Approved 2-19-87
Date

MINUTES OF THE House COMMITTEE ON Insurance.

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

3:30 ~~XX~~ a.m./p.m. on February 17, 1987 in room 531-N of the Capitol.

All members were present except:

Rep. Littlejohn, excused

Committee staff present:

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

Conferees appearing before the committee:
Richard Wilborn, Alliance Insurance Companies
Dick Brock, Kansas Insurance Department
Larry Magill, Independent Insurance Agents of Kansas
Bud Cornish, Kansas Assoc. of Property/Casualty Companies
Mary Pat Beals, Exec. Director, Kansas Head Injury Assoc.

The meeting was called to order by the Chairman.

The minutes of the February 16, 1987, meeting were approved.

Mr. Richard Wilborn, Alliance Insurance Companies, requested introduction of a bill which would amend K.S.A. 40-2a09 regarding "Insurance Stock - Holding Corporation." (Att.1.)

Rep. Bryant made a motion that the bill be introduced; Rep. Harper seconded the motion. The motion carried.

Hearing for proponents on: HB 2147 - Insurance; amending the Kansas automobile injury reparations act

Staff told the Committee that the original "no-fault" legislation was passed in 1974. The constitutionality of the bill has been upheld by the court. The PIP benefits have not been increased since the enactment of the bill; a 1984 interim study recommended raising these benefits.

Mr. Dick Brock, Kansas Insurance Department, presented testimony in support of the bill. (Att. 2.) He stressed that the primary purpose of the bill is to provide more benefits more promptly to more people than would be the case under the court system. He said that no-fault does this. Inflation has eroded the minimum benefits so that they are no longer adequate. The basic difference between HB 2422 and HB 2147 is the updated amounts on the latter.

He continued that a purpose of no-fault was to reduce litigation; it was not intended to reduce costs, nor to increase costs. These benefits can already be purchased from many companies; those people who already have such benefits could probably get a premium reduction. There is no limit on actual damages. The new figure of $1500 is equal to the $500 figure at the time the bill was enacted. Regarding the general benefit section--a new technique to get more dollars to the public--insurance companies have estimated that it would be premium neutral. No-fault is based on the theory that when a person is injured, there is some non-economic loss. Insurance companies often settle claims for more

than actual damages to get it off the books; having this practice written into the contract will assure that everyone will be treated the same.

Regarding the public policy underpinning of general damages, it is proper to reimburse people based on non-economic losses rather than to rely on the court system to do so. Some people will try to take advantage of the system by seeking additional medical costs to reach the threshold, but it is not a major concern.

Mr. Larry Magill, Independent Insurance Agents of Kansas, expressed support for the bill as a means to provide Kansas consumers with the most efficient, effective and reasonably priced auto insurance product posssible. (Att. 3.)

He said the general damages section represents an attempt to better our law. A general rule of thumb for payments made for non-economic loss now is roughly two times the medical costs.

Mr. Bud Cornish, Kansas Association of Property and Casualty Companies, presented testimony in support of the bill as a consumer concept; it will hold down auto liability insurance costs with a balance between an increase in benefits and an increase in the tort threshold. (Att. 4.)

Regarding the underpinning public policy, he said that there is a contract--the insurance companies will not raise questions about it. The recipients of the money wouldn't likely raise questions.

The last conferee was Mary Pat Beals, Head Injury Association. She would like to work with the Committee to investigate the need to increase PIP medical and rehabilitation insurance. (Att. 5 and 6.) She attached a letter received from SRS which requested $539.00 to provide her with data regarding the number of head injured persons receiving Kansas Medicaid. She will supply a copy of her letter to SRS.

The meeting was adjourned at 4:55 p.m.

Date: 2-17-87

GUEST REGISTER

HOUSE
COMMITTEE ON INSURANCE

NAME	ORGANIZATION	ADDRESS	PHONE
James M. Rhyne	PIAK	627 Topeka Ave Topeka, Ks	
Richard Ellwood	Alliance Ins. Co	McPherson, KS	241-2200
[illegible]	Alliance Ins.	Hutchinson KS	665-5241
Charles D. Baxter	Farm Bureau Insurance	Manhattan, Ks.	913-537-2261
Mark Bennett	Am Ins Assn	Topeka KS	2340417
Homer Cowan	The Western Ins Co	Ft Scott. Ks 316	223-1100
L M Cornish	Kansas Prop & Cas Co.	Topeka	232-0545
Dick Brock	Ins Dept	"	
Ron Smith	Ks Bar Assoc	Topeka	234-5696
Richard Mason	KTLA	Topeka	232-7756
Dick Scott	State Farm Ins	O. P. Ks	469 6914
Steve Ortmeyer	State Farm Ins.	Shawnee Ks	2689120
Leo WRIGHT	Farmers INS. GROUP	MISSION KS	384-4500
DAVID A. ROSS		SHAWNEE, KS.	422-7296
Anne McCarthy	KS Trial Lawyers	Topeka	232-7756
Phil Harrington	Ks Trial Lawyers	"	"
Greg Hughes	Student	OP, Kansas	681-8419
Geoff Huber	Close Up Kansas	Stanley, KS	897-9699
[illegible]	KCCI	Topeka	357-6321
[illegible]	A.D. Banker & Co.	OP KS	451-1280
Leon Anderson	A.D. Banker & Co	O P KS	451-1280
Kristin Johnson	Close-up Kansas	Colby, KS	462-6083
Sarah Swett	Close-up Kansas	Colby, KS	462-3485
Glenn Cogswell	Alliance of Am. Insurers	Topeka, Ks.	913/273-4550
John W. Smith	Topeka, KS Dept of Revenue	Topeka	296 2013

February 17, 1987

Mr. Chairman, Members of the Committee:

I am Richard Wilborn, Vice-President, Administrative Services, for the Alliance Insurance Companies, McPherson, Kansas.

I am requesting a bill be introduced by the Insurance Committee. I am referring to Kansas Statute 40-2a09 "Insurance Stock - Holding Corporation." We are asking for three amendments to this statute.

One is the 75% ownership of the holding company requirement be amended to 55% ownership. This will enable us to form a holding company arrangement without committing all of our assets and subjecting them to marketing conditions.

Two, we also would like to add the wording after the word "stock" in paragraph C as follows: "Nor shall the officers and directors of an insurer collectively own or control, directly or indirectly, more than 25% of such stock."

Three, wording added to paragraph C after the word "corporation," "or if the officers and directors of an insurer collectively own or control, directly or indirectly, more than 25% of such stock".

See the attached amendments.

House Insurance Committee
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Att. 1

Section 40-2a09. Insurance Stock; Holding Corporation

Any insurance company other than life heretofore or hereafter organized under any law of this state may invest with the direction or approval of a majority of its board of directors or authorized committee thereof, any of its funds, or any part thereof in:

(a) Stock in any insurance company, subsection (e) of K.S.A. 40-2a08, and amendments thereto. Before more than 5% of the outstanding shares of stock of any insurance company is acquired, or a tender offer made therefor, prior written approval of the commissioner of insurance must be secured;

(b) Stock in an incorporated insurance agency: (1) If 5% or less of the outstanding shares of stock of such agency is acquired, the provisions of K.S.A. 40-2a08, and amendments thereto, shall apply; (2) if more than 5% of the outstanding shares of such incorporated agency is acquired, or a tender offer is made therefor, the prior approval of the commissioner of insurance shall be required and the provisions of subsection (d) of K.S.A. 40-2a08, and amendments thereto, shall apply. In valuing the stock of the agency, the assets of the agency shall be valued as if held directly by an insurance company; and (3) if majority interest in an incorporated insurance agency results from the organization of an agency by the insurance company to which this act applies, such investments shall be subject to the provisions of K.S.A. 40-2a16, and amendments thereto, until it has produced earnings for three out of five consecutive years. Such stock shall not be eligible for deposit with the commissioner of insurance as part of the legal reserve of such insurance company;

(c) Stock in a holding corporation: (1) If 5% or less of the outstanding shares of stock of such holding corporation is acquired, the provisions of K.S.A. 40-2a08, and amendments

thereto, shall apply; (2) if at least (75%) 55% of the holding corporation's voting stock is acquired, the prior approval of the commissioner shall be required and the provisions of K.S.A. 40-2a08, and amendments thereto, shall not apply. No insurer may purchase in excess of 5% of the outstanding voting stock of a holding corporation unless such insurer acquires at least (75%) 55% of such stock(.), nor shall the officers and directors of an insurer collectively own or control, directly or indirectly, more than 25% of such stock. The commissioner may direct an insurer to divest of its ownership in a holding corporation acquired pursuant to this subsection if it apears to the commissioner that the continued ownership or operation of the holding corporation is not in the best interest of the policyholders, or if the insurer's ownership in the holding corporation is less than (75%) 55% of the outstanding voting stock of the holding corporation(.), or if the officers and directors of the insurer collectively own or control, directly or indirectly, more than 25% of such stock. A holding corporation acquired pursuant to this subsection shall not acquire any investment not permitted for insurance companies other than life pursuant to Article 2a of Chapter 40 of the Kansas Statutes Annotated. In valuing the stock of any holding corporation acquired under this subsection in the annual financial statement of the insurer, value shall be assigned to the holding corporation's assets as though the assets were owned directly by the insurer. A percentage of the holding corporation's assets exactly equal to the insurer's ownership interest in the holding corporation will be added to the assets of the insurer in application of the insurer's investment limitations set forth in Article 2a of Chapter 40 of the Kansas Statutes Annotated. Stock in a holding corporation acquired under this subsection shall not be eligible for deposit with the commissioner of insurance as part of the legal reserves of such insurer.

