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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Marvin L. Littlejohn at  
Chairperson

1:30/a.m./p.m. on February 8, 1990 in room 423-S of the Capitol.

All members were present except:

Representative Hochhauser, excused

Committee staff present:

Bill Wolff, Research

Norman Furse, Revisor

Sue Hill, Committee Secretary

Conferees appearing before the committee:

Kelly Waldo, Executive Director, Kansas Chiropractic Association

William Pitsenbergaer, General Counsel, Blue Cross/Blue Shield

Harold Riehm, Executive Director, Kansas Osteopathic Association

Chip Wheelen, Kansas Medical Society

Chair called meeting to order, thanking conferees for returning today to present testimony. Committee ran out of time yesterday for hearings on both bills scheduled, so it was necessary to ask those interested in HB 2755 to return this date.

Chair welcomed back Representative Branson who has been absent from the Legislature for a few days due to the death of her mother. Our sincere sympathy to Representative Branson.

Chair drew attention to HB 2755, inviting Kelly Waldo to introduce those Chiropractors visiting. This is their "day" at the Capitol. Ms. Waldo asked all Chiropractors to introduce themselves. They had come from all over the State.

#### HEARINGS BEGAN ON HB 2755.

Kelly Waldo, Executive Director of Kansas Chiropractic Association offered hand-out, (Attachment No. 1). The primary goal in requesting this legislation is to provide representation for Doctors of Chiropractic on the Board of Directors of Blue Cross and Blue Shield of Kansas, (BC/BS). The amendments begins Page 1, line 32, and provides that doctors of medicine, osteopathy, and chiropractic will be represented in equal numbers on the board of BC/BS. Section 2 of HB 2755 codifies the meaning of the term "physician" and includes doctors of medicine, osteopathy, and chiropractic. The request has been made because our Association feels we need to be informed of policies and decisions of the board which affect our Doctors of Chiropractic. We believe this is a legitimate objective. She noted attachments available for members, i.e., (Attachment 1-a) Objective of BC/BS Liason Committee, (Attachment No. 1-b) is BC/BS Kansas Chiropractic Network Agreement, (Attachment 1-c) Kansas Chiropractic Network, (Attachment No. 1-d)

Bylaws of BC/BS of Kansas. She detailed concerns in regard to each of these documents, i.e., contact, if any is after board meetings, and after policy decisions have been made. The Kansas Chiropractic Network (KCN) agreement was prepared over a period of 18 months, but their Liaison Committee was not consulted or advised it was being prepared until it had been filed with the Kansas Insurance Commission. The KCN is flawed, and their Association feels had they been made aware and could have participated in the preparation of KCN, they could have alerted the Doctors of Chiropractic the data used to calculate the allowable reimbursement under the KCN was inappropriate. This is just one example of the concerns. She noted members could easily be added to the BC/BS Board, as their by-laws have been amended

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 HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S, Statehouse, at 1:30 a/m/p.m. on February 8, 1990.

8 times since 1983. She noted the omission of Doctors of Chiropractic from the by-law provision; that "licensed physician" is used in K.S.A. 40-19c03 and 40-19c04, BC/BS has apparently construed its meaning differently for each of these statutes. She noted New Section 2 of HB 2755 will eliminate future confusion in regard to "physician". Doctors of Chiropractic and BC/BS are both important participants in health care systems now in place, so it is critical there be continuing dialogue and cooperation between them. HB 2755 will provide the basis for such cooperative dialogue. She answered questions, i.e., we would like two, but would be open to one member assigned to BC/BS board.

William Pitsenberger, General Counsel, Blue Cross/Blue Shield offered hand-out, (Attachment No. 2). For informational purposes, he said, BC/BS does not do business in Johnson and Wyandotte Counties, but does in 103 other counties in the State. He noted all contracting with BC/BS is voluntary. He stated they have the unique responsibility of trying to control costs. He stated BC/BS has sent to Chiropractic Association and Osteopathic Society and Medical Society agendas, board minutes for every meeting since 1983. Chiropractic Association just doesn't ever attend board meetings. Perhaps one of the reasons they don't have information they desire, is because they are not seeking it out. Our board meetings are not closed meetings. We have not had a lot of our subscribers asking the Chiropractors be given a seat on our Board. He gave a background of their Corporation, noting currently BC/BS operates under a bill passed in 1981, K.S.A. 40-19c01. It appears HB 2755 ignores the history of BC/BS in trying to diminish, not encourage provider influence, and to place control in hands of those who purchase health care and health care insurance. We feel 50% of the board members being subscribers is important. One might look at, do chiropractors desire the board seat for the betterment of subscribers or for their own economic benefit; he noted the percentages of those practicing, i.e., physicians, dentists, chiropractors, and the percentages of payment for services, and the chiropractors show a substantial increase. He drew attention to the new product this year, Kansas Chiropractic Network, (KCN) which requires chiropractors to compete on the basis of cost and use. It provides higher reimbursement for those whose average costs per patient are low, and lower reimbursement for the high chargers and high users. This product came about when BC/BS felt "enough is enough". However, the chiropractors don't like this program. They have complained to the Attorney General's office and the Department of Insurance, without success, now they have come to the Legislature. He urged for unfavorable consideration on HB 2755. He answered numerous questions, i.e., yes, rates are reviewed by the Board; increased costs were discussed; he noted a more cost effective setting for patients is sought if they need long term care; no we do not try to under-cut other Insurance Companies; there are set costs for certain illness services, or surgeries; we believe our rates are fair and honestly set; there is one woman on the board; yes we do pay taxes; there was confusion on the term "physician". (It was noted at this point, Norman Furse would provide information in this regard to members when action is taken on HB 2755).

Harold Riehm, Kansas Association Osteopathic Medicine offered hand-out, (Attachment No.3). He noted HB 2755 is not their bill, however their Association is in support of the general concept, but with some recommended changes. For several years, they have suggested to BC/BS there be an osteopathic physician on the Board of directors. It has been indicated that might happen some day, so far it has not. We are sensitive, he said, to the fact that "physicians" are on the board, but those "physicians" are osteopathic physicians. He noted their Association has not received any notification of agenda, any minutes of those board meetings, even though Mr. Pitsenberger stated they were

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,

room 423-S Statehouse, at 1:30 /a.m./p.m. on February 8, 1990

**HEARINGS CONTINUED ON HB 2755.**

notified. He offered proposed amendments to HB 2755, i.e., to delete "physicians" in line 17, and insert in lieu thereof, "health care providers"; line 28, delete "Licensed physicians", and insert in lieu thereof, "persons licensed under the Kansas healing arts act", line 31, delete "physicians", insert "persons licensed under the Kansas healing arts act", line 34, delete, "an equal number of physicians", and insert "at least one person", on page 2, delete all of New Section 2, and renumber sections 3,4 as 2 and 3, to be consistent with the Attorney General's opinion. He answered questions.

Chip Wheelen, Kansas Medical Society, (see Attachment No. 4) stated their Association does not have a position on whether or not both osteopathic physicians or chiropractors should be represented on the BC/BS board, we are opposed to the bill because of flaws in amendatory language. We question whether it is rational to require equal representation of MDs, DOs, DCs, when there are 9 MD's for each DC licensed and 14 MDs for each DO licensed. Note on Page 1, line 35, the term "physician" is used, implying any person licensed under the Kansas Healing Arts Act would be considered a "physician". Note on Page 2, New Section 2 is superfluous, as it defines the term "physician" in a manner than includes MDs, DOs, DCs. This would constitute an unprecedented change in nomenclature if adopted by this Committee. He asked that Attorney General's Opinion 87-42 be recorded in minutes as Attachment to his comments, (see Attachment No.5). With all this in mind, he asked that HB 2755 not be passed, unless the flaws in the bill currently are corrected. He called attention to a draft attached to his testimony (Attachment No. 1) that indicates proposed changes that would correct drafting errors, i.e., page 35, line 35 delete the word "physicians", and insert "persons", Page 2, delete New Sec. 2; renumber Sections 3 and 4 as 2 and 3. He answered questions, i.e., yes, he was aware of amendments proposed by Harold Riehm, and he agreed with them; no, the Medical Society has no position for or against whether or not the Chiropractors have a seat on the BC/BS board; no, we would not object what-so-ever if all health care providers were removed from the Board, BC/BS should be treated just like any other third party Insurance group.

Steve Dixon, Legal Counsel for Chiropractic Association spoke to HB 2755. He stated the purpose for new Section 2 is for clean-up of language of the Act. We have done research that indicates where in the statutes chiropractors are called physicians. He said that information could be made available to committee members. He stated they get no notices of BC/BS board meetings, and the information coming from the board meetings is not made available either. This bill is requested to clear up a problem. Clearly there is a problem. Consumers are losing out there because apparently there is something just shy of all out war between BC/BS and some of the providers, i.e., Chiropractors. He answered questions, yes, there certainly is a difference in practice, it is all clearly defined in the statutes, yes some Chiropractors have served as Coroners; yes, they have authority to sign death certificates.

Chair adjourned meeting at 3:10 p.m. Next meeting will be Monday, February 12, 1990 at 1:30 p.m.

GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date 2-8-1980

Name	Organization	Address
Dr. M. D. NIEDEN, D.C.	KANSAS CHIROPRACTIC ASSOC.	GARDEN CITY, KS
Dr. A. R. Schwerdtfeger	Kansas Chiropractic Assoc.	Salina, KS.
Harry W. Falk, D.C.	Kansas Chiropractic Assoc.	Paola, KS
JOHN H. HILL, D.C.	Ks Chiropr Assoc	Lawrence, KS.
J. D. Williamson, D.C.	Ks Chiropractic Assoc.	Batter Springs, KS.
Jan Block Bessmer	Govt/Rep. Carol Saden	Union Hills, KS
Jerry F. Matney, D.C.	Ks Chiropractic Assoc.	Ottawa, KS
Edward W. Metzger, D.C.	Kansas Chiropractic Assoc.	Holton, KS
Judy L. Janey, D.C.		
Timothy Boggs, M.D.	Ks Chiropractic Assoc.	Topeka, KS
Gary Robbins	Ks Opt Assn	Topeka
Harold Kiehm	KHAM	Topeka
Chip Wheelen	Ks Medical Soc.	Topeka
Bob Anderson	Ks. Chiropractic Assoc.	"
Bill Pitsenberger	BLUE CROSS & BLUE SHIELD OF KANSAS	Topeka
Tami Wilson, D.C.	KS Chiropractic Assn.	Merriam, KS
Stacy Kloster, D.C.	K.C.A.	SMITH CTR., KS.
Richard [unclear]	KCA	HELLSBORO, KS
Tom [unclear] D.C.	KCA	GREAT BEND
Edward [unclear] D.C.	Ks Chiropractic Ass (KCA)	Newton, KS
Steve Dickson	" " "	Topeka, KS
Judy Pope	KCA	Topeka, KS
Mark [unclear] D.C.	KCA	Topeka, KS





# Kansas Chiropractic

ASSOCIATION

## MEMORANDUM

TO: House Committee on Public Health and Welfare  
FROM: Kansas Chiropractic Association  
RE: 1990 House Bill No. 2755  
DATE: February 7, 1990

I am Kelly Waldo, Executive Director of the Kansas Chiropractic Association (KCA), and I am appearing today on behalf of the KCA in support of 1990 House Bill No. 2755 (HB 2755). The bill was introduced by this Committee at the request of KCA, and as we explained at the time we requested its introduction, the bill's primary purpose is to provide representation for Doctors of Chiropractic on the Board of Directors of Blue Cross and Blue Shield of Kansas, Inc. (BC/BS).

The underlying purpose of the bill is accomplished by the amendment of K.S.A. 40-19c03 in Section 1. The amendment begins in line 32 on page 1, and it provides, in essence, that doctors of medicine, doctors of osteopathy and doctors of chiropractic will be represented in equal numbers on the board of BC/BS. Such requirement would become effective with the next election of directors to the BC/BS board, which we understand will be on May 1, 1990.

Section 2 of HB 2755 codifies the accepted meaning of the term "physician," as it is used throughout the Nonprofit Medical and Hospital Service Corporation Act, pursuant to which BC/BS is organized. The term includes Doctors of Medicine, Doctors of Osteopathy and Doctors of Chiropractic.

The goal of our Association is to have representation for Doctors of Chiropractic on the BC/BS board, so that we can be informed of policies and decisions of this board which affect Doctors of Chiropractic. We believe this is a very legitimate objective. Doctors of Chiropractic constitute a significant segment of the healing arts providers who are reimbursed for their services provided to BC/BS subscribers pursuant to service agreements with BC/BS. I note, however, that our objective is one which should have been met without the necessity of this legislation.

