Approved: 3-28-01
Date

MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Senator Susan Wagle at 1:30 p.m. on February 5, 2001 in Room 231-N of the Capitol.

All members were present except: Senator Steineger

Committee staff present: Ms. Emalene Correll, Legislative Research Department
Mr. Hank Avila, Legislative Research Department
Ms. Renae Jefferies, Revisor of Statutes
Ms. Lisa Montgomery, Revisor of Statutes
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee: Ms. Laura Howard, Assistant Secretary of Health Care Policy KS Department of Social and Rehabilitation Services
Mr. John Kiefhaber, Kansas Health Care Association
Representative Nancy Kirk, Representative 56th District
Ms. Ellen Piekalkiewicz, Association of Community Mental Health Centers of Kansas

Others attending: See Attached Guest List

Hearing on SB 120 - adult care homes, admittance requirements for the mentally ill.

Chairperson Wagle opened the meeting by asking Ms. Emalene Correll, Legislative Research Department, to brief the Committee on the current status of **SB 120**. Highlights of Ms. Correll's overview included page 3 of the bill, and lines 28 through 34 stating no person will be admitted to a nursing facility for mental health unless a qualified mental health professional based upon the PASARR review conducts an evaluation. With that business aside, the Chair called upon the proponents of the bill

Ms. Laura Howard, Assistant Secretary of Health Care Policy in the Kansas Department of Social and Rehabilitation Services (SRS) presented the only proponent testimony. Ms. Howard believes this bill ensures that individuals with a mental illness have access to appropriate community-based services in lieu of institutionalization. A copy of her testimony is (Attachment #1) attached hereto and incorporated into the Minutes by reference.

Mr. John Kiefhaber, Kansas Health Care Association, the first of two conferees to give opponent testimony was next to come before the Committee. Mr. Kiefhaber gave a brief history of the Kansas Nursing Facilities/Mental Health (NF/MH) facilities and stated that the bill appears to require a duplication of an authorization for admission to NF/MH facility that is already part of the CARE assessment process in Kansas. A copy of his testimony is (Attachment #2) attached hereto and incorporated into the Minutes by reference.

Representative Nancy Kirk was next to testify that **SB 120** rests on assumptions and ideologies gone astray, of which she provided four examples. A copy of her testimony is (Attachment #3) attached hereto and incorporated into the Minutes by reference.

Ms. Ellen Piekalkiewicz, Director of Policy and Planning, Association of Community Mental Health Centers of Kansas, Inc., gave neutral testimony to the Committee. She stated that the policy change may have merits but they still have many questions about the implications which she stated. A copy of her testimony is (Attachment #4) attached hereto and incorporated into the Minutes by reference.

As there was no neutral or written testimony to be presented, the Committee then was able to address the conferees. Questions were asked by Ms. Emalene Correll, Legislative Research and Senators Salmans, Barnett, Praeger, and Wagle of Ms. Laura Howard ranging from inquiring about the numbers dropping (800) for persons residing in NFMH facilities, the screening itself, having personally visited these facilities, to medication management.

With no further discussion, the Chairperson thanked the conferees for their presentations.

Action on SB 50 -elimination of the dental assistant sunset provision.

The next order of business was on **SB 50.** Senator Harrington made a motion for the passage of **SB 50** as amended. Senator Salmans seconded the motion. The motion carried.

Adjournment

The meeting was adjourned at 2:30 P.M.

The next meeting is scheduled for February 6, 2001.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

GUEST LIST

DATE: Monday, Feb 5, 2001

NAME	REPRESENTING
Andy Shaw	Kearney Law Office
DARVIN HIRSCH	KDOA
Kerrie Ruhlman	KS. Adult Care Services (KACE)
Patricia Maben	KDHE
Carrie Miller	Washburn University Student
Debbie Ullery	~~WSSA~~ WSSWA
Kathryn Stich	~~WSWSA~~ WSSWA
Cini Blazier	WSSWA
John Kiefhaber	Ks Health Care Assn.
Carolyn Middendorf	Ks St Ns Assn
John Peterson	Ks Dental Assn
Ellen Piekalkiewicz	Assoc. of CMHCs
Jeff Bottenberg	Univ KS Hospital Authority
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Ben Gaches	KDHA
Mike Ohrt	Pinegar - Smith

30 in att.

