

Approved 3-30-90  
Date

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business

The meeting was called to order by Senator Alicia Salisbury at  
Chairperson

1:30 ~~am~~ p.m. on March 21, 1990 in room 527-S of the Capitol.

All members were present ~~except~~

Committee staff present:

Jerry Ann Donaldson, Kansas Legislative Research Department  
Gordon Self, Revisor of Statutes Office  
Phil Lowe, Committee Secretary

Conferees appearing before the committee:

Jack Lacey, House of Representatives  
Chip Wheelen, Kansas Medical Society  
Kelly Waldo, Executive Director, Kansas Chiropractic Association  
Robert Anderson, Director, Division of Workers Compensation  
Kelly Johnston, Kansas Trial Lawyers Association

The meeting was called to order by the Chairman, Senator Alicia Salisbury at 1:30 p.m. for the purpose of hearing HB 2936 and HB 3028.

**HB 2936** - concerning workers compensation; relating to coverage of persons performing community service works while assigned to a conservation camp; defining health care providers.

Representative Jack Lacey, one of the sponsors of the bill, explained the bill and said it would amend the definition of "community service work" to include assignment to a conservation camp. He said this was necessary to make certain that those inmates in conservation camps in Labette County were covered under workers compensation when performing community service work. He also said the words "health care providers" were inserted into the bill by the House Committee of the Whole to make it conform with other statutes. (**Attachment I**).

The next conferee, Chip Wheelen, Kansas Medical Society, said the Society neither supports nor opposes the change in the definition of community service work because it does not involve medical issues. However, they do support the amendment by the House Committee of the Whole that would substitute "health care providers" for the word "physician". He said current law erroneously defines "physician" and "surgeon" in such a way that includes chiropractors, dentists, optometrists and podiatrists as well as persons licensed to practice medicine and surgery and is clearly inconsistent with the general understanding of what "physician" or "surgeon" means and is definitely not in conformity with the Kansas Healing Arts Act. (See **Attachment II** for copy of his testimony).

Kelly Waldo, representing the Kansas Chiropractic Association, urged the committee to remove the amendment adopted by the House Committee of the Whole by striking the words "health care provider" and retain the use of the term "physician" throughout the Workers Compensation Act. (See **Attachment III**).

**HB3028** - concerning the workers compensation act; relating to medical, physical and vocational rehabilitation.

CONTINUATION SHEET

MINUTES OF THE Senate COMMITTEE ON Labor, Industry and Small Business,  
room 527-S, Statehouse, at 1:30 ~~am~~/p.m. on March 21, 1990

The first conferee, Robert Anderson, speaking on behalf of the Workers Compensation Joint Advisory Committee, testified in support of HB 3028. He said the bill is amended to allow the payment of temporary total disability compensation from the date the injured worker is referred for vocational rehabilitation assessment. Under the present law compensation is paid from the date of evaluation. Mr. Anderson stated HB 3028 strikes the language that limits the maximum time which a claimant could receive temporary total or temporary partial compensation because of involvement in the rehabilitation evaluation process. Mr. Anderson said the bill also provides for a procedure to change a vendor after a review for good cause shown by substantial evidence. He said the other amendments to the bill are clarifying and technical in nature. (See Attachment IV for his written testimony).

Kelly Johnston, representing the Kansas Trial Lawyers Association said their Association supports wholeheartedly this proposed legislation, but hoped the committee would consider three amendments to the legislation as requested by their association. The first amendment would insert the word "assessment" on page 6, line 12, after the word "vocational". He pointed out that the bill already proposes to insert the word "assessment" in other wording of the bill. The second amendment would make permanent total disability benefits payable for life. The third amendment proposed would allow workers disabled by occupational disease the same amount of time to file a written claim for compensation as is allowed to workers disabled by accidental injury. (Attachment V).

