

Approved February 27, 1992  
Date

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

The meeting was called to order by Alicia L. Salisbury at  
Chairperson

1:30 ~~xxx~~ p.m. on February 13, 1992 in room 254-E of the Capitol.

All members were present except:

Members present: Senator Daniels, Ehrlich, Feleciano, Martin, Morris, Oleen, Petty, Salisbury, Strick and Thiessen

Committee staff present:

Jerry Donaldson, Legislative Research Department

Gordon Self, Revisor of Statutes Office

Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Steve Dickson, Attorney for the Chiropractic Association

Bob Williams, Executive Director, Kansas Pharmacists Association

Terry Leatherman, Executive Director, Kansas Chamber of Commerce and Industry

**HEARING ON HB 2196 - Workers Compensation, employee choice of health care provider**

Steve Dickson, Attorney for the Chiropractic Association, testified in support of HB 2196. He explained HB 2196 would amend the Workers Compensation Act to allow an injured worker to select, in first instance, the health care provider to provide medical treatment. If the worker is dissatisfied with the health care provider, the worker can use a health care provider furnished by the employer. He stated the bill should be amended to restrict the choice of health care provider to a specified geographic area of the injured worker's place of business or residence. He also said there are sufficient controls in the bill, see Attachment 1. He submitted petitions containing 11,000 signatures requesting the freedom to choose their own physicians. These petitions are on file under separate cover at the end of this year's minutes.

Bob Williams, Executive Director, Kansas Pharmacists Association, has a long-standing policy regarding the right of patients to choose their own health care providers. A patient is more likely to comply with his/her medical treatment plan and cooperate with his/her health care provider when that health care provider is one he personally selects. He said there are a number of restrictions contained in HB 2196 to control costs and prevent abuse of the Workers Compensation Act, see Attachment 2.

Terry Leatherman, Executive Director, KCCI, testified a special task force of KCCI members studied Workers Compensation in Kansas last summer and fall. The task force considered the issue addressed in HB 2196. It was determined the current process of permitting employers to select the initial health care provider in workers compensation cases should be continued. Injured workers may visit a health care provider of their choice, for any reason without the approval of their employer or a workers compensation judge, and have up to \$350 of the medical charges paid by the employer. Kansas law also permits employees to petition the system's legal process for a change in health care provider. He said the National Council on Compensation Insurance wrote the Kansas Insurance Department that this bill will increase workers compensation costs by at least 10%. This means compensation costs would increase in Kansas around \$40 million if HB 2196 is passed, see Attachment 3.

The Chairman announced the hearing on HB 2196 will be continued to Wednesday, February 19, 1992, at 1:30 p.m. in room 254-E.

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



BEFORE THE SENATE COMMITTEE ON LABOR  
INDUSTRY AND SMALL BUSINESS  
February 13, 1992

SENATOR SALISBURY AND MEMBERS OF THE COMMITTEE, MY NAME IS STEVE DICKSON AND I AM A LOBBYIST AND LAWYER FOR THE KANSAS CHIROPRACTIC ASSOCIATION. I AM A PRACTICING ATTORNEY WITH THE OFFICES OF DICKSON AND POPE, P.A. WHICH MAINTAINS OFFICES IN TOPEKA AND KANSAS CITY MISSOURI. I COME BEFORE YOU TODAY TO SPEAK IN SUPPORT OF H.B. 2196. I CANNOT TELL YOU HOW HAPPY I AM TO FINALLY BE ABLE TO SPEAK TO THIS GROUP IN FAVOR OF THIS BILL.

THIS MEASURE IN SOME FORM HAS BEEN ADOPTED IN SOME 26 STATES. THE BILL ITSELF HAS BEEN LANGUISHING IN THESE HALLS FOR THREE YEARS. CERTAINLY YOU UNDERSTAND THIS FEELING OF FRUSTRATION, GIVEN THE RESULTS OF SOME OF THE SENATE BILLS WHICH HAVE GONE OVER TO THE HOUSE ON FORTY TO NOTHING VOTES IN RECENT DAYS AND YEARS. HOWEVER, WE CONSIDER IT A PRIVILEGE TO ADDRESS THIS BODY ON THIS ISSUE AT THIS TIME GIVEN THE CURRENT PRESS OF OTHER BUSINESS WHICH FACES THE LEGISLATURE AT THIS TIME.

SINCE THERE HAS BEEN NO HEARING IN THE SENATE ON THIS MEASURE, IT MAY BE NECESSARY TO TELL YOU ABOUT SOME OF THE ARGUMENTS WHICH HAVE BEEN RAISED CONCERNING THIS BILL. HOWEVER, I WOULD BE REMISS IF I DID NOT FIRST POINT OUT TO YOU THE NUMEROUS ADVANTAGES TO THE BILL.

