Approved 2-19-92
Date

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Carol H. Sader
Chairperson
at

1:30 ~~a.m.~~/p.m. on February 5, 1992 in room 423-S of the Capitol.

All members were present except:

Rep. Tom Bishop, excused

Committee staff present:
Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee secretary

Conferees appearing before the committee:

Pat Johnson, Executive Director, State Board of Nursing
Representative Gene Amos
Steve Wilkinson, President & CEO of St. Catherine's Hospital, Garden City, Kansas.
Terri Roberts, Kansas Nurses Association
Elizabeth Taylor, Federation of Licensed Practical Nurses
Mary Wolf, Kansas Organization of Nurse Executives
Cheryl DeBrot, Kansas Respiratory Society

Chair called meeting to order and made announcements. There will be a revised version of the current agenda. Chair requested members to please call her office if they plan not to attend Committee meeting if they wish to be recorded as excused. Otherwise, they will be recorded as absent.

Chair recognized Ms. Correll who had provided a hand-out (Attachment No. 1). This information was requested by some members of Committee when the eligibility cap was discussed. This information is about the appeals process. Ms. Correll explained the forms, giving an example of an appealable situation noting one cannot expect to have a hearing for an appeal because they don't like the amount of the cap.

Chair suggested members look over this information carefully as it may be helpful when the bill is considered later in Committee. Chair then drew attention to the scheduled agenda and asked for bill requests.

Pat Johnson, State Board of Nursing, offered hand-outs on drafts of Bills the Board recommends this Committee introduce. She detailed each draft separately. (Attachment No. 2) would replace **HB 2530** that was introduced in the 1991 Session, and it relates to the delegation of duties by nurses. (Attachment No. 3) is basically to set caps on fees; provide for temporary permits and some changes in reference to nurse anesthetists and advanced registered nurse practitioners. She answered questions.

Rep. Amos moved to have Committee introduce both Bill drafts offered by the Kansas Board of Nursing, seconded by Rep. Hackler. No discussion. Motion carried.

Rep. Amos stated he and Mr. Furse both attended a coroner's meeting in Wichita in December when discussions took place that would bring the coroner's laws up to date with new legislation being proposed by this group. This legislation would update the law on coroner's jury; increase fees where needed; provide that the coroner's salary would be established by the judges under which the coroner serves.

Rep. Scott moved to introduce this request as a Committee Bill, seconded by Rep. Wiard. No discussion. Vote taken. Motion carried.

Chair indicated there would be another opportunity next Wednesday for further Bill requests.

Chair drew attention to **HB 2710** and invited staff to give a briefing. Chair indicated to members that Committee would be working from the long form provided by staff.

BRIEFING ON HB 2710.

A hand-out was distributed (Attachment No. 4), a **SUBSTITUTE FOR HB 2710.**

Ms. Correll gave background information on the original **HB 2710,** noting that after the bill was introduced, staff members, members of the Hospital Association, and staff from the Department of Health/Environment met to work out technical issues and concerns from all parties, resulting in the **SUBSTITUTE HB 2710.**

Ms. Correll highlighted some technical changes; clarification language that has been inserted; detailed a definition of hospitals. She answered questions.

HEARINGS BEGAN ON SUBSTITUTE HB 2710.

Steve Wilkinson, President/CEO of St. Catherine Hospital in Garden City, Kansas and also Chair of EACH Technical Advisory Group (TAG) offered hand-out (Attachment No. 5). He noted the TAG was formed by the original partners in the EACH project, i.e., the Kansas Department of Health/Environment; Kansas Hospital Association; Board of Emergency Medical Services. The TAG is made up of over 30 people representing a broad spectrum of groups including hospitals, physicians, nurses, mid-level practitioners, local emergency medical services representatives, individuals from small communities and state government, Wesley Foundation, and consultants. He gave background information of the work done thus far by TAG. He outlined seven issues that needed to be addressed in legislation.

1) Mechanisms need to be codified enabling the establishment of formal rural health networks as described in the model created by the Kansas EACH project and allowing the designation, upon application under law, of licensed rural primary care hospitals administered by the Department of Health/Environment.

2) Terms needing definition including Essential Access Community Hospital, (EACH); Rural Primary Care Hospsital (RPCH); Supporting Hospital; Rural Health Network; member other than above, and finally, Mid-level Practitioner.

3) RPCHs need authority to employ physicians in order to fully realize Medicare reimbursement and improve the RPCHs ability to recruit physicians and other health personnel.

4) Rural health care networks and members need the authority to contract with qualified entity to administer or provide services.

5) Mechanisms need to be in place that establish the process of forming rural health networks as an open process and the process of designating EACHs and RPCHs as one available to any Kansas facility meeting state and federal requirements.

6) Sharing the immunity, under the peer review statutes, by members of a rural health network needs to be clarified.

7) The program needs to be statutorily identified as a state program to help assure exemption from federal anti-trust regulations.

Mr. Wilkinson urged passage of **SUBSTITUTE HB 2710.** He answered questions.

Mr. Wilkinson then drew attention to a balloon of **SUB. HB 2710** (Attachment No.6), a recommended amendment on page 3 line 6, to insert "professional" after "continuous licensed", and further to amend on line 9 after the word "patients" to add, "unless an exemption is granted by the licensing agency pursuant to rules and regulations".

There were no questions on this suggested recommendation by Mr. Wilkinson to amend **SUB HB 2710.**

Terri Roberts, Kansas Nurses Association (Attachment No. 7) noted the **SUBSTITUTE HB 2710** includes issues/decisions made by the TAG for the implementation of EACH/RPCH program. Most of these issues have been laboriously debated, some reconciliations made in order to effect this program. It is the belief of many that these demonstration models will provide citizens of Kansas with health care opportunities that otherwise may not be available to them in their home communities. There still are barriers, i.e., consumer education, provider and insurance carrier education; provider territorial turf issues. Turf issues for nurses include the degree of supervision and collaboration by physicians of ARNP's as well as staffing patterns for the RPCH's of the future. Kansas State Nurses Association does support **SUBSTITUTE HB 2710** as introduced today in the spirit of moving this project forward, knowing there will be problems encountered with the statutes, but it is hoped these can be reviewed, and revised in order to implement this program. She answered numerous questions.

Elizabeth Taylor, Federation of Licensed Practical Nurses, (no attachment), noted they had not seen the changes proposed on page 3, line 6, in **SUB. HB 2710** until a few minutes ago. She stated they have no opposition to that language. She stated further that licensed practical nurses feel that as changes take place in offering medical services, we must all realize there will be changes in how services will be provided. The licensed practical nurses would like some consideration from this committee in allowing health care providers to provide those services for which they are trained, under the supervision of a registered nurse, of course.

Pat Johnson, Executive Director, State Board of Nursing offered hand-out (Attachment No. 8). She drew attention to a concern of the Board, i.e., on page 5, lines 5-9 and noted that the language has been modified somewhat, but the intent is the same. The Board is concerned with the provision that 24-hour continuous nursing services may be provided by either a registered or licensed practical nurse. The Board believes that public safety may be in question if the nursing services are provided only by licensed practical nurses, even if a registered professional nurse is on call. She expressed further concerns in regard to incongruities as to different types of facilities; patient emergencies may occur at any time when a facility is open and the skills available would not be equal to that of the registered professional nurse, which could result in having an adverse impact on the patient. The Board believes that services should be provided on a continuous 24-hour basis by a registered professional nurse. The Board opposes language in the Bill which allows either practical or registered professional nurse. Any new language proposed should specifically spell out nursing care requirements and not leave it up to individual interpretation. She asked that these concerns be given consideration by the Committee when they deliberate **SUB. HB 2710.** Ms. Johnson answered questions.

Mary Wolf, Chairperson of Kansas Nurses Executives offered support of EACH/RPCH in **SUBSTITUTE HB 2710.** (no attachment) Their organization supports all the changes recommended thus far. This legislation will assure flexibility and diverse, continued health care for all of Kansas. It is the intent of the Kansas Nurses Executives (KNOE) to have registered nurse coverage for care in these facilities, but feels flexibility is also necessary.

