Approved: 3-6-96
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 21, 1996 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

James L. Bush, Smith Center
Robert L. Health, Via Christi, Wichita
Jerry Slaughter, KMS
L. J. Leatherman, KTLA
Sister Margaret Finch, St. Francis Hospital and Medical Center, Topeka
Norma Ortiz, Wichita Primary Care Center
Estel L. Landreth, DDS
Dalrona Harrison, Medical Practice Association, KU Medical Center, Wichita
Susette Schwartz, Hunter Health Clinic, Wichita
Sister Ann McGuire, Kansas Association for the Medically Underserved, Leavenworth
Taylor Markle, DDS, Kansas City
Richard Morrissey, Kansas Department of Health and Environment
Greg Bien, St. Francis Hospital and Medical Center, Topeka

Others attending: See attached list

Hearing on SB 577 - Hospital liens upon personal injury damages recovered by patients

James L. Bush, Smith Center, expressed support for **SB 577** which would permit every hospital which furnishes emergency, medical or other services to any patient injured by reason of an accident to hold a lien upon any recovery had or collected by the patient. Mr. Bush referred to personal experiences of his clients that prompted his interest in this type of legislation.

Robert L. Heath, General Counsel, Via Christi, Wichita, also expressed support for the bill noting that if the hospital lien law is to serve its purpose, the hospital must be able to enjoy a lien to the extent of reasonable and necessary charges. He noted that the unfortunate result is that patients receive "double recovery" in the form of free medical care which is never paid for in addition to a sizable monetary settlement from the insurance company that includes medical costs and expenses as an item of damage that is recoverable by the patient. (Attachment 1)

Jerry Slaughter, KMS, testified in support of **SB 577** and recommended that physicians be included in the provisions of the bill as noted in the attached balloon of the bill. (Attachment 2)

L. J. Leatherman, attorney for the Kansas Trial Lawyers Association, noted that while KTLA does not oppose this type of protection reference in the bill nor timely updating of the amount, KTLA believes that providing an unlimited lien would be inappropriate and expressed concern that such unlimited liens would lead to negligent parties not being held responsible. (Attachment 3)

Hearing on SB 625 - Retired dental licensees authorized to provide charitable dental services

Sister Margaret Finch, Administrator, St. Francis Hospital in Topeka, testified in support of **SB 625** which would amend the Dental Practices Act to authorize not-for-profit and other health clinics to contract with licensees of the Dental Board to provide services to indigent persons. Sister Margaret pointed out that physicians who staff the St. Francis emergency rooms have regularly identified dental care as a glaring need for the indigent patients they see. She also suggested amendments that would make it clear that it is indemnification for costs of dental

care by virtue of having dental insurance that would disqualify an individual, and also that language be stricken in order to allow patients who may be covered by Medicaid to be seen in a clinic for the indigent. Sister Margaret also pointed out that they would be willing to lower the eligibility to 120 percent of the poverty income guidelines that was agreed upon by the Kansas Dental Association. (Attachment 4)

Norma Ortiz, Wichita Primary Care Center, also testified in support of the bill pointing out that passage of this bill would be vitally important to the patients treated at their clinic as it would allow the local community health centers to provide dental services to the underserved. (Attachment 5)

Estel L. Landreth, DDS, P.A., testified in support of **SB 625** noting that in order to ensure the same high standard of care required of any private dental office, it may be appropriate to amend the bill to require clinics to register with the State Dental Board so that the Board can inspect and ensure that they meet current sterilization and cleanliness standards. Dr. Landreth also provided copies of letters from area dentists providing input regarding the bill. (Attachment 6) Committee discussion related to dental hygentists providing preventive services at the clinics.

Dalrona Harrison, Medical Practice Association of the KU School of Medicine - Wichita, testified in support of the bill stating that they serve approximately 500 HIV infected persons at their facility. Ms. Harrison noted that they have patients who come from all parts of the state and urged the Committee to change the regulations to allow clinics serving the indigent and persons who are medically underserved to own dental practices thereby increasing access and consequently improving the health and well being of Kansans. (Attachment 7)

Susette Schwartz, Hunter Health Clinic, Wichita, also expressed support for **SB 625** and recommended the bill be amended to include Medicaid eligible clients and other medically underserved persons served by Federally Qualified Health Centers. Ms. Schwartz also provided written testimony from Michael Reno, D.D.S., Dental Director and provider at Hunter Health Clinic. (Attachments 8 and 9)

Sister Ann McGuire, President of the Kansas Association for the Medically Underserved, testified in support of **SB 625** and urged the Committee to employ or contract for dental services to the dentally indigent who live at or below 200% of the Federally Poverty Level and to adults who qualify for Medicaid or Medikan. (Attachment 10)

Taylor Markle, D.D.S., Chairman, KDA Council on Dental Legislation, noted he could support the bill if an amendment reducing the poverty level income to 120% would be adopted and deletion of subsection (d) relating to annual renewal fees and dental continuing education requirements of retired dentists, as well as deletion of Sections 2 and 3 of the bill. (Attachment 11)

Richard Morrissey, KDHE, noted that although **SB 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 and recommended the Committee amend the bill to include Medicaid eligible clients. (Attachment 12)

Greg Bien, attorney for St. Francis Hospital and Medical Center, Topeka, called the Committee's attention to the Kansas Dental Services for the Indigent Act. (Attachment 13)

Written testimony in support of the bill was received from Bob Runnels, Executive Director of the Catholic Bishops of Kansas, (Attachment 14) and Sandra L. Lyon, Executive Director, United Methodist Health Clinic of Wichita, Inc., (Attachment 15)

Senate pages assisting at the Committee meeting were introduced and sponsored by Senator Jones.

