

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on February 6, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Ken Wilke, Office of Revisor of Statutes  
Bev Beam, Committee Secretary  
Jill Shelley, Kansas Legislative Research Department

Conferees appearing before the committee:

Dr. James Hamilton  
Senator James Barnett  
Dr. Andy Allison, Kansas Health Policy Authority  
Cynthia Smith, Sisters of Charity of Leavenworth (written only)  
Larrie Ann Lower (written only)

Others attending:

See attached list.

The Chair called the meeting to order.

Bill Introduction

Chad Austin, Kansas Hospital Association, introduced a bill dealing with utilization review and the notification requirements for hospitals to insurance carriers.

Senator Steineger moved introduction. Senator Barnett seconded. Motion passed.

Hearing on

**SB 511- An act relating to health care; concerning the study on bariatric surgery for the morbidly obese and its effect on medical expenses and health care insurance.**

Melissa Calderwood gave an overview of the bill stating this bill requires the Kansas Health Policy Authority to conduct a study on the topic of bariatric surgery for the morbidly obese in collaboration with the Insurance Commissioner. The bill identifies issues associated with the topic of morbid obesity and bariatric surgery including emerging research evidenced on the positive impact for the morbidly obese, qualification of the patients and surgeons when the surgery is appropriate or necessary and cost analysis with insurance and medicaid reimbursement. The bill also would require the Kansas Health Policy Authority in collaboration with the Insurance Commissioner to conduct a study on the impact of extending coverage for bariatric surgery in the state employee health benefit plan, the affordability of coverage in small business employer group and high risk pool and the possibility of reinsurance or state subsidies for reinsurance. The Kansas Health Policy Authority would be required to submit a report on its findings and present this report to the joint committee on health policy oversight on or before November 1, 2008. The joint committee would then issue bills based on the study's findings. All departments, boards, agencies, officers and institutions of the state and all subdivisions thereof shall cooperate with the Kansas Health Policy Authority in carrying out its duties pursuant to this act.

The bill also states the Kansas legislature recognizes that failure to combat the medical and societal epidemic of obesity will result in higher mortality rate for the individuals with obesity and disastrous economic impact of medical expenses.

The bill came to this committee as a request from the Committee on Public Health and Welfare. The fiscal note indicates that the Kansas Health Policy Authority thinks that the studies required by the bill could be completed with existing staff and within current resources. There would be significant new expenditures if

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 6, 2008 in Room 136-N of the Capitol.

bariatric surgeries were covered in Medicaid or the State Employees Health Benefits Plan. The fiscal note stated the extent of these additional expenses cannot be estimated. The Insurance Department also provided a fiscal estimate and stated that the bill would not call for any additional personnel; however, an expenditure limitation increase of \$20,000 would be necessary to cover the cost of new software and additional actuarial services.

The Chair called Dr. James Hamilton to testify in support of SB 511. Dr. Hamilton said we need to stop thinking about obesity as a character flaw and start thinking of it as a disease. Dr. Hamilton said failure to recognize obesity as a disease will lead to failure in our efforts to combat the societal epidemic of this disease. He said diets don't work in the long term. He said the surgery is a safe, highly efficacious, cost-effective treatment for obesity in educated, highly motivated, psychologically stable patients. Dr. Hamilton said bariatric surgery reduces cardiovascular mortality by 56%; diabetes mortality by 92%; cancer mortality by 60%; and overall mortality by 405. Dr. Hamilton continued that bariatric surgery cures type II diabetes in 70% of patients. He added that bariatric surgery is cost-effective and is now a covered benefit for qualified Medicare recipients when surgery is performed at Bariatric Centers of Excellence. He said barriers to this treatment are a societal bias against the obese, failure of government and insurance to recognize obesity as a disease and, lack of insurance coverage for treatment, especially for bariatric surgery. He said he would not perform these surgeries if they were strictly for cosmetic reasons. We have to look at this not only as an obesity operation but a metabolic surgery. (Attachment 1)

