Approved: March 13, 1997

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Carlos Mayans, at 1:30 p.m. on March 11, 1997 in Room 423-S-of the State Capitol.

All members were present except: Representative Tony Powell

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
Lois Hedrick, Committee Secretary

Conferees appearing before the committee:
Betty Glover, Director, State Child Death Review Board, Kansas Bureau of Investigation
Kathleen Sebelius, Kansas Insurance Commissioner
Jerry Slaughter, Executive Director, Kansas Medical Society
Chip Wheelen, Executive Director, Kansas Psychiatric Society
Girard Grimaldi, representing Kaiser-Permanente
Tom Young, representing AARP
Tuck Duncan, General Counsel, Medevac Medical Services, Inc.
Tom Bell, Senior Vice President/Legal Counsel, Kansas Hospital Association

Others attending: See Guest List (Exhibit 1).

Chairperson Mayans opened the hearing on **HB 304 - Authorizing the establishment of local child death review boards**, and introduced Betty Glover, KBI Child Death Review Board. Ms. Glover testified in support of the bill (see Exhibit 2). Representative Horst asked if the State Board would force counties to establish local boards as the bill states they will be "encouraged" to do so. Ms. Glover replied several counties have indicated interest in establishing a local board, and that in rural areas counties could join together to form a regional board. Representative Wells asked what becomes of the information gathered by the State Board. Ms. Glover stated the law required an annual report to the Legislature; and that notable findings are shared with appropriate officials around the state to alert them of increased deaths from a single cause which could be used as a tool to plan prevention of children's deaths.

Chairperson Mayans directed attention to the written testimony of Representative Jim Garner in support of **S B 304** (see Exhibit 3), in which he recommended an amendment to allow members of the State Review Board to receive compensation for mileage and expenses incurred in attending Board meetings. Representative Wells asked if there was any objection to working the bill. Representative Haley supported amending the bill as Representative Garner recommended. Chairperson Mayans suggested that Representative Garner could offer his amendment when the House committee of the whole considers the bill. Representative Wells moved, seconded by Representative Henry, that **HB 304** be passed favorably. The motion carried. Representative Geringer will carry the bill.

Chairperson Mayans then opened the hearing on **SB 286 - The patient protection act, relating to health care.**

Kathleen Sebelius, Kansas Insurance Commissioner, testified in favor of the bill, calling it important consumer protection legislation. She outlined the major provisions of the bill (see Exhibit 4), stating it is important to establish standards for consumers being moved into the managed care arena. Commissioner Sebelius discussed her recent appearance before a Congressional committee studying managed care and stated that most likely a bipartisan law will be written by the U.S. Senate. The Commissioner said by enacting **S B 286**, Kansas would establish its requirements and prevent Congress from pre-empting our state's activities. Commissioner Sebelius also stated she had some comments on the amendments to the bill which will be offered later in the hearing by Kaiser-Permanente: the Insurance Department has no problem with their suggested amendment to the definition in Section 2(b); but does have great concern on the second proposed amendment which would add wording to change the definition of emergency care and emergency services, saying it would bring Kansas back to where it is now and the misconceptions that are prevalent. Commissioner Sebelius urged passage of the bill.

Representative Freeborn asked how a consumer determines that an emergency situation exists so that insurance coverage applies. Commissioner Sebelius stated that the prudent person standard is the guide, and **SB 286** will define that standard.

Emalene Correll asked if authority for the Insurance Department to adopt rules and regulations should be incorporated in this bill as it is a stand alone act. Commissioner Sebelius agreed that it would be appropriate.

Jerry Slaughter, Kansas Medical Society, testified in support of **SB 286** (see Exhibit 5). Mr. Slaughter expressed some concerns with the Kaiser-Permanente suggested amendment to section 3 of the bill, in that it would essentially gut that section and the Society would then oppose the bill.

Chip Wheelen, Kansas Psychiatric Society, offered testimony supporting **SB 285** (see Exhibit 6).

Girard Grimaldi, representing Kaiser-Permanente, presented testimony in support of **SB 286** and offered two amendments to allow emergency physicians and health plan physicians to coordinate care (see Exhibit 7). Some questions were raised by committee members as to determination of an emergency so it is covered by managed care insurance plans. Mr. Grimaldi answered that it depends on the definition of "emergency services."

Tom Young, representing AARP, supported **SB 286** and outlined some problems that have come to his attention concerning managed care under the current system (see Exhibit 8).

