

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairperson Rep. Robert Tomlinson at 1:05 p.m. on May 2, 2001 in Room 527-S of the Capitol.

All members were present except: Rep. Garry Boston
 Rep. Joe Hummerickhouse
 Rep. Bonnie Sharp
 Rep. Jene Vickery

Committee staff present: Bill Wolff, Legislative Research
 Ken Wilke, Legislative Revisor
 Mary Best, Committee Secretary

Conferees appearing before the committee: Ms. Patricia Dengler, Wichita Center for Graduate Medical Education

Others attending: See Attached Guest List

SB 366 - Health Care Provider Insurance Availability Act.

Upon calling the meeting to order, the Chairman recognized Ms. Patricia Dengler. Ms. Dengler gave Proponent Testimony to the committee on **SB 366**. A copy of the testimony is (Attachment #1) attached hereto and incorporated into the Minutes by reference. Ms. Dengler, attorney for WCGME, gave an overview of the bill and the proposed changes to the bill. She gave a brief overview of WCGME and how they function. She also explained the “residents of the program are called “health care providers” and are residents of Wichita.” These care providers are provided with professional liability coverage through the Health Care Stabilization Fund for both basic and excess coverage mandated by statute. Ms. Dengler continued on to explain the “in-kind” contribution payment from the State and the annual surcharge payment made by WCGME to the “Stabilization Fund on behalf of the employees and residents. “

Ms. Dengler continued on to explain the liability risks the residents and the program are exposed to due to their services. They have sought to minimize that risk by clarifying that they will not be engaged in any of the supervision of the residents. She then informed the committee that WCGME has been named as a defendant in a medical malpractice liability cases. Thus the request for changes to “define WCGME as a “health care provider,” as well as the other amendments.” She felt if this were done WCGME could access professional liability coverage through the Fund, a prudent action in light of pending cases. If they are not allowed to make these changes the commercial insurance companies will not cover them without covering employed residents. She continued on to explain the pending law suits.

She continued on to explain that they have now found that the information from the Fund was incorrect due to a clerical error and WCGME is not covered by the Fund. In addition, WCGME has ben named in a third lawsuit, which again alleges negligent supervision and training. Researching the issue it was found tat other residency programs sponsored or affiliated with the University or community hospitals and administered by not-for-profit corporations need clarification in this same matter regarding the “health care providers.” She then named the other entities involved.

The legislation she is proposing would clarify the situation for the Foundations in addition to helping WCGME situation. Included in her testimony was a copy of the proposed changes and statutes involved. She then stood for questions from the committee. Questions were asked by Representatives Mayans, Edmonds, and the Chairman. These proposals would make the coverage retroactive to July 1, 1997.

Written testimony only was presented by Bradley W. Marples, M.D., Kansas Medical Education Foundation, and Charles Allred, M. D., Smoky Hill Family Practice Residency Program. Copies of their testimonies are (Attachment #'s 2 & 3) attached hereto and included into the Minutes by reference.

The meeting then turned to the committee to work the bill. Representative Mayans made the motion to make the Act retroactive to July 1, 1997. The motion was seconded by Representative Grant. There was discussion on the bill as to whether this would pertain to waiving all or part of the back surcharge. The motion was clarified, suggesting placing a section into the bill making sure there would be no surcharge for the prior years. A section on creation of funding was not made retroactive (section 2, lines 4-30, page 11). It was also suggested no premium surcharge be required for periods prior to the effective date the act. This also covers the concern where the foundation stated it would waive prior payments. Representative Edmonds made the sub-motion to specifically name the three Foundations involved, and felt the terminology being used was too broad. The motion was seconded by Representative Huff. After more discussion the sub-motion failed 4-8. The committee was back on the motion to pass the bill out favorably as amended. A vote was taken and the motion passed.

The meeting was adjourned at 2:10 p.m.