Approved: January 29, 1998

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 January 26, 1998 in Room 423-S-of the State Capitol.

All members were present except: Representative Phyllis Gilmore - excused
Representative Tony Powell - excused

Committee staff present: Robin Kempf, Legislative Research Department
Norman Furse, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:
Kevin Robertson, Kansas Dental Association
Dr. Nevin Waters, President, Kansas Foundation of Dentistry for the Handicapped
Art Griggs, Chief Attorney, Department of Administration
Preston Barton, Kansas Council on Developmental Disabilities
Sandra Strand, Kansas Advocates for Better Care
Debra Zehr, Kansas Association of Homes and Services for the Aging
The Rev. Don Moses, Kansas Silver Haired Legislature
Kim Collins, Kanas Coalition, Alzheimer's Association
John Holmgren, AARP State Legislative Committee
Carolyn Middendorf, Kansas State Nurses Association

Others attending: See Guest List (Attachment 1)

Chairperson Mayans opened the meeting for introduction of bills. Kevin Robertson, Kansas Dental Association, presented a request for introduction of two bills: (1) to amend K.S.A. 1997 Supp. 65-1423 and 65-1456 to allow unlicensed persons to operate under the supervision of a dentist licensed by the Kansas Dental Association; and (2) to allow reduced supervision of a licensed dental hygienist under certain provisions set out in Section 1(d)(3). (See proposed bills, Attachment 2.) Representative Wells asked why the second bill was being requested, and Mr. Robertson answered in the opinion of the association there is a shortage in 38 counties who do not have a licensed hygienist and 13 counties who do not have a dentist. Representative Morrison moved that both bills be introduced. Representative Cook seconded the motion; the motion carried.

The Chairperson announced that these bills will be heard on February 2 (Kansas Dental Hygienists Day) and February 3 (Kansas Dental Association Day), in Room 313-S of the State Capitol. The Chairperson asked if there was any one present to request other legislation. No one came forward.

Dr. Nevin Waters, President, Kansas Foundation of Dentistry for the Handicapped, presented an update on the Donated Dental Services (DDS) Program (see Attachment 3).

Chairperson Mayans then opened the hearing on **HB 2607** - state long-term care ombudsman; powers, duties and functions. He stated the SRS Transition Oversight Committee held hearings on the subject during the interim, and several committee members were also members of that committee.

Art Griggs, Chief Attorney for the Department of Administration, presented testimony on the bill and suggested balloon amendments to improve the bill (see Attachment 4).

Preston Barton, Kansas Council on Developmental Disabilities, testified in support of **HB 2607**, and suggested the Ombudsman be placed in the Legislative Branch rather than the Executive Branch, and that it be budgeted as a separate agency. (See testimony, Attachment 5.) Chairperson Mayans asked Mr. Preston if he had reviewed the amendments offered by Mr. Griggs. He had not. He was asked to review them and to visit with the Chairperson in the next few days. Representative Geringer, noting the suggestion to place the agency with the Legislative Branch, stated it was a compromise to situate it with the Department of Administration.

Sandra Strand, Kanas Advocates for Better Care, supporting **HB 2607**, included several suggested amendments. Representative Geringer pointed out that these amendments were also considered during the interim. (See testimony, Attachment 6.)

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.

Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging, also supported **HB 2607**, and delineated three areas of concern (see Attachment 7).

The Rev. Don Moses, representing the Kansas Silver Haired Legislature, testified in support of **HB 2607** (see Attachment 8).

Kim Collins, representing the Kansas Coalition, Alzheimer's Association, supporting **HB 2607**, also noted four principles concerning the ombudsman program (see Attachment 9).

John Holmgren, a member of the AARP State Legislative Committee, supported **HB 2607**, and offered comments on the lines of responsibility for the various agencies involved in administration of the duties, the advisory committee, and budgetary considerations. (See testimony, Attachment 10.)

Carolyn Middendorf, representing the Kansas State Nurses Association, also supported **HB 2607**, but suggested clarification of section 6, part (d) that excepts the volunteer ombudsman from having access to "privileged medical records." (See testimony, Attachment 11.)

Chairperson Mayans, noting the various amendments suggested by conferees, stated the bill's provisions had a great deal of debate in the SRS Transition Oversight Committee. The bill is a compromise of that debate. He suggested that the committee members and conferees study the bill and be ready to act on the bill in about a week.

Chairperson Mayans announced the committee meeting for Wednesday, January 28, 1998 has been cancelled due to the funeral for Representative Jim Long.

The meeting was adjourned at 2:55 p.m.

The next meeting is scheduled for January 27, 1998.

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 COMMITTEE ON HEALTH AND HUMAN SERVICES GUEST LIST
## JANUARY 26, 1998

| NAME | REPRESENTING |
|---|---|
| Nevin Waters | Kansas Foundation of Dentistry for Handicapped. |
| Kevin Robertson | Ks. Dental Assn. |
| Carolyn Middendorf | KSNA |
| Marilyn Bradt | |
| John Holmgren | AARP |
| Sandra Strand | Ks Advocates for Better Care |
| [illegible] Hinds | The Hinds Group |
| Debra Zehr | KAHSA |
| John Kiefhaber | Ks. Health Care Assn, |
| Cindy K Scott | KDHA |
| Barbara Burkindine | KDHA |
| Marvin Wolf | AARP |
| Cal Dickinson | AARP |
| Del Jacobsen | Ks Guardianship Program |
| Charles H. Freeman | AARP - State Leg Committee |
| Myron H. Dunavan | SLTC Ombudsman |
| TK Shively | Ks Legal Services |
| Carrie Roecht | Smoot |
| Susan Anderson | Hein + Weir |

HOUSE HHS COMMITTEE
Attachment 1-1
1-26-98

# HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES GUEST LIST JANUARY 26, 1998

| NAME | REPRESENTING |
| --- | --- |
| Kim Collins | Alzheimers Association of KS |
| Vicki Harding | Div. of Personnel Serv. |
| Bob Williams | KS Pharmacists Assoc |
| Natalie Regier | Federico Consulting |
| KEITH R LANDIS | CHRISTIAN SCIENCE COMM. ON PUBLICATION FOR KS |
| DON MOSES | KS SILVER Haired Legislative Council |
| Preston Barton | D.D. Council |
| David Dallam | Division of the Budget |
| Ron Seeber | Dept of Admin |
| Sheri Graefe | Rep Horst's intern |
| Jan Maxwell | KDOA |
| John Federico | KDA |
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BILL NO. ____

AN ACT concerning the dental practices act; relating to authorized practices; amending K.S.A. 1997 Supp. 65-1423 and 65-1456 and repealing the existing sections.

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

Section 1. K.S.A. 1997 Supp. 65-1423 is hereby amended to read as follows: 65-1423. Nothing in this act shall apply to the following practices, acts and operations:

(a) To the practice of a person licensed to practice medicine and surgery under the laws of this state, unless such person practices dentistry as a specialty; or

(b) to the performance by a licensed nurse of a task as part of the administration of an anaesthetic for a dental operation under the direct supervision of a licensed dentist or person licensed to practice medicine and surgery so long as the anaesthetic given under the direct supervision of a licensed dentist is consistent with the anaesthetic the dentist is authorized to administer under K.S.A. 65-1444 and amendments thereto and consistent with subsection (a) of K.S.A. 65-1162 and amendments thereto and subsection (e) of K.S.A. 65-1163 and amendments thereto;

(c) to the giving by a registered nurse anesthetist of an anaesthetic for a dental operation in an interdependent role as a member of a physician or dentist directed health care team;

(d) the practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States army, navy, air force, marines, public health service, coast guard or veterans' bureau;

(e) the practice of dentistry by a licensed dentist of other states or countries at meetings of the Kansas state dental association or components thereof, or other like dental

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organizations approved by the board, while appearing as clinicians;

(f) to the filling of prescriptions of a licensed and registered dentist as hereinafter provided by any person or persons, association, corporation or other entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth, provided that such person or persons, associations, corporation or other entity, shall not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio or otherwise, to the general public to construct, reproduce or repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth;

(g) to the use of roentgen or x-ray machines or other rays for making radiograms or similar records, of dental or oral tissues under the supervision of a licensed dentist or physician except that such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that such person has, leases, owns or operates a roentgen or x-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity, or administering treatment thereto for any disease thereof;

(h) except as hereinafter limited to the performance of any dental service of any kind by any person who is not licensed under this act, if such service is performed under the supervision of a dentist licensed under this act at the office of such licensed dentist except that such nonlicensed person shall not be allowed to perform or attempt to perform the following dental operations or services:

(1) Any and all removal of or addition to the hard or soft tissue of the oral cavity;

(2) any and all diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structure;

(3) any and all correction of malformation of teeth or of the jaws;

(4) any and all administration of general or local anaesthesia of any nature in connection with a dental operation; or

(5) a prophylaxis, except that individuals who are not licensed but who are operating under the on-site supervision of a dentist may remove extraneous deposits, stains and debris from the teeth above the gum line so long as they have completed necessary training as established by the board.

(i) As used in this section:

(1) "Removal of or addition to the hard or soft tissue of the oral cavity" means: (A) A surgical or cutting procedure on hard or soft tissues; (B) the grafting of hard or soft tissues; (C) the final placement or intraoral adjustment of à fixed crown or fixed bridge; and (D) root planing or the smoothing of roughened root surfaces.

(2) "Diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure" means: (A) A comprehensive examination; (B) diagnosis and treatment planning; and (C) the prescription of a drug, medication or work authorization.

(3) "Correction of malformation of teeth or the jaws" means surgery, cutting or any other irreversible procedure.

(4) "General or local anesthesia of any nature in connection with a dental operation" means any general anaesthetic and any local anaesthetic whether block or infiltration but shall not include the administration and monitoring of the analgesic use of nitrous oxide or oxygen, or both.

Sec. 2. K.S.A. 1997 Supp. 65-1456 is hereby amended to read as follows: 65-1456. (a) The board may suspend or revoke the license, license certificate and renewal certificate of any registered and licensed dentist who shall permit any dental hygienist operating under such dentist's supervision to perform

any operation other than that permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof, and may suspend or revoke the license of any hygienist found guilty of performing any operation other than those permitted under article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof. No license or certificate of any dentist or dental hygienist shall be suspended or revoked in any administrative proceedings without first complying with the notice and hearing requirements of the Kansas administrative procedure act.

(b) The practice of dental hygiene shall include those educational, preventive, and therapeutic procedures which result in the removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci. Included among those educational, preventive and therapeutic procedures are the instruction of the patient as to daily personal care, protecting the teeth from dental caries, the scaling and polishing of the crown surfaces and the planing of the root surfaces, in addition to the curettage of those soft tissues lining the free gingiva to the depth of the gingival sulcus and such additional educational, preventive and therapeutic procedures as the board may establish by rules and regulations.

(c) Subject to such prohibitions, limitations and conditions as the board may prescribe by rules and regulations, any licensed dental hygienist may practice dental hygiene and may also perform such dental service as may be performed by a dental assistant under the provisions of K.S.A. 65-1423 and amendments thereto.

(d) Except as otherwise provided in this section, the practice of dental hygiene shall be performed under the direct or indirect supervision of a licensed dentist at the office of such licensed dentist. The board may designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under the indirect supervision of a licensed

dentist. As used in this section, "indirect supervision" means that the dentist is in the dental office, authorizes the procedures and remains in the dental office while the procedures are being performed and "direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates the performance.

(e) The practice of dental hygiene may be performed at an adult care home, hospital long-term care unit, state institution, local health department or indigent health care clinic on a resident of a facility, client or patient thereof so long as:

(1) A licensed dentist has delegated the performance of the service, task or procedure;

(2) the dental hygienist is under the supervision and responsibility of the dentist;

(3) either the supervising dentist is personally present or the services, tasks and procedures are limited to the cleaning of teeth, education and preventive care;

(4) the supervising dentist examines the patient at the time the dental hygiene procedure is performed or has examined the patient during the 12 calendar months preceding performance of the procedure;

(5) nothing in this subsection (e) shall be construed to prevent a dental hygienist from providing dental education in a school setting; and

(6) the provisions of this subsection (e) shall expire on July 1, 1998.

(f) The board may issue a permit to a licensed dental hygienist to provide dental screening as an employee of the state of Kansas, or any subdivision thereof, at any public institution or facility under the supervision of the governing body of such public institution or facility under such terms and conditions as the board may reasonably establish in such permit. Such permit shall be for a period of one year and shall be subject to renewal annually at the time the license for dental hygiene is renewed.