Not long after the incorporation of BC/BS became effective on May 1, 1983, BC/BS established various liaison committees composed of representatives of organized medical specialty associations and other health care professionals, including the Chiropractic Liaison Committee. The organization of the Chiropractic Liaison Committee was finally completed near the beginning of 1984. The objectives of this liaison committee were

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the same as all other liaison committees established by BC/BS, and I have attached a copy of these objectives as Appendix A to this testimony.

The first objective is to establish two-way communication between BC/BS and Doctors of Chiropractic, and it is essential to accomplishing the remaining objectives. Unfortunately, however, because of the failure of BC/BS to communicate with Doctors of Chiropractic, either individually or through our Association, the Chiropractic Liaison Committee has been largely ineffectual.

The most recent example where BC/BS has failed to utilize the Chiropractic Liaison Committee to communicate with Doctors of Chiropractic or (as stated in objective no. 2 in Appendix A) to promote among Doctors of Chiropractic "a sense of involvement in and responsibility for policies established for the conduct of Blue Cross and Blue Shield of Kansas activities," is the establishment of the BC/BS Kansas Chiropractic Network (KCN) agreement, a copy of which is attached to this testimony as Appendix B.

The KCN, we are told, was prepared over a period of 18 months, but the Chiropractic Liaison Committee was not consulted during its preparation. More importantly, BC/BS did not even advise the Chiropractic Liaison Committee that the KCN was in preparation. Accordingly, our Association had no notice of the KCN until it was filed with the Kansas Insurance Commissioner. Our notification coincided with my first day on the job as the Executive Director for the KCA. I certainly had not anticipated beginning my duties by having to deal with a surprise of such significance.

The failure of BC/BS to communicate with the Chiropractic Liaison Committee regarding the preparation of the KCN is not merely a matter of providing notice. The KCN is conspicuously flawed in its underlying premises, and I submit to this Committee that involvement of the liaison committee would have at least alerted Doctors of Chiropractic in Kansas that the data used to calculate the allowable reimbursement under the KCN were inappropriate, and it is certainly conceivable that the liaison committee's involvement in the preparation of KCN would have prevented the use of the inappropriate data.

This problem is addressed by Appendix C to this testimony, which is a copy of the memorandum of BC/BS of January 22, 1990, to all KCN doctors, acknowledging that the data used to establish chiropractic reimbursements in the KCN include Medicare Supplemental Payments. This is contrary to the statement made in the initial policy memorandum issued by BC/BS to explain the KCN, and it is directly contrary to statements made to our Association's Board of Directors by BC/BS staff, as well as the information BC/BS submitted to the Kansas Insurance Commissioner.

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This is another issue, of course, and we will deal with it separately. The important thing for this Committee's consideration is the fact that Doctors of Chiropractic not only had no input in the preparation of the KCN, they had no notice that it was being prepared. There was no effort whatsoever by BC/BS to involve the Chiropractic Liaison Committee in this process.

The KCN is but one example of the problem being addressed by HB 2755.

Because the Chiropractic Liaison Committee has proved to be an unsatisfactory mechanism for accomplishing the objectives outlined in Appendix A, we believe it is necessary and appropriate that Doctors of Chiropractic be provided representation on the board of directors of BC/BS.

In proposing this legislation, we have tried to anticipate the concerns of BC/BS. For example, the bill's required representation of all healing arts practitioners on the BC/BS board would not take effect until the next election of its directors. This will avoid disturbing the terms of office of any persons now serving on the board.

It should be noted that K.S.A. 40-19c03, a section of the Nonprofit Medical and Hospital Service Corporation Act which is amended by Section 1 of HB 2755, provides that the board of directors of any corporation organized under that Act shall consist of "not less than 15 members." The Bylaws of BC/BS, which I have attached to this testimony as Appendix D, establishes the number of board members at 15 exactly (see Section 2 of Article III). If BC/BS determines that compliance with HB 2755 requires additional members on its board, K.S.A. 40-19c03 makes it legal to do so, and we do not anticipate that this will present any serious problem to BC/BS, since its bylaws provide in Article VIII that amendments may be made "by a majority vote of the Board of Directors at any annual or special meeting called for that purpose." We do not believe any bylaws amendment deemed necessary by BC/BS to accommodate HB 2755 would present a difficult situation. The BC/BS bylaws have been amended 8 times since the corporation's formation in May of 1983.

HB 2755 also would occasion another amendment to the BC/BS bylaws. In Section 3 of Article VII, the term "physician" is defined to include "all medical doctors and all doctors of osteopathy licensed to practice in the state of Kansas." The omission of Doctors of Chiropractic from this bylaw provision is rather curious in light of the provisions of the Nonprofit Medical and Hospital Service Corporation Act. One of the sections of this Act, K.S.A. 40-19c04, authorizes BC/BS to enter into contracts with "physicians licensed to practice in the state of Kansas" to provide professional services to its subscribers. It is pursuant to this statute that BC/BS has entered into contracts with Doctors of Chiropractic. The authority for BC/BS to enter into agreements to implement the KCN is provided by this statute. Obviously, therefore, to carry out this statute

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BC/BS has construed the term "physicians licensed to practice in the state of Kansas" to include Doctors of Chiropractic who are licensed by the Board of Healing Arts to practice in Kansas.

On the other hand, it is to be noted that K.S.A. 40-19c03 (amended in Section 1 of HB 2755) requires the board of directors of BC/BS to be composed of: Licensed physicians; trustees or administrators of participating hospitals; and subscribers, exclusive of physicians and hospital trustees and administrators. (See lines 28 to 32 on page 1 of HB 2755.) Even though the same terminology ("licensed physician") is used in K.S.A. 40-19c03 and 40-19c04, BC/BS apparently has construed its meaning differently for each of these statutes, even though they are both sections of the Nonprofit Medical and Hospital Service Corporation Act. With respect to the latter, BC/BS obviously has construed such term as including licensed Doctors of Chiropractic, while the definition of "physician" in the BC/BS bylaws would indicate a contrary interpretation of the term as it is used in K.S.A. 40-19c03.

We anticipate that opponents of this bill may rely upon Attorney General Opinion No. 87-42 in arguing against New Section 2, which defines "physician" to include Doctors of Chiropractic. However, that opinion does not take issue with legislative definitions of "physician" that include chiropractors. To the contrary, the opinion notes that several Kansas statutes currently define this term to include chiropractors, and it references K.S.A. 60-427(a) (physician-patient privilege) and 44-508(i) (workers' compensation) as examples of such definition.

Not only would the definition of "physician" in New Section 2 be a valid exercise of legislative authority, it would be a very appropriate exercise of such authority, since it merely codifies legislative intent. Clearly, in authorizing corporations organized under the Nonprofit Medical and Hospital Service Corporation Act to contract with "physicians" licensed in Kansas, the legislature intended to authorize provider contracts with all persons licensed under the Healing Arts Act, and the provider contracts entered into by BC/BS certainly reflect its agreement with such intent.

Moreover, there is nothing in the Act to indicate a legislative intent that "physician" be defined differently in the various sections of the Act, and the attempt by BC/BS to do so is unwarranted. New Section 2 will eliminate future confusion in this regard.

There is another curious aspect of the apparent construction given by BC/BS to the term "licensed physicians" as such term is used in Section 1 of HB 2755 (K.S.A. 40-19c03). Section 2(c) of Article III of the BC/BS bylaws provides that the BC/BS board will contain not more than one dentist licensed in the State of Kansas. Also, a Dental Advisory Committee is established in Section 5 of Article VI of these bylaws.

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Our Association understands the reason for licensed dentists being represented on the BC/BS board. They are, after all, providers of services to BC/BS subscribers, just as Doctors of Chiropractic are providers of services to BC/BS subscribers. We question only how BC/BS can establish in its bylaws a separate category of board membership for dentists, who are clearly not "licensed physicians" under the Healing Arts Act, but exclude Doctors of Chiropractic from membership on the board, even though BC/BS regards Doctors of Chiropractic as "licensed physicians" for purposes of entering into provider contracts with them.

In any event, we trust this Committee can appreciate the need for representation of chiropractors on the BC/BS board. Doctors of Chiropractic have not been provided with "a sense of involvement in and responsibility for policies established for the conduct of Blue Cross and Blue Shield of Kansas activities," as was the stated objective of the Chiropractic Liaison Committee (see Appendix A). Given the failure of this informal mechanism to accomplish its stated objectives, we see membership on the BC/BS board as the only other viable alternative to accomplish these objectives.

We believe such action is essential at this time, when health care costs and health care insurance costs are critical issues confronting all Kansans. Doctors of Chiropractic and BC/BS are both important participants in the health care system now in place. It is critical that there be a continuing dialogue between them and that they work cooperatively to address the problems inherent in the current system. By providing Doctors of Chiropractic representation on the BC/BS board, HB 2755 will provide the basis for such cooperative dialogue.

The Kansas Chiropractic Association appreciates the opportunity to address this Committee on an issue of great importance to our Association and we trust to this Committee. Thank you for your attention to this testimony. I will be happy to respond to any questions you might have.

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OBJECTIVES OF BLUE CROSS AND BLUE SHIELD OF KANSAS  
LIAISON COMMITTEE ACTIVITY

- 1 To establish and maintain ongoing formal two-way communication with designated representatives of organized medical specialty associations and other health care professionals.
- 2 To promote among professional provider groups a sense of involvement in and responsibility for policies established for the conduct of Blue Cross and Blue Shield of Kansas activities.
- 3 To obtain professional advice about professional practices and effective utilization of professional services.
- 4 To obtain consultation in respect to appropriate nomenclature for procedures performed by the specialty group.
- 5 To have available a resource for referring questions from the Blue Cross and Blue Shield Board, Blue Cross and Blue Shield staff members, physicians and other professional providers who serve on various Blue Cross and Blue Shield claims Review Committees.
- 6 To make available to each professional provider a mechanism for suggesting changes and improvements in the Blue Cross and Blue Shield policies, benefit packages, payment guidelines, etc.

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BLUE CROSS AND BLUE SHIELD OF KANSAS, INC.  
KANSAS CHIROPRACTIC NETWORK AGREEMENT

SECTION I. CONSIDERATIONS

This agreement is entered into by and between Blue Cross and Blue Shield of Kansas, Inc., a corporation duly organized under the laws of the State of Kansas (hereinafter called "Blue Cross and Blue Shield"), and \_\_\_\_\_, a chiropractor licensed by the State of Kansas (hereinafter called "the Chiropractor").

In consideration of the promises and the agreement herein contained, it is covenanted as follows:

SECTION II. DEFINITIONS

1. "Subscriber" means any person entitled to receive services pursuant to the terms of Blue Cross and Blue Shield underwritten or administered contracts referencing Network Chiropractic agreements offered by Blue Cross and Blue Shield.
2. "Maximum Allowable Payment" (MAP) means the amounts established by Blue Cross and Blue Shield as the Maximum Payment Allowances for services rendered by Contracting Providers to Subscribers which are covered benefits under the terms of the subscriber contracts. (See Section IV.)
3. "Usual Charge" means the fee most commonly charged, by the Chiropractor, for services provided to all patients.
4. "Contracting Provider" means any licensed provider of chiropractic health care services who has entered into a Contracting Provider Agreement with Blue Cross and Blue Shield. A Contracting Chiropractor is not always a Network Chiropractor.
5. "Network Chiropractor" means any licensed chiropractor who has entered into a Kansas Chiropractic Network Agreement with Blue Cross and Blue Shield. Network Chiropractors are also Contracting Providers.
6. "Average Allowed Charge Per Patient Per Year (AACPPY)," is the mean or average of charges per patient per year arrived at by adding all chiropractic allowed charges made to all Blue Cross and Blue Shield subscribers and dividing by the number of individual subscribers treated. An individual average allowed charge per patient per year is determined in the report to each network chiropractor. This data can be adjusted by Blue Cross and Blue Shield of Kansas, according to standard statistical measures to enhance or clarify the data.
7. "Allowed charge" means the lesser of the provider's actual charge or the Maximum Allowable Payment.

