

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairman Dwayne Umbarger at 12:15 P.M. on March 30, 2006, in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Jill Wolters, Revisor of Statutes Office
Michael Corrigan, Revisor of Statutes Office
J. G. Scott, Kansas Legislative Research Department
Reagan Cussimano, Kansas Legislative Research Department
Audrey Dunkel, Kansas Legislative Research Department
Debra Hollon, Kansas Legislative Research Department
Susan Kannarr, Kansas Legislative Research Department
Amy VanHouse, Kansas Legislative Research Department
Judy Bromich, Chief of Staff
Mary Shaw, Committee Secretary

Conferees appearing before the committee:

Gary Daniels, Secretary, Kansas Department of Social and Rehabilitation Services
Representative Lana Gordon
Michael J. Hammond, Executive Director, Association of Community Mental Health Centers of Kansas, Inc.
Thomas Zaborowski, Chief Executive Officer, Valeo Behavioral Health Care
Bryce Miller, on behalf of the Depression and Bipolar Support Alliance
Amy Campbell, Kansas Mental Health Coalition
Sky Westerlund, National Association of Social Workers, Kansas Chapter
Jack Alexander, Kansas State Fire Marshal
Chad Austin, Vice President, Government Relations, Kansas Hospital Association
Justin K. Holstin, Executive Vice President, Propane Marketers Association of Kansas
Jeff Hudson, Fire Chief, City of Shawnee, Kansas
Debra Zehr, Exec. Vice President, Kansas Assn. of Homes and Services for the Aging (written)
Audrey Sheets, Administrator, Enterprise Estates Nursing Center
Phyllis Kelly, Executive Director, Kansas Adult Care Executives Association

Others attending:

See attached list.

Bill Introduction

Senator Umbarger moved, with a second by Senator Emler, to introduce a bill regarding schools; accreditation; student performance standards. Motion carried on a voice vote.

The following sets of minutes from the following meetings were distributed for review by the Committee and they will be approved during the upcoming Omnibus Session:

February 1, 2006	February 7, 2006
February 9, 2006	February 14, 2006
February 16, 2006	February 17, 2006
February 20, 2006	February 21, 2006
February 28, 2006	March 2, 2006
March 6, 2006	March 7, 2006
March 9, 2006	

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 12:15 P.M. on March 30, 2006, in Room 123-S of the Capitol.

Chairman Umbarger called the Committee's attention to discussion of:

HB 3005--Establishing the veterinary training program for rural Kansas

Senator Taddiken moved, with a second by Senator Emler, to amend HB 3005 on page 2, line 9, change the service obligation from 120 back to 48 months which was the original language in the bill. Committee discussion followed. Senator Taddiken withdrew his motion, with agreement by Senator Emler, the second to the motion.

Senator Schmidt moved, with a second by Senator Teichman, to amend HB 3005 to reduce the service obligation from 120 months to one year for each year of assistance received. Motion carried on a voice vote.

Senator Teichman moved, with a second by Senator Kelly, to amend HB 3005 to limit the service area from counties with a population of 25,000 or less. Motion carried on a voice vote.

Senator Barone moved, with a second by Senator Emler, to recommend HB 3005 favorable for passage as amended. Motion carried on a roll call vote.

HB 2967--Reimbursement of political subdivisions for health insurance of employees on state active duty in the national guard

Senator Emler moved, with a second by Senator Barone, to recommend HB 2967 favorable for passage. Motion carried on a roll call vote.

Chairman Umbarger opened the public hearing on:

HB 2520--Community mental health center licensure

Staff briefed the Committee on the bill.

The Chairman welcomed the following conferees on the bill:

Gary Daniels, Secretary, Kansas Department of Social and Rehabilitation Services, testified with information regarding **HB 2520 (Attachment 1)**. Secretary Daniels explained that if the bill passes, SRS would continue to provide State monitoring activities for the purposes of assuring regulatory compliance, contract and grant compliance, and quality improvement. He noted that currently there are two CMHC's in Kansas that maintain national accreditation status.

Representative Lana Gordon testified in support of **HB 2520 (Attachment 2)**. Representative Gordon explained that the issue of deemed status as presented in the bill was brought to her attention several years ago. She noted that those seeking consideration of the bill are wanting to be able to use the national CARF accreditation process which is a more thorough approach than that used by SRS in evaluating Community Mental Health Centers.

Michael Hammond, Executive Director, Association of Community Mental Health Centers of Kansas, Inc., testified in support of **HB 2520 (Attachment 3)**. Mr. Hammond mentioned that in Kansas there are currently two CMHCs that are accredited by national organizations. He noted that the Association believes that the standards of the national accrediting bodies complements the SRS licensing regulations in that they seek and achieve the same goals of quality care, fiscal soundness, and corporate compliance, with both focusing on clients and client rights.

Thomas Zaborowski, Chief Executive Officer, Valeo Behavioral Health Care, spoke in support of **HB 2520 (Attachment 4)**. Mr. Zaborowski provided some background information and details regarding deemed status. He explained that the Commission on the Accreditation of Rehabilitation Facilities (CARF) is a private, not-for-profit internationally recognized organization that promotes quality rehabilitation services. Mr.

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 12:15 P.M. on March 30, 2006, in Room 123-S of the Capitol.

Zaborowski mentioned that Valeo believes that the 800+ CARF standards complement the SRS licensing regulations in that they seek and achieve the same goals of quality care, fiscal soundness, and corporate compliance, both CARF and SRS each sent three surveyors, each spending 3-4 days on site.

Bryce Miller, Topeka, testified in support of **HB 2520** (Attachment 5). Mr. Miller explained that the bill provides for voluntary national accreditation by a community mental health center (CMHC), but eliminates the duplication of state licensing requirements for that same CMHC. He noted that last year 31 states had a “deemed status” arrangement and now that number has climbed to 47 states.

Amy Campbell, Kansas Mental Health Coalition, spoke in support of **HB 2520** (Attachment 6). Ms. Campbell explained that although the bill does not require national accreditation, it does remove one of the disadvantages currently faced by a community mental health center which may otherwise consider accreditation. She noted that the Coalition enthusiastically supports **HB 2520**.

Sky Westerlund, Executive Director of the Kansas Chapter, National Association of Social Workers (KNASW), testified in opposition to **HB 2520** (Attachment 7). Ms. Westerlund noted the following information:

- KNASW supports the state licensure of the 29 CMHC’s across the state and supports accreditation of such programs as well; however, they cannot support the state using accreditation as a replacement for the state licensure standards in the CMHC licensure renewal process.
- The purpose of state licensure is to protect the public.
- **HB 2520** creates a way for the CMHC to be licensed but not necessarily accountable to that licensure.

Ms. Westerlund urged the Committee to carefully consider the differences between accreditation and licensure, namely that accreditation is a voluntary national standard of care in contract that the state licensure is specific to Kansas and is about protecting the public.

There being no further conferees to come before the Committee, the Chairman closed the public hearing on **HB 2520**.

The Chairman opened the public hearing on:

HB 2978--Informal resolution of disputes of deficiencies cited by fire inspectors

Staff briefed the Committee on the bill.

The Chairman welcomed the following conferees on **HB 2978**:

Jack Alexander, State Fire Marshal, testified as a proponent on **HB 2978** (Attachment 8). Mr. Alexander explained that he felt that the bill has merit, but requires more study to coincide with the package of sister bills that were introduced with this one. He offered a balloon amendment for consideration and is attached to his written testimony.

Chad Austin, Vice President, Government Relations, Kansas Hospital Association, spoke in support of **HB 2978** (Attachment 9). Mr. Austin explained that HB 2978 allows for an objective review of any cited deficiency by creating an independent review panel consisting of one member from the Kansas State Fire Marshal’s Office and two members from outside the agency. They support limiting the bill to medical care facilities and nursing homes.

Justin Holstin, Executive Vice President, Propane Marketers Association of Kansas, testified as a neutral conferee on **HB 2978** (Attachment 10). Mr. Holstin asked that their industry be exempted or the bill narrowed

CONTINUATION SHEET

MINUTES OF THE Senate Ways and Means Committee at 12:15 P.M. on March 30, 2006, in Room 123-S of the Capitol.

so that they may retain a system that they believe meets the needs of the industry. He also mentioned that they support the proposed amendment and support an interim study.

Jeff Hudson, Fire Chief, Johnson County Fire Chiefs' Association, testified as a neutral conferee on **HB 2978** (Attachment 11). Mr. Hudson explained some significant issues that they as Fire Chiefs in the State of Kansas see as problems that would be created if they, as local leaders in fire safety, lose the ability to handle fire code issue disputes through due process in their own communities. This information is detailed in Mr. Hudson's written testimony.

Written testimony was submitted by the following conferees on **HB 2978**:

- Debra Harmon Zehr, Executive Vice President, Kansas Assn. Of Homes and Services for the Aging (Attachment 12)
- Audrey Sheets, Administrator, Enterprise Estates Nursing Center (Attachment 13)
- Phyllis Kelly, Executive Director, Kansas Adult Care Executives Association (Attachment 14)

There being no further conferees to appear before the Committee, the Chairman closed the public hearing on **HB 2978**.

