Approved: January 28, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on January 26 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Bill Wolff, Kansas Legislative Research
Norman Furse, Revisor of Statutes
June Evans, Secretary

Conferees appearing before the committee: Randy Fitzgerald, Chair, Legislative Task Force on Long-Term Care Services

Others attending: See Attached Sheet

The Chairperson stated the minutes of January 19, 20 and 25 were distributed and would move on them later. Also, bill introductions will be after the briefing.

Randy Fitzgerald, Chair, Legislative Task Force on Long-term Care Services, gave a briefing of the Task Force that was created by **SCR 1613.** The Task Force was created in response to the compelling realities and demographics of aging in Kansas. Kansas is among the vanguard of states with the greatest percentage of population over the age of 65. Long-term care, however, is an issue for the very old - those 85 years of age and over. Kansas ranks fifth in the nation in percentage of residents who are 85 and older. Smith County has the highest percentage of persons 85 and older of all counties in the United States, and several more of our counties are in the top ten in the country. While the present numbers are certainly impressive, trends for our future are even more so. The number of Kansans who are 85 and older is expected to more than double by 2010.

There are nearly 400 licensed nursing homes in Kansas that care for over 24,000 frail individuals. These nursing homes employ over 26,000 persons, and in many rural communities, the nursing home is the major employer. The economic impact of nursing facilities is over $1.6 billion, directly and indirectly creating 84,000 jobs in the State. Of utmost importance is the fact that Medicaid pays for 52% of long-term care costs in Kansas; private funds from individuals pay for 33%; Medicare pays for 10%; and private long-term care insurance pays for 5%. Of the Medicaid-funded portion, 60% is federal and 40% is state-funded.

The first two charges, to study the implementation and operation of recent statutory changes relating to adult care homes and the long-term care ombudsman program, no major concerns arose among members of the Task Force. Recently passed legislation is being implemented appropriately. Testimony regarding the long-term care ombudsman program, however, alerted Task Force members to a basic need which was put forth in the recommendations.

The third charge of the **SCR** was to study "state and federal laws and rules and regulations which impact on the services provided by government and the private sector to citizens who are consumers of long-term care." In this arena, the Task Force found several important issues which constituted key recommendations in the final report.

The Task Force made the following recommendations: (1) The Governor ask his various secretaries to identify funds which may be available for the training and retraining of long-term care personnel, and (2) A multi-disciplinary, multi-institutional research institute and information clearinghouse be created at the Department of Aging to evaluate and implement the recommendations of the Wichita State University Study. The Task Force supports the formation of an on-going legislative long-term care committee to address the needs of the elderly in the state and provide continuing dialogue and oversight of issues involving care for the elderly.

Not all the Task Force's recommendations involve legislative initiatives. There are Task Force

recommendations that address several of the State Departments involved in long-term care. Many conferees pointed out that the relationship between the long-term care providers and the State Department of Health and Environment has great opportunities for improvement.

The Task Force recommends that KDHE and all parties work cooperatively and collaboratively to achieve their mutually desired goal of quality long-term care for older Kansans.

The State Departments of Aging and Social and Rehabilitation Services are urged to bring Kansas' Medicaid reimbursement rate into line with the national average. (Presently Kansas is fifth from the bottom in reimbursement rates.)

The Task Force supports the efforts of the Funding Assessment and Impartiality Review (FAIR) process and encourages the participants to continue to examine alternative methods of Medicaid reimbursement.

More training sites for nurse aides need to be established throughout the state.

The requirements for nurse aide training should be revised to accommodate the certification of otherwise qualified professionals such as Licensed Mental Health Technicians. (See Attachments 1, 2 & 3)

Medicaid rate information that was requested. (See Attachment #4)

Representative Morrison moved and Representative Haley seconded the introduction of a bill that last year was both in the House and Senate regarding respiratory therapists. (This does not include the physical therapists amendment.) The motion carried.

Representative Long moved and Representative Lightner seconded approval of the January 19, 20 and 25 minutes. The motion carried.

The meeting adjourned at 2:10 p.m. The next meeting will be January 27.

