

Approved 2-4-87  
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Rep. Dale M. Sprague at  
Chairperson

3:30 ~~a.m.~~/p.m. on February 3, 1987 in room 521-S of the Capitol.

All members were present except:

Reps. Cribbs, King, Littlejohn, Sawyer; all excused

Committee staff present:

Emalene Correll, Chris Courtwright, Research Department  
Bill Edds, Revisor's Office  
Deanna Willard, Committee Secretary

Conferees appearing before the committee:

Ken Schafermeyer, Kansas Pharmacists Association  
Dick Brock, Kansas Insurance Department  
Dale Bradford, Kansas HMO Association

The meeting was called to order by the Chairman.

The minutes of the January 27 and January 28, 1987, meetings were approved.

Mr. Ken Schafermeyer, Kansas Pharmacists Association, requested introduction of a bill which would enable the establishment of a non-profit pharmacy service corporation under the jurisdiction of the Kansas Insurance Department. (Att. 1.) Rep. Neufeld made a motion that such a bill be introduced; Rep. Turnquist seconded the motion. The motion carried.

Hearing on: HB 2111 - Quality of care exams of HMO's

Mr. Dick Brock, Kansas Insurance Department, stated that this bill corresponds to Legislative Proposal #8, requested by the Department at the January 20, 1987, meeting. It is designed to assist the Department in the performance of a duty assigned to it by the Legislature, namely the examination of the quality of care delivered by HMO's. The Secretary of the Department of Health and Environment was asked about the possibility of his department performing such exams, but he advised that the resources were not available to assist with this task. As the Insurance Department didn't wish to request that the clause be deleted, they developed the idea that an independent quality review organization acceptable to the Commissioner would certify that quality care was being given. (Att. 2.)

He responded to questions as follows:

1. Currently, attempts by the Insurance Department to verify quality of health care includes interviews by examiners and following up on complaints. They don't have indications that there is a serious problem but think it is appropriate that a provision exists to certify quality of care.

2. They checked into contracting for exams by a quality review organization. Mr. Brock indicated that the bid price was more than the Department had expected.

3. HMO's are interested in these exams being done. Those organizations not qualified to perform the exams will be exposed

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
room 521-S, Statehouse, at 3:30 ~~a.m.~~/p.m. on February 3, 1987

by the competitive nature of the business.

4. The Department has no authority under statute to extend the provision to PPO's.

5. This bill was proposed last session. Time has been spent drafting the bill and dealing with the Secretary of Health and Environment.

6. Similar oversight of insurance companies is provided by market conduct surveys. These are done routinely when a domestic company is set up for financial review; foreign companies are surveyed on a target basis, especially when such things as complaints and premium jumps seem excessive.

7. The procedure for dealing with a complaint is to correspond with the HMO, which in turn corresponds with the provider.

8. A certification from another state or a federal agency would satisfy the requirement of an exam within a three year period.

9. As most HMO's now have quality review exams, the bill wouldn't add to their cost of doing business.

10. Most of the complaints are due to a misunderstanding of the gatekeeper system; complaints that one wasn't referred for proper care are more subtle than those usually referred to the Board of Healing Arts, though they would refer all complaints if mandated to do so.

11. Staff is in place to handle the bill provisions; there is no fiscal note. A memo signed by Commissioner Bell states that the bill would have no significant administrative effect nor any fiscal impact on the Insurance Department. (Att. 3.)

Mr. Dale Bradford, Kansas HMO Association, presented testimony favoring the bill. He said it represents a cooperative effort of his organization and the Kansas Insurance Department. (Att. 4.)

Mr. Bradford said that he could find out the cost factor involved, though the dollar amount once every three years would be negligible. The provision will serve to build public confidence as not all HMO's currently have the exams. He assumes that most complaints are financially based, in which case referral to the Board of Healing Arts probably wouldn't be desirable.

Hearing on: HB 2112 - regulation of trade practices of nonprofit medical service corporations and HMO's

Mr. Dick Brock said that this bill was introduced as Legislative Proposal #7. It simply makes the Unfair Trade Practices Act applicable to HMO's and specifically notes that the combined mutual nonprofit hospital and nonprofit medical services corporations are also subject to the act. (Att. 5.)

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MINUTES OF THE House COMMITTEE ON Insurance,  
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He felt that it would be better not to extend this bill to cover nondelivery of quality care; HB 2111 would seek to assure quality care at the outset--preferable to using the Unfair Trade Practices Act as a policing mechanism in this area.

He feels this bill extends regulatory authority but that the development of HMO's has not been inhibited by state regulation thus far. HMO's support this bill.

Competition is not sufficient to regulate some areas; he offered to produce advertising samples as evidence and said that the Department currently is without authority even in the case of fraud.

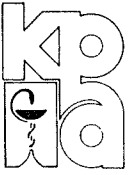
Though current statute gives the Department the right to regulate any corporation doing the business of insurance, their legal counsel recommends that HMO's be specifically named. The definition is broad to allow regulation of any corporation not currently regulated.