Senator James Barnett testified that he was contacted by Justin Cessna of Wichita, Kansas. He said Justin suffers from morbid obesity and multiple complications, including sleep apnea syndrome, congestive heart failure, and diabetes. He said his physicians have advised him that his only hope for long-term survival is bariatric surgery. He said despite being employed and insured, Justin lacks insurance coverage for the procedure. Senator Barnett said Mr. Cessna has asked the Kansas legislature to assist him with this matter. He said successful passage of SB 511 would require a study by the Kansas Health Policy Authority regarding the risks and benefits of bariatric surgery. Senator Barnett said it would also carefully evaluate those patients who have indications for the surgery as well as those surgeons who should perform the surgery. He continued that when these procedures are performed in Centers of Excellence, the mortality rate is less than .3%. He said recent studies from the New England Journal of Medicine and Journal of the American Medical Association have demonstrated long-term cost savings and a 73% cure rate of Type 2 diabetes from bariatric surgery. Senator Barnett requested passage of SB 511. (Attachment 2)

Dr. Andy Allison, Kansas Health Policy Authority, testified supporting SB 511. Dr. Allison said prior to plan year 2008, all treatment for obesity was excluded from coverage under the State Employee Health Plan. Dr. Allison said Medicaid reimbursed for weight-loss medications but excluded coverage for bariatric surgery. He continued that the Health Care Commission considered coverage for bariatric surgery in 2006. He said consistent with KHPA initiatives in the area of prevention and wellness, HCC decided to cover preventive an non-invasive obesity treatment for 2008. Dr. Allison said obesity and overweight are an epidemic in the United States and in Kansas. He said there is increasing costs for chronic diseases due to overweight and obesity. Dr. Allison concluded stating the Kansas Health Policy Authority programs remain open to revisiting coverage for bariatric surgery. He said KHPA health reform recommendations address prevention, wellness, and value of medical homes. (Attachment 3)

Written testimony submitted by Sisters of Charity of Leavenworth Health System is attached. (Attachment 4)

Written testimony submitted by Larrie Ann Lower on behalf of Kansas Association of Health Plans is attached. (Attachment 5)

The meeting adjourned at 10:30 a.m.



## Senate Hearing on Bariatric (Weight Loss) Surgery

- Obesity is a disease!
  - Genetic factors
  - Cultural factors
  - Environmental factors
  - Behavioral factors
- Obesity is not:
  - A character flaw
    - Obese patients have the same psychiatric profiles as the overall population
  - A lack of willpower
    - Obese patients are frequently highly successful dieters, but lack the autoregulation to maintain weight.
- Failure to recognize obesity as a disease will lead to failure in our efforts to combat the societal epidemic of this disease.
- Diets don't work in the long term.
  - There is little data to support that dieting can sustain significant weight loss for more than 15% of patients for longer than 18 months.
  - If diets were pharmaceuticals, the FDA would not approve them because they are about as effective as the placebos in most pharmaceutical trials.
- Surgery is a safe, highly efficacious, cost effective treatment for obesity in educated, highly motivated, psychologically stable patients.
  - Bariatric Surgery reduces:
    - Cardiovascular mortality by 56%
    - Diabetes mortality by 92%
    - Cancer mortality by 60%
    - Overall mortality by 405
      - Adams, et al. U. of Utah, NEJM
    - Swedish Study
    - 10 year follow-up 29% reduction in deaths from all causes
      - Sjostrom et al. Gothenburg University, Sweden, NEJM
  - Bariatric Surgery cures type II diabetes in 70% of patients!
    - Weight loss surgery more effective than standard therapy in treating type II diabetes
      - 70% remission with surgery, vs 13% with medical therapy
      - "The insights already beginning to be gained by studying surgical interventions for diabetes may be the most profound since the discovery of insulin." JAMA, Jan 2008
  - Bariatric surgery is cost-effective
  - Bariatric surgery is now a covered benefit for qualified Medicare recipients when surgery is performed at Bariatric Centers of Excellence
- Barriers to treatment
  - Societal bias against the obese
  - Failure of government and insurance to recognize obesity as a disease
  - Lack of insurance coverage for treatment, especially for bariatric surgery
- Personal Comments