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 22, 1996.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-21-96

NAME	REPRESENTING
Arlie Landreth	
Carol Macdonald	Kansas Dental Board
Taylor Massbie	KDA
David Hemzlik	KS Dental Assn
Norma Ortiz	Wichita Primary Care Center
Joe Turjanic	KCA
Dalrona Harrison	Medical Practice Assoc of KU Med School-Wichita
Sandra Lyon	United Methodist Health Clinic, Wichita
Michelle Peterson	Peterson Public Affairs Group
Greg Bien	St. Francis Hospital
Earl L Landreth	Kansas Dental Board
Suzette Schwantz	Hunter Health Clinic, Wichita
Judy Bush	
James L. Bush	
Sister Ann McGuire	Kansas Assn. for Medically Underserved
Sister Margaret Funk	St. Francis Hospital
Walt Scott	Assoc Credit Bur. - Kansas
Carl Nichols	Stormont-Vail Regional Medical Ctr

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-21-96

NAME	REPRESENTING
LS Leatherman	KTLA
[illegible]	KTLA
Tom Fiske	Public Interest
Alene M. Isabell	KTLA
Olivera Finch	Public Int.
Linda M. Finch	Public Interest
Bob Rowe Jr	Kansas Catholic Conf.
Paul Johnson	PACK
Mary Ellen Conlee	Via Christi Health System
Bob Heath	Via Christi Health System VCHS
Bill Grosz	SMMC
Rich Guthrie	Health Midwest
L'Therese Bangert	Concerned Citizen
Melissa Wangemann	Hein Electric Wear
Rich Mays	Ks. Health Institute
Teresa Tolenano	HIAP
Joyce Volmut	KDHE
Richard Morrissey	KDHE
JASON PETTENGILL	BRAD SMOOT

TESTIMONY BEFORE SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

Senate Bill No. 577
February 21, 1996
Topeka, Kansas

Chairman Prager, distinguished members of the Committee. My name is Robert L. Heath. I am an attorney from Wichita, Kansas representing the Via Christi Health System, the recently created multi-hospital system sponsored by the Sisters of St. Joseph and the Sisters of the Sorrowful Mother. This organization represents Via Christi Regional Medical Center in Wichita, formerly known as St. Joseph Medical Center and St. Francis Regional Medical Center, Our Lady of Lourdes Rehabilitation Hospital, as well as the community hospitals of Mt. Carmel Medical Center located in Pittsburg, Kansas, and The Saint Mary Hospital, Manhattan, Kansas. The Via Christi organization and its affiliate hospitals are all not-for-profit corporations dedicated to serving the healthcare needs of the citizens of Kansas and the communities they serve, without regard to the financial status or the ability of the patient to pay for these services rendered.

Additionally, I am here on behalf of the Kansas Hospital Association, the organization which represents 125 community hospitals and a total of 148 members. All these hospitals are speaking with one voice in favor of the passage of the Senate Bill 577.

Lien Law History

It may be helpful to give you a short legislative history of the lien law in the State of Kansas. In 1939, the Kansas legislature first enacted a law permitting a hospital to have a lien for the reasonable and necessary charges for hospital care arising from all causes of action for damages occurring to a patient. The original bill provided a lien in an amount not to exceed $200, presumably the reasonable and necessary charges for hospital services in 1939.

Twelve years later, in 1951, the legislature more than tripled the amount of the lien to $700 recognizing rising healthcare costs and inflation. Six years later, in 1957, the legislature saw fit to increase the amount once again by more than doubling the lien amount to $1,500.

Fifteen years then passed, and in 1972 the lien amount was once again modified to the current sum of $5,000. For the last 24 years, the lien amount has remained constant at $5,000, while healthcare costs and inflation has driven the cost of healthcare to unprecedented levels. By today's standards, the $5,000 limit is totally inadequate to cover the reasonable and necessary charges of a hospital admission.

Pertinent Provisions

We are totally supportive of this Bill. It permits every hospital which furnishes emergency, medical or other services to any patient injured by reason of an accident (other than workers compensation) to hold a lien upon any recovery had or collected by the patient, or in the event of his death, by such patient's heirs or next of kin. Most important, this Bill provides that the lien amount shall be "to the amount of the reasonable and necessary charges" of such hospital for the treatment, care and maintenance of the patient. This is a revision to the law that is long overdue and will bring our state in line with our surrounding jurisdictions which also permit hospital liens to the extent of reasonable and necessary or customary charges. Please note that the hospital lien does not prejudice or interfere with any lien or contract that may be made by the patient or his attorney, and is not applicable to workers compensation cases.

Lien Laws of Other Jurisdictions

The State of Oklahoma permits hospitals to have "a lien upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patients, or by his heirs, personal representatives or next of kin in the case of death, whether by judgment or settlement or compromise to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient . . ." O.S. 42 Section 43.

