

## MINUTES

### LONG-TERM CARE SERVICES TASK FORCE

October 25, 2004  
Room 514-S—Statehouse

#### Members Present

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

#### Non-Legislative Members Present

Evie Curtis  
Janis DeBoer  
Linda Lubensky  
Charles Moore  
Sister Beth Stover  
Ray Vernon  
Margaret Zillinger

#### Members Absent

Senator Henry Helgerson  
Senator Susan Wagle  
Representative Judy Showalter  
Mark Baily  
Dr. Carol Moore  
Bob Smith

#### 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, Task Force Secretary

## Conferees

Steve Jack, Director, Kansas First Assessment and Labor Exchange Services, Kansas Department of Commerce  
Bill McDaniel, Director, Nursing Facility and CARE Programs, Kansas Department on Aging  
Brent Widick, Real Choice Grant Manager, Kansas Department of Social and Rehabilitation Services  
Craig Kaberline, Executive Director, Kansas Area Agencies on Aging  
Jim Beckwith, Director, Northeast Kansas Area Agency on Aging  
Jennifer Schwartz, Consumer Parent, Lawrence, Kansas  
Lou Ann Kibbee, Independent Living Advocate, Southeast Kansas Independent Living  
Toni Vincent, Consumer, Lyons, Rice County, Kansas  
Stephanie Sanford, Independent Living Counselor, Prairie Independent Living Resource Center, Hutchinson, Kansas  
Ernie Kutzley, Advocacy Director for Kansas, American Association of Retired Persons  
Mike Huffles, Kansas Governmental Consulting  
Shannon Jones, Director, Statewide Independent Living Council of Kansas, written testimony  
Debra Harmon Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging, written testimony  
Deanne Bacco, Executive Director, Kansas Advocates for Better Care, written testimony

### **Monday, October 25 Morning Session**

The meeting was called to order by Chairman Larry Salmans at 10:00 a.m. on October 25, 2004, in Room 514-S of the Statehouse. The Chairman welcomed everyone to the meeting.

Chairman Salmans welcomed Steve Jack, Director, Kansas First Assessment and Labor Exchange Services, Kansas Department of Commerce. Mr. Jack addressed the topics of the Senior Community Service Employment Program (SCSEP), the Older Kansans Employment Program (OKEP), and Kansas First Assessment ([Attachment 1](#)). He explained that the federally-funded SCSEP targets low-income seniors 55 years of age and older and OKEP is a state-funded program designed to provide older Kansans an employment placement service. The Director noted that the employment and training programs and the state's workforce centers were transferred from the Kansas Department of Human Resources to the Kansas Department of Commerce (KDOC). He noted that KDOC's goal is responsiveness to older workers, physically and developmentally disabled, and all others seeking employment and training assistance.

The Director provided additional information regarding:

- Kansas Department of Human Resources Older Kansans Employment Program (OKEP) map showing the Job Service Local Office Service Areas in the state ([Attachment 2](#)).
- Senior Community Service Employment Program (SCSEP), Equitable Distribution ([Attachment 3](#)).

In regard to Kansas First Assessment, the Director explained that Kansas First was created as a result of the Governor's initiative to link numerous state and federally funded workforce development programs, community colleges, and technical schools together into a seamless, integrated workforce development system, driven by business. He indicated several key steps in his written testimony that have already taken place.

In closing, regarding Kansas First, the Director mentioned that KDOC's focus is to increase their services to the business community. He also noted that they seek to improve services to business and clearly need to do a better job of serving all in need who come through their doors.

Task Force questions and discussion followed. Representative Bethell encouraged the Director to continue to look at long-term care services to supplement that area.

Chairman Salmans welcomed Bill McDaniel, Director of the Nursing Home and CARE Programs, Kansas Department on Aging. The Director shared information about the Promoting Excellent Alternatives in Kansas (PEAK) Nursing Homes initiative ([Attachment 4](#)). He provided an explanation and detail in regard to the PEAK-Nursing Home process. He explained that the application process and recognition were initiated in 2002 and refinements were made to the application process in each of the two following years. Currently, the agency is looking at changes for the year 2005 and appreciate input from the various stakeholders.

The Director explained that in 2002 a PEAK application was mailed to all nursing homes in the state. Applicants had to address four domains:

- resident control;
- staff empowerment;
- home environment; and
- community involvement.

