

Approved April 1, 1986

Date

MINUTES OF THE House COMMITTEE ON Judiciary

The meeting was called to order by Chairman Joe Knopp at
Chairperson

3:30 ~~xxx~~/p.m. on February 10, 1986 in room 313-S of the Capitol.

All members were present except:

Representatives Douville, Duncan and Fuller were excused

Committee staff present:

Mike Heim, Legislative Research Department
Jerry Donaldson, Legislative Research Department

Jan Sims, Committee Secretary

Conferees appearing before the committee:

Morton Ewing, American Association of Retired Persons
Kathleen Sebelius, Kansas Trial Lawyers Association
Charlotte Gregory, Victims Coalition
Patricia Renfro, Victims Coalition
Amy Morris, Victims Coalition
David Litwin, Kansas Chamber of Commerce and Industry
Jerry Slaughter, Kansas Medical Society
Lynn Johnson
Dr. Jimmy Browning

Morton Ewing of the American Association of Retired Persons appeared before the Committee and presented the National AARP position on medical malpractice as well as the position of a special conference of the AARP of Kansas City. (Attachment 1) In response to questioning by Rep. Shriver Mr. Ewing stated that the AARP although not formally taking a position on caps believes that victims should not be prevented from full compensation of their claims.

Kathleen Sebelius of the Kansas Trial Lawyers Association presented committee members with information concerning peer review and the insurance industry relative to her testimony before the Committee on those points at previous meetings. (Attachment 2) She also presented the Committee with correspondence from members of the Victims Coalition, explained what the Victims Coalition is and presented a list of the membership of the coalition. (Attachment 3)

Charlotte Gregory, Patricia Renfro and Amy Morris of the Victims Coalition appeared before the Committee and relayed the facts surrounding their malpractice experiences and claims. They urged the committee not to impose a cap on damages recoverable by victims. Lynn Johnson, the attorney representing Amy Morris explained some of the elements of her malpractice case to the Committee and explained the current status of the case.


David Litwin of the Kansas Chamber of Commerce & Industry appeared before the Committee and presented his association's position on HB 2661. (Attachment 4) He said that the KCCI supports all provisions of HB 2661 with the exception of the inclusion of medical expenses and out-of-pocket expenses being included in the \$1 million cap. He also stated that the KCCI supports the limitation of attorney fees.

Jerry Slaughter of the Kansas Medical Society introduced Dr. Jimmy Browning of Cottonwood Falls, Kansas. Dr. Browning stated that he has practiced in Chase County for five years and has a full family practice including OB-GYN services. He stated that his malpractice premium last year was \$6300 and cited the high premium as his primary reason for considering leaving Chase County. He stated that he does not want to leave his practice and patients but feels that the high overhead involved in his practice requires him to do so as his patients cannot afford increased fees. He said that the only other practicing physician in his area will retire this June when his malpractice premium is due and stated that the other physician's reason for retiring was due in part to high premiums. He stated that rural and solo practitioners will leave Kansas if HB 2661 is not passed.

The Chairman adjourned the meeting at 5:00 P.M.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

2/10 Ewing



1985-1986
KANSAS STATE LEGISLATIVE COMMITTEE

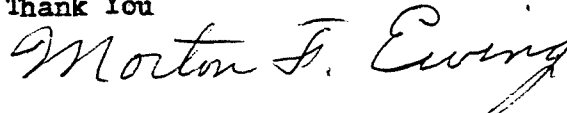
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MEDICAL MALPRACTICE TESTIMONY as presented to the Judiciary Committee of the House of Representatives of Kansas on February 10, 1986. The first part of the testimony is the position that the National AARP can support and the last page (15 points) are the points that were decided upon at a special conference held in Kansas City early in December. There were representatives there from three states in this area and a research specialist from Washington. THE KANSAS STATE LEGISLATIVE COMMITTEE AT THEIR LAST MEETING IN TOPEKA, JAN. 23 and 24, ADOPTED THESE POINTS AS THE POSITION TO SUPPORT ON THIS ISSUE IN KANSAS THIS YEAR. We appreciate the opportunity to present this testimony to the Committee.

Thank You



Morton F. Ewing, Chr. State Legislative
Committee of AARP

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Attachment 1
House Judiciary
2-10-86

MEDICAL MALPRACTICE TESTIMONY

WE, AT THE AMERICAN ASSOCIATION OF RETIRED PERSONS, ARE PLEASED TO BE ABLE TO PARTICIPATE IN THE DEBATE SURROUNDING THE MEDICAL MALPRACTICE ISSUE. WE ARE CONCERNED ABOUT MALPRACTICE BECAUSE THE CONSUMER'S VOICE HAS NOT YET BEEN HEARD IN THIS DEBATE AND IT IS ULTIMATELY THE CONSUMER WHO GAINS OR LOSES WHEN CHANGES ARE MADE TO THE CURRENT SYSTEM.

THERE ARE THREE BASIC PARTS OF THE MEDICAL MALPRACTICE SYSTEM THAT MUST BE ADDRESSED. THEY ARE: MEDICAL NEGLIGENCE, LIABILITY INSURANCE, AND THE TORT SYSTEM. MEANINGFUL REFORM SHOULD SEEK IMPROVEMENTS IN ALL THREE AREAS. HOWEVER, THE MOST IMPORTANT AREA IS THE PREVENTION OF NEGLIGENCE. IF IMPROVEMENTS ARE MADE IN THE QUALITY OF HEALTH CARE THEN MANY NEEDLESS INJURIES COULD BE PREVENTED.

THE REMAINDER OF MY TESTIMONY WILL FOCUS ON THE ISSUES SURROUNDING THE THREE PARTS OF THE SYSTEM. AS A CONCLUSION I WILL LAY OUT THE TYPE OF MALPRACTICE REFORM LEGISLATION THAT AARP CAN SUPPORT.

PREVENTION OF MEDICAL NEGLIGENCE

THE MOST IMPORTANT PART OF THE SYSTEM IS PREVENTION OF NEGLIGENCE. PREVENTION WOULD REDUCE MEDICAL COSTS AND MORE IMPORTANTLY -- HUMAN MISERY. THUS PREVENTION IS ONE OF THE MOST

IMPORTANT REFORM GOALS.

THE STATES HAVE TRADITIONALLY LICENSED PHYSICIANS, HOSPITALS, AND OTHER PROVIDERS AND HAVE TAKEN A MAJOR RESPONSIBILITY FOR ENSURING THAT PROVIDERS DELIVER GOOD QUALITY CARE.

UNFORTUNATELY, STATES HAVE NOT BEEN EFFECTIVE, PARTICULARLY IN PHYSICIAN LICENSURE. THE FEDERATION OF STATE MEDICAL BOARDS' RECORDS SHOW THAT THERE WERE ONLY 563 SERVICES ACTIONS TAKEN AGAINST 400,000 PHYSICIANS NATIONWIDE IN 1983. THIS LACK OF DISCIPLINE OCCURRED DESPITE THE FACT THAT A PAST PRESIDENT OF THE FEDERATION ESTIMATES THAT 5% OF PHYSICIANS ARE INCOMPETENT.

OPTIONS FOR IMPROVING PHYSICIAN AND HOSPITAL QUALITY OF CARE

THERE ARE METHODS FOR IMPROVING THE SITUATION THAT I HAVE DESCRIBED. THE MOST IMPORTANT INVOLVE STRENGTHENING PHYSICIAN LICENSURE AND GIVING FACILITIES REVIEWING PHYSICIANS' CREDENTIALS PROTECTION FROM UNFOUNDED SUITS.

LICENSURE WOULD BE STRENGTHENED BY:

1. REQUIRING INSURERS TO REPORT MEDICAL MALPRACTICE SETTLEMENTS TO THE MEDICAL LICENSURE BOARD. THUS BOARDS WOULD HAVE MORE INFORMATION ABOUT PHYSICIANS' POSSIBLE NEGLIGENCE.

2. MANDATING THAT THE BOARD INVESTIGATE PHYSICIANS WITH POOR RECORDS, PERHAPS WHEN PHYSICIANS HAVE TWO LARGE MALPRACTICE SUITS SETTLED AGAINST THEM. IN ADDITION, BOARDS SHOULD CHECK PHYSICIANS' LICENSURE RECORDS IN OTHER STATES. GIVEN THESE RESPONSIBILITIES BOARDS WOULD HAVE TO INVESTIGATE QUESTIONABLE PHYSICIAN CONDUCT.

3. LAY PEOPLE SHOULD BE ON THE BOARD TO ENSURE THAT DISCIPLINARY ACTIVITIES ARE FAIR AND NOT BIASED TOWARD THE MEDICAL PROFESSION.

4. BOARDS SHOULD ALSO CLOSELY EXAMINE FOREIGN MEDICAL GRADUATES' CREDENTIALS AND REQUIRE CONTINUING EDUCATION AS A CONDITION OF LICENSURE. THIS WOULD ENSURE THE EDUCATIONAL QUALIFICATIONS OF PHYSICIANS IN THE STATE.

5. LICENSES SHOULD BE RENEWED ON AN ANNUAL BASIS TO FACILITATE DISCIPLINE OF THE PROFESSION.

IN ADDITION TO THESE PHYSICIAN LICENSURE REFORMS HOSPITALS SHOULD HAVE RESPONSIBILITY FOR ENSURING THE QUALITY OF THEIR MEDICAL STAFFS. FACILITIES MUST BE REQUIRED TO REVIEW THEIR STAFFS' CREDENTIALS. HOSPITALS' TASKS WOULD BE EASIER IF PEER REVIEW COMMITTEES HAD CIVIL IMMUNITY WHEN DISCIPLINING NEGLIGENT PHYSICIANS. IN FACT, PARTICIPANTS AND WITNESSES IN ANY TYPE OF DISCIPLINARY ACTION SHOULD HAVE PROTECTION FROM SUITS.

MEDICAL LIABILITY INSURANCE

THE INSURANCE INDUSTRY IS THE SECOND PART OF THE MEDICAL MALPRACTICE SYSTEM THAT MERITS ATTENTION AND REFORM. PHYSICIANS CLAIM THAT PREMIUMS ARE OUT-OF-LINE AND INCREASING DRAMATICALLY. IN FACT, THE AMERICAN MEDICAL ASSOCIATION'S (AMA) OWN DATA SHOWS THAT THE AVERAGE MEDICAL MALPRACTICE PREMIUM IS LESS THAN 5% OF PHYSICIANS' GROSS INCOME. HOWEVER, DOCTORS IN SPECIALITIES SUCH AS OBSTETRICS, ANESTHESIOLOGY AND SURGERY MAY HAVE HIGHER THAN AVERAGE PREMIUMS.

IT COULD BE THAT SOME OF THESE HIGH PREMIUMS ARE NOT JUSTIFIABLE. THE NATIONAL CONFERENCE OF STATE LEGISLATURES STATES THAT MEDICAL LIABILITY INSURERS' PREMIUM INCOME EXCEEDED PAID LOSSES BETWEEN 1977 AND 1982. NET PREMIUM INCOME WAS \$7.2 BILLION WHILE LOSS AND LOSS EXPENSE TOTALED \$1.7 BILLION. THESE FIGURES INDICATE THAT INSURERS NEED CLOSER SUPERVISION.

THERE ARE SOME REFORMS THAT COULD HELP IMPROVE THIS SITUATION. ONE IS THAT STATE INSURANCE DEPARTMENTS COULD REGULATE THE INDUSTRY MORE CLOSELY. MALPRACTICE INSURERS SHOULD BE REQUIRED TO JUSTIFY PREMIUM INCREASES. IN ADDITION, INSURERS SHOULD BE HELD ACCOUNTABLE FOR HOW THEY HANDLE INVESTMENT INCOME AND PROFITS.

ANOTHER SET OF REFORMS COULD REQUIRE ALL PHYSICIANS TO CARRY INSURANCE AND TO MANDATE THAT SUCH INSURANCE BE EXPERIENCE RATED. CURRENTLY MANY INSURERS DO NOT DO THIS, LETTING PHYSICIANS WITH POOR SETTLEMENT RECORDS PAY THE SAME PREMIUM AS PHYSICIANS WITH NO SUITS SETTLED AGAINST THEM.

THE TORT SYSTEM

AS I'VE STATED EARLIER, MOST REFORMS FOCUS ON THE TORT SYSTEM, PRIMARILY BECAUSE PHYSICIAN GROUPS CLAIM THAT THERE ARE TOO MANY FRIVOLOUS MEDICAL MALPRACTICE SUITS AND THESE SUITS CAUSE EXCESSIVE PREMIUM INCREASES. IF WE EXAMINE THE AVAILABLE EVIDENCE WE FIND THAT THESE GROUPS MAY BE OVERSTATING THEIR CASE.

