

Approved: 2-3-97
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on January 28, 1997 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Bill Wolff, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

Janet Stubbs, Kansas Respiratory Care Society
Mary Ann Gabel, Executive Director, Behavioral Sciences Regulatory Board
Hugh Sage, Commissioner, Kansas Department of Social and Rehabilitation Services

Others attending: See attached list

Approval of Minutes

Senator Jones made a motion to approve the Committee minutes of January 21, 22, and 23, 1997, seconded by Senator Steineger. The motion carried.

Introduction of bills

Janet Stubbs representing the Kansas Respiratory Care Society requested introduction of a bill that would provide for licensure of individuals to practice Respiratory Therapy. (Attachment 1) Senator Langworthy made a motion the Committee introduce the proposed legislation, seconded by Senator Hardenburger. The motion carried.

Briefing -- Behavioral Sciences Regulatory Board

Mary Ann Gabel, Executive Director, Behavioral Sciences Regulatory Board, introduced members of the Board and briefed the Committee on the credentialing of psychologists as well as an overview of BSRB. During Committee discussion concern was expressed regarding a memorandum from BSRB pertaining to statutorily authorized employment of Registered Masters Level Psychologists. (See Attachment 2) It was also pointed out that the Department of Corrections has considered introducing legislation that would broaden the field of employment of RMLP in the prison system. In answer to a member's questions, Ms. Gabel clarified the definition of "registered" as a title protected act, and the term "licensure" as a title protected and practice restricted act.

Senator Salmans made a conceptual motion that the Committee introduce legislation that would broaden the field of employment of Registered Masters Level Psychologists to include contracting entities, seconded by Senator Hardenburger. The motion carried.

Briefing -- SRS

Hugh Sage, Commissioner, Mental Health and Developmental Disabilities, SRS, submitted written testimony and briefed the Committee on the closure of beds for children and adolescents in state mental health hospitals. (Attachment 3) Concern was expressed during Committee discussion relating to availability of health services for clients when placed in the community after closure of a hospital such as Topeka State Hospital or Winfield State Hospital. Dr. Sage also pointed out that he does not see a reduction of children being served at Larned State Hospital.

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for January 29, 1997.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 1-28-97

NAME	REPRESENTING
Janice R. Bell	Senators Biggs/Gilstrap
Margaret Ziffgrin	SRS/AMS
Teresa Markowitz	SRS
E. Piekolkiewicz	Assoc. of cm Hcs
HAROLD PITTS	KCOA
Corrie Edwards	Keys for networking
Rosie Cooper	Keys For Networking
Daniel G. Elshung	Ks. Assoc. of Master in Psychology
Ed Wreger	BSRB.
JEFF FRIESEL	UNITED METHODIST YOUTH CLUBS
Greg, Fugentbron	K. P. H. E.
Carole Byrne	KMHC
Jerry Larson	Kansas AMI
Dave Ranney	Wichita Eagle
Zi Huang	DOB
Ashley Holm	DOB
Susan Briggs	Topeka Independent Living Res. Ctr.
Michelle Peterson	Peterson Public Affairs
Don DDD	KRCG

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 1-28-97

NAME	REPRESENTING
Bob Williams	Ks. Pharmacist Assoc.
JANET STUBBS	KRCS
Larrie Ann Brown	Kans. Hosp. Assoc.
Susan M. Baker	Heim + Weir
Barbara M. Brown	Interim - Spw Sallman
Michael Byington	Wighta Conduct + Services for the Blind.
Cheryl H. Kinderknecht	Behavioral Sciences
Callie Tell Denton	The Prudential Ins Co.
Frank H. Day	BSRB
John D. Randolph	BSRB
J. M. Gorman	BSRB
W. H. Gram	SRS MA/PA
W. H. Gram	SRS MA/PA
Rochelle Christman	SRS
W. H. Gram	SRS
Judy Krueger	Gov. OFF.
Janice Nelson Kimball	KU Grad / Messengers

SENATE
PUBLIC HEALTH & WELFARE COMMITTEE

January 28, 1997

MADAM CHAIR AND MEMBERS OF THE COMMITTEE:

My name is Janet Stubbs, appearing today on behalf of the Kansas Respiratory Care Society for the purpose of requesting introduction of a bill amending the Respiratory Therapy Practice Act contained in K.S.A. 65-5501 to 65-5517.

This legislation provides for licensure of individuals to practice Respiratory Therapy as defined within the act. We have attempted to address the questions of other medical groups which have previously been concerned about legislation of this type and believe provisions have been made in this bill which provide solutions to the fears previously expressed. We have communicated with the Kansas Medical Society, the Kansas Hospital Association and the Kansas State Board of Nursing regarding the language of the bill.

Therefore, we respectfully request introduction of the draft of legislation we are submitting to amend the Respiratory Therapy Practice Act.

STATE OF KANSAS
BEHAVIORAL SCIENCES REGULATORY BOARD
712 S Kansas Ave - Topeka, KS 66603-3817
913/296-3240 -- FAX 913/296-3112

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MARY ANN GABEL, MPA, Executive Director

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John G. Randolph, Ph.D.

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Kathleen W. Waideit, LCSW

RPC Representatives
Patricia Greenwood, M.S.

RMLP Representative
Jay Mann, M.S.

RHFT Representative
Daniel R. Lord, Ph.D.

MEMORANDUM

TO:
FROM: Edward F. Wiegiers, BSRB Chairperson
DATE:
SUBJECT: Notice of BSRB vote of 09/09/96 pertaining to
statutorily authorized employment pursuant to K.S.A.
74-5362, K.S.A. 74-5363(b)(4), and K.S.A. 74-5366(b)

Please carefully review this correspondence which is designed to formally notify all prospective RMLP applicants or current RMLP registrants of a recent board vote.

At its September 9, 1996 meeting, the Behavioral Sciences Regulatory Board and its legal counsel discussed the employment settings and situations statutorily authorized for RMLP employment. Per K.S.A. 74-5363(b)(4), it is required that as one condition for registration the applicant:

"is in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency, or other political subdivision, a duly chartered educational institution, a medical care facility licensed under K.S.A. 65-425 et seq. and amendments thereto or a psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto and whose practice is a part of the duties of such applicant's paid position and is performed solely on behalf of the employer."

As the employment structure of the professional marketplace continues to evolve, there appears to be an increasing shift toward privatization of services by federal, state, county or municipal agencies or other political subdivisions. Historically these agencies directly employed the professional staff to provide the various behavioral science services to consumers. Now, an increasingly common situation involves a private contracting or subcontracting firm or corporation serving as the actual employer

Senate Public Health & Welfare
Date: 1-28-97
Attachment No. 2

of the behavioral sciences professionals who provide services within the federal, state, county or municipal agencies or other political subdivisions.

To date, when it could appropriately be supported, the board has taken a liberal interpretation of the term "in the employ of," thus recognizing for registration or renewal otherwise fully qualified individuals who were employed to function within the statutorily authorized settings and direction arrangements, even though such individuals were not necessarily directly employed by the statutorily authorized entities. Because the board and its legal counsel are concerned that this liberal interpretation is drifting away from the literal and specific authorization set forth by the Kansas legislature in K.S.A. 74-5363(b)(4), the board voted at its September 9, 1996 meeting that through June 30, 1997, it will:

- * continue to review and determine on a case-by-case basis all new RMLP applications from otherwise fully qualified individuals who are employed by a contractor or a subcontractor as opposed to being directly employed by a federal, state, county or municipal agency, or other political subdivision; and,
- * extend the liberal interpretation of K.S.A. 74-5363(b)(4) in regard to the renewal applications of otherwise fully qualified individuals who were originally granted registration/renewal on this basis, provided the individual is still employed in the same setting upon which the original registration was based; and,
- * issue a caveat or notice that effective on and after July 1, 1997 the board will not be in a position to credential or renew as master's level psychologists individuals who are not directly employed by an entity specifically identified and thus explicitly authorized under K.S.A. 74-5362, K.S.A. 74-5363(b)(4), and/or K.S.A. 74-5366(b).

The BSRB board members and staff are compelled to implement and enforce the credentialing acts in accordance with the provisions enacted by the legislature. Although the marketplace has changed and continues to evolve since the RMLP credentialing act went into law, BSRB simply does not have the authority to amend or to disregard the statutory provisions as written. Thus, interested master's level psychologists, their employers, and their professional organizations are encouraged to seek the legislature's consideration toward amendment of the existing statutory language.

Page 3

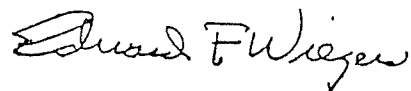
By proceeding as indicated through June 30, 1997 it is the board's intent to provide potentially impacted individuals, their employers, and their professional organizations the opportunity to seek legislative consideration and action during the 1997 legislative session. If the legislature wishes to extend K.S.A. 74-5362 and K.S.A. 74-5363(b)(4) to additionally and explicitly authorize RMLPs to be in the employ of a contracted affiliate of a federal, state, county or municipal agency or other political subdivision, BSRB would then be in a position to recognize such employment arrangements for purposes of the master's level psychologist credential.

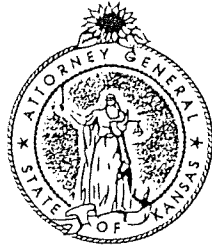
Please be advised that the board's vote pertains to those individuals who receive compensation by virtue of being employed by a corporation or firm that has a contractual relationship with a federal, state, county or municipal agency or other political subdivision. In no event is an RMLP authorized as a self-employed individual to contract directly with the statutorily authorized employment entities mentioned herein or as provided in K.S.A. 74-5363(b)(4). Moreover, any RMLP, whether a new or a renewed registrant, is required by law to practice under the direction of either a licensed Kansas physician or a licensed Kansas psychologist, pursuant to K.S.A. 74-5362, K.S.A. 74-5363(b)(4), and K.S.A. 74-5366(b).

Thank you.

EW/CHK/skh

961002\RMLPDATA\EMPLNOTE\#3





State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
FAX: 296-6296
TTY: 291-3767

MEMORANDUM

To: BSRB Members

From: Camille Nohe, Assistant Attorney General

Date: July 30, 1996

Re: Recommended definition: "in the employ of"

In relation to RMLP applications, both original and renewal, a variety of employment arrangements have surfaced which have required the board to interpret the statutory phrase "in the employ of" in order to determine whether an applicant is eligible for registration. Because this phrase has been problematic, the board requested that I draft several proposed definitions for consideration.

The statutes involved are:

K.S.A. 74-5362: (right to practice) - in a [statutorily specified entity] insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer

K.S.A. 74-5363(b)(4): (applicant) - *in the employ of* a [statutorily specified entity] and whose practice is part of the duties of such applicant's paid position and is performed solely on behalf of the employer

K.S.A. 5366: (renewal) meets the employment requirements K.S.A. 74-5363(b)(4)

K.S.A. 74-5344(c): (in licensed PhD psychologist act) Nothing contained in this act shall be construed to limit the practice of psychology of a RMLP or a person who holds a temporary permit to practice as a RMLP insofar as such practice is part of the duties of any such person's salaried position, and insofar as such practice is performed solely on behalf of such person's employer or insofar as such person is engaged in public speaking with or without remuneration.

The statutorily specified entities are:

licensed community mental health center or one of its contracted affiliates
federal, state, county or municipal agency, or other political subdivision
duly chartered educational institution
medical care facility licensed under K.S.A. 65-425 et seq.
psychiatric hospital licensed under K.S.A. 75-3307b

I recommend the following definition be approved and adopted by regulation:

“In the employ of” means being directly employed by and compensated by one of the entities specified in K.S.A. 74-5362 and K.S.A. 74-5363(b)(4) and does not include receiving compensation as an independent contractor with one of the statutorily specified entities or receiving compensation by virtue of a contractual arrangement between one of the statutorily specified entities and any other entity.

