Approved: March 18, 1996
Date

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans at 1:30 p.m. on March 14, 1996 in Room 423-S of the Capitol.

All members were present except: Representative Yoh
Representative Goodwin
Representative Merritt

Committee staff present: Norman Furse, Revision of Statutes
Bill Wolff, Legislative Research Department
Francie Marshall, Committee Secretary

Conferees appearing before the committee:
Greg Bien, Attorney for St. Francis Hospital
Sandra Lyon, Executive Director of United Methodist Health Clinic, Wichita
Dalrona Harrison, University of Kansas School of Medicine, Wichita
Dr. Landreth, President of Dental Board
Sister Ann McGuire, President of Kansas Association of Medically Underserve
Joyce Volmut, Kansas Department of Health and Environment
David Hanzlick, Kansas Dental Association
Dr. Robert Wood
Chuck Engel, Kansas Dental Association

Others attending: See Guest List. Attachment 1.

Chairperson Mayans asked the committee members to consider the minutes of the meeting on March 12, 1996 for approval.

Chairperson Mayans opened the hearing on **SB 625**.

SB 625 - Retires dental licensees authorized to provide charitable dental services

The following people provided testimony in support of **SB 625**:
Greg Bien, Attorney for St. Francis Hospital (Attachment 2),
Sandra Lyon, Executive Director of United Methodist Health Clinic, Wichita (Attachment 3),
Dalrona Harrison, University of Kansas School of Medicine, Wichita (Attachment 4),
Dr. Landreth, President of Dental Board (Attachment 5),
Sister Ann McGuire, President of Kansas Association of Medically Underserve (Attachment 6),
Joyce Volmut, Kansas Department of Health and Environment (Attachment 7).

The following people provided written testimony in support of **SB 625:**
Susette Schwartz, Chief Executive Officer, The Hunter Health Clinic, Wichita (Attachment 8),
Michael Reno, D. D. S., The Hunter Health Clinic, Wichita (Attachment 9).

The hearing was opened for questions to the proponents from the committee.

Several questions and concerns were raised by committee members regarding costs and dental accessibility, as well as some of the language of the bill. On questions regarding language in the bill, it was suggested that medically indigent and dentally indigent language should be the same. The issue of whether to include city and county hospitals in a balloon amendment was also discussed. Cost questions dealt with the use of medically indigent language. Finally, the dental accessibility of care for the people was discussed with regard to current problems in providing services. Several other concerns raised by the committee included possible damage to the Dental Practice Act, the corporate practice prohibition, and the viability of finding dentists to treat HIV patients. As to concerns regarding the enforcement of the statutes, Dr. Landreth stated that due to the recent surface of this issue, the Dental Board would not be able to delay much longer in enforcing the law. There was

further discussion as to the number of people being served who are below the 200% of poverty as opposed to those below 120%. Dr. Landreth stated that he is opposed to any legislation prohibiting the expansion of these services.

The hearing was opened for the opponents to present their testimonies for **SB 625**.

David Hanzlick, Kansas Dental Association, stated three reasons for opposing the bill. Firstly, although the Kansas Dental Association is sympathetic to legislation, and not opposed to indigent care, they believe legislation is premature at this time. Secondly, Mr. Hanzlick addressed the illegal clinics which have been in operation for several years. Finally, the KDA expressed its concern with corporate practice issues.

Dr. Robert Wood, testifying for Dr. Taylor Markle (Attachment 10), stated concerns about the level of care that will be delivered, the accountability of dentists to meet continuing education requirements, and the sterilization issue.

Chuck Engel, Kansas Dental Association,while not being involved with the changes made in the Senate, expressed several major concerns with **SB 625** in his testimony (Attachment 11). Although the Kansas Dental Association had supported the bill in the Senate, concerns have since risen regarding the corporate practice elements in the bill. Further questions regarding the quality of care, renewal requirements, and the accountability of dentists and clinics were also addressed. Representative Henry raised questions about the possibility of a moratorium on a portion of the statute in order to allow clinics to open. Other concerns discussed were the setting of poverty guidelines, procedures for continuing education and the practices of future indigent clinics. After further discussion, Chairman Mayans suggested that the parties needed to look at the issue of a moratorium on the statute before any action could be considered on the bill.

The meeting was adjourned at 3:25 p.m.

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.

House Health & Human Services COMMITTEE GUEST LIST

DATE March 14, 1996

NAME	REPRESENTING
Melissa Wangemann	Hein Ebert & Weir
Sister Ann McGuire, SCL	Kansas Assn. for the Medically Underserved
Earl L. Landreth	
Arlene Landreth	
Sister Margaret Finck	St. Francis Hospital & Medical Center
Gregory J. Bien	St. Francis Hospital & Med Center
Sister Therese Bangert	Sisters of Charity of Leavenworth
Carol Ablah	
Mary Jo Nigg	
Joyce Volmut	Kansas Dept Health & Environment
[illegible]	St Francis Hosp.
PHILIP HURLEY	PAT HURLEY & CO.
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Crystal Coley	KS Pharmacists Assoc.

H+HS Comm
3-14-96
attm #1

3/14/96

Mr. Chairman, Members of the Committee:

The purpose of St. Francis Hospital and Medical Center is to make health care available to the community. It does not produce profits for shareholders, and it is not operated or managed for profit. Net revenues, if any, are used solely to sustain operations and to further St. Francis' charitable mission such as the proposed operation of a dental clinic for the indigent.

Over two years ago it became apparent to the administration of St. Francis Hospital through neighborhood meetings and health assessments, that low income people in Topeka, especially those on the east side, had difficulty in accessing dental care. The Shawnee County Community Health Care Assessment of 1995 found that 46.1% of the population in East Topeka had not been to a dentist in the past six months which is the recommended time frame for regular dental care.

In addition, the physicians who staff our emergency rooms have regularly identified dental care as a glaring need for the indigent patients they see in the Emergency Room. Finally, the poor people of Topeka themselves have been calling St. Francis to state that they don't have access to dental care. Therefore, St. Francis made the commitment to open a not-for-profit dental clinic to provide dental services for low income patients who would: (1) qualify according to the federal poverty guidelines; and (2) are uninsured.

St. Francis is here today seeking a change in the law through Senate Bill 625 so that it can provide these dental services.

H&HS Comm
3-14-96
attm #2

The law as now written prevents a corporation from hiring a dentist and further makes a dentist who works for an unlicensed proprietor of dental services subject to having his license revoked. It is my understanding that the clinics in Kansas which have been offering dental care have stopped doing so and are awaiting your passage of this legislation before they resume dental services to the poor.

Before this bill is passed and becomes law, I would ask that some amendments be made. These suggested amendments are the result of our discussions with the Kansas Dental Association ("KDA") and with Representative Morrison.

The amendments would accomplish the following. One would eliminate any question that a not-for-profit corporation other than a hospital could provide dental care. Another would reduce the poverty level of the population to be served to 120 per cent of poverty guidelines. A third would eliminate the phrase "a program administered by the state or federal government" which would allow patients who may be covered by Medicaid to be seen in a clinic for the indigent.

The reason for this last suggested change is based on our information that dentists who serve this populace actually end up subsidizing this care themselves because they provide the service at a loss. It is our understanding that allowing the indigent clinics to provide service to Medicaid recipients would lessen the burden on dentists. This amendment would also eliminate a problem for federally funded clinics and allow them to provide these dental

services. It is my understanding that the KDA supports this change.

