

Approved 2-17-87  
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by SENATOR ROY M. EHRLICH at  
Chairperson

10:00 a.m. ~~pm~~ on February 10, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Emalene Correll, Legislative Research  
Norman Furse, Revisor of Statutes Office  
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Harold Riehm, Executive Director, Kansas Association of Osteopathy  
Jerry Slaughter, Executive Director, Kansas Medical Society  
Lawrence T. Buening Jr., General Counsel, Kansas State Board of Healing Arts

Others attending: see attached list

The chairman called the meeting to order, with minutes for February 2, 3, 4, 5 and 6 presented for approval or correction. Senator Hayden made the motion to accept the minutes as presented with a second from Senator Kerr. Motion carried.

SB-36 - An Act concerning the health care provider insurance availability act; excluding certain persons licensed to practice the healing arts from the definition of health care provider;

Harold Riehm testified and presented written testimony on SB-36 stating support of the bill. Mr. Riehm called attention to his written testimony which set out questions concerning SB-36. (attachment 1)

Jerry Slaughter testified and presented written testimony in support of SB-36. This bill would allow physicians who have retired from active practice to maintain their license so they can provide a valuable service in the area of volunteer work. It was noted that the bill merely exempts such licensees from the mandatory insurance. Mr. Slaughter presented an amendment to SB-36 also one for SB-35, which were intended to clarify the bill and also would carry exemption of continuing education. (attachment 2)

Lawrence Buening stated that this bill was needed as they received calls from groups who would like to have the service of these retired physicians as volunteers. Difficulty is encountered because the statutes, as they concern physicians, and the insurance statutes differ. Mr. Buening stated that it would be very difficult to determine who was properly covered and who was not. During discussion the comment was made by Mr. Slaughter that perhaps Class 1 active license and Class 2 active license would be a good concept. A volunteer category was suggested by Senator Bond. Senator Bond moved that the committee adopt amendments as suggested by Mr. Slaughter on line 0067. (see attachment 2) Senator Kerr seconded the motion. Senator Hayden stated he was concerned about the word "regularly". Mr. Slaughter stated that he was willing to work with Mr. Buening and try and resolve the conflict on insurance and the healing arts act. The second was withdrawn by Senator Kerr and Senator Bond withdrew his motion. Senator Kerr asked that comments by Mr. Riehm in his testimony also be taken into consideration.

SB-86 - An Act requiring certain reports concerning the termination of pregnancies;

The chairman asked the committee to express their wishes concerning SB-86. Senator Francisco stated that he had requested some amendments but as yet did not have them. Senator Hayden questioned the fact that there was no penalty clause. Senator Salisbury questioned the exact purpose of this

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.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 526-S, Statehouse, at 10:00 a.m./~~pm~~ on February 10, 1987

legislation. Senator Kerr made the motion to amend SB-86 by striking Section 1 (c) and amending Section 1 (a) conceptually to have everyone reporting as hospitals are today reporting but only require reports from those who actually terminate pregnancies. Senator Francisco seconded the motion. Discussion followed. Senator Francisco called the question. Senator Kerr, with the permission of the second, Senator Francisco, amended the motion to strike Section 1 (c) changing Section 1 (a) to insure those physicians who do not perform abortions during the year need not report and add at the end of the last sentence a statement that the Secretary of Health and Environment shall submit this data sheet in a way to insure confidentiality as the purpose of gathering this information is for statistical purposes only. Motion carried.

Senator Mulich moved SB-86 as amended be passed out favorable. Senator Francisco seconded the motion and the motion carried.

SB-87 - An Act concerning emergency medical services; providing for administration of the act; declaring certain acts to be unlawful and classifying the crime and the penalties for violations; providing exceptions from liability for civil damages.

Senator Hayden made the motion to pass SB-87 out favorable and Senator Vidricksen seconded the motion.

Senator Bond moved to amend SB-87 line 103 (a) Initial scene management; line 0108 (d) extremity splinting excluding traction splinting. (see attachment 1, February 5, 1987) Senator Mulich seconded the motion and the motion carried.

A question concerning Section 3 regarding liability was discussed. The motion carried and SB-87 as amended was passed out favorable.

SB-18 - An Act concerning human body parts; declaring certain acts relating thereto not to be a sale and limiting liability therefor;

The wishes of the committee were asked concerning SB-18. Hearings were scheduled on the bill with no conferees appearing. Senator Francisco made the motion to report SB-18 adversely. Discussion related that Bill Wolff had been contacted by Midwest Organ Bank and they stated they were in favor of the bills and if there were concerns over these bills they would be glad to appear. These bills were designed to encourage more participation in the program. No second appeared. Senator Mulich stated he would like to leave the bill in committee until further direction is obtained.

