

Privacy act is making life difficult for many

A couple of things are pretty obvious. After listening to taxpayers and citizens at public meetings, people don't much like the new government regulations under the Health Insurance Portability and Accountability Act, popularly known as "HIPAA."

The other is, having their regulations in place, the federal bureaucrats have no intention of letting go. The so-called privacy lobby in Washington is far too strong to let that happen. And neither group much cares what we think out here.

After listening to voters in town after town on his 69-county "Listening Tour" of the 1st Congressional District, Rep. Jerry Moran said he is ready to try to do something about the law. The question is, what?

The HIPAA regulations, which have cost the medical and insurance industries billions thus far, sprang from just two lines in a law, known then as the Kennedy-Kassebaum Bill after our own former U.S. Senator. That section authorized the secretary of Health and Human Services to write regulations covering patient privacy rights.

The law was passed in 1996, and Rep. Moran likes to note that he was sworn in too late to vote on it. The privacy regulations did not go into effect for another seven years.

At first, the alarm came mostly from groups worried about open access to public records, but lately, the average citizen has started to figure out that the new rules are a pain.

It's likely that much of the trouble stems from the fact that the rules, progeny of a two-sentence section of a seven-year-old law, occupy most of a small book. No one understands them, save maybe the bureaucrats who wrote them.

Supposedly, patients have the right to decide how their own information is used. However, most hospitals have stopped offering people the option of being included in a public directory or of having their name released to newspapers, radio stations, ministers and the like.

Some hospital administrators say they can't do that; others say their lawyers have advised them not to get involved. Stiff fines, up to \$10,000 per occurrence, have many in the health care industry scared.

Others may just have a personal bias against letting patient information out.

Federal officials say there are exceptions in the law for information to go to ministers and the press, for example, but most hospitals seem to be unaware of those. Hospitals can offer people a chance to be in a directory or have their name in a published list of patients so their friends will know where they are, but it's just not happening.

Hospitals and nursing homes are supposed to work with people and tell them whether they have, say, your mother, but many don't know or don't care. They are scared of breaking the law.

And ordinary people, citizens, voters, are unhappy.

But what to do about it? That's Rep. Moran's problem.

There's little chance the rules will be repealed. The people who put them there stand in the way. The bureaucrats actually think they have done something wonderful.

Richard M. Campanelli, director of the Office of Civil Rights at Health and Human Service, spoke this month to members of the National Newspaper Association. He defended the regulations, saying they gave people power over their own medical records.

To the extent that's not happening, he said, it's mostly because people don't understand the new rules. How the average person, in or out of the medical field, could understand, is a question he avoids.

