

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~~ a.m./p.m. on February 13, 1986 in room 519-S of the Capitol.

All members were present except:

Representative Fuller was excused

Committee staff present:

Jerry Donaldson, Legislative Research Department
Mike Heim, Legislative Research Department
Mary Torrence, Revisor of Statutes Office
Jan Sims, Committee Secretary

Conferees appearing before the committee:

HB 2661 - An act concerning certain health care providers; relating to medical malpractice liability and insurance coverage therefor; concerning regulation of certain health care providers.

The committee took the following final action on HB 2661:

New Sec. 1

Rep. Vancrum moved to include all amendments in New Sec. 1. Motion seconded by Rep. Harper. Rep. Roy made a substitute motion to strike "to assure that injured parties receive adequate compensation for their injuries, and to maintain the quality of health care in Kansas." from the amending language in New Sec. 1. Seconded by Rep. Solbach. The substitute motion failed. Rep. Vancrum's motion carried on a voice vote.

New Sec. 2

Rep. Harper moved to include the amending language at line 68 of New Sec. 2. Seconded by Rep. Douville. Motion carried on a voice vote.

New Sec. 3

Rep. Solbach moved to include the amending language at lines 68, 70, 75 and 96 of (2) of New Sec. 3. Motion seconded by Rep. Roy. Motion carried on a voice vote.

Jerry Slaughter explained the proposed amendment at line 120 of New Sec. 3 as being a way of getting all the reporting into one pipeline and assuring they will get to the Board of Healing Arts. Rep. Solbach moved that the amendment be included. Seconded by Rep. Adam. Motion carried on a voice vote. Rep. Douville moved to include the new (f) of New Sec. 3 found at line 131. Motion seconded by Rep. Buehler. Rep. Shriver asked if this provision could be construed to imply a responsibility to the head of a teaching hospital who was in charge of the supervision of residents. It was determined by discussion that the intent was not to make that inclusion in that those would be a part of the doctor's regular responsibilities and he would not be acting as a consultant but rather as a supervising physician. Rep. Solbach moved to amend Rep. Douville's motion to add the word "solely" after the word "acting". Seconded by Rep. Adam. Motion carried on a voice vote. Rep. Douville's motion carried on a voice vote.

New Sec. 4

The committee discussed the amendment proposed at lines 166-8. Jerry Slaughter said this had been propped by the Board of Healing Arts originally and the Medical Society really had no firm position on it but had agreed as a compromise with the Board. He said the Board's feeling had been that an impaired physician did not have to cooperate with it in treatment for impairment and if confidentiality was assured that would give the Board some leverage toward cooperation. Harold Riehm said that if a physician is before the Board on charges of providing care below the standard of care the Board would not have knowledge that the physician was working with the impaired physicians' committee. Rep. Wunsch moved that the language in brackets on lines 166, 167 and 168 be stricken. Seconded by Rep. Whiteman. Motion carried 11 votes to 7.

Rep. Vancrum moved that the amendments at lines 184 and 185 be included. Seconded by Rep. Buehler. Motion carried on a voice vote.

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room 519-S, Statehouse, at 3:30 ~~xxx~~ a.m./p.m. on February 13, 1986.

Rep. O'Neal moved that the amendment at the end of line 201 be included. Seconded by Rep. Wagon. Motion carried on a voice vote. Rep. Walker moved that the language in brackets on lines 203 and 204 be deleted. Seconded by Rep. Duncan. Motion carried on a voice vote.

New Sec. 5

Rep. Buehler moved that the language in brackets be deleted from lines 219 and 220 and replaced with the amending language. Seconded by Rep. Duncan. Motion carried on a voice vote. Rep. Snowbarger moved that the language in brackets on lines 242 through 246 be stricken. Seconded by Rep. Douville. Motion carried on a voice vote.

New Sec. 7.

Ron Smith of the KBA stated that additional language was necessary in (b) of new sec. 7 in order to make reporting by nurses enforceable since nurses are not health care providers. Rep. Walker moved to add "or required to make a report under Sec. 3(a)" following the word "provider" in line 251. Seconded by Rep. Shriver. Motion carried on a voice vote.

New Sec. 8

Ron Smith of the KBA stated that additional language was needed at the end of New Sec. 8(b) in order to put some teeth into enforcement. Rep. Solbach moved to adopt the amending language found at line 268. Seconded by Rep. Roy. Motion carried on a voice vote.

New Sec. 9

Rep. Wunsch moved to adopt the amendments at lines 276 and 277-281. Seconded by Rep. Harper. Motion carried on a voice vote.

New Sec. 11

Rep. Solbach moved to strike lines 300-305. Seconded by Rep. Bideau. Rep. O'Neal said that language is needed. Rep. Solbach withdrew his motion.

New Sec. 12

Rep. Douville moved that the amendments at lines 307-9 be adopted. Seconded by Rep. Harper. Rep. Shriver made a friendly amendment to add at line 307 "for each party from all defendants". Motion carried on a voice vote.

Rep. O'Neal moved that the language amending line 315 be added and the language in brackets on lines 314 and 315 be deleted. Seconded by Rep. Wunsch. Motion carried on a voice vote. Rep. Solbach moved that the language found in lines 316-319 "and shall apportion that amount among the claimants" be stricken to the extent that it is inconsistent throughout the bill. Rep. Bideau seconded the motion. Motion carried on a voice vote.

Rep. Solbach moved that the amendments on lines 326, 329 and 331 substituting verdicts for judgments be approved. Seconded by Rep. O'Neal. Motion carried on a voice vote. Rep. Solbach moved that the amendment at line 332 be included. Seconded by Rep. Wunsch. Motion carried on a voice vote. Rep. Vancrum moved that the amendment suggested for inclusion at the end of line 339 on the first page 9 of the balloon be included. Seconded by Rep. Wunsch. Motion carried on a voice vote. Rep. Vancrum made a motion that language be added at line 339 that would make it clear that the annuity income will not be taxable to plaintiff. Seconded by Rep. Wunsch. Motion carried on a voice vote. Rep. Solbach moved that lines 308 and others following on the second page 9 referring to pain and suffering be amended to strike \$250,000 and add \$350,000. Motion seconded by Rep. Wagon. Motion failed 9 votes to 8. Rep. Vancrum suggested the use of language in (d) of the amendment at the bottom of the second page 9 be changed to tie the damages only to the consumer price index and not include the medical price index. Rep. Solbach moved to change his amendment to reflect Rep. Vancrum's suggestion. Seconded by Rep. Vancrum. Motion carried 12 votes to 7. Rep. Shriver moved to modify the last motion to state that the consumer price index would adjust the award for damages after a period of three years. Seconded by Rep. Luzzati. Motion failed 11 votes to 8.

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room 519-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on February 13, 1966.

New Sec. 24

Rep. Wunsch moved to insert amendment (j) at the end of New Sec. 24 and New Sec. 25 which defines what medical and related care is referred to in Sec. 24(j). Seconded by Rep. Teagarden. Motion carried on a voice vote.

The Chairman said he would like the committee members to consider Sec. 24(j) and New Sec. 25 in conceptual terms only and leave it open over the weekend to be cleaned up during Monday's meeting.

The Chairman adjourned the meeting at 6:00 P.M.