

Approved: February 16, 2000
Date

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 14, 2000 in Room 423-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Kansas Legislative Research Department
Dr. Bill Wolff, Kansas Legislative Research Department
Norman Furse, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: Patricia A. Maben, RN, MN, Director, Long Term Care, Bureau of Health Facilities, KDHE
Shannon Jones, Statewide Independent Living Council of Kansas
Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging
Ann Spiess, Alzheimers Association
Bill Henry, Kansas Area Agencies on Aging
Jolene Grabill, Kansas Advocates for Better Care
Linda Lubensky, Kansas Home Care Association

Others attending: See Attached Sheet

The Chairperson opened the hearing on **HB 2780 - Task force to establish long-term care services to study services provided by public and private sector.**

Staff gave a briefing stating this was a reincarnation out of **SB 232**. It was decided the easiest way to work this was to introduce as a new bill. Most think of long term care as care for the aging but it is much broader in that disabled, mentally ill, handicapped, etc. are in need of long term care.

The Chairperson stated the Fiscal Note had just been delivered and the impact is \$31,944.

Patricia Maben, testified as a proponent of **HB 2780**, stating the bill is identical to **SB 232** except this bill adds three members to the task force; the Secretary of Social and Rehabilitation Services or the secretary's designee; the Secretary of Health and Environment or the secretary's designee; and the Secretary of Aging or the secretary's designee. Because each of these agencies have a critical role in the provision of long term care services, KDHE supports this addition (See Attachment #1).

Shannon Jones, Statewide Independent Living Council of Kansas, testified as a proponent of **HB 2780**, stating it was believed that the state needs a unified policy for long term care for ALL populations. Currently our long term care services are fragmented between institutions, disability groups and aging. SLICK offered some amendments to the bill (See Attachment #2)

Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging, testified as a proponent of **HB 2780** which directs the task force to study the financing of long term care. The quality of long-term care services is a concern to those who receive, deliver and pay for those services. The bill recognizes that long-term care providers and the state agency that regulates their services should be partners to continually improve long-term care services. KAHSa recommends some minor changes to **HB 2780** (See Attachment #3).

Ann Spiess, Alzheimers Association, testified as a proponent to **HB 2780**. Alzheimers affects approximately 51,000 persons in Kansas and believe this is a good concept and a progressive step forward.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 423-S of the Capitol at 1:30 p.m. on February 14, 2000.

Bill Henry, Area Agencies on Aging, which are the 11 organizations that do the screening for individuals to determine their eligibility for various facilities and receiving services, testified as a proponent to **HB 2780**. **SB 232** was not clear and had concerns over who qualifies on serving on this commission. In looking at the current bill, there is still that concern and not sure that the representative of the Area Agencies would qualify for any of the industry representatives. Recommend allowing someone who is a representative of an Area Aging Organization to be among the group that could be picked from.

Jolene Grabill, Kansas Advocates for Better Care, testified in support of **HB 2780** and recommends the task force charge be expanded to include a review of the nursing hours per patient ratio as well as a review of procedures for handling consumer complaints (See Attachment #4).

Linda Lubensky, Kansas Home Care Association, stated what concerns her about **HB2780** is there is trouble focusing on what to do and believe it is a disservice to make it appear all encompassing when in essence it would not be. Encourage the committee to think out what is being dealt with is specific problems in the nursing home industry that needs to be addressed or if you want to look at the whole concept as long term care and how that interacts in our state with multiple delivery systems that exist. There are some very severe problems being dealt with and encourage committee to be very clear in what their objective is. Otherwise, you are doing disservice to the public who thinks you are going to deal with something, where the physically disabled group believes they are going to have some of their issues taken care of. The best thing that could be done for the citizens for Kansas would be to create a committee that would look at health care delivery in our state and where the problems are because the problems are very deep and not just caused by the state but also by the federal government. The federal government complicate and impact everything that the legislature has to deal with. The original bill addressed some very specific problems of the nursing home industry and would prefer that bill being passed. Would like for the legislature to create a bi-partisan committee that would look at health care delivery and look at all of the different elements.

The Chairperson closed the hearing on **HB 2780**.

Representative Showalter stated the focus needed to be narrowed.

Representative Bethell moved and Representative Morrison seconded to amend **HB 2780** on page 1, on line 31 and remove "skilled" and on line 32 to change "or" to "and" and on line 43 add "community based services" after facilities.

Representative Bethell stated if the second would agree could say "community based services related to long term care". The second said that would be redundant and Representative Bethell stated he agreed.

Representative Henry moved and Representative Morrison seconded a substitute motion to amend on Page 1 lines 31 and 32 strike "in skilled nursing facilities, assisted living facilities or community-based services", on line 33, delete everything after "private" and delete all of line 34 and on line 39 delete everything after "care". The motion carried.