Cheryl DeBrot, Kansas Respiratory Care Society gave hand-out (Attachment No. 9). She expressed support of **SUB HB 2710** and noted respiratory care practitioners are involved in the care of all ages of individuals and often are the first members of a health care team to care for trauma victims and to respond to cardiopulmonary arrest victims. She urged Committee to add language in **SUB HB 2710** in sec. 7 (d) on page 3 and also in sec. 10 (b) on page 11, "registered respiratory care practitioner". She noted the change in language proposed comes from page numbers of the original bill, so she is aware the page numbers and location will appear in different form in the substitute version. She answered questions.

Chair invited Mr. Morrissey to make comments if he wished to do so.

Mr. Morrissey gave background on the proposed amendment suggested by Mr. Wilkinson. He noted this recommendation has been the work of many, many sessions among all the interested parties, and the form presented today to Committee members was finalized just yesterday, (February 4, 1992). This issue arises because of the obvious staffing concerns. There has been a great deal of discussion on both sides with the need to balance concerns about shortage/flexibility with concerns of quality care for patients. How to do all that is what this dedicated group has tried to arrive at with the language recommended in the balloon.

Chair noted, perhaps tomorrow Committee will discuss both **HB 2695** and **SUB. HB 2710.**

Chair adjourned the meeting at 3:10 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date Feb. 5, 1992

Name	Organization	Address
Pat Johnson	Board of Nursing	Topeka
Mary Wolf	KONE	711 Bond Wamego, KS.
ELIZABETH E TAYLOR	FED. OF LICENSED PRAC NURSES	TOPEKA
Gary Robbins	Ks Opt ASSN	Topeka
[illegible]	KS MEDICAL SOCIETY	TOPEKA
Terri Roberts	KSNA	Topeka
Sharon Huffman	KCDC	Topeka
C.T. McCracken	Ness Co. Hospital - T.A.G.	Ness City
Linda Lattin	KHA	Topeka
[illegible]	KSNE	Tyler
[illegible]	CKFO	Holton
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	TOPEKA
[illegible]	Ks Assn Prof Psychologist	Tyler
[illegible]	KS CSR Board	KC
Dorothy Hunt	SRS	Topeka
Tom Bell	KHA	Topeka
[illegible]	Manhattan KFB	Manhattan
HAROLD KIENOW	KAOM	TOPEKA
Robert R Williams	Ks. Pharmacists Assoc.	Topeka
Roger Buckwood	AARP-CCTF	Topeka
Wendell Strong	AARP - CCTF	Topeka

1. RIGHT TO REQUEST A FAIR HEARING

You have the right to ask for a fair hearing if you do not agree with a decision we made on your case. At the hearing, you can explain why you do not agree. A household member, lawyer, friend, relative, or any other person you want can speak for you at the hearing. **For cash or medical assistance,** you have the right to a hearing if we receive your request in writing within 30 days of the date of this notice. If we receive your written request before the date the decision becomes effective, your assistance may continue at the current level while a hearing decision is being made. **For food stamps,** you can ask for a fair hearing any time within 90 days of the date of this notice. You may ask for the hearing in writing, in person, or by calling your local SRS office. If we receive your request within 10 days of this notice, your food stamps may continue at the current level while a hearing decision is being made unless your food stamps are ending this month or you did not return a completed monthly report form. You may call 913-296-3349 in Topeka, Kansas, to find out if your community has a service that can give you free legal advice. **For all assistance programs,** any benefits you receive while waiting on the hearing decision may be recovered if the decision is not in your favor.

2. CIVIL RIGHTS PROVISION

No person shall, on the basis of age, race, color, sex, handicap, religious creed, national origin, or political belief, be excluded from participation in, be denied the benefits of, or be subject to discrimination under any program or activity of the State Department of Social and Rehabilitation Services (SRS).

If you feel you have been discriminated against on the above grounds, you may make a complaint in writing to SRS; or, for cash and medical assistance, to the Department of Health and Human Services; and, for food stamps, to the U.S. Department of Agriculture, Washington, D.C.

3. PENALTY FOR FRAUD

Anyone who obtains, attempts to obtain, or aids any other person to obtain assistance by means of a willfully false statement or misrepresentation or other fraudulent device, may be subject to a fine or imprisonment (or both), and any overpayments received will be subject to recovery.

Persons found guilty of obtaining benefits for which they are not entitled will be barred from participation in the cash and food stamp programs for 6 months upon the first violation, 12 months after the second violation, and permanently after the third violation.

4. OVERPAYMENTS

All overpayments, regardless of the reason for the overpayment, are subject to recovery. Benefits may be reduced as one method of administrative recovery.

5. INCORRECT ADDRESS

If assistance benefits are sent to your old address, the Post Office WILL NOT forward them to your new address. All changes of address must be reported immediately to your worker at the local SRS office so that benefits may be REMAILED to the correct address.

6. REPORTING CHANGES

Households Required to Monthly Report: If you have been told that you are a monthly reporting household, you will receive a monthly report form EACH month that you must return to the local SRS office by the 5th of the month. You must report all of your household's income, expenses, and anticipated changes from the preceding month. If you do not return the form by the 5th of each month, your assistance case(s) will be closed. You must enclose all required verification with the monthly report form. For food stamp purposes, if the form or verification is provided by the end of the next month, your case may be reinstated with your eligibility determined or the verified deduction considered in determining your benefit amount. For cash assistance purposes, in addition to the monthly reporting requirement, you must also report changes that might affect your eligibility or amount of assistance within 10 calendar days of the change. Examples of changes to report are: a new job or change of jobs; a new address; a 16, 17 or 18 year old child who quits school; the return of an absent parent; a change of name; a new Social Security number; any money received; any real property bought, inherited, or sold; or any person entering or leaving your home.

Households NOT Required to Monthly Report: For all assistance programs, households not required to complete a monthly report form are required to report changes that might affect eligibility or amount of assistance within 10 calendar days of the change (see above for examples of changes to report). For food stamp purposes, any changes of more than $25 in your income, changes in your source of income, or changes in the number of people in your household must be reported. You must also report changes in your resources: such as cash on hand, bank accounts, vehicles, etc. These changes are to be reported on the Change Report Form, by telephone, in person, or through an authorized representative.

7. CATEGORICAL ELIGIBILITY FOR FOOD STAMPS

Households in which all members receive or are authorized to receive Aid to Families with Dependent Children (AFDC) and/or Supplemental Security Income (SSI) may be considered categorically eligible for food stamps because of their status as AFDC and/or SSI recipients. If all members of your household are approved for AFDC and/or SSI benefits, you should ask your local SRS office about the possibility of categorical eligibility for food stamps.

8. MEDICAL INSURANCE

If you have health or accident insurance, you and the provider of service (doctor, hospital, etc.) will be expected to collect and apply to the cost of your medical care any payment due from the insurance. The Medical Program will not pay for costs exceeding the SRS established rate for that service. You must keep your local SRS office informed of your current health insurance coverage and any changes in it. You must also advise the local SRS office of any accidents or injury you suffer if there is a possibility that you may receive a settlement for it.

9. WORK PROGRAMS

If you are eligible for cash assistance or food stamps and are not participating in work program activities, you may volunteer to do so. Work program activities which may include work experience, job search activities, and basic education or job training are subject to availability in your area. If you wish to volunteer or have any questions regarding this program, please contact the local SRS office.

10. COMPUTER MATCHING

SRS receives information as a result of computer matching with other state and federal agencies which may be used to reduce, change, or terminate assistance benefits. Information received through computer matching includes benefit and earnings information from Social Security, Unemployment Compensation and work records from Employment Security, and income records from the Internal Revenue Service (IRS).

BACK OF ALL NOTICES

Pkwl attm #1. 2-5-92

1500 FAIR HEARINGS - (CASH AND MEDICAL ASSISTANCE)

Any person who is an applicant, recipient, inmate, other interested person, or taxpayer may request a fair hearing regarding the decision or final action of any agency or employee of the Department of Social and Rehabilitation Services. The Administrative Hearings Section shall administer the agency's fair hearing program pursuant to the Kansas Administrative Procedure Act (K.S.A. 77-501 et seq.).

30-7-67 30-7-68(a) 30-7-66(a) Unless preempted by federal law, a request for a fair hearing shall be in writing and received by the agency within 33 days from the date the notice of action is mailed. When a request for a fair hearing is received prior to the effective date of action as prescribed in 1512.2, assistance may be continued.

Such request may relate to an applicant's request for cash or medical assistance which is denied, or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by any agency action resulting in suspension, reduction, discontinuance, or termination of assistance, or determination that a protective, vendor, or two-party payment should be made or continued.