When this bill was introduced in the Senate, the KDA supported the bill. It was my understanding they did so because they recognized that there was a segment of the population which did not have access to dental care and because St. Francis was willing to compromise certain aspects of the proposed bill. At the KDA's request, St. Francis was willing to lower the per cent level of the poverty level from 200 per cent to 120 per cent. At the KDA's request, St. Francis was also willing to recommend elimination of section (d) which has to do with retired dentists. The bill as reported out of the Senate did not include those changes. St. Francis again recommends to this House committee that the income poverty level be reduced to 120 per cent. We have also provided you a chart indicating the income levels from 100 per cent of the poverty level to 200 per cent. As you consider those numbers, please keep in mind that persons who have medical, hospital, or dental care insurance are excluded from being treated in one of the entities referenced in the bill.

St. Francis believes that following the analysis of who would be eligible to receive these services only on the level of poverty is extremely misleading because of the fact that according to studies from the Kansas Insurance Department at least ninety per cent of the population of Kansas is covered by some form of health insurance thereby eliminating ninety per cent of the population as

persons who could be treated in one of the dental clinics for the indigent.

In addition, we hope you understand that we don't anticipate being able to treat more than approximately 1500 persons per year in the St. Francis dental clinic. This would amount to approximately 1 per cent of the population of Shawnee County.

We are not concerned about (d) having to do with retired dentists. While retired physicians have a similar statute which allows them to practice without further continuing education, we don't want to quibble over this section.

However, the primary reason for the KDA's change of position lies with an unfounded fear that allowing a not-for-profit hospital corporation or clinics that are specifically formed to meet the needs of the poor to provide dental services will be followed by for-profit corporations hiring dentists or not-for-profit corporations with bad motives hiring dentists. On behalf of St. Francis, I urge this committee not to be limited in its power to help the poor by succumbing to fears based upon speculation about the unknown. It makes no economic sense for any entity other than a charitable one to provide dental services to the segment of the population identified in this bill under the conditions specified.

St. Francis, after conferring with Representative Morrison, agreed to add the phrase "which is also a facility qualified pursuant to K.S.A. 65-431(b) to select and employ professional personnel" in order to further limit the types of not-for-profit

corporations which could hire a dentist. Thus the only corporation which can provide dental services to the indigent is also one which is a licensed hospital.

Finally, I understand that the KDA is going to recommend that an interim study committee be formed and the passage of this bill be delayed. I want to remind you that the clinics which have been providing dental care to the poor are not now doing so because they realized they were in violation of the law. Furthermore, St. Francis is ready to begin responding to the needs of the poor immediately. There are poor people calling St. Francis on a daily basis. There is no good reason for delaying this opportunity to take care of the dental needs of the poor. We urge you to pass this bill with the amendments recommended so that we can get on with our mission and at least some of the poor can have their dental health needs met.

St. Francis Hospital and Medical Center

As Amended by Senate Committee

Session of 1996

SENATE BILL No. 625

By Committee on Public Health and Welfare

2-6

10 AN ACT concerning the dental practices act; retired licensees authorized
11 to provide charitable dental services; amending K.S.A. 65-1431 and
12 repealing the existing section.

14 *Be it enacted by the Legislature of the State of Kansas:*
15 New Section 1. (a) Notwithstanding any other provision of the dental
16 practices act, a not-for-profit corporation having the status of an organi-
17 zation under 26 United States Code Annotated 501(c)(3), ~~and~~ indigent
18 health care clinic as defined by the rules and regulations of the secretary
19 of health and environment, a federally qualified health center, or a local
20 health department may employ or otherwise contract with a person li-
21 censed under the dental practices act to provide dental services to dentally
22 indigent persons.
23 (b) Dentally indigent persons are those persons who are: (1) Deter-
24 mined to be a member of a family unit earning at or below ~~200%~~ of
25 poverty income guidelines based on the annual update of "poverty income
26 guidelines" published in the federal register by the United States de-
27 partment of health and human services; and (2) not indemnified against
28 costs arising from medical and hospital care *or dental care* by a policy
29 of accident and sickness insurance, an employee health benefits plan, ~~a~~
30 ~~program administered by the state of *or* federal government~~ or any such
31 coverage.
32 (c) A licensee under the dental practices act who enters into any
33 arrangement to provide dental services pursuant to subsection (a) shall
34 not be subject to having the licensee's license certificate suspended or
35 revoked by the board solely as a result of such arrangement.
36 (d) A dentist who is classified as "retired" by the Kansas dental board
37 is not required to pay the annual renewal fee or comply with the dental
38 continuing education requirements if the dentist elects to provide dental
39 services to the indigent through one of the entities specified in subsection
40 (a). A "retired" dentist providing such services shall be required to comply
with the annual renewal requirements of the Kansas dental board.
(e) This section shall be part of and supplemental to the dental prac-
43 tices act.

which is also a facility qualified pursuant to K.S.A. 65-431(b) to select and employ professional personnel,

an

120%

This language should be deleted so that patients who are eligible for Medicaid could be seen in these clinics.

This section could be deleted or modified by eliminating the waiver of continuing education.

1 Sec. 2. K.S.A. 65-1431 is hereby amended to read as follows: 65-
2 1431. (a) On or before the first day of December of each year, each
3 licensee of the Kansas dental board shall transmit to the secretary of the
4 board, upon a form prescribed by the board, such licensee's signature,
5 post-office address, office address, the number of the license certificate
6 of such licensee, whether such licensee has been engaged during the
7 preceding year in active and continuous practice, whether within or with-
8 out this state, and such other information as may be required by the
9 board, together with the annual registration fee for dentists which is fixed
10 by the board pursuant to K.S.A. 65-1447 and amendments thereto.
11 (b) The board shall require every licensee to submit with the renewal
12 application evidence of satisfactory completion of a program of continuing
13 education required by the board. The board by duly adopted rules and
14 regulations shall establish the requirements for such program of contin-
15 uing education as soon as possible after the effective date of this act. In
16 establishing such requirements the board shall consider any existing pro-
17 grams of continuing education currently being offered to such licensees.
18 (c) Upon fixing the annual registration fee, the board shall immedi-
19 ately notify all licensees of the amount of the fee for the ensuing year.
20 Upon receipt of such fee and upon receipt of evidence that the licensee
21 has satisfactorily completed a program of continuing education required
22 by the board, the licensee shall be issued a renewal certificate authorizing
23 the licensee to continue to practice in this state for a period of one year.
24 (d) Any license granted under authority of this act shall automatically
25 be canceled if the holder thereof fails to secure a renewal certificate
26 within a period of three months from November 30 of each year. Any
27 licensee whose license is automatically canceled by reason of failure, ne-
28 glect or refusal to secure the renewal certificate may be reinstated by the
29 board at any time within three months from the date of the automatic
30 cancellation of such license, upon payment of the annual registration fee
31 and a penalty fee of $15 and upon proof that such licensee has satisfac-
32 torily completed a program of continuing education required by the
33 board. If such licensee has not applied for renewal of the license within
34 three months after it has been automatically canceled and has not paid
35 the required fees or presented proof of satisfactory completion of the
36 required program of continuing education, then such licensee shall be
37 required to file an application for and take the examination provided for
38 in this act.
39 (e) Upon failure of any licensee to pay the annual registration fee or
40 to present proof of satisfactory completion of the required program of
41 continuing education within two months after November 30, the board
42 shall notify such licensee, in writing, by mailing notice to such licensee's
43 last registered address. Failure to mail or receive such notice shall not

