

Approved: 3-10-98
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 23, 1998 in Room 526-S of the Capitol.

All members were present except:

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

Conferees appearing before the committee:

Jerry Slaughter, KMS

Others attending: See attached list

Briefing and Action on SB 535 - Board of emergency medical services

Staff briefed the Committee on a balloon of SB 535 which was the result of input from various EMS entities studied by a subcommittee consisting of Senators Salmans and Steineger. In addition to technical amendments, the changes removed language which authorized administration of specific "medical agents" but retained endotracheal intubation and nebulized albuterol under specified protocols. The amendments also established increased penalties for interfering with emergency medical service attendants. (Attachment 1) Staff brought the Committee's attention to new language in the balloon of the bill on page 17, line 33, relating to "firefighter" which should be changed to "attendant" as well as striking "fire" and inserting "an emergency".

Senator Steineger made a motion that the Committee adopt the balloon of the bill with changes as suggested by staff, and that the Committee recommend **SB 535 as amended** favorably for passage, seconded by Senator Jones. After Committee discussion on the balloon of the bill, the motion carried.

Briefing and Action on SB 129 - Secretary of Aging powers and duties

Staff briefed the Committee on a balloon of SB 129 showing technical changes as well as clarifying that the Department on Aging would comply with normal Rules and Regs procedures. (Attachment 2) During Committee discussion it was suggested that language relating to the department's renewal of the plan, which refers to the federal Senior Care Act, be done so annually with local agencies and service providers instead of periodically as shown in the balloon of the bill.

Senator Jones made a motion that the Committee adopt the balloon of **SB 129** with additional changes relating to renewal of the plan done "annually" instead of "periodically" as shown in the balloon on the bill, seconded by Senator Steineger. The motion carried.

Senator Lee made a motion that the Committee recommend **SB 129 as amended** favorably for passage, seconded by Senator Hardenburger. The motion carried.

Discussion on SB 284 - Communications accommodations under the DD Reform Act

The Chair brought the Committee's attention to disagreements in SB 284 between Envision, Kansas Advocacy and Protective Services, and Kansas Council on Developmental Disabilities in clarifying the definition of "deaf-blind" as well as other issues outlined in Attachment 3. It was suggested that the Committee study these conflicts before the bill is considered at the next meeting.

Continued discussion on SB 655 - Board of Medical Professions

Jerry Slaughter, KMS, clarified that podiatrists did not wish to be on a separate board, but would like to be included on the new board of medical professions if the bill was enacted-- see attached letter from Harold J. Sauder, DPM, wanting representation on the new board. (Attachment 4) Committee discussion related to finding out what other states are doing regarding this issue, as well as current trends toward centralization of administrative entities on the Board.

Approval of Minutes

Senator Steineger made a motion to approve the Committee minutes of February 16, 17, 18, 19 and 20, 1998, as written, seconded by Senator Salmans. The motion carried.

Adjournment

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

The next meeting is scheduled for February 24, 1998.

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SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-23-98

NAME	REPRESENTING
Rhena Clavel	Myself
Dee Macey	KBHA
Steven C French	KBHA
Marsha Schrempf	KBHA
Dee Schrempf	KBHA
Melissa K Kipp	KBHA
Mary J Bruner	Self
Michiel Huzelon	KAPS
Pat Johnson	KSBN
Edo McDowd	BEMV
Mary Draper	KMG
John Schrempf	KMG
John Rh	KCDC
Sandy Evans	Envision
Michael Bryerton	Envision
Scott Kiper	KPHA
SHELBY SMITH	KPMA
KEITH R LANDIS	CHRISTIAN SCIENCE Comm ON PUBLICATION FOR KS
Lee May	Senate

SENATE BILL No. 535

By Committee on Public Health and Welfare

1-28

9 AN ACT concerning the emergency medical services board; relating to
10 the powers and duties thereof; relating to attendants and the regulation
11 thereof; amending K.S.A. 65-6102, 65-6127, 65-6129a, 65-6129b, 65-
12 6133 and 65-6135 and K.S.A. 1997 Supp. 65-6110, 65-6111, 65-6112,
13 65-6119, 65-6120, 65-6121, 65-6123, 65-6124, 65-6129 and 65-6144
14 and repealing the existing sections; also repealing K.S.A. 65-6148 and
15 K.S.A. 1997 Supp. 65-6149.

emergency medical services; relating to

17 Be it enacted by the Legislature of the State of Kansas.

18 Section 1 K.S.A. 65-6102 is hereby amended to read as follows:
19 65-6102. (a) There is hereby established the emergency medical services
20 board. The office of the emergency medical services board shall be lo-
21 cated in the city of Topeka, Kansas

22 (b) The emergency medical services board shall be composed of 13
23 members to be appointed as follows

24 (1) Nine members shall be appointed by the governor. Of such mem-
25 bers:

26 (A) One shall be a member of the Kansas medical society who is
27 actively involved in emergency medical services;

28 (B) two shall be county commissioners of counties making a levy for
29 ambulance service, at least one of whom shall be from a county having a
30 population of less than 15,000;

31 (C) one shall be an instructor-coordinator;

32 (D) one shall be a hospital administrator actively involved in emer-
33 gency medical services;

34 (E) one shall be a member of a firefighting unit which provides emer-
35 gency medical service; and

36 (F) three shall be attendants who are actively involved in emergency
37 medical service. At least two classifications of attendants shall be repre-
38 sented. At least one of such members shall be from a volunteer emergency
39 medical service; and

40 (2) four members shall be appointed as follows:

41 (A) One shall be a member of the Kansas senate to be appointed by
the president of the senate;

(B) one shall be a member of the Kansas senate to be appointed by

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1 sician, ~~physician's assistant~~ or professional nurse authorized by a physi-
2 cian. These protocols shall be developed and approved by a county
3 medical society or, if there is no county medical society, the medical staff
4 of a hospital to which the ambulance service primarily transports patients.

