

Approved: March 23, 1993
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson William Bryant at 3:30 p.m. on March 16, 1993 in Room 527-S of the Capitol.

All members were present except:

Committee staff present: William Wolff, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Chip Wheelen, Kansas Medical Society
Joe Furjanic, Kansas Chiropractic Association
Dick Brock, Insurance Department
Bob McDaneld, Emergency Medical Board
R. E. "Tuck" Duncan, Medevac Medical Services

Others attending: See attached list

Hearing on SCR 1605 - Relating to utilization review of health care services

Chip Wheelen, Kansas Medical Society, asked that the Committee support this bill which would request the Insurance Commissioner to conduct a study and make recommendations which could establish uniform standards, criteria and procedures applicable to utilization review organizations (Attachment 1). Concern over unregulated and widely unaccountable utilization review and trying to comply with several different sets of utilization review criteria were mentioned by Mr. Wheelen.

Joe Furjanic, Kansas Chiropractors Association, expressed support of the proposed request.

Dick Brock, Insurance Department, related the history and recommendations of a 1990 interim committee which allowed a private, cooperative, initiative of utilization review organizations to proceed with the development of a voluntary standardization and certification program (Attachment 2). The Joint Committee on Health Care Decisions of the 1990s found the results satisfactory. The proposed study should attempt to determine the identity of organizations and individuals insurers are relying on for "insurance related" utilization review functions.

Hearing on SB 70 - Peer review of health care providers

Chip Wheelen, Kansas Medical Society, stated that the bill was requested in order to protect privileged information that is often requested of physicians in order for them to be credentialed by an insurer prior to entering into a participation agreement (Attachment 3). If the physician refuses to provide the requested information which might be details of litigation in progress, the insurer may refuse to establish a participation agreement which may cause patients a lack of continuity in their medical care and/or access problems. This bill would define insurers which engage in peer review functions so that their peer review records and findings would be protected from legal discovery.

Bob McDaneld, Administrator of the Board of Emergency Medical Services, stated support for the bill (Attachment 4). Currently ambulance service operators are reluctant to document quality assurance programs in their services because of concerns that information developed in these programs is subject to disclosure. Passage of the bill would alleviate these concerns.

R.E. "Tuck" Duncan, General Counsel for Medevac Medical Services, stated support of the bill, particularly the amendment which extends to emergency medical service attendants and ambulance services the provisions of peer review (Attachment 5).

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 527-S Statehouse, at 3:30 p.m. on March 16, 1993.

Representative Minor moved for the favorable passage of SB 22. The motion was seconded by Representative King. Motion carried.

Representative Cornfield moved for the acceptance of the proposed amendment to SB 25 (Attachment 6) Representative Neufeld seconded the motion. The motion carried. The Insurance Commissioner would be designated to decide a reasonable interest rate and the interest would begin on the day the complaint is stamped into the Insurance Commissioner's office. Representative Cornfield moved that the bill be passed as amended. Representative Gilbert seconded the motion. The motion carried.

Representative Helgersen moved that SB 26 be passed to the Consent Calendar. Representative Minor seconded the motion. The motion carried.

Representative King moved to pass SB 105 favorably from Committee. Representative Neufeld seconded the motion. The motion carried.

Representative Cox moved for the acceptance of the minutes for March 11 and 15, 1993. Representative Crabb seconded the motion. The motion carried.

The meeting adjourned at 4:45 p.m. The next meeting is scheduled for March 17, 1993.

COMMITTEE:

House F.D.D

DATE: 3/16

[illegible]



KANSAS MEDICAL SOCIETY

623 SW 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

March 16, 1993

TO: House Financial Institutions and Insurance Committee

FROM: Chip Wheelen
Director of Public Affairs *Chip Wheelen*

SUBJECT: SCR 1605; Relating to Utilization Review of Health Care Services

The Kansas Medical Society appreciates the opportunity to appear in support of SCR 1605, which would ask the Insurance Commissioner to conduct a study and make recommendations which could establish uniform standards, criteria and procedures applicable to utilization review organizations. We believe the establishment of uniform standards for utilization review organization activities is essential, and a task force with broad representation appears to be a workable process for developing legislative recommendations.

For several years the Kansas Medical Society has been concerned about the unregulated and widely unaccountable utilization review of health care services by some insurance companies or their contract review agencies. When utilization review organizations are not accountable for determinations they make as to the medical necessity of recommended services or procedures, the ability of the treating physician to provide the appropriate level of care can be adversely affected.