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SECTION III. GENERAL AGREEMENT OF PARTIES

1. The Network Chiropractor agrees to:
  - A. Perform chiropractic services that are medically necessary provided such services are within the parameters of the Chiropractor's practice and within the scope of the Chiropractor's license or certification.
  - B. Abide by the existing Competitive Allowance Program (CAP) agreement, Policies and Procedures of Blue Cross and Blue Shield applicable to Contracting Providers (to the extent they do not conflict with this agreement), and Network Chiropractors which have been adopted or hereafter amended by the Blue Cross and Blue Shield Board of Directors. Such Policies and Procedures shall be provided to the Chiropractor prior to the execution of this agreement. Future amendments shall be provided to the Chiropractor at least 30 days prior to the effective date of the amendments. In the event that the changes in the Policies and Procedures are unacceptable to the Chiropractor, this contract may be cancelled by providing written notice to Blue Cross and Blue Shield that the contract is to be terminated 30 days from the date of the notice. If the Chiropractor has not exercised, in writing, a notice of cancellation of this contract on or before the effective date of such amendments, the Chiropractor agrees to abide by such amendments as long as this contract shall remain in effect.
  - C. Submit claims to Blue Cross and Blue Shield for covered services rendered to Subscribers, at the Usual Charge, in the Blue Cross and Blue Shield designated format and to look to Blue Cross and Blue Shield for payment except for Coinsurance, Deductible, and Non-covered Amounts.
  - D. Accept as payment in full for covered services, both from Blue Cross and Blue Shield as well as from subscribers for any services received (to the extent that Subscriber deductible and coinsurance payments are required). Accept any reduction in MAP's based on the Network Chiropractor's average allowed charge per patient per year table and not bill subscribers for these differences. These reductions will be calculated in percents and will be applied to each service billed.
  - E. Make available, at no charge and in the manner designated in the Blue Cross and Blue Shield Policies and Procedures, all information necessary to carry out the terms of this agreement.

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SECTION III. GENERAL AGREEMENT OF PARTIES (con't)

- F. Cooperate with Blue Cross and Blue Shield and other providers of health care services in utilization review activities as approved by the Blue Cross and Blue Shield Board of Directors. Cooperate in other activities to assure effective and efficient provision of services, accepting the decisions of the Blue Cross and Blue Shield review committees, consultants, or utilization review committees with respect to reasonable payment for atypical or unusually difficult procedures, the appropriateness of the services rendered, the appropriateness of the place of rendering of the service, and the medical necessity of the service. Abide by the Utilization Review Policies and Procedures and the Appeals Process designated in the Policies and Procedures of Blue Cross and Blue Shield, and not bill subscribers for amounts of charges for services denied by various review committees or consultants. Additionally, unusual increases in patients receiving limited services (i.e., one visit) may warrant individual negotiations with the chiropractor in subsequent years (any year other than initial contract year).
- G. Permit on at least an annual basis publication, distribution, and dissemination of the Chiropractor's name and address, as a Network Chiropractor, as indicated by the Chiropractor to Blue Cross and Blue Shield prior to the distribution date.
- H. Permit Blue Cross and Blue Shield to exercise a right of offset, deducting from future payments amounts paid in error. Blue Cross and Blue Shield shall provide adequate notice of the amounts offset, the name of the subscriber on whose behalf payments were in error, and relevant service dates. Blue Cross and Blue Shield shall give the provider the opportunity to refund prior to exercising the offset.
2. Blue Cross and Blue Shield agrees to:
- A. Make payment directly to the Chiropractor for covered services rendered to subscribers.
- B. Reimburse the Chiropractor for covered services the Chiropractor's usual charge not to exceed the maximum allowable payment less any percentage reduction as determined in Section IV.
- C. Consider for additional reimbursement charges above the Usual Charge if such are associated with procedures necessitating unusually complex departures from generally acknowledged chiropractic technique.
- D. Maintain consultants composed of practicing doctors to conduct reviews of unusual cases and medical necessity of services.
- E. Provide Network Chiropractors with Blue Cross and Blue Shield Policies and Procedures applicable to them. (See Section III, 1B.)

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*Attn. #1-b*  
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SECTION III. GENERAL AGREEMENT OF PARTIES (con't)

- F. Notify the Chiropractor and the Subscriber of appropriate non-covered, deductible, and coinsurance amounts that are the responsibility of the Subscriber.
- G. Abide by the Appeals Procedure designated in the Policies and Procedures of Blue Cross and Blue Shield.
- H. Include the Chiropractor's name on at least an annual notification to Subscribers of those providers of care that are Network Chiropractors.
- I. Notify annually each Network Chiropractor at least 150 days in advance of the end of the calendar year of adjustments to the Average Allowed Charged Per Patient Per Year and subsequent tabled percentage discounts.

SECTION IV. PAYMENT SYSTEM

Blue Cross and Blue Shield will reimburse the Network Chiropractor's usual charge, not to exceed the maximum allowable payment less any amount determined by the individual profile calculated in the AACPPY.

- 1. At least annually, the Blue Cross and Blue Shield Board of Directors will establish the MAP for each procedure and will review and establish percent discounts applicable to the AACPPY.
- 2. The AACPPY will be established using the base year of 1988 allowed charges. This average allowed charge per patient per year will be tabled with the corresponding percent of discount applied to the MAP for the individual Network Chiropractor.
- 3. The Chiropractor agrees to fully and promptly inform Blue Cross and Blue Shield of the existence of agreements under which such Chiropractor agrees to accept an amount for any and/or all services as payment in full which is less than the amount such Chiropractor accepts from Blue Cross and Blue Shield as payment in full for such services. Blue Cross and Blue Shield staff is authorized to adjust maximum allowable payments for the Chiropractor in light of such agreements, under the following terms:
  - A. The Blue Cross and Blue Shield staff may adjust the MAP or AACPPY only in circumstances in which the staff becomes aware through independent investigation or as a result of information provided by a Network Chiropractor that a Network Chiropractor has a payment agreement with another payor or offers a discount or other financial arrangement, the effect of which is that such Network Chiropractor accepts from another payor as payment in full an amount less than such Network Chiropractor would accept from this corporation as payment in full.

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SECTION IV. PAYMENT SYSTEM (con't)

- B. Such adjustment shall be approved in writing by the Senior Vice-President, External Affairs, or by the President of this corporation.
- C. Such adjustment shall be communicated in writing to the Network Chiropractor. Such communication shall be considered a change in policy adopted by the Board of Directors, and the Network Chiropractor shall have such advance notice of the change and such rights to cancel the Network Chiropractic Agreement rather than abide by the change as are afforded for other amendments to Policies and Procedures under Section III.1.B of this agreement.
- D. The Board of Directors of Blue Cross and Blue Shield shall be informed by the staff of any such adjustments to MAP's or AACPPY so made, at the next meeting of the Board of Directors immediately following such adjustment.
- E. The Board of Directors of this corporation shall have the ability to make subsequent changes in adjustments to MAP's or AACPPY so made, which changes shall be prospective only and shall be effective as any other amendment to Policies and Procedures after communication. If a change in such adjustments would have the effect of inducing a party which terminated its Network Chiropractor Agreement as a result of the staff adjustment to MAP's or AACPPY to wish to contract anew with Blue Cross and Blue Shield a contract shall be tendered to such party and shall become effective on the date of execution by such party.

SECTION V. GENERAL CONDITIONS

- 1. This agreement will become effective on \_\_\_\_\_ and shall continue in effect unless either party terminates the agreement by giving written notice to the other party at least 120 days prior to the end of a calendar year, or unless terminated as provided for in paragraphs 2 or 3.
- 2. This agreement may be terminated by Blue Cross and Blue Shield at any time for cause upon 30 days written notice to the Chiropractor. ✓
- A. On termination, Blue Cross and Blue Shield will notify subscribers that the Chiropractor is no longer a Network Chiropractor and the Chiropractor must advise subscribers seeking services of the change in contracting status. If the Chiropractor does not advise a subscriber of this change during the remainder of the calendar year, the Chiropractor will be obligated to accept as payment in full the allowances approved under the terms of this agreement. If the Agreement is cancelled for cause, the reissuance of this network provider agreement shall be solely at the discretion of the Blue Cross and Blue Shield Board of Directors.

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SECTION V. GENERAL CONDITIONS (con't)

- B. The contract will terminate upon the Network Chiropractor ceasing to be a contracting provider with Blue Cross and Blue Shield.
- 3. This agreement will automatically terminate upon the suspension or revocation of the Chiropractor's license or certification.
- 4. No provision of this agreement has or is intended to have the effect of infringing upon the patient-chiropractor relationship except in the payment of services covered in the Subscribers' contracts or of construing that Blue Cross and Blue Shield is providing professional medical services to subscribers.

BLUE CROSS AND BLUE SHIELD

THE CHIROPRACTOR

Signed: \_\_\_\_\_

Signed: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Kansas License #: \_\_\_\_\_

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# KANSAS CHIROPRACTIC NETWORK



Blue Cross  
Blue Shield  
of Kansas

January 22, 1990

TO: ALL KANSAS CHIROPRACTIC NETWORK DOCTORS

FROM: Dwight Wicker, Director  
Professional Relations Operations and Reimbursement

SUBJECT: CHANGES IN POLICY MEMO FOR KANSAS CHIROPRACTIC NETWORK

Please find enclosed a new policy memo for the Kansas Chiropractic Network which will take effect 30 days from the date of this notice. If you disagree with either of the two changes, and would like to be released from your contract for 1990, please send a letter to me stating you would like to cancel, as outlined in your contract Section III.1.B. This must be done within 30 days. If you agree to these terms, no notice is necessary. In the interim, we will pay claims based on your usual charges for those groups with KCN.

The changes are as follows:

1. Page 3, the last paragraph has been changed to reflect that the data used to calculate the averages did include Medicare Supplemental Payment(s). The AACPPY will not be recalculated and discounts, if applicable, that have been communicated to you will stand for 1990.
2. Section VII. has been added to describe the situation of certain groups choosing an option of less than 50% co-insurance for their employees when going to a non-network chiropractor. For example, a Boeing employee might have a coinsurance of 20% instead of 50% if they choose to go outside of the network. Our intent was always to allow for individual group decisions in this area, but recent questions have caused us to include this in the Policy Memo in order to remove any doubt.

Please study carefully both of these changes. They may influence whether you want to continue to participate in the program. If you would like to withdraw from your contract, please let us know.

There are still many reasons to continue to contract. This product remains very viable and has the potential to direct patients to you.

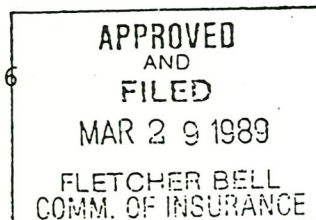
If you have questions, please feel free to call Sherian Conwell at 913/291-8738 or myself at 913/291-8713.

No other terms in the contract or policy memo change for 1990.

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BYLAWS OF  
BLUE CROSS AND BLUE SHIELD OF KANSAS, INC.

Adopted May 1, 1983  
Amended September 15, 1983  
Amended March 15, 1984  
Amended May 10, 1984  
Amended March 6, 1986  
Amended July 17, 1986  
Amended December 11, 1986  
Amended March 17, 1988  
AMENDED MARCH 9, 1989



ARTICLE I

NAME AND ADDRESS

The name of this corporation is BLUE CROSS AND BLUE SHIELD OF KANSAS, INC. The principal place of business shall be in Topeka, Kansas.

ARTICLE II

MEMBERS

GENERAL. The members of this corporation shall consist of those persons who have been elected, are qualified and are serving as directors of this corporation, pursuant to Article III hereof. Each member of the corporation shall have one (1) vote.

ARTICLE III

BOARD OF DIRECTORS

Section 1. GENERAL. The property and affairs of the corporation shall be managed by its governing body which shall be known as the Board of Directors. The Board of Directors shall elect the officers of the corporation and is invested with all power and authority except as may be expressly limited by law, the Articles of Incorporation or by these Bylaws to supervise, control, direct and manage the property, affairs and activities of the corporation, determine the policies of the corporation and exercise or cause to be exercised any or all of its powers, privileges or franchises to effect and carry out the purposes of this corporation. Provided, however, that the Board of Directors shall not authorize or permit the corporation to engage in any activity not permitted to be transacted by the Articles of Incorporation or by a not-for-profit corporation organized under the laws of the State of Kansas and none of the powers of the corporation shall be exercised to carry on activities, other than as an insubstantial part of its activities, which are not in themselves in furtherance of the purposes of this corporation.