The meeting adjourned at 10:53 a.m. with the next meeting scheduled for February 11, 1987.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 2-10-87

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

Larry Bunning - Topeka  
Harold C. Pitts Topeka

Div of Learning Arts

Jeremy TRANQUAN

KS MEDICAL SOCIETY

Jerry M. Bunde

observer

Harold Riemer

KS ASSN Osteopathic MED

Gary Robbins

KS optometric Assn  
CHRISTIAN SCIENCE COMMITTEE  
ON PUBLICATION FOR KANSAS

KEITH R LANDIS

KPOA

Barb Reunert

KAPTA

Frances Kastner

John Peterson

KS Assn Prof Psychologists

Belva Ott

Planned Parenthood of KS, Inc.

Theresa Shwela

KANSAS NARAL



## Testimony of The Kansas Association of Osteopathic Medicine

Bill # S.B. 36  
Date Feb. 10, 1987

Mr. Chairman and Members of the Senate Public Health Committee:

My name is Harold Riehm and I represent The Kansas Association of Osteopathic Medicine.

We support the concept of S.B. 36. We feel it opens opportunities for retired physicians that permits them to provide public service type services that would most likely not be provided were they required to continue to carry professional liability insurance, both basic coverage and Fund coverage.

In our population of retired physicians and other health care providers we have a great potential reservoir of unused talent available for certain types of public service. We think this is a positive step toward utilization of that talent.

On the other hand, KAOM has some questions that may well have been addressed by the time of this testimony, or may be in the course of further consideration of S.B. 36. Among them are these:

(1) It is assumed that, in this instance, to permit this certain type of delivery of service and to, correspondingly, not require liability coverage (private or Fund), that this will in no way interfere with the physicians' continued coverage by the Fund for any liability matters that may arise.

(2) For some purposes the physician would continue to be categorized as a "health care provider" (i.e., other sections of KSA). Presumably this would present no conflict for those other provisions that it is important they retain the categorization of "health care provider".

(3) It is unclear whom would be responsible for making rules and regulations regarding this provision, if indeed any are necessary. Perhaps there should be corresponding language inserted in the appropriate Board of Healing Arts sections, to permit them to address questions that may arise. For example, there may indeed be questions arise as to what "regularly engaged", found in line 70, page 2, actually means.

It is impossible to say how many physicians would take advantage of this relaxation of insurance liability regulations. Undoubtedly many would continue to be reluctant to pursue any action for which they could incur any liability. But, as earlier stated, KAOM endorses means to permit licensed physicians to provide this type of service.

Thank you.

*SPH/W*  
*2-10-87*  
*Attachment 1*

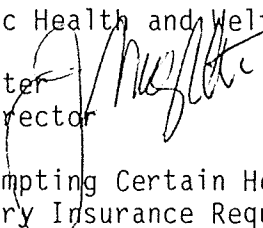


# KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

February 10, 1987

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter   
Executive Director

SUBJECT: S.B. 36; Exempting Certain Health Care Providers  
from Mandatory Insurance Requirement

The Kansas Medical Society appreciates the opportunity to comment on S.B. 36 which concerns those classes of persons who are required to carry malpractice insurance.

We support S.B. 36 because it would allow physicians who have retired from active practice to maintain their full license so that they can provide a valuable service in the area of volunteer work, administrative duties, incidental consulting, and a variety of other non-patient care activities. Currently, with malpractice insurance costs, it is not feasible for a physician to maintain an active license even though many of the activities described above require that a licensee have a full license in order to provide such services.

It is important to note that S.B. 36 does not exempt physicians or the organizations they volunteer or work for from liability. The bill merely exempts such licensees from the mandatory insurance. They may choose to carry a minimal amount of insurance, or have it provided by the organization. However, enactment of this legislation would remove the necessity to buy the required primary limits as well as contribute to the Health Care Stabilization Fund.

We would like to offer an amendment which we feel further clarifies those exempted (see attached). Additionally, a separate amendment would exempt such licensees from the mandatory continuing education requirement, but that amendment should appropriately be made in S.B. 35. Nevertheless, we have included it for your review today.

We think this legislation is an excellent solution to the problem faced by many physicians who would like to remain productive in non-patient care activities but are unable to do so because of the malpractice laws. We urge your favorable consideration of S.B. 36. Thank you for the opportunity to appear, and we appreciate your consideration of these comments.