The State of Colorado in its lien law found that C.R.S. 38-27-101 provides that every hospital duly licensed by the Department of Public Health and Environment which furnishes services to any person injured as the result of negligence or the wrongful act of another . . . shall have a lien for all reasonable and necessary charges for hospital care upon the net amount payable to such injured person, his heirs and assigns or legal representative out of the total amount of any recovery or sum had or collected . . . on account of such injuries.

The State of Nebraska in Article 4, Section 52-401 provides that when any person employs a physician, nurse or hospital to perform professional services of any nature in connection with the treatment of an injury and thereafter claims damages from the party causing the injury, such physician, nurse or hospital shall have a lien upon any sum awarded the injured person in judgment or obtained by way of settlement or compromise for the usual and customary charges of such physician, nurse or hospital applicable at the time the services are performed.

The State of Texas permits a hospital lien "for the amount of charges of such hospital for such treatment, care and maintenance as may be given to the injured person." Article 5506A, Section 1.

The State of New Mexico permits a lien to the extent of the reasonable and usual and necessary hospital charges for treatment, care and maintenance of the injured party in the hospital to the date of payment. New Mexico Statutes 48-8-1.

The State of Arkansas also permits hospitals to have a lien for the value of services rendered or to be rendered. See Medical Nursing and Hospital Lien Act, 18-46-104.

The same general provisions are applicable for customary charges in the states of Arizona, Delaware and New York.

We have a number of instances that clearly demonstrates the inappropriateness of the current law and how it has worked to the detriment of the community hospital resulting in substantial financial losses because of the limitation on the lien. Most cases involve patients who receive treatment and care in the hospital and either by design or otherwise, delay payment of the hospital bill. The patient then settles with the insurance company for a large amount, pays to the hospital the statutory lien amount of $5,000 (which in most cases is only a fraction of the bill) and the remaining settlement proceeds then split between the patient and the patient's lawyer.

In some cases, the hospital is forced to file a lawsuit against the patient for collection of the account only to discover that the patient has already received a substantial sum of money in settlement and has utilized the settlement proceeds to pay for a house, care or other exempt property.

What follows is a few actual case examples of how the hospital suffers financial losses as a result of the lien limitation at $5,000.

Actual Cases

Case No. 1: Patient was admitted to hospital for injuries resulting from an automobile accident. Medical charges of $73,671.84 were incurred. Upon discharge, the patient's attorney contacted the hospital assuring settlement would be forthcoming. Hospital then received a direct payment for $5,000. One month later, the hospital was advised that the patient had settled with his insurance company, had purchased a new pickup truck and a new mobile home and would be filing bankruptcy. The attorney for the patient indicated that settlement had occurred and that they were only legally obligated to pay St. Joseph Medical Center $5,000. The hospital sustained a loss in excess of $69,000. The insurance settlement was for $100,000.

Case No. 2: Patient admitted to hospital with head injury from Bartlesville, Oklahoma. Patient had been previously treated at KU Med Center for 6 weeks then transferred to St. Joseph Medical Center in Wichita. Patient incurred a medical bill of $81,631.57. Insurance adjuster indicated an offer of $100,000 had been made which had been declined by the patient. The attorney for the patient agreed to pay $5,000 statutory lien only. Thereafter, it was discovered the hospital in Bartlesville, Oklahoma had filed a hospital lien under the law of the State of Oklahoma in the amount of $60,000 (in Oklahoma there is no cap on hospital liens) and ultimately recovered the amount of its lien. Under this scenario, the Kansas law worked to the detriment of the Kansas hospital which was allowed to recover only $5,000 for its lien, while the Oklahoma hospital was able to collect its entire hospital bill in excess of $60,000.

It should be noted that this patient was ultimately determined to be eligible for Medicaid. Medicaid paid the hospital $51,919. This action, while benefiting the hospital (which still took a loss of $25,000) caused a drain on the Kansas Medicaid program and the citizens of Kansas when liability insurance proceeds should have covered the entire amount of the bill.

Case No. 3: Patient admitted to the Medical Center after automobile accident incurring $21,987 bill. Sensing a settlement was in the making, the hospital filed suit and obtained a temporary restraining order against the insurance company. The patient obtained $100,000 settlement from the insurance company. $5,000 was sent directly to the hospital. The attorney for the patient contacted the hospital and stated if the hospital did not accept $10,000 in full settlement, the client/patient would be filing bankruptcy after his portion of the funds were put into exempt assets. The hospital ultimately wrote off $6,000 plus interest of its charges.

Case No. 4: Patient admitted to Medical Center for 107 days. A hospital bill of $106,385.80 was incurred. The patient's attorney allegedly advised the patient not to give his Medicaid card to the hospital since ultimately Medicaid would be able to recover any proceeds paid. While negotiations were ongoing with the attorney, a payment of $5,000 was sent direct to the hospital. Insurance settlement then followed in the amount of $126,177 of which the attorney recovered $43,725.77 with a net recovery to the patient of $82,451.54. Two months later, the patient filed bankruptcy. Proceeds of the settlement had been channeled into exempt assets. However, the Bankruptcy Trustee discovered some debt preferences and by virtue of pursuing the matter aggressively, the hospital was able to recover approximately $15,000 from the bankruptcy proceeding. However, ultimately it lost $86,000 on the hospital admission.