5 (o) "Mobile intensive care technician" means any a person who has
6 successfully completed a course of training, approved by the board, in
7 emergency medical care, and who holds a valid mobile intensive care
8 technician certificate under holds a mobile intensive care technician cer-
9 tificate issued pursuant to this act.

10 (p) "Municipality" means any city, county, township, fire district or
11 ambulance service district.

12 (q) "Nonemergency transportation" means the care and transport of
13 a sick or injured person under a foreseen combination of circumstances
14 calling for continuing care of such person. As used in this subsec-
15 tion, transportation includes performance of the authorized level of serv-
16 ices of the attendant whether within or outside the vehicle as part of such
17 transportation services.

18 (r) "Operator" means a person or municipality who has a permit to
19 operate an ambulance service in the state of Kansas.

20 (s) "Person" means an individual, a partnership, an association, a
21 joint-stock company or a corporation

22 (t) "Physician" means a person licensed by the state board of healing
23 arts any state to practice medicine and surgery.

24 (tt) "Training officer I" means any person who has completed suc-
25 cessfully a course of training, approved by the board, to conduct contin-
26 uing education programs for attendants.

27 (tv) "Training officer II" means any person who has: (1) Completed
28 successfully a course of training, approved by the board, to conduct con-
29 tinuing education programs for attendants; and (2) completed successfully
30 a supplemental course of training, approved by the board, to conduct
31 initial training programs for first responders.

32 (u) "Physician's assistant" means a person who is registered in ac-
33 cordance with the provisions of K.S.A. 65-2896a, and amendments
34 thereto.

35 (v) "Professional nurse" means a professional nurse as defined by
36 K.S.A. 65-1113, and amendments thereto.

37 (w) "Provider of training" means a corporation, partnership, ~~com-~~
38 ~~munity college~~, ambulance service, fire department, hospital or munici-
39 pality that conducts training programs that include, but are not limited
40 to, initial courses of instruction and continuing education for attendants,
41 instructor-coordinators or training officers.

42 (x) "Training officer" means a person who is certified pursuant to this
43 act to teach initial courses of instruction for first responders and contin-

licensed

accredited postsecondary education institution

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1 *uing education as prescribed by the board.*

2 Sec. 5. K.S.A. 1997 Supp. 65-6119 is hereby amended to read as
3 follows: 65-6119. Notwithstanding any other provision of law, mobile in-
4 tensive care technicians may perform any of the following:

5 (a) ~~May~~ Perform all the authorized activities of an emergency medical
6 technician as described *identified* in K.S.A. 65-6121, and amendments
7 thereto;

8 (b) perform cardiopulmonary resuscitation and defibrillation in a
9 pulseless, nonbreathing patient;

10 (c) when voice contact or a telemetered electrocardiogram is moni-
11 tored by a person licensed to practice medicine and surgery or a licensed
12 professional nurse where authorized by a person licensed to practice medi-
13 cine and surgery, physician or professional nurse where authorized by a
14 physician and direct communication is maintained, and upon order of
15 such person or such nurse do any of the following may:

16 ~~(1) Perform veni-puncture for the purpose of blood sampling collec-~~
17 ~~tion and initiation and maintenance of intravenous infusion of saline so-~~
18 ~~lutions, dextrose and water solutions or ringers lactate IV solutions;~~

-----delete lines 16 through 28

19 ~~(2) perform gastric suction by intubation;~~

20 ~~(3) perform endotracheal intubation;~~

21 ~~(4) administer parenteral injections of any of the following classes of~~
22 ~~drugs:~~

23 ~~(A) Antiarrhythmic agents;~~

24 ~~(B) vagolytic agents;~~

25 ~~(C) chronotropic agents;~~

26 ~~(D) analgesic agents;~~

27 ~~(E) alkalizing agents; or~~

28 ~~(F) vasopressor agents;~~

29 (5) administer such ~~other~~ medications or procedures as may be
30 deemed necessary by such an ordering person: a person identified in
31 subsection (c);

----- delete "other"

32 (d) perform, during an emergency, those activities specified in sub-
33 section (c) before contacting the person licensed to practice medicine and
34 surgery or authorized licensed professional nurse a person identified in
35 subsection (c) when specifically authorized to perform such activities by
36 medical protocols; and

37 (e) perform, during nonemergency transportation, those activities
38 specified in this section when specifically authorized to perform such
39 activities by medical protocols.

40 Sec. 6. K.S.A. 1997 Supp. 65-6120 is hereby amended to read as
41 follows: 65-6120. Notwithstanding any other provision of law to the con-
42 trary, an emergency medical technician-intermediate may:

43 (a) ~~May~~ Perform any of the activities described *identified* by K.S.A.

