Approved 3/27/90
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

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

~~10:00~~ a.m./~~p.m.~~ on ~~March 20,~~, 1990 in room 526S of the Capitol.

All members were present except:

Committee staff present:

Norman Furse, Revisor's Office
Bill Wolff, Legislative Research
Emalene Correll, Legislative Research
Sandra Nash, Committee Secretary

Conferees appearing before the committee:

The Chairman called the meeting to order asking for approval of the minutes for March 13, March 14 and March 15, 1990. Senator Hayden made the motion to approvel the minutes of March 13, 14, 15, 1990. Senator Walker seconded the motion. The motion carried.

The Chairman called the Committee's attention to H.B. 2800. The Chairman called the first proponent, Marilyn Bradt, of the Kansans For Improvement of Nursing Homes, Inc.

Ms. Bradt said she is appearing in favor of H.B. 2800, which would give the Department of Health and Environment the authority to investigate abuse in nursing homes.(Attachment 1)

Senator Hayden said SRS has more district offices than the Kansas Department of Health and Environment. How is this going to affect the ability to investigate the complaints?

Ms. Bradt said, she thought part of the problem with having them in SRS, even though they have several divisional office scattered around the state, the people in those offices really were doing the investigation of abuse and neglect only as a minor part of many other responsibilities. Some positions have been transferred from SRS to Health and Environment and they will be more highly trained to handle these problems.

The Chairman called the proponent, Richard Morrissey, Kansas Department of Health and Environment.

Mr. Morrissey said the original H.B. 2800 was introduced at the request of Governor Hayden and had three primary objectives. The first was to continue the Governor's commitment to consolidate regulatory programs. The second objective was to improve the process of complaint investigation and resolutions related to abuse and neglect complaints in adult care homes. The third objective was to achieve compliance to the federal nursing home reform act.(Attachment 2) By moving the program, we will comply with that federal directive.

Mr. Morrissey said they have two concerns. One is the area where the initiate investigation of a complaint had to be within 24 hours instead of the 48 as was the original language. Because KDHE's offices are fewer, the distance to travel to investigate a complaint would be greater. The second concern was the bill would place KDHE over SRS as the regulating authority, mandating SRS to provide protective services. This was not the intent of the original language.

Mr. Morrissey said most of the federal requirement for the Inspection Care Program is scheduled to phase out October 1, 1990.We will accomplish the provision of the abuse and neglect services in Health and Environment by reallocating 14 those existing positions already funded in the Medicaid Program to the function of the investigating abuse and neglect complaints. So, in effect, there is a slight dollar increase for state when there is a change for match requirements. SRS isn't transferring to us any positions or state dollars, but will retain them in their adult service program because they are the same ones doing all the other adult protective services work across the state. It will have a positive impact on both programs.

Senator Hayden asked if Mr. Morrissey had input into the Committee's recommendations.

Mr. Morrissey said they did and they didn't disagree. The 24-hour time frame came out the sub-committee and we had significant discussion and they were aware of that concern in the sub-committee. Specifically, the sub-committee was concerned that a faster time frame should be, a faster response time. While they recognized our concern, they chose to leave it that way.

Senator Salisbury said where your concern is about, in Section 2, one department over another. What is your recommendation?

Mr. Morrissey said they didn't have any specific language, the recommendation is it was intented that the agencies have a clear link, statutory requirement that was referred to the SRS. What we intended to do was to leave the Secretary of SRS the discretion at that point as to whether or not protective services would be provided. Again based on all the factors as they would have to be considered. We don't have suggested language but we can get it.

The Chairman called the Committee's attention to H.B. 2824. The Chairman called Representative Kerry Patrick to appear as a proponent.

Representative Patrick stated H.B. 2824 would require the audit of all claims submitted to SRS for payment out of state funds for the medical care of needy person. Currently payments made to "health care providers", to nursing homes, etc. are not subject to any systematic audit or review to see if those charges are reasonable and within the law. An article from the Wall Street Journal reports on a need for such an audit program and the benefits that it would bring to the people of Kansas. The audits would be done by private agencies and the cost would be on a contingency basis. If they didn't make the state money, they wouldn't be paid. (Attachment 3)

The Chairman called the Committee's attention to H.B. 2755, asking the wishes of the Committee on the bill.

Senator Hayden made a motion to pass H.B. 2755 favorably out of the Committee. Senator Reilly seconded the motion. The motion carried. Senator Anderson will carry the bill.