Mr. Wayne Maichel, a member of the Governor's Joint Advisory Committee on Workers Compensation, said this bill was approved by many different groups of people who serve on the Advisory Committee and requested a favorable recommendation.

The meeting was adjourned at 2:30 p.m.



STATE OF KANSAS

3-21

JACK LACEY  
REPRESENTATIVE, SECOND DISTRICT  
CHEROKEE, LABETTE, AND  
MONTGOMERY COUNTIES  
P.O. BOX 6  
OSWEGO, KANSAS 67356



TOPEKA

HOUSE OF  
REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
MEMBER: AGRICULTURE AND SMALL BUSINESS  
ENERGY AND NATURAL RESOURCES  
TRANSPORTATION

March 21, 1990

Testimony before Senate Labor, Industry and Small  
Business Committee on H.B. 2936.

Chairperson Salisbury and members of the Committee  
thank you for allowing me to appear before you today in  
support of H.B. 2936.

House Bill 2936 adds to current law on page 6, line 9,  
the words "or Conservation Camp".

This is necessary to make certain that those inmates  
in conservation camps are covered under workers compensa-  
tion the same as the inmates in the community corrections  
when performing community service work.

I will be happy to respond to any questions.

*Jack Lacey*

*Attachment I*  
3-21-90



## KANSAS MEDICAL SOCIETY

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

②  
3-21

March 21, 1990

TO: Senate Committee on Labor, Industry and Small Business  
FROM: Kansas Medical Society *Chip Weelton*  
SUBJECT: House Bill 2936; Workers Compensation Definitions

Thank you for this opportunity to express our support for HB 2936 as amended by the House Committee of the Whole. The Kansas Medical Society neither supports nor opposes the change in the definition of community service work because it does not involve medical issues. We do, however, support the correction of a flawed definition in the existing law.

Current law erroneously defines "physician" and "surgeon" in such a way that includes chiropractors, dentists, optometrists and podiatrists as well as persons licensed to practice medicine and surgery. This is clearly inconsistent with the general understanding of what "physician" or "surgeon" means and is definitely not in conformity with the Kansas Healing Arts Act.

Because of a few confusing definitions of "physician" such as the one found in the Workers Compensation Act, the question was posed to the Attorney General who opined in pertinent part that "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." (Attorney General's Opinion 87-42).

The House amendment which uses the phrase "health care provider" instead of "physician," "surgeon," or "doctor" provides conformity with other Kansas laws. It does not in any way broaden the scope of professions authorized to render health care to injured workers. A similar correction in the Employment Security Law was adopted last year.

We recognize that this issue may seem insignificant but it is important to KMS members. Thank you for considering our testimony.

CW:lg

*Attachment II*



# Kansas Chiropractic

ASSOCIATION

March 21, 1990

Senate Labor and Industry Committee:

As a member of the Senate Labor and Industry Committee, you will be considering House Bill No. 2936 this week. You will note that the bill was amended by the House Committee of the Whole to change terminology used in the Workers' Compensation Act. Specifically, the term "physician," which is used throughout this act, has been changed to "health care provider," although the definition itself remains unchanged.

I would respectfully suggest that this amendment has no substantive value, and it accomplishes nothing, except to cause confusion and to further complicate the ability of chiropractors to be paid by insurance companies for services they provide. Many insurance companies, located both in and outside the state of Kansas, place a very narrow construction on the term "physician," as it is used in their various policies, and unless the statutes authorizing such insurance coverage clearly identify chiropractors as physicians for the purpose of these statutes, many insurance companies routinely deny payment for chiropractic services. This is illustrated by the attached correspondence. The patient in this case has kindly consented to our use of this correspondence to bring this matter to your attention.

Presently, chiropractors are not experiencing any significant problems in receiving payment for services rendered to a claimant in a workers' compensation proceeding, because chiropractors are included in the definition of "physician." This is not the case, however, in other statutes where the term "physician" is not defined or does not include chiropractors, and we are very concerned that, if the terminology change proposed in HB 2936 becomes law, workers' compensation carriers will deny payment for chiropractic care. This will have an extremely adverse effect on the recipients of this care.

