

Approved March 26, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS

The meeting was called to order by Senator Dan Thiessen at
Chairperson

1:30 ~~xxx~~/p.m. on Monday, March 23, 1987 in room 527-S of the Capitol.

All members were present except:

Senator Jack Steineger
Senator Eric Yost

Committee staff present:
Jerry Ann Donaldson, Research Department
Gordon Self, Revisor's Office
Marion Anzek, Committee Secretary

Conferees appearing before the committee:

Judy Shorman, Manager - International Rehabilitation Associates
Richard L. Thomas - Social and Rehabilitation Services
Rob Hodges - Kansas Chamber of Commerce and Industry
Sherman Parks, Jr. - Kansas Chiropractic Association
Rich McKee, Executive Secretary Feedlot Division - Kansas Livestock Association
Wayne Michael - AFL-CIO
Representative Arthur Douville

Chairman Thiessen called the meeting to order at 1:30 p.m. and turned attention to HB2186.

HB2186 relating to workers compensation; concerning legislation intent; medical compensation; compensation for death and temporary and permanent disabilities; limitations on compensation and attorney fees; failure to pay compensation due; medical evidence; review of awards, citation of act.

Gordon Self explained the major provisions of HB2186 which amends the Workers Compensation Act. (See Attachment 1)

After discussion by committee members, questions to Gordon were, who were the changes requested by, and if there are no appeals pending, then there are no payments made for anything?

Gordon Self said several of the amendments were a compromise worked out through the House, Labor and Industry Committee. When compensation is not paid, an employee would have to make demand each time compensation was paid and this would provide, that after the initial time when compensation was paid, when a demand was made and subsequent times that it was not paid, when demand was made, they would not have to go through the service of making demand each subsequent time. The demands are made through the Department of Social Rehabilitation Services.

Judy Shorman said she was a registered Occupational Therapist and holds a masters degree in Health Care Management, and currently manages operations for International Rehabilitation Associates, Inc.

I have about 20 Occupational Therapists who work throughout the State of Kansas, and we are able to do rehabilitation under Workers Compensation in the State of Kansas, and it is effective up to a point. We are able to get people who have been injured in their work place and are recovering. We are able to do medical management with these people and able to work with their employer and with their physicians, and we try to return them to their same jobs, or a similar job with the same employer, and when we run into that situation, we are told to close our files that our services are no longer needed. The reason this happens is because those employers don't have the finances to provide rehabilitation. With the changes recommended in HB2186 for partial disability, we will be able to do vocational rehabilitation and employers will have an incentive to provide that. (See Attachment 2)

Richard Thomas said he would restrict his comments to the issues that directly affect the rehabilitation efforts of Kansans injured in employment settings and encourage the committee members to view HB2186 as a piece of the necessary changes needed to ensure effective rehabilitation for Kansans.

Other needed changes are found in HB2573 and both pieces must be passed to enact legislation that addresses the findings of the Joint Committee on Labor and Industry that was held in the summer of 1984. We, at the State Department of Social and Rehabilitation Services feel this is an opportunity to bring effective rehabilitation to the injured Kansas worker. (See Attachment 3)

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,

room 527-S, Statehouse, at 1:30 ~~pm~~/p.m. on Monday, March 23, 1987.

Rob Hodges told the committee members they had the Kansas Chamber of Commerce and Industry, synopsis of HB2186 in front of them. (See Attachment 4)

Mr. Hodges said several of us went into this legislative session as we have in the past, looking for significant changes in the areas of Workers Compensation, particularly in the areas of vocational rehabilitation and providing the appropriate study for vocational rehabilitation. It is important to look at HB2186 with HB2573. We are trying, in two separate bills to address all the problems. KCCI supports HB2186 as amended by the House Committee.

Sherman Parks, Jr. said the Kansas Chiropractic Association had concerns in the medical area, relating to workers compensation. One area that has not kept up with changing times and was not addressed by the amendments to HB2186, is the area of "unauthorized medical." This is on page 9, lines 306 through 321, with the key sentence located on line 306, the statute allows an injured party to go to the physician of their choice as defined by K.S.A. 44-508, rather than to the "company doctor". The dollar amount did not change, but the amendment did take out the language about obtaining an opinion. We feel the total dollar amount allowed for this freedom of choice should be changed.

This is not a chiropractic, only issue. It effects MDs, DOs, Dentists, Optometrist and Podiatrist as well as Chiropractic Physicians. The Kansas Chiropractic Association would like to propose the following amendment to HB2186. "On page 9, line 321, by striking the dollar amount "\$350", and inserting in lieu thereof "\$750".

We urge your favorable consideration of HB2186 as amended with the KCA'S proposal. (See Attachment 5)

Chairman Thiessen asked Mr. Parks, "Did you offer the amendment proposal in the House Committee?"

Mr. Parks said no.

Rich McKee said he was representing the members of the Kansas Livestock Association, and we are in support of HB2186. We feel, it provides our industry with benefits to the members, and with that Mr. Chairman, you have my written testimony and I would be glad to answer any question you or the committee members, may have. (See Attachment 6)

Having no questions of Mr. McKee, the Chairman called upon Wayne Micahel.