HUMAN AND HEALTH SERVICES

DATE January 26, 1999

NAME	REPRESENTING
Carolyn Middendorf	KSNA
Amy Fitzgerald	Good Samaritan Society
Edith Stunkel	KAHSA
Joe Noll	KOHC
Marty Vost	Ks Health Care Assn.
Rick Guthrie	Health Midwest
Sally Finney	Ks. Public Health Association
Mary Ellen Conlee	Via Christi Health System
Derek A. Blaylock	Intern For Teresa Sittenauer
Brian Jongier	Intern for Ks. Legal Services
Sue Bauman	KDOA
Kathy Damron	St Luke Shawnee Mission
[illegible]	[illegible]
Michelle Peterson	Peterson Public Affairs Group

Testimony to the House Health and Human Services Committee
by Randy Fitzgerald, Chair,
Legislative Task Force on Long-term Care Services
January 26, 1999

Chairman Boston and Members of the Committee, I am Randy Fitzgerald, the Regional Director of the Good Samaritan Society. The Society owns and operates 21 not-for-profit nursing homes, assisted living and independent living campuses in the State of Kansas. This past summer and fall, I served as Chair of the Legislative Task Force on Long-Term Care Services that was created by Senate Concurrent Resolution Number 1613 during the last Legislative Session. The Task Force had 16 members: four members from the House of Representatives, four members of the Senate, four consumers and advocates of long-term care services and four providers of these services.

The Task Force was created in response to the compelling realities and demographics of aging in Kansas. Kansas is among the vanguard of states with the greatest percentage of our population over the age of 65. Long-term care, however, is an issue for the very old – those 85 year of age and over. Kansas ranks fifth in the nation in percentage of residents who are 85 and older. Smith County has the highest percentage of persons 85 and older of all counties in the United States, and several more of our counties are in the top ten in the country. While the present numbers are certainly impressive, trends for our future are even more so. The number of Kansans who are 85 and older is expected to more than double by 2010.

Today there are nearly 400 licensed nursing homes in Kansas that care for over 24,000 frail individuals. These nursing homes employ over 26,000 persons, and in many rural communities, the nursing home is the major employer. The economic impact of nursing facilities is over $1.6 billion, directly and indirectly creating 84,000 jobs in the State. Of utmost importance to you is the fact that Medicaid pays for 52% of long-term care costs in Kansas; private funds from individuals pay for 33%; Medicare pays for 10%; and private long-term care insurance pays for 5%. Of the Medicaid-funded portion, 60% is federal and 40% is state-funded.

It is in this context that the Legislative Task Force on Long-Term Care Services was established with the charge of studying the implementation and operation of recent statutory changes relating to adult care homes, the long-term care ombudsman program, and state and federal laws and rules and regulations relating to long-term care.

The Task Force met six days, heard from 25 conferees, and visited a long-term care facility in Topeka. Task Force members took the Concurrent Resolution's charges seriously and made excellent contributions both to suggestions for potential conferees and to the final recommendations.

Regarding the first two charges, to study the implementation and operation of recent statutory changes relating to adult care homes and the long-term care ombudsman program, no major concerns arose among members of the Task Force. Recently passed legislation is being implemented appropriately. Testimony regarding the long-term care ombudsman program, however, alerted Task Force members to a basic need which we put forth in our recommendations.

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- The Task force recommends that the ombudsman program be allocated additional funding to accomplish the goals set out for it by the Legislature.

The third charge of the Senate Concurrent Resolution was to study "state and federal laws and rules and regulations which impact on the services provided by government and the private sector to citizens who are consumers of long-term care." In this arena, the Task Force found several important issues which constituted key recommendations in our final report.

As mentioned earlier, the economic impact of long-term care facilities on their communities is striking. Nursing homes must be responsible not only for their residents' care but also to the well being of the employees whose families depend on their wages and benefits. Staffing is a critical issue in nursing homes across the State. The Task Force heard from nursing home providers about difficulties in recruiting and retaining staff for long-term care services. The Task Force also heard from Dr. Mary Lescoe-Long of Wichita State University who recently completed an in-depth study of staff retention and recruitment in nursing homes. The study's conclusions forcefully present the need for system-wide changes in nursing homes, with particular emphasis on training and continuing education for all levels of staff. These testimonies gave rise to the Task Force's several recommendations regarding staff retention.

- First, "the Task Force recommends that the Governor ask his various secretaries to ... identify funds which may be available for the training and retraining of long-term care personnel." The Senate Public Health and Welfare Committee heard testimony just this morning regarding a resolution to this effect.