For these reasons, I would urgently request that HB 2936 be amended to remove the House floor amendments, thereby retaining the use of the term "physician" throughout the Workers' Compensation Act. Thank you for your consideration of this request.

Sincerely,

*Kelly Waldo*

Kelly Waldo, Executive Director

*Attachment III*  
3-21-90

December 18, 1989

Allied Signal Claim Center  
c/o Connecticut General Life Ins. Co.  
Attn: Janice Saville  
P. O. Box 460  
Jericho, NY 11753

IN PROTEST

For all unpaid Chiropractor bills from June 1988 up to the present  
on: Insured - Donald Strausbaugh 513-30-2948  
Spouse - Judith Strausbaugh 494-40-1262

According to the contract between Allied Signal and the employees as stated on Page 44 of the contract, it reads:  
"all medical doctors". It does not separate chiropractors from any other type of physician for treatments rendered as the physician dictates.

You state that chiropractors fall into another category, The contract reads all licensed physicians.

The reasoning you give for non-payment of these bills is because of too many visits which you list as "maintenance". A different part of the body is treated each time so this would not be considered as maintenance. Also, you have stated per telephone conversation, that a trip to a medical doctor several times a month for any given reason will be paid in full after deduction for the year has been met.

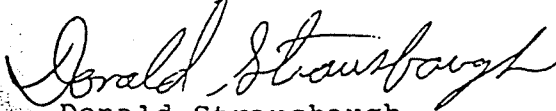
The treatments between a medical doctor and a chiropractor physician are not separated as such in the contract. It is stated services rendered by all physicians.

All documentation has been sent that your office requested. Documentation has been lost or misplaced by your company and that meant we had to resend the information on several occasions.

This has amounted up to several hundred dollars which has come out of my pocket unnecessarily.

Look forward to hearing from you regarding this matter.

Sincerely,



Donald Strausbaugh  
1700 Taylor Circle  
Olathe, KS 66062

AGENT FOR ALLIED-SIGNAL GROUP BENEFITS PROGRAM

JANUARY 31, 1990

DONALD STRAUSBAUGH  
1700 TAYLOR CIRCLE  
OLATHE KS 66062

RE: EMPLOYEE: DONALD STRAUSBAUGH S513302948  
PATIENT: DONALD RELATIONSHIP: EMPLOYEE  
ACCOUNT NO: 0495289 CLAIM NO: 992  
DEAR MR. STRAUSBAUGH,

WE ARE WRITING THIS LETTER IN RESPONSE TO YOUR QUESTIONING THE FACT THAT CHIROPRACTOR'S FALL UNDER THE CATEGORY OF PHYSICIANS. CHIROPRACTOR'S ARE NOT CONSIDERED PHYSICIANS. PHYSICIANS ARE CONSIDERED MEDICAL DOCTORS HENCE M.D. AFTER THEIR NAME VERSUS D.C. AFTER CHIROPRACTORS NAME. IN YOUR CERTIFICATE, CHIROPRACTOR'S FALL UNDER THE CATEGORY OF NECESSARY CARE AND TREATMENT LIMITS. I HOPE THAT THIS IS SUFFICIENT INFORMATION FOR YOU. IF YOU HAVE ANY FURTHER QUESTIONS, FEEL FREE TO CALL OUR OFFICE AT ANY TIME.

