

Approved Arthur Douville 4-22-86
Date

MINUTES OF THE House COMMITTEE ON Labor and Industry

The meeting was called to order by Representative Arthur Douville at
Chairperson

9:00 a.m./~~p.m.~~ on February 26, 1986 in room 526-S of the Capitol.

All members were present except:

Representative Hensley, excused

Committee staff present:

All present.

Conferees appearing before the committee:

Mr. Bill Morrissey, Dept. of Human Res., Div. of Workers' Comp.
Mr. George McCullough, Kansas AFL-CIO
Mr. John Rathmel, Dept. of Human Res., Div. of Workers' Comp.

George McCullough was the first speaker on H.B. 2958. He said that the bill really doesn't change the law the way we understand the law. Mr. McCullough spoke as a proponent of the bill. He also said that all this bill would do is restate the law the way we have used it for the last 20 some years. Amendments were passed out by Bill Morrissey in a balloon version of the bill. Mr. McCullough said that he supported the amendments. John Rathmel answered some questions of the committee members. Bill Morrissey went over the proposed amendments with the committee. (See attachment #1)

Representative Green made a motion to amend H.B. 2958 on page 2 of the bill by deleting on line 0053 starting with the sentence "If the services of a" and deleting all lines through line 0061, and by inserting the language "An employee may, without application or approval, consult a physician of the employee's choice for the purpose of obtaining the opinion of such physician or for examination, diagnosis or treatment, but the employer shall only be liable for the fees and charges of such physician up to \$350.00." The motion was seconded by Rep. R.D. Miller. There was no discussion a vote was taken and the motion passed.

Representative Nichols made a motion to amend H.B. 2958 on page 3 of the bill by deleting on lines 0085 and 0086 the words "nor any medical bill or other statement of charges for services by a physician or surgeon shall be" and by inserting the language "The statement of charges of a physician or other medical vendor shall be admissible into evidence if supported by the foundation testimony of the claimant or medical vendor subject to objections to whether the services rendered were reasonable and necessary to cure and relieve the employee from the effects of the injury. Objections to statements of charges must be specific. If it is found by the director that the objection was not made in good faith, the cost of proving the reasonableness and necessity of such service or charge shall be assessed to the objecting party." The motion was seconded by Rep. R.D. Miller. There was no discussion a vote was taken and the motion passed.

A motion was made by Representative Patrick to pass out H.B. 2958, as amended, favorably. The motion was seconded by Representative Acheson. There was no discussion a vote was taken and the motion passed. Let the record show that Representative Friedeman voted nay.

Meeting adjourned. 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.

HOUSE COMMITTEE ON
LABOR AND INDUSTRY

Guest List

Date 2-26-86

Name	City	Representing
George McGovern	Topeka	Kan AFL-CIO
Bill Morrissey	"	DHR/WC
John Rathmell	"	" / "
Bob Hodges	"	KCCI
Wayne Mauchel	"	Ks. AFL-CIO
Donna Smith	"	K. Bar Assoc.
Ralph McGee	III	MS AFL-CIO
John C. Botterby	- /	Mc Gill & Assoc.
REN GACHES	WICHITA	BMAC

HOUSE BILL No. 2958

By Representative Douville

2-12

0017 AN ACT concerning workers' compensation; relating to medical
0018 compensation; amending K.S.A. 44-510 and 44-519 and re-
0019 pealing the existing sections.

0020 *Be it enacted by the Legislature of the State of Kansas:*

0021 Section 1. K.S.A. 44-510 is hereby amended to read as fol-
0022 lows: 44-510. Except as otherwise provided in this act, medical
0023 compensation under the workmen's compensation act shall be as
0024 follows: (a) It shall be the duty of the employer to provide the
0025 services of a physician, and such medical, surgical and hospital
0026 treatment, including nursing, medicines, medical and surgical
0027 supplies, ambulance, crutches, and apparatus, and transportation
0028 to and from the home of the injured employee to a place outside
0029 the community in which such employee resides, and within such
0030 community if the director in the director's discretion so orders, as
0031 may be reasonably necessary to cure and relieve the employee
0032 from the effects of the injury. All fees, transportation costs and
0033 charges under this section shall be subject to regulations
0034 adopted by the director and shall be limited to such as are fair
0035 and reasonable. The director shall have jurisdiction to hear and
0036 determine all disputes as to such charges and interest due
0037 thereon.