The chronic problem of staffing in long-term care services is one that demands a long-term solution, and this situation resulted in these recommendations:

- The Task Force recommends that a multi-disciplinary, multi-institutional research institute and information clearinghouse be created at the Department on Aging to evaluate and implement the recommendations of the Wichita State University Study.

- In addition, the Task Force supports the formation of an on-going legislative long-term care committee to address the needs of the elderly in the state and provide continuing dialogue and oversight of issues involving care for the elderly.

Not all the Task Force's recommendations involve legislative initiatives. There are Task Force recommendations that address several of the State Departments involved in long-term care. Many conferees pointed out that the relationship between the long-term care providers and the State Department of Health and Environment has great opportunities for improvement.

- The Task Force recommends that KDHE and all parties work cooperatively and collaboratively to achieve their mutually desired goal of quality long-term care for older Kansans.

- The State Departments of Aging and Social and Rehabilitation Services are urged to bring Kansas' Medicaid reimbursement rate into line with the national average. (Presently we are fifth from the bottom in reimbursement rates.)

- The Task Force supports the efforts of the Funding Assessment and Impartiality Review (FAIR) process and encourages the participants to continue to examine alternative methods of Medicaid reimbursement.

- More training sites for nurse aides need to be established throughout the state; and

- The requirements for nurse aide training should be revised to accommodate the certification of otherwise qualified professionals such as Licensed Mental Health Technicians.

While the Long-Term Care Services Task Force was meeting, the Legislature's Assisted Living Task Force was also hearing testimony on another important sector of long-term care. The Long-Term Care Services Task Force adopted the findings of the Assisted Living Task Force which included these recommendations:

- Current regulations for assisted living and residential health care are sufficient.

- KDHE needs adequate funding to conduct annual surveys of all licensed assisted living and residential health care facilities.

- KDHE needs to increase the number of hours required for assisted living operator certificates. Currently 21 hours of instruction are required. Both Task Forces recommend that be increased to 32-40 hours and that a 40-hour practicum also be added.

The Task Force report provides additional details about the testimony of conferees and the various recommendations. On behalf of the Task Force, I thank the Legislature for its interest in and commitment to the well being of our State's frail older residents. I would be pleased to answer any questions you may have.

Summary of Recommendations of Legislative Task Force on Long-Term Care Services

Recommendations needing Legislative Action	Recommendations needing Administrative Action
Resolution asking Governor to identify training funds.	Governor ask Secretaries to identify training funds
Allocate funds for KDOA research institute and clearinghouse.	KDOA provide establishment of multi-disciplinary, multi-institutional research institute and information clearinghouse to implement the recommendations of the Wichita State University study of recruitment and retention of nursing home staff.
Appropriate funds for state's portion of Medicaid reimbursement increase.	KDOA and SRS implement a responsible increase in the Medicaid reimbursement rate
Legislative committees hear about progress of FAIR process.	Support the efforts of the Funding Assessment and Impartiality Review (FAIR) process; KDOA report to appropriate legislative committees on progress of FAIR process
	KDOA and KDHE consider providing more flexibility in CNA examination process and requirements, including establishing more testing sites for CNA examination and allowing otherwise trained and qualified individuals to be attracted to the position without requiring additional education.
	KDHE and providers and consumers of long-term care services work together to establish a more collaborative process to achieve the common goal of quality long-term care services. Focus on preventive aspects of compliance with regulations, issues concerning the survey process, and conflict resolution for perceived problems.
	KBI process 500 criminal background checks per day until backlog is eliminated.
	KDHE notify facilities on results of all criminal background checks – not just the ones resulting in criminal findings.
Appropriate adequate funds for the Long-term Care Ombudsman program.	Ombudsman Program increase number of Regional and volunteer ombudsmen, visit long-term care facilities on a regular basis to preempt potential problems, and institute follow-up procedures to ensure that any conflicts are resolved to the satisfaction of the residents.
Appropriate funds for KDHE to conduct annual surveys of all licensed assisted living and residential health care facilities.	KDHE revise assisted living curriculum to 32-40 hours of instruction, plus 40 hour practicum.
Form an on-going legislative long-term care committee to address the needs of the elderly in the state and provide continuing dialogue and oversight of issues involving care for the elderly.	

