Approved: 2-13-96
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chair Sandy Praeger at 10:00 a.m. on February 7, 1996 in Room 526-S of the Capitol.

All members were present except:
Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
Jo Ann Bunten, Committee Secretary

Conferees appearing before the committee:

State Senator Ben Videricksen
James O'Connell, Secretary, Kansas Department of Health & Environment
Tom Bell, Kansas Hospital Association
Jerry Slaughter, Kansas Medical Society
Terri Roberts, Kansas State Nurses Association

Others attending: See attached list

Comments on SB 536 - Cancer registry

State Senator Ben Videricksen addressed the Committee in support of **SB 536** and told of his personal experience in cancer research study. Senator Videricksen distributed a copy of the consent form and information sheet for patients with low-grade malignant lymphoma who participate in a study of alpha-interferon consolidation following intensive chemotherapy (Attachment 1)

Hearing on SB 533 - Procedures for licensure and inspection of certain medical care facilities and hospitals

James O'Connell, Secretary, KDHE, testified in support of **SB 533** which would authorize the Department of Health and Environment to conduct inspections of medical care facilities which are not accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association. The frequency of the inspections would be determined by the Secretary of KDHE, which was suggested to be every three years, and the licensure and risk management program would be financed by an annual assessment from the Health Care Stabilization Fund. Secretary O'Connell noted that the specific effect of the bill would be to provide authority to KDHE to consolidate and streamline licensure and risk management survey activities in response to declining federal funding and the maturity of the state's risk management law. (Attachment 2) Committee discussion related to the source of funding for the surveys, cap on revenue, risk management education programs and survey functions.

Tom Bell, KHA, testified in support of **SB 533** and also noted his support for the three year target frequency of hospital surveys. (Attachment 3)

Jerry Slaughter, KMS, addressed the Committee in support of the bill noting that such legislation should provide for less duplication of effort and cost, and that the funds to support the facilities review function should remain in the range it is currently budgeted. (Attachment 4)

Terri Roberts, representing the Kansas State Nurses Association, provided testimony on a number of changes proposed in **SB 533**. Ms. Roberts noted she could not support exempting JCAHO hospitals from routine licensure and risk management plan enforcement inspections. Ms. Roberts did express her support of hospital surveys every three years. (Attachment 5)

Discussion on SB 536 - cancer registry

Staff briefed the Committee on balloon amendments to **SB 536**. (Attachment 6) After Committee discussion, it was noted that staff would clarify language regarding confidential information and the bill worked at a later date.

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for February 8, 1996.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 2-7-96

NAME	REPRESENTING
Diane Gilyard	KSBN
Greg Cox	KDHE
Joseph T. Knoll	KOMA
Keith Guthrie	Health Midwest
Tom Bell	KHA
David Hanzlick	KS Dental Assn
Bob Hayes	HCSF
Joseph Booth	HCSF

Ben Vanderhaeghen

1/22/91R

CONSENT FORM AND INFORMATION ABOUT

SWOG 8809, A phase III study of alpha-interferon consolidation following intensive chemotherapy with ProMACE-MOPP (day 1-8) in patients with low-grade malignant lymphoma.

TO BE CONDUCTED AT
UNIVERSITY OF KANSAS MEDICAL CENTER
KANSAS CITY, KS

PURPOSE

You are invited to take part in this research study because you have low grade non-Hodgkin's lymphoma. We want to find out how well patients respond and how long their responses last when treated with a combination of drugs given with or without an investigational agent named alpha-interferon. Although this investigational drug has been given to treat cancer, we are now giving it after treatment with combination chemotherapy to determine its effectiveness. We also want to find out what kind of side effects these treatments cause.

We also want to determine whether radiation therapy given after chemotherapy will help achieve a complete response (no evidence of disease) in patients who do not have complete disappearance of disease after chemotherapy.

We cannot and do not guarantee you will benefit if you take part in this study. The treatment you receive may even be harmful.

This disease (low-grade non-Hodgkin's lymphoma) is usually treated with much less aggressive chemotherapy, which is hardly ever curative. We are trying this intensive treatment to try to improve long-term survival in this disease. The chemotherapy we would be using is quite toxic, and occasionally can result in death. Were you to use the usual, standard, less intensive chemotherapy, it is extremely unlikely that you would have serious toxicity or die.

TREATMENT

If you decide to take part in this study, you will begin treatment with a combination of drugs called ProMACE-MOPP which consists of cyclophosphamide, doxorubicin, VP-16, prednisone, vincristine, nitrogen mustard, procarbazine, methotrexate and leucovorin.

