Approved: March 3, 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 February 17 at the Dillon House.

All members were present except: Representative David Haley, Excused
Representative Brenda Landwehr, Excused

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

Conferees appearing before the committee: Ellen Piekalkiewics, Association of community mental Health Centers of Kansas
Dwight Young, Great Bend Center for Counseling
Connie Hubbell, Commissioner, Mental Health & Disabilities
Carl Myers, Social Worker/practitioner
Ron Hein, Mental Health Credentialing Coalition
Cathie Hay, Kansas Mental Health Counselors Association
David Elsbury, Kansas Association of Masters in Psychology
Rusty Andrews, Kansas Association for Marriage and Family Therapy
Dr. Dan Lord, Behavioral Sciences Regulatory Board
Dr. Marc Schlossberg
Chip Wheelen, Kansas Psychiatric Society
Sherry Duperier, MS Chair, Board of Hearing Aid Examiners

Others attending: See Attached Sheet

Staff gave a briefing on **HB 2214 - Concerning Kansas Board of Examiners in fitting and dispensing of hearing aids.**

The Chairperson opened the hearing on **HB 2214.**

Sherry DuPerier, Chairperson, Board of Hearing Aid Examiners, stated the Board is responsible for enforcing the provisions of the act including licensure, renewal, examination, and regulating hearing aid dispensers in the state. Typically, licensees number approximately 225 with changes occurring mainly due to retirement, transfers, and the addition of new licensees.

Subsequent to the original draft of the bill the Board has amended the bill with changes that reflect current practice and KAPA based changes. (See Attachment #1)

Staff presented a balloon. (See Attachment #2)

The Chairperson closed the hearing on **HB 2214.**

Representative Wells moved and Representative Morrison seconded to move **HB 2214** out favorably as amended. The motion failed.

Representative Wells moved and Representative Morrison seconded a substitute motion to delete Section 3 (d). The motion carried.

Representative Wells moved and Representative Morrison seconded to move **HB 2214** out as amended. The motion carried.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, at the Dillon House at 1:30 p.m. on February 17, 1999.

The Chairperson opened the hearing on **HB 2213 - Concerning Behavioral Sciences Regulatory Board.**

Staff gave a briefing on **HB 2213.**

Ellen Piekalkiewicz, Director of Policy and Planning, Association of Community Mental Health Centers of Kansas, Inc., testified they strongly support the work of the Task Force of Mental Health Service Providers and specifically **HB 2213.** There are 30 licensed community mental health centers (CMHC's) currently operating in the state. These centers have a combined staff of over 3,500 providing mental health services in every county of the state in over 100 locations. By establishing uniform core clinical curriculum education requirements and continuing education requirements raises the standards on all clinical specialities, which is a positive outcome for insuring that Kansas citizens receive the best possible care. (See Attachment #3)

Dwight Young, Executive Director, The Center for Counseling & Consultation, testified as a proponent to **HB 2213**. The Task Force focused solely on what would be necessary and appropriate in assuring that the citizens of Kansas received the best care possible in the most efficient and most cost effective way. As a result, the process was completely free of the traditional acrimony that results from one group's attempt to use the legislature to protect their market share while other groups work to broaden theirs. This bill does not set up professional practice protection for a select group of mental health treatment providers. The state has established the statutory framework for mental health professionals trained at the masters degree level to practice independently. The bill establishes the minimum requirements necessary to assure the state that a mental health provider is capable of delivering safe and effective services to the public. (See Attachment #4)

Connie Hubble, Commissioner, Mental Health and Developmental Disabilities, testified that **HB 2213** establishes consistency in the minimum requirements for education, internships, continuing education, testing, and supervision/direction requirements for all providers who can diagnose and treat mental disorders. The intent of this bill is important in that it would help with human resource issues in the mental health system. To have educational requirements, continuing education requirements, and definitions consistent across all mental health providers in some ways make the disciplines interchangeable and therefore easier and more cost-effective to fill vacancies. It also helps in trying to define coverage in managed care contracts because the qualified mental health professional (QMHP) can now be defined more clearly. These efforts would assist in obtaining or maintaining third party reimbursement, which helps shift some cost away from state funding.

MH&DD, however, cannot support this bill unless certain revisions are made to existing language to insure adequate safeguards are not compromised with regard to reporting child abuse and adult abuse and neglect. Specific language in Section 9, 65-5810(b); Section 14, 65-6315(b); and Section 29, 74-5372(b) should be deleted as it would exempt professionals from being mandated to report child abuse and adult abuse and neglect.

Language in the amendments to **HB 2213** are in direct conflict with KSA 38-1522. Social Workers, Counselors, and Psychologists, like the other listed mandated reporters, are those persons who are most likely to learn of the abuse or neglect of children. It cannot be expected to protect the safety of children when critical professionals are made exempt from the child abuse reporting laws. (See Attachment #5)

Carl S. Myers, LSCSW, testified strongly endorsing several important changes to **HB 2213** that concerns the very foundation of the professional helping relationship between the social worker providing psychotherapy services and the client. (See Attachment #6)

Ron Hein, on behalf of Mental Health Credentialing Coalition, testified **HB 2213** resulted from the efforts of the Mental Health Services Providers Task Force, which met over the 1998 interim. This bill was endorsed unanimously by the members of the task force that included representatives of each of the professions licensed by the BSRB, as well as a psychiatrist nominated by the Kansas Psychiatric Society, a representative of the managed health care industry, and six legislative appointees. Although the resolution creating the task force called for a minimum of two persons representing community mental health centers, there were actually three nominees of the Association of Community Mental Health Centers selected for the task force. Although the resolution called for only one person to

specifically represent the field of social work, there were actually three social workers appointed to the task force. **HB 2213** follows the standard established by the social workers; licensed clinical specialist social workers may diagnose and treat mental disorders in independent practice, but masters level social workers may diagnose and treat mental disorders only when operating under direction of licensees meeting higher training requirements, such as an LCSW. This bill establishes, for each of the various mental health professions, the minimum qualifications for a mental health practitioner to engage in practice only under direction of another higher qualified mental health professional, and separate minimum qualifications for a practitioner to engage in independent practice. (See Attachment #7)

Cathryn A. Hay, Ph.D., President, Kansas Mental Health Counselors Association, A Division of the Kansas Counseling Association, testified as a proponent stating **HB 2213** should be passed as written. (Attachment #8)

David Elsbury, LMLP, Kansas Association of Masters in Psychology, testified in support of **HB 2213,** testifying this has resulted from the collaborative work of several groups, which have first hand knowledge of the issues which this bill addresses, that is the delivery of mental health services by a broad range of professional providers. Because of changes in the health delivery system, it is necessary for professionals to have high standards for training and practice as well as the opportunity to offer their services in a variety of settings. The bill creates consistency in the ability to diagnose and treat as well as independent practice. It's important to point out that many provisions relate to training, supervised experience, and testing requirements to insure that providers would be appropriately trained. (See Attachment #9)

Emmett L. "Rusty" Andrews, testified as a proponent to **HB 2213**, testified enactment of this legislation would be a positive step for mental health practitioners across Kansas and would provide the citizens of our state with a greater level of professional service in the field of mental health. (See Attachment #10)

Dan Lord, MFT Representative on the Behavioral Sciences Regulatory Board (BSRB), was a proponent to **HB 2213**, stating the Board was pleased to send this proposal to the Task Force in October by unanimous vote. If now passed by the Legislature, am confident that members of the Board would work to implement such a statute with equal investment and energy. (See Attachment #11)

Dr. Mark Schlosberg, Kansas Psychological Association, testified as an opponent to **HB 2213**, stated this bill attempts to fix something in the practice of psychology that is not broken. The concern is simply that of lowering the standards of a practice and profession and the increased demand on consumers to decide who is expert enough to solve their complex problems of mental health. Such a change is comparable to requiring only two years of medical school rather than the full training to become a physician. (See Attachment #12)

Charles Wheelen, Kansas Psychiatric Society, testified as an opponent to **HB 2213**. This bill is a significant improvement over previous bills that pertained to the same subjects. Our opposition is not intended to discredit the valuable work and recommendations of the 1998 Task Force on Mental Health Service Providers but is instead intended to identify omissions. This bill raises an important quality of care issue. An accurate diagnosis determines the appropriate treatment regimen, whereas a misdiagnosis can do harm to the patient as well as delay recovery, and waste valuable health care resources. The Kansas Psychiatric Society requests amendments to this bill. (See Attachment #13 & #14)

The Chairperson closed and hearing on **HB 2213** and appointed a Sub-Committee to study and report back to the full committee on February 22.