The Chairman called the Committee's attention to H.B. 2758. The Chairman called Senator Salisbury to review her questions on the bill, Page 3, line 38-43.

Staff Furse said H.B. 2745 also amends two sections that are found in H.B. 2758. He noticed that H.B. 2745 is scheduled for tomorrow. He suggested considering the two bills together so we can merge the sections at that time, if you are favorably disposed to both of them or whatever position you might take.

Senator Salisbury said the concern she has on Page 3, Line38-41. The effort that was made here and found in Section (e), and then the House went back and amended Section (d), the language for the authority is already allowed and she thought the language was unnecessary and possibly there could be suit based on that language. She would prefer that the language in (d), go back to being convicted of a felony period. Because a misdemeanor is addressed in Section (e). She would like to eliminate that additional language in Section (d).

Senator Salisbury made a motion to delete the language on Line 38, "found by the board to have a direct bearing on whether such persons should be entrusted to serve the public in the capacity of an Adult Care Home Administrator." Senator Langworthy seconded the motion.

Senator Reilly said the way he understood the amendment, the whole purpose on the wording in lines 38-41 was to give flexibility and he considers that a major policy decision, to give flexibility to somebody to decide whether that ex-felon or not, should be administrator. He said he was trying to think of a case where we might have someone commit a felony. But in statutes, a felony does not impair or does anyway affect their capacity to be an Adult Care Home administrator. What he understood the whole purpose of this was to give some flexibility for the Board to make that decision.

Senator Salisbury said she wanted to delete that language, however, if you would look up in Seciton 3, Line 22, the word "may" is used. So, it is enabling anyway.

Senator Walker said as he reads this with the amendments, someone could have committed a felony sometime back and if the Board wanted to bring it up, they could have been serving in the capacity for some time, but for some reason the Board wants to go back and discharge the person.

Senator Salisbury said they can under present law. They would be able to under this proposed bill, but if you look in Section (e) "has been convicted of a crime other than a felony", this was, as she recalled, the original intent of the bill, to allow a misdemeanor also who might be licensed as an Adult Care Home Administrator.

Senator Walker said it seemed the original intent of the bill was to clarify, before it was amended in the House, you had to be convicted of a crime. That takes care of misdemeanors and felonies.

The Chairman asked Staff Furse if the language of 38-41 be deleted, what would it do?

Staff Furse said the House Committee basically inserted this to provide some specific flexibility in this subsection and also to make language consistent with (e) which is other than a felony. It is in the current law which reads, "...has been convicted of a felony." That wouldn't automatic bar to licensure. The word "may" in line 22 would provision that. And it would still be up to the board. The language inserted would simply give the board some specific guidelines as to what to follow in making this determination. In this area, I'm going to muddy the water a bit by pointing out under K.S.A. 74-120 which was enacted in early 70's. There's another statement about felony convictions that provides the boards and licensing authorities may consider, in granting license certification or registration, any felony conviction of the applicant. That such a conviction shall not operate as bar to licensure, certification or registration, just per se on it's face. We also have another section in which, was amended and several of our statutes

in the health care area were amended at the same time to indicate that felonies do not automatically operate as a bar, so basically you are left with the new language which, in effect, says they have to make a further finding. That the individual, that the conviction would have a direct bearing on whether the person should be entrusted with the licensure. In otherwise, it really doesn't change the law at all.

Senator Walker asked why take it out of the felony part and not out of the misdemeanor part?

Senator Salisbury said a misdemeanor and a felony are different. A felony is really something terrible.

Senator Walker offered a substitute motion.

Senator Walker made the substitute motion that delete Section (e) and go back to the original wording. Delete felony on line 38, and insert "crime". Senator Hayden seconded the motion. Motion carried.

Senator Salisbury said she didn't think Health and Environment wanted Section (e) deleted.

The Chairman called the Committee's attention to HCR 5041 and asked the wishes of the Committee.

Senator Reilly made a motion to pass H.C.R. 5041 out of committee favorably. Senator Burke seconded the motion. The motion passed. Senator Reilly will carry the resolution.

The Chairman called the Committee's attentnion to H.C.R. 5056 and asked the wishes of the Committee.

Senator Burke made a motion to pass H.C.R. 5056 out of committee favorably. Senator Hayden seconded the motion. The motion carried. Senator Langworthy will carry the resolution.