1510 Fair Hearings for Applicant/Recipient - Fair hearing procedures should not eliminate procedures of local offices to attempt to make adequate explanations of actions taken and to attempt to resolve such misunderstandings and controversies as may be more quickly and satisfactorily resolved by local office communication and actions. If the applicant or recipient remains dissatisfied, after such attempts, his right to request a fair hearing shall continue. Should the client decide to withdraw his request after adequate explanation or corrective action, such withdrawal shall be submitted to the Administrative Hearings Section on the Notice of Withdrawal of Appeal form.

1511 Client's Rights Related to a Fair Hearing - The client or the client's representative shall have adequate opportunity to:

(1) Complete a Request for a Fair Hearing form (AH-1105) regarding any agency action. However, a hearing need not be granted if the request concerns only the validity of federal or state law or regulation. In addition, a hearing need not be granted when either state or federal law requires automatic adjustments for classes of recipients unless the reason for an individual appeal is incorrect computation. (See 1512.)

30-7-69 (2) Examine the contents of his case file and all documents and records to be used by the agency at the hearing at a

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reasonable time before the date of the hearing as well as during the hearing.

(3) At his option, present his case himself, or with the aid of an authorized representative, and bring witnesses.

(4) Establish all pertinent facts and circumstances and advance any pertinent arguments without undue interference.

(5) Question or refute any testimony or evidence, including opportunity to confront and cross-examine adverse witnesses.

30-7-70

1512 Responsibilities of the Local Office - Every applicant/recipient shall be informed in writing at the time of application and at the time of any subsequent action affecting cash or medical assistance of the right to a fair hearing, the method of obtaining such hearing, and that representation may be by an authorized representative such as legal counsel, relative, friend, or other spokesperson. Information printed on the application/redetermination form and notices of action will provide this information.

The procedures set forth below shall be followed whenever a client makes an inquiry concerning a fair hearing, asks for fair hearing forms, or files a request for a fair hearing.

(1) The worker or supervisor should find out why the client is questioning the agency action.

(2) If the client is only disagreeing with a federal or state law or policy, the reason for such policy should be discussed with the client.

(3) If the client appears to be questioning the application of a federal or state law or policy to his individual situation (incorrect grant computation or use of incorrect facts), an administrative review shall be conducted to determine if the agency action was correct. Upon reconsideration, the agency may amend or change its decision at any time before or during the hearing. The hearing shall not be delayed or cancelled because of this preliminary review.

If a satisfactory adjustment is reached prior to the hearing, the agency shall submit a written report to the hearing officer but the appeal shall remain pending until the client submits a signed written statement withdrawing the request for a fair hearing.

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(4) If the client is questioning the decision regarding disability and the decision was made related to an SSI or SSA application for benefits, the client is to be referred to the SSA office to file an appeal. See 2610.

(5) If the client is questioning the decision regarding disability and the decision was made by Disability Determination and Referral Services (DDRS) based on an SRS request via the DD-1104 and DD-1105, the appeal will be processed through the Administrative Hearings Section as specified in 1512.1.

1512.1 Completion of Summary - Within 15 days after the appellant has filed a request for a fair hearing the agency shall furnish the appellant and the Administrative Hearings Section with a summary setting forth the following information:

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(1) Name and address of the appellant;

(2) a summary statement concerning why the appellant is filing a request for a fair hearing;

(3) a brief chronological summary of the agency's action in relationship to the appellant's request for a fair hearing;

(4) a statement of the basis for the agency's decision;

(5) a citation of the applicable policies relied upon by the agency;

(6) a copy of the notice which notified the appellant of the decision in question;

(7) applicable correspondence; and

(8) the name and title of the person or persons who will represent the agency at the hearing.

Appeals of a DDRS disability decision should include copies of the medical information and forms (the original DD-1104 and 1105) that were received from DDRS related to the appeal and any additional medical or social information that has become available that would have bearing on the decision. In addition, two new DD-1103s are to be signed and included along with a new DD-1104 marked "for reconsideration purposes." Disability appeals should be routed to the Administrative

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Hearings Section clearly identified as DDRS appeal cases. Such cases will be resubmitted to DDRS for reconsideration and review. If the case is approved for disability upon this re-evaluation, it will be returned to the local office for approval of assistance. If the DDRS decision remains negative, a fair hearing will be scheduled and conducted.

1512.2 Continuation of Assistance - If a written request for a fair hearing request is received prior to the effective date of action, assistance shall not be suspended, reduced, discontinued, or terminated (but is subject to recovery by the agency if its action is sustained), until decision is rendered after a hearing, unless:

(1) A determination is made at the hearing by the hearing officer that the sole issue is one of state or federal law or regulation, or change in state or federal law and not one of incorrect application of a policy (when appropriate, local SRS staff should raise this issue in the hearing in order for the referee to render a decision);

(2) A change (except the matter under appeal) affecting the recipient's assistance occurs while the fair hearing decision is pending and the recipient fails to request a hearing after notice of the change; or

(3) The request for a fair hearing concerns a discontinued program or service.

Assistance shall also be continued at its prior level if the client or the agency requests a review by the State Appeals Committee. (See 1514.)

In any case where action was taken without timely notice, if the recipient requests a hearing within 10 days of the mailing of the notice of action, and the agency determines that the action resulted from other than the application of state or federal law or policy or a change in state or federal law, assistance shall be reinstated and continued until a decision is rendered in the matter as set forth in items 1 through 3 above.

1512.3 Informing the Client of Termination of Assistance - The agency shall promptly inform the client in writing if assistance is to be terminated pending the fair hearing decision.

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1513 Place and Conduct of Fair Hearings - Fair hearings for applicants or recipients shall be held in the social and rehabilitation services' administrative area in which the applicant or recipient resides unless another site has been designated by the hearing officer.

The hearing officer may conduct the fair hearing or any prehearing by telephone or other electronic means if each participant in the hearing or prehearing has an opportunity to participate in the entire proceeding while the proceeding is taking place. A party may be granted a face to face hearing or prehearing if good cause can be shown that a fair and impartial hearing or prehearing could not be conducted by telephone or other electronic means.

At a hearing, the hearing officer shall regulate the course of the proceedings. To the extent necessary for full disclosure of all relevant facts and issues, the hearing officer shall provide all parties the opportunity to respond, present evidence and argument, conduct cross-examination and submit rebuttal evidence, except as restricted by a limited grant of intervention or by a prehearing order.

The hearing officer may, and when required by statute shall, give nonparties an opportunity to present oral or written statements. If the hearing officer proposes to consider a statement by a nonparty, the hearing officer shall give all parties an opportunity to challenge or rebut it and, on motion of any party, the hearing officer shall require the statement to be given under oath or affirmation.

A hearing officer need not be bound by technical rules of evidence, but shall give the parties reasonable opportunity to be heard and to present evidence. Evidence need not be excluded solely because it is heresay.

All testimony of parties and witnesses shall be made under oath or affirmation. Statements of nonparties may be received as evidence.

Any part of the evidence may be received in written form if doing so will expedite the hearing without substantial prejudice to the interests of any party. Documentary evidence may be received in the form of a copy or excerpt. Upon request, parties shall be given an opportunity to compare the copy with the original if available.

The hearing officer may not communicate, directly or indirectly, regarding any issue in the proceeding while the proceeding is

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pending, with any party or participant, with any person who has a direct or indirect interest in the outcome of the proceeding or with any person who presided at a previous stage of the proceeding, without notice and opportunity for all parties to participate in the communication.

1514 Fair Hearing Decision and Request for Review - A fair hearing decision shall be rendered by the hearing officer no later than 90 days after receipt of the fair hearing request on an AH-1105 and the decision shall be sent to the client and the local office.

The client/respondent shall be informed of his right to have the State Appeals Committee review the decision of the hearing officer and also his right to request a fair hearing regarding that decision to the District Court. A request to the State Appeals Committee must be made within 18 days of the date of the fair hearing decision. The client/respondent may also have the right to request a re-hearing in order to submit additional information or evidence. This request must also be made within 18 days of the date of the fair hearing decision.

Assistance shall be continued at its prior level if the client or the agency requests a review by the State Appeals Committee. Assistance shall continue until a decision is rendered by the State Appeals Committee.

