

MINUTES OF THE House COMMITTEE ON Insurance

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

3:30 ~~X~~M./p.m. on March 30, 1987 in room 531-N of the Capitol.

All members were present except:

Rep. Gross, excused

Committee staff present:

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

Conferees appearing before the committee:

Dick Brock, Kansas Insurance Department  
Dick Hummel, Kansas Health Care Association  
John Miller, American Association of Retired Persons  
Suellen Weber, Department on Aging  
John Grace, Kansas Association of Homes for the Aging  
Jack Roberts, Blue Cross and Blue Shield  
Walt Whalen, Pryamid Life Insurance Company/Kansas Life Association

The meeting was called to order by the Chairman.

Hearing on: SB 132 - Long-term care insurance; standards and requirements

Mr. Dick Brock presented for the minutes the "Interim Report of the Commissioner's Ad Hoc Committee on Long Term Care," January, 1987. (Att. 1.) He distributed a memo from Donald Bond and Larry Gill of the Insurance Department describing the type of nursing home policy which they believe to be needed at this time. (Att. 2.) Also distributed was an insurance department booklet, "Kansas Nursing Home Insurance Facts to Help You." (Att. 3.) It is used to help senior citizens be informed and is kept updated. Mr. Brock said the bill does not mandate any type of coverage, but it authorizes the Commissioner to adopt regulations that will establish specific standards for customary contractual provisions. (Att. 4.)

Mr. Dick Hummel, Executive Director, Kansas Health Care Association, Inc., presented testimony in support of SB 132. His remarks and a suggested amendment are attached. (Att. 5.)

Mr. John Miller, AARP, spoke of the strength of Kansas' older citizens as voters and expressed support for SB 132 so that senior citizens will know more about what they are buying. (Att. 6.)

Ms. Suellen Weber, Department on Aging, spoke in support of SB 132 and suggested an amendment which would prohibit the exclusion of Alzheimer's and related diseases from long term care insurance coverage. (Att. 7.)

Written testimony was presented by Mr. John Grace, Kansas Association of Homes for the Aging, which supported the bill. (Att. 8.)

Mr. Jack Roberts, Blue Cross and Blue Shield, spoke in support of the bill, saying that it offers opportunity for flexibility and

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,  
room 531-N, Statehouse, at 3:30 ~~X~~m./p.m. on March 30, 1987

innovation.

Mr. Walt Whalen, Pyramid Life Insurance Company, said the National Association of Life Companies pushed for this type of regulation. His company has sold this type of coverage for three years. He is concerned about the definition of long term care insurance being for "one or more . . . services" and the removal of "medically necessary." He said rather than allowing flexibility, it puts companies in a straitjacket; though some may want to drop the medical requirement, small companies cannot afford to. The price will go up to where people cannot afford it and they'll end up on Medicaid. Some companies have said they will have to leave the nursing home care coverage business; he said the coverage is not to guarantee a style of living but to provide for those who need medical care. A handout was used to illustrate types of care that weren't medically necessary. (Att. 9.)

Hearing on: SB 322 and SB 323 - Committee on surety bonds and insurance and repealing duplicating section

Staff explained that K.S.A. 1986 Supp. 75-4109 and 75-4101, amended by the 1986 legislature, were never reconciled. These bills would take care of an editorial cleanup and put them in the proper section.

Final action: SB 322 and SB 323 - Committee on surety bonds and insurance and repealing duplicating section

Rep. Harper made a motion to recommend the bills favorably and to request that they be put on the consent calendar; Rep. Neufeld seconded the motion. The motion carried.

Final action: SB 250 - Interlocal agreements; risk management and claims coverage; annual audit

Rep. Beauchamp made a motion that the language of HB 2109 be substituted in SB 250 and that it be recommended favorably as amended; Rep. Harper seconded the motion. The motion carried.

Final action: SB 247 - Insurance; recording and reporting of loss and expense experience

Rep. Bryant made a motion that the bill be recommended favorably; Rep. Neufeld seconded the motion. The motion carried.