Conclusion

Clearly, as these cases demonstrate, if the hospital lien law is to serve its purpose, the hospital must be able to enjoy a lien to the extent of reasonable and necessary charges. All too often, the hospital's collection efforts are stymied or frustrated by the limited lien amount which is totally unrealistic in the healthcare world of 1996. The unfortunate result is that patients receive "double recovery" in the form of "free" medical care which is never paid for in addition to a sizable monetary settlement from the insurance company that includes medical costs and expenses as an item of damage that is recoverable by the patient.

The Senate Bill before you corrects the existing deficiencies by allowing every hospital furnishing medical services to recover the reasonable and necessary charges for treatment, care and maintenance. This Bill, if enacted, will address and put an end to the abuses that have been outlined in these actual cases experienced at our hospital. We urge you support and the passage of Senate Bill 577.

If we can provide any additional information to the Committee, please feel free to contact me or the Kansas Hospital Association.

Robert L. Heath
General Counsel
Via Christi Health System
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Wichita, Kansas 67214
(326) 268-6100

KANSAS MEDICAL SOCIETY
623 SW 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

February 21, 1996

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: SB 577; concerning hospital liens

The Kansas Medical Society appreciates the opportunity to appear today on SB 577. We would like to offer an amendment that would extend the lien provision to services provided by physicians. In recent years we have gotten increasing numbers of complaints from our members about situations involving patients and their attorneys who literally refuse to pay a medical bill after they receive a judgment or settlement from a third party. In many cases the services provided are quite extensive and represent a significant commitment of time on the part of the physician.

The services provided by physicians in these instances are not only essential to the patient's recovery, but sometimes have an impact on their ability to successfully litigate their claim for damages. The patient claims medical expenses, which then become a part of the recovery. It is unfair for the patient and their attorneys to then take the award or settlement and use it for other purposes. It is also misleading to tell the court the recovery will be used to pay those medical bills, when if fact many times the recovery goes to purchase discretionary, non-essential items.

We have included a set of amendments which would extend the provisions of SB 577 to the services physicians provide. We would appreciate your support, and would urge that the bill be passed as amended. Thank you.

Senate Public Health & Welfare
Date: 2-21-96
Attachment No. 2

Session of 1996

SENATE BILL No. 577

By Committee on Judiciary

2-1

AN ACT concerning hospital liens; amending K.S.A. 65-406 and repealing the existing section.

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

Section 1. K.S.A. 65-406 is hereby amended to read as follows: 65-406. Every hospital ~~in the state of Kansas~~, which ~~shall furnish~~ *furnishes* emergency, medical or other service to any patient injured by reason of an accident not covered by the ~~workmen's~~ *workers* compensation act, ~~shall,~~ if such injured party ~~shall assert or maintain~~ *asserts or maintains* a claim against another for damages on account of such injuries, *shall* have a lien ~~not to exceed five thousand dollars ($5,000)~~ upon that part going or belonging to such patient of any recovery or sum had or collected or to be collected by such patient, or by ~~his~~ *such patient's* heirs, personal representatives or next of kin in the case of ~~his~~ *such patient's* death, whether by judgment or by settlement or compromise. *Such lien shall be* to the amount of the reasonable and necessary charges of such hospital for the treatment, care and maintenance of such patient in such hospital up to the date of payment of such damages: ~~*Provided, however,* That this~~. *Such* lien shall not in any way prejudice or interfere with any lien or contract which may be made by such patient or ~~his~~ *such patient's* heirs or personal representatives with any attorney or attorneys for handling the claim on behalf of such patient, ~~his~~ *such patient's* heirs or personal representatives: ~~*Provided further,* That the~~. *Such* lien ~~herein set forth~~ shall not be applied or considered valid against anyone coming under the ~~workmen's~~ *workers* compensation act in this state.

Sec. 2. K.S.A. 65-406 is hereby repealed.

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

(a)

physician or

physician or

by such physician or

(b) "Physician" means a person licensed to practice medicine and surgery under the healing arts act.

TESTIMONY REGARDING
SENATE BILL No. 577
LJ LEATHERMAN

My name is LJ Leatherman, I am an attorney practicing in Topeka, an Adjunct Professor at Washburn University, and a member of the Kansas Trial Lawyers association. I am speaking on behalf of The Kansas Trial Lawyers Association, (KTLA) a consumer advocacy Group representing the interest of injured victims. I am speaking on S.B. NO. 577, to provide the committee with public policy reasons for K.S.A. 65-406; the limited amount of the lien and why continuing to provide reasonable limits is appropriate.

K.S.A. 65-406 provides Hospitals with special protection due to their status as an "Emergency facility". Since its original passage, KSA 65-406 has been modified on four separate occasions, each time the legislature balanced the interest of the hospital's increased cost with the victims ability to recover from insolvent third parties. While KTLA does not oppose this type of protection, nor timely updating of the amount, it believes that providing an unlimited lien would be inappropriate.