The Sub-Committee was: Representative Jerry Henry, Chairperson, Representative Bob Bethell and Representative Phyllis Gilmore.

Written testimony only: Dana LeTendre, Ph.D., Pittsburg State U.(See Attachment #15) and Charles R. Before, Ph.D., Kansas Licensed Psychologist (See Attachment #16).

The meeting adjourned at 3:20 p.m. The next meeting will be February 18.

HUMAN AND HEALTH SERVICES

DATE 2/17/99

| NAME | REPRESENTING |
|---|---|
| Larry E. Rein [illegible] | KMHCA/KCA |
| [illegible] | Assn. of Com. M.H. Centers/LMWP |
| Cathryn G. Ashey [illegible] | KMHCA / KCA |
| Boyd L. [illegible] | KAMP |
| Elaine Hayes | KAMP |
| J. M. Mason [illegible] | KAMP |
| Emmett L. "Rusty" [illegible] | KAMFT |
| Rosilyn James-Martin | |
| Bill Sneed | KPA |
| Bob Williams | Ks Pharmacists Assoc. KPhA |
| Carol McDowell | KPA |
| Nathan A. Rockers | |
| MAY MEAD | |
| Debbie Miller | |
| Stacey Williams | |
| ALI WILLIAM | KU School of Pharmacy |
| Mindy Wittorff | " |
| Jill Brandenburg | Lawrence Memorial Hospital |
| Derek A. Blaylock | Intern for Teresa Sittenauer |
| Michelle Peterson | Peterson Public Affairs Group |
| Stacy Solden [illegible] | Hein & Weir Chtd. |
| Danielle Noe | Governor's Office |
| Michelle Long | Interested Citizen |
| Chip Wheelen | KS Psychiatric Society |
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Bill Graves, *Governor*

*THE STATE* *OF KANSAS*

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# KANSAS BOARD OF HEARING AID EXAMINERS

**Box 252**
**Wichita, Kansas 67201-0252**
**316-263-0774**
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Testimony in Support of HB 2214
House Committee on Health and Human Services
Wednesday, February 17, 1999

Sherry R. DuPerier, M.S. CCC-A
Chair / Executive Director
Board of Hearing Aid Examiners

My name is Sherry DuPerier and I am the chairperson of the Board of Hearing Aid Examiners. The Board is responsible for enforcing the provisions of the act including licensure, renewal, examination, and regulating hearing aid dispensers in the state. Typically licensees number approximately 225 with changes occurring mainly due to retirement, transfers, and the addition new licensees.

The board was established in 1968. Licensure by examination and renewal of licenses has been handled in much the same manner until recent years when many procedural changes were implemented. In regard to advertising and consumer complaints, the consumer protection agency has functioned well with the dispensers and has been able to resolve the great majority of the complaints brought before the board through discussion as opposed to prosecutorial hearings. In the past few years the hearing aid industry has seen tremendous changes in technology and the board has made significant strides in adapting the licensing examination to reflect the changes.

In regard to the actual budget issues, in the past few years the board has made many changes in the general operations of the agency. This has resulted in a more efficient and responsible board, however with the limited funds available, this has also resulted in a negative cash flow. For the past 3 years the Department of the Budget and the Legislative Research Department have pointed to the negative trends and have suggested that we request an increase in our statutory

HHS
2-17-99
Atch #1

limitations. The actual fees set in the rules and regulations are at the maximum limits and have been at this maximum level for several years.

The statutory fee limits have never been raised. Currently the total fees charged a new applicant to obtain full licensure vary from $100 to $125 depending on the actual method of entry. Annual renewal remains at $50. This compares to some of our neighboring states where fees are in the range of $250 to $500 for initial entry into the profession and $150 to $200 for annual renewal. A summary of our current and proposed limits, proposed fees and area comparisons is included in your packet. It is obvious from this summary that our fees do not reflect the norm. It is also clear that to provide the services necessary to the consumers of the state an increase is required.

- Passage of the bill will allow the board to continue to function at the current level while still maintaining an adequate carry forward balance.

- In addition it will allow the board to fund necessary items such as rent, copier and computer use, and a private phone line. To date these items have been absorbed by the executive director's personal business.

- The bill will allow the board to more adequately carry out the statutory responsibilities in the time frames set forth in the budget outcome measures.

- Additional funding will also make it possible for the board to more thoroughly review and investigate consumer complaints. Currently this aspect of the agency's work is difficult to control as the number and seriousness of complaints fluctuates significantly. Additional secretarial hours and additional investigative funds could substantially improve this situation.

Let me spend a few minutes clarifying the fee structure that is being proposed. Relatively high fee limits have been requested to maintain the board administration for several years into the future. Fees, of course, will not be raised to these maximum levels at this time or at any time in the foreseeable future but to eliminate the need for additional revisions, these adjustments are necessary. K.S.A. 74-5810(a) sets fee limits, however the fees are actually set in the rules and regulations. The summary spreadsheet lists the requested fee limits and the proposed fee structure. Most of the fees categories are currently in effect, however some new fees have been added. These new fees include examination, licensure verification with other state agencies, certificate replacement, change of sponsor, and insufficient funds fees.

To clarify, it is not the boards plan to raise fees to the requested limits, rather a moderate fee increase will be requested through amendments to the rules and regulations to allow the board to more adequately carry out the statutory responsibilities.

Subsequent to the original draft of the bill we have amended the bill with changes that reflect current practice and KAPA based changes. The amendments are as follows:

- the addition of a non-refundable clause for all fees
- eliminate K.S.A. 74-5811(d) which states that an applicant for a license must be free of infectious disease, as the requirement is not being addressed and the board has been advised to eliminate it
- amend K.S.A. 74-5811(b) to read is 21 years of age or older instead of 18 years as it is more in line with other licensed professions and with the age limits of other states hearing aid licensing requirements
- revise K.S.A. 74-5818 to include denial of a license or certificate and amend any other statutes that need be to reflect the denial clause
- revise K.S.A. 74-5824 to reflect appropriate penalties according to KAPA or other statutes as the penalty amounts have not been amended since the drafting of the bill

These amendments will reflect changes that will bring the statutes in line with current practices within the licensing law and other Kansas statutes. All amendments are felt to be in the best interest of the consumer and are considered to be non-controversial.

| | A | B | C | D | E | F | G | H |
|---|---|---|---|---|---|---|---|---|
| | | CURRENT | PROPOSED | PROPOSED | | STATE OF | STATE OF | STATE OF |
| 2 | | CAPS | CAPS | FEES | | NEBRASKA | MISSOURI | TEXAS |
| 3 | APPLICATIONS | *50 | 150 | *75 | | *500 | 150 | 100 |
| 4 | TEMP LICENSE | *25 | 150 | *75 | | *200 | 150 | 200 |
| 5 | TEMP RENEW | 100 | 175 | 135 | | | 75 | |
| 6 | PERMANENT LICENSE | *50 | 150 | *75 | | *400 | 125 | 200 |
| 7 | LICENSE RENEWAL | 50 | 150 | 75 | | 400 | 125 | 200 |
| 8 | LATE FEE | 100 | 200 | 150 | | | 100 | |
| 9 | EXTENDED LATE FEE | 200 | 300 | 250 | | | 250 | |
| 10 | | | | | | | | |
| 11 | | ANNUALLY | NA | ANNUALLY | | BIANNUALLY | ANNUALLY | ANNUALLY |
| 12 | | | | | | | | |
| 13 | | | | | | | | |
| 14 | TYPICAL FEES FOR NEW LICENSEE* | 125 | | 225 | | 550 | 425 | 500 |
| 15 | SUBSEQUENT ANNUAL FEES | | | 75 | | 200 | 125 | 200 |
| 16 | | | | | | ADJ TO 1 YR | | |
| 17 | | | | | | | | |
| 18 | EXAM/WRITTEN | NA | 50 | 25 | | | 45 | 100 |
| 19 | EXAM/PRACTICAL | NA | 35 | 15 | | | 125 | 150 |
| 20 | STATE VERIFICATION | NA | 25 | 10 | | 25 | 35 | |
| 21 | REPLACEMENT | NA | 25 | 10 | | 10 | 15 | |
| 22 | APPRENTICE FEE | NA | NA | NA | | | | 200 |
| 23 | INSUFFICIENT FUNDS | NA | 35 | 15 | | | 50 | |
| 24 | REGISTER BUSINESS | NA | NA | NA | | | 25 | |
| 25 | CEU'S REQUIRED | YES | (YES) | (YES) | | YES | YES/12 | YES** |
| 26 | | **MUST HAVE 25 CEU IN 2 YEAR PERIOD WITH NO MORE THAN 5 FROM MANUFACTURER | | | | | | |