The decision of the Appeals Committee is final and binding upon the client and the agency on the date of the decision. This is true even if one of the parties should appeal the matter to the District Court. Assistance shall not continue at its prior level following the decision of the State Appeals Committee unless there is a court order to the contrary.

1515 Local Office Actions Following Fair Hearing Decisions - The decision of the hearing officer shall be implemented immediately upon receipt (including decisions related to disability) if the decision is favorable to the client and the agency does not intend to request a review by the State Appeals Committee. A report of such action shall be submitted to the Administrative Hearings Section. If the agency requests such a review, the decision shall not be implemented until a final decision by the State Appeals Committee has been rendered. Also, if the decision is unfavorable to the client, the decision shall not be implemented until the 18th day following the date of the mailing of the initial decision to allow the client the opportunity to request a review by the State Appeals Committee. If a request is made within the 18 day period, the decision shall not be implemented.

1515.1 Retroactive Payments - When the hearing decision is favorable to the client, or when the agency decides in favor of the client prior to the hearing, the agency shall promptly make corrective payments. (See Disposition of Incorrect Benefits, 1310.). For procedures regarding retroactive medical payments, refer to the Medical Services Manual.

1515.2 Recovery of Overpayments - When the hearing decision upholds agency action, any overpayment made during the fair hearing process is subject to recovery.

1520 Fair Hearings for Other Interested Persons - Other persons also have the right to challenge agency decisions or actions in which they may be interested or affected. Such hearings shall be processed and conducted in a manner similar to fair hearings for applicants/recipients. Procedures outlined in 1510 are applicable except that all such hearings will be held in Topeka.

1530 Fair Hearings Concerning Spousal Impoverishment Policies - Under the federal spousal impoverishment law as described in 3250 and 3485, the community or institutionalized spouse is entitled to a fair hearing if dissatisfied with the determination of:

(1) The community spouse income allowance (see 3485.2);

(2) the amount of monthly income otherwise available to the community spouse;

(3) the computation of the 1/2 share of resources (see 3250);

(4) the attribution of resources for the initial eligibility test (see 3200 (10)); or

(5) the community spouse resource allowance (see 3250).

In regards to the above conditions, the hearings officer would determine whether or not the initial determination was correct.

The right to a fair hearing is limited to applicants and recipients. There is no right to a fair hearing on resource assessments made without an application. (See 3250.)

A fair hearing officer may also increase the amount of the community spouse income allowance if either spouse establishes that a greater allowance is necessary due to exceptional circumstances resulting in significant financial duress. These circumstances shall be defined as expenses which are unforeseen or which are ongoing and are

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reasonable and necessary for the health, safety, and/or well-being of the community spouse. An additional allowance would only be provided to the extent that the originally determined community spouse income allowance is inadequate to cover the expenses. Expenses which could result in significant financial duress would include costs associated with prescribed special diet foods or supplements, costs of medical, remedial, or other support services necessary for community spouses to maintain themselves in the community, cost of repairs which are necessary to maintain the home in a livable condition, and other costs associated with unforeseen circumstances such as a fire or flood which result in loss of housing, clothing, household goods, or other necessities. Substantiating documentation will be necessary. Financial duress could not be claimed for usual increases in the cost of rent, food, housing, or clothing.

If a finding of financial duress is made, the hearing officer will establish a new community spouse income allowance sufficient to cover such expenses and specify whether the condition is temporary or will be continuing. If temporary, the hearing officer will establish the duration of the additional allowance and advise the client that if the circumstances continue, he or she may request an extension through the fair hearings process. If continuing, the circumstances shall be reviewed on an annual basis at the time of redetermination. In addition, the community spouse is responsible for notifying the agency at any time should the circumstances change. When the exceptional circumstances no longer exist, the community spouse allowance is to be readjusted.

In addition to the above provisions, the hearing officer may also grant an increase to the community spouse resource allowance if either spouse establishes that an additional amount is necessary in order to raise the community spouse's income to the allowable community spouse income allowance amount as determined in accordance with 3485.2 or as determined through a fair hearing. In either instance, the total amount of resources allowed shall be regarded as part of the community spouse resource allowance for eligibility purposes.

NODT LIST NOTICE DEFINITION TABLE 10/07/91 08:59

NOTICE: N103 NUMBER OF LINES 33 PAGE: 1 DENNIS P
EFFECTIVE DATE FROM: 070191 EFFECTIVE DATE TO: 999999
TITLE: MS APPROVAL WITH SPENDDOWN NOT MET
YOUR APPLICATION FOR MEDICAL ASSISTANCE HAS BEEN APPROVED SUSPENDED EFFECTIVE &&MSELBSTA&& THROUGH &&MSELBEND&&. YOU WILL NOT RECEIVE A MEDICAL CARD AT THIS TIME, AS YOUR COUNTABLE INCOME EXCEEDS THE PROTECTED INCOME LEVEL BY &&MSSPDOWN&&. THIS IS YOUR SPENDDOWN AMOUNT, WHICH IS YOUR RESPONSIBILITY LIKE AN INSURANCE DEDUCTIBLE, AND CANNOT BE TRANSFERRED TO OR PAID BY ANOTHER PERSON OR SOURCE. COUNTING ANY MEDICAL BILLS YOU HAVE ALREADY REPORTED AND VERIFIED, THE REMAINING BALANCE OF YOUR SPENDDOWN IS &&MSUNMSPD&&.@@
>>
ALL MEDICAL EXPENSES COUNTED TO MEET YOUR SPENDDOWN MUST BE EXPENSES INCURRED WITHIN THE PERIOD ABOVE OR EXPENSES INCURRED PRIOR TO THIS PERIOD WHICH ARE STILL DUE AND OWING AND HAVE NOT BEEN USED BEFORE TO MEET A SPENDDOWN. VERIFICATION OF THESE EXPENSES MUST BE PROVIDED TO SRS. IF YOU THINK YOU'LL HAVE MEDICAL EXPENSES EQUAL TO OR IN EXCESS OF YOUR SPENDDOWN, CONTACT YOUR WORKER OR SEND IN PROOF OF YOUR MEDICAL EXPENSES. IF WE DO NOT HEAR FROM YOU BY %%%%%%%%%%%%%%%%, YOUR CASE WILL BE CLOSED.@@

CONTINUE (Y OR N): Y

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NODT LIST NOTICE DEFINITION TABLE 10/07/91 08:59

NOTICE: N103 NUMBER OF LINES 33 PAGE: 2 DENNIS P
EFFECTIVE DATE FROM: 070191 EFFECTIVE DATE TO: 999999
TITLE: MS APPROVAL WITH SPENDDOWN NOT MET
>>
IF YOUR INCOME OR HOUSEHOLD SIZE CHANGES, YOUR SPENDDOWN AMOUNT WILL CHANGE.@@
>>
IMPORTANT INFORMATION, INCLUDING AN EXPLANATION OF YOUR RIGHT TO A FAIR HEARING AND YOUR RESPONSIBILITY TO REPORT CHANGES, IS PROVIDED ON THE BACK OF THIS NOTICE.@@
>>
THIS ACTION IS BASED ON KPAM SECTIONS 1211, 1242, 3491################@@
>>
IF YOU HAVE QUESTIONS, CALL %%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%% AT %%%%%%%%%%%%%% BETWEEN THE HOURS OF %%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%%@@
>>
COPIES SENT FROM LOCAL OFFICE TO: ####################################@@
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OTHER:

CONTINUE (Y OR N): Y

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pg 11811

Replaces HB 2530

1 RS 1991

Pat Johnson
Bd of Nursing

_____ BILL NO. ____

By

AN ACT concerning the board of nursing; amending K.S.A. 1991 Supp. 65-1124 and repealing the existing sections.