Wayne Michael representing AFL-CIO said we do support the provisions of HB2186, but there is a lot in the bill that we don't agree with. We agree that Workers rehabilitation is very important, and if the worker can get back to work with the same employer, making the same kind of money he was making before injury, that was one of our concerns, so we do support HB2186.

Representative Arthur Douville, Chairman of the Labor and Industry House Committee said with respect to the Chiropractic problems, it is not just the Chiropractors problem. First of all, they are experienced, but when ever you raise the rate, whether it be a chiropractor or any other doctor, it seems the examination and the diagnosis, goes up very proportionally. So, we thought that basically a good examination if \$350, for the examination only. They also, use it for treatment. Maybe we should allow more for treatment, but we felt the \$350 for examination was enough.

In respect to HB2186, this addresses some of the problems of rehabilitation, and we have another bill that deals very extensively with the problem of rehabilitation. While this bill stands on it's own, and should be passed out, we still should address the problem of rehabilitation and we are working on that now in the House Committee.

Senator David Kerr asked Representative Douville "What is in this bill, that would speed it up and streamline it"? I am impressed with a lot that has been done, but one of the big problems that we have are the backlogs and delays in the system. What is in this bill, that will help solve these problems?

Representative Douville said we are hoping between this bill and the bill, we are dealing with in rehabilitation, that the emphasis will be a step in encouraging the employer to put the employee back to work under the rehabilitation plan. I don't believe the bill addresses the problems of backlog, and I know there is a problem in this area.

Senator Daniels said she would like for someone to comment on line 631 of the bill on repetitive injury and disability, since that is primarily a woman. I would like to have that explained.

Representative Douville said it apparently does affect more women than men, but it is not solely women, it affects all workers, both men and women. You may have a slight functional disability with a loss of maybe 5%, and can't go back to work, according to your Doctor. Then you get a big work disability of maybe \$75,000 We have increased this to \$100,000 and this is

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS,
room 527-S, Statehouse, at 1:30 ~~am~~ p.m. on Monday, March 23, 1987.

for a slight disability. We are saying with our new law that you can not do that. We are not going to give a work disability with respect to a slight disability, but if you have a big fuctional disability, say in both hands, then you have a tremendous loss of strength in both hands. You are still going to get 400 weeks of disability, because you get 200 weeks for one hand, so you will still get the same amount of money.

Senator Morris moved to approve the minutes of March 17, 1987 seconded by Senator Gordon. The motion to approve carried.

The Chairman adjourned the meeting at 2:30 p.m.

MEMORANDUM

TO: Senator Dan Thiessen
FR: Gordon Self
RE: HB 2186

Major Provisions of HB 2186, which amends
the Workers Compensation Act

1) Provides that the Workers Compensation Act shall be liberally construed for the purpose of bringing employers and employees within the provisions of the act. The provisions of the act shall be applied impartially to employers and employees (p. 3, lines 110 through 116).

2) The definition of wholly dependent child is changed to include persons less than 23 years who are not physically or mentally able to earn wages or who are enrolled as a full-time student of an accredited institution of higher education or vocational education (p. 6, lines 203 through 208).

3) Community service work shall include public or community service performed as a requirement for receipt of any kind of public assistance in accordance with any program administered by the secretary of social and rehabilitation services (p. 7, lines 263 through 266).

4) District court may not enter a judgment for medical services or materials and such action shall be stayed until final adjudication of any claim for compensation (p. 8, lines 296 through 305).

5) When an employee seeks a physician for the purpose of examination, diagnosis or treatment without application or approval, the employer shall be liable for fees and charges of such physician up to \$350 (p. 9, lines 316 through 321).

6) The maximum death benefits are increased from \$100,000 to \$200,000 (p. 12, line 432).

7) Whenever the employee is entitled to compensation for repetitive use conditions in opposite upper extremities, compensation shall be computed as separate scheduled injuries to each such extremity, and not as an injury to the body as a whole,

with the percentage of loss of use thereof to be increased by 20% of the determined loss of use to each such extremity (p. 17, lines 631 through 637).

8) The existing test for permanent partial general disability (ability of employee to engage in work of the same type and character that such employee was performing at the time of injury) would be replaced by a test of the employee's ability to perform work in the open labor market taking into consideration the employee's education, training, experience and capacity for rehabilitation. In any event the extent of permanent partial general disability shall not be less than the percentage of functional impairment. A presumption is established that the employee has no work disability if the employee engaged in any work for wages comparable to the average gross weekly wage that the employee was earning at the time of the injury (p. 19).

9) Maximum compensation benefits for:

a) Permanent total disability would be increased from \$100,000 to \$125,000;

b) temporary total disability would be increased from \$75,000 to \$100,000; and

c) permanent or temporary partial disability would be increased from \$75,000 to \$100,000 (p. 21 lines 760, 765 & 769).

10. Additional compensation shall include any amounts of employer taxes paid by the employer under the social security system and would not be used in setting an employee's weekly benefit amount (p. 22, lines 815 through 818).