1 affect the cancellation of the license of such licensee.
2 (f) The board may waive the payment of annual fees and the contin-
3 uing education requirements for the renewal of certificates without the
4 payment of any registration fee for any person who has held a Kansas
5 license to practice dentistry or dental hygiene if such licensee has retired
6 from such practice or has become temporarily or permanently disabled
7 and such licensee files with the board a certificate stating either of the
8 following:
9 (1) A retiring licensee shall certify to the board that the licensee is:
10 (A) At least 65 years of age and has retired from the active practice of
11 dentistry or dental hygiene; and (B) not engaged, *except as provided in*
12 *section 1 and amendments thereto,* in the provision of any dental service,
13 the performance of any dental operation or procedure or the delivery of
14 any dental hygiene service as defined by the statutes of the state of Kansas;
15 or
16 (2) a disabled licensee shall certify to the board that such licensee is
17 no longer engaged in the provision of dental services, the performance
18 of any dental operation or the provision of any dental hygiene services as
19 defined by the statutes of the state of Kansas by reason of any physical
20 disability, whether permanent or temporary, and shall describe the nature
21 of such disability.
22 (g) The waiver of fees under subsection (f) shall continue so long as
23 the retirement or physical disability exists. *Except as provided in section*
24 *1 and amendments thereto,* in the event the licensee returns to the prac-
25 tice for which such person is licensed, the requirement for payment of
26 fees and continuing education requirements shall be reimposed com-
27 mencing with and continuing after the date the licensee returns to such
28 active practice. *Except as provided in section 1 and amendments thereto,*
29 the performance of any dental service, including consulting service, or
30 the performance of any dental hygiene service, including consulting serv-
31 ice, shall be deemed the resumption of such service, requiring payment
32 of license fees.
33 (h) The Kansas dental board may adopt such rules and regulations
34 requiring the examination and providing means for examination of those
35 persons returning to active practice after a period of retirement or disa-
36 bility as the board shall deem necessary and appropriate for the protection
37 of the people of the state of Kansas.
38 Sec. 3. K.S.A. 65-1431 is hereby repealed.
39 Sec. 4. This act shall take effect and be in force from and after its
40 publication in the statute book.

2-7

TOPEKA-SHAWNEE HEALTH AGENCY
SLIDING SCALE CALCULATION TABLE (NON-FAMILY PLANNING PROGRAM/SERVICES)
FOR PERIOD 5/16/95 TO 4/25/96

	PERCENTAGES OF POVERTY & FAMILY INCOME RANGES						
FAMILY SIZE	0% - 100%	101% - 120%	121% - 140%	141% - 160%	161% - 180%	181% - 200%	OVER 200%
1	0 - $ 7470	$ 7471- 8964	$ 8965- 10458	$10459- 11952	$11953- 13446	$13447- 14940	14941 AND GREATER
2	0 - $10030	10031- 12036	12037- 14042	14043- 16048	16049- 18054	18055- 20060	20061 AND GREATER
3	0 - $12590	12591- 15108	15109- 17626	17627- 20144	20145- 22662	22663- 25180	25181 AND GREATER
4	0 - $15150	15151- 18180	18181- 21210	21211- 24240	24241- 27270	27271- 30300	30301 AND GREATER
5	0 - $17710	17711- 21252	21252- 24794	24795- 27472	27473- 31878	31879- 35420	35421 AND GREATER
6	0 - $20270	20271- 24324	24325- 28378	28379- 32432	32433- 36486	36487- 40540	40541 AND GREATER
7	0 - $22830	22831- 27396	27397- 31962	31963- 36528	36529- 41094	41095- 45660	45661 AND GREATER
8	0 - $25390	25391- 30468	30469- 35546	35547- 40624	40625- 45702	45703- 50780	50781 AND GREATER

United Methodist Health Clinic of Wichita, Inc.

Telephone 316/263-7455
FAX 316/269-4634

1611 North Mosley
Wichita, Kansas 67214-1399

RE: Senate Bill No. 625
Dental Care for the Underserved in Kansas

Testimony of Sandra L. Lyon, Executive Director

The United Methodist Health Clinic in Wichita is a Federally Qualified Health Center providing Primary Health Care to the medically underserved in Sedgwick County and surrounding areas. The dental program provides care for underserved persons from the entire state of Kansas.

The United Methodist Health Clinic has collaborated with the Wichita District Dental Society for the last 12 years to find solutions to the lack of access problem. The populations the clinic currently serves in the dental program are Medicaid children, homeless individuals, HIV+ patients, Spanish-speaking persons, persons living at 200% of poverty and below. Underserved persons are those without access. This can be due to discrimination, inability to pay, language barrier, etc. The dental program at the United Methodist Health Clinic was expanded six years ago because dental providers would not see HIV+ individuals. We serve a patient base of approximately 115 HIV+ individuals at any given time who have no other access to dental care. Patients literally drive from all over Kansas to receive this service.

In the last 6 months, the dental program has written off $17,000 worth of dental care to persons living at or below poverty levels. People come and wait sometimes for hours in case there is a cancellation.

If Senate Bill No. 625 does not pass this session, who will come forward to provide these desperately needed services? It is probably accurate to suggest that the only providers willing to see the underserved are those who work for or with a non-profit 501(c)(3) corporation.

In the state of Kansas, there are 171,270 children eligible for dental services through Medicaid but there are only 42,214 accessing the care that is needed. There are 126,318 adults in Kansas who would qualify for dental services through Social Rehabilitation Services if this service was available to adults. These figures show there are 255,374 people living at poverty levels with no access to dental care. These numbers do not include the working poor.

Someone in the state of Kansas has to provide care to the underserved. Our history shows us that the for-profit industry has had very limited impact on the dental problems in Kansas. The passage of Senate Bill 625 is essential to the well-being of underserved persons living in Kansas.

H+H S Comm
3-14-96
Attm# 3

RE: SENATE BILL No. 625

My name is Dalrona Harrison from Wichita. I am a registered nurse at the KU School of Medicine-Wichita and am responsible for our HIV care grant program. In addition, I work with the Wichita Primary Care Center, a federally qualified health center that receives a community health center Section 330 grant from the public health service. I am here in support for the passage of Senate Bill No. 625.

At the medical school clinic in Wichita, we serve more than 450 HIV infected patients from throughout the state of Kansas. One challenge is faced by nearly each one, that is the ability to access dental care. **This is not a Wichita, Topeka, Kansas City problem, this is a statewide problem.** Our HIV care program utilizes the dental clinic at the United Methodist Urban Ministries. This clinic offers a sliding fee scale which assists our patient to receive care that they might not otherwise be able to afford. For HIV infected persons, another barrier whether real or perceived, is that dentists do not want to provide service in their private offices for a variety of reasons. Routinely a bus from Crawford County comes to Wichita with HIV infected persons to receive dental care. This results in patients making a day long trip (6 hours in travel alone) for basic care that could be provided in their own town. HIV infected persons come from Elsworth, Pawnee, Bourbon, Allen, Neosho, Saline, Seward and Finney counties to name a few, to receive to receive their routine dental care in Wichita. How would you like to travel across the state to have your teeth cleaned? **That should not have to happen in the state of Kansas.**

At the Wichita Primary Care Center (WPCC), 62% of our patients have an income at or below federal poverty level or are receiving Medicaid; an additional 18% were between 100 and 200%. The last 20% of our patients did not qualify for the sliding fee scale and would not qualify to receive dental services through our organization. The most difficult service to locate for patients without insurance or financial resources is dental care. One example is a 52 year old woman who we were able to refer for dental extactions and able to obtain dentures through UMUM. This patient is very grateful and is so excited that she can not only eat the foods she enjoys but can once again smile without being ashamed. Another patient is a Hispanic woman who does not speak English that for 18 months had been paying premiums for dental insurance only to find no Wichita dentists accepted her insurance. She was in extensive pain and needed a root canal, we were thankful that UMUM would provide this service to her based on her ability to pay.