*FI&I Committee  
February 6, 2008  
Attachment 1*

- Laparoscopic Roux-en-Y gastric bypass in August 2005
- Lost 80 lbs
- No longer hypertensive, no longer have metabolic syndrome, no longer have sleep apnea (required CPAP before surgery)
- Now climb mountains and have a new life!
- Paid \$27000.00 in cash as my insurance (BCBS of KS) does not cover weight loss surgery.
  - BCBS of KS refused to write a policy at any price to cover this surgery as a benefit to our employees when we requested them to do so.
  - BCBS of KS has failed as a Medicare intermediary and as an intermediary for other BCBS plans in processing claims for bariatric surgery for those who have it as a covered benefit.
- Bariatric surgery
  - Is best performed in a comprehensive program which often includes
    - Pre-operative screening and education
    - Operative excellence with experienced surgeons who perform laparoscopic and open procedures tailored to patient needs
    - Designation as a Bariatric Center of Excellence by the SRC or the American College of Surgeons
    - Long term post operative follow-up to maintain weight loss and prevent nutritional deficits

*FI&I Committee  
February 6, 2008  
Attachment 1-2*

TESTIMONY FOR SENATE COMMITTEE  
FINANCIAL INSTITUTIONS AND INSURANCE

SENATOR JAMES BARNETT

February 6, 2008

**SB 511 - Study on bariatric surgery by the Kansas health policy authority; necessity and effect of bariatric surgery for the morbidly obese, impact on health insurance and cost analysis.**

Chairman Teichman and other distinguished members of the Committee, thank you for the opportunity to speak in support of Senate Bill 511.

Last summer, I was contacted by Justin Cessna, Wichita, Kansas. Justin suffers from morbid obesity and multiple complications including sleep apnea syndrome, congestive heart failure, and diabetes. His physicians have advised that his only hope for long-term survival is bariatric surgery. Despite being employed and insured, he lacks insurance coverage for the procedure.

Mr. Cessna has asked for the Kansas legislature to assist him with this matter. Successful passage of SB 511 would require a study by the Kansas Health Policy Authority regarding the risks and benefits of bariatric surgery. It would also carefully evaluate those patients who have indications for the surgery as well as those surgeons who should perform the surgery. When these procedures are performed in Centers of Excellence, the mortality rate is less than .3%. Recent studies from the New England Journal of Medicine and Journal of the American Medical Association have demonstrated long-term cost savings and a 73% cure rate of Type 2 diabetes from bariatric surgery.

Thank you for the opportunity to speak in support of this bill. I request your careful consideration and passage of SB 511.

*FI&I Committee  
February 6, 2008  
Attachment 2*





Senate Financial Institutions &  
Insurance Committee:  
SB 511 – Study on Coverage for  
Bariatric Surgery

February 6, 2008

Andrew Allison, PhD  
Deputy Director  
Kansas Health Policy Authority

1

## History

- Prior to Plan Year 2008, all treatment for obesity was excluded from coverage under the State Employee Health Plan (SEHP)
- Medicaid reimbursed for weight-loss medications but excluded coverage for bariatric surgery
- The Health Care Commission (HCC) considered coverage for bariatric surgery in 2006
- Consistent with KHPA initiatives in the area of prevention and wellness, HCC decided to cover preventive and non-invasive obesity treatments for 2008 under SEHP

2

*FI & I Committee  
February 6, 2008  
Attachment 3*

1

## Health Care Commission Review of Bariatric Surgery in 2006

- Findings:
  - Preventive, non-invasive treatment not covered at that time
  - Relatively high incidence of complications and even death
  - Morbidity and mortality vary considerably with experience of surgeon and hospital
  - No Centers of Excellence in Kansas
  - Long-term cost-effectiveness not yet demonstrated

