

Approved _____

Date 2-21-90

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 14, 1990 in room 423-S of the Capitol.

All members were present except:

Representative Amos, excused

Committee staff present:

Emalene Correll, Research

Bill Wolff, Research

Norman Furse, Revisor

Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chairman called meeting to order. He announced agenda for next week has been distributed, but already needs revision.

Chair drew attention to discussion on HB 2755 and HB 2595 that will take place this date, then recognized Mr. Furse who would explain some research he had done on bills.

Mr. Furse said members might recall a conferee made a comment about the long long hours staff members work, and there had been some improper language drawn in regard to defining physicians to include "persons licensed to practice medicine and surgery", also to include, "Chiropractic". He noted the statutes involved are civil code statutes and were originally enacted in 1963 with that provision. The Workmens' Comp statute was enacted in 1974, so he would assume the comment from the conferee would not apply to anyone on committee or staff since they were not around the Legislature at either of those dates. Further he stated language in these bills to be worked today did not have language inserted at a late hour, neither, was the bill introduced at the request of the Chiropractic Association written in the wee hours. He noted there are two different questions being dealt with in HB 2755, i.e., what is convenient for the legislature that can be used to describe a term so they will not have to repeat 5 or 6 words over and over, (MD, surgeon, physician). He cited the Attorney General's opinion, "the content of these statutes, makes it clear that physician can only mean persons licensed to practice medicine and surgery".

So the AG is simply recognizing the fact that we don't have to repeat the words, physician, osteopathic physician, etc., over and over. The second element, (when someone holds themselves out to the public) different from the category that is described This deals with KSA 65-2869. This would deal with a section in the Healing Arts Act. Mr. Furse hoped this explanation would clarify any concerns raised in this regard.

DISCUSSION BEGAN ON HB 2755.

There was lengthy discussion in regard to "person holding themselves out to the public" and whether or not it is a policy issue for committee that would require changing a part of the Healing Arts Act, and also that the Chiropractors are requesting a seat on the Board of Blue Cross/Blue Shield (BC/BS). It was noted, yes, the Chiropractors are Doctors of Chiropractic; no, they are not permitted to sign death certificates. Mr. Harold Riehm, and Chip Wheelen both had provided proposed amendments to HB 2755. (See Attachments No. 1, and No. 2). Lengthy discussion continued in regard to proposed amendments, and Sec. 2 of HB 2755.

CONTINUATION SHEET

MINUTES OF THE HEALTH COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 1:30 ~~AM~~/p.m. on February 14, 1990

Rep. Flottman made motion to amend HB 2755 as proposed by Mr. Riehm's and Mr. Wheelen's amendments, (as shown in attachments), to provide for "at least one" provider from each of three licensed groups of providers on the Board . Further recommend the term "allopathic physician" to clarify concerns, and ask Staff to make necessary similar changes throughout the bill. Motion seconded by Rep. Green. Discussion continued. Vote taken, motion carried.

On the bill as a whole, Rep. Branson moved to pass HB 2755 favorably as amended, seconded by Rep. Flower, motion carried.

Chair drew attention to a sub committee that had been appointed to work on HB 2594, HB 2803, HB 2830, and perhaps even HB 2833. The Chair of the sub-committee as Rep. Shallenburger, other members are Rep. Scott, Rep. Reinert. Chair noted HB 2595 had been scheduled for action, and HB 2803 and HB 2830 scheduled for hearings next week, but we will now wait until the sub-committee has had an opportunity to work these bills and report back to the full committee.

Chair called on Mr. Furse to report on concerns in regard to HB 2595. Mr. Furse detailed concerns raised by conferees, section by section. After some confusion, Chair requested Mr. Furse balloon amendments proposed on HB 2595 in order have it more clearly understood by committee members. Mr. Furse agreed to do the balloon.

Discussion at this point was again drawn to HB 2595. Rep. Shallenburger made a motion to report HB 2595 unfavorably, seconded by Rep. Reinert. Discussion continued, i.e., this motion was not made to be trite, it was offered in sincerity; the request for this legislation did come out of a lengthy Interim Study, so some felt the bill should be worked, not killed; it was noted by Staff, the responsibility to determine the appropriate relationship between the physician and the physicians' moves from the responsible physician to the Board of Healing Arts to approve/disapprove that written restriction of that responsibility that is to be submitted by the responsible physician. It was felt this an important point to be viewed.

Vote taken on motion to Kill HB 2595, motion failed.

