

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Rex Hoy at
Chairperson

3:30 ~~xx~~ a.m./p.m. on March 24, 1986 in room 521-S of the Capitol.

All members were present except:

Committee staff present:
Rep. Gjerstad, excused
Rep. Turnquist, excused

Conferees appearing before the committee:
Ms. Emalene Correll, Research Department
Ms. Melinda Hanson, Research Department
Mr. Gordon Self, Revisor's Office
Ms. Deanna Willard, Committee Secretary

Mr. Ken Schafermeyer, Kansas Pharmacists Assoc.
Mr. Don Horttter, Delta Dental Plan
Dr. Ed Hall, Delta Dental Plan
Mr. Ron Todd, Kansas Insurance Department
Mr. Carl Schmitthenner, Kansas Dental Assoc.

The meeting was called to order by the Chairman.

Hearing on: HB 3089 - Nonprofit pharmacy service corporation act

Ms. Melinda Hanson explained that this bill is still in the Committee on Ways and Means but that it will be rereferred to our committee. The bill is an act relating to the establishment, operation and regulation of nonprofit corporations organized for the purpose of entering into contracts with participating pharmacists to provide or administer professional service to subscribers. She reviewed each of the 14 New Sections of the bill; Section 15 deals with fees and taxes.

Mr. Ken Schafermeyer, Kansas Pharmacists Association, presented testimony on this enabling act. (Attachment 1.) He clarified for the committee that this would allow establishment of a service corporation, would allow health care providers to establish third-party contracts, and would exempt the corporation from the reserve and recording requirements now required of insurance companies. Any pharmacist would be eligible to join the organization and would then be required to abide by the terms of the contract. He presented an amendment which would add capitation basis as a means of compensation. (Attachment 2.)

He was asked to explain how the capitation program works regarding prescriptions. The pharmacist would receive a set amount for each prescription filled. He discussed the Robinson-Patman Act, an anti-trust act which states that a supplier must sell to all retailers at the same price. This does not apply to nonprofit institutions, a provision which the Kansas Pharmacists Association is seeking to repeal, as pharmaceutical companies can sell to hospitals at lower prices than to private concerns.

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Hearing on: SB 667 - Concerning nonprofit dental service corporations

Mr. Don Hortter, General Counsel, Delta Dental Plan, said the bill adds the capitation basis at the insurance commissioner's request. He explained that a dentist would be paid a given sum per month per subscriber on which he is the risk taker. The corporation originally was required to have participating agreements from at least 50% of all licensed dentists who were engaged in business in the state. Though there are currently about 70% of the eligible dentists participating, Mr. Hortter said it doesn't seem wise for the provision to remain; a nonprofit service corporation should not be under the control of the group who has the most to gain by manipulating it, possibly at the expense of the public. The bill would change the composition of the board to allow more option as to who is on the board. It would also add preferred provider organizations as a group with which the nonprofit corporation may contract.

He stated there would be no problem including the provision that any licensed dentist may sign up. After a dentist has joined there would be the control of due process requirements. He said that a common criticism of the capitation program is that it could produce minimal or bad dental work. The purpose of capitation is to provide reasonable care at a reasonable price, a service that is being demanded by the public. He said capitation procedures are subject to the same quality review standards as other dental procedures. The counterargument is that capitation encourages preventive dentistry.

Dr. Ed Hall, Delta Dental Plan, expressed strong support for the bill. He said dental insurance is beneficial to patients and employers; those families with some insurance coverage can best afford quality care. The 50% provision would provide an unwise veto power.

Mr. Ron Todd, Kansas Insurance Department, said that the department was approached for suggestions to bring the statute relating to nonprofit dental service corporations into line with the one for nonprofit medical service corporations. The Insurance Department supports passage of this bill; the same situation applies to the previous bill dealing with pharmacists corporations.

Mr. Carl Schmitthenner, Kansas Dental Association, spoke in opposition to the bill. He said it was represented as a housekeeping bill but that it appears to do much more. The Kansas Dental Association is opposed to removing the 50% participation requirement and to capitation because it gives the incentive to lower treatment. He was asked if people would be without service if an organization dropped below 50% participation, which would close it down. He felt they

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would still be required to provide service to subscribers but not in the same manner.

Mr. Ron Todd said that the organization's certificate must be renewed each year; it is a static requirement that they must maintain 50% participation.

Rep. Sprague moved that the bill be amended to read that all Kansas dentists be able to sign participating agreements; Rep. Graeber seconded the motion. The motion carried.

The minutes of the previous meeting were approved.

The meeting was adjourned at 4:50 p.m. by the Chairman.



THE KANSAS PHARMACISTS ASSOCIATION

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KENNETH W. SCHAFERMEYER, M.S., CAE
PHARMACIST
EXECUTIVE DIRECTOR

STATEMENT TO THE HOUSE COMMITTEE ON INSURANCE

MARCH 24, 1986

SUBJECT: HB 3089, REGARDING NON-PROFIT PHARMACY SERVICE CORPORATIONS.

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE:

MY NAME IS KEN SCHAFERMEYER AND I AM EXECUTIVE DIRECTOR OF THE KANSAS PHARMACISTS ASSOCIATION--AN ORGANIZATION REPRESENTING APPROXIMATELY 1,000 PRACTICING PHARMACISTS IN THE STATE OF KANSAS. I APPRECIATE THE OPPORTUNITY TO ADDRESS YOU ON HOUSE BILL 3089 REGARDING THE ESTABLISHMENT OF NON-PROFIT PHARMACY SERVICE CORPORATIONS.

