Approved: 3-15-99
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on March 10,1999 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Representative Phyllis Gilmore
Charles Wheelen, Kansas Psychiatric Society
Connie Hubbell, Commissioner MH-DD, SRS
Melissa Ness, Kansas Children's Service League
Dana LeTendre, Ph.D., Pittsburg State University
Theresa Coddington, Miami County MH Center, Paola
Daniel Lord, Ph.D., Marriage and Family Therapy
Robert A. Harms, Ph.D., Topeka

Others attending: See attached list

Hearing on: HB 2213 - Diagnosis and treatment of mental disorders by behavioral sciences regulatory board licensees

Representative Phyllis Gilmore testified before the Committee in support of **HB 2213** which, if passed, would create a new clinical level of licensure for professional counselors, marriage and family therapists, and masters level psychologists as well as restricting independent practice to the clinical level or provider; and would authorize the clinical level licensees to engage in the diagnosis and treatment of mental disorders. Representative Gilmore noted that the bill was introduced at the request of the Task Force on Providers of Mental Health Services as a result of task force deliberations during the 1998 interim.

Speaking in opposition to **HB 2213** was Charles Wheelen, representing the Kansas Psychiatric Society. Mr. Wheelen noted that his organization had proposed two related definitions to the Task Force during the interim for purposes of framing its public policy recommendations to the Legislature which were not adopted. He also felt that payment was the real issue involved, as proponents of the bill want the authority to diagnose mental disorders because they believe it would result in third party insurance reimbursements. Mr. Wheelen offered a substitute bill that would address this issue. (Attachment 1)

Testifying in support of the intent of **HB 2213** was Connie Hubbell, SRS, who felt the bill would help with human resource issues in the mental health system. She noted that 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. She also expressed concern with existing language that does not provide adequate safeguards with regard to reporting child abuse and adult abuse and neglect. (Attachment 2)

Melissa Ness, Kansas Children's Service League, testified before the Committee in opposition to a section of the bill that would extend attorney-client privilege to licensed clinical professional counselors, licensed master social workers and licensed specialist clinical social workers. She felt this privilege erodes a protection for children who are being abused because it would effectively exempt the very people who are likely to uncover child abuse from reporting it. Ms. Ness also noted that the bill "throws the blanket of privileged communication" over LMSWs and LSCSWs without discussion regarding who the client is, and requests that the Committee delete language relating to this extension of attorney-client privilege. (Attachment 3)

Also testifying before the Committee in support of **HB 2213** and submitting written testimony were Dana LeTendre, Ph.D., Department of Psychology and Counseling, Pittsburg State University, (Attachment 4) and Dan Lord, Ph.D., representing the Behavioral Sciences Regulatory Board, (Attachment 5). Speaking in opposition to the bill were Theresa Coddington, LMLP, Miami County Mental Health Center in Paola, (Attachment 6), and Robert A. Harms, Ph.D., Topeka, (Attachment 7).

Written testimony in support of the bill was received from the following: Dwight Young (Attachment 8), Ron Hein (Attachment 9), John F. Connelly (Attachment 10), Cathryn A. Hay (Attachment 11), David Elsbury (Attachment 12), Emmett Andrews (Attachment 13), and Paul Klotz (Attachment 14).

Written testimony in opposition to the bill was received from the following: Marc Schlosberg (Attachment 15), Whitney Damron (Attachment 16), Bruce Cappo (Attachment 17), and Nancy Garfied and Debra McQueeney (Attachment 18).

The Chair noted that the bill would be assigned to a subcommittee for further study.

Adjournment

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

The next meeting is scheduled for March 11, 1999.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-10-99

NAME	REPRESENTING
Paul M. Klotz	Assoc. of CMHC's of KS, Inc.
Stephanie Wilson	Alliance for Kansans with DD
Dana LeTendre	Pittsburg State University
Cathryn A. Hay, PhD.	KS Mental Health Counselors Assn.
[illegible]	KAMP
Emmett L. "Rusty" Ambrose, PhD	KS Assoc. for Marr. & Fam. Therapy
[illegible]	KMHCA
[illegible]	
[illegible]	KAMP
Diane Bannerman Turacek	Community Living Opportunities, inc.
K. Renée Norman	Early Childhood Autism Program
Roberta Myers	Disability Supports of the Great Plains
[illegible]	BSRB
Michelle Finnegan	Disability Supports of the Great Plains
Diane Bytheil, PhD	Private Practice
Chip Wheelen	KS Psychiatric Society
[illegible]	Ottawa University
Robyn R. Woods	Ottawa University
Rep Phyllis Gilmore	Task Force on MH Providers

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-10-99

NAME	REPRESENTING
Danielle Noe	Governors Office
[illegible]	SRS/MH-DD
Shannon Manzanares	SRS/CFS
Bea Gerry, Ph.D.	Licensed Psychologist
Marcia L. McCoy, PhD	Licensed Psychologist
Bonni Pennie	Families Together, Inc

..s Psychiatric Society

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A District Branch of the American Psychiatric Association

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APA Assembly Representative
Wichita

Manuel P. Pardo, M.D.
Deputy Assembly Representative
Mission Hills

Staff
Charles Wheelen
Executive Director

Testimony
to the
Senate Public Health and Welfare Committee
by Charles Wheelen
March 10, 1999

Thank you for the opportunity to express our opposition to House Bill 2213. This bill would grant a major expansion in scope of practice to three occupations and would create an inappropriate statutory separation between mental health and physical health. We believe that mental and physical health are inextricably related.

This bill raises an extremely important quality of care issue; diagnosis. 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.

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. We believe this should always be the standard of care.

In our testimony to the Task Force on Mental Health Service Providers we recommended that the Task Force adopt two related 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." You will note a subtle but important difference between the definition we recommended and the definition of mental disorders incorporated in HB2213.

We also recommended that the phrase "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 and is an unacceptable omission.

Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 1

We did not oppose this bill in the House Health and Human Services Committee. Instead, we made an effort to compromise. We drafted and presented language which would allow these three occupations to diagnose mental disorders in consultation with the client's physician. This language was modeled after K.S.A. 65-2901 which, among other things, defines the relationship between physical therapists and those professions which perform surgery. Our requested amendments were, however, rejected by the proponents and the House Committee.