Representative Wells voted "NO".

Representative Long moved and Representative Bethell seconded technical amendment on page 2, line 21, change "eight" to "six" and on line 34 add "Division of Legislative Administrative Services" after "office" and before "if". The motion carried.

Representative Long moved and Representative Bethell seconded to move **HB 2780** out as amended. The motion carried.

The following written testimony was submitted: Kerrie Ruhlman, MS, LNHA, Kansas Professional Nursing Home Administrators Association (Attachment #5) and Jane Rhys, Kansas Council on Developmental Disabilities (Attachment #6).

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MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room
423-S of the Capitol at 1:30 p.m. on February 14, 2000.

The meeting adjourned at 3:10 p.m. and the next meeting will be February 16.



KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony presented to the
House Committee on Health and Human Services by
the Kansas Department of Health and Environment

on

House Bill 2780

Thank you for the opportunity to testify as a proponent of House Bill 2780.

This bill is identical to 1990 Senate Bill 232, except this bill adds three members to the task force; the Secretary of Social and Rehabilitation Services or the secretary's designee; the Secretary of Health and Environment or the secretary's designee; and the Secretary of Aging or the secretary's designee. Because each of these agencies have a critical role in the provision of long term care services, KDHE supports this addition.

The Department of Health and Environment welcomes the opportunity to work with the public and legislators in reviewing our state's long term care services. By including the Secretary of the department, the task force is assured of being provided an accurate and complete description of the responsibilities of KDHE as the regulatory agency.

I would be happy to stand for questions.

Presented by: Patricia A. Maben, RN, MN, Director, Long Term Care Program
Bureau of Health Facilities

Date: February 14, 2000

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**TESTIMONY TO
HOUSE HEALTH & HUMAN SERVICES COMMITTEE
REGARDING HB 2780
REPRESENTATIVE GARY BOSTON, CHAIRMAN**

FEBRUARY 14, 2000

Mr. Chairman and members of the committee, thank you for this opportunity to testify before you today. My name is Shannon Jones and I am the executive director of the Statewide Independent Living Council of Kansas (SILCK). The SILCK is mandated by the federal Rehabilitation Act as amended in 1998 to study existing services for people with disabilities and make recommendations to improve and expand services that will enable Kansans with disabilities to achieve their optimum level of independence and improve their quality of life. To accomplish this mission we work very closely with Kansans with disabilities of all ages and Centers for Independent Living.

The SILCK applauds this committee for the introduction of HB 2780. We believe that the state of Kansas needs a unified policy for long term care for ALL populations. Currently our long term care services are fragmented between institutions, disability groups and aging.

The SILCK supports HB 2780 with the following addition and recommendations:

Whereas, the average age of citizens in the state continues to increase; and as medical technology improves, people will live longer with significant disabilities; and people are choosing to remain in their own homes as they age and become disabled. There will be more and more demands for long term care. The state cannot continue to increase the budget for long term care services at the rate they have for the past five years.

In addition the SILCK makes the following recommendations:

1. Pass legislation allowing for tax credits for individuals who purchase long term care insurance.
2. Study and recommend other incentives to encourage individuals to plan for long term care needs.
3. Study and identify those policies that will really provide for life long care and assistance and develop methods to provide that information to the citizens of Kansas

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4. Task force should include, but not be limited to state officials from SRS, KDHE, KDOA, DOE, Insurance Commissioners office, consumers, family members and advocates and legislators.

Long Term Care is a problem that is not going to go away anytime soon. We cannot continue to do business as usual. Now is the time to modernize our thinking about long term care.

Bottom line, it's up to all of us to work together. The SILCK believes that every one of us in this room; legislators, state officials and folks with disabilities, can work together to find the answers. Talk to the people who utilize these services to be included in the planning, start up and implementation of such services.

The SILCK believes that we can work together to come up with dignified solutions that will be cost effective for our state.

KAHSA

KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

To: Garry Boston, Chair, and Members, House Health and Human Services Committee
Fr: Debra Zehr, Vice President
Date: February 14, 2000

Thank you, Chairman Boston and Members of the Committee, for this opportunity to offer our support for House Bill 2780. The Kansas Association of Homes and Services for the Aging represents more than 160 not-for-profit long-term health care, housing and community service providers through the state.

The age group most likely to need long-term care services (i.e. 85+years old) is expected to more than double in the next decade. This puts the financing and quality of long-term care on the front burner not only for those elderly, their families and providers of care, but also for policymakers.

House Bill 2780 directs the task force to study the financing of long term care. As a matter of public policy, we need to encourage a more sustainable mix of funding sources. While not designed to carry the lion's share of long-term care costs, Medicaid has become the primary payor for long-term care in the nation and state. In Kansas, Medicaid pays for 52% of long-term care costs, private pay for 33%, Medicare for 10% and long-term care insurance for 5-6%.

