Approved: _____
Date February 26, 2002

MINUTES OF THE HOUSE COMMITTEE ON HEALTH AND HUMAN SERVICES.

The meeting was called to order by Chairperson Garry Boston at 1:30 p.m. on February 18, 2002 in Room 210 Memorial Hall

All members were present except: Representative Patricia Lightner, Excused

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Norman Furse, Revisor of Statute's Office
Renea Jefferies, Revisor of Statute's Office
June Evans, Secretary

Conferees appearing before the committee: Rob Linderer, Executive Director, Midwest Transplant Network
Marsha Schoenfeld, Family Services Coordinator, Midwest Transplant Network
Sheila J. Walker, Director, Division of Vehicles
Julie J. Hein, government affairs consultant, National Kidney Foundation of Kansas and Western Missouri
Chris Collins, Director of Government Affairs, Kansas Medical Society
Sally Finney, Kansas Public Health Association, Inc.
W. Kay Kent, RN, MS, Administrator/Health Officer, Lawrence-Douglas County Health Dept.
Terri Roberts, J.D., R.N., Executive Director, Kansas State Nurses Association
Representative Welshimer
Tom Bell, Senior Vice President/Legal Counsel Kansas Hospital Association
Fred J. Lucky, Vice President/Finance, Kansas Hospital Association
Larrie Ann Lower, Executive Director of the Kansas Association of health Plans (KAHP)

Others attending: See Attached Sheet

The Chairman stated after tomorrow this committee would be working bills, so please be on time.

The Chairman referred **HB 2715 - Assistance animals for handicapped and disabled persons** to the Sub-Committee on Credentialing.

The Chairman opened the hearing on **HB 2808 - Organ Donation Registry Program, Division of Vehicles.**

Staff gave a briefing on **HB 2808**.

Representative Storm stated this bill had been patterned after the Michigan bill and introduced Rob Linderer, Director, Midwest Transplant Network.

Rob Linderer, Executive Director, Midwest Transplant Network, testified in support of **HB 2808**, stating the organization is a non-profit, federally designated organ procurement organization (OPO) serving the state of Kansas and 62 counties in western Missouri. They have been in operation for almost 30 years and are responsible for providing organ procurement and transplant services to 6 transplant centers and procurement services to more than 200 other

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

hospitals. In addition, they also recover tissues and eyes for transplantation. Midwest Transplant Network staff work collaboratively with other healthcare professionals and organizations to coordinate the medical/legal aspects of donation necessary to provide transplant organs and tissues to patients locally and throughout the country. As a federally certified OPO, they are members of the National Organ Procurement and Transplant Network (OPTN) administered by the United Network for Organ Sharing (UNOS).

HB 2808 would provide a timely means of accessing information regarding an individual's intention to be an organ or tissue donor and provide additional means for people to participate in the registry.

Currently, Kansas law provides the means for an individual of legal age to indicate their wishes regarding donation on the back of their driver license or by an organ donor card. Although these documents provide legal consent, in most situation they are not available at the precise time they are needed. The voluntary registry would provide an around-the-clock, accessible means for authorized procurement personnel to verify a deceased person's intent to donate. Although registry participation would not constitute legal consent, it would provide the person approaching their next-of-kin with information that would help them fulfill their loved-one's wish to be a donor (Attachment 1)

Marsha Schoenfeld, Family Services Coordinator, Midwest Transplant Network, testified as a proponent, stating her husband was killed in an automobile wreck and since they had talked about him being a donor she knew that was his wish.

Sheila J. Walker, Director, Division of Vehicles, testified stating if **HB 2808** were passed, it would provide for the distribution of educational information regarding the collection and transfer of organ and tissue donor information, to a statewide organ and tissue donor registry, accessible by federally designated organ procurement organizations. The bill requires the state to disseminate donor education information with drivers' license renewal notices. The state currently mails approximately 300,000 driver's license renewals annually. The postage costs for these mailings would increase approximately $70,000 per year. Request amendment making it clear that the Kansas federally designated organ procurement organization provide and maintain the education materials that are to be distributed.

Donors wishing to participate would have their name and address automatically forwarded to the donor registry – preferably electronically. This change would require five days of programming to develop a method of electronic transmission to the donor registry, at an in-house cost of $1,200 (Attachment 2).

Julie J. Hein, Government Affairs Consultant, National Kidney Foundation of Kansas and Western Missouri testified in support of **HB 2808**. The mission is to assist patients with kidney disease and one of the goals is increasing organ donation awareness. I have been a kidney donor. Some people believe if they have the organ donor sticker on the front of their driver's license is all they need, but they must also sign the back of their driver's license along with two witnesses. **HB 2808** gives individuals additional opportunity to designate their wishes (Attachment 3).

Chris Collins, Director of Government Affairs, Kansas Medical Society, testified in support of **HB 2808**. The Kansas Medical Society strongly supports any and all efforts to increase the number of organ donors (Attachment 4).

Representative Jim Garner, provided written testimony in strong support for **HB 2808** which would create an organ donor registry through the federally designated organ donor bank, the Midwest Transplant Network (Attachment 5).

The Chairman closed the hearing on **HB 2808**.

The Chairman opened the hearing on **HB 2809** - Public health department, duties, tests and

inoculations of pupils enrolled or enrolling in schools.

Staff gave a briefing on **HB 2809**.

Sally Finney, Kansas Public Health Association, Inc., testified as a proponent to **HB 2809**, which is to protect the limited local resources of local health departments as they struggle to provide an ever-expanding array of essential health services to the public. KPHA asks the bill be amended to retain current language on line 20, reverting back to "may" rather than "shall" (Attachment 6).

W. Kay Kent, RN, MS, Administrator/Health Officer, Lawrence-Douglas County Health Department, testified in support of **HB 2809**, with the exception that in line 20 "shall" be changed back to "may" (Attachment 7).

