

Approved: 3-12-93  
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MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Joann Flower at 1:30 p.m. on March 8, 1993 in Room 423-S of the Capitol.

All members were present except:  
Representative Bishop, excused

Committee staff present:  
William Wolff, Legislative Research Department  
Norman Furse, Revisor of Statutes  
Sue Hill, Committee Secretary

Conferees appearing before the committee:  
Senator Dick Bond  
Chip Wheelen, Director of Legislative Affairs, Kansas Medical Society  
Dick Morrissey, Director, Office of Local/Rural Health Systems, Department  
of Health and Environment  
Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine  
Warren Parker, Assistant Director, Public Affairs Division, Kansas Farm Bureau  
Mary Kopp, Assistant Director, Kansas State Nurses Association  
Dr. Robert Harder, (answered questions only)

Others attending: See attached list

Chairperson Flower called the meeting to order, drawing attention to the scheduled agenda. Hearings are scheduled on SB 14, and SCR 1606.

Chair directed attention to SCR 1606, and requested a staff briefing.

Dr. Wolff gave a comprehensive explanation of SCR 1606. This proposed legislation notes the availability of basic health care in certain areas of the state is threatened because of a shortage of primary care physicians. Needed emphasis should be given to increasing the number of primary care physicians, i.e., by encouraging and supporting full funding utilization of the medical student loan act, and the medical resident bridging program through monies available in the medical scholarship and loan repayment fund, by using this money solely for financing the medical student loan act, the medical resident bridging program and two locum tenens faculty positions at the University of Kansas school of medicine.

CHAIR OPENED HEARINGS ON SCR 1606.

Senator Bond, sponsor of SCR 1606 offered rationale for the recommendations indicated. This money funded has traditionally been used at the end of Session to fund other things, i.e., last year \$5 million was moved to the general fund. He explained how this fund is created, i.e., paid into by persons buying themselves out of the primary care programs, currently a 15% penalty. He explained how at times the money has been diverted to other areas, (he called it theft). Should SCR 1606 be enacted, it will allow the Legislature to speak as a whole body, rather than have just 6 people make the decisions on using money that has been allocated to help the problem of the delivery of health care in rural areas. He noted last year there were 75 applicants for loans, funding for 50 who qualified, only 30 awarded.

Senator Bond answered questions, i.e., the locum tenens program is for resident physicians; the bridging program was detailed; loan repayment was discussed. It was noted there perhaps were questions asked that could be better answered by Mr. Marlin Rein, University of Kansas Medical School expert, who was not present this date.

Senator Bond indicated he would later provide a written copy of his testimony.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S  
Statehouse, at 1:30 p.m. on March 8, 1993.

Chip Wheelen, Director of Public Affairs, Kansas Medical Society, offered hand out, (Attachment No. 1). He stated the challenges facing a physician beginning practice, i.e., the need to maintain an active practice in order to afford overhead expenses, earn a living, repay his education loan, pay liability insurance, requires a balanced mix of patients. Federal programs have attempted to provide unlimited access to health care for targeted populations, while also attempting to limit resources appropriated for these services. These procedures have resulted in dramatic increases in overhead expenses for all physicians, while rural physicians experience a decline in patient base with a disproportionately high ratio of medicare eligible patients. There are many factors that influence the decisions a medical student makes regarding where to locate a practice. Incentive programs can certainly help in that decision making process. Legislators have been on the cutting edge regarding the emergency medical personnel with improving programs. The creation of scholarship programs is important, and with the proposed language in SCR 1606 will keep the funding for medical students and residents, for what it was intended. He urged support.

Dick Morrissey, Director Office of Local and Rural Health Systems, Department of Health/Environment offered hand out (Attachment No.2). He urged support for preserving the funding base devoted to incentive programs for medical students to be used as designated. He noted the importance of encouraging physicians to practice in underserved areas, and how vital it is to use the medical student loan and medical resident bridging programs designed to encourage physicians to practice in non-urban areas funding for those specific purposes. Preserving the funding devoted to these programs is imperative and an integral part of the strategy to eliminate medical underservice in Kansas.

Harold Riehm, Executive Director, Association of Osteopathic Medicine, offered hand out (Attachment No. 3). He noted enthusiastic support of SCR 1606. He noted a goal of 80% of the doctors of Osteopathic medicine committed to practice of primary care in the next five years, is a commitment. He noted hopefully the state will build upon the primary care strengths of the osteopathic profession as a continuing response to the need for primary care physicians in non-urban areas. He noted concerns with the provisions of the Health Care Stabilization Fund that "reward" physicians for leaving Kansas by picking up all costs of malpractice tail insurance; practices by certain urban hospitals which preclude granting admitting and practice privileges to non-residency trained physicians, even when this discourages such physicians from practicing in under-served areas surrounding those hospitals. He noted their Association supports all things that will promote and encourage more physicians to practice in non-urban areas.

Warren Parker, Assistant Director, Public Affairs Division of Kansas Farm Bureau, offered hand out (Attachment No. 4). He stated the Farm Bureau has always had a fervent interest in health care issues, and especially rural health care. He noted SCR 1606 would direct the legislature provide fully funded programs to be used specifically for increasing the number of primary care physicians, to maintain the medical student loans programs, the bridging program, the locum tenens positions, and using the funding for which it has been intended. He urged support.

Chair directed attention for the opportunity for members to ask questions of all the conferees. Numerous questions were fielded, i.e., clarification was offered in differences in current programs, and newer programs available for medical student loans; the cap for the number of loans being provided has been raised. It was noted there is a one for one match of repaying services rendered in rural areas, i.e., if a four year loan, then the physician must serve in the area for four years. The bridging plan extends beyond that and is related to the medical resident.

It was noted the original intent of SCR 1606 was to send a clear message, early, to the Chair, Vice Chair, and ranking Minority Leader of House Appropriations Committees as well as those same persons in the Senate Ways and Means Committee that when it is the end of the session, and time for reconciliation of the Omnibus Bill in Appropriations, they will know, there has been a commitment made that the entire Legislative body is saying, this repayment fund for medical scholarships should be used only for the purpose for which it was initially intended.

CHAIR CLOSED HEARINGS ON SCR 1606.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S Statehouse, at 1:30 p.m. on March 8, 1993.

Chair drew attention to SB 14, and requested a staff briefing.

Mr. Furse gave a comprehensive explanation of SB 14, noting this legislation was recommended by the Joint Committee on Health Care Decisions for the 1990s. He drew attention to page 4, (f), noting the language is from the Tort Claims Act that has established limitations on liability on individuals who are defined by that Act, noting this describes the "Charitable health care provider". He noted a substantive change in sub (2), i.e., broadening language to include any health department, and indigent health care clinics. He defined "indigent health care clinic". He pointed out other policy issues page 4, Sec. 4, which sets out the Tort Claims fund language. He noted the basic change would be that the Tort Claims Fund would pay the claims against the state or employees of the state and the cost of defending employees of the state. He detailed rationale. He detailed the sunset provision. He noted clarification of language as related to the Healing Arts Act, and housekeeping cleanup.