HHS
2-17-99
Atch #2

Session of 1999

# HOUSE BILL No. 2214

By Committee on Health and Human Services

2-2

AN ACT concerning the Kansas board of examiners in fitting and dispensing of hearing aids; amending K.S.A. 74-5810a and repealing the existing section.

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

Section 1. K.S.A. 74-5810a is hereby amended to read as follows: 74-5810a. (a) The Kansas board of examiners in fitting and dispensing of hearing aids is hereby authorized to adopt rules and regulations fixing the amount of fees for the following items and to charge and collect the amounts so fixed subject to the following limitations:

| Item | Fee |
|---|---|
| License application — not more than | ~~$50~~ *$150* |
| Temporary license — not more than | ~~25~~ *$150* |
| Temporary license renewal — not more than | ~~100~~ *$150* |
| Certificate of registration or endorsement — not more than | ~~50~~ *$150* |
| Certificate of registration or endorsement renewal — not more than | ~~50~~ *$150* |
| Certificate of registration or endorsement late renewal — not more than | ~~100~~ *$200* |
| Certificate of registration or endorsement extended late renewal — not more than | ~~200~~ *$300* |
| *Examination (written) — not more than* | *$50* |
| *Examination (practical, each section) —not more than* | *$35* |
| *State licensure verification — not more than* | *$25* |
| *Replacement of certificate or license — not more than* | *$25* |
| *Change of sponsor — not more than* | *$25* |
| *Insufficient funds — not more than* | *$35* |

(b) Whenever the board shall determine that the total amount of revenue derived from the fees collected pursuant to this section is insufficient to carry out the purposes for which such fees are collected, the board may amend such rules and regulations to increase the amount of the fee, except that the amount of the fee for any item shall not exceed the maximum amount authorized by this section. Whenever the amount of fees collected pursuant to this section provides revenue in excess of the amount necessary to carry out the purposes for which such fees are collected, it shall be the duty of the board to decrease the amount of the fee for one or more of the items listed in this subsection by amending the rules and regulations which fix such fees.

1 (c) Until the effective date of any rules and regulations adopted by
2 the board in accordance with the provisions of subsection (b) which fix
3 the amount of the fee for any item specified in subsection (a), the board
4 shall charge a fee for such item in an amount equal to the maximum
5 amount authorized for such item by subsection (a).

(d) Fees paid under this section are not refundable.

6 Sec. 2. K.S.A. 74-5810a is hereby repealed.
7 Sec. 3. This act shall take effect and be in force from and after its
8 publication in the statute book.

Sections 2 through 4 attached.
Renumber sections accordingly.

Amend the repealer and title accordingly.

2-8

blg74-5811

Sec. 2. K.S.A. 1998 Supp.74-5811 is hereby amended to read as follows:74-5811. An applicant for a license shall pay the license application fee provided for in K.S.A. 74-5810a and amendments thereto and shall show to the satisfaction of the board that such applicant:

(a) Is a resident of this state;

(b) is ~~18~~ 21 years of age or older; and

(c) has an education equivalent to a four-year course in an accredited high school ~~or--has--continuously--engaged--in--the practice--of-fitting-and-dispensing-hearing-aids-during-the-three years-preceding-the-effective-date-of-this-act;-and~~

~~(d)--is-free-of-contagious-or-infectious-disease~~.

Sec. 3. K.S.A. 1998 Supp.74-5818 is hereby amended to read as follows: 74-5818. Any person ~~registered~~ licensed under this act may have ~~his~~ the license ~~or--certificate~~ denied, revoked or suspended for a fixed period to be determined by the board for any of the following causes:

(a) ~~His~~ Conviction of a felony. The record of conviction, or a certified copy thereof certified by the clerk of the court or by the judge in whose court the conviction is had, shall be conclusive evidence of such conviction.

(b) When ~~his-certificate~~ the license has been secured by fraud or deceit practiced upon the board.

(c) For unethical conduct.

(d) Practicing while knowingly suffering from a contagious or infectious disease.

(e) Advertising professional superiority.

(f) Practicing the fitting of hearing aids under a false or alias name.

(g) Failure to actively practice the art of fitting and dispensing of hearing aids for a period of three ~~(3)~~ consecutive years ~~consecutive~~.

(h) For any cause for which the board might refuse to admit a candidate to examinations.

(i) For violation of any of the provisions of this act.

blg74-5824

Sec. 4. K.S.A. 1998 Supp.74-5824 is hereby amended to read as follows: 74-5824. Any person who ~~shall-violate~~ violates any of the provisions of this act shall be deemed guilty of a class C misdemeanor ~~and--upon--conviction--shall--be-fined-not-less-than fifty-dollars-($50),-nor-more-than-two-hundred-dollars-($200),-or be-imprisoned-in-the-county-jail-not-less-than-ten-(10)-days--nor more-than-thirty-(30)-days,-or-both,~~ for the first offense, and a class B misdemeanor for the second or subsequent offense ~~shall-be fined--not--less--than--two-hundred-dollars-($200),-nor-more-than five-hundred-dollars-($500)-or-by-imprisonment-in-the-county-jail not-less-than-three-(3)-months,-nor-more-than-one-year,-or-both~~.

**Association of Community Mental Health Centers of Kansas, Inc.**
700 SW Harrison, Suite 1420, Topeka, KS 66603-3755
Telephone (785) 234-4773 Fax (785) 234-3189

## House Health and Human Services Committee
## H B 2213

February 17,1999

*Ellen Piekalkiewicz, Director of Policy and Planning*

David Wiebe
President
Mission

Patricia Murray
President Elect
Salina

Diane Sullivan
Vice President
Ottawa

Jim Sunderland
Secretary
Hutchinson

Keith Rickard
Treasurer
Leavenworth

James E. Cain
Member at Large
Pomona

Ron Denney
Past President
Independence

Paul M. Klotz
Executive Director
Topeka

The Association of Community Mental Health Centers, Inc. strongly supports the work of the Task Force on Mental Health Service Providers and specifically H.B. 2213.

Under KSA 19-4001 et. seq., and KSA 65-211 et. seq., 30 licensed community mental health centers (CMHC's) currently operate in the state. These centers have a combined staff of over 3,500 providing mental health services in every county of the state in over 100 locations. Together they form an integral part of the total mental health system in Kansas and are one of the one largest employers of individuals licensed by the Behavioral Sciences Regulatory Board.

The CMHCs are more that just another group of providers. CMHCs are the county's legally delegated authorities to manage mental health care in Kansas. CMHCs function as the local mental health authorities.

H.B. 2213 by establishing uniform core clinical curriculum education requirements and continuing education requirements raises the standards on all clinical specialties, which is a positive outcome for insuring that Kansas citizens receive the best possible care.

Additionally, H.B. 2213 will provide the opportunity for many of our clinicians to be eligible for managed care provider panels.

Thank you for this opportunity to speak in support of H.B. 2213. I would be happy to respond to any questions you may have.

