

MINUTES OF THE SENATE HEALTH CARE STRATEGIES COMMITTEE

The meeting was called to order by Chairperson Susan Wagle at 1:00 P.M. on February 5, 2008 in Room 136-N of the Capitol.

Committee members absent: Senator David Haley- excused
Senator Nick Jordan- excused

Committee staff present: Ms. Emalene Correll, Kansas Legislative Research Department
Ms. Nobuko Folmsbee, Revisor of Statutes Office
Ms. Renae Jefferies, Revisor of Statutes Office
Ms. Margaret Cianciarulo, Committee Secretary

Conferees appearing before the committee: Mr. Steve Eddy
Mr. Larry Wall, Trial Lawyer

Others in attendance: Please see attached guest list

Hearing on Board of Healing Arts responsiveness to complaints from the public

Upon calling the meeting to order, Chairperson Wagle referred the Committee to handouts that make reference to the Board of Healing Arts:

1. Performance Audit Report (06PA10), Board of Healing Arts: Reviewing Issues Related to Complaint Investigations, Background Investigations, and Composition of the Board;
2. Follow-Up Report: Adoption of Audit Recommendations by Agencies Audited During Calendar Year 2006; Legislative Post Audit Committee and the Legislative Division of Post Audit, pages 10 and 11; and,
3. Indictment of Dr. Stephen Schneider.

The Chair then called upon the first conferee, Mr. Steve Eddy from Olathe, Kansas, who stated that the Kansas State Board of Healing Arts (BHA) has continued to fail to meet general responsibilities due to:

1. Failure to investigate citizen claims against doctors in a timely fashion which increases the potential of placing citizens at future risk; and,
2. Failure to communicate with citizens who have filed claims against doctors resulting in the potential for citizens to believe their claims have been for naught and discouraging future constructive claims.

Mr. Eddy then offered the story of his wife's misdiagnosis of breast cancer by Dr. Schroll, her treatments, and surgeries, which led to their writing the BHA with the request that the improper treatment by Dr. Schroll be investigated to determine if his actions could be construed as negligence.. He offered testimony of the two-year attempt, beginning in December, 2005, to inquire on the status of the claim and the responses they received from the BHA. A copy of his testimony is (Attachment1) attached.

The Chair then asked if there were questions from the Committee for Mr. Eddy. Senator Wagle asked if there was no disciplinary action for misdiagnosis as of the week before Christmas, 2007? Senator Barnett had three questions:

1. To Mrs Eddy regarding the concern they bring to the Legislature, how much of her concern is about the lack of communication as opposed to what she thinks is a lack of responsiveness to their original concern which is a misdiagnosis?
2. To Mr. Eddy, one of the concerns the Committee received in the first audit report has caused many of

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the members to review again a policy that requires a pattern of events, not just a single event. Were they told this is why this case was delayed?

3. For the both of them, one of the things the members of the Committee are concerned with is do we need to change or encourage change in terms of does it take 3 events to trigger an investigation. Are there graduated events or levels of severity that should trigger the Board looking at a greater offense.

Senator Wagle concluded the questioning by asking "you didn't have any evidence of any follow through until after you mailed Senator Brownlee?"

As there were no further questions for Mr. and Mrs. Eddy, the Chair then called upon the second conferee, Mr. Larry Wells, Trial Lawyer from Wichita, Kansas who stated that the delay in the investigation and prosecution of Dr. Stephen Schneider by the Kansas Board of Healing Arts reinforces his belief that the BHA needs radical reform from top to bottom. He then stated he was supplementing and correcting some of the information provided to the Committee by Mr. Buening on January 22, 2008.

He concluded his testimony by offering three remedies:

1. Suggest that the Committee consider legislation to revamp the membership of BHA as, he felt, should not be dominated by doctors, but by citizens who are unbiased.
2. The policies and procedures followed by the Board need to be rewritten. (The complaining patient should not be left in the dark, informed of all information received from the doctor, and should be allowed to analyze the doctor's response instead of being told it is privileged information.
3. The Board's staff should be thoroughly examined as to competency and diligence.

A copy of his testimony and his attachments are (Attachment 2) attached.

The Chair then asked for questions from the Committee which came from Senators Brungardt, Barnett, Journey, and Wagle ranging from:

- Do you think at the time, Dr. Schneider was a member of the Kansas Medical Society?
- What are your fees and percentages? When did you start representing the families and how much are you suing for? And for transparency purposes, is it \$500M/case the maximum from your lawsuit? How many cases do you have? And are you interested in getting all 50 or all 80?
- Is the statute of limitations on these matter 2 years?
- Have you had the opportunity to review the post audit report?

Adjournment

As there were no further questions of Mr. Wells, the meeting was adjourned. The time was 2:28 p.m.

The next meeting is scheduled for February 6, 2008

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