Terri Roberts, J.D., R.N., Executive Director, Kansas State Nurses Association, provided written testimony in support of **HB 2809** (Attachment 8)

The Chairman closed the hearing on **HB 2809.**

The Chairman opened the hearing on **HB 2801 - Prompt payment of refunds by health care providers.**

Staff gave a briefing on **HB 2801.**

Representative Welshimer, a proponent, who introduced this bill stated it would require a medical provider to provide reimbursement to the patient within 30 days after the reimbursement is accrued on the provider's bookkeeping system (Attachment 9).

Tom Bell, Senior Vice President/Legal Counsel introduced Fred J. Lucky, Vice President/Finance, Kansas Hospital Association, who testified as an opponent to **HB 2801.** The bill requires that, in the event any health care provider is paid more than such provider is entitled to receive from a consumer, such provider shall promptly refund the overpayment amount to the consumer within 30 days from which the overpayment accrued on such provider's bookkeeping system. KHA supports the prompt repayment to consumers of funds that are contractually and legally owed. However, **HB 2801** does not accomplish this and is unworkable (Attachment 10).

Larrie Ann Lower, Executive Director of the Kansas Association of Health Plans (KAHP), testified as an opponent to **HB 2801**. During the 2000 Legislative Session, K.S.A. 40-2440 through 40-2442 were passed and these statutes created the Kansas Health Care Prompt Payment Act.

HB 2801 refers to K.S.A. 60-513d and amendments thereto as the definition of "health care provider." Included in that definition of providers is the language "a health maintenance organization." Since HMO's are required to comply with the provisions of the current prompt payment act for accident and sickness insurance (K.S.A. 40-2440 through 40-2442), we ask that the following amendment be adopted to clarify that the provisions of this bill do not apply to HMO's (Attachment 11).

Chris Collins, Director of Government Affairs, Kansas Medical Society, testified as an opponent to **HB 2801**. The current health care payment system is a complex and time consuming process that involves industry-specific accounting and valuation mechanisms. The payment of a medical claim is a time-consuming and expensive process involving multiple parties. There is already a proliferation of federal statutes and regulations governing the payment of claims (Attachment 12).

The Chairman closed the hearing on **HB 2801.**

The meeting adjourned at 3:15 p.m. and the next meeting will be February 19.

HEALTH AND HUMAN SERVICES

DATE 2/18/02

NAME	REPRESENTING
ROB LINDSEER	MID WEST TRANSPLANT NETWORK
Marcia Schoenfeld	Midwest Transplant Network
RAY GABEL	midwest Transplant network
Sheila Walker	KDOR - DMV
Alan Anderson	KDOR - DMV
Holly Feaney	Ks. Public Health Assn.
Mindee Reece	KDHE - Immunization Program
Sharon Patusde	KDHE
Kay Kent	Lawrence - Do. Co. Health Dept.
Ellie Southern	KALHD
Bill Seed	KSHA
Pam Scott	Ks Funeral Directors Assn
John Peterson	Ks Dental Coalition
KEVIN ROBERTSON	KANSAS DENTAL ASSN
Jennifer Orth	Cook Consulting, Inc
PHILIP HURLEY	PAT HURLEY & CO. / KAHP
Tom Hawk	AARP
Kathy Dennison	St Luke's Shawnee Mission Medical
Pamela Ann Power	KAHP
Jake Hein	KAHF
Hillary Hayes	Federico Consulting
Chris Collins	KMS
Ruth Cornwall	KMS
Chip Wheelen	Assn of Osteo. Med.

MIDWEST TRANSPLANT NETWORK

1900 WEST 47TH PLACE, SUITE 400
WESTWOOD, KS 66205
TELEPHONE: 913-262-1668
FAX: 913-262-5130

**TESTIMONY OF THE MIDWEST TRANSPLANT NETWORK,
BY ROB LINDERER, EXECUTIVE DIRECTOR
BEFORE THE PUBLIC HEALTH AND WELFARE COMMITTEE**

ON MONDAY, FEBRUARY 18, 2002

**IN SUPPORT OF HOUSE BILL NO. 2808
AN ACT RELATING TO THE DIVISION OF VEHICLES; CONCERNING DRIVER'S LICENSES AND IDENTIFICATION CARDS; PROVIDING INFORMATION FOR AN ORGAN DONATION REGISTRY PROGRAM**

Madam Chairman, Senators, and members of the Public Health and Welfare Committee, my name is Rob Linderer. I am the Executive Director of the Midwest Transplant Network, based in Westwood, Kansas. My organization is a non-profit, federally designated organ procurement organization (OPO) serving the state of Kansas and 62 counties in western Missouri. We have been in operation for almost 30 years and are responsible for providing organ procurement and transplant services to 6 transplant centers and procurement services to more than 200 other hospitals. In addition, we also recover tissues and eyes for transplantation. Midwest Transplant Network staff work collaboratively with other healthcare professionals and organizations to coordinate the medical/legal aspects of donation necessary to provide transplant organs and tissues to patients locally and throughout the country. As a federally certified OPO, we are members of the National Organ Procurement and Transplant Network (OPTN) administered by the United Network for Organ Sharing (UNOS).

I am here today to testify in support of House Bill no. 2808: An Act Concerning the establishment of a state organ donor registry. As drafted, this Bill would provide a timely means of accessing information regarding an individual's intention to be an organ or tissue donor and provide additional means for people to participate in the registry.