Tuck Duncan, Medevac Medical Services, Inc., offered an amendment to add "and ambulance services" to Section 2(b) of **SB 286** (see Exhibit 9).

Tom Bell, Kansas Hospital Association, urged passage of **SB 286**, stating that it strikes an appropriate balance for managed care plans in Kansas (see Exhibit 10).

Chairperson Mayans directed attention to the written testimony of Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine, supporting **SB 286** (see Exhibit 11).

Chairperson Mayans closed the hearing on **SB 286** and called for action.

Representative Freeborn moved, Representative Henry seconded, (in a conceptual motion) that the Insurance Commissioner be given authority to adopt rules and regulations to implement the provisions of this bill. The motion carried.

Chairperson Mayans noted that as he read the bill, two things were apparent: a definition of "insured" was needed and to use "insured" in lieu of other titles meaning insured. Chairman Mayans moved, seconded by Representative Freeborn, that on page 1, following line 42, the following be inserted: "Insured means a person who is covered by a health benefit plan" and by changing **SB 286** throughout to use "insured" in lieu of "covered person" or "enrollee" wherever they appear; and by re-lettering appropriate sections of the bill accordingly. The motion carred.

Representative Morrison moved that **SB 286** be amended on page 1, line 24, section 2(b), by inserting the following, "and ambulance services." After discussion, Representative Morrison amended his motion, and moved that **SB 286** be amended on page 1, line 22, after the words "Emergency Services means," by inserting the words "ambulance services and." Representative Gilmore seconded the motion. The motion carried.

Representative Geringer moved that the first suggested amendment offered (see Exhibit 7) by Kaiser-Permanente be adopted. Representative Morrison disagreed and said the present wording is less controversial. Representative Geringer withdrew his amendment.

Then, Representative Henry moved, seconded by Representative Hutchins, that **SB 286** be passed favorably, as amended. The motion carried.

The meeting was adjourned at 3:02 p.m.

The next meeting is scheduled for March 12, 1997.

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES COMMITTEE GUEST LIST
MARCH 11, 1997

NAME	REPRESENTING
Harold Pitts	KCOA
Larry Kruse	Clay Wellcome
Rick Guthrie	Health Midwest
Vance Kuehn	KAOM
JASON PITSENBERGER	BRAD SMOOT
Susan M. Baker	Hein + Weir
Vanessa Zerran	Polsinelli, White
Amy Campbell	R. Rice Law Office
Chip Wheelen	KS Psychiatric Society
Linda McCoursey	KS Insurance Dept
Tom Bell	Ks. Hosp. Assn.
	AARP
Kathy Glover	Attorney General's Off
Tom L. Phillips	KBHE
Gerard Grimaldi	Kaiser Permanente
STEVE KEARNEY	CIGNA
John Federico	Pete McGill + Assoc.
	KNRS

HOUSE HEALTH/HUMAN SERVICES
Attachment 1-1
3-11-97

HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES COMMITTEE GUEST LIST
MARCH 11, 1997

NAME	REPRESENTING
Danielle Noe	Governors Office
KEITH R LANDIS	CHRISTIAN SCIENCES COMMITTEE ON PUBLICATION FOR LOUISIANA
Callie Jill Denton	K Peterson's Assoc
Jack Durand	Medevac Medical Services
Mary Hanson	KMS

State of Kansas
Office of the Attorney General
301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
FAX: 296-6296
TTY: 291-3767

Statement of Betty M. Glover
Executive Director, State Child Death Review Board
Before House Health and Human Services Committee
RE: Senate Bill 304
March 11, 1997

Representative Mayans and Members of the Committee:

Thank you for this opportunity to speak in favor of the changes outlined in this bill. I am the executive director of the State Child Death Review Board. The Board is placed under the auspices of the Office of the Attorney General and includes ten members appointed according to the enabling legislation. The Board is a multi-disciplinary, multi-agency one which is charged with reviewing the death of every Kansas child who dies before their 18th birthday. I have attached a list of our current Board members to this statement. The amendments in this Bill would authorize the establishment of local child death review boards and provide for the sharing of information between the local and state boards. It would also provide that the state board would provide a protocol under which a local child death review board would operate.