*SLD, SB*  
*2/13/92*

*Attachment 1-1*

I AM A LITIGATION ATTORNEY. I HANDLE MANY DIFFERENT TYPES OF CASES. I DO A TREMENDOUS AMOUNT OF JURY WORK INVOLVING TRIALS ON BEHALF OF PLAINTIFFS AND DEFENDANTS. HOWEVER, BOTH I AND MY FIRM HANDLE A LARGE VOLUME OF WORKER'S COMPENSATION CASES FOR CLAIMANTS AND RESPONDENTS AS WELL AS SELF INSURED EMPLOYERS. I HAVE BEEN INVOLVED IN THE ISSUES YOU ARE CONSIDERING, FIRST HAND, FOR OVER TWELVE YEARS. IN ADDITION TO MY CASES, I CONSULT ON CASES FOR FIVE OTHER LAWYERS IN MY OFFICE AS WELL AS ANSWERING QUESTIONS FOR HUNDREDS OF CHIROPRACTIC PHYSICIANS AS WELL AS OTHER PHYSICIANS IN KANSAS. I HAVE TAUGHT SEMINARS ON WORKERS COMPENSATION FOR MANY DIFFERENT GROUPS AND SPOKEN TO SEVERAL OTHERS ON WORKER'S COMPENSATION ISSUES. I HAVE REPRESENTED UNIONS, MANAGEMENT, INSURANCE COMPANIES AND INJURED WORKERS. IN SUMMARY, I AM FAMILIAR WITH THE SYSTEM.

WHEN AN INJURED WORKER IS FIRST HURT ON THE JOB, THAT IS WHEN THEY ARE AT THEIR MOST VULNERABLE POSITION AS WELL AS THE MOST DANGEROUS TO THE EMPLOYER, CARRIER AND THE SYSTEM. IT OFTEN THE CASE THAT THE INJURED WORKER HAS BEEN WITH THE SAME EMPLOYER FOR MANY YEARS. SOMETIMES, THIS IS THE ONLY EMPLOYMENT THEY HAVE EVER HAD. AT THE TIME OF THE INJURY THE WORKER FIRST WANTS TO GET MEDICAL CARE. THEN COMES THE WORRY AND ANXIETY ABOUT WHEN OR WHETHER HE OR SHE WILL BE ABLE TO RETURN TO WORK. ABOUT WHEN OR WHETHER HE OR SHE WILL BE ABLE TO PAY THE MORTGAGE, LIGHT BILL OR WATER BILL. ABOUT WHETHER THEY WILL BE ABLE TO BUY FOOD FOR THEIR FAMILIES. ABOUT WHETHER THEY WILL BE ABLE TO RETURN TO NORMAL PRODUCTIVE LIVES AS MEMBERS OF THE WORK FORCE.

*SLD + SB*  
*2/13/92*

*Attachment 1-2*

THINK ABOUT IT. WHILE THEY ARE IN THAT STATE OF MIND THE INSURANCE ADJUSTOR COMES TO THEM AND TELLS THEM THAT THEY CAN'T GO TO THEIR FAMILY DOCTOR THAT THEY HAVE SEEN FOR 10, 20 YEARS OR MORE. HE OR SHE TELLS THEM THAT THEY HAVE TO GO TO THE "COMPANY DOCTOR" OR TO THE "INSURANCE COMPANY DOCTOR" OR, EVEN WORSE, WE WILL GET IN TOUCH WITH YOU AND LET YOU KNOW WHO YOU CAN SEE, BUT IN THE MEAN TIME YOU CANNOT GO TO YOUR DOCTOR.

WHAT WOULD YOU DO? THE SAME THING MOST OF THOSE INJURED WORKERS DO. YOU WOULD PICK UP THE PHONE AND CALL ME OR SOMEONE LIKE ME. THERE ARE LAWYERS LIKE ME EVERYWHERE. THEY ADVERTISE ON TELEVISION.

THEN THE MATTER IS IN LITIGATION WHEN IT NEED NOT HAVE BEEN. THINK OF THE SAME INJURED WORKER IF HE OR SHE IS TOLD TO GO TO THE DOCTOR OF THEIR CHOICE. THAT DOESN'T SOUND LIKE SOME INSURANCE COMPANY IS TRYING TO PULL A FAST ONE ON THEM. THAT DOESN'T SOUND LIKE SOMEONE IS TRYING TO TAKE ADVANTAGE OF THEM. THAT SOUNDS LIKE SOMEONE IS TRYING TO GET THEM ADEQUATE MEDICAL CARE ON A TIMELY BASIS. AND GUESS WHAT? THEY DON'T HAVE TO CALL A LAWYER TO SEE IF THEY ARE BEING TAKEN CARE OF.