TESTIMONY BY

RICHARD D. BROCK

ADMINISTRATIVE ASSISTANT

KANSAS INSURANCE DEPARTMENT

BEFORE THE

HOUSE INSURANCE COMMITTEE

REGARDING HOUSE BILL NO. 2147

FEBRUARY 17, 1987

House Insurance Committee
February 17, 1987
Att. 2

For some of you, this is your first exposure to the automobile no-fault liability insurance debate. The rest of you have heard the arguments before and there are some on this committee, such as your chairperson and ranking minority member, who can probably recite the testimony that will be delivered by the various conferees better than we can. At the same time, however, there are often arguments made about no-fault or about changes in the Kansas no-fault law that are simply irrelevant to your considerations. As a result, I have little choice but to repeat what has been said before even though, with the exception of some housekeeping amendments I will mention, House Bill No. 2147 is simply a modernized version of House Bill No. 2422 which was placed on the Governor's desk by the 1986 legislature.

To begin with, as evidenced by the fact that House Bill No. 2147 is our legislative proposal number 1 which this committee introduced, Commissioner Bell and the staff of the Kansas Insurance Department have always and still remain a strong advocate of no-fault automobile insurance. No-fault automobile insurance is a means of providing more benefits more quickly to more traffic accident victims than was possible under the tort system. And, not only is no-fault a means of achieving this purpose, the Kansas legislature has enacted very few, if any, bills in its history where there was a greater guarantee of success. No-fault is simply another way of describing first party, contractual agreements an insurance company makes with its insureds. Thus, it eliminates the time, expense and uncertainty involved in determining who was at fault in an accident or how much someone was at fault before personal injury protection benefits are payable. In fact, there need not even be anyone at fault since payment of PIP benefits are a first party contractual obligation. So, in essence, all the insurance company needs to know is that one of their insureds has been injured in an automobile accident to know that benefits are payable. And, not only do they know benefits are payable, but they also know they must be paid within 30 days or interest at the rate of 18% will be attached which certainly encourages prompt payment.

However, the payment of more benefits to more people more promptly serves the purpose of no-fault better when those benefits are adequate. At the same time, since the purchase of automobile liability insurance that includes the personal injury protection benefits is mandatory, the minimum limits should not be excessive. In other words, the Kansas no-fault law was originally designed to require the purchase of minimum PIP benefits which would be adequate for the injuries sustained in the vast majority of automobile accidents but which would not burden the basic insurance rates with a charge for the relatively infrequent loss of a catastrophic size. In 1973 when no-fault was first enacted, the $2,000 medical payments coverage included in the defined PIP benefits would cover approximately 98% of all medical expenses attributable to automobile accidents and the other PIP benefits were derived using the same general philosophy.

I'm not sure but I seriously doubt that any of the conferees who appear on this bill will argue whether or not inflation has eroded the value of the benefits since the 1973 enactment of the original law. The following table vividly indicates how the value of these benefits has changed:

Description	Benefit 1973 $	1973 Index	Current Index	Current Dollar Benefit Equivalent*
Medical	$2000/person	137.7[1]	435[4]	6318 (6500)
Funeral	$1000/person	133.1[2]	323.4[5]	2430 (2500)
Rehabilitation	$2000/person	137.7[1]	435[4]	6318 (6500)
Loss of Earnings	$650/person/mo	145.39[3]	305.02/wk[6]	1364 (1400)
Survivors Benefits	$650/person/mo	145.39[3]	305.02/wk[6]	1364 (1400)
Substitute Service	$12/day/person	145.39[3]	305.02/wk[6]	25 (25)
Tort Exemption	$1000	137.7[1]	435[4]	3159 (3000)
Tort Exemption	$500	137.7[1]	435[4]	1580 (1500)

*Amounts in parenthesis are "rounded" amounts included in House Bill 2147.

1 - Medical Care Annual CPI
2 - All Items Annual CPI
3 - Average Weekly Earnings of Production or Nonsupervisory Workers Nonagricultural Payrolls
4 - August 1986 CPI Detailed Report D.O.L.
5 - August 1986 CPI Detailed Report D.O.L.
6 - September 1986 Employment and Earnings D.O.L.

Based upon the figures reflected in this table, it does not appear there is any question that the benefits need to be raised and House Bill No. 2147 would change the minimum PIP benefits by the same amount as the CPI -- or, in the case of wage loss, the change in earnings -- since 1973.

However, the question of increasing benefits has never been the stumbling block to legislative change. The stumbling block has been increasing the threshold. This is unfortunate, because for there to be an increase in benefits, there must be a corresponding increase in the tort threshold. This is necessary because the money saved by not having to determine fault, otherwise simplifying the claims handling process, and avoiding unnecessary litigation is used to fund these additional benefits. In essence, what this really does is return more of the premium dollar to the insured through claims benefits, rather than pay it out as a claims expense.

As you will note from the table, applying the change in the medical component of the CPI to the current $500 threshold produces a new threshold amount of $1,580 which we have rounded to $1,500. This $1,500 amount then would become the new threshold for general damages (i.e. pain and suffering) which will be paid on a first party basis. This is a new feature which was introduced by House Bill No. 2422 and if you stop to think about it, it makes a lot of sense. It is simply a recognition on the part of the legislature that persons suffering a moderately serious injury in an automobile accident should be entitled to some benefits for noneconomic damages regardless of fault and without the expense and uncertainty they would face in attempting to recover such damages through the tort system.

House Bill No. 2147 also recognizes, however, that more serious injuries require an individual case evaluation and that a formula type approach would probably not produce results that are appropriate for all injuries. Therefore, the first party general damages are limited to a payment of $2,000. This means the first party payment limit is reached when a person has incurred $3,000 in medical expenses. It is at this point the second threshold is reached since $3,000 in medical expenses permits litigation to be instituted for the recovery of general damages. In summary, House Bill No. 2147 provides for the automatic payment of general damages when a person injured in an automobile accident incurs $1,500 in medical expenses. This first party benefit continues until another $1,500 in medical expenses have been incurred. At this point, without any gaps, an action may be brought under the tort system to recover additional general damages.

Needless to say, you are going to be presented some arguments against changes in the no-fault law and particularly against significant changes in the threshold that must be reached in order to bring a tort action for general damages. One argument is that the present law is working fine and does not need to be changed. They often point to figures showing that there has presumably been a reduction in litigation across the state and therefore, there does not need to be a change in the tort threshold in order to reduce the number of suits and thereby decrease court congestion. Frankly, this argument misses the point of the no-fault legislation in Kansas. The Kansas no-fault law was <u>not</u> designed for the purpose of decreasing court congestion. It was designed with a fundamental and primary purpose as stated in K.S.A. 40-3102 of providing <u>prompt</u> and adequate compensation to injured traffic victims. While a decrease in court congestion would, of course, be a benefit, it was never the thrust of the legislation. The thrust of the legislation was, as I indicated earlier, to provide more benefits to more people more quickly by reducing the costs associated with the claims process and litigation that had occurred as a result of the tort system. Therefore, the argument in regard to there being no need to change what we already have or at least not increase the tort threshold because there has been a reduction in litigation simply doesn't address a real issue.

A second argument that is often offered is that there is no need for a change in the no-fault law unless a significant rate increase is going to be avoided by the action or they will present information showing how automobile rates have increased in Kansas since 1973 despite the existence of no-fault. This too is an argument which misses the point. No-fault was never designed to reduce rates in Kansas and even if it was -- which, again, it wasn't -- the Supreme Court declared the state's guest statute unconstitutional and the legislature enacted a comparative negligence law which took effect at the same time as no-fault. Thus, while automobile insurance premiums, like everything else, have increased since 1973, inflation, comparative negligence, repeal of the guest statute, energy crisis, and many other factors had an effect and therefore to attempt to assess the impact of no-fault would be an exercise in futility. No-fault was never intended to reduce the rates, it was only intended to put more of the premium dollar the insured pays into the hands of the injured parties by paying more in first party benefits, rather than paying this money to handle the expenses

associated with tort liability issues. The issue of a rate increase, is not totally irrelevant however. If the PIP benefits are increased but the threshold is not raised, rates will have to be increased.

A third argument is that although the required personal injury protection benefits may not be adequate at this time, if someone wishes to purchase more, excess benefits are readily available in the open market. It is true that many companies have some type of increased benefits packages. However, they cost an additional premium and often times do not provide the same type of coverage that is provided for in personal injury protection benefits. For example, for a price, most Kansas insureds are able to purchase additional medical coverage in excess of that required as personal injury protection benefits. However, many are unable to purchase additional coverages for such things as wage loss, funeral expense, rehabilitation loss, substitution services, etc. This represents a major problem for many insureds in that it requires them to purchase some other type of disability coverage at a substantially higher premium cost than it would take to buy these same benefits under an automobile policy. Furthermore, these persons who already purchase additional benefits beyond the minimums proposed by House Bill No. 2147 would -- all other things being equal -- enjoy a premium decrease.

The argument that is most highly pursued by the opponents of no-fault is that under no circumstances should the threshold be increased regardless of what first party benefits are provided or at what cost because the restriction on the right to sue represents too great a cost to the injured victim.

An in-depth examination of the threshold and what rights to sue that are left for Kansas insureds is the best way to examine this argument. It cannot be overemphasized that Kansas has a limited threshold. It allows suits in the overwhelming majority of all cases involving any kind of injury sustained in an automobile accident. In fact, there is very little limitation on the right to sue. By raising the $500 medical treatment figure to another dollar figure will do little to change this result.

K.S.A. 40-3117 is the threshold provision of the Kansas no-fault law. The first observation that should be made is that it only applies to one type of damage, nonpecuniary losses for bodily injury. Nonpecuniary losses means those losses where there has been no direct out of pocket or identifiable monetary loss. Nonpecuniary losses are such things as pain and suffering.