Following the House Committee action on HB2213 I learned that some committee members were unclear as to the definition of mental disorders contained in the bill. Apparently I failed to adequately describe the comprehensive nature of the *Diagnostic and Statistical Manuel of Mental Disorders* by the American Psychiatric Association. The *DSM* is the most complete compendium of all mental illnesses and psychological disorders available anywhere. In other words, HB2213 would allow counselors, family therapists, and masters level psychologists to diagnose and treat illnesses such as schizophrenia, manic depressive illness, panic disorder, and major depression as well as personality and adjustment disorders.

Current law at section 2869 of the Healing Arts Act defines the scope of practice for physicians and includes diagnosis of "physical or mental illness or psychological disorder, of human beings." The scope of practice for clinical psychologists (K.S.A. 74-5302) doesn't even mention the term diagnosis but it has been inferred in Attorney General Opinion 87-184 that psychologists may diagnose psychological disorders. The scope of practice for clinical social workers (K.S.A. 65-6319) expressly authorizes diagnosis of "mental disorders classified in the diagnostic manuals commonly used as a part of accepted social work practice," thus creating a questionable delegation of governmental authority to unspecified, private entities. These differences in statutory language have perplexed certain agency administrators as well as staff in the Attorney General's office. Yet HB2213 would not correct the vague reference in K.S.A. 65-6319 nor would it resolve the definition difference between "mental disorders" versus "mental illness or psychological disorder."

Our final argument against HB2213 relates to the real issue involved; payment. In my discussions with proponents the conversation has consistently arrived at the same conclusion. They want the authority to diagnose mental disorders because they believe it will result in third party insurance reimbursements. This issue was identified on a number of occasions by the Vice Chairman of the Task Force. A copy of my letter to him on this subject is attached for your information.

There is an underlying assumption that if HB2213 is enacted, it will invoke the provisions of K.S.A. 40-2,105 which requires insurers to reimburse providers for treatment of "nervous or mental conditions" which are defined as "disorders specified in the diagnostic and statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of the American psychiatric association." We believe this assumption is incorrect. For the benefit of the proponents, the Task Force and your Committee, I have drafted a substitute for HB2213 which addresses the real issue. A copy is attached for your possible use.

Thank you for considering our testimony in your deliberations. We urge you to recommend that HB2213 <u>not</u> be passed.

..s Psychiatric Society

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Wichita

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Deputy Assembly Representative
Mission Hills

Staff
Charles Wheelen
Executive Director

November 4, 1998

The Honorable Larry Salmans
105 S Logan
Hanston KS 67849

Dear Senator Salmans:

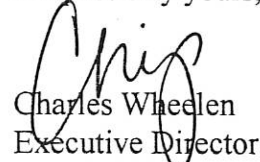
During the Task Force meeting last Monday you commented more than once that the proposals being discussed would not address the issue of third party reimbursement. I agree.

In concluding my testimony last February to the House Health and Human Services Committee on 1998 HB2630, I asserted that the bill did not address the real issue; third party reimbursement. I argued that amendments to scope of practice statutes would not necessarily guarantee that health insurers would pay any of the professions addressed in HB2630.

I explained that K.S.A.40-2,105 requires insurers to pay community mental health centers when services are rendered for treatment of alcoholism, drug abuse, or mental disorders and that there are also existing sections of the Kansas Statutes which require insurers to pay physicians, chiropractors, dentists, optometrists, podiatrists, clinical psychologists, clinical social workers, and advanced registered nurse practitioners. I then provided the Committee a draft substitute bill that would directly address the issue for professional counselors as well as marriage and family therapists. My draft bill did not include masters level psychologists because I assumed that K.S.A.40-2,105 would apply to services rendered by LMLPs. A third new section could be added easily.

A copy of the draft bill is enclosed for your information. I believe this is the only way that the issue of third party reimbursement to these professions can be directly addressed by the Legislature. If you need more information about this, please let me know.

Respectfully yours,



Charles Wheelen
Executive Director

c: Rep. Gilmore

Draft Substitute for HB2213 patterned after K.S.A.s 40-2,100 (dentists, optometrists, and podiatrists), 40-2,101 (physicians and chiropractors), 40-2,104 (clinical psychologists), 40-2,114 (clinical social workers), and 40-2250 (advanced registered nurse practitioners) *by C. Wheelen*

Be it enacted by the Legislature of the State of Kansas

New Section 1. Notwithstanding any provision of an individual or group policy or contract of health and accident insurance, delivered within the state, whenever such policy or contract provides for reimbursement for any service within the lawful scope of practice of a professional counselor licensed pursuant to K.S.A. 1998 Supp. 65-5804, or for treatment of nervous or mental conditions, the insured or the licensed professional counselor shall be allowed and entitled to reimbursement for such service.

New Sec. 2. Notwithstanding any provision of an individual or group policy or contract of health and accident insurance, delivered within the state, whenever such policy or contract provides for reimbursement for any service within the lawful scope of practice of a marriage and family therapist licensed pursuant to K.S.A. 1998 Supp. 65-6404, or for treatment of nervous or mental conditions, the insured or the licensed marriage and family therapist shall be allowed and entitled to reimbursement for such service.

New Sec. 3. Notwithstanding any provision of an individual or group policy or contract of health and accident insurance, delivered within the state, whenever such policy or contract provides for reimbursement for any service within the lawful scope of practice of a masters level psychologist licensed pursuant to K.S.A. 1998 Supp. 74-5363, or for treatment of nervous or mental conditions, the insured or the licensed masters level psychologist shall be allowed and entitled to reimbursement for such service.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.

State of Kansas
Department of Social & Rehabilitation Services

Rochelle Chronister, Secretary
Janet Schalansky, Deputy Secretary

For additional information, contact:

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Senate Public Health & Welfare
March 10, 1999

Testimony: Testimony on House Bill 2213

Mental Health and Developmental Disabilities
Connie Hubbell, Commissioner
785.296.3773

Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 2

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Testimony Testimony on House Bill 2213

Kansas Department of Social and Rehabilitation Services
Rochelle Chronister, Secretary

Senate Public Health & Welfare
Testimony on House Bill 2213

March 10, 1999

Madame Chairperson 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).

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.

SRS has some concerns around the existing language in the amended bill that does not provide adequate safeguards with regard to reporting child abuse and adult abuse and neglect. Other conferees will provide suggested language as a amendment to this legislation that provides adequate safeguards.

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.

