

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 12, 2001 in Room 210 Memorial Hall

All members were present except: Representative Brenda Landwehr, Excused
Representative Gwen Welshimer, Excused

Committee staff present:

Dr. Bill Wolff Kansas Legislative Research Department
Norman Furse, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: Debra Zehr, R.N. Vice President, Kansas Association of
Homes and Services for the Aging
Jolene Grabill, Kansas Advocates for Better Care

Others attending: See Attached Sheet

The Chairperson stated if the committee finished in time the Sub-Committee on Licensing would meet immediately following the meeting.

The Chairperson opened the hearing on **HB 2170 - Registration of Nursing Pools.**

Norman Furse, Revisor of Statute's Office, briefed the committee on **HB 2170**, stating the bill deals with temporary employment in health care facilities. Every person who operates a nursing pool shall register the pool with the secretary which means the secretary of health and environment. The secretary shall establish by rules and regulations minimum standards for the registration and operation of a nursing pool.

Representative Showalter asked if hospitals have to register?

Mr. Furse replied, nursing pool means any person, firm, corporation, partnership or association engaged for hire in the business of providing or procuring temporary employment. Hospitals are not included.

Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging, testified as a proponent to **HB 2170**. This bill would create a registry for temporary nursing agencies; i.e., nursing pools, and authorize the Department of Health and Environment to establish minimum rules and regulations for their operation (Attachment 1).

Jolene Grabill, Kansas Advocates for Better Care, testified in support of **HB 2170**. This proposal is a mechanism to help standardize the on-going competency and availability of training for persons who are not permanently employed by nursing facilities. In establishing the rules and regulations for minimum standards designed to protect the public's right to high quality health care, it is hoped that the Secretary of Health and Environment would consider recommendations and input from an advisory committee (Attachment 2).

Joseph F. Kroll, Director, Bureau of Health Facilities, KDHE, testified opposing **HB 2170**, stating health and medical care personnel who provide services to such facilities are already qualified by virtue of other law and their licensure as nurses or certification as nurse aides. The assurance that such employees are also screened for any criminal background that might prohibit them from employment is also already provided for in existing law. If, in fact, additional qualifications are needed because our state's nurses or nurse aides are not adequately qualified, then that should be addressed through the statutes which govern those occupations (Attachment 3).

The Chairperson closed the hearing on **HB 2170**.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES, Room 210, Memorial Hall at 1:30 p.m. on February 12.

The Chairperson opened the hearing on **HB 2229 - Kansas Senior Caregiving Initiative** .

The Chairperson stated that Fiscal Note had just been delivered and the estimated FY 2002 SGF was \$2,129,288 and FY 2002 all funds were \$5,059,468.

Bill Wolff, Legislative Research Department, gave a briefing on **HB 2229**, stating this bill establishes a program to improve the quality of long-term care services; authorizing grants for and evaluations of new models of long-term care; concerning nursing facility reimbursement and enhanced employee training; establishing a prevention program for the improvement of the quality of long-term care services; providing for an advisory council. The Secretary of Aging would award grants to nursing facilities to implement and evaluate new models of care to improve long-term care and reduce employee turnover. The Secretary of Aging is also required by the bill to establish and implement a program that provides competitive grants to community colleges, universities, area vocational-technical colleges, and not-for-profit educational organizations. The Secretary of Human Resources is directed to evaluate the current education and training systems and methods used in the state for long-term care workers. The Secretary of Human Resources is to report this information to the Long-Term Care Services Task Force by November 1, 2001.

Debra Zehr, Vice President, Kansas Association of Homes and Services for the Aging, testified in support of **HB 2229**, stating the Kansas Senior Caregiving Initiative is a comprehensive, fiscally responsible, long-term approach to address the challenges and root problems in long term care. It builds on the goals and recommendations of the Long Term Care Task Force established by the 2000 Kansas Legislature. It will make a real difference in lives of our frailest senior Kansans (Attachment 4).

Evelyn Walters, Administrator, Frankfort Community Care Home, Inc., Frankfort, Kansas, testified in support of **HB 2229**, stating the grant program for new models of care would help facilities like the Frankfort Community Care Home start this kind of process and keep it going. Funding is needed for training the caregivers to this process. **HB 2229** would partially relieve penalties because of occupancy under 85% and help us to continue to serve the community (Attachment 5).

Jolene Grabill, Kansas Advocates for Better Care, testified as a proponent to **HB 2229** as the concepts proposed initiate a process for improvements in the system of long-term care in Kansas. The provisions will encourage a system with standards for on-site training (Attachment 6).