However, this does not mean the injured person suffers any monetary loss or is out of pocket anything because of actual damages, for this is not true. Under the current threshold as well as those proposed in House Bill No. 2147, the injured party would be able to recover whatever expenses he or she has incurred from the personal injury protection coverage and also has a complete, unlimited right to sue the wrongdoer for all actual damages and monetary losses incurred or expected to be incurred in the future. To this extent, they will have the opportunity to be fully and completely compensated without any restriction of any kind. The injured party is able to recover past and future wage losses, expenses for past and future medical costs, etc. This is important to understand because the threshold at the current

time or as proposed in House Bill No. 2147 does nothing to bar an injured person from being made whole from an economic standpoint. This applies to all cases and all injuries. The only limitation is upon the recovery for noneconomic damages, pain and suffering, etc.

So, the threshold allows suits in all instances for a person to recover actual damages and, in many, many, cases, the injured party can also recover the nonpecuniary losses.

The first way a person can bring an action for nonpecuniary losses is the most controversial and involves the injury having to be of a kind that requires $3000 in medical treatment. This, of course, would occur after the person has already received $2,000 in nonpecuniary losses as I discussed earlier. The other conditions that permit an action to be brought involve specific types of injuries that can be used as a basis for suit for nonpecuniary damages regardless of whether the injury has reached the threshold dollar amount for medical treatment. So, suits for nonpecuniary losses can be brought for injuries which:

(1) consist in whole or in part of a permanent disfigurement;
(2) loss of a body member;
(3) permanent injury within a reasonable medical probability;
(4) permanent loss of a bodily function;
(5) death.

Again, in all the cases which involve the above classification of injuries in addition to the medical expense threshold, there is an "unlimited right" to sue for nonpecuniary damages.

You will note, however, that House Bill No. 2147 removes the so-called fracture language which, under current law also permits suit to be instituted for recovery of nonpecuniary damages. This language was removed in House Bill No. 2422 and, as I said, we simply carried the provision of that bill into House Bill 2147.

I should also address the position espoused by some to completely do away with the no-fault law. How, can the insureds in Kansas be benefited by such a position to do away with no-fault when one considers the numerous benefits it has, does and will provide all injured traffic victims at no greater cost than the tort system? If the no-fault system was scrapped, it would not only increase the delay in payments but would leave a large percentage of people without any means of compensation. The people injured in one car accidents and who themselves caused or in part contributed to the accident would be unable to recover anything because the tort system would not benefit them. A return to the strict tort system would be catastrophic to these people. A closer look at these victims is necessary. This is so because these people represent a majority of injured traffic accident victims in Kansas. And they, would not be benefited in anyway whatsoever by eliminating the tort threshold. For example, people would be unable to recover under the strict tort system if they were injured in:

(1) one person/one car accidents;
(2) accidents where they are completely at fault;
(3) accidents where they are more at fault than the other party;
(4) accidents where they are equally at fault with the other party;
(5) accidents where they are not at fault but are unable to recover from the wrongdoer because they cannot find him or her (i.e. phantom motorists or hit and run drivers, etc).

In all, the above listed situations the threshold would have absolutely no effect. However, on the other hand, an increase in the personal injury protection benefits would help the injured victims in all these situations because the personal injury protection benefits could be recovered regardless of fault. This is why the increase in personal injury protection benefits and the addition of the general damages benefit is so much more important to the majority of Kansas than keeping the threshold at a lower level.

Finally, in the early part of my testimony I indicated that some housekeeping changes dealing primarily with self-insurers are included in House Bill No. 2147 that were not included in House Bill No. 2422. These specific changes and the reasons therefore are itemized below.

Page 4, lines 124 through 127 -- K.S.A. 40-3103(u) -- The definition of "self-insurer" is amended to include "qualified non-resident self-insurers) (i.e., non-residents recognized in other states as self-insurers that have filed the Declaration of Compliance forms as authorized by and pursuant to K.S.A. 40-3106(b)). This change also clarifies that qualified non-resident self-insurers must provide Personal Injury Protection (PIP) benefits as required by K.S.A. 40-3107(f) and pay PIP benefits in accordance with K.S.A. 40-3109.

Page 5, line 193 -- Page 6, lines 194 through 197 -- Page 8, lines 302 and 303 -- K.S.A. 40-3104 -- The change to subsection (a) clarifies that owners of vehicles included in qualified non-resident self-insurance plans are exempted from the mandatory motor vehicle liability insurance requirement. In the absence of this change, a non-resident self-insurer could possible be held in violation of K.S.A. 40-3104(a) even though it had filed the Declaration of Compliance under K.S.A. 40-3106(b). This same purpose also applies to the amendment to subsection (i), Paragraph (3).

Page 10, line 344 -- K.S.A. 40-3105(d) -- The proposed change corrects the out-of-date cross-reference to K.S.A. 8-198(f). This subsection currently appears as K.S.A. 8-198(g).

Page 10, line 366 -- K.S.A. 40-3109(a)(3) -- The deletion and insertion of a comma clarifies that a Kansas owner injured in a non-owned vehicle is not entitled to PIP from the insurer or self-insurer of the non-owned vehicle. The owner would be eligible for PIP only from his own insurer. This technical change is consistent with Farm and City Insurance Company v. American Standard Insurance Company, 220 Kan. 325, 328, 331, 333, 334, 335, 552 P.2d 1363 (1976).

Page 11, lines 383 and 384 -- K.S.A. 40-3113a(a) -- This amendment provides express statutory authorization for PIP insurers to subrogate duplicative tort recoveries effected in jurisdictions other than Kansas. The Department's current position is consistent with this clarification.

Page 13, lines 487, 489, 490, 492 and 493 -- K.S.A. 40-3116 -- The proposed change corrects the typographical error and updates cross-references. The penalty provision is expanded to include Kansas self-insurers which are required to participate in the Assigned Claims Plan.

This concludes my testimony which, though rather lengthy, can be summarized by the rather simple observation that we believe the increase in the personal injury protection benefits, the addition of a second threshold to trigger first party coverage for general damages and the corresponding increase in the tort threshold will serve the insuring public of the state of Kansas much better than the current outdated law.

Testimony on No-Fault Reform - HB 2147
Before the House Insurance Committee
February 17, 1987
By: Larry W. Magill, Jr., Executive Vice President
Independent Insurance Agents of Kansas

Thank you, Mr. Chairman, and members of the committee for the opportunity to appear today in support of HB 2147. State legislatures across the country and the press have given a lot of attention in the last year and a half to tort reform. No-fault is tort reform at the other end of the scale - it attempts to addresss the small claim and the less seriously injured victim rather than huge headline-grabbing awards.

The Independent Insurance Agents of Kansas' interest in the no-fault issue is simply to provide Kansas consumers with the most efficient, effective and reasonably priced auto insurance product possible.

Goals

The goals of no-fault are quite simply: 1) To pay compensation to more accident victims. 2) To pay more of the economic loss (primarily lost wages and medical expenses) - particularly to the more seriously injured victims. 3) To pay that compensation to accident victims faster. 4) To provide an auto insurance system (policy) that is more efficient - more of the premium dollar paid out in direct, first-party benefits to the victims. 5) To provide lowered public costs from fewer lawsuits. 6) To accomplish all of this at hopefully no increase in cost to the consumer of auto insurance.

Have The Goals Been Met?

The answer is an unequivocal and emphatic yes where the benefits

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of no-fault have been balanced with the threshold for suits. Attached to my testimony is the U. S. Department of Transportation's study of no-fault completed in May of 1985 and a copy of Consumer's Union's Consumer Reports article of September, 1984.

The DOT study found that, "Almost twice as many victims per hundred insured cars received PIP benefits in no-fault states as received BI liability payments in traditional states."

The DOT study further found that, "In general, accident victims in no-fault states have access to a greater amount of money from auto insurance than victims in traditional states." This conclusion was based on the combination of first-party PIP benefits and the mandatory auto liability coverages in the state study. According to a March, 1984, CPCU Journal article, a 1970 DOT study, "found that automobile accident victims with losses of less than $500 recover more than four times your actual economic losses, while victims with economic losses of more than $25,000 recover only 30% of their losses."

Compensation is paid faster under no-fault. Conclusion number 5 of the recent DOT study found that, "Compensation payments under no-fault insurance are made far more swiftly than under traditional auto insurance."

No-fault is more efficient. According to the Consumer Reports article, "Before no-fault was passed in New York, the Department of Insurance estimated that about 16 cents of every premium dollar was paid as benefits to accident victims. The Department now estimates that approximately 40-50 cents goes back to victims, to pay for such things as medical care and rehabilitation." The DOT study found that the average no-fault state returned 50.2 cents in personal benefits

compared to 43.2 cents in the traditional, tort states.

The DOT study concluded under number 8 that, No-fault has led to reductions in the number of lawsuits and, thus, to significant savings in court and other public and legal costs paid by the taxpayer."

It would be nearly impossible to accomplish these first five goals and also reduce auto insurance costs. For that reason, most no-fault laws have been designed as a "wash" - no net increase in the total auto insurance premium. According to the Consumer Reports article, "The more thoughtful advocates of no-fault are neither surprised nor greatly disappointed that no-fault hasn't cut premiums. No-fault policies are paying the medical benefits of many people who formerly would have gone uncompensated. And the cost of health care has been rising fast."

The Need For Balance

The term "balance" refers to the balancing of the added cost of the personal injury protection (PIP) benefits against the savings generated from the threshold. According to the Consumer Reports article, "A good no-fault law balances payment of benefits with restrictions on lawsuits. If a state wants insurance companies to offer generous no-fault benefits at an affordable price, it must restrict the number of lawsuits."

The 1983 DOT study concluded under number 3 that, "The average auto insurance premium rose 54% in the average no-fault state with a law that is in balance, and 126% in the average no-fault state with a law that is not in balance." The DOT study went on to state in conclusion number 4 that, "balance" in no-fault systems seems to be closely linked to the presence of an exclusively verbal or high medical expense dollar threshold."

We believe HB 2147 provides this much needed balance between an equitable personal injury protection benefit package and a reasonable threshold. There is no way of telling with certainty for each auto insurance company doing business in Kansas what the ultimate impact on losses will be of HB 2147. Indications are that the increase in PIP benefits coupled with the new general damages benefit will basically be offset by the increase in the threshold.

