0173 Committee on Hospitals, Part I

Colorado Legislative Council

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REPORT OF THE
COMMITTEE ON HOSPITALS

Legislative Council
Report to the
Colorado General Assembly

Research Publication No. 173
November, 1971
To Members of the Forty-eighth Colorado General Assembly:

As directed by House Joint Resolution No. 1033, the Legislative Council appointed a committee to make a two-year study of hospital rates and related matters. The Committee on Hospitals presented a report of findings and recommendations from its first year of study to the Council on November 8, 1971. At that time the Council approved the report for transmission to the Governor and the Second Regular Session of the Forty-eighth General Assembly.


Respectfully submitted,

/s/ Representative C. P. (Doc) Lamb
Chairman

CPL/mp
November 8, 1971

Representative C. P. (Doc) Lamb
Chairman
Colorado Legislative Council
Room 46, State Capitol
Denver, Colorado 80203

Dear Mr. Chairman:

In accordance with House Joint Resolution No. 1033, your Committee on Hospitals was appointed to investigate factors affecting the rising cost of health care, and to submit its findings and recommendations to the Council. The Committee, after careful study, submits Part I of its report for consideration by the Council.

In its report, the Committee makes the following recommendations:

(1) Certification of need, whereby a hospital would be required to seek approval of a governing agency to implement plans for the construction, expansion, or alteration of facilities or services;

(2) Full payment of hospital charges by non-profit health associations;

(3) Requirement that health insurance advertisements contain a disclaimer clause, acknowledging that state licensure of a particular insurance plan is not intended to imply state endorsement;
(4) Increased emphasis on health education in grades Kindergarten through 12;

(5) Guaranteed renewability of health insurance plans, whereby a health plan subscriber would be assured health care coverage, after the initial two years of coverage, except in cases involving fraud, in either applications or claims, or non-payment of premium;

(6) Extension of group health plan coverage to individuals whose eligibility for such coverage terminates, for a period not to exceed 90 days;

(7) An amendment to the state health insurance law which would allow an increase in the state's share, to $11.21 this year, for state employee's participating in group health plans; and

(8) Endorsement of the efforts of the Highway Safety Committee in recommending a bill requiring licensing and standards for the operation of ambulance services.

Respectfully submitted,

/s/ Representative Roy H. Shore
Chairman
Committee on Hospitals

CPL/mp
FOREWORD

Pursuant to House Joint Resolution No. 1033, Forty-eighth General Assembly, 1971, the Committee on Hospitals was created to conduct a two-year study of the factors affecting the rising costs of health care, and to report its findings and recommendations to the Legislative Council. The members appointed to serve on the Committee are:

Representative Roy Shore, Chairman
Senator Clarence Decker, Vice Chairman
Senator George Jackson
Senator Norman Ohlson

Representative Dennis Gallagher
Representative Wallace Hinman
Representative Gerald Kopel
Representative Kay Munson
Representative Morton Pepper

During the first year of study, the Committee on Hospitals conducted a total of seven meetings, during which the issues surrounding the rising costs of health care were explored. Contributing to this exploration was the Colorado Hospital Association, which provided much information to the Committee concerning problems facing hospitals. Alternative forms of health care plans were discussed by the Kaiser Foundation Health Plan of Colorado, the Colorado Foundation for Medical Care, and the Metro-Denver Foundation for Medical Care, all of which emphasize outpatient care and a preventive approach to health care. The Committee toured St. Francis and other hospitals in Colorado Springs in an attempt to gain a better understanding of the factors contributing to rising hospital costs.

Representatives of commercial health insurance carriers, and other health care associations such as Blue Cross and Blue Shield, appeared before the Committee to explain the factors precipitating higher costs of health care plans in recent years. Licensure requirements of hospitals were discussed by representatives of the Department of Health. Finally, information concerning health planning in Colorado was supplied by the Comprehensive Health Planning Council, an organization which was established by the Governor to give guidance to the health care industry through comprehensive planning.

