Approved: March 8, 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 March 3 in Room 423-S of the Capitol.

All members were present except: 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: Tom Laing, InterHab
John L. Kiefhaber, Exec. Vice President, Kansas Health Care Association
Debra Harmon Zehr, RN, MA, Vice President, Kansas Association of Homes and Services for the Aging

Others attending: See Attached Sheet

The Chairperson opened the meeting stating the meeting for Thursday, March 4 had been canceled. The minutes of February 17, 18, 22 and 23 were distributed and would ask for approval later in the meeting.

The Chairperson opened the hearing on **SB 135 - Health care reform oversight committee, expiration date.**

Staff gave a briefing on **SB 135** stating the bill recreates the Health Care Reform Legislative Oversight Committee, with a sunset date of July 1, 2001. The Senate Committee amendment deletes the authority of the Oversight Committee to employ an executive secretary, an authority which has never been used the Committee

Tom Laing, InterHab, testified as a proponent to **SB 135** with amendments to assure that health care issues of Kansans with disabilities is on the agenda of the committee. Among those entities, want to make note of Community Developmental Disability Organizations, Community Mental Health Centers, County health departments and other entities who have statutory responsibilities to interact with implementation of health care policies. It should be clear that the role of this committee is broader than merely cooperating and interacting with the federal officials who work on these issues. It is recommended that this committee, and all others that evaluate emerging health care reforms, take a more active role in evaluating all state plans which relate to managed care models. Some Kansans with disabilities are often under-served because of their health issues are rare, or because medical professionals are not trained to serve persons whose cognitive and/or physical characteristics fall outside the range of "averages" which would characterize all other populations. (See Attachment #1)

The Chairperson closed the hearing on **SB 135.**

Representative Long moved and Representative Storm seconded the introduction of a resolution encouraging health care providers to test pregnant women for HIV. The motion carried.

The Chairperson opened the hearing on **SB 126 - Quality enhancement wage pass-through program for nursing facilities.**

Staff gave a briefing on **SB 126**, stating this creates a new law under which the Secretaries of Social and Rehabilitation Services and Aging are to create a quality enhancement wage pass-through program as a part of the state Medicaid plan. Under the plan, nursing facilities that elect to participate would be allowed a payment option of up to $4.00 per resident day to increase salaries or benefits, or both, for those employees that provide direct care and support service to residents of nursing facilities. Employees eligible to receive the wage pass-through include nurse aides, medication aides, restorative-rehabilitative aides, licensed mental health technicians, plant operating and maintenance personnel, nonsupervisory

dietary personnel, laundry personnel, housekeeping personnel, and non-supervisory activity staff.

The bill requires quarterly wage audits for all nursing facilities that participate in the program to assure the pass-through moneys were used to increase salaries or benefits for eligible direct care and support staff or to hire additional eligible staff. The revised fiscal note states the Department on Aging and Social and Rehabilitation Services indicate the passage of the bill would have a significant fiscal impact. The Department on Aging indicates the cost of the program would depend on the number of facilities that choose to participate and could be $17.2 million ($6.9 million State General /Fund) in FY 2000. The Department estimates administrative costs of $250,000. The Department of Social and Rehabilitation Services has no way of estimating how many nursing facilities for mental health and for mental retardation would participate in the program authorized by **SB 126.** The maximum additional cost would be #1.7 million ($1.0 million State General Fund). Administrative costs for audits are estimated to be $41,122 ($34,131 State General Fund).

John Kiefhaber, Executive Vice President, Kansas Health Care Association, testified as a proponent to **SB 126**, stating the bill is designed to: (1) promote increased investment by the industry in training and development of direct care staff and other support staff (2) create a joint industry/state government investment in wage and/or benefit increases for direct care staff and other support staff, or to hire additional direct care staff and other support staff, of up to $4.00 per Medicaid day (3) provide for savings to the Medicaid program through a reduction in the use of expensive temporary agency nursing staff (currently costing the Medicaid program over $3.5 million per year) and a reduction of the use of Medicaid instead of private health care insurance by single mothers working in nursing facilities; and (4) improve the quality of care and the quality of life for Kansas' 24,000 nursing facility residents by reducing direct care staff turnover, improving hydration and nutrition services and attracting and retaining quality health care staff. (See Attachment #2)