Senator Barone moved, with a second by Senator Kelly, to recommend **HB 2978** be assigned to an interim committee during the summer along with the additional four sister bills. Motion carried on a voice vote.

The meeting adjourned at 1:15 p.m. The next meeting was scheduled for March 31, 2006.

**SENATE WAYS AND MEANS
GUEST LIST**

Date March 30, 2006

NAME	REPRESENTING
SUE PETERSON	K-STATE
Sue Laird	K-State
G. Damm	SRS
Jeff Hudson	Kansas Fire Chiefs
Pat Lehman	KFSA
Ali Sultani	Senate Intern
Janice Harper	Adjutant General
Chad Austin	KS Hosp Assoc.
Brenda M. Clark	KSFMO
Karl M. Watson	KSFMO
Rock Alexander	KSFMO
Natalie Busby	PMAK
Susan Holst	Propane Marketers Assoc of KS
BRYCE MILLER	DBSA
Mike Hammond	ACMHC
Sheli Sweeney	ACMHC
Thomas Zborowski	Valeo BHC
Lylene Crotchero	Valeo BHC
Dan Laughlin	KSFMO
Gary Reser	Kc. VETERINARY MEDICAL ASSN.
Estelle Montgomery	Hein Law Firm

Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Secretary

Senate Ways & Means Committee

March 30, 2006

HB 2520 - Deemed Status

Health Care Policy

Gary Daniels, Secretary

785.296.3217

For additional information contact:
Public and Governmental Services Division
Kyle Kessler, Deputy Secretary

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Senate Ways and Means
03-30-06
Attachment 1

**Kansas Department of Social and Rehabilitation Services
Gary Daniels, Secretary**

Senate Ways & Means Committee
March 30, 2006

HB 2520 - Deemed Status

Chairman Umbarger and Committee members, I am Gary Daniels, Secretary of the Kansas Department of Social and Rehabilitation Services (SRS). Thank you for the opportunity to discuss HB 2520.

Deemed status is a process allowed for many types of licensure in many states. Currently all Community Mental Health Centers (CMHC's) in Kansas undergo licensing activities which are uniform for all Centers and managed by SRS. Deemed status, in general, allows providers to substitute national accreditation, such as the Commission on Accreditation of Rehabilitation Facilities (CARF) and the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) for all or part of a State licensing process.

If this bill passes, SRS will continue to provide State monitoring activities for the purposes of assuring regulatory compliance, contract and grant compliance, and quality improvement. SRS anticipates that any licensing processes used with a Community Mental Health Center (CMHC) who is successfully accredited by either CARF or JCACHO would experience a significantly abbreviated version of State licensing oversight.

Currently, there are two CMHC's in Kansas that maintain national accreditation status. If this bill is passed, SRS will work jointly with stakeholders, including the accreditation entities to develop a process that will insure comparable accountability of centers who receive deemed status and those who continue to be licensed exclusively by the State.

This concludes my testimony. I will be glad to stand for questions from the committee.

LANA GORDON
 REPRESENTATIVE, FIFTY-SECOND DISTRICT
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TOPEKA

HOUSE OF
 REPRESENTATIVES

CHAIR: ECONOMIC DEVELOPMENT
 MEMBER: EDUCATION BUDGET
 TAXATION
 JT. COMMITTEE: ARTS & CULTURAL RESOURCES
 ECONOMIC DEVELOPMENT

Testimony in Support of HB 2520

Mr. Chairman and members of the Senate Ways and Means Committee. The issue of deemed status as presented in this bill was brought to my attention several years ago. Those asking for consideration of HB 2520 are wanting to be able to use the national CARF accreditation process which is a more thorough approach than that used by SRS in evaluating Community Mental Health Centers. Too often we duplicate tasks within government.

Using national accreditation status for a community mental health center would eliminate the duplication of state licensing requirements for community mental health centers, while providing consumers with a more stringent oversight. This also can result in cost savings to the State of Kansas.

I appreciate your time and consideration of this legislation.

I will leave more of the details to the experts here to testify today.

Senate Ways and Means
 03-30-06
 Attachment 2



Association of Community Mental Health Centers of Kansas, Inc.
720 SW Jackson, Suite 203, Topeka, Kansas 66603
www.acmhck.org

Keith Rickard, President
Michael J. Hammond, Executive Director

**Testimony to
Senate Ways and Means Committee
On House Bill 2520**

March 30, 2006

**Presented by:
Michael J. Hammond, Executive Director, ACMHCK**

For more information contact Michael Hammond or Sheli Sweeney
Telephone: (785) 234-4773 / Fax: (785) 234-3189
mhammond@acmhck.org ssweeney@acmhck.org

Senate Ways and Means
03-30-06
Attachment 3

Mister Chair and members of the Committee, thank you for the opportunity to appear before you to testify House Bill 2520. My name is Mike Hammond. I am the Executive Director of the Association of Community Mental Health Centers (CMHCs) of Kansas, Inc.

The Association represents the 29 licensed CMHCs in Kansas who provide home and community-based, as well as outpatient mental health services in all 105 counties in Kansas, 24-hours a day, seven days a week. In Kansas, CMHCs are the local Mental Health Authorities coordinating the delivery of publicly funded community-based mental health services.

The CMHC system is state and county funded and locally administered. Consequently, service delivery decisions are made at the community level, closest to the residents that require mental health treatment. Each CMHC has a defined and discrete geographical service area. With a collective staff of over 4,000 professionals, the CMHCs provide services to Kansans of all ages with a diverse range of presenting problems. Together, this system of 29 licensed CMHCs form an integral part of the total mental health system in Kansas. As part of licensing regulations, CMHCs are required to provide services to all Kansans needing them, regardless of their ability to pay. This makes the community mental health system the "safety net" for Kansans with mental health needs.

The Association stands in support of House Bill 2520. In Kansas, there are currently two CMHCs that are accredited by national organizations. Prairie View, Inc., located in Newton, is accredited by the Joint commission on Accreditation of Health Care Organizations (JAHCO), and Valeo Behavioral Healthcare is accredited by the Commission on Accreditation of Rehabilitation Facilities (CARF). Providers that achieve a three-year accreditation through a health care accrediting organization (such as CARF or JAHCO) have met comprehensive, internationally-recognized standards of quality. Both CARF and JAHCO accreditation credentials are recognized by the Center for Medicaid and Medicare Services (CMS) and a majority of managed care and managed behavioral health organizations, and a large number of private insurers.

The acceptance of deemed status by the State Mental Health Authority would allow those providers who obtain national accreditation to go through a licensure audit or inspection only once, instead of multiple inspections by the state and the accrediting organization. The Association will offer to work with the state to identify "crossover" licensure items between the current Kansas licensing requirements for CMHCs and the national health care accreditation standards, to ensure that the state is able to address any specific items of licensure not covered by the national organizations.

The Association believes that the standards of the national accrediting bodies complement the SRS licensing regulations in that they seek and achieve the same goals of quality care, fiscal soundness, and corporate compliance, with both focusing on clients and client rights.

Thank you for the opportunity to appear before you today.



**Valeo Behavioral Health Care
330 Oakley
Topeka, Kansas 66606**

**Testimony
Senate Ways and Means Committee
March 30, 2006**

**Presented by
Thomas Zaborowski, Chief Executive Officer
Valeo Behavioral Health Care**

**For more information contact Tom Zaborowski
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e-mail tomz@valeotopeka.org**

Senate Ways and Means
03-30-06
Attachment 4

**Testimony to the Senate Ways and Means Committee
March 30, 2006**

Part I. BACKGROUND

Mr. Chairman and members of the Senate Ways and Means Committee, thank you for the opportunity to speak in support of HB 2520 regarding deemed status. My name is Thomas Zaborowski, Chief Executive Officer of Valeo Behavioral Health Care.

Valeo is a private, non-profit, community mental health center serving Shawnee County since 1967. We provide comprehensive mental health and substance abuse services. In 2005 our 370 dedicated staff served 6,203 adults.

In 1995, in preparation for the impending closure of Topeka State Hospital and the movement of substance abuse services towards a managed care environment, we reviewed various national standards of care. We believed The Commission on the Accreditation of Rehabilitation Facilities (CARF) standards best fit our vision of quality care. We achieved our first 3-year national CARF accreditation in 1997 and have now earned this accreditation through June of 2008.

Part II. WHAT IS CARF?

The Commission on the Accreditation of Rehabilitation Facilities (CARF) is a private, not-for-profit internationally recognized organization that promotes quality rehabilitation services. CARF standards are developed with input from consumers, rehabilitation professionals, state and national organizations, and funders. Every year the standards are reviewed and new ones developed to keep pace with changing conditions and consumer needs. To date 5,000 organizations throughout the United States and Canada have CARF accredited programs.

After an organization applies for accreditation of its programs, CARF sends professionals in the field to conduct an on-site peer survey to determine the degree to

which the organization meets the standards. The surveyors also consult with staff members and offer suggestions for improving the quality of services.

CARF accredited programs and services have demonstrated that they substantially meet nationally recognized standards. CARF accreditation means that you can be confident that an organization has made a commitment to continually enhance the quality of its programs and its focus on consumer satisfaction.

