

MINUTES OF THE House COMMITTEE ON InsuranceThe meeting was called to order by Rep. Rex B. Hoy at
Chairperson3:30 ~~xxx~~ p.m. on March 13, 1984 in room 521 S of the Capitol.

All members were present except:

Rep. M. J. Johnson and Rep. Peterson, who were excused.

Committee staff present:

Wayne Morris, Legislative Research
Gordon Self, Revisor's Office
Mary Sorensen, Committee Secretary

Conferees appearing before the committee:

Larry Magill, Independent Insurance Agents of Kansas
Dick Brock, Insurance Department
Don Horttor, Attorney for Delta Dental Plan

Others present:

See Attachment 1

SB 434, by Ways and Means--Insurance, errors and omissions policy requirements, was first to be considered. Wayne Morris, of Legislative Research, gave a brief overview of the bill. Larry Magill passed out Attachment 2, and referred to it in his testimony in support of SB 434. There were questions of Mr. Magill, and no further testimony. Rep. D. Webb moved to pass SB 434 out favorably and put on the consent calendar. Rep. L. Johnson seconded. The motion carried.

SB 551, by Commercial and Financial Institutions Committee of the Senate, concerning foreign insurance companies, raising certain fees, was next on the agenda. Wayne Morris briefly explained the bill, which is Insurance Department Proposal #4. He also explained the amendment, which came out of the Senate, concerning premium taxes on annuities. Dick Brock, from the Insurance Department, then gave brief testimony in support of the bill. There were many questions of Mr. Brock and much discussion, and Mr. Brock discussed how other states were handling the problems which the department believes this bill will help solve. Rep. Spaniol asked for the fiscal impact of this bill, if passed, and Mr. Brock said the department and Legislative Research would try to furnish that information.

SB 697, by Commercial and Financial Institutions Committee of the Senate, concerning nonprofit dental service corporations, was next for discussion. Wayne Morris explained the bill and that it was requested by the Delta Dental Plan. Donald Horttor, representing the Plan, said this would give their group the same authority to deal with HMO's as Blue Cross and Blue Shield had now. More than half of the dentists in the State are members of their plan. There were questions of Mr. Horttor, and he responded. There was no other testimony on SB 697.

Rep. Long moved to approve the minutes for February 23, 27, 28 and 29 which had been previously furnished to the members. Rep. Cribbs seconded. The motion carried.

The meeting adjourned at 4:30 PM.

Testimony on SB 434

By: Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas

Thank you for the opportunity to appear in support of SB 434. We requested the introduction of this legislation by the Senate Ways & Means Committee during the 1983 session, after the problem was brought to our attention by one of our members. SB 434 corrects a serious oversight in the drafting of the errors and omissions insurance requirement for Excess and Surplus Lines and Brokers licenses.

There are approximately 303 Excess and Surplus Lines licenses and approximately 402 Brokers licenses, many of which are held by our members. All of these licenses renew on May 1st each year, at which time it is necessary to show compliance with the errors and omissions insurance requirements.

The two statutes in question, K.S.A. 40-246f and the statute it was patterned after, K.S.A. 40-3711, both require "a blanket liability insurance policy insuring other insurance agents or brokers in an amount of not less than five hundred thousand dollars (\$500,000) total liability limit per occurrence subject to not less than five hundred thousand dollars (\$500,000) annual aggregate for all claims made during the policy period." As an alternative the agent can provide a \$100,000 individual policy.

The IIAK completely supports the concept of requiring E&O insurance to protect consumers against an agent's professional negligence. But agencies do not buy individual policies on each employee and it is a common practice in all types of commercial insurance to carry the lowest possible primary limits and then purchase a less expensive umbrella liability policy of \$1,000,000 or more.

The umbrella or excess liability frequently will include other exposures such as excess auto liability and general liability in addition to the E&O coverage. While it is possible that an auto or general liability claim could exceed the agency's primary amount and reduce the coverage available for E&O claims under the umbrella, that possibility is extremely remote. It is no more possible than a series of E&O claims reducing the annual aggregate below the \$500,000 aggregate limit. In virtually all cases where the agent carries primary and excess, the excess is written for a minimum of \$1,000,000, twice the required amount.

We checked with two of our members here in Topeka last year to determine the cost impact of meeting the E&S license requirements. One agency presently carries \$250/750,000 primary and \$3 million excess E&O with St. Paul. For them to raise their primary to \$500/1,500,000 (St. Paul always uses an aggregate 3 times the per occurrence limit) it cost them approximately \$323 per year. The other agency presently carries \$100/300,000 primary and \$1,000,000 excess. For them to comply it cost approximately \$687 per year with American States Insurance Company.

We cannot see the public policy objective being served by forcing these agencies to increase their primary policy limits when they already carry two or more times as much coverage as the law requires.

We urge your favorable consideration of SB 434.