BENEFIT ANALYST

LOCAL 516-496-7840  
037321-296

REPLY TO:

ALLIED SIGNAL CLAIM SERV CTR  
CONNECTICUT GEN LIFE INS CO  
P. O. BOX 9009  
JERICHO NY 117538909

IN NY TOLL FREE 1-800-632-7557  
OUT OF NY TOLL FREE 1-800-645-7300



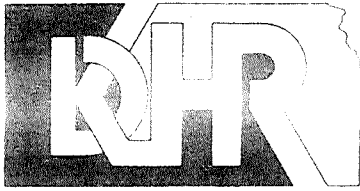
### COMPREHENSIVE MEDICAL BENEFITS

#### Covered Expenses (Continued)

- charges made by a Physician for professional services.
- charges made by a Psychologist only when prescribed by a Doctor of Medicine (M.D.) or by a Doctor of Osteopathy (D.O.).
- charges for or in connection with voluntary sterilization.
- charges made by a Nurse, other than a member of your family or your Dependents' family, for professional nursing service.
- charges for chemotherapy for treatment of malignant conditions by the introduction of antineoplastic agents by parenteral, infusion, perfusion or intracavitary means provided such agents are not administered orally, subcutaneously, intramuscularly, in the patient's home, or for the purpose of experimentation or research. This Covered Expense will also include the charge for the antineoplastic agent.
- charges made by a physician or a licensed physical therapist for physical therapy rendered in the out-patient department of a Hospital, in a Physician's office or in an approved Rehabilitation Center for treatment of an Injury or Sickness. Payment will not be made for more than 60 such treatments rendered within 180 days from the date of the first out-patient physical therapy treatment during (a) any one calendar year or (b) the period immediately following surgery for the same or related condition or (c) a distinct aggravation or recurrence of a condition for which benefits were previously payable.

3-4

KANSAS DEPARTMENT OF HUMAN RESOURCES



DIVISION OF WORKERS COMPENSATION  
600 Merchants Bank Tower, 800 SW Jackson  
Topeka, Kansas 66612-1227  
(General Information: 913-296-3441)

4  
7-21

Mike Hayden, Governor

Ray D. Siehndel, Secretary

March 21, 1990

- 296-4000 Director's Office
- 296-2050 Rehabilitation
- 296-2996 Claims Advisory
- 296-3606 Self Insurance
- 296-7012 Law Judges

The Honorable Alicia L. Salisbury, Chairperson  
Senate Labor, Industry & Small Business Committee  
State Capitol, Room 143-N  
Topeka, KS 66612

Re: House Bill 3028

Dear Chairperson Salisbury:

Thank you for allowing me to appear before your committee today and testify in support of House Bill 3028.

House Bill 3028 is the proposed amendment to K.S.A. 44-510g that is the unanimous recommendation of the Workers Compensation Joint Advisory Committee. As you know, Ray Siehndel, Secretary of Human Resources appointed a Workers Compensation Joint Advisory Committee in August 1989 after a 13 year absence to study the "New Act" and to make recommendations for any amendments to the Kansas Legislature during the 1990 Legislative Session.

The full Joint Advisory Committee met four time between August 1989 and January 1990 and a subcommittee formed during the October 27, 1989, meeting met a fifth time to draft a proposal for the advisory committee's approval, to recommend to the 1990 legislature that K.S.A. 44-510g(e)(b) be amended to strike the language that limits temporary total or temporary partial compensation paid solely because of involvement in the rehabilitation process to a maximum of 100 days.

The Workers Compensation Joint Advisory Committee had 16 members; two representing labor; two representing industry; two representing insurance; two at-large; a claimant's attorney; a respondent's attorney; a Fund attorney; two rehabilitation vendors; two self-insured; and, a physician. A list of the committee members is attached for your reference.

As an ex-officio member of the Workers Compensation Joint Advisory Committee, I was pleased to forward the unanimous committee's recommendation that HB 3028 be adopted as an amendment by the House

*Attachment IV*  
3-21-90

Labor & Industry Committee. House Bill 3028 passed out of committee and was unanimously passed by the entire House.