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TASK FORCE ON LONG-TERM CARE SERVICES

LONG-TERM CARE SERVICES*

CONCLUSIONS AND RECOMMENDATIONS

The Task Force makes several recommendations concerning long-term care services. Recommendations regarding staff retention issues include: additional training funds should be made available for the training of front-line caregivers; a "best practices" clearinghouse should be established under the Department on Aging; consideration be given to adjusting the Medicaid reimbursement rate and methodology; additional testing sites for Certified Nurse Aides (CNAs) examinations should be provided; and increased flexibility be allowed in the qualifications for CNAs. With regard to the nursing facility survey and enforcement process, the Task Force recommends that the parties involved work together to establish a collaborative effort to achieve their common goal of quality long-term care services. The Task Force also supports an agreement reached between the Kansas Department of Health and Environment (KDHE) and the Kansas Bureau of Investigation (KBI) regarding the completion of criminal background check and recommends that KDHE notify facilities in a timely manner when a report shows no criminal history for an employee. The Task Force also addressed the issue of the Long-Term Care Ombudsman and recommends that the 1999 Legislature increase funding to provide for an adequately staffed and funded program. The Task Force also adopts the findings of an assisted living task force appointed by the Secretary of Aging and the Secretary of Health and Environment. Finally, the Task Force supports the establishment of an on-going legislative long-term care committee to address the needs of elderly citizens in Kansas.

BACKGROUND

The 1998 Legislature created the Task Force on Long-Term Care Services. The Task Force was charged with studying "the implementation and operation of recent statutory changes relating to adult care homes, the long-term care ombudsman program, state and federal laws and rules and regulations which impact on the services provided by government and the private sector to citizens who are consumers of long-term care and such other matters relating thereto as the task force deems appropriate." The Task Force was authorized seven days of meetings during the 1998 interim. The Task Force specifically considered the following issues: staff retention in long-term care facilities; nursing facility survey and enforcement issues; criminal background check requirements for employees of long-term care facilities; the Long-Term Care Ombudsman program; and assisted living issues.

TASK FORCE ACTIVITIES

Overview of Long-Term Care. The Task Force received a notebook at the beginning of its deliberations containing copies of enabling legislation and statutes; information about relevant programs and divisions within the Kansas Department on Aging (KDOA), KDHE, and higher education institutions; federal and state regulatory guidelines; information about long-term care in

* Proposed legislation not available at time of publication.

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Kansas; recent research on staff retention conducted by Wichita State University; and other relevant federal and state documents.

Linda Redford, RN, Ph.D., Center on Aging, University of Kansas Medical Center, presented demographic profiles of the aging population in Kansas and explained a projected dramatic increase in the percentages of Kansans over the age of 65, especially in the years 2010-2030.

The Task Force toured Aldersgate Village which is a 237-acre campus community in Topeka with facilities and programs to provide all levels of care to the residents.

Staff Retention Issues. The Task Force heard a great deal of testimony on the topic of staffing and staff retention. Joe Birmingham, Assistant Commissioner for Lifelong Learning, Kansas Department of Education (DOE), and Don Richards, Health Occupations Program Consultant, DOE, presented testimony regarding certification requirements of Certified Nurse Aides, Certification Medication Aides, and Home Health Aides. They also noted that the lack of educational admission requirements and the challenging, difficult work add to the high turnover rate among CNAs.

Steve Jack, Manager of Business Finance and Workforce Training, Kansas Department of Commerce and Housing, explained the allocation requirements of Kansas Industrial Training (KIT) and Kansas Industrial Retraining (KIR) funds. He expressed his opinion that nursing homes would be eligible to apply for training funds if some compelling economic benefit to the state could be shown.

The Task Force heard testimony from Ellene Davis, Executive Director, Northwest Kansas Area on Aging, Hays, concerning the changing training and educational needs of personnel in the adult care industry. She feels that, in the future, these positions will require more education and training as well as an increased need for "people skills."

Mary Lescoe-Long, Assistant Professor, Department of Public Health Sciences, Wichita State University, reviewed the report she co-authored entitled *Report and Recommendations on Identifying Behavior Change Intervention Points to Improve Staff Retention in Nursing Homes.* She noted that the research objective was to look at recruitment and retention practices in nursing homes to try to understand the human interactions that generate and reinforce the problems in these two areas. Dr. Long discussed some of the recommendations to come out of this research. One involved improving the aide training program by increasing the required time spent in continuing education and also by making the program more practical and reality based. Some things to include might be information on the aging process, the physical and behavioral challenges of the elderly, and empathy training to sensitize aides to respect the residents' personal identities and the value of cooperation. Dr. Long noted that nurses and managers also need training in organizational and interpersonal skills. Other recommendations include utilizing research institutes, designing an innovative curriculum, using short-term courses (certificate courses or continuing education), reimbursing tuition costs, and establishing a research institute and clearinghouse.