THE MILLS STUDY, COMMISSIONED BY THE CALIFORNIA HOSPITAL AND MEDICAL ASSOCIATIONS, PROVIDES SOME INTERESTING DATA. NINETY PERCENT OF ALL NEGLIGENTLY INJURED PATIENTS DO NOT FILE MALPRACTICE CLAIMS. ONLY HALF OF THOSE WHO DO FILE CLAIMS GET AWARDS. AS A RESULT AT MOST 5% OF THE NEGLIGENTLY INJURED ARE COMPENSATED. THIS DATA COULD LEAD US TO CONCLUDE THAT, DESPITE AN INCREASING NUMBER OF CLAIMS PER PHYSICIAN, NOT EVERYBODY DESERVING COMPENSATION GETS IT.

IN ADDITION IT IS ALREADY VERY DIFFICULT FOR PATIENTS TO PROVE THEIR CASES. A RAND CORPORATION REVIEW SHOWS THAT ABOUT HALF OF CLAIMS ARE DROPPED WITHOUT PAYMENT. TEN PERCENT OF CASES ARE TRIED ALL THE WAY TO VERDICT AND OF THE CASES RESOLVED BY JURY

THE VERDICTS FAVOR DEFENDANTS 75% OF THE TIME.

GIVEN THE ABOVE SITUATION THE ASSOCIATION OPPOSES MOST REFORMS DESIGNED TO LIMIT CONSUMER ACCESS TO THE COURTS AND/OR MAKE IT MORE DIFFICULT FOR PATIENTS TO PROVE THEIR CASES.

HOWEVER THERE IS SOME EVIDENCE SUGGESTING THAT THE MEDICAL MALPRACTICE SYSTEM IS NOT AS EFFICIENT AS IT COULD BE. THE RAND CORPORATION STATES THAT ONLY 28% TO 40% OF THE PREMIUM DOLLAR GOES TO COMPENSATE PATIENTS -- THE REST IS ABSORBED BY THE SYSTEM. THUS THE COURT SHOULD HAVE THE AUTHORITY TO EVALUATE ATTORNEYS' FEES TO ENSURE THAT THEY ARE NOT EXCESSIVE.

IN ADDITION, PATIENT AWARDS INFREQUENTLY CAN BE EXCESSIVE, ADDING TO SYSTEM COSTS. THUS THE COURT SHOULD ALSO HAVE THE AUTHORITY TO ADJUST AWARDS WHEN THEY ARE TRULY OUT OF LINE.

FINALLY, PATIENTS SHOULD BE EDUCATED ABOUT THEIR RIGHTS IN THE MEDICAL SYSTEM. THIS WOULD HELP THEM TO BE MORE EFFECTIVE CONSUMERS OF MEDICAL CARE. FOR EXAMPLE, IF PATIENTS WERE AWARE OF THEIR RIGHTS TO APPEAL EARLY MEDICARE DISCHARGE THEY MIGHT NOT ACQUIESCE WHEN THEY ARE DISCHARGED BEFORE THEY ARE ABLE TO LEAVE THE HOSPITAL SAFELY.

CONCLUSION

IN CONCLUSION, THE ASSOCIATION HAS EXAMINED THE MEDICAL MALPRACTICE SYSTEM AND FOUND THAT DISCIPLINE OF THE HEALTH CARE PROFESSIONS IS INADEQUATE. WE BASE THIS ON A NUMBER OF FACTORS, ONE OF THEM BEING THAT THE MILLS STUDY SHOWS THAT 1 IN 126 PEOPLE ENTERING HOSPITALS RECEIVE AN INJURY DUE TO NEGLIGENCE. THUS IMPROVEMENT IN THE QUALITY OF CARE AND PREVENTION OF INJURY ARE OUR PRIMARY GOALS.

THE SYSTEM'S OTHER PROBLEMS RELATE TO INADEQUATE INSURANCE REGULATION AND CONSUMER ACCESS TO THE COURT SYSTEM. THEREFORE REFORMS SHOULD ALSO MAKE INSURERS JUSTIFY THEIR PREMIUMS AND ENSURE THAT CONSUMERS HAVE REASONABLE ACCESS TO THE COURTS.

MEDICAL NEGLIGENCE AND TORT REFORM

SUMMARY: Points to Remember for Balanced Malpractice Legislation

1. Stricter licensure of Foreign Medical Graduates.
2. Experience rating for liability premiums.
3. Continuing education.
4. Facilities review professionals credentials.
5. Insurers report settlement.
6. Everybody have liability as a condition of licensure.
7. Give the court authority to evaluate fees or review awards.
8. License renewal on an annual basis.
9. Lay people on licensure board.
10. Strengthening licensure board.
11. Increase fees to support board activities.
12. Expanding civil immunity to communities, witnesses, etc.
13. Requiring states to investigate physicians records in previous states.
14. Insurers accountable for how handling premiums, investment income -- profits.
15. Education on patient rights.

ktla

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February 10, 1986

TO: House Judiciary Committee.
FROM: Kathleen Sebelius.
RE: Medical Peer Review and Insurance Facts.

Enclosed are some recent articles on two topics: medical peer review and the insurance industry. The "talking points" are some figures gathered from recent literature by the KTLA staff.

While the Kansas Medical Society dismisses the "bad doctor" issue as one of little concern in Kansas, we feel strongly that national and local experts seriously disagree. There are a small number of Kansas doctors who are repeatedly sued. The Kansas Insurance Commissioner has consistently failed to produce figures about the amount of money spent to pay claims by those few doctors. But, there is no question that the figures quoted by Mr. Slaughter to the Committee are incomplete.

They do appear on a document given to the Committee by the Insurance Department, but when reviewed with specific cases in mind, the data does not match the facts.

As the Chairman suggested, I reread the frequency charts, excluding the hospitals. According to this document from the Commissioner's office, approximately 16,043 providers are covered by the Fund. This includes hospitals, MD's, DO's, and professional associates.

From 1976 - January 31, 1985, a total of 835 claims had been filed. Of the total providers 1,691 (approximately 10%) had been sued.

Defining "repeat" providers as those doctors with 3 or more claims, there are 68 providers in that category. This is 4% of providers who have been sued or .04% of the total providers covered under the Fund. Those 68 doctors were responsible for at least 239 claims, 30% of the cases filed during a nine year period. "At least" is used because in the highest category, 1 MD and 1 professional corporation had "more than 7 claims". We gave the benefit of the doubt and used 8. This is a very serious problem and a very expensive situation.

The insurance articles which appeared in the Eagle-Beacon and the talking points are included for two reasons. The liability market has gone haywire for all groups, not just doctors. As lawmakers, before restricting the rights of innocent victims, it is important to determine 2 things. Is the legal system the root cause of these dramatic increases? Will the proposed legislation "solve" the problem?

Attachment 2
House Judiciary
2-10-86

MEMO -- House Judiciary Committee.

February 10, 1986

Page 2.

In most areas these questions are impossible to answer. The insurance industry has not given the affected groups information on claims history or frequency. Most recognize that there are very few claims (day care, psychologists) and yet insurance rates have skyrocketed. In Kansas, the tort claims act provides a \$500,000 per incident cap for municipalities and school districts, yet the insurance for these entities has risen dramatically.

It is essential to determine the cause and real dimensions of the problem before a solution is reached.

KGS:jlc

Enclosures.

Tougher discipline advocated for doctors

The New York Times

WASHINGTON — A new government study concludes that "strikingly few" unqualified or incompetent doctors are prevented from practicing and that big changes are needed in the system of disciplining such physicians.

The study by the inspector general of the Health and Human Services Department is the federal government's first comprehensive look at medical discipline and peer review.

The report calls this an important issue because of the lives lost to medical incompetence and because

the problem greatly increases health expenditures.

The study has not been made public, but copies have been given to some government officials and congressmen for comment. On Monday the health agency's inspector general, Richard P. Kusserow, said he would not comment on the report until it was made public, but others in his office said he would push for the legislative changes the report recommended.

Although the vast majority of American doctors are considered well qualified, the study says, many ought not to be treating patients because they are incompetent, crim-

See TIGHTER, A-4, Col. 5

Continued from Page A-1

inal or infirm. It concludes that although "the rate of disciplinary action has been increasing" in recent years, 20,000 to 45,000 of the nation's 400,000 licensed physicians "are likely candidates for some level of discipline."

Those figures are derived from statistics on alcoholism, drug abuse, mental illness, criminality and other problems in the population as a whole.

In 1984, the most recent year for which full figures are available, state medical boards reported about 1,400 disciplinary actions.

The disciplining of doctors is largely the responsibility of state medical boards, although private medical societies, hospital medical staffs and federal peer-review agencies also play a role. In recent months, federally financed Professional Review Organizations have significantly increased the number of disciplinary actions they have initiated against doctors and hospitals.

But the study says that local, state and federal agencies often refuse to cooperate with one another and that many of the state laws enacted in recent years to address that problem do not work. And it notes that state medical boards get few of their complaints from doctors, hospitals, medical societies and other health-care institutions or individuals who are best informed on physicians' competence.

Most members of state medical boards are practicing physicians, and in most states the work of the boards is financed with revenue from physicians' license renewal fees. Although nearly all boards have raised the fees in recent years,

the study says, they are still underfinanced.

Although consumer complaints to the medical boards have been rising, most state medical boards have too few investigators and lawyers. The result is that many states have tremendous backlogs of complaints about doctors.

In many states doctors are allowed to continue treating patients while investigators handle the cases.

The study notes that until the 1970s, when states began using a standard national medical licensing exam, state boards spent most of their time on the initial licensing of physicians. When the national exam freed them of most of that work, state officials began looking more closely at the disciplining of incompetent doctors.

But then, the study says, the boards found that they had a new problem: the poorly trained graduates of foreign medical schools who began applying for licenses in the United States in record numbers in the late 1970s.

The study recommends that:

- Hospitals not be allowed to receive Medicare payments unless they report incompetent residents and physicians to state medical boards.

- The federal government receive authority to prevent physicians from receiving Medicare payments if they have been disciplined by state boards.

- State boards be required to report actions against incompetent doctors to the federal government.

- Physicians' license renewal fees be increased substantially.

- Federal financial assistance be withheld from students attending poor-quality foreign medical schools.

Army expels ex-Kansas psychiatrist after new sex charge

By Jenny Deam
staff writer

Dr. Robert Stein, a psychiatrist who lost his Kansas medical license once because he was sexually involved with patients, may be returning to the state to resume a medical practice.

And even though the 56-year-old physician is being discharged from the Army for misconduct, there is little the Kansas Board of Healing Arts can do to stop him. The Topeka-based board restored his license three years ago—apparently on Dr. Stein's word that he was rehabilitated.

"I think it would have been handled

differently today," said Larry Buening, disciplinary counsel for the board.

The board revoked Dr. Stein's license in October 1980 after complaints surfaced from three women that he had had sex with them while they were his patients. Dr. Stein admitted to two relationships and denied the third.

The American Psychiatric Association says sex with patients is considered "always unethical" and is strictly forbidden.

Dr. Stein joined the Army in 1981 after Kansas revoked his license. He was made a colonel and a staff psychiatrist at a base in Texas.

In March 1983, the Board of Healing Arts gave Dr. Stein a new Kansas li-

icense, saying he was fully "rehabilitated."

Board officials and members won't comment or say they recall very little about the reinstatement decision. That decision, they say, apparently was based only on Dr. Stein's personal appeal.

Now, the Army is discharging Dr. Stein.

The involuntary discharge for unspecified misconduct stems from allegations he had been sexually involved with a patient, Army officials say. He married the patient the same day her divorce was final.

On Saturday, Dr. Stein, 56, will appear before the Kansas Board of Healing Arts in Topeka at a meeting he requested so

he can give his version of why he is being discharged.

He said in a telephone interview he had been sexually active with patients while a civilian, but he said he never had sex with a patient while in the Army. He contends he has been a victim of a smear campaign by his wife's former husband, his superior officers and the press.

"I did some wrong things before," said Dr. Stein, who now lives in Colorado Springs awaiting his final discharge this month. "People do learn from their mistakes."

Returning to Kansas to practice psy-

See *Psychiatrist*, pg. 11A, col. 1

Psychiatrist continued from pg. 1A

chiatry is "an option," he said, because he is licensed in the state. He lived in Kansas from 1956 to 1980 and says he considers it home.

Dr. Stein faces problems in the two other states where he has held licenses.

California officials say they are investigating his record. In Massachusetts an investigator for the medical board said Dr. Stein's 1986 renewal is in question because he failed to fill out the application properly. The investigator declined to elaborate.

Don Strole, legal counsel for the Kansas Board of Healing Arts, said Dr. Stein holds a license and cannot legally be kept from practicing in the state unless there is enough reason to take emergency action to suspend that license.