The Committee wishes to express its appreciation to these individuals and agencies for their cooperation and assistance in the conduct of this study. The assistance given to the Committee by these agencies contributed immeasurably to the contents of this Part I report.
Mrs. Kay Miller, research associate on the Council staff, was primarily responsible for the research material compiled by the staff, and was assisted by Mr. David Morley, research assistant. Mr. Larry Bohning, of the Legislative Drafting Office, provided bill drafting services to the Committee.

November, 1971

Lyle C. Kyle
Director
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Rising health care costs are an item of nationwide concern. Literally hundreds of health care-related bills were introduced in the United States Congress in 1971. Many of the bills are aimed at controlling health care costs while others attempt to design intricate insurance plans to protect individuals from financial bankruptcy arising from extended medical care. The citizens of Colorado, too, have become concerned about the increasing cost of health care. For this reason the General Assembly saw fit to direct the Legislative Council to appoint a committee to look at hospital rates in this state, consider the various factors affecting hospital rates, and determine if there is a viable method of controlling the rise in hospital costs and rates.

The payment mechanisms used by third party carriers, such as commercial insurance companies and non-profit health associations such as Blue Cross, Medicaid and Medicare, are integrally related to hospital costs. The Committee spent considerable time attempting to understand these health insurance plans and evaluating the impact of these plans in controlling or contributing to the spiralling costs of hospitals. In considering health insurance plans the Committee determined that such plans contain certain lapses in coverage, which the Committee is recommending legislation to correct. The Committee is also recommending a change in the method of reimbursement used by third party carriers. The Committee believes a reimbursement formula based on a predetermined budget would encourage more efficient fiscal management in health care institutions by providing incentives to those facilities able to cut the cost of providing medical care to patients.

Finally, the Committee is concerned with encouraging the preventive approach in health care. Testimony received by the Committee emphasized that a preventive approach to health care reduces the need for extended medical care, thereby reducing individual health care expenses. One step in the preventive process is an increased emphasis on health education in the schools, which the Committee is seeking to encourage through its proposed resolution.

The Committee is of the opinion that the preventive approach is applicable also in controlling the expansion of
health care facilities and services. For this reason, the Committee is recommending a proposal which would require certification of need for hospitals. This proposal is designed to prevent and control unnecessary construction and expansion of hospital facilities and services, which contribute significantly to rising hospital costs.
Committee Findings and Recommendations

Certification of Need

The Committee believes there is duplication and mal-distribution of hospital services in the State of Colorado. In some of the rural parts of the state there is a shortage of readily available hospital beds and services, while in other parts of the state there appears to be an overabundance of certain hospital services. In one sparsely populated part of the state, two nearby communities each have community hospitals, one recently built with federal Hill-Burton funds. It does not appear that there was adequate need or population to justify the construction of a second general hospital which largely duplicates the services of the pre-existing hospital.

One effect of poor distribution and planning of hospital services is that hospitals operate at less than capacity. This is a matter of concern to the Committee because unoccupied beds are an expense to the hospitals and are a contributing factor in the high cost of hospitals. Testimony to the Committee in Colorado Springs revealed that, in that city, an empty bed costs 70 percent of what it costs to maintain an occupied bed. This percentage figure may be even higher in the Denver area. The cost of an unoccupied bed increases proportionately to the salaries of personnel and other cost factors affecting a hospital.

In 1969 in Denver, the average occupancy rate (arrived at by dividing the number of beds into the average daily census) for 13 hospitals was 74.9 percent. This is from a set of occupancy rates which range from a high of 94 percent at Denver General to a low of 59 percent at Children's Hospital. It is generally accepted that hospitals must have a certain percentage of their beds available to accommodate emergency situations. But the closer hospitals can operate to full capacity, the lower the cost will be to the patients occupying those beds.

The Committee believes that steps need to be taken to prevent future unwarranted construction and expansion of hospital services when there is not a measurable need. Therefore, the Committee believes that the General Assembly should enact legislation to designate a single state agency to give guidance and direction to the future expansion of hospital services.
Specifically, the Committee recommends that the General Assembly enact legislation which would require a designated state agency (Comprehensive Health Planning or the Department of Health) to approve the establishment, construction, expansion, or alteration of any hospital. Prior to approving any such proposal, the agency would determine whether there is public need for the existence or change in such a facility. If the agency is satisfied that the public need exists to justify the proposal, the agency would be authorized to issue a certificate of need. No hospital could be established, constructed, expanded, or altered without such certificate.