Debra Zehr, RN, MA, Vice President, Kansas Association of Homes and Services for the Aging, testified as a proponent to **SB 126**, stating adequate staffing is the foundation of high quality nursing home care. There are daily staffing shortages and high turnover. It is estimated there will be a need for 23,290 nurse aides by 2005. It is believed to raise wages of front-line caregivers could keep these employees in these positions. (See Attachment #3)

Carolyn Middendorf, Kansas State Nurses' Association, a proponent to **SB 126** stated other occupations are paying more salary than nursing home employees and they can not compete. Therefore, care homes are unable to keep their employees.

Frank Trombolu, Administrator and Chief Executive Officer, Golith-St FrancisNursing Home, Olathe, stated that nursing homes needed a way to make the salaries competitive. There are many single parents and it would help if a day care center could be subsidized.

The Chairperson closed the hearing on **SB 126.**

The following written testimony was submitted: Deanne Lenhart, Executive Director, Kansas Advocates for Better Care (See Attachment #4)

The Chairperson asked for approval of the minutes of February 17, 18, 22, and 23. There was a question on the minutes of February 23 which the Chairperson stated would be checked.

Representative Wells moved and Representative Swenson seconded to approve the minutes of February 17, 18, and 22. The motion carried.

The meeting adjourned at 2:50 p.m. The next meeting will be March 8, 1999.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

HUMAN AND HEALTH SERVICES

DATE March 3, 1999

NAME	REPRESENTING
RAY Vernon	Wesley Towers - Hutchinson
Michael Dickes	Junction City Good Samaritan
WINSTON DOLLAHON	FRIENDLY ACRES, NEWTON, KS
Mina Coulter	" " " "
JERRY UNRUH	MADISON MANOR, MADISON
John Ketcher	Ks Health Care Assn
X	
[illegible]	Health Midwest
Kerrie [illegible]	KS Nursing Home Administrators Assn
[illegible]	KAHSA
Todd Brysfield	NE Leadership Johnson County
Tom Laing	InterNab
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Stacey Soldan	Columbia / HCA
John Federer	KHCA
Michelle Peterson	Peterson Public Affairs Group
Carolyn [illegible]	Ks St. Ns Carlton
Phil Watson	Ola the Leadership Class
[illegible]	KHCA
[illegible]	Kansas Chamber
[illegible] Moore	KDOA

InterHab
The Resource Network for Kansans with Disabilities

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Testimony in Support of Senate Bill 135: An Act to reauthorize the Health Care Reform Legislative Oversight Committee

Presented to the House Committee on Health and Human Services

Tom Laing, Executive Director
InterHab: The Resource Network for Kansans with Disabilities

March 3, 1999

Thank you Representative Boston and Members of the Committee for holding this hearing, and for the time you take on these and other vital public health and human service issues facing Kansans.

On behalf of InterHab, I am here today to support the provisions of SB 135 and to ask that the bill be further amended to assure that health care issues of Kansans with disabilities is on the agenda of the committee.

Specifically, we ask for the following amendments:

1. On page 3, line 3 of the bill, add the following:

" and with local entities who implement direct care components of state and federal health care policies; "

Among those entities, I specifically want to make note of Community Developmental Disability Organizations, Community Mental Health Centers, County health departments and other entities who have statutory responsibilities to interact with implementation of health care policies. It should be clear that the role of this committee is broader than merely cooperating and interacting with the federal officials who work on these issues.

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2. On page three, line 6, add the following:

"and review any state plans under consideration to exercise federally devised managed care options in the delivery of health related services:

We recommend that this committee, and all others that evaluate emerging health care reforms, take a more active role in evaluating all state plans which relate to managed care models. In the developmental disability field, many features of managed care models have slowly been working their way into the Kansas community system. Others, more broad and potentially more controversial, are under active consideration. This Legislature needs to be fully apprised of such proposed changes as they are under review by state and local officials.

3. On page three, line 16, add the following:

"and to assure accessibility for underserved populations, including those with physical or developmental disabilities or mental illnesses."