### CHAIR OPENED HEARINGS ON SB 14.

Dick Morrissey, Department of Health and Environment, provided hand out, (Attachment No. 5) He drew attention to the map in the hand out that indicates distribution of charitable health care providers and points of entry, as of January 1, 1993. Response to the Charitable Health Care Provider program has been good. As of January 1, 506 physicians and 122 nurses are participating, 68 local health departments and indigent health care clinics act as points of entry into the system for medically indigent persons seeking care. He detailed amendments recommended by the Joint Committee on Health Care Decisions, on SB 14, i.e., establish that the health care provider rendering gratuitous service is considered an employee of the state; define "indigent health care clinic" for purposes of Tort Claims Act as a not-for-profit clinic which has a contract with Department of Health/Environment; declare that health care providers employed in local health departments and indigent health care clinics be considered employees of the state; allow exempt licensees under the Healing Arts Act to be paid employees of these health departments and indigent clinics; fees to be charged are based on income eligibility guidelines; clarify legislative intent that Tort Claims Fund be the first payor in claims against the state attributable to a charitable health care provider. He stated, these amendments will make significant improvements to the primary care services available to medically indigent individuals.

He drew attention to additional amendments, i.e., to specifically include persons who gratuitously render professional services in conducting immunization programs administered by the Secretary of Health/Environment. In order for the coverage to be effective before the first immunization drive this Spring, they further request SB 14 be amended to have the bill effective on publication in the Kansas register. He drew attention to the proposed amendatory language provided in a balloon in his hand out. He urged Committee to consider the amendments proposed by the Department and to support the bill favorably with those amendments in place.

Chip Wheelen, Director of Public Affairs, Kansas Medical Society, offered hand out (Attachment No.6) He stated general support for SB 14, however, expressed concerns about the "sunset" feature. He also detailed a concern regarding a change in the Tort Claims Act in respect to providing liability protection to the charitable health care providers taking care of a medicaid patient, so long as there was no claim for reimbursement. He noted there are medicaid patients having a problem of access, so eventually go to the indigent care facility and cannot be treated since the volunteer physician isn't indemnified when taking care of a medicaid patient. He expressed concerns regarding payment of claims being made from the Tort Claims Fund. He detailed this process, and gave some background information, noting that in the 1992 Session some persons felt there were drastic changes and this was not the case. He indicated the Governor had agreed to sign the bill last year if there was a sunset provision. He noted there was never a clear message on "sunset". He drew attention to a balloon amendment provided in his attachment, i.e., SB 14, page 7, line 11, to delete "(a) Prior to July 1, 1995"; and beginning on line 21 to delete "and (B), through line 33". He detailed rationale. He stated also the importance of the proposed amendments by the Department of Health and Environment.

Mary Kopp, Assistant Director, Kansas Nurses Association offered hand out (Attachment No. 7) She stated favorable passage of SB 14 with the balloon amendments will address the issue of claims that might arise from rendering of professional services during the immunization program slated for April 24-25, 1993. The balloon will address those persons licensed by the state who volunteer for this state-wide immunize project. The Kansas State Nurses Association has pledged 2,000 nurses to volunteer assistance in implementing this program. She urged support of SB 14 with amendments.

## CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 423-S  
Statehouse, at 1:30 p.m. on March 8, 1993.

Harold Riehm, Executive Director, Kansas Association of Osteopathic Medicine, drew attention to the testimony distributed that also contains his remarks on SB 14. He noted enthusiastic support of the Charitable Health Care Provider Program during the initial consideration and since it has been implemented. The Association of Osteopathic Medicine has also offered input on suggestions for clarification and expansion of the program, specifically for the participation of certain physician licensees. He urged support, noting it is needed legislation.

Chair invited questions from members of the conferees.

Numerous questions were asked, i.e., it was noted the amendments posed by Mr. Wheelen were not brought through the Senate Committee of Public Health and Welfare Committee. Mr. Furse gave a detailed explanation to the Tort Claims Act and explained the amendments placed on SB 14 by the Senate Committee. There was discussion in regard to which health care providers, (paid or volunteer), are covered by liability through the Tort Claims Act. It was noted, the intent had been to clarify that both a health care provider paid or unpaid would be covered. There was some concern that perhaps this particular language was still not clear. There were suggestions for clarification in the language of the bill.

Dr. Harder, Secretary of Department of Health/Environment answered questions and noted there was conversation prior to the Senate Public Health and Welfare Committee's consideration of SB 14 with the Governor's office on the sunset provision. He noted he would return to those he had spoken to about the sunset provision earlier and get clarification on the new language proposed.

CHAIR CLOSED HEARINGS ON SB 14.

Chair adjourned the meeting at 3:05 p.m.

The next meeting is scheduled for March 9, 1993.





## KANSAS MEDICAL SOCIETY

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

March 8, 1993

**TO:** House Public Health and Welfare Committee

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

**SUBJECT:** SCR 1606

Thank you for this opportunity to express our support for the provisions of SCR 1606. The Kansas Medical Society has historically devoted much of its resources to the goal of improving access to quality health care services for all Kansans, and we have recognized the sometimes difficult challenges of accomplishing that goal in rural, medically underserved areas of the state.

Access to health care in rural areas can sometimes be more problematic than in urban areas because the demographic and economic characteristics of rural communities may not be ideal for a viable medical practice. A physician must maintain an active practice in order to afford overhead expenses and earn a living. A sparsely populated area may not provide a sufficient number and mix of patients to accomplish that.

The dilemma of rural health care has been worsened by principally two factors. The cost of professional liability insurance and other overhead associated with a medical practice has increased substantially. In addition, federal health insurance programs (Medicare and Medicaid) have attempted to provide unlimited access to health care for targeted populations while also attempting to limit resources appropriated for utilization of such services. The result has been a combination of dramatic increases in overhead expense for all physicians while rural physicians experience a declining base of patients with the balance consisting of a disproportionately high ratio of Medicare eligible patients. This presents a problem that is aggravated by the Congress and the federal agencies in charge of administering Medicare. In particular, the Medicare practice of discounting physician reimbursement for those new physicians establishing a practice creates a significant barrier to recruitment for rural communities. This issue was addressed late in the 102nd Congress but because of other measures contained in the same bill, the bill was vetoed by former President Bush. More recently, Senator Bob Dole and others have introduced a bill that would restore equitable payment for new physicians participating in the Medicare Program.