According to Mr. Buening, "We simply do not have enough information at this point to know whether he is dangerous or not."

Home state

Between 1965 and 1970 Dr. Stein was medical director of the North Central Kansas Guidance Center, a small clinic in Manhattan. He said he was asked to resign in 1970 after a patient said they had been sexually involved. A malpractice suit filed by the patient was settled out of court.

Dr. Stein says the affair lasted about a year and "was definitely wrong."

He then went into private practice. At that time, he said, he resumed a sexual relationship with a second woman who, over 14 years, had been his patient and then his employee.

"I was her psychiatrist and I was having sex with her. That was wrong," he said.

That former patient later gave an

affidavit and testified before the Board of Healing Arts telling of their sexual involvement.

But it was a third patient's complaint to the board that led to the loss of Dr. Stein's Kansas license. After her accusations, board officials said, the other complaints came to the board's attention.

The third woman contended in a lawsuit and a complaint to the board that Dr. Stein once had had a sexual relationship with her and had fathered her daughter.

Dr. Stein denies both allegations. "I considered them false (then) and I still do," he said.

The woman sued Dr. Stein for malpractice in late 1979 and later filed a paternity claim. The combined case was settled out of court for \$150,000, with 20 percent of the money to go to the woman's daughter, according to both sides.

The woman said in an affidavit that the affair began in March 1977, when the psychiatrist had sex with her in the Manhattan hospital where she was being treated for depression.

A week later, she said, Dr. Stein checked her out of the hospital and took her to a motel where they had sexual relations. She said their relationship continued until June 1978.

In later court-ordered blood tests, the woman's husband was excluded from having fathered the child. An official with the blood bank that performed the tests wrote to the judge in the case that screening for more than a dozen blood factors showed Dr. Stein had a 99.66 percent likelihood of paternity.

In June 1980 the woman's lawyer complained to the Kansas Board of Healing Arts. Four months later the

board revoked Dr. Stein's license.

Army problems

When Dr. Stein enlisted in the Army in 1981 he didn't divulge his problems in Kansas, and no one asked, an Army spokesman said.

"I probably should have in hindsight," Dr. Stein said. "But because they didn't ask me, I didn't volunteer it."

He was sent to Fort Bliss near El Paso, Texas, where he met Irene Eshelman. She went to him for counseling in April 1982 after her mother's death.

Dr. Stein said Mrs. Eshelman had 19 appointments with him between April and November of that year.

Dr. Stein contends his relationship with Mrs. Eshelman was only professional.

"After we were married we had sexual relations," he said. "Never before."

Through the spring and summer of 1983, Dr. Stein said he saw the Eshelmanns socially and suspected marital problems.

Mrs. Eshelman filed for divorce in October 1983. One month later, Army records show, Mr. Eshelman complained to the Army's criminal investigation division that Dr. Stein was having an affair with his wife.

The complaint said Dr. Stein threatened to have Mr. Eshelman fired and lose his veteran's benefits, said Capt. Mark Quinn, a spokesman at the Fort Bliss hospital where Dr. Stein worked.

Dr. Stein was cleared by the Army of criminal wrongdoing, according to Army reports furnished by Dr. Stein.

But Capt. Quinn said Dr. Stein received a reprimand and was ordered transferred.

"It was determined that no criminal offense had occurred, or could be

proved, anyway," Capt. Quinn said. "But Dr. Stein had committed a gross error in judgment."

Army spokesmen decline to elaborate.

Dr. Stein explains his transfer differently. He says that in the spring of 1984 he was told by a superior officer not to associate with Mrs. Eshelman and that he refused. As a result, on July 16 he was transferred to Fort Carson, Colo., he said.

The transfer came one month after Irene Eshelman's divorce was final and after she married Dr. Stein.

Mr. Eshelman sued Dr. Stein in Texas, claiming he broke up the marriage. That lawsuit is pending.

Dr. Stein said in a sworn statement last year that he did not decide to marry until a few days before the wedding.

In a statement taken by Mr. Eshelman's lawyer, the psychiatrist said, "I admit quite honestly I married Irene because I felt sorry for her."

Dr. Stein contends his record has been spotless in Colorado, but he said he has been hounded by the Army since an article was published last March by *The Army Times*. That article revealed Dr. Stein had lost his license in Kansas but never reported it to the Army.

Since the article, Army officials say tighter regulations monitor doctors.

In September the Army's Active Duty Board in Washington determined he had committed a "significant act of misconduct," an Army spokesman said.

In November, he was informed of his discharge.

License return

While at Fort Bliss, Dr. Stein wrote to the Kansas Board of Healing Arts and asked to get his license back. He was granted his request in 1983 when he

traveled to Kansas for a personal appearance before the board.

Most of the current members who were on the board at that time say they do not recall why Dr. Stein's license was reinstated.

"As far as I remember, we had no negative information that he hadn't cleaned his act up," said Dr. Harold J. Sauder, a podiatrist from Independence, Kan., who has been a board member since 1976.

Dr. Helen Gilles, a Lawrence doctor who served on the board in 1983 and has since left, said she was impressed by Army accomplishments.

"We had every reason to believe he had been rehabilitated," she said.

Minutes from that meeting only reflect that the motion for reinstatement carried.

The board's decision apparently was based only on the personal appearance by Dr. Stein. "We have nothing to reflect that an evaluation was ordered or done," Mr. Buening, the board's disciplinary counsel, said.

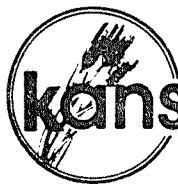
Board members said they did not have the resources to investigate an out-of-state case.

Mr. Strole, the legal counsel, said current board policy now requires mental and physical examinations before reinstatement applications are considered.

Mr. Buening said he has been gathering information on the case for several months to determine the validity of the Army's allegations.

Dr. Stein said he and his wife welcome all investigations.

"I have functioned as a very ethical and very professional physician since" the revocation, he said.



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TALKING POINTS

(1)--The current "crises" are due to the ups and downs of the property/casualty insurance business. These cycles are created by the industry itself.

--In the cut-throat battle for the premium dollar, the insurers slash prices unwisely, in the hope of getting back in high investment income the money lost through imprudently priced premiums. This works fine in times of high yield. But when interest rates fall, as they have done this year, the money to pay anticipated claims--a figure arrived at quite capriciously--runs low. Presto, a "crisis".

--Past "crises" can be charted nicely. At the top of the earnings cycle, the insurers slash prices; at the bottom, they take actions they now are taking (and as they took a decade ago), even against businesses that have never had a claim against them.

--The current "crisis" is all-pervasive. Doctors, lawyers, accountants, architects, nurse-midwives, municipalities, day-care centers, small firms, large firms, directors and chief executive officers, pest-control companies, stockbrokers, real-estate agents, fishermen, toxic-waste companies, even insurance agents--all to one degree or another face rocketing rates, policy cancellations, refusal to write coverage, or punitive policy terms. Surely, all these areas and occupations did not become bad risks all at once in 1985. No. Instead one could conclude that the industry wants to insure only one thing--profits--at the cost of citizens' rights and protections.

(2)--The property/casualty insurance business is in fine financial shape.

--An official of the General Accounting Office, the investigative arm of the Congress, reported that in 1984 the industry's underwriting losses were \$20.5 billion--but investment income and realized capital gains amounted to \$20.8 billion. The companies aren't losing money; the industry's economic cycle has narrowed the gap between losses and income. When the cycle last hit bottom in 1974-75, we also had a "crisis".

-more-

kathleen gilligan sebellus, executive director

--As of June 19, 1985, Best's Property/Casualty Stock Index was up 47 percent since 1982, compared with a 33 percent increase in Standard and Poors 500.

--Insurers earned a rate of return of three percent of net worth in 1984. Insurance experts say that is too little, but that a 5 percent increase in premiums would have earned a 15 percent rate of return, more than enough for the industry.

--Despite their profitability, property/casualty insurers pay little federal income tax. From 1974 through 1983, these companies had a total profit of about \$72 billion--and they paid only \$1.3 billion in federal income taxes; that is about 2 percent of the industry's total profit for the period.

--The twenty largest Stock Companies from 1974 through 1983 had total profits of nearly \$20 billion--they received refunds from the IRS totalling \$1 billion--income tax refunds representing 5 percent of their ten year profit.

--Incurred losses constitute the largest part of a companies "underwriting loss". It is important to note that in only two of the five parts of incurred losses does the money leave control of the insurance carrier, yet the total of incurred losses is tax deductible. While these "losses" are tax deductible the dollars reserved to pay for future known and unknown claims are invested by the carrier, producing investment income.

(3)--Overly generous judges, juries, then, are not a cause of "crises".

--The Jury Verdict Research, Inc. (JVR) of Solon, Ohio in its summary of verdicts from all across this country, points out, that "Whenever considering medical-malpractice and products liability cases, it is important to bear one fact in mind: less than one half of these cases result in a plaintiff verdict when tried by a jury."

--Of some 16,000 cases studies by the University of Wisconsin Civil Litigation Research Project, more than 50% dealt with disputes of less than \$10,000; only 12 percent involved claims of more than \$50,000.

--The most recent look that Congress has taken in the product-liability area show that 75 percent of all product cases going to trial were won by defendant manufacturers. Payments to those who suffered bodily injury in product actions averaged \$4,000 nationally. A Missouri study found that average payment to be on \$1,614.

GLOSSARY

CLAIM - a demand to recover under an insurance policy for loss covered by that policy.

EARNED PREMIUMS - the portion of the premium which is the property of the insurance company, based on the expired portion of the policy period.

INCURRED LOSSES - There are five separate parts of incurred losses, they are:

- 1) direct losses paid (claims paid to people or corporations);
- 2) Loss adjustment expenses (those expenses associated with handling the claim, legal expenses, etc.);
- 3) Reserves to pay known claims at some time in the future;
- 4) Reserves to pay "claims incurred but not reported" (those claims the carrier says will occur sometime in the future);
- 5) Reserves to pay loss adjustment expenses for items 3 & 4 (all expenses that will be incurred in adjusting, handling, defending the known and unknown (IBNR) claims).

INVESTMENT INCOME - the portion of a company's income which is derived from its investments, including interest and dividends on stock and bonds.

LIABILITY - a legally enforceable obligation.

LOSS - the basis on which an insurance claim is submitted and/or paid.

LOSS AND LOSS EXPENSES INCURRED - an insurer's estimate of the losses and losses incurred (but not necessarily yet paid) in a given policy year.

OCCURRENCE YEAR - the year during which the coverage of an insurance policy is effective. Under an "occurrence policy", any actions which occur during an occurrence year, whether the claim for injury from that occurrence is brought that year or in later years, is considered to be within the occurrence year covered by the insurance policy. Contrast with a "claims made policy" which provides coverage only if the claim is brought within the effective year of the policy.

POLICY - a contract of insurance.

POLICYHOLDER - a person who pays a premium to an insurance company in exchange for insurance protection provided by a policy of insurance.

GLOSSARY

PREMIUM - the sum paid for an insurance policy. Net Premiums Written represent premium income retained by insurance companies, direct or through reinsurance, less payments made for business reinsured. Direct Written Premiums are amounts actually paid by policyholders.

RATE - the pricing factor upon which the insurance buyer's premium is based.

REGULATION - supervision of business practices by a governmental entity.

REINSURANCE - assumption by one insurance company of all or part of a risk undertaken by another insurance company.

RESERVE - an amount representing actual or potential liabilities kept by an insurer to cover obligation to policyholders.

RISK - the chance of a loss. Also used to refer to the insured or property covered by a policy.

TORT - a wrongful act, resulting in injury or damage, on which a civil action may be based. Does not apply to a breach of contract.

UNDERWRITING - the process of selection risk for insurance and determining in what amounts and on what terms the insurance company will accept the risks.

UNDERWRITING LOSS - All incurred losses, all expenses of the companies, and all dividends paid to policyholders, subtracted from the earned premium for a calendar year, yielding "underwriting loss" or "underwriting profit".

file / Med Mal

*Wichita Eagle
1-7-86
p. 1C*

Premium Prices Skyrocketing

Insurance Woes Are Spreading

By Jack McNeely
Of Our Topeka Bureau

TOPEKA — In Abilene, Pat Lacey is scrambling to find insurance coverage because the company that covered her in 1985 won't renew the policy for her day-care center this year.

In Hillsboro, Mike Kleiber already is on notice that his insurance company won't cover his fertilizer and chemical business after his policy expires in November. He wonders whether there's enough profit in handling anhydrous ammonia to justify paying the steep insurance premiums that are just around the corner.

And across Kansas, school districts "are being canceled right and left, or are facing pre-

The insurance industry blames the American civil justice system for skyrocketing insurance premiums.

mum increases of 100 percent to 500 percent," on the policies that are being renewed, said John Koepke of the Kansas Association of School Boards.