Part III. COMPLEMENTARY TO SRS REQUIREMENTS

Valeo believes that the 800+ CARF standards complement the SRS licensing regulations in that they seek and achieve the same goals of quality care, fiscal soundness, and corporate compliance, with both focusing on clients and client rights. In our last surveys, both CARF and SRS each sent three surveyors, each spending 3-4 days on site.

Other Survey Similarities Include:

- Review of client charts
- Interviews with clients, staff, Board of Directors, community stakeholders
- Review of agency policies and procedures
- Review of fiscal responsibilities
- Review of utilization review/quality management processes
- Review of personnel records

Survey Variances Include:

- CARF has an emphasis on all programs and all populations served.
- SRS focus is on the target population and only mental health services. A separate SRS entity reviews and provides licensing for substance abuse services. Mental health residential services are also surveyed and licensed separately.
- CARF standards are updated annually by peers in the field, both clients and providers.
- CARF places additional emphasis on health and safety standards.
- CARF expects more thorough documentation in client transition planning.

- CARF requires application of outcomes to programs and management practices to show how decisions are made based on data and feedback.
- SRS licensing reviews bed day usage for Osawatomie State Hospital (OSH).
- SRS licensing requires screenings at Nursing Facilities for Mental Health.
- SRS licensing requires a specific percentage of consumers served in both independent living and employment programs.

What has national CARF accreditation meant for Valeo?

- We are a step ahead in preparation for HIPAA compliance due to focus on documentation in both clinical and administrative areas.
- National accreditation enhances applications for other sources of funding outside SRS.
- When completing applications for liability insurance plans, national accreditation helps us get quotes.
- The emphasis CARF standards place on risk management helps to hold our liability, property, and workers comp insurance claims down which, in turn, holds down insurance premiums.
- National accreditation helps with service delivery in a managed care environment.
- The national accreditation survey gives Valeo staff an opportunity to hear what others across the nation are doing.

IV. WHAT IS HB 2520 (DEEMED STATUS)?

HB 2520 adds a section to Kansas Statute K.S.A. 75-3307b and states: *A community mental health center which has been licensed by the secretary of social and rehabilitation services and which has also been accredited by the commission on accreditation of rehabilitation facilities or the joint commission on the accreditation of health care organizations may be granted a license renewal based on such accreditation.*

V. CLOSING

We are aware of the large amount of work SRS has to do with limited resources. In an effort to assure SRS that we are conforming to nationally accepted standards of

care, we would gladly offer our national CARF survey accreditation results to them. Valeo values and supports the goals of SRS. We fully expect our positive day-to-day working relationship and collaboration to continue.

Thank you for the opportunity to appear before you today.

January 24, 2006

Representative Brenda Landwehr
House of Representatives
State Capital
Topeka, KS 66612

Re: State Recognition of National Accreditation

Dear Representative Landwehr:

I understand that on January 31 your committee will be considering legislation that requires the Kansas Department of Social and Rehabilitation Services to offer organizations such as Valeo Behavioral Health Care of Topeka recognition for their achievement of national accreditation. Valeo has continuously earned CARF accreditation since 1997, and has chosen to apply this process of quality assurance/improvement in order to demonstrate that it is a high quality organization providing outcome-based, person-centered services to individuals with behavioral health needs. I would offer the following considerations for you and your committee:

- CARF is a private, non-profit organization that has been accrediting rehabilitation programs since 1966, and currently has almost 5000 organizations throughout the United States and Canada with accredited programs.
- Providers that achieve a three-year CARF accreditation have met comprehensive, internationally-recognized standards.
- CARF accreditation is recognized by the Center for Medicaid and Medicare Services (CMS), and is one of the organizations included under the Substance Abuse and Mental Health Services Administration (SAMHSA) mandate for accreditation of methadone treatment programs.
- A growing number of states offer deemed status to accredited organizations or that have chosen to mandate accreditation (currently 47 states). They report their belief that a private entity has the capacity to review and revise standards on a much more regular basis, thus ensuring reflection of evidence-based practices and state-of-the-art requirements; provide measurement and consultation on national trends, including best practices; and conduct unbiased reviews that result in improved outcomes for the persons served.

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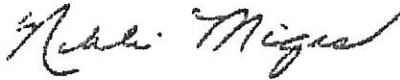
CARF Canada
10085 Jasper Avenue, Suite 1400A
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- Organizations that have chosen CARF accreditation report an 86% positive response that the standards are relevant to their current business operations and provision of services, and 85% positive response that the application of the standards and the CARF survey process helped to improve their performance. Ninety percent indicate that the survey process was a consultative one.

CARF considers itself a quality improvement partner with its stakeholders – organizations providing services, persons served, and state funders. Persons served are involved in the development of the standards, and we often work with state authorities to provide a crosswalk of our standards with state requirements, as well as offer statistical data to the states on the aggregate performance of providers within their boundaries.

Please feel free to contact me by cell phone (520-906-0442) if there are any questions or concerns that I can help to address.

Sincerely,



Nikki Migas, Managing Director
Behavioral Health Customer Service Unit

Benefits of CARF accreditation:

Accreditation by an outside, internationally recognized agency, provides for an unbiased, third-party review of an organization's performance.

Standards are updated regularly to reflect current issues, state-of-the-art, and ongoing research.

Standards are developed through an international field review process that involves program experts, service providers, governmental authorities and, most importantly, persons served in the programs.

Standards focus on all aspects of the organization from administrative and corporate compliance issues, to involvement of the persons served in their individual plan development.

Standards include not only process issues, but also focus heavily on the measurement of outcomes for the persons served, as well as cost/benefit for those who fund the services.

Accreditation of organizations in relation to international standards has been shown to provide a higher return on investment and higher outcomes for the persons served.

Accreditation is recognized by federal, state, and provincial authorities, and private funders of human services.

The CARF surveyors are trained peers from the field and offer an international perspective to organizational quality improvement.

The survey process is consultative and focuses not only on the organization's conformance to standards, but also on the continuous improvement of quality in both administrative and programmatic areas.

The decreased risk afforded by accreditation has been recognized by actuaries from property/casualty insurance companies to the degree that they offer decreased premiums for CARF accredited organizations.

Testimony in Support of HB 2520 (deemed status)

Chair Umbarger and members of the Senate Ways and Means Committee. I am pleased to be here to testify in support of HB 2520 (aka the deemed status bill). My name is Bryce Miller, of Topeka (also a retired state employee, a registered professional engineer and enthusiastic K-State supporter). I was diagnosed with bipolar disorder in 1974 and have since served as a volunteer consumer advocate for 28 years. I have been involved as a consumer advocate at local, state and national levels. It was in the mid-nineties while serving on the National Alliance on Mental Illness (NAMI), in Arlington, VA, that I was a member of the Accreditation Committee and assigned as liaison between NAMI and the Commission on Accreditation of Rehabilitation Facilities (CARF).

I was impressed with the quality of the CARF accreditation system. I later convinced the Shawnee Community Mental Health Center to apply for a CARF accreditation.

HB 2520 provides for voluntary national accreditation by a community mental health center (CMHC), but eliminates the duplication of state licensing requirements for that same CMHC.

Senate Ways and Means
03-30-06
Attachment

Attached is my memo dated August 2, 2005, covering the advantages of national accreditation of community mental health centers. Please note especially items, 3, 4, 5, 7 and 10 in the attached memorandum. Also attached is an e-mail dated October 24, 2005 from Keith Rickard, President of the Association of CMHC's in Kansas which indicates their support of HB 2520.

In December, 2005, the Governor's Mental Health Services Planning Council also voted to support HB 2520.

A letter is included from Nikki K. Migas, National Director, Behavioral Health Division, CARF, in Tucson, AZ pledging cooperation and collaboration with SRS.

Last year, 31 states had a "deemed status" arrangement. Now that number has climbed to 41 states.

It is time for Kansas to pass HB 2520 since this is essentially a "consumer driven" issue. How can a community mental health center staff focus on providing good services for consumers when they are also undergoing duplicate oversight from both a national accreditation, non-profit organization and the State of Kansas/SRS licensing team? This duplication of oversight is not cost effective!

I hope you will agree with me that is time to stop the fragmentation and start the transformation in Kansas and pass HB 2520.

