

## MINUTES

### LONG-TERM CARE SERVICES TASK FORCE

December 13, 2004  
Room 514-S—Statehouse

#### Members Present

Senator Larry Salmans, Chairperson  
Representative Bob Bethell, Vice Chairperson  
Senator Janis Lee  
Representative Patricia Barbieri-Lightner  
Representative Nancy Kirk  
Representative Jim Morrison  
Representative Judy Showalter

#### Non-Legislative Members Present

Evie Curtis  
Janis DeBoer  
Linda Lubensky  
Dr. Carol Moore  
Charles Moore  
Bob Smith  
Sister Beth Stover  
Ray Vernon  
Margaret Zillinger

#### Members Absent

Senator Henry Helgerson  
Senator Chris Steineger  
Senator Susan Wagle  
Mark Baily

#### Staff

Audrey Dunkel, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Lisa Montgomery, Revisor of Statutes Office  
Mary Shaw, Committee Secretary

#### Conferees

Kathy Greenlee, State Long-Term Care Ombudsman  
Maren Turner, Director, American Association of Retired Persons, Kansas  
Phyllis Kelly, Executive Director, Kansas Adult Care Executives  
Scott Frank, Senior Auditor, Legislative Division of Post Audit

**Monday, December 13  
Morning Session**

The meeting was called to order by Chairman Larry Salmans at 10:00 a.m. on December 13, 2004, in Room 514-S of the Statehouse. The Chairman welcomed everyone to the meeting.

Chairman Salmans welcomed Kathy Greenlee, State Long-Term Care Ombudsman, who presented a briefing on her position with the State of Kansas (Attachment 1). Ms. Greenlee explained the mission, history, purpose, program structure, role of volunteers, right of entry to facilities, access to records, funding, hot topics, and the future. She explained that it is the Kansas resident that they represent, advocacy is at the forefront of their activities and their office asks for recognition.

Ms. Greenlee explained that their current funding is:

! Older Americans Act – Title VII	\$131,431
! Older Americans Act – Title IIIB	\$145,049
! Medicaid – Title XIX	\$93,809 (estimated at this amount)
! State General Fund	\$119,000
! Civil Monetary Penalty funds (assessments to facilities) – one time only	

Ms. Greenlee mentioned that the Civil Monetary Penalty funds are used to increase the outreach to volunteer recruitment. She also asked that when looking at the re-authorization of the Task Force, the members of the Task Force consider including the representation of the State Long-Term Care Ombudsman on the Task Force. Questions and discussion followed.

Evie Curtis distributed the following information that is published by, and is available from the Kansas Advocates for Better Care:

- ! *Legal Rights of Nursing Home Residents*, and
- ! *Understanding the Inspection Survey Process and Nursing Home Regulations*.

Chairman Salmans called the Committee's attention to discussion of the minutes of the October 22, 2004 meeting. *Evie Curtis moved, with a second by Representative Showalter, to approve the minutes of the October 22, 2004 meeting. Motion carried. A technical correction will be made to the minutes, on page 3, last sentence on the page, regarding testimony by Mr. McDaniel referring to the PEAK award, to change the conjunction from "but" to "and."*

Staff explained that the draft of the Committee report for year five will be e-mailed, faxed, or mailed to the Task Force members very soon and comments are needed no later than December 20, 2004.

Chairman Salmans welcomed Maren Turner, Director, American Association of Retired Persons (AARP) Kansas ([Attachment 2](#)). Ms. Turner spoke in support of the Long-Term Care Ombudsman Program in Kansas. She explained that one of AARP's primary goals is to ensure that people 50 and older receive services that are delivered efficiently and effectively across all settings. Ms. Turner explained that it has been their pleasure over the past several years to partner with the Long-Term Care Ombudsman Program in Kansas to help recruit several hundred volunteers who are willing to give of their time and energy on behalf of nursing home residents across the state.

The Chairman welcomed Phyllis Kelly, Executive Director, Kansas Adult Care Services, who spoke in support of the Long-Term Care Ombudsman Program in Kansas ([Attachment 3](#)). Ms. Kelly explained that what happened over the past year was a loss of trust and confidence in the Ombudsman, but since August, Kathy Greenlee, in her role as Ombudsman, has been working diligently to resolve this situation. Several positive steps taken are listed in Ms. Kelly's written testimony. In closing, Ms. Kelly mentioned that the Kansas Adult Care Executives and its members are hopeful that this positive trend of activities and policy continues. Ms. Kelly noted that her organization was happy to participate and assist in these collaborative efforts.

Chairman Salmans welcomed Scott Frank, Senior Auditor, Legislative Post Audit, who presented a performance audit report regarding Medicaid: Reviewing Factors That Affect the Amount of Attendant Care Services Certain Medicaid Clients Receive. (Copies of the audit are available from the Legislative Division of Post Audit.)

Mr. Frank explained that the audit answers the following question:

Are clients on the Medicaid physical disability waiver being authorized more hours of service when the same agency that authorizes their services also serves as their payroll agent?

Mr. Frank noted that the Legislative Division of Post Audit found no evidence that this was occurring. These agencies actually authorized fewer hours of service for clients in these situations. Mr. Frank also noted that payroll agents keep about \$2 for every hour of attendant care services billed through them. Therefore, the more hours the agency authorizes the client to receive, the more money the agency could earn as the payroll agent. Additional details are found in the audit report. In response to a question, he responded that this was a full scope audit.

Chairman Salmans called the Committee's attention to discussion of the Long-Term Care Services Task Force Five Year Report. The following decisions were made by consensus of the Task Force:

- ! Bob Smith—In the Year 4 report there were strong recommendations regarding culture change. Additional information should be added into the Year 5 report regarding how to effect culture change in nursing homes.
- ! Janis DeBoer—Include in the Year 5 report that the Kansas Department on Aging (KDOA) has moved forward with the Partnership Grant Program (PGP) with a Request for Proposal to support a tool chest for culture change which is a follow-up from a Task Force recommendation.