Although it is a narrow definition and may not comport with current trends in health care facilities, in my opinion this definition is squarely within the parameters of the language of the statutes and corresponds with legislative intent as reflected in the legislative history of the original RMLP act.

A broader definition, which is not supported by either legislative intent or statutory language would be:

“In the employ of” means (1) being directly employed by and compensated by one of the entities specified in K.S.A. 74-5362 and K.S.A. 74-5363(b)(4), (2) receiving compensation as an independent contractor with one of the statutorily specified entities so long as psychological services are performed on behalf of clients or patients of one of those entities, or (3) receiving compensation by virtue of a contractual arrangement between one of the statutorily specified entities and any other entity so long as psychological services are performed on behalf of clients or patients of the statutorily specified entities.

However, this definition is, in my opinion, outside the scope of the enabling statutory language. Thus it is questionable whether this office would approve this definition should the board seek to adopt it by regulation.

STATE OF KANSAS
BEHAVIORAL SCIENCES REGULATORY BOARD
712 S Kansas Ave - Topeka, KS 66603-3817
913/296-3240 - FAX 913/296-3112

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MARY ANN GABEL, MPA, Executive Director

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RMFT Representative
Daniel R. Lord, Ph.D.

MEMORANDUM

TO: BSRB Members, Legal Counsel, and Executive Director
FROM: Cheryl H. Kinderknecht, Ph.D.
DATE: August 26, 1996
SUBJECT: RMLP Renewal application of Penny J. Rogers, M.A.

Background Info:

Applicant for RMLP renewal is employed by Mental Health Consortium which used to hold the subcontract from the out-of-state Prison Health Services (under contract from State of Kansas Dept of Corrections) to provide psychological services in Kansas correction facilities. Historically, such contractual arrangements for DOC were administratively reviewed under the "Rexford approach" (see enclosure #1) wherein the board approved the arrangement.

Mental Health Consortium no longer holds the psychological services contract with the out-of-state Prison Health Services, Mental Health Consortium is now subcontracted under EMSA Correctional Care (a Florida management company) which is contracted by Kansas DOC to provide substance abuse treatment services to Kansas DOC inmates. Does this "fit"?

Kansas SRS also contracts directly with Mental Health Consortium to provide hospital "psychiatric preadmission assessments to eligible individuals under the Medicaid/Medicaid Program" (see encl. #2). Does this situation "fit"?

See also definition of QMHP on page 2 of enclosure #2. The Mental Health Consortium is not a licensed community mental health center so I'm also uncertain as to the viability of SRS contracting with Mental Health Consortium to begin with (see also enclosure #3).

Relevant Statutes/Regulations:

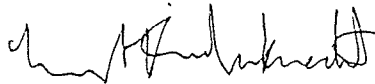
K.S.A. 74-5366 and be reference therein to K.S.A. 74-5363(b)(4); see also K.S.A. 74-5362.

Questions Before the Board:

Does the renewal applicant's employer/employment situation statutorily fit K.S.A. 74-5366/74-5363(b)(4) for purposes of renewal?

For purposes of practice under the RMLP credential, pursuant to K.S.A. 74-5362?

Reviewer: _____

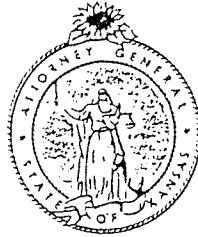


Date: _____

08-26-96

CKH/skh

960823\RMLPDATA\ROGERS2\#3



RECEIVED
MAR 11 1992
BSRB

- Enclosure 1

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

M E M O R A N D U M

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

TO: Mary Ann Gabel, Executive Director
Behavioral Sciences Regulatory Board

FROM: Camille Nohe, Assistant Attorney General

DATE: March 11, 1992

RE: Lillian Rexford, R.M.L.P. Renewal Eligibility

K.S.A. 1991 Supp. 74-5363(b)(4) requires that an RMLP applicant be "in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency,"

According to information provided, the Kansas Department of Corrections contracts with Prison Health Services to provide health care coverage for those persons in the care of the Kansas Department of Corrections. Prison Health Services has subcontracted with the Mental Health Consortium to provide the mental health services to DOC. Ms. Rexford is employed by the Mental Health Consortium as a mental health professional.

From the information provided, it does not appear that the Mental Health Consortium, Prison Health Services nor the Department of Corrections is a licensed community mental health center or a contracted affiliate of a licensed community mental health center.

The real issue presented by this situation is whether Ms. Rexford is "in the employ of . . . a state agency." Since the relationship between DOC and Prison Health Services is contractual, and since the relationship between Prison Health Services and the Mental Health Consortium is contractual, Ms. Rexford is not a state employee, i.e. is not employed by a state agency. However, the term "in the employ of" is a broader term than "employed by."

2-8

"Employ" means:

"To engage in one's service; to hire; to use as an agent or substitute in transacting business; to commission and entrust with the performance of certain acts or functions or with the management of one's affairs; and, when used in respect to a servant or hired laborer, the term is equivalent to hiring, which implies a request and a contract for compensation."

In my opinion, under the broader term "in the employ of," Ms. Rexford qualifies for the RMLP status in relation to her employment setting.

It is my understanding that DOC contracts for health services, including mental health services, instead of directly hiring staff for two primary reasons: (1) to limit state liability under the Kansas tort claims act, and (2) such arrangement is less expensive as employee benefits need not be paid by the state.


In some respect the conclusion I have reached is a judgment call. Therefore, this may be an appropriate situation to bring to the board's attention for decision of whether Ms. Rexford qualifies to be registered as a masters level psychologist.

CN:bas



August 14, 1996

To: Cheryl H. Kinderknecht, ACSW
Credentialing Specialist
Behavioral Sciences Regulatory Board

From: Penny J. Rogers, RMLP 
Director of Clinical Services
Mental Health Consortium

Re: RMLP Renewal

Hand delivered

2008-11-13 10:00 AM

Per your request I have enclosed documentation outlining how the Mental Health Consortium continues to contract with both the State Department of Corrections and the Department of Social and Rehabilitation Services. Enclosed is a copy of the contract between the Department of Corrections and EMSA, showing the Consortium as the subcontractor that actually provides the direct services to the inmates.

Also enclosed is a copy of the contract between SRS and the Mental Health Consortium that has been in effect since January 1992. The Consortium acts as an agent of the State to provide Pre-Admission screenings for Medicaid recipients who made need inpatient hospitalization.

I received my original RMLP in September of 1990 and have received renewals in 1992 and 1994. I have been Director of Clinical Services at the Consortium since January of 1992 and my duties and functions with these State agencies hasn't changed.

I hope this documentation is helpful to clarify how the Mental Health Consortium continues to act as an agent of the State with these contracts. If you need any additional information or have questions, please feel free to contact me at 232-1196 ext. 105.

Thank you for your cooperation.

MARY ANN GABEL, MPA, Executive Director

STATE OF KANSAS

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Topeka, KS 66603-3817—913/296-3240 FAX 913/296-3112

LICENSED PROFESSIONALS:

Psychologists
Social Workers

REGISTERED PROFESSIONALS:

Masters Level Psychologists
Professional Counselors
Marriage and Family
Therapists
Alcohol and Other Drug
Abuse Counselors

MEMORANDUM

TO: Penny J. Rogers
FROM: Cheryl H. Kinderknecht, ACSW, Credentialing Specialist /CHK
DATE: 8-12-96
RE: Incomplete RMLP Renewal

Your request for renewal of your registration as a masters level psychologist (RMLP) has been received in the board office. K.S.A. 74-5366 and K.A.R. 102-4-9(c) require submission of certain documents, a renewal fee, and documentation of a minimum of 25 clock hours of approved continuing education.

Your registration as a masters level psychologist cannot be renewed at this time for the reason(s) that are checked herein. Please note that outstanding documents should be completed and returned within 5 days of the date of this memorandum in order to avoid a late renewal penalty fee.

_____ renewal application form previously sent to you was not returned to the board office. Enclosed is another form and return envelope.

_____ renewal application form is not complete and is enclosed, along with a return envelope for your completion.

_____ the affidavit previously sent to you was either not completed or not returned to the board office. Enclosed is another form and return envelope.

_____ your renewal fee was not included with your renewal materials. If the renewal fee is postmarked after the expiration date of your registration, you are required by K.S.A. 74-5366(d) to pay a late renewal fee equal to your renewal fee. See attached fee schedule;

(over)

96 AUG 15 PM 2:55
D.S. [initials]

2-11

_____ your renewal materials, including the renewal fee, were postmarked after the expiration date of your registration. Therefore, you are required by K.S.A. 74-5366(d) to pay a late renewal penalty fee equal to your renewal fee. See attached fee schedule;

_____ submitted renewal materials did not include "Attestation of Direction" form: enclosed is another form and a return envelope;

_____ "Attestation of Direction" form is not complete and is returned for this purpose. You need to have the individual who provides direction complete and return this form within 5 days of the date of this memo in order to avoid any possible late renewal fee;

_____ "Attestation of Direction" form has not been completed by a physician licensed by the Board of Healing Arts or a psychologist licensed by the Behavioral Sciences Regulatory Board, per K.S.A. 74-5362. Note: If you receive direction from a so credentialed individual, please have that person complete, sign, notarize, and return the enclosed form within 5 days;

_____ if you do not receive direction from a so credentialed individual, submit a signed and notarized statement to that effect within the next 5 days;

_____ submitted renewal materials did not include Verification of Current Employment form: enclosed is another form and a return envelope;

X
_____ employing agency does not appear to meet the statutory requirements as set forth in K.S.A. 74-5363(b)(4): Please submit official documentation that substantiates statutory compliance;

If appears that your duties no longer include work @ in the Dept. of Corrections.

Is this correct?
_____ "Verification of Current Employment" form was not completed by employer as specified: Enclosed is another form and a return envelope;

_____ "Verification of Current Employment" form is not complete: Please have your employer complete and return within 5 days to avoid possible late renewal fees;

_____ CE incomplete. See attached CE incomplete memo;

_____ if requested materials are not received in the board office postmarked on or before _____, a late renewal penalty fee equal to your renewal fee shall be charged pursuant to K.S.A. 74-5366(d);

2-12

Other _____

Enclosure(s) (if necessary):

- 1) Renewal form w/return envelope;
- 2) Affidavit w/return envelope;
- 3) Attestation of Direction form w/return envelope
- 4) Verification of Current Employment form w/return envelope
- 5) CE Incomplete Memo

CHK/skh

940613/RMLPREN5/#3

96 AUG 15 PM 2:55
D.S.R.B.

DEPARTMENT OF CORRECTIONS
CONTRACT REVIEW

--Purpose of Contract: This contract provides for facility-based substance abuse (ADAPT) treatment services for all sites except WCF, ECF, and WRF. The term of the contract is for FY 1995 with renewal options for FY 1996 and FY 1997.

[Redacted line]

--Specific Budget Item: Y / N

--Program/Subprogram to be Charged: Offender Programs

--Date Required for Execution: ASAP

--Staff Member Requesting Contract: Roger Hadon [Signature]

APPROVALS:

Deputy Secretary - Approve / Disapprove / Hold for Information / Revision Required

COMMENTS:

Contractor: EMSA Limited Partnership;
Subcontractor: Mental Health Consortium
This contract provides for facility-based substance abuse (ADAPT) treatment services for all sites except WCF, ECF, and WRF.