(g) In addition to the duties specifically mentioned in subsection (b) of K.S.A. 65-1456, and amendments thereto, any duly licensed and registered dental hygienist may:

(1) Give fluoride treatments as a prophylactic measure, as defined by the United States public health service and as recommended for use in dentistry;

(2) remove overhanging restoration margins and periodontal surgery materials by hand scaling instruments; and

(3) administer local block and infiltration anaesthesia and nitrous oxide. (A) The administration of local anaesthesia shall be performed only under the direct supervision of a licensed dentist at the office of the licensed dentist. (B) Each dental hygienist who administers local anaesthesia shall have completed courses of instruction in local anaesthesia and nitrous oxide which have been approved by the board.

(h) (1) The courses of instruction required in subsection (g)(3)(B) of K.S.A. 65-1456, and amendments thereto, shall provide a minimum of 12 hours of instruction at a teaching institution accredited by the American dental association.

(2) The courses of instruction shall include courses which provide both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(3) Certification in cardiac pulmonary resuscitation shall be required in all cases.

Sec. 3. K.S.A. 1997 Supp. 65-1423 and 65-1456 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

BILL NO. ____

AN ACT concerning the dental practices act; relating to authorized practices; amending K.S.A. 1997 Supp. 65-1423 and 65-1456 and repealing the existing sections.

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

Section 1. K.S.A. 1997 Supp. 65-1423 is hereby amended to read as follows: 65-1423. Nothing in this act shall apply to the following practices, acts and operations:

(a) To the practice of a person licensed to practice medicine and surgery under the laws of this state, unless such person practices dentistry as a specialty; or

(b) to the performance by a licensed nurse of a task as part of the administration of an anaesthetic for a dental operation under the direct supervision of a licensed dentist or person licensed to practice medicine and surgery so long as the anaesthetic given under the direct supervision of a licensed dentist is consistent with the anaesthetic the dentist is authorized to administer under K.S.A. 65-1444 and amendments thereto and consistent with subsection (a) of K.S.A. 65-1162 and amendments thereto and subsection (e) of K.S.A. 65-1163 and amendments thereto;

(c) to the giving by a registered nurse anesthetist of an anaesthetic for a dental operation in an interdependent role as a member of a physician or dentist directed health care team;

(d) the practice of dentistry in the discharge of their official duties by graduate dentists or dental surgeons in the United States army, navy; air force, marines, public health service, coast guard or veterans' bureau;

(e) the practice of dentistry by a licensed dentist of other states or countries at meetings of the Kansas state dental association or components thereof, or other like dental

organizations approved by the board, while appearing as clinicians;

(f) to the filling of prescriptions of a licensed and registered dentist as hereinafter provided by any person or persons, association, corporation or other entity, for the construction, reproduction or repair of prosthetic dentures, bridges, plates or appliances to be used or worn as substitutes for natural teeth, provided that such person or persons, associations, corporation or other entity, shall not solicit or advertise, directly or indirectly by mail, card, newspaper, pamphlet, radio or otherwise, to the general public to construct, reproduce or repair prosthetic dentures, bridges, plates or other appliances to be used or worn as substitutes for natural teeth;

(g) to the use of roentgen or x-ray machines or other rays for making radiograms or similar records, of dental or oral tissues under the supervision of a licensed dentist or physician except that such service shall not be advertised by any name whatever as an aid or inducement to secure dental patronage, and no person shall advertise that such person has, leases, owns or operates a roentgen or x-ray machine for the purpose of making dental radiograms of the human teeth or tissues or the oral cavity, or administering treatment thereto for any disease thereof;

(h) except as hereinafter limited to the performance of any dental service of any kind by any person who is not licensed under this act, if such service is performed under the supervision of a dentist licensed under this act at the office of such licensed dentist except that such nonlicensed person shall not be allowed to perform or attempt to perform the following dental operations or services:

(1) Any and all removal of or addition to the hard or soft tissue of the oral cavity;

(2) any and all diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structure;

(3) any and all correction of malformation of teeth or of the jaws;

(4) any and all administration of general or local anaesthesia of any nature in connection with a dental operation; or

(5) a prophylaxis, except that individuals who are not licensed but who are operating under the on-site supervision of a dentist may remove extraneous deposits, stains and debris from the teeth above the gum line so long as they have completed necessary training as established by the board.

(i) As used in this section:

(1) "Removal of or addition to the hard or soft tissue of the oral cavity" means: (A) A surgical or cutting procedure on hard or soft tissues; (B) the grafting of hard or soft tissues; (C) the final placement or intraoral adjustment of à fixed crown or fixed bridge; and (D) root planing or the smoothing of roughened root surfaces.

(2) "Diagnosis of or prescription for treatment for disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws or adjacent structure" means: (A) A comprehensive examination; (B) diagnosis and treatment planning; and (C) the prescription of a drug, medication or work authorization.

(3) "Correction of malformation of teeth or the jaws" means surgery, cutting or any other irreversible procedure.

(4) "General or local anesthesia of any nature in connection with a dental operation" means any general anaesthetic and any local anaesthetic whether block or infiltration but shall not include the administration and monitoring of the analgesic use of nitrous oxide or oxygen, or both.

Sec. 2. K.S.A. 1997 Supp. 65-1456 is hereby amended to read as follows: 65-1456. (a) The board may suspend or revoke the license, license certificate and renewal certificate of any registered and licensed dentist who shall permit any dental hygienist operating under such dentist's supervision to perform

any operation other than that permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof, and may suspend or revoke the license of any hygienist found guilty of performing any operation other than those permitted under article 14 of chapter 65 of the Kansas Statutes Annotated, or acts amendatory thereof. No license or certificate of any dentist or dental hygienist shall be suspended or revoked in any administrative proceedings without first complying with the notice and hearing requirements of the Kansas administrative procedure act.

(b) The practice of dental hygiene shall include those educational, preventive, and therapeutic procedures which result in the removal of extraneous deposits, stains and debris from the teeth and the rendering of smooth surfaces of the teeth to the depths of the gingival sulci. Included among those educational, preventive and therapeutic procedures are the instruction of the patient as to daily personal care, protecting the teeth from dental caries, the scaling and polishing of the crown surfaces and the planing of the root surfaces, in addition to the curettage of those soft tissues lining the free gingiva to the depth of the gingival sulcus and such additional educational, preventive and therapeutic procedures as the board may establish by rules and regulations.

(c) Subject to such prohibitions, limitations and conditions as the board may prescribe by rules and regulations, any licensed dental hygienist may practice dental hygiene and may also perform such dental service as may be performed by a dental assistant under the provisions of K.S.A. 65-1423 and amendments thereto.

(d) Except as otherwise provided in this section, the practice of dental hygiene shall be performed under the direct or indirect supervision of a licensed dentist at the office of such licensed dentist. The board may designate by rules and regulations the procedures which may be performed by a dental hygienist under direct supervision and the procedures which may be performed under the indirect supervision of a licensed

dentist. As used in this section, "indirect supervision" means that the dentist is in the dental office, authorizes the procedures and remains in the dental office while the procedures are being performed and "direct supervision" means that the dentist is in the dental office, personally diagnoses the condition to be treated, personally authorizes the procedure and before dismissal of the patient evaluates the performance.

(e) The practice of dental hygiene may be performed at an adult care home, hospital long-term care unit, state institution, local health department or indigent health care clinic on a resident of a facility, client or patient thereof so long as:

(1) A licensed dentist has delegated the performance of the service, task or procedure;

(2) the dental hygienist is under the supervision and responsibility of the dentist;

(3) either the supervising dentist is personally present or the services, tasks and procedures are limited to the cleaning of teeth, education and preventive care;

(4) the supervising dentist examines the patient at the time the dental hygiene procedure is performed or has examined the patient during the 12 calendar months preceding performance of the procedure;

(5) nothing in this subsection (e) shall be construed to prevent a dental hygienist from providing dental education in a school setting; and

(6) the provisions of this subsection (e) shall expire on July 1, 1998.

(f) The board may issue a permit to a licensed dental hygienist to provide dental screening as an employee of the state of Kansas, or any subdivision thereof, at any public institution or facility under the supervision of the governing body of such public institution or facility under such terms and conditions as the board may reasonably establish in such permit. Such permit shall be for a period of one year and shall be subject to renewal annually at the time the license for dental hygiene is renewed.

(g) In addition to the duties specifically mentioned in subsection (b) of K.S.A. 65-1456, and amendments thereto, any duly licensed and registered dental hygienist may:

(1) Give fluoride treatments as a prophylactic measure, as defined by the United States public health service and as recommended for use in dentistry;

(2) remove overhanging restoration margins and periodontal surgery materials by hand scaling instruments; and

(3) administer local block and infiltration anaesthesia and nitrous oxide. (A) The administration of local anaesthesia shall be performed only under the direct supervision of a licensed dentist at the office of the licensed dentist. (B) Each dental hygienist who administers local anaesthesia shall have completed courses of instruction in local anaesthesia and nitrous oxide which have been approved by the board.

(h) (1) The courses of instruction required in subsection (g)(3)(B) of K.S.A. 65-1456, and amendments thereto, shall provide a minimum of 12 hours of instruction at a teaching institution accredited by the American dental association.

(2) The courses of instruction shall include courses which provide both didactic and clinical instruction in: (A) Theory of pain control; (B) anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and complications.

(3) Certification in cardiac pulmonary resuscitation shall be required in all cases.

Sec. 3. K.S.A. 1997 Supp. 65-1423 and 65-1456 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

January 26, 1998

To: House Committee on Health and Human Services

From: Dr. Nevin Waters, President
Kansas Foundation of Dentistry for the Handicapped

RE: Update on the Donated Dental Services (DDS) Program

Chairman Mayans and members of the Committee, I am Dr. Nevin Waters, a practicing general dentist in Olathe, Kansas. I serve as President of Kansas Foundation of Dentistry for the Handicapped (KFDH), which administers the Donated Dental Service (DDS) program in Kansas. I appreciate the opportunity to appear before you today to discuss the tremendous success this program has had in just a little over one-year since it was first implemented.

Thanks to the foresight and commitment of the Kansas Legislature, 138 disabled and aged Kansans have received very needed dental care since the DDS Program began in November 1996. The care that was provided was given to people who could not afford dental treatment and did not qualify for other public assistance. During this time, volunteer dentists and laboratories have donated **$130,798** worth of dental care!!!

One DDS patient wrote,

> *"I am deeply grateful to you and Dr. Z and his staff. Everyone was gracious about my situation and I sincerely appreciate that. Thank you for all you did for me. It's great to be able to chew on both sides of my mouth. God Bless You."*

Through the DDS program, a volunteer dentist and lab donated a partial denture, cleaning, and the restorative work this thankful patient needed. In all, these caring volunteers donated $1,128 worth of treatment to this patient.

**Background**

Thousands of disabled and aged Kansans have seriously neglected dental problems. Because of their disabilities, many cannot work. Lacking job income, they depend on government programs to pay for their health care. Medicare, however, offers limited dental benefits and Kansas' Medicaid program only provides dental benefits to children. As a result, many disabled and elderly Kansans suffer from neglected dental problems because they cannot afford treatment.

After the Kansas legislature appropriated $42,575 to hire a part-time coordinator and contract with the National Foundation of Dentistry for the Handicapped for administrative support, the Kansas Dental Association (KDA) and KFDH launched the statewide DDS project in November, 1996. Over 150 Dentists and 21 dental laboratories throughout the state have each volunteered to donate comprehensive treatment for one or two disabled or aged people each year who cannot afford such care.

5200 Huntoon
Topeka, Kansas 66604-2398
785-272-7360

HOUSE HHS COMMITTEE
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## Activities and Accomplishments

This year's Kansas goal is to provide $130,00 worth of donated treatment to 130 disabled, aged, and medically-compromised individuals throughout the state. In the first two quarters, dentists and laboratories donated $73,385 worth of services for 76 people, exceeding goal pace. Eventually, the DDS program could generate nearly $200,000 worth of free care annually.

Another goal is to provide $4,500 worth of donated labwork by the end of the year. This goal has already been exceeded, with $6,989 worth of fabrications donated thus far. We are very grateful for the generosity of the 21 dental laboratories that volunteer.

In addition to the 76 individuals who finished treatment, another 76 people have been referred to dentists and were receiving treatment at the end of December. The DDS Coordinator, Ms. Norma Reipma, does an excellent job maintaining the caseload at or above the target level of 75 – the best predictor that the program will meet or exceed goals

During this second quarter, we received 140 applications for help, bringing the total received this fiscal year to 267. Forty-five of these people were found to be ineligible, less than in the past. This statistic indicates agencies and individuals better understand the eligibility criteria and the program: applicants must be permanently disabled, elderly, or medically-compromised and not have the financial resources to pay for dental treatment.