1) **Only victims are subject to the lien.**

2) **$5,000 is Consistent With Other Legislation Which Balances the Interest of Victims and Providers**

Many if not most of these situations arise from automobile accidents. In when seeking to modify the $5,000 limit of K.S.A. 60-406, this committee should therefore look to the Kansas Automobile Reparations Act. (KARA)(K.S.A. 40-3101 et.seq.) (KARA which was passed in 1974, one year after K.S.A. 65-406 was modified from $1500 to $5,000) The Act was designed to provide prompt compensation for bodily injury arising out of Automobile

Senate Public Health & Welfare
Date: 2-26-96
Attachment No. 3

accidents. (K.S.A. 40-3102).

In reviewing the need for prompt compensation the legislature struck a balance between insurance companies responsibility to pay for no fault damages and victims need for coverage. It determined that $4,500 of Personal injury protection (P.I.P.) coverage, was adequate for most situations, and required this amount for all insurance policies. (K.S.A. 40-3107(e). While it may be time to slightly increase the amount of the hospital lien, it is no wiser to abandon the practice of balancing the rights of these accident victims with the rights of hospitals, than it is to stop balancing the rights of these victims with the rights of insurance companies and allow the victims unlimited access to no-fault insurance benefits.

2) Allowing Hospitals Unlimited Liens Will Lead to Negligent Parties Not Being Held Responsible and It Punishes Physicians.

While on its surface is seems that allowing hospitals unlimited access to these fund will result in protecting the hospital it may actually result in less money being generated for hospitals and others. Two examples of unintended circumstances can be found in automobile accident situations.

Many automobile accidents are caused by Drunk drivers. Because these drivers have been in trouble before with their driving they purchase the minimum amount of insurance allowed by law. This is $25,000 (KSA 40-3110). Because of the recklessness of these drivers the these accidents are often worse and will cause damages in excess of this amount.

If the Hospital has as proposed by this amendment an

unlimited lien all of the $25,000 will be collected by the hospital. Because of the stress and expense involved in prosecuting these claims if the victim has nothing to gain from pursuing this claim they may very well decide to for go the trouble. When this situation arises today hospitals are protected by their lien and the victim can negotiate with the hospital for a compromise of the remaining amount so that both parties receive partial compensation.

Another party that will suffer from an unlimited hospital lien is the Physicians. The idea of a lien is to provide a primary interest in proceeds, where insufficient proceeds exist. Therefore the existence of a lien is only significant when collection is infeasible. If hospitals are granted an unlimited lien the physicians will have to absorb all of the loss in situations where insufficient funds are available. While some would resolve by granting the same privilege to physicians, due to the nature of liens one or the other would first and take all of the fund. Under the current system both sides are able to receive a portion of any judgement.

Presentation to Health and Human Services

Madame Chairman, Members of the Committee:

Thank you for the opportunity to speak with you today. I appreciate the time that Senator Praeger has spent with us in regard to this legislation. I know that you are each concerned about the health and welfare of the people of our State, including their oral health. I am here today to speak about the need for access to dental care for low income people in Kansas.

Over two years ago it became apparent to the administration of St. Francis Hospital and Medical Center 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, 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 our office 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 qualify according to the federal poverty guidelines and who were uninsured.

St. Francis Hospital and Medical Center is here today seeking a change in the law so that it can provide these dental services. Senate Bill 625 would allow St. Francis to provide those services.

St. Francis' first question when it began to consider this issue was whether there was anything in the law that prevents the hospital from hiring a dentist and providing dental care to the poor. The answer we were told is that 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.

At the suggestion of Senator Sandy Praeger, a meeting was convened of parties interested in legislation which would not make it illegal for dental services to be provided to the indigent where a corporation was hiring a dentist to provide those services. Senate Bill 625 was the result of that meeting.

Before this bill is voted on today, I specifically would ask that some amendments be made. These suggested amendments are the result of input from various sources.

First, we would suggest that paragraph(b)(2) be modified to read as follows:

> not indemnified against costs arising from dental care by a policy of accident and sickness insurance or dental insurance, an employee health benefits plan, or any such coverage.

These modifications would do two things. First, they make it clear that it is indemnification for costs of dental care by virtue of having dental insurance that would disqualify an individual. Second, they 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 latter 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 in this area. This modification would also eliminate a problem for federally funded clinics and allow them to provide these dental services.

There is one other issue I want to address. A suggestion was made at the meeting I have referenced with regard to allowing retired dentists to work in not-for-profit clinics, but not have to pay the $80.00 annual license renewal fee and to have their continuing education requirements waived. Because those suggestions were made, St. Francis drafted paragraph (d) of the proposed bill. St. Francis' intent is to hire an active licensed dentist to run the clinic. St. Francis will welcome retired dentists at the clinic if they volunteer. The licensing conditions under which a retired dentist could work in a clinic such as St. Francis we would leave to the KDA and the Kansas Dental Board. After speaking with a representative of the Kansas Dental Association, we are willing to delete this paragraph from the bill and recommend that such be done if it in any way impedes the necessary passage of the main part of the Bill.

