Approved 2-26-1992
Date sh

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 12, 19__ in room 423-S of the Capitol.

All members were present except:

Representative Flottman, Representative Carmody, excused.

Committee staff present:

Emalene Correll, Research
Bill Wolff, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Wendell Lewis, Chair of Ks. Planning Council on Developmental Disabilities Services
Representative John Solbach
Pat Johnson, Executive Director, Kansas Board of Nursing
Bob Williams, Executive Director, Ks. Pharmacists Association
Representative George Dean
Representative Henry Helgerson
Donna Whiteman, Secretary / Department of SRS
Theron Black, Vice-Chair Sedgwick County Advisory Council on Aging
K. J. Langlais, Nursing Home Administrator, Lawrence, Kansas.
Greg Stuart, Nursing Home Administrator, Atchison, Kansas
John Grace, Ks. Association of Homes for Aging, (Written testimony only).
Dr. Richard Spencer, interested citizen, (Written testimony only).
Arris Johnson, Silver Hair Legislator, (Written testimony only).
Wayne Maichel, Executive V.President, Ks. AFL-CIO (Written testimony only).

Chairperson Sader called the meeting to order, inviting those scheduled for Bill requests to begin.

Rep. Solbach thanked Chair for the opportunity to request legislation. He noted he had been in contact with Ms. Correll and Mr. Furse in regard to this request, and Mr. Furse would provide the document later when it is completed. The legislation he requests would allow Registered Nurses to provide in-home care for patients in 5 bed homes which is more economical than the 2-bed homes which is provided for in the current regulation. He detailed rationale.

Rep. Bishop moved to introduce this bill request, seconded by Rep. Amos. No discussion. Motion carried.

Pat Johnson, State Board of Nursing, offered hand-outs. She explained (Attachment No. 1) which would eventually be divided into 2 Bills, and she noted Mr. Furse is working on the final drafts of those. (Attachment No.2) details other recommended changes. She detailed rationale, noting these changes will provide for cleanup; entitling; establishing a temporary permit for those licensed mental health technicians in specific instances; new sections would allow for an administrative fine for unlicensed practices; give authority to strengthen investigative power. The second request is for clean-up; public censure; language to parallel risk-management laws; one new section that would clarify administrators of I.V. therapy. She detailed rationale.

Rep. Neufeld moved to introduce this legislation per request of Ms. Johnson indicated in Attachments 1 and 2, seconded by Rep. Samuelson. No discussion. Motion carried.

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

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 a.m./p.m. on February 12, 1992

Bob Williams, Executive Director, Ks. Pharmacists Association offered hand-out (Attachment No.3), explaining the recommendation to regulate more closely non-resident pharmacies. He explained rationale.

Rep. Wiard moved to introduce this bill request, seconded by Rep. Scott. No discussion. Motion carried.

Chair noted there will be another opportunity to request bill introductions one day next week.

Chair drew attention to the unfinished agenda from the meeting yesterday.

Chair called on Mr. Wendell Lewis.

HEARINGS CONTINUED ON HB 2714.

Mr. Wendell Lewis, Chair of Kansas Planning Council on Developmental Disabilities Services offered hand-out (Attachment No. 4). He applauds the efforts of the Interim Subcommittee on Mental Retardation/Developmental Disabilities Issues to separately define the terms "mental retardation" and "developmental disability". For over 20 years, the term "developmental disability has been used synonymously with mental retardation, thus proper services have not been appropriately available. He recommends that the Planning Council on Developmental Disabilities Services undertake the project to assess the current system of services and adopt a categoric definition or a functional disabilities definition. He answered questions, noting perhaps there has been a rush into this without enough study to determine whether or not services will, in fact, be provided if these definitions are clarified and the attempt made to provide specialty services. Indeed, there are vast differences in services required for individuals.

HEARINGS CLOSED ON HB 2714.

Chair requested a staff briefing on **HB 2844.**

BRIEFING ON HB 2844.

Ms. Correll gave a comprehensive explanation of **HB 2844,** noting it is identical to **SB 548** that has had hearings in the Senate. The intent of **HB 2844** is to return to the determination of eligibility by the method used under the spend-down of the medically needy portion by the Medicaid program. She drew attention to concerns with language on line 4 on page 5, i.e. language indicated, Ms. Correll felt was not the intent of the bill's sponsor.

Rep. George Dean as sponsor of **HB 2844** (no attachment offered), explained the pride he felt in 1988 when the division of assets became law. This was of great help to many older citizens in the state. Now the 300% cap has been placed on the Social Security Income and many citizens are now severely inconvenienced by this cap. He talked of average Mr./Mrs. Kansas who might have been an auto worker, airplane factory worker, carpenter, who have paid taxes in Kansas for years, but their retirement though modest, disallows them from being eligible for Medicaid in adult care homes. The law now requires this family to spend down all their income in order to become eligible. It is truly sad that this group of people who have supported Kansas for 50/60/70 years are in this position. They deserve a little help. He urged support of **HB 2844.**

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S Statehouse, at 1:30 a.m./p.m. on February 12, 1992

HEARINGS CONTINUED ON HB 2844.

Rep. Dean noted there will be testimony today giving cost figures needed to implement this program. The Governor has told him if the money can be found, she will support it. He asked Committee not to pay attention to inflated costs 10 years down the road. If you can see your way clear to pass **HB 2844,** we can all lift our heads high.

Rep. Helgerson offered hand-out (Attachment No. 5). He stated he doesn't like the 300% cap either, but we are going to have to make tough decisions now and in the future. Continued work with those providing services and the Appropriations Committee is necessary so that more community based programs can be used to keep people at home longer and out of nursing homes where costs are higher until it is really necessary they be admitted. He drew attention to the statistics in his hand-out. He answered questions.

Donna Whiteman, Secretary/Department of SRS (Attachment No. 6) stated the Department of SRS does not support **HB 2844** because it believes the present income cap should be retained and if changed could prove to be problematic in implementing future changes. She drew attention to statistical information in her hand-out. By the year 2000 we would be spending $440 million on Adult Care Home expenditures, and the
total budget would be $540 Million. This, makes it very clear that there will be no dollars for preventive children's programs and other assistance programs. We have many hungry people in our state today; pre-natal care is needed; programs for preventive care for children and other assistance programs are needed. We must change the rate of spending since the budget will not increase as the rate of expenses increases. The 300% cap is a method to begin to stop the growth in costs of nursing home expenses. All groups will be affected by cuts, this is not a singled out group of individuals. Doing away with the cap could lessen costs today, but the long term will show a great loss to many other programs.

Secretary Whiteman answered numerous questions. She stated there is a misconception about eligibility for various services. Everyone is not eligible for services, there are very stringent restrictions.

Theron Black, Vice Chair/Sedgwick County Advisory Council on Aging (Attachment No. 7), spoke in support of **HB 2844.** He cited specific cases of individuals that have an income slightly over the 300% cap due to VA and SSI benefits. Care cannot be provided for these people in the homes of their children for various reasons, they cannot be taken care of in a home setting because they do not qualify for aide. Surely there are those of you who have concerns for this group of individuals. He urged support of **HB 2844.**

K. L. Langlais, Administrator of Sterling Heights in Lawrence, offered hand-out (Attachment No. 8). Ms. Langlais cited specific cases of individuals residing in the nursing home that she administers. She summarized her remarks (in the interest of time), by noting the purpose of the 300% cap was to cut costs by eliminating some people from the nursing home program paid by Medicaid, but there are not alternatives for these people. This cap eliminates those who cost the system the very least amount of dollars. Many people are private pay for years, but when they run out of money, yet still have a little income barely over the cap, will be denied. On the other hand, a new resident with no money to pay privately at all with a very meager Social Security income, the state jumps right in and is willing to pay $1400-$1600 monthly for them. There are other ways to try to balance the budget and fund the system. The cap penalizes the people who have contributed the most and are costing the system the least.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 a.m./p.m. on February 12, 1992

HEARINGS CONTINUED ON HB 2844.

Greg Stuart, Nursing Home Administrator yielded his time to others stating the remarks of Ms. Langlais were right on target. (No written handout was provided.)

Chair requested those persons who can return tomorrow please do so. Those who cannot, may wish to leave their written comments for the record.

Chair noted she must adjourn the meeting as many members must leave for a hearing at the Expo Center.

Written testimony was presented by Sharon Kay Spencer, (Attachment No.9).
Written only from John Grace, Kansas Association of Homes for the Aging, (see Attachment No. 10).
Richard Lee Spencer, an interested citizen provided a written statement, (Attachment No. 11).