I DON'T HAVE STATISTICS TO BACK UP THIS SCENARIO SO PLEASE DON'T ASK ME FOR THEM. I ONLY HAVE THE EXPERIENCE OF WORKING THROUGH THOUSANDS OF THESE CASES OVER THE LAST 12 YEARS. THAT IS THE ONLY DATA THAT I CAN CITE TO YOU FOR THIS PREMISE THAT PEOPLE WHO ARE ALLOWED TO CHOOSE THEIR OWN DOCTOR AREN'T AS LIKELY TO FILE

*SLD & LB*  
*2/13/92*

*Attachment 1-3*

SUIT AS THOSE WHO ARE FORCED TO SEE A STRANGER THEY DON'T LIKE. IF YOU TAKE A LOOK AT THE TESTIMONY WHICH WAS PRESENTED IN THE HOUSE LAST YEAR AND THE YEAR BEFORE, YOU WILL SEE THAT SOME OF THOSE WORK COMP CLAIMANTS CAME FORWARD TO TELL THEIR OWN STORIES ABOUT THIS PHENOMENA. ONE OF THEM, TOM BLAIR, RECEIVED A \$75,000.00 AWARD FROM THE DIRECTOR OF WORKER'S COMP ON A CASE HE WOULD NEVER HAVE FILED HAD THE INSURANCE COMPANY ALLOWED HIM TO SEE THE DOCTOR HE WANTED TO SEE. HOWEVER, THE FACT THAT THE INSURANCE INDUSTRY IN KANSAS WOULD HAVE SAVED OVER \$120,000 ON THAT CASE SHOULD NOT CONVINCEN YOU TO VOTE FOR THIS MEASURE. THE FACT THAT THERE ARE HUNDREDS JUST LIKE HIM SHOULD.

OF COURSE, NOT EVERYONE IS A TOM BLAIR. THEY ARE NOT ALL OUT THERE LOOKING FOR A FAIR SHAKE. SOME OF THEM ARE ACTUALLY FAKES AND FRAUDS AND DON'T DESERVE TO GET ANYTHING FROM THE SYSTEM. IF YOU LOOK CLOSELY AT THIS BILL, THERE IS NOTHING IN IT WHICH WOULD EITHER ENCOURAGE OR DISCOURAGE SUCH ACTIVITY. THIS BILL ADDRESSES ONLY ONE PROBLEM. THAT PROBLEM IS THAT THERE ARE INTELLIGENT HUMAN BEINGS OUT THERE WHO KNOW WHAT IS BEST FOR THEM AND THEY ARE BEING DENIED THE BEST AND MOST EFFICIENT MEDICAL CARE POSSIBLE BECAUSE THEY HAVE NO CONTROL OVER THEIR OWN DESTINY. THEY DON'T HAVE ACCESS TO THE HEALTH CARE THEY NEED, WANT AND ARE ENTITLED TO.

THERE WAS ONE CONCERN ABOUT THE BILL THAT WAS BROUGHT TO OUR ATTENTION BY SENATOR BOGINA EARLY IN THIS SESSION. HE INDICATED THAT THE BILL THE WAY IT WAS WRITTEN WOULD ALLOW INJURED WORKERS TO GET ON A PLANE AND GO TO NEW YORK TO GET MEDICAL CARE IF THEY

*SLD & SB*  
*2/13/92*

*Attachment 1-4*

WANTED. WE LOOKED AT THE BILL. HE WAS RIGHT. I GUESS THERE IS SOMETHING TO BE SAID FOR TAKING YOUR TIME TO EXAMINE AN ISSUE. AFTER ALL, WE REPRESENT THE KANSAS CHIROPRACTIC ASSOCIATION, NOT THE NEW YORK CHIROPRACTIC SOCIETY. MY MEMBERS DON'T WANT THEM TO GO TO NEW YORK EITHER. THIS BILL WOULD APPLY ONLY TO KANSAS DOCTORS. HOWEVER, THAT CONCERN HAS BEEN ADDRESSED IN AN AMENDMENT WE HAVE PROPOSED. THAT AMENDMENT SHOULD TAKE CARE OF THAT CONCERN.

OTHER THAN THE CONCERN EXPRESSED BY SENATOR BOGINA, WE HAVE BEEN AT A LOSS TO FIND ANY OTHER VALID CONCERNS. SOME OTHER CONCERNS HAVE BEEN VOICED. FOR EXAMPLE, SOME HAVE EXPRESSED A CONCERN THAT OVERALL COSTS WOULD RISE UNDER THIS BILL. HOWEVER, THE EXPERTS FROM THE NCCI WHO CAME TO SPEAK TO THIS TOPIC EARLIER THIS YEAR SAID JUST THE OPPOSITE.