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Currently, Kansas Law provides the means for an individual of legal age to indicate their wishes regarding donation on the back of their driver license or by an organ donor card. Although these documents provide legal consent, in most situations they are not available at the precise time they are needed. The voluntary registry would provide an around-the-clock, accessible means for authorized procurement personnel to verify a deceased person's intent to donate. Although registry participation would not constitute legal consent, it would provide the person approaching their next-of-kin with information that would help them fulfill their loved-one's wish to be a donor. Current Federal Regulations require that every hospital in our service area notify Midwest Transplant Network when a death occurs. Additionally, we receive many non-hospital death referrals through the medical examiner and coroner offices. Checking whether a deceased person is listed on the registry at the time they are screened for potential donor eligibility would provide the most efficient and effective way to ensure that their directive is acted upon.

Another benefit of the registry is the opportunity that it affords to increase awareness about the critical need for life-saving transplants and the importance of donation in saving lives. By having the flexibility of registering individuals through means other than the DMV Office, registrations can be obtained during health fairs, public education events, by direct request and other means. People can learn about donation and act on their decision by registering immediately. In the event that a Kansan would die in another state, the organ procurement organization in that area would be able to contact my organization to determine if that person is listed.

In summary, there are 22 other states that currently have donor registries. There is a great deal of variation in the approaches, but all provide the benefits previously described. With 17 people dying every day out of the more than 80,000 people waiting nationally for an organ transplant and the thousands who can benefit from tissue transplants, I urge the Committee to support this Bill and add Kansas to the growing list of states with donor registries. Thank you for the opportunity to testify before the Committee today. I would be happy to answer any questions.

S E OF KANSAS
Bill Graves, Governor

Sheila Walker, Director
Division of Vehicles
Kansas Department of Revenue
915 SW Harrison St.
Topeka, KS 66612-1588

DEPARTMENT OF REV E
Stephen Richards, Secretary

(785) 296-3601
FAX (785) 291-3755
Hearing Impaired TTY (785) 296-3909
Internet Address: www.ksrevenue.org

TESTIMONY

TO: Garry Boston, Chairman
Health and Human Services Committee Members

FROM: Sheila J. Walker, Director
Division of Vehicles
Sheila J. Walker

DATE: February 18, 2002

SUBJECT: HB 2808 – Organ Donor Registry

Mr. Chairman, members of the Committee, I am Sheila Walker, Director of the Kansas Division of Vehicles. I want to thank you for the opportunity to appear today regarding House Bill 2808.

If passed, House Bill 2808 will provide for the distribution of educational information regarding the collection and transfer of organ and tissue donor information, to a statewide organ and tissue donor registry, accessible by federally designated organ procurement organizations. The bill requires the state to:

- disseminate donor education information and application materials with monthly drivers' license renewal notices;
- provide additional educational information at driver's license exam stations throughout the state;
- provide written confirmations for persons indicating a desire to participate in the organ donation program; and,
- compile and transfer donor information to an organ and tissue donor registry.

The state currently mails approximately 300,000 driver's license renewals annually. The postage costs for these mailings, at one full ounce, is $26.9 cents per mailer. Adding educational materials – even one piece of paper – to these mailings may increase the postage costs to $49.9 cents per mailer, due to the weight of the materials pushing the packet to the next postal increment. Based on 300,000 renewals, the increase in postage would be approximately $70,000 per year. Because of the potential additional costs, the committee may want to consider limiting distribution of educational materials at the counter only, and not by mail.

In addition, the Division respectfully requests an amendment making it clear that the Kansas federally designated organ procurement organization provide and maintain the education materials we are supposed to distribute.

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HEIN LAW FIRM, CHARTERED

5845 SW 29th Street, Topeka, KS 66614-2462
Phone: (785) 273-1441
Fax: (785) 273-9243

Ronald R. Hein
Attorney-at-Law
Email: rhein@hwchtd.com

Testimony re: HB 2808
House Health and Human Services Committee
Presented by Julie J. Hein
on behalf of
National Kidney Foundation of Kansas and Western Missouri
February 18, 2002

Mr. Chairman, Members of the Committee:

My name is Julie J. Hein, and I am government affairs consultant for the National Kidney Foundation of Kansas and Western Missouri. NKF KS/West MO is a regional office of the National Kidney Foundation with a service area of the entire state of Kansas and the western portion of the state of Missouri. It's mission is to assist patients with kidney disease. It fulfills this mission through numerous services including raising funds for research; providing direct patient care and treatment; providing early intervention screenings; increasing organ donation awareness; and numerous other programs for victims of kidney disease.

NKF supports HB 2808, the organ donation registry program bill. Although I have not been involved in the details of outlining this program, it appears those involved are imitating a very successful program that was implemented by U. S. Secretary of Health and Human Services Tommy Thompson when he was Governor in the State of Michigan.

I am also fortunate to be able to testify as a living donor. Five and a half years ago, through the miracles of medicine and the advancements in immuno-suppressant drugs, I was allowed as a non-blood relative to donate a kidney to my husband, Ron. Because of that experience, Ron and I are very active with the National Kidney Foundation and many organ donation projects.

When I talk to people about organ donation, I find that although most of them have thought about it, they have not actually taken the steps it takes to be an organ donor at the time of their death. I believe part of this is because the process is somewhat confusing. Recently, in a conversation, three people said they were designated to be organ donors upon their deaths, but when checking found that although they had a "donor" sticker on the front of their driver's licenses, they had not taken the additional step of signing the driver's licenses with two witnesses.

The process is actually three steps. First, an individual must make the decision to be an organ donor upon their death. Second, they must take some action in designating that

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decision such as signing the back of their driver's license or asking to be on the organ donor registry, if this bill should pass. Third, and most important, they must discuss their decision with family and loved ones.

HB 2808 is an additional opportunity for individuals to designate their wishes. Increased public education about this issue, and a simplified process will make it easier for individuals to make this important decision and then follow through in taking the steps necessary to be eligible donors.