If passed, HB 3028 would codify several legal interpretations that I have rendered concerning vocational rehabilitation since July 1, 1988. Those are that (1) the "date of evaluation" mentioned in 44-510g(e)(2)(b) from which temporary total disability compensation is to be paid is the date the injured worker is referred to a vendor for vocational assessment; and (2) administrative law judges have authority when ordering a vocational rehabilitation evaluation report to order respondent to pay temporary total disability compensation prior to completion of the assessment.

HB 3028 strikes the language that limited the maximum time which a claimant could receive temporary total or temporary partial compensation solely because of involvement in the rehabilitation evaluation process. (Subsection B)

HB 3028 also codifies the right of the employer to select the qualified agency or facility (vendor); if the selection is made by the employer within 15 days after receipt of an order issued by an administrative law judge or a notification by the rehabilitation administrator that the vocational assessment, rehabilitation, reeducation or training is needed for the employee (Subsection K)

HB 3028 also provides for a procedure to change a vendor after a review for good cause shown by substantial evidence. The respondent will provide the employee with a list of three from which the employee shall choose the replacement. (Subsection 1)

HB 3028 also provides for a change of vendors if there is an agreement by all parties to make such replacement.

HB 3028 also inserts the word "assessment" and strikes the word "evaluation" in various subsections in an effort to clarify the rehabilitation process. A definition of "assessment" is also provided in the amendment.

Thank you for allowing me to appear on behalf of the Workers Compensation Joint Advisory Committee and testify in support of HB 3028.

Yours truly,



Robert A. Anderson  
Workers Compensation Director

mr

Honorable Alicia Salisbury

3

March 20, 1990

Enclosure

pc: Ray D. Siehndel, Secretary of Human Resources  
Each Committee Member

4-3

WORKERS COMPENSATION JOINT ADVISORY COMMITTEE MEMBERS

October, 1989

	<u>Name/Address</u>	<u>Organization/Occupation</u>	<u>Representing</u>
1.	Wayne Maichel P.O. Box 1455 Topeka, Kansas 66601 (913) 357-0396	Kansas AFL/CIO	Labor
2.	John Ostrowski P.O. Box 1453 Topeka, Kansas 66601 (913) 233-2323	Attorney/Lobbyist	Labor
3.	Terry Leatherman 500 Bank IV Tower One Townsite Plaza Topeka, Kansas 66603-3460 (913) 357-6321	KCCI	Industry
4.	Rob Hodges 700 S.W. Jackson, Suite 704 Topeka, Kansas 66603 (913) 234-0307	Ks. Telecommunications Asso.	Industry
5.	Ken Jones P.O. Box 1739 Wichita, Kansas 67201 (316) 685-5471	Employers Mutual Ins.	Insurance
6.	Jack Stewart P.O. Box 2954 Overland Park, Kansas 66201 (913) 451-1570	St. Paul Ins. Cos.	Insurance
7.	J. Richard Amend P.O. Box 206 Wichita, Kansas 67201 (316) 263-3211	Dulaney, Johnston & Priest	At-Large
8.	Chris Allen P.O. Box 7600 Overland Park, Kansas 66207 (913) 345-1776	Royal Insurance Co.	At-Large
9.	Norman Cooley 608 North Broadway Wichita, Kansas 67214 (316) 265-2978	Attorney	Claimant's Atty.