THUS, IT WOULD COST NO MORE TO ALLOW THE INJURED WORKER TO HAVE ACCESS TO CARE BY CHOOSING HIS OR HER OWN PHYSICIAN THAN UNDER THE PRESENT SYSTEM. THIS, OF COURSE, IS IN ADDITION TO THE SAVINGS WHICH WOULD RESULT FROM THE WORKER NOT SEEING A LAWYER IN THE FIRST PLACE.

BEFORE WE BEGIN LOOKING AT SPECIFIC AUTHORITIES, WE SHOULD KEEP ONE THING IN MIND. THIS BILL HAS BEEN CRITICIZED BY THE KMS. IT MAY BE PERCEIVED AS A TURF BATTLE. IT MAY BE. YOU HAVE OUR

*S.L.D. & S.B.*  
*2/13/92*  
*Attachment 1-5*

APOLOGIES. BUT THIS BILL IS ALSO IMPORTANT TO OTHER SEGMENTS OF SOCIETY. IT IS COST EFFECTIVE FOR THE EMPLOYERS. IT FOSTER'S HEALTHY COMPETITION AMONG HEALTH CARE PROVIDERS AND IT IS CRITICAL TO THE HEALTH AND WELL BEING OF THE TRULY INJURED AND DESERVING WORK COMP CLAIMANT. BELIEVE IT OR NOT WITH ALL OF THE TALK ABOUT DOLLARS THERE REALLY ARE SOME INJURED WORKERS WHO ARE ENTITLED TO BENEFITS AND ADEQUATE CARE.

IN 1977 A LAWSUIT WAS STARTED BY DR. CHESTER WILK, A CHIROPRACTOR FROM THE CHICAGO AREA AND THREE OTHER CHIROPRACTORS BECAUSE THEY THOUGHT THE MEDICAL COMMUNITY WAS OUT TO PREVENT THEM FROM CARING FOR THEIR PATIENTS. AFTER TWO APPEALS, THEY FINALLY ON A VERDICT. AFTER SEVERAL MORE APPEALS THEY WON THEIR CASE LAST YEAR IN THE U.S. SUPREME COURT AGAINST THE AMA, THE AMERICAN COLLEGE OF ORTHOPEDIC SURGEONS, THE JOINT COMMITTEE ON ACCREDITATION OF HOSPITALS AND OTHERS WITH THE SUPREME COURT AFFIRMING THE FINDING THAT THE AMA AND OTHERS HAD ENGAGED IN AN ILLEGAL CONSPIRACY TO DO AWAY WITH THE PROFESSION OF CHIROPRACTIC.

THE ATTORNEYS FEES ALONE FOR THIS MASSIVE PIECE OF LITIGATION RAN INTO THE TENS OF MILLIONS OF DOLLARS FOR THE PLAINTIFFS. AFTER THE AMA HAD TO PAY THE DEBTS AND TAKE SOME AFFIRMATIVE ACTIONS IN THEIR DEALINGS WITH DC'S THE ANIMOSITY HAS SUBSIDED BUT NOT DISAPPEARED.

WITH THIS BACKGROUND WE NOW TURN TO SOME OF THE STUDIES WHICH DIRECTLY CONCERN THE CHOICE OF PHYSICIAN ISSUE. THE NOVEMBER 1990

*SLD + SB*  
*2/13/92*

*Attachment 1-6*



PUBLICATION BY THE WCRI DEALING WITH MEDICAL COST CONTAINMENT IN WORKERS' COMPENSATION (1) AT PAGE 28 STATES "EVIDENCE ABOUT THE IMPACT ON MEDICAL COST OF LIMITED CHOICE OF PROVIDER IS INCONCLUSIVE." IN OTHER WORDS, THERE ARE STUDIES GOING BOTH WAYS.

THE INTERNATIONAL ASSOCIATION OF INDUSTRIAL ACCIDENT BOARDS AND COMMISSIONS (IAIABC) HAS BEEN TOUTED AS AN AUTHORITY IN THE FIELD OF COST CONTAINMENT. (2) THE IAIABC SURVEY OF MEDICAL FEE INFORMATION MAKES IT CLEAR THAT STATES WITH FEE SCHEDULES IN THE CENTRAL PART OF THE COUNTRY HAVE LOWER MEDICAL FEES THAN KANSAS. AS MOST OF YOU KNOW THE FEE SCHEDULE WAS PASSED TWO YEARS AGO AND IS STILL UNDER CONSIDERATION AS TO IMPLEMENTATION STRATEGIES. (3)

DR. PETER BARTH AND JOHN LEWIS FROM THE NCSL CAME TO THIS VERY BUILDING AND TOLD YOU AND EVERYONE ELSE PRESENT THAT EMPLOYEE CHOICE OF PHYSICIAN WAS A WASH AND PROBABLY WOULD HAVE NO EFFECT ON MEDICAL COSTS.