Mr. Dale Bradford stated that the Kansas HMO Association agrees HMO's should be included in the Unfair Trade Practices Act to prevent any unfair competitive advantage.

Mr. Jack Roberts, Blue Cross and Blue Shield, presented a letter from General Counsel William Pitsenberger which voiced support for the bill and defined it as a housekeeping amendment. (Att. 6.)

The meeting was adjourned at 4:25 p.m.





THE KANSAS PHARMACISTS ASSOCIATION

1308 WEST 10TH

PHONE (913) 232-0439

TOPEKA, KANSAS 66604

KENNETH W. SCHAFERMEYER, M.S., CAE

PHARMACIST

EXECUTIVE DIRECTOR

TO: House Committee on Insurance

FROM: Kenneth W. Schafermeyer *KWS*  
Executive Director

RE: Request for Committee Bill Enabling the Establishment  
of Non-Profit Pharmacy Service Corporations

DATE: February 3, 1987

The Kansas Pharmacists Association is requesting a committee bill which would enable the establishment of a non-profit pharmacy service corporation under the jurisdiction of the Kansas Insurance Department.

The purpose of this bill is to allow a state-controlled organization with pharmacy representation to accept certain contracts which involve risk sharing and distribution of funds based upon experience of the group. Without this act, such an organization would have to be licensed as an insurance company or a health maintenance organization. The Legislature has deemed that these arrangements are appropriate for hospital, dental and optometric service corporations.

The bill we are proposing is almost identical to that of the non-profit dental and optometric service corporations.

We would appreciate your support of this bill.

KWS:plh

House Insurance Committee  
February 3, 1987  
Att. 1

Explanatory Memorandum for  
House Bill No. 2111  
(Legislative Proposal No. 8)

Current statutes relating to health maintenance organizations (K.S.A. 40-3211(b)) require the Commissioner to at least once every three years make an examination concerning the quality of health care services provided by HMO's and providers with whom such organizations have contracts. The statute provides that the Commissioner may request assistance of the Secretary of Health and Environment to assist in carrying out this function because the Commissioner of Insurance obviously is not in a position to evaluate the quality of health care delivered by any institution or provider. In response to requests, however, the Secretary of Health and Environment has advised that they do not have the funds or personnel necessary to assist with this task. Therefore, because we do have indications that some quality of care evaluation is needed, House Bill No. 2111 suggests that such evaluation be made a responsibility of the individual HMO's through a certification process and the services of an independent quality review organization acceptable to the Commissioner.

The bill needs an amendment in line 44 -- should be "quality review organization" as opposed to "quality organization review".

As indicated by this brief summary, the bill seeks to achieve a significant result in an effective but simple way.

M E M O R A N D U M

COPY

TO: Gary Stotts  
Acting Director of the Budget

FROM: Fletcher Bell  
Commissioner of Insurance

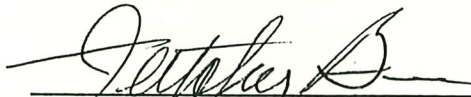
SUBJECT: House Bill No. 2112

DATE: February 2, 1987

House Bill No. 2112 proposes to amend the Unfair Trade Practice Act to the extent that health maintenance organizations would be subject to the provisions of the act.

Enactment of this legislation would have no significant administrative effect nor any fiscal impact on the Insurance Department.

Respectfully submitted,



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Fletcher Bell  
Commissioner of Insurance

FB:bf  
cc: Carolyn Rampey  
Legislative Research Department

0261

House Insurance Committee  
February 3, 1987  
Att. 3

32 Corporate Woods, Suite 700  
9225 Indian Creek Parkway  
Overland Park, Kansas 66210  
(913) 451-9388



TESTIMONY OF THE KANSAS HMO ASSOCIATION

Before the Kansas House Insurance Committee  
Hearing on House Bills No. 2111 and 2112  
February 3, 1987

Mr. Chairman, I am Dale Bradford, Director of Finance and Administration for CIGNA Healthplan of Kansas City, Inc., a Health Maintenance Organization in the Kansas City area. I am testifying today as a member of, and in behalf of the Kansas HMO Association, and in place of Mr. Walt Rogers, Chief Executive of Family Health Plan of Newton, Kansas who could not be here today. Mr. Rogers is the Chairman of the Kansas HMO Association.

The HMO Association is a nonprofit corporation organized in August, 1986 that has as its primary purpose the education of legislators, regulators and the general public regarding the operation and general activities of health maintenance organizations in Kansas.

Participants in the Association represent most of the HMOs who serve persons living and/or working in the state of Kansas. The officers of our Association are Mr. Walt Rogers of Family Health Plan in Newton, Mr. Bill Gloy, Chief Operating Officer of HMO Kansas here in Topeka and Mr. Meyer Goldman, Legislative Analyst for Prime Health of Kansas City.

House Bill No. 2111 is the culmination of a cooperative effort between the Kansas HMO Association and the Kansas Insurance Department. The language in this bill is the result of a number of working sessions between our two groups.