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House Public Health & Welfare Committee  
March 8, 1993  
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We are hopeful that the 103rd Congress will address a significant problem which is so counterproductive to efforts to locate physicians in medically underserved counties of our state. In the meantime it is extremely important that Kansas legislators continue to address rural access problems. Because there are so many factors which influence a medical student's decision to pursue residency training in a primary care specialty and locate his or her medical practice in a rural community, it is difficult for government to influence such decisions. Therefore, lawmakers should create financial incentives that offset some of the factors that might otherwise discourage the medical student from pursuing primary care training and locating his or her practice in a rural setting. Examples are increased funding for the Bridging Plan and earmarking the scholarship repayment fund for purposes of future loans. While the statute that creates the repayment fund specifically identifies the use of the fund, that provision has been overlooked at times in the past. We believe it is important to utilize that money in an appropriate fashion. An excellent example is, of course, to increase the number of loans available to new medical students commencing their academic curriculum at the school of medicine.

We believe that the goals and objectives outlined above are envisioned in SCR 1606. For these reasons, we urge you to recommend SCR 1606 for adoption.

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Department of Health and Environment

Robert C. Harder, Secretary Reply to:

Testimony presented to

House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

SCR 1606

Senate Concurrent Resolution 1606 encourages the full-funding and use of state programs designed to encourage physicians to practice in non-urban areas of the state, specifically the medical student loan program and the medical resident bridging program.

According to the latest report from the Office of Institutional Research and Planning, 61 Kansas counties are still considered medically underserved and all of those counties are decidedly "non-urban". Historically, it has been an uphill battle to get doctors to locate in these areas-so much so that since 1978, with the advent of the Kansas Medical Scholarship, the state of Kansas has tried to entice doctors out by paying for their education if they will agree to practice in an underserved area for a prescribed time. As of 1991, 564 primary care physicians had fulfilled their scholarship practice obligations in the state.

Successors of the Scholarship program, both the medical student loan program and the resident bridging program provide financial incentives to medical students agreeing to spend time practicing in non-urban areas of the state. Both are specifically geared toward increasing the number of primary care physicians in Kansas in order to increase the availability of basic health care in rural and underserved areas. Loss of funding to these programs would diminish their effectiveness, meaning the loss of physicians being placed in underserved areas of Kansas.

Preserving the funding devoted to these programs is imperative to their success and their success is integral to the overall strategy of eliminating medical underservice in Kansas.

The Kansas Department of Health and Environment recommends that the Committee report SCR 1606 favorably for passage.

Testimony presented by: Richard J. Morrissey  
Director  
Office of Local and Rural Health Systems  
March 8, 1993

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March 8, 1993

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Department of Health and Environment

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March 8, 1993

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SCR 1606

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Testimony presented by: Richard J. Morrissey  
Director  
Office of Local and Rural Health Systems  
March 8, 1993

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Department of Health and Environment

Robert C. Harder, Secretary Reply to:

Testimony presented to  
House Public Health and Welfare Committee

by

The Kansas Department of Health and Environment

SCR 1606

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Testimony presented by: Richard J. Morrissey  
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Office of Local and Rural Health Systems  
March 8, 1993

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Department of Health and Environment

Robert C. Harder, Secretary Reply to:

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SCR 1606

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Testimony presented by: Richard J. Morrissey  
Director  
Office of Local and Rural Health Systems  
March 8, 1993

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Department of Health and Environment

Robert C. Harder, Secretary Reply to:

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by  
The Kansas Department of Health and Environment  
SCR 1606

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Testimony presented by: Richard J. Morrissey  
Director  
Office of Local and Rural Health Systems  
March 8, 1993

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*3-8-93*

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# Kansas Association of Osteopathic Medicine

Harold E. Riehm, Executive Director

1260 S.W. Topeka Blvd.  
Topeka, Kansas 66612  
(913) 234-5563  
(913) 234-5564 Fax

TESTIMONY ON S.B. 14 & SCR 1606

March 8, 1993

To: Chairperson Flower and Members, House Public Health Committee  
From:  Harold Riehm, Executive Director, Kansas Assoc. of Osteopathic Medicine

Thank you for this opportunity to testify in support of both S.B. 14 and SCR No. 1606.

## TESTIMONY ON SB 14 - CHARITABLE HEALTH CARE PROVIDERS

KAOM has been an enthusiastic supporter of the Charitable Health Care Provider Program during its initial consideration and since its implementation. We also were a party to the suggestions for clarification and expansion of the Program, specifically for the participation of certain physician licensees. We are pleased, today, to support SB 14, including amendments added in the Senate.

## TESTIMONY ON SCR NO. 1606 - SUPPORT OF PROGRAMS FOR PHYSICIAN SERVICES IN NONURBAN AREAS

KAOM represents a profession long committed to producing primary care physicians for service in nonurban areas. As such, we are pleased to support provisions of SCR 1606. As a part of that support, though, we make these comments and observations:

- (1) Most D.O.s practicing in Kansas today are graduates of the Kansas City School of Osteopathic Medicine. For the past several years, between 60 and 65 percent of that School's graduates have entered primary care. The School has just set a goal of raising that percentage to 80 percent within the next five years.
- (2) The State has been generous in its support of osteopathic education, through the D.O. scholarship program. Recently, however, that program has been in a decline. We are hopeful to end that decline and to encourage the State, in general, to build upon the primary care strengths of the osteopathic profession as a continuing response to the need for primary care physicians in nonurban areas.
- (3) The House has passed this Session a Bill that would extend the residency bridging program to certain osteopathic residency training programs in primary care. The Act, passed last session, did not permit its application to certain programs.
- (4) KAOM continues to express the opinion that there remain certain practices in Kansas that are dysfunctional to maintaining and increasing the numbers of primary care physicians. I note two, specifically:
  - (a) Provisions of the Health Care Stabilization Fund that "reward" physicians for leaving Kansas by picking up all costs of malpractice tail insurance.
  - (b) Practices of certain urban hospitals in Kansas which preclude granting admitting and practice privileges to non-residency trained physicians, even when this discourages such physicians from practicing in underserved areas surrounding those hospitals..

I'll be pleased to respond to questions regarding our support of either of these measures.

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3-8-93  
Attn # 3



# PUBLIC POLICY STATEMENT

## HOUSE COMMITTEE ON PUBLIC HEALTH AND WELFARE

**RE: S.C.R. 1606 - Full funding for nonurban physician programs**

March 9, 1993  
Topeka, Kansas

Presented by:  
Warren Parker, Assistant Director  
Public Affairs Division  
Kansas Farm Bureau

Madam Chair and members of the Committee:

My name is Warren Parker, I am the Assistant Director of the Public Affairs Division at Kansas Farm Bureau. We appreciate this opportunity to testify in support of S.C.R. 1606 on behalf of our farm and ranch family members in each of the 105 counties in Kansas.

Kansas Farm Bureau has always had a fervent interest in health care issues, and especially rural health care. We have been strong supporters of scholarship and loan programs for health care professionals who agree to serve in rural areas, and in many other programs and policies which help to address the serious problem of rural health care availability and quality.