Holly Baylor, Administrator, Ellis Good Samaritan Center, Ellis, discussed the staffing situation at her facility. The facility does many things to enhance the work environment such as improved communication (daily meetings, monthly and quarterly in-service training, employee council, and newsletter), staff appreciation activities and monetary rewards (new benefits for the recruitment process, longevity rewards, and post-employment educational benefits). Ms. Baylor's suggestions to the Task Force included support of wage pass-through legislation so that facilities might be better equipped to recruit and retain staff.

The Task Force also heard testimony concerning CNA training issues from three adult care home directors of nursing: Linda Frey, Meadowlark Hills Retirement Community, Manhattan; Debbie Moman, Valley Vista Good

Samaritan Center, Wamego; and Kathy White, High Plains Retirement Village, Lakin. The three directors all agreed that the training curriculum needs to be updated to include behaviors and care of the elderly, stress, and effective communication. They also believe that more extensive continuing education should be available and encouraged for CNAs but that the individuals would not be able to afford to pay for it themselves.

Reimbursement Issues. Bill McDaniel, Director, Long-Term Rate Setting, KDOA, and Terry Glasscock, Deputy Secretary, KDOA, presented information to the Task Force on Medicaid reimbursement schedules. KDOA is required to reimburse nursing facilities using the cost-based, facility-specific, prospective payment system contained in the Department of Social and Rehabilitation Services' (SRS) Medicaid State Plan. The rates are determined annually from calendar year cost report data submitted by the providers. The per diem rates are subject to upper payment limits. These rates and upper payment limits are in effect from July 1 to June 30. The allowance for health care related costs are partially based on the case mix of residents. One aspect of the rate setting involves per diem costs determined by dividing reported allowable costs by resident days. This calculation is often affected by the "85 percent rule," which limits resident days to the greater of actual days reported for the cost report period or 85 percent of the maximum bed availability based on the number of licensed beds.

The Task Force reviewed documents showing that the Kansas Medicaid reimbursement rate is one of the lowest in the nation.

Mr. Glasscock explained the Funding Assessment Impartiality Review (FAIR) process, which is designed to examine and evaluate the Medicaid reimbursement process. He noted that although a pending lawsuit has slowed progress, the participants in the FAIR process were anxious to have resolution to several issues by early spring of 1999 to be ready for the next round of rate-setting which will determine rates effective July 1, 1999. Mr. Glasscock noted that some participants in the FAIR process advocated the elimination of the 85 percent minimum occupancy rule, and stated that while it was not very likely that the rule would change, all aspects of the reimbursement methodology were open to discussion.

Nursing Facility Survey and Enforcement Process. The Task Force heard testimony from Joseph Kroll, Bureau of Adult and Child Care of KDHE and Mary Saparito, a Surveyor and Regional Manager for KDHE, who explained the survey, licensure, and enforcement processes utilized by KDHE in regulating adult care facilities. Thomas Lenz, the Associate Regional Administrator for the federal Health Care Financing Administrator (HCFA) described HCFA's role in working with states to monitor and improve the quality of care in nursing facilities. Mr. Lenz noted that, overall, Kansas is doing a good job in both the survey process and quality of care.

John Grace, President/CEO, Kansas Association of Homes and Services for the Aging, testified that provider relationships with KDHE are strained due to the punitive and rigid approach to surveys and regulatory enforcement. John Kiefhaber, Executive Vice President, Kansas Health Care Association, testified that the current regulatory environment impeded quality. He supported regulatory enforcement that focuses on outcomes and helps facilities improve quality. Deanne Lenhart, Executive Director, Kansas Advocates for Better Care, supported unannounced surveys that focus on the quality of resident care and health outcomes.

