

Approved: \_\_\_\_\_

Date

1-27-98

## MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on January 20, 1998 in Room 526-S of the Capitol.

All members were present except:

Committee staff present:

Robin Kempf, Legislative Research Department  
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Shelby Smith, Kansas Podiatric Medical Association  
Thelma Hunter Gordon, Secretary, Department on Aging

Others attending: See attached list

### Approval of Minutes

Senator Steineger made a motion to approve the Committee minutes of January 13 and 14, 1998, as written, seconded by Senator Becker. The motion carried.

### Introduction of Bills

Shelby Smith, representing the Kansas Podiatric Medical Association, requested introduction of a bill that would define a licensed podiatrist. Senator Jones made a motion the Committee recommend introduction of the proposed legislation, seconded by Senator Salmans. The motion carried.

### Update on Aging Issues

Thelma Hunter Gordon, Secretary of Aging, briefed the Committee on current activities of the Department on Aging and noted that KDOA has been working with SRS for a smooth transition of programs from SRS to Aging that became effective July 1, 1997. Those programs included the nursing facility services payment, home and community based services waiver for the frail elderly, targeted case management and income eligible home care programs. Secretary Gordon pointed out that KDOA has researched Aging programs in other states, attended training and advisory sessions with the Health Care Financing Administration and AAAs, as well as updating computer software programs in order to be compatible with SRS and Blue Cross-Blue Shield computers. In regard to legislation for the 1998 session, Secretary Gordon requested the Committee consider **SB 129** which was requested by the agency last year as noted in her written testimony. (Attachment 1)

Committee discussion related to the Long-term Care Ombudsman bill presently in House Committee that would transfer the Ombudsman program to the Department of Administration, assisted living and conversion of space in nursing homes, inspection of assisted living facilities and nursing homes, use of Senior Companion volunteers, case managers, the need for more funding and care for Alzheimer patients, case mix reimbursement fees and federal demonstration projects.

### Adjournment

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

The next meeting is scheduled for January 21, 1998.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE  
GUEST LIST

DATE: 1-20-98

| NAME                 | REPRESENTING                   |
|----------------------|--------------------------------|
| Natalie Reeper       | Federico Consulting            |
| Debbie Allen         | Ks Health Care Assn            |
| Carolyn M. Soderberg | KSWA                           |
| Charles Soderberg    | —                              |
| Julie Thomas         | DOB                            |
| DH Zehr              | KAHSA                          |
| TK Shively           | KLS                            |
| Stella Thurkill      | KDOA                           |
| Terry Glasscock      | KDOA                           |
| Denise Clemons       | KDOA                           |
| Susan Anderson       | Hein + Weir                    |
| Amy A. Campbell      | KSOS                           |
| Heather Peterson     | Prudential                     |
| <del>HELODY</del>    | KPMA                           |
| Callie Hill Denton   | KS Association of Health Plans |
| Tom Bell             | KHA                            |
|                      |                                |
|                      |                                |
|                      |                                |



**K A N S A S**  
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Bill Graves  
Governor

Thelma Hunter Gordon  
Secretary of Aging

**Testimony to the Senate Committee on Public Health and Welfare**  
**by KDOA Secretary Thelma Hunter Gordon**  
**January 20, 1998**

Chairman Praeger and members of the committee, thank you for giving me the opportunity to update you on the activities of the Kansas Department on Aging.

In an unparalleled cooperative effort between state agencies, KDOA worked with SRS to prepare for a "seamless" transition of programs from their agency to ours on July 1, 1997. An interagency agreement provided a starting point for transferring the nursing facility services payment, home and community based services waiver for the frail elderly, targeted case management, and income eligible home care programs to KDOA.

The transfer required countless hours of planning and meetings, involving issues ranging from timelines, staffing needs, budgetary ramifications, technical assistance required, and training necessary for transferred, new and existing KDOA staff, as well as employees of Area Agencies on Aging (AAAs) and other providers. Such a major shift in responsibilities and entry to services also required a significant agenda of travel and meetings to provide information to, and answer questions from, our consumers.

Our internal policies needed to be updated to reflect the growth of our agency, forms were revised and consolidated to provide efficiency and coordination between the existing programs and the new, and regulations were amended to allow effective administration of all programs.

KDOA researched Aging programs in other states, attended training and advisory sessions with the Health Care Financing Administration (HCFA) and AAAs, and learned detailed new software programs to communicate with SRS and Blue Cross-Blue Shield computers. We often facilitated communications regarding the new programs between AAAs, other providers, insurers, and/or customers.