Liability insurance isn't just the doctors' problem anymore.

An increasing number of occupational groups — truckers, asbestos-removal contractors, pesticide applicators, even bank officers

and lawyers — are facing whopping increases in insurance premiums, even when their claims records are clean.

Commercial liability insurance, part of the property and casualty insurance industry, insures businesses against negligent acts for which they might be held liable. If a business is sued by someone claiming the business injured him, the insurance pays the out-of-court settlement or jury verdict. If the business wins the lawsuit, it usually must still tap its insurance to pay its legal fees.

The higher liability insurance costs aren't confined to the private sector. After Wichita's liability insurance premiums rose 82 percent

● INSURANCE, 4C, Col. 3

Doctors Aren't Alone Anymore

Other Occupations Feeling Pinch

● INSURANCE, From 1C

from 1985 to 1986, City Manager Chris Cherches said last week that he wanted to study setting up a self-insurance program for the city in 1987.

THE INSURANCE industry blames the American civil justice system for skyrocketing liability insurance premiums, saying that lawyers are suing at the stub of a toe and that judges and juries are too eager to hand out verdicts tapping the insurance companies' deep pockets.

Nationwide, the industry suffered a \$3.8 billion net operating loss in 1984 and \$5.5 billion in 1985, according to the Insurance Information Institute.

"Cities and counties have been clobbered with suits the last couple of years, and they have become a very, very volatile risk," said David Chartrand of the Institute. "Most of them are finding the coverage. They are paying a lot more than they were before, maybe with lower limits, a little less coverage, but they are finding it."

The industry relies for its profits on an ability to predict the claims to be paid for covering different kinds of risks. But such things as jury awards for long-term emotional damage in child-abuse cases and environmental claims that don't surface until years after a policy ends have thrown unpredictability into the companies' equations.

"SOME OF these areas obviously have gotten out of hand," said L.M. "Bud" Cornish, general counsel for the Kansas Association of Property and Casualty Companies. "Asbestos would be one. Long-haul trucking is another. The reason is they have attracted an enormous number of claims and litigation, all of which has to be paid for."

Elizabeth Taylor, representing an association of Kansas day-care centers, said, "Insurance companies are having big settlements with parents of children who allegedly were abused, and they just don't want to cover it anymore. These facilities are starting to go without insurance because it is unavailable or the cost is so prohibitive."

A case in point: Lacey's Dickinson County Child Care Center in Abilene, daytime home to about 65 children.

In 1984, Lacey paid \$228 for \$1 million worth of liability insurance. In 1985, she paid \$700 for \$100,000 worth of coverage.

"OUR INSURANCE agent tells us we may not be able to get insurance for 1986," said Lacey, whose

"The need for tort reform goes beyond just the question of medical malpractice. It is on the list of priorities of the (Legislature's) leadership."

— House Speaker Mike Hayden

policy expires later this month. "And we have never had one claim filed against us. I expect to pay a minimum of \$1,100 from the quotes I am getting."

And Lacey said she can't simply pass that cost along in higher charges to parents, because some parents already are hard-pressed to pay for child care, and others are on welfare, so the day-care charges are limited by the state.

Doctors have complained for more than a year about stiff increases in their liability insurance premiums. Last winter they asked the Kansas Legislature to curtail patients' rights to win damages in malpractice suits as a way to cut losses of doctors' insurance companies.

That proposal drew fierce opposition from plaintiffs' lawyers and spawned study committees trying to strike a balance between injured patients' rights to sue and doctors' need for insurance relief.

BUT NOW the insurance issue has spread to other occupations, raising the possibility of a dozen occupational groups asking the Legislature for special protection from lawsuits.

Cornish, a Topeka lobbyist and lawyer for the Kansas Association of Property and Casualty Companies, said a variety of businesses "are desirous of and clamoring for some changes in the tort area." He said several dozen Kansas industrial groups have been meeting as the Coalition for Tort Reform — an organization not yet incorporated or registered to lobby — to study ways to limit damage awards and the expenses of lawsuits.

Cornish wouldn't say which specific industries have been represented at coalition meetings, except that they include "utilities, railroads — all of those who are susceptible to what we might call jackpot justice."

Cornish said the group is working on proposed changes in the civil justice system to cut down damage awards, much as doctors have proposed for themselves, but he didn't know whether the proposed legislation would be ready for the 1986 Legislature.

ASSISTANT KANSAS Insurance Commissioner Ron Todd noted that the property and casualty in-

urance industry is coming off its first unprofitable year nationally since it paid enormous damage claims in the San Francisco earthquake of 1906. But Todd questioned whether this year's stiff increases in premiums are caused entirely by cyclical economic factors in the industry.

"I'm afraid that the legal liability questions and problems that are now being raised by the companies are not one of these cyclical things that is tied to the economy," Todd said. "The legal liability question is not going to go away."

Gov. John Carlin said he was following trends in the insurance industry and was aware that more and more types of business have hit the insurance crunch in recent months.

BUT THE governor said he planned no proposals on the topic for the 1986 Legislature, either in reform of insurance rate-making or changing the civil justice system to cut the number of lawsuits and limit damage awards. Legislative activity, the governor said, still was a couple of years away.

House Speaker Mike Hayden said that in his recent town meetings across Kansas, citizens mentioned their liability insurance problems more than any other issue.

"The need for tort reform goes beyond just the question of medi-

cal malpractice," said Hayden, an insurance agent from Atwood. "It is on the list of priorities of the (Legislature's) leadership to try to address the malpractice problem, but also to begin to hear from these other groups and try to address their problems."

Lawyers themselves are feeling the bite of higher malpractice insurance premiums as disgruntled clients have won judgments against lawyers who neglected cases or failed to file damage claims that had merit. While no huge legal malpractice verdicts have been won in Kansas, such cases elsewhere have raised insurance premiums for Kansas lawyers, who shop for insurance in a national market.

"LAWYERS' LIABILITY insurance is going up, dramatically and quickly," said Marcia Poell, executive director of the Kansas Bar Association.

Before August 1984, lawyers with more than eight years' experience paid \$303 for \$100,000 of malpractice coverage, with a \$1,000 deductible, Poell said. After August 1984, the same coverage cost \$518. Last April, it rose to \$1,528.

"The doctors have been working very hard to get themselves special exemptions because of their problems, but it is a problem everybody is facing. Architects, engineers, CPAs. CPAs had a steep increase in the past year," Poell said.

Still, Poell said, the answer does not lie in limiting injured people's ability to recover damages through the court system.

"If you screw up you ought to pay," Poell said. "The person who lost out ought to get compensation."

Liability Insurance Protects Others

By Jack McNeely
Of Our Topeka Bureau

TOPEKA — Several years ago a firefighter in Lawrence was checking to see whether he had adequately washed away gasoline that had spilled on the street from a car's ruptured gas tank.

The firefighter lit a match and threw it near the car.

Some gasoline was still there, and the resulting explosion destroyed the car. And the firefighter's act was deemed to be grossly negligent — he should have known that lighting a

match was not a good way to check for gasoline.

That's the kind of thing liability insurance pays for — negligent acts in which one person or entity damages another, either by personal injury or damage to property.

Almost every business carries commercial liability insurance to pay damages that might result if the business or its employees negligently injure someone.

It works the same way that automobile liability insurance does. You pay a premium, and if you negligently injure someone, the insurance company pays damages up to the limits of the policy.

To award damages to an injured person, however, juries must find that the business acted negligently. It's not enough to show that a person was injured; the injury must be caused by negligence of the business.

If negligence is found, juries also can award damages for the intangible injury of "pain and suffering," and that can run to millions of dollars. In a few West Coast lawsuits against day-care centers where children were sexually abused, for example, juries have been asked to put a dollar figure on the long-term emotional

● LIABILITY, 4C, Col. 5

1-7-86

Wichita Eagle Beacon

1C

Taking Look Into Future Is Difficult, Insurers Say

● **LIABILITY, From 1C**
damage inflicted on the victims. The juries have levied multimillion-dollar verdicts.

Insurance companies are looking at recent jury verdicts and wondering just where their potential liability ends. In some cases, juries have held insurance companies liable for injuries caused by circumstances the companies thought their policies specifically excluded.

The Farmers Alliance Mutual Insurance Co. of McPherson doesn't write commercial liability insurance but it writes all kinds of insurance for farmers.

Company president James Ket-

cherside said his policies specifically exclude coverage for pollution damages, but he wonders whether courts will recognize the exclusion. His policies cover "sudden and accidental" injuries caused by handling hazardous materials on the farm.

In a recent West Coast court case, Ketcherside said, the jury held an insurance company liable for damages caused by pollution exposure that occurred over a 10-year period, saying the damages fell under the "sudden and accidental" provision of the policy.

"As we look in the future, we can see some real problems right on the horizon," Ketcherside said.

Norman J. Christiansen, *President and Publisher*Davis Merritt Jr., *Executive Editor*William R. Handy, *Managing Editor*George Neavoll, *Editorial Page Editor*

2D

Editorials/Opinion

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Healing Board Goofs in Ark City

I read with great interest your series of articles on the State Board of Healing Arts. I can certainly endorse the overall negative view you present.

In April 1979, I was elected mayor of Arkansas City. As the top vote getter, I was mayor the first year and commissioner for following three years. As members of the commission, we were the final board of directors responsible for running our municipal hospital.

There was a running controversy in our hospital with our only osteopath, Dr. Jack Braley. There was increasing unrest among the medical and the support staffs toward various actions he allegedly had taken with patients and his use of hospital facilities.

After a series of meetings on the hospital level, the subject came to us for a final decision. We were directed by our attorneys on a course of action to protect ourselves and to give the doctor a fair and just hearing.

In November 1979, an open meeting was held to hear all who wished to speak on the subject of the doctor in question. After all attendees had spoken, the commission went into executive session, returned over an hour later, and had voted to rescind the privileges of said doctor for two years and eight months — the amount of

Public Forum

Original letters expressing all points of view are welcome. Letters must be signed and include the writer's true name, address and telephone number, if any. Only name and city will be published. Those letters accepted for publication are subject to editing and condensation. Shorter letters usually will be published more quickly.

time since the first complaint against him had been registered.

The Healing Arts Board had, in our opinion, continued to delay its action until we took an action. When we acted, the Healing Arts Board acted to take away the license of the doctor in the state.

When the suspension of license notice was served, the doctor ran down the back stairs of his office building, and the papers were merely pushed under the door of his office. Even a simpleton knows that is not a valid service. Consequently, Dr. Braley got his license back on a technicality for improper service.

During this time the commission, certain involved doctors and the hospital administrator were sued for \$27.5 million for various alleged offenses dealing with this doctor. Summary judgment for the

defendants was forthcoming from federal district court in Wichita and, upon appeal by the doctor to the 10th Circuit Court of Appeals in Denver, the lower court ruling was upheld and applicable fees and expenses were assessed to his attorney. All this took six years!

To say the action by the state Healing Arts Board was damaging is to be lenient. We feared an adverse effect on the outcome of our case. Fortunately the decisions we were given were supportive in the judicial process. But the fact remains, a doctor, deemed by his peers unfit to have hospital privileges in his own community and whose lawsuit was repeatedly found to have no merit, is free to practice in the state of Kansas through a technicality, the origin of which is the state Healing Arts Board and its sloppiness of procedure.

It is rare enough that any profession will actively seek to purge itself of its "bad apples," but when this is done properly and the state board fails in its job, everyone involved is hurt and the likelihood of further action against offending doctors statewide is highly unlikely.

RONNIE D. JENKINS
Arkansas City

Liability Insurance Protects Others

By Jack McNeely
Of Our Topeka Bureau

TOPEKA — Several years ago a firefighter in Lawrence was checking to see whether he had adequately washed away gasoline that had spilled on the street from a car's ruptured gas tank.

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● LIABILITY, 4C, Col. 5

1-7-86

Wichita Eagle Beacon

1C

Dear Committee Members,
I am writing in regards to the
Case that is recommended on
medical malpractice HB# 2661.
I would like to explain about my
Case. I was having headaches,
problems with my left arm & leg.
I first went to this doctor 11/13/81.
He treated me for back problems.
He said was causing all my problems.
I finally had surgery by a
neurosurgeon, for a blood clot
on my brain, at no referral from
the previous doctor. One week
after my surgery my husband
obtained a letter from this previous
doctor stating "He was moving
out of state and his new address
would be forwarded to us, when
he got settled. At this date
we have never heard anything
from him.