The Committee believes that in considering any proposal for the establishment, construction, expansion or alteration of a hospital, the state agency should take into consideration and be empowered to request information and advice as to:

(a) the availability of facilities or services such as preadmission, ambulatory or home care services which may serve as alternatives or substitutes for the whole or any part of the proposed hospital construction;

(b) the need for special equipment in view of existing utilization of comparable equipment at the time and place and under the circumstances proposed;

(c) the possible economies and improvements in service to be anticipated from the operation of joint central services including, but not limited to, laboratory, research, radiology, pharmacy, laundry and purchasing; and

(d) the adequacy of financial resources and sources of future revenue.

Payments to Hospitals by Non-Profit Prepaid Health Associations

Testimony to the Committee on Hospitals has revealed that non-profit prepaid health associations, notably Blue Cross, are able to negotiate reimbursement levels with hospitals which are less than the hospital charges to private paying patients and other health insurance carriers. This lower rate amounts to a discount of about six to seven percent below charges.
Methods of financing hospitals have changed drastically since the inception of retrospective reimbursement health care plans such as Blue Cross. Hospitals were once operated as charitable institutions dependent on endowments and contributions to finance their charitable work. As the practice of medicine has changed and the rapid advances in technology have had a huge impact on the entire delivery system of health care, hospitals too have been forced to change. They have been forced by all these changes to learn to operate as any other big business and to be concerned that they are taking in sufficient revenue to pay for the costs of operation. Additionally, with federal funds for construction and expansion becoming less readily available, and with private endowments and contributions which hospitals had once depended on becoming scarce, hospitals must also find alternate methods of generating capital to enable them to expand and purchase necessary equipment.

In light of all these changes, reimbursement for all reasonable services and charges from all third party carriers is imperative. For this reason, the Committee recommends that the General Assembly consider legislation which would require that all non-profit prepaid health associations reimburse fully for reasonable hospital charges. In essence, this requirement would mean that hospital charges to any non-profit prepaid health association for reimbursement would have to be identical to those charged to any private pay patient or other health insurance company. In turn, such legislation should require that, at least semiannually, hospitals would be responsible for justifying their rates to all health insurance companies.

In line with this recommendation the Committee also recommends that a change be made in the method of establishing levels on which the third party carriers base their reimbursement for claims. Under the present method, non-profit prepaid health associations such as Blue Cross, and private health insurance carriers as well, provide payment to hospitals for services to their subscribers through a method known as retrospective reimbursement. Essentially this method of payment means that the participating hospitals and the insurance carrier negotiate a reimbursement rate on which the carrier bases payment for services that have been rendered.

The Committee believes an inherent weakness in this system lies in the fact that the payment levels are established in retrospect rather than at the outset of the contract period. The Committee believes a more preferable method would be for the negotiating parties, i.e., the insurance carriers and the hospitals, to establish the rein-
reimbursement rates at the beginning of the contractual period, or implement a system of "prospective reimbursement" as this method of pre-setting rates is often called. The Committee believes this system would help hospitals in anticipating revenue from non-profit insurance carriers which for many hospitals is their major source of revenue. It would also provide the insurance carrier with a powerful tool to force hospitals to keep their costs down.

For these reasons the Committee recommends that the 1972 Session of the General Assembly give careful consideration to legislation which would require non-profit prepaid health associations, and perhaps other health insurance companies as well, to institute reimbursement methods established by preset rates to be reviewed at least semiannually.

Ambulance Services

With exception of a few municipal ordinances, ambulance services in Colorado are not required to meet any type of basic medical standards with respect to vehicle equipment and trained personnel. Proper first-aid and the handling of victims at the scene of the accident are particularly important with respect to serious injuries. Therefore the Committee recommends that steps be taken to insure that trained personnel, properly equipped, are servicing accident victims on Colorado highways.

The Committee recognizes that the Committee on Highway Safety is also concerned with the need for licensing and regulation of ambulance service operations. The Committee also recognizes that the Colorado Legislative Council Committee on Highway Safety in 1966 acknowledged the need for such licensing and regulation and promulgated legislation to accomplish this end.

