

Approved 4-11-92
Date sh

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

The meeting was called to order by Carol H. Sader at
Chairperson

5:00 a.m./p.m. on March 26, 1992 in room 423-S of the Capitol.

All members were present except:

Rep. Carmody, Rep. Wagle, excused

Committee staff present:

Emalene Correll, Research
Norman Furse, Revisor
Sue Hill, Committee Secretary

Conferees appearing before the committee:

Chair reconvened the meeting at 5:03 p.m., drawing attention to a list of bills previously heard in Committee and noted balloon amendments available on SB 631, SB 737, and SB 728. Other bills previously heard and on the list to be considered by Committee are HB 3127, SB 673, and SB 692.

Chair noted HB 3014 and HB 3016 will not be worked but will be discussed by Chair with members later as to what direction the Committee may wish to take on these issues.

Chair noted HB 3156 has had some suggested revision by parties involved and it is their wish the Committee look at these revisions. This issue will probably be dealt with next week.

Chair noted the balloon amendment provided on SB 631 (Attachment No. 1), had been proposed by Dr. Harder. The Chair had requested Mr. Furse to draft these recommendations in the form of a balloon so that Committee members might look at them and decide if they wish to act on those recommendations.

Chair requested Mr. Furse explain the balloon on SB 631. Mr. Furse then gave a detailed explanation of the balloon amendments on SB 631, noting language provides for a plan to be presented for the consolidation of all health care programs for pregnant women and children into one comprehensive plan under one state agency. The proposed amendment would add language "plan to be implemented by several agencies through interagency contracts, contracts with private agencies, or by providing direct services".

Discussion ensued, i.e., it was noted there is a concern with the word "the" several agencies.

Rep. Bishop moved to amend SB 631 by adopting the balloon provided with a change to amend the balloon by striking "the" on page 1 of amended language provided, and to add "one or". Motion seconded by Rep. Wiard. Discussion continued.

Chair noted she had consulted with Senator Walker, chief sponsor of SB 631, who did not react enthusiastically to the amended change but agreed it would be better than no bill at all. Senator Walker views the proposed balloon as an effort to dilute the original intent of the bill. It was noted SB 631, if approved, would provide for the study; a clarification on funding would need to be directed by the legislature; some felt the current cooperation by the three state agencies, which has not been seen for a number of years, is a step in the right direction and the focus of SB 631 would also call for a cooperative effort of these agencies.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S Statehouse, at 5:00 a.m./p.m. on March 26, 1992

DISCUSSION CONTINUED ON SB 631.

Vote taken. Motion carried.

Discussion continued on SB 631, as a whole, in respect to the 6-months time frame not being enough to work out the proposed plan. There were concerns with funding issues not being addressed.

Rep. Wiard moved to amend SB 631 in line 13 by adding language "on or before February 1, 1993, motion seconded by Rep. Bishop. Discussion continued. Vote taken. Motion failed."

Discussion continued, i.e., it was believed that if the United States can move one-half million troops through Desert Storm in 60 days, surely the date of January 31, 1993, can be met as suggested in current language in SB 631.

Rep. Wiard moved to report SB 631 favorably as amended, seconded by Rep. Bishop. Vote taken. Motion carried.

Rep. Praeger agreed to carry SB 631 on the floor of the House.

DISCUSSION BEGAN ON SB 737.

Chair noted she had requested Mr. Hitchcock and Mr. Kyle Smith, Attorney General's office, to confer over a concern expressed and a balloon has been distributed to members indicating the results of that meeting, (see Attachment No. 2). The balloon notes additional language proposed, i.e., in (1) Propylhexedrine in line 21 ("except when a part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose....8161").

Rep. Amos moved to amend SB 737 per balloon in Attachment No. 2. Motion seconded by Rep. Praeger. No discussion. Vote taken. Motion carried.

Rep. Samuelson moved to report SB 737 favorably as amended, seconded by Rep. Grant. No discussion. Vote taken. Motion carried.