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1 65-6121, and amendments thereto, which an emergency medical tech-
2 nician may perform;

3 (b) when approved by medical protocols and where voice contact by
4 radio or telephone is monitored by a person licensed to practice medicine
5 and surgery or a licensed professional physician or professional nurse,
6 where authorized by a person licensed to practice medicine and surgery
7 physician, and direct communication is maintained, upon order of such
8 person or such nurse may perform veni-puncture for the purpose of blood
9 sampling collection and initiation and maintenance of intravenous infu-
10 sion of saline solutions, dextrose and water solutions or ringers lactate IV
11 solutions, *endotracheal intubation and administration of nebulized albu-*
12 *terol;*

13 (c) perform, during an emergency, those activities specified in sub-
14 section (b) before contacting the person licensed to practice medicine
15 and surgery or authorized licensed professional nurse persons identified
16 in subsection (b) when specifically authorized to perform such activities
17 by medical protocols; or

18 (d) perform, during nonemergency transportation, those activities
19 specified in this section when specifically authorized to perform such
20 activities by medical protocols.

21 Sec. 7. K.S.A. 1997 Supp. 65-6121 is hereby amended to read as
22 follows: 65-6121. Notwithstanding any other provision of law to the con-
23 trary, an emergency medical technician may perform any of the following
24 activities:

- 25 (a) Patient assessment and vital signs;
- 26 (b) airway maintenance to include including the use of:
 - 27 (1) Oropharyngeal and nasopharyngeal airways;
 - 28 (2) esophageal obturator airways with or without gastric suction de-
29 vice; ~~and~~
 - 30 (3) oxygen demand valves.
- 31 (c) Oxygen therapy;
- 32 (d) oropharyngeal suctioning;
- 33 (e) cardiopulmonary resuscitation procedures;
- 34 (f) control accessible bleeding;
- 35 (g) ~~application of~~ apply pneumatic anti-shock garment;
- 36 (h) ~~management of~~ manage outpatient medical emergencies;
- 37 (i) ~~extrication of patients and lifting and moving techniques~~ extricate
38 *patients and utilize lifting and moving techniques;*
- 39 (j) ~~management of~~ manage musculoskeletal and soft tissue injuries to
40 ~~include including~~ dressing and bandaging wounds or the splinting of frac-
41 tures, dislocations, sprains or strains;
- 42 (k) use of backboards to immobilize the spine;
- 43 (l) administer syrup of ipecac, activated charcoal and glucose;

----- delete "and" Add new (3) "multi-lumen airway; and"
----- change (3) to (4)

Sec 14. K.S.A. 65-6133 is hereby amended to read as follows: 65-6133. (a) An attendant's or instructor-coordinator's certificate may be denied, revoked, limited, modified or suspended by the board *or the board may refuse to renew such certificate* upon proof that such ~~attendant or instructor-coordinator~~ individual:

(1) ~~Has been guilty of misrepresentation in obtaining the certificate made intentional misrepresentations in obtaining a certificate or renewing a certificate;~~

(2) ~~has engaged or attempted to engage in, or represented themselves as entitled to perform, any service not authorized in the certificate performed or attempted to perform activities not authorized by statute at the level of certification held by the individual,~~

(3) ~~has demonstrated incompetence as defined by rules and regulations adopted by the board or has shown themselves otherwise unable to provide adequate service provided inadequate patient care as determined by the board;~~

(4) ~~has violated or aided and abetted in the violation of any provision of this act or the rules and regulations promulgated thereunder,~~

(5) ~~has been convicted of a felony and after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust [any state or federal crime that is related substantially to the qualifications, functions and duties of an attendant or an instructor-coordinator or any crime punishable as a felony under any state or federal statute. A conviction means a plea of guilty, a plea of nolo contendere or a verdict of guilty. The board may take disciplinary action pursuant to this section when the time for appeal has elapsed or after the judgment of conviction is affirmed on appeal or when an order granting probation is made suspending the imposition of sentence].~~

a felony and, after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust

(6) ~~has demonstrated habitual intemperance or is addicted to the use of habit-forming drugs an inability to perform authorized activities with reasonable skill and safety by reason of illness, alcoholism, excessive use of drugs, controlled substances or any physical or mental condition; or~~

(7) ~~has engaged in unprofessional conduct, as defined by rules and regulations adopted under this act by the board.~~

(b) ~~The board shall not~~ may limit, modify, revoke or suspend ~~any an~~ attendant's or instructor-coordinator's certificate ~~pursuant to this section without first conducting a hearing or the board may refuse to renew such certificate~~ in accordance with the provisions of the Kansas administrative procedure act.

Sec 15. K.S.A. 65-6135 is hereby amended to read as follows: 65-6135. (a) All ambulance services providing emergency care as defined by the rules and regulations adopted by the board shall offer service 24 hours

1 or professional nurse.

2 (c) A training officer's certificate may be denied, revoked, limited,
3 modified or suspended or the board may refuse to renew such certificate
4 in accordance with the Kansas administrative procedures act upon any of
5 the following conditions: (1) Failure to maintain certification or licen-
6 sure as an emergency medical technician, emergency medical technician-
7 intermediate, emergency medical technician-fibrillator, mobile inten-
8 sive care technician, physician or professional nurse; (2) withdrawal of
9 appointment by a provider of training; or (3) failure to successfully com-
10 plete continuing education.

11 (d) A training officer's certificate may be denied, revoked, limited,
12 modified or suspended by the board or the board may refuse to renew
13 such certificate upon proof that such individual:

14 (1) Has made intentional misrepresentations in obtaining a certificate
15 or renewing a certificate.