HHS
2-17-99
Atch #3

*A Licensed Community Mental Health Center*

PHONE (316) 792-2544 5815 BROADWAY

**GREAT BEND, KANSAS 67530**

**Presentation to House Health & Human Services Committee**
**H B 2213**

Dwight Young
Executive Director

As a Community Mental Health Center / Licensed Masters Level Psychologist member of the Task Force on Providers of Mental Health Services, I would like to say it was the most positive legislative related experience that I have had in my twenty-nine years at the mental health center. The group focused solely on what would be necessary and appropriate in assuring that the citizens of Kansas received the best care possible in the most efficient and most cost effective way. As a result, the process was completely free of the traditional acrimony that results from one group's attempt to use the legislature to protect their market share while other groups work to broaden theirs.

The Report you have is the result of nine meetings with over 60 hours of hearing testimony & participating in debate. This does not including the "home work" to prepare for the meetings. This bill is a product of this effort, and it would achieve consistency in legislation regarding mental health providers. It **does** the following:

1. Uniformly **defines terms**, i.e. mental disorder; clinical specialist;

2. Establishes uniform **core clinical curriculum education requirements**, **graduate level clinical practicum/internship**, & **postgraduate supervise professional experience**;

3. Establishes comparable **professional exam requirements**;

4. Establishes uniform **continuing education requirements**;

5. **Applies, uniformly, the existing public policy that mental health providers trained at the masters level are authorized to diagnose and treat mental disorders**;

6. **Applies, uniformly, the existing public policy that mental health providers trained at the masters level may provide services in independent practice**;





HHS
2-17-99
Atch#4

Just as important is what is not in this purposed legislation. This bill **does not** set up professional practice protection for a select group of mental health treatment providers. The State has established the statutory framework for mental health professionals trained at the masters degree level to practice independently. This bill applies this statutory definition uniformly among the mental health providers.

The American Psychological Association (APA) requires a Ph. D. for full membership and to hold office as does the Kansas Psychological Association (KPA). These organizations define the profession of psychology to be at the doctoral level. The State of Kansas, however, has recognized the Masters Level Psychologist for fifteen years. KPA suggested to the Task Force that Masters Level Psychologist should adopt another name to avoid confusion among the public. The real issue is that the two groups do very similar work. Just as different names do not stop both the ophthalmologist and the optometrist from being called "eye doctors," the distinctions will be subtle between the Licensed Psychologist and the LCMLP. A change of title for me, after working as a Masters Level Psychologist for fifteen years, is not only unfair, it would jeopardize the existence of community mental health centers. Western Kansas mental health centers rely heavily on Masters Level Psychologist, but, under a different title, **there would no longer be any third party reimbursement** for their services. So, I feel compelled to point out an equally obvious fact, and that is that the Licensed Psychologists are free to change their name if they are truly concerned about public confusion.

My recommendation is that this legislation be adopted as is, so we do not disrupt the various compromises that were developed through the interim study process. This bill establishes the minimum requirements necessary to assure the state that a mental health provider is capable of delivering safe and effective services to the public. And then, as in any free market service, we let the public decide.

Thank you for your time and consideration in this matter. I will be happy to answer any questions that you may have.

# State of Kansas
# Department of Social & Rehabilitation Services

Rochelle Chronister, Secretary
Janet Schalansky, Deputy Secretary

For additional information, contact:

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Topeka, Kansas 66612-1570
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**House Health and Human Services**
**February 17, 1999**

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**Testimony: Testimony on House Bill 2213**

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**Mental Health and Developmental Disabilities**
**Connie Hubbell, Commissioner**
**785.296.3773**

HHS
2-17-99
Atch #5

## Contents

**Testimony** Testimony on House Bill 2213

# Kansas Department of Social and Rehabilitation Service
## Rochelle Chronister, Secretary

### House Health and Human Services
### Testimony on House Bill 2213

February 17, 1999

Mr. Chairman and members of the Committee, thank you for providing me with this opportunity to speak before you on this legislation. My name is Connie Hubbell and I am the Commissioner of Mental Health and Developmental Disabilities (MH&DD), one of seven Commissions within the Kansas Department of Social and Rehabilitation Services (SRS).

House Bill 2213 establishes consistency in the minimum requirements for education, internships, continuing education, testing, and supervision/direction requirements for all providers who can diagnose and treat mental disorders. The intent of this bill is important in that it will help with human resource issues in the mental health system. To have educational requirements, continuing education requirements, and definitions consistent across all mental health providers in some ways make the disciplines interchangeable and therefore easier and more cost-effective to fill vacancies. It also helps in trying to define coverage in managed care contracts because the qualified mental health professional (QMHP) can now be defined more clearly. These efforts will assist in obtaining or maintaining third party reimbursement, which helps shift some cost away from state funding.

This legislation includes Social Workers, Psychologists (Ph.D. and Masters), professional Counselors, and Marriage and Family Counselors. Currently, all these groups work with the mentally ill population in various arenas, such as Community Mental Health Centers (CMHCs), privatization contracts, state hospitals, and private practice. For the first time, if this legislation is signed into law as it appears before you, there would be consistency in the qualifications necessary to work in these professions. Not only would this be helpful in current and future privatization efforts, it would also provide safeguards to all consumers receiving services.

As you are well aware, the Governor's Task Force on Mental Health Providers spent several months working on this issue last fall. This bill is the result of unanimous recommendations from that group which was made up of legislators and representatives of all provider groups - including CMHCs and professions that we employ in our state hospitals.

MH&DD, however, cannot support this bill unless certain revisions are made to existing language to insure adequate safeguards are not compromised with regard to reporting child abuse and adult abuse and neglect. Specific language in Section 10, 65-5810(b); Section 14, 65-6315(b); and Section 29, 74-5372(b) should be deleted as it would exempt professionals from being mandated to report child abuse and adult abuse and neglect.

Kansas Statutes Annotated (KSA) 38-1522 (a) requires: "When any of the following persons has

reason to suspect that a child has been injured as a result of physical, mental or emotional abuse or neglect or sexual abuse, the person shall report the matter promptly....Persons licensed to practice the healing arts or dentistry; persons licensed to practice optometry; persons engaged in postgraduate training programs approved by the state board on healing arts; licensed psychologists; licensed professional or practical nurses examining, attending or treating a child under the age of 18; teachers, school administrators or other employees of a school which the child is attending; chief administrative officers of medical care facilities; registered marriage and family therapists; persons licensed by the secretary of health and environment to provide child care services or the employees of persons so licensed at the place where the child care services are being provided to the child; licensed social workers; firefighters, emergency medical services personnel; mediators appointed under KSA 23-602 and amendments thereto; juvenile intake and assessment workers; and law enforcement officers."

Language in the amendments to H.B 2213 are in direct conflict with KSA 38-1522. Social Workers, Counselors, and Psychologists, like the other listed mandated reporters, are those persons who are most likely to learn of the abuse or neglect of children. We cannot expect to protect the safety of children when critical professionals are made exempt from the child abuse reporting laws.

Thank you for your attention, as well as for this opportunity to appear before you. I will be happy to take any questions you might have.

Testimony of Carl S. Myers, LSCSW

Concerning HB 2213

Before the Kansas House of Representatives, Health and Human Services Committee
February 17, 1999

Chairman Boston and members of the committee:

I am Carl Myers, a licensed specialist clinical social worker. I am employed by Washburn University as a social work educator, and I hold membership in the National Association of Social Workers, but my testimony represents solely my own opinion as a social worker, and should not be construed to reflect the position of Washburn University, nor NASW.

I have been interested and involved in issues concerning the legal regulation of social work practice since 1978 and have reviewed legislation and testified before legislative committees on numerous occasions.

Concerning HB 2213, I would like to strongly endorse several important changes that concern the very foundation of the professional helping relationship between the social worker providing psychotherapy services and the client.

In particular, I endorse the proposed elimination of language on page 14, Sec. 14, part 2, and I recommend the elimination of part 3 (page 14, lines 36-41) for the same reasons. I think part 3 may be redundant and confusing. I believe the intent to allow for testifying in court hearings pertaining to the welfare of children is already appropriately covered under subsection (c) (line 6 on page 15).

I most strongly endorse the addition of language under new subsection (b) on page 15 that specifies the confidentiality between social worker and client to be placed on the same basis as provided for attorney and client.