Thank you for your time and attention. I will be happy to respond to any questions

Bryce Miller

Attachments: (3)

Deemed Statute
CMHC's

Session of 2005

HOUSE BILL No. 2520

By Committee on Appropriations

3-10

9 AN ACT concerning the licensure of community mental health centers;
10 amending K.S.A. 75-3307b and repealing the existing section.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 75-3307b is hereby amended to read as follows: 75-
14 3307b. (a) The enforcement of the laws relating to the hospitalization of
15 mentally ill persons of this state in a psychiatric hospital and the diagnosis,
16 care, training or treatment of persons in community mental health centers
17 or facilities for the mentally ill, mentally retarded or other handicapped
18 persons is entrusted to the secretary of social and rehabilitation services.
19 The secretary may adopt rules and regulations on the following matters,
20 so far as the same are not inconsistent with any laws of this state:

21 (1) The licensing, certification or accrediting of private hospitals as
22 suitable for the detention, care or treatment of mentally ill persons, and
23 the withdrawal of licenses granted for causes shown;

24 (2) the forms to be observed relating to the hospitalization, admission,
25 transfer, custody and discharge of patients;

26 (3) the visitation and inspection of psychiatric hospitals and of all
27 persons detained therein;

28 (4) the setting of standards, the inspection and the licensing of all
29 community mental health centers which receive or have received any
30 state or federal funds, and the withdrawal of licenses granted for causes
31 shown;

32 (5) the setting of standards, the inspection and licensing of all facili-
33 ties for the mentally ill, mentally retarded or other developmentally dis-
34 abled persons receiving assistance through the department of social and
35 rehabilitation services which receive or have received after June 30, 1967,
36 any state or federal funds, or facilities where mentally ill, mentally re-
37 tardated or other developmentally disabled persons reside who require su-
38 pervision or require limited assistance with the taking of medication, and
39 the withdrawal of licenses granted for causes shown. The secretary may
40 adopt rules and regulations that allow the facility to assist a resident with
41 the taking of medication when the medication is in a labeled container
42 dispensed by a pharmacist. No license for a residential facility for eight
43 or more persons may be issued under this paragraph unless the secretary

1 of health and environment has approved the facility as meeting the li-
2 censing standards for a lodging establishment under the food service and
3 lodging act. No license for a residential facility for the elderly or for a
4 residential facility for persons with disabilities not related to mental illness
5 or mental retardation, or both, or related conditions shall be issued under
6 this paragraph;

7 (6) reports and information to be furnished to the secretary by the
8 superintendents or other executive officers of all psychiatric hospitals,
9 community mental health centers or facilities for the mentally retarded
10 and facilities serving other handicapped persons receiving assistance
11 through the department of social and rehabilitation services.

12 (b) An entity holding a license as a community mental health center
13 under paragraph (4) of subsection (a) on the day immediately preceding
14 the effective date of this act, but which does not meet the definition of a
15 community mental health center set forth in this act, shall continue to be
16 licensed as a community mental health center as long as the entity remains
17 affiliated with a licensed community mental health center and continues
18 to meet the licensing standards established by the secretary.

19 (c) *A community mental health center which has been licensed by the*
20 *secretary of social and rehabilitation services and which has also been*
21 *accredited by the commission on accreditation of rehabilitation facilities*
22 *or the joint commission on accreditation of health care organizations may*
23 *be granted a license renewal based on such accreditation.*

24 Sec. 2. K.S.A. 75-3307b is hereby repealed.

25 Sec. 3. This act shall take effect and be in force from and after its
26 publication in the statute book.

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ADDED



DEPRESSION AND BIPOLAR SUPPORT ALLIANCE

KANSAS CHAPTER • P.O. BOX 4335 • TOPEKA, KS 66604-0335

MEMORANDUM

August 2, 2005

Subject: Advantages of national accreditation of community mental health centers by national accreditation organization (i.e. CARF or JACAHO).

Author: *BBM* Bryce Miller, four year member and chair of Accreditation Committee, NAMI Board of Directors, Arlington, VA, and 27 year volunteer, consumer, and mental health services advocate.

1. "Deemed status" or acceptance of national accreditation (i.e. HB 2520) in lieu of state licensing eliminates duplication of effort and expense.
2. Effort and expense saved by CMHC staff can be used to improve and increase consumer services.
3. National accreditation standards are reviewed and updated annually. State licensing standards are often not updated once written by a department of state government.
4. National accreditation standards by third party organizations removes possible lawsuits when state writes licensing standards and are later found erroneous or out of date. (Note: This is becoming very important to states who are trying to reduce or eliminate litigation).
5. A growing number of insurance companies are recognizing the risk management aspect of national accreditation and are offering lower rates to organization that have earned accreditation.
6. CARF is identified by the National Committee for Quality Assurance as a "recognized accrediting body" for providers.
7. Providers that achieve a three-year CARF accreditation have met comprehensive internationally recognized standards of quality.
8. CARF has been accrediting rehabilitation programs since 1966, and currently has almost 11,000 accredited behavioral health programs through the United States and Canada.
9. CARF accreditation is recognized by the Center for Medicaid and Medicare Services (CMS), a majority of managed care and managed behavioral health organizations and a large number of private insurers.
10. Thirty-one states now have "deemed status" arrangements for behavioral health care including Colorado, Missouri and Nebraska.
11. Kansas HB 2520 providing for "deemed status" (on a voluntary basis) for Kansas CMHC's needs to be passed in 2006. It will provide the capability for improved mental health services for consumers in Kansas as well as providing for more cost-effective use of SRS and CMHC's employees.

FYI

Subj: HB 2520
Date: 10/24/05 11:43:46 AM Pacific Daylight Time
From: KRickard@theguidance-ctr.org
To: ksbruce@aol.com
CC: mhammond@acmhck.org, ssweeney@acmhck.org, djohnson@bartnash.org
Sent from the Internet (Details)

Bryce, after speaking with Mike, Sheli, and David Johnson, the Association can and will support HB2520. The reason that we had been neutral was because we did not have enough members interested in order to come out and expend resources in support. We do not oppose and the bill and we are now officially on record as supporting this bill. Thank you.

EMAIL FROM: KEITH RICKARD,
PRESIDENT, ASSOCIATION OF
COMMUNITY MENTAL HEALTH
CENTERS IN KANSAS

TO: BRYCE MILLER,
DBSA KANSAS

10/24/05

BBM

Kansas Mental Health Coalition

P.O. Box 4103, Topeka, KS 66604 785-234-9702 kmhc@amycampbell.com

**Testimony to the
Senate Ways and Means Committee
on House Bill 2520
March 30, 2006**

The Kansas Mental Health Coalition encourages the passage of this legislation. Although House Bill 2520 does not require national accreditation, it does remove one of the disadvantages currently faced by a community mental health center which may otherwise consider accreditation.

The bill states the following: "A community mental health center which has been licensed by the secretary of social and rehabilitation services and which has also been accredited by the commission on accreditation of rehabilitation facilities or the joint commission on accreditation of health care organizations may be granted a license renewal based on such accreditation."

The purpose of the bill is to encourage national accreditation for community mental health centers. Once the bill passed, a Center could plan to invest the time and money required for national accreditation without also having to go through duplicative inspections and review for their state license renewal.

The purpose of national accreditation is to represent standards of excellence established nationwide. Accreditation provides a level of review which is based on evidence based practices and state of the art requirements. Such accreditation also encourages measurement and consultation on national trends including best practices. It is intended to promote these best practices among those centers who take on this challenge.

While community mental health centers will still be required to meet Kansas license requirements, this bill removes at least one of the roadblocks which currently face centers who might otherwise pursue a higher standard of review.

Thank you for your consideration of this legislation. Please do not hesitate to contact me.

Amy A. Campbell
Kansas Mental Health Coalition
P.O. Box 4103
Topeka, KS 66604
785-969-1617 kmhc@amycampbell.com

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Testimony: HB 2520
Senate Ways and Means
March 30, 2006

Testimony presented by Sky Westerlund, LMSW

Good morning. My name is Sky Westerlund. I serve as the Executive Director of the Kansas Chapter, National Association of Social Workers (KNASW). KNASW is a membership organization working on behalf of the profession and practice of social work in Kansas.

Social workers have been licensed to practice at three levels of expertise in Kansas since 1976. These are the baccalaureate (LBSW), the master (LMSW), and the clinical social worker (LCSW). There are over 5500 social workers practicing and serving persons in Kansas. Social workers work in a wide variety of settings, such as community mental health centers, schools, juvenile justice system, private practice, military bases, hospitals, hospices, disaster events, community programs and more. Social workers perform a range of activity from casework to psychotherapy and specialize in a multitude of areas including everything from adoption to genetics to rehabilitation to family functioning, to substance abuse, to health crisis, mental illness, and other life circumstances.

Life can change in a second and social workers are there to help.

HB 2520 would allow the Department of Social and Rehabilitation Services (SRS) to grant a renewal of a Community Mental Health Center (CMHC) license based on if the CMHC had accreditation by either the Commission on Accreditation of Rehabilitation Facilities (CARF) or the Joint Commission on Accreditation of Health Care Organizations (JCAHCO).

KNASW supports the state licensure of the 29 CMHC's across the state and supports accreditation of such programs as well. **However, KNASW cannot support the state using accreditation as a replacement for the state licensure standards in the CMHC licensure renewal process.**

Accreditation is an important component of establishing and holding an organization to a recognized national standard of care. But accreditation serves a very different purpose than the state licensure. The purpose of accreditation is for voluntarily meeting a prescribed standard for operations. **The purpose of state licensure is to protect the public.** State licensure of the CMHCs affords the state the ability to work closely with the individual CMHCs. Licensure carries out the critical function of state oversight and regulation of the CMHCs. State oversight and regulation is the protection of the public.

By allowing a CMHC to obtain their licensure renewal simply because they are JCAHCO or CARF accredited, is a step in the direction of lowering the oversight ability of the state's expectations required of the CMHC's. While the CMHC would still be required to be licensed as a CMHC, **HB 2520 creates a way for the CMHC to be licensed but not necessarily accountable to that licensure.** This is a problem because the state licensing standards for Kansas CMHC licensure is more specific and detailed than what is required by either the JAHCHO or CARF accreditation.