11) Employees shall be required to make only one service of written demand after the final award. Subsequent failures to pay compensation shall entitle the employee to apply for the civil penalty without demand (p. 28, lines 86 through 89).

12) The director of workers' compensation could modify an award and reduce compensation upon review and modification (p. 30, line 163). Any modification of an award on the basis that the functional impairment or work disability of the employee has increased or diminished shall be effective as of the date that the increase or diminishment actually occurred. In no event shall the effective date of such modification be more than six months prior to the date the application was made for review and modification.

13) The director of workers' compensation shall review attorney fees in lump-sum payment situations based upon the criteria included in the statute (p. 32, line 33).

14) Allows venue to be in a county mutually agreed upon by all of the parties (p. 35, line 355).

15) Change the name of the act from Workmen's Compensation Act to Workers Compensation Act (p. 39).

PRESENTATION TO THE SENATE LABOR & INDUSTRY COMMITTEE

STATE OF KANSAS

March, 1987

In reference to
Worker's Compensation Rehabilitation

Judy Shorman
International Rehabilitation Associates
6701 West 64th St., Suite 220, Shawnee Mission, KS 66202
(913) 722-2085

Senate Labor, Industry and Small Business
Attachment 2 3-23-87

Introduction

My name is Judy Shorman. I am a Registered Occupational Therapist and hold a master's degree in Health Care Management. I am also a CIRS. I have been a private rehabilitation specialist and a supervisor of private rehabilitation specialists in Kansas for 6½ years. I currently manage all operations for Intracorp (International Rehabilitation Associates, Inc.) in 4½ states (Kansas, Missouri, Iowa, Nebraska and Arkansas)

IRA was the first private rehabilitation provider nationally and was incorporated in 1970. We remain the largest provider, with 135 offices and 3,500 employees. We opened our Kansas office 10 years ago and were the first provider in Kansas. We remain the largest in Kansas with 20 "rehab specialists" employed. These specialists work throughout the state and report to an administrative office in Shawnee Mission.

I am here to support HB 2186. I will present recommendations based on my experience in Kansas, as well as other states.

This presentation will outline:

- . A definition of Worker's Compensation Rehabilitation
- . IAIABC recommended components of Worker's Compensation Rehabilitation
- . Supportive evidence of the need for a system to assure injured workers receive rehabilitation in a timely fashion
- . NARPPS recommended components of Worker's Compensation rehabilitation
- . Statement describing the need for a system to assure injured workers receive the most appropriate rehabilitation possible
- . Probable costs of rehabilitation

Definition of Worker's Compensation Rehabilitation

"Rehabilitation" begins at the moment a person is injured. It can be considered the long term restorative aspects of recovery. It is the process of taking an injured worker through his medical treatment program and returning him to gainful employment. Rehabilitative sources may include medical and vocational professionals, home health vendors, in-patient or out-patient facilities, consumer advocacy groups, and government programs.

We believe rehabilitation under Worker's Compensation has three basic characteristics:

1. Rehabilitation is financed from the liability of the employer/insurance carrier to the injured worker. Rehabilitation shares the goal of the employer - to return the injured worker as closely as possible to his pre-injury status.
2. The worker's disability is often traumatic and the worker's medical history is complicated, resulting in a rehabilitative process of quick improvements mixed with slow periods of change. To complicate the physical recovery, client motivation is a perishable commodity. It is extremely important that Worker's Compensation rehabilitation services be timely as well as of high quality.
3. Worker's Compensation rehabilitation is a cooperative process requiring the good faith of the employer/carrier, injured worker and counsel, organized labor, Worker's Compensation Commission, and the rehabilitation provider.

In summary, most injured workers return to the job with no complications, in a reasonable length of time. Their process of rehabilitation is simple, their motivation is high, and their employers are urging them to return to work. A recent study by the National Council on Compensation Insurance (NCCI) revealed that only 5% of the lost time cases had not returned to work as of 90 days post-injury. That figure was based on a national sample of 65,000 workers.

International Association of Industrial Accident Boards and Commissions
(IAIABC) Recommended Components of Worker's Compensation Rehabilitation.

Several groups, including the IAIABC, have developed conceptual models of what components should be included in a Worker's Compensation statute. These conceptual plans have had much in common and uniformly have called for rather specific statutes rather than enabling acts. Among the recommendations of the IAIABC were:

1. A rehabilitation unit of the workmen's compensation system to oversee the provisions of rehabilitation service to the industrially disabled and to help informally mediate disputes among the parties.
2. Definitions of the responsibilities respectively of the employer/ carrier, the injured worker, and the rehabilitation provider. In essence, rehabilitation should be mandated both for the employer/ carrier to provide and the worker to accept.
3. A definition of the goal of rehabilitation and the limits of the duration of service.
4. A mechanism for resolving disputes efficiently and with adequate due process protection for the parties.