Kansas Department of Social and Rehabilitation Services
Janet Schalansky, Secretary

Senate Public Health and Welfare Committee
February 5, 2001

Testimony on Senate Bill 120

Madam Chairperson and members of the Committee, I am Laura Howard, Assistant Secretary of Health Care Policy in the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to appear and testify today in support of Senate Bill 120.

Current law requires all persons applying for admission to a nursing facility to be assessed for such services and to be informed about all available long term care service options. S.B. 120 adds to current law a requirement that a written statement from a qualified mental health professional employed by a community mental health center (CMHC) be obtained before a person is admitted to a Nursing Facility for Mental Health (NFMH). The mental health professional must base the written statement on results of a pre-admission screening and annual resident review (PASARR). Under this proposal, a qualified mental health professional will review work completed in the pre-admission screening process which is already mandated and administered through the Kansas Department on Aging.

S.B. 120 represents a key next step in the array of laws and amendments that have been offered and enacted as we have progressed in mental health reform since 1990. Through the Mental Health Reform Act, Kansas has been successful in increasing access to effective community-based services for persons who might otherwise be residing in state psychiatric hospitals. These goals have been accomplished, in part, because Community Mental Health Centers (CMHCs) have served as the single point of entry for admission to state psychiatric hospitals. This has resulted in a reduction in the number of persons residing in state hospitals, shortened lengths of stay, and improved quality of life and community integration through connections of persons to services in their communities. Although NFMH facilities are a part of the public mental health system in Kansas, they were not included in mental health reform. Just as CMHCs are gatekeepers for admission to state psychiatric hospitals, S.B. 120 would have CMHCs act as gatekeepers for entry into NFMH facilities.

Recent research indicates that a significant number of NFMH residents are younger adults with few or no physical or mental disabilities requiring nursing home care. In fact, that same research suggested that up to 36 percent of these individuals meet criteria that make them excellent candidates to reside within their communities with the provision of in-home supports and services.

In Kansas today, there are approximately 800 persons residing in 13 NFMH facilities. It is important to note that although 82 percent of the people living in NFMHs are Medicaid-eligible,

Senate Public Health + Welfare Committee
Meeting Date 2-1-01
Attachment 1-1

federal funds may not be drawn down to help pay for their care in NFMHs unless they are over 65 years old. Federal funds would be available for community-based services. Thus, state general fund dollars alone pay for this care, at a current annual state funds cost of approximately $10.0 million. Of the individuals residing in NFMH facilities, 68 percent are under age 65.

In considering this legislation, I would also highlight three other key issues related to persons with mental illness and our public mental health system:

- The 1999 Olmstead ruling by the United States Supreme Court, whereby states must demonstrate that people with disabilities are not being unnecessarily institutionalized in nursing facilities and are afforded opportunities for diversion into community living with supports and services;

- A recent report from the Office of the Inspector General which recommends improvements in the admission screening process and access to mental health treatment; and

- The landmark Report on Mental Health issued by the Surgeon General of the United States in 1999, which found major barriers to exist in the delivery of effective mental health care to nursing home residents and a lack of incentives for mental health providers to service these residents. The report also detailed growing research indicating that institutional care for indefinite periods is counter to best practices and does less to improve wellness and assist in recovery than community-based alternatives.

Lastly, I would note that the FY 2002 Governor's budget recommendation assumes that approximately 15 percent, or 100 NFMH beds will be closed in FY 2002. S.B. 120 is only one of several strategies that SRS is exploring in an effort to ensure that residents of NFMH facilities have access to community-based services where appropriate. We believe that this bill is an important step in the process being undertaken in Kansas to ensure that individuals with a mental illness have access to appropriate community-based services in lieu of institutionalization.

KHCA

Kansas Health Care Association
221 SOUTHWEST 33rd STREET
TOPEKA, KANSAS 66611-2263
(785) 267-6003 • FAX (785) 267-0833

TESTIMONY

Before the

SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

February 5, 2001

Keith Bradley? ? out now?

Chairperson Wagle and members of the Committee:

The Kansas Health Care Association, representing 11 of the 14 Kansas nursing facilities/mental health (NF/MH), appreciates the opportunity to speak today in opposition to Senate Bill 120 as it is presently drafted.