The Kansas regulations, KAR 30-60-1 through 30-61-16, were most recently upgraded in 2003. Some of the items in the regulations, used during the state's evaluation process for CMHC licensure renewal are:

- An annual review of consumer rights
- Specific consumer rights (over sixteen specific rights)
- Consumer representation of the local CMHC board of directors
- Liaison service to state hospitals
- Emergency treatment and response protocols
- Services provided 24/7 (this was a direct request from the legislature several years ago)
- Complaints and process for grievances
- Data and statistical reporting
- Coordination and community involvement
- Prohibition against denial of required services due to an inability to pay fees; fee collections
- Departmental assistance; cooperation with compliance monitoring

This is a sampling of the Kansas regulations on CMHC licensure. It is these specific items and more, that the CMHC is monitored and evaluated on for licensure maintenance and licensure renewal. There is nothing comparable to these specific Kansas requirements in either the JCACHO or CARF accreditation.

KNASW would urge the committee to carefully consider the differences between accreditation and licensure, namely that accreditation is a voluntary national standard of care in contrast that state licensure is specific to Kansas and is about protecting the public. Accreditation can complement but not replace state licensure. KNASW asks that you maintain the current strong licensure and state oversight of the CMHC's and not support HB 2520.

Thank you.



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

Senate Ways and Means Committee

HB 2978

March 30, 2006

Testimony of Jack Alexander Kansas State Fire Marshal

The Kansas State Fire Marshal stands as a proponent of HB 2978. Attached is my testimony from the hearing held in the House Public Safety Budget committee. We still feel this bill has merit but requires more study to coincide with the package of sister bills introduced with this one. We would like to encourage the legislature to move this and the other series of bills to an interim study committee.

Short of doing this we are prepared to offer a balloon amendment to address the specific need, to not impact those other facility types with more restrictive time frames, and to delete the requirement to hear dispute that may arise from a local municipality inspection.

Thank you for your consideration.

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 66603-3714

Voice 785-296-3401

Fax 785-296-0151

www.accesskansas.org/firemarshal

*Senate Ways and Means
03-30-06
Attachment 8*

HOUSE BILL No. 2978

By Committee on Appropriations

2-22

9 AN ACT concerning fire inspections; providing for an informal dispute
10 resolution procedure.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. (a) If, upon inspection of a ~~business or residence~~ by an
14 officer ~~or agent~~ of the state fire marshal ~~or a fire chief or fire inspector~~
15 ~~of a city~~, deficiencies are found, the person who owns or operates such
16 business or residence, within 10 calendar days after receipt of the state-
17 ment of deficiencies, may make a written request to the state fire marshal
18 for informal dispute resolution by an independent review panel. The
19 owner or operator may make one request for informal dispute resolution
20 per inspection to dispute any deficiencies with which such owner or op-
21 erator disagrees. The informal dispute resolution may be based upon the
22 statement of deficiencies and any other materials submitted; however,
23 the state fire marshal shall provide the owner or operator with a face to
24 face informal dispute resolution meeting upon request by the owner or
25 operator.

26 (b) A written request for informal dispute resolution shall:

27 (1) State the specific deficiencies being disputed;

28 (2) provide a detailed explanation of the basis for the dispute; and

29 (3) include any supporting documentation, including any information
30 that was not available at the time of the inspection.

31 (c) Upon receipt of the written request provided for in subsection
32 (a), the state fire marshal shall appoint a panel of three persons to com-
33 pose the independent review panel. One member shall be an employee
34 of the state fire marshal's office and two members shall be appointed
35 from outside the state fire marshal's office.

36 (d) A request for informal dispute resolution shall not delay the timely
37 correction of any deficiency. A facility may not seek a delay of any en-
38 forcement action against it on the grounds that the informal dispute res-
39 olution has not been completed before the effective date of the enforce-
40 ment action. Any decision or proposed resolution of the independent
41 review panel shall be advisory to the state fire marshal.

42 (e) Costs of the panel, including traveling expenses and other ex-
43 penses of the review, shall be paid by the office of the state fire marshal.

Strike out and replace
with: adult care
homes and medical
care facilities

strike through

- 1 (f) The state fire marshal shall implement by rules and regulations
- 2 the provisions of this section.
- 3 Sec. 2. This act shall take effect and be in force from and after its
- 4 publication in the statute book.



K A N S A S

F. S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

House Public Safety Budget Committee

HB 2978

March 15, 2006

Testimony of Jack Alexander Kansas State Fire Marshal

HB 2978 establishes within the state fire marshal's office an independent review panel for informal dispute resolutions. Overall the merits of this bill are sound and just. This bill as it stands carries a significant fiscal note that this agency doesn't have the resources to provide. The broad stroke it has taken is overwhelming. The bill would allow any business or residence, owner or operator, who has deficiencies from an inspection, either by this office or by any agent, fire chief or fire inspector of any city to make a written request to this office to dispute the findings of the deficiencies.

The state fire marshal will have to impanel a three member committee to hear informal dispute resolutions on any fire inspection performed by this agency and any fire inspection performed by any fire department in the state. This includes approximately 650 local fire departments. The state fire marshal would need to establish a regular traveling informal dispute resolution panel to hear and resolve issues with facilities who feel they are grieved by an inspection. This agency performs inspections on over 7,300 facilities or buildings. It is unknown the number of inspections or appeals heard by local fire officials, but, as there are 650 Fire Departments and other Commissioned Inspectors, that number will be increased exponentially.

Again we believe this bill as with the others should be placed in an interim study committee to glean out the true intent of the bill. The bill conflicts with current law for appeals to be made to the state fire marshal. Some suggested changes would include limiting the language to health care, adult care, and like facilities and limiting the scope to only state fire marshal inspections.

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 66603-3714

Voice 785-296-3401 Fax 785-296-0151 www.accesskansas.org/firemarshal



Thomas L. Bell
President

TO: Senate Committee on Ways and Means

FROM: Chad Austin
Vice President, Government Relations

SUBJECT: House Bill 2978

DATE: March 30, 2006

The Kansas Hospital Association appreciates the opportunity to provide testimony in support of House Bill 2978. This proposed legislation modifies the current informal dispute resolution (IDR) process that health care providers follow when challenging Life Safety Code citations.

Health care providers throughout Kansas aim to provide quality health care services to all patients in a safe and caring environment. The Centers for Medicare and Medicaid Services has instructed all State Fire Marshal Offices to implement more stringent inspections using heightened scrutiny. Health care providers are aware that the implementation of the 2000 Life Safety Code, which is the basis of all hospital fire safety inspections, has brought with it more strict standards along with controversial interpretations and requirements. Over the past year, several KHA members have complained of inconsistent interpretations of the 2000 Life Safety Code by State Fire Marshal personnel. Currently, any facility wishing to challenge a deficiency can request an informal dispute resolution meeting. This meeting is conducted with a high-ranking member of the State Fire Marshal staff and a representative of the complaining facility. In our opinion, changing this process to allow for a panel of reviewers is preferable as KHA members need an objective and fair forum in which to challenge fire safety survey findings.

House Bill 2978 allows for an objective review of any cited deficiency by creating an independent review panel consisting of one member from the Kansas State Fire Marshal's Office and two members from outside the agency. Further, the legislation requires the Kansas State Fire Marshal's Office to provide a face-to-face informal dispute resolution hearing when requested by the health care provider.

The Kansas Hospital Association and its members urge the committee to pass House Bill 2978. Thank you for your consideration of our comments.

Kansas Hospital Association

215 SE 8th Ave. • P.O. Box 2308 • Topeka, KS • 66601 • 785/233-7436 • Fax: 785/233-6955 • www.kha-net.org

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02-30-06
Attachment 9



Propane Marketers Association of Kansas

420 S.E. 6th Avenue, Suite 2000 Topeka, KS 66607

Phone 785-354-1749

Fax 785-354-1740

pmak@pmak.org

Justin K. Holstin
Executive Vice President

March 30, 2006

Mr. Chairman and Members of the Ways & Means Committee;

Thank you for the opportunity to speak with you today concerning HB 2978. My name is Justin Holstin and I am the executive vice president of the Propane Marketers Association of Kansas. The Propane Marketers Association of Kansas represents about 250 members in all aspects of the propane industry including retail, wholesale, transportation, production, and manufacturing of propane and propane related equipment. The propane industry serves more than 98,000 households in Kansas, not including barbeque grills, heaters, agricultural implements and application, and motor vehicles. Each year over 192 million gallons of propane are consumed in Kansas.

I stand as a neutral conferee on HB 2978. Although I support the underlying intent of the legislation, I believe that not all groups want to be considered in the bill as having a new type of informal dispute resolution process.

The Propane Marketers Association of Kansas has worked with the Fire Marshal's office to create a system that ensures a fair hearing for those in the industry that might have a grievance. Propane falls under the Fire Protection chapter, K.S.A. 31-133(a)(1) which includes an appeals process (KSA 31-140) which provides 15 days to file an appeal, whereas this bill reduces that time frame to 10 days.

