Approved 3-14-88
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

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

10:00 a.m./p.m. on March 3, 1988 in room 526-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Norman Furse, Revisors Office
Clarene Wilms, Committee Secretary

Conferees appearing before the committee:

Richard J. Morrisey, Director, Bureau of Adult & Child Care
Sherman A. Parks, Jr., Executive Director, Kansas Chiropractic Association
Jerry Slaughter, Exeuctive Director, Kansas Medical Society
Thomas L. Bell, Kansas Hospital Association
Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine
Written testimony, SB-702, Tuck Duncan, Kansas Occupational Therapy Assn.

Richard J. Morrisey appeared before the committee in support of SB-694 stating that this bill is needed to clarify the definition of ambulatory surgical center in today's environment. Mr. Morrisey further stated that his organizaiton did not believe the intent of K.S.A. 65-425 was to have the department survey and license physician offices where surgery is performed as ambulatory surgical centers and that his department clearly lacks the resources to do so. Therefore, Mr. Morrisey recommended passage of SB-694. Attachment 1

Sherman A. Parks, Jr., appeared in support of SB-701. Mr. Parks stated that SB-701 does not mandate, it only allows the opportunity to occur if the hospital governing authority does want to include additional licensed health care professionals. Attachment 2

Jerry Slaughter presented testimony opposing SB-701. Mr. Slaughter stated that it appears that the bill seems to establish legislative intent that all health care professionals must be eligible for staff members at any Kansas hospitals. Secondly, the Medical Society feels this bill would appear to make a fundamental change in the universally accepted concept of physicians licensed to practice medicine and surgery being primarily responsible for professional staff standards and competance. Such a change is a step backward in terms of quality patient care. Attachment 3

Thomas L. Bell spoke in opposition of SB-701 stating the concerns of the Kansas Hospital Association. It was stated that SB-701 has the potential of increasing liability exposure for hospitals. Mr. Bell stated that this bill is, in reality, much more complicated than it appears on its face and raised points of concern listed in Attachment 4.

Harold E. Riehm testified in opposition to SB-701 stating that this bill would make some major changes in the composition of what constitutes staff in Kansas hospitals. Attachment 5

Richard J. Morrisey appeared before the committee concerning SB-701. Mr. Morrisey stated that the Department of Health and Environment had no objection to the inclusion of additional practitioners on medical staffs of medical care facilities but it was the department's belief that more specific definition of potential practioners was needed. Attachment 6

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./p.m. on March 3, 1988

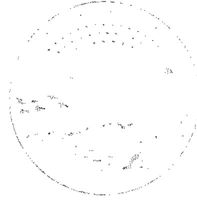
Written testimony from R. E. "Tuck" Duncan was presented to committee members on SB-702. Due to lack of time Mr. Duncan will appear first on tomorrow, March 4, 1988, agenda. Attachment 7

The meeting adjourned at 11 a.m. and will convene at 10:00 a.m. on Friday, March 4, 1988 in Room 526-S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE March 3, 1988

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Sherman A. Parks, Jr.	Ks Chiropractic Assn.
Mark Intermill	Kansas Coalition on Aging
Marilyn Bradt	KINH
Richard Morrissey	KDHE
Bill Rein	KDHE
Keith R Landis	Christian Science Committee on Publication for Kansas
Harold E. Riehm	Kansas Assn of Osteopathic Medicine
Jim McBride	[illegible]
[illegible] Peters	Ks Assn of Prof Psychologists
[illegible]	K.O.A.
Gary Robbins	KOA
Jeannine Harmon	Behavioral Sciences Reg. Bd.
G. K. Hulett	KDHE

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT
Forbes Field
Topeka, Kansas 66620-0001
Phone (913) 296-1500

Mike Hayden, *Governor*

Stanley C. Grant, Ph.D., *Secretary*
Gary K. Hulett, Ph.D., *Under Secretary*

Testimony Presented To

Senate Public Health and Welfare Committee

By

Kansas Department of Health and Environment

Senate Bill 694

Background

Senate Bill 694 was introduced by the Senate Committee on Public Health and Welfare on February 23, 1988. The bill would amend the definition of an ambulatory surgical center as it now appears in K.S.A. 65-425.