Attachment 3
House Judiciary
2-10-86

I feel I was not correctly diagnosed
and treated. I had the blood clot
was found, and taken care of
earlier. I feel I would not be
so handicapped. My left arm
is paralyzed. I wear a brace
on my leg. I still have speech
difficulties. Also, I was
released from a Topeka hospital
following surgery, to go by
car to a rehabilitation center
in Kansas City, Mo. Arriving there
I had found I was released
with a blood clot in my lung, and
one in my leg. I was put in a
Kansas City hospital intensive care
unit for 10 days. This delayed
my rehabilitation, and set me back,
caused other medical problems and
expenses. I feel this bill is
unjust, because people who are
injured by a doctor's negligence

should justly be compensated, and by acquiring this compensation, they need to be represented by legal counsel, with expert help and knowledge. Please don't make it any more difficult than it already is for victims and their counsel.

Once a part of a human body has been damaged, it cannot be replaced like a part of a car. It cannot be taken off and a new one put on - A damaged body is different. It takes a lot of therapy and time and sometimes, that does not help.

There is many malpractice victims, they should be helped and protected.

Thank You all very much,
Your consideration and help is
greatly needed
Sincerely,
Helen Fisher

Topeka, Kansas
Feb, 3 1986

Dear Att. Schroer:-

The girls at your victim office ask me to put in writing some of the details of my case -
It has been 7 months 11 days since I have been operated on by John Rich I hate to call him Dr, for he should have learned, any one having Osteomyelitis should not have bones amputated with, this spreads the infection to other bones if he went to medical school he should have learned this, when I talked to Dr. Joan Lehder, she asked me who I intended to go to - she said good, I think Gynecologist do things better, & she knew I had Osteo., Dr. Rich did a good job on my sister she was up & going in 3 weeks, so I thought he knew what he should do, & both should have known a bladder repair job has to be anchored to a bone to keep it in place, He called in several Drs., Dr. Lehder & I don't know how many, some one asked me to name some of the Drs. I don't know the heart Drs. name that had me walking the Treadmill - Besides Rich - Lehder, Johnson, Sanchez, I Loretta, Kumans, & others.
They told me I had a tumor & a hole in the bladder, then they operated on my sister they made an

2] incision about 2 inches long - but to me it am
cut nearly from Hip to Hip & sent me home in 6 days
where I had only my Husband to care for that big gash

But thank the Lord I had a sister that had
worked in several Hospitals - She took me in &
cared for me, otherwise I could have gotten in
fection, I stayed with her 16 days, I was home
4 days, infection set in the pelvis where they
anchored the bladder, I had gone back
to Dr. John Rich 3 times & he never restarted
me in the hosp. neither did Dr. Joan Selker
so I asked my Husband to take me to the emerg-
ency Ward & get two nurses & a wheel chair, as
I was unable to walk & in such pain, they took
me in & dear little Dr. O. Keefe told me right
away what was causing all my trouble - They
then entered me in the hosp., I had 5
operations in 3 days & I couldn't tell you
how many sprays, they drilled my collar
bone & blood vessel even with out an

anesthetic - The Hosp. & nurses couldn't have
been nicer to me, But I sure got abuse from
some of the Drs. - I also had a Dr. from
messenger, why? I don't know, or his name

I am beginning to believe there was a party
the eve. before, when I was released from the
hosp. I was unable to keep my balance &
still have lots of pain & no balance at
times, now my worse trouble & all during
the time I was at Briercliff I have had

If I had what they call yeast infection, I'm ^{very} itchy to death - I have plans to call a skin infection Dr. tomorrow Feb. 3, if I can get an app. & now for the last 3 AM's, my right hand & fingers hurt me so bad that at the ends of my fingers feels as tho I am touching a hot stove & hand & arm hurts, I feel where they drilled my collar bone, I could possibly have a blood clot, my right hand & arm is the only one I have, because I have Osteomyelitis in my left arm - I can use it some but very weak, I need a walker or a cane to walk with or some ones arm because, I cant keep my balance.

I am unable to do my work - we take our laundry to a laundrymat even tho I have a washer, but I am unable to climb steps, my other work I am unable to do, my work, I have no strength & tire so easily, I try to do what I can of mornings, but I am so tired, I have to nap, of afternoons, I was in the St. Francis Hospital, they were so nice to me.

Mrs. Velva Jane Klamn
103 W. W. Quinton
Tapeka, Kansas, 66406.

P.S.

No improvement in the bladder.

Feb. 7, 1986

Rep. Joe Knopp
Chairman
Kansas House Judiciary Committee
State Capitol
Topeka, Kansas

Rep. Knopp,

I presently live in Illinois but am a member of the Taylor, Trainor, and Olson families (all related) of Overland Park. I am writing on their behalf.

We recently had a death in our family that motivates our concern about a medical malpractice cap which your committee is considering. We were outraged at being advised against our "day-in-court" because the costs vs. the proposed cap would leave us little to help create a legacy for our loved one. We'd hate to see other families similarly stifled.

We believe 95% of the doctors are doing their damndest but they are human and make mistakes. No matter one's station in life, we are all held accountable to the extent of injuries. A cap is not a deterrent: only to the injured who can't afford the fees required for out-of-state medical experts. That expense, of course, is required because of the convenient doctor's fear of no referrals. 'Physician, heal thy system!' There should not be a special law for doctors. They are inadvertently trading our rights to ease a "perceived" burden on themselves.

There have been many examples of unfair fiscal rape of both insurers and doctors. This should not be condoned. But insurance companies (according to Homer Cowan, Jr. of Ft. Scott's Western Casualty) seem to think there has to be a 'loss (award) limit' lest we lose the services of insurance companies and doctors both. Who determines the "proper measure of damages"? A jury, that's our system. Please give us this day-in-court, which a cap would help deny. No jury in its right mind would swallow the concept of "guaranteed results" medicine. But it can demand reasonable relief for obvious, avoidable mistakes.

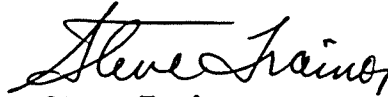
It's a different world now and if competition (high premiums) forces the borderline doctors out, so be it. This quandary, again, is practically self-imposed. They seem to overload their appointment book which can lead to rushed work and misdiagnoses but also an excellent income. Then they tell us they can keep costs low and keep more doctors practicing if a jury is limited by a cap. The same jury which might have been persuaded to award high sums of money by the doctor's unintended negligence and intended income! The argument that a cap will save medicine for us all smacks of more concern for that income than patients.

(more)

A Florida study indicated that less than 1% of the doctors there account for 24% of the malpractice claims paid. Why not encourage doctors to create their own companies which would monopolize medical malpractice business? They could police their policyholders and pay claims from these (their own) companies! Otherwise, yes, you'll be faced with failing insurance companies, uncontrollable premiums, and high contingency expenses by lawyers. The answer, again, is doctor discipline, not caps, fee limits, or tort reform. Give the Kansas Board of Healing Arts more power but don't try to Gramm-Rudman-Hollings us into a corner we didn't create!

Let's start pointing the finger at harried doctor's expertise because it starts with that, not the lawyer's expenses. Let a jury, not the insurance lobby, decide what happens in our lives. If doctors won't deter what the scalpel hath wrought, the courts must.

Most Sincerely,



Steve Trainor

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Urbana, Il. 61801

Clare Taylor
5201 W. 95th Terr.
Apt. #111
Overland Park, Ks. 66207

Jack Taylor
8580 Farley
Apt. #501
Overland Park 66212

Vance & Virginia Olson
9643 Dearborn
Overland Park 66207

Randall & Christine Trainor
10218 Conser
Overland Park 66212

Michael Trainor
415 W. 46th St.
Apt. #12
Kansas City, Mo. 64112

cc: Rep. Arthur Douville
Sen. Jack Walker

February 4, 1986

Kansas Trial Lawyers Association
112 West Sixth, 3rd Floor
Topeka, Ks. 66603

TO: Kathleen Sebelius ✓
From: Jessie Burtzloff
RE: My malpractice suit

I myself was a victim of malpractice by a Dr. Earl C. Sifers, who had a very good reputation until he decided to become a pioneer in breast surgery.

I have endured 10 surgeries and have at least 2 maybe 3 more surgeries just to try to look normal IN clothes. There's NO WAY I'll ever look normal without any clothes on. I no longer can move furniture, lift anything over 10 to 15 pounds and cannot perform a lot of household type duties I used to take for granted. I have a scar on my back, my leg and have had skin drawn up from my abdomen in order to get enough skin to cover an implant when I do go back into the hospital to try to get an implant placed back in the breast area. The original skin in this area was eaten away or rotted due to the abscess in the breast area created on the original surgery. I have almost no pectoral muscle or original breast tissue left in the chest area, one of my nipples is $\frac{1}{2}$ gone as a result of this abscess. My doctor thought it would "clear itself up" in time and kept wrapping me tighter and tighter in the 8" ace bandages he wrapped me in. There were times he wrapped me so tight, I'd have no feeling at all in my chest area, and he said that's alright, it's supposed to be that tight.

I have settled my malpractice suit and settled for far less than I personally felt I should have, because this doctor has so many cases against him I figured I'd end up with no settlement if I postponed settling the case.

NO ONE can comprehend the monetary value of another persons injury, suffering, disabilities and disfigurement until it happens to you personally.

I missed over 330 days of work as a result of the doctors negligence and I feel he should no longer be allowed to practice medicine as a result of all of his bad surgeries, in such a short period of time in his career, there are over 20 cases still pending according to the newspaper article that gave him permission to retain his license and perform minor surgeries.

My family suffered tremendously during this period as I could do nothing, for weeks on end except lay flat on my back, except for my visits to the doctors office and many trips to the emergency room because I had ruptured and was leaking fluid out of the wounds. I had to lay flat on my back the entire time I was under this doctor's care, except to go to the bathroom. I could not sit up, stand up or walk any further than the bathroom or to the car in the case of an appointment. While I was confined to this situation, my husband and daughters had to care for me and do all the household duties that normally were my duties.

A million dollars cannot replace what I suffered through and still fact in future surgeries. I have no guarantee that the surgery will be successful but I will either have to take a chance and hope it is successful or go around looking like I do for the rest of my life. (YES, I do have a different doctor).

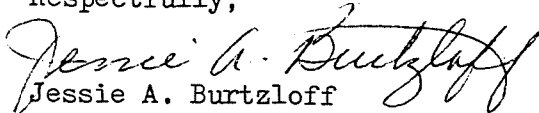
I also suffered mentally under Dr. Sifer's care. He was very rude and cruel when I would get upset and cry because things were going wrong. I would ask him what was wrong and he'd tell me not to worry about it, he'd do the worrying. If I would look down at what he was doing, he would slap my fact and turn my head

at the same time and tell me to just lay there and be still. If a tear fell on my cheek or my eyes got teary he'd look at me with disgust and say something to the effect "You're acting like a little girl, grow up and act like a woman." If you don't think that isn't humiliating when you're not getting any better day after day!!

As a result of all my pain and suffering and future pain and suffering I am bound to have happen, I feel it is wrong to put a CAP on any malpractice case that the doctor is proven wrong in.

I really feel it is time for the people to get a voice in what is being said and done by the medical profession as a whole. It seems whatever is said by the doctors is gospel to the courts, and the doctors are just as liable to make a mistake as any of the rest of us. They are human beings too, and are just as apt to make a mistake or a misjudgment as the rest of us. The only difference is, as I can attest to with my lawsuit, they don't want to admit they made a mistake until it's too late.

Respectfully,


Jessie A. Burtzloff

CC: Governor John Carlin
Committee members, Knopp, Chairperson.