Chair again directed Mr. Furse to furnish a balloon with proposed suggested amendments on HB 2595.

Recorded this date are (Attachment No. 3,) fiscal note on HB 2755, and (Attachment No. 4) as fiscal note on HB 2595.

Meeting adjourned 2:20 p.m.



GUEST REGISTER

HOUSE PUBLIC HEALTH AND WELFARE COMMITTEE

Date Feb. 14, 1990

Name	Organization	Address
Jelly Waldo	KCA	Topeka
Bob Anderson	"	"
Ken Baker	K. Society of Med Tech.	Topeka
Linda Lewis		Winfield
Jack Roberts	BCBS	TOPEKA
William Pitsenberger	Blue Cross-Blue Shield.	Topeka
KATH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS	"
Harold R. EMM	KADM	TOPEKA
Gary Robbins	Ks opt classn	Topeka
Jerry Hamilton	Ophthalmologists	Topeka
Jerry Hamilton	KUS	Topeka
Tom Hitchcock	Bd. of Pharmacy	"

Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

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

To: Members, House Public Health Committee
From: Harold E. Riehm, Executive Director, KAOM
Subject: H.B. 2595 and H.B. 2755

Two quick points as you "work" H.B. 2595 and H.B. 2755.

First, I reiterate my earlier testimony. Blue Cross-Blue Shield has not had The Kansas Association of Osteopathic Medicine on its mailing list for agenda and minutes of meetings of their Board of Directors. The letter from BC-BS to Chairman Littlejohn indicated only that the Chiropractic Association has been on their list. WE HAVE RECEIVED NONE OF THESE MATERIALS.

Second, attached are copies of the balloons to both Bills that we suggested in our testimony. Briefly, the reasons are these:

H.B. 2595 - We think too little time has lapsed to measure the impact of recent substantial legislative and Rules and Regulations changes regarding P.A.-Responsible Physician relations. We think when fully implemented these will resolve most of the problem. The amendments we suggest eliminate part of the Tennessee language which we think too onerous, yet retain other positive parts, such as the change to a positive formulary in determining what prescriptions P.A.s may transmit. WE RECOMMEND OUR AMENDMENTS BE ADOPTED AND THE BILL BE PASSED AS AMENDED.

H.B. 2755 - Given the substantial impact BC-BS has on both amounts received by subscribers and amounts paid providers, we think it important that the major provider groups be represented on the major policy making board of the most influential of third party carriers, i.e., Blue Cross-Blue Shield. Therefore, we recommend our amendments to the Bill which would provide for "at least one" provider from each of the three licensed groups of providers on The Board of Healing Arts". We also recommend deleting New Section 2 and other references (see our amendment balloons) to eliminate the side issue of chiropractors using the term "physician". This makes language in the Bill consistent with the ruling of the Kansas Attorney General that chiropractors may not use the term physician.

Thank you for your consideration of both of these Bills.

RHR
2-14-90
Attn. #1.

(b) (1) To ensure that the responsible physician's directions and advice are in fact being implemented, the responsible physician shall exercise an active and continuous direction and supervision of the physician assistant's activities. The responsible physician shall make a personal review of their condition, and so certify by signature in a timely manner.
(2) With the exception of clearly minor problems, before a physician's assistant may provide patient services to a new patient of the responsible physician, or to a regular patient of the responsible physician expressing a new or previously untreated condition, that patient shall be personally evaluated by the responsible physician.
(3) The physician's assistant may provide emergency patient services in accordance with guidelines previously established by the responsible physician pending the arrival of a physician in cases where immediate diagnosis and treatment are necessary to avoid disability or death.
(4) In exercising direction and supervision over the activities of the physician's assistant, the responsible physician may utilize written

Omit: "and continuous"

Insert: ", at least weekly,"

Omit all of (b)(2) and renumber (3) & (4) as (2) and (3)

protocols consistent with the provisions of K.S.A. 65-2896 to 65-2897a, inclusive, and amendments thereto, and consistent with any rules and regulations adopted pursuant to such statutes.
(b) (c) A physician's assistant may not prescribe drugs but may transmit a prescription order for drugs pursuant to a written protocol as authorized by the responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the physician's assistant is authorized to transmit prescription orders and shall specify all drugs which may be transmitted by the physician's assistant.