According to the Kansas Foundation of Dentistry for the Handicapped, the most productive, fully-mature DDS programs generate over $5.00 worth of donated treatment for every dollar spent on operating costs. Most of these programs have been operating for at least six years. In the second Quarter of, this, only the second year, **the Kansas program provided $4.33 worth of treatment for each dollar spent**—an excellent return for such a new program and another indicator of long-term success.

## Volunteers

The volunteer dentists are the backbone of the DDS program. When the project was launched in October, 1996, KDA President Dr. Randy Thomason and I (as KDA's Immediate Past President) asked each KDA member to volunteer to help one or two disabled or elderly people each year through the program. Initially, 122 dentists throughout the state volunteered. Another 29 dentists subsequently agreed to participate, for a total of 151.

Still with 480 people now waiting for care, many more dentists are needed in Topeka, Wichita, and Pittsburg where we have received a tremendous number of applications-far beyond our capacity to help. Even with additional volunteer help, we had to stop accepting applications from these areas.

In addition to the dentists, 21 dental laboratories donate their services for dentures and others fabrications – four more than the first quarter.

Both the Board and staff of the Kansas Dental Association have been supportive of the program and we are very grateful for our partnership. To encourage more dentists to volunteer, The October issue of the *Journal of the Kansas Dental Association* included the attached version of the first quarterly report for the DDS project.

**Attachments**

In addition to the above-referenced article, a financial statement for the reporting period and the year-to-date is attached along with a program services summary. Also included are reports indication treatment provided by city and disability code.

The DDS program is exceeding projections, which indicates the tremendous need for dental services for the citizens of Kansas. Let me conclude by again thanking you for your support. I would be happy to answer any questions you may have.

Kansas Donated Dental Service Program
Report of Services
October 1, 1997 through December 31, 1997

| CATEGORY | 3rd Qtr. FY 96-97 | 4th Qtr. FY 96-97 | 1st Qtr. 7/97-9/97 | 2nd Qtr. 10/97-12/97 | FY 1998 Total Year-to-Date |
|---|---|---|---|---|---|
| **PATIENTS** | | | | | |
| # of Active Cases | 80 | 88 | 88 | 76 | 76 |
| # of Referrals | 63 | 44 | 45 | 43 | 84 [1] |
| # of Patients Treated | 16 | 45 | 39 | 40 | 76 [1] |
| **APPLICANTS** | | | | | |
| # Received | 141 | 194 | 127 | 140 | 267 |
| # Denied/Terminated | 35 | 59 | 21 | 23 | 45 |
| # of Applications pending (as of 12/31/97) | 225 | 310 | 389 | 480 | 480 |
| **VOLUNTEERS** | | | | | |
| # of Volunteer Dentists | 134 | 144 | 147 | 151 | 151 |
| # involved with patients treated | 19 | 49 | 42 | 48 | 79 [2] |
| # of Volunteer Labs | 12 | 16 | 17 | 21 | 21 |
| # involved with patients treated | 4 | 10 | 6 | 11 | 15 [2] |
| **FINANCIAL** | | | | | |
| Value of Care to Patients Treated | $10,542 | $46,806 | $34,743 | $38,642 | $73,385 |
| Average Value of Treatment/Case | $640 | $1,040 | $891 | $966 | $966 |
| Value of Donated Lab Services[3] | $1,436 | $6,708 | $3,264 | $3,725 | $6,989 |
| Value of Paid Lab Services | $35 | $0 | $56 | $485 | $541 |
| Operating Costs | $9,241 | $15,356 | $8,721 | $8,927 | $17,648 |
| Ratio/Donated Treatment per Dollar of Operating Costs | $1.14 | $3.04 | $3.98 | $4.33 | $4.16 |

| TOTALS SINCE START OF PROJECT (July, 1996) | |
|---|---|
| Total Patients Treated | 138 |
| Total Value of Care to Patients Treated | $130,798 |

---

[1]Total is less than the sum of quarterly periods because it represents an unduplicated count of patients for year, whereas some patients may have been counted in both quarterly periods.

[2]Total may be lower than sum of quarterly periods because some dentists and labs donate services to more than one patient during the year, while others donate only once.

[3]Value also included in Value of Care to Patients Treated.

3-4

TOTALS BY CITY
10/01/97 THRU 12/31/97

| CITY | PATIENTS TREATED | TREATMENT VALUE |
|---|---|---|
| Arkansas City | 2 | 3,059 |
| Baldwin | 1 | 204 |
| Chapman | 1 | 119 |
| Colby | 1 | 500 |
| Dodge City | 1 | 653 |
| Douglas | 1 | 56 |
| Douglass | 1 | 305 |
| Emporia | 1 | 171 |
| Garden City | 1 | 1,460 |
| Garnett | 1 | 558 |
| Hutchinson | 1 | 1,221 |
| Independence | 1 | 1,050 |
| Iola | 1 | 1,540 |
| Kansas City | 3 | 5,138 |
| Lawrence | 3 | 3,220 |
| Melvern | 1 | 75 |
| Minneapolis | 1 | 775 |
| Ottawa | 1 | 2,619 |
| Overland Park | 3 | 3,920 |
| Pittsburg | 3 | 1,922 |
| Prairie Village | 1 | 1,513 |
| Pratt | 1 | 100 |
| Salina | 1 | 58 |
| Shawnee | 1 | 625 |
| Topeka | 4 | 2,752 |
| Wichita | 3 | 5,029 |
| Grand Total | 40 | 38,642 |

TOTALS BY DISABILITY
10/01/97 THRU 12/31/97

| DIS/MED CODE | PATIENTS TREATED | TREATMENT VALUE |
|---|---|---|
| CMI | 6 | 6,469 |
| DD | 1 | 1,221 |
| DIA | 4 | 5,440 |
| ELD | 3 | 3,028 |
| EPI | 1 | 1,460 |
| HRT | 5 | 3,448 |
| KD | 1 | 1,050 |
| MR | 8 | 10,449 |
| ND | 4 | 3,309 |
| ORT | 4 | 2,062 |
| OTH | 1 | 454 |
| SCI | 1 | 119 |
| VI | 1 | 133 |
| Grand Total | 40 | 38,642 |

Kansas DDS Program

| | | 1st Qtr 7/97 - 9/97 | 2nd Qtr 10/97-12/97 | TOTAL 6 mos 7/97 - 12/97 |
|---|---|---|---|---|
| | Support and Revenues: | | | |
| 3000 | Grants, Government-Operating | $42,575 | $0 | $42,575 |
| | Sub-Total | $42,575 | $0 | $42,575 |
| | | | | |
| 3710 | Donated Treatment | $31,479 | $34,917 | $66,396 |
| 3715 | Donated Laboratory | 3,264 | 3,725 | 6,989 |
| | Sub-Total | $34,743 | $38,642 | $73,385 |
| | | | | |
| | Total Support and Revenues | $77,318 | $38,642 | $115,960 |
| | | | | |
| | Expenses: | | | |
| 4060 | Salaries - Referral Coor | $3,180 | $3,234 | $6,414 |
| 4180 | Payroll Taxes | 274 | 258 | 532 |
| 4190 | Payroll Benefits | 635 | 842 | 1,477 |
| 4220 | Auditing Services | 0 | 130 | 130 |
| 4231 | Dental Lab Reimburse | 56 | 485 | 541 |
| 4250 | Tech/Admin Support | 1,750 | 1,750 | 3,500 |
| 4340 | Office Supplies | 30 | 51 | 81 |
| 4350 | Volunteer Recognition | 0 | 31 | 31 |
| 4400 | Printing/Copying | 563 | 663 | 1,226 |
| 4500 | Postage/Shipping | 255 | 244 | 499 |
| 4600 | Insurance, Liability | 41 | 42 | 83 |
| 4700 | Equipment Purchases | 0 | 0 | 0 |
| 4800 | Occupancy | 600 | 400 | 1,000 |
| 4870 | Telephone | 711 | 797 | 1,508 |
| 4900 | Travel/Meetings-Staff | 626 | 0 | 626 |
| 4910 | Training, Dues, Subscrip | 0 | 0 | 0 |
| | Sub-Total | $8,721 | $8,927 | 17,648 |
| | | | | |
| 4240 | Donated Treatment | $31,479 | $34,917 | $66,396 |
| 4241 | Donated Laboratory | 3,264 | 3,725 | 6,989 |
| | Sub-Total | $34,743 | $38,642 | $73,385 |
| | | | | |
| | Total Expenses | $43,464 | $47,569 | $91,033 |

ksdqtr

# KANSAS DONATED DENTAL SERVICES (DDS) PROGRAM

*Quarterly Report for July 1, 1997 through September 30, 1997*
*Funded by Kansas Department of Social & Rehabilitation Services*

*Dear Dr. G.*

*I cannot thank you enough for the time and effort you put into fixing my teeth for me. You and your staff have been very wonderful and accepting. Your kindness will not soon be forgotten. Neither, of course, will your excellent dentistry. You can be sure, when the chances arise, I will pass your name on as being a dentist well worth seeking out. Thank you for all you have done for me.*

*-Mr. S.*

Thanks to the Donated Dental Services (DDS) Program, 98 disabled and aged Kansans received very needed dental care for seriously neglected problems since November, 1996, when the program began. Because of their disabilities, these people could not afford this treatment and were not eligible for public aid. Volunteer dentists and laboratories have donated $92,156 worth of treatment!

Mr. S. is one of those helped. He is 50 years old and has a chronic mental illness - manic depressive disorder, causing bouts of paranoia. He also has severe asthma. When he applied for assistance, several of his teeth were badly decayed. With a monthly income of only $470 from Social Security, however, he could barely afford to pay for housing, food, and medication, let alone the dental treatment he needed.

Through the DDS program, a volunteer dentist donated several restorations and the five crowns Mr. S. needed and a volunteer lab contributed the fabrications for the crowns. These caring volunteers donated $4,201 worth of treatment to Mr. S!

## Background

Thousands of disabled and aged citizens have seriously neglected dental problems. Because of their disabilities, many cannot work. Lacking job income, they depend on government programs to pay for their health care. Medicare, however, offers limited dental benefits and Kansas' Medicaid program only provides dental benefits to child-aged recipients. As a result, many disabled and elderly people often suffer from neglected dental problems because they cannot afford treatment.

The Kansas Dental Association (KDA) and Kansas Foundation of Dentistry for the Handicapped (KFDH) launched the statewide DDS project last year to help these people. This project is similar to others developed by KFDH's national affiliate in 17 other states that will generate over $3.5 million worth of donated care in this 1997-98 fiscal year.

## Activities and Accomplishments

This year's goal is to provide $130,000 worth of treatment for 130 disabled, aged, and medically-compromised individuals throughout the state. During the first quarter, dentists and laboratories donated $34,743 worth of services for 39 people, a pace that is on target for meeting the goal by the end of the fiscal year.

The average value of treatment during the reporting period was $891, an amount somewhat less than in other states where similar programs operate. Expe-

*(Continued on page 34)*

*(Continued from page 31)*

rience has shown, however, that the average value of treatment is lower for newer programs because more complicated cases require more time and not enough time has elapsed to complete some of these cases. Thus expect the average value of treatment to increase gradually over the course of the year.

In addition to these 39 individuals who finished treatment, another 88 people were referred to dentists and were receiving treatment at the end of September. This caseload is higher than the anticipated 75, indicating that we should meet this year's goal. Eventually, the DDS program could generate nearly $200,000 worth of free care annually.

During the first quarter, 127 applications were received, some from people who are not eligible for the DDS program. Not all agencies and individuals understand the eligibility criteria: applicants must be permanently disabled, elderly, or medically-compromised and not have the financial resources to pay for dental treatment.

## Referral Coordinator

Ms. Norma Riepma, DDS Program Coordinator, manages day-to-day services working half-time out of an office at the Kansas Dental Association in Topeka. She did an excellent job of building the program in the first year, processing applications and getting people referred to dentists quickly. She also disseminates program information and applications, helps recruit volunteers, monitors each patient's progress, maintains necessary records, and thanks the volunteers. She has the program positioned very well for continued success.

## Volunteers

The volunteer dentists are the backbone of the DDS program. To launch the program, in October, 1996 Dr. Nevin Waters - Past President of the KDA and President of the Kansas Foundation of Dentistry for the Handicapped - asked each KDA member to volunteer to help. Dentists throughout the state initially volunteered. Another 27 dentists subsequently agreed to participate, for a current total of 147.