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

Section 1. K.S.A. 1991 Supp. 65-1124 is hereby amended to read as follows: 65-1124. No provisions of this law shall be construed as prohibiting:

(a) Gratuitous nursing by friends or members of the family;

(b) the incidental care of the sick by domestic servants or persons primarily employed as housekeepers;

(c) caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing;

(d) nursing assistance in the case of an emergency;

(e) the practice of nursing by students enrolled in accredited schools of professional or practical nursing nor nursing by graduates of such schools or courses pending the results of the first licensing examination scheduled by the board following such graduation;

(f) the practice of nursing in this state by legally qualified nurses of any of the other states as long as the engagement of any such nurse requires the nurse to accompany and care for a patient temporarily residing in this state during the period of one such engagement not to exceed six months in length, and as long as such nurses do not represent or hold themselves out as nurses licensed to practice in this state;

(g) the practice by any nurse who is employed by the United States government or any bureau, division or agency thereof, while in the discharge of official duties;

(h) auxiliary patient care services performed in medical

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care facilities, adult care homes or elsewhere by persons under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry or the supervision of a registered professional nurse or a licensed practical nurse;

(i) the administration of medications to residents of adult care homes or to patients in hospital-based long-term care units, including state operated institutions for the mentally retarded, by an unlicensed person who has been certified as having satisfactorily completed a training program in medication administration approved by the secretary of health and environment and has completed the program on continuing education adopted by the secretary, or by an unlicensed person while engaged in and as a part of such training program in medication administration;

(j) the practice of mental health technology by licensed mental health technicians as authorized under the mental health technicians' licensure act;

(k) performance in the school setting of selected nursing procedures, as specified by rules and regulations of the board, necessary for handicapped students;

(l) performance in the school setting of selected nursing procedures, as specified by rules and regulations of the board, necessary to accomplish activities of daily living and which are routinely performed by the student or student's family in the home setting; ~~or~~

(m) performance of attendant care services directed by or on behalf of an individual in need of in-home care as the terms "attendant care services" and "individual in need of in-home care" are defined under K.S.A. ~~1989~~ 1991 Supp. 65-6201 and amendments thereto~~.~~; or

(n) performance of a nursing task by a person when that task is delegated by a licensed nurse, within the reasonable exercise of independent nursing judgment, and is performed with reasonable

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skill and safety by that person under the supervision of a registered professional nurse or a licensed practical nurse.

Sec. 2. K.S.A. 1991 Supp. 65-1124 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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Pat Johnson

1 RS 1979

_____ BILL NO. ____

By

AN ACT concerning the board of nursing; relating to fees; providing for temporary permits and authorizations; amending K.S.A. 65-1131 and K.S.A. 1991 Supp. 65-1118, 65-1118a, 65-1153, 65-1154 and 65-4208 and repealing the existing sections.

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

Section 1. K.S.A. 1991 Supp. 65-1118 is hereby amended to read as follows: 65-1118. (a) The board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:

Application for license -- professional nurse.....	$75
Application for license -- practical nurse.....	50
Application for biennial renewal of license -- professional nurse and practical nurse.....	~~40~~ 60
Application for reinstatement of license.....	~~50~~ 75
Application for reinstatement of licenses with temporary permit.....	100
Certified copy of license.....	25
Duplicate of license.....	25
Inactive license.....	20
Application for certificate of qualification -- advanced registered nurse practitioner.....	50
Application for certificate of qualification with temporary permit -- advanced registered nurse practitioner.....	100
Application for renewal of certificate of qualification -- advanced registered nurse practitioner.....	40
Application for reinstatement of certificate of qualification -- advanced registered nurse practitioner.....	50
Application for authorization -- registered nurse anesthetist.....	60
Application for authorization with temporary	

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authorization -- registered nurse anesthetist..	110
Application for biennial renewal of authorization -- registered nurse anesthetist.....	60
Application for reinstatement of authorization -- registered nurse anesthetist.....	75
Application for reinstatement of authorization with temporary authorization -- registered nurse anesthetist.....	100

(b) The board may require that fees paid for any examination under the Kansas nurse practice act be paid directly to the examination service by the person taking the examination.

Sec. 2. K.S.A. 1991 Supp. 65-1118a is hereby amended to read as follows: 65-1118a. (a) The board shall collect fees provided for in this act as fixed by the board, but not exceeding:

Application for accreditation -- schools of nursing.....	$1,000
Biennial renewal of accreditation -- schools of nursing.....	500
Application for approval of continuing education providers.....	200
Annual fee for continuing education providers...	75
Approval of single continuing education offerings.....	~~25~~ 100
Consultation by request, not to exceed per day on site.....	400
Approval of individual courses.....	15

(b) In addition to the above prescribed fees, consultants' travel expenses shall be charged to the person, firm, corporation or institution requesting consultation services to be provided by the board.

Sec. 3. K.S.A. 65-1131 is hereby amended to read as follows: 65-1131. (a) Upon application to the board by any professional nurse in this state and upon satisfaction of the standards and requirements established by the board under K.S.A. 65-1130 and amendments thereto, the board may issue a certificate of qualification to such applicant authorizing the applicant to perform the duties of an advanced registered nurse practitioner

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as defined by the board under K.S.A. 65-1130 and amendments thereto. ~~The~~ An application to the board for a certificate of qualification, for a certificate of qualification with temporary permit, for renewal of a certificate of qualification and for reinstatement of a certificate of qualification shall be upon such form and contain such information as the board may require and shall be accompanied by a fee, to be established by rules and regulations adopted by the board, to assist in defraying the expenses in connection with the issuance of certificates of qualification as advanced registered nurse practitioners, ~~but the fee shall not be less than $30 nor more than $50 for an original application, not more than $20 for the renewal of a certificate of qualification as an advanced registered nurse practitioner~~ in an amount fixed by the board under K.S.A. 65-1118 and amendments thereto. The executive administrator of the board shall remit all moneys received pursuant to this section to the state treasurer as provided by K.S.A. 74-1108 and amendments thereto.

(b) The board may grant a one-time temporary permit to practice as an advanced registered nurse practitioner for a period of not more than 180 days pending completion of the application for a certificate of qualification.

Sec. 4. K.S.A. 1991 Supp. 65-1153 is hereby amended to read as follows: 65-1153. The board may grant a temporary authorization to practice nurse anesthesia as a registered nurse anesthetist (a) for a period of not more than one year to ~~(a)~~ (1) graduates of a school of nurse anesthesia accredited or approved by the board pending results of the ~~initial~~ first licensing examination following graduation, or ~~(b)~~ (2) nurse anesthetists currently licensed or otherwise credentialed in another state pending completion of the application for an authorization to practice nurse anesthesia as a registered nurse anesthetist in this state; and (b) for a period of not to exceed 180 days to an applicant for an authorization to practice nurse anesthesia as a registered nurse anesthetist who is enrolled in a refresher

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course required by the board for reinstatement of authorization which has lapsed for more than five years or for authorization in this state from another state if the applicant has not been engaged in the practice of nurse anesthesia for five years preceding application and the temporary authorization may be renewed by the board for one additional period of not to exceed 180 days; and (c) for a period not to exceed 60 days when a reinstatement application has been made.

Sec. 5. K.S.A. 1991 Supp. 65-1154 is hereby amended to read as follows: 65-1154. Upon application to the board by any licensed professional nurse in this state and upon satisfaction of the standards and requirements established under this act, the board shall grant an authorization to the applicant to perform the duties of a registered nurse anesthetist. ~~The~~ An application to the board for an authorization, for an authorization with temporary authorization, for biennial renewal of authorization, for reinstatement of authorization and for reinstatement of authorization with temporary authorization shall be upon such form and contain such information as the board may require and shall be accompanied by a fee to assist in defraying the expenses in connection with the administration of the provisions of this act. The fee shall be fixed by rules and regulations adopted by the board ~~in--an--amount--not--to--exceed--$75--for-an-original application--and--not--to--exceed--$40--for--the--renewal--of--an authorization-to-practice-as-a-registered-nurse-anesthetist.--The original-application-fee-for-a-temporary-authorization--shall--be fixed-by-the-board-by-rules-and-regulations-and-shall-not-be-more than-$35~~ in an amount fixed by the board under K.S.A. 65-1118 and amendments thereto. The executive administrator of the board shall remit all moneys received pursuant to K.S.A. ~~1986~~ 1991 Supp. 65-1151 to 65-1163, inclusive, and amendments thereto, to the state treasurer as provided by K.S.A. 74-1108 and amendments thereto.