There is no direct correlation between the increase in PIP benefits and the increase in a given state's threshold. The more lawsuits are eliminated, the more savings should be generated to pay for PIP benefits. The auto insurance industry in Kansas is highly competitive and to the extent savings exceed costs of the increased benefits, which is highly doubtful under HB 2147, the savings will be passed on to the consumer at lower auto insurance prices. There is ample evidence of the competitive nature of our business in the recent "soft" pricing in the commercial lines area.

Kansas' New Concept - Two Thresholds

HB 2147 contains a totally new concept for no-fault that we're excited about. The idea of a general damages benefit to compensate victims with moderate injuries for pain and suffering and the inconvenience of an injury offers an interesting compromise to reach a truly significant threshold.

The first threshold in HB 2147 is reached when an accident victim has $1,500 in medical expenses. At that point, the injured party would receive a lump sum of $500 for general damages plus $1 in general damages for each additional dollar of medical expense incurred up to a total of $3,000 in medical expenses. This means the general damages

payment would total $2,000 if $3,000 in medical expenses are incurred.

Attached to our testimony is a hypothetical example of how benefits under the proposed HB 2147 and costs to the system compare to benefits and costs under a tort system. As you can see under the tort system, $11,000 would be paid out by insurance companies for an injured party to net $6,860 approximately. Under the provisions of HB 2147, $7,250 would be paid out by the insurance company and $7,250 would be received by the injured party. In other words, in this hypothetical example, the injured party would receive $390 more in benefits and the insurance company would actually pay out $3,750 less. The savings to the system could be even greater if you consider plaintiff's attorneys fees, defense attorneys fees and court costs, which might total approximately $7,630 in this hypothetical example.

My guess is that the opponents of HB 2147 will concentrate on a six times increase in the threshold for lawsuits - from $500 to $3,000. They will ignore the threshold for general damages (pain and suffering) of $1,500 and the new general damages benefit designed to fairly compensate moderately injured victims and improve the efficiency and effectiveness of the system.

A second important element in balancing the proposed increase in PIP benefits is the elimination of the fracture language found on lines 504 and 505 of the bill. Under current law, these fractures constitute an automatic breech of the $500 threshold. Under the proposed wording, the individual would have to incur $1,500 of medical expense before they would receive the general damages benefit or $3,000 of medical expenses before they could sue for non-economic losses or reach the verbal threshold of permanent disfigurement, loss of a body member,

permanent injury within reasonable medical probability, permanent loss of a bodily function or death. If a serious bone break could occur that would not breech either of the two dollar thresholds, $1,500 or $3,000, a person could still claim under the "verbal" threshold of permanent disfigurement or a permanent injury. In this respect, the bill is exactly the same as HB 2422 passed by the legislature last year, but vetoed by Governor Carlin.

Conclusions

The addition of the general damages benefit under PIP and the two threshold concept were and are a compromise between what the industry would like, a verbal threshold, and the opponents of no-fault reform. The concept originated with Representative Joe Knopp out of an interim study in 1984 and we believe deserves an opportunity to prove its worth. It could very possibly represent a totally new approach to no-fault that will be duplicated in other areas of the country and improve the overall concept.

All the research supports the fact that a good, balanced, no-fault law meets its goals for the consumers of auto insurance. Insurance companies can price any auto insurance product; my members can sell any auto insurance product, but it's up to you to decide how good a product you want to provide the consumers of Kansas. We urge you to favorably report HB 2147.

	Current Law On PIP Benefits	to	New PIP Benefits
Disability (Loss of Earnings)	$ 650	to	$1,400
Survivors Benefit	$ 650	to	$1,400
Medical Expense	$2,000	to	$6,500
Funeral Expense	$1,000	to	$2,500
Rehabilitation Expense	$2,000	to	$6,500
Substitute Service Expense	$12/day	to	$25/day
General Benefits (Pain & Suffering)	0	to	$500-2,000

EXAMPLE OF POTENTIAL NO-FAULT BENEFITS AND SAVINGS UNDER HB 2147

UNDER TORT		HB 2147	
$ 3,000	Medical Expense Benefit	$3,000	Medical
$ 2,000	Wage Loss Benefit	$2,000	Wage Loss
$ 6,000	General Damages	$2,000	General Damages (Pain&Suffering)
$11,000		$7,000	Injured Party's Recovery
.66	(1/3 attorney fee at least		
$ 7,260			
- 400	Court Costs (plus witness and deposition costs)		
$ 6,860	Injured Party's Recovery		

Savings to the System (Ultimately to Consumers):

Plaintiff's Attorney's fees	$3,630	
Defense Attorney's fees	$3,600	
Court Costs	$ 400	
	$7,630	(Plus savings in company claims department overhead)

(Assumes other party is 100% negligent)

Robert Demichelis was returning home from a basketball game at Northern Illinois University three years ago when he dozed off at the wheel. His Datsun 200SX bounced off a guard rail and struck a concrete divider in the middle of Interstate 5. His head rammed the windshield.

Now 28, Demichelis requires speech therapy four times a week. He can't hold a job because the accident virtually destroyed his ability to reason and make judgments. Health insurance helped pay for his medical bills, but his family has had to pay for all of his rehabilitation treatments—some $15,000 worth so far. The family is currently paying $1400 a month, and no insurance money is coming in.

Faith Ann Glynn was riding a bicycle near her home in Midland, Mich., when a car struck her from behind and catapulted her into a cement bridge. The 13-year-old girl needed two brain operations, and doctors didn't expect her to live. For two years, she lived in nursing and rehabilitation centers.

Today, five years after the accident, Faith Ann is living a near-normal life. She attends Midland High School, loves poetry, swims, and even rides her bike again. She functions almost at her age level. Her family has paid nothing for her medical care and rehabilitation treatment. The family's auto-insurance company has borne the entire cost, which has so far amounted to more than $180,000.

Both these accidents were emotionally traumatic for the families involved. But one accident produced financial trauma as well, while the other left the family financially unscathed. The difference was simply a matter of which state the victims lived in when their accidents occurred.

Demichelis had the bad luck to live in Illinois, a state that has old-fashioned automobile insurance under the tort liability system. In tort states, car owners buy auto insurance primarily to protect themselves from lawsuits in case they (or members of their family) cause an accident that injures someone else. When drivers, passengers, or pedestrians are injured, they must rely on other types of insurance to pay their bills—or sue.

Demichelis could sue no one, since there was no one to hold liable for his accident. His employer's health-insurance policy paid for most of his hospital expenses, and his group disability policy provided some benefits for a couple of years. But that was it. His auto-insurance policy paid nothing for his care.

Faith Ann Glynn was injured in Michigan, a state that has the best no-fault auto insurance law in the country. Under Michigan's no-fault system, the right to sue is limited. Car owners must buy coverage that reimburses them for their own medical and rehabilitation expenses and for lost wages. It also covers members of their families hurt in car accidents—even if they are in someone else's car, or traveling out of state, or (as in Faith Ann Glynn's case) on a bicycle or walking.

The no-fault policy on Faith Ann's family's 1978 Buick paid all of the child's medical and rehabilitation expenses. Under Michigan's law, the insurance company pays these expenses for the life of the victim. Had her mother sued the driver of the car, she probably would have collected very little. The driver carried minimum liability insurance and lived in a rented trailer. Under the tort system, Faith Ann would probably have received no more than $20,000—a small fraction of the amount her family's insurance company has already spent for her care.

The striking contrast between the Demichelis case and the Glynn case symbolizes the difference between the traditional tort approach and the no-fault approach. In light of some manifest advantages for the no-fault system, it may seem surprising that only about half the states have yet adopted any form of no-fault auto insurance. What's more, many states that nominally have no-fault have some half-hearted version of it instead of the full-scale version that exists in Michigan.

The need for no-fault

The model for no-fault insurance plans was workers' compensation insurance, which pays benefits to an injured worker without regard to whether the worker or the company caused the accident—and therefore without the need for litigation over who was at fault. In the mid-1960's, Robert Keeton, then a Harvard law professor, and Jeffrey O'Connell, then a professor of law at the University of Illinois, proposed extending the no-fault idea to auto insurance.

Shortly afterward, the U.S. Department

of Transporation (DOT) studied the automobile liability system in the U.S. and found it sorely wanting. The system was ineffective, overly costly, and slow, the DOT concluded. Often, seriously hurt victims lacked the money to pay their medical bills; they depended for compensation on proving in court that the other driver was at fault and should pay.

It could take years to settle a case—and even then injured victims played the legal system's version of roulette. If they sued a driver with no assets and little insurance, they might get nothing. But if they sued a well-insured or wealthy driver, they might hit the jackpot—including large awards for "pain and suffering."

The DOT study showed that in most cases victims who suffered large economic losses were not fully compensated, while those with minor injuries sometimes received amounts several times greater than their actual expenses. Drivers such as Demichelis, who were hurt in single-car accidents, usually got nothing.

The liability system discouraged rehabilitation and overburdened the courts and in some cases siphoned into lawyers' pockets money that could have been used to rehabilitate crash victims. Under the tort system, lawyers commonly took cases on a contingency basis–that is, they'd collect a portion of the award, usually one-third, if they won. (In some cases, of course, a lawyer helped a victim gain a large settlement.)

If lawyers were cut out of the system, Keeton and O'Connell argued, more money could go to the seriously injured, and it could go there faster. Under no-fault, you wouldn't need a lawyer to get your bills paid. In the early 1970's, a movement toward some type of no-fault system swept through state legislatures. But state trial lawyers' associations and individual trial lawyers lobbied hard to prevent no-fault laws. They were largely successful either in blocking no-fault laws or in so watering them down as to make the new system barely less litigious—and, in some cases, even more expensive—than the old.

"If we look at the laws, we can clearly see the fingerprints of the trial lawyers on them," says Robert Pike, a vice president for Allstate Insurance Co. In states where lawyers managed to preserve most of their business, no-fault hasn't kept its promises.