Rep. Grant agreed to carry SB 737 on the floor of the House.

DISCUSSION BEGAN ON SB 728.

It was noted a balloon had been provided by Dick Morrissey, Department of Health/Environment (see Attachment No. 3) recommendations to amend SB 728). Mr. Morrissey stated the proposed recommendations are consistent with the testimony presented by the Department of Health/Environment on SB 728.

Rep. Neufeld moved to amend SB 728 per recommendations outlined in balloon, see Attachment No. 3. Motion seconded by Rep. Samuelson. Discussion began, i.e., the proposed amendment made on the Senate floor in regard to the doctor being restricted from taking any fee for services. A lengthy discussion in regard to charitable services, versus services performed by physicians for a fee took place; whether or not a health facility, i.e., local health departments may/shall charge a fee for services; malpractice insurance requirements; anyone working in the health facility being under the protection of liability coverage in respect to SB 728.

It was noted the Department of Health/Environment requested this legislation because it would bring the remainder of the clinics and the local health departments providing care for indigents under this legislation.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE,
room 423-S, Statehouse, at 5:00 a.m./p.m. on March 26, 1992

DISCUSSION CONTINUED ON SB 728.

Mr. Furse inquired of Mr. Morrissey, "what relationship currently do not-for-profit indigent health care clinics have to the Kansas Tort Claims Act"? Mr. Morrissey said as far as he knew, none. Mr. Furse said that is right, none.

Chair noted, in summer studies it was recommended and the original intent was to expand/encourage the Charitable Health Care Provider Network and to offer expanded inducement to providers to offer their services.

Vote taken. Motion carried.

Discussion continued in regard to an inquiry on why language in lines 36-40 had been added, and it was decided that now this is a moot point.

Rep. Bishop moved to pass SB 728 out favorably as amended, seconded by Rep. Neufeld. No discussion. Vote taken. Motion carried.

Rep. Neufeld agreed to carry SB 728 on the floor of the House.

DISCUSSION BEGAN ON HB 3127.

Rep. Bishop noted it is the opinion of some that this issue is not a problem in the state of Kansas, and he moved to report HB 3127 unfavorably. Motion seconded by Rep. Wiard. Discussion began. Some felt there was a problem with punishment and fines being inconsistent and too excessive. This would probably increase medical costs.

Vote taken. Motion carried.

DISCUSSION BEGAN ON SB 673.

Rep. Praeger moved to pass SB 673 out favorably, seconded by Rep. Samuelson. No discussion. Vote taken. Motion carried.

Rep. Lynch agreed to carry SB 673 on the floor of the House.

DISCUSSION BEGAN ON SB 692.

Rep. Scott moved to pass SB 692 out favorably, seconded by Rep. Bishop. No discussion. Vote taken. Motion carried.

Rep. Scott agreed to carry SB 692 on the floor of the House.

Chair thanked members for their cooperation and attention. It will not be necessary now to meet tomorrow on adjournment, as originally scheduled, since the bills on the agenda have been considered and acted upon by Committee.

The next scheduled meeting will be Monday, March 30th, at the regular time. The meetings scheduled for Tuesday, March 31st will be 12:30 p.m. and, if necessary, again at 5:00 p.m.

Chair adjourned the meeting at 6:20 p.m.

SENATE BILL No. 631

By Committee on Public Health and Welfare

2-11

8 AN ACT concerning health services; concerning development of a
9 comprehensive program of health services for pregnant women plan
10 and children.