We read the current language relating to "underserved areas" as a way to address populations whose under-service is characterized by their location ... i.e. rural areas, inner-urban areas.

We want the committee to also recognize that some Kansans are under-served because of their disabilities. Kansans with disabilities are often under-served because their health issues are rare, or because medical professionals are not trained to serve persons whose cognitive and/or physical characteristics fall outside the range of "averages" which would characterize all other populations. This is an acute concern in many rural areas.

4. And, finally, on page three, line 41, after "hospital group", add

",a statewide Community Developmental Disability Organizations and Affiliated Community Service Provider group, a statewide Community Mental Health Center group, a statewide Home Health Care provider group, a statewide County Health Department group, .. "

It is important that the various community networks that implement the health care policies of this state and nation be at the table at all times when the impacts of such policies are discussed.

We believe the proposed amendments strengthen the bill, and urge your adoption of them, and your favorable consideration of the bill.

Thank you for your time, and I would be happy to answer any questions you might have.

KHCA

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TESTIMONY

Before the

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES

By

John L. Kiefhaber, Exec. Vice President

KANSAS HEALTH CARE ASSOCIATION

Chairman Boston and members of the Committee:

Most Kansas nursing facilities operate under a continually growing demand to provide more and better quality nursing services at a time when skilled nursing and nurse aide personnel are more and more difficult to find and retain. While this problem is not new in Kansas or anywhere in the nation, greater pressures for federal and state regulatory compliance -- as well as greater competition from alternative home and community-based services and home health care providers -- have raised the staffing problem to crisis proportions in some communities. A federal government initiative currently underway seeks to focus training and staff resources on improving hydration and nutrition for nursing facility residents who need extra care. Because staff turnover has been identified by government and industry as the most critical impediment to continually increasing quality of care, and because of continued concern in the public and the Kansas Legislature about the quality of care in Kansas nursing facilities, The Kansas Health Care Association is proposing a Quality Enhancement/Wage Pass-through program for direct care staff and other support staff working in Kansas Medicaid certified nursing facilities.

The Quality Enhancement/Wage Pass-through proposal for Kansas nursing facilities is designed to do the following:

- promote increased investment by the industry in training and development of direct care staff and other support staff;

- create a joint industry/state government investment in wage and/or benefit increases for direct care staff and other support staff, or to hire additional direct care staff and other support staff, of up to $4.00 per Medicaid day;

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- provide for savings to the Medicaid program through a reduction in the use of expensive temporary agency nursing staff (currently costing the Medicaid program over $3.5 million per year) and a reduction of the use of Medicaid instead of private health care insurance by single mothers working in nursing facilities; and

- improve the quality of care and the quality of life for Kansas' 24,000 nursing facility residents by reducing direct care staff turnover, improving hydration and nutrition services and attracting and retaining quality health care staff.

Providing Quality Care in Nursing Facilities

Labor costs currently comprise between 60 and 70 percent of all costs associated with the day-to-day operations of a nursing facility in Kansas. A professional labor force is the key component in the delivery of quality nursing services to the 24,000 elderly Kansans residing in nursing facilities. Quality of care in Kansas nursing facilities requires highly trained and skilled staff who are continuously monitoring resident care and providing continuity of care within the facility. As the quality of care demanded by consumers and the public increases, so must the skill level of the persons providing these services. With this in mind, facilities will need to invest in and focus on new management techniques, best practices, and quality indicators.

However, it would be impossible for most facilities to increase resources adequately enough to have an impact on the quality of care in Kansas because of a lack of capital and cash flow. This is essentially due to the design of the Medicaid payment system, which provides over 50 percent of facilities' revenues. The Medicaid payment system also creates significant cash flow problems for facilities and prevents the accumulation of reinvestment capital. Therefore, for a facility to increase its investment in quality care at the beginning of a cost reporting period, it would need to be reimbursed for the Medicaid portion at the time of the investment.