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BLUE CROSS AND BLUE SHIELD OF KANSAS, INC. BY WS  
ARTICLE III - BOARD OF DIRECTORS (cont'd)

Section 2. COMPOSITION. The Board of Directors shall consist of fifteen (15) persons, as follows:

- (a) Hospital Administrators. Not more than two (2) administrators of hospitals which contract with the corporation to provide services to subscribers, provided that such hospitals are not owned or controlled by, do not own or control and are not a managing or general partner of, an entity which competes with the corporation, and do not otherwise compete with the corporation directly or indirectly. Such hospital administrators must be subscribers of the corporation, or covered for health care by a subsidiary of the corporation.
- (b) Physicians. Not more than two (2) physicians licensed in the State of Kansas who contract with the corporation to provide services to subscribers, provided that such physicians are not a part of a practice which is owned or controlled by, and do not own or control, and are not managing or general partners of, and do not have a policy-making position in, an entity which competes with the corporation, and do not otherwise compete with the corporation directly or indirectly. Such physicians must be subscribers of the corporation, or covered for health care by a subsidiary of the corporation.
- (c) Dentists. Not more than one (1) dentist licensed in the State of Kansas who contracts with the corporation to provide services to subscribers, provided that such dentist does not own or control, and is not in a practice which is owned or controlled by, and is not a managing or general partner of, and does not have policy-making position in, an entity which competes with the corporation, and does not otherwise compete with the corporation directly or indirectly. Such dentist must be a subscriber of the corporation, or covered for health care by a subsidiary of the corporation.
- (d) Subscribers. Subscribers of the corporation, to include two such subscribers of the corporation appointed by the Governor of the State of Kansas, who do not own or control, and have no policy-making position in a competitor of this corporation.
- (e) Definition of "Own". As used in this Section 2 of Article III, "own" shall mean any ownership interest of any kind or nature.

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BLUE CROSS AND BLUE SHIELD OF KANSAS, INC. BY WS  
ARTICLE III - BOARD OF DIRECTORS (cont'd)

- (f) Corporate Employees. No more than one person who is a full-time employee of this corporation or any of its subsidiaries may serve at any time as a director of this corporation. Such person must first be eligible under paragraphs (a), (b), (c) or (d) of Article III, Section 2.

Section 3. NOMINATION, ELECTION AND ASSUMPTION OF OFFICE. Persons to be voted upon for election to the Board of Directors shall be nominated by the Nominating Committee appointed pursuant to Section 4 hereof. The directors of this corporation, except for persons appointed by the Governor of the State of Kansas, shall be elected by the members of this corporation from among those persons so nominated, to serve terms of office determined in accordance with Section 5, hereof. All persons so elected shall assume their duties as directors on the date of election.

Section 4. NOMINATING COMMITTEE. A Nominating Committee of three (3) persons shall serve as a standing committee of this corporation. The committee shall be appointed by the Chairman of the Board, upon his assumption of office and shall continue to serve while the Chairman remains in office.

- (a) Composition. Members of the committee shall be present members of the Board of Directors and the committee shall include at least two subscribers.
- (b) Term. All of the members of the Nominating Committee shall serve until the appointment of a succeeding committee. Members of the committee may be reappointed to serve consecutive terms.
- (c) Duties. The Nominating Committee shall nominate or select persons to be voted upon by the members of this corporation for election to the Board of Directors. The committee may, at the request of the Chairman, submit nominations for persons to be elected to any office of this corporation.

Section 5. TENURE. The members of the Board of Directors shall serve terms of office as follows:

- (a) Term. All members of the Board of Directors shall serve for a term of three (3) years each. No person shall be elected to serve more than two consecutive full three-year terms as a director of this corporation; provided, however, that any person elected to fill a vacancy shall serve the unexpired term and may thereafter be elected to two full three-year terms in addition to the unexpired term; and further provided, that any person elected as a member of the Board of Directors at the first election following May 1, 1986, who also served on the Board of Directors prior to May 1, 1986, shall have such prior service disregarded for the purpose of determining tenure.

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BLUE CROSS AND BLUE SHIELD OF KANSAS, INC. BY WS  
ARTICLE III - BOARD OF DIRECTORS (cont'd)

- (b) Extension for Officers. At the expiration of the last authorized term of office of any person holding an office, such person shall continue to serve as a director of this corporation if such person is elected to another office of this corporation described above or is continuing to serve an unexpired term as director. If such person is not elected to another office, the tenure restrictions of subsection (a) hereof shall be deemed to apply to such person from the date of election of such person to the position of director of this corporation.
- (c) Termination upon Disqualification. The term of office of any director shall terminate if such director shall cease to meet the qualifications and requirements of the provisions of Section 2 of this Article under which such person was nominated and elected. Such termination may occur at any time during the term of service of such director.
- (d) Election of Board in 1986. At the first annual meeting following May 1, 1986, the entire membership of the Board of Directors shall stand for election for the purpose of initiating the rotation of terms required by subsection (e) hereof.
- (e) Rotation of Directors' Terms. The members of the Board of Directors shall be classified with respect to the time during which they each shall hold office by dividing the directors into three classes. Commencing with the first term of office following May 1, 1986, the directors of the first class shall serve for a term of one (1) year; the directors of the second class will serve for a term of two (2) years; and the directors of the third class will serve for a term of three (3) years. At each annual meeting of the members of this corporation, the successors to the directors of the class whose term shall expire in that year shall be elected to hold office for a term of three (3) years. The term of office of one class of directors shall expire in each year. The initial terms of one (1) and two (2) years served pursuant to this subparagraph shall be deemed to be three (3) year terms within the meaning and for the purpose of Section 5 (a) above.

Section 6. REMOVAL. Any director may be removed by the affirmative vote of two-thirds (2/3) of the remaining directors when the Board of Directors, in its judgment, determines the best interests of the corporation will be served thereby.

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BLUE CROSS AND BLUE SHIELD OF KANSAS, INC.  
ARTICLE III - BOARD OF DIRECTORS (cont'd)

Section 7. VACANCIES. Vacancies shall be filled by the Board of Directors in the event of the resignation, termination, removal or death of any director. The person selected to fill the vacancy must meet the requirements for the position which has been vacated.

Section 8. DELEGATION OF AUTHORITY. The Board of Directors may delegate any of its powers or duties to committees, officers, agents or representatives, any one or all of whom shall be responsible to the Board of Directors.

Section 9. COMPENSATION AND EXPENSES. The Directors may determine a just and reasonable compensation for their services. Directors shall be reimbursed for actual expenses reasonably incurred in furtherance of the corporation's business, as authorized by the Board.

ARTICLE IV

OFFICERS

Section 1. OFFICERS AND TERM. The officers of the corporation shall consist of a Chairman, Vice-Chairman, Secretary, Assistant Secretary, Treasurer and President. Each shall serve until their successor has taken office except the President who shall serve at the pleasure of the Board of Directors.

Section 2. QUALIFICATION FOR OFFICE. The Chairman, Vice-Chairman and Secretary of this corporation shall be elected from among the directors of this corporation. The President, Treasurer and Assistant Secretary need not be elected from among the directors of this corporation.

Section 3. TENURE. All officers except the President, Treasurer and Assistant Secretary shall be elected for terms of one year by the Board of Directors at the annual meeting of the corporation. No person may hold any office of this corporation, other than the offices of President, Treasurer, and Assistant Secretary, for more than four consecutive one-year terms. Those elected shall take office immediately upon notification of election by the Board. Any person elected to fill a vacancy in office shall serve the unexpired term of such officer and may thereafter be elected to four full one-year terms.

Section 4. DUTIES OF THE CHAIRMAN. The Chairman shall preside at all meetings of the Board of Directors; shall appoint all standing committees and such other committees as are deemed necessary; and shall perform such other duties as may be assigned to him by the Board of Directors. He shall be an ex-officio member of all committees.

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Section 5. DUTIES OF THE VICE-CHAIRMAN. In the absence of the Chairman, or in the event of his inability or refusal to act, the Vice-Chairman shall perform the duties of the Chairman, and when so acting, shall have all the powers of and be subject to all the restrictions upon the Chairman. The Vice-Chairman shall perform such other duties as from time to time may be assigned by the Chairman or the Board of Directors.

Section 6. DUTIES OF THE PRESIDENT. The President shall be the chief executive officer of the corporation. He may sign on behalf of the corporation any document or instrument which the Board of Directors has authorized to be executed. He shall be responsible for the selection, prescription of duties and supervision of employees of the corporation. In the event of the absence or incapacity of the President, his duties shall be performed by such other employees of the corporation as may be designated by the Chairman or the Board of Directors.

Section 7. DUTIES OF THE SECRETARY. The Secretary shall record the minutes of the meetings of the Board of Directors; shall see that all notices are duly given in accordance with the provisions of these bylaws or as required by law; be custodian of the corporate records and, in general, perform all duties incident to the office of Secretary and such other duties as from time to time may be assigned by the Chairman or the Board of Directors.

Section 8. DUTIES OF THE ASSISTANT SECRETARY. The Assistant Secretary shall, in the absence or disability of the Secretary, perform all of the duties of the Secretary. The Secretary may from time to time delegate certain duties of the Secretary to the Assistant Secretary and the Assistant Secretary shall perform such other duties as may from time to time be assigned by the President, Chairman or the Board of Directors.

Section 9. DUTIES OF THE TREASURER. The Treasurer shall in general, perform all duties incident to the office of Treasurer. The Treasurer shall have charge and custody of and be responsible for all funds and securities of the corporation, and deposit all such monies in the name of the corporation in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of law and these bylaws. In addition, the Treasurer shall perform such other duties as from time to time may be assigned by the President, Chairman or the Board of Directors. If required by the Board of Directors, the Treasurer shall give a bond for the faithful discharge of such duties in such sums and with such surety or sureties as the Board of Directors shall determine.

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Section 10. REMOVAL. Except for the President, who serves at the pleasure of the Board of Directors, any officer may be removed by the affirmative vote of two-thirds (2/3) of the members of the Board of Directors whenever in its judgment the best interests of the corporation will be served thereby, but such removal shall be without prejudice to the contract rights, if any, of the person so removed. Election or appointment of an officer shall not of itself create contract rights.

ARTICLE V

MEETINGS

Section 1. ANNUAL MEETING OF THE MEMBERS. There shall be an annual meeting of the members of this corporation held for the purpose of electing a Board of Directors and conducting such other business as may properly come before the meeting. Such annual meeting shall be held during the month of May on a date to be fixed by the President. Written notice of each annual meeting shall be mailed to each Member at least ten (10) days prior to the date of the meeting.

Section 2. ANNUAL MEETING OF THE BOARD OF DIRECTORS. There shall be an annual meeting of the Board of Directors during the month of May immediately following the annual meeting of members. No notice of such meeting, other than this bylaw, is required.

Section 3. SPECIAL MEETING OF THE BOARD OF DIRECTORS. The Chairman of the Board, or any five (5) members of the Board of Directors acting jointly, is authorized to call special meetings of the Board at any time. Written notice of every special meeting of the Board shall be mailed to each director at least ten (10) days prior to the meeting.

Section 4. ADJOURNMENT. Adjournment or adjournments of any annual or special meeting may be taken, but any meeting at which directors or officers are to be elected shall be adjourned from day to day until such directors or officers have been elected.

Section 5. NOTICE. Whenever written notice is required to be given to any person, either by law or by these bylaws, it may be given to such person either by sending a copy through the mail or by telegram, charges prepaid, to the Director's address appearing on the books of the corporation or supplied by the Director to the corporation for the purpose of notice. Such notice shall specify the place, day and hour of the meeting and, in the case of a special meeting, the general nature of the business to be transacted.

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Section 6. QUORUM. For the purpose of determining a quorum at any meeting of the members, of Directors, of this corporation, the presence in person of ten (10) of the members shall constitute a quorum. The members present at a duly organized meeting can continue to do business until adjournment, notwithstanding the withdrawal of enough such members to have less than a quorum. If a meeting cannot be held because a quorum is lacking, those present may adjourn the meeting until such time and to such place as they may determine.

ARTICLE VI

STANDING COMMITTEES

To assist in the operation and carry out the corporate purposes of this corporation, the Board of Directors may, from time to time, establish standing committees. The purposes, composition and tenure of the standing committees of this corporation are as follows:

Section 1. NOMINATING COMMITTEE. See Article III, Section 4 of these bylaws.