[Redacted line]

[Signature] 4/26/94
Deputy Secretary Date

Fiscal - Approve / Disapprove / Hold for Information / Revision Required

COMMENTS:

Dennis Williams 5-2-94
Fiscal Date

Legal Approve / Disapprove / Hold for Information / Revision Required

COMMENTS:

[Signature] 5-3-99
Legal Date

All above approvals are required prior to the contract being submitted to the Secretary of Corrections for execution.

SECRETARY OF CORRECTIONS:

APPROVE _____

DISAPPROVE _____

Signature _____ Date _____

2-14



August 14, 1996

1200
South Pine Island Road
Suite Six Hundred

Fort Lauderdale, Florida
33324-4460

305-424-3672
800-422-3672

Richard White
Director of Correctional Services
Mental Health Consortium
112 S.W. 8th Avenue, Suite 400
Topeka, Kansas 66603-3810

Dear Richard:

Per your request, the following information is provided:

EMSA Limited Partnership has an agreement to provide substance abuse treatment services to inmates of the Kansas Department of Corrections dated June 15, 1994 and since then has two (2) Amendments renewing the contract. The contract runs until June 30, 1997.

EMSA subcontracts the services to the Mental Health Consortium and has since the conception of the contract with the Kansas Department of Corrections.

If you need anything else please call me.

Sincerely,

Richard B. Gray
Richard B. Gray
Regional Administrator

afn

c: File

MEMBER DIVISION



Agreement Between
Department of Social and Rehabilitation Services
and
Mental Health Consortium, Inc.

For Providing Hospital Psychiatric Preadmission Assessment
For the Medicaid/MediKan Program

December 19, 1991

AGREEMENT BETWEEN
DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
AND
MENTAL HEALTH CONSORTIUM, INC.

This agreement is between the Department of Social and Rehabilitation Services hereinafter referred to as SRS, and the Mental Health Consortium, Inc. hereinafter referred to as MHC.

WHEREAS, SRS is the single state agency in Kansas responsible for the administration of a program of Medical Assistance under Title XIX of the Social Security Act, hereinafter referred to as the Medicaid/MediKan Program.

WHEREAS, The United States Department of Health and Human Services has allocated funds under Title XIX of the Social Security Act to SRS for the provision of medical services for eligible persons in accordance with the Kansas Medicaid State Plan.

WHEREAS, MHC represents all community mental health centers (CMHCs) in Kansas which are licensed by Mental Health and Retardation, a commission within SRS, and meets the applicable standards as providers of mental health services specified by Title XIX of the Social Security Act, federal regulations promulgated pursuant thereto, the laws of the State of Kansas, state rules and regulations promulgated thereto, and the Kansas Medicaid State Plan. MHC desires to participate in the administration of the provision of hospital psychiatric preadmission assessment for the Medicaid/MediKan Program.

The purpose of this agreement is to provide hospital psychiatric preadmission assessment to eligible individuals under the Medicaid/MediKan Program. Providing preadmission assessment to determine appropriate treatment should prove to be cost effective. With the savings generated from the implementation of this process, a plan will be developed to meet the mental health needs of Kansas Medicaid/MediKan recipients.

NOW THEREFORE, the parties to this agreement, in consideration of the exchange between them of mutual promise, covenants, and stipulations set forth herein, the parties agree as follows:

1. Definition of Terms

Community Mental Health Center - facilities licensed and certified by MHRS and enrolled by the Medicaid program as a CMHC provider.

Kansas Administrative Rules and Regulations - the written rules regulating the administration of the Medicaid/MediKan program subject to public hearing and legislative appeal (30-5-58 through 30-5-172).

Kansas Medicaid State Plan - the agreement between the federal government's Health Care Financing Administration and the State of Kansas governing all activities funded by Medicaid.

Medical Program Policy - written policies for the purpose of describing the detailed procedures regarding the implementation of the Kansas Administrative Rules and Regulations. All policies are reviewed and approved by the Commissioner of Income Support and Medical Services or SRS policy committee.

Eligible Medicaid/MediKan Individual - an individual determined eligible by standardized criteria for eligibility for medical services which meet the federal requirements and state regulations. When an eligible individual receives a service which is reimbursed by Medicaid/MediKan, they are considered a Medicaid/MediKan recipient.

Emergency Psychiatric Admission - inpatient services provided after the sudden onset of psychiatric symptoms of sufficient severity which could reasonably be expected to make the patient harmful to himself or others if not under immediate psychiatric treatment.

Fiscal Agent - Electronic Data Systems is the current contractor operating the automated claims processing system which accepts, adjudicates and prepares a payment tape for all Medicaid/MediKan claims.

Psychiatric preadmission assessment - a psychiatric diagnostic interview examination using predetermined criteria (see attachments), including history, mental status examination and communication with family members and other collateral contacts for the purpose of developing appropriate treatment.

Qualified Mental Health Professional (QMHP) - means (1) a physician or psychologist who is employed by a participating mental health center or who is providing services as a physician or psychologist, respectively, under a contract with a participating mental health center, or (2) a registered masters level psychologist or a licensed specialist social worker or licensed master social worker or a registered nurse who has a specialty in psychiatric nursing who is employed by a participating mental health center and who is acting under the direction of a physician.

Urgent Psychiatric Admission - a prospective admission which does not meet the definition of an emergency psychiatric admission and is not a planned admission. This individual is in crisis and is in need of immediate assessment to determine appropriate placement.

II. Term of Agreement

This agreement shall begin on January 15, 1992 and end on June 30, 1993. This agreement may be renewed and continued for subsequent annual periods, following a review of the terms of the agreement, by written acknowledgement of both MHC and SRS at least 30 days prior to the expiration date. It may also be extended for lesser time periods with mutual agreement.

2-18

III. Duties of MHC

1. Assure that psychiatric preadmission assessments are available for all Medicaid/MediKan psychiatric admissions to general hospitals and special hospitals in Kansas or out of state.
2. Establish a toll free telephone number that any hospital or doctor with intent to hospitalize a Medicaid/MediKan recipient for psychiatric reasons, must contact to arrange for the preadmission assessment.
3. Staff the toll free number 24 hours a day with personnel holding at least a Master's level degree in social, behavioral or health related sciences. Any hospital, physician or other individual or entity who has the intent of hospitalizing a Medicaid/MediKan recipient for psychiatric treatment in a general hospital or a special hospital must contact the toll-free telephone number to arrange for a psychiatric assessment prior to admission.
4. The individual requesting the assessment will provide information to the Mental Health Consortium Mental Health Professional including the recipient's name, Medicaid identification number, and location of the recipient. The Mental Health Consortium Mental Health Professional would first verify the eligibility of the recipient and then request information to determine the urgency of the potential admission.
5. If the call is in relation to a potential urgent admission, the Mental Health Consortium Mental Health Professional would contact the appropriate mental health center personnel and arrange for a QMHP to provide an immediate face-to-face preadmission assessment at an appropriate location. The primary therapist may not assess their own client except when no other therapist is immediately available. The time and location of the meeting would be coordinated with the patient and the doctor by the Mental Health Consortium and relayed back to the original caller. Initiation of the process would take place as soon as possible but no longer than three (3) hours after receiving the call.
6. Insure that when an emergency psychiatric admission has occurred, the MHC is notified and assure that all psychiatric emergency admissions are reviewed within two days of admission to insure that the recipient has met the independent admission criteria (see Exhibit A) at the time of admission.
7. Assure that all psychiatric preadmission assessments preceding routine scheduled admissions are conducted face-to-face and are completed within two days of receiving the request.



KANSAS DEPARTMENT OF SOCIAL
AND REHABILITATION SERVICES

915 SW HARRISON STREET, TOPEKA, KANSAS 66612

ROCHELLE CHRONISTER, SECRETARY

May 2, 1996

Don Voth, Director
Mental Health Consortium Inc.
112 West 6th Street
Topeka, Kansas 66603

Dear Mr. Voth:

This letter serves as the official SRS offer to extend your Medicaid Psychiatric Preadmission Assessment contract from June 30, 1996 through June 30, 1997 at the compensation rate of \$250.00 per preadmission assessment currently in effect. All other terms and conditions of the current Psychiatric Preadmission Assessment contract between SRS and the Mental Health Consortium shall remain in force.

Your written response to this offer is required. Please respond no later than June 15, 1996. Contact Daryl Rutschmann at 913-296-5107, should you have questions.

Sincerely,

Janet Schalansky
Deputy Secretary

AK:SCH/drr

cc: Marti Malcolm
Bob Heintzelman

2-20



May 21, 1996

Janet Schalansky
Deputy Secretary
Kansas Dept. of Social and Rehabilitation Services
915 SW Harrison St.
Topeka, KS 66612

Dear Deputy Secretary Schalansky:

This letter is to confirm receipt and acceptance of the terms, found in your letter of May 2, 1996, to extend the Medicaid Psychiatric Pre-admission Assessment contract from June 30, 1996, through June 30, 1997. We accept the compensation rate of \$250.00 per pre-admission assessment which is currently in effect as well as the continuation of all other terms and conditions which are currently in force in the contract between SRS and the Consortium.

We look forward to the opportunity to provide these services for another year.

Sincerely,

A handwritten signature in cursive script that reads "Don Voth".

Don Voth
President, CEO

cdg

cc: Marti Malcolm
Bob Heintzelman

Your Partner in Mental Health
112 SW 6th Ave., Suite 400 • Topeka, Kansas 66603-3810 • (913) 232-1196
FAX (913) 232-2610

2-21

To be completed by employer 06 17 96 20 2:43

REGISTERED MASTERS LEVEL PSYCHOLOGIST
VERIFICATION OF CURRENT EMPLOYMENT

APPLICANT INFORMATION:

 Initial Application X Renewal Reinstatement

NAME: Penny J. Rogers

SOCIAL SECURITY NUMBER: 509-60-1418

APPLICANT EMPLOYMENT INFORMATION

COPY

AGENCY: Mental Health Consortium

ADDRESS: 112 SW 6th Street, Suite 400
Topeka, Kansas 66603

DATES OF EMPLOYMENT:

From: 07 / 01 / 91 To: Present
Mo. Day Year Mo. Day Year

Currently Employed By Your Agency: Yes X No

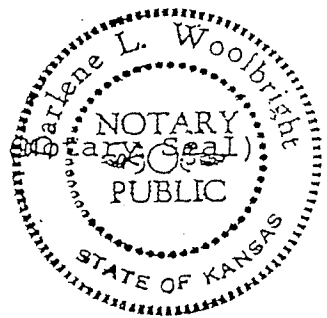
TOTAL LENGTH OF EMPLOYMENT: YEARS 4 MONTHS 11 DAYS 17
POSITION/JOB TITLE: Director, Clinical Services

POSITION DESCRIPTION: Provide administrative and clinical leadership to the Medicaid Pre-Admission Assessment Program, Managed Behavioral care contracts and Family Preservation contract. Provide liason relationship between the Consortium and the community Mental Health Centers of Kansas.

Anyone knowingly making a false statement on any form promulgated by the board in accordance with K.S.A. 74-5369 shall be guilty of violations pursuant to the Kansas Administrative Procedures Act.

Dated this 17th day of June, 1996, at :

Topeka, Shawnee, Kansas
(city) (county) (state)



Donald Voth, CEO
EMPLOYER'S NAME (Type or print)

Donald Voth
EMPLOYER'S SIGNATURE (must be notarized)
President and CEO
(Position Title)

Same
(Agency address if different from that shown at the top of this form)

Subscribed and sworn to before me this 17th day of June, 1996. My commission expires January 27, 1999.