The growth in our agency produced another challenge in finding effective working space for new staff, creating a need for a new home for the agency. KDOA worked with the Department of Administration's Facilities Management Division in locating a suitable property, which was approved by the State Building Construction Committee. FY 1998 should see our agency consolidated at last at 503 Kansas.

Throughout the transfer my goals were to assure that customers receive uninterrupted services and that the transfer be accomplished in a manner that, at least maintained, but preferably improved, their quality of services. In most instances I believe we successfully met these goals, and we are aggressively addressing any problems brought to our attention.

Since we have had the transferred programs for such a short time, we don't have a lot of directly comparable data available on those programs. We are proud, however, that statistics from a December, 1997, Medicaid Case Mix report seem to indicate a generally improved quality of care for our seniors over the last three years.

We believe meeting regularly with the SRS Transition Oversight Committee to keep them informed of progress, and learn of their concerns, assisted a great deal as we moved toward better service for our seniors.

Regarding legislation for the 1998 session, the Kansas Department on Aging would like to ask this committee to process SB 129, which was requested by the agency last year.

My staff and I will be happy to address any questions you may have.

**SENATE BILL No. 129**

By Committee on Public Health and Welfare

1-28

9 AN ACT concerning the secretary of aging; older Americans act pro-  
10 grams; senior care act; long-term care programs; department on aging;  
11 amending K.S.A. 75-5908 and 75-5932 and K.S.A. 1996 Supp. 75-5910,  
12 75-5928 and 75-5945 and repealing the existing sections; also repealing  
13 K.S.A. 1996 Supp. 75-5935.  
14

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

16 Section 1. K.S.A. 75-5908 is hereby amended to read as follows: 75-  
17 5908. In addition to powers and duties otherwise provided by law, ~~on~~ and  
18 after July 1, 1977, the secretary shall have the following powers and du-  
19 ties:

20 (a) To evaluate all programs, services and facilities for the aged within  
21 the state and determine the extent to which present public or private  
22 programs, services and facilities meet the needs of the aged.

23 (b) To evaluate and coordinate all programs, services and facilities for  
24 the aging presently furnished by state and federal agencies, and make  
25 appropriate recommendations regarding such services, programs and fa-  
26 cilities to the governor and the legislature.

27 (c) To function as the sole state agency to develop a comprehensive  
28 plan to meet the needs of the state's senior citizens.

29 (d) To receive and disburse federal funds made available directly to  
30 the department, including those funds made available under the federal  
31 older Americans act of 1965 (~~public law 89-73~~), 42 U.S.C. 3001 et seq.,  
32 and any amendments thereto, for providing services for senior citizens or  
33 for purposes related thereto and to develop and administer any state plan  
34 for the aging required by federal law.

35 (e) To solicit, accept, hold and administer in behalf of the state any  
36 grants, devises or bequests of money, securities or property to the state  
37 of Kansas for services to senior citizens or purposes related thereto.

38 (f) To provide consultation and assistance to communities and groups  
39 developing local and area services for senior citizens.

40 (g) To promote community education regarding the problems of sen-  
41 ior citizens through institutes, publications, radio, television and the pr

42 (h) To cooperate with agencies of the federal government in stud  
43 and conferences designed to examine the needs of senior citizens and to

1-3

- 1 prepare programs and facilities to meet those needs.
- 2 (i) To establish and maintain information and referral sources  
3 throughout the state in conjunction with other agencies.
- 4 (j) To provide such staff support as may reasonably be required by  
5 the council.
- 6 (k) To establish state policies for the administration of the depart-  
7 ment; for the disbursement of federal older Americans act funds within  
8 the state; and for state administration of federal older Americans act pro-  
9 grams consistent with relevant federal law, rules and regulations, policies  
10 and procedures.
- 11 (l) To keep informed of the latest developments of research, studies  
12 and programs being conducted nationally and internationally on problems  
13 and needs of aging.
- 14 (m) To adopt such rules and regulations as may be necessary to ad-  
15 minister the ~~provisions of this act~~ *department and the programs and serv-*  
16 *ices it provides.*
- 17 (n) *To lend surplus state property under the authority of the depart-*  
18 *ment on aging to area agencies on aging or to the state long-term care*  
19 *ombudsman to help them perform duties required under state and federal*  
20 *programs administered by the department on aging.*
- 21 (o) *To enter into any contract or agreement, not otherwise prohibited*  
22 *by law, which the secretary finds necessary or expedient to perform the*  
23 *powers, duties and functions of the secretary or the department.*
- 24 (p) *To charge and collect a reasonable fee, not to exceed publishing,*  
25 *copying, packaging, postage, and delivery costs, for publications and other*  
26 *information sent to any person or organization upon request, and any*  
27 *moneys received from such charges shall be deposited in the state treasury*  
28 *and credited to the department on aging's conferences and workshops*  
29 *attendance and publications fee fund and used to defray those costs.*
- 30 Sec. 2. K.S.A. 1996 Supp. 75-5910 is hereby amended to read as  
31 follows: 75-5910. (a) Except as otherwise specifically provided by law, and  
32 subject to the Kansas civil service act, the secretary of aging shall appoint  
33 all subordinate officers and employees of the department and all such  
34 subordinate officers and employees shall be within the classified service  
35 under the Kansas civil service act.
- 36 (b) The secretary may appoint one public information officer, one  
37 chief attorney, one personal secretary and one special assistant who shall  
38 be in the unclassified service under the Kansas civil service act and shall  
39 receive compensation fixed by the secretary and approved by the govern-  
40 nor. The secretary may appoint deputy secretaries and commissioners as  
41 determined necessary by the secretary to effectively carry out the mission  
42 of the department. All deputy secretaries and commissioners shall be in  
43 the unclassified service under the Kansas civil service act and shall receive