Additionally, the bill provides for a hearing panel of advisors made up of an employee of the Fire Marshal and two members from the public. Currently we have in-place the Liquefied Petroleum Gas Advisory Board (LPGAB), under KSA 55-1811, which is a nine person panel appointed by the governor whereas HB 2978 establishes a three person panel and does not specify their knowledge or background. Although the LPGAB does not have specific powers to hear appeals, the Fire Marshal, under KSA 31-140, may select a representative to hear the appeal. Many times in the past three years, the Fire Marshal's office has turned to the appointed board as a source for knowledge and discussion on many topics and would probably do so in these dispute cases. The advisory group is composed of industry people who have the technical knowledge and expertise to understand the issues involved in a dispute.

We would ask that our industry be exempted or the bill narrowed so that we may retain a system that we believe will meet the needs of the industry. Thank you for your time, and I would answer any questions you may have.

Respectfully Submitted,

Justin K. Holstin
Executive Vice President

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House Bill No. 2978

Kansas State Association of Fire Chiefs

Johnson County Fire Chiefs' Association

Members of the Committee:

Thank you for the opportunity to be part of the process regarding this Legislative matter.

My name is Jeff Hudson and I am the Fire Chief in the great City of Shawnee Kansas. I am here today representing, as President, the Kansas State Association of Fire Chiefs, and as Secretary of the Johnson County Fire and Emergency Services Chiefs' Association to speak in opposition of House Bill No. 2978 for the following reasons:

- Any Municipality, County or Fire District who has adopted and enforces one of the model fire codes already has a formal process or the structure for due process in place. For instance, the predominant Model code called the International Fire Code has a section that establishes an independent Board of Appeals to hear and make a decision on fire code issue disputes. ✓
- This legislation would take the due process system as outlined in the fire code out of the jurisdiction of the local fire officials and place this burden on the Office of the Kansas State Fire Marshal, this could and most likely would be a significant staffing and logistics issue for an office that serves the public so well, with such a relatively small staff.
- By removing the responsibility of due process in these matters from the local jurisdiction we feel it will "Bottleneck" the system and backlog the disputes through one panel thereby slowing the code enforcement process, which could lead to delays in correcting fire code issues which in turn could have an impact on life safety in our communities. ✓

These are just a few of the more significant issues that we as the Fire Chiefs in the State of Kansas see as problems that would be created if we, as local leaders in fire safety, lose the ability to handle fire code issue disputes through due process in our own communities.

Thank you again for allowing the Fire Chiefs in the State of Kansas the opportunity to voice our observations and opinions regarding HB No. 2978.

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Testimony in Support of House Bill 2978

**Debra Harmon Zehr, Executive Vice President
Kansas Association of Homes and Services for the Aging
To the Ways & Means Committee
March 30, 2006**

Thank you, Chairman Umbarger and Members of the Committee, for the opportunity to testify on House Bill 2978.

The Kansas Association of Homes and Services for the Aging (KAHSA) represents 160 not-for-profit nursing homes, retirement communities, hospital long-term care units, assisted living residences, senior housing and community service providers serving over 20,000 older Kansans every day. Our members are dedicated to providing excellent care and services in a safe living environment. They have extensive fire prevention and safety systems in place. My members need to and want to understand and comply with life safety code regulations.

A number of fire safety-related factors have converged in the past two to three years to create provider confusion, frustration and, unnecessary expenditures of public and private dollars in some cases:

1. CMS adopted NFPA's 2000 Life Safety Code (LSC) for health care facilities. Previous to this, CMS required compliance with the 1985 LSC. This 15-year leap in code resulted in all sorts of new requirements. Many of these new requirements have been costly and made little sense to members (e.g. sprinklering of outdoor canopies.)
2. There has been delayed and uneven training of KSFM personnel by CMS on how to interpret and apply the new requirements.
3. There is increasing federal scrutiny of state life safety code survey agencies like the Kansas State Fire Marshal's (KSFM) Office.
4. There is inconsistency in regulation interpretation and application among KSFM inspectors.

With all of these new requirements, pressures and problems in the system, it is critical that the regulated community have an opportunity for a fair and objective review of citations that they believe to be in error.

Under current law, facilities inspected by the Kansas State Fire Marshal's (KSFM) office have the right to seek Informal Dispute Resolution (IDR) on a

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deficiency that they believe has been cited incorrectly. The system that is currently in place is much like the one that is outlined in House Bill 2978, with a couple of important exceptions:

1. The bill would establish an independent review panel to consider evidence submitted and make a determination of the validity of the deficiency that was cited. (Currently a single State Fire Marshal staff person is responsible for performing all IDRs.)
2. It would require the State Fire Marshal to provide a face-to-face informal dispute resolution upon request. (Currently, the majority of IDRs are done by paper review.)

House Bill 2978 mirrors the structure used for Informal Dispute Resolution at the Department on Aging (KDOA) over the past year and a half. KAHSA stands ready to provide input to the Fire Marshal on panel composition, procedural flow and quality improvement mechanisms, to help assure accuracy and objectivity in the new IDR process and outcomes.

Thank you for your favorable consideration of this bill.

(Written Testimony - Proponent HB 2978)

Testimony before the Senate Ways and Means Committee on HB 2978. An Act concerning fire inspections and providing for an informal dispute resolution process.

Senator Umbarger and members of the Committee:

I am Audrey Sheets, Administrator of Enterprise Estates Nursing Center. I have been licensed for over 15 years and the administrator of EENC for 11 years. Previously, I have owned several businesses that primarily provided management and training for small to medium sized company's. EENC is a not for profit, community owned, stand alone medicare certified nursing facility that operates from the monthly invoices of the residents that we serve. We have distinguished ourselves as an outstanding facility by having received perfect KDOA survey's six of the past nine years. We have received Certificates of Recognition and an Exemplary Award from the survey agency in 2005. EENC takes pride in being compliant with all survey agencies.

HB2978 would provide for an informal dispute resolution procedure for owners or operators of a business or residence after a fire inspection has occurred. Under current practice for adult care homes, the fire marshal's office says it uses the process adopted by the Kansas Department on Aging (KDOA). It has been my experience that KSFM office does not follow the guidelines or time frames. The passage of this bill would put into statute a procedure specifically for fire inspections by an agent of the state fire marshal or a fire chief or fire inspector of a city.

The informal dispute resolution (IDR) proposed in HB 2978 is essentially the same process used by KDOA to hear any disputed statements of deficiencies issued by KDOA surveyors for nursing facilities. This bill simply puts into place a process which inspectors and owners/operators must both follow if any disputes are contested. It is reasonable and fair to both sides to be heard by a panel of peers, agency and community persons when a dispute arises.

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(Written Testimony – Proponent HB 2978)

Testimony before the House Public Safety Budget Committee on HB 2978. An Act concerning fire inspections and providing for an informal dispute resolution process.

Chairman Light and Members of the Committee:

I am Audrey Sheets, Administrator of Enterprise Estates Nursing Center . I have been licensed for over 15 years and the administrator of EENC for 11 years. Previously, I have owned several businesses that primarily provided management and training for small to medium sized company's. EENC is a not for profit, community owned, stand alone medicare certified nursing facility that operates from the monthly invoices of the residents that we serve. We have distinguished ourselves as an outstanding facility by having received perfect KDOA survey's six of the past nine years. We have received Certificates of Recognition and an Exemplary Award from the survey agency in 2005. EENC takes pride in being compliant with all survey agencies.

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ENTERPRISE ESTATES NURSING CENTER

- 3/10/05: STATE FIRE MARSHAL SURVEY- SETH TOOMAY
- 3/16/05: Waiver request sent to State FM office
- 3/21/05: Received ltr. from Nat'l Gypsum Co (Mr. J. Walker) stating that the material concerned in deficiency K12 is noncombustible and has a one hour fire rating. I forwarded this information to Brenda McNorton, Enforcement Inspector, KSFM - and requested an IDR on the deficiency K12.
- 4/11/05: I called KSFM office to ask IF information had been received. Diane Sabatino took my call. She requests that I could ask for a brochure from Nat'l Gypsum Co. to further verify the letter from Mr. J. Walker.
- 4/18/05: I receive a copy of a brochure and a letter from Mr. J. Walker reconfirming that Woodrock is noncombustible and has a one hour fire rating. I forward this to the KSFM office.
- 5/4/05: Letter from B. McNorton - stating that my request was ONE day over the 10 day time limit for asking for an IDR. (It took nearly two months to respond to my request for an IDR) In the letter she acknowledges Woodrock is noncombustible and query's if it is used in the front and south side of the building.
- 5/11/05: I confirm, by letter, that Woodrock was used in both areas.
- 8/12/05: Diane Sabatino faxes asking if the 5/4/05 ltr. from B. McNorton was received and answered.
- 8/15/05: I faxed her copies of the ltr. I sent 5/11/05.
- ✓ 12/06/05: State Fire Marshall Survey - Steven Fenske
- 12/07/05: mailed waiver request.
- 12/07/05: called to ask procedure for IDR - Diane Sabatino took the call. I reminded her that information has been sent to KSFM in March 2005 explaining the product in question is noncombustible and has a one-hour fire rating. She said she was looking at our file and yes, she could see the brochure and ltr. from Mr. J. Walker with the information. She would have a letter to me removing the deficiency from our record in the mail today.
- 12/08/05: Letter from D. Sabatino stating that she was withdrawing her decision.
- 12/12-13/05: Jerry Wells, owner, Tri-State Alarm Co. (in business 29 yr. - nursing home specialist) He talked with Jack Chotman with KSFM office and wrote letter.
- ✓ 12/15/05: Sent letter to Brenda McNorton requesting an IDR.
- 12/27/05: Called Shari Weber, Kansas Legislator
- *****01/05/06: Federal Fire Marshall survey - Kathrine Achor and trainee, Mary -----
- 1/10/06: Received two fax - one, was for EENC and the second was for another facility but with our survey number. I called McNorton to let her know of the mix-up . . .

had to leave voice message for her.