The last issue I wish to address is the poverty level which has been identified for potential patients. The original suggestion of St. Francis with regard to a poverty level was 150

per cent of the income guidelines. The reason it was raised to 200 per cent was so that the income level would be consistent with that already established by law for the medically indigent under the provisions for Charitable Health Care Providers Act. We have been asked by the Kansas Dental Association to lower the eligibility to 120 per cent of the poverty income guidelines. We are willing to make that amendment.

St. Francis believes this level is insignificant 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 dental insurance thereby eliminating that 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 planned dental clinic. This would amount to approximately 1 per cent of the population of Shawnee County.

As a final point with regard to the poverty levels, St. Francis intends to charge patients something for the dental service. St. Francis contemplates a sliding scale which would never exceed 50 percent of a dentist's standard fee at the 200 per cent of poverty guidelines level.

We thank you for your time. I also want to specifically thank Dr. Estel Landreth, Dr. Nevin Waters, Dr. Taylor Markel and the Kansas Dental Association generally for their assistance in formulating this legislation. I or Greg Bien would be happy to

answer any questions which you may still have with regard to the proposed legislation.

Testimony In Favor of Senate Bill 625

The Wichita Primary Care Center is a Community Health Center in Wichita who's mission is to provide Primary Care services to the medically underserved. Fourty percent of operating expenses are covered by Federal Funds (Section 330 - Public Health Service).

Although we have only been in existence for approximately 20 months we have provided Primary Care services to 4,000 people in our service area, most of whom are very poor. (65% at or below the poverty level). Many of our patients have language barriers because they do not speak English or have difficulty with transportation due to disabilities or financial problems. We provide special services to those in need to assure access to Primary care. We assist patients in utilizing available local resources such as Friends University Center on Family Living, United Methodist Urban Ministries Food Bank, Medical Services Bureau, The Salvation Army, Catholic Charities, Lutheran Social Services, and WIC to name a few.

The most unique feature of our community health center is its collaboration with the University of Kansas School of Medicine - Wichita. Full time Faculty at the University of Kansas - Wichita as well as eleven resident physicians provide health care services at the Center. This integrated health care model is proving to be good for both the patients receiving care and the University who is preparing young physicians for careers in Primary Care.

Perhaps the most difficult service to locate for patients who have no insurance or financial resources is Dental care. We have been able to locate only a few private dental practices that accept Medicaid patients and even fewer that accept self pay patients who are unable to pay. Patients who seek health care at Wichita Primary Care Center who are in need of Dental services are for the most part sent to the United Methodist Health Clinic, another community health center that provides dental services on a sliding scale basis.

The passage of this Bill 625 is vitally important to the patients we treat as it will allow the local community health centers to provide dental services to the underserved.

Such as 52 year old lady whom, due to our relationship with United Methodist Urban Ministries, we were able to refer for dental extractions and were able to fit her with complete upper and lower dentures. The patient is very grateful and is so excited that she can not only eat the foods she enjoys, but is no longer ashamed to smile. Another patient who is a non-english speaking Hispanic lady had been paying premiums to a dental insurance company for the past year and a half without fail only to discover recently with our help that there are no participating providers within Wichita. She was in extensive pain and in need of a root canal, we again were able to provide the care she needed by referring her to United Methodist Urban Ministries.

We strongly urge the passage of this bill in order to allow the existing safety net to continue to operate for the good of the underserved patients we are attempting to help.

Submitted by

Norma Ortiz
Office Manager and Interpreter
Wichita Primary Care Center
1125 N Topeka
Wichita, KS 67214
(316) 262-8861

Senate Public Health & Welfare
Date: 2-21-96
Attachment No. 5

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

FEBRUARY 21, 1995

Re: SB 625

Madame Chairman and Committee Members:

Thank you for the opportunity to come before you. Today I have letters from all of the State Dental Board members regarding this bill. Four of the five board members support this bill.

This bill will help fill a significant need in our state. I am also a member of the Wichita Cities and Schools Task Force for Healthy Children. We are about to finish construction on a school based health center which includes dentistry. This is designed to provide preventive services to indigent children through grade six.

I am also here as a General Dentist in private practice. This bill is a real positive for both dentistry and patients. It provides a possibility for access to care for a group of people who have slipped through the cracks...people of low income not covered by welfare or insurance. The largest positive for dentistry is that this allows a need to be met on a local level - not mandated by state or federal government. Dentists may be involved by contributing their services, or, where the need may exceed the availability of volunteers, a charitable organization may employ dental professionals.

This bill makes it clear that these clinics are only to treat indigent people that meet specific guidelines.

In order to ensure the same high standard of care required of any private dental office, it may be appropriate to amend this bill to require these clinics to register with the State Dental Board, so the Board can inspect and ensure that they meet current sterilization and cleanliness standards.

Thank you for allowing me to appear before you today.

Estel L. Landreth, D.D.S.

Senate Public Health & Welfare
Date: 2-21-96
Attachment No. 6

ESTEL L. LANDRETH, DDS, P.A.
4520 EAST DOUGLAS • SUITE B • WICHITA, KANSAS 67208
[illegible] • FAX (316) 685-2973

February 19, 1995

To: Senate Committee on Health and Human Services

Re: SB 625

Senator Praeger and Committee Members:

I wish to extend my wholehearted support to SB 625, allowing charitable organizations to operate dental clinics to provide dental care to indigant people. I would also support an ammendment to allow dental hygienists to provide preventive care under general supervision (without the actual presence of a dentist) in these clinics, provided the patient had been examined by a dentist within an appropriately designated time frame and the dentist prescribes the preventive treatment to be delivered by the hygienist.