In order for these programs to be successful, it is essential that they are fully funded and that monies collected be used for specific related purposes. S.C.R. 1606 expresses that the Legislature

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also believes such action is important, and that increasing the number of primary care physicians in Kansas is desperately needed, that medical student loans, the bridging program, and the locum tenens positions are vital. We wholeheartedly agree, and we urge your support of S.C.R. 1606.

Thank you for your time, I would be happy to attempt to answer any questions.

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## Rural Health Care

## PHW-4

Access to high quality and affordable health care is essential to all Kansans. We support the following measures which will assist in preserving this vital service to rural Kansas:

1. Reduce the shortage of health care professionals by encouraging students to enter the health care professions;
2. Create and/or maintain state scholarship programs for all health care professionals, require scholarship recipient graduates to provide some service in underserved areas, and create a strong disincentive for any scholarship recipient "buying out" of that required service;
3. Programs which implement joint use and cooperation between and among health care facilities, school districts, municipal and county governments to enhance health education, preventive health care, and efficiency of health care delivery;
4. Establish innovative managed care programs through incentives for government, providers and private insurers where medical services are offered through a network of physicians and hospitals at discounted costs; and
5. Authorization and support by the Kansas Board of Regents for Kansas State University/University of Kansas School of Medicine (Kansas City and Wichita) for the joint effort underway to develop the Rural Health Dynamics Program.

In order to provide affordable health insurance coverage to all Kansans, we encourage consideration of the concept of "community based health insurance rates." If the insurance industry continues to use a review of health care utilization as a method of establishing rate increases in Kansas it should use a running average to establish rates.

We believe the financial stability of some hospitals is being threatened by the increasing number of non-paying patients. We will support the following:

1. Amend state law to allow hospitals greater access to small claims courts so they may collect more debts from those who can pay;
2. Establish a statewide risk pool for those who cannot access health insurance due to pre-existing conditions; and
3. Change the health care coverage rules to make preventive care as well as emergency care available to the medically needy.

Denial of claims for pre-existing conditions, once an individual has been covered by insurance, changes jobs, or has filed a claim for such condition, should be prohibited.

For many of our elderly, nursing home care will be a necessity. For others, remaining in their own homes will be far preferable. We believe health care programs for senior citizens in Kansas should maximize the independence of the elderly for as long as possible. Development of local Home Health Care organizations would assist both affordability and availability of health care. The Kansas Legislature should provide more flexibility in the allocation of per diem rates for nursing staff.

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Department of Health and Environment

Robert C. Harder, Secretary Reply to:

Testimony presented to

House Committee on Public Health and Welfare

by

The Kansas Department of Health and Environment

Senate Bill 14

The Charitable Health Care Provider Program became effective on April 1, 1991. Enacted in 1990, the program was originally promoted by retired physicians looking for a means to donate their services to the medically indigent without having to maintain an active license and carry high cost malpractice insurance. The law modified the Kansas Tort Claims Act to allow health care providers to be considered employees of the state for liability purposes when they gratuitously donate their professional services to the medically indigent. The program includes statutorily defined health care providers. Amendments passed in the 1991 legislative session extended Tort Claims coverage to three pilot primary care clinics operated by local health departments. Other health departments providing primary care services and non-profit clinics caring for the medically indigent were not included.

Response to the program by health care providers has been good. As of January 1, 1993, 691 health care providers were participating in the program. These include 506 physicians and 122 nurses. 68 local health departments and indigent health care clinics act as points of entry into the system for medically indigent persons seeking care. (See attached map.)

The amendments recommended by the Joint Committee on Health Care Decisions for the 90's in Senate Bill No. 14 extend the protection of Tort Claims coverage to expand the services available to the medically indigent and clarify several issues in the current law:

1. establish that a charitable health care provider rendering gratuitous service to a medical assistance recipient is considered an employee of the state;
2. define "indigent health care clinic" for purposes of the Tort Claims Act as a not-for-profit clinic which has a contract with the Secretary of Health and Environment to provide health care services to medically indigent people;
3. declare that health care providers employed by local health departments and indigent health care clinics be considered employees of the state, notwithstanding the provisions of K.S.A. 75-6115 which excludes medical malpractice actions from coverage;

*attn #5*

4. allow exempt licensees under the Healing Arts Act to be paid employees of local health departments and indigent clinics;
5. clarifies that indigent clinics and local health departments are Charitable Health CARE Providers and may charge fees for service so long as fees are based on income eligibility guidelines; and
6. clarifies legislative intent that the Tort Claims Fund be the first payor in claims against the State attributable to a Charitable Health Care Provider.

These amendments will make significant improvements to the primary care services available to medically indigent persons. While these changes increase the liability of the Tort Claims Fund, the evidence available indicates that the real risk to the fund will be low. Since the program's inception, there have been no suits filed against a Charitable Health Care Provider. We are unaware of any suits filed against any indigent health care clinic or local health department. The available research indicates that the medically indigent are less likely to sue than other persons.

The Department concurs with the Senate amendments and requests the committee's consideration of two additional amendments. KDHE has embarked on an ambitious project to significantly improve the immunization levels of children under two years old called Operation Immunize. This effort will rely heavily on the donated services of volunteers. We believe that the National Vaccine Injury Compensation Program will protect volunteers from the negative consequences of any vaccine related injury, but would not protect them from the consequences of any injury not directly related to the administration of vaccine.

To address this situation and to encourage critical volunteer support for Operation Immunize, the Department recommends amending S.B. No. 14 to specifically include persons who gratuitously render professional services in conducting immunization programs administered by the secretary. In order for the coverage to be effective before the first immunization drive this spring, we also request that you make the bill effective on publication in the Kansas Register. A balloon is attached with these proposed amendments.

We believe that these amendments will present negligible additional risk to the Tort Claims Fund and will make possible the volunteer support critical to the success of Operation Immunize.

**Recommendation:** The Kansas Department of Health and Environment recommends that the committee amend S.B. No. 14 as proposed here and report the bill favorably for passage.

Testimony presented by: Richard J. Morrissey  
Director  
Office of Local and Rural Health Systems  
March 8, 1993

*Att # 5*  
*3-8-3*  
*P.H.W.*  
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SENATE BILL No. 14

By Joint Committee on Health Care Decisions for the 1990's

1-11

9 AN ACT concerning health care providers; relating to charitable  
10 health care providers; amending K.S.A. 65-2809 and K.S.A. 1992  
11 Supp. 75-6102, 75-6115, and 75-6117 and ~~75-6120~~ and repealing  
12 the existing sections.  
13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 65-2809 is hereby amended to read as follows:  
16 65-2809. (a) The license shall expire on the date established by rules  
17 and regulations of the board which may provide renewal throughout  
18 the year on a continuing basis. In each case in which a license is  
19 renewed for a period of time of less than one year, the board may  
20 prorate the amount of the fee established under K.S.A. 65-2852 and  
21 amendments thereto. The request for renewal shall be on a form  
22 provided by the board and shall be accompanied by the prescribed  
23 fee, which shall be paid not later than the expiration date of the  
24 license.