The definition currently reads as follows:

> Ambulatory surgical center means an establishment with an organized medical staff of physicians; with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; with continuous physician services and registered nursing services whenever a patient is in the facility; (and which does not provide services or other accommodations for patients to stay overnight.)

The amendment would include the phrase, "and which is not an extension of a private practice or group physician practice." This additional language clarifies the public policy position that the Kansas Department of Health and Environment is not responsible for licensing physician offices, where surgical procedures are performed, as ambulatory surgical centers.

This distinction is now required due to the recent technological advances which have made it possible for more surgical procedures to be performed in a physician's office. Physicians' practices have been historically licensed by the Kansas Board of Healing Arts which ensures the protection of the public. Recently, the Kansas Department of Health and Environment has received ambulatory surgical center applications from some physician offices.

One reason for these applications is that additional third party reimbursement is available to licensed ambulatory surgical centers. Another problem is the definition of ambulatory surgical centers utilized for Medicare reimbursement purposes. An ambulatory surgical center may be an extension of a physician's office if it is distinct from the physician's office. Sharing of common space at nonoverlapping times is acceptable. The ambulatory surgical center need only be separated physically by semi-permanent walls and doors. The ambulatory surgical center staffing and record keeping must be separate and exclusive. Due to these differences, the Kansas Department of Health and Environment currently licenses ten (10) ambulatory surgical centers and certifies thirteen (13) for Medicare certification.

Recommendation

The proposed amendment presented in Senate Bill 694 is needed to clarify the definition of ambulatory surgical center in today's environment. The regulatory and reimbursement definitions of such an entity differ and serve different purposes. We do not believe the intent of K.S.A. 65-425 was to have the Department survey and license physician offices where surgery is performed as ambulatory surgical centers. The Department clearly lacks the resources to do so. The passage of Senate Bill 694 is, therefore, recommended.

Presented by: Richard J. Morrissey, Director
Bureau of Adult and Child Care
March 3, 1988

TESTIMONY ON BEHALF OF SB 701

PRESENTED BY

SHERMAN A. PARKS JR.

EXECUTIVE DIRECTOR THE KANSAS CHIROPRACTIC ASSN.

Senate Public Health & Welfare
March 3, 1988
Attachment 2

-TABLE OF CONTENTS-

*Testimony on behalf of SB 701: Presented by Sherman A. Parks, Jr. Executive Director of the Kansas Chiropractic Association.

*American Hospital Association Settlement Agreement.

*Education Comparison of Doctors of Chiropractic and Medical Doctors.

*Article - "What happens when Chiros get hospital privileges." Published in Medical Economics - January 4, 1988 and Medical Economics of Surgeons - February 1988.

Kansas Chiropractic
ASSOCIATION

TESTIMONY
before the
Senate Committee on Public Health and Welfare
March 3rd, 1988
RE: SENATE BILL NO. 701

Mr. Chairman, members of the committee, my name is Sherman A. Parks, Jr. and I represent the Kansas Chiropractic Association. I would like to thank the committee for introducing SB 701 and allowing the KCA the opportunity of presenting testimony on this particular piece of legislation.

Since time is a factor, I will go directly into the key points of this legislation.

Until 1975, licensed health care professionals, other than MD's, DO's, a few dentists, and those who worked directly under their supervision, faced an almost insurmountable task in seeking access to hospital staff privileges and to the diagnostic paraphernalia commonly located in hospitals.

The reason why licensed health care professionals were effectively barred from access to hospitals was because the Joint Commission on Accreditation of Hospitals, sponsored by the American Medical Association, the American College of Physicians, the American College of Surgeons, and the American Hospital Association prevented such. The impact of this Joint Commission was that the owners or governing boards of hospitals were effectively preempted from control of their assets -- the millions of dollars in facilities and diagnostic equipment located therein -- by a select private provider group that had made no financial contribution to the assets and which generally answered to no branch of government.

1334 S. TOPEKA • TOPEKA, KANSAS 66612 • (913) 233-0697

The environment today is different. As the result of a historic lawsuit where five Doctors of Chiropractic sued the American Medical Association, the American College of Surgeons, the American Radiological Association, the American Hospital Association, the Illinois Medical Association, and the American Osteopathic Association, the federal courts have declared that some of the above were guilty of violating the Federal Anti-trust Laws. The American Hospital Association, the Illinois Medical Association and the American Osteopathic Association all reached an out of court settlement with the Chiropractors.