Components of Worker's Compensation rehabilitation received by the National Association of Rehabilitation Professionals in the Private Sector (NARPPS):

1. The goal of Worker's Compensation rehabilitation should be to return the injured worker to an income as close as possible to the income earned at the time of injury with due regard to the employee's age, education, and past work experience.
2. There should be a fail safe system to assure that any injured worker needing rehabilitation gets it in a timely manner.
3. There should be an administrative arm of the Worker's Compensation system that deals strictly with rehabilitation, which we have in Kansas. Their goal should be to assure compliance with the act and to promptly resolve disputes.
4. The act should distinguish health care services from vocational services. We believe medical intervention is geared to helping a worker maintain or return to a job.
5. The following suggested hierarchy of goals assures that vocational plans are as simple and direct as possible. Not only is this the most cost-effective approach to rehabilitation, but also the most likely to succeed;
 - . return to the same job with the same employer;
 - . return to the same job with modification with the same employer;
 - . return to the same or modified job with a new employer;
 - . return to a new job with newly developed job skills;
 - . return to independent living status.
6. The act should mandate the employer/carrier to provide a rehabilitation evaluation, and if indicated, a rehabilitation plan. It should also mandate the injured worker to participate in the rehabilitation evaluation, and, if indicated, the rehabilitation plan.
7. Rehabilitation providers should be required to register with the Division of Worker's Compensation.
8. The act should authorize the direction of the rehabilitation division to study and to report on the effectiveness and costs of rehabilitation services being provided.

The importance of timely rehabilitation intervention

Page eleven of the model Worker's Compensation act (previously submitted) provides guidelines for special rehabilitation referral. We suggest referrals be made for catastrophically injured workers immediately, and others at 90 to 120 days post injury. I suggest this based on my own experience, the fourteen years of experience by our company, and a study of the literature available.

At the moment a typical worker enters medical treatment he enters a foreign world of language, procedures, and expectations. My observation has been that he often quickly becomes overwhelmed, frightened or confused. He then develops unrealistic expectations regarding his treatment plan, expected recovery, and return to work. This results in increased anxiety, anger, and frustration for some people - these are the people who will not progress through their rehabilitation at the average rate.

The second group of individuals I've observed who are not completing treatment and returning to work as expected are those who have not had adequate medical care or who have had additional complications. This can occur for a variety of reasons, such as;

- . he doesn't understand prescribed treatment and so doesn't follow through on it
- . he could benefit from additional evaluations
- . he has had multiple treatments which have not been successful
- . he has a history of another disease process, such as arthritis or diabetes

International Rehabilitation Associates was the first company to employ rehabilitation specialists who could objectively evaluate and intervene in an injured worker's medical status and employability, through interviews with the worker, his doctor and his employer. We made mistakes in our early years of believing our services could be successful for anyone, regardless of the injury and the length of lost work time. After some costly failures we made it a goal to educate employers and insurance carriers to the need for early referral to our specialists. The attitude and process of rehabilitation begins at the moment of injury, not after all else has failed.

In the NCCI study, only 5% of the lost time cases had not returned to work as of 90 days post-accident. This figure dropped to 3.7% as of 120 days. This finding is consistent with studies done by physicians and facilities involving back injured patients. Studies done in California and Minnesota show the later a case is referred for rehabilitation, the more expensive it is likely to be and the less successful.

The point is that most injured workers will return to work promptly after receiving appropriate treatment. It's the minority of injured workers who need additional rehabilitation intervention, and the sooner they get it, the more likely it will be successful.

State Department of Social and Rehabilitation Services

Testimony In Support of H.B. 2186

Mr. Chairman, Members of the Committee, I appreciate the opportunity to speak briefly in favor of the Worker's Compensation legislation proposed in H.B. 2186.

I will restrict my comments to the issues that directly affect the rehabilitation efforts of Kansans injured in employment settings and encourage you to view H.B. 2186 as a piece of the necessary changes needed to ensure effective rehabilitation for Kansans. The other needed changes are found in H.B. 2573 and both pieces must be passed to enact legislation that addresses the findings of the Joint Committee on Labor and Industry that was held in the summer of 1984. After many hours of discussion and compromising this is an opportunity to bring effective rehabilitation to the injured Kansas worker.

I wish to support Section 7, lines 0651-0666 Permanent Partial Disability is defined in terms of the injured workers' ability to perform work in the open labor market and to earn comparable wages. This replaces the undefinable, substantial and gainful employment. This protects the injured worker and should increase the involvement of vocational rehabilitation. This section also encourages the employer to become involved and would negate work disability if the injured worker remains at pre-injury level. Functions loss would continue to be based on medical evidence of loss of physiological functions.

Referrals from Worker's Compensation are only about 3-5% of the total referrals to Kansas Rehabilitation Services and they have not been the most productive

referrals due to the lack of incentives for the injured worker or the employer to become involved in rehabilitation efforts.

The chart that I have attached is a good indicator of the effectiveness of current worker's compensation legislation. During FY85 and 86, 55-59% of the unsuccessful closures were closed either failure to cooperate or refused services.

One of the major keys is early referrals to evaluate the rehabilitation potential before the case ends up in litigation. Kansas Rehabilitation Services is willing to explore the expansion of evaluation services offered at out center in Salina to areas such as Kansas City, Topeka, and possibly western Kansas if rehabilitation legislation found in H.B. 2186 and H.B. 2573 is enacted. This would assure more timely services and avoid litigation before referrals to Rehabilitation.