Kansas NF/MH facilities are currently serving over 800 chronically mentally ill adults throughout the state, delivering over 250,000 days of professional care per year. Residents served in these facilities receive 24-hour professional care in line with their individually-designed care plan. Programming for the care of the residents differs in some facilities to accommodate the needs of the mix of patients in the facility at a particular time. Although geriatric nursing facilities are reimbursed an average of $90 per day for Medicaid residents in their care, NF/MH facilities are averaging $65 per day. This means that professional nursing and mental health care is being delivered statewide 24 hours per day for an average of $2.72 per hour.

Senate Bill 120 appears to require a duplication of an authorization for admission to NF/MH facilities that is already part of the CARE assessment process in Kansas. Not only are there federal requirements for prescreening all NF/MH admissions for need now, but in Kansas we also already accomplish the Level II mental health assessment to determine the needs of the patient. In addition, our facilities are also getting specific, written authorization from the Kansas Department on Aging before each client admission to a Kansas NF/MH. Those current authorizations already include reviews by qualified mental health professionals in every case.

Any changes being considered for improvements in the statewide preadmission or CARE screening process, including increased reliance on our community mental health centers, should include clear and effective standards and criteria for the screening process. NF/MH facilities have for too long had to adjust and readjust to changing rules and program requirements set by state agencies that do not always work for the good of the clients in this program.

The Kansas Health Care Association does not see what S. B. 120 will accomplish as drafted and we request that the Committee not pass the bill out.

STATE OF KANSAS

NANCY A. KIRK
REPRESENTATIVE, FIFTY-SIXTH DISTRICT
SHAWNEE COUNTY
HOME ADDRESS: 932 FRAZIER
TOPEKA, KANSAS 66606
(785) 234-8806

OFFICE: ROOM 284-W STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 296-7673

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
AGENDA CHAIRPERSON
TAXATION
INSURANCE
KANSAS 2000 SELECT
INTERSTATE COOPERATION
JOINT COMMITTEE LONG TERM
CARE SERVICE

TESTIMONY ON SB120

I stand before you in opposition to SB120. The plan before you rests on assumptions and ideologies gone astray.

- It is based on the Division's continual refusal to acknowledge that NF/MH programs exist because there are insufficient community resources to provide the support and care for those who are significantly disabled by a mental illness.
- It is based on an assumption that proprietary NFs/MH are focused on the bottom line rather than staffed by mental health professionals who are committed and work hard to assist residents in a move to less structured environments.
- It is based on a continual misunderstanding of the coordinated efforts between community mental health centers and NFs/MH to engage residents in the slow process of developing a network of community support before a transition will be assured of success.
- It is based on the continual denial that NF/MH programs play an important role in the current mental health system and are an integral part of the continuum of choices available to those with SPMI.

I have served as an administrator for an NF/MH for fifteen years. During that time the delivery of mental health services has changed rather significantly. At one time there were few mental health centers that worked with NF/MH programs. The movement into the community was rare, and such movement was strictly up to the efforts of the NF/MH. In fact we were much more successful moving residents into the community if we could have them determined to be eligible for MRDD services, than if we attempted to use the mental health system. Mental health reform has made a real difference for NFs/MH and the residents we serve.

Senate Public Health & Welfare Committee
Meeting Date 2-1-01
Attachment 3-1

The KU report, which was the catalyst for mental health reforms, referred to NFs/MH as nothing more than backwards. Charlie Rapp, the chief researcher, acknowledged neither he nor his staff ever visited any of the 23 programs. Many of the misperceptions remain. Mental Health Reform did not address the 1200 folks who were living in these institutions, other than to note this issue would need to be addressed at some point. There were more people living in NF/MH with SPMI than there were in state institutions and that fact remains unchanged. Today there are 12 facilities providing care for 800+ individuals who have SPMI or have some form of non-progressive dementia.

The referrals to NF/MH programs come from hospitals and community mental health centers. Hospital and community mental health center staffs perform internal screens on patients before a NF/MH program is ever considered. Once a determination is made that community resources are not available, the patient must be determined to need nursing facility level of care. Every potential resident has a Level II screen (PASARR) conducted by mental health professionals. To suggest there needs to be another "sign off" by another mental health professional is to suggest the current screeners are not competent. To suggest there should be an annual screening is to suggest the NF/MH and the local mental health center are not able to make the necessary professional judgments. The previous annual screening was eliminated because it proved to be a waste of taxpayer dollars.