Sec. 6. K.S.A. 1991 Supp. 65-4208 is hereby amended to read

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as follows: 65-4208. The board shall collect in advance the fees provided for in this act, the amount of which shall be fixed by the board by rules and regulations, but not to exceed:

(a) Mental health technician programs:

Annual renewal of program approval.....	$110
Survey of a new program.....	220
Application for approval of continuing education providers.....	200
Annual fee for continuing education providers.....	75
Approval of individual courses.....	15

(b) Mental health technicians:

Application for license.....	$50
Application for renewal of license.....	~~30~~ 50
Application for reinstatement.....	~~36~~ 60
Application for reinstatement of license with temporary permit.....	75
Certified copy of license.....	12
Duplicate of license.....	12
Inactive license.....	20
Examination.....	40
Reexamination.....	40
Verification of current Kansas license to other states.....	11

Sec. 7. K.S.A. 65-1131 and K.S.A. 1991 Supp. 65-1118, 65-1118a, 65-1153, 65-1154 and 65-4208 are hereby repealed.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

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SUBSTITUTE FOR HOUSE BILL NO. 2710

AN ACT concerning health care; relating to the licensure of rural primary care hospitals and the designation of essential access community hospitals; authorizing the creation of rural health care networks; amending K.S.A. 65-425 and 65-2872 and K.S.A. 1991 Supp. 65-4909 and repealing the existing sections.

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

New Section 1. As used in sections 1 to 7, inclusive, and amendments thereto:

(a) "Health care provider" means a person licensed to practice any branch of the healing arts, a person who holds a temporary permit to practice any branch of the healing arts or a person engaged in a postgraduate training program approved by the state board of healing arts, a mid-level practitioner as defined in subsection (d), a licensed dentist, a licensed professional nurse, a licensed practical nurse, a licensed optometrist, a licensed podiatrist, a licensed pharmacist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a physical therapist, a licensed dietician providing services to a medical care facility, or an officer, employee or agent thereof, acting in the course and scope of employment or agency and any other persons who provide health care services to the public.

(b) "Essential access community hospital" means a hospital which has been designated as an essential access community hospital by the licensing agency and which has entered into a written agreement with at least one primary care hospital to form

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a rural health network. The written agreement must include provisions for the essential access community hospital to accept patients transferred from participating rural primary care hospitals and to provide emergency and medical support services to rural primary care hospitals participating in the essential access community hospital rural health network.

(c) "Member" means any hospital, emergency medical service, local health department, home health agency, adult care home, medical clinic, mental health center or clinic, nonemergency transportation system, or other provider of health care services which has entered into a written agreement to participate in a rural health network.

(d) "Mid-level practitioner" means a physician's assistant or advanced registered nurse practitioner who has entered into a written protocol with a rural health network physician.

(e) "Physician" means a person licensed to practice medicine and surgery.

(f) "Rural health network" means an alliance of members including at least one rural primary care hospital and at least one essential access community hospital or supporting hospital which has developed a comprehensive plan submitted to and approved by the secretary of health and environment regarding patient referral and transfer; the provision of emergency and nonemergency transportation among members; the development of a network-wide emergency services plan; and the development of a plan for sharing patient information and services between hospital members concerning medical staff credentialing, risk management, quality assurance and peer review.

(g) "Rural primary care hospital" means a member of a rural health network, located within 75 miles of the network's essential access community hospital or supporting hospital unless an exception is granted by the licensing agency pursuant to rules and regulations; with a staff which includes one or more physicians and may include one or more mid-level practitioners;

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with permanent facilities that include inpatient beds to serve not more than an average six acute patients requiring treatment not to exceed 72 hours each unless an exception is granted for either requirement by the licensing agency pursuant to rules and regulations; and with nursing services under the direction of a licensed professional nurse and continuous licensed nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients. Emergency services must be provided as specified in a comprehensive plan developed in conjunction with the hospital's rural health network. All treatment provided by mid-level practitioners must be pursuant to written protocols established between the mid-level practitioners and network physicians, after consultation with network physicians, or in an emergency. Network physicians must approve all patient admissions by the mid-level practitioner within 24 hours; review patient records, which review may be off-site, and document such review in the patient record within 48 hours of treatment provided by the mid-level practitioner; and consult with the mid-level practitioner and document such consultation in the patient record on site at the hospital at least weekly.

(h) "Supporting hospital" means a hospital other than a rural primary care hospital or an essential access community hospital which has entered into a written agreement with at least one rural primary care hospital to form a rural health network and to provide medical or administrative supporting services within the limit of the supporting hospital's capabilities.

New Sec. 2. The legislature of the state of Kansas recognizes the importance and necessity of providing and regulating the system whereby health care services are integrated and contract for services to protect the public's general health, safety and welfare. It is the policy of the state of Kansas to encourage development of and participation in rural health networks. Implementation of a rural health network under the

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provisions of this act and amendments thereto effectuate these policies.

New Sec. 3. (a) Any hospital is authorized to seek licensure as a rural primary care hospital and to accept and secure any benefits of federal aid. A rural primary care hospital shall participate in or affiliate with a rural health network and may execute contracts, upon such conditions and terms as is deemed appropriate by the governing body, for the integration of health services or to further any portion of a comprehensive plan for a rural health network.

(b) Any hospital is authorized to seek designation as an essential access community hospital and to accept and secure any benefits of federal aid. An essential access community hospital shall participate in or affiliate with a rural health network and may execute contracts, upon such conditions and terms as is deemed appropriate by the governing body, for the integration of health services or to further any portion of a comprehensive plan for a rural health network.

New Sec. 4. (a) Upon such conditions and terms as is deemed appropriate by the governing body of any member of a rural health network, a member of a rural health network or the rural health network may enter into agreements with any other person or entity to perform any service, including but not limited to services for provision of primary risk management and peer review services.

(b) Any member of a rural health network or the rural health network may employ any health care provider to provide patient care or other services and may employ such other persons as necessary to carry out the function of the rural health network. The contract may allow for the health care provider or a member of the rural health network to seek direct compensation from the patient, the patient's representative or a third party payor for the services performed by the health care provider.

New Sec. 5. In addition to the provisions of K.S.A. 65-4909, and amendments thereto, members of a rural health network,

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officers, agents, representatives, employees, and directors thereof, in forming an integrated network and in contracting for services shall be considered to be acting pursuant to clearly expressed state policy as established in this act under the supervision of the state and shall not be subject to state or federal antitrust laws while so acting.

New Sec. 6. The secretary of health and environment may adopt rules and regulations setting minimum standards for the establishment and operation of rural health networks, including the licensure of rural primary hospitals and the designation of essential access community hospitals.

New Sec. 7. No individual or group policy of accident and sickness insurance shall exclude reimbursement or indemnity under such policy for services when performed by an essential access community hospital, a rural primary care hospital or a supporting hospital. The provisions of this section shall also be applicable to contracts issued by health maintenance organizations.

Sec. 8. K.S.A. 65-425 is hereby amended to read as follows: 65-425. As used in this act: (a) "General hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than ~~twenty-four-(24)~~ 24 hours of every day, to provide diagnosis and treatment for ~~four-or-more-nonrelated~~ patients who have a variety of medical conditions.

(b) "Special hospital" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than ~~twenty-four-(24)~~ 24 hours of every day, to provide diagnosis and treatment for ~~four-or-more nonrelated~~ patients who have specified medical conditions.

(c) "Person" means any individual, firm, partnership,

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corporation, company, association, or joint stock association, and the legal successor thereof.

(d) "Governmental unit" means the state, or any county, municipality, or other political subdivision thereof; or any department, division, board or other agency of any of the foregoing.

(e) "Licensing agency" means the department of health and environment.

(f) "Ambulatory surgical center" means an establishment with an organized medical staff of physicians; with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; with continuous physician services and registered professional nursing services whenever a patient is in the facility; and which does not provide services or other accommodations for patient to stay overnight.

(g) "Recuperation center" means an establishment with an organized medical staff of physicians; with permanent facilities that include inpatient beds; and with medical services, including physician services, and continuous registered professional nursing services for not less than ~~twenty-four-(24)~~ 24 hours of every day, to provide treatment for ~~four--or--more--nonrelated~~ patients who require inpatient care but are not in an acute phase of illness, who currently require primary convalescent or restorative services, and who have a variety of medical conditions.

(h) "Medical care facility" means a hospital, ambulatory surgical center or recuperation center.

(i) "Rural primary care hospital" shall have the meaning ascribed to such term under section 1 and amendments thereto.

~~(i)~~ (j) "Hospital" means "general hospital," rural primary care hospital," or "special hospital."

Sec. 9. K.S.A. 65-2872 is hereby amended to read as follows: 65-2872. The practice of the healing arts shall not be construed to include the following persons:

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(a) Persons rendering gratuitous services in the case of an emergency.

(b) Persons gratuitously administering ordinary household remedies.

(c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.