I appreciate your time and again I encourage you to view these two Bills as a combined effort to improve the rehabilitation efforts to Kansans injured in the work place.

Richard L. Thomas

Rehabilitation Services

for

Robert C. Harder

Office of the Secretary

Social and Rehabilitation Services

296-3271

March 23, 1987

Kansas VR Clients Referred by Workers Compensation Closed Case Status

FFY 1985 and 1986

	FFY 1985		FFY 1986	
Number Closed Cases	250		312	
Closure Status	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
Successful	75	30.0	118	37.8
Unsuccessful				
Before Acceptance	126	50.4	153	49.0
After Acceptance	49	19.6	41	13.1
Reason for Closure	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
01 Moved/Unable to Locate	17	9.7	24	12.2
02 Too Severe	21	12.0	28	14.4
03 Refused Services	68	38.9	80	41.2
07 Failure to Cooperate	29	16.6	34	17.5
09 No Vocational Handicap	7	4.0	8	4.1
Age	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
- 29	16	6.4	19	5.8
30 - 39	50	20.6	56	17.9
40 - 49	79	31.6	93	20.2
50 +	105	41.4	144	46.1
Education	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
Below High School	71	31.4	109	36.7
High School	122	54.0	140	47.1
High School Plus	33	14.6	48	16.2
Severely Disabled	<u>#</u>	<u>%</u>	<u>#</u>	<u>%</u>
No	188	82.1	227	75.9
Yes	41	17.9	72	24.1

State Department of Social and Rehabilitation Services

Statement Regarding H.B. 2186

Title - AN ACT relating to workers compensation; concerning legislative intent; medical compensation; compensation for death and temporary and permanent disabilities; definitions; limitations on compensation and attorney fees; failure to pay compensation due; medical evidence; review of awards; citation of act; amending K.S.A. 44-501, 44-508, 44-510, 44-510b, 44-510c, 44-510d, 44-510e, 44-510f, 44-511, 44-512a, 44-519, 44-528, 44-534a, 44-536, 44-556, 44-567, and 44-574 and repealing the existing sections.

PURPOSE - To clarify the legislative intent that workers compensation cases be decided on their merits and that the act shall be applied impartially.

BACKGROUND - Kansas workers compensation legislation has been reviewed for major revisions stemming from studies of a Special Committee on Labor and Industry Findings in 1984.

House Bill 2186 is an incremental part of the total revision needed in Kansas workers compensation legislation.

EFFECTIVES OF PASSAGE - Passage of H.B. 2186 without necessary rehabilitation legislation found in H.B. 2573 would do little to increase the number of Kansans injured at the work site returning to competitive employment.

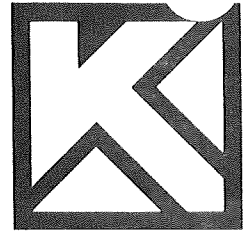
Rehabilitation incentives in H.B. 2573 for both the injured worker and the employer who makes rehabilitative measures available to injured workers are added, then the rehabilitation emphasis of H.B. 2186 would be strengthened.

Robert C. Harder
Office of the Secretary
Social and Rehabilitation Services
296-3271
March 23, 1987

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

W.C. Reform Package. HB 2186, which would make several changes in the state's workers' compensation law, was amended in House committee before being passed by the full House. As amended, the bill would:

- * specify the legislature's intent that the act is to be liberally construed to bring employers and employees within its provisions, but that those provisions are to be impartially applied to both employers and employees thereafter;
- * add to the definition of "wholly dependent child" persons less than 23 years of age and either a) not physically or mentally capable of earning wages, or b) enrolled as a full-time student in higher education or vocational education;
- * prohibit entering of a judgment for medical services or materials provided until final adjudication of the claim;
- * permit an injured employee to use "unauthorized medical" benefits only for examination, diagnosis, or treatment and limit an employer's liability to pay for unauthorized medical;
- * increase the maximum death benefit from the current \$100,000 up to \$200,000;
- * specify that repetitive use conditions occurring in opposite upper extremities will be compensated as two scheduled injuries, plus up to 20% of the loss of use to each extremity;
- * replace the existing test of "permanent partial general disability" with a new test of the employee's ability to perform work in the open labor market, taking into account the employee's education, training, experience, and capacity for rehabilitation, except that the percent of permanent partial general disability could not be less than the percentage of functional disability determined by competent medical evidence;
- * establish a presumption that no work disability exists if the injured employee returns to any work for wages comparable to the average gross weekly wage earned at the time of the injury;
- * increase the maximum compensation payable for permanent total disability from the current \$100,000 up to \$125,000;
- * increase the maximum compensation payable for temporary total disability from the current \$75,000 up to \$100,000;
- * increase the maximum compensation payable for permanent or temporary partial disability from \$75,000 up to \$100,000;
- * specify that employer-paid Social Security taxes are not "additional compensation" and are not to be used in establishing a claimant's weekly benefit amount;
- * permit claimants to apply for civil penalties without further demand after one service of written demand for payment of compensation due after a final award;
- * add to the possible results of a review and modification hearing the ability of the W.C. director to modify the award and reduce compensation; and,
- * subject attorney's fees in lump-sum settlement cases to a review by the workers' comp. director to approve the fees using a set of criteria set into the statute.