The bill meets the goals of the Commissioner as well as those of the Association. The Commissioner is given a means to meet his responsibilities in the area of quality assurance as established in the Kansas HMO Act of 1974 in a manner which is agreeable to the HMOs regulated by the Department. We believe consumer confidence in the quality of care provided by our organizations will be enhanced by the consistently applied provisions of House Bill 2111. Furthermore, many, if not most, of the HMOs operating in the State of Kansas have historically had quality of care assessments, independent of any legal requirement. Therefore, enacting this legislation will merely legitimize a process already in existence for many HMOs.

Nationally recognized organizations that are currently performing quality of care assessments are Joint Commission on the Accreditation of Hospitals (JCAH), Accreditation Association of Ambulatory Health Care (AAAHC), and National Committee on Quality Assurance (NCQA).

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House Bill 2112 includes Health Maintenance Organizations as entities falling under the regulation of trade practices in K.S.A. 40-2402. The Association feels that this is a positive step because it would give the consumer additional confidence in the trade practices of HMOs and assist in providing a means of assuring that HMOs do not advertise or represent themselves improperly.

Thank you for providing me the opportunity of testifying before your Committee on these issues. The Kansas HMO Association offers its service to your Committee on any future issues that you might feel appropriate.

Explanatory Memorandum for  
House Bill No. 2112  
(Legislative Proposal No. 7)

House Bill No. 2112 simply makes the Unfair Trade Practices Act applicable to health maintenance organizations and clarifies the act by specifically noting that the combined mutual nonprofit hospital and nonprofit medical services corporations are also subject to the act.

The Unfair Trade Practices Act is contained in Article 24 of Chapter 40 of the Kansas Statutes Annotated and is the basic authority granted the Commissioner to ascertain, promote and achieve fair treatment of policyholders, subscribers, applicants, claimants and others involved in transactions with "persons" to whom the act applies. In essence, the Unfair Trade Practices Act defines certain practices which constitute unfair methods of competition or unfair or deceptive acts or practices that are prohibited. Misrepresentation and false advertising, unfair discrimination and unfair claim settlement practices are examples of the prohibitions. In addition to the defined unfair trade practices, the act permits the Commissioner, upon notice and hearing, to issue cease and desist orders for acts or practices not specifically defined.

The Department's recommendation to introduce House Bill No. 2112 is not to be construed as an indictment of the market behavior of any or all HMO's. However, there have been some instances where certain advertising has been utilized by an HMO which would not comply with the advertising regulations applicable to insurance companies and Blue Cross and Blue Shield Plans. In another instance, an advertisement was used which actually contained incorrect information. In all instances, the offending HMO was quite cooperative in changing the advertising or withdrawing its use even though the Department had no authority to require it to do so. However, to at least some extent, the advertising had already served its purpose and in any event created an unfair competitive advantage.

We are not suggesting that any false advertising was intentionally developed and disseminated. We do believe, however, that application of existing advertising regulations and standards to HMO's would permit them to be aware of the permits, prohibitions and restrictions applicable.

Similarly, misrepresentations by HMO representatives or other violators of the Unfair Trade Practices Act would be operative so that everyone would be subject to the same requirements.

As a result, application of the Unfair Trade Practices Act to HMO's would not only permit the Commissioner to regulate marketplace activity but would also serve as an effective deterrent to unfair or deceptive acts.

GENERAL BUSINESS  
OR  
PLAN 65 CLAIMS

In Topeka  
913 232-1000  
In-State  
1-800-432-0216  
Out-of-State  
1-800-468-1216



**Blue Cross and Blue Shield**  
of Kansas  
1133 Topeka Avenue  
P. O. Box 239  
Topeka, Kansas 66629

CLAIMS OR MEMBERSHIP

In Topeka  
913 232-1622  
In-State  
1-800-432-3990

February 3, 1987

Dale Sprague, Chairman  
House Insurance Committee  
Capitol Building, Room 521  
Topeka, Kansas 66612

STATE EMPLOYEES

In Topeka  
913 234-0495  
In-State  
1-800-332-0307

RE: HOUSE BILL 2112

Dear Chairman Sprague:

Blue Cross and Blue Shield of Kansas wishes to voice its support for House Bill 2112, and to offer a comment on one of the purposes of the bill.

The bill includes within the definition of person "nonprofit medical and hospital service corporations" as defined in Article 19c of Chapter 40. This is a housekeeping amendment, since KSA 40-19c09 already explicitly provides that the provisions of the trade practices act, KSA 40-2401 et seq., apply to such a nonprofit medical and hospital service corporation. We understood this to be the construction currently placed on the law by the Kansas Insurance Department as reflected in the remarks of Dick Brock when the bill was first offered to the Committee.

Sincerely,

A handwritten signature in blue ink, which appears to read "W. H. Pitsenberger".

William H. Pitsenberger  
General Counsel

WHP:mm

FARM BUREAU MEMBERS

In Topeka  
913 233-3276  
In-State  
1-800-332-0079

MEDICARE BENEFICIARIES

In Topeka  
913 232-1000  
In-State  
1-800-432-3531

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February 3, 1987  
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