Kansas Children's Service League

Testimony Before Senate Public Health & Welfare
HB 2213
March 10, 1999

Kansas Children's Service League (KCSL) is a statewide not-for-profit agency providing over a century of service to families and children in Kansas. We provide a broad range of services throughout the state driven by needs in a given community. Directed by a strong mission, our services and advocacy efforts are aimed at ***keeping children safe, families strong, and communities involved.***

KCSL also has a long and rich tradition of advocating for the needs of Kansas Children and their families. Our obligation to take what we know about the children and families we serve and place it in the hearts and minds of policy makers is evident in our tradition of advocacy. Clearly, our efforts are not driven by what is good for KCSL but rather what is good for Kansas children and their families. Clearly, we **represent a group of special interest, NOT a special interest group.** At KCSL we see the effects of the lack of support for our children and families every day as children who have been victims of child abuse, drug abuse, neglect, and poverty walk through our front doors.

Our **Advocacy and Education** efforts are aimed at supporting and developing a skilled and involved workforce and educating communities and policy makers about how they can be supportive and involved with children and their families.

Not only are we committed to providing quality and needed community services for children and families in crisis, we also see it as our obligation to stem the tide of children entering the the child welfare system by preventing abuse and identifying it early.

To that end, Kansas Children's Service League opposes the sections of this bill extending attorney client privilege to licensed clinical professional counselors, licensed master social workers and licensed specialist clinical social workers. More specifically Sections 8 (b) and 14 (b). We firmly believe extending this privilege erodes a protection for children who are being abused because it would effectively exempt the very people who are likely to uncover child abuse, from reporting it.

Kansas Children's Service League is associated with a long history of advocacy in implementing the mandated reporter statute. The Kansas Committee for the Prevention of Child Abuse that evolved to the Kansas Child Abuse Prevention Council worked with many partners to ensure this protection is in place. Five years ago, the Kansas Child Abuse Prevention Council merged with Kansas Children's Service League. KCSL has worked diligently with many partners since the implementation of the mandated reporter statute to ensure professionals understand and know how to act on their statutory obligation to report child abuse. Not only do we conduct training around the state and at our Governor's Conference, we produce ***A Guide to Reporting Child Abuse and Neglect in Kansas.***

Extending this privilege compromises the safeguards put into place that individuals struggled for years to institute.The House amendment attempts to modify this privilege by articulating an exception regarding testifying in court and collaboration or consultation functions related on behalf of the individual. This does not address our concern regarding the mandatory nature of reporting child abuse and neglect once it is *suspected.*

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TOPEKA, KS 66606
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MANTER
MARYSVILLE
SALINA
SATANTA
SCOTT CITY
ULYSSES
WICHITA

Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 3

Further, the bill throws the blanket of privileged communication over LMSWs and LSCSW's without discussion regarding who the "*client*" is. The language is vague and we would argue is not clear the child is a client in the customary sense of the term. Disagreements continue even today whether the "state" is the client of the protective services worker, the Secretary, the child or the family. We believe there would be confusion as to which LMSWs for example are covered under what circumstances as LMSWs work in a variety of practice settings.

The struggle to increase the chances children have a way out of and are protected from abuse, resulted in Kansas enacting mandated reporting requirements in K.S.A. 38-1522 for suspected child abuse. Should there ever be exceptions? Currently, HB 2224 addresses the conflict when an attorney holds a professional license whose code of conduct or statutory requirements are in conflict with the client confidentiality requirements as an attorney. The bill provides an exception for those practicing attorneys. At a minimum, before protection is afforded an alleged perpetrator over a child, we believe there must be open and candid debate around ***who should be afforded this privilege of confidentiality, under what circumstances, at what costs to the child in the case of abuse, and for what reasons?***

We respectfully request that the extension of attorney-client privilege for licensed clinical professional counselors, licensed master's social workers and licensed specialists clinical social workers be eliminated from the bill.

Presented by: Melissa Ness JD, MSW
Kansas Children's Service League

Full Text, Testimony provided to the Senate Public Health and Welfare Committee March 10, 1999

by Dana LeTendre, Ph.D.
Department of Psychology and Counseling
Pittsburg State University

Madam Chairman, Senators, my name is Dana LeTendre, and I am an Associate Professor and the Clinical Training Coordinator in the Psychology and Counseling Department of Pittsburg State University. In addition, I am currently the national Chair of the Masters in Psychology Accreditation Council, which accredits Masters Programs in psychology across the country. I would like to take this opportunity to speak in support of HB 2213.

I believe there is a great deal of misinformation and misunderstanding about masters-level training in psychology. As a licensed, Ph.D.-level psychologist and as the coordinator of a masters-level training program, I have an insider's view of both the masters training model and the doctoral training model. From this dual position, I would like to clarify the essential distinctions between doctoral-level training and masters-level training in psychology.

First, the doctoral-level training model in psychology is based upon the 50-year-old tradition of what is now referred to as "The Boulder Model" of training, (referring to Boulder Colorado, which was the site of the conference which developed the model). The Boulder Model proclaimed the Ph.D. as the entry-level degree in the field of psychology, which is not surprising since all of the Boulder Conference attendees were Ph.D.-level psychologists. The American Psychological Association and the Kansas Psychological Association have embraced this assertion, which is obviously self-serving since all of the voting members of APA and the vast majority of KPA members are doctoral-level psychologists. It is also worth noting that the Second National Conference of the Council of Applied Masters Programs in Psychology (Edmond, Oklahoma, 1995) endorsed a resolution proclaiming the Masters Degree to be the entry-level degree in the field of psychology. Obviously, the answer to the question "What is the entry-level degree in Psychology?" depends upon who you ask.

The Boulder Model sets as its goal the training of a "Scientist-Practitioner" -- that is, the curriculum and training of a doctoral-level

psychologist is intended to produce a professional who is both a practitioner of psychology and a scientist who is capable of conducting independent and original research in the field of psychology. In order to meet this standard, current Kansas statutes require that to be licensed as a psychologist, one must have a doctoral degree that contains at least 90 semester hours and takes at least three years to complete. Masters-level training in psychology, however, has a different goal from doctoral training. Specifically, the training of masters-level psychologists is intended to produce a "Scientific Practitioner." The distinction between the "Scientist-Practitioner" of the doctoral model and the "Scientific Practitioner" of the masters model is more than just a semantic turn of phrase. A substantial amount of the time spent in training a doctoral-level psychologist is dedicated to developing expertise in statistics and research methods, as well as producing independent, original research.

The masters-level curriculum in psychology, however, provides only a foundation in the science of psychology, an essential foundation that is sufficient for the masters-level psychologist to be an enlightened consumer of psychological research, a "Scientific Practitioner", but not a scientist who is capable of conducting independent, original research. As a result, most of the time and effort spent in training doctoral-level psychologists in the science and methodology of conducting independent research can be eliminated from the masters-level curriculum because it is simply not necessary in order to produce a "Scientific Practitioner."