- 1 compensation fixed by the secretary and approved by the govern  
2 (c) Nothing in subsection (b) shall affect the classified status of any  
3 person employed by the department on aging on the day immediately  
4 preceding the effective date of this act. The provisions of this subsection  
5 shall not be construed to limit the powers of the secretary pursuant to  
6 K.S.A. 75-5909 or 75-2948 and amendments thereto.
- 7 (d) Personnel of the department shall perform such duties and ex-  
8 ercise such powers as the secretary may prescribe ~~such duties and powers~~  
9 ~~or as are designated by law.~~
- 10 Sec. 3. K.S.A. 1996 Supp. 75-5928 is hereby amended to read as  
11 follows: 75-5928. (a) Within the limitations of appropriations therefor, the  
12 secretary of aging is hereby authorized to establish a program of in-home  
13 services for residents of Kansas 60 years of age or older who have func-  
14 tional limitations which restrict their ability to carry out activities of daily  
15 living and impede their ability to live independently.
- 16 (b) The secretary of aging shall establish and administer, pursuant to  
17 the provisions of this act, a program of in-home services as authorized  
18 under subsection (a). The secretary shall designate area agencies on aging  
19 to administer the program in their respective planning and service areas.  
20 The secretary shall designate an area agency on aging to receive funds  
21 only after the area agency on aging has submitted an acceptable program  
22 plan. ~~The plan must be developed with support of a local or regional~~  
23 ~~coordinating committee comprised of representatives of senior organi-~~  
24 ~~zations, home health agencies and health departments, department of~~  
25 ~~social and rehabilitation services offices and other interested groups.~~
- 26 (c) The program of in-home services authorized under subsection (a)  
27 shall serve such planning and service areas and provide such services as  
28 may be specified by the secretary and as are consistent with this act and  
29 with appropriation acts relating thereto. The secretary shall establish by  
30 rules and regulations the priority of services to be offered under this  
31 program. Such services shall include, but not be limited to, homemaker  
32 services, attendant care services, transportation for care services, chore  
33 services and care management services. The secretary shall follow the  
34 priorities established in specifying services under this act, but any such  
35 service or services, or combination of services, to be provided under this  
36 act shall be consistent with appropriations for such program.
- 37 (d) In establishing a program of in-home services authorized under  
38 subsection (a) and the provisions of this act, the secretary of aging may:
- 39 (1) Make grants to area agencies on aging;
- 40 (2) fix, charge and collect fees for services provided as part of such  
41 program, such fees to be fixed on a sliding scale based on the recipient's  
42 ability to pay for the services and the schedule of fees shall be pub  
43 annually in the Kansas register;

1 (3) adopt rules and regulations necessary to establish the program  
2 under this act and to administer the provisions of such program and shall  
3 adopt rules and regulations as provided under K.S.A. 75-5931;

4 (4) enter into contracts as necessary to carry out the provisions of this  
5 act; and

6 (5) take such other action as may be necessary to carry out the pro-  
7 visions of this act.

8 Sec. 4. K.S.A. 75-5932 is hereby amended to read as follows: 75-  
9 5932. Plans shall not be found acceptable unless they contain:

10 (a) Evidence of support by a broadly representative committee of  
11 representatives of *within* the planning and service area to be served;

12 (b) identification of service providers to be reimbursed for services;

13 (c) evidence that no in-home services will be directly provided by an  
14 area agency on aging; and

15 (d) a means acceptable for selecting clients who are most in need of  
16 the program's benefits.