John G. J. 2-14-90
Patricia 2-14-90

Section of 1991

HOUSE BILL No. 2755

By Committee on Public Health and Welfare

CHANGES SUGGESTED BY KAOM

1-30

9 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:

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 nonprofit medical and hospital service corporation act for the purpose
16 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 non-participating 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
35 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

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 number 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 service corporation act, the term "physician" shall include any person
5 licensed under the Kansas healing arts act to practice medicine and
6 surgery, osteopathic medicine and surgery in chiropractic.

7 Sec. 3. K.S.A. 40-19c03 is hereby repealed.
8 Sec. 4. This act shall take effect and be in force from and after
9 its publication in the Kansas register.
10

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.



KANSAS MEDICAL SOCIETY

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

February 14, 1990

The Kansas Medical Society endorses the amendments to HB 2755 recommended by the Kansas Association of Osteopathic Medicine. While we strongly support the needed amendments to avoid non-conformity with existing law, our position on the bill itself remains one of neutrality.

Thanks, once again, for considering our concerns.

Session of 1990

HOUSE BILL No. 2755

CHANGES SUGGESTED BY KAOM

By Committee on Public Health and Welfare

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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

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Delete "an equal num-
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2

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3 not be less than ten (10) 10 members.

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5 ~~ice corporation act, the term "physician" shall include any person~~
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Sec. 3 and Sec. 4 as
Sec. 2 and Sec. 3,
respectively, to be
consistent with A.G.
Opinion.

PKW
2-14-90
Attn # 2

STATE OF KANSAS

126-5



DIVISION OF THE BUDGET

MIKE HAYDEN,
Governor
MICHAEL F. O'KEEFE
Director of the Budget

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1575
(913) 296-2436

February 7, 1990

The Honorable Marvin Littlejohn, Chairperson
House Committee on Public Health and Welfare
House of Representatives
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for HB 2755 by Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2755 is respectfully submitted to your committee.

HB 2755 amends KSA 40-19c03 by further defining the composition of the 15 member board of directors of nonprofit medical and hospital service corporations. It requires that of those board members who are physicians licensed under the Kansas Healing Arts Practice Act there will be an equal number of medical doctors, osteopathic doctors and chiropractic doctors.

This bill has no fiscal impact.

A handwritten signature in black ink, appearing to read "MFO'Kefe".

Michael F. O'Keefe
Director of the Budget

cc: Donna Huxman, Kansas Corporation Commission
Richard Brock, Kansas Insurance Department

669

PHW
2-14-90
Attm # 3

STATE OF KANSAS



DIVISION OF THE BUDGET

MIKE HAYDEN,
Governor
MICHAEL F. O'KEEFE
Director of the Budget

Room 152-E
State Capitol Building
Topeka, Kansas 66612-1575
(913) 296-2436

January 17, 1990

The Honorable Marvin Littlejohn, Chairperson
Public Health and Welfare Committee
House of Representatives
Third Floor, Statehouse

Dear Representative Littlejohn:

SUBJECT: Fiscal Note for HB 2595 by Committee on Public Health and Welfare

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2595 is respectfully submitted to your committee.

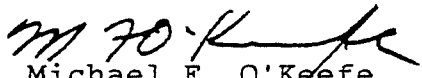
HB 2595 amends KSA 1989 Supp. 65-2896. The amendments are intended to clarify the role of the physician who supervises a physician's assistant, the role of the physician's assistant and the role of the Boarding of Healing Arts. The act places the responsibility for the supervision of the activities and services provided by the physician's assistant with the supervising physician. The supervising physician is responsible for providing the address of the physician and physician's assistant to the Board of Healing Arts; for making application for annual renewal of the physician's assistant on the register; and for notifying the Board within seven days of the termination of employment of the physician's assistant.

The amendments outline the scope of the patient services the physician's assistant is able to perform. The bill precludes the physician's assistant from prescribing drugs. Generally, the physician's assistant may only provide services in accordance with guidelines and supervision provided by the responsible physician and the law. The bill requires the Board of Healing Arts to institute appropriate legal action against a physician's assistant who is practicing the healing arts outside of those patient services allowable by law or by a responsible physician.

PHW
2-14-90
Attn: #4

This act also amends KSA 0-2111, KSA 1989 Supp. 6-6135, and KSA 1989 Supp. 6-6102 to reflect the reference to physicians' assistants as those persons whose names have been entered on the register of physicians' assistants by the Board of Healing Arts.

This bill has no fiscal impact.


Michael F. O'Keefe
Director of the Budget

cc: Richard Gannon, Healing Arts
Bob McDanel, Emergency Medical Services

267

Pass
2-14-90
Attn #4
P92