Wayne Maichel, Executive Vice-President of Kansas AFL-CIO provided written testimony, see (Attachment No. 12).

Chair adjourned the meeting at 2:45 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

DATE Feb. 12, 1992

NAME	ORGANIZATION	ADDRESS
Mack Smith	Mortuary Arts Bd	Topeka
Cindy Kelly	KASB	Topeka
Jim Clark	Ks Co Dist Attorneys Assn	Topeka
[illegible]	Amos Family Funeral Home	Shawnee
Jo Bestgen	KARF	Topeka
Lila Paslay	ARC/Ks	Topeka
Keith R Landis	Christian Science Committee on Publication for Kansas	Topeka
Jim Snyder	KFDA	Topeka
Martha K Gabehart	KCDC	Topeka
Renee Gardner	Governor's Office	
Joan Strickler	KAPS	Manhattan
Sue Steele	Support Services for Citizens with autism (Parent)	Shawnee
John Kelley	KPCDD	Topeka
Wendell Lewis	KPCDD	Topeka
Lisa Getz	Wichita Hospitals	Wichita
John Peterson	Ks Cemetery Assn	[illegible]

______ BILL NO. ____

By

AN ACT relating to the board of nursing; concerning persons licensed by the board; granting to the board authority to impose administrative fines; concerning investigations and proceedings conducted by the board; amending K.S.A. 65-4206 and K.S.A. 1991 Supp. 65-1115, 65-1116, 65-1117, 65-1120, 65-4202, 65-4203 and 65-4209 and repealing the existing sections; also repealing K.S.A. 65-4205 and K.S.A. 1991 Supp. 65-1161.

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

Section 1. K.S.A. 1991 Supp. 65-1115 is hereby amended to read as follows: 65-1115. (a) Qualifications of applicants. An applicant for a license to practice as a registered professional nurse shall file with the board written application for a license and submit satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has otherwise obtained the equivalent of a high school education, as determined by the Kansas state department of education; (2) has successfully completed the basic professional curriculum in an accredited school of professional nursing and holds evidence of graduation therefrom or has successfully completed the basic professional curriculum in a school of professional nursing located outside this state which maintains standards at least equal to schools of professional nursing which are accredited by the board and holds evidence of graduation therefrom; (3) has been satisfactorily rehabilitated if the applicant has ever been convicted of a felony; and (4) has obtained such other qualifications not in conflict with this act as the board may prescribe.

(b) License. (1) By examination. An applicant shall be

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required to pass ~~a written~~ an examination in such subjects as the board may prescribe. Each ~~written~~ examination may be supplemented by an oral or practical examination. Upon successfully passing such examination the board shall issue to the applicant a license to practice nursing as a registered professional nurse.

(2) Without examination. The board may issue a license to practice nursing as a registered professional nurse without examination to an applicant who has been duly licensed or registered as a registered professional nurse by examination under the laws of another state, territory or foreign country if, in the opinion of the board, the applicant meets the qualifications required of a licensed professional nurse in this state.

(3) Persons licensed under previous law. Any person who was licensed immediately prior to the effective date of this act as a registered professional nurse, shall be deemed to be licensed as a registered professional nurse under the provisions of this act and shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and any amendments thereto.

(c) Title and abbreviation. Any person who holds a license to practice as a registered professional nurse in this state shall have the right to use the title, "registered nurse," and the abbreviation, "R.N." No other person shall assume such title or use such abbreviation or any other words, letters, signs or figures to indicate that the person using the same is a registered professional nurse.

(d) Temporary permit. The board may issue a temporary permit to practice nursing as a registered professional nurse for a period of not to exceed 60 days, except that the board may issue a temporary permit to practice nursing as a registered professional nurse for a period of not to exceed 180 days to an applicant for a license as a registered professional nurse who is enrolled in a refresher course required by the board for reinstatement of a license which has lapsed for more than five

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years or for licensure in this state from another state if the applicant has not been engaged in practice of nursing for five years preceding application. The 180 day temporary permit may be renewed by the board for one additional period of not to exceed 180 days.

Sec. 2. K.S.A. 1991 Supp. 65-1116 is hereby amended to read as follows: 65-1116. (a) Qualification. An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license and submit to the board satisfactory proof that the applicant: (1) Has graduated from a high school accredited by the appropriate legal accrediting agency or has otherwise obtained the equivalent of a high school education, as determined by the Kansas state department of education; (2) has successfully completed the prescribed curriculum in an accredited school of practical nursing and holds evidence of graduation therefrom or has successfully completed the prescribed curriculum in an accredited school of practical nursing located outside this state which maintains standards at least equal to schools of practical nursing which are accredited by the board and holds evidence of graduation therefrom; and (3) has obtained such other qualifications not in conflict with this act as the board may prescribe.

(b) License. (1) By examination. The applicant shall be required to pass ~~a written~~ an examination in such subjects as the board may prescribe. Each ~~written~~ examination may be supplemented by an oral or practical examination. Upon successfully passing such examinations, the board shall issue to the applicant a license to practice as a licensed practical nurse. (2) Without examination. The board may issue a license to practice as a licensed practical nurse without examination to any applicant who has been duly licensed or registered by examination as a licensed practical nurse or a person entitled to perform similar services under a different title under the laws of any other state,

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territory or foreign country if, in the opinion of the board, the applicant meets the requirements for licensed practical nurses in this state. (3) A licensed practical nurse licensed under the provisions of this act shall be eligible for renewal licenses upon compliance with K.S.A. 65-1117 and any amendments thereto.

(c) Title and abbreviation. Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title, "licensed practical nurse," and the abbreviation, "L.P.N." No other person shall assume such title or use such abbreviation or any other words, letters, signs or figures to indicate that the person using the same is a licensed practical nurse.

(d) Temporary permit. The board may issue a temporary permit to practice nursing as a licensed practical nurse for a period of not more than 60 days, except that the board may issue a temporary permit to practice nursing as a licensed practical nurse for a period of not to exceed 180 days to an applicant for a license as a licensed practical nurse who is enrolled in a refresher course required by the board for reinstatement of a license which has lapsed for more than five years or for licensure in this state from another state if the applicant has not been engaged in practice of nursing for five years preceding application. The 180 day temporary permit may be renewed by the board for one additional period of not to exceed 180 days.

Sec. 5. K.S.A. 1991 Supp. 65-4202 is hereby amended to read as follows: 65-4202. As used in this act: (a) "Board" means the Kansas state board of nursing.

(b) The "practice of mental health technology" means the performance, under the direction of a physician licensed to practice medicine and surgery or registered professional nurse, of services in caring for and treatment of the mentally ill,

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emotionally disturbed, or mentally retarded for compensation or personal profit, which services:

(1) Involve responsible nursing and therapeutic procedures for such mentally ill or mentally retarded patients requiring interpersonal and technical skills in the observations and recognition of symptoms and reactions of such patients, and the accurate recording of the same, and the carrying out of treatments and medications as prescribed by a licensed physician; and

(2) require an application of such techniques and procedures as involve understanding of cause and effect and the safeguarding of life and health of the patient and others~~, including all gastro-feeding procedures except connecting the feeding tube, controlling the flow of formula through the feeding tube, tube aspiration of the feeding tube, administering medication through the feeding tube, disconnecting the feeding tube and clamping off the feeding tube~~; and

(3) require the performance of such other duties as are necessary to facilitate rehabilitation of the patient or are necessary in the physical, therapeutic and psychiatric care of the patient and to require close work with persons licensed to practice medicine and surgery, psychiatrists, psychologists, rehabilitation therapists, social workers, registered nurses, and other professional personnel.

(c) A "licensed mental health technician" means a person who lawfully practices mental health technology as defined in this act.

(d) An "approved course in mental health technology" means a program of training and study including a basic curriculum which shall be prescribed and approved by the board in accordance with the standards prescribed herein, the successful completion of which shall be required prior to licensure as a mental health technician, except as hereinafter provided.

Sec. 6. K.S.A. 1991 Supp. 65-4203 is hereby amended to read

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as follows: 65-4203. (a) Except as is hereinafter provided, an applicant for a license to practice as a mental health technician shall file with the board a written application for such license, on forms prescribed by the board, and shall submit satisfactory evidence that the applicant: (1) Has been satisfactorily rehabilitated if the applicant has ever been convicted of a felony ~~or-a-misdemeanor-involving-moral-turpitude~~;

(2) possesses a high school education or its recognized equivalent; and

(3) has satisfactorily completed an approved course of mental health technology.