At this time I would like to refer to the American Hospital Settlement agreement which I have attached to my testimony.

Now, the question I have been asked the most is, how will and what does SB 701 do in Kansas? SB 701 is what I call a "market place" bill. It does not mandate that license health care professionals must be on hospital staffs. It only allows the opportunity to occur if the "market place" wants this. What I am saying is, under present Kansas law today, only MD's, DO's and Dentists may apply for admission to hospital staff membership. What SB 701 would do is to open that "door of opportunity" to other qualified licensed health care professionals.

The authority to decide who will have hospital staff membership will be left to the governing authority of the hospital. If the hospital governing authority decides that it does not want certain licensed health care professionals on their staffs that is an option they have. However, the key point of SB 701 is that if a hospital governing authority does want to include additional licensed health care professionals they they can do such.

Here in Kansas, there have been numerous situations where hospital admistrators and a few MD's have wanted to allow licensed health care professionals limited or full staff privileges buthave been prevented by present Kansas law. SB 701 would correct this. The KCA is aware of many hospitals in this state that have tried to allow additional licensed health care professional to their hospital staffs but have

been prevented even though in the "market place" they would like this to happen. To be specific, the Kansas Chiropractic Association is aware of the following communities; Topeka, Johnson County, Wichita, Ottawa, Hillsboro, Wamego, Hutchinson and others. If SB 701, becomes law, these hospitals will be able to decide what they want rather than being "handcuffed" by a limited definition of only MD's, DO's and a few dentists. The definition used in SB 701, "health care professional" (on line 28), includes: MD's, DO's, Doctors of Chiropractic, podiatrists, certified psychologist, optometrists, and dentists. SB 701, if passed, would not grant any special scope of practice to these doctors. These licensed health care professionals could only perform those services which are in their scope of practice and which have been approved by the hospital governing authority.

The last important point of SB 701 is the effective date. The Kansas Chiropractic Association requested the effective date of January 1, 1989 for two reasons. The first, it would allow the Secretary of Health and Environment, the licensing agency of the Hospitals, the opportunity to correct the few rules and regulations that would be needed to be changed. Most of these changes would be "definitional, i.e. changing licensed to practice medicine and surgery to licensed health care professional. The second and what I consider the most important, it would allow the opportunity for licensed health care professionals to be able to take hospital protocol seminars so that when they are admitted for hospital staff membership, they can perform properly in a hospital environment. It would be my suggestion that the Kansas Chiropractic Association and the Kansas Hospital Association and other Kansas provider organizations cooperate and sponsor joint Hospital protocol seminars together to reach this goal. However, if for whatever reason this could not be accomplished, there are numerous national hospital protocal seminars available sponsored by our National Chiropractic Associations. These seminars would be sponsored by the Kansas Chiropractic Association and would be made available to all Doctors of Chiropractic in Kansas.

Once again Mr. Chairman and members of the committee, I would like to thank you for this opportunity to testify on behalf of SB 701 and would ask that you give favorable consideration to this bill.

Mr. Chairman, I will be happy to respond to any questions that you or the committee may have.

Thank you.

AHA SETTLEMENT AGREEMENT, June 12, 1987, containing "Statement of the American Hospital Association with Respect to the Profession of Chiropractic and Hospitals." Statement published in Hospitals, July 20, 1987, p. 10; and Trustee, August 1987, p. 6, provides in part: "The Association (AHA) has no objection to a hospital granting privileges to doctors of chiropractic, where consistent with law, for the purpose of: (1) administering chiropractic treatment to patients who wish to have such treatment, whether administered in conjunction with or separate from other health care treatment or services administered by medical doctors or other licensed professional health care providers; (2) furthering the clinical education and training of doctors of chiropractic; or (3) having new diagnostic x-rays, clinical laboratory tests, and reports thereon, made for doctors of chiropractic and their patients, and/or previously taken diagnostic x-rays, clinical laboratory tests, and reports thereon made available to them, by individual pathologists or radiologists employed by or associated with such hospital, upon the request or authorization of the patient involved."

QUALIFIED DOCTORS

Today's Chiropractors have seven or more years of college study and are duly licensed doctors.