The new proposed Quality Enhancement/Wage Pass-through program will allow nursing facilities electing to participate in a pass-through payment option, of up to $4.00 per Medicaid day, designed to increase salaries and/or benefits only for those employees providing direct care and support services to elderly and disabled Kansans. The categories of employees that could receive the pass-through would be limited to the following:

Nurse Aide, Medication Aide, or Restorative/Rehab Aide
Plant Operating/Maintenance
Dietary-Non Supervisory
Laundry
Housekeeping
Activity Staff

A pass-through payment system is designed to reimburse facilities in the current period for costs at the time of the expense. In most pass-through systems payments are received up front. Once the period has ended an audit process is used to determine the amount of the expense. The Quality Enhancement/Wage pass-through program would provide facilities and their management with the means to provide quality care and compete in a tight labor market for qualified skilled individuals and to retain these employees for a longer period of time. These funds could not contribute to an increased bottom-line for the facility or for higher wages to management or higher supervisory salaries. Instead, these funds are directly passed on to Kansas workers throughout the state.

Kansas Health Care Association
Analysis of Selected Staffing and Employee Turnover Rates
Kansas Nursing Facilities

	1993	1994	1995	1996	1997
Nurse Aides	113.0%	115.0%	117.2%	118.3%	117.3%
Dietary	91.4%	102.5%	99.4%	95.8%	96.0%
Plant Operating	46.3%	61.0%	54.9%	51.9%	52.4%
Laundry	72.0%	70.2%	79.5%	81.9%	81.3%
Housekeeping	85.0%	83.8%	87.4%	82.3%	82.9%
All Employees	82.2%	85.9%	87.4%	88.2%	84.9%

Source: State audited cost reports (MS 2004)

If an upfront investment by the nursing home industry and the state is applied to higher wages or additional staff, quality of care improvements can be expected to carry through into future years.

The Quality Enhancement/Wage Pass-through program will immediately reimburse participating nursing facilities for up to $4.00 per Medicaid day for a period of one to three years due to Medicaid rate setting time frames and facility budget cycles. The enhancement monies would be paid to facilities regardless of cost center limits or occupancy penalties as a pass-through labor cost reimbursement. As the pass-through costs are included in the cost report base the amount of the Quality Enhancement/Wage Pass-through payment would decline.

Some facilities may not elect to participate since staff turnover rates in some facilities may already be under control. Some facilities may also have higher than average wages in their community, which would already be built into their Medicaid cost structure. KHCA estimates than 35 percent of the facilities will participate in the Quality Enhancement/Wage Pass-through program in the first year, resulting in an increased Medicaid expenditure of $5.7 million all funds ($2.4 million State General Funds).

One important fiscal control feature of the new Quality Enhancement/Wage pass-through program will be a Quarterly Wage Audit. The Quarterly Wage Audits will require facilities to submit cost information within 45 days of the end of each quarter quantifying the wage pass-through payment was utilized according to policy set out in this proposal. The Quarterly Wage Audit process will be used to assure that the Quality Enhancement/Wage Pass-through payment is used to increase salaries and benefits to current direct care staff and other support staff or to hire additional staff that fall into the outlined categories. The audit process will assure that no portion of the Quality Enhancement/Wage Pass-through is allowed to increase management wages or facility profits. Failure to file Quarterly Enhancement Audit reports or improper use of the funds, would result in recoupment of 100% of the Quality Enhancement/Wage Pass-through payments.

3/3/99

KAHSA

KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

TESTIMONY IN SUPPORT OF SENATE BILL 126

To: Representative Garry Boston, Chair, and Members,
House Health and Human Services Committee
From: Debra Harmon Zehr, RN, MA, Vice President
Date: Wednesday, March 3, 1999

Thank you, Mr. Chair, and Members of the Committee, for this opportunity to testify in support of Senate Bill 126. The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit long-term health care, housing, and community service providers throughout the state.

Adequate staffing is the foundation of high quality nursing home care. KAHSA members struggle daily with staffing shortages and high turnover. According to SRS reports, statewide average annual turnover among Certified Nurses Aides is 116%. This figure is 90% for not-for-profit homes. There are currently 21,000 active CNAs on the Kansas Department of Health and Environment CNA Registry. According to the Kansas Department of Human Resource *Kansas Occupational Outlook 2005*, there will be a need for 23,290 nurse aides by 2005. We are concerned that problems with recruitment and retention will be exacerbated in the coming decade, severely compromising our ability to care our frailest citizens.