Jim Klausman, Kansas Health Care Association, testified as neutral to **HB 2229**, stating they believe that only by improving the quantity and quality of direct care staff would they be able to improve the quality of life for more than 24,000 Kansans who reside in their nursing facilities. While they support many of the items in **HB 2229** it is strongly felt that additional strategies must be implemented to improve the quality of long-term care services and introduced an alternative plan called *Caring in Kansas*. It is believed these two proposals could work together (Attachment 7).

John Peterson, Kansas Cemetery Association, distributed testimony on **HB 2132** that had a hearing on February 7th (Attachment 8).

The full committee adjourned at 2:50 p.m. and the Sub Committee on Licensing convened. The next meeting will be February 13.



KANSAS ASSOCIATION OF
HOMES AND SERVICES FOR THE AGING

TESTIMONY IN SUPPORT OF HOUSE BILL 2170

To: Garry Boston, Chair, and Members,
House Health and Human Services Committee
From: Debra Zehr, Vice President
Date: February 12, 2001

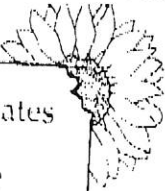
Thank you Mr. Chairman, and Members of the Committee. The Kansas Association of Homes and Services for the Aging represents 150 not-for-profit retirement communities, nursing homes, assisted living facilities, hospital long term care units, senior apartments and community service providers around the state. Our members are owned and operated by religious organizations, local units of government, and community or fraternal groups. They serve over 15,000 seniors throughout Kansas.

We ask for your support of House Bill 2170. This bill would create a registry for temporary nursing agencies (i.e. "nursing pools") and authorize the Department of Health and Environment to establish minimum rules and regulations for their operation. It is good public policy because it sets in place a basic structure to assure that nursing pools employ competent and qualified nursing personnel and that these personnel are supplied to health care facilities in a way to meet the needs of residents and patients.

There is a severe shortage of frontline workers in long term care. Our members' number one concern is finding and keeping sufficient numbers of direct care staff to meet the needs of residents. A last resort is to contract with temporary nursing agencies or "nursing pools" to fill staffing gaps. The use of nursing pools is pervasive, impacting every geographic region throughout the state. The State spends untold millions of dollars each year for nursing pool workers. All transactions are completed through individual contractual arrangement between the facilities and pools. There is no way to know at this time how many nursing pools there are, nor what protections they have in place to assure that the persons in their employ are appropriately screened, licensed, certified, and trained. There is no place for facilities to report problems with agencies other than the Better Business Bureau.

House Bill 2170 will provide facilities and their residents the basic assurance that nursing pool workers have met minimal standards such as health and criminal background screening, competency evaluation, licensure/certification requirements and training in abuse prevention and other critical topics. It will also provide health care facilities with easier access to information about pools available in their area. House Bill 2170 will not absolve the contracting health care facility from its responsibility to orient pool personnel to facility-specific policies and procedures.

Thank you. I would be pleased to answer your questions.



Kansas Advocates
for
Better Care

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TESTIMONY OF KANSAS ADVOCATES FOR BETTER CARE
TO THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
ON HOUSE BILL 2170, NURSING POOL REGISTRATION
Monday, February 12, 2001

Chairman Boston and Members of the Committee, Kansas Advocates for Better Care, the statewide non-profit organization that advocates for quality long term care for adult care home residents, thanks you for allowing our comments to be heard.

The concepts proposed in HB2170 propose improvements in the system of long-term care in Kansas and Kansas Advocates is pleased to support the bill, in general.

We consider this proposal a mechanism to help standardize the on-going competency and availability of training for persons who are not permanently employed by nursing facilities.

In establishing the rules and regulations for minimum standards designed to protect the public's right to high quality health care, we hope that the Secretary of Health and Environment will consider recommendations and input from an advisory committee.

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

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2-12-01
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KANSAS
DEPARTMENT OF HEALTH & ENVIRONMENT
BILL GRAVES, GOVERNOR
Clyde D. Graeber, Secretary

Testimony on House Bill 2170

to

House Committee on Health and Human Services
Presented by

Joseph F. Kroll, Director, Bureau of Health Facilities

Monday, February 12, 2001

This bill would require that entities providing medical personnel, such as nurses and nurse aides to adult care homes, or any other facility requiring such services to be registered with the Secretary of Health and Environment. The bill also authorizes the Secretary of Health and Environment to establish regulation not only for such a registration program, but to assure such pools employ competent, qualified personnel, as well be provided in such a way as to meet the needs of residents and patients.