16 (2) has demonstrated incompetence or engaged in unprofessional
17 conduct as defined by rules and regulations adopted by the board;

18 (3) has violated or aided and abetted in the violation of any provision
19 of this act or the rules and regulations promulgated by the board, or

20 (4) has been convicted of any state or federal crime that is related
21 substantially to the qualifications, functions and duties of a training officer
22 or any crime punishable as a felony under any state or federal statute. A
23 conviction means a plea of guilty, a plea of nolo contendere or a verdict
24 of guilty. The board may take disciplinary action pursuant to this section
25 when the time for appeal has elapsed, or after the judgment of conviction
26 is affirmed on appeal or when an order granting probation is made sus-
27 pending the imposition of sentence.

28 (e) If a person who previously was certified as a training officer ap-
29 plies for a training officer's certificate within two years of the date of its
30 expiration, the board may grant a certificate without the person com-
31 pleting an initial course of training or taking an examination if the person
32 complies with the other provisions of subsection (a) and completes con-
33 tinuing education requirements.

34 Sec. 18. K.S.A. 65-6102, 65-6127, 65-6129a, 65-6129b, 65-6133,
35 65-6135 and 65-6148 and K.S.A. 1997 Supp. 65-6110, 65-6111, 65-6112,
36 65-6119, 65-6120, 65-6121, 65-6123, 65-6124, 65-6129, 65-6144 and
37 65-6149 are hereby repealed.

38 Sec. 19. This act shall take effect and be in force from and after its
39 publication in the statute book.

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New Sec. 18. (a) Unlawful interference with an emergency medical services attendant is knowingly and intentionally interfering with, molesting or assaulting, as defined in K.S.A. 21-3408 and amendments thereto, any attendant while engaged in the performance of such attendant's duties, or knowingly and intentionally obstructing, interfering with or impeding the efforts of any firefighter to reach the location of a fire.

(b) As used in this section, ^{an emergency attendant} "attendant" shall have the meaning ascribed to such term under K.S.A. 65-6112 and amendments thereto.

(c) Unlawful interference with an emergency medical services attendant is a class B person misdemeanor.

(d) This section shall be part of and supplemental to the Kansas criminal code.

19

20

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.

1997

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 press.

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

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pare programs and facilities to meet those needs.

(i) To establish and maintain information and referral sources throughout the state in conjunction with other agencies.

(j) To provide such staff support as may reasonably be required by the council.

(k) To establish state policies for the administration of the department; for the disbursement of federal older Americans act funds within the state; and for state administration of federal older Americans act programs consistent with relevant federal law, rules and regulations, policies and procedures.

(l) To keep informed of the latest developments of research, studies and programs being conducted nationally and internationally on problems and needs of aging.

(m) To adopt such rules and regulations as may be necessary to administer the provisions of this act ~~department and the programs and services it provides~~

(n) To lend surplus state property under the authority of the department on aging to area agencies on aging or to the state long-term care ombudsman to help them perform duties required under state and federal programs administered by the department on aging

(o) To enter into any contract or agreement ~~not otherwise prohibited by law~~ which the secretary finds necessary ~~or expedient~~ to perform the powers, duties and functions of the secretary or the department.

~~To charge and collect a reasonable fee, not to exceed publishing, copying, packaging, postage, and delivery costs, for publications and other information sent to any person or organization upon request, and any moneys received from such charges shall be deposited in the state treasury and credited to the department on aging's conferences and workshops attendance and publications fee fund and used to defray those costs.~~

the provisions of article 59 of chapter 75 of the Kansas Statutes Annotated and acts amendatory thereof and supplemental thereto

See L. 1997, Sec. 59(b)

1997

strike

Sec. 2 K.S.A. ~~1996~~ Supp. 75-5910 is hereby amended to read as follows: 75-5910. (a) Except as otherwise specifically provided by law, and subject to the Kansas civil service act, the secretary of aging shall appoint all subordinate officers and employees of the department and all such subordinate officers and employees shall be within the classified service under the Kansas civil service act.

(b) The secretary may appoint one public information officer, one chief attorney, one personal secretary and one special assistant who shall be in the unclassified service under the Kansas civil service act and shall receive compensation fixed by the secretary and approved by the governor. The secretary may appoint deputy secretaries and commissioners as deemed necessary by the secretary to effectively carry out the mission of the department. All deputy secretaries and commissioners shall be in the unclassified service under the Kansas civil service act and shall receive

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ompensation fixed by the secretary and approved by the governor.

(c) Nothing in subsection (b) shall affect the classified status of any person employed by the department on aging on the day immediately preceding the effective date of this act. The provisions of this subsection shall not be construed to limit the powers of the secretary pursuant to K.S.A. 75-5909 or 75-2948 and amendments thereto.

(d) Personnel of the department shall perform such duties and exercise such powers as the secretary may prescribe such duties and powers or as are designated by law.

1997

Sec. 3. K.S.A. ~~1996~~ Supp. 75-5928 is hereby amended to read as follows: 75-5928. (a) Within the limitations of appropriations therefor, the secretary of aging is hereby authorized to establish a program of in-home services for residents of Kansas 60 years of age or older who have functional limitations which restrict their ability to carry out activities of daily living and impede their ability to live independently.