In Sedwick County, approximately 28,000 persons were Medicaid eligible in 1995. As best as we can determine with the help of the health department, only 4 dentists in Sedgwick County are known who accept Medicaid. In preparing for today, we attempted to find how many dentists accept Medicaid. After several calls to Wichita and Topeka SRS offices, we were unable to find out how many dentists accept Medicaid let alone **who** they were. If those of us who have some savvy in working with the system cannot find care givers, can you image the difficulty which would be encountered by someone without any knowledge of the system.

Although we would be most supportive of keeping all our services based on 200% of poverty so our patients could receive all their health services in place, we would propose a compromise of

H+HS Comm
3-14-96
attm #4

eligibility to be 150% of poverty. Please know the 200% level is not our design but what is required by federal regulation. We would also ask that you not restrict the regulation to limit future indigent care providers from offering complete health care services.

Persons with health care needs have always had a safety net called the hospital emergency room. The development of organizations such as federally qualified health centers that serve the medically underserved supplant the ER safety net. These organizations offer preventive care and treatment of illness before it reaches a critical level. The benefits of thise for the individual should be obvious but it also results in savings of tax money. We believe dental care should be approached in the same manner. Organizations for the medically underserved have the experience in serving this population and have a philosophy of preventing illness. By facilitating good oral health care including regular examinations and treatment, we can improve the overall well being of our patients. **Remember, there is no dental emergency room.**

Our patients cannot afford to wait for another study or the next legislative session, they deserve the opportunity to receive complete and adequate health care services which includes oral and dental care. I strongly urge you to pass Senate bill no. 625 for the benefit of the all the Kansans you were elected to serve.

ES■■L L. LANDRETH, DDS, P.A.
4620 EAST DOUGLAS • SUITE B • WICHITA, KANSAS 67208
(316) 685-9276 • FAX (316) 685-2973

March 12, 1995

To: House Committee on Health and Human Services

Re: SB 625

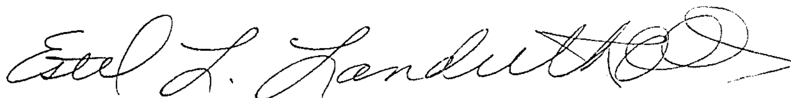
Chairman Mayans and Committee Members:

I wish to extend my wholehearted support to SB625, allowing charitable clinics to provide dental care to our underserved needy citizens. Licensed dental professionals could volunteer their services as available, or be hired by the clinics. This would be a very proactive step for the dental profession to take to help relieve some of the crisis in our current health care delivery systems.

Please feel free to contact me if I can be of any further help.

Thank you for your time.

Sincerely,



Estel L. Landreth, D.D.S.
President
Kansas State Dental Board of Examiners

H+H S Comm
3-14-96
attm#5

Patty Seery, R.D.H., M.H.S.
14430 Spring Valley Circle
Wichita, Kansas 67230

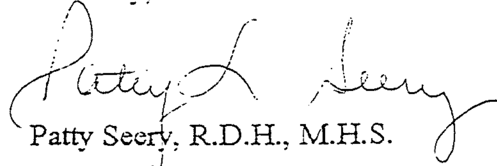
February 12, 1996
re: SB 625

As a member of the Kansas Dental Board, I would express my support of the above referenced bill and the intent to provide dental services to individuals who do not have the financial resources to secure treatment otherwise. Dental health is critical to life-long general health and should be encouraged at any age but particularly among our children. Even among adults (especially our increasing elderly population), the oral health of an individual is often reflective of other systemic problems and the oral manifestations of those problems require attention just as any other symptom. For those persons unable to provide for their own care, the services that this bill would make legally accessible will help them on their way to recovered health and function.

As an individual and dental hygienist, I would also ask your consideration of including provision in this bill for dental hygienists to also provide services at indigent clinics. This provision should also stipulate general supervision for the dental hygienist. Currently, a hygienist can only practice (in any setting) under the direct or indirect supervision of a dentist which means that a dentist would have to be present for the hygienist's services to be rendered. If general supervision were provided in this section, the available professionals to provide services would be increased and preventive services could be administered even when a dentist was unavailable to the clinics. In that way, the effective utilization and result of the clinics could be expanded.

Thank you for your time and consideration!

Sincerely,



Patty Seery, R.D.H., M.H.S.

Lawrence B. Hall D.D.S.,P.A.
614 Topeka Avenue
Lyndon, KS 66451

Carol Mcdonald
Administrative Secretary
Kansas Dental Board
3601 SW 29th Street S 134
Topeka, KS 66614-2062

2/14/96

Subject: SENATE BILL No. 625, Excepting Charitable Dental Clinics from some principled provisions of the Kansas Dental Practice Statutes.

Reference: Principles of public safeguard assurance:

1. Licensed dentists, because of their *all inclusive* broad dental education, requiring an accredited university doctorate degree; and having demonstrated knowledge and skills as a dental surgeon to a board of dental examiners, are licensed by Kansas to be responsible and accountable for all phases of dentistry performed in Kansas.
2. Dental Hygienists, with a narrow dental education, requiring a special educational certificate (not a college degree), and after meeting the licensing examination requirements of the Statutes, are licensed as auxiliaries to dentists, serving *under the direct and indirect supervision* of licensed dentists.
3. Therefore: Only licensed dentists can own dental practices, and licensed dentists are responsible for all dental services performed in their practice. Thus, to safeguard the public, the legislature in Kansas Dental Practice Act statutes, holds Kansas licensed dentists totally accountable for all dentistry performed in Kansas. This is a prudent public safeguard!

Dear Ms. Mcdonald:

Because it is not possible to discuss these matters as a dental board before the committee hearing May 21, 1996; this letter will discuss relevant issues from my point of view as Secretary of the Kansas Dental Board.

Background:

1. The KDB is too often put in the position of having to enforce (or not enforce) a Kansas Dental Practice Statute when common sense and good reason would dictate exceptions to the Statute were appropriate.
2. At times, during a legislative hearing process, the Kansas Dental Association, motivated to protect "professional principles", or the Kansas Dental Hygienists Association, reaching out to expand their licensure privileges beyond the original statutory intent; oppose each other, and battle to influence the legislators considering any changes or "exceptions" to the Dental Statutes. Transparently, their positions are based entirely on their "sides" protectionist agenda. The strategy is to justify their position using a "domino theory" of "lowering public health and safety standards" to oppose any revision of the Kansas Dental Practice Act.

3. Dentists, as licensed professionals get a confusing (targeted legislative patch work by Senate or House Bills) process to modify the Dental Statute, with often conflicting messages or understandings of how to interpret what is coming from the Legislature! What would be better? A complete coherent re-write of the Kansas Dental Statutes, based on the present realities practiced within the profession!

Two issues will be motivating both support or opposition to SENATE BILL No. 625 from within the dental profession:
1. The KDA, representing its membership policy to oppose any statute or public policy which would erode the principle that only licensed dentists provide dental services in Kansas.
2. The KDHA, representing its membership wishes to expand their licensure to include General Supervision; and to protect their territory by restricting a licensed dentist having a physicians' like authority to diagnose, prescribe and delegate utilization of employed auxiliaries under direct supervision, to do any of the component parts of a "prophylaxis" (tooth cleaning); unless delegated to only licensed hygienist auxiliaries.