It is difficult to identify the merits of this legislation. Health and medical care personnel who provide services to such facilities are already qualified by virtue of other law and their licensure as nurses or certification as nurse aides. The assurance that such employees are also screened for any criminal background that might prohibit them from employment is also already provided for in existing law. If, in fact, additional qualifications are needed because our state's nurses or nurse aides are not adequately qualified, then that should be addressed through the statutes which govern those occupations.

Requiring the registration of nursing pools serves no beneficial purpose that KDHE can identify. It is not clear how KDHE, by establishing regulation, could assure that nursing personnel are provided to facilities in a way to meet the needs of residents and patients. This responsibility is clearly that of the health care facility.

Similar legislation in 1989, 1990, and 1994 was not successful. We ask that the 2001 legislature follow the wisdom of earlier legislatures and not adopt a program that establishes a new layer of bureaucracy without any identified positive outcome to the taxpayers, patients of our state's hospitals or residents of our state's adult care homes.

Accordingly, we respectfully request that House Bill 2170 not be favorably reported.

I thank you for the opportunity to appear and gladly stand for questions the committee may have.

DIVISION OF HEALTH
Bureau of Health Facilities

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Atch#3

Testimony In Support of House Bill 2229

To: Representative Garry Boston, Chair, and Members,
House Health and Human Services Committee
From: Debra Zehr, Vice President
Date: February 12, 2001

Thank you, Chairman Boston and Members of the Committee. The Kansas Association of Homes and Services for the Aging represents 150 not-for-profit retirement communities, nursing homes, assisted living facilities, hospital long term care units, senior apartments and community service providers around the state. Our members are owned and operated by religious organizations, local units of government, and community or fraternal groups. They serve over 15,000 seniors throughout Kansas.

I'm here today to ask for your support of House Bill 2229, which establishes the Kansas Senior Caregiving Initiative.

The Kansas Senior Caregiving Initiative is a comprehensive, fiscally responsible, long-term approach to address the challenges and root problems in long term care. It builds on the goals and recommendations of the Long Term Care Task Services Force established by the 2000 Kansas Legislature. It will make a real difference in lives of our frailest senior Kansans. Here is an outline of the Initiative's intent and provisions:

Promote new models for quality

- *Establish a program of competitively awarded grants for nursing homes to accelerate the adoption of new models of care to improve quality and reduce worker turnover. This is in keeping with Secretary Hubbell's goal of "creating a culture of home" in nursing facilities through programs like the Eden Alternative, Wellspring, the neighborhood concept, and other person-centered and staff-empowering ways to care. (Proposed funding: \$2 million, state and federal funds combined.)*

Promote adequate and effective staffing

- *Award grants for comprehensive onsite training programs by post-secondary educational and not-for-profit organizations to address issues that are identified as contributing to worker turnover. This builds on the Long Term Care Services Task Force's desire to provide incentives to assure adequate training and career development for direct care workers in long term care. (Proposed funding: \$4 million, state and federal funds combined.)*
- *Request the Kansas Department of Human Resources to evaluate the strengths and weaknesses in the current long term care training system and identify changes needed to improve recruitment and retention. This mirrors a specific recommendation of the Long Term Care Services Task Force. (Proposed funding: \$300,000, state and federal funds combined.)*

Provide timely and fair reimbursement

- *Permit a mid-year rate adjustment for increases in front line worker wages or benefits.*
Providers need the flexibility to respond to labor market trends and worker needs without undue delay in realizing increased expenditures in their Medicaid rate.
- *Apply any minimum occupancy rule only to fixed costs.* In this way, providers will not be unduly penalized for fluctuations in resident census.
(Estimated funding: \$4 million, state and federal funds combined.)

Create a more supportive, collaborative regulatory environment

- *Establish a state prevention/quality improvement program that promotes high quality care and cooperation with providers by offering regulatory and best practices expertise and consultation.* This is a positive and practical approach to lower both the real and perceived barriers between state agencies and providers and to fulfill our mutual goal of high quality care. (Proposed funding: \$200,000, state and federal funds combined.)

In conclusion, the Kansas Senior Caregiving Initiative is good public policy, modeled in large part by the goals of the Long Term Care Services Task Force. It will improve the quality of care for our frailest seniors by promoting new models of nursing home care, enhancing staff training opportunities, creating a more responsive and fair reimbursement mechanism, and increasing partnerships between the State and providers.

We respectfully request the Committee to favorably report House Bill 2229.

Thank you. I would be glad to answer questions.

Examples of estimated cost savings with the Kansas Senior Caregiving Initiative

What return can we expect to see if we begin to attack the root problems and challenges in long term care with the provisions in the Kansas Senior Caregiving Initiative? In addition to improved resident and family satisfaction, increased staff stability and improved care outcomes, here are some examples of potential dollar savings.