The enabling legislation did not contemplate local child death review boards. However, the state board has long supported communities developing local boards to review the deaths of children in their areas. At this time, Wyandotte County has a local child death review board which reviews the deaths of certain children. Saline and Sedgwick Counties have expressed interest in establishing local boards as well. A barrier which has been defined is that there is no vehicle through which the local boards can obtain records not usually accessible to them, or to which the state board has access but no ability to release them.

The state board believes that through its experience of examining the circumstances surrounding the deaths of approximately 1000 Kansas children, it can provide a sound protocol for local boards which will ensure that important information is considered consistently across the state. This will allow for local boards to have more immediate access to information, but also allow for complete information to be available on a state-wide basis.

State Child Death Review Board Members

Attorney General Appointment:

Nancy Lindberg, Chairperson
Assistant to the Attorney General
Topeka

Director of KBI appointment:

Don Winsor
KBI Special Agent
Topeka

Secretary of Social and Rehabilitation Services appointment:

Roberta Sue McKenna
Youth Services Attorney, SRS
Topeka

Secretary of Health and Environment appointment:

Lorne A. Phillips, Ph.D.
State Registrar
Topeka

Commissioner of Education appointment:

Robert V. Haderlein, DDS
Girard

State Board of Healing Arts appointments:

Katherine Melhorn, MD (pediatrician member)
University of Kansas School of Medicine - Wichita

George E. Thomas, MD (pathologist member)
Forensic Pathologist
Shawnee County Coroner/Medical Examiner
Topeka

Herbert Doubek, MD (coroner member)
District Coroner
Belleville

Attorney General appointment to represent advocacy groups:

Jo Helmer
Children's Advocate
Marion

Kansas County and District Attorneys Association appointment:

Christine Tonkovich
Douglas County District Attorney
Lawrence

STATE OF KANSAS

JIM D. GARNER
REPRESENTATIVE, 11TH DISTRICT
601 EAST 12TH,
P.O. BOX 538
COFFEYVILLE, KS 67337
(316) 251-1864 (H)
(316) 251-5950 (O)

STATE CAPITOL, RM 284-W
TOPEKA, KS 66612-1504
(913) 296-7675
1-800-432-3924 (DURING SESSION)

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
VICE CHAIR: RULES AND JOURNAL
RANKING DEMOCRAT: JUDICIARY
MEMBER: TAXATION
INSURANCE
COUNCIL ON THE FUTURE OF POSTSECONDARY EDUCATION
KANSAS JUDICIAL COUNCIL
CRIMINAL LAW ADVISORY COMMITTEE
NCSL ASSEMBLY ON FEDERAL ISSUES—LAW AND JUSTICE COMMITTEE
EX OFFICIO: KANSAS SENTENCING COMMISSION

TESTIMONY CONCERNING
SB 304

House Health & Human Services Committee
Tuesday, 11 March, 1997

Mr. Chairman and Members of the Committee

Thank you for this opportunity to appear today concerning Child Death Review Boards.

My purpose in appearing is to request that when the committee works this bill that you please consider amending in HB 2421. That bill simply allows members of the State Child Death Review Board to receive compensation for mileage and expenses incurred in attending the meetings in Topeka.

The individuals who serve on this Board do a tremendous service to the state and compile very valuable information. They sacrifice time away from their jobs or professions and receive no pay and not even reimbursement for travel and expenses. This amendment would simply allow expenses to be paid to these public servants.

Again, thank you for the opportunity to appear. I ask that you consider HB 2421 at the time you work SB 304.

Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: House Health and Human Services Committee

From: Kathleen Sebelius, Commissioner
of Insurance

Re: Senate Bill 286 (Patient Protection Act)

Date: March 11, 1997

I am appearing today in support of S.B. 286 which will establish important consumer protection standards for managed care plans to follow in their treatment of patients and the payment of claims. These provisions are similar to legislation which the Insurance Department introduced this year on payment for emergency room services (S.B. 64) as well as regulations which the Department is considering which deal with "gag rules," the use of "negative incentives," and access to specialty care. The bill was approved by the Senate by a vote of 40-0.

The following is an outline of the major provisions of the bill:

- **Section 2.** Definitions - The key term in this section is "emergency medical condition" which is the trigger for payment of a claim by a managed care plan.

- **Section 3.** Payment for Emergency Services - Requires health insurers to pay benefits for emergency services if the attending physician indicates that a emergency medical condition exists. The insurer must pay for all necessary medical services to stabilize the patient. Health care plans can require preauthorization to pay for additional medical services once the insured is stabilized but they must make someone available to authorize payment 24 hours a day, seven days a week.