This difference in training emphases is a very important point, because as much as 12 semester hours of a doctoral degree may be spent in producing a dissertation, plus at least another 12 semester hours or more are spent in courses in research design and analysis. That means that 24 semester hours or more of a doctoral degree are spent in activities that have no relevance to masters-level training. At Pittsburg State University, our Clinical Emphasis Masters Degree in Psychology requires 67 semester hours and takes two and one-half years to complete. Compare this to the statutory requirement that Licensed Psychologists have a 90-hour doctoral degree that takes at least three years, of which 24 semester hours or more are spent in research design and analysis, which has no relevance to training in clinical practice. If you want to hire someone to teach psychology at a university, then get a doctoral-level psychologist, but it is obvious that masters-level psychologists are adequately trained to deliver psychological services.

I would like the Committee to consider these facts. The vast majority of the doctoral psychologists in Kansas are practicing in the

private sector, and approximately 80% of them are concentrated in four cities (Kansas City, Lawrence, Topeka and Wichita). In contrast to this, the vast majority of masters-level psychologists are practicing in the public sector and only about one-third of them are practicing in those same four cities -- most of the masters-level psychologists are serving the small-town and rural citizens of Kansas, where very few doctoral-level psychologists practice. It is even more astounding to note that the statute defining the "Practice of Psychology" is exactly the same statute for doctoral-level psychologists and masters-level psychologists. The current statute allows both professionals the exact same scope of practice, with the exception that masters-level psychologists must practice "under the direction of" a licensed physician or licensed psychologist. Masters-level psychologists are NOT required to be supervised.

This distinction between supervision and direction is extremely important, and the Task Force spent a great deal of time reviewing this issue. Supervision is clearly defined in statute, rules and regulations, requiring a specific amount of time to be spent individually and face-to-face with a supervisee, whereas, "direction" is not clearly defined. Direction is an administrative responsibility that has more to do with legal liability than clinical consultation. Direction is not supervision.

Clearly, if you have a masters degree in psychology, you are deemed to be competent enough to practice without supervision in the public sector. The Kansas Psychological Association has suggested that they would not oppose HB 2213 at all if the masters level psychologists would only call themselves something else -- something that does not have the word "psychology" in the title. But their degree is in psychology, they have already been authorized to practice psychology by the state of Kansas, without supervision, for over ten years. Furthermore, KPA obviously acknowledges that these masters level psychologists are competent and not a threat to the public because KPA is willing to let these very people be licensed and practice independently as long as they don't call themselves by a term that reflects the content of their graduate degree -- psychology. This situation is not only illogical and unfair, but it also reflects the guild-oriented, anti-competitive, turf-protecting bias of KPA and the current statutes, designed as they were to protect the interests of doctoral-level psychologists. As a licensed, doctoral-level psychologist in Kansas, I have definitely benefited from the statutory status quo. However, I believe it is clearly time to change the law, to provide the citizens of Kansas with improved access to psychological

services, to finally allow all of the citizens of Kansas the freedom to choose their own mental health service provider.

Before I conclude, I would like to make a few brief comments on the issue of accreditation of masters in psychology programs. Part of the confusion regarding masters-level training stems from the fact that there are a number of different kinds of masters degrees in psychology: the one-year masters degree that is only intended to be a springboard into a doctoral program, a masters in experimental psychology (or some other sub-discipline of psychology) that involves no practitioner training, and what I call the "booby-prize" masters degree that is awarded to individuals who flunk out of doctoral programs. Many who disparage masters-level training in psychology are actually referring to these types of programs. The Masters in Psychology Accreditation Council (formerly known as the Interorganizational Board for the Accreditation of Masters in Psychology Programs) was formed to recognize that there is a higher quality of masters-level training, and even more importantly, to provide a method of identifying those programs which meet the higher standards of the "Scientific Practitioner."

As the current chair of this accrediting Council, I am very impressed with the high quality of masters-level training in psychology across the country. According to a survey conducted several years ago by the American Psychological Association, there are over 100,000 men and women with masters degrees across the country currently providing services in some capacity. In addition, there are approximately 330 universities offering masters-level training in psychology in the United States alone. Not all of these training programs are comparable in quality, but I am very pleased to report to you that 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. I believe this enhanced requirement definitely serves the best interests of the public.

For all of the above reasons, I strongly urge you to support HB 2213. Thank your for your time and consideration.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
TESTIMONY REGARDING HB2213
Presented by Daniel Lord, Ph.D.,
For the Behavioral Sciences Regulatory Board
March 10, 1999

Madam Chair and Members of the Committee:

Thank you for allowing me to testify briefly this morning. My name is Dan Lord and I am here to testify at the direction of the Behavioral Sciences Regulatory Board, which I serve on as the Marriage and Family Therapy Representative. I also serve as this profession's representative on the Mental Health Service Providers Task Force, whose work is represented in this bill. As the one BSRB member to have been appointed to the Task Force, I served informally as the liaison between these two bodies.

The BSRB became involved in the legislation before you this past fall, when the legislative leadership of the Task Force asked for input from the board specifically regarding the question of what should be the minimum education and training standards supporting the authorization to diagnose and treat mental disorders. The board addressed this question intentionally and reached a consensus on a specific proposal that was then presented to the Task Force by the board chairperson, Mr. Douglas Wood. The Interim Report of the Task Force provides the details on this action. HB2213 largely presents that BSRB proposal.

During its most recent meeting on Monday, March 8, 1999, the BSRB discussed HB2213 again and directed me to supply supportive testimony for this bill as it is before you today. As acknowledged in the board discussion, it is most unusual for the BSRB to take a specific position regarding such legislation. The long standing policy of the board is, and remains, that determination of professional scope of practice issues is exclusively the domain of the legislature.

This bill, however, is significantly different than most legislation on mental health provider regulation brought to the legislature. Rather than being drafted by a single professional group, it is the product of a legislative task force composed of legislators and professional representatives from every group licensed by the BSRB. Rather than being a product of a hurried legislative session, its ideas are the result of many hours of public hearings and open discussion. Rather than promoting the interests of any single mental health profession over others, it crafts a comprehensive regulatory structure built on a "big picture" view of mental health service delivery in our state.

HB2213 provides Kansas regulation much needed consistency with improved standards of education and training that specifically support a uniform statutory authorization for practice. By proposing the original structure used in this bill, and by voting to provide testimony for HB2213 today, the board would respectfully bring to you its support for this legislation.