Criminal Background Checks. The Task Force heard a report from Dave Sim, a special agent in charge for the KBI and Evelyn Walters, an administrator for the Frankfort Community Care facility, regarding the process required by the Adult Care Home Licensure Act for criminal background checks of all nursing facility employees. Mr. Sim informed the Task Force that a person's prior record of criminal offenses may be checked through two methods: a criminal history records check or a background investigation. A records check involves only the identification of arrest and court disposition data in a database. A background investigation includes the criminal

history records check, a law enforcement officer's research and review of the subject's prior actions, financial history, education, employment history, places of residence, associates, and possibly medical records.

Records checks are categorized in three ways: by the means of identifying the subject; by the status of the requestor; and by the purpose for which the records check will be used. These categorizations determine the database to be used, the fees assessed and the type of data released in the report. Because KDHE is one of the largest customers for non criminal justice record checks, the relationship between the KBI and KDHE is somewhat unique. Child care licensing has required records checks for several years, and the number of checks has been so great that these are now processed by semi-automated batch file transfers. The batch file transfer is now being used for adult care home licensure and in FY 1998, the system accounted for 90,678 records checks. The fee schedule was also adjusted from $10 to $3.75 per name check to reflect the economies of scale and automation. The records check for adult care homes began in July 1998 with the expectation that about 40,000 would be run each year. In the first three months, 8,044 names have been checked, with 801 criminal histories identified. At the present time, 250 names are being checked each working day for adult care home employees.

Ms. Walters explained that her facility submitted all of its current employees for background check in early June and have had no correspondence about any of the employees as of the date of her appearance before the Task Force. When KDHE was contacted, they informed Ms. Walters that it would probably be January of 1999 before results were known and that they would not routinely report results when no criminal background is found.

Long-Term Care Ombudsman Program. The Task Force heard testimony from Matt Hickam, State Long-Term Care Ombudsman. Mr. Hickam discussed the purpose of the Ombudsman program as well as its current structure and funding. He also explained his view of the program's future direction. His first point was that the program should be expanded by increasing the number of volunteer ombudsmen. Secondly, he stated that these ombudsmen should act proactively by visiting long-term care facilities at least once per month to talk with the residents and other interested parties to preempt potential problems. Lastly, customer service should be emphasized by instituting a follow-up program to ensure a resident's satisfaction with the outcome.

The Task Force received additional testimony in a letter from Mr. Hickam. In this letter, the Ombudsman further delineated his goals for the program, and noted a need for increases in both funding and personnel. These increases would allow the program to hire at least four more Regional Ombudsmen, increase the number of volunteer ombudsmen, and institute a follow-up program to ensure adequate conflict resolution.

Assisted Living. The Task Force heard a report from Thelma Hunter Gordon, Secretary of KDOA and Gary Mitchell, Secretary of KDHE on the activities of the Assisted Living Task Force. The Assisted Living Task Force was created by Secretaries Hunter Gordon and Mitchell to address issues that surfaced during a tour of assisted living facilities earlier in the year. Secretary Hunter Gordon summarized the activities and recommendations of the Assisted Living Task Force. The Assisted Living Task Force concluded that current state regulations for assisted living and residential health care facilities meet the appropriate standard and philosophy as established by the *Guidelines to States on Setting Minimum Standards for Providers of Assisting Living*. The Assisted Living Task Force also reviewed the requirements for the preparation of operators of assisted living and residential health care facilities and recommended that KDHE revise the existing curriculum to increase the number of hours of instruction from the currently required 21 to 32-40 hours. The education site would be responsible for setting up a 40-hour practicum that would be completed before an operator certificate could be issued. According to Secretary Hunter Gordon, the group also agreed that KDHE must have adequate funding to conduct annual surveys of all licensed assisted living and residential health

care facilities. The group also reviewed the current use of residential functional capacity screens to determine admission and retention of residents. The consensus of the group was that since routine surveys have not been completed, the Assisted Living Task Force lacked sufficient information to make any recommendation and recommended that the issue be revisited at a later date.

The Task Force also heard testimony from three assisted living facilities operators: Jan Jenkins, Administrator of Aldersgate Village Health Services in Topeka; Shari McCabe, Administrator of The Cedars in McPherson; and Susan Bullock, Administrator of Sterling House in Topeka. The three administrators reviewed the operations of their facilities, supported increased education for assisted living operators, and urged caution with respect to any substantive changes in the current law regarding assisted living.