(d) Students while in actual classroom attendance in an accredited healing arts school who after completing one ~~(1)~~ year's study treat diseases under the supervision of a licensed instructor.

(e) Students upon the completion of at least three ~~(3)~~ year's study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed ~~ninety--(90)~~ 90 days under the supervision of a licensed practitioner.

(f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.

(g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.

(h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals and/or groups provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic physicians or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in

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consultation with practitioners licensed in this state, or residing on the border of a neighboring state, duly licensed under the laws thereof to practice a branch of the healing arts, but who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state.

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing art, not specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, or amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of

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article 14 of chapter 65 of the Kansas Statutes Annotated who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899, and amendments thereto, to administer such general and local anesthetics.

(r) Any member of a rural health care network that employs one or more licensees.

Sec. 10. K.S.A. 1991 Supp. 65-4909 is hereby amended to read as follows: 65-4909. (a) There shall be no liability on the part of and no action for damages shall arise against any: (1) State, regional or local association of health care providers~~,--any~~; (2) state, regional or local association of licensed adult care home administrators ~~or---any~~; (3) organization delegated review functions by law, and the individual members of any committee thereof (whether or not such individual members are health care providers or licensed adult care home administrators)~~,~~; or (4) individual or entity acting at the request of any committee, association or organization listed in subsections (1) through (3), which in good faith investigates or communicates information regarding the quality, quantity or cost of care being given patients by health care providers or being furnished residents of adult care homes for any act, statement or proceeding undertaken or performed within the scope of the functions and within the course of the performance of the duties of any such association, organization or committee if such association, organization or committee or such individual member thereof acted in good faith and without malice.

(b) As used in this section, "health care provider" means a person licensed to practice any branch of the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, mid-level practitioner as defined under section 1, and amendments thereto, licensed dentist, licensed professional nurse, licensed practical nurse, licensed

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optometrist, licensed podiatrist, licensed pharmacist or physical therapist.

Sec. 11. K.S.A. 65-425 and 65-2872 and K.S.A. 1991 Supp. 65-4909 are hereby repealed.

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

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The EACH Concept:
A Study of Rural Health Delivery Options

Funded in part by the Wesley Foundation

Testimony before

the

House Committee on Public Health and Welfare

House Bill 2710

Good afternoon, my name is Steve Wilkinson and I am the President and CEO of St. Catherine Hospital in Garden City, Kansas. I also chair the EACH Technical Advisory Group, called the TAG. The TAG was formed by the original partners in the EACH project - the Kansas Department of Health and Environment, the Kansas Hospital Association and the Board of Emergency Medical Services. It is also made up of over 30 other people representing a broad spectrum of groups including hospitals, physicians, nurses and mid-level practitioners, local EMS representatives, communities, state government, Wesley Foundation and consultants.

In recent months, you have been assailed with statistics and anecdotes about the crisis in access to medical care in much of Kansas. These facts and figures are no exaggeration - the situation is dire, Kansans are suffering for it and options must be developed immediately to hold off further erosion in our statewide ability to provide for the health of our citizens.

But for all of the bad news coming from the trenches, there is some good news. Many of the essential elements for the provision of care are still out there, they just need to be reorganized into a workable **system of health care delivery.**

A major shortcoming of the current rural health care delivery system is that it is fragmented. It is characterized by competition rather than cooperation, isolation rather than association. It is a system in name only. Although this fragmentation grew out of the legitimate concern to provide ever-increasing services, continually dwindling resources are forcing us to develop strategies that foster cooperation, recognizing that resources are finite and that to maximize their potential to serve the public, they must be allocated in a planned and coordinated way.

One of those strategies is **networking**. The bill before you is enabling legislation for this strategy.

The word "network" or "networking" has become such a rallying cry in the business world in the last few years that it probably has some meaning to all of you - maybe different meanings to each of you. In context of rural health care delivery, we use it to mean creating formalized linkages between people and groups of people to provide for a system of health care delivery. A rural health network arranges for the coordinated delivery of care between a Rural Primary Care Hospital and its larger supporting hospital, called an Essential Access Community Hospital. In the Kansas model, other service providers may be incorporated into this coordinated network of care, as well.

We think this concept of networking is going to be vital in making the best use of the resources that remain, in giving communities the flexibility to experiment with various models of health delivery for their future and in salvaging the rural health care system in Kansas.

The aim of the bill before you is to foster and promote the concept of health care networks in Kansas. It is enabling legislation for the Essential Access Community Hospital (EACH) Program, required before the program can be fully implemented.

Board of
Emergency Medical Services

KANSAS HOSPITAL ASSOCIATION

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The EACH program is the result of federal legislation aimed at promoting a new way of maintaining access to quality medical care in rural areas. Kansas' interest in exploring this alternative stems from an ever-worsening access crisis. Complicated by sparse population densities and a high proportion of elderly or Medicare recipients in over half of the counties, small rural hospitals have watched their admissions and patient days plummet. Many are faced with the very real specter of closing. Loss of health care providers is greater in rural counties, most all of which have already been state designated as medically underserved areas. Difficulty in recruiting and retaining physicians and other allied health care providers is the unfortunate norm.

Established through the Omnibus Budget Reconciliation Act of 1989 and funded in 1990, the federal model is, essentially, hospital based. It is a program to designate acute-care facilities as EACHs (Essential Access Community Hospitals) and RPCHs (Rural Primary Care Hospitals). New Medicare "conditions of participation" are established for RPCHs and reimbursement incentives are provided for both EACHs and RPCHs in return for their participation. While it doesn't specifically exclude other services or providers in the network, it doesn't include them either.

In general, the concept designates rural hospitals as Rural Primary Care Hospitals or RPCHs that are linked with larger supporting hospitals designated as Essential Access Community Hospitals or EACHs. This relationship is called a rural health network.

In Kansas, we have very consciously and purposefully taken a broader approach in our development of an EACH model. We have expanded the network concept to embrace the broad array of services and providers, giving communities the flexibility to determine the make-up of their health network. This is an important distinction in our approach and it makes the passage of H.B. 2710 vital to the fruition of the network concept.

In the year and a half preceding the grant award, and the months following, the TAG has been responsible for designing licensure rules, network requirements and designation criteria for the project. It has also been very involved in the development of federal regulations that will be favorable to the success of the program in Kansas and in scrutinizing Kansas law for and impediments to the development of rural health networks. The TAG identified seven issues that needed to be addressed in legislation:

1. **Mechanisms need to be codified enabling the establishment of formal rural health networks as described in the model created by the Kansas EACH Project and allowing the designation, upon application under Kansas law, of licensed rural primary care hospitals administered by the Kansas Department of Health and Environment.** Establishing a licensure category that defines parameters or conditions for a Rural Primary Care Hospital would modify the current definition of a hospital and allow communities the flexibility to chose an alternative method of delivering patient care at the primary care level. The characteristics defining an RPCH, as envisioned in the Kansas EACH model, render it a unique entity not currently covered in the law.

2. **Several terms referred to in the bill need definition, including Essential Access Community Hospital (EACH), Rural Primary Care Hospital (RPCH), Supporting Hospital, Rural Health Network, Member (other than RPCH, EACH or supporting hospital) and Mid-level Practitioner.**

3. **RPCHs need the authority to employ physicians in order to fully realize Medicare reimbursement potential and improve the RPCH's ability to recruit physicians and other health personnel.** In many rural communities, physician reimbursement for Medicare services is significantly below cost. The all-inclusive rate option for RPCHs combines the technical and professional components into a single rate that would be paid by the RPCH, leaving the RPCH responsible for paying the physician and placing the provision of primary care on a cost basis. RPCHs could hire a doctor, mid-level or other health care provider, pay his or her salary, and be assured of reimbursement equal to Medicare's fair share of the cost.

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4. **Rural health care networks and their members, specifically RPCHs, need the authority to contract with any qualified entity to administer or provide services.** The RPCH is by definition a small facility with limited resources. They need the flexibility to enter into arrangements with others to provide service to the community or even to the RPCH itself.

5. **Mechanisms need to be in place that establish the process of forming rural health networks as an open process and the process of designating EACHs and RPCHs as one available to any Kansas facility meeting state and federal requirements.** The EACH program doesn't identify potential EACHs and RPCHs, itself. This is a voluntary program not intended to be the solution for every single rural community. Those wishing to participate must make application.