The meeting adjourned at 10:55a.m.. The next meeting is Wednesday, March 21, at 10:00a.m, in Room 526S.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE

DATE 3/20/90

(PLEASE PRINT)

NAME AND ADDRESS	ORGANIZATION
Alice Hamilton Nida	KDOA
Stephanie Smith	self
Roger Taylor II	self
Sandra Hazlett	SRS
KEITH R LANDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Bill Dean	J Pilcrian + Associates
Michelle Herron	
Elizabeth Ediger	
Sarah Sweetman	Self
Marie Brown	
Tom Gress	KS Hosp. Assn.
Alan Cobb	KS Resp. Care Soc.
Laurie A. Hartman	Ks. Bar Assoc.
Katie Pyle	~~AORP~~ SAIL
Josh Koda	KAHF
Marilyn Bradt	KINH
THOMAS C (Tim) Owens	SRS
George D. Vega	SRS / MHRS
Carl Schmittenner	Kansas Dental Ass.

Please continue on the next page.

SENATE
PUBLIC HEALTH AND WELFARE COMMITTEE
DATE 3/20/90 (cont)

(PLEASE PRINT) NAME AND ADDRESS	ORGANIZATION
Kelly Waldo	Ks. Chirop. Assn.
Chip Wheelen	Ks Medical Society
Erin McBride	Observer
Joan S Stuckley	KAPS
Rep. Kerry Patrick	

KINH Kansans for Improvement of Nursing Homes, Inc.

913 Tennessee, suite 2 Lawrence, Kansas 66044 (913) 842 3088

TESTIMONY PRESENTED TO
THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE
CONCERNING SUBSTITUTE HB 2800

March 20, 1990

Mr. Chairman and Members of the Committee:

Kansans for Improvement of Nursing Homes was most appreciative of the changes in the adult abuse law made in the 1989 Legislature and of the willingness of the Public Health and Welfare Committees at that time to keep separate the processes for investigating abuse in institutional and noninstitutional settings. It remains our firm conviction that the investigation and subsequent handling of reports of abuse in institutions such as nursing homes should be the responsibility of the Department of Health and Environment which regulates those institutions. In general, instances of abuse in nursing homes are related to violations of adult care home regulations. It seems to us that the most appropriate and direct means of dealing with such abuse is to put both the investigation of abuse and any consequent actions in the hands of the enforcement agency from the outset.

HB 2800 was extensively revised in the House committee to assure that definitions are compatible with the statute dealing with noninstitutional abuse, that SRS will retain the function and authority to provide protective services when such are appropriate, that the services and lines of authority of both KDHE and SRS are clear, and that reference to other state agencies who may have a direct interest in action taken against the abuser is assured. The result is a much improved bill, Substitute HB 2800, which we believe will provide faster and more appropriate investigation and handling of resident abuse complaints.

KINH asks that you report Substitute HB 2800 favorably.

SP H+W
Attachment #1
3/20/90

State of Kansas
Mike Hayden, Governor

Department of Health and Environment
Division of Health

Stanley C. Grant, Ph.D., Secretary

Landon State Office Bldg., Topeka, KS 66612-1290

(913) 296-1343
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Testimony presented to

The Senate Committee on Public Health and Welfare

by

The Kansas Department of Health and Environment

Substitute for House Bill 2800

Background

Since 1980, the investigation of alleged abuse or neglect of persons residing in institutions such as adult care homes, adult family homes and medical care facilities has been the responsibility of the Department of Social and Rehabilitation Services (SRS). SRS is responsible to receive, investigate and follow-up on all such reports pursuant to K.S.A. 39-1401 et. seq.

Since 1985, the investigation of alleged abuse, neglect or exploitation for adults not in an institution has been the responsibility of SRS pursuant to K.S.A. 39-1421 et. seq.

The current statutory framework compromises the quality of investigation and follow-up that occur because SRS does not have nurses available to investigate such complaints and SRS is oriented toward the provision of individual protective services rather than enforcement. In fact, the most effective protective service that can be provided is direct action to correct problems in the facility in which the abuse, neglect, or exploitation has occurred.

The Governor is committed to consolidating, where practical, related functions in single agencies. With regard to adult care homes, the first step was taken on July 1, 1989 when the federally mandated Inspection of Care (IOC) process was transferred from SRS to the Kansas Department of Health and Environment (KDHE). This bill, transferring responsibility for investigating abuse, neglect and exploitation complaints, is the second critical step towards completing the Governor's initiative.