(b) The secretary of aging shall establish and administer, pursuant to the provisions of this act, a program of in-home services as authorized under subsection (a). The secretary shall designate area agencies on aging to administer the program in their respective planning and service areas. The secretary shall designate an area agency on aging to receive funds only after the area agency on aging has submitted an acceptable program plan. ~~The plan must be developed with support of a local or regional coordinating committee comprised of representatives of senior organizations, home health agencies and health departments, department of social and rehabilitation services offices and other interested groups.~~

annually

The program plan must be renewed periodically by the area agency on aging older Americans act advisory council and representatives of senior organizations, home health agencies, health departments and the department of social and rehabilitation services.

(c) The program of in-home services authorized under subsection (a) shall serve such planning and service areas and provide such services as may be specified by the secretary and as are consistent with this act and with appropriation acts relating thereto. The secretary shall establish by rules and regulations the priority of services to be offered under this program. Such services shall include, but not be limited to, homemaker services, attendant care services, transportation for care services, chore services and care management services. The secretary shall follow the priorities established in specifying services under this act, but any such service or services, or combination of services, to be provided under this act shall be consistent with appropriations for such program.

(d) In establishing a program of in-home services authorized under subsection (a) and the provisions of this act, the secretary of aging may:

- (1) Make grants to area agencies on aging;
- (2) fix, charge and collect fees for services provided as part of such program, such fees to be fixed on a sliding scale based on the recipient's ability to pay for the services and the schedule of fees shall be published annually in the Kansas register;

Contract authority, see p. 4, lines 4-5

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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.]~~

1997

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

And by renumbering sections

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

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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
1 interstate agreements, when so requested, by performing services in con-
2 formity with the purpose of this act.

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

ever the property is not available through the state or a political subdivision of the state for performing the functions required by this act.

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

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

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

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

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

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

2-6

2-7

proceeding unless prohibited from such action by federal or state statute, regulation or court order.

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

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

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

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

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

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

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

1997

February 19, 1998

The Honorable Sandy Praeger, Chairperson
Senate Public Health and Welfare Committee
128 S. State Capitol
Topeka, Kansas 66612

Dear Senator Praeger:

During the February 10 hearing on Senate Bill 284, you asked that proponent Michael Byington (Envision) and opponents Jane Rhys (Kansas Council on Developmental Disabilities) and Sherry Diel (Kansas Advocacy and Protective Services) meet to see if agreement could be obtained. We have met twice and concur on the attached balloon of SB 286 except in the following instances:

Lines are numbered, however, for quick reference; proposed changes in Statutes are underlined, and language to be struck is shown in strikethrough mode. This document could be considered an amended S. B. 284 or a substitute for the original 284.

Disagreements

Page 2, Lines 22-25

Diel and Rhys request deletion of the proposed language because they believe these additions clearly add to the size and scope of the DD population, and open the door to other groups wishing to add language which broadens the definition of DD.

Byington suggests that the definition is clarified, but not broadened by the proposed changes. He argues that the structure of the Statutes, would still require any applicant to meet the functional criteria in the definition, and 284 does not make any changes in these functional requirements.

Lines 41-42

Diel and Rhys propose deletion of proposed language because the need for such services are covered in the existent language and there are many "specialized techniques or services" required by the variety of different disabilities served under this Act. To specify or list all such services would make the Act unwieldy and it would be difficult to have an all inclusive list.

Byington suggests that specialize communications do not constitute stand alone techniques or services, but rather those practices which make other services provided effective and efficiently delivered. The proposed language clarifies ambiguities without opening the way for addition of a laundry list of stand alone services.

Page 6, Lines 41-44

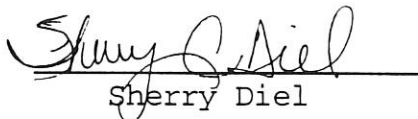
Diel and Rhys oppose the suggested revision because it is unnecessary. Current law already requires services to be individualized to meet the needs of persons served. The added language makes this a discretionary rather than a mandatory requirement. They further state that adding "communication accommodations" to the funding section of the law is inappropriate because providing reasonable accommodations such as Braille, large print and interpreter services should be considered as part of the cost of doing business under both state and federal law

Byington suggests that this clarification is necessary. Although he is pleased with proposed Kansas Administrative Regulation changes, a number of advocacy groups have attempted to use the regulatory process to exclude service providers who specialize, and thus do not serve all disabilities. Byington suggests that it needs to be documented that sometimes these specialized services are necessary, and the addition of these words do not make such services discretionary. Byington further suggests that, in practice, providing the communications accommodations mentioned is not done as a matter of course.

All three participants regret that it is not possible to agree on every point. They do not feel they can do so, however, and remain true to those persons whom they are representing. The discussions have, however, moved the participants closer together on certain points.

Sincerely:


Jane Rhys


Sherry Diel


Michael Byington

1 BALLOON FOR S.B. 284

2

3 (All involved statutes are listed below. Language from the
4 original statutes to be struck is presented in strikeout mode. New
5 language to be added to the original statute is underlined. This
6 balloon language is presented with reference to the original
7 statute rather than referencing add ons and strikeouts relevant to
8 the originally introduced 284.)

9

10 Statute # 39-1802

11 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
12 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM
13 Title Policy of state.