CONCLUSIONS AND RECOMMENDATIONS

Staff Retention Issues. The Task Force makes several recommendations relating to staff retention issues. It is virtually impossible to discuss staff retention without consideration being given to the need for changes in the Medicaid reimbursement formula, the need for additional training funds, changes in curriculum, and other issues reflected below.

- *Training Funds.* The Task Force recommends that the Governor ask his various secretaries to examine existing statutes and regulations in an effort to identify funds which may be available for the training and retraining of long-term care personnel. The Task Force recommends the introduction of a resolution to that effect.
- *Research Institute and Clearinghouse.* The Task Force recommends that the Governor and the 1999 Legislature consider its recommendation that appropriate funding be allocated to KDOA to provide for the establishment of a multi-disciplinary, multi-institutional research institute and information clearinghouse to evaluate and implement the recommendations of the Wichita State University study *Report and Recommendations on Identifying Behavior Change Intervention Points to Improve Staff Retention in Nursing Homes*. These recommendations include improved training for nurse aides, special training for nurses in aide management, and administrative education on the dynamics of turnover in the organization.
- *Medicaid Reimbursement.* The Task Force encourages KDOA and SRS to implement a responsible increase in the Medicaid reimbursement rate to bring Kansas closer to the national average reimbursement rate. This increase could be used to raise the wages of front-line caregivers.

  In addition, the Task Force supports the efforts of the Funding Assessment and Impartiality Review (FAIR) process and encourages the participants to continue to examine alternative methods of Medicaid reimbursement. One option recommended to be considered as part of the FAIR process is the possibility of a more immediate reimbursement rate for extraordinary increases above the inflationary factor reflected in the rate-setting process. Currently facilities who wish to provide more than standard inflationary rate raises to front-line caregiving staff must wait up to 18 months for reimbursement. If that period could be adjusted downward to provide faster reimbursement, the Task Force believes that more facilities would consider raising the salaries of the staff. Additionally, the Task Force suggests that consideration be given to whether the 85 percent minimum occupancy rule should apply to variable costs. The Task Force encourages KDOA to make a report to the appropriate committees during the 1999 Legislative Session on the progress made in the FAIR process.
- *CNA Testing.* One of the greatest challenges facing applicants for CNA positions is the geographic distance many have to travel for both training and testing. The Task Force recommends that more testing sites be established for the CNA examination. One possibility is the utilization of the Job Service

offices throughout the state. The Task Force recommends that KDOA and KDHE consider this and other alternatives to provide more flexibility in the examination process.

- *CNA Qualifications.* The Task Force recommends that more flexibility be written into the qualifications for CNAs so that otherwise trained and qualified individuals, such as Licensed Mental Health Technicians, could be attracted to the position without requiring additional education.

Nursing Facility Survey and Enforcement Process. The Task Force recommends that KDHE and providers and consumers of long-term care services work together to establish a more collaborative process to achieve the common goal of quality long-term care services. The focus of this effort should involve preventive aspects of compliance with regulations, issues concerning the survey process, and conflict resolution for perceived problems.

Criminal Background Checks. The Task Force concurs with the contents of a letter from the Secretary of KDHE, to Larry Welch, Director of the KBI, requesting that 500 requests per day on adult care home employees be processed until the backlog is eliminated. In addition, the Task Force requests that KDHE begin notifying the facilities when a report shows no criminal background for an employee.

Long-Term Care Ombudsman Program. The Task Force recommends that the Legislature support the efforts of the Ombudsman (as outlined in his letter to the Task Force) to create an adequately funded and staffed quality program. The Task Force believes that the program needs increases in both funding and personnel in order to hire at least four more Regional Ombudsmen. In addition, the number of volunteer ombudsmen should be increased to provide better coverage of the state's facilities. These regional and volunteer ombudsmen could act more proactively by visiting long-term care facilities on a regular basis to speak with residents and other interested parties to preempt potential problems. Finally, the program should institute follow-up procedures to ensure that any conflicts are resolved to the satisfaction of the residents.

Assisted Living. The Long-Term Care Services Task Force adopts the findings of the Assisted Living Task Force as its conclusions regarding this issue, specifically:

- Current regulations for assisted living and residential health care are sufficient.
- KDHE revise the existing curriculum to increase the number of hours of instruction from the currently required 21 to 32-40 and also add a 40-hour practicum which would need to be completed before an operator certificate could be issued.
- KDHE receive adequate funding to conduct annual surveys of all licensed assisted living and residential health care facilities.
- There is not sufficient historical survey detail available to determine the adequacy of currently used residential functional capacity screens to determine admission and retention of residents.