25 (b) Except as otherwise provided in this section, the board shall  
26 require every licensee in the active practice of the healing arts within  
27 the state to submit evidence of satisfactory completion of a program  
28 of continuing education required by the board. The requirements  
29 for continuing education for licensees of each branch of the healing  
30 arts shall be established by the members of such branch on the  
31 board. The board shall adopt rules and regulations prescribing the  
32 requirements established by the members of each branch of the  
33 healing arts for each program of continuing education as soon as  
34 possible after the effective date of this act. In establishing such  
35 requirements the members of the branch shall consider any programs  
36 of continuing education currently being offered to such licensees.  
37 If, immediately prior to the effective date of this act, any branch of  
38 the healing arts is requiring continuing education or annual post-  
39 graduate education as a condition to renewal of a license, the re-  
40 quirement as a condition for the renewal of the license shall continue  
41 notwithstanding any other provision of this section.

42 (c) The board, prior to renewal of a license, shall require the  
43 licensee, if in the active practice of the healing arts within the state,

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1 to submit to the board evidence satisfactory to the board that the  
2 licensee is maintaining a policy of professional liability insurance as  
3 required by K.S.A. 40-3402 and amendments thereto and has paid  
4 the annual premium surcharge as required by K.S.A. 40-3404 and  
5 amendments thereto.

6 (d) At least 30 days before the expiration of a licensee's license,  
7 the board shall notify the licensee of the expiration by mail addressed  
8 to the licensee's last place of residence as noted upon the office  
9 records. If the licensee fails to pay the annual fee by the date of  
10 the expiration of the license, the licensee shall be given a second  
11 notice that the licensee's license has expired, that the board will  
12 suspend action for 30 days following the date of expiration, that upon  
13 receipt of the annual fee and an additional fee not to exceed \$500  
14 within the thirty-day period the license shall not be canceled and  
15 that, if both fees are not received within the thirty-day period, the  
16 license shall be cancelled.

17 (e) Any licensee who allows the licensee's license to be canceled  
18 by failing to renew may be reinstated upon recommendation of the  
19 board and upon payment of the renewal fees then due and upon  
20 proof of compliance with the continuing educational requirements  
21 established by the board.

22 (f) There is hereby created a designation of exempt license. The  
23 board is authorized to issue an exempt license to any licensee who  
24 makes written application for such license on a form provided by  
25 the board and remits the fee for an exempt license established pur-  
26 suant to K.S.A. 65-2852 and amendments thereto. The board may  
27 issue an exempt license only to a person who has previously been  
28 issued a license to practice the healing arts in Kansas, who is no  
29 longer regularly engaged in such practice and who does not hold  
30 oneself out to the public as being professionally engaged in such  
31 practice. An exempt license shall entitle the holder to all privileges  
32 attendant to the branch of the healing arts for which such license  
33 is issued. Each exempt license may be renewed annually subject to  
34 the provisions of this section. Each exempt licensee shall be subject  
35 to all provisions of the healing arts act, except as otherwise provided  
36 in this subsection (f). The holder of an exempt license shall not be  
37 required to submit evidence of satisfactory completion of a program  
38 of continuing education required by ~~K.S.A. 65-2809 and amend-~~  
39 ~~ments thereto~~ *this section*. Each exempt licensee may apply for a  
40 license to regularly engage in the practice of the appropriate branch  
41 of the healing arts upon filing a written application with the board  
42 and submitting evidence of satisfactory completion of applicable con-  
43 tinuing education requirements established by the board. The re-

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1 quest shall be on a form provided by the board and shall be  
 2 accompanied by the license fee established pursuant to K.S.A. 65-  
 3 2852 and amendments thereto. The board shall adopt rules and  
 4 regulations establishing appropriate continuing education require-  
 5 ments for exempt licensees to become licensed to regularly practice  
 6 the healing arts within Kansas. Nothing in this subsection (f) shall  
 7 be construed to prohibit a person holding an exempt license from  
 8 serving as a coroner *or prior to July 1, 1995, as a paid employee*  
 9 *of (1) a local health department as defined by K.S.A. 65-241 and*  
 10 *amendments thereto, or (2) an indigent health care clinic as defined*  
 11 *by K.S.A. ~~75-6115~~ 75-6102 and amendments thereto.*

12 Sec. 2. K.S.A. 1992 Supp. 75-6102 is hereby amended to read  
 13 as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and  
 14 amendments thereto, unless the context clearly requires otherwise:

15 (a) "State" means the state of Kansas and any department or  
 16 branch of state government, or any agency, authority, institution or  
 17 other instrumentality thereof.

18 (b) "Municipality" means any county, township, city, school dis-  
 19 trict or other political or taxing subdivision of the state, or any  
 20 agency, authority, institution or other instrumentality thereof.

21 (c) "Governmental entity" means state or municipality.

22 (d) "Employee" means any officer, employee, servant or member  
 23 of a board, commission, committee, division, department, branch or  
 24 council of a governmental entity, including elected or appointed  
 25 officials and persons acting on behalf or in service of a governmental  
 26 entity in any official capacity, whether with or without compensation  
 27 and a charitable health care provider. Employee includes any steward  
 28 or racing judge appointed pursuant to K.S.A. ~~1990 Supp.~~ 74-8818,  
 29 and amendments thereto, regardless of whether the services of such  
 30 steward or racing judge are rendered pursuant to contract as an  
 31 independent contractor, but does not otherwise include any inde-  
 32 pendent contractor under contract with a governmental entity but  
 33 does include a person who is an employee of a nonprofit independent  
 34 contractor, other than a municipality, under contract to provide ed-  
 35 ucational or vocational training to inmates in the custody of the  
 36 secretary of corrections and who is engaged in providing such service  
 37 in an institution under the control of the secretary of corrections  
 38 provided that such employee does not otherwise have coverage for  
 39 such acts and omissions within the scope of their employment  
 40 through a liability insurance contract of such independent contractor.  
 41 *Prior to July 1, 1995, "employee" "Employee" also includes an*  
 42 *employee of an indigent health care clinic. "Employee" also includes*  
 43 *former employees for acts and omissions within the scope of their*

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1 employment during their former employment with the governmental  
2 entity.

3 (e) "Community service work" means public or community serv-  
4 ice performed by a person (1) as a result of a contract of diversion  
5 entered into by such person as authorized by law, (2) pursuant to  
6 the assignment of such person by a court to a community corrections  
7 program, (3) as a result of suspension of sentence or as a condition  
8 of probation pursuant to court order, (4) in lieu of a fine imposed  
9 by court order or (5) as a condition of placement ordered by a court  
10 pursuant to K.S.A. 38-1663, and amendments thereto.