Our firm has been appointed by the NKF board to lobby for the NKF, but we are offering the services of our firm on a *pro bono* basis.

I urge you to support HB 2808. Thank you very much for permitting me to testify and I would be happy to yield to questions.

KANSAS MEDICAL SOCIETY
KMS

623 SW 10th Avenue
Topeka KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114

kmsonline.org

TO: House Committee on Health and Human Services

FROM: Chris Collins Chris Collins
Director of Government Affairs

DATE: February 18, 2002

RE: HB 2808: Organ Donation Registry Program

Ladies and Gentlemen of the Committee:

Thank you for the opportunity to voice the Kansas Medical Society's support of HB 2808.

The Kansas Medical Society strongly supports any and all efforts to increase the number of organ donors. The Kansas Medical Society Alliance, an auxiliary organization comprised of spouses of Kansas physicians dedicated to public health programs and education, has made organ donation awareness one of its top priorities. The Alliance has made available to physician office staffs and the general public all over Kansas pamphlets and brochures on its Live and Then Give program. I have attached materials from the Live and Then Give website for your perusal.

HB 2808 provides a practical solution to the challenge of ensuring that those whom have decided to give the gift of life will have their wishes honored. It efficiently utilizes existing resources to educate the public on this issue and provides a centralized repository of this information, while protecting the privacy of those on it.

Thank you for the opportunity to testify on this important subject. For the foregoing reasons, KMS and the KMS Alliance respectfully urge the passage of this bill.

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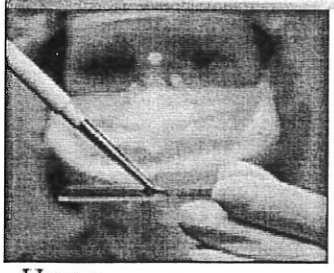

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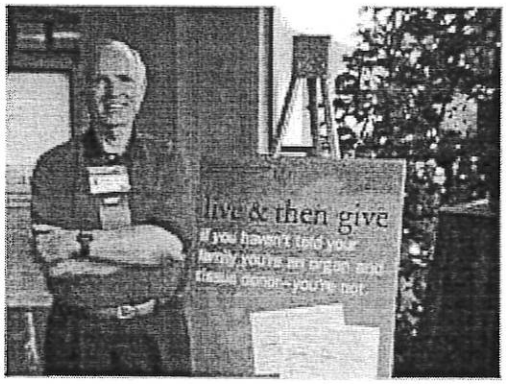
Live & Then Give

Sign a donor card & tell your family today.



Dr Phil H. Berry Jr., of Dallas stands next to a display announcing the AMA's new "Live & Then Give" organ donor awareness campaign. Patterned after the highly successful Texas campaign that Dr Berry initiated, the AMA program began with a mass organ donor card-signing ceremony at the 1998 Interim Meeting of the AMA House of Delegates. Dr Berry praised the start of a nationwide effort by America's physicians to help bridge the gap that has created a 60,000-person-long waiting list for human organs in this country. The AMA's "Live & Then Give" initiative includes a video, brochures, and other educational materials. Like the TMA program, it's aimed primarily at physicians, their families, and their staff.

The Texas delegation to the American Medical Association takes part in a mass organ donor card-signing ceremony at the 1998 Interim Meeting of the AMA House of Delegates. The ceremony is the first step in the AMA's "Live & Then Give" organ donor awareness campaign. The program is patterned after the TMA's award-winning "Live & Then Give" initiative.

- **Live & Give Donor Card (Acrobat file - Help)**
- **AMA Honors Berry for Live & Give**

- **Live & Then Give informational brochure**
- **Live & Then Give order form**
- **Making a difference: Physicians called to join organ donor awareness campaign**
  A letter from TMA President Phil H. Berry Jr., MD
- **TMA Library's Hot Topics: Physician's Role in Supporting Organ Donation**

Other sites of interest:

- AMA's organ donation Web site
- LifeGift
- Southwest Transplant Alliance
- Southwest Transplant Foundation
- Texas Organ Sharing Alliance
- United Network for Organ Sharing (UNOS) Transplantation Information Site
- Texas Department of Health news feature: Gifts of Organ, Tissues Provide a New Chance at Life, April 7, 2000

Live & Then Give is a joint initiative of TMA, TMA Alliance, TMA Foundation, and the Texas Transplantation Society.

TMA: 401 West 15th Street, Austin TX 78701 Ph:800/880-1300, 512/370-1300
TMA Web privacy statement & TMA Contacts
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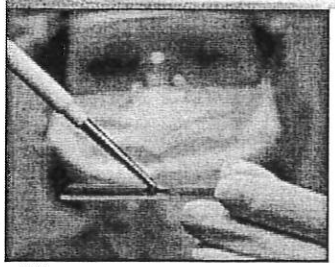

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Live & Then Give

Sign a donor card & tell your family today.

"There are so many things I've had a chance to do and so many blessings I've had. As I joined thousands on the waiting list for an organ, I thought the hardest decision had been made, until I realized there may not be someone, or some family, with enough love to give the gift of life. When a tragedy occurred in the life of a 30-year-old Brazoria, Texas, housewife, her family gave the ultimate gift of life to me, and I will be forever grateful."

Phil Berry Jr, MD
Liver recipient

The lack of organ donors is a national medical crisis with a simple cure.

The solution has nothing to do with money or legislation.
It has everything to do with people.

The Problem

Right now, more than 60,000 people in the United States are waiting for life-saving organ transplants. More than 3,000 of those people live in Texas. Every 18 minutes, another name is added to the transplant waiting list. Every 24 hours, eight people die because suitable organs are not available. Thousands of people die needlessly each year due to lack of donors. Transplantation is often the only hope for these people suffering from organ failure.

