

Approved 5/16/87  
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./~~p.m.~~ on February 27, 1987 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

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

Conferees appearing before the committee:

Others present: see attached list

A letter from Jack D. Walker, M.D., Lt. Governor, concerning SB-147 was distributed to committee members. (attachment 1)

Jerry Slaughter presented a draft of amendments resulting from input by the Board of Healing Arts and the Insurance Department. (attachment 2)

Senator Hayden moved adoption of the amendments proposed by the Kansas Medical Society with fee amounts as recommended by the healing arts act and SB-35. Senator Morris seconded the motion. The motion carried.

Senator Salisbury moved to report SB-36 favorable for passage as amended. Senator Bond seconded the motion. The motion carried.

The committee proceeded with work on SB-264. Staff stated that they had been requested to obtain cost estimates from other states but it was very difficult due to the fact that each state establishes the spend-down level which is prescribed by federal regulation to be 130% of the AFDC level. Norman Furse presented a series of items that have come up and need to be resolved in SB-264. (attachment 3)

After discussion of item I, Senator Morris conceptually moved to change lines 0038 and 0039 to comply with SRS definition. Senator Reilly seconded the motion. The motion carried.

Senator Francisco moved to adopt item II as presented. Senator Hayden seconded the motion. The motion carried.

After considering item III Senator Morris moved to define non-exempt resources in reference to the state medical assistance plan. Senator Francisco seconded the motion. The motion carried. (Attachment 4)

Item IV was discussed and the committee was satisfied with this section of the bill.

Item V was taken up with Senator Francisco moving adoption of the option to authorize a lien to the extent of the federal law. Senator Morris seconded the motion. The motion carried.

The committee moved on to item VI. Senator Morris moved to strike Section 3. Senator Salisbury seconded the motion.

Senator Bond offered a substitute motion which would use language from Section 3 on the \$8,600 with saving language from Illinois that would protect the state from the Federal Government in requiring a pay back, and by permitting a dropping back to the \$341 level if necessary. Senator Francisco seconded the motion.

Meeting adjourned at 11:00 a.m. The next meeting will be March 2, 1987.

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.

SENATE  
PUBLIC HEALTH AND WELFARE COMMITTEE

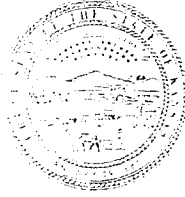
DATE 2-27-87

(PLEASE PRINT)  
NAME AND ADDRESS

ORGANIZATION

NAME AND ADDRESS	ORGANIZATION
Marilyn Bratt Lawrence	KINHI
Nettie Fyle Topeka	SHL
KATH R LAND IS "	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
HAROLD E. RIENM TOPEKA	KADM
Mark Intermill Topeka	Kansas Coalition on Aging
Guy E. Gibson Topeka	AARP
Basil Covey Topeka	KRTA
Robert C. Guthrie Topeka	ADRDA
Marcel Chambers Wichita	KASDA
Robert Foster Wichita	KASDA
Brenda Stapp Topeka	KDOA
Lyndon Dren Topeka	KDOA
Melanie Dory Topeka	(Prof Rowland) Washburn
PAT DONAHUE TOPEKA	KANSAS LEGAL SERVICES, Inc.
Theresa Shively Topeka	KANSAS NARAC
Ray Charles Mound City, KS	KCOA
HAROLD PITTS Topeka	KCOA
Tom Bell Topeka	Ks. Hosp. Assn.

STATE OF KANSAS



OFFICE OF THE LIEUTENANT GOVERNOR

2nd FLOOR, STATE CAPITOL  
TOPEKA, KANSAS 66612-1504  
(913) 296-2213

JACK WALKER, M.D.  
LIEUTENANT GOVERNOR

February 12, 1987

Honorable Roy M. Ehrlich  
Chairman of the Senate Public  
Health and Welfare Committee  
State Capital, Room 138 N  
Topeka, Ks 66612

Dear Roy;

The credentialing machinery is still alive and in place. However, the question that arises is whether or not the credentialing process is there to deal with the scope of practice for a profession that is already licensed.

Our legal staff is of the opinion that the credentialing process is set up to determine if a profession should be credentialed, - ie. licensed or registered, - but that it is not legally set up to rule on the scope of practice for a group already licensed.

Please note the attached letter. SB 147 - is not relevant. It is a new group wanting to be licensed. The credentialing process would be appropriate to address such a report, but credentialing would not address the scope of practice for the group.