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

12 Section 1. (a) On or before January 1, 1993, the secretary of
13 health and environment, in cooperation with the secretary of social
14 and rehabilitation services, the commissioner of education and the
15 commissioner of insurance, shall develop and submit to the governor,
16 the joint committee on health care decisions for the 1990's and the
17 Kansas commission on the future of health care, inc., a proposal for
18 consolidating all health programs for pregnant women and children
19 into one comprehensive program under one state agency. Such pro-
20 posal shall:
21

plan to be implemented by the several agencies through
interagency contracts, contracts with private agencies
or by providing direct services

- 22 (1) Include a time schedule for phasing in implementation of the
- 23 comprehensive program;
- 24 (2) provide cost estimates for the program;
- 25 (3) identify federal waivers necessary to implement the program;
- 26 (4) identify sources of funding for the program; and
- 27 (5) examine innovative programs, including but not limited to a
- 28 family health insurance program based on school enrollment.

plan

29 (b) The comprehensive program developed pursuant to subsec-
30 tion (a) shall, at a minimum, provide for the following statewide:

- 31 (1) Comprehensive prenatal services for all pregnant women;
- 32 (2) a physical, developmental and mental health assessment of
- 33 all children at birth;
- 34 (3) comprehensive medical care for all children under 18 years
- 35 of age;
- 36 (4) preventative and restorative dental care for all children under
- 37 18 years of age;
- 38 (5) periodic sight and hearing tests for all children under 18 years
- 39 of age and such eyeglasses and hearing aids as such children are
- 40 found to need;

41 (6) a case management system under which each family member
42 of a child entering the program is assigned a case manager and under under the plan
43 which every reasonable effort is made to assure continuity of case

1-2
14771
5100P
3-26-92
JHAW

- 1 management and access to other appropriate social services;
- 2 (7) a single point of access in communities for the various services
- 3 offered under the program and
- 4 (8) services regardless of, and fees for services based on, clients'
- 5 ability to pay.
- 6 Sec. 2. This act shall take effect and be in force from and after
- 7 its publication in the Kansas register.

plan

MAR 26 1992
5:00PM
ATT#1
2-2
PHAW

1 cotic drug alone:
 2 (1) Not more than 200 milligrams of codeine or any of its salts
 3 per 100 milliliters or per 100 grams.
 4 (2) Not more than 100 milligrams of dihydrocodeine or any of
 5 its salts per 100 milliliters or per 100 grams.
 6 (3) Not more than 100 milligrams of ethylmorphine or any of its
 7 salts per 100 milliliters or per 100 grams.
 8 (4) Not more than 2.5 milligrams of diphenoxylate and not less
 9 than 25 micrograms of atropine sulfate per dosage unit.
 10 (5) Not more than 100 milligrams of opium per 100 milliliters or
 11 per 100 grams.
 12 (6) Not more than .5 milligram of difenoxin (9168) and not less
 13 than 25 micrograms of atropine sulfate per dosage unit.
 14 (d) Unless specifically excepted or unless listed in another sched-
 15 ule, any material, compound, mixture or preparation which contains
 16 any quantity of the following substances having a stimulant effect on
 17 the central nervous system, including its salts, isomers (whether
 18 optical, position or geometric) and salts of such isomers whenever
 19 the existence of such salts, isomers and salts of isomers is possible
 20 within the specific chemical designation:
 21 (1) Propylhexedrine 8161
 22 (2) Pyrovalerone..... 1485
 23 Sec. 5. K.S.A. 1991 Supp. 65-4105, 65-4107, 65-4109 and 65-
 24 4113 are hereby repealed.
 25 Sec. 6. This act shall take effect and be in force from and after
 26 its publication in the statute book.

(1) Propylhexedrine (except when part of a compound used for nasal decongestion which is authorized to be sold lawfully over the counter without a prescription under the federal food, drug and cosmetic act, so long as it is used only for such purpose) 8161
 (2)

PHW
 MAR 26 1992
 5:00 PM
 CTF #2

SENATE BILL No. 728

By Committee on Judiciary

2-25

11 AN ACT concerning charitable health care providers; amending
12 K.S.A. 1991 Supp. 75-6102 and 75-6117 and repealing the existing
13 sections.
14

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

16 Section 1. K.S.A. 1991 Supp. 75-6102 is hereby amended to read
17 as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
18 amendments thereto, unless the context clearly requires otherwise:

19 (a) "State" means the state of Kansas and any department or
20 branch of state government, or any agency, authority, institution or
21 other instrumentality thereof.