(b) A license to perform as a mental health technician may only be issued by the board to an applicant:

(1) Meeting the qualifications set forth in (a) and who has successfully passed a written examination in mental health technology as prescribed and conducted by the board; or

(2) to an applicant who has been duly licensed by examination under the laws of another state, territory or foreign country if, in the opinion of the board, the requirements for licensure in such other jurisdiction equal or exceed the qualifications required to practice as a mental health technician in this state.

(c) The board may issue a one-time temporary permit to practice as a mental health technician for a period of not to exceed 60 days when a reinstatement application has been made.

~~(c)~~ (d) The board may adopt rules and regulations as necessary to administer the provisions of the mental health technician's licensure act.

Sec. 7. K.S.A. 65-4206 is hereby amended to read as follows: 65-4206. (a) An approved course of mental health technology ~~shall be-one~~ is a course of mental health technology which has been approved ~~as--such~~ by the board as meeting the standards of this ~~act,-together-with~~ and the rules and regulations of the board. ~~Said~~ The course, at a minimum, shall be of six ~~(6)~~ months

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duration during which period the institution shall provide for ~~eighteen (18)~~ 18 weeks of schooling, one-half devoted to classroom instruction and one-half to clinical experience and shall include the study of:

(1) Basic nursing concepts;

(2) psychiatric therapeutic treatment; and

(3) human growth, development and behavioral sciences.

(b) An institution ~~desiring~~ which intends to conduct a course on mental health technology shall apply to the board for approval and submit evidence that ~~it~~ the applicant is prepared to and will maintain the standards and curriculum as prescribed by this act and the rules and regulations of the board~~, which~~. The application shall be made in writing upon a form prescribed by the board.

(c) To qualify a course of mental health technology, the applicant shall satisfy the board that ~~it~~ the applicant is prepared to carry out the curriculum as prescribed by this act and the rules and regulations of the board and that ~~it~~ the applicant is prepared to and will establish standards ~~therefor~~ for the course as prescribed by the board.

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New Sec. 10. The board of nursing, in addition to any other penalty prescribed by law, may assess a civil fine, after proper notice and an opportunity to be heard, against any person granted a license, certificate of qualification or authorization to practice by the board of nursing for a violation of a law or rule and regulation applicable to the practice for which such person has been granted a license, certificate of qualification or authorization by the board in an amount not to exceed $1,000 for the first violation, $2,000 for the second violation and $3,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted promptly to the state treasurer. Upon receipt thereof, the state treasurer shall deposit the entire amount in the state treasury and credit such amount to the state general fund.

New Sec. 11. (a) In connection with any investigation by the board of nursing, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic, office of a practitioner of the healing arts, laboratory, pharmacy, medical care facility or other public or private agency if such document, report, record or evidence relates to medical competence, unprofessional conduct or the mental or physical ability of a licensee safely to practice nursing.

(b) For the purpose of all investigations and proceedings conducted by the board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents or any other physical evidence if such evidence relates to nursing competence, unprofessional conduct or the mental or physical ability of a licensee safely to practice nursing. Within five days after the service of the subpoena on any person requiring the production of any evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena.

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The board shall revoke, limit or modify such subpoena if in its opinion the evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such evidence.

(2) Any person appearing before the board shall have the right to be represented by counsel.

(3) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the boards duly authorized agent to produce evidence relating to the matter under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the charge which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the evidence which is required to be produced.

(c) Patient records, including clinical records, medical reports, laboratory statements and reports, files, films, other reports or oral statements relating to diagnostic findings or treatment of patients, information from which a patient or a patient's family might be identified, peer review or risk management records or information received and records kept by the board as a result of the investigation procedure outlined in this section shall be confidential and shall not be disclosed.

(d) Nothing in this section or any other provision of law making communications between a physician and the physician's patient a privileged communication shall apply to investigations or proceedings conducted pursuant to this section. The board and

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its employees, agents and representatives shall keep in confidence the names of any patients whose records are reviewed during the course of investigations and proceedings pursuant to this section.

Sec. 12. K.S.A. 65-4205 and 65-4206 and K.S.A. 1991 Supp. 65-1115, 65-1116, 65-1117, 65-1120, 65-4202, 65-4203, 65-4209 and 65-1161 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

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_______ BILL NO. ____

By -

AN ACT relating to the board of nursing; concerning persons licensed by the board; amending K.S.A. 65-1120, 65-4209 and repealing the existing sections

Sec. 4. K.S.A. 1991 Supp. 65-1120 is hereby amended to read as follows: 65-1120. (a) Grounds for disciplinary actions. The board shall have the power to publicly censure, or to deny, revoke, limit or suspend any license ~~or~~, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse ~~or~~, as an advanced registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for in accordance with the provisions of this act in the event that the applicant or licensee is found after hearing:

(1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;

(2) to have been guilty of a felony if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust;

(3) to have committed an act of professional incompetency;

(4) ~~to--be--habitually--intemperate-in-the-use-of-alcohol-or addicted-to-the-use--of--habit-forming--drugs~~ to be unable to practice with reasonable skill and safety due to physical or mental disabilities including deterioration through the aging process, loss of motor skill or abuse of drugs or alcohol;

~~(5)--to-be-mentally-incompetent;~~

~~(6)~~ (5) to be guilty of unprofessional conduct;

~~(7)~~ (6) to have willfully or repeatedly violated any of the provisions of the Kansas nurse practice act or any rule and regulation adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122 and amendments thereto; ~~or~~

(7) unless delegated pursuant to subsection (g) of K.S.A. 65-2872 and amendments thereto, to have only a license to practice as a practical nurse and to be guilty of (a)

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administering blood and blood products, human plasma fractions, antineoplastic agents, investigational medications or intravenous medications as prohibited by rule and regulation, (b) infusing by central venous catheter or (c) initiating total parenteral nutrition; or

(8) to have a license to practice nursing as a registered nurse or as a practical nurse publicly censured, denied, revoked, limited or suspended by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8).

(b) Proceedings. Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate such charges, or the board may designate and authorize an employee or employees of the board to conduct such investigation. After investigation, the board may institute charges. In the event such investigation, in the opinion of the board, shall reveal reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings thereon, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) Witnesses. No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate

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the person testifying, but such testimony shall not be used against such person for any prosecution for any crime under the laws of this state except the crime of perjury as defined in K.S.A. 21-3805 and amendments thereto.

(d) Costs. If final agency action of the board in a proceeding pursuant to this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued at the instance of the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid out of any available moneys in the board of nursing fee fund.

(e) Professional incompetency defined. As used in this section, "professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

(2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice nursing.

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Sec. 8. K.S.A. 1991 Supp. 65-4209 is hereby amended to read as follows: 65-4209. (a) The board ~~shall--have--the--power,~~ after notice and an opportunity for hearing, ~~to~~ may publicly censure the licensee or withhold, deny, revoke, limit or suspend any license to practice as a mental health technician issued or applied for in accordance with the provisions of this act or otherwise to discipline a licensee upon proof that the licensee:

(1) Is guilty of fraud or deceit in procuring or attempting to procure such license;

(2) ~~is-habitually-intemperate-or-is-addicted-to-the--use--of habit--forming--drugs~~ is unable to practice with reasonable skill and safety due to physical or mental disabilities, including deterioration through the aging process, loss of motor skills or abuse of drugs or alcohol;

~~(3)--is-mentally-incompetent;~~

~~(4)~~ (3) is incompetent or grossly negligent in carrying out the functions of a mental health technician;

~~(5)~~ (4) has committed unprofessional conduct as defined by rules and regulations of the board; or

~~(6)~~ (5) has been convicted of a felony ~~or-of-any-misdemeanor involving-moral-turpitude,--in--which--event--the--record--of--the conviction--shall--be-conclusive-evidence-of-such-conviction.--The board--may--inquire--into--the--circumstances---surrounding---the commission--of--any--criminal--conviction--to--determine--if-such conviction--is--of--a--felony--or--misdemeanor--involving---moral turpitude~~ if the board determines, after investigation, that such person has not been sufficiently rehabilitated to warrant the public trust.