(KCCI SUPPORTS)



Kansas Chiropractic

ASSOCIATION

TESTIMONY TO THE SENATE COMMITTEE ON LABOR & INDUSTRY
RE: HOUSE BILL NO. 2186

PRESENTED BY: SHERMAN A. PARKS, JR.
EXECUTIVE DIRECTOR OF KANSAS CHIROPRACTIC ASSN.

Mr. Chairman & Members of the Committee:

The Kansas Chiropractic Association appreciates the opportunity to comment on HB 2186, the workers compensation bill.

We support HB 2186 as amended. We feel that the progressive changes are much needed to have a workers compensation act that is reflective of today's times and needs.

One area that has not kept up with changing times and that was not addressed by the amendments to HB 2186, is the area of "unauthorized medical."

K.S.A. 44-510 (c) which is on page 9, starting at line 306 with the key sentence located on lines 316 thru 321, is the statute which allows an injured party to go to the physician of their choice as defined by K.S.A. 44-508, rather than to the "company doctor". The House committee did not change the dollar amount of this subsection, but did take out the language about obtaining an opinion. Even though we would prefer that this language would have stayed in we can "live with" that minor change. However, the area that we feel should be changed is the total dollar amount allowed for this freedom of choice.

This is not a chiropractic only issue. It affects MDs, DOs, Dentists, Optometrists, and Podiatrists as well as Chiropractic Physicians.

K.S.A. 44-510 has been in the workers compensation statutes since 1927. Since 1927 there has been included a dollar amount for an injured employee to go to the physician of their choice. The original amount was \$100. An amount more than adequate when health care cost was much lower, such as the \$3.00 office visit or the \$5.00 per day hospital cost. This \$100.00 amount continued until it was increased to \$150.00. Which at that time was still more than adequate for most if not all treatment plans.

In 1981, the Legislature changed the dollar amount from \$150 to \$350. Since that time there has not been a major change in the dollar amount of unauthorized medical. However, cost of providing health care has more than doubled during that time frame.

Most people are more selective nowadays about who they pick to treat their health problems and guide them in a constructive health program. As a result, the

Senate Labor, Industry and Small Business
Attachment 5
3-23-87

Page 2.

House committee included language, starting at line 316, that granted the injured employee to go to the physican of their choice without application or prior approval. The key point here is that it is a choice, it is not mandated that a person has to go to a particular MD, DO, or DC; It gives the injured patient the choice to decide who shall treat their body.

Since the purpose of HB 2186 is to make the workers compensation act more in tune with the needs of today and beyond, Kansas Chiropractic Association would like to propose the following simple amendment to HB 2186:

"On page 9, in line 321, by striking the dollar mount "\$350", and inserting in lieu there of \$750".

We feel this amendment is an excellent recommendation to bring the dollar amount of "unauthorized medical" to a realistic level without major additional cost to the employee.

We urge your favorable consideration of HB 2186 as amended with the KCA's proposal.

Thank you for the opportunity to appear, and we apprecicate your consideration of these comments.

I will be happy to respond to any questions.

CALIFORNIA STUDY

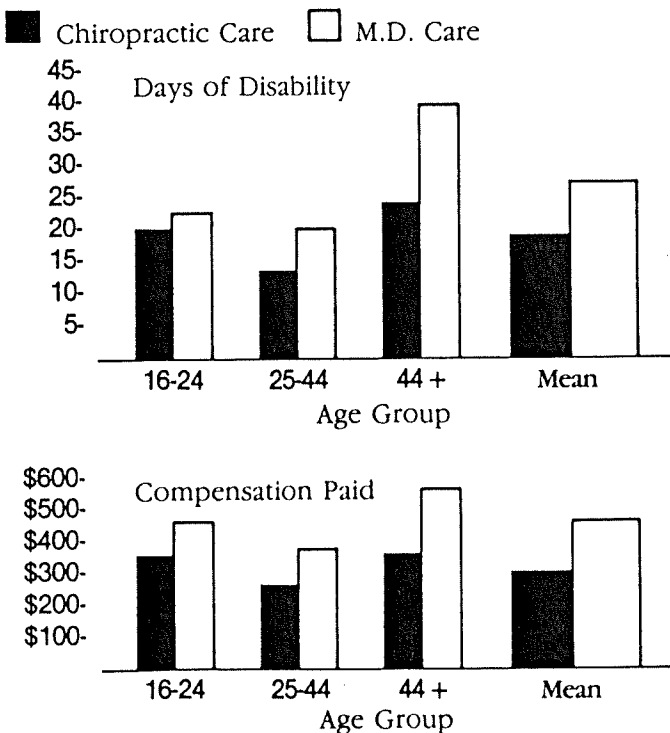
This study was conducted by C. Richard Wolfe, M.D., utilizing records provided by the California Division of Labor Statistics and Research, in 1972. Dr. Wolfe's independent study was designed to compare cases of time loss due to industrial back injury when treated by a medical doctor and when treated by a doctor of chiropractic. The study was structured to report on the next arriving 500 cases of back injuries treated by M.D.'s and the next 500 cases under chiropractic care. Each of the patients was contacted by mail and asked three questions regarding the treatment they had received. 1,000 patients were queried, and 629 replied. Following are the results of the study.¹