(9)

The cyclophosphamide, doxorubicin, VP-16, vincristine, nitrogen mustard, and methotrexate will be given through a vein in a solution.

Cyclophosphamide and doxorubicin given on day 1 over 15-30 minutes; VP-16 given on day 1 over 1 hour; vincristine given on

Senate Public Health & Welfare
Date: 2-7-96
Attachment No. 1

State of Kansas

Bill Graves *Governor*

Department of Health and Environment

James J. O'Connell, Secretary

TESTIMONY PRESENTED TO

THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE

BY

THE KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

SENATE BILL 533

Thank you for the opportunity to provide testimony on SB 533. Passage of this bill will result in consolidation of medical care facility licensure inspections with the risk management inspection and evaluation responsibilities found in K.S.A. 65-4921 et seq.

A redesign of our approach to meeting these two separate responsibilities is desirable due to federal funding limitations, which affect our ability to conduct licensure inspections with a regular and adequate frequency, the evolution and maturity of medical care facility risk management systems, and the need to maximize effectiveness and prudently manage fiscal resources.

Specifically, this bill allows the incorporation of licensure inspections and risk management inspections into one program which would continue to be funded by an annual assessment from the Health Care Stabilization Fund. Inspections will be conducted at such intervals as determined by the KDHE Secretary, with facilities accredited by the Joint Commission on Accreditation of Healthcare Organizations or the American Osteopathic Association not routinely scheduled. Fifty accredited hospitals would continue to carry their deemed status for licensure purposes. Non-JCAHO or AOA accredited hospitals would receive on-site surveys, with a target frequency of every three years.

Some background may be helpful. Funding for hospital on-site inspections has historically been provided by the federal Health Care Financing Administration for enforcement of Medicare certification requirements. In other words, KDHE assured licensure standards were being met through its conduct of Medicare inspections. However, since October 1992, federal support for Kansas hospital inspections has been decreasing, with yearly coverage levels being on a percentage basis, varying from 20 percent in FY 92, to this year, when survey coverage levels are authorized at 15 percent but no funding provided, meaning few if any hospitals can be inspected. State general fund support for medical care facility inspections not been available for these purposes. This means that for those hospitals not accredited, KDHE has been able to provide an on-site inspection for a particular hospital only once each four to six years. I do not believe this frequency is adequate to assure the public health and safety with respect to licensure standards.

Bureau of Adult and Child Care, 900 SW Jackson, Suite 1001
Landon State Office Building, Topeka, Kansas 66612-1290

In 1986, the Kansas legislature, in response to the limited availability of medical malpractice insurance coverage, implemented comprehensive medical malpractice reform, including passage of K.S.A. 65-4921 et seq. This act authorizes KDHE to make inspections and investigations necessary to reasonably assure that medical care facilities are implementing internal risk management programs. This activity is funded by appropriations from the Health Care Stabilization Fund.

We believe that Kansas hospitals have established meaningful and effective internal risk management programs, that accredited hospitals have seen consistently increased emphasis on quality improvement from their independent accrediting bodies, that other actions such as implementation of the National Practitioner Data Bank with its incentives to document and report poor practitioners, all have combined to make frequent on-site surveys solely for risk management surveys a less productive use of resources. At the same time, infrequent or non-existent on-site surveys to non-accredited hospitals not only pose a threat to maintenance of viable risk management programs in those facilities, but also present a very real potential for increased risk to the Fund where the system does not assure that basic licensure standards are met.

The specific effect of Senate Bill 533 will be to provide authority to KDHE to consolidate and streamline licensure and risk management survey activities in response to declining federal funding and the maturity of our state risk management law. Specifically, K.S.A. 65-4921 is amended to allow the cost of administration of the medical care facilities licensure act and risk management program to both be funded by the Health Care Stabilization Fund.

The consolidation of these two survey activities allow the consolidation of activities, designed to assure adequate patient care. The resulting reduction in risk to the Health Care Stabilization Fund we believe makes this funding source appropriate. The use of this existing resource also avoids the imposition of license fees on non-accredited hospitals, which would be necessary to conduct any licensure inspections given the decrease of federal funding. These hospitals are generally small and struggling economically. In fact, many do not maintain accredited status because of the costs.

The Kansas Department of Health and Environment requests favorable committee action on Senate Bill 533.