- **Section 4.** Prohibition of "Gag Clauses" - Prohibits health insurers from restricting the discussion of treatment options by medical providers with their patients.

420 SW 9th Street
Topeka, Kansas 66612-1678

913 296-3071
Fax 913 296-2283

Consumer Assistance Hotline
1 800 432-2484 (Toll Free)

- **Section 5.** "Negative Incentives" - Prevents health insurers from using financial incentives in their contracts with medical providers that would reduce or limit the benefits available to the insured. Capitation payment arrangements are not included in the definition of a "negative incentive."

- **Section 6.** Plan Information - Requires health care plans to provide information to enrollees on what services are covered, who are the participating providers under the plan and what limitations exist on the payment of benefits.

- **Section 7.** Access To Care - Requires health insurers to have sufficient providers in their network plans to provide treatment to patients. Insurers may allow patients to have direct access to specialty care in cases where the insured has a life-threatening, chronic, degenerative or disabling condition or disease.

I believe that Senate Bill 286 will give Kansas consumers enrolled in managed care plans an important protections. I would ask the Committee to approve S.B. 286.

KMS

KANSAS MEDICAL SOCIETY

March 11, 1997

TO: House Health & Human Services Committee

FROM: Jerry Slaughter
Executive Director

SUBJECT: SB 286; concerning the Patient Protection Act

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 286. This bill consists of five main provisions designed to assure that patients receive necessary care and information from health insurers as the pressures of managed care force changes on the health care system. The five elements of the bill are:

1) **payment for certain emergency services**; commonly known as the COBRA exam, this provision requires health insurers to pay for the medical examination and stabilizing treatment hospitals and physicians must provide to any patient who presents at an emergency department (section 3 of the bill);

2) **"gag" clauses**; this provision prohibits health insurers from restricting health care providers from discussing treatment options, the process the insurer uses to approve or deny health services, the availability of alternate therapies and any other information the provider deems appropriate (section 4);

3) **negative inducements**; this part of the bill prohibits health insurers from entering into compensation arrangements with participating providers which serve as an inducement to provide less care than is medically necessary and appropriate for the patient. (section 5);

4) **health plan disclosure requirements**; this provision requires health insurers to make available upon request comprehensive information regarding benefits, prior authorization policies, provider directories, notice of changes in the benefit plan, and a description of the insurer's grievance procedures (section 6);

5) **provider network and access to specialty services**; this part of the bill does two things: (a) it requires that health insurers maintain an adequate provider network to serve its covered population; and (b) it requires health insurers to have a plan in which patients with life-threatening, chronic or disabling diseases may receive referral to a specialty provider who can coordinate the patient's care, presumably without having to be referred by a primary care provider each time a visit or service is necessary (section 7).

623 SW 10th Ave. • Topeka KS 66612-1627 • 913.235.2383 • 800.332.0156 • FAX 913.235.5114
Western Kansas office • 311 E 25th St. • Hays KS 67601 • 913.625.8215 • 800.293.2363 • FAX 913.625.8234

It is important to point out that thus far we have been fortunate that not much of the behavior that is driving legislation such as SB 286 in other states has occurred in Kansas. However, as the pressures of competition and managed care increase, legislation such as this will serve as good preventive medicine that will benefit our citizens.

We are particularly supportive of the provisions of section 3 which require health insurers to pay for the medical examination and stabilizing treatment required under federal law. Experience from other states which have taken similar action suggest that ED costs do not go up appreciably because of the change.

The provisions in this legislation represent a strong statement on behalf of the legislature that health insurers must be fair and open in the emerging managed care marketplace. None of the provisions go too far or will create a hardship on insurers. The financial impact will be minimal, and patients will benefit. We urge your support of the bill. Thank you for considering our comments.

Kansas Psychiatric Society

a district branch of the American Psychiatric Association
623 SW 10th Ave, Topeka, Kansas 66612-1627
(913)235-2383 • (800)332-0156 • fax(913)235-5114

Testimony
to the
House Health and Human Services Committee
by
Charles Wheelen, KPS Executive Director
March 11, 1997

We appreciate this opportunity to express our support for the provisions of SB286. The Kansas Psychiatric Society believes that all patients are entitled to the opportunity to receive quality medical and other health care services. Senate Bill 286 would enact patient protections which reflect important principles regarding patient rights.