	Aver. No. Work Days Lost	% Reporting Complete Recovery	% Reporting No Lost Work Time	% Losing Over 60 Work Days
Chiropractor	15.6	51	47.9	6.7
Medical Doctor	32	34.8	21	13.2

MONTANA STUDY

An American Chiropractic Association sponsored study of Montana's workers' compensation claims from 1975-1978² demonstrated substantial savings to patients using chiropractic services versus M.D. services. Of special note is that the period of disability resulting from an industrial back injury and the treatment costs were considerably less when a doctor of chiropractic was utilized.

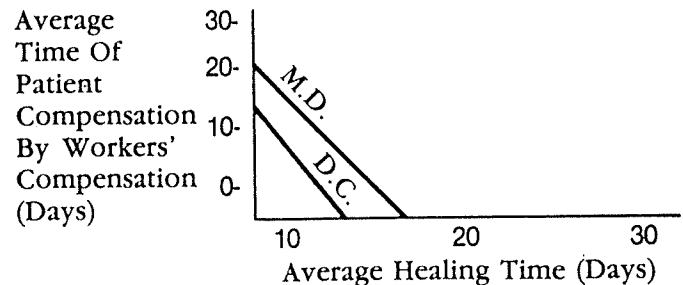
The bar graph below clearly highlights the above statement concerning costs and the length of disability.



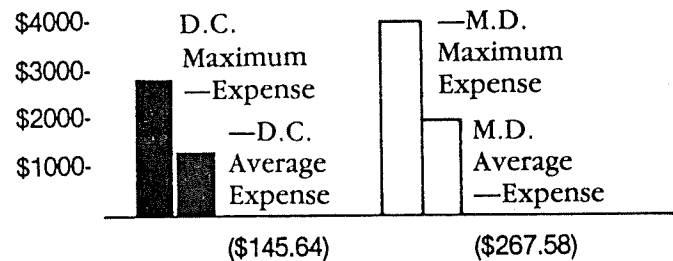
WISCONSIN STUDY

In March, 1979, the Wisconsin Chiropractic Association commissioned researchers at The University of Wisconsin to perform a study of persons having strained or sprained backs.³ The study excluded back fractures, and cases that resulted in permanent total disability. The research revealed that those patients treated by chiropractic recovered faster, returned to their workplaces more promptly and had lower overall health care costs.

The study was based upon documented cases filed with the State Department of Industry, Labor and Human Relations during 1977. Also, the cases were covered by the State's Workers' Compensation Laws. The two charts presented next show the quicker healing time and lower cost of chiropractic care.



Expense Range For M.D. And D.C. Care Per Back Injury



OREGON STUDY

In 1971, a detailed back injury study⁶ was performed using the records of the Workers' Compensation Board of the State of Oregon. This study revealed that all of claimants under chiropractic care, 82% returned to work after one week of time lost. This compares to 41% who resumed work after one week under the care of M.D.'s.

A separate study using the Oregon records⁵ compared the costs of rendering care for strains and sprains. The results of this study are briefly outlined below. Note that chiropractic care costs were less than 25% of the M.D. costs.

	Strains and Sprains Treated By M.D.'s	Strains and Sprains Treated By D.C.'s
Average Total Cost of Care	\$298.52	\$72.92

A follow-up study, completed in 1975⁷, again using the workers' compensation data, further reinforced the efficacy of chiropractic care in Oregon. This study revealed that twice as many patients treated by medical physicians received temporary disability awards than those treated by chiropractic physicians. Additionally, 13% of the M.D. treated patients were awarded permanent disability awards while only 6% of the D.C. treated patients received permanent disability awards.

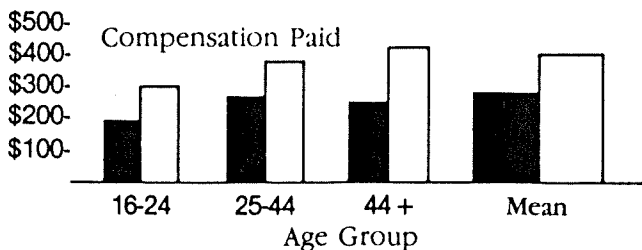
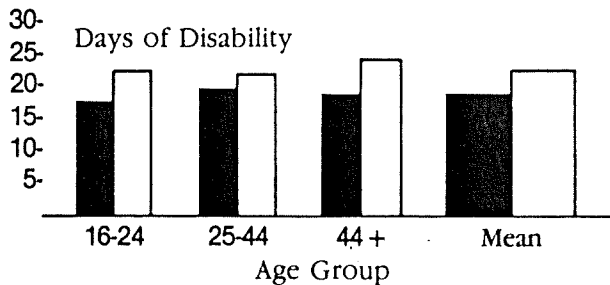
IOWA STUDIES

Two studies utilizing Iowa back injury data have been undertaken. The original study used cases for the years 1966 and 1969.⁵ The statistical information was provided by the Iowa Workers' Compensation Authority.