Sincerely,

  
Jack D. Walker M.D.  
Lt. Governor

*SPH/W*  
*2-27-87*  
*attachment 1*

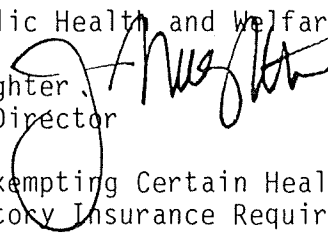


KANSAS MEDICAL SOCIETY

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

February 27, 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

Since the original hearing on S.B. 36, we have been working with the Kansas Board of Healing Arts and the Insurance Department to try to find a method to accomplish what was intended by this legislation. I believe we have reached a solution which should adequately address the concerns of those involved, plus simplify the confusion which exists over the provisions in the Healing Arts Act and the insurance statutes.

Attached to this letter is a balloon draft of the first part of the amendment to S.B. 36, on lines 66-70.

In addition, the applicable provisions on the Healing Arts Act must be attached to this legislation so that those provisions can be properly amended. The language we are suggesting would appear at K.S.A. 65-2809, and would apply to doctors of medicine, osteopathy and chiropractors. The amendment is as follows:

(f) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application therefore on a form provided by the board, and remits the fee for the exempt license established pursuant to K.S.A. 65-2852 and amendments thereto. The board may issue an exempt license only to a person who has previously been issued a license to practice the healing arts in Kansas who is no longer regularly engaged in such practice or who does not hold himself or herself out to the public as being professionally engaged in such practice. Each exempt license may be renewed annually subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the healing arts act, except as otherwise provided herein. The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2809 and amendments thereto. Each exempt licensee may re-apply for a license to regularly engage in the practice

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of the appropriate branch of the healing arts upon filing a written request with the board and submitting evidence of satisfactory completion of applicable re-education and continuing education requirements established by the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852 and amendments thereto. The board shall adopt rules and regulations establishing appropriate re-education and continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas.

K.S.A. 65-2852 would then have to be amended to establish two additional subsections for exempt licensure fees for MDs, DOs and DCs. The amendment to K.S.A. 65-2852 would read as follows:

(a)(4) An exempt license or renewal of an exempt license, an amount of not more than \_\_\_\_\_;

(a)(5) For conversion of an exempt license to a license to practice the healing arts, an amount of not more than \_\_\_\_\_.

To complete the amendments, the statutes concerning podiatrists and physical therapists would also have to be amended. Basically, language identical to that in the two sections above should be added for podiatrists at K.S.A. 65-2004 and 65-2012. For physical therapists, the similar language should be added at K.S.A. 65-2910 and 65-2911.

Finally, the amended sections should be repealed, and the title of S.B. 36 should be amended to reflect the addition of those sections of the healing arts act which are now included.

We appreciate the patience of the committee in deferring action on this bill until these amendments were completed. We believe the creation of an exempt license and registration will solve this problem and simplify the administrative requirements needed. Thank you.

JS:nb

Attachment

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.~~

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

holding an exempt license or exempt registration  
issued by the state board of healing arts.

Questions -- S.B. No. 264

- I. Projected Length of Stay in Institution. (p. 1, lines 38 and 39).
  - A. Should the bill cover only those persons who enter a medical facility for truly long-term care?
  - B. SRS defines long-term care as care provided to a person which exceeds or is projected to exceed three months.
- II. Definition of Qualified Applicant. (p. 1, lines 42-44).
  - A. The second part could be rewritten as follows: "(2) is under institutional care or ~~is~~ would be eligible for home and community based services if receiving medical assistance."
- III. Resources--Exempt, Nonexempt. (see def. p. 2., lines 48-55).
  - A. The term "resources" as used in section 2 may need clarification between exempt and nonexempt.
- IV. Dividing Resources. (p. 3, lines 106-116).
  - A. Is the division authorized in Section 1(b)(2) the policy the committee wants?
- V. Liens under S.B. No. 264. (p. 3, lines 84-97, p. 4, lines 150-156, p. 5, lines 157-174).
  - A. Bill prohibits secretary from recovering medical assistance, then allows secretary to file lien to recover assistance.
  - B. Under 42 U.S.C. 1396p state may establish lien to recover medical assistance paid for institutional care only from real property and only upon the death of the recipient or spouse except as may be required by a court or if state determines recipient cannot be discharged from medical institution and return home. The individual's home is not subject to lien if spouse, child under 21 or sibling with equitable interest in home living there. A lien on person property is not authorized.
  - C. One option would be to authorize a lien to extent authorized under 42 U.S.C. 1396p. Another would be to strike lien language and strike language prohibiting secretary from recovering medical assistance.
- VI. Division of Income. (Sec. 3).
  - A. Should this provision be retained and, if so, what amount of income should be protected (the bill protects \$8,600).
  - B. In the alternative, should the state's medicaid protected income standard be changed by statute from its current \$341 per month.
- VII. Sharing the Same Room. (p. 6, lines 194-201).
  - A. SRS testimony indicated this language in sec. 3(a)(1)(A) should be deleted as it "is not an issue if the applicant/recipient's spouse does not apply for or receive medical assistance.
  - B. If necessary in sec. 3(a)(1)(B), the same room language could be modified to talk about residence.
- VIII. Suggested Criminal Code Section Amendment.
  - A. Treatment by spiritual means alone does not constitute support.
  - B. Kansas constitutional problem (one subject) because the subject of the bill is medical assistance and amendments in bill to the criminal code section only carry out policy relating to the medical assistance changes.