In addition, the Nursing Home Reform Act contained in the Omnibus Reconciliation Act of 1987 requires that each nursing facility resident be advised, in writing, that complaints regarding resident abuse, neglect, or exploitation are to be filed with the state survey and certification agency. This act also requires that the state maintain adequate procedures and staff to investigate such complaints.

SPH+W
Attachment #2
3/20/90

Charles Konigsberg, Jr., M.D., M.P.H., Director of Health (913) 296-1343

James Power, P.E., Director of Environment (913) 296-1535

Lorne Phillips, Ph.D., Director of Information Systems (913) 296-1415

Roger Carlson, Ph.D., Director of the Kansas Health and Environmental Laboratory (913) 296-1619

Issues

This bill addresses two general issues. First and fundamental, is the inherent difficulty in having a multiplicity of agencies involved in the inspection or regulation of nursing facilities. And two, complying with federal mandates requiring states to have staff and procedures in place as part of the federal certification function to investigate complaints regarding abuse, neglect, or exploitation.

The approach under current law is ineffective because it places the responsibility for receipt and resolution of complaints regarding adult care homes and medical care facilities outside the licensing agency. The concept of providing protective services, traditionally an SRS role, is not pertinent because in the great majority of the cases the most effective protective service to be provided when abuse, neglect, or exploitation occurs in an institution is enforcement activity to assure that problems are corrected.

The bill establishes the principal that the agency primarily responsible for the program shall also be responsible for investigating allegations of abuse, neglect or exploitation. Toward this end, complaints in state institutions, adult family homes and community MR/DD agencies will continue to be handled by SRS while complaints in adult care homes and medical care facilities will be handled by KDHE.

A definition for exploitation was included to meet federal requirements as well as to provide state authority to investigate issues of exploitation.

The House amendments provide for the requirement for a state-wide register to be consistent with federal requirements. The Nursing Home Reform Act, a section of OBRA'87 mandates that the state survey agency establish a process and provide staff to investigate allegations of abuse, neglect, or exploitation. This same federal law mandates the establishment of a public registry no later than October 1, 1990 of nurse aides who have been confirmed of abusing, neglecting, or exploiting residents.

The proposed requirement that the Secretary of KDHE forward any findings of abuse, neglect, or exploitation of a licensed provider to the appropriate licensing authority is mandated by the OBRA legislation. It is also consistent with the current administrative practice of KDHE.

The proposal that the Secretary of KDHE may consider the finding of abuse, neglect, or exploitation in any disciplinary action taken with respect to the licensed provider is not only consistent with OBRA legislation but provides the Secretary with clear authority to sanction a facility where abuse, neglect, or exploitation has occurred.

The bill also contains language seeking to protect the confidentiality of persons registering the complaint or the alleged victim.

Department's Position

Substitute for House Bill No. 2800 enhances the state's ability to protect its most frail citizens. It does so by placing within the licensing agency the responsibility for investigating and resolving allegations of abuse, neglect, or exploitation. The need for protective services is best met by strengthening the licensing agency's ability to correct problems in a facility where such abuse, neglect, or exploitation has occurred.

The bill also consolidates within one agency duplicative functions. This is consistent with the Governor's initiative to eliminate such duplication generally, and specifically to do so in the state's overall nursing home regulatory program.

The Department of Health and Environment recommends that House Bill No. 2800 be recommended for passage.

Testimony Presented by: Richard J. Morrissey, Deputy Director
Division of Health, KDHE

Date: March 20, 1990

STATE OF KANSAS

KERRY PATRICK
REPRESENTATIVE, TWENTY-EIGHTH DISTRICT
JOHNSON COUNTY
10009 HOWE DRIVE
LEAWOOD, KANSAS 66206

TOPEKA

COMMITTEE ASSIGNMENTS
MEMBER: ENERGY AND NATURAL RESOURCES
LABOR AND INDUSTRY
LOCAL GOVERNMENT
JOINT COMMITTEE ON SPECIAL CLAIMS AGAINST THE STATE

HOUSE OF
REPRESENTATIVES

To: Senate Public Health & Welfare Committee

Date: March 20, 1990

From: Kerry Patrick

Re: House Bill 2824 - Requiring the audit of all claims submitted to SRS for payment out of state funds for the medical care of needy persons

I. **Rationale**:

No business, particularly a business with over $800 million in costs, can survive without those costs being subject to scrutiny or an audit. Yet that is taking place today in the Department of Social and Rehabilitative services.

a. **Payments made to "health care providers", to nursing homes, etc. are not subject to any systematic audit or review to see if those charges are reasonable and within the law**.