The outline for each domain consisted of a description of the changes that were initiated, the time line to initiate the change, outcomes recognized, a before and after description, and safeguards taken to ensure that quality care was maintained. The agency asks nursing home staff to self-nominate by completing the application. The rationale for self-nomination is because the staff at the home are the closest to the changes being made. It provides an opportunity for them to tell their stories of the successes achieved.

The Director noted that there is a general feeling that many Kansas nursing homes are engaged in culture exchange activities and are not applying for the PEAK award. Various concerns and recommendations are addressed in his written testimony. He provided copies of a draft of the PEAK Nursing Homes application information and noted that the agencies' still receiving comments on the draft ([Attachment 5](#)).

Task Force questions and discussion followed. Representative Bethell expressed appreciation to the Director for the agency's work and openness to look at and make changes in regard to the PEAK application process. He expressed concern about the self-nomination issue. Representative Bethell mentioned that he liked the fact that facilities are allowed to encourage each other in that respect and that, as an agency, they will be providing assistance in completing the application. He is concerned that some have a problem with "tooting their own horn," and if the self-nomination requirement continues, there are nursing home administrators and chief executive officers that absolutely will not nominate themselves even though they are doing some very good things. Representative Bethell asked if the agency has looked at someone else doing the nominating and then the nominee putting together the application information with the agency's assistance.

The Director responded that the application has been improved and the agency could consider trying to let others nominate a nursing home for the PEAK award. Representative Bethell suggested that as other nominations come, there might be an opportunity for the associations, ombudsman, etc., to actually do the nominating. Also, the application could be sent out with a follow-up offering technical assistance to the nominee. In addition, a phone call may be beneficial to mention that a letter was sent with an application and offering assistance.

Chairman Salmans suggested consideration of an item for the report that a possible reward for PEAK winners might be a greater length of time between inspections in recognition of the high quality of the facility.

Representative Bethell suggested the inclusion of the associations and the advocates for better care in the discussion to give assistance and help the nursing homes get over the shyness of talking about their accomplishments.

Information was distributed regarding an article in the *Kansas City Star* titled, "Good Nursing Home Care Shines Through in Smiles" (Attachment 6).

Chairman Salmans called the Task Force's attention to discussion of the following items.

### **Minutes for the September 27 Meeting**

- A suggestion was made by Evie Curtis to add the following information to the minutes:
  - On page 6 of the minutes, under Memorial Home, Inc., Moundridge, add:
    - "Their change began as a result of independent fund raising efforts". (Ms. Curtis noted that if change is truly needed, some of the facilities might be able to actually do that on their own.)
  - On page 7 of the minutes, under Pleasant View Home, Inc., Inman, add:
    - "They do fund scholarships. One scholarship is always devoted to a high school senior interested in entering long term care."

*Representative Bethell moved, with a second by Sister Beth Stover, to approve the minutes of the September 27, 2004, meeting as amended. Motion carried.*

### **Transfer of Nursing Facility Inspection Program from the Kansas Department of Health and Environment to the Kansas Department on Aging (Attachment 7)**

Recommendation to include in the Final Report: Concern expressed by the Task Force about the guidelines and reports by the Fire Marshal and ask for a creation of interpretive guidelines by the Fire Marshal regarding the life safety code.

### **Older Kansans Employment Program (OKEP)**

The Task Force will bring their thoughts together regarding testimony on this item at the November 8, 2004 meeting during the afternoon portion. It was hoped that the Legislative Post Audit directive would be available at that time, but Staff indicated that it will not be available at that time and the request was not issued.

### **Money Follows the Person Project (Attachment 8)**

Recommendation to include in the Final Report: *A motion was made by Representative Kirk, with a second by Representative Bethell, to add that the waiting list has a lot to do with the difficulty with the barriers in moving people into the community (i.e., affordable and accessible housing), not anything with the program itself, and that this item needs to be looked at by the state. Motion carried.* The Task Force will review this item at the November 8, 2004 meeting following the minutes.

### **Medicare Part D (Attachment 9)**

Staff indicated on page 2 of the report, second paragraph, add the word “card” in the last sentence after “prescription drug discount” and eliminate “is in operation”.

Sister Beth Stover indicated on page 1 of the report, first paragraph, add a qualifier regarding below 135 percent of the federal poverty level “and whose prescriptions are not paid by Medicare coverage”. Also, on page 3 of the report, second line from the top, after “The Task” add the word “Force”.