In my view, the arguments for these changes are compelling. First, a desirable pragmatic consideration, the changes would increase consistency and uniformity among mental health practitioners covered broadly in this bill.

However, a far more compelling argument for these changes is in regard to the safety of clients in therapy. If their privacy rights are not assured under the law, as well as by the profession's code of ethics, the client is not safe to share their inner thoughts and feelings with their social work therapist. Under such circumstances, the therapeutic relationship and possibility of effective treatment is hopelessly compromised.

HHS
2-17-99
Atch #6

I wish to briefly illustrate the importance of these changes by relating an actual incident that is currently the subject of litigation in district court.

I have recent personal knowledge of a social work colleague practicing in the State of Kansas who was providing psychotherapy services to a young adult female client.

The social worker arrived at her office for an appointment with the client and discovered that the client was being raped on or near the premises of her office. The social worker was able to intervene and chase off the assailant who was later arrested and charged with rape.

The alleged perpetrator is over six feet tall, with a long history of violent crimes, and happens to be just under the age of seventeen.

Under our current law (which I hope you will now amend), the defendant's attorney submitted a motion to the court to force the social work therapist to release the client's private psychotherapy records, which could then be reviewed and examined in open court. The purpose and content of the client's psychotherapy records are entirely unrelated and irrelevant to her attack, except that the assault occurred on or near the therapist's office. Clearly, the defense attorney is utilizing the vague Kansas laws concerning social work confidentiality in order to intimidate the victim of this crime, possibly in the hope of causing her to drop the case.

My colleague is a highly qualified, experienced, and ethical practitioner. She is willing to go to jail in contempt of court in order to protect her client from being victimized twice.

I learned yesterday from my colleague that the client made the painful decision to allow the release of her private psychotherapy records in order to prevent a mistrial that would result in the release of this dangerous perpetrator.

It is my fervent opinion that this horrible but true situation was possible due to the vague and imprecise nature of the confidentiality provisions of the social work licensing statutes.

I wish to thank members of this committee, particularly those who served so diligently during the interim process, in proposing the changes I so enthusiastically support on behalf of my current and future clients who are your constituents.

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**HOUSE HEALTH & HUMAN SERVICES COMMITTEE**
**TESTIMONY RE: HB2213**
**Presented by Ronald R. Hein**
**on behalf of**
**Mental Health Credentialing Coalition**
**February 17, 1999**

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Mental Health Credentialing Coalition. The Coalition is comprised of the members of the Kansas Association for Marriage and Family Therapy (KAMFT), the Kansas Association of Masters in Psychology (KAMP), and the Kansas Counseling Association/Kansas Mental Health Counselors Association (KCA/KMHCA).

HB2213 results from the efforts of the Mental Health Services Providers Task Force, which met over the 1998 interim. This bill was endorsed unanimously by the members of the task force that included representatives of each of the professions licensed by the BSRB, as well as a psychiatrist nominated by the Kansas Psychiatric Society, a representative of the managed health care industry, and six legislative appointees. Although the resolution creating the task force called for a minimum of two persons representing community mental health centers, there were actually three nominees of the Association of Community Mental Health Centers selected for the task force. Although the resolution called for only one person to specifically represent the field of social work, there were actually three social workers appointed to the task force.

The basic structure of HB2213, utilizing a clinical specialist approach, was originally the work product of the Behavioral Sciences Regulatory Board (BSRB). Once again, that board, which is comprised of two Ph.D. psychologists, two social workers, a marriage and family therapist, a masters level psychologist, a professional counselor, and four public board members with no direct affiliation with any of the regulated professions, also voted unanimously to endorse the structure of HB2213.

Although the length of HB2213 and the myriad of amendments to current law would seem to imply that this is a complicated bill, the bill is actually quite simple.

HB2213 follows the standard established by the social workers: licensed clinical specialist social workers (LSCSWs) may diagnose and treat mental disorders in independent practice, but masters level social workers may diagnose and treat mental disorders only when operating under direction of licensees meeting higher training

HHS
2-17-99
Atch# 7

requirements, such as an LSCSW. This bill establishes, for each of the various mental health professions, the minimum qualifications for a mental health practitioner to engage in practice only under direction of another higher qualified mental health professional, and separate minimum qualifications for a practitioner to engage in independent practice.

The many amendments set out in HB2213 are designed to accomplish that parity for equally qualified mental health professionals.

I understand that the Kansas Psychological Association may be opposing this legislation. The issues raised by the KPA during the interim were considered by all of the members of the task force, including specifically the Psychologist and the Psychiatrist, before the Task Force unanimously endorsed this bill. You may hear that the education, curriculum, or experience of Masters Level Psychologists is not sufficient to permit them to engage in independent practice. If time permitted, you would have the opportunity to see, just as the legislators and mental health professionals on the Task Force saw, that there is no merit in their arguments.

In fact, this bill establishes the minimum requirements for MLPs to engage in independent practice at the same or higher level as those standards which have been utilized for LSCSWs who have been permitted to engage in independent practice for years.

I urge the committee to accept the recommendations of a Task Force that met for 9 days this summer, heard from many conferees, and unanimously recommended this legislation. I urge this Committee to recommend HB2213 favorably for passage.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

# KANSAS MENTAL HEALTH COUNSELORS ASSOCIATION

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My name is Cathryn Hay, and I am President of the Kansas Mental Health Counselors Association, which is a state division of the American Mental Health Counselors Association.

One of the stated purposes of AMHCA is to promote legislation which advances the profession of mental health counseling. Additionally, KMHCA by-laws specifically underwrite the interdisciplinary cooperation among mental health professions to the betterment of services to the public. To that end, I am here to support HB 2213 as it comes to you from the Mental Health Service Providers Task Force.

I have attended all but one of the sessions of the Task Force, in an effort to have a grasp of the concerns of the legislators as well as the various mental health groups which were represented. What I heard was a realistic discussion of the intricacies of this bill in an atmosphere of calm and courtesy.

People from the various mental health disciplines, including psychologists, psychiatrists, counselors, social workers, and marriage and family therapists
worked together in the spirit outlined by the Task Force Chairperson. Under the adroit leadership of Rep. Phyllis Gilmore, mental health professionals put aside "turf" disputes to produce a bill which was unanimously endorsed.

In conclusion, I hope that the committee will recommend passage for HB 2213 as it stands. Thank you for permitting me to testify. I would be happy to answer questions.

Cathryn A. Hay, PhD
2/17/99

HHS
2-17-99
Atch # 8

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE
TESTIMONY RE: HB2213
Presented by David Elsbury, LMLP
on behalf of the
Kansas Association of Masters in Psychology
February 17, 1999

Mr. Chairman, Members of the Committee:

My name is David Elsbury, and I am past-president of the Kansas Association of Masters in Psychology (KAMP). I currently serve on the Mental Health Credentialing Coalition which is comprised of members of the Kansas Association of Marriage and Family Therapy, The Kansas Counseling Association/Kansas Mental Health Counselors Association, and the Kansas Association of Masters in Psychology.

I ask for your support of HB 2213 as an act which has resulted from the collaborative work of several groups, which have first hand knowledge of the issues which this bill addresses, that is the delivery of mental health services by a broad range of professional providers. I believe it deserves your support as it represents the combined efforts of groups which have often come to the legislature in an adversarial process. Also, it has generated rather broad support in the field. This bill, which comes from the Mental Health Task Force established by the legislature in 1998, has also taken on a number of difficult tasks and provided a bill which establishes consistency in training and practice requirements. The end result will be the increased availability of mental health professionals from a number of disciplines in both the public and private sector.

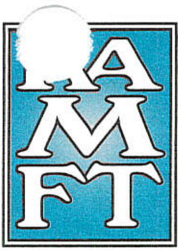
Because of changes in the health delivery system, it is necessary for professionals to have high standards for training and practice as well as the opportunity to offer their services in a variety of settings. This act is of interest to the members of the Mental Health Credentialing Coalition, including the Kansas Association of Masters in Psychology, because it creates consistency in the ability to diagnose and treat as well as independent practice. It's important to point out that many provisions relate to training, supervised experience, and testing requirements to insure that providers would be appropriately trained.