	Back Injuries Treated By M.D.'s	Back Injuries Treated By D.C.'s
Cost Per Case 1966	\$118.74	\$68.25
Cost Per Case 1969	\$210.06	\$79.28

In 1978, an analysis of nonoperative back and neck injuries claims processed by the Iowa Office of the Industrial Commission⁸ revealed a number of interesting conclusions. Both the average period of disability and the average amount of compensation awarded were lower for chiropractic patients than for non-chiropractic patients.

■ D.C. Treatment □ M.D. Treatment



FLORIDA STUDY

Based on Florida statistics, a 1960 study by the First Research Corporation⁴ also demonstrated the cost-effectiveness of chiropractic treatment. The comparison between chiropractic and other types of professional treatment for similar nonoperable injuries is shown in the chart below. Note the difference in both cost and average work days lost per employee.

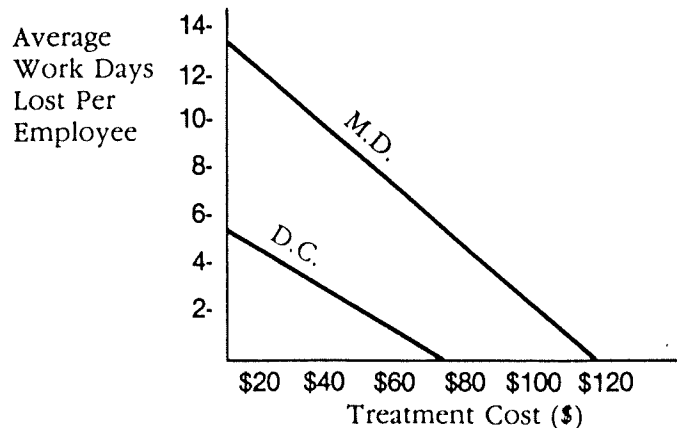
	Cases Treated By M.D.'s	Cases Treated By D.C.'s
Average Work Days Lost Per Employee	9 Days	3 Days
Average Total Treatment Cost	\$102.00	\$60.00
Average Number Of Visits	6	9

A similar comparison was made on nonoperable injury cases treated by M.D. specialists, such as orthopedists, and neurologists.

	Cases Treated By M.D. Specialists	Cases Treated By D.C.'s
Average Work Days Lost Per Employee	30 Days	2.5 Days
Average Total Treatment Cost	\$299.00	\$30.00
Average Number Of Visits	18.1	8.6

KANSAS STUDY

A study of 1972, Kansas Workers' Compensation⁹ records concerning the comparison between chiropractic and medical treatment for nonoperable injuries, is graphically presented below. Please observe that the average D.C. treatment cost was \$68.43 as compared to \$117.61 for the M.D. This is approximately 40% less than the M.D. cost. D.C. treatment also resulted in an average workday loss per employee of 5.8 versus 13.1 days for non-D.C. physician treatment.





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Owns and Publishes The Kansas STOCKMAN magazine and KLA News & Market Report newsletter.

STATEMENT
OF THE
KANSAS LIVESTOCK ASSOCIATION
TO THE
SENATE COMMITTEE ON LABOR, INDUSTRY AND SMALL BUSINESS
SENATOR DAN THIESSEN, CHAIRMAN
REGARDING HB2186
PRESENTED BY
RICH MCKEE
EXECUTIVE SECRETARY FEEDLOT DIVISION
KANSAS LIVESTOCK ASSOCIATION
MARCH 23, 1987

Mr. Chairman and members of the committee, as most of you know, the Kansas Livestock Association represents approximately 9,500 members from all across Kansas who are involved in literally every phase of red meat production.

The past year or so we have heard a lot of talk about economic development and what the legislature can do to bolster the state's economy. We believe that taking care of some of the good productive industries that are already located in Kansas is a good place to start and, in fact, may even prove to be the single most important and fertile area for economic development. The cattle feeding and meat packing/processing industries have been one of the few economic bright spots in Kansas. More specifically, southwestern Kansas and several of its communities have benefited greatly from the economic activity

generated by these businesses. The real encouragement comes when you realize there is still a lot of innovation, improved technology and convenience processing on the horizon for the meat packing and processing industry. For example, consumer demands for quick, easy to prepare convenience foods and the need to constantly improve the efficiency of the merchandising chain is leading the industry towards further processing of beef carcasses. Instead of simply breaking down (i.e. disassembling) a beef carcass into loins, chucks, rounds, etc. and shipping those from the cattle feeding/slaughter/processing area of southwestern Kansas to the retail centers it is now more apparent than ever that in the future the packers, will process these carcasses completely down to retail sized, individually packaged portions. This could mean thousands of new jobs in these Kansas plants which are already the largest and most technology advanced of any in the world.

The Kansas Livestock Association believes that modifications to the workmen's compensation laws of this state similar to those contained in this bill - and especially those relating to repetitive use conditions - are long over due and will be of great benefit in helping to encourage the further advancement of the meat processing industry providing economic benefits to the Kansas red meat industry and the entire Kansas economy.