ON JULY 18, 1991 THE KANSAS EMPLOYER COALITION ON HEALTH WHICH HAS SPOKEN OUT AGAINST THIS BILL BROUGHT IN LARRY CHAPMAN, MPH TO SPEAK ON THE SUBJECT OF HEALTH CARE COST MANAGEMENT. HE SAID AT PAGE 12 OF HIS OUTLINE THAT EMPLOYEES SHOULD BE INVOLVED BY EXPRESSING THEIR PREFERENCES AND PARTICIPATING IN THE PROCESS. (4)

LAST YEAR THE KCCI ANNOUNCED IT'S HEALTH INSURANCE PROGRAM. IN A BROCHURE WHICH WAS SHOWN TO MR. LEATHERMAN AT THE HEARING ON THIS BILL, THE PROGRAM WAS TOUTED AS HAVING AS ONE OF IT'S GREATEST

*LSD + SB*  
*2/13/92*

*Attachment 1-7*

ADVANTAGES THE ASPECT OF CONSUMER CHOICE OF PHYSICIAN. NO FOOLING!

IN A PROGRAM SPONSORED BY THE DWC IN OCTOBER OF 1990 THE WCRI STATED THAT THREE OF THE MOST COMMON FORMS OF COST CONTAINMENT WERE FEE SCHEDULES, UTILIZATION REVIEW AND ENCOURAGING COMPETITION AMONG PROVIDERS. (5) THE SAME DOCUMENT PREPARED BY DR. VICTOR, EXECUTIVE DIRECTOR OF THE WCRI, INDICATES THE GROWTH OF MEDICAL COSTS IN WORKERS COMPENSATION IN THE VARIOUS STATES FROM 1980-1985. (6) IN THAT STUDY KANSAS HAD A 12.3% ANNUAL GROWTH. SOME OTHER NOTEWORTHY STATES WHICH HAVE EMPLOYER CHOICE DURING THE SAME PERIOD ARE AS FOLLOWS:

IDAHO	12.8
NEW MEXICO	16.1
LOUISIANA	19.0
IOWA	12.2

STATES IN WHICH THE EMPLOYEE HAS SOME SAY IN THE CHOICE OF PHYSICIAN ARE ILLUSTRATED FOR THE SAME PERIOD AS FOLLOWS:

ARIZONA	10.1
OHIO	9.7
MASSACHUSETTS	9.6

THE REAL REFLECTION IN THE GROWTH OF COSTS SEEMS TO HAVE LITTLE TO DO WITH THE CHOICE OF PHYSICIAN. AFTER ALL, THERE ARE A NUMBER OF OTHER FACTORS WHICH MUST BE CONSIDERED. CHOICE OF PHYSICIAN, AS SENATOR SALISBURY'S COLLEAGUES FROM THE NCSL SAID, DOESN'T SEEM TO MAKE THAT MUCH DIFFERENCE. THIS NEUTRAL POSITION

*SLD + SB*  
*2/13/92*  
*Attachment 1-8*

IS REALLY QUITE SURPRISING GIVEN THE MAKEUP OF THE NCSL TASK FORCE. AFTER ALL, THERE ARE NO CHIROPRACTIC PHYSICIANS ON THE NCSL TASK FORCE. THERE ARE, HOWEVER, TWO MEDICAL DOCTORS. DR. JERALD SCHENKEN, TREASURER OF THE AMA IS ON THE PANEL. SINCE HE IS THE TREASURER HE IS PRESUMABLY THE ONE WHO WROTE THE ESTIMATED \$14 MILLION CHECK TO THE CHIROPRACTORS IN THE WILK SUIT. I SUSPECT HE WILL NOT EXACTLY BE ON THE SIDE OF CHIROPRACTIC FOR A WHILE TO COME. (7)

IN ADDITION TO SOME OF THE NEUTRAL STATEMENTS OF THE NCSL AND ITS MEDICAL MEMBERSHIP WE HAVE THE IAIABC. THE IAIABC HAS ACTUALLY AFFIRMATIVELY STATED THAT THE INJURED WORKER SHOULD HAVE FREE CHOICE OF PHYSICIAN. (8) THIS 1990 STATEMENT OF IAIABC STANDARDS IS BASED IN PART ON A 1989 STUDY WHICH RELIES ON RESEARCH FROM JOHN LEWIS WHO SENATOR SALISBURY BROUGHT TO KANSAS. THE 1989 WCRI STUDY CONCLUDES THAT THERE IS NO SIGNIFICANT DIFFERENCE BETWEEN EMPLOYER AND EMPLOYEE CHOICE IN TERMS OF COST. HOWEVER, THE STUDY MAKES IT QUITE CLEAR THAT IN ORDER TO MAKE AN ACCURATE COMPARISON, SOPHISTICATED DATA COLLECTION METHODS WOULD BE NEEDED IN IDENTICAL STATES TO MAKE A COMPARISON WHICH WOULD HAVE A HIGH DEGREE OF RELIABILITY. (9)