Darlene L. Woolbright
(Notary signature)

STATE OF KANSAS
BEHAVIORAL SCIENCES REGULATORY BOARD
712 S Kansas Ave - Topeka, KS 66603-3817
913/296-3240 - FAX 913/296-3112

COPY

EDWARD F. WIEGERS, J.D., Chairperson



MARY ANN GABEL, MPA, Executive Director

- Enclosure 3

BOARD MEMBERS

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Gordon Hibbard, B.S.
Linda Ward Morier, B.S.
Edward F. Wiegert, J.D.
Douglas Wood, J.D.

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James McLaughlin, Ed.D.
John G. Randoiph, Ph.D.

Social Work Representatives
Carolyn Ramirez Aboua, LCSW
Kathleen W. Wisdell, LCSW

RPC Representatives
Pamela Greenwood, M.S.

RMLP Representative
Jay Muna, M.S.

RHFT Representative
Daniel R. Lord, Ph.D.

MEMORANDUM

TO: Penny J. Rogers, M.A.
FROM: Cheryl H. Kinderknecht, Ph.D., Credentialing Specialist
DATE: August 26, 1996
SUBJECT: Application for Renewal

Per my written, telephonic, and face-to-face communication with you, I am unable to ascertain that your current employment "fits" for purposes of renewal pursuant to K.S.A. 74-5366.

At earlier renewals, the Mental Health Consortium (MHC) was sub-contracted by Prison Health Services (contracted by the State of Kansas Department of Corrections) to provide psychological services to Kansas DOC inmates. At this point, MHC is subcontracted by EMSA (which is under contract with KS DOC) to provide substance abuse treatment to DOC inmates. In that it is unclear whether this fits the statutes related to authorized employment, this matter does need to be reviewed and determined by the board.

In regard to the MHC contract with SRS (a state agency) for providing hospital psychiatric preadmission assessments by Qualified Mental Health Professionals (QMHPs) for the Medicaid/Medikan program, I am again uncertain as to how this fits the statutes pertaining to RMLP employment.

In regard to the SRS contract and how it might fundamentally relate to the employment provisions set forth in K.S.A. 74-5362, I'm also uncertain how SRS is interpreting its own definitions of "QMHP" and "participating mental health center" in that the SRS Mental Health Center Directory (1994) does not list or in any way include or reference the Mental Health Consortium as a Kansas mental health center. At any rate, I am unable and have no authority to ascertain if your employer/employment situation complies with K.S.A. 74-5366, K.S.A. 74-5363(b)(4), and/or K.S.A. 74-5362. Accordingly, I will refer this matter to the board for its review and determination.

Thank you for your patience and cooperation in providing the requested information.

CHK/skh


FILE COPY: Rogers RMLP file; 09/96 BSRB packets

2-23

BEHAVIORAL SCIENCES REGULATORY BOARD
712 SOUTH KANSAS AVENUE
Topeka, Kansas 66603-3817
913/296-3240

SUMMARY FOR BOARD REVIEW

TO: BSRB Members, Legal Counsel, and Executive Director
FROM: Cheryl H. Kinderknecht, Ph.D., ACSW, Credentialing Specialist
DATE: August 23, 1996
RE: Lori Ruddick, RMLP, Employment Issue (Agenda Item # V.5.a.)



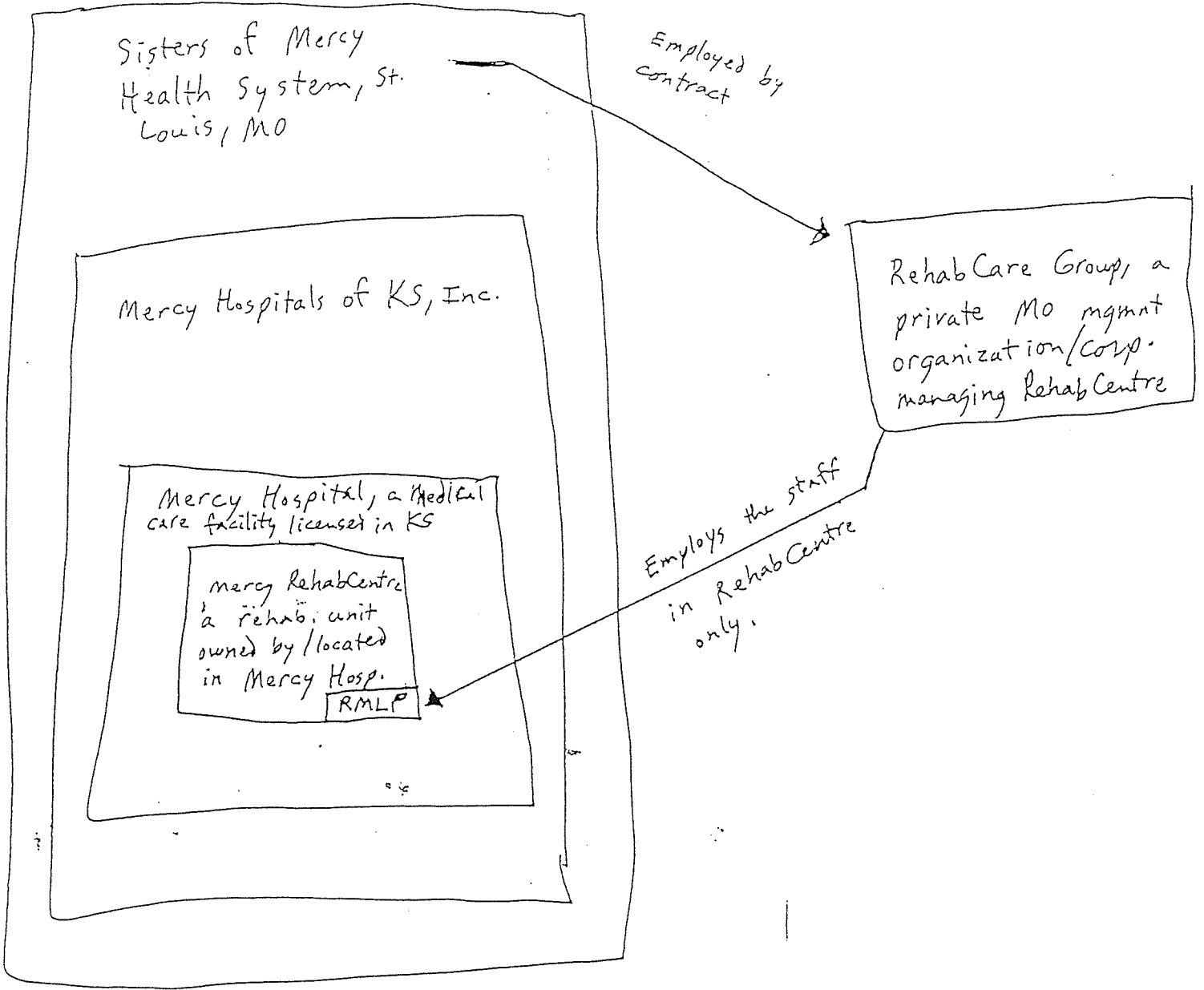
The board will recall that this applicant's renewal application was determined at the last meeting after some discussion related to her employment situation (Exhibit 1). Following the split but affirmative vote, this reviewer was instructed to ascertain who derived the revenues [Mercy Hospital versus the contracted out-of-state private management group] (Exhibit 2).

Response was received on August 16, 1996 (Exhibit 3) for your review and any potential discussion/determination which might ensue (Exhibit 4).

CHK/sh

File Copy: Ruddick

960823/A:BOARD/#2



STATE OF KANSAS
BEHAVIORAL SCIENCES REGULATORY BOARD
712 S Kansas Ave - Topeka, KS 66603-3817
913/296-3240 - FAX 913/296-3112

EDWARD F. WIEGERS, J.D., Chairperson

MARY ANN GABEL, MPA, Executive Director



BOARD MEMBERS

- | | | | | | |
|-------------------------------|-----------------------------------|------------------------------------|----------------------------|----------------------------|----------------------------|
| <i>Public Representatives</i> | <i>Psychology Representatives</i> | <i>Social Work Representatives</i> | <i>RPG Representatives</i> | <i>RMLP Representative</i> | <i>RMTT Representative</i> |
| Gordon Hibbard, B.S. | James McLaughlin, Ed.D. | Carolyn Ramirez Alford, LCSW | Patricia Greenwood, M.S. | Liz Mara, M.S. | Daniel R. Lord, Ph.D. |
| Linda Ward Mosier, B.S. | Joan G. Randolph, Ph.D. | Kathleen W. Widdell, LCSW | | | |
| Edward F. Wiegerts, J.D. | | | | | |
| Douglas Wood, J.D. | | | | | |

July 30, 1996

RE: RMLP Renewal Application

Lori Grace Ruddick, M.S.
1225 W Elizabeth
Nevada, MO 64772

Dear Ms. Ruddick,

Although the vote on the matter was split, at its July 8, 1996 meeting the Behavioral Sciences Regulatory Board voted to accept your employment situation/site and to renew your registration as a master's level psychologist. Following its affirmative vote, the board did also instruct me to inquire who (Mercy Hospital versus the Rehab Care Group) derives the revenues for the patient services provided within the Mercy Rehabcentre. Within 10 days of the date of this correspondence, please coordinate with an appropriate official from Mercy Rehabcentre, i.e., Michael Reyhons, Program Director to provide written information to the board regarding this inquiry. Such information shall be forwarded to the board for its review and any subsequent determination, if indicated.

I would also like to advise you that your other employment site (Alternatives in Mental Health, located in Nevada, MO) clearly is not a statutorily authorized setting pursuant to K.S.A. 74-5362. Thus, the RMLP credential and title may not be used in relationship to your employment in such setting.

Your RMLP renewal documentation is included herein. In regard to your current registration renewal application and registration status, please be advised that your registration was administratively extended pending the board's review and determination. Per 77-511(d) of the Kansas Administrative Procedure Act:

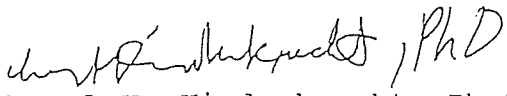
"If a timely and sufficient application has been made for renewal of a license with reference to any activity of a continuing nature, the existing

Lori Grace Ruddick, M.S.
July 30, 1996
Page 2

license does not expire until the state agency has taken final action upon the application for renewal or, if the state agency's action is unfavorable, until the last day for seeking judicial review of the state agency's action or a later date fixed by the reviewing court."

Thus, there were and are no gaps in your registration coverage during the board's and my initial follow-up review of this matter. Thank you for your cooperation and patience in this renewal matter.

Sincerely,


Cheryl H. Kinderknecht, Ph.D.
Credentialing Specialist

CHK/skh

Encl: RMLP Renewal confirmation materials

cc w/out encl: Michael D. Reyhons, Program Dir., Mercy Rehab-
centr, Jay Mann, RMLP BSRB Rep.; BSRB packets for
09/96 mtg

FILE COPIES: Ruddick: 07/96 Bd corresp file, RMLP

MERCY rehabcentre,
821 BURKE STREET
FORT SCOTT, KS 66701
316-223-7020
1-800-821-1379
FAX 316-223-6641

Exhibit 3

MERCY

rehabcentreSM

8-15-96

Cheryl H. Kinderknecht, Ph.D.
State of Kansas Behavioral Sciences Regulatory Board
712 South Kansas Avenue
Topeka, KS 66603-3817

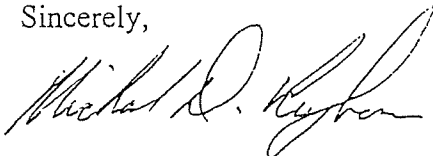
Dear Ms. Kinderknecht,

I am writing on behalf of Ms. Lori Ruddick, M.S.. She has requested me to respond to the State of Kansas Behavioral Sciences Regulatory Board's question of who derives revenues for the patient services provided within Mercy rehabcentre.

