

Approved: 3/15/96 *lan*
Date

MINUTES OF THE HOUSE COMMITTEE ON BUSINESS, COMMERCE & LABOR.

The meeting was called to order by Chairman Al Lane at 9:05 a.m. on March 5, 1996 in Room 526-S of the Capitol.

All members were present except: Rep. Greg Packer - excused
Rep. Barbara Ballard - excused
Rep. Carol Beggs - excused

Committee staff present: Jerry Donaldson, Legislative Research Department
Bob Nugent, Revisor of Statutes
Bev Adams, Committee Secretary

Conferees appearing before the committee: Mary Ellen Conlee, Via Christi Health Systems
Phil Harness, Director, Workers Comp, KDHR

Others attending: See attached list

The committee minutes of 2/13, 2/14, 2/15, and 2/16 were handed out. They will be approved at the next meeting.

Bob Nugent has furnished the committee with a thumbnail outline of **SB 649** as amended by the Senate Committee of the Whole. Chairman Lane asks the committee to read it and Proposal #46 in the Reports of Special Committees, Legislative Budget Committee and Legislative Planning Committee to the 1996 Legislature, in preparation for the hearing next week. (see Attachment 1)

Hearing on: **SB 650 - Eligibility of merging companies for self-insured status.**

Mary Ellen Conlee, Via Christi Health Systems, appeared before the committee as a proponent of the bill. The bill was requested to permit the Via Christi Regional Medical Center to continue with a self-insured workers compensation plan. As St. Francis and St. Joseph Medical Centers (before their consolidation into Via Christi), they had each been in business in Kansas for over 100 years with an outstanding record of employment practices, but when consolidated they could no longer take the advantages of a self-insured workers compensation plan. The bill would return their eligibility. (see Attachment 2) She concluded her testimony by answering questions from the committee.

Phil Harness, Director of Worker Comp, Kansas Department of Human Resources (KDHR), appeared before the committee in support of the bill. Several different problems led to the drafting of the bill. Mrs. Conlee worked with the department to draft the legislation and Workers Comp supports the bill. The Workers Comp Advisory Council also approve and recommend the bill. He concluded by answering questions from the committee.

No others were present to testify for or against the bill. Chairman Lane closed the hearing on the bill.

Committee action on:

SB 650 - Eligibility of merging companies for self-insured status.

Rep. Standifer made a motion to recommend **SB 650** favorably for passage and to place it on the Consent Calendar. It was seconded by Rep. Ruff. The motion carried.

The meeting was adjourned at 9:18 a.m.

The next meeting is scheduled for March 6, 1996.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE March 5, 1996

NAME	REPRESENTING
Dick Smelser	DHR, Div. of Workers Comp
Phil Harbers	KDHR - Div. of Work Comp
Linda Hubbard	KDHR
BARB HINTON	Post Audit
Bernie Koch	Wichita Area Chamber
Jeff Johnson	Keane & Assoc. Intern
Joe Fuzjovic	KCA
Charlene Shield	Intern for Al. Lane
John M. Trubel	KTLA
JASON PITSEMBERGER	BRAD SMOOT
George Hopkins	City of Garden City
Eim Appelle	Intern

THUMBNAIL OUTLINE OF SB 649 AS AMENDED BY THE SCOW

Sec. 1: (SB 694) P. 1, L. 39-43 Legislatively reverses Boucher v. Peerless. (Reversing the requirement that an injured worker must be absent from work for a week before recovering benefits for permanent disability.

Sec. 2: (Sen. Comm.) P. 4, L. 7-11 The change in Sec. 15 is applied retroactively. (New)

Sec. 3: (Advisory Council) P. 6, L. 35-37 This section clarifies the status of emergency services personnel. Emergency services personnel would not be excluded from coverage, under the "coming and going" rule when responding to an emergency. The interim committee had no recommendation on this issue.

Sec. 4: (Advisory Council) P. 13, L. 25-37 This section eliminates the benefit review conference (BRC) entirely. The interim committee recommended only that the BRC be discretionary. Later sections of the bill replace the BRC with a mediation procedure.

Sec. 5: (Senate Comm.) P. 16, L. 40-43 This section abolishes a reference to the third edition of the AMA guides and replaces it with the 4th edition.

Sec. 6: (Interim Committee) P. 18, L. 1-13 This section changes the prerequisites for obtaining an independent medical examination. The IME is made discretionary and can only be ordered if two medical opinions differ as to the percentage of impairment. Reference to the AMA guides conforms.

Sec. 7: (Interim Committee) P. 20, L. 3-11 This section allows overpaid TTD to be credited against the final weeks of an award rather than against the workers compensation fund. (Conforming language appears on P. 24, L. 31-33)

Sec. 8: (Interim Committee) P. 20, L. 22-29 This section reduces the waiting period before lump sum settlements may be reached from 2 years to 9 months.

