

Approved: March 27, 2012

## MINUTES OF THE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Vicki Schmidt at 1:30 p.m. on March 15, 2012, in Room 546-S of the Capitol.

All members were present.

Committee staff present:

Nobuko Folmsbee, Office of the Revisor of Statutes  
Rena Jefferies, Office of the Revisor of Statutes  
Iraida Orr, Legislative Research Department  
Melissa Calderwood, Legislative Research Department  
Carolyn Long, Committee Assistant

Conferees appearing before the Committee:

Kari Bruffett, Kansas Department of Health and Environment  
Mitzi McFatrach, Kansas Advocates for Better Care  
Wendy Funk Schrag, Kansas Kidney Coalition  
Suzanne Wikle, Kansas Action for Children  
Jane Rhys, Disability Advocate  
Tom Laing, Executive Director, InterHab  
Ron Heim, Kansas Physical Therapy Association  
Pam Palmer, KPTA Legislative Chair  
Mark Dryer, Physical Therapist  
Daryl Menke, Kansas Physical Therapy Association  
John Kiefhaber, Kansas Chiropractic Association  
Dr. Pete Hodges, Kansas Orthopaedic Society, Inc.  
Marlee Carpenter, Kansas Association of Health Plans

Others attending:

See attached list.

The Chair opened the hearing on **SR 1831—Requesting the Governor to delay the implementation of KanCare** and welcomed Kari Bruffett, Director, Division of Health Care Finance, Kansas Department of Health and Environment. Ms. Bruffett shared that they are focused on specific steps that they will take to address legislative concerns and prepare for the transition. The Governor has proposed a uniform billing front door solution as a Governor's Budget Amendment (GBA). The GBA includes enhanced education funding to allow more population-tailored communications to both Medicaid beneficiaries and providers, including meetings to be held across the state in the summer and fall. Implementation plans also include readiness reviews, the process for which will start soon after the contracts are in place. They will not implement if reviews indicate they are not ready. But they also do not want to unnecessarily delay the benefits of KanCare (Attachment #1).

Mitzi McFatrach, Kansas Advocates for Better Care, supports this legislation and any effort to delay the implementation of KanCare. They believe the plan has been crafted with an unrealistic implementation

## CONTINUATION SHEET

The minutes of the Public Health and Welfare Committee at 1:30 p.m. on March 15, 2012, in Room 546-S of the Capitol.

timeline that runs concurrent to a massive reorganization of the affected State agencies and without enough consumer or legislative input or oversight. They also believe it has been crafted without the consideration of potential improvements to the Medicaid program, such as providing dental coverage for adults and funding for mental health services for seniors (Attachment #2).

Representing the Kansas Kidney Coalition, Wendy Funk Schrag stated that dialysis is not an option and says that transitioning must be done carefully for people with kidney failure who are fragile individuals and have complex medical conditions. They would prefer a delay in implementation than a transition that could cause negative or harmful effects to Kansans with kidney failure if the necessary waivers, implementation plans, provider contracts, and education to providers and consumers are not accomplished in the current time frame (Attachment #3).

On behalf of Kansas Action for Children, Suzanne Wikle said that Kansas' Medicaid and CHIP program for poor and low-income children, collectively known as HealthWave, provides health insurance for more than 230,000 children. They support **SR 1831** as they believe additional time is needed to allow for a full understanding of the KanCare proposal by the public, including public input and transparency. Kansas must obtain a waiver from the federal government to move forward with provisions of KanCare and they believe the waiver process should be fully transparent. Under regulations, the state will be required to hold a 30-day public comment period regarding the waiver application. That process of obtaining a waiver and allowing for public transparency is likely to take much longer than the current KanCare timeline (Attachment #4).

Jane Rhys, a disability advocate, said that to make the major changes needed requires input and comments from the disability community, consumers, service providers, parents and family members, and advocates. To provide intelligent advice requires knowledge and because we do not have that knowledge, it is appropriate to ask the Administration to delay implementation and to provide systems stakeholders with more detailed information (Attachment #5).