MEDICAL DOCTORS Class Hours (Minimum)	Subject	DOCTORS OF CHIROPRACTIC Class Hours (Minimum)
508	Anatomy	520
326	Physiology	420
401	Pathology	205
325	Chemistry	300
114	Bacteriology	130
324	Diagnosis	420
112	Neurology	320
148	X-Ray	217
144	Psychiatry	65
198	Ob/Gyn	65
156	Orthopedics	225
2,756	Total Hours	2,887

GRAND TOTAL CLASS HOURS
(Including other required subjects for their specialty)

Medical Doctors	Doctors of Chiropractic
4,248	4,485

Compiled by comparing the curriculum catalogues of 22 Medical and 11 Chiropractic colleges.

WHAT HAPPENS WHEN CHIROS GET HOSPITAL PRIVILEGES

Not only have most staff physicians at this institution accepted the D.C.s, but some are getting more referrals.

By M.Carroll Thomas MIDWEST EDITOR

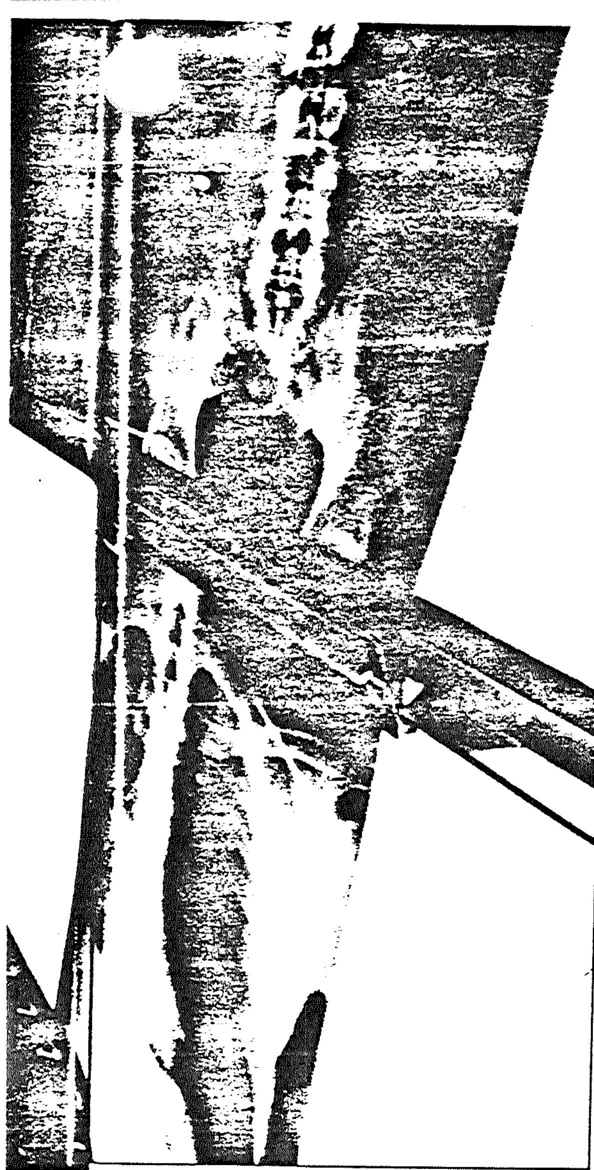
In late 1984, when the trustees of Detroit's New Center Hospital voted to give limited staff privileges to chiropractors, the lone physician on the five-member board dissented. "He argued that the chiropractors would interfere with standard medical treatment, that we'd damage our reputation by taking them on, and that the physicians on staff wouldn't accept them," recalls board chairman Tom J. Barrow.

The doctor was right about one thing. Few of New Center's 65 physicians have chosen to work with the D.C.s, and some still disapprove of having them on staff. But in their first two years the 14 chiropractors referred some 500 patients to the hospital's inpatient and outpatient facilities. Not coincidentally, say administrators, the 145-bed inner-city facility went from a $1.9 million deficit in 1984 to a $1.5 million surplus in 1986.

How it happened

When Detroit chiropractor R. James Gregg asked the hospital board to grant privileges to

2-9



D.C.s, he hoped both to gain more acceptance for his profession and to get his patients better access to the medical care they sometimes needed. He chose minority-owned New Center because it had what he considered a "pioneering attitude." Its medical staff included both D.O.s and M.D.s, and podiatrists had recently won limited privileges.