Thank you. I will be glad to respond to questions now or at a later time.

Naram Chair

My name is Theresa Coddington. I am currently licensed as an LMLP. I am also presently studying to take the Examination for Professional Practice in Psychology in order to be licensed as a psychologist.

I work as an outpatient clinician at the Miami County Mental Health Center in Paola Kansas. I am here today because I have concerns related to House Bill 2213.

Briefly, my concerns focus on two major points.

First, I chose to pursue a Ph.D. because I wanted to be able to practice independently in the future. I believe that the 7 years that I attended the University of Kansas have provided me with the education I need to practice psychology. However, even after course work, a 2000 hour internship, a dissertation, post-doctoral supervision, and this very intense upcoming licensing exam, I feel a need for ongoing supervision. All of this training could not possibly alleviate my anxiety when it comes to some particular cases. Without ongoing doctoral level supervision from a more experienced clinician could I feel competent as a therapist. I am concerned that many current LMLP's who would be allowed to practice independently without this expansive education and mandated supervision might provide inadequate or potentially harmful treatment for their consumers. I have worked with several people who have obtained a master's degree as an LMLP. There is a significant difference in our training -- the number of courses, the variety of courses, the amount of practicum hours spent with clients, supervision hours, assessment training and experience, and diagnostic training. The title of "psychologist" seems inappropriate to represent both the doctoral level and master's level therapist when there is such a training discrepancy.

Secondly, if there is no longer a need for a licensed doctoral level psychologist, why would anyone pursue 5-7 years of education? What might happen to the funding of KU's clinical and counseling psychology programs? What might happen to the departments, the faculty, the current students?

In summary, I am very proud of and dedicated to my training as a psychologist, and have invested a great deal of time, money, and energy to obtain the title of "psychologist". I encourage you to thoroughly review this bill, taking into account all that you have heard today, our concerns for the consumer, our concerns for the profession, for the local academic programs, and for some - including myself - concerns related to a choice I made 7 years ago that may be deemed unnecessary, albeit better for my future clients and their treatment, if this bill is passed.

Thank you.

Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 6

TESTIMONY OF ROBERT A. HARMS, Ph.D.
REGARDING HB2213
TO THE
SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
March 10, 1999

I am Dr. Robert Harms, a licensed psychologist in private practice in Topeka. I oppose the last section of the bill before you, HB2213, which deals with the practice of psychology. In the main, I object to this last part of the bill because it allows the private practice of psychology by individuals with a master's degree on an equal footing with doctoral psychologists.

In it effort to level the playing field among master's degree professionals in mental health, the Task Force on Providers has run roughshod over the standards that professional psychology has set for itself. The national standard for the independent practice of professional psychology is clearly and unequivocally the doctoral degree. In conformity to this standard, forty-six states do not allow independent practice for master's level psychologists, including the four states surrounding Kansas.

This issue was faced and resolved three to four decades ago in Kansas when the psychology certification law was being written. Then it was decided that the educational requirement for certification would be the doctoral degree with provision for master's level practitioners to be grandfathered in. Now we have come full circle, and if the current bill is passed, we would have two kinds of licensed psychologists with different levels of education doing exactly the same thing in independent practice. In its effort to corrent this absurdity, the bill compounds it: it has licensed clinical masters level psychologists practicing master's level psychology, and it has licensed psychologists practicing psychology. Is there really such a thing as master's level psychology that is different from psychology? I daresay that on some future occasion, if this bill is passed, a coalition of master's level psychologists will point out this absurdity and argue that the two kinds of psychologists credentialed for identical types of independent practice be collapsed into the one category of licensed psychologist. In essence, what this bill does in one fell swoop is to lower the educational standard for the independent practice of psychology in the State of Kansas to the master's degree. After the passage of this bill, there will be much less incentive to obtain a doctoral degree if one's goal is to practice psychology in Kansas.

The members of the Mental Health Credentialing Coalition wanted to level the playing field among the master's level professionals. This may seem to be the acme of fairness, but the difficulty for the master's level psychologists is precisely that their field is psychology, which has a different set of standards. I do not blame persons with a master's degree in psychology for trying to obtain the right to establish an independent private practice as do other mental health professionals--social workers, marriage and family therapists, and professional counselors--with a similar educational level. But on the other hand, persons with master's degrees in psychology did not go blindly into their professions, unaware that they could not practice privately. They knew that with a terminal master's degree in psychology they could expect to work in an institution, a

state program, or a community mental health center. In fact that is what master's degree programs in clinical psychology were designed to do, to fill the psychology man- and woman-power needs of such programs and facilities.

This leads to another point. Many mental health center administrators have argued in favor of independent practice for master's level psychologists, implying that this credentialing change would strengthen their facilities. One argument has been that it would support their hand in trying to get Medicare reimbursement for the services of their master's level psychologists if the state recognized them as capable of practicing independently. I doubt that this would carry much weight with the Health Care and Finance Administration (HCFA) and would be a trivial reason for lowering the standards for the independent practice of psychology. In fact I think this bill could serve to weaken the mental health centers by encouraging its most experienced master's level psychologists to leave the centers and establish private practices.

And I have one more point of objection to a provision of HB2213 that lowers standards in psychological practice. Accordintg to this bill, the direction of a licensed master's level psychologist within an institution no longer needs to be provided by a licensed psychologist or a physician but could be provided by a licensed clinical masters level psychologist, a licensed clinical marriage and family therapist or a licensed clinical professional counselor. This means a mental health center, for example, would no longer have to hire licensed (doctoral) psychologists to supervise master's level psychologists. Indeed, I believe this weakening of the internal supervisory structures for master's level psychologists will hamper mental health centers in trying to obtain Medicare reimbursement for them.

X In conclusion, there is only one thing for this committee to do, and that is to reject the psychology portion of this bill. If the committee feels that the growing number of licensed master's level psychologists, who are now almost equal in number to licensed psychologists, cannot be denied access to private practice, then I submit it will be necessary for them to be called something other than "psychologists" when representing themselves to the public in independent practice. Names such as "mental health therapist" or "mental health practitioner" mightg be considered. For such relabeling, if such is the committee's desire rather than to leave the psychology statute as it is, the psychology portion of this bill should be cut out and returned to the Task Force.

Passage of this bill as it is will only deepen the internal debate within psychology about the scope of master's level practice, and believe me, this issue will not go away but will simply fester on. I have know and supervised some master's degree psychologists for whose work I have great respect, and my arguments here represent no criticism of their work but are made to keep the bar high for the general overall standards in the practice of psychology.