17 Sec. 5. K.S.A. 1996 Supp. 75-5945 is hereby amended to read as  
18 follows: 75-5945. The secretary of aging shall administer the long-term  
19 care programs and services transferred in this act. All powers granted in  
20 this act are to be interpreted and administered in conformity with federal  
21 grant requirements as applicable to programs transferred, even if such  
22 powers are limited or excluded:

23 (a) The secretary of aging shall develop state plans or state plan  
24 amendments or portions of state plans or state plan amendments in con-  
25 sultation with the secretary of social and rehabilitation services relating  
26 to long-term care programs as provided under the federal social security  
27 act. The secretary of aging shall not develop any state plan amendment  
28 in duplication of or contrary to any state plan otherwise developed by the  
29 secretary of social and rehabilitation services. The secretary of aging may  
30 cooperate with the federal government on any other program providing  
31 federal financial assistance and long-term care services not otherwise in-  
32 consistent with this act. The secretary of aging is not required to develop  
33 a state plan for participation or cooperation in all federal social security  
34 act programs or other federal programs that are available for long-term  
35 care services. The secretary of aging may develop a state plan in regard  
36 to long-term care services in which the federal government does not par-  
37 ticipate.

38 (b) The secretary of aging, in consultation with the secretary of social  
39 and rehabilitation services, may determine the general policies relating  
40 to all forms of long-term care programs which are administered or su-  
41 pervised by the secretary of aging and to adopt the rules and regulations  
42 therefor.

43 (c) The secretary of aging shall adopt rules and regulations necessary

1 to protect the confidentiality of all client information as required by fed-  
2 eral and state statutes and regulations.

3 (d) The secretary of aging shall provide that all officers and employees  
4 of the department of social and rehabilitation services who are engaged  
5 in the exercise and performance of the powers, duties and functions of  
6 the programs transferred in this act and are determined by the secretary  
7 to be necessary to perform such functions are transferred to the depart-  
8 ment on aging. Officers and employees of the department of social and  
9 rehabilitation services shall retain *their classified or unclassified status*  
10 *and* all retirement benefits and leave rights which had accrued or vested  
11 prior to each date of transfer. The service of each such officer and em-  
12 ployee so transferred shall be deemed to have been continuous. All trans-  
13 fers, layoffs and abolition of classified service positions under the Kansas  
14 civil service act which may result from program transfers shall be made  
15 in accordance with the civil service laws and any rules and regulations  
16 adopted thereunder. The secretary of aging may appoint attorneys as are  
17 necessary to effectively carry out the mission of the department and the  
18 programs transferred by this act. The attorneys appointed shall be in the  
19 unclassified service under the Kansas civil service act, shall serve at the  
20 pleasure of the secretary, and shall receive an annual salary fixed by the  
21 secretary and approved by the governor. Nothing in this act shall affect  
22 the classified status of any transferred person employed as an attorney by  
23 the department of social and rehabilitation services prior to the date of  
24 transfer and the unclassified status shall apply only to persons appointed  
25 to such attorney positions on or after the effective date of this act.

26 (e) The secretary of aging shall establish an adequate system of fi-  
27 nancial records. The secretary of aging and the secretary of social and  
28 rehabilitation services shall execute agreements for the department of  
29 social and rehabilitation services and the department on aging to share  
30 data systems necessary to maximize the efficiency of program operations  
31 and to ensure that federal grant requirements are met. The secretary of  
32 aging shall make annual reports to the governor and shall make any re-  
33 ports required by federal agencies.

34 (f) The secretary of aging may receive, have custody of, protect, ad-  
35 minister, disburse, dispose of and account for federal or private equip-  
36 ment, supplies and property which is given, granted, loaned or advanced  
37 to the state of Kansas for long-term care programs after the transfer of  
38 such programs pursuant to this act.

39 (g) The secretary of aging may assist other departments, agencies and  
40 institutions of the state and federal government and of other states under  
41 interstate agreements, when so requested, by performing services in con-  
42 formity with the purpose of this act.

43 (h) The secretary of aging may lease real and personal property when-

1 ever the property is not available through the state or a political subdivi-  
2 sion of the state for performing the functions required by this act.

3 (i) All contracts shall be made in the name of "secretary of aging"  
4 and in that name the secretary may sue and be sued on such contracts.  
5 The grant of authority under this subsection shall not be construed to be  
6 a waiver of any rights retained by the state under the 11th amendment  
7 to the United States constitution and shall be subject to and shall not  
8 supersede the provisions of any appropriations act of this state.