Still, with 389 people now waiting for care, many more dentists are needed, particularly in Topeka, Wichita, and Pittsburg where we have received a tremendous number of applications - far beyond our capacity to help. With the help of the KDA, the Presidents of the local dental societies in these areas sent out letters asking their members to volunteer. Even with additional volunteer help, we had to stop accepting applications from these areas as 177 people have requested care.

In addition to the dentists, 17 dental laboratories donate fabrications. We are grateful for these volunteers. Moreover, both the board and staff of the Kansas Dental Association have been so supportive in starting this program and we are very grateful for the partnership.

Fully mature DDS programs generate over $5.00 worth of donated treatment for every dollar spent on operating costs. In the first quarter of the second year, the Kansas program provided $3.98 worth of treatment for each dollar spent. This is an excellent return for such a young program and another indicator of future success.

## Attachments

A financial statement for the reporting period and year is attached along with a program services summary. Also included are reports indicating treatment provided by city and disability code.

KANSAS FOUNDATION OF DENTISTRY FOR THE HANDICAPPED

Norma Jean Riepma
DDS Program Coordinator

c/o Kansas Dental Association
5200 Huntoon
Topeka, Kansas 66604-2398
Phone: 913-273-1900

*(Continued on Page 36)*

(Continued from page 34)

# KANSAS DONATED DENTAL SERVICE PROGRAM
## REPORT OF SERVICES
### July 1, 1997 - September 30, 1997

| CATEGORY | 2nd Qtr. FY 96-97 | 3rd Qtr. Fy 96-97 | 4th Qtr. Fy 96-97 | 1st Qtr. 7/97-9/97 | Total FY1998 79-9/97 |
|---|---|---|---|---|---|
| **PATIENTS** | | | | | |
| # 0f Active Cases | 33 | 80 | 88 | 88 | 88 |
| # of Referrals | 19 | 63 | 44 | 45 | 45 [1] |
| # of Patients Treated | 1 | 16 | 45 | 39 | 39 [1] |
| **APPLICATIONS** | | | | | |
| #Received | 238 | 141 | 194 | 127 | 127 |
| # Denied/Terminated | 28 | 35 | 59 | 21 | 21 |
| # of Applications pending (as of 9/30/97) | 178 | 225 | 310 | 389 | 389 |
| **VOLUNTEERS** | | | | | |
| # of Volunteer Dentists | 122 | 134 | 144 | 147 | 147 |
| # involved with patients treated | 1 | 19 | 49 | 42 | 42 [2] |
| # of Volunteer Labs | 4 | 12 | 16 | 17 | 17 |
| # involved with patients treated | 1 | 4 | 10 | 6 | 6 [2] |
| **FINANCIAL** | | | | | |
| Value of Care to Patients Treated | $65 | $10,542 | $46,806 | $34,743 | $34,743 |
| Average Value of Treatment/Case | $65 | $640 | $1,040 | $891 | $891 |
| Value of Donated Lab Services [3] | $0 | $1,436 | $6,708 | $3,264 | $3,264 |
| Value of Paid Lab Services | $0 | $35 | $0 | $56 | $56 |
| Operating Costs | $11,475 | $9,241 | $15,356 | $8,721 | $8,721 |
| Ratio/Donated Treatment/ Dollar of Operating Costs | $.005 | $1.14 | $3.04 | $3.98 | $3.98 |

**TOTALS SINCE START OF PROJECT** (July, 1996)

Total Patients Treated - 98

Total Value of Care to Patients Treated - $92,156

[1] Total is less than the sum of quarterly periods because it represents an unduplicated count of patients for year, whereas some may have been counted in both quarterly periods.

[2] Total may be lower than the sum of quarterly periods because some dentists and labs donate services to more than one patient during the year, while others donate only once.

[3] Value also included inValue of Care to Patients Treated.



(Continued on page 37)

*(Continued from page 36)*

## TOTALS BY CITY

July 1, 1997 - September 30, 1997

| CITY | PATIENTS TREATED | TREATMENT VALUE |
|---|---|---|
| Altoona | 1 | 770 |
| Arkansas City | 1 | 59 |
| Chanute | 1 | 400 |
| Climax | 1 | 1,000 |
| Concordia | 1 | 1,879 |
| Denison | 1 | 870 |
| Dodge City | 2 | 1,470 |
| El Dorado | 1 | 174 |
| Frankfort | 1 | 1,450 |
| Great Bend | 3 | 3,000 |
| Holton | 1 | 570 |
| Hutchinson | 1 | 219 |
| Iola | 2 | 724 |
| Johnson | 1 | 178 |
| Kansas City | 2 | 5,332 |
| Lawrence | 2 | 2,195 |
| Leavenworth | 1 | 87 |
| Newton | 1 | 958 |
| Olathe | 2 | 2,521 |
| Osage City | 1 | 475 |
| Osawatomie | 1 | 497 |
| Overland Park | 1 | 762 |
| Pittsburg | 3 | 1,507 |
| Rosehill | 1 | 1,236 |
| Topeka | 4 | 4,660 |
| Wichita | 2 | 1,750 |
| Grand Total | 39 | $34,743 |

## KANSAS DDS PROGRAM

July 1, 1997 - September 30, 1997

| | | |
|---|---|---|
| **SUPPORT AND REVENUES** | | |
| 3000 | Grants, Government-Operating | $42,575 |
| | Sub-Total | $42,575 |
| 3710 | Donated Treatment | $31,479 |
| 3715 | Donated Laboratory | 3,264 |
| | Sub-Total | $34,743 |
| Total Support and Revenues | | $77,318 |
| **EXPENSES** | | |
| 4060 | Salaries-Referral Coor | $3,180 |
| 4180 | Payroll Taxes | 274 |
| 4190 | Payroll Benefits | 635 |
| 4220 | Auditing Services | 0 |
| 4231 | Dental Lab Reimburse | 56 |
| 4250 | Tech./Admin. Support | 1,750 |
| 4340 | Office Supplies | 30 |
| 4350 | Volunteer Recognition | 0 |
| 4400 | Printing/Copying | 563 |
| 4500 | Postage/Shipping | 255 |
| 4600 | Insurance, Liability | 41 |
| 4700 | Equipment Purchases | 0 |
| 4800 | Occupancy | 600 |
| 4870 | Telephone | 711 |
| 4900 | Travel/Meetings-Staff | 626 |
| 4910 | Training, Dues, Subscrip. | 0 |
| | Sub-Total | $8,721 |
| 4240 | Donated Treatment | $31,479 |
| 4241 | Donated Laboratory | 3,264 |
| | Sub-Total | $34,743 |
| Total Expenses | | $43,464 |

## TOTALS BY DISABILITY

July 1, 1997 - September 30, 1997

| DIS/MED CODE | PATIENTS TREATED | TREATMENT VALUE | DIS/MED CODE | PATIENTS TREATED | TREATMENT VALUE |
|---|---|---|---|---|---|
| CMI | 4 | 6,017 | MR | 5 | 1,215 |
| CP | 1 | 125 | ND | 1 | 1,770 |
| DD | 3 | 1,519 | OB | 1 | 1,879 |
| DIA | 2 | 1,848 | ORT | 10 | 6,876 |
| ELD | 5 | 7,488 | OTH | 2 | 1,909 |
| HRT | 2 | 1,725 | RES | 1 | 958 |
| IMD | 1 | 1,236 | SCI | 1 | 178 |

TOTAL PATIENTS TREATED - 39

TOTAL TREATMENT VALUE - $34,743

**TESTIMONY BEFORE THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE**
**By**
**Art Griggs, Department of Administration**
**Concerning HB 2607**

January 26, 1998

I am appearing today to testify on behalf of the Department of Administration in support of HB 2607, which creates an independent state agency to be known as the Office of the State Long-Term Care Ombudsman (Office), and to request a few amendments to the bill that the Department believes will simplify the process of establishing and managing the new Office.

Secretary of Aging Thelma Hunter Gordon testified regarding the Kansas Long-Term Care Ombudsman program before the SRS Transition Oversight Committee on several occasions during the interim. The interim study grew out of a proviso in the 1997 Department of Aging appropriations bill that authorized the Secretary of Aging to either transfer the program to the Department of Administration or to contract with a private not-for-profit organization to administer the program. This authority had been requested in order to avoid any potential conflict of interest that could arise from administering both the SLTCO program and the state's nursing facility reimbursement function in the same agency. After considerable testimony and discussion, the SRS Transition Oversight Committee concurred that the program's credibility and effectiveness would be enhanced and potential conflicts of interest would be avoided if the function was placed in an independent state agency. However, the Committee also recognized that the Office currently receives administrative support and funding from the Department on Aging beyond the resources specifically allocated to the program. For this reason, the Committee recommended that the new Office be attached to and receive administrative support services from the Department of Administration.

As introduced, HB 2607 provides a bifurcated budgeting process. Part of the budget, would be developed by the Department of Administration (section 1, subsection (b)). This part relates to budgeting for office space, supplies, equipment and some very generally described administrative functions. The second part of the budget would be developed by the ombudsman and cover the personnel and other program costs for the Office's operations. We think this two- part budgeting would be cumbersome and would add administrative complexities that hamper, rather than enhance, efficient operations. For example, if the Office needs additional supplies or equipment, they should be able to obtain them without Department of Administration involvement.

Whether funding is provided in part to the Department of Administration or all funding is provided directly to the new Office, arrangements will need to be made for the Office's administrative support and for services and items currently provided by the Department on Aging, as well as one-time costs associated with moving and setting up a new office. The costs associated with meeting those needs are real and cannot be absorbed within the Department of Administration, and therefore, the true, full costs of the program should be identified and appropriated.. However, our Department can and will render whatever assistance is needed to assure that the Office gets up and running as an independent state agency.

HOUSE HHS COMMITTEE
Attachment 4-1
1 - 26 - 98

In short, there is no particular value in developing two separate budget estimates, each of which would represent only a portion of the total costs of the program. This two-part budgeting process would complicate administration of the program. We have prepared suggested amendments to simplify the budgeting process and address a few technical issues shown in Attachment I which are summarized as follows:

**1. Require the Secretary of Administration to provide technical support to the Office.** Rather than locating the administrative and clerical support and facilities needed by the Office within the Department of Administration, the proposed balloon amendments assume that the Office would request and receive the staff and funding necessary to function independently in the same manner as comparable small agencies. This would involve the addition of an estimated two positions that would provide administrative and clerical functions. At the same time, the Department of Administration would provide technical support and advice to the new Office as it is established. The Department has worked in a similar capacity with other new agencies, such as the Juvenile Justice Authority, providing information, training, and guidance to ensure that the new agency is able to successfully perform basic administrative functions. On an ongoing basis, the Office would be able to access the support services provided to other small agencies by the Department of Administration. *(See amendments in Section 1, on page 1, lines 20-31, and in Section 5, on page 7, lines 7-8.)*

**2. Require that a single budget estimate for the entire Office be submitted as a separate line item within the Department of Administration budget.** This approach would preserve the independence and autonomy of the Office in developing a program budget and would provide a realistic picture of the resources necessary to operate the program, while associating the program's budget with that of a larger agency. A comparable method is currently used for the Public Broadcasting Council and was used in the past for the Pooled Money Investment Board. *(See amendments in Section 1, on page 1, lines 39-43, and page 2, lines 1-11.)*

**3. Correct an internal reference.** Due to reorganization of K.S.A. 75-5917a, there is an incorrect internal reference to "paragraphs (a) and (b)" that is amended to read "paragraphs (1) and (2)." *(See Section 6, page 7, line 43.)*

**4. Effective date.** We suggest a slightly earlier effective date in order to coincide with the first day of the payroll period chargeable to FY '99. *(See amendments in Section 17, on page 12, lines 17 and 18.)*

One other issue also should be noted. As drafted, the bill appears to provide for the first budget of the new Office to be submitted for FY '2000. However, the bill takes effect on July 1, 1998, at the beginning of FY '99, and the existing State Long-Term Care Ombudsman is abolished at that time. Therefore, there could be a gap in funding, and the bill does not make any provisions for the FY '99 budget of the new agency. The fiscal note submitted by the Division of Budget acknowledges that additional expenditures or FTE positions would be needed to establish and operate the Office but does not identify the first fiscal year in which additional funding would be necessary. Since the effective date of HB 2604 is July 1, 1998, an additional $286,401 in funding and 4.25 FTE would be needed in FY '99 in order to implement the bill.