What makes a good law?

A good no-fault law balances payment of benefits with restrictions on lawsuits. If a state wants insurance companies to offer generous no-fault benefits at an affordable price it must restrict the number of lawsuits. Otherwise, no-fault benefits are grafted on top of the old tort system. Then the savings from reduced litigation aren't enough to pay for the new benefits, and the insurance companies must substantially raise premiums.

There are few good no-fault laws. As we've noted, Michigan has the best. Accident victims such as Faith Ann Glynn have all their medical and rehabilitation expenses paid by their own insurance company. If an injured person can't work, the law requires insurers to pay lost wages up to $2252 a month for a period of three years. Families of victims killed in auto accidents can also collect

"If we look at the laws, we can clearly see the fingerprints of the trial lawyers on them," says Robert Pike, a vice president for Allstate.

the lost-wage benefit, in the form of survivors' benefits. The Michigan law significantly restricts lawsuits; victims can sue only if the accident results in death, permanent disfigurement, or serious impairment of body function.

New York and Florida also have good laws. New York provides up to $50,000 worth of medical, wage-loss, and rehabilitation benefits. Florida provides up to $10,000. Restrictions on lawsuits are similar to Michigan's. Victims can sue only if they are seriously injured; their heirs can sue in the event of their death. These so-called "descriptive thresholds," which allow victims to sue only if they meet a serious-injury test, have turned out to be the most effective means of balancing the right to sue against the benefits provided by a no-fault system.

Descriptive thresholds are distinguished from monetary thresholds. New York and Florida had earlier used a dollar ceiling based on a victim's medical expenses. New York, for example, used to allow victims to sue if they had more than $500 in medical bills. In Florida, victims could sue if bills totaled $1000.

Dollar thresholds encouraged abuses—inflated doctor bills, faked injuries, and the like. "With a $500 threshold it was no challenge to become seriously injured in New York," says John Reiersen, assistant property-and-casualty chief of the New York Insurance Department. Since lawsuits weren't effectively eliminated, costs skyrocketed. Insurance companies were paying for a lot of lawsuits and for the required no-fault benefits as well. Insurance rates rose about 37 percent a year in New York from 1974 to 1976.

The New York state legislature replaced the dollar threshold with a descriptive one in 1977, and placed caps on fees charged by doctors and hospitals for treating auto-accident victims. Lawsuits dropped by one-third. Eighty percent of all auto negligence lawsuits have now been eliminated in New York, and rate increases have averaged less than 5 percent a year since 1978.

Descriptive thresholds are superior to dollar ones. Yet, among the 23 jurisdictions (including the District of Columbia) with no-fault laws of some type, only Michigan, New York, and Florida have them. Thirteen other states have dollar thresholds, ranging from $200 to $5000. And in seven states, no-fault benefits have simply been superimposed on an unchanged tort-liability system. These are called "add-on" states.

What makes a bad law?

In all no-fault states, the number of lawsuits has dropped, but in most of them it hasn't dropped enough to pay for the new no-fault benefits. Classic examples: Pennsylvania and New Jersey.

Pennsylvania's law gave victims unlimited medical and rehabilitation benefits, but permitted lawsuits if victims had $750 worth of medical expenses. Result: Too many victims could collect under both fault and no-fault for the same injuries. "We had two systems. One the fault, and the other no-fault, so it shouldn't be terribly surprising it became very expensive," says Jonathan Neipris, Pennsylvania's deputy insurance commissioner.

Premiums for personal-injury and liability coverages in Pennsylvania have been rising about 20 percent a year since 1975. After several years of trying to fix Pennsylvania's law and running into snags every step of the way, the state legislature decided earlier this year to eliminate all restrictions on lawsuits and become an add-on state.

New Jersey's problem was similar. Its no-fault law provided for unlimited medical benefits, yet it allowed lawsuits if victims accumulated only $200 in medical bills. The tort liability system continued to operate virtually unchanged. Insurance rates shot up. Premiums in Newark are sometimes double those in Detroit for comparable coverage. Of course, many factors influence rates, but there's little question that New Jersey's have-your-cake-and-eat-it-too no-fault law contributed to high premiums there.

Paying victims, not lawyers

Car owners get more value for their premium dollars under no-fault than they do under the tort system because more of each premium dollar is paid out in bene-

fits to auto-accident victims.

Before no-fault was passed in New York, the Department of Insurance estimated that about 16 cents of every premium dollar was paid as benefits to accident victims. The Department now estimates that approximately 40 to 50 cents goes back to victims, to pay for such things as medical care and rehabilitation. Much of the premium dollar still goes for insurance-company expenses, but less money now goes for litigation.

A recent DOT study found that the average no-fault state returns in benefits a little more than 50 cents out of every dollar. Michigan, which provides the greatest benefits, returns 55 cents.

The DOT study also found that about twice as many victims (per 100 insured cars) are being compensated under no-fault than under the tort system. No-fault is compensating more victims even in states with the lowest benefits.

And benefits are paid quickly. Most laws require companies to pay victims within 30 to 60 days after they submit proof of their claims. By contrast, in tort states victims have to wait months or even years to win compensation.

Some proponents had argued that no-fault would cause auto-insurance premiums to fall. It hasn't happened. In the better no-fault states, premiums have risen about as much as in tort states.

The more thoughtful advocates of no-fault are neither surprised nor greatly disappointed that no-fault hasn't cut premiums. No-fault policies are paying the medical benefits of many people who formerly would have gone uncompensated. And the cost of health care has been rising fast.

The seriously injured

Good no-fault states offer something for the seriously injured that the tort sytem cannot offer—fast rehabilitation therapy. By the time the tort sytem comes forth with an award, it may be too late for rehabilitation to do much good for the seriously injured person. No-fault benefits paid quickly encourage rehabilitation when it's likely to be most effective, as it was in Faith Ann Glynn's case.

In the no-fault states with unlimited medical and rehabilitation benefits, the results of early rehabilitation are dramatic. For example, the Automobile Club Insurance Association in Michigan, a major auto insurer in that state, recently had 623 cases of catastrophically injured victims on its books. Of those, only 15 were in nursing homes.

An insurance-industry group recently studied 420 seriously injured auto-crash victims in the three states (Michigan, New Jersey, and Pennsylvania) with unlimited medical and rehabilitation benefits. More than 80 percent of them had been in rehabilitation programs—which often are not covered by health insurance—and most had benefitted from them. Most were living at home and many had near-normal life expectancies.

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What's the auto-insurance law in your state?

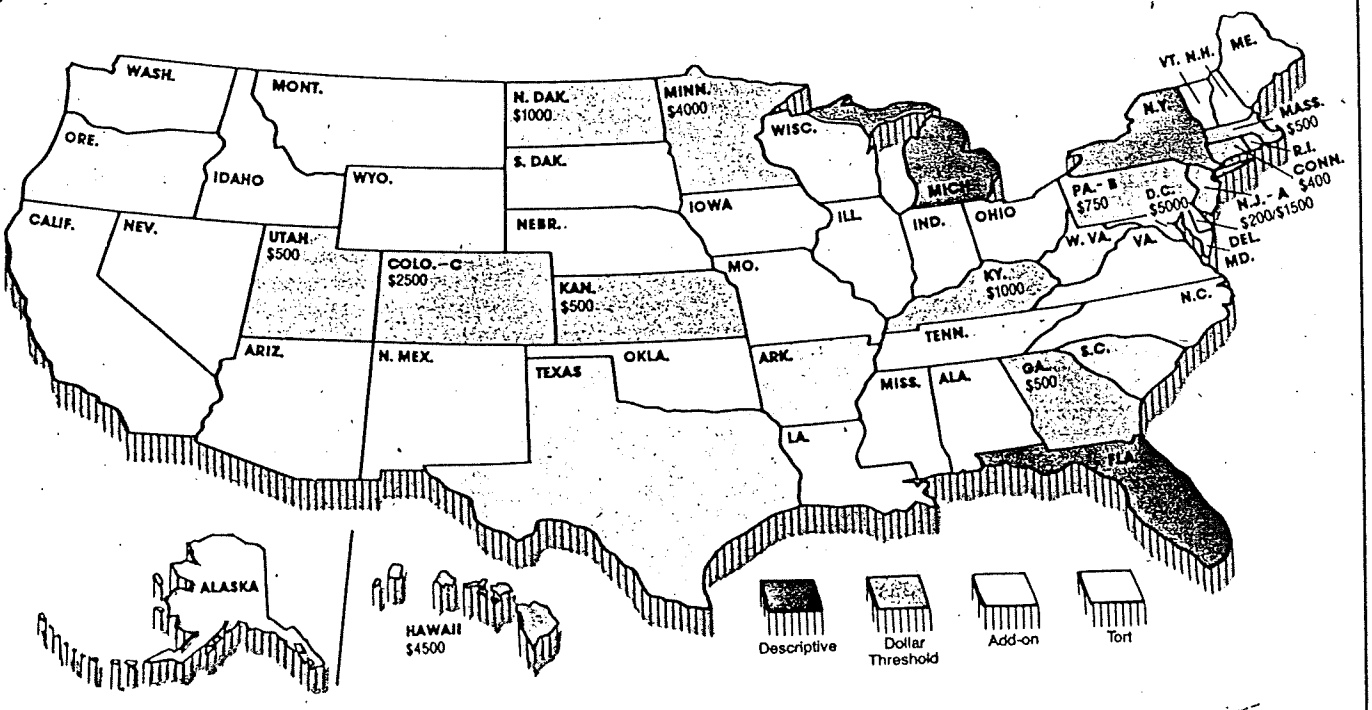
The map below shows the kinds of auto-insurance laws that prevail in the 50 states and the District of Columbia.

A state with a descriptive threshold allows victims to sue only if their injuries are serious. Their heirs can sue in the event of their death.