(b) All proceedings under this section shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

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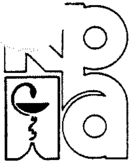

THE KANSAS PHARMACISTS ASSOCIATION
1308 SW 10TH STREET
TOPEKA, KANSAS 66604
PHONE (913) 232-0439
FAX (913) 232-3764

ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

TESTIMONY

HOUSE PUBLIC HEALTH & WELFARE COMMITTEE

Registering of Non-Resident Pharmacies
February 12, 1992

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the committee.

Over the past decade the number of non-resident pharmacies mailing prescription medication to Kansas residents has grown by leaps and bounds. The Kansas Board of Pharmacy, upon several occasions, has attempted to register these non-resident pharmacies. Unfortunately, their efforts have been met with resistance and, to date, few have complied.

In 1991, the Kansas Pharmacists Association requested the Kansas Attorney General take action to force these non-resident pharmacies to comply with the Kansas Board of Pharmacy request to register. The Attorney General's response indicated that there was ambiguity in the current statutes (K.S.A. 65-1643) regarding the registering of non-resident pharmacies.

Therefore, the Kansas Pharmacists Association respectfully requests that K.S.A. 65-1643 be amended to require the registering of non-resident pharmacies with the Kansas Board of Pharmacy and that they comply with rules and regulations adopted by the Board.

Thank you for your consideration regarding this matter.

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REGULATING OF NON-RESIDENT PHARMACIES

K.S.A. 65-1643

(j) FOR ANY PERSON OPERATING OUTSIDE THE STATE TO SHIP, MAIL OR DELIVER IN ANY MANNER A DISPENSED PRESCRIPTION-ONLY DRUG INTO THIS STATE WITHOUT FIRST HAVING OBTAINED A REGISTRATION AS A PHARMACY FROM THE BOARD. THAT PART OF THE OUT-OF-STATE PHARMACY OPERATION DISPENSING THE PRESCRIPTION FOR A KANSAS RESIDENT SHALL COMPLY WITH KANSAS LAW AND RULES AND REGULATIONS ADOPTED BY THE BOARD.

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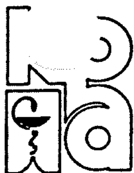

THE KANSAS PHARMACISTS ASSOCIATION
1308 WEST 10TH
PHONE (913) 232-0439
TOPEKA, KANSAS 66604
ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.
EXECUTIVE DIRECTOR

May 31, 1991

The Honorable Robert T. Stephan
Kansas Judicial Center
Topeka, KS 66612

RE: Mail Order Pharmacies

Dear Attorney General Stephan:

As president of the Kansas Pharmacists Association, I am requesting that you, as the chief law enforcement officer in this state, investigate the practices of mail-order pharmacies in Kansas. The pharmacy profession has been deeply concerned for several years that certain mail-order pharmacies are providing services illegally within the state of Kansas by virtue of not complying with statutory requirements for dispensing pharmaceuticals.

You have addressed the issue of the application of Kansas pharmacy laws to all persons who deliver prescription drugs in Kansas. You stated in A.G. Opinion No. 84–71 and in a subsequent letter dated February 23, 1990 that "the requirements of the pharmacy act extend to all persons within or without the state who deliver prescription drugs in Kansas." You went on to state that K.S.A. 1989 Supp. 65-1636 provides the rule that, "in order to sell or distribute prescription drugs, you must be a pharmacy with a licensed pharmacist responsible for this sale."

In a letter dated March 2, 1990, you addressed the issue of whether the aforestated requirement is constitutional under the Commerce Clause and Supremacy Clause of the U.S. Constitution. Your summarization was that such requirement is constitutional so long as the regulation does not create an undue burden on commerce. You do not venture an opinion as to whether such requirement would in fact be an undue burden which would, of course, be a question for the judiciary.

In a letter dated August 18, 1989, Tom Hitchcock, Executive Secretary of the Board of Pharmacy, requested that your office require compliance with the pharmacy laws by the following companies:

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1. Feld Prescription Service, 5023 Grover, Omaha, NE 68106
2. AARP Pharmacy Service, 3823 Broadway, Kansas City, MO 64111
3. MEDCO Corporation, 700 W. 3rd Ave., Columbus, OH 43212
4. MEDCO Corporation, 15001 Trinity Blvd., Ste. 300, Ft. Worth, TX 76155
5. MEDCO Corporation, 5373 S. Arville, Las Vegas, NV 89118

No report was made to the Board of Pharmacy as to this request and the above noted companies did not subsequently register with the Board. On behalf of the Kansas Pharmacists Association, I am renewing the request that you investigate and enforce the Kansas pharmacy laws pertaining to any pharmacy mailing prescription medication into the state of Kansas. To assist you in this effort, I have provided the following preliminary information about mail-order pharmacies:

Out-of-state pharmacies currently registered with the Kansas Board of Pharmacy:

1. Walgreen Arizona Drug, registration #7126, 519 W. Lone Cactus Dr., Phoenix, AZ 85027.
2. Butler Pharmacy, Inc., registration #7074, 18 N. Delaware St., Butler, MO 64730
3. LTC Health Services, registration #7628, (Value Rx, Inc.), 11724 E. 23rd, Independence, MO 64050
4. Visiting Nurse Infusion Therapy, registration #7627, 611 B. West 39th, Kansas City, MO 64111
5. American Drug, registration #7666, Rx America, Inc., 369 Billy Mitchell Way, Salt Lake City, UT 84116

I provided the above information for the purpose of demonstrating that it is possible to operate within the legal requirements of this state without undue burden.

According to our information, the following companies are mailing prescription medication into the state of Kansas but are not licensed nor registered with the Kansas Board of Pharmacy.

1. Flex Rx, operated by Eagle, Inc., Pittsburg, PA, on contract with Frito-Lay Corp.
2. Baxter Health Care Corporation, PO Box 95010, Albuquerque, NM 87199, contracting with UFCW Local 576 (meat cutters) 1305 E. 27th, Kansas City, MO; St. Francis Hospital, Topeka, KS; Coast Corporation, Coastal Twr., 9 Greenway Plaza, Houston, TX 77046
3. Prudential, contracting with Southwestern Bell
4. Feld Corporation (address listed previously) does not contract with an employer group but operates "free lance."

The information we are able to provide on these four companies is limited due to the very fact by which we are making this request -- that they appear to be operating illegally and outside the system where information would be available.

We would be happy to assist in any investigation which your office will be conducting. This is a problem for many states and information about this problem should be readily available from other state pharmacy boards as to how their state has forced compliance.

Because the proper dispensing of prescription drugs is so important to the health and welfare of Kansas citizens, we believe it is absolutely imperative that the Board of Pharmacy be given assistance by your office to insure that proper procedures are followed by all pharmacies. We are certain you can understand the danger which would be possible if in-state pharmacists were not licensed and regulated. Therefore, it is illogical to not require licensure and subsequent regulation of out-of-state mail-order pharmacies.

In essence, by allowing the continued illegal operation of mail order pharmacies, the citizens of Kansas are being subjected to the possibility that prescription drugs are being incorrectly and dangerously dispensed by non-trained personnel over whom the regulating authority has no jurisdiction due to its lack of statutory authority to force compliance. A situation could arise in Kansas, as it did in Idaho, in which a woman died due to an out-of-state, mail order pharmacy dispensing the wrong medication. The purpose of requiring compliance is to lessen the possibility that such an unfortunate and unnecessary death would occur in Kansas due to the Board's inability to regulate.

We believe that due to the serious consequences which can occur if prescription drugs are not properly dispensed, this violation of the law deserves the attention and authority granted to you.

We would like to hear from you by June 14. Thank you for your attention to this matter.

Sincerely,

Hugh Snell
President

HS/bt
cc: Tom Hitchcock, Kansas Board of Pharmacy

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STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

June 19, 1991

Hugh Snell, President
The Kansas Pharmacists Association
1308 West 10th
Topeka, Kansas 66604

Dear Mr. Snell:

Attorney General Stephan asked that I respond to your letter dated May 31, 1991, requesting investigation and action by this office with regard to out-of-state mail order pharmacies. As you are aware, this issue has been previously addressed by this office and you note several letters in your correspondence. A review of this office's past statements and position with regard to this issue indicates that if the registration of an out-of-state pharmacy is not required by K.S.A. 65-1643, then such pharmacy is not constrained by K.S.A. 65-1636. Because of a potential ambiguity in the application of registration requirements, it was suggested to your counsel that legislative amendments were necessary in order to clarify whether the complained of actions were clearly prohibited by Kansas law. Thus far, such legislative clarifications have not been forthcoming. Therefore, based upon previous legal research and consideration of the facts you present, and because it does not appear that the situation has in any way changed since our last review of this matter, we hereby decline your request for an investigation by this office.