The paradox is:
1. Charitable clinics exist in Kansas which are not presently legal within the strictest interpretation of the Kansas Dental Statute.
2. Many dentists have been forced by the nature of insurance industry's low reimbursement of fees for cleaning teeth, to delegate at least some component parts of simple tooth cleaning to maintain a reasonable fee structure for the public. This is especially true in areas where dentists have not been able to hire a licensed dental hygienist. Many reputable Kansas dentists received signals from their association and past dental boards; which indicated that delegation *under direct supervision* was permitted, so long as doctors did not schedule and delegate complete tooth cleaning by the auxiliary as a billable service. (In other words, delegate under indirect supervision, like they can delegate to licensed hygienist auxiliaries.) Direct supervision of delegable duties have been practiced in the medical and dental professional communities safely for years! Hospitals could not function if physicians had to do everything. Hospitals could not survive if licensed registered nurses had to do everything. KDHA wants the KDB to enforce the Statute to the strictest interpretation of forbidding non-licensed auxiliaries to help the doctor with the simplest components of tooth cleaning! Why? To protect their turf!

The first issue: What to do about illegal charitable dental clinics?

The irony of the situation is that at present in Kansas, non-profit charity clinics are functioning, owning equipment and hiring dentists! This seems like a reasonable arrangement, doesn't it?

So SENATE BILL No. 625 is carefully crafted to exclude any but 501(c)(3) entities from being an exception to the present Kansas Dental Statute prohibiting non-dentists-licensed entities from owning dental equipment or hiring licensed dentists to provide dental services. It further clarifies the requirements of who may receive services in those clinics.

I see merit in principles which prevent organized dentistry supporting this bill! Yet, I want to enable or facilitate *charity* clinics, but I do not want this to be a first step to enable *for profit* clinics! **The issue, for me, boils down to the issue of the Statute's foundational principles of professional responsibility and accountability.** Federal military or public service clinics (like VA) in Kansas are an exception. State hospitals and penal institution clinics are another exception. These Federal and State governmental entities assume responsibility and accountability to the legislature, and adequate funding of their budgets becomes public tax supported responsibility. Thus, the government (legislature) is ultimately responsible! (To be sure, limited funding has been irresponsible at times!)

Who will be responsible and accountable when non-dental licensed entities, non-government entities, are exempted from the Kansas Dental Statutes? That is when non-licensed entities, with no professional doctorate degree broad dental education, with no government control via licensure requirements and with no accountability to the government for malpractice; are to be granted permission to practice dentistry! Limited funds will mean less than adequate services!

Yet, a little charity helps us all. Charity was never intended to cover all the human services needed! Therefore, **I am in favor of 625 as written!** But, I also share the concern that this exception not be extended to *for profit* clinics, where less than adequate services could be profit motivated! Keep licensed dentists responsible and accountable; but able to serve in charity clinics either as volunteers, or salaried employees. The "volunteer licensed professional" voluntarily puts his/her license at risk just as much at the charity clinic, as at his/her private office employment. (Question: I assume then, that the KDB would be expected to take into account the limited nature of charity clinic funds, when asked to judge the facility and services these charitable dentists are able to perform! We can't expect the dental industry's highest standard of care, can we?)

But then comes the second issue: The hygienists are expected to propose that hygienists man these charity clinics and work without Statute mandated licensed dentists' *direct or indirect* supervision! How big a step is it from *general* supervision (seeing patients with no doctor present to supervise) in charity clinics, to general supervision in any dental office? Then, how big a step is it from only dentists owning dental equipment and being self employed or working for other dentists, to hygienists owning dental equipment and having their own offices?

If the legislature would empower that dentists can delegate component parts of simple tooth cleanings to non-licensed auxiliaries under *direct* supervision of a licensed dentist; I would be in favor of hygienists having a Statute provision for *general* supervision. The license of the hygiene profession started with the intent that they were trained licensed auxiliaries for employment of dentists, to allow dentists to be able to schedule licensed auxiliaries to clean teeth under *indirect* supervision (the licensed dentist, must be present in the office, but does not have to check all component parts of tooth cleaning), as well as direct supervision -- and that has worked well. The foundational intent in Statute on delegation is that the licensed professional advanced degree dentist was totally responsible for appropriate supervision! Now the hygiene profession wishes to

monopolize the entire tooth cleaning business for their selfish protectionist agenda; to do away with dentists' diagnostic evaluator supervision of them, at the same time do away with the public economic benefit of competition in the tooth cleaning business; by restricting dentists' authority to delegate simple parts of the tooth cleaning process to other staff members under direct supervision.

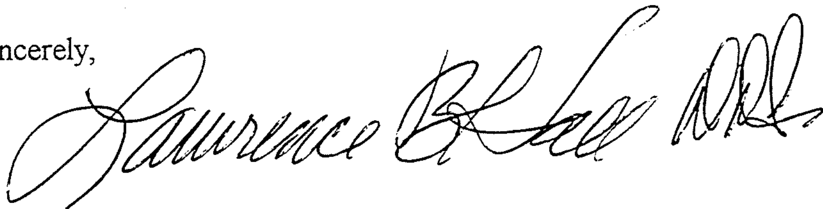
The principle which must be protected is that of the authority of Kansas Statute to license professional responsibility and accountability.
1. If the legislature chooses to make licensed hygienists responsible and accountable for the limited functions which they were licensed to originally do, then that is fine!
2. If the legislature chooses to let charitable entities own dental equipment and hire licensed dentists to do charity work, then that is fine!
3. If the legislature has opened the door to non-licensed entities practicing dentistry, that is not fine! The purpose of licensure is to assure and inform the public of who is responsible and accountable for the dental care they receive.

Who is responsible if a charitable clinic arranges for licensed dentists to do dental procedures under the charitable clinic exception proposed in SENATE BILL No. 625?

If it goes to the level of a non-licensed dentist owned, "for profit corporation" managing and delivering dental care: these entities are not licensed by Kansas Dental Practice Act to be responsible for professional dental care; yet they would effectively be practicing dentistry by being able to hire dentists more dependent and responsive to the corporate entity rather than to the public, (or the corporation would fire the dentist, if the dentist did not follow the corporate dictated guidelines designed for corporate profits.) In future corporate managed care, who does the legislature propose be held accountable?

I hope that this discussion of these issues in this perspective, along with the perspective of the other board members, will help to prepare you for the hearings. Please feel free to quote me or submit this letter to the hearing committee, as my opinion.

Sincerely,



Lawrence B. Hall, D.D.S.

February 15, 1996

Kansas Dental Board
3601 SW 29th st. Suite 134
Topeka, Ks. 66614-2074

Dear Sirs:

Please consider this letter my confirmation that I support SB #625 dealing with charitable dental care.

I believe general supervision of dental hygienists should be allowed for this kind of dental care.

Sincerely,

Jacquelyn Dekat
Consumer Representative

RECEIVED

FEB 1 9 1996

Kansas Dental Board

RONALD G. WRIGHT, D.D.S.
514 Delaware
Hiawatha, Kansas 66434

February 16, 1996

To: Committee on Public Health and Welfare

Dear Sirs,

I am writing as a member of the Kansas Dental Board to you regarding Senate Bill 625.