- |  |   |                           |
|--|---|---------------------------|
| <p>10. Randall Palmer<br/>P.O. Box 1101<br/>Pittsburg, Kansas 66762<br/>(316) 231-9890</p>                       | <p>Attorney</p>   | <p>Respondent's Atty.</p> |
| <p>11. Chris Cowger<br/>420 S.W. 9th Street<br/>Topeka, Kansas 66612<br/>(913) 296-2188</p>                      | <p>Ks. Insurance Department</p>                           | <p>Fund Attorney</p>      |
| <p>12. Bruce Smith<br/>7070 W. 107th Street, Ste. 160<br/>Overland Park, Kansas 66212<br/>(913) 381-0081</p>     | <p>Prof. Rehab. Consul.</p>                               | <p>Rehab. Vendor</p>      |
| <p>13. S. M. Kiegerl<br/>P.O. Box 847<br/>Olathe, Kansas 66061<br/>(913) 782-6697</p>                            | <p>Prof. Rehab. Management</p>                            | <p>Rehab. Vendor</p>      |
| <p>14. Terry Bernatis<br/>900 S.W. Jackson, Rm. 951-S<br/>Topeka, Kansas 66612<br/>(913) 296-4278</p>            | <p>Bnfts. Analysis Manager<br/>(State Self-Ins. Fund)</p> | <p>Self-Insureds</p>      |
| <p>15. Mike Cavell<br/>220 East 6th Street, Rm. 515<br/>Topeka, Kansas 66603<br/>(913) 276-8413</p>              | <p>Southwestern Bell</p>                                  | <p>Self-Insureds</p>      |
| <p>16. Charles White, M.D.<br/>818 North Emporia, Ste. 107<br/>Wichita, Kansas 67214-3725<br/>(316) 291-7246</p> | <p>Mid-West Pain Mgmt. Ctr.</p>                           | <p>Physician</p>          |
| <p>17. Richard Thomas<br/>900 S.W. Jackson, Rm. 651-S<br/>Topeka, Kansas 66612<br/>(913) 296-3441</p>            | <p>Rehab. Administrator<br/>(Div. of Workers Comp.)</p>   | <p>Ex Officio</p>         |
| <p>18. Robert Anderson<br/>900 S.W. Jackson, Rm. 651-S<br/>Topeka, Kansas 66612<br/>(913) 296-3441</p>           | <p>Director<br/>(Div. of Workers Comp.)</p>               | <p>Ex Officio</p>         |



# KANSAS TRIAL LAWYERS ASSOCIATION

Jayhawk Tower, 700 S.W. Jackson, Suite 706, Topeka, Kansas 66603  
(913) 232-7756 FAX (913) 232-7730

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RICHARD H. MASON  
EXECUTIVE DIRECTOR

TESTIMONY  
 of the  
 KANSAS TRIAL LAWYERS ASSOCIATION  
 before  
 SENATE LABOR, INDUSTRY AND SMALL BUSINESS COMMITTEE  
 by  
 Kelly W. Johnston  
 March 21, 1990

### House Bill 3028

The Worker's Compensation Committee of the Kansas Trial Lawyers Association supports wholeheartedly this proposed legislation. It is our understanding that HB 3028 reflects a consensus of opinion amongst the members of the Worker's Compensation Joint Advisory Committee of changes needed in the Kansas Vocational Rehabilitation Act, K.S.A. 44-510g. The changes proposed in HB 3028 are primarily procedural in nature, and it is fair to characterize HB 3028 as remaining loyal to the 1987 overhaul of our vocational rehabilitation statute.

There are several amendments the Kansas Trial Lawyer's Association requests you consider. First, we request you consider inserting "assessment," on page 6, line 12 between the words "vocational" and "rehabilitation". Please note that HB 3028 already proposes to insert the word "assessment" between the words "vocational" and "rehabilitation" at all of the following locations: (a) page 6, line 18; (b) page 6, line 23; (c) page 6, line 24; (d) page 7, line 29; (e) page 7, line 33; (f) page 7, line 37; (g) page 8, line 1; and (h) page 8, line 4, 5.

Under current law, temporary total disability benefits can be paid during the period the worker is being evaluated ("assessment") for possible rehabilitation, as well as during the performance or execution of an approved vocational rehabilitation plan. The purpose of subsection g is to provide an additional period of weeks during which temporary total disability benefits can be received by a worker with a scheduled injury (K.S.A. 44-510d), since the maximum number of allowable weeks for some scheduled injuries is rather limited. Even for the amputation of an entire arm, the maximum number of allowable weeks, including healing period compensation, is 225, and this is considerably fewer than is allowed for a general bodily injury (415). The problem with the current law is that weeks during which the injured worker is being paid temporary total disability benefits while undergoing testing and analysis prior to approval of a vocational rehabilitation plan, but after medical care has been completed, are not expressly eligible to be included in this allowance of additional weeks. Addition of the word "assessment" will clarify legislative intent in this regard.