1/11/06: D. McLaughlin (McNorton's aide) called to respond to my call to Brenda. I asked why we were getting another facilities fax?

1/11/06: Called Shari Webber's Office and relayed that the Fed FM had surveyed

1/12/06: A fax for another facility arrived in our office. With time being of the essence with the KSFM I wanted the other facility to have adequate time to respond to the KSFM so called the FM office. I was directed to D. Sabatino who after hearing my concern, passed me to B. McNorton. I explained the misdirected fax 's on the 10th and on the 12th. I asked her when we would hear back about the IDR I had requested. She said that "when I have a chance to review it" -- I said that I wanted to set a time for a face to face -- she said "When I have a chance to review it I will let you know by mail" -- I asked about the waiver I submitted 12/7/05 - She said "when I have a chance to review it I will let you know" - end of conversation.

1/12/06: 1:00 PM: Diane Sabatino called to inquire as to the temp. and response time on the current sprinkler heads in the "old dining room" and the "new dining room". I asked her to review the letter submitted by Jerry Wells (after he had talked with Jack Chotman FM office) explaining the sprinkler situation. She said she would look into this. I asked her about the waiver - she said it was approved to 6/6/06. I responded, "Good, and I still want a face to face IDR about the canopy too".

✓ 1/12/06: an hour or so later - Jack Alexander called (Acting Secretary State Fire Marshal) he said that Brenda McNorton was in his office. Shari Weber had been in contact with him and wondered how we could resolve my concerns - he suggested we "talk it through". I assured Mr. Alexander that I wanted to comply and had asked for a face to face and would be in their office at their convenience. We agreed to meet the following Tuesday at 1 PM.

'A' 1/13/06: Received (1) rejection letter from Brenda McNorton for the IDR's I requested (2) Waiver acceptance letter from B. McNorton and (3) a letter of compliance from B. McNorton - Three separate letters. The rejection letter was 28 days from request.

1/13/06: Mr. Alexander called to reschedule the meeting to Wednesday, 01/18/06, 1 PM.

1/18/06: 1 PM - attending B. McNorton, D. McLaughlin, S. Fenske, J. Alexander and their legal counsel., Shari Weber, Joel Pearson, EENC Maintenacne and Audrey Sheets, Adm. EENC. The identical information supplied orginally in March 05 forward~ pictures of the exterior of the building and the separation of the old and new dining rooms were presented. At the close of the meeting, Ms. McNorton said she would get with Kathy A. at CMS (Fed FM) and determine a response.

'B'
'C' 1/27/06: A letter postmarked 1/26/06 and dated 1/12/06 written by B. McNorton. It states that **K12 not being cited by the 12/06/05 survey will not be addressed.** K56 and K62 will stand.

'D' 1/31/06: I sent a letter to J. Alexander requesting clarification of letter received 1/27/06.

'E' 2/06/06: S. Fenske (KSFM surveyor) returned - cleared ALL deficiencies with the exception of the waiver. (60 days from original survey)

2/14/06: Received a letter from J. Alexander--to all Adm's - Public Relations?

3/15/06: Testified before the Safety Committee, House of Representatives - referencing the IDR process of the State FM office. I spoke as a proponent for a panel to hear all IDR's.



K A N S A S

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

January 12, 2006

Audrey Sheets
Enterprise Estates
502 Crestview Drive
Enterprise, KS 67441

Dear Ms. Sheets:

This letter is in response to your timely request for the initiation of the Informal Dispute Resolution. A thorough review of the material you submitted, the deficiencies cited, the regulations and guideline, and the surveyor's information has been completed the following is a result of that review.

K62: Required automatic sprinkler system are continuously maintained in reliable operating condition and are inspected and tested periodically.

Finding Include:

An internal pipe inspection was performed on 3/28/01 but there was no statement of condition from the vendor.

The documentation from the company that performs the work must be on site, at your facility while our inspector is there for review.

This deficiency will stand.

EXHIBIT
A

K56: Required automatic sprinkler systems are continuously maintained in reliable operating condition and are inspected and tested periodically. 19.7.6, 4.6.12, NFPA 13, NFPA 25, 9.7.5

Finding Include:

The sprinkler heads located in the new and old dining rooms that are used as an exit are of different types.

The documentation provided from your company does not state if these heads are located in the same compartment. Each compartment must be provided with the same type of heads through out the compartment.

This deficiency will stand.

K12: Building construction type and height meets one of the following. 19.1.6.2, 19.1.6.3, 19.1.6.4, 19.3.5.1, 4.6.6, 4.6.7, 4.6.9, 4.6.10

Finding Include:


The South exit awning exceeds 4 foot and is made up of combustible material and does not have sprinkler protection.

Documentation from the architect will need to be provided that there are not void spaces in the attic area and that the product used is made of non-combustible material.

This deficiency will stand.

If you should have any questions please feel free to contact me.

Sincerely,


Brenda A. McNorton, Chief
Fire Prevention Division

**K A N S A S**

F.S. JACK ALEXANDER
FIRE MARSHAL

OFFICE OF THE KANSAS STATE FIRE MARSHAL

KATHLEEN SEBELIUS
GOVERNOR

January 12, 2006

Audrey Sheets
Enterprise Estates
502 Crestview Drive
Enterprise, KS 67441

Dear Ms. Sheets:

This letter is in response our meeting concerning your Informal Dispute Resolution. A thorough review of the material you submitted, the deficiencies cited, the regulations and guideline, and the surveyor's information has been completed the following is a result of that review.

Your dispute concerning K12, since this deficiency was not cited on our State inspection of 12/6/05 I will not be able to address the dispute resolution.

On K56 according to the inspector the sprinkler heads in the area that is mentioned are of standard type and quick response which code states you can not have two types of head in a compartment. This deficiency will stand.

On K62 as I had stated in the original Informal Dispute response the documentation from the company that performs the work must be on site, at your facility while our inspector is there for review. This deficiency will stand.

Thank you for you time and concern for the safety of your residents.

Sincerely,

Brenda McNorton, Chief
Fire Prevention Division

EXHIBIT
B

700 SW JACKSON STREET, SUITE 600, TOPEKA, KS 66603-3714

Voice 785-296-3401 Fax 785-296-0151 www.accesskansas.org/firemarshal

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

Printed 2005
FORM APPROVED
OMB NO 0938-0391

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 175475	(X2) MULTIPLE CONSTRUCTION A. BUILDING 01 - MAIN BUILDING B. WING	(X3) DATE SURVEY COMPLETED 12/06/2005
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NAME OF PROVIDER OR SUPPLIER ENTERPRISE ESTATES NURSING CEN	STREET ADDRESS, CITY, STATE, ZIP CODE 502 CRESTVIEW DR ENTERPRISE, KS 67441
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(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
--------------------	--	---------------	---	----------------------

K 000	INITIAL COMMENTS	K 000		
	K0000 The following citations are resultant of the Life Safety Code Resurvey 42CFR483.70(a) The facility must meet the applicable provisions of the 2000 existing edition of the Life Safety Code of the National Fire Protection Agency		Statement of Deficiencies will be taken to the QA meeting and presented at the next meeting	1st of 2006
K 012	NFPA 101 LIFE SAFETY CODE STANDARD SS=F Building construction type and height meets one of the following. 19.1.6.2, 19.1.6.3, 19.1.6.4, 19.3.5.1, 4.6.5, 4.6.7, 4.6.9, 4.6.10 This Standard is not met as evidenced by: Based on observation and staff interview the facility fails to assure that Building construction is in compliance. This deficient practice affects two of three smoke zones. The affected zones are in sleeping and non sleeping compartments and would also be used as a means of escape. This facility has a capacity of 46 with a census of 43.	K 012	The preparation and submission of this plan of correction does not constitute an admission or agreement by the provider of the truth of the conclusions set forth on the statement of deficiencies. This plan of correction is prepared and submitted solely because of requirements under State and Federal law.	
	FINDINGS INCLUDE: Based on observation and staff interview during the tour on 12/06/05 between 10:45am and 11:30am the following is observed: - The Main entrance awning exceeds foot and is		Exhibit C	

LABORATORY DIRECTOR'S OR PROVIDER/SUPPLIER REPRESENTATIVE'S SIGNATURE <i>[Signature]</i>	TITLE <i>[Signature]</i>	(X8) DATE 12/15/05
---	-----------------------------	-----------------------

Any deficiency statement ending with an asterisk (*) denotes a deficiency which the institution may be excused from correcting providing it is determined that other safeguards provide sufficient protection to the patients. (See instructions.) Except for nursing homes, the findings stated above are disclosable 90 days following the date of survey whether or not a plan of correction is provided. For nursing homes, the above findings and plans of correction are disclosable 14 days following the date these documents are made available to the facility. If deficiencies are cited, an approved plan of correction is requisite to continued program participation