The quality of long-term care services is a concern to those who receive, deliver and pay for those services. House Bill 2780 recognizes that long-term care providers and the state agency that regulates their services should be partners to continually improve long-term care services (Page 1, lines 18-19.) Too much of our energy is siphoned off in adversarial relationships. In order to strengthen this implied directive, we would respectfully ask that House Bill 2780 be amended at Section 1(a) to include as a charge to the task force to "examine the effectiveness of partnering activities between state agencies and long term care providers."

Other recommendations for minor changes to House Bill 2780:

- Page 1, lines 27-30. We would recommend deleting this language because the 1998 Long Term Care Task Force already studied these issues.
- Page 1, Line 31. Change skilled nursing facilities (too narrow) to "nursing facilities" (broader array of settings).
- Page 1, Line 32. Change "or" to "and" so that the study of community-based services is not optional.
- Page 1, Line 43. Change "adult day care-home health care agencies" (too narrow) to "community-based services" (more reflective of broad array of services).

Thank you. I would be happy to answer questions.

**House Health and Human Services Committee
Testimony on HB 2780
February 14, 2000**

Mister Chairman, Members of the Committee. My name is Jolene Grabill, and I am the legislative representative for Kansas Advocates for Better Care. I am here today to testify in support of HB 2780.

Kansas Advocates for Better Care, is the only independent statewide non-profit organization in Kansas that advocates for quality long-term care for adult care home residents. KABC was founded in 1975 and has a membership base of more than 500 persons. KABC advocates the fundamental right of all residents to be treated with dignity and respect and to receive decent care. A board of directors with broad experience in a variety of fields governs the organization's work.

KABC applauds the authors of this legislation for their interest in the welfare of citizens of this state who are consumers of long-term care services. KABC is pleased to see the composition of the task force includes at least three consumers or consumer representatives. Such consumer representation is essential for any review of long-term care services to be thorough and meaningful to the ultimate consumers, the older citizens of our state.

HB 2780 states the task force shall study :

1. Recent statutory changes relating to adult care homes
2. The long-term care ombudsman program
3. State and federal laws, rules and regulations which impact services provided to citizens who are consumers of long-term care services in skilled nursing facilities, assisted living facilities or community-based services;
4. The financing of all such services; and
5. Other matters deemed appropriate by the task force.

KABC respectfully recommends the task force charge be expanded to include a review of the nursing hours per patient ratio as well as a review of procedures for handling consumer complaints.

KABC firmly believes the nursing staff hours per resident day needs to be increased to guarantee quality of care. Consumers need a mandated minimum of staffing ratios that fit the increased acuity of current nursing home residents.

Procedures for reporting, investigating and responding to consumer complaints also needs serious review. KABC suggests the following improvements:

- (1) Require that within one week of filing, every complainant receive

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- (a) confirmation that their complaint has been received,
 - (b) a case number
 - (c) a priority number along with disclosure of a time frame for the investigation.
- (2) Require that every complainant receive:
- (a) written confirmation of a completed investigation
 - (b) along with pertinent details of the investigation such as dates, persons interviewed
 - (c) and the findings of the investigation.
- (3) Require that the details of the investigation demonstrate thorough interviews with nursing staff, residents, and family members.

These suggestions may seem insignificant but consumers tell us that some of their dissatisfaction with the system is because of the lack of communication from the "abuse hotline" and from the "ombudsman." Consumers want to be acknowledged and kept informed of progress on their filed complaints.

Attached to this testimony is one example of the problem, a case story about quality of care issues raised by Mr. Tom Klammer, the dedicated son of a resident in a Kansas facility. Kansas Advocates regularly receives calls from consumers with similar complaints about poor care. We provide them information and contact phone numbers available within the current system. However, very few people have the energy and tenacity exhibited by Mr. Klammer. The burden of relentless communications should not be placed on the family.

As in many states, Kansas has a complex but workable system for provision of long-term care. Many participants in this system: HCFA, nursing homes, state departments, consumer advocate groups, and residents - sincerely want good quality care for our country's frail adults. I believe that a better quality of long-term care can result from making the improvements suggested today by KABC. If a long-term care task force is needed to embrace these improvements, then KABC firmly supports the task force.

Again, thank you for this opportunity to testify before you today. I will be happy to answer questions of the committee.

Kansas Case Study

The following situation occurred in Kansas. November 4th of 1998.

Tom Klammer, of the Kansas City metropolitan area, placed his father in a nursing home. Later that month he called Kansas Advocates to discuss how to proceed with several complaints about the nursing home in which his father had resided.