A Licensed Community Mental Health Center
PHONE (316) 792-2544 5815 BROADWAY
GREAT BEND, KANSAS 67530

Presentation to Senate Public & Welfare 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**;

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Date: 3-10-99
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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, their proposal was rejected. 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 but the two groups have had thirty and fifteen years respectively to establish the differences. 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.

The Kansas Psychiatric Society proposed to the Task Force that every diagnosis of mental illness be confirmed through a consultation with a physician. This proposal was also rejected on the basis that the current Behavior Sciences Regulatory Board legislation does not call for this additional step in providing mental health care services. Therefore, the Task Force would have been crossing over into the Board of Healing Arts arena, and we would be adding millions of dollars to health care cost. There was no evidence offered that there was a problem in the current process of diagnosing mental disorders that would justify the added expense.

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.

HEIN AND WEIR, CHARTERED
ATTORNEYS AT LAW
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Ronald R. Hein
Stephen P. Weir

SENATE PUBLIC HEALTH & WELFARE COMMITTEE
TESTIMONY RE: HB2213
Presented by Ronald R. Hein
on behalf of
Mental Health Credentialing Coalition
March 10, 1999

Madam 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.

HB2213 follows the standard established by the legislature for 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 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.

HB 2213 passed the House 116-7. HB 2213 is supported by the Association of Community Mental Health Centers, SRS, the Mental Health Credentialing Coalition, the Kansas Counseling Association, the Kansas Mental Health Counselors Association, the Kansas Association for Marriage and Family Therapy, and the Kansas Association of Masters in Psychology. In the House, two psychologists presented written letters of support. The National Association of Social Workers are neutral on the bill.

One portion of the bill is opposed by the Kansas Psychology Association. 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. 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. 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 rebuttal to the arguments presented by the KPA representatives testifying.

The KPA offered in the House to withdraw opposition to HB 2213 if the Masters Level Psychologists would change their name to something that does not include a derivative of the word psychology. I would like it if this bill was a true compromise between all of these groups like the Optometric bill was the other day. However, the KPA's offer of compromise requires Masters Level Psychologists to change their name and the MLPs wish to keep their name. There currently does not appear to be a middle ground to this name dispute, although the MHCC will continue to explore options.

Chip Wheelen with the Kansas Psychiatric Association proposed an amendment that the House committee felt should be studied by the Task Force this summer when it meets again. The amendment has numerous ramifications, including possibly imposing a large fiscal note on the state for funding of Community Mental Health Centers, and I would urge you to let the Task Force review that issue this summer. His proposal concerns one of the subject areas the Task Force had already planned to study.

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.

Pittsburg State University
Department of Psychology and Counseling
1701 S. Broadway • Pittsburg, KS 66762-7551 • 316/235-4523 • FAX: 316/235-4520

March 5, 1999

Senator Sandy Praeger, Chair
Public Health and Welfare Committee
State Capitol
Topeka, KS 66612

Dear Senator Praeger:

I am writing in support of HB 2213, providing licensure for master's level psychologists in Kansas. As a doctoral level psychologist and a trainer of master's level mental health practitioners, I see passage of the bill as being a very positive step forward for the citizens of Kansas. I support passage of the bill and I encourage your support of the bill as well for several reasons:

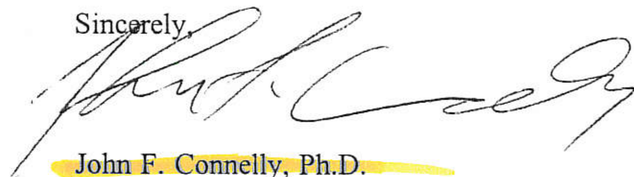
1. Master's level practitioners who meet today's stringent education and supervised practice requirements are well equipped to provide the types of mental health services that are needed in our society.

2. The differences in the nature and scope of training between a doctoral level program meeting APA Standards for Accreditation and a master's level program meeting IBAMPP Accreditation Standards is basically one of research requirements. Doctoral level psychologists are typically trained as "scientist-practitioners", and have a significant portion of their post-master's educational experience focussed on the design and conduct of research. Master's level psychologists are more typically trained as "practitioners, based in science", where the major focus of training is the development of diagnostic and treatment skills rather than the design and conduct of research.

3. Mental health services and mental health practitioners are in great demand in Kansas. In the more rural areas (which comprise much of our state), the demand for mental health practitioners far exceeds the supply. Here in Pittsburg for example, we have only two individuals practicing privately as a source of services for our residents, and the local mental health center does not have a doctoral level psychologist on its regular staff.

In summary, I strongly encourage your support and that of the Committee for HB 2213. I believe that the bill aims to serve the best interests of the citizens of Kansas in allowing mental health services to be more readily available, while continuing to ensure the level of quality of services that our friends and neighbors deserve.

Sincerely,



John F. Connelly, Ph.D.
Professor

JFC:co

Senate Public Health and Welfare
Date: 3-10-99
Attachment No. 10

KANSAS MENTAL HEALTH COUNSELORS ASSOCIATION

A Division of the Kansas Counseling Association

March 10, 1999

KMHCA

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STUDENT CO-CHAIRS
Debra Palenski-University of Kansas

Cara Nelson-Emporia State Univerrsity

Dear Ms. Chairman and Members of the Committee:

As President of the Kansas Mental Health Counselors Association, I am asking you today for your help in passing HB 2213, a bill that regularizes training for licensed professional counselors, marriage and family therapists, and licensed masters' level psychologists, and authorizes them to diagnose and treat mental disorders in independent practice. The bill comes from the Governor's Task Force and was unanimously approved by all groups represented.

This bill will

*allow the listed mental health providers to follow the structure chosen by social workers in 1994, and thereby clarify levels of training.

*require that the providers demonstrate to BSRB that they are competent to diagnose using DSM.

*insure that Kansas law treats all mental health providers with equivalent training equally with regards to their ability to practice their profession.

*increase the ability to deliver quality mental health care to underserved areas of Kansas.

*put Kansas mental health providers on a par with similarly qualified practitioners in surrounding states.

This bill will not

*dilute the standards for any mental health provider group licensed by the BSRB.

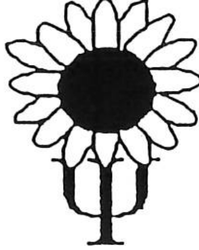
*give any provider permission to practice beyond his or her training and ethical code.

*condone misrepresentation of qualifications for any provider.

Thank you for your consideration.

Sincerely, Cathryn A. Hay, Ph.D.