*Attachment V*

Testimony of the Kansas Trial Lawyers Association  
Senate Labor, Industry and Small Business Committee  
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> The second amendment we propose will make permanent total disability benefits payable for life. Although the lid on permanent total payments was raised in 1987 from \$100,000 to \$125,000, simple mathematics proves the inadequacy of this allowance. Currently the maximum weekly rate for permanent total disability benefits is \$271.00. Although many disabled workers would not receive permanent total disability benefits at so high a weekly rate (because they did not earn as high an average weekly wage), imagine a 25 year old breadwinner with dependent children who is rendered quadriplegic in the course of employment. He or she would receive the last disability compensation payment under the Kansas Worker's Compensation Act less than nine years later. And Social Security disability benefits will not even come close to replacing the loss of these benefits. The Kansas Worker's Compensation Act was designed to impose the costs of industrial accidents on industry. For the most seriously injured and economically impaired Kansas workers and their families, the Act no longer serves this purpose. If a change is not made a lot of these people, instead of receiving these benefits from their employers and insurance carriers, are going to be seeking assistance from the Department of Social and Rehabilitation Services. We know from recent experience how ill-equipped SRS is to provide assistance to those who should be provided for through other sources.

✕ The third amendment we propose will allow workers disabled by occupational disease the same amount of time (200 days) to file a written claim for compensation as is allowed to workers disabled by accidental injury. Current law only allows 90 days to file a written claim for an occupational disease. Since failing to comply with the applicable written claim deadline will result in a complete loss of all medical and disability benefits, even in an otherwise valid claim, an inordinately short written claim period is difficult to justify. And since some occupational diseases like cancer do not always manifest themselves or become symptomatic as quickly as, for example, a back injury, some workers disabled by occupational disease may lose their right to pursue a claim before they even realize that they are ill or recognize that the cause of an illness was work-related.

The Kansas Trial Lawyers Association hopes that you will give serious thought to supporting these proposals.

Thank you.



AMENDMENT # 1 TO HB 3028

**AMENDMENT:**

Amend line 5, page 6, by adding the word "assessment" immediately following the word "vocational" on said line.

**EXPLANATION:**

Adds assessment period under vocational rehabilitation for which a deduction from benefits shall not be made.

AMENDMENT #2 TO HB 3028

AMENDMENT

Amend line 11 in the title, page 1, by adding after the semicolon the following: "removing the limitation on compensation payable by employers for permanent total disability, amending K.S.A. 1989 Supp. 44-510f and repealing the existing section ; " ;

Add a new section beginning on line 15, page 1, to read as follows:

" Section 1. K.S.A. 1989 Supp. 44-510f is hereby amended to read as follows: 44-510f. (a) Notwithstanding any provision of the workers compensation act to the contrary, the maximum compensation benefits payable by an employer shall not exceed the following:

(1) ~~For permanent total disability, including temporary total, temporary partial, permanent partial and temporary partial disability payments paid or due, \$125,000 for an injury or any aggravation thereof.~~

~~(2)~~ (2) For temporary total disability, including any prior permanent total, permanent partial or temporary partial disability payments paid or due, \$100,000 for an injury or any aggravation thereof; and

~~(3)~~ (2) For permanent or temporary partial disability, including any prior temporary total, permanent total, temporary partial, or permanent partial disability payments paid or due, \$100,000 for an injury or any aggravation thereof.