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Barbara Achterberg - 2742 S. 54th, Kansas City, KS 66106 - Home: 913-362-2272 - Work:
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Areas of Interest: help with office, support for other victims

Raymond Alcorn - 312 Mechanic, Box 224, Towanda, KS 67144 - Home: 316-536-2459 - Work:
Kansas Senatorial District: 16
Areas of Interest: legislation

Stella L. Allbritten - P.O. Box 17453, Wichita, KS 67217 - Home: - Work:
Kansas Senatorial District:
Areas of Interest: legislation, support for other victims

Gail S. Allen - 109 S. 16th St., Kansas City, KS 66102 - Home: 913-321-6966 - Work:
Kansas Senatorial District: 04
Areas of Interest: support for other victims

A.P. Arteaga - 2207 N. Richmond, Wichita, KS 67204 - Home: 316-838-6484 - Work: 316-268-7901
Kansas Senatorial District: 27
Areas of Interest:

Cris Bacon - Route 1, Moran, KS 66755 - Home: 316-237-4667 - Work: 316-365-3672
Kansas Senatorial District: 12
Areas of Interest: help with office, support for other victims

Linda Beecham - 6913 Marion, Shawnee, KS 66218 - Home: 913-422-5282 - Work: 913-491-5100
Kansas Senatorial District: 10
Areas of Interest:

Gail & Willie Beecham - 2620 N.E. Grantville Rd., Lot 12, Topeka, KS 66617 - Home: 913-234-3648
Kansas Senatorial District: 19
Areas of Interest:

Gail Beggs - Route 1, Stark, KS 66775 - Home: 316-754-3751 - Work:
Kansas Senatorial District: 12
Areas of Interest: legislation, support for other victims

Debbie J. Berry - 1406 31st St. So., #107, Wichita, KS 67216 - Home: 316-529-1268 - Work: 316-6
Kansas Senatorial District: 28
Areas of Interest: legislation, support for other victims

Ione P. Boden - Box 364, Lebo, KS 66856 - Home: 316-256-6240 - Work:
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Areas of Interest: legislation, support for other victims

Randy Bosch - 557 E. Fairchild, Topeka, KS 66608 - Home: 913-233-9111 - Work:
Kansas Senatorial District: 18
Areas of Interest: support for other victims

Mr. & Mrs. Roger D. Bosworth - 816 Polk, Apt. 5, Topeka, KS 66612 - Home: - Work:
Kansas Senatorial District: 18
Areas of Interest:

Sharon Bounds - P.O. Box 35, Potter, KS 66077 - Home: 913-773-8414 - Work:
Kansas Senatorial District: 01
Areas of Interest: legislation, support for other victims

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Robert Clayton Brandon - Box 110, R.R. 3, Douglas, KS 67039 - Home: 316-746-2774 - Work:
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Areas of Interest: legislation, support for other victims

Carolyn Brock - Box 1102, Manhattan, KS 66502 - Home: 913-776-7541 - Work: 913-537-6217
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Areas of Interest: help with office

Vickie Brooks - 1430 S. Main, Wichita, KS - Home: 316-267-7635 - Work: 316-942-1421
Kansas Senatorial District: 29
Areas of Interest:

Juanita Burgess - 922 Edgemere Drive, Olathe, KS 66061 - Home: 913-829-1471 - Work:
Kansas Senatorial District: 09
Areas of Interest: support for other victims

Bertha, Jay & John Burghen - 6621 Garnett Dr., Shawnee, KS 66203 - Home: 913-631-0276 - Work:
Kansas Senatorial District: 10
Areas of Interest:

Molly S. Burnett - 9659 Outlook, Overland Park, KS 66207 - Home: 913-642-5176 - Work: 913-648-
Kansas Senatorial District: 08
Areas of Interest: legislation

Paula Burton - 4324 Lathrop, Kansas City, KS 66104 - Home: 913-596-2867 - Work: 913-281-3500
Kansas Senatorial District: 05
Areas of Interest: help with office, support for other victims

Jessie Burtzloff - 12716 W. 65th, Shawnee, KS 66216 - Home: 913-631-2716 - Work: 913-676-1155
Kansas Senatorial District: 10
Areas of Interest: support for other victims

Loretta Carraher - 2407 Bryce Ct., Lawrence, KS 66046 - Home: 913-841-0776 - Work: 913-864-435
Kansas Senatorial District: 02
Areas of Interest: legislation

Arnold & Donna Cashman - 80 Ashwood Lane, Bonner Springs, KS 66012 - Home: 913-422-5701 - Work:
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Areas of Interest: support for other victims

David Chandler - Route 1, Box 2D, Benton, KS 67017 - Home: 316-778-1627 - Work:
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Areas of Interest: help with office, support for other victims

Patricia J. Clayton - 415 N. High, El Dorado, KS 67042 - Home: 316-321-1094 - Work:
Kansas Senatorial District: 16
Areas of Interest: legislation

Chang S. Cleveland - 977 N. Iowa, Olathe, KS 66061 - Home: 913-764-2432 - Work:
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Areas of Interest: support for other victims

Debra Coggs - 2418 N. 11th, Kansas City, KS 66101 - Home: 913-621-2641 - Work: 913-421-6800
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Areas of Interest: legislation, help with office

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Frances Condron - 6656 Halsey, Shawnee, KS 66216 - Home: 913-384-3855 - Work: 913-881-2404
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Areas of Interest:

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Kansas Senatorial District: 06
Areas of Interest:

Heidemarie Costabile - 100 Bellanco Lane, New Castle, DE 19720 - Home: 302-652-3921 - Work:
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Areas of Interest: support for other victims

Esther L. Cox - 501 S.E. Franklin, #201, Topeka, KS 66606 - Home: 913-234-8554 - Work:
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Areas of Interest: help with office, support for other victims

John & Pat Crane - 6913 Marion, Shawnee, KS 66218 - Home: 913-722-5282 - Work:
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Areas of Interest:

Vicky Crowley - Box 161, Coldwater, KS 67029 - Home: 316-582-2321 - Work: 316-582-2123
Kansas Senatorial District: 33
Areas of Interest: support for other victims

Barry & Jeannine Davis - 5905 Kenwood, Kansas City, MO 64110 - Home: 816-523-5116 - Work: 816-
Kansas Senatorial District: OS
Areas of Interest:

Kathi Decker - 310 N.E. 86th Terr., Kansas City, MO 64155 - Home: 816-436-3871 - Work:
Kansas Senatorial District: OS
Areas of Interest: help with office, support for other victims

Mr. & Mrs. Douglas Ditto - 8233 Woodward, Overland Park, KS 66204 - Home: 913-341-8622 - Work:
Kansas Senatorial District: 08
Areas of Interest: legislation

Dennis & Kathy Donovan - 1432 W. Olive, El Dorado, KS 67042 - Home: 316-321-3274 - Work: 316-3-
Kansas Senatorial District: 16
Areas of Interest: legislation, help with office

Nancy Dorfman - P.O. Box 14782, Lenexa, KS 66215 - Home: 913-888-5995 - Work:
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Areas of Interest:

Diane Duckworth - 6918 Farmview, Wichita, KS 67206 - Home: 316-685-7879 - Work:
Kansas Senatorial District: 30
Areas of Interest: legislation

Liz Dudley - Route 1, Box 182, Augusta, KS 67010 - Home: 316-733-4224 - Work: 316-686-3404
Kansas Senatorial District: 16
Areas of Interest:

Ora Egbert - 109 14 Street, R.R. 4, Dodge City, KS 67801 - Home: 316-227-2325 - Work:
Kansas Senatorial District: 38
Areas of Interest: legislation, support for other victims

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Frank Feldhausen - 520 S. 11th, Wymore, NE 68466 - Home: 402-645-3943 - Work:
Kansas Senatorial District: OS
Areas of Interest: legislation

Frank Feldhausen - , Bremen, KS 66412 - Home: 913-744-3332 - Work:
Kansas Senatorial District: 21
Areas of Interest: legislation

Mr. & Mrs. Fred Fincham - 1507 Elm, Marysville, KS 66508 - Home: 913-562-2470 - Work:
Kansas Senatorial District: 21
Areas of Interest: support for other victims

Joleen Fisher - 1705 Laramie, Marysville, KS 66508 - Home: 913-562-2896 - Work: 913-562-2566
Kansas Senatorial District: 21
Areas of Interest: legislation

James P. Flanagan - 10909 W. 88th Terr, #703, Overland Park, KS 66214 - Home: 913-492-9866 - Wo
Kansas Senatorial District: 08
Areas of Interest: legislation, support for other victims

Helen & Larry Forbes - 11218 N. Monroe, Topeka, KS 66608 - Home: 913-232-9488 - Work: 913-296-
Kansas Senatorial District:
Areas of Interest: legislation, support for other victims

Dorothy Fox - 2250 S. Greenwich Rd., Wichita, KS 67207 - Home: - Work:
Kansas Senatorial District: 30
Areas of Interest:

Joseph Galliher - 9550 E. Lincoln, #614, Wichita, KS 67207 - Home: 316-682-5133 - Work:
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Areas of Interest: support for other victims

Amy Garcia - 330 S. Tyler, #323, Wichita, KS 67209 - Home: 316-721-0777 - Work: 316-268-2297
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Areas of Interest:

Judy Garnes - 1022 Calvin, Apt. 10, Kansas City, KS 66102 - Home: none - Work:
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Areas of Interest: help with office, support for other victims

Barbara & Tom Gibbons - 7224 Cleveland, Kansas City, KS 66109 - Home: 913-299-9804 - Work:
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Areas of Interest:

Mary & Raymond Gibson - 9431 S. Meridian, Peck, KS 67120 - Home: 316-524-8960 - Work:
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Areas of Interest:

Ina Gillihan - 10721 Johnson Drive, Shawnee, KS 66203 - Home: 913-268-6183 - Work:
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Areas of Interest: support for other victims

Mark & Janet Gilliland - R.R. 1, Box 53, Louisburg, KS 66043 - Home: 913-377-2060 - Work:
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Areas of Interest:

KANSAS VICTIMS COALITION
(as of February 10, 1986)

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Areas of Interest: support for other victims

Robert L. Goupil - 1115 Colorado, Manhattan, KS 66502 - Home: 913-537-2935 - Work: 913-357-3111
Kansas Senatorial District: 22
Areas of Interest: legislation

Barbara Green - 1418 South A, Arkansas City, KS 67005 - Home: 316-442-8566 - Work: 405-362-2255
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Areas of Interest: legislation, support for other victims

Barbara J. Greene - Route 1, Box 269D, Osawatomie, KS 66064 - Home: 913-755-2484 - Work:
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Areas of Interest: support for other victims

Brenda Grow - 2920 E. 95th St. S., Wichita, KS 67233 - Home: 316-788-3307 - Work:
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Areas of Interest:

Mark Guilfoil - , Wamego, KS 66547 - Home: 913-457-7886 - Work:
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Areas of Interest: legislation, help with office, support for other victims

Mary Jo Guilfoyle - 10029 Wedd Drive, Overland Park, KS 66212 - Home: 913-888-1333 - Work:
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Areas of Interest: legislation

Diana K. Guilfoyle - 2514 Golden, Topeka, KS 66605 - Home: 913-266-4734 - Work:
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Areas of Interest:

Mr. & Mrs. Clarence Haddock - 301 S. Main, Leavenworth, KS 66048 - Home: 913-682-6093 - Work:
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Areas of Interest: legislation, support for other victims

Linda M. Hale - 904 W. Second, Pittsburg, KS 66762 - Home: 316-232-2646 - Work:
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Areas of Interest: legislation, help with office

Glenn C. Hall - Box 1401, Liberal, KS 67901 - Home: 316-624-5954 - Work:
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Areas of Interest: support for other victims

Mabel R. Haneberg - 2032 Simmons, Salina, KS 67401 - Home: 913-825-0622 - Work:
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Areas of Interest: legislation, support for other victims

Nancy Hardin - 1429 Twilight, Emporia, KS 66801 - Home: 316-342-0670 - Work:
Kansas Senatorial District: 17
Areas of Interest: support for other victims

Mildred Harkness - 108 Concord, Lawrence, KS 66044 - Home: 913-843-4064 - Work: 913-843-4064
Kansas Senatorial District: 02
Areas of Interest: legislation

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Shirley Hatch - 1015 Peach, Dalhart, TX 79022 - Home: 806-249-8113 - Work:
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Areas of Interest: legislation, help with office, support for other victims

A.F. Haverkamp - R.R. Box 41, Wetmore, KS 66550 - Home: 913-866-5983 - Work:
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Areas of Interest: legislation, support for other victims

Richard & Jennifer Hedden - 239 Wheatland, Wichita, KS 67235 - Home: 316-722-9707 - Work: 316-7
Kansas Senatorial District: 26
Areas of Interest: legislation, help with office

B. Jean Heffel - 2819 Illinois Ln., Manhattan, KS 66502 - Home: 913-539-4873 - Work:
Kansas Senatorial District: 22
Areas of Interest: legislation, support for other victims

Delores & Gary Henderson - 2222 N. 74th St., Kansas City, KS 66109 - Home: 913-299-1272 - Work:
Kansas Senatorial District: 05
Areas of Interest:

Frank A. Hernandez - 1303 N. Polk, Topeka, KS 66608 - Home: 913-233-4932 - Work:
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Areas of Interest: support for other victims

Ilene Hill - 7633 W. 114th Terr., Overland Park, KS 66210 - Home: 913-451-3071 - Work:
Kansas Senatorial District: 09
Areas of Interest: legislation, support for other victims

John & Susan Hoadley - 3803 South Grand, Independence, MO 64055 - Home: 816-461-2314 - Work:
Kansas Senatorial District: OS
Areas of Interest:

Angeline B. Hobson - 5306 S.W. West Dr., #D, Topeka, KS 66606 - Home: 913-273-6534 - Work:
Kansas Senatorial District: 18
Areas of Interest: legislation, help with office, support for other victims

Arthur Hoffman - 229 N. Main, Riley, KS 66531 - Home: 913-485-2647 - Work:
Kansas Senatorial District: 22
Areas of Interest: legislation, support for other victims