14

15 It is the policy of this state to assist persons who have a
16 developmental disability to have:

17

18 (a) Services and supports which allow persons opportunities
19 of choice to increase their independence and productivity and
20 integration and inclusion into the community;

21

22 (b) access to a range of services and supports
23 appropriate to such persons; and

24

25 (c) the same dignity and respect as all persons

26

27

28 Statute # 39-1803

29 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
30 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM
31 Title Definitions.

32

33

34 As used in the developmental disabilities reform act:

35

36 (a) "Adaptive behavior" means the effectiveness or degree
37 with which an individual meets the standards of personal
38 independence and social responsibility expected of that person's
39 age, cultural group and community.

40

41 (b) "Affiliate" means an entity or person that meets
42 standards set out in rules and regulations adopted by the
43 secretary relating to the provision of services and that contracts
44 with a community developmental disabilities organization.

45

46 (new c) "communications accommodations" means the
47 presentation of information, materials, choices, and instructions
48 in the manner proven to provide the most effective form of
49 communications for persons with developmental disabilities. Such
50 accommodations may involve, but are not limited to, the use of
51 specific types of sign language and sign language interpretation.

1 other communications assistance, Braille, large print, and tape
2 recordings of written materials.

3
4
5 ~~(d)~~(e) "Community services" means services provided to meet
6 the needs of persons with developmental disabilities relating to
7 work, living in the community, and individualized supports and
8 services.

9
10 ~~(e)~~(d) "Community developmental disability organization"
11 means any community mental retardation facility that is organized
12 pursuant to K.S.A. 19-4001 through 19-4015 and amendments
13 thereto.

14
15 ~~(f)~~(e) "Community service provider" means a community
16 developmental disability organization or affiliate thereof.

17
18 ~~(g)~~(f) "Developmental disability" means:

19
20 (1) Mental retardation; or

21
22 (2) a severe, chronic disability, which:

23
24 (A) Is attributable to a mental or physical impairment, or
25 multiple sensory impairments, a combination of mental and physical
26 impairments, physical and sensory impairments, mental and sensory
27 impairments, or a condition which has received a dual diagnosis of
28 mental retardation and mental illness;

29
30 (B) is manifest before 22 years of age;

31
32 (C) is likely to continue indefinitely;

33
34 (D) results, in the case of a person five years of age or
35 older, in a substantial limitation in three or more of the
36 following areas of major life functioning: Self-care, receptive
37 and expressive language development and use, learning and
38 adapting, mobility, self-direction, capacity for independent
39 living
40 and economic self-sufficiency;

41
42 (E) reflects a need for a combination and sequence of special
43 interdisciplinary or generic care, treatment, specialized
44 communications techniques or other services which are lifelong, or
45 extended in duration and are individually planned and coordinated;
46 and

47
48 (F) does not include individuals who are solely and severely
49 emotionally disturbed or seriously or persistently mentally ill or
50 have disabilities solely as a result of the infirmities of aging.
51

1 (g) "Institution" means state institution for the mentally
 2 retarded as defined by subsection (c) of K.S.A. 76-12b01 and
 3 amendments thereto or intermediate care facility for the mentally
 4 retarded of nine beds or more as defined by subsection (a) (4) of
 5 K.S.A. 39-923 and amendments thereto.

6
 7 (h) "Mental retardation" means substantial limitations in
 8 present functioning that is manifested during the period from
 9 birth to age 18 years and is characterized by significantly
 10 subaverage intellectual functioning existing concurrently with
 11 deficits in adaptive behavior including related limitations in two
 12 or more of the following applicable adaptive skill areas:
 13 Communication, self-care, home living, social skills, community
 14 use, self-direction, health and safety, functional academics,
 15 leisure and work.

16
 17 (i) "Secretary" means the secretary of social and
 18 rehabilitation services.

19 History: L. 1995, ch. 234, S. 3; Jan. 1, 1996.

20
 21 Statute # 39-1804

22 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;

23 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM

24 Title Implementation of act; powers and duties of secretary of
 25 social and rehabilitation services; reports.

26
 27 (a) Except as otherwise specifically provided in this act and
 28 subject to appropriations of federal and state funds, the
 29 secretary, after consultation with
 30 representatives of community developmental disability
 31 organizations, community service providers, families and consumer
 32 advocates, shall implement and administer the provisions of the
 33 developmental disabilities reform act in accordance with the
 34 following policies. Persons with developmental disabilities shall:

35
 36 (1) Be provided assistance to obtain food, housing, clothing and
 37 medical care; protection from abuse, neglect and exploitation; and
 38 a range of services and supports, which include communications
 39 accommodations which in order to assist in the determination of
 40 individual needs; and

41
 42 (2) receive assistance in determining and communicating their
 43 needs; be provided information, using appropriate communications
 44 accommodations about all service options available to meet those
 45 needs; have coordination of services delivered; be assisted and
 46 supported in living with their families, or independently; be
 47 assisted in finding transportation to support access to the
 48 community; and receive individually planned habilitation,
 49 education, training, employment and recreation subject to supports
 50 and services available in the community of their choice.

51

1 (b) To accomplish the policies set forth in subsection (a),
2 the secretary, subject to the provisions of appropriation acts,
3 shall annually propose and implement a plan including, but not
4 limited to, financing thereof which shall: (1) Provide for an
5 organized network of community services for persons with
6 developmental disabilities; (2) maximize the availability of
7 federal resources to supplement state and local funding for such
8 systems; and (3) reduce reliance on separate, segregated settings
9 in institutions or the community for persons with developmental
10 disabilities.