- ! Janis DeBoer - Also include in the Year 5 report that the use of the Civil Monetary Penalty (CMP) fund for workforce enhancement—this is also a follow-up from a Task Force recommendation.
- ! Representative Bob Bethell—Recommended the Year 5 report state that the KDOA look at the Civil Monetary Penalty (CMP) fund to see if the balance and interest are increasing, and if so, then recommend the KDOA continue the program and look for culture change in Kansas nursing homes.
- ! Technical Correction to the Year 5 report: Under the Membership of the Long-Term Care Services Task Force, add the first name “Mark” to the name Baily.
- ! Representative Bob Bethell—Recommended under the beginning of the Year 5 report, where Conclusions and Recommendations are listed, continue from Year 4 the on-going issues for Year 5. Eliminate the wording “mandatory vaccinations” in Year 5.

### **Medicare Part D Draft 2**

- ! Evie Curtis—Recommended “boxing” the last half of the paragraph referencing educating low income seniors about the Medicare prescription drug program and recommendations to the 2005 Legislature appropriation funding, located on page 3, first column, second complete paragraph.
- ! Janis DeBoer—Under the reference to educating low income seniors about the Medicare prescription drug program, the federal grant dollars are now \$212,000 and the grant is over a two-year period.
- ! Sister Beth Stover provided a copy of some corrections and suggestions for the final Year 5 report of the Long-Term Care Services Task Force for clarification of Medicare approved discount cards and Medicare Part D ([Attachment 4](#)).

### **Money Follows the Person Project Draft 3**

- ! Recommended the Year 5 report include a recommendation that the findings should be reported to the 2005 Legislature prior to the Omnibus Session and specifically name the agencies that will report to the Legislature:
  - " Kansas Department of Social and Rehabilitation Services; and
  - " if there is Frail Elderly waiting list the Kansas Department on Aging also would report.

### **Diabetes Presentation Review and Recommendation**

- ! No changes.

## **Transfer of Nursing Facility Inspection Program from the Kansas Department of Health and Environment to the Kansas Department on Aging (KDOA).**

- ! No changes.

### **State Fire Marshal Recommendation Draft 1**

- ! Ray Vernon—Regarding life safety codes, conferring who is writing the efficiencies, update the dialog between the KDOA and the State Fire Marshal's Office, Look at inconsistencies regarding posting signs (*i.e.*, oxygen use), and more clarity is needed so providers know where to go.

### **Extension of the Task Force**

- ! Request for additional seats at the table.
- ! Necessary to go over the bill draft for additional people to be added to the bill draft.
- ! Expand the definition of long-term care to include children and the physically and mentally disabled, the younger individuals.
- ! Make sure that the new Task Force understands what the long-term care definition was as defined by the current Task Force, and continue on with it.
- ! Sister Beth Stover—recommended the State Long-Term Care Ombudsman be included as a seat on the new Task Force.
- ! Recommend proposing the bill as written with amendments. Drafts of the proposed bill.

[Representative Bethell explained to the members of the Task Force that the Legislative Budget Committee determined not to support a re-authorization of the Task Force. It is not in the minutes why, but he talked with some members of Legislative Budget and the non-legislative members were the concern. Representative Bethell urged the non-elected officials that advocacy is needed to get these seats included when the bill comes before the Committee during the Session.]

- ! Sister Beth Stover— Recommended to include the original statutory definition of long-term care from the definition from Year 1.

### **Older Kansans Employment Programs**

- ! Recommended leaving the Older Kansans Employment Programs with the Kansas Department of Commerce.
- ! Representative Bob Bethell—Recommended that the Kansas Department of Commerce include long term care setting in their program and recommended that review be part of their work program.
- ! Representative Nancy Kirk— Noted the need to look at the changing service economy in long-term care.
- ! Linda Lubensky—Recommended the following:
  - " The Long Term Care Task Force recognizes that the Kansas Legislature has worked to improve long-term care funding over the last several years, despite significant fiscal problems. That additional funding has enabled the state to provide much needed services to more eligible Kansans. However, the waiting lists for the Physically Disabled (PD) and Mental Retardation/ Developmentally Disabled (MR/DD) waivers continue to grow at an alarming rate. Without these necessary services, many of those on the waiting list face multiple hardships which can affect their mental and physical conditions. When that happens, the ultimate cost to the state will far outweigh the costs of waiver services.
  - " Consequently, the Long-Term Care Services Task Force recommends that the 2005 Legislature make every effort to see that sufficient funds are appropriated to:
    - Meet current Medicaid waiver caseload service needs.
    - Allow for the continuation of the reduction in waiver waiting lists.
    - Maximize federal share monies.
- ! Margaret Zillinger—Recommended deleting the words “at an alarming rate” because currently the waiting lists are down over last year.
- ! Ray Vernon—Recommended looking at long-range, long-term care services regarding the future and looking at future needs of the State of Kansas.
- ! Chairman Salmans and Vice Chairman Bethell recommended re-wording the “me, too” language.
- ! Janis DeBoer—Recommended pulling the goals and objectives from the first year of the Task Force and incorporating them into the Year 5 report when speaking in terms of long range planning to help soften the language.

In closing, Vice Chairman Bethell extended his appreciation for everyone’s involvement including very active involvement from the conferees and things could not be accomplished without that participation. Chairman Salmans conveyed his appreciation for all the patience and the input from all.

The meeting adjourned at 12:30 p.m.

Prepared by Mary Shaw  
Edited by Audrey Dunkel

Approved by Committee on:

May 18, 2005  
(date)