Senate Public Health and Welfare
Date: 3-10-99
Attachment No. 11



Kansas Association of Masters in Psychology

P. O. Box 713 Pittsburg, Kansas 66762

SENATE PUBLIC HEALTH AND WELFARE
TESTIMONY RE: HB2213
Presented by David Elsbury, LMLP
on behalf of the
Kansas Association of Masters in Psychology
March 10, 1999

Madam 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.

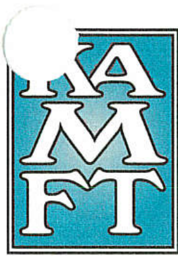
I ask for your support of HB 2213 as an act which has resulted from the collaborative work of several groups, which have first hand knowledge of the issues which this bill addresses, that is the delivery of mental health services by a broad range of professional providers. I believe it deserves your 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.

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 Senator Salmans 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.



KANSAS ASSOCIATION FOR MARRIAGE AND FAMILY THERAPY

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A Division of the American Association for Marriage and Family Therapy

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KANSAS SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
TESTIMONY REGARDING HOUSE BILL 2213
Presented by Emmett L. "Rusty" Andrews, Ph.D.
on behalf of the
Kansas Association for Marriage and Family Therapy
March 10, 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.

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

Senate Public Health and Welfare Committee

H B 2213

March 10,1999

Paul M. Klotz, Executive Director

David Wiebe
President
Mission

Patricia Murray
President Elect
Salina

Diane Sullivan
Vice President
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Jim Sunderland
Secretary
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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 the 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.

Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 14

Senator Preager and members of the committee

I very much appreciate you giving me the opportunity to speak before you today.

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.

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 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 master's 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 with whom I work. 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 masters in psychology than to 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 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 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, and 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 that 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) in their 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 the use of 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 payers. 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 master's 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 and education that differentiate these individuals. None of these folks attempt to change their title in statute or suggest that educational requirements 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 education and training. This model may serve Kansas 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 provide 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. I will be happy to answer questions.

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- TESTIMONY -

TO: **The Honorable Sandy Praeger**
And Members Of The
Senate Committee on Public Health and Welfare

FROM: **Whitney Damron**
On Behalf Of The
Kansas Psychological Association

RE: **HB 2213** **An Act Concerning Professions Regulated by the Behavioral Sciences Regulatory Board**

DATE: **March 10, 1999**

Good morning Madam Chair Praeger and Members of the Senate Committee on Public Health and Welfare. My name is Whitney Damron and I am appearing before you this morning on behalf of my client, the Kansas Psychological Association, in opposition to sections of HB 2213 granting independent practice authority to licensed masters level psychologists (LMLP's). With me today are a number licensed doctoral-level psychologists, several of whom you will hear from today, but all who will be available for your questions at the appropriate time.

Due to the large number of conferees on this bill, I will limit my remarks to the most critical areas of concern for the members of the Kansas Psychological Association (KPA):

First of all, I would point out that I was not involved with this issue prior to the 1997 session, which would include the registration-to-licensure process concluded in 1996. However, I have made extensive review of the legislative records for that debate (HB 2692/1996), when registered masters level psychologists were granted licensure by the Legislature.

Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 16

Perhaps the single most important issue contained in HB 2213 is in regards to the "grandfathering" of LMLP's licensed prior to July 1, 1997 into independent practice without ever having been required to take and pass a competency test approved by the Behavioral Sciences Regulatory Board. This "grandfathering" or so-called "transitioning" as referred to by proponents of the bill, has been a common theme throughout legislative consideration of issues promoted by masters level psychologists.

When LMLP's sought to advance their abilities to practice in 1996 by moving their professional status from "registration" to "licensure", they grandfathered all LMLP's who could get a license prior to July 1, 1997 from ever having to take a competency examination. And now, with HB 2213, the LMLP's again propose to change their scope of practice by allowing such license holders to practice independently.

Proponents argue that HB 2213 raises the education and training standards for LMLP's. That is true; however, only for those who earn their degrees after July 1, 2003. Everyone else is again "grandfathered" to the higher professional title, independent practice and change in scope of practice under current training and educational requirements.

The result of this action would be to allow for the overwhelming majority of LMLP's (90+ percent) to move from restricted practice settings requiring "Direction and Control" by a medical doctor or doctoral-level psychologist (original law) into practice settings requiring "Direction" from a medical doctor or doctoral-level psychologist (current law) into Independent Practice (HB 2213) with no required oversight, direction or control from a medical doctor or doctoral-level psychologist and without ever having taken and passed a professional competency exam. We would submit that this is not in the best interests of the mental health consumer.

We are also sure not much will be said by proponents about similar legislation in other states. That is because masters level psychologists are only allowed to practice independently in four states and only after several years of supervision (Alaska, Oregon, Vermont and West Virginia). None of our neighboring states allow for the independent practice of their masters level psychologists and the state of Missouri repealed their statutory provisions in this regard several years ago.

It has also been stated in previous hearings that the consumer is aware of the differences in professional qualifications of mental health professionals, such as doctoral level psychologists vs. masters level psychologists. We would respectfully suggest that the consumer is not aware of the distinctions between initials following a name. This point is made very clear in the article attached to my testimony from the *Hanrahan* case where an individual believed he was making a privileged conversation to a "psychologist". Even the attorneys in this matter have stated confusion over the use of the term "psychologist" and the patient certainly had misunderstandings. How is a mental health consumer or a family member of a consumer faced with a difficult time in their life supposed to know about the qualifications of their mental health provider? This legislation will only make such decisions more difficult and perhaps worse.

Before I conclude my remarks, I would like to recall for you comments made over 20 years ago when the state was considering credentialing of masters level psychologists in the statutory process typically used for credentialing and scope of practice issues:

Kansas Department of Health and Environment
Memorandum/January 23, 1985
Report to the Statewide Health Coordinating Council by the Technical Committee
(Credentialing request by the Kansas Organization of Professional Psychologists)

Under Staff Analysis:

...Although, some evidence of support was given for Master Level Psychologists functioning independently, testimony and national credentialing trends appear to overwhelmingly support that doctoral level training for protection of the public is the appropriate educational level for independent unsupervised practice. In addition, although the applicants proposed levels of practice showed a need for specialized skills, the applicants proposal of Grandfathering individuals with varied education qualifications does not seem to serve as appropriate protection for the public...

We would suggest the concerns expressed by that Technical Committee are as valid today as they were over 20 years ago when a disinterested professional panel reviewed the issue of independent practice of masters level psychologists as evidenced by the fact that only four states allow for such practice settings by masters level psychologists.

