

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE.

The meeting was called to order by Chairperson Al Lane at 9:07 a.m. on January 30, 2001 in Room 521-S of the Capitol.

All members were present except: Rep. Broderick Henderson - excused
 Rep. Rick Rehorn - excused

Committee staff present: Bob Nugent, Revisor of Statutes
 Rena Jeffries, Revisor of Statutes
 Jerry Donaldson, Legislative Research Department
 Bev Adams, Committee Secretary

Conferees appearing before the committee: Sam Sellers, Kansas Assn. of Insurance Agents
 Tim Madden, Dept. of Corrections
 Roger Aeschliman, KDHR
 Phil Harness
 Rep. Nancy Kirk
 Steve Rips, injured worker
 Jeff Cooper, KTLA
 Mitch Wulfekoetter, KS AFL/CIO
 Pat Bush - Kansas Self Insurers Assn.
 Terry Leatherman - KCCI
 Brad Smoot - American Insurance Assn.
 Jerry Slaughter - Kansas Medical Society

Others attending: See attached list

Introduction of Bills

Sam Sellers, Kansas Association of Insurance Agents, requested that a bill be introduced that would amend K. S. A. 44-559a, concerning the workers compensation insurance deductible option. (Attachment 1) Rep. Humerickhouse made a motion to introduce the requested bill as a committee bill. The motion was seconded by Rep. Grant. The motion carried.

Tim Madden, Department of Corrections, requested the introduction of a committee bill that would amend K. S. A. 75-4362, concerning the state drug screening program. (Attachment 2) A motion was made by Rep. Johnson to introduce the proposed bill as a committee bill. It was seconded by Rep. Levinson. The motion passed.

Roger Aeschliman, Deputy Secretary, Kansas Department of Human Resources (KDHR), brought before the committee a request to introduce four proposed bills: 1) concerns the Kansas Wage Payment Act at K. S. A. 44-324, 2) an amendment to K. S. A. 74-6703 concerning ex-officio members of the Kansas Commission on Disability Concerns, 3) Amendment to K. S. A. 74-710a(a), which describes how employers will be classified for the purpose of establishing UI tax rates, and 4) an amendment to K. S. A. 74-6502, which creates the Kansas Advisory Committee on Hispanic Affairs. (Attachment 3) Rep. Johnson moved that the four proposed bills be introduced as four committee bills. Rep. Ruff seconded the motion. The motion carried.

Hearing on: HB 2087 - Workers compensation; release of medical data restricted

Chairman Lane opened the hearing by introducing Phil Harness, Director of the Division of Workers Compensation, who explained the consequences of the bill.

Mr. Harness stated that the bill, as presently drafted, would present a dramatic change from the way discovery is

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.

CONTINUATION SHEET

MINUTES OF THE HOUSE BUSINESS, COMMERCE AND LABOR COMMITTEE, Room 521-S
Statehouse, at 9:07 a.m. on January 30, 2001.

being done in Kansas workers compensation. The bill would limit the respondent employer and/or its insurance carrier from inquiring into a claimant's medical history except for medical records which are "directly related to" the "injury or disability which is the subject of the claim or to a prior compensable injury" even if there is a release by the injured worker. ([Attachment 4](#))

Rep. Nancy Kirk had the bill introduced at the request of a constituent and her growing awareness of the importance of the privacy of medical records. The medical records unrelated to the injury are currently unprotected for all workers. ([Attachment 5](#))

Steve Rips, the injured worker for whom **HB 2087** was introduced, appeared before the committee to tell his story. He was assisted by Rep. Kirk. His refusal to sign a medical authorization resulted in his not receiving compensation for his injury. It is his belief that Kansas laws governing workers' compensation need to be adjusted to take into consideration the federal act that protects Americans with disabilities. ([Attachment 6](#))

Jeff Cooper appeared before the committee on behalf of the Kansas Trial Lawyers Association (KTLA) as a proponent of the bill. The association believes the bill addresses some very important concerns regarding privacy of the contents of medical records and provides a starting point for addressing the concerns. Mr. Cooper ended his testimony by answering questions from the committee. ([Attachment 7](#))

Mitch Wulfekoetter, Kansas AFL/CIO, appeared as a proponent of the bill. They support the concept of privacy for injured workers that the bill addresses. He stated that Steve Rips is a good example of the problem. It is very important to a lot of people that their complete medical records not be opened for all to see. He concluded his testimony by answering questions. ([Attachment 8](#))

Pat Bush, Kansas Self Insurers Association, appeared as an opponent of **HB 2087**. He feels that the bill would limit access to medical records even when an authorized release is obtained from the injured worker. The health care providers will be burdened with deciding what notes to send. The association believes it will have the most negative impact on the injured worker, as medical treatment will be delayed. ([Attachment 9](#))

Terry Leatherman, Kansas Chamber of Commerce and Industry (KCCI), testified as an opponent to the bill. He explained that the goal of workers compensation is to get the worker treated and back to work quickly after an injury. The KCCI feels that the bill may impede this process and be a detriment of employers and workers. They feel that a serious problem does not exist within the workers compensation system regarding the medical history disclosure. ([Attachment 10](#))

Brad Smoot, American Insurance Association, appeared as an opponent of the bill on behalf of their member companies and those they insure. They believe that: 1) the phrase "directly related" is vague and begs for confusion, delay and litigation, 2) the bill fails to identify a procedure for adjudicating a disputed request for medical information, and 3) the bill could unnecessarily complicate medical records handling in Kansas. ([Attachment 11](#))

Jerry Slaughter, Kansas Medical Society, stated that they do not have a position on **HB 2087**. They do question how a physician will decide what records are relevant and who is liable for releasing the wrong records or too much information.

Chairman Lane asked if there were others in the audience who wished to testify for or against **HB 2087**. There was no response and he closed the hearing on the bill.

Chairman Lane announced that the bill would be referred to the Workers Compensation Advisory Council.

The meeting was adjourned at 10:30 a.m. The next meeting is scheduled for Wednesday, January 31, 2001.

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.