In looking at this initally I found it to be a good bill and a way for our profession to help the indigent. As you are aware though, things are not always what you see at face value. There is a risk as the bill is now, in allowing non-dental corporations to manipulate this bill and convert these dental clinics into for-profit non-dental controlled clinics.

The Dental Practice Act currently states that no one other than a licensed dentist can own equipment, hire employees, or control a dental practice. This bill allows a corporation such as a hospital or other entity to do that. I do not want to see our profession become compromised by big business. At present we perform quality care at affordable prices with out allowing other entities to add hidden costs or manipulate treatment.

My recommendation is that this bill be altered in language to include that no clinic be owned or operated by other than a licensed dentist. This dentist could then be under contract by whatever corporation chooses to work with them.

I have also heard that there will be an amendment put to Bill 625 which would allow general supervision of hygienists who work in these clinics. Present statutes state that no hygienist can work in the State of Kansas under general supervision. In simple terms they are asking if the hygienist can work independently, without the doctor present. The Kansas Dental Hygiene Association has stated as one of their goals to have Hygienists in independent practice. Several attempts in the past three years have failed. This amendment is nothing more than an attempt to get the ball rolling. If they practice independently in charitable clinics the next step will be to become completely independent. There is no way this will help dental care or reduce the cost of dental care in the State of Kansas. Quite the contrary it will akin us more to how medical facilities and hospitals are run, with each task requiring more and more auxillary people to perform tasks initially done by the doctor. The results will be higher costs and lack of care.

Please consider my concerns and recommendations. I will be happy to discuss any of this with you further.

Yours truly,

Dr. Ron Wright

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Kansas Dental Board

CARITAS CLINICS
SERVING THROUGH THE GIFT OF HEALTH

Saint Vincent Clinic • Leavenworth.
Duchesne Clinic • Kansas City, KS
Telephone: (913) 651-8860

Senate Bill 625 - Testimony of Sister Ann McGuire, SCL

Mister Chair and members of the committee, my name is Sister Ann McGuire. I am currently the President of the Kansas Association for the Medically Underserved, which is the Primary Care Association for the State of Kansas. As President of KAMU, I represent seven Federally Qualified Health Centers, 14 state funded Community Based Primary Care Clinics and numerous privately funded clinics through the State. The Mission of KAMU is to provide advocacy for the medically and dentally underserved of our State.

Today, I am here to advocate for the thousands of our citizens who have no access to dental care. Who, you might wonder, are these persons? They are the men and women who hold minimum wage jobs with no health or dental benefits. The thousands of men, women and children who have received quality dental care in one of our clinics, but who are now in danger of losing their only source of care if Senate Bill 625 is not passed. The people of our State who exist at or below 200% of the federal poverty level and who have no power to influence legislation. They are the men and women who suffer severe pain from infections of their teeth and gums and whose only recourse is to suffer or have their teeth extracted. They are mainly between the ages of 18-44 - and they all have one thing in common - no access to dental services.

The clinics which I represent are organized to serve the needs of our most vulnerable population. They are not in competition with local doctors and dentists. If the clinic did not exist, these patients would have no access to dental care. The need for comprehensive dental care for our indigent population remains one of the greatest unmet needs throughout our state. A few very generous dental professionals providing acute care for our clients is not the best answer. Comprehensive dental care coupled with quality primary medical care will result in many positive benefits for our population. It will assist the working poor to continue working and to achieve a level of accomplishment. It will enable persons who are sensitive about their looks because of missing or diseased teeth to recapture a feeling of self-esteem. If we are able to improve the lives of the persons we serve, then society as a whole will benefit. Please do not force our clinics to have to tell our patients that no option exists for them in regard to dental care.

I urge you, on behalf of our Clinics and on behalf of their patients, to enact SB 625 to allow not-for-profit Clinics to employ or contract for dental services to the dentally indigent who live at or below 200% of the federal poverty level and to adults and children who qualify for Medicaid or Medikan. Please allow this legislation to be enacted for the fair and ethical treatment of all concerned.

511 South 5th Street • Leavenworth, Kansas 66048

Affiliate of Sisters of Charity of Leavenworth Health Services Corporation

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State of Kansas

Bill Graves Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

House Committee on Health and Human Services

by

The Kansas Department of Health and Environment

Senate Bill No. 625

Senate Bill No. 625 amends the dental practice act to provide for the following:

1. Allows for persons licensed by the dental practice act to donate time, contract with or be employed by not-for profit 501(c)(3) organizations and medically indigent health care clinics, federally qualified health centers, or local health departments.

2. Defines a dentally indigent person as one who is below 200% of poverty as defined by the federal poverty guidelines and who does not have health insurance or employee benefits or who is not covered by Medicaid. This is the same eligibility standard used for other services in current law except that Medicaid clients are eligible to receive all other services offered by Charitable Health Care Providers.

3. States that a licensee under the dental practice act who enters into any arrangement to provide dental services pursuant to subsection (a) shall not be subject to having the license certificate suspended or revoked.

4. Requires that a "retired" dentist comply with the annual renewal requirements of the Kansas dental board but not require payment of the annual renewal fee or continuing education if the dentist elects to provide dental services to the indigent through one of the entities specified in subsection (a).

In 1990, the Legislature enacted legislation creating the Charitable Health Care Provider Program. KSA 75-6102 improved access to health care for a significant number of medically indigent and Medicaid clients by allowing Charitable Health Care Providers to contract with or be employed by clinics or health departments that provided care and that entered into agreements with the Secretary of Health and Environment. There are currently twenty-seven clinics that have entered into such agreements. These clinics

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Local and Rural Health Systems
900 SW Jackson, Rm 665, Topeka KS 66612-1290

Telephone: (913) 296-1200
FAX: (913) 296-1231

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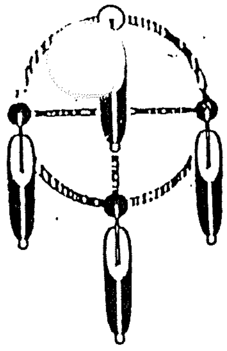
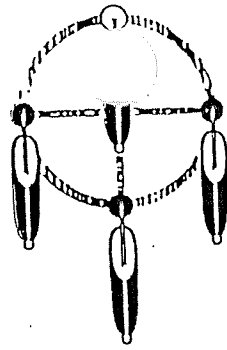
deliver community based primary care services to medically indigent and Medicaid eligible persons. They are responsible to community boards who have agreed to provide these services, and they are supported in large part by community resources. There are 719 physicians, 64 dentists, 259 nurses, and 49 other providers registered as Charitable Health Care Providers. From the outset of the program, lack of access to dental care has been reported as a significant problem. Five clinics already provide dental services and a new dental clinic is ready to open.

Although Senate Bill 625 is an important step in providing access to dental care for persons below 200% of the federal poverty guidelines, it does not allow the same care for persons enrolled in Medicaid. This oversight maintains a barrier to access for Medicaid eligible persons. Also, having different eligibility standards for specific services will create significant new record keeping and processing costs for clinics.

Recommendation: The Department of Health and Environment recommends that the Committee amend Senate Bill 625 to include Medicaid eligible clients and refer the amended bill favorably for passage.

Testimony presented by: Joyce Volmut, Director
Primary Care Program
Bureau of Local and Rural Health Systems
March 14, 1996





THE HUNTER HEALTH CLINIC, INC.