22 (b) "Municipality" means any county, township, city, school dis-
23 trict or other political or taxing subdivision of the state, or any
24 agency, authority, institution or other instrumentality thereof.

25 (c) "Governmental entity" means state or municipality.

26 (d) "Employee" means any officer, employee, servant or member
27 of a board, commission, committee, division, department, branch or
28 council of a governmental entity, including elected or appointed
29 officials and persons acting on behalf or in service of a governmental
30 entity in any official capacity, whether with or without compensation
31 and a charitable health care provider. Employee includes any steward
32 or racing judge appointed pursuant to K.S.A. ~~1990~~ 1991 Supp. 74-
33 8818, and amendments thereto, regardless of whether the services
34 of such steward or racing judge are rendered pursuant to contract
35 as an independent contractor, but does not otherwise include any
36 independent contractor under contract with a governmental entity
37 but does include a person who is an employee of a nonprofit in-
38 dependent contractor, other than a municipality, under contract to
39 provide educational or vocational training to inmates in the custody
40 of the secretary of corrections and who is engaged in providing such
41 service in an institution under the control of the secretary of cor-
42 rections provided that such employee does not otherwise have cov-
43 erage for such acts and omissions within the scope of their

5:10 pm

PHW
3-26-92
Attm # 3

1074

1 employment through a liability insurance contract of such inde-
2 pendent contractor. Employee also includes former employees for
3 acts and omissions within the scope of their employment during their
4 former employment with the governmental entity.

5 (e) "Community service work" means public or community serv-
6 ice performed by a person (1) as a result of a contract of diversion
7 entered into by such person as authorized by law, (2) pursuant to
8 the assignment of such person by a court to a community corrections
9 program, (3) as a result of suspension of sentence or as a condition
10 of probation pursuant to court order, (4) in lieu of a fine imposed
11 by court order or (5) as a condition of placement ordered by a court
12 pursuant to K.S.A. 38-1663, and amendments thereto.

13 (f) "Charitable health care provider" means a person licensed by
14 the state board of healing arts as an exempt licensee or a health
15 care provider as the term "health care provider" is defined under
16 K.S.A. 65-4921, and amendments thereto, who has entered into an
17 agreement with:

18 (1) The secretary of health and environment under K.S.A. 1990
19 1991 Supp. 75-6120, and amendments thereto, who, pursuant to
20 such agreement, *gratuitously* renders professional services to a per-
21 son who has provided information which would reasonably lead the
22 health care provider to make the good faith assumption that such
23 person meets the definition of medically indigent person as defined
24 by this section and who renders such professional services gra-
25 tuitously or persons receiving medical assistance from the programs
26 operated by the department of social and rehabilitation services, and
27 who is considered an employee of the state of Kansas under K.S.A.
28 1990 1991 Supp. 75-6120, and amendments thereto; or

29 (2) a local health department that is part of the pilot programs
30 established under K.S.A. 1991 Supp. 65-226 and amendments
31 thereto, or not for profit indigent health care clinic who, pursuant
32 to such agreement, ~~[gratuitously]~~ renders professional service
33 [services] to medically indigent persons or persons receiving medical
34 assistance from the programs operated by the department of social
35 and rehabilitation services ~~gratuitously or for a fee paid by the~~
36 local health department ~~or on a contract [and who is considered~~
37 an employee of the state of Kansas under K.S.A. 1991 Supp. 75-
38 6120 and amendments thereto. Professional services rendered shall
39 be considered gratuitous notwithstanding fees charged by a local
40 health department or not-for-profit indigent health care clinic so
41 long as the exempt licensee or health care provider is not compen-
42 sated for services rendered].