Many psychiatrists practicing medicine in Kansas are now confronted with problems that can occur when an employer changes from traditional indemnity insurance to some variation of managed care. Even when the psychiatrist has accepted the terms and conditions to become a participating provider in the health benefit plan, sometimes the primary care physician is given an incentive to avoid referring patients for specialty care, or may be compelled to refer the patient to a particular physician or clinic when specialty care is medically necessary. If the patient already has an established medical relationship with a specialist, the lack of continuity can be damaging to the progress of a treatment program; particularly when the patient is being treated for a mental illness. The patient is the one who truly suffers the consequences.

We are particularly supportive of the provisions in section 4. We believe that the patient should be informed of treatment options. Equally important is the language which assures that a physician may advocate on behalf of the patient without being admonished by the health benefit plan. When a patient is mentally ill, he or she is often too disabled to advocate on their own behalf. The psychiatrist or other mental health professional may be the only advocate the patient has.

In addition, we are very supportive of section 5 which prohibits financial inducements to limit the provision of medically necessary services. We believe that quality of care can be jeopardized if clinical judgment is biased by financial disincentives.

We also support strongly the provisions of subsection (b) in section 7 which assures the opportunity for a patient to receive specialty care when the patient is suffering from a chronic condition or other illness which requires long-term specialized medical care. This would be particularly meaningful when the patient is mentally ill. It would allow the primary care physician to refer the patient to a participating psychiatrist for appropriate medical management.

Senate Bill 286 contains important safeguards that can avert problems that have occurred in other states where managed care plans have become pervasive sooner than they have in Kansas. We urge you to recommend SB286 for passage.

Thank you.

HOUSE HEALTH/HUMAN SERVICES
Attachment 6
3-11-97

KAISER PERMANENTE

Statement of Kaiser Permanente re: SB 286

Thank you. My name is Gerard Grimaldi, and I am here on behalf of Kaiser Permanente, a not-for-profit HMO which provides health care to more than 60,000 members in the Kansas City area. Kaiser Permanente is a group practice HMO. As such, the physicians of Kaiser Permanente provide health care exclusively and directly to our members in Kaiser Permanente medical offices. Our members choose a Kaiser Permanente physician as a primary care physician. Kaiser Permanente is a direct provider of health care, not an insurer which pays claims or contracts with a widely scattered network of providers.

Kaiser Permanente was the first HMO in Kansas to receive full accreditation status from the National Committee for Quality Assurance, the nation's premier quality monitoring organization for HMOs.

I appreciate the opportunity to discuss emergency care and offer suggested clarifying amendments to SB286. In emergency situations, Kaiser Permanente's goal is to provide medically necessary care as quickly as possible. We have programs in place to educate members about when to seek emergency care, and we contract with top quality emergency medical departments. We assist members who aren't sure if they have an emergency by providing 24-hour telephone advice.

Kaiser Permanente and the American College of Emergency Physicians (ACEP) have reached a landmark agreement on proposed federal legislation regarding health plan coverage of emergency medical services. Emergency room physicians and the physicians of Kaiser Permanente support legislation that would assure appropriate access to emergency medical services; protect the patient from incurring unexpected costs from the provision of emergency medical services; ensure greater continuity of care by involving the patient's health plan in the treatment plan; and reduce administrative costs from coverage disputes for hospitals, emergency physicians, and health plans.

The Kaiser Permanente/ACEP proposal can help to ensure that emergency care coverage rules are predictable for consumers so that they are not subject to unexpected medical costs and can help to promote quality care by requiring health plans and emergency physicians to work together to coordinate any necessary follow-up care after an emergency situation has been stabilized. We would encourage state legislation regarding emergency care to be consistent with the landmark federal legislation that Kaiser Permanente has proposed with ACEP.

The suggested amendments which I present today would make SB 286 consistent with the emergency care standards agreed upon by the physicians of Kaiser Permanente and ACEP. The first amendment clarifies that emergency services would be covered up to the point of stabilization. The second amendment clarifies that there must be an emergency medical condition for payment to be made. These amendments would allow emergency physicians and health plan physicians to closely coordinate care. We appreciate your consideration of them.

Kaiser Foundation Health Plan of Kansas City, Inc.
10561 Barkley, Suite 200 Overland Park, Kansas 66212 (913) 967-4600

As Amended by Senate Committee

Session of 1997

SENATE BILL No. 286

By Committee on Financial Institutions and Insurance

2-12

AN ACT enacting the patient protection act; relating to health care services.