AFTER ALL IF WE ARE TO COMPARE STATE TO STATE, THERE SHOULD BE NO PROBLEM IN COMPARING THE KANSAS SYSTEM TO NEBRASKA. NEBRASKA HAS HAD EMPLOYEE CHOICE FOR YEARS. THEIR OVERALL COSTS ARE LOWER THAN KANSAS. THEIR RATE OF GROWTH IN COSTS IS LOWER THAN KANSAS. (10)

*LD + SB*  
*2/13/92*

*Attachment 1-9*

FINALLY, IT SHOULD BE NOTED THAT MANY PEOPLE IN KANSAS FAVOR EMPLOYEE CHOICE. (11) OVER 11,000 HAVE SIGNED PETITIONS ASKING YOU TO ALLOW THEM TO HAVE THE FREEDOM TO CHOOSE THEIR OWN PHYSICIAN. (12) THERE ARE MORE ANECDOTAL REASONS TO PASS THIS BILL AS WELL. THERE CANNOT BE ANY ANECDOTAL ARGUMENT AGAINST IT BECAUSE WE HAVE HAD EMPLOYER CHOICE FOR SO LONG.

FINALLY, IT IS OBVIOUS TO EVERYONE IN THIS ROOM THAT THE KCA WOULD NOT BE HERE IF WE DID NOT BELIEVE THAT THIS MEASURE WAS IN THE BEST INTEREST OF EVERYONE, INCLUDING OUR MEMBERS. IF THERE IS ANY CONCERN THAT ALLOWING INJURED WORKERS TO SEE CHIROPRACTIC PHYSICIANS IS GOING TO RESULT IN ADDITIONAL COST, LET ME PROVIDE YOU SOME ADDITIONAL INFORMATION. WITHIN THE LAST YEAR THE BRITISH MEDICAL JOURNAL HAS PUBLISHED THE RESULTS OF A 10 YEAR STUDY WHICH INDICATES THAT CHIROPRACTIC CARE IS TWICE AS EFFECTIVE AT GETTING INJURED WORKERS BACK TO WORK AND THAT CHIROPRACTIC CARE IS ABOUT HALF THE COST. IF THAT STUDY IS TOO FAR AWAY, THE LAST YEAR HAS ALSO SEEN A MAJOR STUDY BY THE RAND CORP. INDICATING ALMOST IDENTICAL FINDINGS. (13)

THEREFORE, IF WE ARE CORRECT AND THIS BILL DOES RESULT IN MORE CHIROPRACTIC PATIENTS, THE NET RESULT TO THE SYSTEM WILL BE IN SAVINGS RATHER THAN COSTS. AFTER ALL, THE LAST 30 YEARS HAVE SEEN THE CHOICE OF PHYSICIAN REST WITH THE INSURANCE COMPANIES. WHAT HAS BEEN THE RESULT? CERTAINLY, NO ONE HAS COMPLAINED OF LOWER COSTS IN THE WORKER'S COMPENSATION SYSTEM. CAN IT TRULY BE SAID THAT THE PRESENT SYSTEM IS HOLDING DOWN COSTS? WHERE ARE THE

*LDG + SB*

*2/13/92*

*Attachment 1-10*

SAVINGS?2

IF ANYTHING, THE CHOICE IF PHYSICIAN REPRESENTS CONTROL. NOTHING MORE. SINCE THE CONTROL HAS RESTED IN THE HANDS OF THE INSURANCE COMPANIES FOR THE LAST 30 YEARS COSTS HAVE ONLY INCREASED. IT CANNOT BE ASSUMED THAT IF THE CONTROL IS PLACED IN THE HANDS OF THE WORKER THAT CONTROL WILL RESULT IN HIGHER COSTS. IN FACT, THE KCA IS BETTING AGAINST IT. HOWEVER, EVEN IF THE COST REMAINS THE SAME, YOU WILL HAVE BEEN FOSTERING AN IMPORTANT SOCIAL POLICY.

DEMOCRACY. SELF DETERMINATION. INDIVIDUALISM.

THOSE ARE IDEALS GEORGE BUSH AND THE REST OF THE COUNTRY ESPOUSE AT CONVENIENT POLITICAL TIMES. YET, THEY ARE IMPORTANT. SOMETIMES THEY ARE CRITICAL. IF THEY CAN BE NURTURED AND EVEN ENCOURAGED WHILE AT THE SAME TIME LOWERING COSTS, IS THAT NOT A THING DEVOUTLY TO BE WISHED? YET, IF YOU BELIEVE AS DO THE JAPANESE THAT AMERICAN WORKERS ARE LAZY, IGNORANT AND UNMOTIVATED, YOU MIGHT BELIEVE THAT THEY DID NOT HAVE IN MIND THEIR BEST INTEREST OR THAT OF THE INDUSTRY. HOWEVER, IF YOU HAVE HAD TIME AS I HAVE TO GET TO KNOW THE WORKERS, YOU WILL UNDERSTAND THAT THEY HAVE A JOB TO DO. AND THE VAST MAJORITY OF THEM WANT TO DO THE JOB WITHOUT COST OR INCONVENIENCE TO THEMSELVES OR THEIR EMPLOYER.