Sheila Hollis - 3717 N. Kansas, Topeka, KS 66617 - Home: 913-286-1446 - Work:
Kansas Senatorial District: 19
Areas of Interest:

Judy Norton Holly - R.R. 1, Box 170, Meriden, KS 66512 - Home: 913-484-2505 - Work: 913-296-365
Kansas Senatorial District: 01
Areas of Interest: legislation

Rich Howe - 317 S. 9th, Herington, KS 67449 - Home: 913-258-3606 - Work:
Kansas Senatorial District: 21
Areas of Interest: legislation

Lorene Huffman - 5333 Hasemam, Kansas City, KS 66106 - Home: 913-262-9307 - Work:
Kansas Senatorial District: 06
Areas of Interest: support for other victims

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Robert Hull - 1733 Lexington, Wichita, KS 67218 - Home: 316-688-1754 - Work:
Kansas Senatorial District: 30
Areas of Interest: legislation

Henry Hullum - 1520 N. 64th Terr., Kansas City, KS 66102 - Home: 913-788-7646 - Work:
Kansas Senatorial District: 05
Areas of Interest: support for other victims

Bertha Humphrey - 9901 W. 55th, Shawnee Mission, KS 66203 - Home: 913-384-3855 - Work:
Kansas Senatorial District: 10
Areas of Interest:

Sandra Juby - 532 Swygart, Topeka, KS 66607 - Home: 913-354-4541 - Work:
Kansas Senatorial District: 19
Areas of Interest: legislation

Leslie Justice - 80 S. 25th St., Kansas City, KS 66102 - Home: 913-281-3325 - Work:
Kansas Senatorial District: 06
Areas of Interest:

John F. Kelly - 223 S.E. Baldwin Rd., Topeka, KS 66607 - Home: 913-234-8824 - Work: 913-296-26
Kansas Senatorial District: 19
Areas of Interest: legislation

Robert & Charlotte Kenney - 1540 S.E. 93rd, Wakarusa, KS 66546 - Home: 913-761-2254 - Work:
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Areas of Interest:

Brad G. Kerby - 1913 Burning Tree Rd., Derby, KS 67037 - Home: 316-788-5088 - Work: 316-526-74
Kansas Senatorial District: 26
Areas of Interest: support for other victims

Robert R. Kimberlin - 2440 S.E. 85th, Berryton, KS 66409 - Home: 913-862-0336 - Work:
Kansas Senatorial District: 20
Areas of Interest: legislation

Lillie M. King - 1100 S.E. 35th St. Terr., Topeka, KS 66605 - Home: 913-354-4301 - Work:
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Areas of Interest: legislation, help with office, support for other victims

Velva Klamm - 103 N.W. Quinton, Topeka, KS 66606 - Home: 913-354-1428 - Work:
Kansas Senatorial District:
Areas of Interest:

Dorothy Lacy - Route 2, Pittsburg, KS 66762 - Home: - Work: 316-231-1037
Kansas Senatorial District:
Areas of Interest: legislation

Mrs. Dorothy Lacy - Route 2, Pittsburg, KS 66762 - Home: 316-231-1037 - Work:
Kansas Senatorial District:
Areas of Interest: legislation

James S. Leiker - 302 N. Neal, Salina, KS 67401 - Home: 913-827-4578 - Work:
Kansas Senatorial District: 24
Areas of Interest: legislation

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Gloria J. Lewis - 1552 Burns, Wichita, KS 67203 - Home: 316-262-7604 - Work:
Kansas Senatorial District: 27
Areas of Interest:

Marilyn Lipker - 1719 Rush, Salina, KS 67401 - Home: - Work:
Kansas Senatorial District: 24
Areas of Interest: legislation

Mark & Marge Little - 3614 Victoria, Kansas City, KS 66106 - Home: 913-262-0451 - Work:
Kansas Senatorial District: 06
Areas of Interest:

Karen Long - 1703 Wyandotte, Kansas City, MO 64108 - Home: 816-649-4136 - Work: 816-842-0053
Kansas Senatorial District: OS
Areas of Interest: legislation, help with office, support for other victims

Stacy Love - 1015 Peach, Dalhart, TX 79022 - Home: 806-249-8113 - Work:
Kansas Senatorial District: OS
Areas of Interest: legislation, help with office, support for other victims

Irene Lovelace - 557 E. Fairchild, Topeka, KS 66608 - Home: 913-233-9111 - Work:
Kansas Senatorial District: 18
Areas of Interest: support for other victims

Bonnie Marie Luth - 146 S. Neconi, #5, Bonner Springs, KS 66012 - Home: 913-441-3791 - Work: 913-441-3791
Kansas Senatorial District:
Areas of Interest: legislation, support for other victims

Mildred Maddux - 7807 W. 54th Terr., Overland Park, KS 66202 - Home: 913-722-0945 - Work:
Kansas Senatorial District: 07
Areas of Interest: legislation

John Wesley Mains - Route 3, Garnett, KS 66032 - Home: 913-448-2311 - Work:
Kansas Senatorial District: 12
Areas of Interest: legislation, support for other victims

Dewey & Wilma Matousek - 2744 Glen Oaks Drive, Wichita, KS 67216 - Home: 316-683-6660 - Work: 316-683-6660
Kansas Senatorial District: 28
Areas of Interest: legislation

Carlis & LaVonda Sue McAbee - 2032 Garland, Wichita, KS 67203 - Home: 316-264-5416 - Work: 316-264-5416
Kansas Senatorial District: 27
Areas of Interest:

Tom McCarthy - 4101 W. 124th St., Leawood, KS 66209 - Home: - Work:
Kansas Senatorial District: 09
Areas of Interest:

Sally McFall - P.O. Box 43, Bucklin, KS 67834 - Home: 316-826-9992 - Work:
Kansas Senatorial District: 38
Areas of Interest:

Carol McGuire - 11216 W. 69th Terr., Shawnee, KS 66203 - Home: 913-631-4516 - Work:
Kansas Senatorial District: 10
Areas of Interest:

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Carmen Medellin - 4424 Oak Grove, Kansas City, KS 66106 - Home: 913-432-9540 - Work:
Kansas Senatorial District: 06
Areas of Interest:

Bonnie Meyer - 9930 Fontana, Overland Park, KS 66207 - Home: 913-658-2759 - Work:
Kansas Senatorial District: 09
Areas of Interest:

Gus Montana - 5201 W. 69th, Prairie Village, KS 66028 - Home: 913-236-7970 - Work:
Kansas Senatorial District: 07
Areas of Interest:

Ms. Pauline Mooney - 862 Walton Lane, Wichita, KS 67207 - Home: 316-683-8003 - Work:
Kansas Senatorial District: 30
Areas of Interest: legislation, support for other victims

Marlena Moore - 2914 Hiawatha, Kansas City, KS 66104 - Home: 913-321-6191 - Work:
Kansas Senatorial District: 04
Areas of Interest: legislation, support for other victims

Flora V. Moore - 404 E. 4th, Larned, KS 67550 - Home: 316-285-3759 - Work:
Kansas Senatorial District:
Areas of Interest: support for other victims

Virginia Morgan - 6727 Granada Road, Prairie Village, KS 66208 - Home: 913-262-9489 - Work:
Kansas Senatorial District: 07
Areas of Interest:

Ronald & Brenda Neumer - 6608 Craig, Merriam, KS 66202 - Home: 913-262-0178 - Work: 816-356-04
Kansas Senatorial District:
Areas of Interest:

Becky Ogelen - R.R. 1, Rulo, NE 68431 - Home: 402-245-5164 - Work:
Kansas Senatorial District: OS
Areas of Interest: support for other victims

Bob & Terri Olsen - 7928 Reeds, Prairie Village, KS 66208 - Home: 913-383-2450 - Work: 913-236-
Kansas Senatorial District: 07
Areas of Interest:

Kelly Orser - 1810 S.W. Jewell, Topeka, KS 66621 - Home: 913-233-8693 - Work: 913-235-2366
Kansas Senatorial District: 18
Areas of Interest: legislation, help with office, support for other victims

Jennifer J. Parlee - 1430 Polk, #3, Topeka, KS 66612 - Home: - Work:
Kansas Senatorial District: 18
Areas of Interest: legislation, support for other victims

Louie Parrett - 130 S. Greenwich Rd., #171, Wichita, KS 67207 - Home: 316-684-9296 - Work:
Kansas Senatorial District: 30
Areas of Interest: support for other victims

Walter & Beulah Payne - 2242 S. Greenwich Rd., Wichita, KS 67207 - Home: 316-686-0533 - Work:
Kansas Senatorial District: 30
Areas of Interest:

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Jan Payne - 27 Laurel, Wichita, KS 67206 - Home: 316-684-4153 - Work: 316-262-4163
Kansas Senatorial District: 30
Areas of Interest:

Robert Phillips - 12720 W. 76th Terr., Shawnee, KS 66216 - Home: 913-631-8188 - Work: 913-531-0
Kansas Senatorial District: 10
Areas of Interest: legislation, support for other victims

Eva Marie Pisciotta - 4101 Kenwood, Kansas City, MO 64110 - Home: 816-531-3199 - Work:
Kansas Senatorial District: OS
Areas of Interest:

Pam Plemons - Box 2, Wakarusa, KS 66546 - Home: 913-761-2321 - Work: 913-272-0833
Kansas Senatorial District: 20
Areas of Interest: legislation, help with office

Carol & Stan Plesser - 7938 Canterbury, Prairie Village, KS 66208 - Home: 913-649-3506 - Work:
Kansas Senatorial District: 07
Areas of Interest:

Lesley L. Polek - 701 Beverly Road, Ambler, PA 19002 - Home: 215-542-8139 - Work: 215-862-5061
Kansas Senatorial District: OS
Areas of Interest: legislation, help with office, support for other victims

John Pomig - 961 Waverly Drive, Wichita, KS 67218 - Home: 316-682-8362 - Work:
Kansas Senatorial District: 30
Areas of Interest: legislation, support for other victims

Paula K. Proctor - 1900 S.E. 23rd, Topeka, KS 66605 - Home: 913-232-6607 - Work:
Kansas Senatorial District: 19
Areas of Interest: legislation, help with office, support for other victims

Mildred Queen - 7345 Nall, Prairie Village, KS 66208 - Home: 913-262-7459 - Work:
Kansas Senatorial District:
Areas of Interest: legislation

Beulah Randall - 2940 S.W. 31st Ct., #102, Topeka, KS 66614 - Home: - Work:
Kansas Senatorial District: 20
Areas of Interest:

Georgia & Copeland Rasdall - 318 N. 81st Terr., Kansas City, KS 66112 - Home: 913-788-7849 - Wo
Kansas Senatorial District: 06
Areas of Interest: support for other victims

Lloyd Remick - 1930 E. 20th, B4, Joplin, MO 64801 - Home: ???-624-4095 - Work: ???-624-4333
Kansas Senatorial District: OS
Areas of Interest: legislation, support for other victims

Pat Renfro - 2701 N. 73rd Pl., Kansas City, KS 66109 - Home: - Work: 913-334-3055
Kansas Senatorial District: 05
Areas of Interest:

Evelyn L. Renfro - 4020 Silver Lake Road, Bartlesville, OK 74006 - Home: - Work:
Kansas Senatorial District: OS
Areas of Interest: support for other victims

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Jane Reynolds - P.O. Box 933, Chandler, AZ 85224 - Home: 602-963-3253 - Work:
Kansas Senatorial District: OS
Areas of Interest: support for other victims

Roberta Richmond - 107 E. 80th Terr., Kansas City, MO 64114 - Home: 816-363-5473 - Work:
Kansas Senatorial District: OS
Areas of Interest:

Howard & Dorothy Roberts - R.R. 4, Pratt, KS 67124 - Home: 316-895-6520 - Work:
Kansas Senatorial District: 33
Areas of Interest: support for other victims

Debbie Rogers - Route 2, Box 73, Savannah, MO 64485 - Home: ???-324-4967 - Work:
Kansas Senatorial District: OS
Areas of Interest: legislation, support for other victims

Albert & Rose Rohleder - 615 Red Barn Lane, Wichita, KS 67202 - Home: 316-722-7887 - Work:
Kansas Senatorial District: 27
Areas of Interest:

Carolyn Rose - Route 3, Tonganoxie, KS 66086 - Home: 913-845-2184 - Work:
Kansas Senatorial District: 03
Areas of Interest: legislation, support for other victims

Roy Runnion - 403 E. Wilberforce, Norton, KS 67654 - Home: - Work:
Kansas Senatorial District: 36
Areas of Interest: support for other victims