The Solution

The need for donated organs is far greater than the supply. You can save lives by deciding to be an organ donor. People who must wait for an organ from an anonymous donor live in limbo. They cannot predict whether they will live to receive an organ. A patient could get an organ donation tomorrow or wait several years. What a terrible waste to bury healthy organs rather than donate them to provide life to others in need.

Questions & Answers

To help you decide, here are the answers to some commonly asked questions about organ donation.

Q. How do I become an organ donor?
A. Complete a Uniform Donor Card and carry it with you at all times. Even more importantly, discuss your wishes with your family to ensure that your wishes will be carried out.

When family members know your wishes regarding donation, they can carry them out with peace of mind and generosity in their hearts. If they must face your death without knowing your wishes, making such a critical decision at a very difficult time is nearly impossible.

Organ donation is a family decision. Discuss it today.

Contact Laurie Reece  , Texas Medical Association Alliance, for a free donor card.

Q. Who can become an organ donor?
A. If you are 18 years of age or older, you may become a donor by signing a donor card in the presence of two witnesses and carrying it with you at all times. If you are under 18, you may become a donor if your parent or legal guardian gives consent.

Q. Will the quality of my medical care change if I am an organ donor?
A. Absolutely not. Organ donation is not even considered until all possible efforts to save a patient's life have failed. The criteria used to determine death are based on strict medical and legal standards. The determination of death must be made by doctors who are not involved in organ donation or transplantation.

Q. Do religious groups support organ donation?
A. Religious leaders around the world favor organ donation as the highest humanitarian ideal. This gift of life is consistent with the principles of most religious and ethical beliefs. If you have questions about your religion's position regarding organ donation, talk to your religious adviser.

Q. What organs and tissues can be donated?
A. One donor can benefit as many as 50 people. Needed organs include the heart, kidneys, pancreas, lungs, liver, and intestines. Tissues that can be transplanted to help others are heart valves, bone, bone marrow, skin, tendons, and corneas.

Q. Does organ donation affect funeral and burial arrangements?
A. No. The removal of organs and tissues is a sterile surgical procedure performed in the operating room, just as any surgery is done. Donation neither disfigures the body nor changes the way a person looks in a casket.

Q. What will happen to my donated organs?
A. A national system ensures the fair distribution of organs in the United States. The patients who will receive your organs and tissues will be identified based on many factors, such as blood type, length of time on the waiting list, severity of illness, and other medical criteria. Factors such as race, gender, age, income, or celebrity status are not considered when determining who receives an organ. Buying and selling organs is illegal.

Q. Is there any cost to my family for donation?
A. No. Donation costs nothing to the donor's family.

For More Information

The decision to become an organ donor is an important one. We have tried to provide answers to the questions you might have. If you have more questions or want more information on becoming an organ donor, contact one of the following organ procurement organizations:

LifeGift Organ Donation Center
5615 Kirby Dr., Suite 900
Houston, TX 77005
(713) 523-4438
(800) 633-6562

Texas Organ Sharing Alliance
8122 Datapoint Dr., Suite 1150
San Antonio, TX 78229
(210) 614-7030
(800) 275-1744

Southwest Transplant Alliance
3500 Maple Ave., Suite 800
Dallas, TX 75219
(214) 522-0255
(800) 201-0527

If you would like copies of this brochure, contact Laurie Reece at Texas Medical Association, 401 W. 15th St., Austin, TX 78701. Phone: (512) 370-1512.

Live and Then Give is a cooperative initiative of
Texas Medical Association
Texas Medical Association Alliance
Texas Transplantation Society
Texas Medical Association Foundation

TMA: 401 West 15th Street, Austin TX 78701 Ph:800/880-1300, 512/370-1300
TMA Web privacy statement & TMA Contacts
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STATE OF KANSAS
HOUSE OF REPRESENTATIVES

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STATE CAPITOL, ROOM 327-S
TOPEKA, KANSAS 66612-1504
(785) 296-7630
REPRESENTATIVE, ELEVENTH DISTRICT

COFFEYVILLE ADDRESS
601 EAST 12TH, P.O. BOX 538
COFFEYVILLE, KS 67337
(316) 251-1900 (OFFICE)
(316) 251-1864 (HOME)

JIM GARNER
HOUSE DEMOCRATIC LEADER

TESTIMONY IN SUPPORT OF H.B. 2808

Mr. Chairman and Members of the Committee:

I wish to express my strong support for H.B. 2808 which would create an organ donor registry for Kansas through our federally designated organ donor bank, the Midwest Transplant Network.

This bill is based on efforts in Michigan and Colorado to improve the effectiveness of organ donation requests. I know that Rep. Geraldine Flaharty learned about this smart idea through her service on the Council of State Government's 2000 Innovations Awards committee. In 2000, the committee selected Michigan's organ donor registry program as one of its innovation awards.

Many of us have been exploring ways to increase successful organ donations in Kansas. The proposed bill would require the Division of Motor Vehicles to include in all renewal notices for drivers licenses information about the right to make an anatomical gift and information about the organ donor registry. The division will also provide a form to the individual allowing an opportunity to be placed on the organ donor registry. For persons wishing to be placed on the registry, the DMV would forward the information to the federally designated organ procurement organization.

This is a very simple, yet effective, method to increase organ donations and to carry out the wishes of many Kansans to be organ donors. It should eliminate some of the confusion and barriers that have been encountered when trying to carry out the wishes of an organ donor.

This is a way to use a person's common encounter with government to improve organ donations.

I would strongly urge the committee to take favorable action on this legislation.

Thank you Mr. Chairman and members of the committee. I would be glad to answer any questions you may have.

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Atch #5

KANSAS PUBLIC HEALTH ASSOCIATION, INC.