2318 EAST CENTRAL - WICHITA, KANSAS 67214 - TELEPHONE (316) 262-3611
FAX (316) 262-0741

"A Community Health Center"

SB 625 - Testimony of Susette M. Schwartz, Chief Executive Officer

THE COMMUNITY HEALTH CENTER CONCEPT AND MISSION:
- As a Community Health Center, Urban Indian Clinic and Health Care for the Homeless Center it is our mission to provide medical and dental services to the medically underserved.
- As a Federally Qualified Health Center, we are required to provide dental services.
- Our dentists are eligible for federal loan repayment programs allowing more minorities to enter the field of dentistry.
- As a preceptor for The Wichita State University's Dental Hygienist Program we provide students with the Community Health experience.

SERVING THE MEDICALLY UNDERSERVED:
- 21% of our dental patients are homeless.
- 15% of our dental patients have severe mental illness or alcohol/substance abuse problems
- 15% of our dental patients require translation services. We employ 9 translators in 4 languages.
  - Pacific Rim Nations, Bosnia, former Soviet Union, Middle East & North African Arabic Countries
  - A significant Hispanic population including Migrant Farmworkers
- 10% of our dental patients are American Indians.
  Through our program, American Indians receive health care, promised by U.S. Treaties.

SHRINKING DOLLARS - GROWING NEED:
The Hunter Health Clinic has been providing dental services for over 15 years.
- Despite shrinking federal dollars, the number of dental patients nearly tripled since 1993.
- In the last 10 months, we have written off nearly $200,000 in dental fees.

THE FEAR OF "CORPORATE DENTISTRY":
The existing law, recently brought to our attention, says our Dentist will lose his license if he works for us because we are not dentist-owned. Hunter Health Clinic is a community-owned not-for-profit minority organization with a community board, limited resources and no reserves. We have never been accused of "corporate dentistry". We have never received a complaint from the Kansas Dental Association or Board. But if the law isn't changed, we will have to cease dental operations.

DENTISTS DON'T WANT OUR PATIENTS:
We are a "safety net" provider. We provide dental services to patients dentists don't want.
- They don't want to be exposed to persons they perceive as more likely to be HIV+.
- They don't want to work on patients with severe dental deterioration and gum disease.
- They don't want patients who are unruly, unkempt or smell bad in their waiting room.
- They want to repair teeth, not extract them because they are beyond repair.

NO PLACE TO GO:
If the existing law prevents us and United Methodist Health Clinic from continuing to provide dental services to the medically underserved of Wichita, Kansas and the surrounding area, they will have no place to go. Hunter alone provided dental services to 1,997 patients in 1995.

RECOMMENDATION: The Hunter Health Clinic recommends the Committee amend Senate Bill 625 to include Medicaid eligible clients and other medically underserved persons served by Federally Qualified Health Centers.

"Let us put our minds together and see what life we will make for our children"

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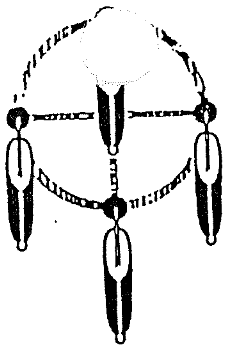

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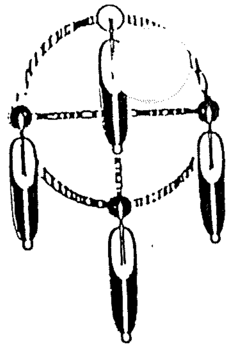
2318 EAST CENTRAL - WICHITA, KANSAS 67214 - TELEPHONE (316) 262-3611
FAX (316) 262-0741

"A Community Health Center"



SB 625 - Testimony of Michael Reno, D.D.S., Dental Director/Dentist

Madam Chair and member of the committee my name is Michael Reno, Dental Director and provider at Hunter Health Clinic in Wichita. Before practicing at Hunter Health, I was in private practice in Newton and a volunteer for Health Ministries dental clinic in Harvey County. Having been in practice in both the private and public sectors, let me assure you that the demand for dental care in both is great. The difference between them, however, is those who can afford care and those who cannot. I am overwhelmed with the poor oral health of patients I see at both Hunter Health and Health Ministries. Most of the patients I see in both clinics have family income at or below 200% of poverty and many are homeless. These patients include the elderly, adults and many children.

I have seen and treated pregnant women whose dental health has affected their ability to nourish their unborn child. I have cared for children who present with rampant dental decay and loss of teeth before their time. I have treated elderly patients with dental complications due to diabetes, infections and poor nutrition. Why? Because the population of Kansans I see simply cannot afford private dentistry. Everyday I see patients who make decisions between paying the rent and seeking needed dental care. These patients cannot afford private dental care!

Since the first half of this century, legislation appears to have separated oral health from the health of the entire body. It is time we reconnect the mouth to the rest of the human body. Without question, dental health affects overall health. Mental anguish, poor nutrition and life threatening infections can result from either a cavity or a dental abscess. In a recent study published in the Journal of the American Dental Association, it was shown that 70 to 80 percent of all untreated oral infections can lead to a serious generalized illness called bacteremia. To deny oral health to those who struggle to clothe, house and feed themselves would be a tragedy. The Kansas population needs public dentistry.

In order to meet their expenses and provide themselves with an income, private dentists cannot fully absorb the total cost of indigent care. I urge you, on behalf of those who seek my care, to support Senate Bill 625 which would allow Hunter Health Clinic's continuation of dental care.

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"Let us put our minds together and see what life we will make for our children"

Statement by Taylor Markle, D.D.S.
Chairman, KDA Council on Dental Legislation
Before the House Committee on Health and Human Services
S.B. 625
March 14, 1996

Chairman Mayans and members of the Committee, my name is Taylor Markle. I am a practicing oral and maxillofacial surgeon with offices in Shawnee and Kansas City, Kansas. I appreciate having this opportunity to share the concerns the Kansas Dental Association has with this legislation.

First and foremost, I want to state that the Kansas Dental Association strongly supports the objective of this bill -- providing care to indigent people. We, however, also strongly believe that this bill is misdirected in its attempt to achieve that goal.

The Kansas Dental Association supports the current law that permits only dentists to own and operate dental practices. We oppose permitting non-dentists -- whether they are charitable institutions or for-profit corporations -- to own and control dental practices.

The Kansas Dental Association supports maintaining the current law because it works. The current law provides quality care, the independent judgment of a practitioner who is ethically committed to provide care in keeping with the patients' best interests, and the individual accountability of the dentist for his or her treatment decisions.

The professional responsibility and accountability of the dentist play a central role in assuring the quality of the care the patient receives. In the practitioner-owned setting, the dentist develops a treatment plan in keeping with the patients' best interests and health care objectives. The dentist is individually responsible and accountable for the treatment decisions that are made.

In a practice setting where the owner is someone other than a dentist, the patient-focused safeguards of responsibility and accountability are less likely to apply. An employed dentist in a for-profit or not-for-profit clinic is subject to the direction of a non-dentist employer, whose goals may not be consistent with providing care in keeping with the patients' best interest.

For example, a for-profit corporate entity has a financial incentive to overtreat and may direct the dentist-employee to provide care on that basis. A charity clinic that charges on a sliding scale or assesses a flat fee for each visit has a financial incentive to undertreat and might direct the dentist-employee in that direction. A patient in need of a root canal and a crown may simply have the tooth pulled, rather than treated. A patient in need of a crown may simply receive a very large filling with the potential of breaking the tooth at a later date.

These are treatment decisions that are based on economics and imposed by non-dentist management. It is much better for treatment decisions to be based on the professional judgment of the dentist and the needs and objectives of the patient.