It might make things more clear if I explain the relationship between Mercy Hospital and RehabCare Group. RehabCare Group is a contract Rehab Management Company. Mercy Hospital has a contract with RehabCare Group to staff and operate Mercy rehabcentre. Mercy Hospital receives all revenues generated from therapy billing. They in turn pay RehabCare Group a monthly fee based a patient days. Ms. Ruddick is an employee of RehabCare Group and is paid an hourly rate for her time on the unit.

I hope this clears up any confusion. Please feel free to contact me if you have any further questions or concerns.

Sincerely,



Michael D. Reyhons
Program Director



STATE OF KANSAS
BEHAVIORAL SCIENCES REGULATORY BOARD
712 S Kansas Ave - Topeka, KS 66603-3817
913/296-3240 - FAX 913/296-3112

EDWARD F. WTEGERS, J.D., Chairperson



MARY ANN GABEL, MPA, Executive Director

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John G. Randolph, Ph.D.

Social Work Representatives

Carolyn Ramirez Albea, LCSW
Kathleen W. Widdler, LCSW

RPC Representatives

Patricia Greenwood, M.S.

RMLP Representatives

Ivy Muna, M.S.

RMFT Representatives

Daniel R. Lord, Ph.D.

MEMORANDUM

TO: Lori Grace Ruddick, M.S.
1225 W ELIZABETH
NEVADA, MO 64772

FROM: Cheryl H. Kinderknecht, Ph.D., ACSW, Credentialing Specialist and
Administrative Officer II

DATE: August 23, 1996

SUBJECT: Employment Issue

Thank you for coordinating with Michael D. Reyhons, Mercy Rehabcentre Program Director, in regard to the board's recent inquiry about the Mercy Rehabcentre's revenue structure. Mr. Reyhons' correspondence was received on August 16, 1996 and is being forwarded to the board for its inclusion at the September 9, 1996 board meeting.

A copy of the board agenda will be issued to you by mail approximately 10 days in advance of the September 9, 1996 meeting. As related in my correspondence of July 30, 1996, the board will review this information at the September 9, 1996 meeting. Since BSRB's meetings are open to the public, individuals such as yourself who have an interest in any board issue(s) are encouraged to attend the meeting if you wish to be present for any questions, discussion, or determination that might occur.

Thank you.

CHK/sh

cc: 09-96 Board Packets

File Copy: Ruddick

960823/A:RUDDICK/#2

ANN GABEL, Executive Director

COPY



Landon State Office Building
900 S.W. Jackson, Room 855-S
Topeka, Kansas 66612-1220
913/296-3240 FAX 913/296-6729

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RONALD D. REINERT

JOSEPH N. ROBB, Vice-Chairman

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DONALD J. FORT, Ph.D.

GERALD K. CENTRY, Ph.D.

Social Work

SHARON T. RUSSELL, MSW

THELMA JOHNSON SIMMONS, MSW

BEHAVIORAL SCIENCES REGULATORY BOARD

June 18, 1992

RE: Lillian K. Rexford

LICENSED PROFESSIONALS:

Psychologists
Social Workers

REGISTERED PROFESSIONALS:

Master Level Psychologists
Professional Counselors
Marriage and Family Therapists

Rebecca Rice
Attorney at Law
835 SW Topeka Ave., Suite B
Topeka, KS 66612

Dear Ms. Rice:

On May 4, 1992 the Behavioral Sciences Regulatory Board voted to grant your request for a continuance on the hearing on denial of the application for renewal of registration as a masters level psychologist (RMLP) submitted by Lillian K. Rexford.

Later in the same day, the board met with representatives of the Department of Corrections and the Mental Health Consortium to discuss the board's interpretation of K.S.A. 1991 Supp. 74-5363 (b)(6), the possibility of amending the RMLP rules and regulations, and other related areas of concern.

Following its discussion with KDOC, the board voted to reconsider its denial of renewal of registration and then voted to renew Ms. Rexford's registration pending satisfactory review of her application and related documents.

Ms. Rexford's application file is being reviewed at this time and she can expect to hear from the board office in the next week to 10 days.

As a point of information...the board's action on Ms. Rexford's renewal application is applicable to any other employee of the Mental Health Consortium whose services are contracted for delivery within the Department of Corrections' facilities.

If you have any questions, please contact the board office.

Sincerely,

Mary Ann Gabel
Executive Director

MAG/jh

cc: Lillian Rexford

Camille Nohe, Assistant Attorney General

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LINDA MOSIER
EDWARD F. WIEGERS

Psychology Representatives

JAMES F. McLAUGHLIN, Ed.D.
JOHN C. RANDOLPH, Ph.D.

Social Work Representatives

CAROLYN RAMIREZ ALBOTT, LCSW
KATHLEEN W. WADDELL, LCSW



LICENSED PROFESSIONALS:

Psychologists
Social Workers

REGISTERED PROFESSIONALS:

Masters Level Psychologists
Professional Counselors
Marriage and Family
Therapists
Alcohol and Other Drug
Abuse Counselors

BEHAVIORAL SCIENCES REGULATORY BOARD

712 S Kansas Avenue
Topeka, KS 66603-3817
913/296-3240 — FAX 913/296-3112

MEMORANDUM

TO: John Randolph, Ph.D. and James McLaughlin, Ed.D.,
BSRB Psychology Representatives
FROM: Cheryl H. Kinderknecht, Ph.D., ACSW
DATE: March 29, 1996
SUBJECT: Specific RMLP employment issue

In addition to posing the broad scenarios related to RMLP employment issues, I'm also requesting your recommendation related to the specific employment situation which follows.

Relevant Statutes: K.S.A. 74-5362; K.S.A. 74-5363(b)(4); K.S.A. 74-5366

Identified Situation: The RMLP's current employment situation is somewhat convoluted. RMLP is currently registered, and will be approaching renewal soon. Clarification and guidance is needed at this juncture, please, and I will advance your recommendation to the May 13, 1996 Board meeting.

- * The RMLP's practice of psychology occurs in a rehabilitation unit which is a part of and located in a licensed Kansas hospital. She received direction, her practice is part of the duties of her paid (salaried) position, and her services are performed solely on behalf of her employer. This situation would "fit" under the language in K.S.A. 74-5362 regarding practice, location, employment, and direction.
- * K.S.A. 74-5363(b)(4) eligibility language in regard to employment situation is more specific, however, as is the renewal language of K.S.A. 74-5366(b). Here it is specified that the person shall be "in the employ of" and not just practicing in an authorized setting. The terminology "in the employ of" is unclear (see Exhibit 1) and subject to judgment or interpretation.

- * The RMLP in this situation is employed and salaried not by the hospital, but by a private out-of-state management corporation contracted by the out-of-state corporation which owns the entire hospital and manages the remainder of the hospital under its Kansas corporation (see Exhibit 2).

Discussion: Administratively this situation appears to me to parallel the Rexford situation (Exhibit 1). Although not directly employed (hired/salaried) by the hospital, there is an indirect employment situation (via hospital contract with management company), and certainly the RMLP's salaried practice thereto is certainly strictly located within and exclusively employed (used) by, for, and on behalf of the hospital's functioning/service delivery.

Because the term "in the employ of" is subject to judgment and interpretation, however, this atypical situation needs to be formally determined by the board. Can you review this matter, confer, and advise me of your recommendations prior to April 26, 1996 and for inclusion on the May 13, 1996 board agenda?

Thank you for your help.

CHK/skh

cc: Mary Ann Gabel, BSRB Executive Director

FILE COPIES: Ruddick RMLP file; RMLP Employment 1996 file

960327\RMLPDATA\SPECEMPL\#3



RECEIVED
MAR 11 1992
BSRB

STATE OF KANSAS

Exhibit 1

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

M E M O R A N D U M

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

TO: Mary Ann Gabel, Executive Director
Behavioral Sciences Regulatory Board

FROM: Camille Nohe, Assistant Attorney General

DATE: March 11, 1992

RE: Lillian Rexford, R.M.L.P. Renewal Eligibility

K.S.A. 1991 Supp. 74-5363(b)(4) requires that an RMLP applicant be "in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency,"

According to information provided, the Kansas Department of Corrections contracts with Prison Health Services to provide health care coverage for those persons in the care of the Kansas Department of Corrections. Prison Health Services has subcontracted with the Mental Health Consortium to provide the mental health services to DOC. Ms. Rexford is employed by the Mental Health Consortium as a mental health professional.

From the information provided, it does not appear that the Mental Health Consortium, Prison Health Services nor the Department of Corrections is a licensed community mental health center or a contracted affiliate of a licensed community mental health center.

The real issue presented by this situation is whether Ms. Rexford is "in the employ of . . . a state agency." Since the relationship between DOC and Prison Health Services is contractual, and since the relationship between Prison Health Services and the Mental Health Consortium is contractual, Ms. Rexford is not a state employee, i.e. is not employed by a state agency. However, the term "in the employ of" is a broader term than "employed by."

"Employ" means:

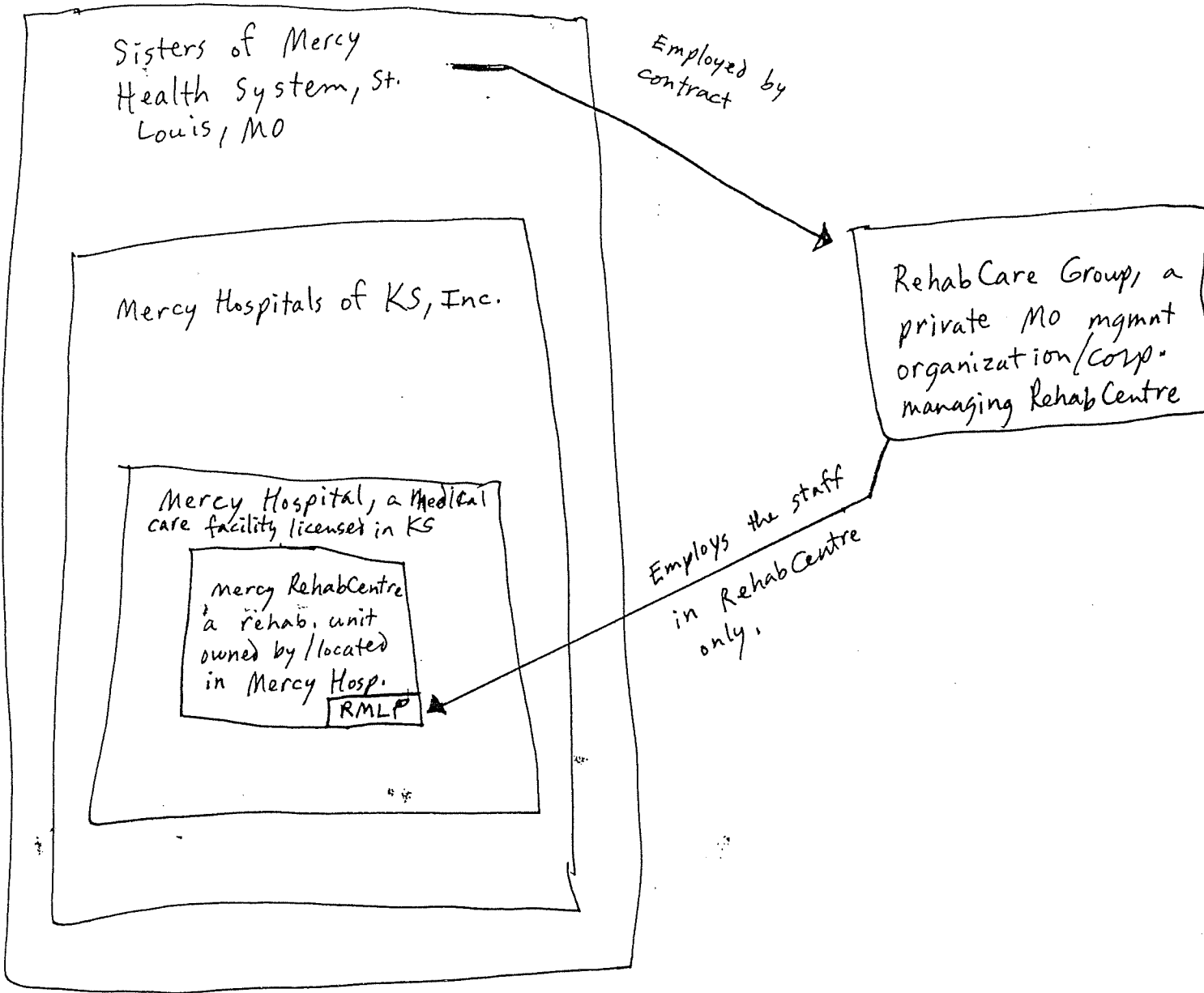
"To engage in one's service; to hire; to use as an agent or substitute in transacting business; to commission and entrust with the performance of certain acts or functions or with the management of one's affairs; and, when used in respect to a servant or hired laborer, the term is equivalent to hiring, which implies a request and a contract for compensation."

