



March 20, 2019

To: House Health and Human Services Committee

From: Vicki Whitaker, KAOM Executive Director

Subj: Opposition to HB 2402 – providing for authorization of certain business entities to employ physicians and chiropractors

Chairwoman Landwehr and Members of the Committee:

The Kansas Association of Osteopathic Medicine (KAOM), founded in 1913, represents osteopathic physicians and the osteopathic profession in Kansas. At the direction of KAOM members, the association is providing comments in strong opposition to HB 2402 which would authorize a business entity to employ physicians and chiropractors.

KAOM contends a business should not be authorized or allowed to employ physicians. The foundation of the practice of medicine by physicians is predicated on them using their independent judgment, education and training to decide what is the best treatment for each patient. The practice of medicine is a privilege earned following years of education, residency and thousands of clinical hours spent in training. Employment by a business entity whose goal is “lowering the overall cost of health care so it is more affordable for employers” is not in the best interests of individual patients. This quote was taken from Page 13 of The Kansas Chamber’s 2019 Legislative Agenda.

On March 19, 2019 in the Health and Human Services Committee it was stated that all interested parties were provided the opportunity to participate in the negotiations on HB 2146 which morphed into HB 2402. While KAOM did attend one meeting with all interested parties on Tuesday, March 5, 2019, the association has not been at the table for any negotiations since that time even though KAOM requested to be at the table for further talks. KAOM appreciates the work the Kansas Medical Society has done concerning the negotiations and the sharing of information from those meetings, but it is not the same as being at the table.

HB 2402 was introduced in the House on March 19, 2019 and a copy of the bill was not available until 1:00pm – then we were told the bill would be heard on March 20, 2019 and all those interested in providing testimony must have it to the Health and Human Services secretary by 9:00am on March 20, 2019. This does not allow those wishing to oppose this bill, who were not at the table, much time to read the 17-page bill and digest it and offer meaningful testimony.

As KAOM noted in its testimony on HB 2146, businesses in Kansas are able now to contract with physicians to deliver healthcare to their employees. The contract arrangement affords physicians the ability to treat patients based on the patients’ best interests. Physician autonomy would also be compromised by HB 2402 and the fast read of the bill shows there is much to be concerned about in the bill. By removing the language of a business entity as practicing medicine in the ACT section the proponents of HB 2402 seem to think they have solved the problem of who is responsible and who is liable for patient outcomes. Any business entity wishing to employ physicians should also be willing to assume corporate liability for patient outcomes related to the practice of medicine under their auspices. On page two, line 1 of HB 2402 it states, “designating the business entity as authorized *to engage in the practice of medicine or surgery* or chiropractic as applicable.”

According to the Healing Arts Practice Act, KSA 65-2802 (a): Definitions. (a) The healing arts include any system, treatment, operation, diagnosis, prescription or practice for the ascertainment, cure, relief, palliation, adjustment or correction of any human disease, ailment, deformity, injury, alteration or enhancement of a condition or appearance and includes specifically, but not by way of limitation, the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic. As stated in KAOM testimony on HB 2146, *a business cannot practice medicine by its very definition in statute and it would be a disservice to all Kansans to afford business entities the privilege of "practicing medicine"*.

HB 2402 then goes on to define the "licensee" and actions that can be taken against licensees by the Board of Healing Arts. KAOM is not seeing how this section has been changed to add the business entity as a licensee and therefore as responsible to the Board for acts of fraud or misrepresentation, acts of unprofessional or dishonorable conduct or professional incompetency or any of the other reasons for no longer being able to practice medicine. The business entity practicing medicine should also be held to these standards and for acts or omissions in other states which have resulted in negative patient outcomes.

The proponents of this bill represent large corporations and a large insurance company in Kansas. The opponents of the bill represent the professions which will be affected by passage of this bill. KAOM does not have billions of dollars in reserves or represent those who have billions of dollars. KAOM represents practicing osteopathic physicians – many of whom practice primary care in underserved rural areas of the state. The impact on the health care delivery system in Kansas could also be compromised by HB 2402.

If HB 2402 is passed the result likely will be those with the best insurance, those employed by large corporations and their dependents, will have one level of care and Kansans with less than ideal insurance coverage with high premiums and high co-pays, employed by small businesses or those using Medicaid or Medicare and the uninsured will have access to health care providers without the deep pockets of a Cerner or the corporations it will establish clinics for. Blue KC will leverage its health benefits by incentivizing the use of Spira Clinics through low or no co-pays and siphon off their insureds from local providers and hospital clinics. The physicians, hospitals and clinics providing care to those with less insurance, working for small businesses or those on Medicaid, Medicare or no insurance will find their ability to deliver health care compromised by poor reimbursement or no reimbursement for the provision of services.

The amount of time provided to discuss, debate, and examine this change to the health care system is woefully inadequate and will further disrupt an already struggling health care delivery system in Kansas. HB 2402 will have many unintended consequences if passed.

For these reasons, KAOM respectfully seeks your opposition to the passage of HB 2402.

Thank you for the opportunity to provide this testimony.