Section 2. SUBSCRIBER ADVISORY COMMITTEE. The Subscriber Advisory Committee shall assist the corporation and the Board of Directors in the development of new concepts, products, policies and procedures to meet the needs and demands of subscribers. The committee shall prepare reports and recommendations, at the request of the Board of Directors or upon its own volition. Such reports and recommendations shall be submitted to the Board of Directors of the corporation for review, study and action. The Subscriber Advisory Committee may, from time to time, meet with the Board of Directors of the corporation for the purpose of consultation with respect to development, implementation, conduct, modification or abandonment of programs, projects, and services of this corporation. The Subscriber Advisory Committee shall consist of not less than fifteen (15) nor more than thirty-one (31) persons, who are representatives of the general public, each of whom is a subscriber of this corporation but is not a licensed physician, licensed dentist, or other provider of health care services or an employee of any such provider. The Subscriber Advisory Committee may, upon its own volition, establish area or regional subscriber councils. The Chairman of the Board shall appoint the Chairman of the Subscriber Advisory Committee from among the members of the Board of Directors who are subscribers. Members of the Subscriber Advisory Committee shall be appointed by the Chairman of the Board of Directors and shall serve until either disqualified or until a successor has been appointed. Any vacancy created by the resignation, death, or removal of any delegate to the Subscriber Advisory Committee shall be filled by appointment of the Chairman of the Board. Any person so appointed shall serve until either disqualified or until a successor has been appointed.

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Section 3. HOSPITAL ADVISORY COMMITTEE. The Hospital Advisory Committee shall assess the needs, requirements and problems of hospitals in the provision of hospital services to subscribers. The committee shall prepare reports and recommendations, at the request of the Board of Directors or upon its own volition. Such reports and recommendations shall be submitted to the Board of Directors of the corporation for review, study and action. The advisory committee and the members thereof may, from time to time, meet with the Board of Directors of the corporation for the purpose of consultation with respect to development, implementation, conduct, modification or abandonment of programs, projects and services of this corporation as they relate to and involve hospitals. The committee shall be comprised of fifteen (15) administrators of hospitals. The Chairman of the Board shall appoint the Chairman of the Hospital Advisory Committee from among the members of the Board of Directors who are hospital administrators. Members of the committee shall be appointed for a term of two (2) years by the Chairman of the Board of this corporation with the advice and consent of the Board of Directors. The persons appointed to the committee will be selected to provide representation of hospitals of various bed sizes and diverse geographic location. Members of this committee may be reappointed to one (1) additional consecutive term. Any person serving on the Hospital Advisory Committee of this corporation as of May 1, 1989, shall be deemed to have been appointed under this bylaw as it exists on May 4, 1989, and shall have prior years' service credited toward a total possible tenure of two (2) two-year terms. Any vacancy created by the resignation, death or removal of any member of the committee shall be filled by appointment of the Chairman of the Board. Any person so appointed shall serve the unexpired term.

Section 4. MEDICAL ADVISORY COMMITTEE. The Medical Advisory Committee shall assess the needs, requirements and problems of licensed physicians or other licensed or registered providers of health care services providing medical services to subscribers. The committee shall prepare reports and recommendations at the request of the Board of Directors or upon its own volition. Such reports and recommendations shall be submitted to the Board of Directors of the corporation for review, study and action. The Medical Advisory Committee and the members thereof may, from time to time, meet with the Board of Directors of the corporation for the purpose of consultation with respect to development, implementation, conduct, modification or abandonment of programs, projects and services of this corporation as they relate to and involve licensed physicians and other licensed or registered providers of medical services. The committee shall be comprised of fifteen (15) licensed physicians. The Chairman of the Board shall appoint the Chairman of the Medical Advisory Committee from among the members of the Board of Directors who are physicians. Members of the committee shall be appointed for a term of two (2) years by the Chairman of the Board of this corporation with the

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advice and consent of the Board of Directors. The persons appointed to this committee shall be selected to represent diverse geographic areas served by this corporation and a variety of medical specialties. Members of this committee may be reappointed for one (1) additional consecutive term. Any person serving on the Medical Advisory Committee of this corporation as of May 1, 1989, shall be deemed to have been appointed under this bylaw as it exists on May 4, 1989, and shall have prior years' service credited toward a total possible tenure of two (2) two-year terms. Any vacancy created by the resignation, death or removal of any member of the committee shall be filled by appointment of the Chairman of the Board. Any person so appointed shall serve the unexpired term.

Section 5. DENTAL ADVISORY COMMITTEE. The Dental Advisory Committee shall assess the needs, requirements and problems of licensed dentists providing services to subscribers. The committee shall prepare reports and recommendations at the request of the Board of Directors or upon its own volition. Such reports and recommendations shall be submitted to the Board of Directors of the corporation for review, study and action. The Dental Advisory Committee and the members thereof may, from time to time, meet with the Board of Directors of the corporation for the purpose of consultation with respect to development, implementation, conduct, modification or abandonment of programs, projects and services of this corporation as they relate to and involve licensed dentists. The committee shall be comprised of fifteen (15) licensed dentists. The Chairman of the Board shall appoint the licensed dentist who is a member of the Board of Directors as the Chairman of the Dental Advisory Committee. Members of the committee shall be appointed for a term of two (2) years by the Chairman of the Board of this corporation with the advice and consent of the Board of Directors. The persons appointed to this committee shall be selected to represent diverse geographic areas served by this corporation and a variety of dental specialties. The members of this committee may be reappointed for one (1) additional consecutive term. Any person serving on the Dental Advisory Committee of this corporation as of May 1, 1989, shall be deemed to have been appointed under this bylaw as it exists on May 4, 1989, and shall have prior years' service credited toward a total possible tenure of two (2) two-year terms. Any vacancy created by the resignation, death or removal of any member of the committee shall be filled by appointment of the Chairman of the Board. Any person so appointed shall serve the unexpired term.

## ARTICLE VII

### DEFINITION OF TERMS

As used in these Bylaws and within the context of the operations and management of this corporation, the following terms are defined as follows:

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Section 1. SUBSCRIBER. The term "subscriber" shall include any person who has subscribed to receive hospital, medical or dental care services under any contract with this corporation or as a participant under any plan for the provision of such hospital, medical or dental services under an agreement with respect to which this corporation provides administrative services only, but shall not include any such person who is a hospital employee, trustee or director of a hospital, dentist, physician, or other person who provides health care services, or a person employed by such a provider of health care services.

Section 2. HOSPITAL ADMINISTRATOR. The term "hospital administrator" shall include the chief executive or administrative officer of any hospital or other principal executive officer of a hospital, or any trustee or director thereof.

Section 3. PHYSICIAN. The term "physician" shall include all medical doctors and all doctors of osteopathy licensed to practice in the State of Kansas.

Section 4. DENTIST. The term "dentist" shall mean a person licensed to practice as such in the State of Kansas.

ARTICLE VIII

AMENDMENT TO BYLAWS

Amendments to these bylaws may be made by a majority vote of the Board of Directors at any annual or special meeting called for that purpose.

ARTICLE IX

INDEMNIFICATION OF BOARD MEMBERS AND OFFICERS

Section 1. The corporation shall indemnify any person who was or is a party to or who is threatened to be made a party to any civil, criminal, administrative or investigative action (other than an action by or in the name of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director or officer of another corporation, partnership, joint venture, trust or other enterprise, against expenses (including attorney's fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in a manner he reasonably believed to be in or not

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ARTICLE IX - INDEMNIFICATION OF BOARD MEMBERS AND OFFICERS  
(cont'd)

opposed to the best interests of the corporation, and with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

Section 2. To the extent that a person who is a director or officer of the corporation or who is a director or officer of another corporation, partnership, joint venture, trust or other enterprise in which he is serving at the request of the corporation has been successful on the merits or otherwise in defense of any action, suit or proceeding referred to in Section 1 of this Article, or in defense of any claim, issue or other matter therein, he shall be indemnified against expenses (including attorney's fees) actually and reasonably incurred by him in connection therewith.

Section 3. Any indemnification under Section 1 of this Article (unless ordered by a Court) shall be made by the corporation only upon a determination that indemnification of the director or officer is proper in the circumstances because he has met the applicable standard of conduct set forth in said Section 1. Such determination shall be made (1) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (2) if such a quorum is not obtainable or, if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion.

Section 4. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the corporation in advance of the final disposition of such action, suit or proceeding as authorized by the Board of Directors upon receipt of any undertaking by or on behalf of the director or officer to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this Article.

Section 5. Persons who are not directors or officers of the corporation but are employees or agents of the corporation or are serving at the request of the corporation as employees or agents of another corporation, partnership, joint venture, trust or enterprise, may be indemnified to the extent authorized at any time, or from time to time, by the Board of Directors of the corporation.

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*Attn # 1-d*  
*pg. 12.*

BLUE CROSS AND BLUE SHIELD OF KANSAS, INC. BYLAWS  
ARTICLE XI - CONTRACTS, LOANS CHECKS, DEPOSITS (cont'd)

Section 2. LOANS. No loans shall be contracted on behalf of the corporation, and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Directors.

Section 3. CHECKS. All checks, drafts, or other orders for the payment of money, notes, or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall from time to time be determined by a resolution of the Board of Directors.

Section 4. DEPOSITS. All funds of the corporation not otherwise employed shall be deposited from time to time to the credit of the corporation in such banks, trust companies or other depositories as the Board of Directors may select.

ARTICLE XII

CONTINUATION FOLLOWING DISASTER

In the event of a nuclear, atomic or other disaster which makes it impossible or impracticable for the corporation to conduct its business in strict accordance with these Bylaws, applicable provisions shall be waived to facilitate continued operation during the period of such emergency.

ARTICLE XIII

CORPORATE SEAL

This corporation shall have a corporate seal in such form as shall be approved by the Board of Directors.

5/01/86

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2-8-90  
Attn. # 1-d  
Pg. 13*

TESTIMONY OF BLUE CROSS AND BLUE SHIELD OF KANSAS  
HOUSE BILL 2755  
House Committee on Public Health and Welfare  
February 7, 1990

Our testimony today does not address Doctors of Osteopathy, since we understand that they were drawn into this bill. Moreover, our bylaws currently permit either D.O.'s or M.D.'s to be on our Board.

The Topeka Capital-Journal, in an article at the beginning of the legislative session, indicated that the Kansas Chiropractic Association might seek a bill putting a chiropractor on the Blue Cross and Blue Shield Board. That article indicated that the reason for wanting a chiropractor on the Board of Blue Cross and Blue Shield is so that chiropractors will know more about what is going on in the affairs of Blue Cross and Blue Shield affecting chiropractors.

This doesn't jibe with the facts.

Blue Cross and Blue Shield has invited the Kansas Chiropractic Association to every regular Board and Executive Committee meeting it has held since 1983. Copies of our Board agendas routinely go to the Kansas Chiropractic Association, as do our minutes. We do not treat the Blue Cross and Blue Shield of Kansas Board meetings as closed meetings, although we could, and have extended the opportunity to attend our Board meetings to KCA in the same fashion as we do the Kansas Medical Society and the Kansas Hospital Association.

They came to none.

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Attn #2*



Does this suggest a group which wants more information about the affairs of Blue Cross and Blue Shield? Or is there something more going on here?

Blue Cross Plans, and later Blue Shield Plans, were first organized in cooperation with hospital associations and medical societies during the Depression in order to make available health care financing to working men and women. Because medical ethics prohibited the corporate practice of medicine, some of these early medical prepayment plans were legally challenged. In addition, because they provided benefits in the form of services, rather than cash, insurance regulators weren't sure what kind of entities they were dealing with, but they knew they weren't conventional insurance companies.

To answer these two issues; the pattern -- which Kansas followed -- was established in the late 1930's of creating special "enabling acts", usually under the jurisdiction of the insurance regulator. The non-profit hospital service corporation act was passed in Kansas in 1941, for Blue Cross, and the non-profit medical service corporation act was passed in 1945, for Blue Shield.

Today, Blue Cross and Blue Shield operates under a bill passed in 1981, K.S.A. 40-19c01 et seq., the non-profit medical and hospital service corporation act, which allowed the separate corporations of Blue Cross and Blue Shield to merge. That law

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creates an obligation for a subscriber majority on the Board of Directors of Blue Cross and Blue Shield, and provides for two persons who are subscribers to be appointed by the Governor, and permits inclusion of hospital administrators and physicians on the Board of Blue Cross and Blue Shield.

Let's review the history of these enabling acts, and changes in them dealing with board composition. Copies of changes dealing with board composition are attached.

The Blue Cross Act, in 1941, specified that the Board would be composed of hospital administrators, physicians, and members of the general public in equal proportion. The Blue Shield Act, in 1945, specified only that two persons appointed by the Governor would be on the Board. In fact, at its beginning, the remainder of the Board was physicians. The Blue Cross Act was later amended to require that at least 50% of the Board be subscribers, and then that a majority of the Board be subscribers. The Blue Shield Act went through similar amendments.