- A 20% reduction in nurse aide turnover could result in an annual savings of \$4.8 million. (20% of the 12,000 total turnovers/year X \$2,000*.)
- If we make a modest assumption that 5% of all 10,000 nurse aide positions are filled by temporary agency workers being paid on average 40% more than a permanent employee in that same position, \$3 million would be saved over a years' time. (500 positions X \$6,000** differences in wages.)
- Instituting new models of care can result in significant savings in such areas as incontinence, medications and skin care. For example, a \$5.4 million annual savings could be realized if there was a 10% reduction in incontinence among Kansas nursing home residents (560 residents X \$9770*** in nursing time, laundry, supplies.)

* This is a conservative estimate. The rule of thumb for estimating approximate turnover costs (recruiting, advertising, screening, interviewing, reference and background check, establishing employee records, health exam, orientation and lessened orienter productivity) is four times the monthly salary of the employee leaving. Source: University of Southern California School of Business.

** Based on the average minimum hourly CNA wage in 2000 of \$7.28. Source. *2000 Wage and Salary Survey Report for the Kansas Nursing Facility Industry*, sponsored by the Kansas Association of Homes and Services for the Aging and Kansas Health Care Association.

*** Source: University of Iowa Gerontological Nursing Interventions Research Center.



Frankfort Community Care Home, Inc.

"A Home With A Heart"

Title: "Testimony in Support of House Bill 2229"

To: Chairman Boston and Members of the House Health and Human Services Committee

From: Evelyn Walters, CHE

Date: February 12, 2001

Thank you, Mr. Chair and Members of the Committee. My name is Evelyn Walters. I am Administrator at the Frankfort Community Care Home, Inc. at Frankfort, Kansas. The Frankfort Community Care Home is a non-profit corporation comprised of community members located in Marshall County. The Care Home has a nine member volunteer Board of Directors. The 56-licensed bed (50 skilled & intermediate beds and 6 residential care) home has diversified to offer more services for community seniors. Our services include skilled care, Adult day care, Respite care, In-Home Medical supplies, In-Home Specialized Diets, Home Community Based Services, Transportation, Outpatient Rehabilitation therapy and Home Health.

My purpose for being here is to ask for your support of House Bill 2229 because it will help my facility and others like mine to better care for our residents.

Since the fall of 1998, we have in addition to diversifying services initiated the Eden process to change the culture for seniors living at the home. It has taken a strong commitment of time and resources from Board Members and staff members. The Eden alternative is transforming our nursing home.

The Eden process is bringing happiness, self-worth, and continued living experiences daily into the lives of 51 frail seniors at Frankfort. I am very blessed to be able to see a 96 year old engrossed in conversation with a day care child or a school child about their art work or see laughter on both a high school student and a resident dancing at their valentine party. It is also very heartwarming to see an Alzheimer resident's face light up with smiles when a cockatiel sets on her shoulder or a resident picks lettuce from the vegetable garden.

Skilled Care Home Health Residential Care 510 N. Walnut, Frankfort, KS 66427
Transportation In-Home Meals HCBS 785-292-4442 Fax# 785-292-4400

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2-12-01
Atch #5

The need for giving to others does not go away even though we need to live where others can help meet some of our physical needs. It is very important that we provide our elders with these opportunities to live. While these extra efforts are very satisfying when we see smiles on the resident's faces, extra funds are also necessary.

The grant program for new models of care will help facilities like ours start this kind process and keep it going. Funding is needed for training the caregivers to this process. The empowerment the caregivers receive in turn provides them the ability to make care decisions with the resident and their family. It also provides the caregiver with personal satisfaction and a family atmosphere where it is fun to come to work.

Another provision of House Bill 2229 will be beneficial to our residents and community. We are amongst the small rural homes struggling financially. As it stands now, we get financially penalized by the state because occupancy is under 85%. House Bill 2229 would partially relieve those penalties and help us keep our doors open to continue to serve the community.

Thank you, I'd be happy to answer questions.

**Kansas
Advocates for
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February 19, 2001

TO: Members of the House Health and Human Services Committee
FR: Jolene M. Grabill, KABC Lobbyist
CC: Deanne Lehhart, KABC Executive Director
RE: HB 2229

This memo is to reaffirm, prior to your committee vote on HB 2229, KABC's support for the establishment of a long-term care planning process to aid policy-makers and stakeholders address the emerging challenges in the field of long-term care. KABC believes that HB 2229 is a step in that right direction and deserves your support.