Very truly yours,

OFFICE OF THE ATTORNEY GENERAL
ROBERT T. STEPHAN

Theresa Marcel Nuckolls

Theresa Marcel Nuckolls
Assistant Attorney General

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TMN:bas
cc: John Campbell, Deputy AG, Litigation
Dan Kolditz, Deputy AG, Consumer
cc: Tom Hitchcock, Exec. Secretary
Board of Pharmacy

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History: L. 1953, ch. 290, § 28; L. 1975, ch. 319, § 28; L. 1982, ch. 262, § 2; L. 1986, ch. 235, § 4; L. 1987, ch. 236, § 4; L. 1989, ch. 194, § 1; July 1.

65-1643. Registration or permit required; pharmacies, manufacturers, wholesalers, auctions, sales, distribution or dispensing of samples, retailers, institutional drug rooms; certain acts declared unlawful. On and after the effective date of this act, it shall be unlawful: (a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall

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be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a drug product the label of which is required to bear substantially the statement: "Caution: Federal law prohibits dispensing without prescription"; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection(s) of K.S.A. 65-1626 and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.A.S. 65-1637a and amendments thereto and any rules and regulations adopted pursuant thereto.

(i) For any person to be a pharmacy intern without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy intern registration fee of $25 to the board.

History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 262, § 3; L. 1982, ch. 263, § 7; L. 1983, ch. 210, § 2; L. 1986, ch. 231, § 29; June 1.

65-1643a. History: L. 1953, ch. 290, § 29; L. 1967, ch. 342, § 3; L. 1975, ch. 319, § 29; L. 1979, ch. 193, § 3; L. 1982, ch. 262, § 3; Repealed, L. 1983, ch. 210, § 3; April 14.

65-1644. Duplication registrations and permits, when; fees. The board may issue duplicate licenses, registrations or permits upon return of the original, or upon a sworn statement that the original has been lost or

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 Public Health and Welfare

February 11, 1992

Chairperson Sader, members of the House Public Health and Welfare Committee, thank you for the opportunity to speak to you on behalf of the Kansas Planning Council on Developmental Disabilities Services, concerning House Bill 2714.

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.

TITLE: Construction of State Statutes defining the terms "mental retardation", "developmental disability" and "severe, chronic disability"; amending K.S.A. 75-5372 and 76-12601 and K.S.A. 1991 Supp. 65-1,141 and repealing the existing sections.

The Kansas Planning Council on Developmental Disabilities Services applauds the efforts of the Interim Subcommittee on Mental Retardation and Developmental Disabilities Issues to separately define the term "mental retardation" and the term "developmental disability." For over twenty years, the term developmental disability has often been used synonymously with mental retardation, to the confusion of service providers, advocacy organizations, and persons with disabilities.

This past summer, the Interim Subcommittee also addressed the need for clarifying definitions. One recommendation in their report stated the following, "Services which should be available to all disabled individuals are often selectively doled out to those who fit only within a narrow statutory definition" (Subcommittee Report, page 15).

As identified in the chart which accompanies my testimony, currently there are more than one definition in use throughout the State for what constitutes a developmental disability. House Bill 2714 would statutorily provide yet another categorical/functional mix definition.

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BACKGROUND:

Prior to 1970, most legislation affecting persons with disabilities was largely categorical. However, about 1970, the position of the federal government changed to promote an allied services approach rather than to continue the development of new categorical programs. To meet this challenge, a coalition of national advocacy organizations was formed which represented persons with mental retardation, cerebral palsy, and epilepsy. The coalition developed draft legislation which was later passed by Congress as the Developmental Disabilities Services and Facilities Construction Act of 1970 (P.L. 91-517).

By 1973, considerable consumer group pressure emerged to expand the number of disability types covered by the 1970 legislation. The Act was later amended in 1975 to include autism and other neurological impairments closely related to mental retardation.

It soon became apparent that the new definition was interpreted in ways that were either too inclusive or too exclusive. As a result, the federal Administration on Developmental Disabilities empaneled a National Task Force to determine an appropriate basis for defining a developmental disability. Their recommendation, which was adopted and appears in federal statute, is a noncategorical functional definition that emphasizes the complexity, pervasiveness, and substantiality of the disabling condition.

RECOMMENDATIONS:

The Kansas Planning Council on Developmental Disabilities bring to your attention the following issues:

1. Kansas adopt statutorily the federal functional definition of developmental disabilities for planning, eligibility, and service provision.

2. Amend the statutes which fund services and their programs to include persons with developmental disabilties.

3. The following principle to guide all subsequent work in this area: There is a close correspondence among the laws, regulations, instruments, techniques, and procedures used to establish eligibility and program services.

   States that have only changed their laws, without the other service delivery mechanisms, have encountered significant problems.

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4. Program goals for all program recipients should focus on increasing a person's independence, productivity and community integration.

5. Adopt People First language throughout the bill. Example: Person with a developmental disability. Line 7, page 3 should be revised adopting People First language.

Wendell J. Lewis, Chairperson
Kansas Planning Council on
Developmental Disabilities Services
296-2608

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COMPARISON OF DEFINITIONS USED FOR DEVELOPMENTAL DISABILITY IN KANSAS

HOUSE BILL 2714 (1-16-92)	PUBLIC LAW 101-496	KANSAS PLANNING COUNCIL ON DEVELOPMENTAL DISABILITIES	HCBS/MR WAIVER	REHABILITATION SERVICES TRANSITION SERVICES
A severe, chronic disability such as **autism, cerebral palsy, epilepsy, or other similar physical or mental impairment**	A severe, chronic disability of a person 5 years of age or older which --	Federal Functional Definition (P.L. 101-496) "Definition applied to State Planning Council and does not generally apply to authorized services."	A condition or illness, such as **cerebral palsy, epilepsy, or autism, but excluding mental illness and infirmities of aging,** which;	A severe, chronic disability of a person
	- is attributable to a mental or physical impairment or combination of mental and physical impairments, and,			is attributable to a mental or physical impairment;
- is manifested before the age of twenty-two years;	- is manifested before the person attains age twenty-two, and		manifested before age 22	is manifested before the person attains age twenty-two, and
- is likely to continue indefinitely; and	- is likely to continue indefinitely; and		may be reasonably expected to continue to exist indefinitely,	
results in substantial limitations in any three or more of the following areas of life functioning:	- results in substantial functional limitations in three or more of the following areas of major life activity:		Results in substantial limitations in any three or more of the following areas of life functioning:	Results in **substantial functional limitations** in three or more of the following areas of major life activity:
a) Self-care	a) Self-care		a) Self-care	a) Self-care
b) Understanding and the use of language	b) Receptive and expressive language		b) Understanding and the use of language	b) Receptive and expressive language
c) Learning and adapting	c) Learning		c) Learning and adapting	c) Learning
d) Mobility	d) Mobility		d) Mobility	d) Mobility
e) Self-direction	e) Self-direction		e) Self-direction in setting goals and undertaking activities to accomplish those goals,	e) Self-direction
f) Capacity for independent living	f) Capacity for independent living		f) Living independently	f) Capacity for independent living
g) Economic self-sufficiency, and	g) Economic self-sufficiency, and		g) Economic self-sufficiency, and	g) Economic self-sufficiency, and

COMPARISON OF DEFINITIONS USED FOR DEVELOPMENTAL DISABILITY IN KANSAS

HOUSE BILL 2714 (1-16-92)	PUBLIC LAW 101-496	KANSAS PLANNING COUNCIL ON DEVELOPMENTAL DISABILITIES	HCBS/MR WAIVER	REHABILITATION SERVICES TRANSITION SERVICES
Reflects the person's need for a combination and sequence of special, interdisciplinary or generic care, treatment, and other services, which are of lifelong or extended duration and are individually planned and coordinated.	- Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated; **except that such term, when applied to infants and young children means individuals from birth to age 5, inclusive, who have substantial developmental delay or specific congenital or acquired conditions with a high probability of resulting in developmental disabilities if services are not provided.**	Federal Functional Definition (P.L. 101-496) "Definition applied to State Planning Council and does not generally apply to authorized services."	Reflects the need for a combination and sequence of special, inter-disciplinary or generic care, treatment or other services which are lifelong, or extended in duration and are individually planned and coordinated.	Reflects the need for a combination and sequence of special, inter-disciplinary or generic care, treatment or other services which are lifelong, or extended in duration and are individually planned and coordinated.
Does not include individuals who are solely, severely, emotionally disturbed, or seriously and persistently mentally ill or have disabilities solely as a result of infirmities of aging.			Excludes mental illness and infirmities of aging.	