0038 (b) Any physician, nurse, medical supply establishment, sur-
0039 gical supply establishment, ambulance service or hospital who
0040 accept the terms of the workmen's compensation act by provid-
0041 ing services or material thereunder shall be bound by the fees
0042 approved by the director and no injured employee or dependent
0043 of a deceased employee shall be liable for any charges above the
0044 amounts approved by the director. If the employer has knowl-
0045 edge of the injury and refuses or neglects to reasonably provide

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Att. #1
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0046 the benefits herein required, the employee may provide the
0047 same for such employee, and the employer shall be liable for
0048 such expenses subject to the regulations adopted by the director.

0049 (c) If the services of the physician furnished as ~~above pro-~~
0050 ~~vided in subsection (a) are not satisfactory to the injured em-~~
0051 ~~ployee, the director may authorize the appointment of some~~
0052 ~~other physician subject to the limitations set forth in this section~~
0053 ~~and the regulations adopted by the director. If the services of a~~
0054 ~~physician furnished as above provided are not satisfactory to the~~
0055 ~~injured employee, such employee may consult, without the~~
0056 ~~approval of the director and without being required to apply to~~
0057 ~~the director for a change of physician under this section, another~~
0058 ~~physician of the employee's own choice, and the employer shall~~
0059 ~~pay the fees and charges therefor. If such fees and charges are for~~
0060 ~~examination, diagnosis, or treatment, such fees and charges shall~~
0061 ~~not exceed a total amount of \$350.~~

0062 (d) An injured employee whose injury or disability has been
0063 established under the workmen's compensation act may rely, if
0064 done in good faith, solely or partially on treatment by prayer or
0065 spiritual means in accordance with the tenets of practice of a
0066 church or religious denomination without suffering a loss of
0067 benefits subject to the following conditions:

0068 (1) The employer or the employer's insurance carrier agrees
0069 thereto in writing either before or after the injury;

0070 (2) the employee submits to all physical examinations re-
0071 quired by the workmen's compensation act;

0072 (3) the cost of such treatment shall be paid by the employee
0073 unless the employer or insurance carrier agrees to make such
0074 payment;

0075 (4) the injured employee shall be entitled only to benefits
0076 that would reasonably have been expected had such employee
0077 undergone medical or surgical treatment; and

0078 (5) the employer or insurance carrier that made an agreement
0079 under paragraph (1) or *paragraph* (3) of this subsection may
0080 withdraw from the agreement on 10 days' written notice.

0081 Sec. 2. K.S.A. 44-519 is hereby amended to read as follows:
0082 44-519. No report of any examination of any employee by a

An employee may, without application or approval, consult a physician of the employee's choice for the purpose of obtaining the opinion of such physician or for examination, diagnosis or treatment, but the employer shall only be liable for the fees and charges of such physician up to \$350.00.

0083 physician or surgeon, as hereinbefore in this act provided for, nor
0084 any certificate issued or given by the physician or surgeon
0085 making such examination, ~~nor any medical bill or other state~~
0086 ~~ment of charges for services by a physician or surgeon shall be~~
0087 competent evidence in any proceeding for the determining or
0088 collection of compensation unless supported by the testimony of
0089 such physician or surgeon, if this testimony is admissible, nor
0090 competent evidence in any case where testimony of such physi-
0091 cian or surgeon is not admissible.
0092 Sec. 3. K.S.A. 44-510 and 44-519 are hereby repealed.
0093 Sec. 4. This act shall take effect and be in force from and
0094 after its publication in the statute book.

The statement of charges of a physician or other medical vendor shall be admissible into evidence if supported by the foundation testimony of the claimant or medical vendor subject to objections to whether the services rendered were reasonable and necessary to cure and relieve the employee from the effects of the injury. Objections to statements of charges must be specific. If it is found by the director that the objection was not made in good faith, the cost of proving the reasonableness and necessity of such service or charge shall be assessed to the objecting party.