Presented by: James J. O'Connell, Secretary
Kansas Department of Health and Environment
February 7, 1996

KANSAS HOSPITAL ASSOCIATION

Memorandum

Donald A. Wilson
President

To: Senate Public Health and Welfare Committee

From: Kansas Hospital Association

Re: Senate Bill 533

Date: February 7, 1996

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of Senate Bill 533. This proposal would allow the Secretary of the Kansas Department of Health and Environment to conduct medical care facility licensure and risk management program surveys. It also statutorily allows for funding of this process by an assessment from the Health Care Stabilization Fund.

We support this bill because it makes the KDHE survey process more efficient. Previously the Department conducted surveys for hospital licensure and compliance with the risk management law independently from one another. This bill would essentially allow KDHE to combine these surveys. Since the risk management function is an integral part of the hospital's quality improvement mechanism, it makes sense that state surveys to measure this function would be a part of the overall process.

Thank you for your consideration of our comments.

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KANSAS MEDICAL SOCIETY
623 SW 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

February 7, 1996

TO: Senate Public Health and Welfare Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: SB 533; licensure and inspection of medical care facilities

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 533, which authorizes KDHE to focus its licensure and inspection functions on non-JCAHO accredited facilities. This should provide for less duplication of effort and cost. The funds to support the facilities review function come from the Health Care Stabilization Fund, which we support so long as the transfer remains in the range it is currently budgeted. We would be happy to answer any questions the committee might have.

Senate Public Health & Welfare
Date: 2-7-96
Attachment No. 4

KANSAS STATE NURSES ASSOCIATION

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the Voice of Nursing in Kansas

Betty Smith-Campbell, M.N., R.N., ARNP
President

Terri Roberts, J.D., R.N.
Executive Director

Terri Roberts J.D., R.N.
(913) 233-8638

February 7, 1996

S.B. 533 MEDICAL CARE FACILITIES LICENSURE AND INSPECTION PROCEDURES

Chairperson Praeger and members of the Senate Public Health and Welfare Committee, I am Terri Roberts R.N., here today representing the Kansas State Nurses Association.

There are a number of changes proposed in S.B. 533 in which we would like to provide comment. To expedite this testimony I will provide comments section by section.

Page 7, line 42-43 which adds additional functions to section (13) for which the Health Care Stabilization Fund dollars will be used to pay. The addition of the risk management survey functions, pursuant to the adoption in 1986 of the Kansas Risk Management Law, carried out by the Kansas Department of Health and Environment have always received funding from the HCSF fund receipts to pay for this activity. To the best of my recollection, this funding mechanism for this particular function was part of the negotiations that went on during the two year debate on this issue and was the legislative intent when the bill was passed ten years ago. KSNA supports that the risk management function, carried out by KDHE is appropriately funded with HCSF receipts.

Page 13, lines 20-23 references the section I previously addressed, and again, KSNA supports that Risk Management Enforcement be carried out by KDHE, and be supported in total from funding received from the HCSF. We have given some serious consideration to recommending to the agency, and then supporting in the budget process, additional staffing for this function. We had in a mind a "full time attorney, with a health professions license". Our thinking was that someone with a health care background combined with legal training would better serve the challenging needs of enforcing the states risk management law, and have an appreciation for the "clinical" issues that surface as the enforcement team reviews hospitals records and standards of care issues.

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Date: 2-7-96
Attachment No. 5

Lastly, Page 13, lines 35-41 adding a new provision that would "exempt" JCAHO hospitals from routine licensure and risk management plan enforcement inspections. We believe this to be a very significant policy change that you are being asked to make, and at this time we cannot support it. We believe that additional time and study are necessary, before such an exception is approved. Is there data to suggest that the JCAHO hospitals are at "lower risk" for liability because of their JCAHO accreditation? What kind of data is available from the HCSF related to claims paid over the past years of operation, particularly since risk management? Are there specific hospitals/providers that have a trend of being sued and having claims settled/adjudicated on their behalf? What has been the comparative experience of KDHE Risk Management when they review JCAHO and non-JCAHO accredited hospitals?

Registered Nurses are the largest group of healthcare professionals working in hospitals and while there are some reservations about the criteria for evaluating the categories of "reportable incidences", we as a professional organization have received significant support from our members to support the current laws, enforcement of risk management by KDHE at all Kansas Hospitals, and funding for this activity. The issue of risk management and how it relates to the operations of the HCSF and the funds liability are not the topic of todays hearing. However, I find it prudent for me to ackowledge that their is some disagreement with the transfer of dollars for the risk management function. I suspect their is major concern over transfer of these dollars to be used for "hospital licensure/inspections" in addition to the Risk Management Enforcement that is being proposed by this bill.