On behalf of the Kansas Psychological Association, I would respectfully urge you to reject independent practice for LMLP's as contained in this bill. Scope of practice issues should be carefully considered by disinterested professionals properly qualified to make objective decisions. Such a work product is not before you today.

On behalf of the Kansas Psychological Association, I thank you for your consideration of this information.

High court hears Hanrahan debate

By LEW FERGUSON
The Associated Press

Case centers on '79 slaying of Topeka boy John F. "Jack" Hanrahan.

A Shawnee County prosecutor told the Kansas Supreme Court on Wednesday that an alleged confession given to an unlicensed mental health counselor isn't a privileged communication under state law and should be admissible in court.

However, William K. Rork, a Topeka attorney defending murder suspect Thomas A. Berberich, said a trial court judge correctly suppressed the confession last July.

Rork argued there are all kinds of confidential conversations between clients and professionals that should be privileged, and a communication between a client and a psychologist is the strongest privilege that exists.

Berberich, 45, of Topeka, is charged with first-degree murder in Osage County in the May 1979 slaying of a Topeka boy.

Twelve-year-old John F. "Jack" Hanrahan disappeared

Continued on page 10-A, col. 1

Hanrahan

Continued from page 1-A

while riding his bicycle to a west-side Topeka bowling alley to play pinball. His body was found 10 days later in Dragoon Creek in northern Osage County. Death was attributed to massive trauma and hemorrhaging in the neck and chest.

The case went unsolved until the mental health counselor, Don Strong, disclosed during a 1997 court hearing on an unrelated drug case that Berberich admitted to him in 1989 that he had killed Jack.

Two felony drug possession charges and a misdemeanor drug charge were filed against Berberich while Topeka police and Kansas Bureau of Investigation agents in 1996 were reinvestigating the boy's kidnapping and slaying.

Shawnee County District Judge Charles Andrews ruled in the drug case that Berberich's statements to Strong weren't protected. But that was before the murder charge was filed in Osage County, and Judge John Weckel, of Salina, ruled otherwise.

Strong testified that Berberich told him "he had killed Jack. I said, did he mean Jack Hanrahan, and he said yes."

The murder confession case was before the Kansas Supreme Court because the state appealed Weckel's ruling that suppressed the statement.

James A. Brown, an assistant Shawnee County district attorney, told justices that Weckel had erroneously applied the privilege law to the communication between Berberich and Strong, who was an unlicensed professional at the time of the alleged confession.

Brown said the law defines confidential communication and who it applies to, and he said it clearly refers to "licensed" professionals.

"It is our view that the statute is clear and unambiguous," said Brown, whose office is prosecuting the case for the Osage County attorney.

"We know what the Legislature intended because the Legislature chose the words carefully and knew what they meant," Brown said.

The law specifically refers to licensed professionals, he said, and Strong was neither a licensed psychologist nor a professional counselor at the time he talked to Berberich.

But Rork said all kinds of communications are privileged in order to protect people.

"It's the communication that is privileged," not who it is between, he said.

Rork also argued that the state's appeal was premature and shouldn't be before the high court. He said the trial should have gone forward with the state presenting any evidence it had.

"Judge Weckel told them to put on the rest of their case, and they didn't, but took this appeal," he said. "When the state elected not to put on other evidence, the case failed and should not go forward.

"When the state elected to file this appeal, they basically said, this is the only evidence we have."

Under normal handling, the court should have a decision in the case on April 16.

16-5

Clinical Associates, P.A.

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Clinical Social Worker

March 9, 1999

Senate Public Health & Welfare Committee

RE: House Bill -- HB2213

Dear Senators:

I urge you to modify House Bill 2213 to more clearly differentiate licensed Ph.D. psychologists from licensed masters level psychologists. As you may recall, three years ago the LMLP's testified that they needed licensure to ensure reimbursement. Two years ago this same group was allowed to work in other settings besides the community mental health center settings also as a financial issues as it would facilitate reimbursement. This year you are being told that if masters level psychologists can practice equivalent to a licensed psychologists that they can get reimbursed. This simply creates a confusion in the mind of the public who will no longer be able to differentiate between providers or rely on a certain level of training based on the use of the title licensed psychologist. I urge you to modify this bill to retain the title of licensed psychologist for only Ph.D. level practitioners.

Sincerely,

Bruce Michael Cappo, Ph.D.
Licensed Psychologist

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Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 17

Sandy Prager, Chair
Public Health & Welfare Committee
128 South
State Capitol
Topeka, Kansas 66612

March 7, 1999

Dear Sandy;

Speaking from our combined 25 years of practice as psychologists and supervisors of both masters and doctoral level trainees we wish to express our concerns about HB 2213. This bill, which will allow masters level psychologists to practice independently, poses potential harm to the residents of Kansas. Grandparenting of approximately 450 current LMLPs, LMFTs and LPCs, could pose a risk to Kansans seeking psychological assistance.

This is sweeping legislation that would grant authority to these practitioners to diagnose and treat mental disorders in independent practice in our state. Most of these practitioners have had approximately 60 hours of credit at the masters level, with a relatively few number of hours of supervised practicum experience. Our experience of working with people who have had this level of education and practica is that they are not prepared to practice independently, and could do harm to their clients should they not have ongoing supervision of their practice.

There has been no study of the potential impact of this legislation on the delivery of mental health services in Kansas. Nor has there been any review with the insurance providers regarding the impact of the legislative change on third party payment. Additionally, there is the issue of the title of psychologist.

It is known that receivers of care (clients) are often unsophisticated in differentiating among the many different mental health providers' levels of expertise, and often attempt to do so by title. Allowing masters level providers to call themselves "Licensed Clinical Masters Level Psychologists" would contribute to this confusion. As a physician has the ability to differentiate level of expertise by using the earned term of "Fellow" of their medical specialty area, the term "Psychologist" has always indicated the highest level of training achieved in this discipline. We urge you to not include the term "psychologist" in their title for this reason.

Senate Public Health & Welfare
Date: 3-10-99
Attachment No. 18

HB 2213

We know that there is strong support from members of the disciplines that HB 2213 would cover for the passage of this bill. We urge you to consider the potential harm that the passage of the bill, as it stands. Please reconsider the bill, and allow more time to assess the critical elements that have been raised.

Sincerely,

Nancy J. Garfield, PhD
3741 SW Munson Ave.
Topeka, Kansas 66604

Debra A. McQueeney, PhD
1505 University Drive
Lawrence, Kansas 66044

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