6. **The sharing of immunity under the peer review statutes, by members of a rural health network, needs to be clarified.** Network members need the authority to cooperate in order to accomplish peer review and risk management without jeopardizing immunity and privilege provisions in current law.

7. **The program needs to be statutorily identified as a state program to help assure exemption from federal anti-trust regulations.** Existing federal anti-trust provisions would prevent health care providers jointly planning and contracting arrangements to assure access and avoid duplication of services. Inclusion of specific statutory direction for the program may help achieve an exemption for activities under the program.

Recommendation: The Kansas Department of Health and Environment, the Kansas Hospital Association, the Board of Emergency Medical Services and the EACH Technical Advisory Group recommend that you report the Substitute for House Bill 2710 favorably for passage.

Presented by: Steve Wilkinson
Chair, EACH Technical Advisory Group
February 5, 1992

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with permanent facilities that include inpatient beds to serve not more than an average six acute patients requiring treatment not to exceed 72 hours each unless an exception is granted for either requirement by the licensing agency pursuant to rules and regulations; and with nursing services under the direction of a licensed professional nurse and continuous licensed nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients. Emergency services must be provided as specified in a comprehensive plan developed in conjunction with the hospital's rural health network. All treatment provided by mid-level practitioners must be pursuant to written protocols established between the mid-level practitioners and network physicians, after consultation with network physicians, or in an emergency. Network physicians must approve all patient admissions by the mid-level practitioner within 24 hours; review patient records, which review may be off-site, and document such review in the patient record within 48 hours of treatment provided by the mid-level practitioner; and consult with the mid-level practitioner and document such consultation in the patient record on site at the hospital at least weekly.

professional

unless an exemption is granted by the licensing agency pursuant to rules and regulations.

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(h) "Supporting hospital" means a hospital other than a

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NURSING
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NATIONAL NURSES WEEK, MAY 4-10, 1992

FOR MORE INFORMATION CONTACT:

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February 5, 1992

H.B. 2710 EACH AND RPCH PROJECT IMPLEMENTATION STATUTES

Chairperson Sader and members of the House Public Health and Welfare Committee, my name is Terri Roberts and I am representing the Kansas State Nurses' Association. I have been a member of the Technical Advisory Group (TAG) for a year. There are currently five RN's on the TAG, two of whom are practicing ARNP's from rural areas. On various occasions there have been other RN's who have participated in various discussions before the TAG and its subcommittees, depending on the topic for discussion.

The substitute for H.B. 2710 includes issues and decisions made by the TAG for the implementation of the Kansas EACH & RPCH Program. Most of the policy issues have been debated at length and in some decisions were reached after heated debate, discussion and in the spirit of compromise. As you can imagine with the variety of providers represented on the TAG and the biased that each group brings, we all have been forced to reconcile the policy issues to effect this program. We believe that these ~~demonstration~~ models will provide the citizens of Kansas healthcare opportunities that otherwise may not be available to them in their home communities. It has been this theme that guides our discussions. We know it will look different than what we have all come to know as a health care delivery system. This bill removes only a piece of the structural barriers that we must address. Others ~~include~~ consumer education, provider and insurance carrier education and provider territorial turf issues. barriers.

The turf issues for nurses included the degree of supervision and collaboration by physicians of ARNP's as well as the staffing patterns for the RPCH's of the future. We are willing to support Substitute H.B. 2710 as it was introduced today, in the spirit of moving this project forward in a timely and effective manner. We recognize that there will be problems encountered with the statutes, as there always are, but we trust that the many minds that have developed, reviewed, revised and re-revised these proposed new statutes for your consideration are the best that we have to offer to implement this program.

On behalf of the nursing profession, we would appreciate your support.

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2-5-92
Attm # 7

Kansas State Board of Nursing

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Patsy L. Johnson, R.N., M.N.
Executive Administrator
913-296-3068

TO: The Honorable Representative Carol Sader, Chairperson and Members of the Public Health & Welfare Committee

FROM: Patsy L. Johnson, R.N., M.N.

DATE: February 5, 1992

RE: HB 2710

Thank you Madam Chairman for allowing me to testify to HB 2710. The Board of Nursing is supportive of the concept of essential access community hospitals and the creation of rural health care networks. Without continued support of rural community hospitals, then areas of rural Kansas might be without immediate hospital services.

In review of HB 2710, there is one factor that is of concern to the Board of Nursing. On page 5, lines 5-9, it is noted that in a "rural primary care hospital" nursing services are under the direction of a registered nurse and that continuous registered nursing or licensed practical nursing services are provided for not less than 24 hours of every day when any bed is occupied or the facility is open to provide diagnosis and treatment for patients who have a variety of medical conditions. I understand this language has been modified but the intent is the same.

The Board of Nursing is concerned with the provision that 24 hour continuous nursing services may be provided by either a registered nurse or licensed practical nurse. Though there are some excellent licensed practical nurses, the Board believes that public safety may be in question if the nursing services may be provided only by licensed practical nurses, even if a registered professional nurse is on call. The rural primary care hospital is designated to provide nursing services for "acute" care patients (line 2), nursing services to provide diagnosis and treatment for patients who have a variety of medical conditions (lines 8 and 9), and nursing services for emergencies (line 10). Although it may be assumed that patients in such a facility are not "as acute" as in a general hospital, the description of the services to be provided "acute," "diagnosis and treatment," "variety of medical conditions and

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emergencies" seem to indicate that continuous 24 hour registered professional nursing care would be required.

There also seems to be some incongruencies as to different types of facilities. In "ambulatory surgical centers," continuous registered professional nursing services must be provided (page 3, line 13). I understand that surgical procedures will be performed in the rural primary care hospital not unlike the ambulatory surgical center. Yet, in the rural primary care hospital it is not mandated that continuous registered professional nursing be provided. In a recuperation center, continuous registered professional nursing services, for not less than 24 hours of every day, are provided for patients who require inpatient care but are not in an acute phase of illness (page 3, line 23). In the rural primary care hospital, "acute" patients may not have available the continuous 24 hour registered professional nursing services as mandated for other types of facilities.

Of additional concern to the Board is that patient emergencies may occur at any time when the facility is open. This would be for patients in the hospital or possibly those coming to the hospital. A professional registered nurse has the educational level to assess and then provide initial emergency care as well as continued care based on physician orders. Although licensed practical nurses receive some education on emergencies in their basic nursing programs, the assessment skills and knowledge level is not equal to the registered professional nurse's. If an emergency occurs and a registered nurse is contacted by telephone to report to the facility, the response time required may adversely impact on patient outcome. Care received during the first 15 minutes is often crucial to the safety of the patient.

In summary, because acutely ill patients are to be admitted and cared for in a rural primary care hospital, the Board of Nursing believes that nursing services should be provided on a continuous 24 hour basis by a registered professional nurse. The possibility of circumstances arising that would be beyond the licensed practical nurse's education preparation is of serious concern. In two other types of health care facilities, continuous registered professional nursing care is required.

The Board of Nursing is opposed to the language in this bill which allows either practical or registered professional nursing care. Any new language proposed should specifically spell out nursing care requirements and not leave it up to individual interpretation. We hope this will be considered in the passage of HB 2710.

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Thank you. I would be glad to answer any questions.

Kansas Respiratory Care Society

Testimony Regarding HB 2710

February 5, 1992

Good afternoon. My name is Cheryl DeBrot B.S.,R.R.T. I'm here today as a representative of the Kansas Respiratory Care Society. On behalf of the Society, I want to express our whole-hearted support of HB 2710 - The development of the Rural Health Care Network. We are concerned that all Kansans have access to the highest quality of health care. Respiratory Care practitioners are involved in the care of all individuals ranging in age from prematurity to the very old. Respiratory Care Practitioners are often the first members of the Health Care Team to care for trauma victims and to respond to cardiopulmonary arrest victims as well.

We would respectfully ask the Committee to add the term "registered respiratory care practitioner" in Section 7 k on page 3 of the bill as well as in Section 10 b on page 11 as we are definitely a health care provider. Our being registered with the State Board of Healing Arts was established by Kansas Statue 65-5501.We would appreciate these changes being made and will continue to support passage of this legislation. It is absolutely essential that Kansans' quality of health care not be determined by their location of where they choose to live.

Respectfully submitted,

Cheryl DeBrot BS RRT

Cheryl DeBrot B.S.R.R.T.
Chairperson, Legislative Committee

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