Last year KAHSA helped sponsor a Wichita State University study on the underlying factors contributing to staff recruitment and retention problems in Kansas nursing homes. Researchers discovered a clash between the underlying values, beliefs, and expectations of various types of employees and the realities of work life in a nursing home. They found no quick fixes or easy answers to this long-standing problem, but did offer some recommendations to address the root cause of turnover, which is low job commitment.

In their conclusions and recommendations the 1998 Task Force on Long-Term Care Services encouraged "KDOA and SRS to implement a responsible increase in the Medicaid reimbursement rate to bring Kansas closer to the national average." They expressly stated, "This could be used to raise wages of front-line caregivers." Senate Bill 126 is in keeping with this recommendation.

KAHSA is committed to forging a combination of sustained public and private interventions to stem the chronic tide of long-term care staff shortages, based on the findings of the WSU study. There are four key initiatives. Among these are:

1. Education and training specifically tailored to nurse aides, nurses, frontline managers, and administrators to ameliorate factors that run counter to job commitment.
2. Redoubling of our efforts to address the unfavorable image of nursing homes, by focusing on the valuable interchange between employees and residents.
3. A commitment on the part of policy makers and regulators to uphold in their decision-making the validity and honorableness of nursing homes as a vital part of the care continuum for frail elders.
4. Adequate wages/benefits for frontline staff and timely provider reimbursement for wage/benefit increases.

Senate Bill 126 addresses this last initiative through a legislative avenue. Recently the Kansas Department on Aging initiated dialogue with provider groups about nursing home reimbursement methodology. This dialogue, known as FAIR (Funding Assessment Impartiality Review), may also provide an administrative avenue to address the wage initiative.

Thank you for this opportunity to support Senate Bill 126. I would be pleased to answer questions.

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Attch #3

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TESTIMONY MARCH 3, 1999 OF
DEANNE LENHART, EXECUTIVE DIRECTOR
BEFORE THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
RE: SB 126 WAGE PASS-THROUGH PROGRAM FOR NURSING FACILITIES

Chairperson Garry Boston and Members of the Committee:

Thank you for the opportunity to discuss SB 126, legislation that is proposed to increase salaries or benefits for those employees providing direct care and support services to residents of nursing facilities. Kansas Advocates support the general concept of wage pass-through as one (temporary) way to improve wages and benefits for direct care employees of nursing facilities.

Kansas Advocates has this main concern pertaining to SB 126, as amended. Kansas Advocates question including new hires (line 42) as eligible personnel. The current language of the proposed legislation would appear to allow hiring new employees without necessarily enhancing the wages and benefits of existing employees. The terminology "wage pass-through" implies application for existing employees rather than using the funds to increase staff numbers, which is the responsibility of the facility. Consumers frequently identify the problem of inadequate staffing in nursing facilities. By regulation, facilities may have adequate staff. In reality, nursing facilities have more high-care-need frail adults than they had a decade ago. Therefore, staffing requirements are no longer adequate, as they were when the regulations were first established. Public money should not be used to provide minimum adequate staffing for nursing facilities.

In addition to this main concern, Kansas Advocates believes the wage pass-through funds should be targeted to direct care staff only. Direct care staff hours per resident are what is lacking in many care homes across Kansas. The regulations only require an average of 2.0 hours of nursing care per resident per day, which is not enough time to assist these frail adults with eating, toileting, exercise and activities. Providing help with eating three meals per day and having several snacks takes more than two hours per day!

The nursing home industry must take some responsibility for the low wages of their employees; nursing home corporations have certainly given very generous consideration to their executives (who are not in the "trenches" providing day-to-day direct care). According to company 10-K annual reports, operating profits for the top six nursing home chain corporations (Beverly, Genesis, IHS, Paragon, Sun, Vencor) rose 122 percent from 1996 to 1997. According to company proxy statements, total compensation for the top executives of these companies jumped an average of 300 percent for the period. In 1997, the total compensations for these persons ranged from $2,867,435 to $56,514,321.

A statewide, non-profit organization founded in 1975 as KINH, whose mission is advocating quality long-term care.

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