The State of Kansas has chosen to license dentists to protect the health and safety of the public. Other entities are not licensed or in any way accountable to the State for the quality of care that is provided.

The Kansas Dental Association shares the frustration of the charity clinics who are represented here today, the advocates for the medically- and dentally-underserved, and, of course, the underserved people themselves.

Our frustration results from the fact that the State of Kansas -- both the Executive and Legislative branches -- have not fulfilled their responsibility to provide adequate funding for the oral health care of Medicaid clients. There is no dental coverage for dental care for adult Medicaid clients. Access to care for children is spotty at best in most areas of Kansas. State Medicaid dental fees have not been increased since 1986 and today represent something in the neighborhood of 20 to 30 percent of private fees.

If state government were to accept its responsibility to provide adequate Medicaid coverage for adults and children, the need for these charity operations would be greatly reduced. Medicaid clients could then have greatly increased access to care through the private dental office -- that is where care should be delivered.

It is the private practice of dentistry that provides the accountability and responsibility of the dentist as a patient protection. It is also the private practice of dentistry that has enabled this country to enjoy a level of dental health unequalled in the world.

-- The private practice of dentistry controls costs to the patient. The growth in dental expenditures have grown at about half the rate of medical expenditures over the past ten years.

-- The private practice of dentistry focuses on the prevention of dental disease through regular dental care.

-- The private practice of dentistry remains affordable in comparison with other types of health. The per capita annual expenditure for dental care is just $154.

The dental professions' concern for the needs of the less fortunate have led the Kansas Dental Association to take a number of steps to increase access to care in the private dental office.

-- We have attempted, as yet unsuccessfully, to assist state government in accepting its rightful responsibility to provide adequate funding for adults and children under the Medicaid program.

- We are attempting to assist the state in adopting reasonable public health policy by increasing access to fluoridated water in Kansas.

- We have worked long and hard to help raise the public's awareness of the need to brush and floss and see the dentist regularly.

- We initiated and have operated the Senior Access program for over a decade. Senior Access links seniors who meet age and income guidelines with dentists in their area who have agreed to provide services under the program for a reduction in their usual fee.

- We recently approved the implementation of Donated Dental Services, which is a program to provide free dental care to qualified, disabled Kansans.

Mr. Chairman and members of the Committee, these are the efforts and accomplishments of private practice dentistry. We strongly believe that sound public policy should encourage people of little or no means to seek care through the private office for the reasons we have stated -- licensed, responsible and accountable practitioners, emphasis on regular preventive care, and successful cost control. Instead, this legislation seeks to establish in law a second tier of care for the poor. As I said, we believe that approach is misguided and short-sighted.

In addition to our fundamental concern about non-dentist ownership and control of dental practices, we are also very much concerned about allowing retired dentists who are not current on their continuing education requirements to practice in these settings. The Kansas Dental Association has long held the view that one standard of care should prevail for all residents of the state. The retired dentist provision flies in the face of the one standard of care concept. We find it offensive that the state would allow a practitioner who is not qualified to treat the general population to provide services to the poor.

In light of these concerns, we would like to request that this bill be held in committee in order to allow all interested parties reach a mutually satisfactory arrangement over the interim period. I believe we can find a way to assure that indigent people continue receiving dental care in these facilities without undermining the prohibition on non-dentist ownership that protects the public by assuring accountability and responsibility of the practitioner.

No enforcement action has been taken against any clinic or dentist in all the years that these clinics have been operating illegally. It is unlikely the Dental Board will begin enforcement actions any time soon.

The Kansas Dental Association would very much appreciate your support of this middle ground.

Thank you for your consideration of this important issue.

Testimony of
Charles T. Engel
in Opposition to 1996 S.B. 625

House Committee on Health and Human Services
Thursday, March 14, 1996

Mr. Chairman and members of the committee, I am Charles Engel, appearing today on behalf of the Kansas Dental Association. I practice law in Topeka and wish to address three primary concerns about S.B. 625 in its current form.

The first problem is the bill permits any 501(c)(3) corporation, albeit nonprofit, to hire a dentist. 501(c)(3) corporations cover a wide, diverse group of organizations. They include those known commonly for their religious, charitable, scientific, educational and literary purposes, but also those designed to test for public safety, foster national or international amateur sports competitions, and the prevention of cruelty to children and animals. This category is so broad, that it includes everything from churches and hospitals to endowment associations, health benefit associations, certain child care centers, the United Way, the NCAA and AAU, a symphony orchestra, union pension funds, the American Kennel Club, animal shelters and the local yacht club. All of these organizations have an exempt purpose, but I do not believe it to be good public policy to allow all 501(c)(3) organizations to employ dentists. I note from the Supplemental Note on Senate Bill No. 625 provided by the Legislative Research Department that this bill was introduced "to allow <u>certain</u> nonprofit entities that provide primary health care for the medically indigent to include

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dental care as a health care service." However, S.B. 625 as currently drafted does not restrict the nonprofit entities covered to only those providing service to the medically indigent.

The second major problem with this bill is that the nonprofit corporations hiring the dentists are not licensed by any state agency or the Kansas Dental Board. Therefore, they are not subject to any disciplinary action, should they violate the law or pose a threat to public health and safety. Even though the care is to be given to the dentally indigent, there must be included in this bill some mechanism for the state to protect the indigent from improper care.

Obviously, the intent of this bill is to allow the hiring by corporations of dentists, regardless of the prohibition in our Dental Practices Act against the corporate practice of dentistry. Our Kansas Supreme Court, in 1991 and 1993, discussed in depth the decades-old public policy prohibiting the corporate practice of the professions. In both cases, the Supreme Court found the prohibition to be valid. However, in the later case the Court allowed only hospital corporations to employ physicians, because hospitals are, first, licensed by numerous state boards who can ensure the public's right to safe medical care; and, second, they are formed for the purpose of providing health care to the public, which requires the hiring of physicians to fulfill the hospitals' purposes. 501(c)(3) nonprofit corporations, on the other hand, are neither licensed by state agencies nor formed specifically to provide health care to the public. The safety of the public, even though they may be indigent, requires that this body use the utmost caution before expanding the corporate practice of medicine

to include dentistry and to very narrowly define the precise conditions under which even a nonprofit corporation can hire a dentist.

A third concern with S.B. 625 is that it does not restrict the employment of dentists to provide dental services solely to dentally indigent persons. I interpret new subsection (a) to New Section 1 to permit a 501(c)(3) corporation to employ a dentist to serve not only the dentally indigent, but also those who do not satisfy the eligibility requirements in subsection (b). Again, the supplemental note to this bill supports this interpretation. It states that certain nonprofit entities that provide primary health care for the medically indigent will be allowed to "include dental care as a health care service." It does not limit provision of that service solely to the dentally indigent. The supplemental note further explains that the amendments to K.S.A. 65-1431 are designed to specifically allow a retired dentist to practice solely for the purpose of serving the dentally indigent. If nonprofit corporations are to be allowed to hire dentists, that employment should be restricted to providing services solely to the dentally indigent.

Finally, line 32 of page 1 of the bill speaks to "any arrangement" between one of the named entities and a dentist to provide dental services to the dentally indigent. The term "any arrangement" is undefined and extremely broad. As drafted, the bill does not require a written agreement, does not exclude leases between the dentist and the employer, nor does it require a contract between the parties. This section of the bill obviously requires attention.

In its current form, S.B. 625 is confusing, as evidenced by the supplemental note; threatens the prohibition on the corporate practice of dentistry; has no safeguards to the public health and welfare; and should not be passed.