3

## Health Care Commission Review of Bariatric Surgery in 2006

- KHPA Staff Recommendations for State Employee Health Plan (SEHP):
  - Educate consumers on available options for promoting wellness and addressing weight problems
  - Review SEHP plans for 2008 to examine possible expansion in preventive benefits
  - Review HealthQuest program to consider initiatives in the following areas:
    - Physician-supervised weight management
    - Behavior modification
    - Healthy eating
    - Exercise
  - SEHP and Medicaid Staff review of bariatric surgery exclusion
    - Retain exclusion of bariatric surgery

4



## State Employee Health Plan Changes in 2008

- Provide coverage for non-surgical treatment of obesity
- Expanded coverage for consultation with a dietitian
  - Coverage not limited to diabetics
- Added coverage for prescription weight loss medications

5

## HealthQuest for 2008

- Healthy Lifestyle Programs Includes:
  - Healthy eating and weight management information
  - Health coaches to provide ongoing support
  - Teleclass: Healthy Weight
  - Online class and tools

6

## Medicaid

- Continues to provide reimbursement for prescription weight-loss medications with prior authorization
- Provides for reimbursement for medical nutrition therapy for children under the KanBeHealthy program

7

## New Developments

- Kansas now has two Centers of Excellence for bariatric surgery as designated by the American Society for Bariatric Surgery
- Centers for Medicare & Medicaid Services (CMS) has 3 certified centers in Kansas to provide bariatric services to Medicare beneficiaries
  - Limited geographic area
- Continued increase in insurance coverage and prevalence of bariatric surgery
- Explosion in research
  - Emerging evidence of the positive health impact for the extremely obese
  - Continued advancement in procedures and knowledge of quality indicators

8

## Additional Considerations

- Estimated cost of coverage for the State Employee Health Plan:
  - \$13 Million annually
  - Estimate depends on pre-certification requirements
- Additional costs of coverage in Medicaid

9

## Summary

- Recognized Problem:
  - Obesity and overweight epidemic in U.S. and in Kansas
  - Increasing costs for chronic diseases due to overweight and obesity
- KHPA Health Reform Recommendations:
  - Emphasize value of preventive care
  - Emphasize benefits of medical homes in caring for chronic diseases
    - Smoking
    - Overweight and obesity
- KHPA Policies for Coverage of Obesity
  - KHPA programs remain open to revisiting coverage for bariatric surgery
  - Health reform recommendations address prevention, wellness, and value of medical homes

10

3-5



## Written Testimony on Senate Bill 511

*Study on Bariatric Surgery for the Morbidly Obese  
and its effect on medical expenses and health care insurance*

The Sisters of Charity of Leavenworth religious community was founded in 1858 by Mother Xavier Ross and the early Sisters responding to a call for health and social services in the ranching and mining communities throughout the Western states. From such humble origins, these committed women built the **SCL Health System**, which is made up of nine hospitals and four stand-alone clinics located in the states of Kansas, California, Colorado, Montana and California.

**SCL Health System operates three hospitals in Kansas – St. Francis Health Center in Topeka, Providence Medical Center in Kansas City, Kansas, and Saint John Hospital in Leavenworth – as well as three safety net clinics.**

**SCL Health System strongly supports Senate Bill 511.**

Attached is a letter from Michael E. Schrader, CEO of St. Francis Health Center in Topeka, to Senator Barnett, provided to the Senate Public Health and Welfare Committee last month during an informational hearing on the subject of the benefits of bariatric surgery. **St. Francis Health Center is an ABMBS Center of Excellence for Bariatric Surgery.** St. Francis Health Center and SCL Health System believe a study of bariatric surgery is warranted and will demonstrate that improving access to this procedure through government (Medicaid) and private insurance coverage would be cost effective and improve the quality of life of patients who suffer from obesity and related illnesses.