However, the Committee, recognizing the urgency of the situation, would like to endorse the efforts of the Highway Safety Committee in recommending that a bill, which would require licensing and standards for the operation of ambulance services, receive consideration in the 1972 Session of the General Assembly.

Health Insurance Company Advertisement (Bill A)

The Committee recognizes that many health insurance companies include in their public advertisements the language "Licensed by the State of Colorado". The Committee is concerned that citizens of the state may interpret this
language to mean that the state endorses a particular insurance plan and may even infer to some persons that the state would stand behind a plan financially. In order to prevent any possibility of such misinterpretation, the Committee recommends that legislation be considered in 1972 which would require that any such advertisements also include a disclaimer clause to the effect that this licensure is not to be construed to imply state endorsement of the insurance plan. The Committee believes there is precedent for such a requirement in that the federal government requires a disclaimer clause in interstate land sales and other states require such a clause in real estate sales advertisement.

Health Education (Resolution B)

The Committee believes that more effort needs to be devoted to the prevention of health problems and the development of proper attitudes and basic knowledge relating to health care. Therefore the Committee recommends that the 1972 Session of the General Assembly direct the State Department of Education to offer assistance to the several school districts and boards of cooperative services in improving their health education programs. It is the recommendation of the Committee that the ultimate goal of this effort would be the implementation of comprehensive health curricula in grades kindergarten through 12th grade in all the school districts of the state.

The Committee believes that the State Department of Education should be directed to perform the following functions toward the attainment of this goal:

(1) Develop requirements for certification of health teachers;

(2) Develop in-service health training for teachers which would be acceptable in meeting the certification requirements of the Department;

(3) Continue development and updating of health curricula guidelines for use in the schools in this state in developing and expanding their health care programs;

(4) Work toward the development of a resource library of materials to be made available to the school districts of this state.
Recommendations Related to Health Insurance

Cancellation of Health Insurance Policies by the Company. Some health insurance companies make it a practice to terminate the policies of subscribers if they discover that a subscriber may have become a poor risk. The Committee believes this practice is inequitable if the subscriber has had a policy with the company over a number of years. The Committee does not think that the insurer should be allowed to cancel the policy of a subscriber after many years in good standing with the company.

For this reason the Committee recommends that a time limit of perhaps two years be established during which time the insurer could cancel a subscriber's policy for good cause. After this two year limit the insurance companies could not cancel a subscriber's policy for any reason other than failure to pay the premiums, fraud or other reasons outlined by statute. The Committee further recommends that insurance companies not be allowed to terminate the insured's right to renew after this time period. Further, the Committee recommends that after the time period no insurer shall require as a condition for renewal any rider or attachment which would limit the nature or extent of benefits provided under the original policy. The Committee believes this should be a statutory requirement and not an optional benefit that insurance companies may offer. The Committee finds this to be a problem that deserves immediate attention and urges that the General Assembly consider legislation to correct this situation in the 1974 session.

Limitation on Exclusions. The Committee recognizes the necessity or allowing insurance companies the authority to exclude insurability for certain illnesses or medical conditions, of which an applicant may have a history, when application is submitted for a health insurance policy. This practice enables insurance companies to minimize insurability risks, in offering health care coverage to an applicant, by attaching riders which exclude coverage on these conditions for which the applicant is known to be a poor risk.

It has been brought to the attention of the Committee that this practice of attaching riders to insurance contracts has led, in some cases, to exclusion of preexisting conditions, which may not be precipitated by the original condition (i.e., exclusion of coverage for all medical conditions of the kidney when the applicant is known to have a particular localized kidney ailment). Attention has also been directed to the practice of health care insurers in which a former medical condition of the applicant is excluded permanently from the provisions of the contract, although the applicant has fully
recovered from such condition. The Committee does not believe that the industry practice of excluding insurability for particular medical conditions should be used indefinitely or for indefinite periods of time.

Therefore, the Committee is recommending that legislation be considered by the 1972 Session of the General Assembly which would limit the authority of health insurance carriers to attach riders to insurance contracts which would affect insurability for particular medical conditions. The Committee has not yet worked out the details of a specific proposal but would suggest that the subject be open for discussion in the 1972 Session.

