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April 3, 1981

MEMORANDUM TO THE SECRETARY

THROUGH: US _____
ES _____

FROM: Dale W. Sopp *Dale Sopp*
Acting Assistant Secretary for Legislation

SUBJECT: Hearing on the Surgeon General (Dr. Koop) Amendment

Attached is a summary of the hearing on the Surgeon General amendment. Although the formal markup will not occur until Tuesday, April 7, Mr. Madigan (R-Ill.), Ranking Minority Member, has an agreement with Mr. Waxman to take our technically revised amendment. Mr. Waxman has a time limitation for reporting on the amendment by April 8. On April 8, the parent bill, H.R. 31, is to be taken up on the House floor and we do not anticipate any problems. Representative Hyde is working to ensure that a majority of Members will be present.

Representatives Madigan, Dannemeyer (R-Cal.), and Luken (D-Ohio) did a very commendable job in supporting our position.

Attachment

cc: Warren Richardson



April 3, 1981

Office of the Assistant Secretary
for Health
Washington DC 20201

MEMORANDUM FOR THE RECORD

SUBJECT: Hearing on the Helms amendment to H.R. 31, which has the intent of removing the age restriction on the appointment of Surgeon General -- referred to in house as the "Koop amendment," before the House Energy and Commerce Subcommittee on Health and the Environment (Rep. Henry Waxman, D-Cal., Chairman). April 3, 1981.

MEMBERS

PRESENT: Chairman Waxman, D-Cal. Mr. Madigan, R-Ill. (Ranking)
Ms. Mikulski, D-Md. Mr. Dannemeyer, R-Cal.
Mr. Luken, D-Ohio

REPRESENTING
THE

DEPARTMENT: Mr. Thomas S. McFee, Assistant Secretary for
Personnel Administration.

OTHER KEY

WITNESSES: Dr. William McBeath, American Public Health Assoc.
Dr. Lorin Kerr, United Mine Workers of America.
Dr. Margaret Bridwell, Women and Health Roundtable
Dr. Walter J. Lear, National Gay Health Coalition.

HEARING SUMMARY:

This hearing was described by the Subcommittee as a hearing on the merits of the Helms amendment to make technical changes in the PHS Act to eliminate the age restriction in the appointment of Surgeon General. However, the first four witnesses along with statements from Rep. Waxman and Mikulski turned it, as expected, into a hearing on the character of Dr. Everett Koop and his qualifications to be Surgeon General.

Chairman Waxman began the hearing chastizing the Administration for its lack of cooperation in supplying witnesses, testimony, and legislative proposals on the issues, without of course pointing out that his letter of invitation was sent to us on March 31. He encouraged the witnesses to be critical of Dr. Koop by asking us what we had to "hide" about Dr. Koop and why we had to "hide" him from the Subcommittee. The Departmental witness, Mr. McFee, did an excellent job defending our position that no nomination had been sent forward and it would be premature to discuss the qualifications of any particular person.

Both Rep. Luken and Madigan pointed out that the hearing focus was on the Helms technical change to the PHS Act and that the Subcommittee has no authority to review the qualifications of an individual for this position. Rep. Madigan, however, spent some time reading into the record excerpts from Dr. Koop's resume to show that his background was indeed broad and that the objection to Dr. Koop was philosophical.

Madigan's performance became quite comical as he asked the non-Departmental panel if they had done the many varied things Dr. Koop had done. The panelists key objection to Dr. Koop was phrased in terms of his lack of public health experience. However, discussions of the backgrounds of Dr. Koop with Dr. Richmond's showed many similarities and it was obvious that Dr. Koop would otherwise be viewed as qualified for the position if it were not for philosophical differences with such Members on the subject of abortion and family planning.

On the subject of the hearing, the Helms amendment to H.R. 31, some confusion seemed to exist among the Members as to exactly what it would do and what was wrong with it. The flaws in the Helms work was acknowledged by both the Minority (Madigan) and our witness, Mr. McFee. When the hearing was over no conclusion had been reached on the amendment or the revised version submitted by the Department.

MEMBERS INTEREST:

Madigan: Said would introduce Department's revised amendment. Focused hearing on Koop's qualifications.

Waxman: Wanted to take time to look at eliminating age discrimination throughout the PHS Commissioned Corps and not just for the Surgeon General. Very critical of Department and its lack of cooperation on hearing. Critical of Koop's position on gay rights and abortion.

Mikulski: Wanted to eliminate all age restrictions for the Commissioned Corps but also wanted to write into statute specific public health background requirements for the Surgeon General. Very critical of Koop's qualifications.

Luken: Thought section in law restricting a Surgeon General to a Member of the Commissioned Corps was flawed and should be removed along with the age restriction. Did not comment on Koop's qualifications because it was inappropriate for House to do so.

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DEPARTMENTAL WITNESS:

Assistant Secretary McFee did an excellent job in answering the questions addressed to him. He pointed out that there are only a few hundred individuals within the PHS Commissioned Corps that can be considered for Surgeon General as the law is written and thus explained well the need for the amendment and of Presidential flexibility. McFee also handled well the issue of Koop's nonappearance by pointing out no nomination has yet been sent forward by the President.

FUTURE ACTION:

Speaker O'Neil has given the Waxman Committee an April 8th deadline of acting on the Helms' amendment and referring it back to the full House.

Marian Troyer, L(H)