*Respectfully submitted,  
Cynthia Smith  
Advocacy Counsel*

*FI & I Committee  
February 6, 2008  
Attachment 4*



*Sisters of Charity of Leavenworth Health System*

*Office of the President/CEO*

January 17, 2008

Senator James Barnett, Chairman  
Senate Public Health and Welfare Committee  
State Capitol Building  
Topeka, Kansas 66612

Dear Senator Barnett:

St. Francis Health Center and Tallgrass Surgical Specialists have been working diligently over the past two-plus years to establish a Center of Excellence for Bariatric Surgery. Our efforts were rewarded this past April, when St. Francis Health Center and Tallgrass Surgical Specialists were approved by the American Society of Metabolic and Bariatric Surgery (ASMBS) to be recognized as an ASMBS Center of Excellence.

St. Francis Health Center's support of bariatric surgery is based on the outcomes research that has been conducted on the beneficial results of this surgery. This research, coupled with the current knowledge that obesity is a pathway to multiple chronic illnesses, and premature death, brings us to our position of support for bariatric surgery. Annual costs of medical care are 37% higher for obese patients than for those of normal weight. Obese individuals spend 77% more on medications than do people of normal weight.<sup>1</sup> Clearly an increase in the patient's quality of life with the added benefit of lower overall health care costs, are compelling reasons to support the inclusion of bariatric surgery in any array of covered health care services.

---

<sup>1</sup> Finkelstein, EA, Fiebelkorn IC, Wang G. National Medical spending attributable to overweight and obesity: How much, and who's paying? Health Affairs Web Exclusive. 2003; W3:219-226.

Senator James Barnett  
January 17, 2008  
Page 2

St. Francis Health Center supports an open dialogue concerning the efficacy of bariatric surgery; the cost benefit to the patient and the community; and most importantly, the increased quality of life and productivity experienced by the recipients.

Sincerely,



Michael E. Schrader  
President/CEO

Larrie Ann Lower  
Attorney at Law  
212 SW Eighth Avenue Suite 201  
Topeka, KS 66603  
785-640-2747  
larrie\_ann@yahoo.com

---

Testimony before the Senate Financial Institutions and Insurance Committee

SB 511

Kansas Association of Health Plans

February 6, 2008

Madam Chair and members of the Committee. 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 other entities that are associated with managed care. KAHP members also serve the Kansans enrolled in HealthWave and Medicaid managed care and also many of the Kansans enrolled in PPO's and self insured plans. We appreciate the opportunity to provide comment on SB 511 which requests a study on the issue of obesity and the potential cost impact should the state provide coverage of bariatric surgery to the state employees and the affordability of this coverage in the small employer group market.

As most of you know many times each year, the KAHP stands before you in opposition to bills requesting that insurance companies be mandated to cover certain benefits. These requests range from wigs for cancer patients, hearing aids for children and nutritional supplements to clinical trials and mental health to name only a very few. The proponents generally have real stories of financial struggles resulting from a decision by an insurance company or employer not to provide coverage for certain procedures or items. Testifying on these issues is never easy and usually controversial, however, we must continue to express the concerns we have for our customers about the potential for rising premiums due to these requests for additional coverage. In the past, KAHP consistently testifies in opposition to the proposed mandate, but caveats the potential passage of mandates with a request that the proponents meet certain requirements set out in statute designed to protect consumers from potential cost increases. SB 511 does just that and we commend Sen. Barnett and the proponents for following these valuable protections. One statute requires a cost impact report be performed prior to the legislature considering a mandate bill (KSA 40-2248). A second

*FI&I Committee  
February 6, 2008  
Attachment 5*



requires the testing of any new mandate first on the state employees' health plan in order to help determine its cost impact, commonly called the "test track" legislation (KSA 40-2249a). Each mandate has some merit. One particular mandate may not have significant cost increases associated with it for one reason or another, however taken together mandates add to the cost of health insurance premiums. The cost impact study and the test track legislation provide safety valves to help protect your constituents and our policyholders from unnecessary state mandates.

Again thank you for allowing us to testify and I'll be happy to answer any questions you may have.