HHS
2-17-99
Atch #9

HB 2213 TESTIMONY CONTINUED
February 17, 1999

I believe HB 2213 will be good for the Kansas consumer as well as the myriad of agencies within the state who hire mental health professionals because it will provide for the greater availability of qualified mental health professionals to deliver competent services. It protects the public by increasing training standards and creating standards which are consistent across disciplines. I urge the Committee to vote favorably for passage of HB 2213.

I wish to thank Representative Gilmore and the Mental Health Task Force for all of the hours of hard work spent working the issues leading to this bill and their openness this process. Also, thank you for the opportunity to testify today and I am available for questions.



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**KANSAS HOUSE OF REPRESENTATIVES**
**HEALTH AND HUMAN SERVICES COMMITTEE**
**TESTIMONY REGARDING HOUSE BILL 2213**
**Presented by Emmett L. "Rusty" Andrews**
**on behalf of the**
**Kansas Association for Marriage and Family Therapy**
**February 17, 1999**

Mr. Chairman, Members of the Committee:

My name is Emmett L. "Rusty" Andrews, and I am the executive director of the Kansas Association for Marriage and Family Therapy, or KAMFT. I am also a licensed marriage and family therapist in private practice in Manhattan who received his masters and doctoral degrees in marriage and family therapy from Kansas State University.

KAMFT has 346 members in the state. Our members are mental health professionals who come from many different mental health disciplines, including marriage and family therapy, clinical social work, psychology, and professional counseling.

I am here to testify in support of House Bill 2213. KAMFT has long been in support of legislation that provides fair and consistent licensure of mental health professionals and that reflects the way mental health professionals actually practice. We've watched with great interest the work of the Task Force on Providers of Mental Health Services and appreciate the work that has gone into recommending the proposed legislation that you are considering today. Our organization and its members have had ample opportunity to provide input to this legislation and to review House Bill 2213.

We think enactment of this legislation will be a positive step for mental health practitioners across Kansas and will provide the citizens of our state with a greater level of professional service in the field of mental health. We urge the Committee to act favorably on House Bill 2213.

Thank you very much for permitting me to testify. I will be happy to yield to questions.

HHS
2-17-99
Atch# 10

**HOUSE HEALTH AND HUMAN SERVICES COMMITTEE**
**TESTIMONY RE: HB2213**
**Presented by: Daniel Lord, Ph.D.,**
**MFT Representative on the BSRB**
**February 17, 1999**

Mr. Chairman and Members of the Committee:

Thank you for allowing me to testify. My name is Dan Lord and I am here to testify in my role as a member of the Behavioral Sciences Regulatory Board (BSRB), at the request of the Board's Chairperson, Mr. Douglas Wood. I serve on the BSRB as the Marriage and Family Therapy Representative. I also serve as this profession's representative on the Task Force, whose work is represented in HB2213. As the one BSRB member to have been appointed to the Task Force, I served informally as the liaison between these two bodies during this past fall.

In consultation with Mr. Wood, I want to comment on two issues. First, I want to reaffirm the Board's intention to participate in the work of this Task Force in an earnest and constructive manner. The statutes that regulate these respective professions affect consumers and mental health service delivery in every county of our state. The statutes themselves, as well as the way they are implemented, also affect the way our citizens view state government and its leaders. With this awareness, this Board, in May of 1997, named improved attention to legislative issues as one of its strategic planning priorities. So, when asked by the Mental Health Service Providers Task Force for input this past fall, the Board set an additional meeting to meaningfully deliberate and respond.

The result of that meeting this past October is actually the second matter on which I want to comment. As the Task Force's interim report describes, the clinical specialist model presented in HB2213 was originally proposed by the BSRB. I'd like to give you some background on how this proposal came about and why it received the unanimous endorsement of the Board's members.

In response to Representative Gilmore's request, the Board met to address several issues to be considered by the Task Force, including the question "what should be the minimum education and training requirements for any licensee to be authorized to diagnose and treat mental disorders?" The ensuing discussion was energized, collaborative and informed by regulatory experience. A depth of professional perspective was brought to the task that included two Ph.D. psychologists and one representative each from social work, marriage and family therapy, professional counseling, and masters level psychology. Most importantly, the four public members of the Board supplied a steady focus on public consumers, keeping the center of discussion on public protection and the reduction of inconsistent regulation that currently hampers the larger agencies responsible for mental health services across the state.

HHS
2-17-99
Atch # 11

Out of this discussion, it was the Board's public members that first put forward the following idea. Of most value to mental health service delivery in Kansas would be the creation of one, uniform designation, earned by a uniform set of education and training requirements that supported the authorization to diagnose and treat mental disorders for each of the professions licensed by the BSRB at the masters level. As this was debated, the current licensing structure for the social work profession was recognized as a successful model for implementing such an idea. At the graduate level, social work has a two tiered licensing structure. First, there is a generalist licensure category, the LMSW, which restricts the practitioner to working under the direction of an advanced practitioner. Second, there is a specialist licensure category, the LSCSW, with additional educational and training requirements, that authorizes the practitioner to diagnose mental disorders in independent practice as a clinical specialist.

This idea of the Board's public members then took the form, essentially presented in the Task Force's bill. An initial level of licensure was proposed, for restricted practice, that respects the professional identities and educational emphases of the licensed groups. A specialist licensure category was also proposed, called the clinical designation, with additional education and training requirements standardized across all the licensed professions, specifically supporting a uniform authorization to diagnose and treat mental disorders. Only licensed psychologists would not use this structure due to their requirement of a doctoral degree for initial licensure.

The Board was pleased to send this proposal to the Task Force in October by unanimous vote. If now passed by the Legislature, I am confident that members of the Board will work to implement such a statute with equal investment and energy.

Again, thank you for allowing me to provide this bit of background information for your consideration. I will be glad to respond to questions.

# KANSAS PSYCHOLOGICAL ASSOCIATION

Mr. Chair and members of the Committee, my name is Dr. Marc Schlosberg. I am a licensed psychologist in Kansas. I am the Clinical Director of a Community Mental Health Center. I wish to preface my comments with the statement that my views and opinions are my own and are not representative of the views of my Mental Health Center, the Mental Health Consortium, Inc. or the Mental Health Association. I also maintain a small private practice, which, once a week, involves a two hour commute so that I may provide psychological services to a rural community. I am also president-elect of the Kansas Psychological Association.

I would like to thank the committee for the opportunity to speak. In the past, I have been urged by KPA to speak on a number of issues and have turned down these requests, but I feel particularly passionate about the issue before you. Essentially, I am concerned that the term licensed psychologist, which has meant a doctoral level provider able to practice independently, will now become diluted to include subdoctoral level individuals. I am not here to argue the merits and disadvantages of the licensed clinical specialist designation in the other professions– although I do believe this creates a complex alphabet soup of designations that will only serve to confuse consumers. I simply do not want my profession of psychology watered down with lower standards of quality and education in an attempt to solve a number of business problems. These business problems include fee reimbursement, recruitment and retention and promising consumers additional expertise while they get less. It is giving a higher degree of recognition and expertise to those subdoctorally trained individuals beyond generally recognized training and standards.

In my work as a clinical director of a CMHC, I have supervised several LMLP's. Many of these individuals have found a number of ways to work with the existing law to advance their practice. One former employee will be attending a pre-doctoral internship and will receive her Ph.D. Another individual who was formerly an LMLP finished her training and became a licensed psychologist. Another LMLP completed her doctoral studies and, shortly, will sit for licensure as a licensed psychologist. Still another LMLP, in an attempt to further her professional development, is now pursuing a masters degree in Social Work as she wishes to work as an LSCSW. She is attending school while continuing to work full-time. In each of these cases individuals were keenly aware of the limits imposed by the LMLP designation and have taken steps to enhance their professional development by seeking additional education and training. They have all done this out of a sense of personal dedication without wishing to take shortcuts that circumvent education. They have done this without diluting the designation of Licensed Psychologist.

Again in my work, there is a vast difference in skill level of LMLP's compared to the LSCSW's and Ph.D.'s. There may be some argument among those in community mental health, but I have a "worry level" about clinicians' capabilities. I provide a higher level of oversight, supervision and direction to those with terminal master's in psychology than others. There has been an incredible discrepancy in the training received in these programs.