The Department of Administration will continue to work closely with the Ombudsman and the Department on Aging to make the transition to an independent agency as smooth as possible. Thank you for your consideration of these comments and the proposed amendments. I would be glad to stand for questions.

4-2

Session of 1998

# HOUSE BILL No. 2607

By SRS Transition Oversight Committee

12-22

AN ACT concerning the state long-term care ombudsman; attaching the office of the state long-term care ombudsman to the department of administration for certain purposes; prescribing certain powers, duties and functions; amending K.S.A. 75-5914, 75-5916, 75-5917, 75-5917a, 75-5918, 75-5918a, 75-5919, 75-5920, 75-5921, 75-5922, 75-5922a, 75-5922b and 75-5922c and repealing the existing sections.

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

New Section 1. (a) The office of the state long-term care ombudsman is hereby attached to the department of administration for purposes [~~of administrative services and functions and as otherwise~~] provided by this section. The office of the state long-term care ombudsman shall be in Topeka, Kansas [~~in office space provided by the department of administration. Subject to the provisions of appropriation acts, the secretary of administration shall provide budgeting, purchasing, personnel, payroll, accounting and related administrative or management services, facilities and functions, including office space, services, supplies and equipment, for the office of the state long-term care ombudsman from resources available to the department of administration and upon request by the state long-term care ombudsman. All such services, facilities and functions provided for the office of the state long-term care ombudsman shall be administered by the secretary of administration and shall be provided as requested by the state long-term care ombudsman.~~] The secretary of administration and the department of administration shall have no authority over the state long-term care ombudsman, any regional long-term care ombudsman, any other ombudsman, including any volunteer ombudsman, or any other officer, employee or volunteer of the office of the state long-term care ombudsman with respect to the performance of any power, duty or function of the office or the exercise of any other authority of the office or the state long-term care ombudsman.

[Margin insertion:] . The secretary of administration shall provide such technical assistance and advice as the secretary deems reasonable and necessary to assist the state long-term care ombudsman office to function as an independent state agency.

(b) [~~For the fiscal year ending June 30, 2000, and for each fiscal year thereafter, the secretary of administration shall include in the budget estimate prepared and submitted to the division of the budget for the department of administration under K.S.A. 75-3717 and amendments thereto, in addition to other amounts included in such budget estimate~~]

1 ~~for the other duties and functions of the department of administration,~~
2 ~~an amount or amounts to be appropriated to the department of admin-~~
3 ~~istration for such services, facilities and functions that the department of~~
4 ~~administration is to provide for the office of the state long-term care~~
5 ~~ombudsman during the fiscal year. Each year, the secretary of adminis-~~
6 ~~tration shall advise and consult with the state long-term care ombudsman~~
7 ~~regarding the amount or amounts to be included in the budget estimate~~
8 ~~prepared for the department of administration in order to provide such~~
9 ~~services, facilities and functions for the ensuing fiscal year in accordance~~
10 ~~with this section.~~]
11 [~~(c)~~] For the fiscal year ending June 30, 2000, and for each fiscal year
12 thereafter, the secretary of administration shall include the budget esti-
13 mate of the office of the state long-term care ombudsman, as prepared
14 and approved by the state long-term care ombudsman, along with the
15 budget estimate prepared and submitted to the division of the budget for
16 the department of administration under K.S.A. 75-3717 and amendments
17 thereto. The budget estimate of the office of the state long-term care
18 ombudsman for each such fiscal year shall be prepared at the direction
19 and under the supervision of the state long-term care ombudsman. Ex-
20 penditures from appropriations to the department of administration for
21 the office of the state long-term care ombudsman, made pursuant to
22 budget estimates for the office, shall be made on vouchers approved by
23 the state long-term care ombudsman or the state long-term care om-
24 budsman's designee. All vouchers for expenditures and all payrolls of the
25 office of the state long-term care ombudsman shall be approved by the
26 state long-term care ombudsman or the state long-term care ombuds-
27 man's designee.
28 New Sec. 2. (a) The secretary of aging and the state long-term care
29 ombudsman shall enter into agreements for the provision of financial
30 assistance to the office by the department on aging from available state
31 and federal funds of the department on aging. This financial assistance
32 shall be to assist the office of the state long-term care ombudsman to
33 provide ombudsman services in accordance with the long-term care om-
34 budsman act, applicable federal programs and the provisions of this sec-
35 tion.
36 (b) Subject to the provisions of appropriation acts, the secretary of
37 aging and the department on aging shall continue to provide financial
38 assistance for the office of the state long-term care ombudsman in an
39 aggregate amount of not less than the aggregate of the amounts provided
40 during the fiscal year ending June 30, 1998, appropriately adjusted for
41 increases attributable to inflation and other applicable factors.
42 (c) For the fiscal year ending June 30, 2000, and for each fiscal year
43 thereafter, the secretary of aging shall include in the budget estimate

prepared and submitted to the division of the budget for the department on aging under K.S.A. 75-3717 and amendments thereto, in addition to other amounts included in such budget estimate for the department on aging, amounts to be provided to the office of the state long-term care ombudsman during such fiscal year pursuant to this section. The amounts included in each such budget estimate to be provided to the office of the state long-term care ombudsman shall include amounts to be appropriated from moneys provided to the department on aging under the federal older Americans act, 42 U.S.C. 3001 *et seq*., and amendments thereto, or other federal programs for the aging or from other moneys of the department on aging. In no case shall the aggregate of the amounts included in any such budget estimate of the department on aging, that are to be provided to the office of the state long-term care ombudsman, be less than the aggregate of all moneys provided during the fiscal year ending June 30, 1998, by the department on aging for the office of the state long-term care ombudsman from appropriations to the department on aging, including moneys received under the federal older Americans act, 42 U.S.C. 3001 *et seq*., and amendments thereto, or under any other federal programs for the aging. The aggregate amounts included in each such budget estimate of the department on aging, that are to be provided to the office of the state long-term care ombudsman, shall be adjusted appropriately for increases attributable to inflation and other applicable factors.

Sec. 3. K.S.A. 75-5914 is hereby amended to read as follows: 75-5914. The *advisory* council *on aging* shall have the following powers and duties:

(a) Provide advocacy for the aging in the affairs of the department, the governor's office and other public and private, state and local agencies affecting the aging~~.~~*;*

(b) review and comment upon reports of the department to the governor and the legislature~~.~~ *;*

(c) prepare and submit to the governor, the legislature and the secretary an annual report evaluating the level and quality of all programs, services and facilities provided to the aging by state agencies~~.~~ *;*

(d) review and comment upon the comprehensive state plan prepared by the department~~.~~ *;*

(e) review and comment upon disbursements by the department of public funds to public and private agencies~~.~~ *;*

(f) recommend candidates to the governor for appointment as secretary *of aging* for the department~~.~~ *on aging;*

(g) consult with the secretary regarding the operations of the department~~.~~ *;*

(h) serve as the advisory committee to the governor and the depart-

ment on aging as required and defined in the rules and regulations, part 903.50(c), issued under the federal older Americans act of 1965 (public law 89-73) and amendments thereto~~.~~ *;*

(i) review and comment *to the state long-term care ombudsman* upon the policies and procedures of the office of long-term care ombudsman~~.~~ *; and*

*(j) consult with the state long-term care ombudsman regarding needs for ombudsman services for aged Kansas residents.*

Sec. 4. K.S.A. 75-5916 is hereby amended to read as follows: 75-5916. As used in the long-term care ombudsman act:

(a) "Ombudsman" means the state long-term care ombudsman, any regional long-term care ombudsman or any individual designated as an ombudsman under subsection (h) of K.S.A. 75-5918 and amendments thereto who has received the training required under subsection (f) of K.S.A. 75-5918 and amendments thereto and who has been designated by the state long-term care ombudsman to carry out the powers, duties and functions of the office of the state long-term care ombudsman.

(b) ~~"Secretary" means the secretary of aging~~ *"Volunteer ombudsman" means an individual who has satisfactorily completed the training prescribed by the state long-term care ombudsman under subsection (f) of K.S.A. 75-5918 and amendments thereto, who is a volunteer assisting in providing ombudsman services and who receives no payment for such service other than reimbursement for expenses incurred in accordance with guidelines adopted therefor by the state long-term care ombudsman.*

(c) "Facility" means an adult care home as such term is defined in K.S.A. 39-923 and amendments thereto*, except that facility does not include any nursing facility for mental health or any intermediate care facility for the mentally retarded, as such terms are defined in K.S.A. 39-923 and amendments thereto*.

(d) "Resident" means a resident as such term is defined in K.S.A. 39-923 and amendments thereto.

(e) "State long-term care ombudsman" means the individual appointed by the ~~secretary~~ *governor* to administer the office of the state long-term care ombudsman.

(f) "Regional long-term care ombudsman" means an individual appointed by the ~~secretary~~ *state long-term care ombudsman* under K.S.A. 75-5917 and amendments thereto.

(g) "Office" means the office of the state long-term care ombudsman.

(h) "Conflict of interest" means *(1)* having a pecuniary or other interest in a facility, but not including interests that result only from having a relative who is a resident *or from being the guardian of a resident, (2) being actively employed or otherwise having active involvement in representation of or advocacy for any facility or group of facilities, whether*

1 *or not such representation or advocacy is individual or through an as-*
2 *sociation or other entity, but not including any such active involvement*
3 *that results only from having a relative who is a resident or from being*
4 *the guardian of a resident, or (3) being employed by or having an active*
5 *association with any entity that represents any resident or group of res-*
6 *idents, including any area agency on aging, but not including any such*
7 *active association that results only from having a relative who is a resident*
8 *or from being the guardian of a resident.*
9 Sec. 5. K.S.A. 75-5917 is hereby amended to read as follows: 75-
10 5917. *(a) On the effective date of this act, the office of the state long-term*
11 *care ombudsman in existence on the day preceding such effective date is*
12 *hereby abolished and* there is hereby established ~~under the supervision~~
13 ~~of the secretary of aging within and as a part of the department on aging~~
14 the office of the state long-term care ombudsman, the head of which shall
15 be the state long-term care ombudsman. *In performance of the powers,*
16 *duties and functions prescribed by law, the office shall be an independent*
17 *state agency.* The state long-term care ombudsman shall be appointed by
18 the ~~secretary of aging and shall be in the classified service of the Kansas~~
19 ~~civil service act~~ *governor, subject to confirmation by the senate as pro-*
20 *vided in K.S.A. 75-4315b and amendments thereto. The term of office of*
21 *the first person appointed as the state long-term care ombudsman on or*
22 *after the effective date of this act shall expire on January 15, 2000, and*
23 *such state long-term care ombudsman shall serve until a successor is ap-*
24 *pointed and confirmed. Thereafter, each person appointed as the state*
25 *long-term care ombudsman shall have a term of office of four years and*
26 *shall serve until a successor is appointed and confirmed.*
27 *(b)* The ~~secretary of aging~~ *long-term care ombudsman* shall appoint
28 each regional long-term care ombudsman and all officers and employees
29 of the office of state long-term care ombudsman ~~within the department~~
30 ~~on aging~~. Each regional long-term care ombudsman and all such officers
31 and employees shall be within the classified service under the Kansas civil
32 service act. ~~Under the supervision of the secretary of aging~~
33 *(c) In accordance with the provisions of this act*, the state long-term
34 care ombudsman shall administer the office of the state long-term care
35 ombudsman.
36 *(d) No person shall be eligible to be appointed to, or to hold, the office*
37 *of state long-term care ombudsman if such person is subject to a conflict*
38 *of interest. No person shall be eligible for appointment as the state long-*
39 *term care ombudsman unless such person has:*
40 *(1) A baccalaureate or higher degree from an accredited college or*
41 *university;*
42 *(2) demonstrated abilities to analyze problems of law, administration*
43 *and public policy; and*

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(3) experience in investigation and conflict resolution procedures.

(e) (1) On the effective date of this act, all of the powers, duties, functions, records and property of the office of the state long-term care ombudsman abolished by this section, which are prescribed for the office of the state long-term care ombudsman by this act, are hereby transferred to and conferred and imposed upon the office of the state long-term care ombudsman that is established by this section, except as is otherwise specifically provided by this act. On the effective date of this act, all of the powers, duties, functions, records and property of the secretary of aging or the department on aging, which relate to or are required for the performance of powers, duties or functions which are prescribed for the office of the state long-term care ombudsman or the state long-term care ombudsman by this act, including the power to expend funds now or hereafter made available in accordance with appropriation acts, are hereby transferred to and conferred and imposed upon the office of the state long-term care ombudsman and the state long-term care ombudsman that are established by this section, except as is otherwise specifically provided by this act.