11 (f) "Charitable health care provider" means a person licensed by  
12 the state board of healing arts as an exempt licensee or a health  
13 care provider as the term "health care provider" is defined under  
14 K.S.A. 65-4921, and amendments thereto, who has entered into an  
15 agreement with:

16 (1) The secretary of health and environment under K.S.A. 1990  
17 1992 Supp. 75-6120, and amendments thereto, who, pursuant to  
18 such agreement, *gratuitously* renders professional services to a per-  
19 son who has provided information which would reasonably lead the  
20 health care provider to make the good faith assumption that such  
21 person meets the definition of medically indigent person as defined  
22 by this section and who renders such professional services gra-  
23 tuitously or to a person receiving medical assistance from the pro-  
24 grams operated by the department of social and rehabilitation  
25 services, and who is considered an employee of the state of Kansas  
26 under K.S.A. 1990 1992 Supp. 75-6120, and amendments thereto;  
27 or

28 ~~(2) a local health department that is part of the pilot programs~~  
29 ~~established under K.S.A. 1991 Supp. 65-226 and amendments~~  
30 ~~thereto or indigent health care clinic who, pursuant to such agree-~~  
31 ~~ment, which renders professional service services to medically in-~~  
32 ~~digent persons or persons receiving medical assistance from the~~  
33 ~~programs operated by the department of social and rehabilitation~~  
34 ~~services gratuitously or for a fee paid by the local health department~~  
35 ~~or indigent health care clinic to such provider and who is considered~~  
36 ~~an employee of the state of Kansas under K.S.A. 1992 Supp. 75-~~  
37 ~~6120 and amendments thereto. Professional services rendered shall~~  
38 ~~be considered gratuitous notwithstanding fees based on income eli-~~  
39 ~~gibility guidelines charged by a local health department or indigent~~  
40 ~~health care clinic.~~

41 (g) "Medically indigent person" means a person who lacks re-  
42 sources to pay for medically necessary health care services and who  
43 meets the eligibility criteria for qualification as a medically indigent

under subsection (f), Sec. 2 insert new item:

(2) the secretary of health and environment, who,  
pursuant to such agreement, gratuitously renders  
professional services in conducting children's  
immunization programs administered by the secretary;  
or

and renumber the succeeding item

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1 person established by the secretary of health and environment under  
2 K.S.A. ~~1990~~ 1992 Supp. 75-6120, and amendments thereto.

3 (h) "Indigent health care clinic" means an outpatient medical care  
4 clinic operated on a not-for-profit basis which has a contractual  
5 agreement in effect with the secretary of health and environment to  
6 provide health care services to medically indigent persons.

7 (i) "Local health department" shall have the meaning ascribed  
8 to such term under K.S.A. 65-241 and amendments thereto.

9 ~~(f) The provision of subsections (f), (h) and (i) shall expire~~  
10 ~~on July 1, 1995.~~

11 Sec. 3. K.S.A. 1992 Supp. 75-6115 is hereby amended to read  
12 as follows: 75-6115. (a) The Kansas tort claims act shall not be ap-  
13 plicable to claims arising from the rendering of or failure to render  
14 professional services by a health care provider other than a chari-  
15 table health care provider or a hospital owned by a municipality  
16 and the employees thereof.

17 (1) ~~Prior to July 1, 1995,~~ a charitable health care provider;

18 (2) a hospital owned by a municipality and the employees thereof;

19 (3) ~~prior to July 1, 1995,~~ a local health department and the  
20 employees thereof; or

21 (4) ~~prior to July 1, 1995,~~ an indigent health care clinic and the  
22 employees thereof.

23 (b) Claims for damages against a health care provider that is a  
24 governmental entity or an employee of a governmental entity other  
25 than a charitable health care provider or a hospital owned by  
26 a municipality and the employees thereof those health care pro-  
27 viders enumerated in subsection (a), arising out of the rendering of  
28 or failure to render professional services by such health care provider,  
29 may be recovered in the same manner as claims for damages against  
30 any other health care provider.

31 (b) (c) As used in this section:

32 (1) "Indigent health care clinic" shall have the meaning ascribed  
33 to such term under K.S.A. 75-6102, and amendments thereto.

34 ~~(1)~~ (2) "Charitable health care provider" shall have the meaning  
35 provided by ascribed to such term under K.S.A. 75-6102, and  
36 amendments thereto.

37 ~~(2)~~ (3) "Health care provider" shall have the meaning provided  
38 by ascribed to such term under K.S.A. 40-3401, and amendments  
39 thereto.

40 ~~(3)~~ (4) "Hospital" means a medical care facility as defined in  
41 K.S.A. 65-425, and amendments thereto, and includes within its  
42 meaning any clinic, school of nursing, long-term care facility, child-  
43 care facility and emergency medical or ambulance service operated

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1 in connection with the operation of the medical care facility.

2 (5) "Local health department" shall have the meaning ascribed  
3 to such term under K.S.A. 65-241 and amendments thereto.

4 (6) The provisions of paragraphs (1), (2) and (3) of this  
5 subsection shall expire on July 1, 1995.

6 Sec. 4. K.S.A. 1992 Supp. 75-6117 is hereby amended to read  
7 as follows: 75-6117. (a) There is hereby established in the state  
8 treasury the tort claims fund which shall be administered by the  
9 attorney general. All expenditures from such fund shall be made  
10 upon warrants of the director of accounts and reports pursuant to  
11 vouchers approved by the attorney general or by a designee of the  
12 attorney general.

13 (b) Moneys in the tort claims fund shall be used only for the  
14 purpose of paying (1) compromises, settlements and final judgments  
15 arising from claims against the state or an employee of the state  
16 under the Kansas tort claims act or under the civil rights laws of  
17 the United States or of the state of Kansas and (2) costs of defending  
18 the state or an employee of the state in any actions or proceedings  
19 on those claims. Except for claims against the state or an em-  
20 ployee of the state in any actions or proceedings arising from  
21 rendering or failure to render professional services by a char-  
22 itable health care provider to a medically indigent person or  
23 by a charitable health care provider who has contracted with  
24 a local health department that is part of the pilot programs  
25 established under K.S.A. 1991 Supp. 65-226 and amendments  
26 thereto to medically indigent persons or persons receiving med-  
27 ical assistance from the programs operated by the department  
28 of social and rehabilitation services, to the extent that payment  
29 cannot be made from insurance coverage obtained therefor,  
30 payment of a compromise or settlement shall be made from  
31 the fund if the compromise or settlement has been approved  
32 by the state finance council as provided in K.S.A. 75-6106 and  
33 amendments thereto. Except for claims against the state or an  
34 employee of the state in any actions or proceedings arising  
35 from rendering or failure to render professional services by a  
36 charitable health care provider to a medically indigent person  
37 or by a charitable health care provider who has contracted with  
38 a local health department that is part of the pilot programs  
39 established under K.S.A. 1991 Supp. 65-226 and amendments  
40 thereto to medically indigent persons or persons receiving med-  
41 ical assistance from the programs operated by the department  
42 of social and rehabilitation services, to the extent that payment  
43 cannot be made from insurance coverage obtained therefor,