In my opinion, under the broader term "in the employ of," Ms. Rexford qualifies for the RMLP status in relation to her employment setting.

It is my understanding that DOC contracts for health services, including mental health services, instead of directly hiring staff for two primary reasons: (1) to limit state liability under the Kansas tort claims act, and (2) such arrangement is less expensive as employee benefits need not be paid by the state.

In some respect the conclusion I have reached is a judgment call. Therefore, this may be an appropriate situation to bring to the board's attention for decision of whether Ms. Rexford qualifies to be registered as a masters level psychologist.

CN:bas



1 tence, and worthiness to merit the public's trust, one of whom has
 2 provided direct clinical supervision of the applicant's graduate
 3 program clinical training and (4) completing a postgraduate su-
 4 pervised training plan on forms supplied by the board describing
 5 services to be provided, place of employment, persons responsible
 6 for administrative oversight and clinical supervision, and state-
 7 ment acknowledging behavioral sciences regulatory board post-
 8 graduate training requirements.

9 (e) (1) A temporary permit may be issued by the board after
 10 the application has been reviewed and approved by the board and
 11 the applicant has paid the appropriate fee set by the board for
 12 issuance of new licenses.

} Same
as
license

13 (2) A temporary permit issued by the board shall expire at such
 14 time as final action on the application is completed or two years
 15 after the date of issuance of the permit. A temporary permit may
 16 be renewed for one additional two-year period if the board finds
 17 that satisfactory progress toward the supervised experience re-
 18 quirement is being met.

19 (f) A person practicing professional counseling with a tempo-
 20 rary permit may not use the title "licensed professional counselor"
 21 or the initials "LPC" independently. The word "licensed" may be
 22 used only when followed by the words "by temporary permit" such
 23 as licensed professional counselor by temporary permit, or pro-
 24 fessional counselor licensed by temporary permit.

25 Sec. 5. *On January 1, 1997, K.S.A. 65-5806 is hereby amended to*
 26 *read as follows: 65-5806. (a) An applicant who meets the requirements*
 27 *for registration licensure pursuant to this act, has paid the registration*
 28 *license fee provided for by K.S.A. 65-5808 and amendments thereto and*
 29 *has otherwise complied with the provisions of this act shall be registered*
 30 *licensed by the board.*

31 (b) *Registrations Licenses* issued pursuant to this act shall expire 24
 32 months from the date of issuance unless revoked prior to that time. A
 33 *registration license* may be renewed upon application and payment of the
 34 fee provided for by K.S.A. 65-5808 and amendments thereto. The appli-
 35 cation for renewal shall be accompanied by evidence satisfactory to the
 36 board that the applicant has completed during the previous 24 months
 37 the continuing education required by rules and regulations of the board.

38 (c) A person whose *registration license* has been suspended or re-
 39 voked may make written application to the board requesting reinstate-
 40 ment of the *registration license* upon termination of the period of sus-
 41 pension or revocation in a manner prescribed by the board, which
 42 application shall be accompanied by the fee provided for by K.S.A. 65-
 43 5808 and amendments thereto.

MARY ANN CABEL, MPA, *Executive Director*

STATE OF KANSAS

BOARD MEMBERS:

Public Members

JOHN S. HOMLISH, Ph.D.
LINDA MOSIER
EDWARD F. WIEGERS

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JAMES F. McLAUGHLIN, Ed.D.
JOHN C. RANDOLPH, Ph.D.

Social Work Representatives

CAROLYN RAMIREZ ALBOTT, LCSW
KATHLEEN W. WADDELL, LCSW



LICENSED PROFESSIONALS:

*Psychologists
Social Workers*


REGISTERED PROFESSIONALS:

*Master Level Psychologists
Professional Counselors
Marriage and Family
Therapists
Alcohol and Other Drug
Abuse Counselors*

BEHAVIORAL SCIENCES REGULATORY BOARD

712 S Kansas Avenue
Topeka, KS 66603-3817
913/296-3240 — FAX 913/296-3112

MEMORANDUM

TO: John Randolph, Ph.D. and James McLaughlin, Ed.D. 
BSRB Psychology Representatives
FROM: Cheryl H. Kinderknecht, Ph.D., ACSW
DATE: March 29, 1996
SUBJECT: Administrative questions regarding RMLP employment issues

When RMLP Committee members review applications as required by statute, the committee reviews academic coursework and supervision requirements. Administratively, I oversee other fundamental statutory/regulatory requirements, i.e., degree status, statutorily authorized employment, supervisor's qualifications. Administratively, the issue of statutorily authorized employment appears to be increasingly more complex and I'm writing today to seek administrative guidance as to how you, as the board's psychology representatives, would recommend that the board approach to employment issues.

Relevant Statutes: K.S.A. 74-5363(b)(4); K.S.A. 74-5362; K.S.A. 74-5366(b).

Brief Overview of Relevant Statutes:

- * K.S.A. 74-5363(b)(4) specifies that as a condition for registration the applicant shall be "in the employ of" a statutorily authorized employment setting or site as specified and that such person's "practice is a part of the duties of such applicant's paid position and is performed solely on behalf of the employer".
- * K.S.A. 74-5362 states that the RMLP "shall have the right to practice "in a statutorily authorized employment site", insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer..."
- * K.S.A. 74-5366(b) speaks to renewal qualifications, one of which requires that "the applicant currently meets the employment requirements of part (4) of subsection (b) of K.S.A. 7453..."

Identified Problem: The aforementioned statutes speak to issues pertaining to employment in the following regards: employment setting; employment site; employment situation; and employment status. The term "in the employ of" (K.S.A. 74-5363 and via K.S.A. 74-5366) is an issue that the board and legal counsel have struggled with historically (see Exhibit 1). Since the inception of the RMLP registration act, medical and mental health care delivery systems have experienced major evolutions and reconfigurations, i.e., out-of-state parent companies; mergers; privatization and contracting; subcontracting; management corporations; subsidiaries; space leasing; and so forth.

The frequency of convoluted employment issues seems to be increasing over time, as evidenced by the following sampling of scenarios:

- * Applicant for renewal was hired/paid by the Mental Health Consortium, a non-profit Kansas corporation, which was subcontracted by Prison Health Services, an out-of-state corporation, which was contracted by the State of Kansas Department of Corrections (DOC) to provide psychological services within Kansas correctional facilities (a state facility). Refer to Exhibit 1 for legal counsel's guidance: the board in such matter enacted the broad view ("in the employ of") as opposed to a narrow interpretation ("employed by"). Although the Mental Health Consortium's sub-contract relationship has subsequently been severed, Prison Health Services employees working in Kansas DOC facilities have been administratively renewed on the basis of "employ of" view.
- * Applicant for renewal was hired/paid by Health Management Systems of America, a private company located in Michigan, which was contracted with the federal government (United States Postal Services) to provide the Employee Assistance Program (EAP) services to federal employees in a federal agency located in Kansas. In such matter the board determined, in part, that the setting or approach here was more in keeping with a private practice model (Exhibit 2).
- * Applicant for renewal was employed by Lakepoint Psychiatry, an outpatient psychiatric/psychology clinic owned and operated by St. Joseph Ambulatory Services, Inc., a wholly-owned subsidiary corporation of St. Joseph Medical Center of Wichita, Kansas. The parent company, St. Joseph's Medical Center is a licensed Kansas medical care facility under the provisions of K.S.A. 65-425 et seq and amendments thereto. In such matter, the board determined that the applicant was not in the employ of a practice setting recognized by statute (Exhibits 3 & 4).

- * A current registrant is employed by an out of state management corporation which hires employees to staff an inpatient rehabilitation unit which is owned by and housed in a Kansas hospital licensed under the provisions of K.S.A. 65-425. Here, this person is employed in a hospital per K.S.A. 74-5362, but is not directly employed by that hospital.
- * A current applicant is contemplating employment by an out-of-state agency (Gillis Center, a privately funded residential treatment program) which also has a satellite in Wyandotte county in Kansas. The Missouri office has two family preservation programs, and the majority of the applicant's work would be done from the Missouri office by going into the homes of Kansas residents referred to the Missouri programs by the Kansas SRS. She inquires if the in-Kansas SRS-related work contracted through her Missouri employer would allow her to function and entitle herself as a Kansas RMLP.
- * An SRS office recently called the board to ascertain if RMLPs can serve as self-employed SRS contract providers in Kansas for purposes of providing in-home family therapy.
- * One Kansas hospital leased space to and billed for the services of an RMLP who was employed by the hospital on a contract basis. The RMLP contended that she was delivering services in a statutorily authorized setting and that she was in the employ (albeit contract, untaxed, fee-for service) of the hospital.

Discussion: Do the BSRB psychology representatives wish to continue to handle atypical RMLP employment-related issues on a case-by-case basis? Alternately, do you wish to recommend that the board formalize interpretive guidelines and administrative policies related to the employment issues* referenced by statute? Can the two psychology representatives meet with BSRB administrative staff during one of the breaks on April 8, 1996? Thank you.