Tom L. Laing, Executive Director, InterHab, stated that it is stunning that virtually the entire Medicaid program of Kansas and its 2.9 billion dollar budget is on course to be out-sourced to out-of-state insurance contractors. He stated that it is shocking that the adoption of KanCare is being attempted in a manner designed to intentionally bypass the constitutional role of the legislature to be the check and balance of the excesses of this or any administration (Attachment #6).

Mark Dugan from the Lt. Governor's office, in answer to committee questions, felt that their projections are sound regarding three-year provider contracts with 2 year extensions. Mr. Dugan was asked why the federal government gives 90 days yet the state is proposing 45 days to make a change in coverage. Mr. Duggan said they thought the time was adequate but it was still in discussion.

David Wilson, representing AARP, offered written testimony (Attachment #7). There being no further committee discussion, the hearing on **SR 1831** was closed.

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The Chair opened the hearing on **HB 2159—physical therapists evaluation and treatment of patients.** Staff stated that this bill would allow a physical therapist to evaluate and treat a patient without a referral as long as the patient is progressing toward treatment goals. If the patient is not progressing within 10 visits or 15 business days, the therapist must obtain a referral from a licensed healthcare practitioner before continuing.

Representing the Kansas Physical Therapy Association (KPTA), Ron Hein stated that this legislation would enable citizens the ability to access licensed physical therapists for an evaluation without having to incur the additional costs of first seeking treatment and a referral from a licensed practitioner. He stated that unrestricted patient self-referral is permitted in 17 states with no harm to the public, no increase in PT malpractice claims, no increase in PT malpractice rates, and no increase in healthcare costs (Attachment #8).

Pam Palmer, KPTA Legislative Chair, stated that in the 25+ years that the KPTA has worked for the passage of this bill, the insurance industry has never spoke in opposition to the language. She feels that if this law was harmful to the public, the public would sue more physical therapists for malpractice in the states that currently have patient self referral (Attachment #9).

Also in favor of this legislation, Mark Dwyer stated that in light of the fact that the health care system seeks to put more of the financial responsibility on the patient and that it is actually working to reduce the growth in health care spending, the patient has to be given the choice of where to receive that care. Since you cannot access PTs when wanted even if paying out-of-pocket, it is costing Kansas' businesses, insurers, and patients more than it is in those states that allow patient self-referral to PT services (Attachment #10).

Also in favor of this legislation, Daryl Menke stated that patient self-referral laws have not resulted in harm to the public nor has they resulted in increased cost. He stated that studies support the cost effectiveness of patient self-referral (Attachment #11).

Speaking in opposition to **HB 2159**, John Kiefhaber, Executive Director of the Kansas Chiropractic Association (KCA), cannot support this bill because doctors of chiropractic strongly believe that the healing arts act serves to assure Kansas patients of a proper examination and diagnosis of their health condition before a course of treatment would be started. The KCA has not seen any information that would lead them to believe that Kansans are not receiving the physical therapy services they need under the current system of doctor referrals (Attachment #12).

Pete Hodges, M.D. also spoke in opposition to the bill. He stated that physical therapists are not trained or qualified to make a medical diagnosis. Patients often have a broad range of medical conditions that present with similar symptoms and all must be considered to arrive at a medical diagnosis before commencing any treatment, including physical therapy (Attachment #13).

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Attention was given to written testimony in opposition to the bill from Dr. Bradley Daily, Orthopaedic Sports Health Clinic of Salina (Attachment #14)

Having no further testimony in opposition to the bill, the Chair recognized Marlee Carpenter, Kansas Association of Health Plans, whose testimony was neutral to the legislation. She stated that her organization would like clarification of the intent of **HB 2159** which would provide continuity and more certainty for health insurance providers (Attachment #15)

Also submitting testimony neutral to **HB 2159** was Dr. Deborah S. Clements, Kansas Academy of Family Physicians (Attachment #16) and Jerry Slaughter, Executive Director, Kansas Medical Society (Attachment #17).

There being no further conferees, the hearing on **HB 2159** was closed.

The meeting adjourned at 2:30 p.m.

There are no further meetings scheduled.