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attachment 3

as neither the person nor members of the person's family have actual control over the donations or benefits or the disbursement of the donations or benefits.

In determining the amount and nature of medical assistance for which a person may qualify, consideration shall not be given to the value of cash, property or other assets held in the name of the person's spouse pursuant to a written agreement dividing the marital property into equal but separate shares or pursuant to a transfer of the person's interest in a home to his spouse; provided that the spouse's share of the marital property is not made available to the person seeking medical assistance and that such person does not reside in the home. A person seeking medical assistance, or his guardian, shall be informed at the time of application that an equal division of marital property with or transfer of interest in a home to his spouse shall not affect his eligibility for such assistance. However, if federal law or regulation requires consideration of any of the resources described in this paragraph, such resources shall be considered in determining the amount and nature of medical assistance for which a person may qualify.

Amended by P.A. 80-258, § 1, eff. Aug. 19, 1977; P.A. 84-183, § 1, eff. Jan. 1, 1986; P.A. 84-410, § 1, eff. Jan. 1, 1986; P.A. 84-832, Art. III, § 3, eff. Sept. 23, 1985.

1 Chapter 67½, ¶ 401 et seq.

P.A. 84-183 added the second paragraph.

P.A. 84-410, in the second sentence, inserted "and Pharmaceutical Assistance"; and added the third sentence.

P.A. 84-832, Art. III, the 1985 Revisory Act, which corrected patent or technical errors, deleted obsolete text and corrected cross references to titles and section numbers of Acts, in the second sentence, inserted "and Pharmaceutical Assistance".

Art. I, § 3, of P.A. 84-832, the 1985 Revisory Act, provides in part that Article III provides for the revision of sections of Acts to correct patent or technical errors, to delete obsolete text, and to correct cross-references to titles and section numbers of Acts. For provisions of Art. I, § 1, relating to intent and supersedure, Art. I, § 3, and Art. IV, § 1, relating to effective dates and accel-

eration of Acts with later effective dates or extension or revival of repealed Acts, see notes following ch. 15, ¶ 210.10 and ch. 23, ¶ 5-5.

Final legislative action, 84th General Assembly:

P.A. 84-183—June 24, 1985

P.A. 84-410—June 24, 1985

P.A. 84-832—June 30, 1985

See S.H.A. ch. 1, ¶ 1105 as to the effect of (1) more than one amendment of a section at the same session of the General Assembly or (2) two or more acts relating to the same subject matter enacted by the same General Assembly.

#### Library References

Drugs and Narcotics ⇨11.

C.J.S. Drugs and Narcotics §§ 2 to 9, 27.

#### 5-4.1. Co-payments

§ 5-4.1. Co-payments. The Department may by rule provide that recipients under any Article of this Code (other than group care recipients) shall pay a fee as a co-payment for services. Co-payments may not exceed one dollar for pharmacy services, physicians services, dental services, optical services and supplies, chiropractic services, podiatry services, and encounter rate clinic services. Co-payments may not exceed three dollars for hospital outpatient and clinic services. Provided, however, that any such rule must provide that no co-payment requirement can exist for renal dialysis, radiation therapy, cancer chemotherapy, or insulin, and other products necessary on a recurring basis, the absence of which would be life threatening, or where co-payment expenditures for required services and/or medications for chronic diseases that the Illinois Department shall by rule designate shall cause an extensive financial burden on the recipient, and provided no co-payment shall exist for emergency room encounters which are for medical emergencies. Laws 1967, p. 122, § 5-4.1, added by P.A. 82-664, § 1, eff. Nov. 3, 1981.

Section 2, of P.A. 82-664, certified Nov. 3, 1981, provided:

"This Act takes effect upon its becoming a law."

#### Library References

Social Security and Public Welfare ⇨140.85.

C.J.S. Social Security and Public Welfare § 62.

#### 5-5. Medical services

§ 5-5. Medical services. The Illinois Department, by rule, shall determine the quantity and quality of the medical assistance for which payment will be authorized,