"Chiropractors see patients with a wide variety of complaints they can't treat: cardiac problems, kidney disease, dia-

R. James Gregg, who led the push for D.C. privileges, is now an accepted New Center staff member. Here he consults with radiologist Steven Lewin, treats one of his own patients, and poses with acting administrator Alfred Moore.

> "I don't always agree with the chiropractors, but that's medicine," says one physician. "The D.C.s are specialists in their area."

betes, even severe neuromusculoskeletal problems," says Gregg. "These people definitely need medical attention, and sometimes hospitalization. But without privileges, the best we could do was to refer a patient back to his regular physician—if he had one—or send him to an emergency room."

Gregg's case for D.C.s—and the promise of much-needed referrals—impressed the New Center board. It did a feasibility study and found that while no fully accredited hospital had ever granted D.C. privileges, neither were there legal impediments. The hospital was free to welcome any state-licensed chiropractor.

But what should chiropractors be allowed to do? To define their scope of practice, the board adopted the standards of Michigan's chiropractic statute. The law lets D.C.s treat neuromuscular and musculoskeletal disorders, using chiropractic adjustments and manipulations, but prohibits diagnosing or treating medical disorders, performing surgery or obstetrics, or prescribing medicines.

To those statutory restrictions, New Center added these provisions: Staff D.C.s could refer patients to the hospital's three outpatient clinics and order tests in the hospital's radiology department. But they would need a co-admitter, an M.D. or D.O., to get a patient into the hospital. Medical doctors would have full charge of the patient's care while he was there. To continue chiropractic treatment inside the hospital, a D.C. would need an order cosigned by the attending physician. And yes, staff D.C.s would be required to carry malpractice insurance.

Physician concerns are eased

Gregg, the first D.C. to join the staff, was appointed chief of chiropractic in early 1985. "I'll never forget my first staff meeting," Gregg says. "The chief of internal medicine stood up and blurted, 'What'll we do if we have a cardiac arrest, for heaven's sake? I can't have you getting in my way.'

"I told him not to worry—if there was a medical emergency, we chiropractors wouldn't *want* to be in the middle of it." Gregg reminded staff physicians that they'd have full charge of patients inside the hospital, and that chiropractic treatment would continue only with their permission.

"That meeting went a long way toward calming the medical staff's fears," says Gregg. "Some remained skeptical, but I don't think we've ever had a problem here with prejudice against chiropractors."

D.C.s are accepted, not embraced

Nevertheless, many of the New Center's M.D.s and D.O.s say they were blindsided by the move to add D.C.s to the staff. "It was a fait accompli," says a thoracic surgeon. "They never asked me how I felt. I wouldn't consider referring a patient to a chiropractor. Some of my patients have been to them, but quit because they didn't get any better."

Another M.D. says he was more perplexed than offended

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by the addition of D.C.s. "I don't see the need," says the internist. "The hospital already had a physical therapy department."

Other physicians, while not opposed to the idea of staff D.C.s, haven't yet had occasion to work with them. "I have no bias against them," says FP Terry Baul. "If they can help patients, I don't see why they shouldn't have privileges." Adds D.O. Charlie Fields, whose father was a D.C.: "I think having chiropractors on staff is a good idea."

Ophthalmologist Richard A. Brown, in charge of the hospital's quality-assurance and utilization review programs, says part of his job involves encouraging the D.C.s and M.D.s to accept one another.

"I tell the medical staff that cooperation is in the best interest of the patient," Brown says. "But there's a problem with economic competition. With third parties looking over our shoulders, we must be sure we're using the most cost-effective treatment—and sometimes that means a patient's back pain should be treated by a chiropractor for $30, not a neurologist for $65. That makes doctors nervous. Of course, if the chiropractic treatment isn't successful, the patient should be referred to an appropriate medical specialist."

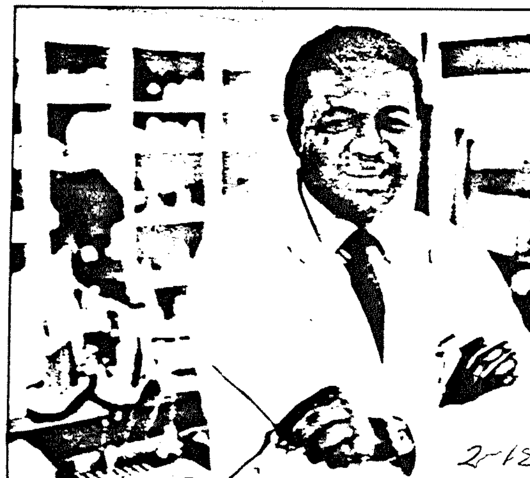
Internist Augustine Kole-James, the New Center chief of staff, estimates that only four or five physicians have co-admitted patients with the D.C.s. "Overall, the medical staff has *accepted* the chiropractic program, but not everyone has *embraced* it," he says.