Recommendation to include in the Final Report: *Sister Beth Stover moved, with a second by Representative Morrison, regarding the importance of educating persons eligible for Medicare due to the new Part D Medicare Program that is coming, to encourage the Legislature to enact legislation that would allocate from State General Funds for the Kansas Department on Aging to be used to enhance the educational work of their excellent SHICK program and other funds. Motion carried.*

Janis DeBoer, Kansas Department on Aging, mentioned that recently the agency had an opportunity to apply for a federal grant through the Center for Medicare and Medicaid Services for \$125.0 million available to states that have State Pharmacy Assistance Programs. Kansas has a State Pharmacy Assistance Program which does not meet the federal requirements, but the agency applied for the grant and Kansas received \$220,000 out of the \$125 million. This federal funding has specific requirements, but it would complement any additional funding that would come available to educate the entire Medicare population and not just the low income.

On page 3 of the report, last sentence, remove the wording “not covered under Medicare Part D” and replace with the wording “but currently covered by Medicaid, but not on Medicare Part D”.

On page 2 of the report, second paragraph where it is making recommendations on the importance of education, add to the prescription drug discount program and the Medicare prescription drug program, the impact of the Medicare Modernization Act on every consumer in the state.

The meeting recessed at 12:00 noon for lunch.

### **Afternoon Session**

Chairman Salmans reconvened the meeting at 1:30 p.m. The Chairman welcomed Brent Widick, Grant Manager, Real Choices Systems Change Grant, Kansas Department of Social and Rehabilitation Services. He provided a status of the Real Choices Systems Change Grant (Attachment 10). He addressed the five project goals that came with the grant when they were awarded the grant. These are detailed in the agency's written testimony. He also presented detailed information regarding 20 outcomes of the Strategic Plan, which is also listed in his written testimony.

Mr. Widick explained that there is a lot of work being done through the Real Choices Systems Change Grant. The systems changes that occur as a result of the work that has been done, and the work that will be done in the next three years, will have a lasting effect on how services are provided to Kansans with long-term support needs.

Copies of the Real Choice Systems Change Strategic and Action Plans, Strategic Planning Committee, State of Kansas, October 2004, were distributed to the Task Force (Attachment 11). Task Force questions and discussion followed.

The Chairman opened the meeting to public comment regarding the Real Choice Systems Change Grant.

Chairman Salmans welcomed Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association. The Executive Director mentioned that he served on the Real Choice Systems Change Strategic Planning Committee for the past year and discussed the strategic and action plan and the reason a minority report was written (Attachment 12). He explained that the Minority Report to the strategic plan was written to communicate what they believe to be inherent problems and bias from many of the Task Force members in addressing the assigned task to "make home and community based services as accessible to individuals with disabilities or long-term illness as institution or facility based care."

Copies of the following information was also distributed to the Task Force by the Executive Director:

- Real Choice Systems Change Strategic Planning Committee Minority Report (Attachment 13).
- Copies of AARP (American Association of Retired Persons) Comments regarding the Real Choice Systems Change Strategic Planning Committee Report (Attachment 14).
- Aging and Disability, A Position Paper in Response to Real Choice Systems Change, Kansas Association of Area Agencies on Aging (Attachment 15).

Chairman Salmans welcomed Jim Beckwith, Director, Northeast Kansas Area Agency on Aging in Hiawatha, Kansas. The Director explained that he is a mandated advocate for issues which affect Kansas seniors (Attachment 16). He noted that he supports the intent of the Real Choice Systems Change grant objective, but does not entirely support what came out of the effort to reach that objective. The Director noted that aging and disability are different. He expressed concern regarding the plan that there is a need to be very careful and deliberate and check every word.

The Chairman welcomed Jennifer Schwartz, Consumer Parent and representative of the Kansas Association of Centers for Independent Living (KACIL). She mentioned that she was chosen to be a member of the Real Choices Systems Change project and the Strategic Planning Committee to represent families that include a child with a disability (Attachment 17). In her role as a family

member, a Strategic Planning Committee member, and a KACIL staff member, she asked for the Legislature's full support in implementation of the Strategic Plan for Kansans that require long-term care supports.

Chairman Salmans welcomed Lou Ann Kibbee, Independent Living Advocate, Southeast Kansas Independent Living (SKIL). She explained that her goal in life as a person with a disability was to live her life as she would have had she not been injured. She noted that without the services she received through the federal and state government programs, she would not be living the life she is living today. She urged support of the plan ([Attachment 18](#)).

The Chairman welcomed Toni Marie Vincent, Consumer, Lyons, Rice County, Kansas. She urged support of the plan ([Attachment 19](#)). She explained in her written testimony her experiences in living with a disability. A friend and personal attendant, Gloria Hand, presented her testimony before the Task Force. She urged support of the plan.