9 (j) The secretary of aging, except as set forth in the Kansas adminis-  
10 trative procedure act and paragraphs 5 and 6, shall provide a fair hearing  
11 for any person who is an applicant, client or other interested person who  
12 appeals from the decision or final action of any agent or employee of the  
13 secretary. The hearing shall be conducted in accordance with the provi-  
14 sions of the Kansas administrative procedure act and the requirements of  
15 any applicable federal grant programs.

16 (1) The secretary of aging may investigate (A) any claims and vouch-  
17 ers and persons, businesses and other entities who provide services to the  
18 secretary of aging or to clients served by long-term care programs under  
19 the administration of the secretary, and (B) the eligibility of persons to  
20 receive services under long-term care programs under the administration  
21 of the secretary, and (C) the eligibility of providers of services.

22 (2) When conducting investigations, the secretary of aging may issue  
23 subpoenas; compel the attendance of witnesses at any place in this state;  
24 compel the production of any records, books, papers or other documents  
25 considered necessary; administer oaths; take testimony; and render deci-  
26 sions. If a person refuses to comply with any subpoena issued under  
27 this section or to testify to any matter regarding which the person may  
28 lawfully be questioned, the district court of any county, on application of  
29 the secretary, may issue an order requiring the person to comply with the  
30 subpoena and to testify. Failure to obey the order of the court may be  
31 punished by the court as a contempt of court. Unless incapacitated, the  
32 person placing a claim or defending a privilege before the secretary shall  
33 appear in person or by authorized representative and may not be excused  
34 from answering questions and supplying information, except in accor-  
35 dance with the person's constitutional rights and lawful privileges.

36 (3) The presiding officer may close any portion of a hearing con-  
37 ducted under the Kansas administrative procedure act when matters  
38 made confidential, pursuant to federal or state law or regulation are under  
39 consideration.

40 (4) Except as provided in subsection (d) of K.S.A. 77-511 and amend-  
41 ments thereto and notwithstanding the other provisions of the Kansas  
42 administrative procedure act, the secretary of aging may enforce any or-  
43 der prior to the disposition of a person's application for an adjudicative

1 proceeding unless prohibited from such action by federal or state s  
2 regulation or court order.

3 (5) This appeals procedure shall not have jurisdiction to determine  
4 the facial validity of a state or federal statute, rule or regulation.

5 (6) The secretary of aging shall not be required to provide a hearing  
6 if: (A) The appeals procedure lacks jurisdiction over the subject matter;  
7 (B) resolution of the matter does not require the secretary to issue an  
8 order that determines an applicant's or client's legal rights, duties, privi-  
9 leges, immunities or other legal interests; (C) the matter was not timely  
10 submitted for appeal pursuant to regulation or other provision of law; (D)  
11 the matter was not submitted in a form substantially complying with any  
12 applicable provision of law; or (E) the matter is under the prior or con-  
13 current jurisdiction of the secretary of social and rehabilitation services  
14 pursuant to K.S.A. 75-3306 and amendments thereto.

15 (k) The secretary of aging may establish payment schedules for each  
16 group of providers for the long-term care programs. The secretary shall  
17 consider budgetary constraints as a factor in establishing payment sched-  
18 ules so long as the result does not conflict with applicable federal law.  
19 The secretary shall not be required to make any payments under any  
20 federal grant program which do not meet the requirements for state and  
21 federal financial participation. ~~The secretary shall not be required to make~~  
22 ~~any payments under any federal grant program which do not meet the~~  
23 ~~requirements for state and federal financial participation.~~ The secretary  
24 shall not be required to establish or pay at rates which are in excess of  
25 the minimum necessary payment requirements regardless of excess costs  
26 incurred by a provider.

27 (l) The secretary of aging shall review all rules and regulations of the  
28 department on aging and shall amend and revoke the rules and regula-  
29 tions to conform to the purposes of this act.

30 (m) The secretary of aging may implement a program which would  
31 permit the value of any services provided by the area agencies on aging  
32 for the benefit of any long-term care programs administered by the sec-  
33 retary to be considered eligible for federal financial participation for such  
34 long-term care programs.

35 Sec. 6. K.S.A. 75-5908 and 75-5932 and K.S.A. 1996 Supp. 75-5910,  
36 75-5928, 75-5935 and 75-5945 are hereby repealed.

37 Sec. 7. This act shall take effect and be in force from and after its  
38 publication in the statute book.