(2) The office of the state long-term care ombudsman established by this section shall be the successor in every way to the powers, duties and functions of the office of the state long-term care ombudsman, the secretary of aging, or the department on aging in which such powers, duties and functions were vested prior to the effective date of this act, except as otherwise specifically provided by this act. Every act performed under the authority of the office of the state long-term care ombudsman established by this act shall be deemed to have the same force and effect as if performed by the office of the state long-term care ombudsman, the secretary of aging or the department on aging in which such powers, duties and functions were vested prior to the effective date of this act.

(3) Subject to the provisions of this act, whenever the office of the state long-term care ombudsman that is abolished by this act or the secretary on aging or the department on aging, or words of like effect, is referred to or designated by a statute, contract, or other document, and such reference or designation relates to a power, duty or function which is transferred to and conferred and imposed upon the office of the state long-term care ombudsman that is established by this act, such reference or designation shall be deemed to apply to the office of the state long-term care ombudsman established by this act.

(4) All policies, orders or directives of the office of the state long-term care ombudsman that is abolished by this act and all policies, orders or directives of the secretary of aging, which are in existence on the effective date of this act and which relate to powers, duties and functions that were vested in such office of the state long-term care ombudsman or the sec-

1 *retary of aging prior to such date, shall continue to be effective and shall*
2 *be deemed to be the policies, orders or directives of the state long-term*
3 *care ombudsman established by this act, until revised, amended or re-*
4 *voked or nullified pursuant to law. The office of the state long-term care*
5 *ombudsman established by this act shall be deemed to be a continuation*
6 *of the office of the state long-term care ombudsman abolished by this act.*
7 *(5) (A) The state long-term care ombudsman* [~~*and the secretary of*~~
8 ~~*administration*~~] *shall provide that all officers and employees of the de-*
9 *partment on aging, who are engaged in the exercise and performance of*
10 *the powers, duties and functions of the programs of the office of the state*
11 *long-term care ombudsman that are transferred by this act, are trans-*
12 *ferred to the office of the state long-term care ombudsman established by*
13 *this section.*
14 *(B) Officers and employees of the department on aging transferred*
15 *under this act shall retain all retirement benefits and leave rights which*
16 *had accrued or vested prior to each date of transfer. The service of each*
17 *officer or employee so transferred shall be deemed to be continuous. All*
18 *transfers, layoffs and abolition of classified service positions under the*
19 *Kansas civil service act which may result from program transfers under*
20 *this act shall be made in accordance with the civil service laws and any*
21 *rules and regulations adopted thereunder. Nothing in this act shall affect*
22 *the classified status of any transferred person employed by the department*
23 *on aging prior to the date of transfer.*
24 *(C) If the state long-term care ombudsman and the secretary of aging*
25 *cannot agree as to how any transfer of an officer or employee is to take*
26 *place under this section, the state long-term care ombudsman and the*
27 *secretary of administration shall be responsible for administering any lay-*
28 *off that is part of the transfer in accordance with this act.*
29 *(D) Notwithstanding the effective date of this act, the provisions of*
30 *this act prescribing the transfer of officers and employees between the*
31 *office of the state long-term care ombudsman established by this section*
32 *and the department on aging, the date of transfer of each such officer or*
33 *employee shall commence at the start of a payroll period.*
34 Sec. 6. K.S.A. 75-5917a is hereby amended to read as follows: 75-
35 5917a. *(a)* The ~~secretary~~ *state long-term care ombudsman* shall ensure
36 that:
37 ~~(a)~~ *(1)* No individual involved in the ~~designation~~ *authorization* of any
38 *individual to represent the office as an* ombudsman *or a volunteer om-*
39 *budsman* is subject to a conflict of interest;
40 ~~(b)~~ *(2)* no officer, employee or other representative of the office is
41 subject to a conflict of interest;
42 ~~(c)~~ *(3)* policies and procedures are in place to identify and remedy all
43 conflicts of interest specified under paragraphs [~~(a)~~] and [~~(b)~~]; [(1) [(2)

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1 ~~(d)~~ *(4)* legal counsel is available to the office for advice and consul-
2 tation and that legal representation is provided to any ombudsman against
3 whom suit or other legal action is brought in connection with the per-
4 formance of the ombudsman's official duties; and
5 ~~(e)~~ *(5)* the office has the ability to pursue administrative, legal and
6 other appropriate remedies on behalf of residents of facilities.
7 *(b) The state long-term care ombudsman may enter into contracts*
8 *with service providers to provide investigative, legal, public education*
9 *training or other services as may be required to assist the state long-term*
10 *care in providing ombudsman services to residents of facilities or as oth-*
11 *erwise required to carry out the powers, duties and functions of the office.*
12 *Contracts entered into under this subsection shall not be subject to the*
13 *competitive bidding requirements of K.S.A. 75-3739 and amendments*
14 *thereto. No contract may be entered into by the state long-term care om-*
15 *budsman to privatize the office or to otherwise provide that all or sub-*
16 *stantially all of the ombudsman services or functions of the office are to*
17 *be performed by one or more service providers.*
18 *(c) For the purposes of carrying out the powers and duties of the office*
19 *of the state long-term care ombudsman, the state long-term care om-*
20 *budsman may request and accept a grant or donation from any person,*
21 *firm, association or corporation or from any federal, state or local gov-*
22 *ernmental agency and may enter into contracts or other transactions with*
23 *any such person or entity in connection with the grant or donation.*
24 Sec. 7. K.S.A. 75-5918 is hereby amended to read as follows: 75-
25 5918. *The state long-term care ombudsman shall be an advocate of resi-*
26 *dents in facilities throughout the state.* The state long-term care om-
27 budsman shall:
28 (a) Investigate and resolve complaints made by or on behalf of the
29 residents relating to action, inaction or decisions of facilities or the rep-
30 resentatives of facilities, or both, except that all complaints of abuse, ne-
31 glect or exploitation of a resident shall be referred to the secretary of
32 health and environment in accordance with provisions of K.S.A. 39-1401
33 *et seq.* and amendments thereto;
34 (b) develop continuing programs to inform residents, their family
35 members or other persons responsible for residents regarding the rights
36 and responsibilities of residents and such other persons;
37 (c) provide the legislature~~,~~ *and* the governor ~~and the secretary~~ with
38 an annual report containing data ~~and~~, findings *and outcomes* regarding
39 the types of problems experienced and complaints received by or on be-
40 half of residents and containing policy, regulatory and legislative recom-
41 mendations to solve such problems, resolve such complaints and improve
42 the quality of care and life in facilities *and shall present such report and*
43 *other appropriate information and recommendations to the senate com-*

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*mittee on public health and welfare, the senate committee on ways and means, the house of representatives committee on health and human services and the house of representatives committee on appropriations during each regular session of the legislature;*

(d) analyze and monitor the development and implementation of federal, state and local government laws, rules and regulations, resolutions, ordinances and policies with respect to long-term care facilities and services provided in this state, and recommend any changes in such laws, regulations, resolutions, ordinances and policies deemed by the office to be appropriate;

(e) provide information *and recommendations directly* to *news media representatives,* public agencies, legislators and others, as deemed necessary by the office, regarding the problems and concerns of ~~older individuals residing~~ *residents* in facilities, including recommendations related thereto, *except that the state long-term care ombudsman shall give the information or recommendations to any directly affected parties or their representatives before providing such information or recommendations to news media representatives;*

(f) *prescribe and* provide for the training of ~~the state long-term care ombudsman,~~ each regional long-term care ombudsman and any individual designated as an ombudsman under subsection (h) of ~~K.S.A. 75-5918 and amendments thereto~~ *this section, and any individual who is an ombudsman volunteer* in (1) federal, state and local laws, rules and regulations, resolutions, ordinances and policies with respect to facilities located in Kansas, (2) investigative techniques, and (3) such other matters as the ~~secretary~~ *state long-term care ombudsman* deems appropriate;

(g) coordinate ombudsman services provided by the office with the protection and advocacy systems for individuals with developmental disabilities and mental illness established under part A of the federal developmental disabilities assistance and bill of rights act, 42 U.S.C.A. 6001 *et seq.*, and under the federal protection and advocacy for mentally ill individuals act of 1986, public law 99-316;

(h) ~~consider~~ *authorize* an individual, who is an employee of ~~an area agency on aging which provides ombudsman services~~ *the office* and who has ~~been designated as~~ *satisfactorily completed the training prescribed by the state long-term care ombudsman under subsection (f), to be* an ombudsman ~~by the state long-term care ombudsman~~ *or a volunteer ombudsman and* to be a representative of the office and such *an authorized* individual shall be deemed to be a representative of the office for the purposes of ~~this~~ *and subject to the provisions of the long-term care ombudsman act;*

(i) *establish and maintain a system to recruit and train individuals to become volunteer ombudsmen;*

*(j) develop and implement procedures for authorizing and for withdrawing the authorization of individuals to be ombudsmen or volunteer ombudsmen to represent the office in providing ombudsmen services;*

*(k) provide services to residents of facilities throughout the state directly or through service providers to meet needs for ombudsmen services;*

*(l)* collaborate with the department of health and environment and the department of social and rehabilitation services to establish a statewide system to collect and analyze information on complaints and conditions in facilities; and

~~(j)~~ *(m)* perform such other duties and functions as may be provided by law ~~or as may be directed by the secretary of aging~~.

Sec. 8. K.S.A. 75-5918a is hereby amended to read as follows: 75-5918a. No individual shall investigate any complaint filed with the office of the state long-term care ombudsman unless the individual has received the training required under subsection (f) of K.S.A. 75-5918 and amendments thereto and has been designated by the state long-term care ombudsman as an ombudsman *or a voluntary ombudsman* qualified to investigate such complaints.

Sec. 9. K.S.A. 75-5919 is hereby amended to read as follows: 75-5919. (a) An ombudsman *or a volunteer ombudsman* is hereby authorized to enter any facility and any area within such facility at any time with or without prior notice and shall have access to the residents of a facility at all times.

(b) An ombudsman *or a volunteer ombudsman* shall notify immediately the person in charge of a facility upon arrival and shall present appropriate identification.

(c) Residents shall have the right to request, deny or terminate visits with an ombudsman *or a volunteer ombudsman.*

Sec. 10. K.S.A. 75-5920 is hereby amended to read as follows: 75-5920. *(a)* With the ~~written~~ consent of the resident of the facility, guardian of the resident or next of kin of a deceased resident, an ombudsman shall have access to all records and documents kept for or concerning the resident.

*(b) An ombudsman shall have access to all records and documents kept for or concerning a resident (1) in any case in which the resident is unable to consent and has no guardian, and (2) in a case in which (A) access to the records and documents is necessary to investigate a complaint, (B) the resident is unable to consent and the guardian of the resident refuses to give permission for such access, (C) the investigating ombudsman has reasonable cause to believe that the guardian is not acting in the best interests of the resident, and (D) the state long-term care ombudsman has approved such access by the investigating ombudsman.*

*(c)* In addition, in assisting a resident of a facility, an ombudsman

1 shall have access to all records and documents of the facility which are
2 relevant to such assistance to the extent necessary to carry out the pro-
3 visions of the long-term care ombudsman act.
4 *(d) A volunteer ombudsman shall have access to the plan of care and*
5 *other records or documents kept for or concerning the resident to the*
6 *same extent and under the same circumstances as an ombudsman under*
7 *this section, except that a volunteer ombudsman shall not have access to*
8 *any such other records and documents that are privileged medical re-*
9 *cords.*
10 Sec. 11. K.S.A. 75-5921 is hereby amended to read as follows: 75-
11 5921. All information, records and reports received by or developed by
12 an ombudsman *or a volunteer ombudsman* which relate to a resident of
13 a facility, including written material identifying a resident or other com-
14 plainant, are confidential and not subject to the provisions of K.S.A. 45-
15 201 to 45-203, inclusive, and amendments thereto, and shall not be dis-
16 closed or released by an ombudsman *or a volunteer ombudsman*, either
17 by name of the resident or other complainant or of facts which allow the
18 identity of the resident or other complainant to be inferred, except upon
19 the order of a court or unless the resident or the resident's legal repre-
20 sentative or other complainant consents in writing to such disclosure or
21 release by an ombudsman *or a volunteer ombudsman*, except the state
22 long-term care ombudsman shall forward to the secretary of health and
23 environment and the secretary of social and rehabilitation services copies
24 of reports received by the state long-term care ombudsman relating to
25 the health and safety of residents and except as provided in subsection
26 (a) of K.S.A. 75-5918 and amendments thereto. A summary report and
27 findings shall be forwarded to the facility, exclusive of information or
28 material that identifies residents or any other individuals.
29 Sec. 12. K.S.A. 75-5922 is hereby amended to read as follows: 75-
30 5922. An ombudsman shall have access to all records and documents kept
31 by the department of health and environment and the department of
32 social and rehabilitation services which relate to facilities and concern the
33 following matters: (a) Licensure of facilities; (b) certification of facilities;
34 (c) public funding reimbursement for care of residents of facilities; (d)
35 utilization and medical review records; and (e) complaints regarding care
36 of residents of facilities. *The provisions of this sections shall not apply to*
37 *a volunteer ombudsman.*
38 Sec. 13. K.S.A. 75-5922a is hereby amended to read as follows: 75-
39 5922a. No ombudsman *or volunteer ombudsman* shall be liable for the
40 good faith performance of official duties.
41 Sec. 14. K.S.A. 75-5922b is hereby amended to read as follows: 75-
42 5922b. (a) No person shall willfully interfere with any lawful action or
43 activity of an ombudsman *or a volunteer ombudsman*, including the re-