Other Recommendations—Continuing Oversight. The Task Force supports the formation of an on-going legislative long-term care committee to address the needs of the elderly in the state. The Task Force concurs with those who expressed the need for continuing dialogue and oversight of issues involving care for the elderly.

KHCA

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January 27, 1999

Representative Garry Boston
Chairman Health and Human Services Committee
Kansas State House

Dear Representative Boston,

Attached is the Medicaid rate information that you requested for all 50 states that Mr. Randy Fitzgerald testified to in your committee on January 26, 1999. This Medicaid rate information was compiled in April of 1998 by the American Health Care Association to compare the average Medicaid rates in each state. However, some of these figures can be misleading because each state employs different methodologies when setting their Medicaid rates.

The major difference from state to state when setting Medicaid rates is whether ancillary services are included or excluded from the rate calculation. The ancillary services portion of most Medicaid rates encompass services such as physical therapy, occupational therapy, speech therapy, respiratory therapy and oxygen services. Ancillary services are typically high cost services provided by professionals who must meet the current education requirements.

It is important when viewing this American Health Care Association table to not only look at the average Medicaid rate but also what is included in the Medicaid rate calculations. If you have any questions about this information please give me a call.

Sincerely,

Marty Yost

Marty Yost,
Director of Reimbursement and Information Services
Kansas Health Care Association

HHS
1-26-99
Atch#4

State Medicaid Rates and Program Information

One of the most desired but difficult to obtain statistics about nursing facilities is the cost of a stay. Although not necessarily a reflection of costs to the provide, the payment rate or schedule used by payers, such as Medicaid, indicates that amount of reimbursement for services.

The Medicaid rates reported in Table F-13 represent the average daily rate a nursing facility could be paid by Medicaid for a single Medicaid resident. Each state agency determines what services will be covered by this rate, such as ancillary services like physical or occupational therapy. The rates that appear in table F-13 were provided to AHCA by its state affiliates.

F-13: Nursing Facility Average Medicaid Per Diem Rates by State - 1998

STATE	1998 Rate*	Ancillaries Included
Alabama	$ 98.96	NO
Alaska	$ 329.62	NO
Arizona	$ 97.39	YES
Arkansas	$ 63.99	YES
California	$ 83.04	NO
Colorado	$ 98.00	YES
Connecticut	$ 130.00	YES
Delaware	$ 97.00	YES
Florida	$ 94.38	YES
Georgia	$ 75.26	NO
Hawaii	$ 150.00	YES
Idaho	$ 94.20	YES
Illinois	$ 77.63	NO
Indiana	$ 86.43	YES
Iowa	$ 69.50	YES
Kansas	$ 78.11	YES
Kentucky	$ 83.42	NO
Louisiana	$ 65.24	YES
Maine	NA	NA
Maryland	$ 106.62	YES
Massachusetts	$ 109.52	YES
Michigan	$ 95.00	NO
Minnesota	$ 101.71	NO
Mississippi	$ 79.85	YES
Missouri	$ 86.00	YES
Montana	$ 87.54	NO
Nebraska	$ 62.58	NO
Nevada	$ 110.51	YES
New Hampshire	$ 111.94	YES
New Jersey	$ 104.93	YES
New Mexico	$ 92.10	YES
New York	$ 165.80	YES
North Carolina	$ 95.12	YES
North Dakota	$ 94.00	YES
Ohio	$ 107.00	YES
Oklahoma	$ 64.20	NO
Oregon	$ 89.05	YES
Pennsylvania	$ 114.12	YES
Rhode Island	$ 125.86	YES
South Carolina	$ 84.04	YES
South Dakota	$ 79.93	NO
Tennessee	NA	NA
Texas	$ 75.40	YES
Utah	$ 80.60	YES
Vermont	NA	NA
Virginia	$ 78.12	YES
Washington	$ 114.31	YES
Washington DC	$ 210.35	YES
West Virginia	$ 97.00	YES
Wisconsin	$ 91.00	YES
Wyoming	$ 93.84	YES

Source: AHCA State Affiliate Officers, April 1998.
See Technical Notes in Appendix A
on page 66 for comments on individual states.

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