Helgerson

*ADULT CARE HOME EXPENDITURES FY81 – FY92

FISCAL YR	TOTAL $'s	AVERAGE # PATIENTS
1981	$81,190,564	12,769
1982	83,806,177	12,548
1983	85,318,957	12,142
1984	91,479,357	12,039
1935	95,424,030	11,915
1986	101,828,373	11,837
1987	107,168,140	11,964
1988	123,472,381	12,423
1989	140,427,653	12,439
1990	167,456,662	12,459
1991	189,609,911	13,689
Approp 1992	220,548,900	13,900
Approp. 1993	232.3 million	
Projections to 2000	440.0 million	

*This information includes data on all Nursing Facilities, Intermediate Care Facilities for the Mentally Retarded, and Intermediate Care Facilities for the Mentally Ill. No State Institution is included however.

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Helgerson

Impact of Statewide Home Care Program
Estimate by Kansas Department on Aging
Feburary 12, 1992

Savings in nursing home expenditures--Comprehensive Program

Oregon reports a reduction of the number of persons in nursing homes by about 7 percent during a time when the elderly population was increasing by over 40 percent.

SRS data show an increase in the average number of medicaid residents in nursing homes of 1,352 from 1982 to 1992 (from 12,548 to 13,900).

A program comparable to Oregon's could have reduced the number of medicaid residents to 11,670. With an average cost of $15,866 per resident, the annual savings would have been $35,381,180 ((13,900 - 11,670)(15,866)).

Oregon invested in a state-funded "Oregon Project Indendence" in addition to its federally funded programs. The appropriations for this program were $1 million in the 1975-77 biennium and $6.6 million in the 1985-87 biennium (or $3.3 million per year).

Nursing Home Costs

Current	With Comprehensive Program
$220,548,900	$184,167,720

Savings in nursing home expenditure--Incremental Program

By expanding the Senior Care Act as it now exists, the state can expect to save at least $1,380,000 in nursing home costs for each $1,000,000 invested in the Act. This is based on an overall estimate of an average cost/benefit ratio of 1.38 for homemaker and attendant care services.

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KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

House Public Health and Welfare Committee
House Bill No. 2844

February 12, 1992

Madam Chairperson and members of the committee, I thank you for the opportunity to present you with this testimony.

House Bill 2844 would statutorily eliminate the current 300% income cap used to determine eligibility for nursing home coverage and require that the Department re-establish the spenddown methodology used prior to the change. The cap which was required by last year's appropriations bill for SRS became effective on September 1, 1991 and impacted individuals who have applied for nursing home assistance since that time.

During the 1991 session, the Legislature struggled with issues regarding the funding for the Department's programs, particularly the Medicaid program. Costs within this program have greatly escalated and placed an ever increasing burden on the State's resources. Of significant concern has been the rapid rise of nursing home expenses which now account for approximately 40% of the total Medicaid budget. From fiscal year 1981 to 1992, total nursing home expenditures have grown from $81 million to over $220 million, an increase of over 170%.

Such dramatic growth has reached the point where it is affecting monies available for other programs, including those serving children and families. The Legislature, foreseeing this problem, reviewed a number of different alternatives for counteracting this trend and ultimately settled on an income cap as a means of limiting future growth in nursing home expenditures. The cap is based on an option within Medicaid statute and regulations that permits States to use a capped income standard in determining eligibility. Such a standard can be no higher than 300% of the SSI benefit level for one person. Since the single person SSI benefit level is now $422/month, the current income cap is $1266.

The Department does not support eliminating the cap. We feel the legislative action to limit nursing home expenses was needed. The Department cannot continue to support the present increase in nursing home expenditures without impacting our ability to provide assistance under other programs. The cap has begun limiting the number of new clients who are eligible for nursing home care and is expected to provide savings over the long term. Unless we take measures to limit the escalating costs in the Medicaid program, we face the potential of having to further scale back other programs and services currently available.

If, after consideration, the Legislature determines the cap should be eliminated, we do not believe that a statutoty amendment is necessary. As the cap provision was a budgetary item, it would seem that action to eliminate it could occur through an amendment to the Department's appropriation bill. The language in this bill as currently worded could be problematic as it requires the Department to use standards and criteria in determining eligibility that were

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used as of June 1991. If, in the future, the agency needed to increase these standards or liberalize the criteria, as a result of state or federal action or even a court order, it would be prevented from doing so unless this statute was again amended. Such future changes could result in undue delays pending legislature action upon the change.

In summary, the Department does not support House Bill 2844 as we believe the present income cap should be retained and that such a statutory change could also prove to be problematic in implementing future changes.

Donna L. Whiteman
Secretary

largest cap is income cap!

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Aid to Families with Dependent Children (AFDC)

Family Size	Monthly Countable Income Limit*
1	$239
2	$321

* Limited based on AFDC need standard used in metropolitan areas (Kansas City, Wichita, Topeka, Hutchinson).

Food Stamps

HH Size	Monthly Gross Income Limit (130% of Poverty)*	Monthly Net Income Limit (100% of Poverty)
1	$ 718	$552
2	$ 962	$740

* The Gross Income Limits do not apply to persons who are elderly (60 or over), or disabled. When calculating net income, these persons may deduct unreimbursed medical expenses that exceed $35 a month and excess shelter costs. They will then be eligible for Food Stamps if their net income does not exceed the Net Income Limits.

Poverty Level Medical Program for Children & Pregnant Women

Number of Persons	Monthly 150% Poverty Level for Pregnant Women and Infants Under Age 1	Monthly 133% Poverty Level for Children Ages 1 through 5	Monthly 100% Poverty Level for Children Ages 6 and Above Born on or After October 1, 1983
1	$ 827	$ 733	$ 551
2	$1110	$ 984	$ 740

Poverty Level Medical Program for Qualified Medicare Beneficiaries (QMB)

Number of Persons	Monthly 100% Poverty Level Standards
1	$551
2	$740

Spenddown Medical Program*

Persons	Monthly Income Standards
1	$422
2	$466

* For children and aged and disabled adults not qualifying for poverty programs above.

300% Income Cap for Nursing Home Clients

$1266/month for each individual

PH&W
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ADULT CARE HOME EXPENDITURES FY 1981 – 1992 *

FISCAL YR	*TOTAL $'S*	*AVERAGE # PATIENTS*
1981	$81,190,564	12,769
1982	83,806,177	12,548
1983	85,318,957	12,142
1984	91,479,357	12,039
1985	95,424,030	11,915
1986	101,828,372	11,837
1987	107,168,139	11,964
1988	123,472,381	12,439
1989	140,427,654	12,439
1990	167,456,662	12,459
1991	186,798,341	12,881
1992 GBR	215,194,774	13,216
1993 GBR	232,333,285	13,466

* This information includes data on all Nursing Facilities, Intermediate Care Facilities for the Mentally Retarded, and Intermediate Care Facilities for the Mentally Ill. No State Institution is included however.

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SEDGWICK COUNTY, KANSAS

Council on Aging

Ray Vaughan
Chairperson
510 N. Main
Wichita, KS 67203
(316) 383-7298

Testimony in Support of HB2844
by Theron Black, Vice-Chair
Sedgwick County Advisory Council on Aging

I speak in support of House Bill 2844 to amend KSA1991 Supp.39-708c as noted in Section I sub section (s) which provides for medical care for needy persons and removes the imposition of an income cap for those individuals and sets the standards and criteria for eligibility as established during the month of June 1991.

The current 300% cap has caused undue hardship on elderly full care residents in nursing homes. For example, one elderly full care lady whose income was approximately $200 over the cap due to VA and SS income would fall short of the necessary cost of $1,836 dollars for full time care. Her son who has a family to care for would be hard pressed to provide the additional $370 dollars per month. Care could not be provided at home as both parents in the family need to work to meet the needs of their children as well as themselves.

Another example is a full care lady with income of $1,261 dollars which included SS, KPERS, and a small annuity in excess of $10 dollars. She is survived by two nephews, one in Georgia and the other in Washington state who have concerns for her, but are unable to provide the additional $575 dollars.

It is highly unlikely that the families of these two ladies would be able to provide the necessary skilled care required to maintain their

health in a home setting.