Today, the merged Blue Cross and Blue Shield Board, which by law must have a majority of subscribers, under its bylaws is required to have ten persons, or two-thirds of the Board, who are subscribers, with two hospital administrators, two physicians, and one dentist provided for in the bylaws.

The reason for the evolution from provider-dominated boards to subscriber-dominated boards was the growing concern in the 1970's that provider control inhibited adoption of policies which

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would limit amounts of payments to providers, and kept prices for health services higher than they should be. This was a nationwide concern, not localized to Kansans, and in many ways was probably more theoretical than real here in Kansas.

Nevertheless, the history of the Blue Cross and Blue Shield enabling acts has been increasingly to diminish, not encourage, provider influence, and to place control in the hands of those who purchase health care and health insurance -- the subscribers -- and not in the hands of those who gain from the sale of health care services. House Bill 2755 ignores this history, and seeks instead to obtain for chiropractors some kind of influence over the policies of Blue Cross and Blue Shield.

You have to ask yourself this one simple question: Do the chiropractors desire that influence for the betterment of subscribers, or do they desire it for the economic benefit of chiropractors alone?

You should be aware, as well, that if some kind of economic democracy is desired on the Blue Cross and Blue Shield Board, the Bill makes no sense. In the period from October, 1988 through September, 1989, allowed charges made to Blue Cross and Blue Shield were \$127,000,000 by M.D.'s, \$243,000,000 by hospitals, \$31,000,000 by dentists, \$21,000,000 by pharmacies, and \$15,000,000 by chiropractors.

It is interesting to note that between 1988 and 1989 the allowable charges (this is a combination of cost and use) for M.D.'s increased 8.7%, hospitals increased 11.4%, but during this same period of time chiropractors increased 30.5%.

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*Pg. 4*

Not only have chiropractic charges increased substantially, but also we have witnessed instances of individual chiropractors providing 150 to 200 services to the same person in a single year. Therefore, we needed a product which dealt both with charges and increasing use in chiropractic services.

To address these increases in cost and use Blue Cross and Blue Shield introduced a new product this year, the Kansas Chiropractic Network, which requires chiropractors to compete on the basis of cost and use. It provides higher reimbursement for those whose average costs per patient are low, and lower reimbursement for the high chargers and high users.

We needed this product, because someone has to say, "enough is enough", and Blue Cross and Blue Shield, among all health insurance companies, is uniquely obligated by statute to do so.

This is what the Kansas Chiropractic Network program did.

The chiropractors didn't like it. They complained to the Attorney General's office without success. They complained to the Insurance Department without success. And now they are complaining, in a roundabout way, to the Legislature.

Chiropractors are not the only providers we contract with or pay benefits to who are not on our Board. We also contract with community mental health centers, ambulatory surgery centers, substance abuse treatment facilities, registered physical therapists, ambulance services, certified registered nurse anesthetists, Doctors of Podiatric Medicine, speech therapists, audiologists, optometrists, licensed specialist clinical social

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Og 5

workers, licensed psychologists, pharmacies, durable medical equipment suppliers, and others. Should we adopt the same rationale advanced under House Bill 2755 for these providers in structuring the Blue Cross and Blue Shield Board?

As commonplace as it is, the wisdom that "if it ain't broke, don't fix it" is as good a working tool in legislation as it is in other realms. House Bill 2755 speaks to no public problem; there is no outcry from Blue Cross and Blue Shield subscribers to have a chiropractor on our Board.

We urge you to vote "no" on House Bill 2755.

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*2-8-90*  
*Attn # 2*  
*pg. 6.*

BLUE CROSS ACT 1941

CHAPTER 259

MUTUAL NONPROFIT HOSPITAL SERVICE CORPORATIONS

Senate Bill No. 214

AN ACT relating to mutual nonprofit hospital service corporations, and prescribing the powers and duties of such corporations, and providing for supervision thereof by the commissioner of insurance.

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

SECTION 1. This act shall be known as the mutual nonprofit hospital service corporation act.

SEC. 2. Mutual nonprofit corporations may be organized for the purpose of entering into contracts with participating hospitals to provide hospital service for their subscribers. The affairs of any such nonprofit hospital service corporations organized under this act shall be managed by a board of directors of not less than fifteen members composed of:

- (1) Administrators or trustees of participating hospitals;
- (2) Licensed physicians exclusive of group (1), and
- (3) Members of the public exclusive of groups (1) and (2), in equal proportion. The directors shall take the oath of office as in other corporations and duplicates of such subscribed oaths shall be forwarded at the time of election to the commissioner of insurance for filing in his office. The bylaws shall specify the number of directors necessary to constitute a quorum, which shall not be less than ten members.

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Attn # 2  
Pg. 7

BLUE CROSS ACT 1968

CHAPTER 205

INSURANCE

Senate Bill No. 334

AN ACT relating to mutual nonprofit hospital service corporations; and pertaining to the board of directors thereof; amending K. S. A. 40-1802 and repealing the existing section.

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

Section 1. K. S. A. 40-1802 is hereby amended to read as follows: 40-1802. Mutual nonprofit corporations may be organized for the purpose of entering into contracts with participating hospitals to provide hospital service for their subscribers and to provide indemnity or other benefits in accordance with clause (g) of subsection C B of section K. S. A. 40-1805 of the general statutes supplement of 1953, as amended, to subscribers receiving hospital service in hospitals with which such mutual nonprofit corporations have no contracts. Such corporations heretofore or hereafter organized may provide service or indemnity for other health services but not to exceed reasonable and customary charges that a subscriber may incur for these services.

The affairs of any such nonprofit hospital service corporations organized under this act shall be managed by a board of directors of not less than fifteen (15) members composed of (1) administrators or trustees of participating hospitals; (2) licensed physicians exclusive of group (1), and (3) members of the public exclusive of groups (1) and (2); ~~in equal proportion.~~ *The administrators or trustees on the board shall at no time exceed twenty-five percent (25%) of its membership; and licensed physicians shall not exceed twenty-five percent (25%) of such membership. At least fifty percent (50%) of the membership shall be members of the public who are neither licensed physicians or administrators or trustees.* The directors shall take the oath of office as in other corporations and duplicates of such subscribed oaths shall be forwarded at the time of election to the commissioner of insurance for filing in his office. The bylaws shall specify the number of directors necessary to constitute a quorum, which shall not be less than ten (10) members.

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*2-8-90*

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BLUE CROSS ACT 1980

CHAPTER 137

House Bill No. 2/56

AN ACT relating to nonprofit medical and hospital service corporations; regulating and prescribing the authority, powers and duties thereof; prescribing the authority and duties of the commissioner of insurance in relation thereto; authorizing the merger of such corporations; amending K.S.A. 40-1802, 40-1804, 40-1806, 40-1813, 40-1902, 40-1904, 40-1906, 40-1908, 40-1912, 40-1914 and K.S.A. 1979 Supp. 40-1803, 40-1805, 40-1809, 40-1811, 40-1903, 40-1905, 40-1909 and 40-1911 and repealing the existing sections.

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

Section 1. K.S.A. 40-1802 is hereby amended to read as follows: 40-1802. Mutual nonprofit corporations may be organized for the purpose of entering into contracts with participating hospitals to provide hospital service for their subscribers and to provide indemnity or other benefits in accordance with clause ~~(g)~~ (7) of subsection ~~B~~ (b) of K.S.A. 1979 Supp. 40-1805, as amended, to subscribers receiving hospital service in hospitals with which such mutual nonprofit corporations have no contracts. Such corporations heretofore or hereafter organized may provide service or indemnity for other health services or facilities but not to exceed reasonable and customary charges that a subscriber may incur for these services.

The affairs of any such nonprofit hospital service corporations organized under this act shall be managed by a board of directors of not less than fifteen (15) members composed of ~~(1)~~ administrators or trustees of participating hospitals; ~~(2)~~ licensed physicians exclusive of group ~~(1)~~; and ~~(3)~~ and licensed physicians who participate in providing professional and institutional service to subscribers and members of the public who at the time of their election are subscribers exclusive of groups ~~(1)~~ and ~~(2)~~. The administrators or trustees on the board shall at no time exceed twenty five percent (25%) of its membership; and licensed physicians shall not exceed twenty five percent (25%) of such membership. At least fifty percent (50%) of the membership shall be members of the public, who are neither licensed physicians or administrators or hospital trustees; or administrators and physicians. The members of the public, exclusive of hospital trustees or administrators and physicians, shall at all times comprise a majority of the membership of the board of directors. The directors shall take the oath of office as in other corporations and duplicates of such subscribed oaths shall be forwarded at the time of election to the commissioner of insurance for filing in his office. The bylaws shall specify the number of directors necessary to constitute a quorum, which shall not be less than ten (10) members.

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BLUE SHIELD ACT 1945

CHAPTER 216

NONPROFIT MEDICAL SERVICE CORPORATION ACT

House Bill No. 90

AN Act relating to certain nonprofit service corporations, prescribing certain powers and duties, and providing for the supervision thereof.

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

SECTION 1. This act shall be known as "The nonprofit medical service corporation act."

SEC. 2. Nonprofit corporations may be organized for the purpose of entering into contracts with participating physicians to provide professional service for their subscribers and the governor of the state of Kansas shall appoint two members of the public to the board of directors of the corporation, who shall never receive any moneys whatever from said corporation.

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Attn #2  
Pg. 10

BLUE SHIELD ACT 1955

CHAPTER 245

NONPROFIT MEDICAL SERVICE CORPORATIONS; PRESCRIBING CERTAIN POWERS THEREFOR

House Bill No. 145

AN ACT relating to nonprofit medical service corporations prescribing certain powers and duties, providing for supervision thereof, amending sections 40-1902, 40-1903 and 40-1905 of the General Statutes Supplement of 1953, and repealing said original sections.

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

SECTION 1. Section 40-1902 of the General Statutes Supplement of 1953 is hereby amended to read as follows: Sec. 40-1902. Nonprofit corporations may be organized for the purpose of entering into contracts with participating physicians to provide professional service for subscribers as may be designated in subscription agreements. Such corporations may also indemnify subscribers as designated in subscription agreements for services which may be received from nonparticipating physicians. The governor of the state of Kansas shall appoint two (2) members of the public to the board of directors of the corporation, who shall never receive any moneys whatever from said corporation. Such corporations heretofore or hereafter organized may also provide service or indemnity for other health services but not to exceed reasonable and customary charges that a subscriber may incur for these services.

BLUE SHIELD ACT 1972

CHAPTER 188

House Bill No. 1883

AN ACT relating to nonprofit medical service corporations; organization; board of directors; oaths; quorum; amending K. S. A. 40-1902 and repealing the existing section.

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

Section 1. K. S. A. 40-1902 is hereby amended to read as follows: 40-1902. Nonprofit corporations may be organized for the purpose of entering into contracts with participating physicians to provide professional service for subscribers as may be designated in subscription agreements. Such corporations may also indemnify subscribers as designated in subscription agreements for services which may be received from nonparticipating physicians. The ~~governor of the state of Kansas shall appoint two (2) members of the public to the board of directors of the corporation, who shall never receive any moneys whatever from said corporation.~~ Such corporations heretofore or hereafter organized may also provide service or indemnity for other health services but not to exceed reasonable and customary charges that a subscriber may incur for these services. *The affairs of any such nonprofit medical service corporations organized under the act of which this section is amendatory shall be managed by a board of directors of not less than fifteen (15) members as specified by the articles of incorporation composed of: (1) Licensed physicians who participate in providing professional service to subscribers; and (2) members of the public exclusive of group (1) who, at the time of their election, are subscribers. Two (2) members of the public who are subscribers shall be appointed to the board of directors by the governor of the state of Kansas. The licensed physicians on the board of directors shall at no time exceed fifty percent (50%) of its membership. The directors shall take the oath of office as in other corporations and duplicates of such subscribed oaths shall be forwarded at the time of election to the commissioner of insurance for filing in his office. The bylaws shall specify the number of directors necessary to constitute a quorum which shall not be less than ten (10) members.*

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Attn #2  
Jg. 11.