1. Cheating could be taking place and we not even know it because of the archaic bookeeping and payment system that we use in Kansas. It is an open invitation for overcharging, fraud and abuse.

2. With costs for MediKan and nursing homes running in the tens of millions of dollars over projected costs, an outside audit of those charges and how the state is reimbursing them is clearly, now more than ever, in order.

b. **A review of a December 29, 1989 article in the *Wall Street Journal* shows the need for such an audit program and the benefits that it would bring to the people of the state of Kansas. Let's look at some excerpts from that story.**

1. Since 1985, Medicare payments for physician services in the U.S. have increased by 77% while the number of beneficiaries have risen only 8%.

2. Article refers to "upcoding" by certain Health care providers in an attempt to charge more for a patient visit than the

SPH & W
Attachment #3
3/20/90

rules allow. Some physicians or their business managers have even attended schools on how to "upcode" and thus generate more fee income.

My mother recently died of colon cancer and I consider myself a fairly intelligent person but I have been unable to decipher the billing code of the Hospital and the attending physicians in an attempt to figure out what is a proper charge to pay and what isn't. If I can't figure it out how can we expect some overworked and underpaid bookeeper in SRS to do so?

3. The Health Care Financing Administration (HCFA) decided to have the new administrator for Medicare payments contract with an outside watchdog company to scrutinize suspect claims in the State of Georgia. Medicare is now doing something which private insurers have done for years, that is, they hire outside claims examiners to review claims.

C. Honest health care providers have nothing to fear from this bill only the unscrupulous ones who take advantage of the system and charge more than the rules require. Further the honest ones are helped by reducing costs and we are placed in a better position to pay valid bills on time.

Shouldn't we be doing that very same thing in Kansas?

1. Shouldn't we proceed in a more business like manner so that the taxpayers get their monies worth?

2. By avoiding overpayment, might we be able to prevent a situation that just occurred when many social welfare recipients faced cuts or elimination of some or all of their benefits?

Kerry Patrick 28th Dist.

MEDICINE

Georgia Doctors Are Undergoing A Medicare Test

By JAMES R. SCHIFFMAN
Staff Reporter of THE WALL STREET JOURNAL

ATLANTA — Doctors in Georgia are guinea pigs of sorts these days, and they don't like it one bit.

The Health Care Financing Administration, which oversees Medicare, is using the state to try out a system of intensified scrutiny of doctors' charges, all in an effort to rein in costs. The result: Medicare claims are being denied, delayed and "downcoded," or reimbursed at lower rates than doctors expect. In some cases, doctors have had to refund money to patients.

"It's been a nightmare really," says Charles Harrison, an Atlanta internist who, like many compatriots, complains of extra paper work and the dread of having every move put under a microscope.

Nightmare or not, it could be a glimpse of the future for Medicare, the federal health-care insurance program for the elderly that pays about a quarter of the nation's doctor bills. The HCFA says the Georgia experiment is a pilot that may be extended, perhaps even nationwide.

Altering Behavior

Other states face cost-control tactics, too. The Medicare administrator in North Dakota is looking for ways to identify suspicious combinations of procedures and diagnoses. In New York and Massachusetts, Medicare administrators write letters to doctors who perform more of certain procedures than is typical in those areas. "The intent is to change physician behaviors," says Barbara Gagel, director of the HCFA's bureau of program operations.

Basic numbers underscore the desire: Since 1985, Medicare payments for physician services in the U.S. have increased 77%, while the number of beneficiaries has risen only 8%.

The endeavor in Georgia is the most controversial so far. The experiment came about at the beginning of 1989 when the HCFA switched its Medicare administrator in the state. When the agency made the change, it decided to have the new administrator, Aetna Life Insurance Co., contract with an outside watchdog company to scrutinize suspect claims. Medicare is taking a tip from private insurers, which have used outside claims examiners for years.