11
12 (c) The secretary shall report to the legislature the number
13 of persons with developmental disabilities eligible to receive
14 community services and shall make a progress report on the
15 implementation of the annual plans and the progress made to
16 accomplish a comprehensive community services system for persons
17 with developmental disabilities.

18
19 (d) The secretary shall prepare and submit budget estimates
20 for the department of social and rehabilitation services to the
21 division of the budget and the legislature and shall establish and
22 implement policies and procedures within the programs and
23 activities of the department so that funds for state-level
24 programs and activities for persons who are developmentally
25 disabled are allocated between services delivered in institutions
26 and community services.

27
28 (e) Subject to the provisions of this act and appropriation
29 acts, the secretary shall administer and disburse funds to each
30 community developmental disability organization for the
31 coordination and provision of community services.

32
33 (f) The secretary shall establish procedures and systems to
34 evaluate the result and outcomes of the implementation of this act
35 to assure the attainment of maximum quality and efficient delivery
36 of community services.

37 History: L. 1995, ch. 234, S. 4; Jan. 1, 1996.

38
39 Statute #39-1805

40 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
41 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM
42

43 Title Powers and duties of community developmental disability
44 organization.

45
46 In addition to any other power and duty prescribed by law,
47 and subject to appropriations, a community developmental
48 disability organization shall have the power and duty to:

49
50 (a) Directly or by subcontract, serve as a single point of
51 application or referral for services, and assist all persons with

1 a developmental disability to have access to, and an opportunity
2 to, and arrange for communications accommodations when necessary
3 to, participate in community services, except in those
4 circumstances in which the secretary determines, subject to an
5 immediate hearing before the district court located in the county
6 in which the person with a developmental disability resides,
7 participation in community services is not the appropriate
8 placement for such person because such person is presently likely
9 to cause harm to self or others;

10
11 (b) provide either directly or by subcontract, services to persons
12 with a developmental disability, including, but not limited to,
13 eligibility determination; explanation of available services and
14 service providers; case management services, if requested;
15 communications accommodations, if necessary; assistance in
16 establishing new providers, if requested; and advocacy for
17 participation in community services;

18
19 (c) organize a council of community members, consumers or their
20 family members or guardians, and community service providers,
21 composed of a majority of consumers or their family members or
22 guardians who shall meet not less than quarterly to address
23 systems issues, including, but not limited to, planning and
24 implementation of services; and develop and implement a method by
25 which consumer complaints, interagency and other intrasystem
26 disputes are resolved;

27
28 (d) provide, directly or by subcontract, information about
29 affiliate and referral services to persons with a developmental
30 disability whose particular needs can be met in the community or
31 through government; and

32
33 (e) ensure that affiliates have the option to review referrals and
34 waiting lists on a periodic basis to contact potential consumers
35 with information concerning their services.

36 History: L. 1995, ch. 234, S. 5; Jan. 1, 1996.

37
38 Statute #39-1806

39 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
40 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM

41
42 Title Establishment of system of funding, quality assurance and
43 contracting.

44
45 To carry out the provisions of this act, the
46 secretary shall establish after consultation with representatives
47 of community developmental disability organizations and affiliates
48 thereof, and families and consumer advocates:

49
50 (a) A system of adequate and reasonable funding or
51 reimbursement for the delivery of community services that:

1
2 (1) For persons moving from institutions into the community,
3 directs funding to follow in an amount not less than that which is
4 required to reimburse community service providers for services as
5 set forth in such person's plan for transfer from the institution
6 to community services including expenses of relocation and
7 initiation of services;

8
9 (2) consolidates federal and state funding sources;

10
11 (3) requires an independent, profession review of the rate
12 structures on a biennial basis resulting in a recommendation to
13 the legislature regarding rate adjustments. Such recommendation
14 shall be adequate to support: (A) A system of employee
15 compensation competitive with local conditions; (B) training and
16 technical support to attract and retain qualified employees; (C) a
17 quality assurance process which is responsive to consumers' needs
18 and which maintains the standards of quality service; (D) risk
19 management and insurance costs; and (E) program management and
20 coordination responsibilities;

21
22 (b) a system of quality assurance based on standards set out
23 in rules and regulations adopted by the secretary which insures
24 effective service delivery, fiscal accountability and networking
25 cooperation and which allows community service providers to
26 present evidence of attainment of national accreditation or
27 compliance with state or federal laws or rules and regulations, or
28 both, to indicate compliance with such standards; and

29
30 (c) a system of contracting that:

31
32 (1) Authorizes open and equitable negotiation between
33 contracting parties or their designated agent or agents;

34
35 (2) authorizes mediation by an independent entity chosen by
36 the parties to the contract in the event of contract disputes and
37 if mediation is not completed prior to the end of any existing
38 contract, authorizes an extension of time of such existing
39 contract or entering into a temporary contract;

40
41 (3) requires achievement and maintenance of community
42 services standards by community service providers;

43
44 (4) includes compensation for community services, which may
45 be specialized in nature, and which meet the individualized needs
46 of persons with developmental disabilities for community services
47 and communications accommodations related thereto; and

48
49 (5) requires community developmental disability
50 organizations to contract with those affiliates from whom a person
51 with a developmental disability chooses services.