KANSAS PUBLIC HEALTH ASSOCIATION, INC.
AFFILIATED WITH THE AMERICAN PUBLIC HEALTH ASSOCIATION
215 SE 8TH AVENUE
TOPEKA KANSAS 66603-3906
PHONE: 785-233-3103 FAX: 785-233-3439
E-MAIL: kpha@networksplus.net
WEB SITE: HTTP://KPHA.MYASSOCIATION.COM

Testimony presented to the House Committee on Health and Human Services
On HB 2809
By Sally Finney, Executive Director
February 18, 2002

Chairman Boston and members of the committee, I am here today representing the 500 members of the Kansas Public Health Association. KPHA is an individual membership association whose mission is to support sound public health programs and policies in Kansas. KPHA supports the intent of HB 2809, which is to protect the limited local resources of local health departments as they struggle to provide an ever-expanding array of essential health services to the public.

As you may recall, KPHA has been working diligently to obtain the cooperation of the Kansas Department of Health and Environment to update the state's list of school entry requirements to meet national standards by adding immunization against hepatitis B and varicella (chickenpox). Last fall, I met with KDHE representatives to try to reach agreement over the fiscal impact such changes might have. I was confused as to why the state needed any funds at all to pay for these vaccines when, by my reckoning, every child in the state would be covered by either a private or public funding source once these immunizations were added to the list of requirements. Mike Moser, M.D., director of health at KDHE, and Gianfranco Pezzino, M.D., state epidemiologist, explained that these programs will not cover immunization for children whose parents are employed by self-insured companies that are not subject to federal ERISA requirements, such as Boeing and Western Resources, and who earn more than income guidelines for eligibility allow. They also explained their interpretation of K.S.A. 72-5210 as requiring local health departments to use local funds designated for any purpose, not just vaccine purchase, to support immunization of these children. They explained their belief that K.S.A. 72-5210 constitutes an unfunded mandate for local governments.

In January, I met with Rep. Melvin Neufeld, who has been a staunch ally in KPHA's quest to update the immunization list, and explained the situation. He offered a simple but effective solution: amend the statute to clarify the law's intent that local governments would only need to use funds earmarked for vaccines purchase rather than for general operations or other purposes.

While KPHA supports the amendment on lines 16 and 17 of the bill, we are concerned that the change requiring local health departments to charge for school immunizations using a sliding fee scale interferes with the right of local governments to control local programs. Therefore, we ask that you amend the bill to retaining current language on line 20 and keep the decision to use sliding fee scales for immunizations in the hands of local officials.

Thank you.

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2-18-02
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LAWRENCE-DOUGLAS COUNTY HEALTH DEPARTMENT
200 Maine, Suite B
Lawrence, Kansas 66044-1357
Office: 785/843-3060 Fax: 785/843-3161
Clinic: 785/843-0721 Fax: 785/843-2930

House Committee on Health and Human Services
February 18, 2002

Testimony presented by
W. Kay Kent, RN, MS
Administrator/Health Officer
Lawrence-Douglas County Health Department

Chairman Boston and members of the committee, thank you for the opportunity to share my comments with you. I am here today on behalf of the Lawrence-Douglas County Health Department regarding HB 2809.

With one exception, I agree with the amendments made to the bill clarifying the responsibility of local health departments to provide vaccines for school entry where there is no funding designated for that purpose.

The one exception to my support of the amendments is the proposed change in line 20 stating that tests and inoculations "shall" be provided on a sliding fee whereas the previous language stated that such services "may" be provided on a sliding fee. This is of great concern to me because I believe that local health boards should be allowed to determine their administrative method for local fees as is appropriate to the service.

Furthermore, mandating a sliding fee scale for immunization administration charges would have a serious negative impact on our health department's fee revenues for the following reasons:

- KDHE requires that administrative fees be minimal. We charge a flat fee of $7.00 per immunization and currently collect 98% of our charges. No one is denied because of inability to pay.

- It is more costly to administer a sliding fee scale than a flat fee.

In closing, I urge you to not change the language from "may" to "shall" with regard to sliding fee scales. In these lean budget times, local health departments cannot afford to lose any revenues. Local health departments should be allowed to determine their own fee structure as is appropriate to the service. In addition no one is denied service due to inability to pay as required by the federal government, KDHE and already stated in the Kansas statute.

Thank you for your consideration of my concerns.

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Atch #7

KSNA
KANSAS STATE NURSES ASSOCIATION
the Voice of Nursing in Kansas

1208 SW Tyler
Topeka, Kansas 666012-1735

785.233.8638 * Fax 785.233.5222
www.nursingworld.org/snas/ks

Terri Johnson, M.S.[illegible].N.P.
President

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

For More Information Contact
Terri Roberts J.D., R.N.
troberts@sound.net
February 18, 2002

H.B. 2809 Public Health Departments

Duties, tests and innoculations or pupils enrolled in schools

Written Testimony-Support

Chairperson Boston and members of the House Health and Human Services, the KANSAS STATE NURSES ASSOCIATION supports the intent of H.B. 2809 to clarify the statutory role/responsibility of local health departments regarding school entry vaccine provision.

We are fortunate in this state to have passed (several years ago now) a "first dollar, no-copay" provision for childhood immunizations covered by private insurance carriers. We now have Healthwave that provides health insurance to medically indigent that do not qualify for Medicaid, and both of these programs provide coverage for age-appropriate immunizations for Kansas children enrolled in them. The burdens on local health departments to assume the costs of vaccine for children has been reduced significantly with these programs, however, this bill is to statutorily clarify that the local health departments are not liable to pay for vaccines to immunize children beyond those amounts allocated in their respective budgets.