Extension of Group Health Insurance (H1112). In line with the same question of cancellation of health insurance policies, the Committee has an additional concern which may merit consideration by the General Assembly if the subject of health insurance terms of cancellation is opened to discussion in the 1972 Session. This concern relates to automatic termination of group insurance benefits. When an employee terminates his employment with an employer through which he has coverage in a group health insurance plan, that employee's health insurance automatically terminates. The worker is left without health insurance coverage, unless he takes out an individual policy, until he begins employment with another employer who may be under a group plan. Often times a worker may put off taking out an individual policy due to the high cost of individual health care insurance. This period when the worker is not covered can be extremely harmful to the worker or one of his dependents because medically ill or injured during this time.

For these reasons the Committee believes that the General Assembly may also wish to consider legislation requiring that group policies provide an employee with the option of continued coverage under his group policy at the same premium rate for 90 days after termination of employment. The Committee bill which appears as Bill 629, would give the employee two choices: For a period of 90 days after termination of employment, he could either: 1) elect to continue his policy at the group rate; or 2) convert to a non-group policy. Allowing the employee to convert from group to non-group coverage is currently a practice by most health insurance carriers. The proposed bill would make this practice a requirement for all insurance carriers and establish a maximum time limit for conversion.
Amendment to the State Health Insurance Law to Allow a Greater Number of State Employees

Section 72-22-11, C.A.R.S. 1963, as amended, establishes the amount of state contribution to the state employees' health insurance at $6.75 per month for each employee and official enrolled in a plan. In 1966, when the state contribution was increased from $6.00 to $6.75, this amount was intended to cover the full cost of the low-level plan for a single state employee or official. Since 1966, the cost of all the state group health insurance plans has been increasing, and in 1972, the monthly premium for the low-level plan for a single employee or official will be $11.21.

The State Employees and Officials Group Health Insurance Board has adopted a resolution requesting the Governor to place on his agenda for the next session of the General Assembly an amendment to the State Employees and Officials Group Health Insurance Act providing for the state to contribute the cost of the low-level plan for each employee and official enrolled in a plan. The Committee is in agreement with this concept and endorses the Board's request to have this item placed on the Governor's agenda for consideration in the 1972 Session of the General Assembly. The Committee believes that the statute should not contain a fixed dollar amount but should rather be based on the full amount of the low-level plan for a single adult which the Committee understands was the original intent and is the basis of the Board's request.

If the law were amended in 1972, the monthly amount of state contribution for each employee would be $11.21 for Fiscal Year 1972-73. The Board is asking the Joint Budget Committee to consider an appropriation to fund the state contribution for 1972-73 based on the monthly $11.21 per employee and official if the amendment to the law is enacted. The Committee supports this request. It is anticipated that to increase the state contribution from $6.75 to $11.21 would call for an additional appropriation of $159,248 over the amount required to cover the state contribution at $6.75. Copies of the Board resolution and revenue estimates of the fiscal impact of the proposed legislation appear as Appendix A of this report.
BILL A

A BILL FOR AN ACT

CONCERNING THE ADVERTISEMENT OF INSURANCE PROGRAMS.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Article 1 of chapter 72, Colorado Revised Statutes 1963, as amended, is amended by the addition of a new section to read:

72-1-65. Advertisement for insurance - requirement. Any advertisement for the sale of insurance or participation in an insurance program which states that such insurance policy or program is registered with or is in any way certified or approved by the state of Colorado or any of its agencies, shall also contain a provision to the effect that such registration, certification, or approval is not to be construed to imply state endorsement of such insurance policy or program.

SECTION 2. Effective date. This act shall take effect on July 1, 1972.