1 History: L. 1995, ch. 234, S. 6; Jan. 1, 1996.

2
3 Statute #39-1807

4 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
5 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM
6

7 Title Failure of community service provider to comply with
8 requirements, standards or laws; inspection and review of
9 operations by secretary; mediation; written plan of correction;
10 civil penalties; emergency orders.
11

12 Whenever the secretary finds a community service provider
13 has failed to comply with the requirements, standards or rules and
14 regulations established pursuant to this act or any other
15 provision of law, the secretary shall have the power to inspect
16 and review the operations of the community service provider and
17 identify deficiencies. The secretary and such community service
18 provider shall choose an independent entity to mediate any dispute
19 regarding the secretary's finding that such community service
20 provider has failed to comply with such requirements, standards or
21 rules and regulations and the secretary's identified deficiencies.

22 If such mediation is not able to resolve any such dispute and the
23 secretary finds that the community service provider has still
24 failed to comply with such requirements, standards or rules and
25 regulations, the secretary shall require a written plan of
26 correction. If, after notice and an opportunity for hearing
27 pursuant to the Kansas administrative procedure act, the secretary
28 finds the community service provider has failed to carry out the
29 plan of correction within 30 days of the submission of the plan of
30 correction, the secretary may assess a civil penalty in an amount
31 not to exceed \$125 per day for each day the provider has failed to
32 carry out the plan of correction. The secretary may extend the
33 time in which the provider has to comply with the plan of
34 correction for good cause. The secretary may require the
35 community service provider to maintain consumers in place until
36 alternative community services can be secured with reasonable
37 compensation for actual costs and to remove the designation as
38 community service provider, except that in the event the secretary
39 makes written findings of fact that there appears to be a
40 situation involving imminent danger to the health, safety or
41 welfare of the person with a developmental disability unless
42 immediate action is taken, the secretary may issue an emergency
43 order. Such emergency order shall be subject to the same
44 procedures under K.S.A. 77-536 and amendments thereto. Upon entry
45 of such an emergency order, the secretary shall promptly notify
46 the community service provider subject to the order: (1) The
47 content of the order; (2) the reasons therefor; and (3) that upon
48 written request within 15 days after service of the order, the
49 matter will be set for a hearing which shall be conducted in
50 accordance with the provisions of the Kansas administrative
51 procedure act. If no hearing is requested and none is ordered by
52 the secretary, the order will remain in effect until it is

1 modified or vacated by the secretary. If a hearing is requested or
2 ordered, the secretary, after notice of and opportunity for
3 hearing to the community service provider
4 subject to the order, by written findings of fact and conclusions
5 of law, shall vacate, modify or make permanent the order.

6 History: L. 1995, ch. 234, S. 7; Jan. 1, 1996.

7
8 Statute #39-1808

9 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
10 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM
11 Title Act does not require community service provider to make
12 certain expenditures.

13
14
15 Nothing in this act shall authorize the secretary to
16 require a community service provider to make expenditures not in
17 compliance with contracts or agreements entered into by the
18 governing board of such provider.

19 History: L. 1995, ch. 234, S. 8; Jan. 1, 1996.

20
21 Statute #39-1809

22 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
23 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM
24 Title Act does not create any entitlement to services.

25
26 Nothing in this act shall create any entitlement to
27 services.

28 History: L. 1995, ch. 234, S. 9; Jan. 1, 1996.

29
30 Statute #39-1810

31 Chapter 39.--MENTALLY ILL, INCAPACITATED AND DEPENDENT PERSONS;
32 SOCIAL WELFARE Article 18.--DEVELOPMENTAL DISABILITIES REFORM
33 Title Rules and regulations.

34
35 The secretary may adopt rules and regulations to
36 carry out the provisions of this act.

37 History: L. 1995, ch. 234, S. 10; Jan. 1, 1996.



DR. HAROLD J. SAUDER
DR. BARRY WESSELOWSKI

Podiatrist
Podiatrist

FAMILY PODIATRY, P.A.
P.O. Box 372 209 N. 6th, Independence, Kansas 67301

Telephone: (316) 331-1840

2-21-98

Jerry Slaughter, Executive Director
Kansas Medical Society
623 S W 10th Ave
Topeka Kansas 66612-1627

Dear Jerry,

Reference: Your Feb. 19, 1998 statement
before the Senate Public Health
and Welfare Committee.

I have served on the Kansas Board of Healing Arts as the Podiatric board member from 1976 to 1988. I am presently serving my second year of a four year term in that same position.

Your statement regarding the Podiatrists position on SB655 is totally incorrect.

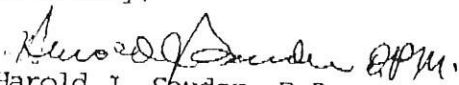
We have intentionally communicated our position to the senate committee through one source, KPMA Lobbist Shelby Smith, so that there would be no mistake or misunderstanding of our position.

Our position now and has always been as stated in my January 23, 1998 letter to you.

1. We are very satisfied with the present function and structure of the Board of Healing Arts.
2. If a new Board of Medical Professions is established, Podiatrists should be included because of our close and shared relationship with M.D.'s and D.O.'s in providing health care to our patients.

I hope you will correct your mistake of our position of this very serious matter.

Sincerely,


Harold J. Sauder, D.P.M.
Member Board of Healing Arts

cc: Tim Emert, Senate Majority Leader
Shelby Smith (Please distribute to all Senate Committee Me
Dr David Laha, President KPMA

Senate Public Health & Welfare
Date: 2-23-98
Attachment No. 4