Larry Sadler - P.O. Box 525, Udall, KS 67146 - Home: 316-782-3677 - Work:
Kansas Senatorial District: 32
Areas of Interest: legislation

Deborah Sampson - 2914 W. 19th, Lawrence, KS 66046 - Home: 913-842-7764 - Work: 913-233-6688
Kansas Senatorial District: 02
Areas of Interest: legislation, support for other victims

Richard Savira - 1904 Wellington Place, Wichita, KS 67203 - Home: 316-264-9832 - Work: same
Kansas Senatorial District:
Areas of Interest: legislation

Inella Scheffe - 66111 Juniper Court, Montrose, CO 81401 - Home: - Work:
Kansas Senatorial District: OS
Areas of Interest: legislation

Cheryl Schlotman - 430 Pear, Independence, KS 67301 - Home: 316-331-8847 - Work:
Kansas Senatorial District: 15
Areas of Interest: support for other victims

John & Betty Schountz - 2427 W. Grant, Wichita, KS 67213 - Home: 316-942-3753 - Work: 316-686-
Kansas Senatorial District: 28
Areas of Interest:

Sue & Vernon Shaffer - 2000 W. Laurel, Independence, KS 67301 - Home: 316-331-2534 - Work:
Kansas Senatorial District: 15
Areas of Interest:

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Virginia Sharp - 2124 S. 33rd St., Kansas City, KS 66106 - Home: 913-236-7092 - Work:
Kansas Senatorial District: 06
Areas of Interest:

Harold & Peggy Shelinbarger - 9606 E. Chamberlain, #5, Wichita, KS 67206 - Home: - Work:
Kansas Senatorial District: 30
Areas of Interest: legislation

Billie Jo Sheppard - 418 Taylor, Topeka, KS 66603 - Home: 913-235-0016 - Work:
Kansas Senatorial District: 18
Areas of Interest:

Connie Simmons - 2650 N. Somerset, Wichita, KS 67204 - Home: 316-838-2586 - Work:
Kansas Senatorial District: 31
Areas of Interest:

Anna Jeanine Sims - 539 Armstrong, Kansas City, KS 66101 - Home: - Work:
Kansas Senatorial District: 04
Areas of Interest: legislation, help with office, support for other victims

Bobbi Steenbacher - 5416 Apache, Great Bend, KS 67530 - Home: 316-793-7362 - Work: 913-792-2418
Kansas Senatorial District: 35
Areas of Interest:

Mary Jeanne Tipton - Route 4, Box 36, Arkansas City, KS 67005 - Home: 316-442-3254 - Work: 316-
Kansas Senatorial District: 32
Areas of Interest: legislation, support for other victims

Pearl Toburen - 625 Anthony, Clay Center, KS 67432 - Home: 913-632-3402 - Work:
Kansas Senatorial District: 23
Areas of Interest:

Dana Joe Torgeson - 1027 College, Topeka, KS 66604 - Home: 913-235-2048 - Work:
Kansas Senatorial District: 18
Areas of Interest: support for other victims

Carl Turner - Route 1, Box 306A, Warsaw, KS 65355 - Home: 816-438-2294 - Work:
Kansas Senatorial District:
Areas of Interest: legislation, support for other victims

Emma Treva Valenquela - Route 1, Box 11, Easton, KS 66020 - Home: 913-773-8517 - Work:
Kansas Senatorial District: 03
Areas of Interest: support for other victims

Raleigh Van Trease - 825 Illinois, Lawrence, KS 66044 - Home: - Work:
Kansas Senatorial District: 02
Areas of Interest: legislation

C. Michael Wagner - 931 Laramie, Atchison, KS 66002 - Home: 913-367-6049 - Work: 913-267-0360
Kansas Senatorial District: 01
Areas of Interest: legislation

Connie & Larry Waite - 1045 Barnett, Kansas City, KS 66102 - Home: - Work:
Kansas Senatorial District: 04
Areas of Interest: legislation, help with office, support for other victims

KANSAS VICTIMS COALITION
(as of February 10, 1986)

Georgia & Robert Wallace - 7021 Mackey, Overland Park, KS 66204 - Home: 913-236-4836 - Work: 913-236-4836
Kansas Senatorial District: 08
Areas of Interest:

John R. Walls - 4031 W. 98th Terr., Overland Park, KS 66207 - Home: 913-381-9862 - Work: 913-381-9862
Kansas Senatorial District: 08
Areas of Interest: legislation, help with office

Milton R. & Norma Watters - 526 E. 8th, Box 337, Belle Plaine, KS 67013 - Home: 316-488-3284 - Work: 316-488-3284
Kansas Senatorial District: 32
Areas of Interest: legislation, support for other victims

Rocky Wentling - 2000 S. Vine, Wichita, KS 67213 - Home: 316-267-2934 - Work: 316-267-2934
Kansas Senatorial District: 28
Areas of Interest:

Fran & Jim Werner - 13710 W. 69th, Shawnee, KS 66216 - Home: 913-268-8546 - Work: 913-268-8546
Kansas Senatorial District: 10
Areas of Interest:

Michael E. Wingert - 425 W. 4th, Haysville, KS - Home: - Work: 316-265-2603
Kansas Senatorial District: 26
Areas of Interest:

Aleta Witt - 9806 W. 47th Terr., Merriam, KS 66203 - Home: 913-236-7257 - Work: 913-236-7257
Kansas Senatorial District: 10
Areas of Interest: support for other victims

Mr. & Mrs. Larry Wolke - 2915 S. Euclid, Wichita, KS 67217 - Home: 316-942-6786 - Work: 316-942-6786
Kansas Senatorial District: 28
Areas of Interest: legislation, support for other victims

Mrs. Betty Wright - 606 Holly, Pratt, KS 67124 - Home: 316-672-2104 - Work: 316-672-2104
Kansas Senatorial District: 33
Areas of Interest: legislation, help with office, support for other victims

Mrs. Joe Wyatt - 418 Poplar Drive, Kansas City, MO 64118 - Home: 816-452-3464 - Work: 816-452-3464
Kansas Senatorial District: 08
Areas of Interest: legislation, support for other victims

R.O. Younkin - 1915 Porter, Apt. 264-D, Wichita, KS 67203 - Home: 316-832-9381 - Work: 316-832-9381
Kansas Senatorial District: 27
Areas of Interest: legislation, help with office, support for other victims

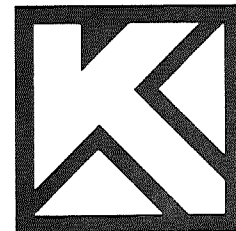
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Kansas Senatorial District:
Areas of Interest:

Litwin 2/10

LEGISLATIVE TESTIMONY



Kansas Chamber of Commerce and Industry

500 First National Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321

A consolidation of the
Kansas State Chamber
of Commerce,
Associated Industries
of Kansas,
Kansas Retail Council

HB 2661

February 10, 1986

KANSAS CHAMBER OF COMMERCE AND INDUSTRY

Testimony Before the
House Judiciary Committee

by

David S. Litwin

Mr. Chairman, members of the committee. I am David Litwin, representing the Kansas Chamber of Commerce and Industry. We appreciate the chance to comment today on HB 2661.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

On February 4, 1986, the KCCI Board of Directors addressed this issue and adopted a broad policy, a copy of which is attached to my testimony. On the basis of that

*Attachment 4
House Judiciary
2-10-86*

policy, we endorse HB 2661 strongly and urge that it receive favorable consideration.

We followed closely the proceedings over the summer before the legislative interim committee and Commissioner Bell's citizens' panel. We feel that the evidence produced there showed beyond doubt that a crisis of major proportions exists in the medical liability insurance field, with rates climbing exponentially and the issue of coverage at any affordable price for some specialties rapidly coming into focus. It appears that at the present time, with the exception of certain practices such as obstetrics and family practice in smaller cities and rural areas, the problem has not yet driven many health care providers out of their practices or resulted in major loss of medical services. However, the trend is deeply disturbing, and it is obvious that no system can withstand an indefinite continuation of geometric increases in load without eventually breaking down. Thus the time to act is now, not after the system has suffered irreparable damage.

Turning briefly to the reforms proposed under HB 2661, we support the cap on awards for pain and suffering. The sad truth of the matter is that no amount of money can ever make people whole from some kinds of injuries. \$250,000 is a lot of money and goes a good distance to compensate victims for intangible kinds of loss that are nonetheless very hurtful, yet it draws a line at a point where the understandable desire to compensate such people would not threaten the viability of the entire compensation system.

Structured awards for future economic loss are a sound means both to maximize the yield of any award and to assure the patient that the funds will be there as long as they are needed. Itemization of jury awards would not only facilitate such structuring, but would require an appropriate degree of accountability from our juries.

Allowing screening panels' decisions to be admitted in evidence should add real teeth to that concept, without unfairly prejudicing the losing side, since members could be called for examination and cross-examination at trial. Requiring expert witnesses to have been recently active in clinical practice should help end what many feel is a despicable circuit of "hired guns" who travel all over the country, testi-

fying for hire, and rarely if ever actually practicing medicine. Mandatory settlement conferences, with economic sanctions for refusal of reasonable settlement offers, hopefully will result in pretrial settlement of many cases that would otherwise inexorably drift toward trial.

Moreover, last session's major limitation of the collateral source rule in malpractice actions should have a very salutary effect in the long run. It has always struck me as strange that we profess to have great faith in the jury system, yet at the same time we have consciously withheld from jurors many facts that are very pertinent because we have feared that they could not handle such facts responsibly.

The proposals to reduce the liability of the Health Care Stabilization Fund and to restore interest rates on judgments to realistic levels also strike us as essential ingredients of reform.

Our policy does depart from HB 2661 in one respect, however, in that it endorses the overall cap on awards, but states that medical expenses and out-of-pocket costs should not be included in such limitations. KCCI's Liability Insurance and Tort Reform Committee had such reservations, and hence they are embodied in our current policy. This limitation may be reviewed in the near future.

We also strongly endorse in principle all of the provisions that are designed to improve and accelerate discipline of licensees, require the creation of effective risk management and peer review systems, curtail the activities of impaired providers, impose fines and expand the bases for malpractice, and protect people who in good faith report malpractice incidents.

Finally, I cannot overstate that while KCCI feels strongly that the medical malpractice liability situation is serious enough to justify special legislative treatment this year, our friends in the health care professions are only very slightly ahead in their difficulties of many other business and professional groups and political subdivisions. We view the possible enactment of HB 2661 as a partial solution to a much broader problem. While the evidence in Kansas is still somewhat anecdotal, there is no question but that there has recently been a wide and profound realization

throughout the state that we have a very disturbing liability situation.

Hardly a day goes by that we do not hear about a Kansas business' inability to get any affordable coverage, or paying sharply higher premiums and receiving much lower policy limits and higher deductibles. We believe that a major part of the problem lies in our inefficient, slow, and grindingly expensive system for adjudicating torts, in which an appallingly low percentage of the funds expended find their way to the innocent victims. We will be supporting reforms that would give desperately needed relief to general business, while at the same time assuring that adequate insurance coverage is available both for the sake of such businesses and for those who might make valid claims against them. That, however, awaits another day, and with the reservation I have mentioned, we most strongly urge the enactment of HB 2661 during the 1986 session.

Thank you again for this opportunity to testify. If there are questions, I will try to answer them.

POLICY

KCCI supports reforms which, in medical malpractice actions, would impose caps on damage awards with the exception of past and future medical expenses and other out-of-pocket costs, provide for structured awards of future economic loss, require itemization of jury awards, make decisions of pretrial screening panels admissible in evidence, require expert witnesses to be active in clinical practice, establish mandatory settlement conferences, link postjudgment interest rates to the yield of United States Treasury bills, require evidentiary hearings on the reasonableness of attorneys' fees, and reduce the exposure of the Health Care Stabilization Fund.

KCCI further supports, in principle, the enactment of provisions which would curtail the activities of impaired health care providers, accelerate and improve practitioner discipline, impose mandatory requirements concerning the reporting of malpractice incidents, immunize good faith reporting of such incidents, require the implementation of peer review and risk management programs, and impose civil fines for malpractice.

KCCI further believes that there is an equally serious crisis in the cost and availability of liability insurance in a wide range of industries and professions and for public entities, and in the cost of litigating tort claims. KCCI believes that reforms that are necessary and appropriate in the medical malpractice area should, on the whole, be adopted in these more general spheres as well, and urges the legislature to enact remedial legislation as soon as possible. Such legislation should include provisions that would eliminate or significantly restrict the award of punitive damages, place caps on awards for pain and suffering, authorize structured awards, limit attorney contingent fees, eliminate the collateral source rule, eliminate discovery abuse and control discovery costs, provide for alternate dispute resolution in appropriate cases, limit venue shopping in tort actions, and effect such other procedural and substantive reforms as may be necessary.