No physician has left the hospital over the D.C. issue, however. "We've had some turnover since then, but not because we brought chiropractors on board," says administrator Alfred Moore.

Physicians get more referrals

Medical chief Kole-James, in charge of New Center's three outpatient clinics, says those units have gotten the biggest share of D.C. referrals. And it's there that the financial impact of the chiropractors has been most apparent. Outpatient revenues have increased from less than $1.2 million to nearly $5.7 million.

"Other hospitals look askance at us because what we're doing is so unconventional," says Tom Barrow, the board chairman. "But we're one of only a handful



Acting administrator Moore (top), chief of staff Augustine Kole-James, trustee Morris Weinberg, and utilization review director Richard Brown all support the chiropractors. "Cooperation with them means patients are getting better care," asserts Kole-James.

of minority-owned, small, inner-city hospitals that have survived. We recently gave employees their first raise in two years."

The hospital contends that D.C.s benefit cooperating physicians. According to Kole-James, staff D.C.s have been quick to seek consultations with physicians when patients' ailments don't respond to chiropractic treatment. And while the M.D.s and D.O.s later send the patients back to the referring chiropractors, some patients continue visiting the traditional doctors. Kole-James says that about 10 percent of the patients referred to him by staff D.C.s have continued to see him.

"As a result of our cooperation with chiropractors, patients are getting better care," he says. "Medicine is a very wide field, and there are always disagreements with peers over diagnosis and treatment. I don't always agree with the chiropractors, but that's medicine. The D.C.s are specialists in their area, just like other specialists."

Gregg, too, believes that patients are getting more comprehensive care. "A man recently came to my office complaining of numbness and loss of strength in his legs, with pain radiating from his lower back to his leg," Gregg says. "Right there in my office, he developed chest pains, and his breathing became labored—clearly a cardiac emergency. I was able to pick up the phone and get a co-admitting M.D. on the spot. The man's condition was attended to, without having to shuffle him off to an ER."

So far, the referrals seem to be running mostly one-way—from chiropractor to medical doctor. However, one hospital employee reports that she was recently referred by an M.D. to one of the staff D.C.s for treatment of tension headaches. "He felt I'd be better off to try chiropractic treatments instead of drugs," she says.

Will other hospitals follow suit?

At least 13 other hospitals have granted privileges to chiropractic physicians. And that number is likely to grow, thanks in part to a federal suit in which the American Medical Association was found to have violated antitrust laws by conspiring to thwart the chiropractic profession.

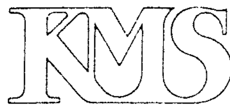
U.S. District Court Judge Susan Getzendanner, asserting that physicians' anti-chiropractic attitudes were "lingering effects" of the conspiracy, has ordered the AMA to inform its members that there is no ethical impediment to full professional association with D.C.s. The AMA is appealing on grounds that it's already told doctors exactly that.

But the lawsuit apparently has prompted other hospitals to wonder whether they might soon be pressured into extending privileges to chiropractors. D.C. Ronald Plamondon of the American Chiropractic Association says that since Getzendanner's ruling last September, he's heard from 45 hospitals interested in granting privileges to D.C.s. And Gregg, New Center's chiropractic chief, says he's conducted dozens of seminars for hospitals considering the addition of chiropractors to their staffs. "This is progress," he says. ■

Before and after

Taking a family history, I asked the elderly patient if he had any brothers and sisters and how they were doing. "Two brothers and one sister," he responded. "They're all dead now, but when they were alive they were in perfect health." —*Jose J. Llinas*, M.D.

2-13



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

March 3, 1988

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: SB 701; Concerning Professional Staff of Hospitals

The Kansas Medical Society appreciates the opportunity to comment on SB 701, concerning the selection of professional staff for hospitals. We are opposed to the bill in its present form, and urge you to report it adversely.