Additionally, complying with several different sets of utilization review criteria can be extremely frustrating and costly to individual health care provider's offices. It is not uncommon for a medical clinic to have to deal with dozens of health insurance plans, all of which may utilize different standards and criteria for authorizing the providing of care to one of their insureds. This results in clinics having to hire additional clerical and professional staff to deal with a maddening and complex array of utilization review requirements.

While utilization review itself is controversial, and some will argue that it may add total costs to the system instead of reducing them, it appears to be here to stay. In fact, as more and more health plans move towards a managed care concept, we expect the reliance on utilization review practices to increase, not decrease. In that context, the more we can do to promote standardized utilization review practices, involving explicit criteria and review and appeal procedures, the more efficient the systems will become, with less cost and hassle to health care providers and patients alike.

We believe the process outlined in SCR 1605 has the potential to develop specific legislative recommendations which can result in a clear, concise structure under which utilization review will be conducted in this state. We hope to participate in the study and look forward to that opportunity. We appreciate the chance to offer these comments, as you consider SCR 1605 and we urge you to recommend adoption.

CW:ns

House Dkt

Attachment 1

March 16, 1993

Testimony on
Senate Concurrent Resolution No. 1605

by

Dick Brock

Kansas Insurance Department

As you probably know, a 1990 interim committee looked at the issue of utilization review organizations. This interim committee opted to allow a private, cooperative, initiative of utilization review organizations themselves proceed with the development of a voluntary standardization and certification program before giving further consideration to the imposition of statutory requirements or restrictions.

During this past interim, the Joint Committee on Health Care Decisions for the 1990s reviewed the progress of this private initiative and found the progress to be satisfactory. As a result, the Joint Committee recommended that no further action to create a state mandated regulatory system be taken. However, having followed the past legislative efforts on this subject and being at least indirectly exposed to actual situations involving utilization review, I keep encountering "names" and organizations I've never heard mentioned in previous testimony. This raises a question as to whether we know about "most" of the utilization review organizations whose decisions affect Kansas claimants and policyholders or whether we only know about those who are the most prominent and those who have participated in the legislative process. Accordingly, while we believe the study can be helpful in other ways, it appears any study of the kind envisioned by the resolution should particularly attempt to determine with some degree of specificity the identity of organizations and individuals insurers are relying on for "insurance related" utilization review functions.

Therefore, the Department supports SCR1605 and would attempt to deliver a productive and meaningful report to the 1994 session of the legislature.

James D. Brock
Attachment 2
March 16, 1993



KANSAS MEDICAL SOCIETY

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WATS 800-332-0156 FAX 913-235-5114

March 16, 1993

TO: House Financial Institutions and Insurance Committee

FROM: Chip Wheelen
KMS Director of Public Affairs *CWheelen*

SUBJECT: SB 70 as Amended by Senate Committee

Thank you for the opportunity to express our support for the provisions of SB 70. This bill was requested by the Kansas Medical Society in order to protect privileged information that is often requested of physicians in order for them to be credentialed by an insurer prior to entering into a participation agreement. Such information is frequently required in order to become a preferred provider and may include details of litigation in progress as well as the physician's liability history.

If the physician refuses to provide the requested information, the insurer refuses to establish a participation agreement. In that event, a hardship can be created for those patients who have an established relationship with the physician and are insured by the preferred provider plan. Physicians are, of course, reluctant to share information which could jeopardize a medical malpractice case or be otherwise misused. Unless a remedy is obtained, some patients will experience a lack of continuity in their medical care and could experience access problems as well.

Because the credentialing process is nearly identical to the peer review activities engaged in by hospital medical staffs and other similar health care providers, we elected to address the identified problem by amending K.S.A. 65-4915 in a manner that would define insurers which engage in peer review functions so that their peer review records and findings would be protected from legal discovery. It has been suggested, however, that this protection could be misapplied to interfere with a patient's ability to obtain information regarding payment of benefits under the insurance policy. For this reason we requested a clarifying amendment which was adopted by the Senate Committee (p. 3, line 41 - p. 4, line 1).

Thank you for considering our concerns. We urge you to recommend passage of SB 70.