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Cotton #5

1 payment of a final judgment shall be made from the fund if  
 2 there has been a determination of any appeal taken from the  
 3 judgment or, if no appeal is taken, if the time for appeal has  
 4 expired. ~~Payment of a compromise or settlement shall be subject to~~  
 5 ~~approval by the state finance council as provided in K.S.A. 75-6106~~  
 6 ~~and amendments thereto. Payment of a final judgment shall be made~~  
 7 ~~from the fund if there has been a determination of any appeal taken~~  
 8 ~~from the judgment or, if no appeal is taken, if the time for appeal~~  
 9 ~~has expired. No payment shall be made from the fund to satisfy a~~  
 10 ~~compromise, settlement or final judgment when there exists insurance~~  
 11 ~~coverage obtained therefor, except that ~~prior~~ (A) Prior to July 1,~~  
 12 ~~1995, payment shall be made from the fund to satisfy a compromise~~  
 13 ~~settlement or final judgment for claims against the state or an em-~~  
 14 ~~ployee of the state in any actions or proceedings arising from ren-~~  
 15 ~~dering or failure to render professional services by (A) (i) a~~  
 16 ~~charitable health care provider as defined by K.S.A. 75-6102 and~~  
 17 ~~amendments thereto, (B) (ii) a local health department as defined~~  
 18 ~~by K.S.A. 65-241 and amendments thereto or an employee thereof,~~  
 19 ~~or (C) (iii) an ~~approved~~ indigent health care clinic as defined by~~  
 20 ~~K.S.A. 75-6115 and amendments thereto, or an employee thereof,~~  
 21 ~~even if there exists insurance coverage obtained therefor; and (B)~~  
 22 ~~on and after July 1, 1995, payment shall be made from the fund to~~  
 23 ~~satisfy a compromise, settlement or final judgment for claims against~~  
 24 ~~the state or an employee of the state in any actions or proceedings~~  
 25 ~~arising from rendering or failure to render professional services by~~  
 26 ~~(i) a charitable health care provider as defined by K.S.A. 75-6102~~  
 27 ~~and amendments thereto, (ii) a local health department as defined~~  
 28 ~~by K.S.A. 65-241 and amendments thereto or an employee thereof,~~  
 29 ~~or (iii) an indigent health care clinic as defined by K.S.A. 75-6115~~  
 30 ~~and amendments thereto, or an employee thereof, even if there exists~~  
 31 ~~insurance coverage obtained therefor, but only if the act giving rise~~  
 32 ~~to the claim against the state or an employee of the state occurred~~  
 33 ~~prior to July 1, 1995.~~

34 (c) Upon certification by the attorney general to the director of  
 35 accounts and reports that the unencumbered balance in the tort  
 36 claims fund is insufficient to pay an amount for which the fund is  
 37 liable, the director of accounts and reports shall transfer an amount  
 38 equal to the insufficiency from the state general fund to the tort  
 39 claims fund.

40 (d) The legislature shall review annually claims against and ex-  
 41 penditures from the tort claims fund arising from the rendering of  
 42 or failure to render professional services by a charitable health care  
 43 provider as defined by K.S.A. 75-6102 and amendments thereto and

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1 shall ascertain annually the number of charitable health care pro-  
2 viders and the extent to which the availability of coverage to char-  
3 itable health care providers under the tort claims fund has increased  
4 services provided to the medically indigent and to persons receiving  
5 medical assistance from the programs operated by the department  
6 of social and rehabilitation services. The provisions of this subsection  
7 shall expire on July 1, 1995.

8 (d) (e) This section shall be part of and supplemental to the  
9 Kansas tort claims act.

10 Sec. 5. K.S.A. 1992 Supp. 75-6120 is hereby amended to  
11 read as follows: 75-6120. (a) The secretary of health and en-  
12 vironment may enter into agreements with charitable health  
13 care providers in which such charitable health care provider  
14 stipulates to the secretary of health and environment that when  
15 such charitable health care provider renders professional serv-  
16 ices to a medically indigent person such services will be pro-  
17 vided gratuitously. The secretary of health and environment  
18 shall adopt rules and regulations which specify the conditions  
19 for termination of any such agreement, and such rules and  
20 regulations are hereby made a part of any such agreement. A  
21 charitable health care provider for purposes of any claim for  
22 damages arising as a result of rendering professional services  
23 to a medically indigent person, which professional services  
24 were rendered gratuitously at a time when an agreement en-  
25 tered into by the charitable health care provider with the sec-  
26 retary of health and environment under this section was in  
27 effect, shall be considered an employee of the state under the  
28 Kansas tort claims act.

29 (b) The secretary of health and environment shall establish  
30 by rules and regulations eligibility criteria for determining  
31 whether a person qualifies as a medically indigent person.

32 (c) Any claim arising from the rendering of or failure to  
33 render professional services by a charitable health care provider  
34 brought pursuant to the Kansas tort claims act shall not be  
35 considered by an insurance company in determining the rate  
36 charged for any professional liability insurance policy for health  
37 care providers or whether to cancel any such policy.

38 (d) This section shall be part of and supplemental to the  
39 Kansas tort claims act.

40 (e) The provisions of this section shall expire on July 1,  
41 1995.

42 Sec. 6 5. K.S.A. 65-2809 and K.S.A. 1992 Supp. 75-6102, 75-  
43 6115, and 75-6117 and 75-6120 are hereby repealed.

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8-8-95  
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1 Sec. 7 6. This act shall take effect and be in force from and after  
2 its publication in the ~~statute book.~~ \_\_\_\_\_ DELETE  
↑ \_\_\_\_\_ Kansas Register

*Present*  
*3-8-3*  
*pg 12- 01/12*  
*after*



## KANSAS MEDICAL SOCIETY

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

March 8, 1993

TO: House Public Health and Welfare Committee

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

SUBJECT: Senate Bill 14 as Amended by Senate Committee

The Kansas Medical Society generally supports the provisions of SB 14 but we must express concern about the "sunset" feature. The bill would accomplish the following meritorious objectives:

1. Allow exempt licensees under the Healing Arts Act to be paid employees of indigent clinics and local health departments,
2. establish that when a charitable provider renders gratuitous services to a medical assistance patient, the provider shall be considered an employee of the State,
3. clarify that indigent clinics and health departments may charge fees for service so long as fees are based on income eligibility guidelines,
4. define "indigent health care clinic" for purposes of the Tort Claims Act as a not-for-profit clinic which has a contract with the Secretary of Health and Environment to provide health care services to medically indigent people,
5. declare that health care providers employed by public health departments and indigent health clinics shall be considered governmental employees under the Tort Claims Act notwithstanding the provisions of K.S.A. 75-6115 which excludes medical malpractice actions from coverage under the Act, and
6. re-write subsection (b) of K.S.A. 1992 Supp. 75-6117 to clarify original 1990 legislative intent that the tort claims fund shall be the first payor in claims against the State which are attributable to negligence by a charitable health care provider.