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

Thank you for your time.

Sincerely,

Estel L. Landreth

Estel L. Landreth, D.D.S.

6-2

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

Jacquelyn Dekat
Consumer Representative

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

6-4

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?

<u>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.</u> 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.

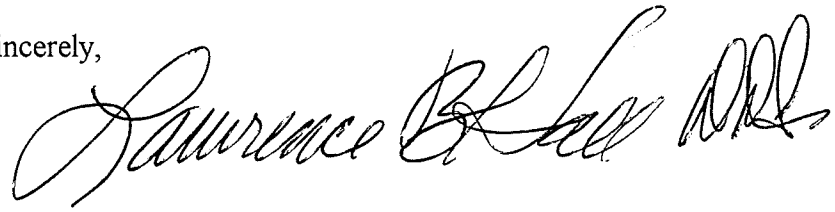
1. If the legislature chooses to make licensed hygienists responsible and accountable for the limited functions which they were licensed to originally do, then that is fine!
2. If the legislature chooses to let charitable entities own dental equipment and hire licensed dentists to do charity work, then 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.

6-9

February 21, 1996

Senator Praeger, Committee Members, Citizens of Kansas

I am Dalrona Harrison from Wichita. I am a registered nurse and coordinate the HIV care grant awarded to the Medical Practice Association of the KU School of Medicine-Wichita. I am here in support of changing the current laws regarding ownership of a dental practice to allow clinics such as federally qualified health centers (FQHC's) and county health departments to own and operate dental clinics to specifically serve persons who are medically under served, indigent, or have barriers to their ability to receive dental care.

We serve approximately 500 HIV infected persons at our facility. We have patients who come from all four corners of the state, not just the Wichita area. All of them have at least one problem in common, the inability to access dental care. The one place that provides dental care to HIV infected persons is the United Methodist Urban Ministries (UMUM) clinic in Wichita. We have a contractual relationship to assist patients in paying for their care through a federal grant, Ryan White Title III(b) awarded to the MPA.

One example of the difficulty our patients experience is best described by a situation from October. At that time, 19 HIV infected persons from Crawford County and southeastern Kansas had to come to Wichita for dental care which is a 3 hour drive one way. Please consider that it took at least 6 hours for the round trip drive plus the time it took for 19 people to receive basic dental care (i.e., cleaning, x-rays, and exams). The time added up to more than a 12 hours to receive the same care that would have taken less than 1 hour if the care had been available in their own community. Patients from western Kansas face the same challenges in obtaining dental care. They make dental appointments at UMUM when coming to Wichita for health care. If this law is changed, health departments and FQHC's would be able to offer dental care more readily to persons in their community.

Another problem encountered by the medically under served is the lack of dental providers who accept Medicaid. The Wichita-Sedgwick Co. Health department knew of only 4 Medicaid providers available to serve the 41,090 recipients including the 20,715 children in Sedgwick County. I met numerous obstacles in trying to find this information. After numerous calls to SRS in Wichita and in Topeka, I was unable to determine the actual number of Medicaid dental providers. Can you imagine how difficult this process in trying to find a Medicaid provider would be for someone who does not know how to begin finding these answers?

Again, I urge you to change the regulations to allow clinics serving the indigent and persons who are medically under served to own dental practices thereby increasing access and consequently improving the health and well being of Kansans.

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.

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 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.

Senate Public Health and Welfare
Date: 2-21-96
Attachment No. 9

CARITAS CLINICS
SERVING THROUGH THE GIFT OF HEALTH

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

Senate Bill 625 - Testimony of Sister Ann McGuire, SCL,

Madam Chair and members of the committee, my name is Sister Ann McGuire. I am 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 throughout 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 are these men and women? They are persons who hold minimum wage jobs, but have no benefits. They are persons who exist at or below 200% of the Federal poverty level and who many times must choose to pay their rent or buy food rather than seek dental care. They are parents whose children receive dental care through Medicaid, but themselves are prevented from accessing such care. 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. These persons are mainly between the ages of 18 and 44 - and they all have one thing in common - no access to dental services. 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 who qualify for Medicaid or Medikan.

I am also here today as the Executive Director of two Community Based Primary Care Clinics. Duchesne Clinic provides services to the medically indigent of Wyandotte County and Saint Vincent Clinic provides services to the medically indigent of Leavenworth County. These Clinics recorded over 8,000 patient visits during FY 1995. The need for comprehensive dental care for our indigent population is one of the greatest unmet needs in both counties. 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. I once again urge you to pass 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 who qualify for Medicaid or Medican.

Thank you for your time and interest.

511 South 5th Street • Leavenworth, Kansas 66048
Affiliate of Sisters of Charity of Leavenworth Health Services Corpor

KANSAS DENTAL ASSOCIATION

Statement by Taylor Markle, D.D.S.
Chairman, KDA Council on Dental Legislation
Senate Committee on Public Health and Welfare
S.B. 625
February 21, 1996

Chairman Praeger and member of the Committee, my name is Taylor Markle. I am a practicing oral and maxilofacial 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.