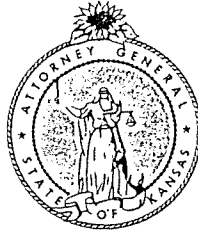
*i.e., setting, situation, status, site considerations

Reviewer: _____ Date: _____

CHK/skh

cc w/Exhibits: Mary Ann Gabel, BSRB Executive Director

FILE COPY: RMLP Employment Issues, 1996



RECEIVED
MAR 11 1992
BSRB

STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612-1597

ROBERT T. STEPHAN
ATTORNEY GENERAL

M E M O R A N D U M

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
TELECOPIER: 296-6296

TO: Mary Ann Gabel, Executive Director
Behavioral Sciences Regulatory Board

FROM: Camille Nohe, Assistant Attorney General

DATE: March 11, 1992

RE: Lillian Rexford, R.M.L.P. Renewal Eligibility

K.S.A. 1991 Supp. 74-5363(b)(4) requires that an RMLP applicant be "in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or municipal agency,"

According to information provided, the Kansas Department of Corrections contracts with Prison Health Services to provide health care coverage for those persons in the care of the Kansas Department of Corrections. Prison Health Services has subcontracted with the Mental Health Consortium to provide the mental health services to DOC. Ms. Rexford is employed by the Mental Health Consortium as a mental health professional.

From the information provided, it does not appear that the Mental Health Consortium, Prison Health Services nor the Department of Corrections is a licensed community mental health center or a contracted affiliate of a licensed community mental health center.

The real issue presented by this situation is whether Ms. Rexford is "in the employ of . . . a state agency." Since the relationship between DOC and Prison Health Services is contractual, and since the relationship between Prison Health Services and the Mental Health Consortium is contractual, Ms. Rexford is not a state employee, i.e. is not employed by a state agency. However, the term "in the employ of" is a broader term than "employed by."

"Employ" means:

"To engage in one's service; to hire; to use as an agent or substitute in transacting business; to commission and entrust with the performance of certain acts or functions or with the management of one's affairs; and, when used in respect to a servant or hired laborer, the term is equivalent to hiring, which implies a request and a contract for compensation."

In my opinion, under the broader term "in the employ of," Ms. Rexford qualifies for the RMLP status in relation to her employment setting.

It is my understanding that DOC contracts for health services, including mental health services, instead of directly hiring staff for two primary reasons: (1) to limit state liability under the Kansas tort claims act, and (2) such arrangement is less expensive as employee benefits need not be paid by the state.

In some respect the conclusion I have reached is a judgment call. Therefore, this may be an appropriate situation to bring to the board's attention for decision of whether Ms. Rexford qualifies to be registered as a masters level psychologist.

CN:bas



RMLP Item
V-2.a

002

BSRB - 3 PM 9:30

B.S.R.B.

State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

MEMORANDUM

To: Cheryl Kinderknecht, BSRB Credentialing Specialist
From: Camille Nohe, Assistant Attorney General
Date: March 6, 1996
Re: Lori G. Ruddick, RMLP #0363 - Employment Issue - Board decision needed

The situation presented requires the board to exercise its judgment regarding an interpretation of its statutes. The issue raised is whether Ms Ruddick, as an RMLP, is practicing psychology in compliance with K.S.A. 74-5366(b) which refers back to K.S.A. 74-5353(b)(4). Pursuant to that statute she must be "in the employ of" one of a number of statutorily specified facilities, including "a medical care facility licensed under K.S.A. 65-425 et seq. and amendments thereto." The board must consider what "in the employ of" means. That phrase may be given a narrow or a broad interpretation.

In the narrow interpretation "in the employ of" would mean "employed by." In this case Ms Ruddick is not employed by Mercy Hospital, and thus under the narrow interpretation of "in the employ of" Ms Ruddick is not practicing psychology in compliance with K.S.A. 74-5366(d).

The broad interpretation of "in the employ of" is:

"To engage one's service; to hire; to use as an agent or substitute in transacting business; to commission and entrust with the performance of certain acts or functions or with the management of one's affairs; and when used in respect to a servant or hired laborer, the term is equivalent to hiring, which implies a request and a contract for compensation." Black's Law Dictionary, 5th ed.

Under the broad interpretation the board may consider Ms Ruddick to be practicing psychology "in the employ of" Mercy Hospital by virtue of the contractual arrangement between Mercy Hospital and the Rehab Care Group, Inc. which is Ms Ruddick's actual employer. (Rehab Care Group, Inc. has legal authority to hire and fire, and pays her salary.) Thus under the broad interpretation of "in the employ of" Ms Ruddick is practicing psychology in compliance with K.S.A. 74-5362.

The board needs to decide whether to interpret the statutory phrase "in the employ of" narrowly or broadly.

2-41

**KANSAS DEPARTMENT OF
SOCIAL AND REHABILITATION SERVICES**

Rochelle Chronister, Secretary

Commission on Mental Health and Developmental Disabilities

Hugh M. Sage, PhD, Commissioner

Testimony Presented to
the Senate Public Health and Welfare Committee
Regarding

**Closure of Beds for Children and Adolescents
in State Mental Health Hospitals**

January 28, 1997

SRS Mission Statement

To provide services to Kansans in need that contribute to their safety and promote dignity,
independence, and responsibility.

Senate Public Health & Welfare
Date: 1-28-97
Attachment No. 3

On behalf of Secretary Chronister, thank you for the opportunity to appear before you today. My name is Dr. Hugh Sage, Commissioner of Mental Health and Developmental Disabilities (MH&DD) within the Kansas Department of Social and Rehabilitation Services. We wish to begin today's presentation with the assurance that, by carrying out the provisions of the Department's hospital closure plan for Topeka State Hospital, which includes the reduction of at least sixty-nine (69) beds for children and adolescents, the adjusted bed capacity in the surviving three State Mental Health Hospitals (SMHHs) will be adequate to provide backup as needed for the state's Community Mental Health Centers (CMHCs).

As illustrated in Attachment A, a reduction from the current 206 to 137 beds for children and adolescents is being made possible this fiscal year through the development of community alternatives by the CMHCs under contract with MH&DD. The CMHC contracts award funds for the development of specific services and supports for children, adolescents, and adults to be effectively served at the community level, thereby significantly reducing the need for SMHH inpatient services. Those services and supports are to be fully in place by February 15th.

As also shown in Attachment A, the number of surviving beds for children and adolescents at the three remaining SMHHs is equal to or greater than the current number budgeted and staffed at those three facilities. As evident through examination of the utilization of SMHH beds for children and adolescents across the past eighteen (18) months, the resources and beds residing in the surviving three facilities will provide a surplus over what will be needed in backup of the community-based services (see Attachment B).

The Mental Health Reform Act of 1990 provided for the closure of forty (40) SMHH beds for children and adolescents--twenty (20) at Osawatomie State Hospital (OSH) and twenty (20) at Topeka State Hospital (TSH). In compliance with that Act, over the past six years community-based services have been established and maintained to reduce the reliance on SMHHs in the eastern portion of the State. Attachment C illustrates the high of 116 in the SMHH children and adolescents census in July, 1995, to fifty-five (55) in December, 1996. The average daily census (ADC) of those patients ranged from ninety-nine (99) in July, 1995, to forty-two (42) in December, 1996. This obvious downward trend has been credited primarily to the development of community-based services and supports to divert admissions to the SMHHs. A significant reduction in admissions of youth from the eastern half of the state have resulted from a proliferation of community alternatives largely due to extraordinary federal funding for children's services in Sedgwick County and the thirteen counties of the Southeastern portion of Kansas. Also significant in reducing the number of admissions to the three SMHHs of eastern Kansas has been the implementation of crisis resolution services, particularly in Sedgwick and Wyandotte Counties, within the past few years.

The story is quite different for the western portion of Kansas (see Attachment D). No requirement for the reduction of beds for children and adolescents at Larned State Hospital (LSH) was included in the Mental Health Reform Act, nor were extraordinary funds provided for the development of community-based services for that population which would have resulted in

significant reduction in the admission of youth at LSH. As a consequence, across the six year period, fiscal years 1991-1996, the average daily census (ADC) for youth being served at that facility only dropped by four beds (less than 10%). SMHH census ranged from a high of fifty-two (52) in July, 1995, to fifty (50) in December, 1996. The ADC remained virtually unchanged, from forty-five (45) in July, 1995, to forty-one (41) in December, 1996. The trend of reduced reliance on children and adolescent beds in SMHHs is not as dramatic as that which is illustrated in Attachment C for the eastern portion of Kansas. This is, in part, due to the relatively slow rate of development of community-based services and supports for children and adolescents with severe emotional disturbance (SED) and their families living in western Kansas.

The Commission is currently negotiating with the twenty-eight CMHCs final adjustments to be made in the number of children and adolescent beds at each of the three surviving SMHHs regarding their bed allocations for the coming fiscal year. During February, we expect to complete those negotiations to the satisfaction of the CMHCs and representatives of the major mental health consumer advocacy organizations of the state. As a final planning check for the hospital closure plan which was agreed to in November, 1996, to the greatest extent possible, those negotiations will honor the requests of the respective CMHCs regarding the SMHH which each would prefer use as a backup for the clients their respective catchment area.