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

Section 1. This act shall be known and may be cited as the patient protection act.

Sec. 2. As used in this act:

(a) "Emergency medical condition" means the sudden and, at the time, unexpected onset of a health condition that requires immediate medical attention, where failure to provide medical attention would result in serious impairment to bodily functions or serious dysfunction of a bodily organ or part, or would place the person's health in serious jeopardy.

(b) "Emergency services" means health care items and services furnished or required to evaluate and treat an emergency medical condition **up to the point of stabilization,** as directed or ordered by a physician.

(c) "Health benefit plan" means any hospital or medical expense policy, health, hospital or medical service corporation contract, a plan provided by a municipal group-funded pool, a policy or agreement entered into by a health insurer or a health maintenance organization contract offered by an employer or any certificate issued under any such policies, contracts or plans. "Health benefit plan" does not include policies or certificates covering only accident, credit, dental, disability income, long-term care, hospital indemnity, medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical-payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(d) "Health insurer" means any insurance company, nonprofit medical and hospital service corporation, municipal group-funded pool, fraternal benefit society, health maintenance organization, or any other entity which offers a health benefit plan subject to the Kansas Statutes Annotated.

(e) "Participating provider" means a provider who, under a contract

with the health insurer or with its contractor or subcontractor, has agreed to provide one or more health care services to covered persons with an expectation of receiving payment, other than coinsurance, copayments or deductibles, directly or indirectly from the health insurer.

(f) "Provider" means a physician, hospital or other person which is licensed, accredited or certified to perform specified health care services.

(g) "Provider network" means those participating providers who have entered into a contract or agreement with a health insurer to provide items or health care services to individuals covered by a health benefit plan offered by such health insurer.

(h) "Physician" means a person licensed by the state board of healing arts to practice medicine and surgery.

Sec. 3. (a) A health benefit plan shall not deny coverage for emergency services if the symptoms presented by a covered ~~patient~~ ***person*** and recorded by the attending provider indicate that an emergency medical condition exists, ~~including~~ ***or for*** emergency services necessary to provide ~~the~~ ***a covered person with a*** medical examination and stabilizing treatment required ~~pursuant to section 1867 of the Social Security Act~~, **to treat an emergency medical condition** regardless of whether prior authorization was obtained to provide those services.

(b) If a participating provider or other authorized representative of a health ~~carrier~~ ***insurer*** authorizes emergency services, the health ~~carrier~~ ***insurer*** shall not subsequently rescind or modify that authorization after the provider renders the authorized care in good faith and pursuant to the authorization except for:

(1) Payments made as a result of misrepresentation, fraud, omission or clerical error; and

(2) copayment, coinsurance or deductible amounts that are the responsibility of the covered person.

(c) Once an enrollee is stabilized pursuant to subsection (a), a health benefit plan may require as a condition of further coverage that a hospital emergency facility shall promptly contact the health ~~carrier~~ ***insurer*** for prior authorization for continuing treatment, specialty consultations, transfer arrangements or other medically necessary and appropriate care for an enrollee.

(d) Coverage of emergency services shall be subject to applicable copayments, coinsurance and deductibles.

(e) For required post evaluation or post stabilization services immediately following treatment of an emergency medical condition, a health insurer shall provide access to an authorized representative 24 hours a day, seven days a week.

Sec. 4. No health insurer shall prohibit or restrict any participating provider from discussing with or disclosing to any covered person or other

SB 286 MANAGED CARE (GAG ORDERS, REVERSE INCENTIVES, ACCESS TO SPECIALIST AND EMERGENCY ROOM SERVICE)
TOM YOUNG AARP

I WANT TO THANK THE COMMITTEE FOR THE OPERTUNITY OF SPEAKING IN SUPPORT OF THIS BILL. AARP AGREES THAT THIS BILL SHOULD BE PASSED.

AS SOME LEGISLATORS HAVE SAID,WE ARE SURE NO INSURANCE COMPANY IN KANSAS WOULD USE GAG ORDERS, REVERSE FINANCIAL INCENTIVES OR NOT GIVE REASONABLE ACCESS TO SPECIALIST. WE DO HOWEVER BELIEVE THAT ACCESS TO EMERGENCY ROOM SERVICE CAN AND SHOULD BE IMPROVED BY MANAGED CARE COMPANIES.