Printed 1/2006
FORM APPROVE
OMB NO 0938-039

DEPARTMENT OF HEALTH AND HUMAN SERVICES
CENTERS FOR MEDICARE & MEDICAID SERVICES

STATEMENT OF DEFICIENCIES AND PLAN OF CORRECTION	(X1) PROVIDER/SUPPLIER/CLIA IDENTIFICATION NUMBER: 175475	(X2) MULTIPLE CONSTRUCTION A. BUILDING 01 - MAIN BUILDING 01 B. WING _____	(X3) DATE SURVEY COMPLETED 12/06/2005
--	--	--	--

NAME OF PROVIDER OR SUPPLIER ENTERPRISE ESTATES NURSING CEN	STREET ADDRESS, CITY, STATE, ZIP CODE 502 CRESTVIEW DR ENTERPRISE, KS 67441
---	---

(X4) ID PREFIX TAG	SUMMARY STATEMENT OF DEFICIENCIES (EACH DEFICIENCY MUST BE PRECEDED BY FULL REGULATORY OR LSC IDENTIFYING INFORMATION)	ID PREFIX TAG	PROVIDER'S PLAN OF CORRECTION (EACH CORRECTIVE ACTION SHOULD BE CROSS-REFERENCED TO THE APPROPRIATE DEFICIENCY)	(X5) COMPLETION DATE
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K 012 Continued From page 1
made up of combustibile material and does not have sprinkler protection. This observation was verified with Maintenance Staff A.
- The South exit awning exceeds 4 foot and is made up of combustibile material and does not have sprinkler protection. This observation was verified with Maintenance Staff A.

K 012
2 of 5 exit discharges will be in compliance and meet safety code standards
Monitored by maintenance

K 025 NFPA 101 LIFE SAFETY CODE STANDARD
SS=F
Smoke barriers are constructed to provide at least a one half hour fire resistance rating in accordance with 9.3. Smoke barriers may terminate at an atrium wall. Windows are protected by fire-rated glazing or by wired glass panels and steel frames. A minimum of two separate compartments are provided on each floor. 19.3.7.3, 19.3.7.5, 19.1.6.3, 19.1.6.4

K 025

This Standard is not met as evidenced by:
Based on observation and staff interview the facility fails to assure that smoke barriers are constructed to provide at least a one half hour fire resistance rating for 3 out of 4 barriers. This deficient practice affects occupants in three of three smoke zones as the walls would not prevent the spread of fire and smoke and would also be used as a means of escape from another sleeping compartment and non sleeping compartment. This facility has a capacity of 46 with a census of 43.

FINDING INCLUDE:

Based on observation and staff interview during

ENTERPRISE ESTATES

NURSING CENTER



Jack Alexander
Acting State Fire Marshal
700 SW Jackson Street, Suite 600
Topeka, KS 66603-3714

January 31, 2006

502 Crestview Drive
Enterprise, Kansas 67441
Phone 785-263-8278

Dear Mr. Alexander,

Once again I wish to thank you for agreeing to see me, Joel Pearson and Representative Shari Weber on January 18th, 2006 for an Informal Resolution Dispute on K-Tag K12, K56 and K62 cited during the survey 12/06/05.

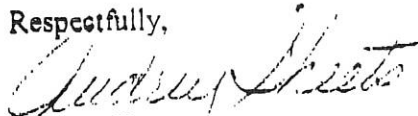
When I requested a face to face IDR with your office it was my intention to be able to explain our information from the manufacturer on a product in question, professional opinion from a sprinkler specialist of 29 years in the health care industry and a visual presentation for added convenience of understandability.

Before the date of our face to face meeting, on the 13th I received a letter from your office accepting our Plan of Correction, a letter accepting the waiver we had asked for and a letter stating the three deficiencies that I had asked to be reviewed at the IDR "will stand". I found this to be odd.

You and I (and you said that Brenda McNorton, Chief, Fire Prevention Division, was in your office) agreed to meet on Tuesday the 17th of January for the IDR meeting. On the 13th you called to reschedule for 1 PM, on the 18th.

Based on the response from you and your staff after our meeting and your seemingly understanding that the Woodrock product is noncombustible and has a 1 hour fire rating, the pictures of the header between the dining rooms and Regulation 3.3.6 thus creating a separate compartment and the written confirmation of inspection of the sprinkler pipe dated 2/15/05 by Tri State Alarm I am baffled by the letter received 1/27/06 - it is dated 1/12/06 and postmarked 1/26/06. How did this letter get written before our meeting on the 18th? Am I interpreting this correctly - K12 was "not cited on the State inspection"? Why am I not understanding the conclusions that have been drawn?

Respectfully,


Audrey Sheets,
Administrator
CC: Shari Weber, Jerry Moran,

EXHIBIT

D

DK-31-E-1

Department of Health and Human Services
Centers For Medicare & Medicaid Services

Form Approved
OMB NO. 0938-0390

Post-Certification Revisit Report

Public reporting for this collection of information is estimated to average 10 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information including suggestions for reducing the burden, to CMS, Office of Financial Management, P.O. Box 26684, Baltimore, MD 21207; and to the Office of Management and Budget, Paperwork Reduction Project (0938-0390), Washington, D.C. 20503.

(Y1) Provider / Supplier / CLIA / Identification Number 175475	(Y2) Multiple Construction A. Building 01 - MAIN BUILDING 01 B. Wing	(Y3) Date of Revisit 02/06/2006
Name of Facility ENTERPRISE ESTATES NURSING CEN		Street Address, City, State, Zip Code 502 CRESTVIEW DR ENTERPRISE, KS 67441

Exhibit
E

This report is completed by a qualified State surveyor for the Medicare, Medicaid and/or Clinical Laboratory Improvement Amendments program, CMS-2567, Statement of Deficiencies and Plan of Correction that have been corrected and the date such corrective action was accomplished. Each regulation or LSC provision number and the identification prefix code previously shown on the CMS-2567 (prefix codes shown to the left of each

(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date	(Y4) Item	(Y5) Date
ID Prefix <u>W</u>	Correction Completed 12/06/2005	ID Prefix	Correction Completed 12/08/2005	ID Prefix	Correction Completed 01/04/2006
Reg. # NFPA 101		Reg. # NFPA 101		Reg. # NFPA 101	
LSC K0012		LSC K0025		LSC K0029	
ID Prefix	Correction Completed 12/12/2005	ID Prefix	Correction Completed 12/12/2005	ID Prefix	Correction Completed 01/05/2006
Reg. # NFPA 101		Reg. # NFPA 101		Reg. # NFPA 101	
LSC K0045		LSC K0051		LSC K0056	
ID Prefix	Correction Completed 12/13/2005	ID Prefix	Correction Completed 01/05/2006	ID Prefix	Correction Completed 01/04/2006
Reg. # NFPA 101		Reg. # NFPA 101		Reg. # NFPA 101	
LSC K0062		LSC K0064		LSC K0066	
ID Prefix	Correction Completed 01/04/2006	ID Prefix	Correction Completed 12/06/2005	ID Prefix	Correction Completed
Reg. # NFPA 101		Reg. # NFPA 101		Reg. #	
LSC K0069		LSC K0147		LSC	
ID Prefix	Correction Completed	ID Prefix	Correction Completed	ID Prefix	Correction Completed
Reg. #		Reg. #		Reg. #	
LSC		LSC		LSC	

Reviewed By State Agency	Reviewed By	Date:	Signature of Surveyor: <i>Stephen Fein</i>	Date: 2-6-06
Reviewed By CMS RO	Reviewed By	Date:	Signature of Surveyor:	

Followup to Survey Completed on: 12/06/2005

Check for any Uncorrected Deficiencies. Was a Summary of Uncorrected Deficiencies (CMS-2567) Sent to the Facility? YES NO

(Written Testimony – Proponent HB 2978)

Testimony before the Senate Ways and Means Committee on HB 2978. An Act concerning fire inspections; providing for an informal dispute resolution process.

Chairman Umbarger and Members of the Committee:

I am Phyllis Kelly, Executive Director of the Kansas Adult Care Executives Association (KACE). Our Association represents over 250 adult care home executives in nursing homes and assisted living facilities throughout Kansas.

HB 2978 would provide for an informal dispute resolution procedure for owners or operators of a business or residence after a fire inspection has occurred. Under current practice for adult care homes, the fire marshal's office uses the process adopted by the Kansas Department on Aging (KDOA). The passage of this bill would put into statute a procedure specifically for fire inspections by an agent of the state fire marshal or a fire chief or fire inspector of a city.

The informal dispute resolution (IDR) proposed in HB 2978 is essentially the same process used by KDOA to hear any disputed statements of deficiencies issued by KDOA surveyors for nursing facilities. The request for an IDR under this proposed legislation will not delay the timely correction of any deficiency and any enforcement action. Additionally, the decision of the review panel will be advisory not mandatory to the state fire marshal. This bill simply puts into place a process which inspectors and owners/operators must both follow if any disputes are contested. It is reasonable and fair to both sides of the inspection process.

We urge your support of HB 2978.

Senate Ways and Means
03-30-06
Attachment