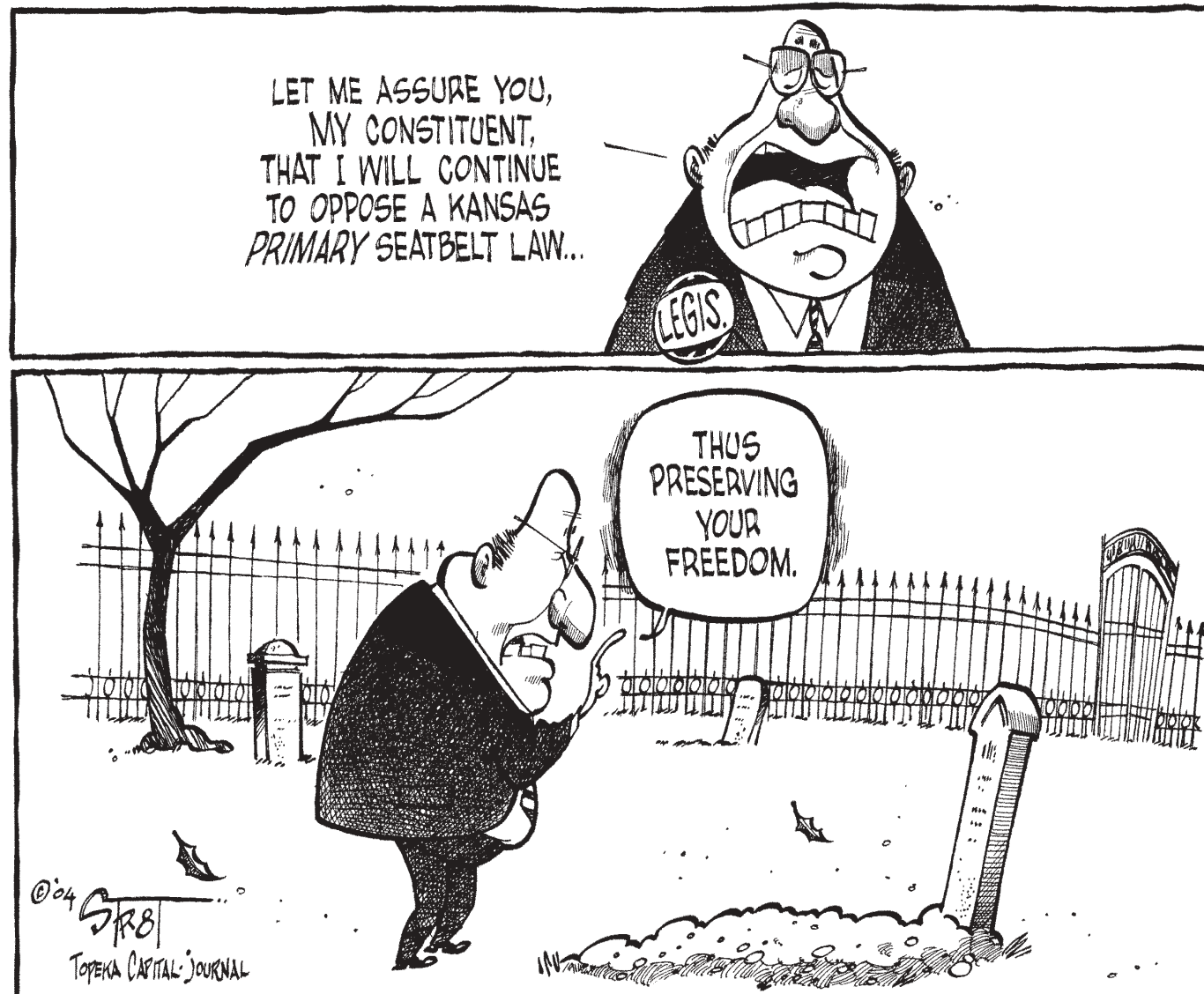
The rules may have been written to correct some real problems, but like most federal regulations, they do far more. They push government control into every corner of the health industry. Nursing homes, hospitals, doctors and pharmacists, all have spent untold hours and untold billions trying to comply.

In an era when health care costs are soaring, why is the government doing this?

To help us, of course.

We may not like it, but the people in Washington plainly do not care. They think they know best.

— Steve Haynes



A good friend isn't always hard to find

I heard the most wonderful story last week. It is a story of how friendships are born. When you stop to think about it, few friendships are launched by introductions they are from little chance happenings such as the following.

The weather was warm and the newly arrived elderly woman was walking in the neighborhood.

Although she hadn't lived here before she had a son and his family in town so she didn't feel as if she was a stranger. As she walked along the sidewalks she smiled and spoke to the people she'd meet.

One evening as she was admiring the flowers in a yard she stopped to talk to the gentleman tending them. As they were talking he noticed her untied shoelace dangling ominously onto the sidewalk.

He knelt down and tied her shoe. She was so impressed by his gentlemanly ac-

Phase II
Mary Kay
Woodyard



tions. It was the beginning of a sidewalk friendship lasting until the gentleman died several years later.

The gentleman's wife shared this story with me last week after learning of the lady's death.

He had taken time to notice something hazardous to her and he remedied it. In his mind it was an obvious thing to do. In her mind it was the sign of caring and concern and of her value to him, and not just to him but her value in general.