CW:cb

House LRP
Attachment 3
March 16, 1993



Bob McDanel
Administrator

State of Kansas

BOARD OF EMERGENCY MEDICAL SERVICES

109 S.W. 6TH STREET, TOPEKA, KS 66603-3805

(913) 296-7296 Administration
(913) 296-7403 Education & Training
(913) 296-7299 Examination & Certification
(913) 296-7408 Planning & Regulation

Joan Finney
Governor

DATE: March 17, 1993
TO: House Financial Institutions and Insurance Committee
FROM: Bob McDanel *BM*
SUBJECT: Testimony in Support of SB 70

The Board of Emergency Medical Services is the state agency which regulates pre-hospital emergency medical services. Agency responsibilities include the permitting of ambulance services, the licensing of vehicles, and the training, examination and certification of ambulance attendants.

SB 70 amends K.S.A. 65-4915 in several key areas. The most important of these changes, from the board's perspective, is the addition of attendants and ambulance services as "health care providers" for purposes of peer review.

The board proposes one minor technical correction to the bill. Since current statutory language states that attendants are "certified" and ambulance services are "permitted", the committee may want to amend lines 28 and 29 as follows:

"and attendants certified and ambulance services permitted by the emergency medical services board."

Presently, ambulance service operators are reluctant to document quality assurance programs in their services because of concerns that information developed in these programs is subject to disclosure. A proposed regulation requiring quality assurance programs is being opposed by service operators because of this concern. Passage of SB 70 would alleviate these concerns.

The Board of Emergency Medical Services strongly supports SB 70 and requests committee support of the bill.

RM/st

Joan Finney

Attachment 4

March 16, 1993

Medevac Medical Services, Inc.
401 Jackson Street
Topeka, Kansas 66603

March 16, 1993

To: House Committee on Financial Institutions and Insurance

From: R.E. "Tuck" Duncan
General Counsel
Medevac Medical Services, Inc.

RE: Senate Bill 70

I appear today in support of Senate Bill 70, and in particular we support the provisions set forth at page 1 lines 27-29. This amendment extends to emergency medical service attendants and ambulance services the provisions of peer review.

Peer review is currently authorized for a variety of licensed, registered or certified medical professionals. Peer review affords these professionals the opportunity to improve the quality of the health care services rendered to patients. There was no opposition to this provision during Senate consideration.

Thank you for your kind attention to and consideration this matter.

James F. D.
Attachment 5
March 16, 1993

SENATE BILL No. 25

By Committee on Financial Institutions and Insurance

1-15

8 AN ACT concerning insurance; regulation of trade practices; pen-
 9 alties; amending K.S.A. 1992 Supp. 40-2407 and repealing the
 10 existing section.

11
 12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 1992 Supp. 40-2407 is hereby amended to read
 14 as follows: 40-2407. (a) If, after such hearing, the commissioner shall
 15 determine that the person charged has engaged in an unfair method
 16 of competition or an unfair or deceptive act or practice, ~~such the~~
 17 commissioner shall render an order requiring such person to cease
 18 and desist from engaging in such method of competition, act or
 19 practice and if the act or practice is a violation of K.S.A. 40-2404
 20 and amendments thereto, the commissioner may in the exercise of
 21 discretion order any one or more of the following:

22 (1) Payment of a monetary penalty of not more than \$100 for
 23 each and every act or violation; but not to exceed an aggregate
 24 penalty of \$2,500, unless the person knew or reasonably should have
 25 known such person was in violation of this act, in which case the
 26 penalty shall be not more than \$1,000 for each and every act or
 27 violation, but not to exceed an aggregate of \$10,000 in any six-month
 28 period;

29 (2) suspension or revocation of the person's license if such person
 30 knew or reasonably should have known such person was in violation
 31 of this act; or

32 (3) redress of the injury by requiring the refund of any premiums
 33 paid by, the payment of any moneys withheld from, any consumer
 34 and appropriate public notification of the violation. *In applying this*
 35 *penalty any requirement for the payment of moneys may include*
 36 *interest [at the] rate specified in K.S.A. 1992 Supp. 40-2,126 and*
 37 *amendments thereto, and [reasonable] costs incurred in effecting the*
 38 *payment.*

39 (b) After the expiration of the time allowed for filing a petition
 40 for review if no such petition has been duly filed within such time,
 41 the commissioner may at any time, after notice and opportunity for
 42 hearing in accordance with the provisions of the Kansas administra-
 43 tive procedure act, reopen and alter, modify or set aside, in whole

with such interest commencing no earlier than
 the date the consumer's complaint was received
 by the commissioner

reasonable

, at a

not to exceed the rate

actual

by the consumer

associated directly with the injury

March 16, 1993
 Attached
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