One complaint was that his father missed vital medications because the nursing home allowed prescriptions to run out and failed to notify anyone. Mr. Klammer found this out during a visit to his father. A second complaint was that his father was told his room was to be in the new wing of the home. When his father moved in, they placed him in an old wing and it was explained that the new wing was for private-pay residents; his father was getting ready to apply for Medicaid. There were other complaints, such as the call light that did not work.

After complaining to the facility without satisfactory resolution, he moved his father to another home and filed a complaint with the Kansas Department of Health and Environment "abuse and neglect hotline" and with the Kansas Long-Term Care Ombudsman. In March, 1999, the state wrote him that they could not substantiate any of his allegations.

Unsatisfactory responses compelled him to call and/or write the Kansas Elder Law Hotline, state legislators and Kansas congressional members. He also used a third party Internet site for investors to post complaints. Early Spring he received a partial refund for his father's 13-day stay. Rather than cash the check he continued to insist that the problem had not been resolved. In May he received a full refund of charges for his father's stay in the nursing home.

It took Mr. Klammer more than six months of unrelenting communications with numerous nursing home corporate VIPs, state government employees, state legislators and Kansas congressional members to obtain some satisfaction concerning his complaint about his father's care.

KANSAS PROFESSIONAL NURSING HOME ADMINISTRATORS ASSOCIATION

3601 West 29th
Topeka, Kansas 66614
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Thank you Mr. Chairman, Members of the Committee. I am Kerrie Ruhlman, Executive Director of the Kansas Professional Nursing Home Administrators Association (KPNHAA). I appreciate very much that the Chairman has allowed me to submit written testimony on HB 2780 establishing again a Task Force on Long-Term Care Services. Our association is very much in favor of the bill.

The previous Task Force on Long-Term Care Services met during the 1998 interim. In re-establishing the Task Force, HB 2780 improves the old structure by increasing the membership by adding more new public members. We in the long-term care service industry welcome the public scrutiny. This is an excellent opportunity to have elected officials learn about us and to have our members learn more about your concerns. This industry-legislative Task Force could serve as an example in other states. We endorse the bill enthusiastically and look forward to working with you on its implementation.

Thank you again for allowing me to submit my testimony.

Kerrie Ruhlman MS, LNHA

Executive Director KPNHAA

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Kansas Council on Developmental Disabilities

BILL GRAVES, Governor
DAVE HEDERSTEDT, Chairperson
JANE RHYS, Ph. D., Executive Director

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"To ensure the opportunity to make choices regarding participation in society and quality of life for individuals with developmental disabilities"

Health and Human Services

February 14, 2000

Testimony in Regard to H. B. 2780 an act relating to establishment of a task force on long-term care services. Mr. Chairman, Members of the Committee, my name is Jane Rhys and I am writing you today on behalf of the Kansas Council on Developmental Disabilities in support of H.B. 2780 relating to the establishment of a committee to study long-term care services in Kansas. I regret that a prior commitment prevented me from appearing in person.

The Kansas Council is a federally mandated, federally funded council composed of individuals who are appointed by the Governor, include representatives of the major agencies who provide services for individuals with developmental disabilities. At least half of the membership is composed of individuals who are persons with developmental disabilities or their immediate relatives. Our mission is to advocate for individuals with developmental disabilities, to see that they have choices in life about where they wish to live, work, and the leisure activities in which they wish to participate.

We have reviewed H.B. 2780 and feel that it is a good beginning and we applaud you for taking this first step. However, we wish to remind you that there are a significant number of persons who have physical and/or developmental disabilities (DD) in Kansas. As of December 31, 1999 there are 8,600 persons with DD receiving services in a variety of settings, including at home, in Kansas. Another 358 are on waiting lists. In January we paid for services in the community for approximately 3,100 persons with physical disabilities. The aforementioned individuals are people whose disability occurred at birth or resulted from an accident and not as a part of the aging process. As of December 31, 1999 there were 5,372 approved plans of care people receiving services of the Frail Elderly waiver and 11,487 people in nursing home facilities.

Of the total population of individuals receiving long-term care in Kansas, 11,700 persons (41%) are individuals with disabilities and 16,859 persons (59%) are persons who receive services for the elderly. Because of the high percentage of persons receiving long-term care who are not elderly and whose need

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for long-term care is the result of a disability, we ask that the Committee require at least half of the six members who represent consumers and service providers (page 1, lines 36 - 43) be either persons who have a disability and receive long-term care as a result of the disability or who are active in the provision of services to those who have such disabilities. This corresponds to the required membership of the Secretaries of Aging, Social and Rehabilitation Services, and Health and Environment.

As always, we appreciate the opportunity of providing testimony and would be happy to respond to any questions. The Council can be reached at the below address.

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