The simple gestures in life may result in the greatest friendships.

When I was wheelchair bound, many years ago, a woman I knew only slightly arrived at my door and informed me she was going to clean my cupboards.

Astonished I replied, "No, just sit and talk with me."

"I'll talk, but you are going to sit, because you can't get up and I am going to clean and that's that." It was the beginning of a deep friendship that has endured for 30 years.

It isn't the nature of the action, shoe-laces or cupboards that matters.

It is taking time to value individuals whatever their condition, their age or their beliefs. We pay tribute to volunteer efforts and, although not logged on any record sheet or recorded in any meeting, these are really what define our lives.

Legislature working on wind energy

Serving on a legislative committee is very similar to taking a college research class. Each requires reading, listening and asking questions with the goal of being able to apply this knowledge.

The goal as a student is to become proficient, to make a living and to be active in the community. The goal as a legislator is to take the knowledge and make wise decisions and influence others on the policy questions before the legislature.

Harnessing the wind to generate electricity has the potential to help meet the increasing energy needs of our nation and to provide additional income to the landowners in western Kansas.

It has its limits because the wind blows with the most velocity in March and the calmest month is August. Generally its windier in the early morning and calmest in late afternoon.

This doesn't match the time when the demand is highest to meet the air-condition and refrigeration load. There are a number of incentives available to encourage wind development. Congress in the Energy bill contains a provision that re-authorizes a 1.7 cent per kilowatt hour subsidy for wind energy generation. Kansas offers property tax abatements on the equipment used to generate electricity from wind.

Some states, but not Kansas, require utilities to have a percentage of their electricity generated with renewable wind resources. While the fuel source is free, the capital cost of the generator is out of the reach of most Kansans. The generators are \$1.5 million to \$2 million each and electric transmission lines have to be

Senate
Doings

Sen. Stan Clark



available nearby.

The next alternative that many are considering is to lease their ground to a wind energy developer. One of the challenges for the landowner is negotiating a fair lease. What terms and conditions are standard in the industry?

Over the years standards have been developed, in the oil and gas industry leases. With wind energy the industry is in its infancy and you need legal advice before signing any lease.

I claim no expertise in this area but as chairman of the Senate Utilities Committee I have spent lots of time researching the topic. The leases that are offered contain clauses that prohibit the landowner from disclosing the contents and are to remain confidential. I have copies of two leases and they are very one-sided.

Two ploys are offered as an excuse by the power companies to refuse to negotiate; either they say their financier/lender will not allow any changes or they say they are offering everyone the same terms. If that is the case then why not file the entire lease at the Register of Deeds just like an oil and gas lease?

The Senate this week passed legislation to accomplish this.

The goal is to make public the terms so

that I know that I am being treated like my neighbor and that future owners know exactly what these agreements entail.

There is land for sale where the owner wishes to reserve the "wind rights". Mineral rights can be separated from surface rights but separating the wind rights is a new concept.

How would this effect your decision to buy this property? What is your liability if a wheat field catches on fire and warps the generator? What if someone is hunting and a stray bullet damages the generator?

In both leases I have read the farmer is liable and must reimburse the wind generator owner. Most of the wind leases are from 25-35 years with options for renewal.

Companies change hands, land is passed on or sold and if the full lease is not recorded there is no way of knowing what the restrictions are, and what benefits exist. This hinders everyone in providing a valid estimate of the value of the property and increases the costs of title work, appraisals and title insurance. Simply filing the lease provides the necessary information for an decision.

Our long-term goal is to have a standard legal form that will be accepted by parties entering wind lease agreements that provide terms and conditions that everyone accepts. Then, hopefully, many in western Kansas will be able to enjoy the profits in providing electricity.

Please feel free to contact me. I can be reached by writing to Sen. Stan Clark, State Capitol-Room 449-N, Topeka, Kan. 66612; by calling (800) 432-3924 or (785) 296-7399; by FAX (801) 457-9064; or e-mail at sclark@ink.org.

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