Attached to this memo is a copy of the "Critical Components of the Ideal Program" currently used by a federal demonstration project in a Missouri long-term care facility. The six critical components outlined are fundamental to the innovation KABC believes is needed in Kansas long-term care facilities as well.

Again, KABC encourages you to approve HB 2229, and begin the process of moving Kansas toward innovation in long-term care.

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2-12-01
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Crestview Home, Inc. Bethany, Missouri

*Excerpts from conference presentation handouts on
"Creating the Ideal Nursing Home"*

Delivered May 18, 2000

6th Annual HCFA Midwest Conference
On Quality of Life

Mission Statement

To change the way long term care is perceived
To achieve the best quality of life for residents
To boldly go where no long term care facility has gone before.

Critical Components of the Ideal Program

1. A philosophical shift from care and protection of the body to support of people in obtaining lives of personal satisfaction.
2. The creation of individual living space.
3. The empowerment of direct support staff as individual advocates.
4. Respect for each person's unique, life long patterns, preferences and individual needs.
5. The opportunity for each person to experience personal growth, development and a sense of contribution.
6. Continued connection to the greater community.

ERIC HAIDER, ADMINISTRATOR
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6-2



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TESTIMONY

Before the

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

February 12, 2001

Chairperson Boston and members of the Committee:

My name is Jim Klausman and I am a member of the Board of Directors of the Kansas Health Care Association, which represents over 200 professional nursing facilities, assisted living centers, and long-term care units of hospitals throughout Kansas. My members and I thank you for the opportunity to speak concerning House Bill 2229, the Senior Caregiving Initiative.

There is widespread agreement in the long-term care profession and among government regulators at the federal and state level that the number one challenge facing long-term care now and for the foreseeable future is staffing. Recruiting, training and retaining qualified nurses, certified nursing assistants, and other professional and front-line staff to give hands-on care to our seniors is now a major priority nationwide. Our nation has spent the past decade or more investing in high tech – now it's time to invest in "high touch".

In September the federal Health Care Financing Administration (HCFA) released its long-term care staffing study, "Report to Congress: Appropriateness of Minimum Nurse Staffing Ratios in Nursing Homes". According to the study Kansas ranks among the lowest in the nation in direct care staffing (nurses and nurse aides) in nursing facilities. Many of the quality of care complaints in Kansas nursing facilities deal with insufficient numbers of staff available to provide resident care

HB 2229 addresses some of these challenges. The bill calls for a state/provider partnership to address quality of care, more support and funding for long-term care staff and increased training, and new models of care delivery. This is a good starting point, but we feel the Senior Caregiving Initiative must go further. Other strategies, including increasing staffing levels and wages, must be implemented to address this "staffing crisis" in long-term care.

TESTIMONY

Before the

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

February 12, 2001

Page Two

It is clear that in the future more and better paid professional nursing and nurse aide staffing will be a must. HCFA and Congress are now discussing the need for a national minimum staffing standard for nursing facilities. Many facilities in Kansas will not be able to meet these minimum-staffing standards.

The Kansas Health Care Association believes that only by improving the **quantity and quality** of direct care staff will we be able to improve the quality of life for the more than 24,000 Kansans who reside in our nursing facilities.

Mr. Chairman, while we support many of the items in HB 2229, we strongly feel that additional strategies must be implemented to improve the quality of long-term care services. We introduced an alternative plan on Friday in both the House Appropriations Committee and the Senate Ways and Means Committee called *Caring in Kansas*. We believe it may be possible for these two proposals to work together.

Thank you.

TESTIMONY OF JOHN C. PETERSON
KANSAS CEMETERY ASSOCIATION

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES
HOUSE BILL 2132
February 7, 2001

Mr. Chairman, members of the Committee, my name is John Peterson and I am appearing on behalf of the Kansas Cemetery Association. We would respectfully oppose this measure which would move the inspection and approval of mausoleums and other above ground burial structures from Kansas Department of Health and Environment to the Board of Mortuary Arts.

First, we believe that the issues surrounding these inspections are related to determinations of structural adequacy and a technical review of the design plans submitted. These are matters that are within the expertise of the Kansas Department of Health and Environment. We are really not looking at issues regarding the handling and disposition of human remains.

Second, we regard the Department of Health and Environment as a totally disinterested body which has the requisite expertise to make these determinations. Since mausoleums and other similar structures are most often erected by cemeteries, we would have some concerns in those determinations being made by a Board made up of predominantly licensed morticians and mortuary owners. This is a special concern considering what we regard as lack of real standards for the approval. The current requirement of the law that the Secretary shall be "satisfied beyond any doubt that the . . . structure would be absolutely permanent and sanitary" is by

only page submitted

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