A state with a dollar threshold allows victims to sue if they accumulate medical bills that exceed a specified dollar amount. The map shows the thresholds for each of the 13 jurisdictions that use this arrangement.

An add-on state does not restrict the right to sue but requires insurance companies to offer no-fault coverage to car owners. In three of these states—Delaware, Maryland, and Oregon—car-owners are required to buy it.

A tort state does not restrict the right to sue. Accident victims usually receive no compensation for their injuries from their own auto insurance. They must make a claim against the other person's insurance company, or sue the party they believe caused the accident.



A—New Jersey recently changed its law, giving drivers the option of a $200 threshold or a $1500 threshold.

B—Pennsylvania, effective Oct. 1984, is eliminating restrictions on the right to sue, making it an add-on state. Also, companies will no longer be required to offer unlimited medical benefits.

C—Current threshold is $500; $2500 threshold takes effect Jan. 1, 1985.

No-fault Insurance

Continued from page 513

The recent DOT report concluded: "In the absence of high-benefits no-fault auto insurance, there probably would not have been enough money available for the treatment of the catastrophically injured . . . to produce any significant improvement in the condition of any of these victims."

To get major help for the seriously injured, only a true no-fault statute with high benefit limits will do. A no-fault state with skimpy benefits is almost as bad as a tort state from the standpoint of helping the seriously injured victim. An insurance-industry research group surveyed one group of catastrophically injured crash victims and determined they needed, on average, more than $400,000 for lifetime care and rehabilitation.

A stalled crusade

Since the mid-1970's, only the District of Columbia has been able to pass a no-fault law. The no-fault movement has been stalled primarily by trial lawyers, who have fought vigorously to obstruct passage of good no-fault laws and to weaken or repeal existing laws.

In 1976, the lawyers gave a quarter of a million dollars to Congressional candidates who opposed or might oppose no-fault. Two years later, the American Trial Lawyers Association succeeded in blocking a bill that would have set Federal standards for state no-fault laws.

More recently, no-fault legislation has been debated mainly at the state level—and trial lawyers have been effective in influencing state politics. Recently, they've been at work in Kansas. This year the Kansas legislature approved an increase in no-fault benefits from $2000 to $5000 and an increase in the threshold from $500 to $1500, both modest improvements. But Governor John Carlin, who has received significant campaign contributions from several trial lawyers, vetoed the bill.

Trial lawyers were also instrumental in passing the law that eliminates restrictions on lawsuits in Pennsylvania.

While the lawyers labor against no-fault, the insurance industry is working for it—but not very hard. As Jean Hiestand, vice president and general counsel for State Farm Mutual, says, "We think the principle is sound, but the steam has gone out of the issue."

CU has long supported the principle of no-fault laws. We hope to see them in the 28 states that still use the traditional tort system. But, equally important, we'd like to see the states that have half-hearted no-fault laws give the concept the chance it deserves. Where it has been implemented well, as in Michigan and New York, no-fault works. ■

EXECUTIVE SUMMARY

No-fault auto insurance is a form of insurance that provides compensation to virtually all personal-injury victims of motor vehicle accidents.

Traditional liability auto insurance is a form of insurance that provides compensation to victims of motor vehicle accidents only if they can prove that some other person or persons were at fault in causing the motor vehicle accidents in which they were injured.

Today, no-fault auto insurance exists only as a part of a "mixed" compensation system, that is, a system that contains both no-fault and traditional insurance. This mix varies in each of the 24 jurisdictions which today have some form and degree of no-fault auto insurance.

This study examines the performance of the no-fault systems in these jurisdictions and compares them with each other and with the auto insurance systems in the States that are exclusively traditional.

Dimensions of the Problem:

In 1982, 1,269,000 people suffered motor-vehicle-accident-related injuries for which they were taken to a medical facility. Of this number, 156,000 were seriously injured and 43,945 died. One-third of all motor vehicle accident victims were 15 to 24 years of age, and more than an additional one-fifth were 25 to 34 years of age. A large number of these youthful victims did not have a comprehensive health insurance plan or more than the minimum required amount of auto insurance.

Personal injury auto insurance is the major single source, although not the only source, from which motor vehicle accident victims recover compensation for the losses they suffer as a result of motor vehicle accidents. Society gives recognition to its importance by the fact that every State requires or strongly encourages the purchase of auto insurance through compulsory or financial responsibility laws.

Categories of Personal Injury Auto Insurance:

Personal injury auto insurance can be divided into traditional liability auto insurance and no-fault auto insurance. No-fault can in turn be divided into no-lawsuit no-fault and add-on no-fault.

No-lawsuit is the form of no-fault under which a motor vehicle accident victim can always receive no-fault benefits but cannot always bring a lawsuit against the person whose fault caused the accident and injury, on the ground that lawsuits are unnecessary in some cases, where victims have a right to no-fault benefits. The term "no-lawsuit" is not totally accurate because each of the States that today restricts lawsuits by recipients of no-fault benefits does allow some such lawsuits under certain circumstances. The term is nevertheless appropriate because it emphasizes the primary distinguishing feature of this category: lawsuit restriction in exchange for assured no-fault benefits.

Add-on is the particular form of no-fault that does not restrict a victim's right to bring a lawsuit against any other person believed to be at fault, while at the same time providing assured no-fault benefits to that victim. Under

add-on auto insurance, lawsuits and no-fault benefits are both always allowed. In the States that have this kind of auto insurance, the right to recover no-fault benefits is always a supplement to, rather than a substitute for, the traditional right to sue the wrongdoer.

The auto insurance which is sold exclusively in the other 28 States and which is sold in addition to no-fault in all of the no-fault jurisdictions is called traditional or liability auto insurance. Traditional auto insurance consists primarily of bodily injury liability insurance (BI). BI liability is insurance that protects a policyholder against the obligation to defend and pay damages to an accident victim who is injured through the negligence of that policyholder. It applies only to accidents where there is both a wrongdoer/policyholder and an accident victim, which means that it does not provide compensation to the victims of the approximately two-fifths of injury accidents which involve only a single car.

Background of this Report:

In 1977, the U.S. Department of Transportation published a report entitled "State No-Fault Automobile Insurance Experience 1971-1977," that summarized the available data and evaluated experience under no-fault personal injury auto insurance laws in the States in which such laws were in effect at that time.

In 1983, the Secretary of Transportation was asked by Chairman James J. Florio of the House Subcommittee on Commerce, Transportation, and Tourism to update the 1977 report. An updated report was needed because the data available in 1977 were limited and the full impact of no-fault auto insurance was not yet known. Since 1977 additional data have become available, and there have been significant changes with respect to a number of the auto insurance laws that were then in effect.

Terminology Used in this Report:

Technical legal and insurance terms that are not generally understood are not used in this report, to the extent possible. Where such use is unavoidable, the term is defined before it is first used. Terms that are used in the conclusions are defined here:

A first-party insurance coverage is one in which the insurance company (the second party) pays its own policyholder (the first party) when the event occurs that the insurance covers. A third-party insurance coverage is one in which the insurance company (the second party) on behalf of its own policyholder (the first party) pays a person not named or specifically described in the policy (the third party) who sustains damage for which the first party is legally responsible. Health insurance, which pays the policyholder for his or her medical expense, and fire insurance, which pays the policyholder for damages by fire to his or her residence, are examples of first-party insurance. Workers' compensation insurance, which pays an employee of the policyholder (the employer) for work-related injuries, is an example of third-party insurance. The term PIP insurance means personal injury protection insurance, the name generally given to the form of first-party insurance that is no-fault personal injury auto insurance. The term PIP benefits means benefits under PIP insurance.

The term lawsuit means a lawsuit in tort. A tort is a civil (as opposed to a criminal) wrong, other than a breach of contract, for which a court will award

damages or other legal relief to the injured party, if that party brings a lawsuit. Damages (or their equivalent) are often paid to a claimant who does not obtain a court award or who may not bring a lawsuit, on the basis of a settlement of that person's tort claim based on the action a court would probably take if there was a lawsuit and court award. The term collateral source rule means a legal doctrine under which a defendant is prohibited from introducing evidence that the claimant has already recovered compensation from another source for an item of loss claimed as damages.

The term threshold means the kind or level of injury that must have been sustained by a motor vehicle accident victim, or the dollars of medical expense such a victim must have incurred after the accident, in order for that victim to be allowed to bring a lawsuit in a no-lawsuit no-fault State.

The term balance refers generally to the trade-off between the savings from restrictions on lawsuits and the added costs of providing new no-fault benefits. More specifically, to have "balance" in a no-lawsuit system, the system must have effective restrictions on lawsuits such that the savings generated by limiting lawsuits and thus constraining third-party damages will "pay for" the cost of first-party benefits. To have balance in an "add-on" system, where there are no restrictions on lawsuits, the average amount of the third-party payments must be lower than the average amount of the third-party payments in traditional States by such an amount that the "savings" will equal the cost of first-party no-fault payments.

Conclusions of this Report:

The following general conclusions about no-fault auto insurance are made on the basis of over a dozen years of experience in two dozen jurisdictions.

1. Significantly more motor vehicle accident victims receive auto insurance compensation in no-fault States than in other States. No-fault auto insurance, whether of the no-lawsuit or add-on type, compensates many more personal injury victims of motor vehicle accidents than does traditional or liability auto insurance. Almost twice as many victims per hundred insured cars receive PIP benefits in no-fault States as receive BI liability payments in traditional States. The paid claim frequency (number of claims paid per 100 insured cars) averages 1.8 for PIP insurance in 22 no-fault States compared to only 0.9 for BI liability insurance in 28 traditional States.