We believe this to be an important provision, particularly as the immunization schedule recommended by CDC and the AMERICAN ACADEMY OF PHYSICIANS continues to evolve through the addition of new vaccines. Proper immunization status for school entry is one public health function that serves to prevent disease from vaccine preventable deaths. Meeting this goal requires a public/private partnership with parents. This statutory clarification further acknowledges this joint responsibility.

Thank you for this opportunity to support this legislation today.

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GWEN WELSHIMER
REPRESENTATIVE, EIGHTY-EIGHTH DISTRICT
SEDGWICK COUNTY
6103 CASTLE
WICHITA, KANSAS 67218
(316) 685-1930
DURING SESSION
LEGISLATIVE HOTLINE
1-800-432-3924
OFFICE: (785) 296-7687

STATE OF KANSAS

TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS

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ETHICS & ELECTIONS
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NEW ECONOMY
NATIONAL CONFERENCE OF
STATE LEGISLATURES CULTURAL &
ECONOMIC DEVELOPMENT COMMITTEE
JOINT HEALTH CARE REFORM LEGISLATIVE
OVERSIGHT COMMITTEE

February 18, 2002

TO: House Health & Human Services Committee

TESTIMONY: HB2801

HB2801 will require a medical provider to provide reimbursement to the patient within 30 days after the reimbursement is accrued on the provider's bookkeeping system.

Reimbursements are being withheld for up to four months, while billing for payment is prompt.

Passage of this bill will be a big help to constituents, particularly those who must make every dollar count.

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Donald A. Wilson
President

DATE: February 18, 2002

TO: House Health and Human Services Committee

FROM: Thomas L. Bell; Senior Vice President/Legal Counsel
Fred J. Lucky; Vice President/Finance

RE: **House Bill 2801**

The Kansas Hospital Association appreciates the opportunity to comment regarding the provisions of HB 2801. This bill requires that, in the event any health care provider is paid more than such provider is entitled to receive from a consumer, such provider shall promptly refund the overpayment amount to the consumer within 30 days from which the overpayment accrued on such provider's bookkeeping system. KHA supports the prompt repayment to consumers of funds that are contractually and legally owed. However, as our testimony indicates, HB 2801 does not accomplish this and is unworkable for several reasons.

In Kansas, only 4.1 percent of all discharges and only 2.9 percent of all patient days, come from patients classified as self pay. The other 95.9 percent of discharges have some form of insurance or government-financed coverage. Of the total dollars incurred by these patients, only 15.4 percent come from what we call "out of pocket" expenses, usually in the form of deductibles and co-insurance. It is reasonable to assume that the 4.1 percent self pay patients would seldom over pay their accounts to such a degree that a credit balance would occur. In a most "self pay" situation providers are happy to get any of the bill paid. In the event that an overpayment should happen in such a case, a prompt refund would certainly be appropriate. HB 2801, however, goes far beyond these limited circumstances and requires that other types of payment situations be examined.

For Medicare, Medicaid and SCHIP patients, the provider agreement between the state/federal government mandates the payment for services go directly to the participating provider. In the case of overpayments by the intermediary, carrier or contractor, a refund is mandated by regulation to them, not the patient. In the case of Medicare, a refund cannot be issued unless asked for and authorized by the intermediary. A hospital has to hold on to the credit balance until then. Should the patient, for some unknown reason, pay the provider in excess of the deductible/co-insurance liability before or after the intermediary/carrier pays, then, and only then, can a refund be issued to the patient. Medicare has periodic "credit balance" audits of hospitals to ensure these situations are handled properly and within established Medicare rules. Another possibility occurs when the patient has other insurance that the government contends should pay first. The government has instituted a "Third Party Liability" (TPL) program, to govern these type of overpayments. Generally speaking, the government always pays last and least.

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Attach #10

For patients with insurance from Blue Cross/Blue Shield, the contract between BC/BS and the provider mandates how credit balances are to be handled. The most common occurrence of credit balances occurs when a patient is covered by more than one insurance policy. In such a case, hospitals receive instructions from the insurers to determine which company is due the refund. Only in cases where the insurance benefits of the two payers are not subject to subrogation (usually with liability cases/slip and falls etc) would the patient be entitled to a refund.

For most, if not all other insurance claims, the subscriber of the insurance routinely "assigns the benefits" of the insurance to the provider of care. Again, credit balances could occur if the patient pays more than what would be owed after the insurance has paid, and in this type of case would be eligible for a refund. However, it is entirely possible that the patient may have other outstanding accounts with the health care provider. HB 2801 appears to prohibit the provider from using such an overpayment to satisfy the outstanding account, even if that is the wishes of the patient.

Another possibility of overpayments occurs with Worker's Compensation patients. Occasionally, providers bill the health insurance plan for the service because they are unaware it involved Workers Comp. When it is subsequently adjudicated by the Workers Comp carrier and paid, a credit balance would occur. Again, the original payment would be due to the health insurance company that paid the original bill, not the consumer (unless it was the consumer that originally paid the bill prior to filing with Workers Comp).

Finally, for patients whose insurance/entitlement program pays by Diagnosis Related Groups (DRGs), there is the distinct possibility that the DRG payment could exceed the amount of the total charges due to the way in which prospective pricing systems such as DRGs are formulated. While these situations do not occur very often statistically, they do occur, and would conflict with provisions mandated by the language on lines 14 and 15 of this proposed legislation. Hospitals handle this type of credit balance by posting a "negative contractual allowance" entry, bringing the account balance back to zero.

In conclusion, KHA supports the prompt refund of all credit balances when appropriate, however, the committee should understand that the unique "third-party" contractual relationships between payers, patients and providers requires the process to be very specific for each occurrence.