Nursing home care for persons as noted is essential. Home care, if available, (and it isn't in many cases) would result in spousal or family member burn-out which usually results in elder abuse and neglect. Additional stress on families due to the added burden of care which they are unprepared for does result in breakdown of the unit resulting in the need for other services provided by the state. In cases as described skilled nursing care appears to be the best and most efficient use of tax dollars. I urge you to support HB2844 and remove the 300% cap of SSI.

PHW
2-12-92
att #7
pg 2-2

Sterling Heights
1800 W. 27th St. • Lawrence, Kansas 66046 • (913) 842-3162 • Fax (913) 842-7396

RESIDENT NO. 1

Resident has been living in a nursing home setting for 3 years. Originally was on Medicaid then went to private pay status for a short period. Resident went back on Medicaid in October, 1991. In October, 1991, resident was dropped from Medicaid thus making him not eligible for payment of nursing home costs because his gross income exceeds the $1,221 monthly income limit. Resident has no sons or daughters or spouse to carry this financial burden or to care for him outside the nursing home. Resident's diagnosis is as follows: ANGINA PECTORIS, HYPERTENSION, BRONCHITIS, ATRIAL ARRHYTHMIA, GOUT, LT CHEST MASS, HYPERURICEMIA

Social Security		$ 468.00	
VA Pension		986.00	
Total Income		1,454.00	
Imposed Medicaid Cap	1991	1,221.00	1992 - $1266.00
Difference		233.00	

RESIDENT NO. 2

Resident was admitted from private home in October, 1991. Due to an evaluation by the Kansas Institute it was decided the daughter could not care for her mother because of ALZHEIMERS DISEASE and recommended she be placed in a nursing home. Resident was admitted at private pay status until November, 1991 when Medicaid accepted her application and picked her up effective October 1, 1991, her admission date. This resident has no living spouse and has only a daughter who cannot financially carry the burden of her mother's care.

Social Security		$ 658.50	
VA Assistance		660.00	
Total Income		1,318.50	
Imposed Medicaid Cap	1991	1,221.00	1992 - $1266.00
Difference		97.50	

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attn #8
1-2

Key points of the result of the Medicaid NURSING FACILITY ELIGIBILITY CAP:

#1. Both resident's described in the attached paper have no one to pick up the added cost.

#2. Both residents have a need for nursing home care 24hours per day that cannot be met by family or community based service's.

#3. The facility lowered their charges to the facility Medicaid rate of $55.79 per day, however neither resident can afford this.

#4. By law, the facility can not accept less than the Medicaid rate or stand the possibility of being penialized.

#5. If the facility carried the difference for the residents, as Bad Debt, it would increase the Administrative Cost Center, which the state is wanting to lower, thus penalizing the facility twice.

#6. This is only 2 cases in a 3 month period. Times that times 2 per quarter = 8 cases average a 94 bed facility would be carring per year.

In 1990 there were 25,799 nursing home residents. Taking an average (similar to ours) of 2 cases per every 100 residents = 516 residents affected by this rule during the first 3 months.

Summary Points:

#1. The purpose was to cut cost in the future by eleminating people from the program. However, there are not alternatives for these people. People choose a Nursing home as a last result, when all other options are eleminated, thus they need 24hour medical care.

#2. The rule eleminates the people who cost the system the very least amount of money!

#3. There are people in nursing homes who have and will pay their way privately for many years. At some point they may run out of funds. Yet they may still have an income over the Cap, and would be denied, yet these people will cost the system the least.

On the other hand, a new resident, with no monies to pay privately, and maybe only a Social Security income of $200 - 400.00 the state immediately is willing to pick up and pay $1400.00 - $1600.00 for.

PH&W

Summary:
There are other ways of looking at to try and balance a budget and fund the system. The Cap penalize's the people who are contributing the most and costing the system the least.

Attm #8
2-12-92

K.J. Langlais, Administrator
Sterling Heights, Lawrence
1- 842-3162

February 12, 2

TESTIMONY PRESENTED TO THE

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

By Sharon Kay Spencer

RE: House Bill #2844 "Relating to Persons Eligible for Coverage of Adult Care Home Costs"

Representative Sader and members of the House Public Health and Welfare Committee, thank you for the opportunity to present my views of the complex Medicaid Eligibility rules and specifically to address the issue of the cap imposed last September to qualify for Medicaid assistance.

My parents, Ward and Moetta James now reside in Westview Nursing Home in Derby, Kansas. Dad, who is almost 88, worked hard all his life in a blue collar job, raised three children and managed to put away some money in savings prior to retirement. He is now legally blind and recovering from bladder surgery and radiation treatments for prostate cancer. Mom, age 79, suffered a stroke last May which left her partially paralyzed and in a wheelchair. They split their assets last June, prior to Dad's health failing, in an attempt to protect some of their limited resources for his extended care. It now appears that all their planning has been negated by legislation passed last September.

The cap was imposed, as I understand it, to force a reduction in the cost of nursing home care. Instead, I believe it forces nursing homes to provide sub-standard care or forces persons with no resources who fall above the cap to move into facilities or housing not equipped to take care of their health care needs.

Stricter government regulations have been imposed to assure appropriate nursing home care is being provided. As a result, nursing homes in Kansas and nationwide have been closed because of poor quality care. I am not suggesting this is wrong; however, when on one hand our government requires certain standards be met and on the other hand it says expenses must be reduced, a difficult, if not impossible situation is created.

Attm #9
2-12-92
PH+W

Nursing home care costs are on the rise. That is a fact. It is also a fact that more people are living longer and needing that care, It is expensive to provide 24-hour care by qualified nursing staff, three meals per day, personal care needs, exercise, therapy and activities. Not to mention the miriad of paperwork and recordkeeping required. It is hard, demanding and sometimes thankless work, provided by dedicated, caring individuals who also deserve a living wage for their services.

My parents are more fortunate than many. They are receiving excellent care and have some resources remaining. Their combined income is presently $1,501 per month ($1,257 is Dad's; $244, Mom's). However, within less than one year, all their resources will be gone because their care now costs close to $4,000 per month with therapy and medications. According to articles published in the December 1991 issue of Active Aging (enclosed) they will not qualify for Medicaid assistance because the change in the laws last September does not allow for division of assets if their combined income exceeds $1,221 per month. (I understand that the amount is now $1,266 per month).

As a result, Dad has decided he is moving he and Mom back into an apartment to reduce their cost of living and protect their limited income as long as he can. He's a proud man and says he won't remain in the nursing home and be kicked out when his limited resources are gone. He's already dropped Mom twice in an attempt to prove he is capable of taking care of her.

It would be a shame to place my parents and many others like them who have made positive contributions to our communities for many years into what could be potentially life-threatening situations because an arbitrary lid was placed on the cost of their care. On behalf of our increasing aging population, I ask that you reconsider the legislation placing a cap of $1,266 on Medicaid eligibility and reinstate the allowance for division of assets.

Attm # 9
2-12-92
PH+W
P9 2-4

Planning to maximize Medicaid eligibility

It has been said that only the Internal Revenue Code rivals the rules for Medicaid eligibility in terms of sheer complexity. On top of that, Medicaid planning also necessarily overlaps with complex estate planning and tax principles. Thus, seeking appropriate counsel in this area normally requires the services of an attorney well versed in all three areas.

This month's column is devoted to the basic approaches to Medicaid planning. Although Medicaid coverage extends beyond nursing home care, it is this benefit that will be the focus of this column.

Statistics tell us there is a 40 percent chance an adult over the age of 65 will at some point in his or her life reside in a nursing home. The average nursing home stay in Kansas is about 4.5 years. Kansas monthly nursing home costs now average close to $2,000. It does not take a mathematical wizard to determine that the cumulative cost of nursing home care can often exceed $100,000.

As Medicaid is a "need based" program, unlike Medicare, an individual must be of limited resources before qualifying. There are certain exempt resources that are not counted. These, basically, are a home and contiguous acreage, a car, personal effects, prepaid burial, prepaid funeral, a $1,500 life insurance policy and $2,000 of other resources.

For married couples, in addition to

It's a Matter of Law

By Timothy P. O'Sullivan

exempt resources, the law allows the well spouse to keep one-half of the non-exempt resources (determined at the time the infirm spouse goes into the nursing home), with minimum of approximately $14,000 and a maximum of approximately $67,000.