JS:nb

Attachment

S P H W

2-10-87

attachment 2

0015 commissioner of insurance, an optometrist licensed by the board  
0016 of examiners in optometry, a podiatrist registered by the state  
0017 board of healing arts, a pharmacist licensed by the state board of  
0018 pharmacy, a licensed professional nurse who is authorized to  
0019 practice as a registered nurse anesthetist, a licensed professional  
0020 nurse who has been granted a temporary authorization to prac-  
0021 tice nurse anesthesia under K.S.A. 1986 Supp. 65-1153 *and*  
0022 *amendments thereto*, a professional corporation organized pur-  
0023 suant to the professional corporation law of Kansas by persons  
0024 who are authorized by such law to form such a corporation and  
0025 who are health care providers as defined by this subsection, a  
0026 partnership of persons who are health care providers under this  
0027 subsection, a Kansas not-for-profit corporation organized for the  
0028 purpose of rendering professional services by persons who are  
0029 health care providers as defined by this subsection, a dentist  
0030 certified by the state board of healing arts to administer anes-  
0031 thetics under K.S.A. 65-2899 and amendments thereto, a physical  
0032 therapist registered by the state board of healing arts, or a mental  
0033 health center or mental health clinic licensed by the secretary of  
0034 social and rehabilitation services, except that health care pro-  
0035 vider does not include (1) any state institution for the mentally  
0036 retarded ~~or~~, (2) any state psychiatric hospital *or* (3) *any person*  
0037 *licensed to practice any branch of the healing arts who does not*  
0038 ~~receive any fees or other compensation for any services per-~~  
0039 ~~formed in the practice of any branch of the healing arts and who~~  
0040 ~~is not regularly engaged in such practice.~~

who is not regularly engaged in such  
practice and who does not hold himself  
or herself out to the public as being  
professionally engaged in such practice.

0041 (g) "Inactive health care provider" means a person or other  
0042 entity who purchased basic coverage or qualified as a self-in-  
0043 surer on or subsequent to the effective date of this act but who, at  
0044 the time a claim is made for personal injury or death arising out  
0045 of the rendering of or the failure to render professional services  
0046 by such health care provider, does not have basic coverage or  
0047 self-insurance in effect solely because such person is no longer  
0048 engaged in rendering professional service as a health care pro-  
0049 vider.

0050 (h) "Insurer" means any corporation, association, reciprocal  
0051 exchange, inter-insurer and any other legal entity authorized to

0118 sions hereinafter contained of K.S.A. 65-2836 and amendments  
0119 thereto.

0120 Sec. 17. K.S.A. 1986 Supp. 65-2809 is hereby amended to  
0121 read as follows: 65-2809. (a) The license shall expire on June 30  
0122 each year the date of expiration established by rules and regu-  
0123 lations of the board and may be renewed annually on a biennial  
0124 basis upon request of the licensee. The request for renewal shall  
0125 be on a form provided by the board and shall be accompanied by  
0126 the prescribed renewal fee, which shall be paid not later than the  
0127 expiration date of the license.

0128 (b) Except as otherwise provided in this section, the board  
0129 shall require every licensee in the active practice of the healing  
0130 arts within the state Kansas to submit evidence of satisfactory  
0131 completion of a program of continuing education required by the  
0132 board. The requirements for continuing education for licensees  
0133 of each branch of the healing arts shall be established by the  
0134 members of such branch on the board. The board shall adopt  
0135 rules and regulations prescribing the requirements established  
0136 by the members of each branch of the healing arts for each  
0137 program of continuing education as soon as possible after the  
0138 effective date of this act. In establishing such requirements the  
0139 members of the branch of the healing arts establishing them such  
0140 requirements shall consider any programs of continuing educa-  
0141 tion currently being offered to such licensees. If, immediately  
0142 prior to the effective date of this act, any branch of the healing  
0143 arts is requiring continuing education or annual postgraduate  
0144 education as a condition to renewal of a license of a licensee of  
0145 such branch of the healing arts, such requirement as a condition  
0146 for the renewal of such license shall continue in full force and  
0147 effect notwithstanding any other provision of this section to the  
0148 contrary.

0149 (c) On and after October 1, 1986, The board, prior to renewal  
0150 of a license, shall require the licensee, if in the active practice of  
0151 the healing arts within the state Kansas, to submit to the board  
0152 evidence satisfactory to the board that the licensee is maintain-  
0153 ing a policy of professional liability insurance as required by  
0154 K.S.A. 40-3402 and amendments thereto and has paid the annual

2-3  
Any person licensed to practice any branch of the healing arts who is not regularly engaged in such practice and who does not hold himself or herself out to the public as being engaged in such practice, shall be exempt from continuing education requirements.