There are several problems with the bill. First, as it is written, the bill seems to establish legislative intent that all the health care professionals listed in Section 1(b) must be eligible for staff membership at any Kansas hospital. Since the definition of "health care professional" is quite broad, we can easily imagine a whole list of groups using this change in the law to force hospitals to grant them membership.

Second, we support the traditional concept of individual hospital boards of trustees making decisions on professional staff membership based on their own community need, range of services offered within the institution, and bylaw requirements. Boards then require significant quality assurance responsibility of the professional staff. This bill would appear to make a fundamental change in the universally accepted concept of physicians licensed to practice medicine and surgery being primarily responsible for professional staff standards and competence. We believe such a change is a step backward in terms of quality patient care.

Finally, in the current malpractice liability environment, it is advisable to move cautiously in any direction that appears to expose hospitals to even more litigation and liability problems. For example, if the state mandates inclusion in the professional staff of any licensed health care professional who is permitted by law to "independently provide patient care services," it may make it difficult for individual hospitals to apply uniform quality assurance and risk management procedures to its credentialing and peer review programs. Further, as the growing number of ancillary health care professionals pressure hospitals to include them in the professional staff as intended by this bill, it may expose hospitals to more litigation over denial of membership.

In summary, we oppose the bill in its present form because it raises many complicated issues for hospitals which must be thoroughly examined before such a significant change in policy is made. We do support the concept that local boards of trustees be able to select professional staff in the manner provided under current law. We urge you to report SB 701 adversely.

We appreciate your consideration of these remarks, and urge you to report SB 701 adversely. Thank you.

JS:nb

Memorandum

Donald A. Wilson
President

March 3, 1988

TO: Senate Public Health and Welfare Committee

FROM: Thomas L. Bell

SUBJECT: SENATE BILL 701

The Kansas Hospital Association appreciates the opportunity to comment on Senate Bill 701, regarding hospital staff privileges for "health care professionals". We are opposed to the bill as written and urge the Committee not to recommend its passage.

We have a number of genuine concerns with this bill, including the following:

1. The bill states the professional staff of a medical care facility <u>shall</u> be composed of health care professionals. As such, it seems to mandate eligibility for staff membership. This is in conflict with standards of Medicare and the Joint Commission on Accreditation of Healthcare Organizations.

2. Kansas hospital licensing statutes currently state that hospital medical staffs must be made up of "physicians", a term that excludes many of the "health care professionals" included in S.B. 701. This bill, therefore, conflicts with other statutes.

3. The term "health care professional", although defined in the bill, is ambiguous and in our opinion overbroad. The term obviously includes more than chiropractors, but its exact meaning is unclear. Further, as more professions become licensed, they may also fall within the meaning of this phrase.

4. S.B. 701 has the potential to increase liability exposure of hospitals. For example, more and more antitrust suits are being filed based on the denial of staff privileges. Since this bill increases the number of persons eligible for membership, it increases that risk. In addition, hospitals are more frequently being held liable for acts of the medical staff. By increasing the number of people a hospital must allow on staff, the bill increases the potential for medical malpractice liability.

5. Nothing currently prevents a hospital from granting these "health care professionals" certain limited privileges under bylaw provisions that recognize a category for "allied health care practitioners". Indeed, many hospitals presently do this.

1263 Topeka Avenue • P.O. Box 2308 • Topeka, Kan

Senate Public Health & Welfare
March 3, 1988
Attachment 4

6. The responsibility for medical care rendered in the hospital and for staff governance in the hospital has traditionally rested with physicians. This bill would change that standard to require that those not necessarily concerned with medical treatment be included in staff membership.

Senate Bill 701 is in reality much more complicated than it appears on its face. Indeed, it raises more questions than it answers. The first priority of Kansas hospitals must always be to provide the highest quality health care possible. We believe S.B. 701 does nothing to help maintain this goal and may, in some cases, make it more difficult to achieve.

Thank you for your consideration.

TLB:mkc

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka
Topeka, Kansas 66612
(913) 234-5563

March 3, 1988
S.B. 701

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

My name is Harold Riehm and I represent The Kansas Association of Osteopathic Medicine. I appear to express our opposition to S.B. 701.