THIS BILL IS AN ENABLING ACT WHICH WOULD ALLOW THE ESTABLISHMENT OF A NON-PROFIT PHARMACY SERVICE CORPORATION UNDER THE JURISDICTION OF THE KANSAS INSURANCE DEPARTMENT. THIS "NON-PROFIT PHARMACY SERVICE CORPORATION ACT" IS IDENTICAL TO THE NON-PROFIT DENTAL AND OPTOMETRIC SERVICE CORPORATION ACTS WITH A FEW MINOR EXCEPTIONS:

1. THE BOARD OF DIRECTORS IS COMPRISED OF 11 MEMBERS RATHER THAN 10. IT IS GENERALLY ACCEPTED THAT AN ODD-NUMBERED BOARD OF DIRECTORS IS PREFERABLE TO AN EVEN-NUMBER BOARD. THE MAJORITY OF THE MEMBERS OF THE BOARD OF DIRECTORS WOULD BE PUBLIC MEMBERS APPOINTED BY THE GOVERNOR (2) AND THE INSURANCE COMMISSIONER (4).
2. WE HAVE REMOVED THE PROVISION REQUIRING 50% OF THE PHARMACISTS IN THE STATE TO PARTICIPATE BEFORE THE

Attachment 1
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AFFILIATED WITH

THE AMERICAN PHARMACEUTICAL ASSOCIATION



CORPORATION CAN BECOME OPERATIONAL. IT IS OUR UNDERSTANDING THAT DELTA DENTAL IS SEEKING REMOVAL OF THIS PROVISION IN THE DENTAL SERVICE CORPORATION ACT BECAUSE THEY FEEL THAT IT IS UNNECESSARY. WE AGREED WITH THEIR POSITION AND OMITTED THIS REQUIREMENT IN THE BILL.

3. WE HAVE ADDED "PREFERRED PROVIDER ORGANIZATIONS" ON LINES 74 AND 101 IN ORDER TO CLEARLY INDICATE THAT PPOs ARE AMONG THE GROUPS WHICH THE SERVICE CORPORATION MAY CONTRACT WITH. THIS MAKES SENSE SINCE HMOs ARE SPECIFICALLY MENTIONED AND THE LEGISLATURE HAS CONSIDERED A BILL TO LICENSE PPOs. DELTA DENTAL IS PROPOSING A SIMILAR CHANGE IN THEIR ACT THROUGH SENATE BILL 6667.
4. WE ARE REQUESTING AN AMENDMENT ON LINE 34 OF THE BILL TO CLARIFY THAT CONTRACTS FOR PROFESSIONAL SERVICES MAY ALSO ALLOW COMPENSATION ON A CAPITATION BASIS. (THE SUGGESTED AMENDMENT IS ATTACHED.) ALTHOUGH IT IS THE INTENT OF THIS BILL TO ALLOW CAPITATION REIMBURSEMENT, THIS AMENDMENT MAKES THIS INTENT VERY CLEAR.

THE PURPOSE OF ESTABLISHING A NON-PROFIT PHARMACY SERVICE CORPORATION IS TO ALLOW A STATE-CONTROLLED ORGANIZATION WITH PHARMACY REPRESENTATION TO ACCEPT CERTAIN CONTRACTS WHICH INVOLVE RISK SHARING AND DISTRIBUTION OF FUNDS BASED UPON EXPERIENCE OF THE GROUP. WITHOUT THIS ACT, SUCH AN ORGANIZATION WOULD HAVE TO BE LICENSED AS AN INSURANCE COMPANY OR A HEALTH MAINTENANCE ORGANIZATION. THE LEGISLATURE HAS DEEMED THAT THESE ARRANGEMENTS ARE APPROPRIATE FOR HOSPITAL, DENTAL AND OPTOMETRIC SERVICE CORPORATIONS. THE MANY CHANGES SWEEPING THE HEALTH CARE INSURANCE INDUSTRY ALSO AFFECT PHARMACY AND IT IS TIME FOR THE STATUTES TO REFLECT THIS. WE WOULD APPRECIATE YOUR SUPPORT OF THIS BILL WITH THE SUGGESTED AMENDMENT.

HOUSE BILL No. 3089

By Committee on Insurance

(By request)

2-26

0018 AN ACT relating to the establishment, operation and regulation
0019 of nonprofit corporations organized for the purpose of entering
0020 into contracts with participating pharmacists to provide or
0021 administer professional service to subscribers; prescribing
0022 certain fees; amending K.S.A. 1985 Supp. 40-252 and repeal-
0023 ing the existing section.

0024 *Be it enacted by the Legislature of the State of Kansas:*

0025 New Section 1. This act shall be known and may be cited as
0026 "the nonprofit pharmacy service corporation act."

0027 New Sec. 2. Nonprofit corporations may be organized for the
0028 purpose of entering into contracts with participating pharmacists
0029 to provide or administer professional service for subscribers on
0030 such bases as may be designated in the corporation's contracts
0031 with purchasing groups, individuals and government agencies.
0032 Such corporations may provide service or indemnity benefits.
0033 Compensation for professional services shall be either on a
0034 scheduled basis or on the basis of usual, customary and reason-
0035 able charges. Inherent in the authority provided in this act is the
0036 right of any such corporation to function as an administrative
0037 agent with respect to any group pharmaceutical care program
0038 installed by a private organization for its employees or members,
0039 or with respect to any pharmaceutical care program initiated by
0040 any local, state or federal governmental body.

,capitation basis /

0041 New Sec. 3. The membership of a nonprofit pharmacy ser-
0042 vice corporation organized under this act shall be comprised of
0043 the pharmacists who have executed participating agreements
0044 with the corporation. The affairs of the corporation shall be
0045 managed by a board of directors comprised of 11 members, five