Chairman Salmans welcomed Stephanie Sanford, Independent Living Counselor, Prairie Independent Living Resource Center, Hutchinson, Kansas. She explained that the choice to receive long-term supports and services and to remain in one's own home should not be conditional, but it is. She noted that one can exercise that choice if you choose to wait. Ms. Sanford urged support of the plan and mentioned that receiving needed services in one's own home must be the priority for the State of Kansas ([Attachment 20](#)).

The Chairman welcomed Ernest Kutzley, Director of Advocacy for AARP (American Association for Retired Persons) Kansas. The Director explained that AARP agrees with the Minority Report and submitted additional comments regarding the Real Choice Systems Change Grant and Strategic Planning Process ([Attachment 21](#)). He noted that representation on the Task Force was not balanced and equal representation on the Task Force is necessary for needs based outcomes. He explained that AARP believes that the scope of the work in the Strategic Plan far exceeds the reality, time, and money available through the grant. He noted that AARP advocates re-balancing of the long-term care system and they realize that it cannot be completed with a single plan.

Representative Kirk expressed her concern that, if there is not a unified report it will fall on deaf ears. She asked if those that signed the majority could visit with those that signed the minority report because this is such an important item. He responded that AARP would be happy to talk and work with those that signed off on the majority report, but he could not speak for the others that signed the minority report. He noted that one of AARP's priorities is long-term care.

Chairman Salmans acknowledged Mike Huffles, representing the Alliance for Kansans with Developmental Disabilities, who spoke before the Task Force regarding one of their members (Mary Pitt) that served on the Real Choice Systems Grant Committee who had expressed some concerns. (No written testimony was submitted.) Concerns expressed were:

- developmentally disabled community was under-represented in the process;
- plan far from finished product; and
- the Alliance has strong concerns with the structure and how to proceed.

Written testimony was submitted by the following:

- Shannon Jones, Director, SILCK ([Attachment 22](#));

- □ Debra Harmon Zehr, Executive Vice President, Kansas Association of Homes and Services for the Aging (KAHSA) (Attachment 23); and
- □ Deanne Bacco, Executive Director, Kansas Advocates for Better Care (Attachment 24).

There being no further conferees to appear before the Task Force, Chairman Salmans closed the public comment portion of the meeting.

The Chairman called the Task Force's attention to discussion of a bill draft (5rs0051) of the statute that currently exists that created the Task Force. Representative Bethell asked the Task Force members to look over the draft. He suggested adding the areas of the physically disabled and developmentally disabled that need to be included. The Task Force will assimilate all the issues at the meeting on November 8, 2004, to present a new bill to carry on the efforts of the Task Force. Representative Bethell expressed concern that it is necessary, especially when looking at what the cost is to provide the kind of care that is being talked about. There is a need to look at the future to continue to give services to people and make them part of the society in which they live so they are not just taking, but giving back as well. Representative Bethell felt the Task Force needed to continue for five years or more and see what can be accomplished for the State of Kansas.

Chairman Salmans asked for additional comments or recommendations regarding the final report of the Task Force. Ms. Curtis mentioned that she would like to reply to the Real Choice Systems Change Grant after studying the information and perhaps will respond with her comments in writing prior to the next meeting. Ms. Lubensky noted that she noticed that there were some substantial changes in wording from the draft to the final copy and she requested time to compare the two items. The Chairman mentioned that in the November meeting the Task Force will review all of the prioritized items that were designated in an earlier meeting of the Task Force.

In response to a question by Sister Beth Stover, Representative Bethell explained that the Task Force will be looking at the reimbursement process for long-term care funding. He noted that when the Legislative Coordinating Council divided the items for the interim Committees, the reimbursement portion was given to the Legislative Budget Committee. He mentioned that the Task Force will be listening to testimony on the morning of November 8, 2004, on the subject of the reimbursement process for long-term care funding.

Sister Beth Stover distributed copies of their October/November agency newsletter, North-Central Flint Hills Area Agency on Aging, Inc., and called attention to an article that was written by their editor. The article is titled, "Should Aging Be Viewed as a Disability?" (Copies of the newsletter are on file in the Kansas Legislative Research Department.)

The meeting adjourned at 4:00 p.m.

Prepared by Mary Shaw  
Edited by Audrey Dunkel

Approved by Task Force on:

December 13, 2004

(date)

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