

## MINUTES OF THE HOUSE AGING AND LONG TERM CARE COMMITTEE

The meeting was called to order by Chairman Bob Bethell at 3:30 p.m. on February 17, 2009, in Room 711 of the Docking State Office Building.

All members were present.

## Committee staff present:

Norm Furse, Office of the Revisor of Statutes  
Doug Taylor, Office of the Revisor of Statutes  
Kelly Navinsky-Wenzl, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Judith Holliday, Committee Assistant

## Conferees appearing before the committee:

Representative Tom Sloan  
Gilbert Cruz, State Ombudsman  
Wayne Bollig, Director Veterans Services, Kansas Commission on Veterans Affairs  
Martin Kennedy, Deputy Secretary, Kansas Department on Aging  
Mitzi McFatrach, Executive Director, Kansas Advocates for Better Care  
Ami Hyten, Assistant Executive Director, Topeka Independent Living  
Rocky Nichols, Executive Director, Disability Rights Center of Kansas  
Dodie Wellshear, On behalf of Kansas Academy of Family Physicians  
Kathy Damron, On behalf of University of Kansas Medical Center  
Bob Williams, Executive Director, Kansas Association of Osteopathic Medicine  
Courtney Huhn, Medical Student, University of Kansas Medical Center

## Written testimony only:

Ernie Kutzley, American Association of Retired Persons  
Debra Zehr, President, Kansas Association of Homes and Services for the Aging  
Tom Laing, Executive Director, InterHab

## Others attending:

See attached list.

Chairman Bethell brought the minutes of the February 10 and February 12 Committee meetings before the Committee for approval. Representative Carlin made the motion to approve the minutes, seconded by Representative Phelps. The motion carried.

**Hearing on HB 2242 - State long-term care ombudsman; expanding the authority of the state long-term care ombudsman to advocate for otherwise qualified individuals not in long-term care facilities.**

Chairman Bethell opened the hearing on **HB 2242**.

Representative Tom Sloan brought before the Committee **HB 2242**, which originated with the Douglas County legislators and interested individuals. (Attachment 1) Representative Sloan told the Committee that the Long-Term Care Ombudsman serves as an advocate for residents in facilities, and **HB 2242** extends that authority to persons who would otherwise qualify to reside in facilities, but do not. He expressed belief that the Legislature should extend the Ombudsman authority to pursue complaints on behalf of persons not in facilities, and could investigate complaints on behalf of non-facility-based residents as funds permit.

Gilbert Cruz, State Ombudsman, testified in support of **HB 2242**. (Attachment 2) Mr. Cruz stated the Ombudsman program currently covers most residential facilities, except for nursing facilities for the mental health or the mentally retarded, private homes or other non-licensed settings. He stated that **HB 2242** in its present form, 1) does not contain the necessary legal protections and jurisdictions for the Ombudsman program to enter a non-licensed facility; and 2) would require adding ten more ombudsmen. In addition, the present funding for the Ombudsman program prevents using the grants to develop ombudsman services for the home.

Mr. Cruz suggested amending the language in **HB 2242** to allow a pilot project in Wichita; amending

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language to include legal protections and jurisdictions to enter non-licensed facilities in the pilot area, and have the language include former residents in a facility; include the Kansas Soldiers Home and Kansas Veterans Home within the definition of facility; and convene a meeting of stakeholders to explore options within the home utilizing results of the pilot project.

Wayne Bollig, Director, Veterans Services, Kansas Commission on Veterans Affairs, testified in support of **HB 2242**. (Attachment 3) Mr. Bollig told the Committee that the State's Long-Term Care Ombudsman continues to work with the Kansas Commission on Veterans' Affairs as it transitions into a Medicare facility, and adding the two veterans' homes in the bill will provide another layer of representation for the veterans.

Martin Kennedy, Deputy Secretary, Kansas Department on Aging (KDOA), testified in support of **HB 2242** as amended. (Attachment 4) Mr. Kennedy stated that as community support is expanded more seniors and people with disabilities will be leaving nursing homes and going home. He encouraged the State Long-Term Care Ombudsman to work closely with the Area Agencies on Aging and the Centers for Independent Living to ensure that people leaving a nursing home can receive the services necessary to remain at home.

Mitzi McFatrach, Executive Director, Kansas Advocates for Better Care, expressed strong support for **HB 2242**. (Attachment 5) Ms. McFatrach believes this bill offers Kansas recipients of long-term care an independent, objective authority who can intervene on their behalf whether in a nursing home or in their own home. KDOA investigates complaints of abuse, neglect and exploitation in nursing facilities. The State Long-Term Care Ombudsman advocates on behalf of facility residents at their request. SRS Adult Protective Services investigates complaints of abuse in the homes, but there is no comparative consumer advocacy in the home setting.

Establishing an ombudsman for the home-based care program will: provide the same level of advocacy for long-term care individuals whether in their homes or in a nursing home; build consumer confidence about the safety and health oversight for home-based services; provide protection when incidents occur; and provide a safety net for the minimally regulated services for home-based care.

Ami Hyten, Assistant Executive Director, Topeka Independent Living Resource Center (TILRC), testified as neutral on **HB 2242**. (Attachment 6) Ms. Hyten submitted her agency's perspective on various issues for people living in long-term facilities, and people living at home and receiving home and community based services. Ms. Hyten stated that extensive training will be needed to become acquainted with community resources and applicable laws, rules and regulations. The State will need to identify overlap of services with adult protective services, case management agencies, and other community partners.