60% OF THE PEOPLE WHO HAVE MANAGED CARE WILL TELL YOU THEY ARE PERFECTLY HAPPY WITH THEIR MANAGED CARE. THESE ARE THE PEOPLE WHO GO ONCE A YEAR FOR THEIR ANNUAL CHECK UP, GET THEIR FLU SHOTS AND OTHER ROUTINE MEDICAL CARE. THEY HAVE HAD NO NEED FOR MAJOR MEDICAL OR EMERGENCY ROOM SERVICE.

THE OTHER 40% HAVE HAD SOME KIND OF PROBLEM WITH THEIR MANAGED CARE COMPANY. EVERYTHING FROM HAVING TO WAIT ON THE TELEPHONE LINE FOR SEVERAL HOURS ON HOLD TO SOLVE A MINOR ENROLLMENT PROBLEM TO GETTING PRIOR APPROVAL FOR TREATMENT IN THE EMERGENCY ROOM.

AARP BELIEVES THAT GAG ORDERS SHOULD BE PROHIBITED AND THAT THE PHYSICIAN AND PATIENT SHOULD BE ALLOWED TO DISCUSS ALL POSSIBILITIES FOR TREATMENT AND MAKE A DECISION TOGETHER ABOUT THE BEST TREATMENT FOR EACH PATIENT. WE DO NOT WANT ANY KIND OF INCENTIVES WHICH WOULD CAUSE THE DOCTOR TO UNDER TREAT A PATIENT. WE ALSO WANT TO HAVE A SPECIALIST ASSIGNED AS THE PRIMARY CARE PHYSICIAN WHEN THAT IS LOGICAL. AND WE CERTAINLY WANT ACCESS TO EMERGENCY ROOM SERVICE WHEN IT IS NECESSARY TO HAVE THAT SERVICE.

WE SUPPORT SENATE BILL 286 AND WOULD ASK THAT YOU SUPPORT IT ALSO.

Medevac Medical Services, Inc.
401 Jackson
Topeka, Kansas 66603

TO: House Committee on Health and Human Services

FROM: R.E. "Tuck" Duncan
General Counsel
Medevac Medical Services, Inc.

RE: SB 286, the Patient Protection Act

Please amend SB 286 by including ambulance service in the definition of "Emergency Services." Thank you for your attention to and consideration of this matter.

RED:cal

As Amended by Senate Committee

Session of 1997

SENATE BILL No. 286

By Committee on Financial Institutions and Insurance

2-12

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(b) "Emergency services" means health care items and services furnished or required to evaluate and treat an emergency medical condition, as directed or ordered by a physician and ambulance services.

KANSAS HOSPITAL ASSOCIATION

Memorandum

Donald A. Wilson
President

TO: House Health & Human Services Committee

FROM: Kansas Hospital Association
Tom Bell, Senior Vice President/Legal Counsel

RE: SENATE BILL 286

DATE: March 11, 1997

The Kansas Hospital Association appreciates the opportunity to comment in support of Senate Bill 286. This bill would make several changes to Kansas law regarding managed health care plans.

Managed care is a growing phenomenon in Kansas and other states. Companies involved in managed care employ various methods to oversee and control the care received, the amount providers are reimbursed for care, and the amount consumers pay for basic and supplemental care. In theory, managed care should help control costs, while maintaining quality. In practice, however, numerous criticisms have surfaced as this rapidly changing system continues to evolve. Because health care provider incomes are linked to keeping down costs, some are concerned that managed care encourages providers to underserve patients, raising quality concerns. Health care consumers are concerned about access to health care services caused by limits placed on their choice of providers. Providers have in turn warned about managed care intervening too much in medical decisions related to the care and treatment of patients.

We think S.B. 286 strikes an appropriate balance among these competing concerns. With regard to the emergency services issues, for example, it recognizes the constraints under which providers must operate, while at the same time acknowledging the health plan's need to managed care within fixed resources. (For the committee's information, we have included on the reversed side federal and state legal requirements for hospitals regarding patients seeking emergency care.)

We urge the committee to recommend passage of S.B. 286. Thank you for your consideration of our comments.