2. In general, accident victims in no-fault States have access to a greater amount of money from auto insurance than victims in traditional States. The average amount of compensation available for payment to a personal injury victim in a no-fault auto insurance State is greater than that in a traditional State. Although some no-fault States, particularly the add-on States, provide only relatively modest amounts of no-fault benefits, those amounts are sufficiently large to ensure more adequate medical treatment, on the average, than in traditional States. No-fault States require or permit insurance providing an average of $15,000 of medical costs for each victim. (This average does not include Michigan and New Jersey, both of which offer unlimited medical and rehabilitation benefits. Their inclusion would, obviously, raise this figure significantly.) Since both no-fault States and traditional States require approximately the same amount of liability insurance coverage (an average of $18,000 for one individual), no-fault

States, on average, offer nearly double the total potential recovery available in the traditional States.

3. Although no-fault States, on average, have higher total insurance premiums than traditional States, this seems to be due to the inclusion in the average of no-fault States with laws that are out of balance. From 1976 to 1983, the average auto insurance premium in the average traditional State rose 50%. During the same period, the average auto insurance premium rose (a) 54% in the average no-fault State with a law that is in balance, and (b) 126% in the average no-fault State with a law that is not in balance.

4. "Balance" in no-fault systems seems to be closely linked to the presence of an exclusively verbal or a high medical-expense dollar threshold. Some systems which provide no-fault benefits to all motor vehicle accident victims do so at a cost which is more or less equal to (or less than) the savings which are produced in those systems by having a threshold. In fact, the appropriateness of the threshold is likely to be the principal factor in determining whether a system is in balance.

All of the States which permit recovery of third-party benefits only upon satisfaction of a verbal threshold are in balance. Three out of four of the States which permit recovery of third-party benefits upon satisfaction of a high-dollar threshold ($1,000 or more in medical expenses) are in balance. Three out of eight of the States which permit recovery of third-party benefits upon satisfaction of a low-dollar threshold (less than $1,000 in medical expenses) are in balance. Only one out of the three States that have no threshold at all is in balance. Both of the States that repealed their no-lawsuit no-fault auto insurance laws (Nevada and Pennsylvania) had laws that were not in balance.

5. Compensation payments under no-fault insurance are made far more swiftly than under traditional auto insurance. According to one study, no-fault claimants received 33% of the benefits they would ever receive within 30 days of the date on which they notified an insurance company of their accident and injury; by contrast, traditional claimants received only 8.3% of the benefits they would ultimately receive within 30 days of notification. One year after notification, the PIP claimants had received 95.5% of the money they would ever receive; by contrast, the BI liability claimants had received only 51.7% of the money they would ever receive.

6. No-fault insurance systems pay a greater percentage of premium income to injured claimants than do traditional liability systems. For each premium dollar collected under the average no-fault system, claimants received a higher proportion in personal injury benefits than did claimants under the average traditional system. An analysis found that out of each personal injury premium dollar the average no-fault State returned 50.2 cents in personal benefits to claimants whereas the average traditional State returned 43.2 cents. One of the highest rates, 55.1 cents, was reached by the State of Michigan, the State which provides the greatest amount of no-fault benefits to accident victims and which puts the strongest restrictions on lawsuits and third-party benefit recoveries.

7. State auto insurance laws which provide high no-fault benefits would appear to better facilitate the rehabilitation of seriously injured motor vehicle accident victims than traditional laws, although the lack of good data on

rehabilitiation experience under traditional laws precludes a good quantitative estimate of the difference. Under the former, payments can be made quickly to all motor vehicle accident victims, which facilitates rehabilitation because it is generally more effective if introduced soon after a traumatic event. The absence, under no-fault insurance, of controversy about entitlement to recovery enables a victim to concentrate, on personal restoration, energies that might be misdirected to retribution via a lawsuit under the traditional system. Moreover, auto insurance funded rehabilitation is available to single-car accident victims under no-fault but not under the traditional system because the latter does not recognize their claims.

No-fault laws which provide high PIP benefit levels are particularly helpful in facilitating rehabilitation because rehabilitation treatment is expensive. While larger awards may be intermittently made under traditional insurance, the average amount generally available under traditional insurance is less than the average amount generally available in a no-fault State.

8. No-fault has led to reductions in the number of lawsuits and, thus, to significant savings in court and other public legal costs paid by the taxpayer. The evidence is clear that each no-fault auto insurance statute has led to some reduction in the number of motor vehicle accident lawsuits. According to Chief Justice Warren Burger, each jury trial tort case costs the taxpayer approximately $8,300 in court and other public costs. While the precise level of savings in each State is not known, nevertheless, the amount of savings for public entities is substantial.

9. Typical auto insurance benefits in both no-fault and traditional States fall short of the needs of catastrophically injured victims. The amount of auto insurance compensation available, in most no-fault and all traditional States, is not sufficient to meet all the economic-loss needs of the average catastrophically injured victim of a motor vehicle accident. A 1982 study, based upon review of 410 motor vehicle accident victims with economic losses expected to exceed $100,000, found that the average projected total medical and rehabilitation costs for each would be $408,700.

Each year, approximately 20,000 people receive severe to critical injuries in motor vehicle accidents. Only the no-fault laws of Michigan and New Jersey, which provide for unlimited medical benefits, meet the medical needs of all of these victims. Of the rest, New York's law, which provides for $50,000 maximum total PIP benefits, the District of Columbia's law, which provides for $100,000 in medical and rehabilitation benefits, and Colorado's law, which provides for $50,000 in medical and rehabilitation benefits and will provide for $100,000 after January 1, 1985, come the closest to meeting this need. None of the traditional auto insurance States provides anywhere near the needed amount of insurance for the most seriously injured victims. In the most generous traditional State, the required or strongly encouraged amount payable to any one accident victim under BI liability insurance is $25,000. Although many motorists and the corporate self-insurers that operate commercial vehicles can pay larger amounts or carry high limits liability insurance coverage, there is no assurance that the average seriously injured victim will be struck by such a motorist or vehicle.

10. The percentage by which the cost of payments to accident victims in no-fault States exceeds the cost of such payments in traditional auto insurance States has increased from 1976 to 1983. In 1976, $2,897 was paid per 100 insured

cars to claimants in traditional States compared to $4,445 (or 54% more) in no-lawsuit no-fault States. In 1983, $4,843 was paid to claimants in traditional States compared with $8,679 (or 79% more) in no-lawsuit no-fault States. The increase, from 54% more to 79% more, was accompanied by an equivalent increase in the percentage by which payments to claimants in add-on no-fault States exceeded payments to claimants in traditional States. These increases in the additional cost of payments to claimants in no-fault States over those to claimants in traditional States suggest that the legislatures in no-fault States may wish to consider new ways to reduce costs, such as repealing the collateral source rule and/or putting a ceiling on the amount of pain and suffering damages that an accident victim can receive if that victim was also eligible to receive no-fault benefits.

11. No-fault auto insurance laws do not lead to more accidents. More than 10 years of motoring and accident experience in about two dozen States indicate that the highway fatality and injury rates in no-fault States exhibit no significant difference from those in traditional States.

House Bill No. 2147 (No Fault)

Presentation by
L.M. Cornish
Kansas Association of Property & Casualty Insurance Cos.
before the House Insurance Committee
February 17, 1987

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to present the views of the domestic casualty insurance companies on House Bill No. 2147, a bill which updates the current no fault insurance laws.

The Kansas No Fault Law was enacted by this legislature in 1973 and became effective January 1, 1974, about 13 years ago. Its purpose was, and still is, to:

PAY MORE MONEY - TO MORE PEOPLE - MORE QUICKLY

To understand the need for the No Fault concept it is necessary to recall the problems of the personal injury reparations system as it existed prior to 1974:

1. The Cost of Litigation for Minor Injury Cases was too expensive.

2. It was necessary for injured persons to first prove fault, before they were paid Medical and Wage loss expense. Frequently, the court system took months or years to determine fault. This was a very time consuming, expensive process.

To solve these problems the Kansas legislature reached a compromise solution which is sometimes called the Quid Pro Quo solution.

1. The "Quid": Litigation Expense and Time Delay for minor injuries were eliminated by the use of a $500 Medical Tort Threshold.

2. The "Quo": Medical and Disability Wage Benefits were paid to injured persons without regard to fault.

It is the balance of this "Quid" and "Quo" which makes the no-fault concept work.

The No-Fault Law passed in 1973 and which we have today:

1. Mandated motor vehicle liability insurance coverage.
2. Required all liability insurance policies to provide Personal Injury Protection (PIP) benefits which are paid without regard to fault by the Motorist's own insurance company.

3. Limited the right to sue in minor injury cases. (Those with medical expenses with less than $500.)

However, after 13 years and because of "galloping inflation" of the 1970's and early 1980's, the injured Kansas consumer no longer receives adequate medical and wage benefits and this same inflation has eroded the effectiveness of the $500 threshold to restrict the number of small personal injury lawsuits.

In other words, the benefit package is not providing adequate medical and wage benefits for the consumer; and the threshold is not removing a sufficient number of expensive law suits from the tort system.

Skyrocketing health care costs have caused even the most minor auto injuries to produce medical bills of $500 or more. As this tort threshold "disappears" the small cases find their way back into the tort system and the no-fault concept becomes less efficient.

House Bill 2147 will greatly increase medical and wage benefits to the injured Kansas motorist. This bill is a better product for the consumer because under it:

Disability/Wage Benefits increase from $650 per mo. to $1400.

Medical Benefits increase from $2000 to $6500.

Rehabilitation Benefits increase from $2000 to $6500.

Substitution Benefits increase from $12 per day to 25.

Survivor Benefits increase from $650 per mo. to $1400.

Funeral Benefits increase from $1000 to $2500.

This increases the total package of personal injury protection benefits (PIP) from $20,980 to $45,225.

In addition, the bill provides that if the injured motorist incurs $1500 in medical expense, he will also receive the sum of $500 plus $1 for each $1 of medical expense over $1500 or a possible total of $2000. These are termed "general damages."

The total medical tort threshold is increased from $500 to $3000.

In addition, the injured person may sue if his injuries cause:

1. Disfigurement
2. Loss to a body member
3. Permanent injury
4. Permanent loss of a body function
5. Death

The injured party always has the right to sue for economic damages, regardless of the amount of medical expense.