(b) If an employer shall voluntarily pay unearned wages to an employee in addition to and in excess of any amount of disability benefits to which the employee is entitled under the workers compensation act, the excess amount paid shall be allowed as a credit to the employer in any final lump-sum settlement, or may be withheld from the employee's wages in weekly amounts the same as the weekly amount or amounts paid in excess of compensation due, but not until and unless the employee's average gross weekly wage for the calendar year exceeds 125% of the state's average weekly wage, determined as provided in K.S.A. 44-511 and amendments thereto. The provisions of this subsection shall not apply to any employer who pays any such unearned wages to an employee pursuant to an agreement between the employer and employee or labor organization to which the employee belongs. . " ;

Amend line 15, page 1, by striking the number "1" and substituting the number "2";

Amend line 23, page 8, by striking all of said line and substituting the following: "Sec. 3. K.S.A. 1989 Supp. 44-510f and K.S.A. 1989 Supp. 44-510g are hereby repealed. " ;

Amend line 24, page 8, by striking the number "3" and substituting the number "4".

EXPLANATION

Provides payment of permanent total disability benefits for life.

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AMENDMENT # 3 TO HB 3028

AMENDMENT:

Amend line 11 in the title, page 1, by adding after the semicolon the following: "relating to notice of occupational disease and claims for compensation therefore; " ;

Amend line 12 in the title, page 1, by striking all of said line and substituting the following: "Supp. 44-510g and K.S.A. 44-5a17 and repealing the existing sections.";

Amend line 22, page 8, by adding after the period the following:

"

Section ~~2~~ K.S.A. 44-5a17 is hereby amended to read as follows: 44-5a17. (a) Written notice of an occupational disease shall be given to the employer by the employee ~~or workman~~ or someone on ~~his~~ *the employee's* behalf within ~~ninety (90)~~ 200 days after disablement therefrom; and, in the case of death from such an occupational disease, written notice of such death shall also be given to the employer within ~~ninety (90)~~ 200 days thereafter. Failure to give either of such notices shall be deemed waived unless objection is made at a hearing on the claim prior to any award or decision thereon. Actual knowledge of such disablement, by the employer in whose employment the employee ~~or workman~~ was last injuriously exposed, or by the responsible superintendent or ~~foreman~~ *other supervisor* in charge of the work, shall be deemed notice within the meaning of this section. If no claim for disability or death from an occupational disease ~~be is~~ filed with the ~~workmen's compensation~~ director or served on the employer within one ~~(1)~~ year from the date of disablement or death, as the case may be, the right to compensation for such disease shall be forever barred: *Provided, however, except* that the failure to file or serve a claim within the time ~~limited herein~~ *limit prescribed by this section* shall be deemed waived unless objection to such failure ~~be is~~ made at a hearing on such claim before any award or decision thereon.

(b) Notice or claim shall be deemed waived in case of disability or death where the employer or insurance carrier makes compensation payments therefor, or, within the time ~~above limited~~, ~~the employer or his insurance carrier by his or its limit prescribed by this section~~, the conduct of the employer or the employer's insurance carrier leads the employee ~~or workman~~ or claimant reasonably to believe that notice or claim has been waived.

(c) The time limit prescribed by this section shall not apply in the case of an employee whose disablement or death is or was caused by latent or delayed pathological conditions, changes or malignancies due to the occupational exposure to X-rays, radium, radioactive substances or machines, or ionizing radiation: *Provided, however, except* that no claims shall be allowed unless a claim has been filed within one year after the date upon which the employee first suffered incapacity from the exposure to radiation and either knew or in the exercise of reasonable diligence should have known that the occupational disease was caused by ~~his the employee's~~ present or prior employment.

" ;

Amend line 23, page 8, by striking all of said line and adding the following: "Sec. 3. K.S.A. 1989 Supp. 44-510g and K.S.A. 44-5a17 are hereby repealed. " ;

Amend line 24, page 8, by striking the number "3" and substituting the number "4".

**EXPLANATION**

Extends from 90 to 200 days the time for filing notice of an occupational disease claim.