A better use of money would be to provide sufficient funding for community mental health centers to assign a case manager/social worker to the facility to begin working with residents who have been determined to be candidates for movement to a less restrictive environment. We were fortunate to have this relationship for little more than one year and it worked very well. The community mental health center and my facility worked as a team to help folks make the transition. However, the progress was very slow. It took a year or more for most of the transitions. When we moved too quickly the less structured setting was not enough to sustain the resident. When we were patient and allowed the resident to move at his/her own pace with lots of facility support and center support, it worked.

The problem for the case manager/social worker and the centers was the low outcome numbers. It requires the mental health center to invest considerable professional time and money on a group of folks who show little movement. Currently we no longer have a case manager/social worker

Attachment 3-2

assigned to my facility. The center had to decide the best allocation of limited resources. Individuals living more independently were experiencing "wait times" for case managers, and medication monitoring. The residents of my facility were safe and not at risk for hospitalization. We became a lower priority.

Adding another screening is not going to change the reality of the services available in the community. The acuity level of our residents has increased. This is as it should be if mental health reform is working. The referrals from the hospitals are for very disabled individuals, dual diagnosed, with personality disorders compounding the severe mental illnesses. The average Medicaid rate is $66.00 per day for 24 hour care, the equivalent of $2.75 per hour. Although the cost is borne with State dollars, it is a good use of limited dollars.

Division of Mental Health has a long history of attempting to eliminate the NF/MH program. This year they submitted a budget $1.1 million less than needed and promised to reduce the beds by 100. If we learned anything from mental health reform or our closure of state institutions, it is the necessity of involving all the stakeholders in the development of a plan and implementing the plan for additional community services before the funding is reduced. The Division has apparently forgotten what has been learned.

Previous efforts to eliminate the NF/MH programs have always failed, because the facilities are needed. If the Division placed more dollars into community services for the severely disabled, our programs would dwindle because our services would no longer be needed and that is how it should be. The current initiative to raise the rates for some CMHC services may make a difference in the availability of intensive community service, but only if all the stakeholders in the community are committed to using the initiative for these

intensive services.

Attachment 3-3

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
Web Site: www.acmhck.org

Testimony to the Senate Public Health and Welfare Committee
Ellen Piekalkiewicz, Director of Policy and Planning
February 2, 2001

I represent that 29 licensed community mental health centers (CMHCs) currently operating in the state. These centers have a combined staff of over 3,500 providing mental health services in every county of the state in over 100 locations. Together they form an integral part of the total mental health system in Kansas. The independent, locally owned centers are dedicated to fostering a quality, free standing system of services and programs for the benefit of citizens needing mental health care and treatment.

It appears that the purpose of S.B. 120 is to reduce the number of admissions to nursing facilities for mental health (NF/MHs) by adding an additional review by a Community Mental Health Center employee, a Qualified mental health professional (QMHP). Currently, all prospective admissions to NF/MHs are screened using the PASARR screen.

When Connie Hubbell became Secretary on Aging, she increased the amount the Local Area Agencies on Aging (AAA) were to reimburse for PASARR screens and she encouraged the AAAs to contract with CMHCs to conduct the PASARR screens.

We are not convinced that an additional review/screen by a QMHP is necessary since many CMHCs will be conducting the PASARR screens. We need to continue collaborate with AAAs to ensure that the number of CMHCs conducting the PASARR screens continues to increase.

We are concerned about what additional contract requirements such as sanctions for admissions to NF/MHs would be included in SRS/CMHC FY 2002 contracts based on this legislation. Additionally, we concerned about the additional costs that would be incurred by CMHCs for this additional review.

This policy change may have its merits but we still have many questions about the implications. We would be willing to work with SRS, the NF/MHs, the Department on Aging to discuss this policy change.

Thank-you for this opportunity to speak with you today.

SEN HLTH + WELFARE
1-5-01
ATTACHMENT 4

Patricia Murray, President, Salina
Randy Class, President Elect, Wichita
Diane Z. Drake, Vice President, Ottawa
C. Sheldon Carpenter, Secretary, Greensburg
John Randolph, Treasurer, Emporia
Pete Zevenbergen, Member at Large, Kansas City
David Wiebe, Past President, Mission
Paul Klotz, Executive Director, Topeka