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1 quest for immediate entry into a facility.
2 (b) No person shall take any discriminatory, disciplinary or retaliatory
3 action against any officer or employee of a facility or against any resident
4 or any guardian or family member thereof for any communication by any
5 such individual with an ombudsman *or a volunteer ombudsman* or for
6 any information given or disclosed by such individual in good faith to aid
7 the office in carrying out its duties and responsibilities.
8 (c) Any person that violates the provisions of subsection (a) or the
9 provisions of subsection (b) shall be guilty of a class C misdemeanor.
10 Sec. 15. K.S.A. 75-5922c is hereby amended to read as follows: 75-
11 5922c. The provisions of *sections 1 and 2 and* K.S.A. 75-5916 through
12 75-5922c and amendments thereto shall be known and may be cited as
13 the long-term care ombudsman act.
14 Sec. 16. K.S.A. 75-5914, 75-5916, 75-5917, 75-5917a, 75-5918, 75-
15 5918a, 75-5919, 75-05920, 75-5921, 75-5922, 75-5922a, 75-5922b and 75-
16 5922c are hereby repealed.
17 Sec. 17. This act shall take effect and be in force from and after its
18 publication in the ~~statute book~~.

June 14, 1998, and

Kansas Register

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# Kansas Council on Developmental Disabilities

BILL GRAVES, Governor
TOM ROSE, Chairperson
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*"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"*

## House Health and Human Services Committee

**January 26, 1998**

Testimony in Regards to the Long-Term Care Ombudsman Program -- in favor of HB 2607

Mr. Chairman, Members of the Committee, my name is Preston Barton, and I am appearing today on behalf of the Kansas Council on Developmental Disabilities to provide information regarding the Long-Term Care Ombudsman Program.

The Kansas Council is a federally mandated, federally funded council composed of individuals who are appointed by the Governor. At least half of the membership are persons with developmental disabilities or their immediate relatives. We also have representatives of the major agencies who provide services for individuals with developmental disabilities. Our mission is to advocate for individuals with developmental disabilities, to see that they have choices regarding their participation in society.

I served as the first Kansas Corrections Ombudsman for 8 years, from 1975 to 1983. During that time I attended numerous conferences and was an officer of the United State Association of Ombudsmen, and was a Delegate to the First and Second International Ombudsmen Conferences in Canada and Israel. Through my national and international contacts, I learned about the variations in program design for Ombudsman Offices.

I also spent a dozen years in the nursing home industry, as a Licensed Clinical Social Worker and Licensed Nursing Home Administrator. I have extensive experience and knowledge in Ombudsmanry and the provision of Nursing Home Care. I can even complain about having been the object of scrutiny by the Nursing Home Ombudsman.

I am in favor of HB 2607, especially the concept contained in it to designate the Long-Term Care Ombudsman Program as a **separate state agency**. This bill goes well beyond the mechanics of finding a new home for the Ombudsman function, caused by the Department on Aging's new role of providing long-term care, potentially a conflict of interest with the Ombudsman Program.

HOUSE HHS COMMITTEE
Attachment 5-1
1-26-98

HB 2607 provides the Nursing Home Ombudsman with the **statutory authority** and **independence** to achieve credibility with all the players (including nursing home residents; their families; state officials; and nursing home staff, management and owners). It expands the Program's ability to make comments and recommendations not only regarding the conduct of Adult Care Homes, residents and their families, but also regarding the conduct of two state agencies (the Kansas Department of **Health and Environment**, and the Kansas Department of **Social and Rehabilitation Services**) which directly impact the way in which nursing homes must operate and how they are paid. [This authority is in *Section 12, Page 11, Lines 31 and 32*. There is no mention of the third state agency in this system: the Kansas **Department on Aging**.] With its new ability to **comment equally** on the conduct of **(1) government, (2) nursing homes and (3) residents and their families,** the Nursing Home Ombudsman will more likely be seen as objective and credible, by the nursing home industry and the resident/family community.

HB 2607 [*Section 9, Page 10, starting on Line 19*] strengthens one of the Nursing Home Ombudsman Program's stronger attributes: its legislated investigatory authority to enter any nursing home, at any time, in order to have access to facilities, persons, and records. **The power of presence on the premises** by a credible third party in a nursing home setting can change behavior of staff, resident and family. It can bring out the best in everyone.

This Bill follows the traditional Ombudsman concept well: It is an **independent,** high level **government official** with oversight of the **conduct of government.** It is **a voice of the voiceless,** a way in which citizens can **"fight City Hall",** bringing the **light of public scrutiny** to the conduct of government. It **values openness and accountability** of government, and is concerned with the protection of individual **"due process" rights**. It cannot issue directives or reverse directives; but it can issue **non-binding recommendations**. It can take issues to the **news media**, after giving notice to the parties involved.

## Two Reservations Regarding HB 2607

I do have two reservations regarding HB 2607 as it currently reads:

1. The present proposed arrangement to provide **administrative support** by another agency to the Office is **crucial**, but appears complicated and cumbersome. The Long-Term Care Ombudsman Program needs to be able to develop and defend its own budget.

2. The Long-Term Care Ombudsman Program would be able to be more impartial (certainly perceived as such) were it in the **Legislative Branch** rather than within the Executive Branch, with the Long-Term Care Ombudsman being appointed by the very person who also appoints the Secretaries of SRS, Aging, and Health & Environment [*Section 5, page 5, lines 16-19*]. There is much precedence for placing the Ombudsman function in the Legislative Branch of government. This function is not unlike that of Legislative Post Audit, in that the Ombudsman is also evaluating the implementation of

legislation. Locating this Office within the Legislative Branch would provide Legislators with more and better **direct information** regarding **conditions** in Nursing Homes and **constituent complaints**.

I end with a VISION of the goals and activities for this proposed independent, high level, Long-Term Care Ombudsman Program.

# A Vision for
# An Independent, High Level, Long-Term Care Ombudsman

1. Respond to **individual complaints** and requests for mediation.

2. **Establish a Kansas Nursing Home Ethics Advisory Committee** to develop, educate and advocate for the adoption of guidelines for facilities and for the establishment of facility ethics committees. These ethical guidelines would deal with the ethics of A) end of life decisions; B) adequate pain management; C) physical restraints, D) the use of psychotropic medications, E) other treatment decisions; F) management of aggressive and out-of-control residents; G) confidentiality; and H) many other day to day interactions and transactions with residents and prospective residents.

3. Actively **advocate** for institutionalized elderly persons and persons with disabilities with regard to: A) establishing consumer friendly Rules and Regulations, B) Securing seed money and grants for innovative systemic changes in the delivery of housing, social programs, and health care, C) promoting innovative legislation, D) proposing innovative local government housing and fire codes, and social services, and E) creating self-directed care options

4. Spearhead efforts for humane **care of aggressive residents** -- develop alternative care models. Programs to effectively protect the other residents from those who are violent, disruptive, or in other ways impact negatively on the quality of life of the majority of residents in a facility.

5. Work toward the establishment of **a state-wide Advocacy Coalition** for elderly persons and persons with disabilities who are living in nursing homes or at risk of nursing home placement. Network members would hopefully include the Area Agencies on Aging (AAA's), the many disease and disability specific associations, various retirement associations, various professional associations, and others.

6. **Develop strategies to curb staff turn-over.** Establish turn-over rates considered acceptable and those not. Publicly identify those facilities achieving acceptable rates. High staff turn-over is a significant contributor to the lack of appropriate individualized care; continuity of care; lack of understanding of confused and speech impaired residents; excessive forced over-time for remaining staff; and possibly a contributing factor to elder neglect and abuse; and much more.

Thank you for this opportunity to address the Committee.
I will stand for questions.

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# TESTIMONY

TO: The House Committee on Health and Human Services

FROM: Sandra Strand, Legislative Coordinator

DATE: January 26, 1998

SUBJECT: HB 2607

Kansas Advocates for Better Care appreciates the opportunity to testify in support of this legislation. Since 1975 the mission of our organization has been the same as that of the Long-Term Care Ombudsman program: to assist and empower people who live in care homes. Our work has complemented and supplemented that of the Ombudsman program, and we have worked cooperatively with Ombudsman staff for the benefit of adult care home residents.

We appreciate the many hours The SRS Transition Oversight Committee spent reviewing the Ombudsman Program. While we support the bill drafted by that committee, we are requesting a number of amendments which we believe are necessary to comply with the Older Americans Act (OAA) requirements for Ombudsman programs, and to maintain eligibility for federal funding (which accounts for 88% of the program's $212,000 budget). Our goal is for our state to have the best possible Ombudsman program working for residents.

**1. ADVISORY COUNCIL ON AGING** (p. 3, line 24 - p. 4, line 8).
The composition of the advisory council contained in this bill could pose a conflict of interest for the ombudsman program [e.g. a current member is employed by a nursing facility management company.]

We ask that language be added stating: *No member of the ombudsman oversight committee shall have any financial or governance interest in the provision of long-term care services.*

**2. DEFINITION OF "FACILITY"** (p. 4, lines 25 - 29).
Nursing facilities for mental health and intermediate care facilities for the mentally retarded should not be excluded from the definition of facility.

There was general agreement among conferees to the Transition Oversight Committee that Ombudsman Services should be available to residents of any age of any licensed adult care home. Licensed adult care homes in Kansas include:

nursing facilities,
nursing facilities for mental health,
intermediate care facilities for the mentally retarded,
assisted living facilities,

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residential health care facilities,
home plus,
boarding care homes, and
adult day care facilities.

Including all the above facilities would be consistent with the definition of "resident" found in K.S.A. 39-923(a)(13): "all individuals kept, cared for, treated, boarded or otherwise accommodated in any adult care home."

**3. DEFINITION OF "CONFLICT OF INTEREST"** (p. 4, line 39 to p. 5, line 8).
This definition needs to be rewritten to reflect OAA requirements that the Ombudsman:

(A) does not have a direct involvement in the licensing or certification of a long-term care facility or of a provider of a long-term care service;
(B) does not have an ownership or investment interest (represented by equity, debt, or other financial relationship) in a long-term care facility or a long-term care service;
(C) is not employed by, or participating in the management of, a long-term care facility; and
(D) does not receive, or have the right to receive, directly, remuneration (in cash or in kind) under a compensation arrangement with an owner or operator of a long-term care facility.

It is very clear from this OAA language that "*active association with any entity that represents any resident or group of residents*" (p. 5, line 4) is not a conflict of interest with the goals and purposes of the Ombudsman program. This language should be deleted.

**4. APPOINTMENT FOR A TERM OF FOUR YEARS** (p. 5, lines 20 - 26).
The OAA does not limit the Ombudsman to any specific term of office. If the goal is to de-politicize the office of the Ombudsman and make it independent, limiting the term will not achieve it. Appointing a truly knowledgeable Ombudsman who could be removed for cause would provide better leadership, expertise, and continuity for the program.

**5. QUALIFICATIONS OF STATE LONG TERM CARE OMBUDSMAN** (p. 5, line 40 to p. 6, line 1).
The OAA requires that the SLTCO "shall be selected from among individuals with expertise and experience in the fields of long-term care and advocacy." Since the SLTCO is primarily a supervisor, direct experience in investigation and conflict resolution might not be necessary.

**6. RESTRICTIONS ON CONTRACTS TO PRIVATIZE THE OFFICE** (p. 8, lines 14 -17).
Delete: "*No contract may be entered into by the state long-term care ombudsman to privatize the office or to otherwise provide that all or substantially all of the ombudsman services or functions of the office are to be performed by one or more service providers.*" This language is too restrictive, and prevents future changes which could benefit the program.

