and is mandated by federal statute to perform specific duties and functions, some of which will be described below.

State Statutes:

The KPCDDS was established in 1974 under statutes 74-5501 through 74-5505 as the State Planning and Advisory Council of Developmental Disabilities Services.

Until K.S.A. 74-5505 was amended in 1975, members of the KPCDDS served without compensation. This amendment provided for reimbursement for KPCDDS members' mileage, lodging and subsistence incurred to attend KPCDDS meetings. In 1979, the State Planning and Advisory Council of Developmental Disabilities Services was abolished by K.S.A. 1979 Supp. 74-5501. This amendment removed the term "Advisory" from KPCDDS's name, designated the Division of Mental Health and Retardation Services to receive and administer funds for the developmental disability program, mandated an annual appointment of a chairperson as a function of the Governor and reduced the size of the KPCDDS from thirty-two to fifteen members.

K.S.A. 74-5502 et seq. define the powers and duties of the KPCDDS as follows:

- (a) The state planning council shall:
 - (1) Study the problems of prevention, education, rehabilitation and other programs affecting the general welfare of the developmentally disabled.
 - (2) Monitor, review and evaluate, at least annually, the implementation of the state plan for developmental disabilities.
 - (3) Review and comment, to the maximum extent feasible, on all state plans in the state which relate to programs affecting persons with developmental disabilities.
 - (4) Submit to the Secretary of Health, Education and Welfare, through the Governor, such periodic reports on its activities as the Secretary of Health, Education and Welfare finds necessary to verify such reports. In accordance with federal laws, the state plan for developmental disabilities shall be prepared jointly by the Division of Mental Health and Retardation Services of the Department of Social and Rehabilitation Services and the State Planning Council.
 - (5) Study the various state programs for the developmentally disabled and shall have the coordination and improvements of such programs.
- (b) The Council may make proposed legislative recommendations having as a function the more efficient, economic and effective realization of intent, purpose and goal of the various programs for the developmentally disabled.

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Federal Statutes:

The Developmental Disabilities Services and Facilities Construction Amendments of 1970, P.L. 91-517, constituted the first congressional effort to address the needs of a group of persons with handicaps designated as developmentally disabled. P.L. 91-517 amended the Mental Retardation Facilities and Community Health Centers Construction Act of 1963. The 1970 amendments defined developmental disability to include persons with mental retardation, cerebral palsy, epilepsy, and other neurological conditions closely related to mental retardation which originate prior to age 18 and constitute a substantial handicap.

The 1970 amendments authorized State allotments for planning, services and construction of facilities for persons with developmental disabilities. A State plan was required which designated a State planning and advisory council. The State plan was to describe the quality and extent of services available.

In 1975 the Developmentally Disabled Assistance and Bill of Rights Act, P.L. 94-103, required that a protection and advocacy program be established in each state as a condition to receive funds to continue a State Planning Council.

The 1975 Amendments added the "Rights of the Developmentally Disabled," which included congressional findings such as the right to appropriate treatment and services designed to maximize individual potential. Also added was a requirement that all persons served through State Planning Council funds have in effect a written habilitation plan which states long-term habilitation goals, intermediate objectives, and a plan for service delivery.

In 1978 Title V of P.L. 95-602 amended the Act by authorizing a revised definition for the term developmental disability. A major provision deleted all references to specific handicapping conditions and established a definition based on functional limitations. The 1978 amendments established four priority service areas for expenditures and required that at least 65 percent of the annual allotment be for direct services.

Public Law 97-35, the Omnibus Budget Reconciliation Act of 1981, provided authorization for the developmental disabilities programs for FY 1983 and FY 1984 and repealed a requirement for individual evaluations of persons served under the Act.

The Developmental Disabilities Act of 1984, P.L. 98-527, added a statement of purpose to the Act which specifies that state Planning Councils are to help assure that persons with developmental disabilities achieve their maximum potential through increased independence, productivity, and integration into the community. Membership on State Planning Councils was amended to include representatives of the State agencies that administer the Rehabilitation Act, the Education of the Handicapped Act, and Title XIX of the Social Security Act.

Public Law 100-146, amending the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, retains the State Planning Councils as an advocate for persons with developmental disabilities. The law includes the following changes. First, the Act adds the State agency that administers funds provided under the Older Americans Act to the list of State agencies which must be included in the membership of State Planning Councils. Second, the provision that at least one member of each State Planning Council must be an immediate relative or guardian of a previously

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institutionalized person with a developmental disability. Third, the scope of authority of the State Planning Councils was clarified. Provisions enabled State Planning Councils to prepare and approve its budget and to use funds to hire such staff and obtain the services of such personnel, as it determines to be necessary to carry out its functions. Fourth, clarifies the role of State Planning Council personnel in relation to its administering agency by providing that staff and consultants are responsible solely for assisting the State Planning Council and not to be assigned duties by the administering agency or any other agency or office in the State.

The Developmental Disabilities Assistance and Bill of Rights Act of 1990, Public Law 101-496, clarified that the State Planning Council is to be a "conflict-free systems advocate" in order to implement statutory mandates. Provides that after October 1, 1990, the Planning Council may issue a request for a review of the designation of the designated state agency by the Governor. Added systems coordination and community education activities as a new priority area activity. Limited the role of the designated State agency. Added program policies and particular programs. Requires study of whether programs develop and pursue interagency initiatives. Allows for updating State Planning Council's 1990 Report and requires assessment of progress. Revises previous language that the State Plan is developed "jointly with" the designated State agency with "in consultation with." Provides State Planning Councils authority over their budget to fund all activities as the State Planning Council determines to be necessary. Clarifies that the Director of the State Planning Council shall hire, supervise, and evaluate the staff of the State Planning Council.

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H.B. 2084 CREATION OF THE GOVERNOR'S COMMISSION ON MENTAL RETARDATION

Chairman Blumenthal and members of the Governmental Organization Committee, my name is Janice Johnson and I am a Registered Nurse. Since 1973 my clinical practice has been with mentally retarded clients. Prior to becoming an R.N. in 1981, I was a direct care worker. Today, I am here on behalf of the Kansas State Nurses' Association. I also am the mother of a handicapped child and have been a foster parent for the Kansas Children's Service League since 1979. My foster children have all been developmentally or physically disabled.

The Kansas State Nurses' Association is supporting H.B. 2084, the creation of a the Governor's Commission on Mental Retardation. We believe that the work of the Commission, as prescribed in Section 2 of the bill would provide invaluable information and continuous dialogue regarding the facilities and programs for the mentally retarded in our state. The broad representation identified on the Commission would provide diversity in interests and expertise, and assist in guiding the Commission in their given responsibilities.

In all systems, new and old there are opportunities for change. Change that will benefit those served by the system. As nurses, working with the mentally retarded we acknowledge that there are areas that can be improved upon, some of these are:

Increased education and facilitation in the processing and placement of M.R. clients in the community. We would encourage greater emphasis on "pre-placement" planning to precede institution to community transition.

Advocating for those who have special needs, that family or guardians have limited knowledgeable. This may include, but is not limited to physical conditions that are slow to progress (Huntington's Chorea, Hunters or Hurlers Syndrome).

Additionally, we see the Commission as a structured system for identification and implementation of problems in programming and follow-through, a quality assurance mechanism for M.R. services, and the clients they serve.

We urge this committee to support H.B. 2084 and we welcome the opportunity to work with the Commission to improve M.R. services on behalf of our clients in the state.

Thank you for this opportunity to speak to the Committee and your time this morning.

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