

MINUTES OF THE SENATE JUDICIARY COMMITTEE.

The meeting was called to order by Chairperson John Vratil at 9:39 a.m. on March 14, 2001 in Room 123-S of the Capitol.

All members were present.

Committee staff present:

Gordon Self, Revisor
Mike Heim, Research
Mary Blair, Secretary

Conferees appearing before the committee:

John Parisi, Kansas Trial Lawyers Association (KTLA)
Roger Fincher, Kansas Bar Association (KBA)
Jerry Slaughter, Kansas Medical Society (KMS)
Rita Buurman, Sabetha Community Hospital
Joe Hiersteiner, Health Midwest
Nikki Adams, Kansas Health Information Management Association (KHIMA)

Others attending: see attached list

Minutes of the March 13th meeting were approved on a motion by Senator Donovan, seconded by Senator Schmidt. Carried.

SB 88—concerning access to health care records and health care billing records by patients and others

Conferee Parisi testified in support of **SB 88**. He discussed the need for “right of access legislation” whereby Kansas citizens will have the right to obtain their medical information on a timely low cost basis. He presented a comparison study of states which provide statutory right of access and discussed an illustration of variance in medical records costs. He detailed KTLA amendments which were drafted after meeting with medical group representatives and discussed the proposed Health Insurance Portability and Accountability Act (HIPAA). (attachment 1) He also referenced written testimony from Jim Howell and Matthew D. All (see listed under written testimony)

Conferee Fincher testified in support of **SB 88**. He discussed ways in which medical record requests are treated comparing the differences between workers compensation requests, which are subject to a fee schedule, and non work compensation requests, which have no fee guidelines. He also discussed the lack of timeliness in receiving requested medical records. (attachment 2) At the request of Marlene Niesinger, the conferee read portions of her testimony. (see listed under written testimony) Discussion followed regarding HIPAA.

Conferee Slaughter testified in opposition to **SB 88** stating that this bill addresses a problem where none exists. He briefly discussed three principles which are part of KMS policy: patients have rights to access their medical records; rights to reasonable cost for medical records; and rights to receive them without unreasonable delay and stated that there already are current laws that are adequate to address violations of these rights. He further discussed HIPAA which is to be implemented soon and stated it would be better to wait and determine the implications of this act prior to setting more regulations. He offered an alternative to **SB 88** which he stated was hastily put together do to time constraints. (attachment 3)

Conferee Buurman testified in opposition to **SB 88**. She stated that she agreed with a patient’s right to have timely low cost access to their medical records and testified to the manner in which her hospital complies with this. She discussed how **SB 88** will create numerous conflicts with state and federal laws, how unnecessary it is, and how it erodes the patient’s right to confidentiality. (attachment 4)

Conferee Hiersteiner testified in opposition to **SB 88**. He identified how several of the bill's provisions would make compliance complicated and difficult, stated that the bill expands a number of time-honored definitions, and discussed how it is inconsistent with HIPAA provisions as well as other applicable laws and creates varying standards for health care providers operating in Kansas and Missouri. ([attachment 5](#))

Conferee Adams testified in opposition to **SB 88**. She addressed four issues KHIMA has with the bill which relate to: confidentiality; corrections and authentication of medical information; HIPAA; and medical record copy cost. ([attachment 6](#)) Discussion followed. The Chair announced that he would bring **SB 88** forward for possible final action on Monday, March 19th.

Written testimony supporting **SB 88** was submitted by: James Howell (KTLA); ([attachment 7](#)) Matthew D. All, Assistant Commissioner, Kansas Insurance Department; ([attachment 8](#)) and Randall E. Fisher, Attorney, Newton, Kansas; ([attachment 9](#)) and Marlene Niesinger, KTLA. ([attachment 10](#))

Written testimony opposing **SB 88** was submitted by: Larrie Ann Lower, Kansas Association of Health Plans; ([attachment 11](#)) Ellen Piekalkiewicz, Association of Community Mental Health Center of Kansas, Inc.; ([attachment 12](#)) Bob Alderson, Kansas Pharmacists Association; ([attachment 13](#)) Bill Sneed, The Health Insurance Association of America, ([attachment 14](#)) The University of Kansas Hospital Authority, ([attachment 15](#)) The State Farm Insurance Companies; ([attachment 16](#)) Nell S. Thompson, Wesley Medical Center; ([attachment 17](#)) Loretta Hoerman, Kansas Academy of Physician Assistants; ([attachment 18](#)) Sisters of Charity of Leavenworth Health System; ([attachment 19](#)) Dennis D. Tietze, The Kansas Academy of Family Physicians; ([attachment 20](#)) Susan Grace, Kansas Physical Therapy Association; ([attachment 21](#)) Dr. Richard Warner, Overland Park, Kansas; ([attachment 22](#)) Willard Grosz, Shawnee Mission Medical Center; ([attachment 23](#)) Kansas State Nurses Association; ([attachment 24](#)) Gary L. Robbins, Kansas Optometric Association; ([attachment 25](#)) Kevin J. Robertson, Kansas Dental Association. ([attachment 26](#))

The meeting adjourned at 10:31 a.m. The next meeting is March 15, 2001.