The OAA was drafted to give state programs more flexibility: "the state agency [i.e. KDOA] may establish and operate the Office, and carry out the program, directly, or by contract or other arrangement with any public agency or nonprofit private organization."

**7. LIMITATIONS ON INVESTIGATIONS OF ABUSE, NEGLECT OR EXPLOITATION** (p. 8, lines 30 - 33):
Change to: "*except that all complaints of abuse, neglect, or exploitation shall* also *be referred to the secretary of health and environment.*"

The OAA requires the Ombudsman to "identify, investigate, and resolve complaints," and does not limit the scope of investigations.

**8. RESTRICTIONS ON INFORMATION PROVIDED TO NEWS MEDIA** (p. 9, lines 15 - 18).
Delete: "*except that the state long-term care ombudsman shall give the information or recommendations to any directly affected parties or their representatives before providing such information or recommendations to news media representatives.*"

The OAA requires the Ombudsman, among other duties, to "analyze, comment on, and monitor the development and implementation of Federal, State, and local laws, regulations, and other governmental policies and actions, that pertain to the health, safety, welfare, and rights of the residents, with respect to the adequacy of long-term care facilities and services in the State," and to "facilitate public comment on the laws, regulations, policies and actions."

Restricting contact with news media would seriously hamper the Ombudsman's effectiveness. It is critically important that the Ombudsman be able to speak out freely on behalf of residents. Even without this restriction the Ombudsman, as any citizen who speaks to the media, must still be accountable for the accuracy of his or her statements.

**9. VOLUNTEER ACCESS TO RECORDS** (p. 11, lines 4 - 9).
We support access to the plans of care and other resident records or documents by volunteer ombudsman who have met training requirements and who are closely supervised by Ombudsman staff. Such access is necessary for volunteer ombudsmen to effectively investigate and resolve complaints on behalf of residents.

Thank you for your consideration of these detailed recommendations.

I will be happy to respond to your questions.

KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

# TESTIMONY

To: Representative Carlos Mayans, Chair, and Members, House Health and Human Services Committee

From: Debra Zehr, RN, MA, Vice President, Policy/Education

Re: House Bill 2607

Date: Monday, January 26, 1998

Thank you Mr. Chairman, and Members of the Committee. The Kansas Association of Homes and Services for the Aging is a trade organization which represents more than 150 not-for-profit long-term health care and housing providers throughout the state. We appreciate this opportunity to offer comments on House Bill 2607.

We support House Bill 2607. This bill is the product of extensive debate and careful consideration by legislators, state agencies, and other concerned groups. We believe that, by attaching the long-term care ombudsman program to the Department of Administration for the purposes of administrative services and functions, House Bill 2607 accomplishes the desired goal of creating a program, which is free of perceived conflict of interest. It gives the program statutory authority and independence to comment on the activities of residents, families, nursing facilities, and governmental agencies. It also brings Kansas' program more in line with the 1995 recommendations of the National Institute of Medicine.

Following are three areas of concern:

**Section 3** charges the Advisory Council on Aging with numerous powers and duties, only two of which pertain to the ombudsman program [(i) and (j)]. We believe that it is crucial that this program be provided adequate oversight, and that an especially watchful eye be kept on the volunteer component of the program. There are numerous thorny issues regarding volunteers, including implementation of systems to ensure adequate screening, training, and ongoing supervision.

- **KAHSA recommendation: Add a provision for a volunteer ombudsman oversight council similar to that which is in place for the CARE program.**

**Section 7 (e)** authorizes the state long-term care ombudsman to provide information and recommendations directly to the news media once directly affected parties or their representatives have been provided with the same information or recommendations. The term "recommendations" is not clearly defined and presents some concern to our organization. Does this constitute the course of action recommended to the resident,

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family, or facility by the ombudsman? Does it mean what the ombudsman would personally do given the circumstances? Does it mean that the ombudsman can publicly recommend action or intervention by another agency, to which that agency may or may not be bound?

- **KAHSA recommendation: Strike the word "recommendations" from this section.**

**Section 10 (d)** would give volunteers access to the plan of care and other records kept for or concerning the resident except for privileged medical records. However, all medical or clinical records of the resident, including the care plan are privileged records. We are opposed to allowing volunteers access to the clinical record because volunteers are not versed in the interpretation of clinical records and are provided only a cursory review of the care planning process. In addition, nothing prevents the volunteer from asking staff or residents about treatments that are being provided, or from having the regional or state ombudsman review these records.

- **KAHSA Recommendation: Replace current (d) with *A volunteer ombudsman shall not have access to clinical records.***

Thank you. I would be glad to answer questions.

TESTIMONY IN FAVOR OF HB2607

The Honorable Carlos Mayans, Chair
Kansas House of Representatives
Health and Human Services Committee

Chairman Mayans, Committee Members,
and Interested Parties:

Today, we are discussing the future of a program that has been an extremely valuable part of the long term care of our aging populace and their families. The State Long Term Care Ombudsman has been the "friend of the nursing home resident" since the enactment of the Older American's Act legislation in the early 1970's. Traditionally, the LTC Ombudsman has officed and had oversight by the Department on Aging. However, since so many of the former SRS programs on aging, along with the funding for these programs, are now under or coming under the Kansas Department on Aging, this new structure offers the appearance of a conflict of interest between KDOA and the LTC Ombudsman program.

It is my purpose to speak in support of HB2607, which moves the LTC Ombudsman program under the oversight of the Kansas Department of Administration. This has been recommended by the SRS Transition Oversight Committee this past summer of 1997. The importance of an independent Ombudsman program can not be emphasized enough!

The Ombudsman program has been literally swamped for lack of staff to carry on its basic functions of "being the resident's friend". To work with residents, their families, the staff and facility of long term care facilities, is a never-ending, ongoing process. To alleviate the shortage of trained staff ombudsman, an innovative volunteer ombudsman program was picked, trained and been placed in facilities as the "eyes, ears, feet, etc." for the State and Regional Ombudsman.

To this date, there are volunteer ombudsman working under supervision in Shawnee, Johnson, Riley, Douglas, and several other coumnties. I was in the first group of trainees that spent over thirty hours in classroom, fieldwork, observation and examination. I have worked in facilities in Shawnee and Crawford counties, as a volunteer ombudsman assigned, as well as, "a trouble shooter" assisting a regional ombudsman on a particular assignment. The additional recruiuting of volunteer ombudsman is currently on hold, until the future of the Long Term Ombudsman program is resolved.

At the 1997 KS Silver Hair Legislature, the Long Term Care Ombudsman Act, was of top priority.

To continue to provide our aging citizens in long term care facilities with the best ombudsman program available, I urge that your committee act favorably on HB2607 and report it for passage by the House of Representatives.

Thank you for allowing me to testify before you. I will be willing to answer any questions.

Faithfully yours,
The Rev. Don Moses, KS Silver
Haired Legislator, PSA 4

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**TO:** Members of the House Committee, Health and Human Services

**FROM:** Kim Collins, Representative, Kansas Coalition, Alzheimer's Association

**Principles for Kansas' Long-Term Care Ombudsman Program**

The Kansas Coalition of Alzheimer's Association Chapters subscribe to these principles for Kansas' Long Term Care Ombudsman Program and call on the legislature to take action.

1. The ombudsman program must have the independence to advocate for residents within legislative and administrative policy-making processes and in the public arena.

2. The ombudsman program must be protected from potential conflicts of interest. The Institute of Medicine proposal states: Of particular concern to the committee is the prevalence of potential and actual conflicts of interest that arise from the structural location of many of the Offices of the State Long-Term Care (LTC) Ombudsman programs. Situations in which real, potential, and perceived conflicts of interest exist may be more prevalent than is typically understood, and perceived conflicts of interest may be as detrimental to operating the ombudsman program as real conflicts of interest. All conflicts of interest work to the disadvantage of the vulnerable client. It is imperative that steps are taken to avoid real, potential and perceived conflicts of interest.

3. Locating the ombudsman program in a non-profit agency or in an independent government entity without LTC regulatory responsibilities would decrease the conflict of interest situations as well as increase the independence of the program. The Institute of Medicine proposals states: Significant conflicts of interest pertinent to the Office of State LTC ombudsman program can be avoided only by prohibiting the co-location of the ombudsman program with other entities. It is difficult for any organization to regulate and advocate the same program.

4. The ombudsman program must have adequate resources to perform the job well. Kansas has approximately 32,000 long-term beds licensed as 487 adult care homes that are spread across 88,000 square miles. This is a very large area to cover. It is necessary to increase funding for training, travel and miscellaneous expenses for volunteers to assist paid staff in this endeavor.

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Testimony Before the Health and Human Services Committee on Monday, December 26, 1998,
In Support of H.B. 2607, the State Ombudsman Bill
Carlos Mayans, Chair

My name is John Holmgren and I am a member of the AARP State Legislative Committee appearing before you today in support of the Ombudsman bill, HB 2607. Since the evidence of conflict of interest with the transfer of selected sections of the SRS fiscal operations to the Department of Aging, this became a conflict of interest problem with the presence of the Ombudsman function still remaining in the Department of Aging.

Therefore, the bill develops an administrative location for the function, the Department of Administration. But this location is not a reporting or authority function. Those functions remain presumably as they were in the Department of Aging but there was a Secretary of the Department as an intermediary between the Ombudsman and the Governor and that is missing in the new bill unless we have not understood clearly the lines of authority.The Advisory Committee is an excellent function and idea, but again it would not be apart of an operational day by day function.

Because of the importance of the state long term care Ombudsman, it is suggested, therefore, that additional clarification be found describing how the Ombudsman is to do the work of the position, on a day by day basis, still operating with an advisory committee. The lines are not clear as to the respective roles.

Finally, a further recommendation would be to improve the budget. The present Kansas staff currently operates with four full-time staff and 42 volunteers. There are some who believe that a more effective program could be found with at least 13 full time regional staff, one director of field services, one director of volunteer services, and additional clerical assistance. A major need would be, therefore, to increase as well the total number of volunteers to at least 200.


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Margaret A. Dixon, Ed.D. *President* Horace B. Deets *Executive Director*

To accomplish these goals, the budget of $211,000 would need to be significantly increased and a new fiscal note may be needed to accompany this bill. When you consider the several hundred thousand elderly patients in our Kansas nursing homes that need visits by neutral persons trained in the ombudsman function, for those patients and relatives having a myriad of problems that relate to chronic illnesses, the need for an increase is present.

In conclusion, we applaud your work, and believe it is a major breakthrough in finally obtaining a visibility of direction and purpose in the role, function, and purpose of the state long term care ombudsman. Thank you.

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the Voice of Nursing in Kansas

Debbie Folkerts, A.R.N.P.--C.
President

Terri Roberts, J.D., R.N.
Executive Director

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## H.B. 2607: CONCERNING AN OMBUDSMAN PROGRAM

Chairman Mayans and the House Committee on Health and Human Services, my name is Carolyn Middendorf. I am a Master's prepared registered professional nurse who has specialized in gerontological nursing. As a registered nurse, I have investigated complaints and served as an expert witness on abuse in long term care. At the present time, I am the Legislative Chairperson for the Kansas State Nurses Association. On the behalf of KSNA, I want to applaud your efforts to separate the Ombudsman Program from the Department on Aging, removing possible conflict of interest with the matters in which they have jurisdiction. I believe it is appropriate that the Program remain within the governmental environs of the State of Kansas, so their authority remains intact.

While this is a timely move, I want to express some concern with the proposed new Section 6, part d (page 11, lines 4-9) that excepts the volunteer ombudsman from having access to "privileged medical records". The medical record is the documentation, or lack of it, regarding the past and current health status, the care ordered and provided on a daily basis, and the clients response to it, and may include evidence of neglect and abuse (of any kind) . It is current belief that assessment and care for any individual be "holistic", or care that includes the entire person, to be complete. Inability to access the medical record would remove that aspect of assessment, analysis, and the eventual outcome. I believe that nurses may become voluntary ombudsmen, and would find their efforts hampered in an investigation if access to the medical record was prohibited. If that is not the intent of this bill, perhaps there should be clarification of "privileged" medical records.

Health care providers are held within their professional code of ethics regarding confidentiality. I do not believe that issues surrounding confidentiality should hamper the investigations by any volunteer ombudsmen who are all held accountable by standards imposed by law. I request that the Committee consider altering the amendments to afford volunteer ombudsmen the same access to medical records accorded the state ombudsman.

Thank you for the opportunity to speak to this Committee.

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