I WANT TO LEAVE YOU WITH ONE FINAL THOUGHT. IF OVER 11,000 OF YOUR CONSTITUENTS THINK ENOUGH OF THIS BILL TO SIGN PETITIONS AND

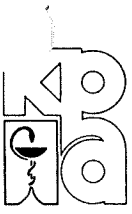
*SLJ & AB*  
*2/13/92*  
*Attachment 1-11*

GIVE YOU THEIR OPINIONS ON THIS MATTER, DON'T YOU AT LEAST OWE IT TO THEM TO VOTE ON THIS MATTER. DON'T YOU AT LEAST OWE IT TO THEM TO VOTE THIS BILL OUT OF COMMITTEE SO THAT IT MAY BE DEBATED IN THE OPEN ON THE SENATE FLOOR.

IF YOU HAVE CONCERNS ABOUT THIS BILL OR QUESTIONS I WOULD BE HAPPY TO ADDRESS THEM.

*LDG+LB*  
*2/13/92*

*Attachment 1-12*



THE KANSAS PHARMACISTS ASSOCIATION  
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ROBERT R. (BOB) WILLIAMS, M.S., C.A.E.  
EXECUTIVE DIRECTOR

## TESTIMONY

### SENATE COMMITTEE ON LABOR AND INDUSTRY

#### HOUSE BILL 2196

FEBRUARY 13, 1992

My name is Bob Williams, I am the Executive Director of the Kansas Pharmacists Association. Thank you for this opportunity to address the committee on HB 2196.

The Kansas Pharmacists Association has a long-standing policy regarding the right of the patient to choose their own health care provider. This policy is founded on the belief that the relationship a patient has with his/her health care provider is instrumental in the patient's recovery, be it from an injury or illness. A patient is more likely to comply with his/her medical treatment plan and cooperate with his/her health care provider when that health care provider is one he personally selects.

The Kansas Pharmacists Association is aware of the Kansas Chamber of Commerce & Industry position regarding this matter and I personally have had a number of conversations and correspondences with Terry Leatherman concerning the Chamber's position. Currently I am serving a one-year non-elected term on the KCCI Board of Directors and have expressed my concerns directly to the Board, regrettably to no avail.

There are a number of restrictions contained in HB 2196 to control costs and prevent abuse of the Workers Compensation Act.

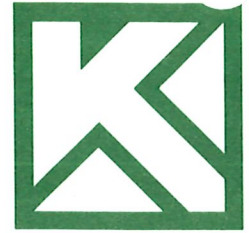
Thank you.

*SLP & LB*  
*2/13/92*  
*Attachment 2*

# LEGISLATIVE TESTIMONY

## Kansas Chamber of Commerce and Industry

500 Bank IV Tower One Townsite Plaza Topeka, KS 66603-3460 (913) 357-6321



A consolidation of the  
Kansas State Chamber  
of Commerce,  
Associated Industries  
of Kansas,  
Kansas Retail Council

HB 2196

February 13, 1992

KANSAS CHAMBER OF COMMERCE AND INDUSTRY  
Testimony Before the  
Senate Committee on Labor, Industry, and Small Business  
by  
Terry Leatherman  
Executive Director  
Kansas Industrial Council

Madam Chairperson and members of the Committee:

I am Terry Leatherman. I am the Executive Director of the Kansas Industrial Council, a division of the Kansas Chamber of Commerce and Industry. Thank you for the opportunity to explain why the Kansas Chamber opposes HB 2196.

The Kansas Chamber of Commerce and Industry (KCCI) is a statewide organization dedicated to the promotion of economic growth and job creation within Kansas, and to the protection and support of the private competitive enterprise system.

KCCI is comprised of more than 3,000 businesses which includes 200 local and regional chambers of commerce and trade organizations which represent over 161,000 business men and women. The organization represents both large and small employers in Kansas, with 55% of KCCI's members having less than 25 employees, and 86% having less than 100 employees. KCCI receives no government funding.

The KCCI Board of Directors establishes policies through the work of hundreds of the organization's members who make up its various committees. These policies are the guiding principles of the organization and translate into views such as those expressed here.

