

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

The meeting was called to order by Chairman Al Lane at 1:34 p. m. on March 25, 1998 in Room 526-S of the Capitol.

All members were present except: Rep. David Adkins - excused
Rep. Vaughn Flora - excused

Committee staff present: Bob Nugent, Revisor of Statutes
Bev Adams, Committee Secretary

Conferees appearing before the committee: Phil Harness, KDHR

Others attending: See attached list

Chairman Lane called the meeting to provide the members with an explanation of changes the Senate Commerce Committee made to **HB 2799** which was passed out favorably by the Business, Commerce and Labor Committee on February 23, 1998 and placed on the Consent Calendar. The Senate Commerce Committee had hearings on **SB 555**, which included seven recommendations to amend Kansas Statutes from the Workers Compensation Advisory Council to the Legislature. The Senate Commerce Committee was not able to come to an agreement on the seven recommendations, but did agree to amend several of the non-controversial amendments into **HB 2799**. The bill, as amended by the Senate committee, is now on General Orders in the Senate. **House Bill 2799** still contains all the original bill, which deals with allocated loss adjustment expenses in workers compensation.

Phil Harness, Director of the Division of Workers Compensation, Kansas Department of Human Resources (KDHR), appeared to give the committee an explanation of the add-on amendments and where they are found in the bill. He started out by telling the committee about the proposals that the Senate committee could not agree on and did not amend into **HB 2799**. He continued by going through the changes individually. (See Attachment 1) He concluded his explanation by answering questions from the committee.

Stephen Durrell, Assistant Attorney General, Workers Compensation Division (KDHR), spoke from the audience answering a question about workers who present false certificates of insurance or who let their coverage lapse after presenting their certificate.

Chairman Lane adjourned the meeting at 2:02 p.m. No further meetings are scheduled.

HOUSE BUSINESS, COMMERCE & LABOR COMMITTEE
GUEST LIST

DATE March 25, 1998

NAME	REPRESENTING
Steph Denzell	W Comp Dir
David Shufelt	KDHR - Work Comp
Philip S Harness	" "
Lori Callahan	KMS
Les Wright	Farmers Ins. Group
Jim McHaff	KSAFL - CFO
Wayne Maurice	KS " "
Callie Hill Deaton	
Susan Andersen	Hein + Weir
Nerese Drenauer	State Farm

**TESTIMONY BEFORE THE HOUSE BUSINESS, COMMERCE AND
LABOR COMMITTEE**

HOUSE BILL 2799, AS AMENDED BY THE SENATE COMMITTEE

**By Philip S. Harness, Director of Workers Compensation
March 25, 1998**

The Director, on behalf of the Workers Compensation Advisory Council, would request that the committee consider the following add-on amendments to HB 2799, which already dealt with allocated loss adjustment expenses in workers compensation:

1. Section 1, dealing with peer review and utilization review, seeks to allow utilization review and peer review results to be admitted into evidence before the administrative law judge at a preliminary hearing. The amendments to K.S.A. 1997 Supp. 44-510 are found at Page 5, Lines 24-37.
2. Section 2 is a proposed amendment to K.S.A. 44-513a which, when dealing with minor persons entitled to compensation under the Workers Compensation Act, would authorize the administrative law judge to direct such compensation to be paid in accordance with the section of the probate code dealing with conservatorships. Presently, the Workers Compensation Act contains provisions for the setting up of conservatorships; it was felt that referring to the pertinent sections of the probate code would cause less confusion. (The probate code contains a \$5,000 threshold for a conservatorship.)
3. Section 3 contains all of the original bill HB 2799 dealing with allocated loss adjustment expenses.
4. Section 4 dealing with mediation, is enabling legislation which will allow videoconferencing in mediation as an alternative to the present requirement for persons with final settlement authority to attend mediations in person.
5. Section 5 dealing with amendments to K.S.A. 1997 Supp. 44-5,120, the fraud and abuse statute with administrative penalties, adds the word "knowingly" (Page 11, Line 15) to the already stated "willfully or intentionally" and then, setting forth the 20 "bad acts," adds a new 21st "bad act" (Page 12, Lines 42-43) for a health care provider submitting a charge for health care that was not furnished. Page 14, Lines 3-4, also adds the term "summary order" as used in the Kansas Administrative Procedures Act. The proposal also increases the maximum penalty from the present \$1,000 per act to \$2,000 per act (Page 14, Line 8) and changes the aggregate penalty from the present \$2,500 in a six-month period to \$20,000 in a 12-month period (Page 14, Line 10). Finally, the proposed amendments to K.S.A. 44-5,120 also allow for qualified immunity from civil or criminal liability for those individuals referring possible fraudulent or abusive workers compensation practices to the Division or other governmental investigative agency (Page 15, Lines 13-19).

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Attachment 1*

6. Section 6 dealing with amendments to K.S.A. 1997 Supp. 44-5,125 (the criminal fraud and abuse statute), would clearly delineate that working while receiving temporary total disability benefits or permanent total disability benefits to which the person is not entitled is a criminal act (Page 15, Lines 34-36). Further, the proposed amendments would set up some new penalties provisions paralleling the theft statutes to specify misdemeanors or felonies depending upon the amount of money in issue (Page 16, Lines 3-9). There are new sections dealing with felonies for knowingly and intentionally presenting false certificates of insurance (Page 16, Lines 10-12) and false charges for health care that was not furnished (Page 16, Lines 13-15).

CAVEAT: There is a drafting error in Section 6 in that subsection (a) unnecessarily duplicates language found in subsection (d) and, in any event, does not reflect what was recommended by the Workers Compensation Advisory Council.