BLUE SHIELD ACT 1980

Sec. 9. K.S.A. 40-1902 is hereby amended to read as follows:  
40-1902. Nonprofit corporations may be organized for the purpose of entering into contracts with participating physicians to provide professional service for subscribers as may be designated in subscription agreements. Such corporations ~~may~~ shall also indemnify subscribers as designated in subscription agreements for services which may be received from nonparticipating physicians. Such corporations ~~heretofore or hereafter organized~~ may also provide service or indemnity for other health services but not to exceed reasonable and customary charges that a subscriber may incur for these services. The affairs of any such ~~nonprofit medical service~~ corporations organized under the ~~act of which this section is amendatory~~ *nonprofit medical service corporation act* shall be managed by a board of directors of not less than fifteen (15) members as specified by the articles of incorporation composed of: ~~(1)~~ *(1)* Licensed physicians who participate in providing professional service to subscribers; and ~~(2)~~ *(2)* members of the public exclusive of ~~group~~ *(1) physicians* who, at the time of their election, are subscribers. Two (2) members of the public who are subscribers shall be appointed to the board of directors by the governor of the state of Kansas. ~~The licensed physicians on the board of directors shall at no time exceed fifty percent (50%) of its membership. The members of the public, exclusive of physicians, shall at all times comprise a majority of the membership of the board of directors.~~ The directors shall take the oath of office as in other corporations and duplicates of such subscribed oaths shall be forwarded at the time of election to the commissioner of insurance for filing in his office. The bylaws shall specify the number of directors necessary to constitute a quorum which shall not be less than ten (10) members.

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Attn # 2  
Pg. 12.

# Kansas Association of Osteopathic Medicine

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Harold E. Riehm, Executive Director

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

February 7, 1990

## TESTIMONY H.B. 2755

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

My name is Harold Riehm and I appear in support of the general concept of H.B. 2755, but with some recommended changes.

For several years, KAOM has suggested to Blue Cross-Blue Shield that there be an osteopathic physician on their Board of Directors. For several years they have indicated that might happen some day; it has not.

KAOM is consistent in supporting major provider group representation, where possible, on the policy making or policy confirmation body of any organization which has a major, at times dramatic, effect upon the practice of members of that group. We think the decisions of Blue Cross-Blue Shield, as a major trend setter of policy effecting third party reimbursement policies, place it in such a category.

KAOM is sensitive, of course, to the fact that "physicians" are presently represented on the Board. None of those are, or have been, osteopathic physicians. There are certain policies that have a unique impact upon the osteopathic profession. In the past we have had no input at the Board of Directors level and the usual modus operandi is for the osteopathic profession to be informed after the fact of the implementation of a new program.


Whether or not the general composition of the Board of Directors which is the subject of this statute should, indeed, be a subject of statutory reference is at this point in time not at issue. It is a law of the State of Kansas and as such the Kansas Legislature has access to changing the Board's composition. We think H.B. 2755, in general, adds elements of needed representation to the Board so addressed.

KAOM DOES, HOWEVER, HAVE SOME SUGGESTED CHANGES IN THE BILL. (SEE COPY OF BILL, WITH KAOM'S SUGGESTED CHANGES) ON OPPOSITE SIDE OF THIS PAGE.

The major change is to delete the reference to "physicians" in several places. This is in so that language throughout will be consistent with a recent ruling of the Kansas Attorney General, holding that practitioners of chiropractic may not use the term "chiropractic physician". Pursuant to this, KAOM recommends deleting New Sec. 2.

One other suggested change provides that there be "at least one" person of each of three licensed branches of the healing arts.

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attm. # 3  
2-8-90



Session of 1990

HOUSE BILL No. 2755

CHANGES SUGGESTED BY KAOM

By Committee on Public Health and Welfare

1-30

9 AN ACT amending the nonprofit medical and hospital service cor-  
10 poration act; amending K.S.A. 40-19c03 and repealing the existing  
11 section.  
12

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

14 Section 1. K.S.A. 40-19c03 is hereby amended to read as follows:  
15 40-19c03. Nonprofit corporations may be organized under the non-  
16 profit medical and hospital service corporation act for the purpose  
17 of entering into contracts with participating ~~physicians~~ and partici-  
18 pating hospitals to provide professional and hospital services for sub-  
19 scribers as may be designated in subscription agreements. Such  
20 corporations shall also indemnify subscribers as designated in sub-  
21 scription agreements for services which may be received from non-  
22 participating physicians or nonparticipating hospitals. Such  
23 corporations may also provide service or indemnity for other health  
24 services or facilities but not to exceed reasonable and customary  
25 charges that a subscriber may incur for these services. The affairs  
26 of any such corporation shall be managed by a board of directors of  
27 not less than ~~fifteen (15)~~ 15 members as specified by the articles  
28 of incorporation composed of: ~~Licensed physicians~~ and trustees or  
29 administrators of hospitals who participate in providing professional  
30 and institutional service to subscribers and members of the public  
31 exclusive of ~~physicians~~ and hospital trustees or administrators who,  
32 at the time of their election, are subscribers. *Beginning with the*  
33 *election of directors immediately following the effective date of this*  
34 *act, the board of directors at all times shall include an equal number*  
35 *of ~~physicians~~ licensed under the Kansas healing arts act to practice*  
36 *medicine and surgery, osteopathic medicine and surgery and chi-*  
37 *ropractic. Two (2) members of the public who are subscribers shall*  
38 *be appointed to the board of directors by the governor of the state*  
39 *of Kansas. The members of the public, exclusive of physicians and*  
40 *hospital trustees or administrators, shall at all times comprise a ma-*  
41 *jority of the membership of the board of directors. The directors*  
42 *shall take the oath of office as in other corporations and duplicates*  
43 *of such subscribed oaths shall be forwarded at the time of election*

Delete "physicians"  
and insert in lieu  
thereof "health care  
providers"

Delete "Licensed  
physicians" and insert  
in lieu thereof,  
"persons licensed  
under the Kansas  
healing arts act"

Delete "physicians"  
and insert in lieu  
thereof, "persons  
licensed under the  
Kansas healing arts  
act"

Delete "an equal num-  
ber of physicians" and  
insert in lieu thereof  
"at least one person"

2

1 to the commissioner of insurance for filing. The bylaws shall specify  
2 the number of directors necessary to constitute a quorum which shall  
3 not be less than ~~ten (10)~~ 10 members.

4 ~~New Sec. 2. As used in the nonprofit medical and hospital serv-~~  
5 ~~ice corporation act, the term "physician" shall include any person~~  
6 ~~licensed under the Kansas healing arts act to practice medicine and~~  
7 ~~surgery, osteopathic medicine and surgery or chiropractic.~~

8 Sec. 3. K.S.A. 40-19c03 is hereby repealed.

9 Sec. 4. This act shall take effect and be in force from and after  
10 its publication in the Kansas register.

Delete all of New  
Sec. 2 and Renumber  
Sec. 3 and Sec. 4 as  
Sec. 2 and Sec. 3,  
respectively, to be  
consistent with A.G.  
Opinion.

*PKW*  
*2-8-90*  
*Attn #3*  
*pg. 2.*



# KANSAS MEDICAL SOCIETY

1300 Topeka Avenue • Topeka, Kansas 66612 • (913) 235-2383  
Kansas WATS 800-332-0156 FAX 913-235-5114

February 7, 1990

TO: House Public Health and Welfare Committee  
FROM: Kansas Medical Society *Chip Steelman*  
SUBJECT: House Bill 2755; Blue Cross/Blue Shield Board of Directors

Thank you for this opportunity to express our opposition to HB2755 in its current form. Although the Kansas Medical Society does not have a position on whether or not osteopathic physicians or chiropractors should be represented on the BC/BS Board of Directors, we are opposed to the bill because of flaws in drafting the amendatory language. We also question whether there is a rational basis for requiring equal representation of MDs, DOs and DCs when there are approximately 9 MDs for each DC licensed in the State of Kansas and approximately 14 MDs for each DO licensed.

Our objection to HB2755 is based upon a completely separate issue. You will note that in line 35 of page 1, the term "physicians" is used, thereby implying that any person licensed under the Kansas Healing Arts Act would be considered a "physician." Furthermore, you will note that on page 2 of the bill, there is a superfluous New Section 2, which specifically defines the term "physician" in a manner that includes MDs, DOs and DCs. This would constitute an unprecedented change in nomenclature if adopted by this Committee. Common sense and current law clearly say that a physician is a person licensed to practice medicine and surgery, whereas a person licensed to practice chiropractic is called a chiropractor. For a seven page explanation of why this is long established policy in Kansas, please refer to Attorney General's Opinion 87-42.

With these points in mind, we respectfully request that you recommend HB2755 not be passed, unless the bill is substantially amended to correct its obvious flaws. Attached to this statement are draft amendments which would correct the drafting errors. Thank you for considering our concerns.

CW:lg

Encs.


*PH+ed*  
*2-8-90*  
*attn. #1*

# The Budget

## BOARD OF HEALING ARTS

	FY 1988 ACTUAL	FY 1989 ESTIMATE	C LEVEL BUDGET	GOVERNOR'S RECOMMENDATION
<b>Expenditures By Object</b>				
Salaries And Wages .....	358,891	455,094	509,360	538,410
Contractual Services .....	285,597	315,126	363,360	341,130
Commodities .....	35,668	39,630	47,265	40,800
Capital Outlay .....	9,840	64,021	68,037	2,784
Debt Service .....	0	0	0	0
Non-expense Items .....	0	0	0	0
Subtotal: State Operations .....	689,996	873,871	988,022	923,124
Aid To Local Units .....	0	0	0	0
Other Assistance .....	0	0	0	0
Capital Improvements .....	0	0	0	0
Total Expenditures .....	\$689,996	\$873,871	\$988,022	\$923,124
<b>Expenditures By Fund</b>				
<b>State General Fund</b>				
State Operations .....	0	0	0	0
Aid To Local Units .....	0	0	0	0
Other Assistance .....	0	0	0	0
Capital Improvements .....	0	0	0	0
Subtotal: State General Fund .....	0	0	0	0
<b>Other Funds</b>				
State Operations .....	689,996	873,871	988,022	923,124
Aid To Local Units .....	0	0	0	0
Other Assistance .....	0	0	0	0
Capital Improvements .....	0	0	0	0
Subtotal: Other Funds .....	689,996	873,871	988,022	923,124
Total Expenditures .....	\$689,996	\$873,871	\$988,022	\$923,124
Full Time Positions .....	15.00	16.00	19.00	19.00

### PERFORMANCE INDICATORS

	FY 1988 ACTUAL	FY 1989 ESTIMATE	FY 1990 ESTIMATE*
 Licensees			
(MD).....	5,913	5,781	5,810
(DO).....	414	415	436
(DC).....	669	653	686
(DPM).....	115	115	112
Registration			
Occupational Therapist.....	348	395	405
Occupational Therapy Assistant.....	36	44	52
Respiratory Therapist.....	745	825	832
Physical Therapist.....	713	767	801
Certifications			
Physical Therapy Assistant.....	268	325	380
Physicians Assistant.....	113	117	120
Disciplinary Actions.....	212	297	327

\* Estimated level of performance under governor's recommendation.

*PHW*  
*2-8-90*  
*Attn #4.*  
*pg. 2. 251*

HOUSE BILL No. 2755

By Committee on Public Health and Welfare

1-30

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2-8-90  
Attn: #4  
Cg.3*

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AN ACT amending the nonprofit medical and hospital service corporation act; amending K.S.A. 40-19c03 and repealing the existing section.

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

Section 1. K.S.A. 40-19c03 is hereby amended to read as follows: 40-19c03. Nonprofit corporations may be organized under the nonprofit medical and hospital service corporation act for the purpose of entering into contracts with participating physicians and participating hospitals to provide professional and hospital services for subscribers as may be designated in subscription agreements. Such corporations shall also indemnify subscribers as designated in subscription agreements for services which may be received from nonparticipating physicians or nonparticipating hospitals. Such corporations may also provide service or indemnity for other health services or facilities but not to exceed reasonable and customary charges that a subscriber may incur for these services. The affairs of any such corporation shall be managed by a board of directors of not less than ~~fifteen~~ (15) 15 members as specified by the articles of incorporation composed of: Licensed physicians and trustees or administrators of hospitals who participate in providing professional and institutional service to subscribers and members of the public exclusive of physicians and hospital trustees or administrators who, at the time of their election, are subscribers. *Beginning with the election of directors immediately following the effective date of this act, the board of directors at all times shall include an equal number of* ~~physicians~~ *licensed under the Kansas healing arts act to practice medicine and surgery, osteopathic medicine and surgery and chiropractic.* Two (2) members of the public who are subscribers shall be appointed to the board of directors by the governor of the state of Kansas. The members of the public, exclusive of physicians and hospital trustees or administrators, shall at all times comprise a majority of the membership of the board of directors. The directors shall take the oath of office as in other corporations and duplicates of such subscribed oaths shall be forwarded at the time of election

persons



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2-8-90  
Attn. #4  
Pg. 7.*

1 to the commissioner of insurance for filing. The bylaws shall specify  
2 the number of directors necessary to constitute a quorum which shall  
3 not be less than ~~ten (10)~~ 10 members.