Like many others in this room, the dental profession is frustrated that legislation of this type is being considered. Our frustration results from the fact that the State of Kansas -- both the Executive and Legislative branches -- have abdicated 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 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.

5200 Huntoon
Topeka, Kansas 66604
913-272-7360

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 appreciate the assistance of the Chairman in that effort and look forward to working with this Committee on that issue shortly.

-- 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 operate 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.

Madam 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.

We recognize, however, that we do not live in an ideal world. In an ideal world, the government of this state would take appropriate responsibility for providing dental care to Medicaid clients in the private dental office setting.

As a result, we have decided to support this legislation with the balloon amendments that are attached.

Again, I appreciate having the opportunity to express our thoughts in regard to S.B. 625. Thank you.

#1113

Session of 1996

SENATE BILL No. 625

By Committee on Public Health and Welfare

2-6

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

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

New Section 1. (a) Notwithstanding any other provision of the dental practices act, a not-for-profit corporation having the status of an organization under 26 United States Code Annotated 501(c)(3), and indigent health care clinic as defined by the rules and regulations of the secretary of health and environment, a federally qualified health center, or a local health department may employ or otherwise contract with a person licensed under the dental practices act to provide dental services to dentally indigent persons.

(b) Dentally indigent persons are those persons who are: (1) Determined to be a member of a family unit earning at or below ~~200%~~ of poverty income guidelines based on the annual update of "poverty income guidelines" published in the federal register by the United States department of health and human services; and (2) not indemnified against costs arising from medical and hospital care by a policy of accident and sickness insurance, an employee health benefits plan, a program administered by the state of federal government or any such coverage.

-----120%

(c) A licensee under the dental practices act who enters into any arrangement to provide dental services pursuant to subsection (a) shall not be subject to having the licensee's license certificate suspended or revoked by the board solely as a result of such arrangement.

~~(d) A dentist who is classified as "retired" by the Kansas dental board is not required to pay the annual renewal fee or comply with the dental continuing education requirements if the dentist elects to provide dental services to the indigent through one of the entities specified in subsection (a). A "retired" dentist providing such services shall be required to comply with the annual renewal requirements of the Kansas dental board.~~

-----Delete (d)

(e) This section shall be part of and supplemental to the dental practices act.

~~Sec. 2. K.S.A. 65-1431 is hereby amended to read as follows: 65-1431: (a) On or before the first day of December of each year, each~~

-----Delete Sections 2 and 3

State of Kansas

Bill Graves Governor

Department of Health and Environment

James J. O'Connell, Secretary

Testimony presented to

Senate Committee on Public Health and Welfare

by

The Kansas Department of Health and Environment

Senate Bill No. 625

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

1. Allows for persons licensed by the dental practices 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.

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 licence 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.

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

Currently 719 physicians, 64 dentists, 259 nurses and 49 other providers are register as Charitable Health Providers. Additionally there are 70 points of entry across the state. From the outset of the charitable program, lack of access to dental care has been reported as a significant problem. Currently five clinics provide dental services on site 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.

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: Richard Morrissey, Director
Bureau Local and Rural Health Systems
February 21, 1996

Kansas Dental Services for the Indigent Act.

Purpose: Recognizing that there is a segment of the population that is at the poverty level, and recognizing that those families at the poverty level do not have readily accessible access to dental care and do not have dental insurance, it is deemed necessary as a matter of public policy to provide laws which will allow not-for-profit corporations and other entities defined in the act to provide such dental services to this narrowly defined population through the employment of a licensed dentist, to operate a dental clinic. It is not the intent of this act to allow corporations or other entities to employ dentists or otherwise engage in the practice of dentistry other than for this narrowly defined population.

TESTIMONY

S.B. 625

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
Wednesday, February 21, 1996 - 10:00 a.m. - Room 526S

KANSAS CATHOLIC CONFERENCE
Bob Runnels, Executive Director

Madam Chairman, members of the Public Health & Welfare Committee -- my name is Bob Runnels, Executive Director of the Kansas Catholic Conference. I speak under the authority of the Roman Catholic Bishops of Kansas.

I am here in support of giving a much needed service to the poor and indigent of our community.

Certainly this bill was developed to help those who cannot afford to purchase dental care for themselves or for their families.

I have been appearing before various legislative committees here in the Capitol for many years, and the one message that I have heard time and time again ... "the church should do more to fill the gap between the ever widening funding that each year covers less and less of the necessities of life". **THIS BILL SPEAKS TO THIS NEED AND WILL BE MOST HELPFUL TO THOSE WHO CANNOT AFFORD DENTAL CARE.**

This bill is directed to the most needy in our society (those in poverty) and fills a vital need for better health for those who have little or no discretion.

Senate Public Health and Welfare
Date: 2-21-96
Attachment No. 14

Testimony
S.B. 625
February 21, 1996

I remember a sign I once read it went like this "when animals lose their teeth they die because they cannot eat" ... perhaps this is too drastic a statement for human beings, but the quality of their lives is seriously burdened.

The **KANSAS CATHOLIC CONFERENCE** supports the concept of **Senate Bill 625** and asks that you report it favorably for passage.

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.