HOUSE HEALTH/HUMAN SERVICES
Attachment 10-1
3-11-97

215 S.E. 8th • P.O. Box 2308 • Topeka, Kansas 66601-2308 • (913) 233-7436 • FAX (913) 233-6955

EMERGENCY SERVICE REQUIREMENTS

§ 1395dd. Examination and treatment for emergency medical conditions and women in labor

(a) Medical screening requirement

In the case of a hospital that has a hospital emergency department, if any individual (whether or not eligible for benefits under this subchapter) comes to the emergency department and a request is made on the individual's behalf for examination or treatment for a medical condition, the hospital must provide for an appropriate medical screening examination within the capability of the hospital's emergency department, including ancillary services routinely available to the emergency department, to determine whether or not an emergency medical condition (within the meaning of subsection (e)(1) of this section) exists.

(b) Necessary stabilizing treatment for emergency medical conditions and labor

(1) In general

If any individual (whether or not eligible for benefits under this subchapter) comes to a hospital and the hospital determines that the individual has an emergency medical condition, the hospital must provide either —

(A) within the staff and facilities available at the hospital, for such further medical examination and such treatment as may be required to stabilize the medical condition, or

(B) for transfer of the individual to another medical facility in accordance with subsection (c) of this section.

(U.S. Code)

28-34-16a. Emergency services. (a) Emergency services plans. Each hospital shall maintain a comprehensive, written emergency services plan based on community need and on the capability of the hospital. This plan shall include procedures whereby an ill or injured person can be addressed and either treated, referred to an appropriate facility or discharged. Regardless of the scope of its services, each hospital shall provide and maintain equipment necessary to institute essential life-saving measures for inpatients and, when referral is indicated, shall arrange for necessary transportation.

(b) Organized emergency services. In hospitals with organized emergency services, the following shall apply.

(1) Emergency services shall be available 24 hours a day, and medical staff coverage shall be adequate so that the patient will be seen within a period of time which is reasonable relative to the severity of the patient's illness or injury.

(2) No patient shall be transferred until the patient has been stabilized. A written statement of the patient's immediate medical problem shall accompany the patient when transferred. Every patient seeking medical care from the emergency services who is not in need of immediate medical care or for whom services cannot be provided by the hospital shall be given information about obtaining medical care.

(3) The emergency service, regardless of its scope, shall be organized and integrated with other departments of the hospital.

(4) The service shall be directed by a physician. The governing body shall adopt a written statement defining the qualifications, duties, and authority of the director. In the absence of a single physician, the direction of emergency medical services may be provided through a multidisciplinary medical staff committee, including at least one physician. The chairperson of this committee shall serve as director.

(5) The emergency nursing service shall be directed and supervised by a registered nurse with training in cardiopulmonary resuscitation. At least one registered nurse with this training shall be available at all times.

(6) The emergency service area shall be located near an outside entrance to the hospital and shall be easily accessible from within the hospital. Suction and oxygen equipment and cardiopulmonary resuscitation units shall be available and ready for use. This equipment shall include equipment used for tracheal intubation, tracheotomy, ventilating bronchoscopy, intra-pleural decompression and intravenous fluid administration. Standard drugs, parental fluids, plasma substitutes and surgical supplies shall be on hand for immediate use in treating life-threatening conditions.

(7) Written policies and procedures which delineate the proper administrative and medical procedures and methods to be followed in providing emergency care shall be established. A medical record shall be kept for each patient receiving emergency services and it shall be made a part of any other patient medical record maintained in accordance with K.A.R. 28-34-9a and amendments thereto.

(Kansas Administrative Regulations)

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To: Chairman Mayans and Members, House Public Health and Human Resources Committee

From: Harold E. Riehm, Executive Director, Kansas Association of Osteopathic Medicine

Subject: Written Testimony in Support of S.B. 286 THE PATIENT PROTECTION ACT

Thank you for this opportunity to submit written testimony in support of S.B. 286, THE PATIENT PROTECTION ACT.

KAOM strongly supports the provisions of S.B. 286. The prohibition of "gag" clauses and practices, facilitation of patient reasonable access to emergency room care, the denial of insurance company incentives to limit delivery of medically necessary services, and the requirement for a provider network for covered services sufficient to meet demand--are all important safeguards in the protection of health care consumers.

As members of a minority physician group, we would have preferred that the Bill also include a **POINT OF SERVICE** provision. We think this, too, is an important and needed provision for protecting patient choice of providers of covered services of insurance and managed care institutions.

We urge support of S.B. 286. A Point of Service proposal will undoubtedly be pursued again in a subsequent Legislative Session.