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*3-8-93*  
*attn 6*

House Public Health and Welfare Committee  
March 8, 1993  
Page Two

The original charitable provider law was passed in 1990 by unanimous votes in both the Senate and House. A bill similar to SB 14 was passed in 1992. The House vote was unanimous and only three members of the Senate voted against it. The Governor then vetoed the bill expressing concerns about the State's exposure to financial risk and the need to measure benefits compared to costs. This occurred after the veto session and therefore it was too late for the 1992 Legislature to vote on a motion to override the veto.

During the 1992 interim the Governor communicated to the Joint Committee on Health Care Decisions that she could approve this legislation if "sunset" provisions were incorporated. The Committee acceded by having SB 14 introduced. But to the best of our knowledge, there was never a written communication nor a bill draft that would clearly state what was meant by "sunset." We would respectfully suggest that the review requirement contained in subsection (d) of section 4 (p. 7, line 40) could suffice as a sunset review rather than a literal interpretation in the form of a repealer date. Therefore, it is respectfully requested that the repeal in subsection (b) of section 4 be stricken. This would make the accompanying language unnecessary (p. 7, lines 22-33). A balloon amendment is attached for your consideration.

Adoption of our requested amendment would presumably elicit a clarification of the Governor's wishes regarding SB 14. If she accepts the amended version without repealer, the Senate could simply concur. If indeed the Governor desires a repealer, the bill could go to conference committee and the House could recede from the amendment.

We also wish to endorse an amendment to section 2 which would provide state liability protection to volunteers who administer vaccines to children under immunization programs sponsored by the Department of Health and Environment. Not only is this appropriate; it also would remove a barrier to recruitment of volunteer health care providers, particularly physicians. In conjunction with this amendment, the bill should be amended further to make it effective upon publication in the "Kansas Register." This would facilitate Operation Immunize next month.

Finally, we must express concerns because of two other bills passed by the House which also amend the Tort Claims Act. The provisions of HB 2099 defining community service work would amend K.S.A. 1992 Supp. 75-6102 and the provisions of HB 2008 pertaining to district coroners would amend K.S.A. 1992 Supp. 75-6115. Both of these sections of the Statutes are also amended by SB 14. *JHW*

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If SB 14 became law upon publication in the "Kansas Register" and then HBs 2008 and 2099 became law upon publication in the Statute Book, the provisions of SB 14 would be repealed by the other two bills. For this reason, we respectfully request that the pertinent features of HB 2099 and section 16 of HB 2008 be incorporated in SB 14.

Thank you for considering our concerns about this important legislation. We urge you to amend the bill as requested and recommend that it be passed.

CW:cb

SB 14—Am.

7

1 payment of a final judgment shall be made from the fund if  
2 there has been a determination of any appeal taken from the  
3 judgment or, if no appeal is taken, if the time for appeal has  
4 expired. Payment of a compromise or settlement shall be subject to  
5 approval by the state finance council as provided in K.S.A. 75-6106  
6 and amendments thereto. Payment of a final judgment shall be made  
7 from the fund if there has been a determination of any appeal taken  
8 from the judgment or, if no appeal is taken, if the time for appeal  
9 has expired. No payment shall be made from the fund to satisfy a  
10 compromise, settlement or final judgment when there exists insurance  
11 coverage obtained therefor, except that prior (A) Prior to July 1,  
12 1995, payment shall be made from the fund to satisfy a compromise  
13 settlement or final judgment for claims against the state or an em-  
14 ployee of the state in any actions or proceedings arising from ren-  
15 dering or failure to render professional services by (A) (i) a  
16 charitable health care provider as defined by K.S.A. 75-6102 and  
17 amendments thereto, (B) (ii) a local health department as defined  
18 by K.S.A. 65-241 and amendments thereto or an employee thereof,  
19 or (C) (iii) an approved indigent health care clinic as defined by  
20 K.S.A. 75-6115 and amendments thereto, or an employee thereof,  
21 even if there exists insurance coverage obtained therefor, and (B)  
22 on and after July 1, 1995, payment shall be made from the fund to  
23 satisfy a compromise, settlement or final judgment for claims against  
24 the state or an employee of the state in any actions or proceedings  
25 arising from rendering or failure to render professional services by  
26 (i) a charitable health care provider as defined by K.S.A. 75-6102  
27 and amendments thereto, (ii) a local health department as defined  
28 by K.S.A. 65-241 and amendments thereto or an employee thereof,  
29 or (iii) an indigent health care clinic as defined by K.S.A. 75-6115  
30 and amendments thereto, or an employee thereof, even if there exists  
31 insurance coverage obtained therefor, but only if the act giving rise  
32 to the claim against the state or an employee of the state occurred  
33 prior to July 1, 1995.

34 (c) Upon certification by the attorney general to the director of  
35 accounts and reports that the unencumbered balance in the tort  
36 claims fund is insufficient to pay an amount for which the fund is  
37 liable, the director of accounts and reports shall transfer an amount  
38 equal to the insufficiency from the state general fund to the tort  
39 claims fund.

40 (d) The legislature shall review annually claims against and ex-  
41 penditures from the tort claims fund arising from the rendering of  
42 or failure to render professional services by a charitable health care  
43 provider as defined by K.S.A. 75-6102 and amendments thereto and

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# KSNA

the voice of Nursing in Kansas

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FOR MORE INFORMATION CONTACT

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## SB 14

Madam Chairperson and members of the House Public Health and Welfare Committee, my name is Mary Kopp MN, RN and I am the Assistant Director of the Kansas State Nurses Association as well as the Chairperson of the Kansas Immunization Task Force. KSNA has been made aware of an amendment to Senate Bill 14 regarding charitable health care providers who volunteer professional services.

As a provider of professional services to Secretary Harder's Operation Immunize slated for April 24-25, 1993, safe passage of this bill with the balloon would address the issue of claims that might arise from the rendering of professional services during this specific campaign. This balloon specifically addresses those person's licensed by the state who volunteer for a state-wide operation immunize project.

KSNA has pledged the assistance of 2,000 volunteer nurses around Kansas as a part of a state wide initiative to immunize children 0-2 years within two years. It is estimated that over 50,000 children will be immunized during this massive campaign 1 of 4 slated for 93-94.

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Blue Testimony 1993

Kansas State Nurses' Association Constituent of The American Nurses Association

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