In addition, the old language regarding fractures is removed because lawsuits over simple, non-permanent fractures brought about protracted and expensive litigation.

While only experience will determine with exactness the premium rate resulting from the amendments of HB 2147, it is generally considered by the insurance industry and the Kansas Insurance Department that the amendments to the No-Fault Law will not cause a significant premium inpact - and will probably result in a "wash." Some insurance companies, particularly those which have been marketing additional PIP coverages, will find little or no impact, and possibly a premium rate reduction. Others, which have not sold additional PIP coverage, may experience an increase, which, it is believed, <u>will not exceed 1%</u>. However, the only fair determination must be by actual experience during the next few years.

No-Fault is a Consumer Concept; its purpose is to hold down auto liability insurance cost. It will do this with the balance of HB 2147 between increase in benefits and increase in tort threshold.

February 17, 1987

Testimony to House Insurance Committee regarding HB2147

Chairman - Representative Sprague

Thank you very much for giving me this opportunity to provide information to this committee as you consider the passage of HB2147. I am the Executive Director of the Kansas Head Injury Association. I founded the Association as a not-for-profit organization whose mission is to improve the quality of life of all head injured persons, coma to community. My younger sister sustained a severe head injury in 1980.

The Kansas Head Injury Association works to create more public awareness of the emotional, psychological, physical and financial consequences of head injury. We sponsor support groups for head injured persons and their families, provide a central clearinghouse of information and resources and a telephone helpline, and we work with state and private agencies to develop a continuum of care for head injured persons, coma to community.

I am the person who is responsible for answering calls and letters from families and professionals seeking help and support. We average 12 calls a week. Seventy-five percent of the callers need financial assistance to pay for rehabilitation. They are underinsured, in the process of, or already have applied and been approved for medicaid. There is no financial assistance to pay for the long term and intensive rehabilitation necessary to help a head injured person reach his potential. Medicaid is not adequate to pay for the needs of head injured persons.

There will be 5,000 Kansans hospitalized because of head injury every year. Of these, 500 will be severely injured - 80 percent of the severely injured will have been injured in a motor vehicle accident. Head injury kills and disables more Kansans under the age of 34 than all other diseases combined. The average age of a head injured person is 19.

Last year our association sponsored a study of the needs of head injured persons in the greater Kansas City area. Financial assistance to pay for rehabilitation was the number one priority.

I am willing to work with this committee, your research department or any state agency to further investigate the need to have an increase in PIP medical and rehabilitation insurance. Attached find a letter from Katherine Klassen, Director of Medical Programs. This committee could request more data regarding the number of head injured persons receiving Kansas Medicaid. This would certainly be an interesting statistic and help us to document the cost of care to Kansas taxpayers.

Respectfully submitted,

Mary Pat

Mary Pat Beals
Executive Director
Kansas Head Injury Association
(913) 648-4772

MEMBERSHIP APPLICATION

Name _____

Address _____

City _____ State _____ Zip _____

Tel. Res. _____ Bus. _____

Type of Member

- ☐ Sponsor $1,000 and up
- ☐ Patron $500
- ☐ Century Club $100
- ☐ Supporting Membership $50
- ☐ Individual and Family Membership $25

All memberships are tax deductible.

nk you for your tax deductible donation.

Make checks payable to:

Kansas Head Injury Association.
9401 Nall, Suite 105
Shawnee Mission, KS 66207
913-648-4772

If you wish to pay by credit card, please complete:
☐ VISA ☐ MASTERCARD

Card No. | | | | |

Expiration Date _____

Tel. No. _____

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Signature *(Sign if Charging)*

- ☐ Courtesy membership (membership will not be denied any head injured person or family member due to an inability to meet membership fees.)
- ☐ I am interested in serving on a committee.

ase check:

- ☐ Head Injured Person
- ☐ Family of Head Injured Person;
  (Relationship) _____
- ☐ Professional Field _____
- ☐ Friend of KHIA
- ☐ How did you hear about the KHIA? _____

_____

_____

Donations for a memoriam or commemorative occasion will be accepted and acknowledged.

_____

KHIA is a 501 c3 not for profit corporation.

KANSAS HEAD INJURY ASSOCIATION

History

The Kansas Head Injury Association was incorporated as a not for profit 501 c3 corporation on June 25, 1982. The charter members were families of head injured persons and health professionals committed to making life after head injury worth living. Families and professionals have volunteered thousands of hours to produce the public awareness necessary to develop a continuum of care for head injured persons, created support groups in all areas of the state, established a clearinghouse and helpline, sponsored educational conferences and urge prevention, the only cure. Our financial support has come from our board of directors and personal financial pledges from our members.

Accomplishments

Provided Technical Assistance to local volunteers in establishing support groups in Wichita, Topeka, Salina, Hutchinson, Dodge City, Garden City and Kansas City.

Established Clearinghouse and Helpline - 9401 Nall, Suite 105, Shawnee Mission, KS 66207 - 913-648-4772.

Answered more than 500 calls for assistance during first six months of 1986.

Published a 16 page quarterly newsletter and distributed it to 2750 persons on our mailing list and to hospitals serving head injured persons.

Distributed legal pamphlet.

Sponsored educational conferences and workshops.

Created a model Family to Family program.

Signed a Cooperative Agreement with Kansas Rehabilitation Services.

Established working relationships with state and private agencies to improve existing services.

Sponsored needs survey of head injured persons living in Kansas City area.

Placed public service announcements and provided technical assistance to local volunteers in awareness campaigns.

KANSAS HEAD INJURY ASSOCIATION

Chartered State Association
of the
National Head Injury Foundation

Support for Head Injured Persons and their Families

Clearinghouse
9401 Nall, Suite 105
Shawnee Mission, KS 66207

Helpline

KANSAS HEAD INJURY ASSOCIATION

Mission

To improve the quality of life for all head injured persons; coma to community.

The founders and volunteers working to accomplish this mission believe that life after head injury is worth living. We are committed to this mission and urge others confronted with the emotional and physical consequences of head injury to join us. Together we make the difference.

Standing Committees

Awareness
Education
Program Advisory
Finance
Support Group Affairs

Please contact the Kansas Head Injury Association Clearinghouse and volunteer to assist us in accomplishing our mission.

913-648-4772

Board of Directors

Diana Bray
Karen Brown
Terry Cheyney
Harrison Coerver
Lenny Hawley
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Mary Lou Heckathorn
Leif Leaf
Shelia Nelson
Andrea Ramsay
Rick Sobanski

Executive Director
Mary Pat Beals

WHAT IS A HEAD INJURY?

Serious head injuries usually result in prolonged loss of consciousness or coma. While it may be brief, lasting only a few minutes, it may extend to days or weeks. If the period of coma is brief, recovery to full or nearly full function is more likely; but as time in coma lengthens, emergence to a fully alert state can take a long time. Intellectual impairment, speech problems, behavioral disorders and related physical disabilities can become realities. The individual and his family face a period of rehabilitation that can extend for years. Most head injuries happen as a result of accidents but similar problems can result from conditions such as encephalitis, lack of oxygen to the brain and cerebral hemorrhage.

The Kansas Head Injury Association was established to serve any individual who had normal function prior to a head injury and is now suffering from any or all of these devastating disabilities. Our concerns span the entire spectrum from coma to community re-entry.

Head injuries, particularly as a result of motor vehicle accidents, have become a national epidemic. It is estimated that 100,000 persons die annually from head injuries and that over 700,000 have injuries severe enough to require hospitalization. In this group, between 50,000 and 90,000 people a year are left with intellectual or behavioral deficits of such a degree as to preclude their return to before injury lifestyle. Tragically, two thirds of them are below the age of 30. Community facilities for the rehabilitation of those who have sustained head injuries are limited and in many areas are nonexistent.

Prior to the establishment of the KHIA and the National Head Injury Foundation there was no organization to act as an advocate for the survivors of head injuries and their families. The KHIA has accepted this challenge and has committed itself to a series of goals designed to bring the problem of head injury to national attention and to provide those programs and services so urgently needed.

GOALS and OBJECTIVES

1. **Increase public, family and professional awareness of the consequences of head injury.**

   Publish and distribute newsletters, brochures and informational pamphlets.

   Undertake a statewide awareness campaign.

   Sponsor educational seminars for families and professionals.

2. **Advocate to achieve recognition of the problem of head injury and the needs of those who have suffered head injuries.**

   Make direct presentations of the problem to state and private agencies.

   Keep membership aware of legislative matters of concern to our members and stimulate legislative action.

3. **Provide a central clearing house for information and resources for head injured persons, their families and professionals.**

   Distribute informational pamphlets and packets about head injury.

   Institute a Telephone Helpline.

4. **Develop a support group network for the head injured and their families.**

   Provide technical assistance to families and head injured persons in organizing local support groups for education, problem solving and socialization.

   Establish Family to Family programs.

5. **Promote establishment of specialized head injury rehabilitation programs.**

   Encourage existing programs and the development of new programs stressing cognitive retraining, behavior modification and vocational rehabilitation leading to independent living.

STATE OF KANSAS

JOHN CARLIN, *Governor*

STATE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES

INCOME MAINTENANCE AND
MEDICAL SERVICES

ROBERT C. HARDER, *Secretary*

STATE OFFICE BUILDING
TOPEKA, KANSAS 66612

November 8, 1985

Mary Pat Beals
Kansas Head Injury Association
9401 Nall - Suite 105
Overland Park, KS. 66207

Dear Mary Pat:

The cost to provide you the material requested is $539.00 as shown on the request.

Please notify me if you want this provided at that cost. If I do not hear from you by November 25, 1985, I will assume that you do not want us to implement your request. We could then do so at a later time if another request was received.

Sincerely,

L. Kathryn Klassen
by KK

L. Kathryn Klassen, R.N.,M.S.
Director
Division of Medical Programs

LKK:mg

Att.