The original intent of the masters level psychologist was to allow the provision of psychological services in underserved areas by a subdoctoral individuals so long as they were under the direction of a doctor who was either a physician or psychologist. The term masters level psychologists was a misnomer in my opinion because the parallel the law created was very similar to that of a physician and physician's assistant. In this example the physician and physician assistant have overlapping functions, but the physician provides the oversight which is based on education and training. What this bill attempts to do with LMLP's is to essentially lower the standards for independent psychological practice. It is comparable to changing the law to lower the standards of medical practice so a physician's assistants can



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HHS 2-17-99 Atch#12

practice medicine without the direction, oversight or supervision of a physician. In this example, you could hypothetically make the legislative changes to do this, but would you want to? It would help solve recruitment and retention issues, providing services in underserved areas, but would this even be considered? Other remedies have been found – telemedicine, locum tenens placements, assistance with student loan repayment in return for work, etc. without lowering the education and training requirements of a physician.

You may be told that this bill is necessary to ensure provision of mental health care in underserved areas. These concern business issues of recruitment and retention. I disagree with this remedy. If you examine my center you will see that we employ several Ph.D.'s, LSCSW's, LMSW's as well as LMLP's. We also do this very inexpensively in comparison to other facilities. We have done a number of things in terms of employee satisfaction that allow us to attract a number of high caliber individuals. The Mental Health Consortium has taken a position in support of independent practice in psychology for subdoctoral individuals. However this is clearly a recruitment and retention issue which should not be solved by lowering standards for psychologists and the independent practice of psychology. Recently, there do not appear to be a shortage of mental health practitioners in rural areas.

Another issue promulgated is that lowering standards for the independent practice of psychology to that of the subdoctoral level will improve insurance reimbursement issues. The issue that has brought this to a head is the decision by a fiscal intermediary of HCFA and Medicare to refuse to reimburse masters level psychologists and masters social workers (not LSCSWs) for work as extenders of physicians and psychologists. This is a federal issue and will not be modified by this legislative change. HCFA recognizes the independent practice of psychology only at the doctoral level. Rather than lower education and training standards for a profession, the approach to take is to work with the fiscal intermediary of Medicare to allow extenders. At my mental health center we addressed this problem by redistributing case loads, just as you must do when you work with other third party payors. Other facilities have refused to do this.

Insurance companies vary in terms of whom they reimburse. Some have chosen to reimburse Ph.D. psychologists only while others included masters level practitioners. As a clinical director I work with insurance companies to persuade them to use LMLP's on their panels. This has been largely successful, particularly since we are in a fairly rural area. This is the level where the work needs to be done – not lowering the standards of the independent practice of psychology to that of the subdoctoral level. It simply will not solve this problem.

Licensed doctoral psychologists have demonstrated their expertise and been allowed a scope of practice which includes admission privileges to hospitals, testifying as forensic experts in the court of law, writing seclusion and restraint orders, suicide precautions, etc. One Champus study indicated that psychologists provide approximately 97% of the same array of services as do psychiatrists in inpatient settings. Yet licensed psychologists have not approached the legislature to allow our use of the label psychiatrist in our work.

Other comparisons can be made as to the result of this bill. With tax season fast approaching you have a choice of doing taxes yourself, going to a preparer like H&R Block or hiring a CPA. Although there are many overlapping, similar functions between H&R block and a CPA – Block would never refer to themselves as CPA's nor seek legislative relief to allow them to do this. Further, if your taxes get exceedingly complicated you are likely to turn to a CPA for their expertise. An optician, optometrist and ophthalmologists perform many overlapping, similar functions, but carry distinct titles with distinct training requirements. Paralegals perform many of the same functions as attorneys, yet they are not allowed to practice law independently. There are differences based on training that differentiate these individuals. None of these folks attempt to change their title in statute or suggest educational requirement be reduced. To allow the independent practice of psychology at the subdoctoral level would allow the lowering of standards for the practice of psychology. Consumers would be confused. Many already insist

on licensed psychologists as they feel their personal problems have a complexity requiring a certain threshold of training.

I do not think I am asking for something unreasonable – 46 States require the doctoral level to be eligible to practice independently, the National register of Health providers in psychology require the doctoral level, the American Psychological Assn., requires the doctoral level for eligibility for its board certifications. The American Board of State and Provincial Psychological Assns. require the doctoral level for eligibility to practice independently.

Several states have been faced with this similar issue in the past. As a result they developed the MFCC or marriage, family, child counseling designation. This is not a far stretch from the proposed clinical specialist designation. In this model individuals who are subdoctoral practitioners in a variety of areas whether it be marriage and family therapy, psychology at the master's level and professional counselors are allowed to provide an array of mental health services independently commensurate with their training. This model may serve this state as well. Marriage and family therapists, licensed professional counselors and those trained in psychology, but for one reason or another have been unable to obtain the doctoral degree, are more comparably trained to each other than the masters in psychology are to the licensed psychologist. It should be noted in states using the MFCC designation Social Work is recognized as an independent profession and is licensed separately. Such a solution would allow for reciprocity whereas this proposed hodge-podge of alphabet soup provides no such transferable job opportunities.

In summary, this is not a turf issue or an economic issue for me. My turf will not change, I do not stand to make or lose money based on the outcome of this legislation. This bill attempts to fix something in the practice of psychology that is not broken. My concern is simply that of a lowering the standards of a practice and profession of which I am very proud and the increased demand on consumers to decide who is expert enough to solve their complex problems of mental health. Such a change is comparable to requiring only two years of medical school rather than the full training to become a physician. Please consider this carefully as the consumer would. Will there be a lowering of standards and increased confusion? Is there a need to change standards and education that have served the public well? Thank you very much for your time.

Kansas Psychiatric Society

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Testimony
to the
**House Health and Human Services Committee**
by Charles Wheelen
February 17, 1999

Thank you for the opportunity to comment on the provisions of House Bill 2213. This bill is a significant improvement over previous bills that pertained to the same subjects. Our opposition is not intended to discredit the valuable work and recommendations of the 1998 Task Force on Mental Health Service Providers but is instead intended to identify omissions.

This bill raises an important quality of care issue. An accurate diagnosis determines the appropriate treatment regimen, whereas a misdiagnosis can do harm to the patient as well as delay recovery, and waste valuable health care resources.

The Kansas Psychiatric Society believes that any person who exhibits symptoms of a mental disorder should receive the benefit of a differential medical diagnosis. This is a process of evaluating the patient to determine, among other things, if there may be an illness, other medical condition, medication, or other drug which is causing or contributing to the patient's symptoms. This should be the standard of care.

We requested that the Task Force adopt two principal definitions for purposes of framing its public policy recommendations to the Legislature. First we recommended that mental disorders be defined as "mental illnesses and other disorders identified in the *Diagnostic and Statistical Manual of Mental Disorders* by the American Psychiatric Association." This recommendation was conceptually adopted by the Task Force and incorporated in HB2213.

We also recommended that diagnosis of a mental disorder be defined as "the process of identifying the likely cause or causes of a patient's symptoms, including appropriate tests performed or ordered by a physician to determine whether there may be a disease, illness, other physiological condition, or medication or other ingested substance which is causing or contributing to the symptoms of a mental disorder." This, of course, implies a collaborative relationship between the provider of mental health services and the patient's physician. This recommendation was not incorporated in HB2213.