4 ~~Now Sec. 2. As used in the nonprofit medical and hospital serv-~~  
5 ~~ice corporation act, the term "physician" shall include any person~~  
6 ~~licensed under the Kansas healing arts act to practice medicine and~~  
7 ~~surgery, osteopathic medicine and surgery or chiropractic.~~

*} delete entire section (superfluous and erroneous)*

8 ~~Sec. 2. K.S.A. 40-19c03 is hereby repealed.~~ (2)

9 ~~Sec. 4. This act shall take effect and be in force from and after~~ (3)  
10 its publication in the Kansas register.



KANSAS MEDICAL SOCIETY

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

Chip Wheelen  
Director of Public Affairs



STATE OF KANSAS

OFFICE OF THE ATTORNEY GENERAL

2ND FLOOR, KANSAS JUDICIAL CENTER, TOPEKA 66612

ROBERT T. STEPHAN  
ATTORNEY GENERAL

March 5, 1987

MAIN PHONE: (913) 296-2213  
CONSUMER PROTECTION: 296-3731

ATTORNEY GENERAL OPINION NO. 87- 42

The Honorable Dale M. Sprague  
State Representative, Seventy-Third District  
State Capitol, Room 112-S  
Topeka, Kansas 66612

Re: Public Health -- Healing Arts; Kansas Healing Arts  
Act -- Doctors of Chiropractic; "Chiropractic  
Physicians"

Synopsis: Under the Kansas statutes the term "physician"  
means a person licensed to practice medicine and  
surgery unless it is defined otherwise. See,  
e.g., K.S.A 65-2869. In addition, when  
"physician" is used in conjunction with another  
word, the health care provider is deemed to be one  
licensed to practice medicine and surgery. See  
65-2870; 65-2897a. Chiropractors are specifically  
prohibited by statute from practicing medicine and  
surgery. K.S.A. 65-2871. Thus, the term  
"chiropractic physician" is misleading to the  
public as it implies that a chiropractor is  
licensed to practice beyond the scope of the  
statutory definition of chiropractic. Therefore,  
it is our opinion that doctors of chiropractic  
cannot use the term "chiropractic physician."  
Cited herein: K.S.A. 1986 Supp. 8-1001; 17-2707;  
K.S.A. 40-2101; 40-3103; 44-508; K.S.A. 1986  
Supp. 59-2902; K.S.A. 60-427; 65-1,114; 65-448;  
65-5a01; 65-6b01; 65-2401; 65-2801; 65-2802;  
65-2803; 65-2869; 65-2870; 65-2871; 65-2892;  
65-2892a; 65-2893; 65-28,102; 65-2897a; 65-2901;  
65-3209; K.S.A. 1986 Supp. 65-4003; K.S.A.  
65-4202; 65-4301; K.S.A. 1986 Supp. 65-5501;  
K.S.A. 72-5208; 74-4916; K.A.R. 28-34-1.

PHW  
2-8-90  
attn #5

Dear Representative Sprague:

As State Representative for the Seventy-Third District, you request our opinion whether doctors of chiropractic licensed by the State of Kansas may call themselves "chiropractic physicians." It is our understanding that the Board of Healing Arts in October, 1986 reaffirmed its policy that it would not discipline a doctor of chiropractic for using the term "chiropractic physician."

All practitioners of the healing arts must be licensed by the State Board of Healing Arts (Board). K.S.A. 65-2801; K.S.A. 65-2803. "Healing arts" is defined by statute as follows:

"The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury, and includes specifically but not by way of limitation the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic." K.S.A. 65-2802(a).

Medicine and surgery, osteopathic medicine and surgery, and chiropractic are three branches of the healing arts. K.S.A. 65-2869 provides as follows:

"For the purpose of this act the following persons shall be deemed to be engaged in the practice of medicine and surgery:

"(a) Persons who publicly profess to be physicians or surgeons, or publicly profess to assume the duties incident to the practice of medicine or surgery or any of their branches.

"(b) Persons who prescribe, recommend or furnish medicine or drugs, or perform any surgical operation . . . .

"(c) Persons who attach to their name the title M.D., surgeon, physician, physician and surgeon, or any other word or

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abbreviation indicating that they are engaged in the treatment or diagnosis of ailments, diseases or injuries of human beings." (Emphasis added).

"Physicians," then, are persons engaged in the practice of medicine and surgery. By statute, osteopaths are licensed to practice medicine and surgery:

"For the purpose of this act the following persons shall be deemed to be engaged in the practice of osteopathy or to be osteopathic physicians and surgeons:

"(a) Persons who publicly profess to be osteopathic physicians, or publicly profess to assume the duties incident to the practice of osteopathy, as heretofore interpreted by the supreme court of this state, shall be deemed to be engaged in the practice of osteopathy.

"(b) Osteopathic physicians and surgeons shall mean and include those persons who receive a license to practice medicine and surgery pursuant to the provisions of this act." K.S.A. 65-2870. (Emphasis added).

The practice of chiropractic is defined as follows:

"For the purpose of this act the following persons shall be deemed to be engaged in the practice of chiropractic: (a) Persons who examine, analyze and diagnose the human living body, and its diseases by the use of any physical, thermal or manual method and use the X-ray diagnosis and analysis taught in any accredited chiropractic school or college and (b) persons who adjust any misplaced tissue of any kind or nature, manipulate or treat the human body by manual, mechanical, electrical or natural methods or by the use of physical means, physiotherapy (including light, heat, water or exercise), or by the use of foods, food concentrates, or food extract, or who

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apply first aid and hygiene, but chiropractors are expressly prohibited from prescribing or administering to any person medicine or drugs in materia medica, or from performing any surgery, as hereinabove stated, or from practicing obstetrics." K.S.A. 65-2871. (Emphasis added).

As emphasized in the above statute, chiropractors may not practice medicine or surgery. See Kansas State Board of Healing Arts v. Burwell, 5 Kan. App. 2d 357, rev. denied 228 Kan. 807 (1980) (Chiropractors may not prescribe or administer laetrile, as such constitutes the practice of medicine.)

The Kansas Chiropractic Association (KCA) has submitted material to us in support of their contention that chiropractors have the right to refer to themselves as "chiropractic physicians." It is argued that the term "physician" is not limited to a particular branch of the healing arts and that several Kansas statutes recognize a chiropractor as a physician. Another argument is that the word "physician" used in conjunction with the term "chiropractic" is not misleading to the public. The KCA also maintains that doctors of chiropractic are qualified as physicians.

Several Kansas statutes define the term "physician" to include chiropractors. For example, for purposes of the physician-patient privilege, a physician is "a person licensed or reasonably believed by the patient to be licensed to practice medicine or one of the healing arts . . . ." K.S.A. 60-427(a). Under the workmen's compensation act, the term physician means any "person licensed . . . to practice medicine and surgery, osteopathy, chiropractic, dentistry, optometry or podiatry." K.S.A. 44-508(i).

It has been contended that the term "physician" is a general term which applies to all branches of the healing arts unless specifically limited by statute. Examination of the Kansas statutes, however, shows that "physician" is a specific term unless applied in a general manner. It is reasonable to conclude that one would look to chapter 65 (Public Health) of the Kansas statutes to determine the meaning of "physician." In the following statutes the term physician is specifically defined to mean a person licensed to practice medicine and surgery: K.S.A. 65-5a01(c) (care of crippled and chronically

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*pg. 4.*

ill children); 65-2897a(b) (physician's assistants); 65-28,102(d) (Natural Death Act); 65-2901 (practice of physical therapy); 65-3209(g) (Uniform Anatomical Gift Act); K.S.A. 1986 Supp. 65-4003(17) (Alcoholism and Treatment Act); K.S.A. 65-4202(b) (practice of mental health technology); 65-4301 et seq. (Emergency Medical Services Act); 65-1,114(a) (concerning diabetes); 65-6b01(a) (prescribing and administering laetrile); K.S.A. 1986 Supp. 65-5502(e) (Respiratory Therapy Practice Act). Various statutes outside chapter 65 also limit the term physician to mean a person licensed to practice medicine and surgery. See K.S.A. 1986 Supp. 8-1001(c) (withdrawal of blood for chemical blood test); 17-2707(b) (professional corporations); 59-2902(j) (Treatment Act for Mentally Ill Persons); K.S.A. 72-5208(e) (school health tests and inoculations); K.A.R. 28-34-1(12) (hospital regulations).

The KCA argues that, to the extent statutes define physician so as to exclude chiropractors, the designation "chiropractic physician" would not bring chiropractors within these statutes. Hence, the scope of chiropractic is not enlarged and the public would not be misled. However, not all statutes concerning public health which use the word "physician" limit it to mean persons licensed to practice medicine and surgery. Chiropractors, then, are not specifically excluded. See K.S.A. 65-448 (examining victims of sex offenses); 65-2401 et seq. (vital statistics, duty of physician attending births and deaths); 65-2892 (examination and treatment of minors for venereal disease); 65-2892a (examination and treatment of minors for drug abuse); 65-2893 (performing autopsies). The content of these statutes makes it clear that "physician" can only mean persons licensed to practice medicine and surgery. Thus, the term physician has a specific meaning unless it is defined otherwise, such as in the worker's compensation statute (K.S.A. 44-508) and the patient-physician privilege rule of evidence (K.S.A. 60-427).

The KCA maintains that only when the word "physician" is used standing alone does it mean a person who practices medicine and surgery; therefore, chiropractors may be called chiropractic physicians. In the Kansas statutes "physician" is used in conjunction with another word in at least two instances: "physician's assistants" and "osteopathic physicians." There is an important distinction between these terms and "chiropractic physician." Physician's assistants may practice medicine and surgery under the direction and supervision of a physician licensed to practice medicine and

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surgery. K.S.A. 65-2897a. - Osteopaths are also licensed by statute to practice medicine and surgery. K.S.A. 65-2870. Chiropractors, however, may not practice medicine and surgery. K.S.A. 65-2871. Under the Kansas statutes, when the term "physician" is used in conjunction with another word, the health care provider is one licensed to practice medicine and surgery.

Kansas recognizes "the practice of chiropractic as one of the healing arts in certain special areas of examination and treatment related to the human body, including X-ray diagnosis." Taylor v. Maxwell, 197 Kan. 509, 511 (1966). K.S.A. 65-2871 provides that the practice of chiropractic includes examination, analysis, and diagnosis of the human living body. See K.S.A. 40-2101 (if included in an insurance policy, any service within the lawful scope of chiropractic must be reimbursed or indemnified); 40-3103(k) (chiropractic is a medical benefit under the Automobile Injury Reparations Act); 44-508(i) (chiropractic benefits are authorized for accidental injuries arising out of and in the course of employment); 74-4916 (a chiropractor may perform physical examinations to qualify public employees for disability compensation).

The KCA argues that doctors of chiropractic qualify as physicians because chiropractic is a healing art, they are authorized to perform examinations, and they must complete an extensive education in health care. There is no doubt that today's chiropractor is well-trained to practice his or her profession. However, the fact that a chiropractor can examine, diagnose, and treat within the scope of chiropractic does not qualify a chiropractor as a physician. Since the practice of medicine and surgery is beyond the scope of chiropractic, the term "chiropractic physician" is contradictory and misleading. It is inconsistent to say that when used alone the term "physician" means a person licensed to practice medicine and surgery, but that when used with another word means a person licensed to practice the healing arts.

The term "physician" is defined in Black's Law Dictionary 1033 (rev. 5th ed. 1979) as follows:

"A practitioner of medicine; a person duly authorized or licensed to treat diseases; one lawfully engaged in the practice of medicine."


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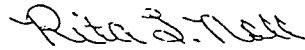
A definition of "chiropractor" is found in 70 C.J.S. Physicians and Surgeons §1:

"One who practices the system of chiropractics. Chiropractors are not physicians, and ordinarily are not specialists regarding the diseases of the internal organs."

The common meaning of physician is medical doctor or surgeon. As used in the Kansas statutes, physician means a person licensed to practice medicine and surgery. The term "chiropractic physician," then, implies that a doctor of chiropractic is licensed to practice beyond the scope of the statutory definition of chiropractic. This is misleading to the public. For this and the other reasons stated in this opinion, we must conclude that doctors of chiropractic may not represent themselves as "chiropractic physicians."

Very truly yours,

  
ROBERT T. STEPHAN  
ATTORNEY GENERAL OF KANSAS

  
Rita L. Noll  
Assistant Attorney General

RTS:JLM:RLN:bas

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