Before discussing the specific provisions of HB 2196, permit me a moment to explain a major initiative the Kansas Chamber developed this summer and fall. A special Task

*SLD & AB*  
*2/13/92*

*Attachment 3-1*



Force of KCCI members concerned about workers' compensation in Kansas was assembled to study our state's workers' compensation system and develop needed reforms. Along with my testimony, I have distributed a copy of **Workers' Compensation in Kansas...A Business Perspective**, which is a product of the work of the KCCI Task Force on Workers' Compensation. I hope you find this report to be an informative review of the workers' compensation process in our state and an objective analysis of how the system could be improved to benefit employers and injured workers.

In developing this report, the issue addressed in HB 2196 was considered. For a multitude of reasons, the Kansas Chamber strongly feels employers should maintain the right to select the initial health care provider for workers' compensation cases in Kansas. However, before reviewing those reasons, lets take a closer look at HB 2196.

\* If HB 2196 is passed, Kansas law would be changed to permit an employee claiming benefits the right to select the initial health care provider.

\* On top of that, the bill permits an employee to demand their employer choose a health care provider for them, if they don't like the health care provider they originally chose.

\* On top of that, the employee could still utilize unauthorized medical allowance which currently permits the employee to spend \$350 provided by their employer for the health care services of a provider of the employee's choosing.

\* Finally, on top of that, the employee could still ask an administrative law judge or workers' compensation director to authorize the appointment of some other health care provider.

At a time when our society faces a serious health care crisis and skyrocketing costs, this bill would force the over-utilization of medical services. There is a limit to the amount Kansas employers can provide and remain in business.

During the remainder of my testimony, I would like to review why Kansas should maintain the current process of permitting employers to select the initial health care provider in workers' compensation cases.

*SLJ+SB*  
*2/13/92*

1) Too often, the debate over this issue boils down to "employer choice vs. employee choice." In truth, the debate should center around the current process which includes "employer choice of the initial health care provider" AND a system of checks to protect an injured worker.

The current process does permit employers to choose the initial health care provider in workers' compensation cases. However, Kansas law protects the employee in two ways. First, the employee may visit a health care provider of their choice, without the approval of their employer or a workers' compensation judge, and have up to \$350 of the medical charges paid by the employer. This provision in the law, called "unauthorized medical," permits an employee to consult with a health care provider of their choosing regarding the workers' compensation care they are receiving. Second, Kansas law also permits employees to petition the system's legal process for a change in health care provider. Finally, the system itself encourages employers to provide effective medical treatment to injured workers. Prompt and effective medical treatment shortens the time an employer must pay temporary disability compensation and will ultimately lower any permanent disability compensation an employee might receive.

To boil this issue down to "employer vs. employee" choice is akin to saying the Kansas Senate makes the laws in the state of Kansas. Like it or not, there are checks and balances which keep the Kansas Senate from determining the laws in our state. In workers' compensation, there are checks and balances in the health care selection process to protect employers and employees.

2) No reason has even been presented why Kansas needs to permit employees to select the initial health care provider in workers' compensation cases. In reviewing the health care selection process, I mentioned employees have two checks in the system if unhappy with the medical care they are receiving, unauthorized medical and a legal appeal for change in health care provider. If employers were failing in their responsibilities to provide effective medical care to injured workers, these options would be often explored.

However, that is not the case.

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According to the 17th annual Statistical Report published by the Kansas Division of Workers' Compensation (July 1, 1991), of the tens of thousands of workers' compensation claims filed in 1990, there were 36 orders for a change of physician and there were 16 orders denying a change in physician. If Kansas employers were failing in their responsibility to provide effective medical care, there would be more than 52 orders rendered on this issue in 1990.

While the legal remedy in health care selection is seldom used, KCCI concedes that "unauthorized medical" is often used by injured workers. However, if you visit with any workers' compensation attorney, they will tell you "unauthorized medical" almost always used by an injured worker to receive a "disability impairment rating," not to pursue alternative medical opinions. In other words, "unauthorized medical" is not employed because an employee is dissatisfied with medical treatment. It is used to build an employee's case for a larger disability award in a workers' compensation court.

If you are considering support of HB 2196 because you feel an employee will receive better medical treatment, the evidence does not exist to support the point.

3) Passage of HB 2196 will cause a significant increase in the cost of workers' compensation in Kansas. On March 1, 1991, the National Council on Compensation Insurance wrote the Kansas Insurance Department about the fiscal impact of HB 2196. In this letter, it is indicated that this bill will increase workers' compensation costs by at least 10%. Simply put, that means workers' compensation costs increase in Kansas around \$40 million if HB 2196 is passed.

Madam Chairperson, I apologize for the length of my testimony. However, it does reflect the high concern the Kansas Chamber has for this issue. Kansas employers are able to meet its workers' compensation responsibilities of providing prompt and effective medical care for its injured employees and have done so for many years. HB 2196 is not needed and should be rejected.

Thank you for this opportunity to appear before this Committee. I would be happy to attempt to answer any questions.

*SLG + SB*  
*2/13/92*