43 (g) "Medically indigent person" means a person who lacks re-

5:00 pm
P. Howard
8-26-92
Autumn #3
2074

—pursuant to such agreement
—delete

—gratuitously or for a fee paid by the local health department

—delete

1 sources to pay for medically necessary health care services and who
2 meets the eligibility criteria for qualification as a medically indigent
3 person established by the secretary of health and environment under
4 K.S.A. 1990 1991 Supp. 75-6120, and amendments thereto.

5 (h) "Not for profit indigent health care clinic" means an out-
6 patient medical care clinic operated on a not for profit basis and
7 designed to provide care to medically indigent persons under the
8 ~~medical direction of a qualified physician licensed by the Kansas~~
9 ~~board of healing arts.~~

delete

10 Sec. 2. K.S.A. 1991 Supp. 75-6117 is hereby amended to read
11 as follows: 75-6117. (a) There is hereby established in the state
12 treasury the tort claims fund which shall be administered by the
13 attorney general. All expenditures from such fund shall be made
14 upon warrants of the director of accounts and reports pursuant to
15 vouchers approved by the attorney general or by a designee of the
16 attorney general.

17 (b) Moneys in the tort claims fund shall be used only for the
18 purpose of paying (1) compromises, settlements and final judgments
19 arising from claims against the state or an employee of the state
20 under the Kansas tort claims act or under the civil rights laws of
21 the United States or of the state of Kansas and (2) costs of defending
22 the state or an employee of the state in any actions or proceedings
23 on those claims. Except for claims against the state or an employee
24 of the state in any actions or proceedings arising from rendering or
25 failure to render professional services by a charitable health care
26 provider to a medically indigent person or by a charitable health
27 care provider who has contracted with a local health department
28 ~~that is part of the pilot programs established under K.S.A. 1991~~
29 ~~Supp. 65-226 and amendments thereto, or not for profit indigent~~
30 ~~health care clinic~~ to medically indigent persons or persons receiving
31 medical assistance from the programs operated by the department
32 of social and rehabilitation services, to the extent that payment cannot
33 be made from insurance coverage obtained therefor, payment of a
34 compromise or settlement shall be made from the fund if the com-
35 promise or settlement has been approved by the state finance council
36 as provided in K.S.A. 75-6106, and amendments thereto. Except for
37 claims against the state or an employee of the state in any actions
38 or proceedings arising from rendering or failure to render professional
39 services by a charitable health care provider to a medically indigent
40 person or by a charitable health care provider who has contracted
41 with a local health department ~~that is part of the pilot programs~~
42 ~~established under K.S.A. 1991 Supp. 65-226 and amendments~~
43 ~~thereto, or not for profit indigent health care clinic~~ to medically

Handwritten: A.H.W. 5:10 pm

Stamp: MAR 26 1992

Handwritten: Patton #3

Handwritten: 3084

1 indigent persons or persons receiving medical assistance from the
2 programs operated by the department of social and rehabilitation
3 services, to the extent that payment cannot be made from insurance
4 coverage obtained therefor, payment of a final judgment shall be
5 made from the fund if there has been a determination of any appeal
6 taken from the judgment or, if no appeal is taken, if the time for
7 appeal has expired.

8 (c) Upon certification by the attorney general to the director of
9 accounts and reports that the unencumbered balance in the tort
10 claims fund is insufficient to pay an amount for which the fund is
11 liable, the director of accounts and reports shall transfer an amount
12 equal to the insufficiency from the state general fund to the tort
13 claims fund.

14 (d) This section shall be part of and supplemental to the Kansas
15 tort claims act.

16 Sec. 3. K.S.A. 1991 Supp. 75-6102 and 75-6117 are hereby
17 repealed.

18 Sec. 4. This act shall take effect and be in force from and after
19 its publication in the statute book.

P H & W S P

MAR 26 1992

Attom #3

Hof 4