Registered Nurses feel that the Risk Management Law has provided them support within hospitals, on issues of patient care and questions of sub-standard care. We hope that this will remain intact for all Kansas Hospitals. Enforcement by KDHE will be needed for this to happen.

Thank you.

Session of 1996

SENATE BILL No. 536

By Committee on Public Health and Welfare

1-25

AN ACT establishing a cancer registry in the state of Kansas and providing for rules and regulations for the operation thereof.

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

Section 1. As used in this act:

(a) "Confidential data" means any data which permits the identification of individuals.

(b) "Health care provider" means a person licensed to practice medicine and surgery, a hospital as defined in K.S.A. 65-425 and amendments thereto, any individual providing health care services or a pathology laboratory.

(c) "Secretary" means the secretary of the Kansas department of health and environment.

Sec. 2. (a) The secretary is hereby authorized to collect data pertaining to all cancers occurring in Kansas into a registry which shall be the cancer registry for the state of Kansas. The secretary shall adopt rules and regulations which use the most efficient, least intrusive means for collecting cancer data consistent with ensuring the quality, timeliness, completeness and confidentiality of the cancer registry. The rules and regulations shall specify who shall report, the data elements to be reported, timeliness of reporting and format for collecting and transmitting data to the registry.

(b) Hospitals, providers of cancer screening, diagnostic or therapeutic services, and pathology laboratories may be required by rule and regulation to report information regarding all persons identified with cancer to the cancer registry.

(c) Reporting by persons licensed to practice medicine or surgery and other individuals providing health care services shall be limited to responding to requests for information regarding persons with cancer previously identified by other means.

Sec. 3. Uses of registry data which are not confidential in nature include, but are not limited to:

(a) The production of statistical data which outline the frequency, distribution, severity at diagnosis, treatment and survival for each type of cancer;

(b) the design and implementation of cancer screening programs which have been demonstrated to decrease cancer mortality;

(c) assessing the cancer risk in the Kansas population;

(d) identifying previously unrecognized risk factors and causes of cancer;

(e) monitoring the potential health impact of environmental exposures;

(f) monitoring health care access and utilization and effectiveness of services for the prevention and treatment of cancer; and

(g) quantifying costs associated with cancer care.

Sec. 4. The information contained on the cancer registry shall not be subject to the provisions of the Kansas open records act. The secretary shall ensure that the confidentiality of any data collected which might be used to identify an individual with cancer or a health care provider is maintained. Storage of cancer data shall be in a manner which will protect all information which uniquely identifies individuals.

Sec. 5. Confidential data shall be securely locked and used only for the following purposes:

(a) Ensuring the quality and completeness of the registry data.

(b) Investigating the nature and cause of abnormal clusterings of cancer.

(c) Offering through the personal physician, to persons with cancer, access to cancer treatments not available except through clinical trials[. As] as long as such trials are conducted with the informed, written consent of the cancer patient and are approved by [existing ethics board, (institutional review board (IRB)), of both] the treating institution and [Kansas] department of health and environment.

(d) Releasing data back to the institution or individual which reported cases as long as such release includes only those cases previously reported by the requesting institution or individual.

(e) As part of an exchange agreement with another state, confidential data collected on a resident of another state may be released to the cancer registry of that person's state of residence [upon consent, in writing, of the person who is the subject of the information, or if such person is under 18 years of age, by such person's parent or guardian.

Sec. 6. The secretary shall designate a panel, including at least one physician licensed to practice medicine in Kansas and the registry director, which shall establish policies for release of nonconfidential data and shall review requests for the confidential registry data. No restrictions are placed on release of data which are statistical in nature.

Sec. 7. Any health care provider, whether a person or institution, reports cancer information to the registry in good faith and without malice, in accordance with the requirements of this statute, shall have

if that state has at least as strict confidentiality requirements relating to the confidential data as Kansas.

(f) Releasing information

immunity from any liability, civil or criminal, which might otherwise be incurred or imposed in an action resulting from such report. Nothing in this section shall be construed to apply to the unauthorized disclosure of confidential or privileged information when such disclosure is due to gross negligence or willful misconduct.

Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.

KMS

Notwithstanding K.S.A. 60-427, there shall be no privilege preventing the furnishing of such information or reports as required by this act by any health care provider.

13-1