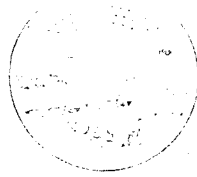
This Bill would make some major changes in the composition of what constitutes staff in Kansas Hospitals. At the same time, we think there is little indication of need or evidence that this would improve patient care in the hospital setting.

The implications of passing S.B. 701 raise several questions regarding sufficiency, cost, and governance of hospitals in Kansas. Is it to be suggested that present care in the hospital setting in suffering because of the lack of the changes suggested? Would there be significant cost impacts? What would this do to existing patterns of governing hospitals? All of these need to be examined.

Present Kansas law allows certain providers other than physicians to be granted some privileges under circumstances specified by the medical staff and the governing board. We think this system is sufficient in meeting hospital patient care needs.

I will be pleased to respond to any questions you may have.

STATE OF KANSAS



DEPARTMENT OF HEALTH AND ENVIRONMENT
Forbes Field
Topeka, Kansas 66620-0001
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Mike Hayden, *Governor*

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Testimony Presented To

Senate Public Health and Welfare Committee

By

Kansas Department of Health and Environment

Senate Bill 701

Background

Senate Bill No. 701 addresses the composition and credentialing of professional staff in medical care facilities. The bill would allow any health care professional to serve on a medical care facility's staff upon application and approval by the governing body, in accordance with its bylaws. A medical care facility is a hospital, ambulatory surgical center, or recuperation center. A health care professional is defined as "any person licensed under the Kansas healing arts act and any other licensed health care professional permitted by law to independently provide patient care services."

In recent years accrediting and regulatory agencies have expanded the definition of medical staff to include other practitioners. Medicare certification regulations for hospitals require that the "medical staff must be composed of doctors of medicine or osteopathy and, in accordance with state law, may also be composed of other practitioners appointed by the governing body". Certification requirements also state that, "patients are admitted to the hospital only on the recommendation of a licensed practitioner permitted by the state to admit patients to a hospital". The Joint Commission on the Accreditation of Health Care Organizations defines the characteristics of a medical staff to include "fully licensed physicians and may include other individuals permitted by law and by the hospital to provide patient care services independently in the hospital".

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Enactment of the proposed legislation would require the Department to amend its hospital regulations. Current medical staff definition includes only physicians who hold a valid license from the Kansas State Board of Healing Arts to practice medicine and surgery.

The definition of health care professionals in Senate Bill No. 701 would include medical doctors, osteopathic doctors and chiropractors, who are all licensed under the Kansas healing arts act. Health care professionals permitted to independently provide patient care services could potentially include podiatrists, dentists, optometrists, pharmacists, psychologists (Ph.D), specialist social workers, advanced clinical nurse practitioners, and hearing aid dispensers and fitters.

Some concerns related to Senate Bill No. 701 should be addressed. One is that the bill refers to professional staff rather than medical staff. Other accrediting and regulatory authorities define "medical staffs". The reference to "staff membership" in the bill, therefore, is moot on the subject of authority for admission of patients and who is allowed to admit patients.

Another concern with the bill is that there is no requirement that any of the professional staff be physicians. Under the current provisions of the bill, it could be possible for a medical facility to have a professional staff composed entirely of nonphysicians (holding a license to practice medicine and surgery).

Recommendations

The Department has no objection to the inclusion of additional practitioners on medical staffs of medical care facilities. However, it is our belief that more specific definition of potential practitioners are needed. For example, Senate Bill No. 701 does not require that any medical physicians be included on the staff of a hospital. In addition, the bill does not address the admitting privileges which would be extended to health care professionals as defined in the proposed legislation.

We suggest that the provisions of the bill related to these issues be further analyzed.

Presented by: Richard J. Morrissey, Director
Bureau of Adult and Child Care
March 3, 1988

KANSAS OCCUPATIONAL THERAPY ASSOCIATION

To: Senate Committee on Public Health and Welfare
From: R.E. "Tuck" Duncan
RE: SB 702

On behalf of the Kansas Occupational Therapy Association we ask for your favorable consideration of SB 702. This bill would continue in existence the advisory board of occupational therapists which provides imput to the Board of Healing Arts.

Inasmuch as there is no occupational therapy representation on the Board itself, this advisory group provides a mechanism to make suggestions and reccommendations to the Board about matters upon which the Board might act in the area of the regulation of registered occupational therapists.

Your attention to and consideration of this matter is greatly appreciated.