For that reason we respectfully request that the following amendments be adopted by your Committee prior to taking action on the bill:

HHS
2-17-99
Atch#13

- On page 5 after line 9 insert "(d) Prior to diagnosing a mental disorder, a licensed clinical professional counselor or licensed professional counselor shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived. In the event a client requests that a consultation with the client's primary care physician or psychiatrist be waived, such request shall be made a part of the client's record. The licensed clinical professional counselor or licensed professional counselor may continue to evaluate and treat the client but shall not diagnose that the patient has a mental disorder. [and re-letter ensuing subsections]
- On page 12 after line 29 insert "(3) Prior to diagnosing a mental disorder, a licensed specialist clinical social worker shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived. In the event a client requests that a consultation with the client's primary care physician or psychiatrist be waived, such request shall be made a part of the client's record. The licensed specialist clinical social worker may continue to evaluate and treat the client but shall not diagnose that the patient has a mental disorder. [and re-number ensuing items]
- On page 15 at line 14 and 15, delete "diagnostic manuals commonly used as a part of accepted social work practice" and insert in lieu thereof, "edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations."
- On page 19 after line 20 insert "(4) Prior to diagnosing a mental disorder, a licensed clinical marriage and family therapist or licensed marriage and family therapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived. In the event a client requests that a consultation with the client's primary care physician or psychiatrist be waived, such request shall be made a part of the client's record. The licensed clinical marriage and family therapist or licensed marriage and family therapist may continue to evaluate and treat the client but shall not diagnose that the patient has a mental disorder.
- On page 24 after line 42 insert "(d) Prior to diagnosing a mental disorder, a licensed clinical masters level psychologist or licensed masters level psychologist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived. In the event a client requests that a consultation with the client's primary care physician or psychiatrist be waived, such request shall be made a part of the client's record. The licensed clinical masters level psychologist or licensed masters level psychologist may continue to evaluate and treat the client but shall not diagnose that the patient has a mental disorder.

Thank you for considering our testimony and requested amendments in your deliberations.

# Kansas Psychological Association

## House Bill 2213

The Kansas Psychological Association representing psychologists for over 50 years, strongly urges that the Kansas Legislature give careful consideration to the impact of HB 2213 upon the practice of psychology and delivery of mental health services before considering its passage. This bill will allow someone with a masters degree in psychology to practice on an equivalent level with licensed doctoral psychologists. The doctoral standard for independent practice of psychology in the United States is supported by:

*American Psychological Association*
*Association for State and Provincial Psychology Boards*
*Forty-six states*
*University of Kansas Department of Clinical Program*
*Kansas Psychological Association*

KPA asks that you consider the following points before giving your support to the independent practice of Licensed Masters Level Psychologists:

- National standards for psychology and the law in 46 states sets the doctoral degree as the criteria for independent practice. Only West Virginia, Vermont, Alaska and Oregon allow independent practice after several years of supervision. Twenty-four states do not even recognize a person with a masters degree in psychology under the psychology licensing law.
  **All states surrounding Kansas have eliminated independent practice of psychology at the masters level.**
- Physician assistants, regardless of any number of years of supervision and experience, cannot call themselves physicians unless they go to medical school. Masters level psychologists, regardless of years of supervision and experience, should not call themselves psychologists unless they obtain their doctoral degree
- Many licensed masters level psychologists are currently dually licensed as professional counselors or marriage and family therapists. The training requirements on average for a masters in psychology (48 hours) are more similar to the LPC or LMFT requirements than the Licensed Psychologist (90-120 hours). The scope of practice and title of LPC would be the most logical license for someone with a masters to assume if they wish to practice independently.
- In a letter from Rick Snyder, Director of the Clinical Psychology Program at the University of Kansas, "The difference is akin to going to a physician who is trained and qualified to do surgery, as compared to perhaps asking a physician's assistant to do this work. The case is as clear for masters and Ph.D. level psychologists"
- Nationally, licensed Psychologists have admission privileges to hospitals, can get hospital staff membership, can approve suicide precautions as well as restraint and seclusion orders. Master level psychologists can not.
- The title "Licensed Psychologist" dilution is being used to solve recruitment and retention problems, get insurance reimbursement and possibly try to circumvent HCFA regulations which specifically define Clinical Psychologist and Medicare provider eligibility. This will undermine the role of licensed psychologists in Kansas and sets the stage to make the Ph.D. in psychology unnecessary.
- This bill would grandparent any LMLP into independent practice, without a licensure exam or current educational and training standards
- This bill would allow masters level psychologists to be directed by other masters level providers rather than the current statute which requires direction by psychologists and physicians.
- This is simply an attempt to change what was originally intended functionally as a psychological assistant (under the direction of a psychologist or physician) to something way beyond.

If, after careful consideration of the impact of this legislation it is the desire of the Kansas Legislature to grant independent practice to masters level psychologists, we strongly urge the Legislature to protect the consumer and the public by prohibiting masters level psychologists from using the professional title of a "psychologist", "licensed masters level psychologist" or other similar terminology.

HHS
2-17-99
Atch #14

Pittsburg State University

Department of Psychology and Counseling

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February 13, 1999

Honorable Garry Boston
Chair, Health and Human Services Committee
State Capitol, Room 156E
Topeka, KS 66612

Dear Representative Boston:

I am writing in support of HB 2213, which primarily deals with licensure at the independent practice level for the various mental health professionals trained at the masters degree level. As Director of Clinical Training for the Masters in Psychology Program at Pittsburg State University, I am very familiar with the level of training provided for masters level psychologists, and relatively familiar with the training of the other mental health professionals. Unfortunately, I am also very familiar with the historical inequities and anti-competitive statutory constraints currently existing in the Kansas mental health practice statutes.

For the first time that I am aware of, HB 2213 provides for an equitable and consistent approach to the regulation of training and scope of practice issues for the various mental health professions. This is particularly impressive because HB 2213 is a result of an enormous collaborative effort among professional counselors, marriage and family therapists, masters level psychologists and social workers in Kansas. These professionals set aside their various turf issues and worked together to define areas of common interests and designed a licensing infrastructure that will definitely improve the mental health service delivery system in the state of Kansas.

Instead of the hodge-podge of conflicting and anti-competitive statutes intended to protect the professional turfs of a few disciplines, HB 2213 will provide Kansas with a logically constructed, integrated set of training standards that serves to protect the interests of the mental

HHS
2-17-99
Atch#15

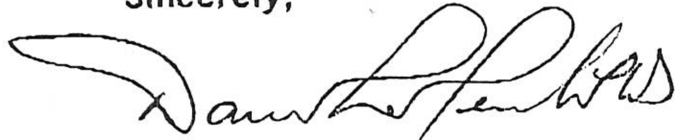
health consumers in Kansas. HB 2213 allows Kansas residents the freedom to choose from an array of appropriately trained and consistently credentialed mental health professionals.

In addition to my role as Director of Clinical Training at Pittsburg State University, I am a Licensed Psychologist in Kansas and have definitely benefited from the statutory status quo. However, I believe that it is now time for the unfair statutory advantage that we have enjoyed as Ph.D-level Psychologists to come to an end. All of the masters-level disciplines covered by HB 2213 now have national standards of training as well as a system for the accreditation of specific graduate training programs in each discipline. As chair of the Interorganizational Board for the Accreditation of Masters in Psychology Programs, I have been very impressed with the high quality of training being done at the masters level.

HB 2213 greatly raises the minimum standard of training required for masters level psychologists in Kansas, bringing it up to (and actually exceeding) the minimum standard required for national accreditation. This enhanced requirement definitely serves the interests of the public.

For all of the above reasons, I strongly urge you to support HB 2213, and I would certainly be glad to discuss any of these issues with you at any time, should you desire. Thank you for your attention and concern.

Sincerely,



Dana LeTendre, Ph.D.
Clinical Training Coordinator

February 16, 1999

Represenative Garry Boston, Chairman,
House Health and Human Services Committee:

I am a licensed, Ph.D. psychologist who has spent his entire professional career in western Kansas. The vast majority of my psychologist colleagues are, and have been, masters level psychologists. I believe the quality of the psychological services provided by Licensed Masters Level Psychologists has been satisfactory to excellent.

I wish to submit this letter to you and your committee in support of HB 2213. As a psychologist, I specifically recommend those provisions that broaden the scope of practice for Licensed Masters Level Psychologists (with agreement that expanded scope of practice be allowed for other qualified clinicians as well).

In western Kansas, most of the psychological services available are provided by Licensed Masters Level Psychologists. By broadening their scope of practice, regulated by licensure requirements to assure competence, the public has more choices as well as protection.

Charles R Befort, Ph.D.

Charles R. Befort, Ph.D.
Kansas Licensed Psychologist
(316-285-3219)

HHS
2-17-99
Atch #16