Kansas Association of Health Plans

1206 SW 10th Street
Topeka, KS 66604

785-233-2747
Fax 785-233-3518
kahp@kansasstatehouse.com

Testimony before the
House Health and Human Services Committee
Testimony on HB 2801

February 18, 2002

Chairman Boston, and members of the Committees. Thank you for allowing me to appear before you today. I am Larrie Ann Lower, Executive Director of the Kansas Association of Health Plans (KAHP).

The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and others who support managed care. KAHP members serve most all of the Kansans enrolled in a Kansas licensed HMO. KAHP members also serve the Kansans enrolled in HealthWave and medicaid HMO's and also many of the Kansans enrolled in PPO's and self insured plans. We appreciate the opportunity to provide comment on HB 2801.

During the 2000 Legislative Session, KSA 40-2440 through 40-2442 were passed. These statutes created the Kansas Health Care Prompt Payment Act. This act applies to any policy of accident and sickness insurance issued or renewed in Kansas. The law requires that a clean claim presented to a health insurance company in Kansas must be paid within 30 days or be subject to interest at a rate of 1% a month. The act also has a provision stating that if a health plan has a flagrant and conscious disregard of the act or acts with such frequency as to constitute a general business practice, the health plan shall be in violation of the unfair trade practices act.

House Bill 2801 refers to KSA 60-513d and amendments thereto as the definition of "health care provider." Included in that definition of providers is the language "a health maintenance organization." Since HMO's are required to comply with the provisions of the current prompt payment act for accident and sickness insurance (KSA 40-2440 through 40-2442), we ask that the following amendment be adopted to clarify that the provisions of this bill do not apply to HMO's.

Thank you again for allowing us to appear here and I will try to answer any questions you may have.

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Atch#11

Session of 2002

HOUSE BILL No. 2801

By Committee on Health and Human Services

2-7

AN ACT concerning health care providers; relating to prompt payments of refunds to consumers.

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

Section 1. (a) In the event any health care provider, as defined in K.S.A. 60-513d, and amendments thereto, is paid more than such provider is entitled to receive from a consumer, such provider shall promptly refund the overpayment amount to the consumer within 30 days from which the overpayment accrued on such provider's bookkeeping system. If the health care provider fails to remit the refund within the 30-day period, interest shall accrue on the amount to be refunded to the consumer at a rate of 1.5% per month.

(b) Should a consumer make a written request for such refund as provided in subsection (a) before the 30 days have passed, and such health care provider fails to make the refund within the 30 days, the interest penalty provided for in subsection (a) shall accrue from the date of receipt of the request by such provider. Should the health care provider fail to mark the date the request was received, the date of receipt shall be deemed to occur three days from the date the request was mailed.

(c) This section does not require the health care provider to make a refund to the consumer if the amount to be refunded is less than $1. In the event the amount is less than $1 such amount shall be carried as a credit on the consumer's account.

Sec. 2. This act shall take effect and be in force from and after its publication in the statute book.

, except that "health care provider" shall not include a health maintenance organization

KANSAS MEDICAL SOCIETY
KMS

623 SW 10th Avenue
Topeka KS 66612-1627
785.235.2383
800.332.0156
fax 785.235.5114

kmsonline.org

TO: House Committee on Health and Human Services

FROM: Chris Collins *Chris Collins*
Director of Government Affairs

DATE: February 18, 2002

RE: HB 2801: Prompt Payment of Health Care Providers

Ladies and Gentlemen of the Committee:

Thank you for the opportunity to voice the Kansas Medical Society's opposition to HB 2801.

It appears that HB 2801 was introduced as an attempt to remedy delays in refunds to patients. Since the health care professional's office is usually the nexus point where patients interface with the complicated health care finance system, it is understandable that those frustrated with the system, but with limited knowledge of the payment mechanism, would choose to target health care professionals' offices for remedial legislation. However, the current health care payment system is a complex and time consuming process that involves industry-specific accounting and valuation mechanisms.

The average physician, as a courtesy to his patients, and to ensure payment for procedures, files claims with his patient's insurance companies. This means that the physician usually receives no payment at all or only a small payment from the patient until the insurance claim is filed and paid. The physician's billing office then must verify whom the insurer is, whether there is a second insurance company, and in those instances, which company is primarily liable. Physician offices usually contain at least one specially trained staff member who reviews medical records and determines which procedure codes and diagnosis codes apply to the procedures done by the physician. Once the claim form is completed, it must go to the insurance company for processing. The insurance company then makes it own eligibility determinations and decides whether the claim should be paid according to the policy terms and provisions. In the case of multiple insurance coverages, the companies have to agree as to whom is the primary payor. Occasionally, insurance companies and physicians disagree regarding whether the procedure was medically necessary or coded properly. In those instances, the physician and his or her office staff serves as a patient advocate to persuade the insurance company to pay the claim. This may require that the office staff send additional medical records or contact claims processors by telephone. Sometimes the decision

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has to be appealed within the insurance company's internal appeal process. These determinations take time and require significant amounts of staff attention to resolve. In the meantime, the patient, in most instances, has made only a minimal payment on the balance due for his medical claim, while the physician office has dedicated overhead and staff time while the unpaid claim is still pending.

The payment of a medical claim is a time-consuming and expensive process involving multiple parties. The general public is usually unaware of the complexity involved in the payment process and therefore may not be able to appreciate why it cannot be accomplished as quickly or as accurately as they might prefer. However, punitive legislation against the health care professional may not be the best solution to this problem.

There is already a proliferation of federal statutes and regulations governing the payment of claims. Moreover, much of the procedure is governed by complex contracts with health care insurers. If a patient has difficulty receiving what they feel is a balance owed them, there is already more than adequate federal enforcement mechanisms. Likewise, the Board of Healing Arts has jurisdiction to discipline their licensees for unprofessional conduct such as withholding balances due.

Again, thank you for the opportunity to testify on this important matter. KMS respectfully urges the committee to defeat this bill.