Aetna chose HealthCare Compare Corp., a claims-scrutinizer based in Downers Grove, Ill. HealthCare Compare, which came on the scene in January,

Please Turn to Page B3, Column 1

Continued From Page B1

quickly began hitting Georgia physicians in their pocketbooks by taking a jaundiced look at claims for "comprehensive" consultations.

Such visits should be rare because they involve an intensive look at a patient, including the taking of a full medical history, says Robert J. Becker, a physician who is chairman of HealthCare Compare. Yet the HCFA's own statistics show that in 1987, Georgia doctors billed for comprehensive visits 23% more than the U.S. average.

The suspicion was that some doctors were "upcoding," or charging Medicare for comprehensive visits—at more than $100 a shot—when they should have been billing in the $30 range for simpler consultations.

In one case, Dr. Becker recounts, a doctor treating a 92-year-old patient for dementia billed for 72 comprehensive visits in two months. In another, a physician filed for 17 comprehensive visits in as many days for treatment of a single patient. Yet another doctor billed Medicare for seven emergency-room visits on the day his patient had a heart attack. "If they had been reimbursed, it would have been an outrageous expenditure of Medicare funds," Dr. Becker says.

Doctors concede there may be a few among them who make inappropriate claims, but they say the scrutiny is uncalled for. Moreover, they say, dealing with Aetna has been a bureaucratic disaster. And HealthCare Compare, they charge, is arbitrarily withholding payments to impress the HCFA in hopes of landing contracts if the review program expands. HealthCare Compare rejects the accusation.

Paul Shanor, executive director of the Medical Association of Georgia, also takes issue with statistics showing that doctors bill for too many comprehensive visits. And he questions the general fairness of the new procedure. One physician in Newnan, Ga., spent more than two hours in the middle of the night with a heart-attack victim, he says, only to be reimbursed $23 by Medicare. "That doesn't seem like a very fair amount to me," Mr. Shanor says.

Moreover, physicians say they have been made to feel like criminals and have been subjected to long delays in receiving legitimate payments. Take the case of Mary Sper, a 68-year-old who was hospitalized for six weeks late last year for gallbladder surgery. Because she had a history of heart trouble, her cardiologist, Wm. Michael Brown, visited her daily in the hospital. But it wasn't until August, after several appeals of payment denials and the submission of reams of documentation, that the cardiologist collected the $1,000 he sought from Medicare. "It was a headache on that one," says Mabel K. Kim, Dr. Brown's office manager.

Aetna does accept some blame. As a new Medicare administrator, the carrier faced a huge backlog of claims and admits mistakes in processing at the start. Aetna says the problems have largely been overcome, but only a few weeks ago a computer glitch resulted in erroneous underpayments for laboratory tests. The medical association calls the incident an example of Aetna's "bad faith."

The changes have shocked physicians, who had grown accustomed to certain givens in billing. Linton H. Bishop Jr., a cardiologist here, says he charged his "usual consulting fee of $117" to see a 73-year-old patient who was hospitalized for prostate surgery. The patient paid, but Medicare later said a comprehensive visit wasn't necessary and authorized payment of only $30. In this case, Dr. Bishop had to reimburse the patient the difference between the higher and lower fee.

Some doctors now protect themselves by forcing patients to sign waivers, making them responsible if Medicare denies payment. Exactly that happened to Grady Rutherford, a 75-year-old retired carpenter who had to fork over $85 for a "downcoded" visit to his internist. "I just feel like my Medicare insurance isn't doing justice one way or the other," a distressed Mr. Rutherford says.

Intensified Examinations

Dr. Becker of HealthCare Compare dismisses the criticisms, saying his company is only ensuring that physicians aren't paid for unnecessary services. "Some of the people who have made some of the most noise are people who in fact are overutilizing and upcoding," he says.

Dr. Becker adds that it's going to get tougher for physicians before it gets easier. Starting in January, he says, scrutiny will be intensified for Georgia doctors who do tests and surgical procedures.

Meanwhile, the issue is spilling into politics. Responding to the medical lobby, Georgia congressmen persuaded Rep. Henry Waxman to examine the state's Medicare situation before his health and environment subcommittee. The inspector general of the Health and Human Services Department, the agency housing the HCFA, also is conducting a probe, as is the General Accounting Office.

But don't expect too much sympathy for Georgia's generally well-heeled physicians. Says Michael Cadger, managing consultant in Atlanta for A. Foster Higgins & Co., a benefits consultant: "Doctors are finally getting caught and they don't like it."

3-3