

## MINUTES OF THE SENATE PUBLIC HEALTH AND WELFARE COMMITTEE

The meeting was called to order by Chairman Jim Barnett at 1:30 p.m. on January 14, 2009, in Room 136-N of the Capitol. Senator Barnett introduced Lauren Leif, an intern from Emporia State University studying political science.

All members were present.

Committee staff present:

Jan Lunn, Committee Assistant  
Kelly Navinsky-Wenzl, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Nobuko Folmsbee, Office of the Revisor of Statutes  
Doug Taylor, Office of the Revisor of Statutes

Conferees appearing before the committee:

Levi Bowles, Kansas Department of Health  
Dr. Andy Allison, Kansas Health Policy Authority  
Jerry Slaughter, Kansas Medical Society

Others attending:

See attached list.

Sky Westerlund, representing the Kansas Chapter of National Social Workers, was recognized by Chairman Barnett. Ms. Westerlund requested the conceptual introduction of legislation that would add six hours of continuing education credit to social workers applying for licensure renewal. Upon a motion by Senator Brungardt to move introduction, and a second by Senator Schmidt; the motion carried.

Senator Schmidt moved introduction of a bill concerning the board of pharmacy; relating to fingerprinting and criminal history record checks; regulating pharmacy technicians; terms and membership of the board; and amending and repealing various sections of existing sections. Senator Kelsey seconded the motion; the motion carried.

Senator Barnett introduced a bill concerning expressions of apology, sympathy, compassion or benevolent acts by health care providers. Senator Barnett communicated that the bill was brought forward by Cynthia Smith, representing the Sisters of Charity of Leavenworth Health System. Senator Kelly moved introduction of the bill; Senator Brungardt seconded the motion. The motion passed.

Chairman Barnett introduced Mr. Levi Bowles, from the Legislative Post Audit Office, who distributed a handout relative to the audit of "Statewide Medical Expenditures: Reviewing Medicaid Expenditures for Fraud and Abuse" (Attachment 1). Mr. Bowles described "data mining techniques" were used to identify potential Medicaid problems. Data mining involves using statistical and non-statistical data analysis techniques to identify unusual claims which could be problematic. The key findings of the audit included more than 10,000 clients whose income appeared to exceed program limits; 266 clients who provided no valid Social Security number received approximately \$700,000 in claims; some doctors may have "up-coded" office and emergency room visits at a higher level of service than provided; almost \$435,000 in non-hospital claims were paid for beneficiaries who were hospitalized at the time the service was provided; there were 31 instances when a beneficiary received 20 or more dental services in a single day; and 415 clients whose date of death had not been recorded in the system and were still eligible for services. Estimated savings potential resulting from the audit was \$3.1 million per year. Recommendations included that the Health Policy Authority develop systems to compare Medicaid beneficiaries to income and death certificate data, work with contractors and other agencies to review and improve system edits, and review of systems for detecting suspicious claims.

Following Mr. Bowles testimony, Senator Brungardt inquired whether errors were reviewed for simple typographical/data keying errors. Mr. Bowles indicated that type of review had not been performed. Senator Schmidt questioned whether any in-depth review had been done relative to up-coding problems. She provided an example of a child going to the pediatrician for a well-check, and the physician being asked to evaluate a secondary medical condition which might have resulted in up-coding. Mr. Bowles replied that no medical records were reviewed. Senator Colyer inquired relative to beneficiaries without

## CONTINUATION SHEET

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a Social Security number and whether that problem was on the client or the provider side. Mr. Bowles indicated the problem appeared to be on the client side. Senator Colyer also asked Mr. Bowles whether the potential for “under-coding” had been examined. Mr. Bowles indicated nothing related to “under-coding” was examined. Senator Kelly asked how the \$3.1 million in yearly savings was calculated; Mr. Bowles replied that other analyses were reviewed and consideration was given to how much could likely be recouped with some margin for error included. Senator Kelly inquired about the reasoning for selecting three specialties for the audit, and whether sub-specialists were audited. Mr. Bowles replied that general practitioners, internists, and pediatricians were selected because they comprise the greatest share of physicians, and that sub-specialists were not included in the audit.

Chairman Barnett recognized Dr. Andy Allison from the Kansas Health Policy Authority. Dr. Allison presented written testimony ([Attachment 2](#)) indicating the audit analyzed claims paid between October 1, 2005 and September 30, 2006, which included approximately \$2 billion worth of paid claims. Dr. Allison concurred with the LPA office in that data mining processes are designed to identify unusual patterns in large data sets to increase the likelihood of finding fraud and abuse. The value of this process significantly narrows the search for fraud and abuse. Dr. Allison indicated the majority of the audit period was prior to the time the KHPA assumed responsibility for Medicaid. Dr. Allison reviewed those recommendations on which the KHPA concurred and on those recommendations on which the Kansas Health Policy disagreed. Dr. Allison provided detailed testimony relative to KHPA’s actions on recommendations from the Legislative Post Audit Review.

Jerry Slaughter, Executive Director of the Kansas Medical Society, testified relative to the Legislative Post Audit Report. However, Mr. Slaughter strongly disagreed with the analysis, and his testimony is attached ([Attachment 3](#)). He urged legislators to view the audit critically; he indicated that the up-coding conclusions were not supported by the audit’s findings and methodology. Without examining any medical records associated with the claims in their study and/or without examining underlying diagnoses, it is impossible to judge appropriateness of a billing code. Mr. Slaughter elaborated on the absence of any medical expertise on the audit staff.

Senator Barnett thanked all conferees for their testimony, and he adjourned the meeting at 2:22pm. The next meeting is scheduled for Tuesday, January 20, 2009.