This is the so-called "division of assets" protection available to married couples. In addition to division of assets protection, the well spouse is allowed to retain income of approximately $850.00 per month (plus, in limited circumstances, housing allowances), even if this means that a portion of the infirm spouse's income must be set aside for the well spouse to bring his or her income up to such minimum income level.

The 1991 Kansas legislature enacted a final significant qualification impediment. For new individuals otherwise qualifying for Medicaid on or after September 1, 1991, if such individual has more than $1,221 of income, he or she is ineligible. This arbitrary and capricious provision renders individuals ineligible, even through there are few, if any nursing homes in Kansas whose monthly charges do not exceed this rate. Hopefully, the 1992 Legislature will rectify this inequity.

For single or married individuals meeting the resource and income qualifications, all income (including social security, pensions and annuity income) of the nursing home resident must go to the nursing home. Medicaid will then pay to the nursing home the difference between such income and the applicable Medicaid reimbursement rate.

Medicaid planning may involve four areas: gifting, maximizing exemptions, estate planning, and sometimes a divorce or separate maintenance action.

One can gift away non-exempt resources to get down to qualifying resource levels. One obvious drawback to this strategy is that the gifted property is no longer within the donor's control. A second problem is that for every $1,500 transfer, the donor is disqualified for Medicaid one month, up to a maximum of 30 months. Finally, there is no certainty that Medicaid, being a state option program, will be available to provide for nursing home care when and if the need arises.

One possible approach addressing these problems is for children to whom property has been gifted, under no pre-arrangement with the donor, to create an irrevocable trust. Distribution from the trust to the donor could then be made supplemental to governmental resources during his or her lifetime.

A second area of Medicaid planning is maximizing resource exemptions through the conversion of non-exempt property into exempt property. Examples are paying off mortgages on a personal residence, making improvements in the residence, purchase of a car or trading for one having a higher value, and purchase of furniture and personal effects. For reasons too complicated to discuss here, spouses wishing to take advantage of the division of assets law often should not convert non-exempt resources into exempt resources before the infirm spouse goes into the nursing home.

The third principal planning area is estate planning. Consideration should be given to living trusts, durable powers of attorney (which are good during incapacity) for property management and health care, and living wills. Proper usage of these estate planning tools normally avoids the necessity of a court-appointed guardian or conservator during in-

Continued on next page

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Medicaid

continued from page 1

"It's a shame...she served the community well for many years...that she has to be penalized," her nephew said.

State officials say that there are many cases similar to Mary's across the state.

Donna Whiteman, secretary of Social and Rehabilitative Services, appearing at a special legislative hearing in September, recommended that the cap be left in place until the 1992 legislative session to allow SRS time to analyze the impact of the new guidelines.

Several senior advocacy groups, including the Silver Haired Legislature, have vowed to lobby the legislature for a change in the eligibility guidelines and re-instatement of division of assets. Seniors are encouraged to contact their legislator before the session and during the 1992 legislative session to encourage legislation to change the 1991 ruling.

Legislature to look at Medicaid eligibility rules

A legislative priority for most senior lobbyists for the 1992 session of the Kansas Legislature will be changing income requirements for nursing home residents to qualify for Medicaid and re-instating division of assets.

Division of assets, passed by the state in 1988 and the federal government in 1989, allows a husband and wife to protect a portion of their combined income and resources when one of them requires long-term care. The intent is to allow the well spouse to maintain certain income and assets and help the spouse needing long-term care qualify for Medicaid benefits to help pay for that care.

The new rule, passed in an appropriations bill intended to cut Social and Rehabilitative Services spending for nursing homes, raised the Medicaid eligibility to an income level of ~~$1,1221~~ per month and does not allow for division of assets if their joint income exceeds $1,221 monthly.

The effect of this ruling has been felt statewide, with many people facing tough decisions on providing care with inadequate resources.

To illustrate the effect, consider the case of a Wichita woman we will call Mary.

Mary, 94, is a retired teacher who never married. Her only remaining family are some nieces and nephews, all of whom live out of state. Her mind is vague, she really doesn't know any of her friends and family, she is incontinent and needs constant care. Mary has been in a Wichita nursing home as a private pay patient for the last six years, with the bills for her care, now at approximately $2,100 per month covered by her pension and proceeds from the sale of her home, totaling $1,250 per month. A burial plan is her only other asset.

This fall, her conservator, a nephew who lives in Georgia, was in Wichita and was looking into applying for Medicaid, as his aunt's resources were running low. He found that her income is $39 per month over the Medicaid eligibility cap, so she will not qualify for Medicaid assistance. Her monthly income falls nearly $1,000 short of the cost for her care at a nursing home.

About the only recourse that her family can take is to try to find someplace that will accept Mary on the basis of what she can pay.

Continued on page 20

Aging is a good process
Story on page 4

Beat the winter blahs
Story on page 6

A New Year's verse
Vagaries on page 8

Hypothermia poses risks
Story on page 14

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KAHA
Kansas Association of Homes for the Aging

Enhancing the quality of life of those we serve since 1953.

February 11, 1992

Representative Carol Sader
Chair, House Public Health and Welfare Comm.
Members of the Committee

RE: House Bill No. 2844

I am John Grace, President of the Kansas Association of Homes for the Aging a trade association of 130 not-for-profit retirement and nursing homes of Kansas.

We support House Bill No. 2844 and urge the committee to adopt it favorably.

When the legislature passed the 300% cap, we did not know at that time who would be affected. The stories of people you have heard today are people who have no viable alternative but the nursing facility.

Let me give you three examples of individuals who have no options for care under the current 300% cap restriction. They are all severely disabled, have met or will meet the medicaid prescreening criteria for long-term care, have incomes over the 300% cap, but do not have enough income to meet their cost of care. They are too disabled to function at home with at home services, even if they had homes to return to. They all run the real risk of eviction.

The first example is a widow in her late 50s who suffers from severe multiple sclerosis. She has been in a nursing home and on medicaid for at least two years. After September 1, 1991, she was approved for a VA pension which increased her income to approximately $1,400 per month, but below both the private pay and medicaid reimbursement rate for any nursing home within the county she lives.

The second example is a 95 year old woman with no immediate family who has been spending her resources on private pay since she entered the nursing home several years ago. Her total monthly income is approximately $1,300, $34.00 over the 300% cap. Her resources will be depleted in 2-3 months. She has no home to return to, or the capacity to care for herself.

-over-

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PH+W
2-12-92
Att #10

HB-2844

IN FAVOR OF SB-548

RICHARD LEE SPENCER

My mother, Dorothy Spencer, is a victim of Alzheimer's disease, and she has required nursing home care for the past 5½ years. She is the widow of a totally disabled veteran of WW2 and therefor receives a V.A. pension as well as Social Security benefits. Her government payments total $1452.00/month.

Her total expenses, including nursing home costs, drugs, and Plan 65 health insurance, amount to approximately $2000.00/month.

Until now, the extra $550.00/month needed for her care came from private funds resulting from the sale of her property. However, these private resourses are now nearly exhausted.

I was told by the S.R.S. that since she receives more than $1221.00/month allowed by law in personal income, she is not eligible for Medicaid assistance. What is she to do?

Her personal income - both government pensions- will not even cover the basic nursing home cost, let alone the cost of her drugs and health insurance. I cannot afford to pay the nearly $600.00/month needed for her care, and I certainly cannot provide the needed care at home.

It is an absolute travisty that since my father was a disabled veteran his widow should have to suffer because of his service to his country. Without the V.A. pension she would qualify for Medicaid! Where is the logic or the justice here? How can it be that one government pension can be allowed to keep you off Medicaid when it is the same government providing both programs? It's crazy!

Clearly we need this bill to be passed in order to restore fairness and logic to the system.

2-12-92
PH+W
Attm. #11

Kansas AFL-CIO

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February 12, 1992

TO: The House Public Health & Welfare Committee

The Kansas AFL-CIO strongly supports the passage of H.B. 2844. We also believe a better solution would be to allocate funds for community based services. This would allow for people, if possible, to remain in their homes and take advantage of public transportation, meals on wheels and other services.

The income cap on adult care home services hits particularly hard the middle income workers that we have represented. After they have worked all their lives and paid their taxes, they find they must virtually devest themselves of everything they have worked for.

We respectfully request the committee to recommend H.B. 2844 favorable for passage.

Sincerely,

Jim DeHoff
Executive Secretary

Wayne Maichel
Executive Vice President

opeiu #320, afl-cio

PH&W
2-12-92
attm. #12