SECTION 3. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.
RESOLUTION B

Relating to Health Education

WHEREAS, The General Assembly believes that more effort needs to be devoted to the prevention of health problems and the development of proper attitudes and basic knowledge relating to health care; and

WHEREAS, The General Assembly believes that the public schools of this state are the proper institutions through which to conduct health education instruction; and

WHEREAS, There may be a shortage of teachers with sufficient background and training to provide instruction in health education; and

WHEREAS, The State Department of Education can be instrumental in assisting school districts to develop health education programs and prepare teachers to staff these programs; now, therefore,

Be It Resolved by the House of Representatives (or Senate) of the Forty-Eighth General Assembly, the Senate (or House) concurs:

That in order to aid and assist school districts in the initiation and expansion of health education programs, the State Department of Education is hereby directed to:

a) Develop requirements for certification of health teachers;

b) Develop in-service health training for teachers which would be acceptable in meeting the certification requirements of the Department;

c) Continue development and updating of health curriculum guidelines for use in the schools in this state in developing and expanding their health care programs; and

d) Work toward the development of a resource library of materials to be made available to the school districts of this state.

Be It Further Resolved, That copies of this resolution be sent to the Commissioner of Education, the State Board of Education, and the several school districts of the state.
A BILLS FOR AN ACT

CONCERNING GROUP HOSPITAL-AND SURGICAL INSURANCE.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 72-10-4, Colorado Revised Statutes 1963, is amended by the addition of a new subsection to read:

72-10-4. Required provisions. (14) (a) A group policy providing hospital or surgical expense insurance shall contain a provision to the effect that in case of a termination of such insurance provided any employee because of the termination, for any reason whatsoever, of his employment, while insured under such a group policy issued to his employer, and provided such employee is not then covered by another policy of hospital or surgical expense insurance or hospital service or medical expense indemnity corporation subscriber contract providing similar benefits or is not covered by or eligible to be covered by a group contract or policy providing similar benefits required by any statute or provided by any welfare plan or program, which together with the original policy would result in overinsurance or duplication of benefits, such employee, including any dependents of the employee covered under such group policy, if the employee has been insured under the group policy for at least one hundred and eighty days shall, at the option of the
terminated employee or dependent, be entitled to:

(b) Notice issued by the issuer without evidence of insurability, continued coverage by the issuer at a rate identical to that charged under the group policy, and providing identical benefits as provided under the group policy, for a period of ninety days following the date of termination of employment, with the cost of such continued coverage to be paid by the terminated employee; and

c) Renew, without evidence of insurability, such group policy to a new group policy at any time within ninety days following the date of termination of employment.

SECTION 2. Effective date. This act shall take effect July 1, 1967.

SECTION 3. Necessity. The general assembly hereby finds, deems, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety, and for the realization of the public purpose described in Section 1 hereof.
Appendix A

STATE EMPLOYEES AND OFFICIALS GROUP HEALTH INSURANCE BOARD

RESOLUTION

Adopted November 16, 1971

By Board Members Dunham, Dunbar, Barnes, Wherry, Adams, Downs, and Bromm

WHEREAS, Senate Bill 206 enacted by the First Regular Session of the Forty-Seventh General Assembly, which increased the state's contribution to the State Employees and Officials Group Health Insurance Plan to a maximum of six dollars and seventy-five cents per month for each employee and official enrolled in the plan; and

WHEREAS, the rise in the cost of the health insurance premium has greatly increased the employee share for the employees insured by the State Employees and Officials Group Health Insurance Plan;

NOW THEREFORE, BE IT RESOLVED BY THE STATE EMPLOYEES AND OFFICIALS GROUP HEALTH INSURANCE BOARD:

1. The Governor of Colorado be requested to place on his agenda for the next session of the General Assembly an amendment to the Health Insurance Act providing for the State of Colorado to contribute the cost of the low-level plan for each employee and official enrolled in a plan.

2. That the Joint Budget Committee of the Colorado General Assembly is hereby requested to consider an appropriation to fund the state contribution to health insurance in the amount based upon the low cost single plan if the amendment to the law is enacted.

Herbert R. Dunham
Chairman
To fund an increase in state contribution from $6.75 to $11.21 per employee and annuitant:

An increase is requested for the General Fund Appropriation in the amount of $534,072. This will be an increase in the Governor's request from $809,200 to $1,343,272.

An increase is requested for the Cash Funds Appropriation in the amount of $220,176. This will be an increase in the Governor's request from $333,600 to $553,776.

An increase is requested for the General Fund - Annuitants Appropriation in the amount of $99,000. This will be an increase in the Governor's budget request from $150,000 to $249,000.