STATE MENTAL HEALTH HOSPITAL BEDS

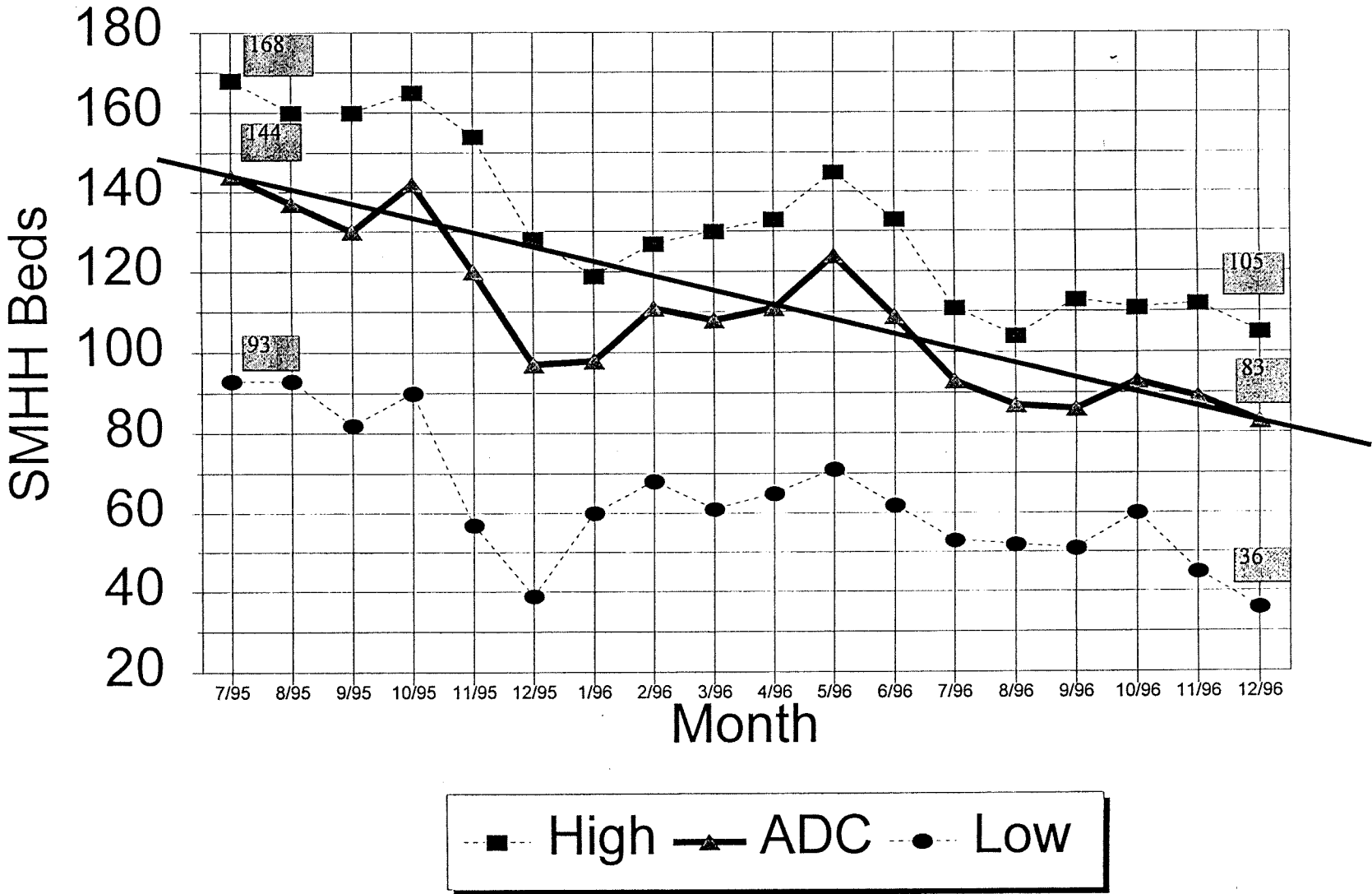
HOSPITAL	(1)	(2)	(3)	(4)	(5)
	JULY 1, 1996 BEDS	MINUS CDTU BEDS 10-1-96 *	MINUS COMMUNITY ALTERNATIVES 2-15-97	TRANSFER RESIDUAL TSH BEDS 2-15-97	FY98 BEDS JULY 1, 1997
LARNED STATE HOSPITAL:					
CHILDREN	17.00		-3.00	3.00	17.00
ADOLESCENT	30.00		-8.52	8.52	30.00
ADULT	80.00		-14.55	14.55	80.00
ADMISSION	19.00	-7.00			12.00
DETOX	0.00	7.00			7.00
CDTU	20.00	-20.00			0.00
TOTAL	148.00	-20.00	-24.07	24.07	128.00
OSAWATOMIE STATE HOSPITAL:					
CHILDREN	0.00				0.00
ADOLESCENT	40.00		-17.17	17.17	40.00
ADULT	174.00		-89.75	89.75	174.00
MEDICAL	16.00	-8.00			8.00
DETOX	0.00	8.00			8.00
CDTU	45.00	-45.00			0.00
TOTAL	275.00	-45.00	-86.92	86.92	230.00
RAINBOW MENTAL HEALTH FACILITY:					
CHILDREN	20.00		-9.00	9.00	20.00
ADOLESCENT	20.00		-1.00	11.00	30.00
ADULT	20.00		-10.00		10.00
MEDICAL	0.00				0.00
DETOX	0.00				0.00
CDTU	0.00				0.00
TOTAL	80.00	0.00	-20.00	20.00	80.00
TOPEKA STATE HOSPITAL:					
CHILDREN	28.00		-9.50	-18.50	0.00
ADOLESCENT	51.00		-28.88	-22.32	0.00
ADULT	133.00		-82.58	-70.42	0.00
MEDICAL**	19.00			-19.00	0.00
DETOX	0.00				0.00
CDTU	0.00				0.00
TOTAL	231.00	0.00	-100.76	-130.24	0.00
MH SYSTEM TOTALS:					
CHILDREN	65.00	0.00	-21.50	-8.50	37.00
ADOLESCENT	141.00	0.00	-53.37	12.37	100.00
ADULT	387.00	0.00	-158.88	13.88	244.00
MEDICAL/ADMISSION	54.00	-15.00	0.00	-19.00	20.00
DETOX	0.00	15.00	0.00	0.00	15.00
CDTU	65.00	-65.00	0.00	0.00	0.00
TOTAL	712.00	-65.00	-231.75	0.75	416.00

* LSH allocated 7 Admission beds to Detox; OSH allocated 8 Medical beds to Detox.

** These 19 beds are part of the adult psychiatric bed allocation.

State Usage with Foster Care

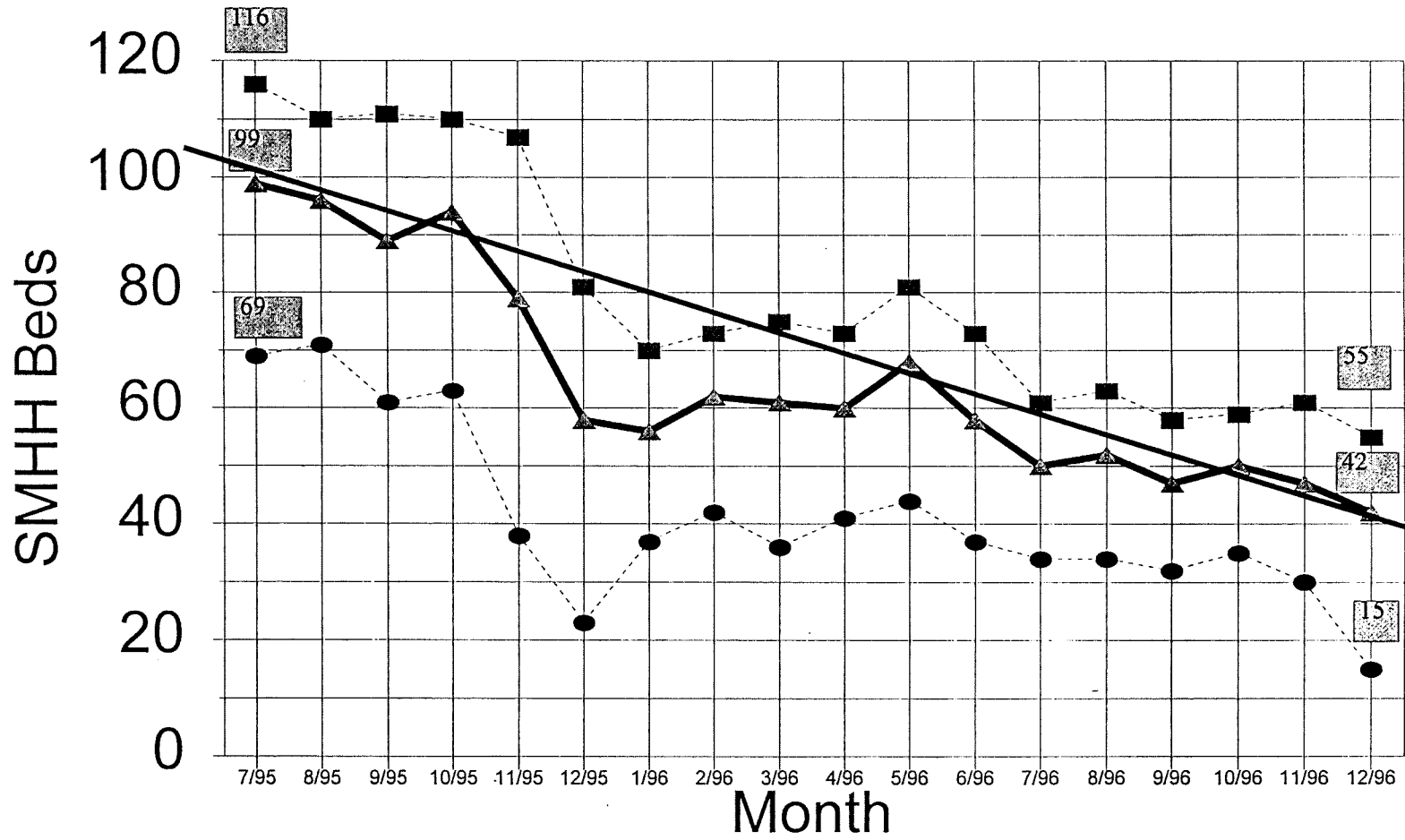
Children & Adolescent Census



4

3-5

Eastern Kansas minus P.V. & Central Children & Adolescent Census



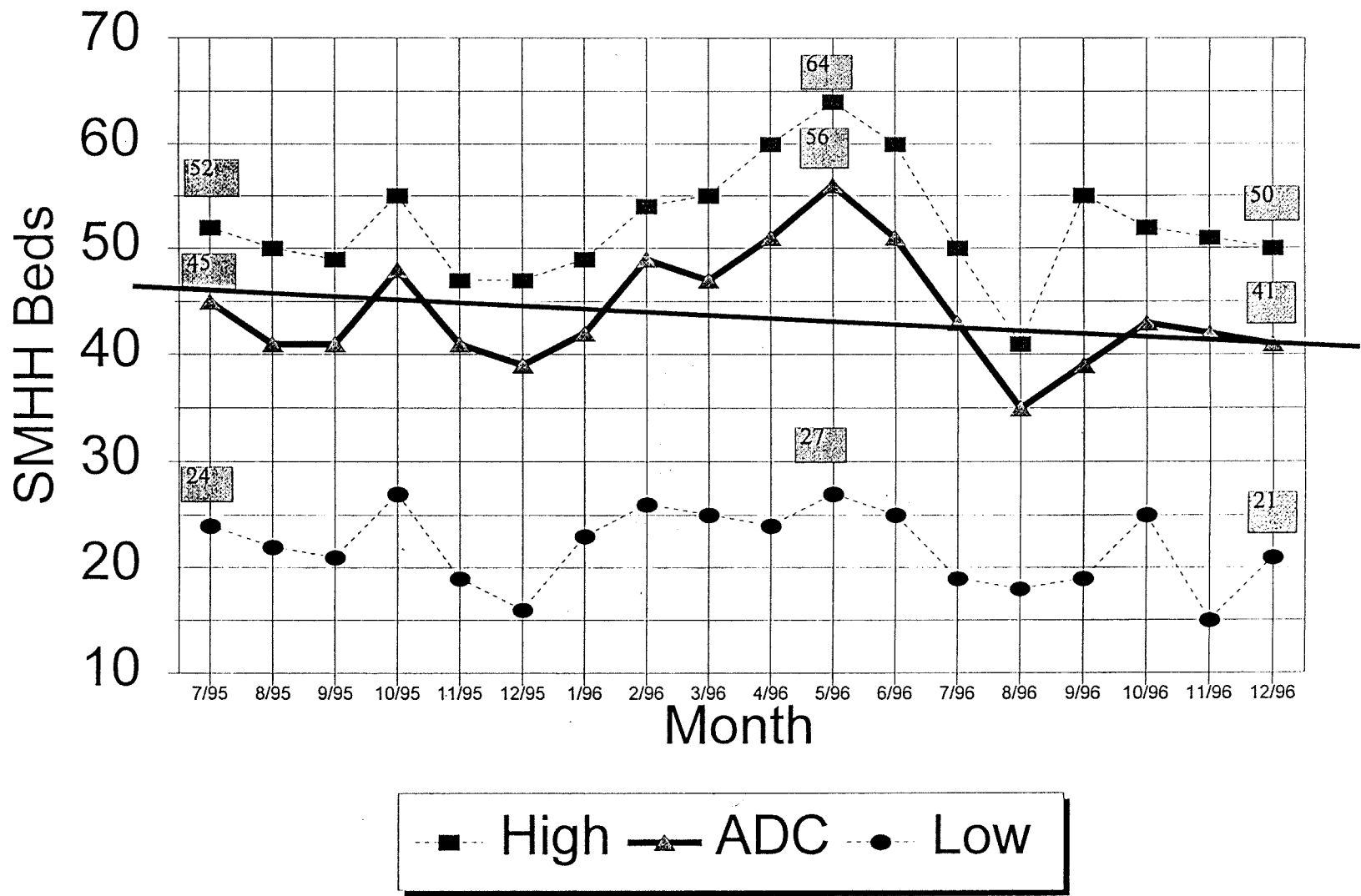
■ High ▲ ADC ● Low

5

3-6

Western Kansas plus P.V. & Central

Children & Adolescent Census



5

3-7