Rocky Nichols, Executive Director., Disability Rights Center of Kansas (DRC), testified as neutral on **HB 2297**. (Attachment 7) Mr. Nichols stated that the DRC is a private, nonprofit corporation that advocates for the legal and civil rights of persons with disabilities. He stated his agency's respect for the Long Term Care Ombudsman office and the services they provide. However, he expressed his agency's concern that advocacy services being proposed as an extension of the Ombudsman program are already being provided by the DRC for Kansans with disabilities regardless of age, in any setting, and its authority is not limited. Mr. Nichols stated the DRC would not need a new law passed to help them do all that is proposed in this bill or the pilot in the balloon amendment.

Written testimony in support of **HB 2242** was submitted by the following:

Tom Laing, Executive Director, InterHab (Attachment 8)

Ernie Kutzley, American Association of Retired Persons (AARP) (Attachment 9); and

Debra Zehr, President, Kansas Association of Homes and Services for the Aging (Attachment 10).

Chairman Bethell closed the hearing on **HB 2242**.

**Hearing on HB 2297 - Geriatric medicine; approved postgraduate training program for KU medical school and doctor of osteopathy loan programs.**

Chairman Bethell opened the hearing on **HB 2297**.

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Dodie Wellshear testified on behalf of the Kansas Academy of Family Physicians (KAFP) in support of **HB 2297**. (Attachment 11) Ms. Wellshear stated that the KAFP has no objections to adding geriatrics and geriatric psychiatry fellowships to the list of approved postgraduate residency training programs for the medical student loan programs. The KAFP advocates amending **HB 2297** to allow a fourth year of training for family medicine residency. This extra year would allow a resident planning to practice in an underserved area to gain extra expertise in geriatrics, emergency medicine, obstetrics or some other specialty before having to fulfill the requirement to pay back their loan obligation.

Ms. Wellshear explained that the intent of the loan programs is to put more primary care physicians into underserved areas. There is no primary care pathway to a fellowship in geriatric psychiatry, but instead is through a psychiatry residency, which is not one of the approved programs for the loan recipients. The KAFP believes that specialty should not be included in the loan programs.

Kathy Damron presented testimony on behalf of the University of Kansas Medical Center in support of **HB 2297**. (Attachment 12) Ms. Damron stated the bill does not have a fiscal impact, but it merely allows the residents taking the extra year of specialized study in their residency to defer paying back their student loan. Chairman Bethell asked Ms. Damron to address the issue of slots, and she responded that if the bill was passed and the number of slots would need to be expanded, that this would need to be addressed at a later date.

Bob Williams, Executive Director, Kansas Association of Osteopathic Medicine, testified in support of **HB 2297**. (Attachment 13) Mr. Williams stated his agency's position that geriatric medicine is a part of primary care, and by including fellowship training in geriatric medicine for osteopathic medical service scholarships, the medical community will be better prepared to address the needs of a growing aging population in the state.

Courtney Huhn, a second year medical student at the University of Kansas Medical Center, presented testimony in support of **HB 2297**. (Attachment 14) Ms. Huhn told the Committee that the geriatric population is growing, especially in rural areas of Kansas. Currently, the Kansas Medical Student Loan (KMSL) recipients must repay their loans through service in rural parts of Kansas, which would lead to better care for the growing geriatric population. With passage of **HB 2297**, the repayment of the service would be postponed by one year while the student completes the fellowship.

Ms. Huhn addressed the issue of filling the slots, stating that this would not be a problem since there are 120 slots to be filled, 30 for each residency year.

Ms. Huhn introduced several colleagues from across the state who are also KMSL recipients interested in geriatrics: Melissa Garber, 4<sup>th</sup> year medical student, Hutchinson; Tessa Rohrberg, 1<sup>st</sup> year medical student, Sharon Springs; Tricia Barker, 1<sup>st</sup> year medical student, Minneapolis; and Amanda Baxa, 1<sup>st</sup> year student, Tampa.

Written testimony in support of **HB 2297** was submitted by Martin Kennedy, Deputy Secretary, Kansas Department on Aging. (Attachment 15)

There was a question raised regarding the inclusion of geriatric psychiatry in the language in this bill. Chairman Bethell called on Michelle Niedens, Alzheimer's Association, to address the issue. Ms. Niedens told the Committee the shortage of geriatricians in the state, particularly in geriatric psychiatry, makes this germane to the bill. In many areas, Alzheimer's or dementia patients are treated in primary medicine facilities and admitted to hospitals, often with less than desirable results. That makes this a primary medicine issue. She referenced a report her agency recently completed that will be forwarded to the Chairman's office with information on this issue.

Chairman Bethell closed the hearing on **HB 2297** and stated he would like to work the bill today if the Committee was willing. There was a consensus of the Committee to work the bill at this meeting.

Representative Schwab made a motion to pass **HB 2297** out favorably, seconded by Representative Horst. The motion carried.

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Representative Hill offered a substitute motion to **HB 2297** by deleting the words “or geriatric psychiatry” from the language wherever found in the bill. Representative Schwab seconded the motion. The motion carried.

There was discussion of adding a fourth year to the three-year family medicine residency program. There was a question if this language is actually needed, or if this is a University decision on a curriculum issue. Representative Flaharty offered a conceptual amendment to authorize the Revisor to write the appropriate language adding the fourth year of family practice to the bill. Representative Williams seconded the motion. The motion carried.

Representative Schwab moved to pass out **HB 2297** favorably as amended, seconded by Rep. Horst. Motion carried.

There was discussion that the Committee pursue the issue of geriatric psychiatry through drafting of a new bill to be introduced through another committee and then brought back to the Aging and Long Term Care Committee at a later date. There were no objections.

The meeting was adjourned at 5:00 p.m.

The next meeting is scheduled for February 26.