Sec. 9: (Advisory Council) P. 21, L. 22-43 This section increases the criminal penalty for failure to provide workers compensation coverage from a C misdemeanor to an A misdemeanor and creates an administrative penalty. The interim committee did not study this issue.

Sec. 10: (Advisory Council) P. 23, L. 22-25 Abolishes a cross reference to BRCs.

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Sec. 11: (Advisory Council) P. 24, L.41 through P. 25, L. 32 Excludes uncompensated officers and directors of nonprofit corporations from coverage unless they notify the director to the contrary

Sec. 12: (Advisory Council) P. 26, L. 16-20 Authorizes individual members of the Workers Compensation Board to hear appeals from preliminary hearings. (Interim Committee had no recommendation)

Sec. 13: (Interim Committee) P. 28, L. 33 through P. 29, L. 2 Allows an administrative law judge to dismiss an action against the workers compensation fund for lack of prosecution.

Sec. 14: (Advisory Council) P. 29, L. 42 Creates a mediation conference procedure to replace the abolished BRC. The conference is discretionary and may be only be ordered if both parties consent to the mediation conference. The ultimate decision maker must be personally present at the meeting.

Sec. 15: (Advisory Council) P. 30, L. 12-31 Additional steps toward creating the mediation procedure. Requires broad distribution of information concerning mediation

Sec. 16: (Advisory Council) P. 31, L. 5 Increases criminal penalty for fraudulent and abusive practices under the act from a C to an A misdemeanor.

Sec. 17: (Advisory Council) P. 31, L. 33-36 All references to BRCs are repealed.

Sec. 18 (Advisory Council) P. 31, L. 37-38 Effective date is Kansas Register



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**TESTIMONY PRESENTED TO THE HOUSE COMMITTEE
ON BUSINESS, COMMERCE AND LABOR**

MARCH 5, 1996

I am Mary Ellen Conlee, representing Via Christi Health System in Wichita, Kansas. Thank you for the opportunity to address you in support of Senate Bill 650.

On October 1, 1995, St. Joseph Medical Center (St. Joseph) and St. Francis Regional Medical Center (St. Francis) consolidated into Via Christi Regional Medical Center, Inc. (Via Christi). Prior to the consolidation St. Joseph and St. Francis, each had a self-insured workers compensation plan and, of course, there was a desire to continue with a self-insured plan after consolidation. Unfortunately, under Kansas law a private firm is not eligible for self-insured workers compensation until it has been in existence for five (5) years. Although St. Francis and St. Joseph had each been in business in Kansas for over 100 years with an outstanding record of employment practices, the consolidated corporation could not avail itself of the advantages of a self-insured workers compensation plan.

Although the Via Christi situation is probably the result of an oversight in the statute, we have been required to obtain high deductible commercial insurance for workers compensation coverage. At present, Via Christi continues its workers compensation program, as the law allows, under a \$1 million deductible commercial insurance policy at a cost of approximately \$277,000. We have never had a \$1 million workers compensation case and do not expect one. For this substantial cost, we are allowed to continue to operate on self insurance programs in essentially the same way we always have.

If St. Joseph and St. Francis had merged or if one of the corporations had acquired the other, Kansas law would have allowed the successor to be self-insured. Additional conditions have been amended into KSA 44-532(f) for these situations where one firm has purchased another. In brief, a

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Attachment 2

purchased firm can continue as a self insurer under existing statutes if it meets the following conditions:

- 1) Be in operation for ten (10) years
- 2) Have after tax profits of \$1 million annually for three (3) years, and
- 3) A debt to equity ratio not greater than 3.5 to 1.

The pre-consolidated firms of Via Christi meet all of these requirements as well, but Via Christi Regional Medical Center, Inc. became a totally new consolidated firm. Therefore, these alternative conditions do not apply. As a totally new firm, Via Christi cannot meet the underlying five (5) year continuous operation condition. It is certainly understandable to require a new organization to establish a satisfactory performance record before allowing self-insurance, but this apparent oversight in the statute also precludes qualified businesses which consolidate from continuing a self-insurance program merely because of the consolidation.

Via Christi Regional Medical Center asks for your support of Senate Bill 650, drawn up by the Workers Compensation Division, to remedy this situation and others that have come to their attention. The amended language would allow us to continue our well established, proven Workers Compensation Self-Insurance Program without the unnecessary \$277,000 expense for a \$1 million deductible workers compensation policy. We have asked that the bill be effective on publication in the *Kansas register* as this unnecessary insurance is costing us \$23,000 a month.