Final action: SB 133 - Group life insurance; policy requirements

Rep. Turnquist made a motion to adopt the proposed amendment attached (Att. 10.) and to strike the new language in lines 113--114 and reinstate the old language in lines 110--112, except that \$50,000 would replace \$25,000; Rep. Cribbs seconded the motion. The motion carried.

Rep. Turnquist made a motion to recommend the bill favorably as amended; Rep. Schauf. seconded the motion. The motion carried.

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Final action: SB 103 - Health care provider insurance availability act; eliminating sunset

Rep. Harper made a motion that July 1, 1989, be the sunset date of the bill rather than eliminating the provision; Rep. Beauchamp seconded the motion. The motion carried.

Rep. Harper made a motion that the bill be recommended favorably as amended; Rep. Neufeld seconded the motion. The motion carried.

Final action: SB 84 - UCCC, loss of employment insurance

Rep. Cribbs made a motion that the bill be recommended favorably; Rep. Brown seconded the motion. The motion carried.

Final action: SB 99 - Life insurance; interest payable on death proceeds

Rep. Beauchamp made a motion to recommend the bill favorably; Rep. Brown seconded the motion. Rep. Brady made a substitute motion that "+ 1%" be added on line 30 after the word "interest" and that the sentence beginning with "This" on line 31 be deleted; Rep. Cribbs seconded the motion. The substitute motion carried.

Final action: SB 105 - Insurance; discrimination against blind made unfair or deceptive act

Rep. Brown made a motion to recommend the bill favorably and to request that it be put on the consent calendar; Rep. Wells seconded the motion. The motion carried.

Final action: SB 116 - Insurance; brokers; liability coverage

Rep. Neufeld made a motion to recommend the bill favorably and to request that it be put on the consent calendar; Rep. Cribbs seconded the motion. The motion carried.

Final action: SB 121 - Insurance; excess lines agents; liability requirement

Rep. Sawyer made a motion to recommend the bill favorably and to request that it be put on the consent calendar; Rep. Neufeld seconded the motion. The motion carried.

Final action: SB 177 - Product liability insurers; annual reporting requirement repealed

Rep. Neufeld made a motion to recommend the bill favorably and to request that it be put on the consent calendar; Rep. Harper seconded the motion. The motion carried.

The meeting was adjourned at 4:50 p.m.



INTERIM REPORT OF THE COMMISSIONER'S  
AD HOC COMMITTEE ON  
LONG TERM CARE

An Interim Report From Richard Huncker and Blanche Parks to  
Fletcher Bell, Commissioner of Insurance on the Activities  
of the Ad Hoc Committee on Long Term Care

January, 1987

This interim report has been prepared for informational purposes  
only. It has not been edited or approved by the ad hoc committee.

House Insurance Committee  
March 30, 1987  
Att. 1

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AD HOC COMMITTEE ON  
LONG TERM CARE INSURANCE

Introduction

As we all know, Americans are living longer today than ever before in our history. This is a direct result of many factors such as improvements in living conditions, life styles, and advances in sciences and medical technology. These factors have resulted in a reduction in deaths from formerly fatal diseases, and an increasing growth in the number of older Americans. Our population is aging and this demographic change has significant implications for our nation's health, social and economic institutions.<sup>1</sup>

The scope of the problem is even larger in Kansas, in that Kansas, has a larger percentage of elderly than most states.<sup>2</sup> In Kansas, more than 13% of the population (approximately 306,300 persons) are age 65 or older.<sup>3</sup> The need to undertake long term care planning activities in Kansas is pressing, due to demographic trends which indicate that the proportion of the population over age 65 is increasing. Long term care insurance is an "undeveloped" area. The elderly need long term care protection that will provide reasonable benefits at the lowest possible cost.

According to a recent study conducted by the American Association of Retired Persons (AARP) - 79% of those surveyed believe that Medicare will pay for all or part of their long term care needs. The AARP report further suggests that members with private nursing home insurance are "not" aware that this coverage does not include extended care.<sup>4</sup> This

survey is one of many factors which point to the need to develop "options" and "alternatives" for our senior citizens.

Ad Hoc Committee on Long Term Care Coverage

To address the concern among senior citizens in Kansas about the cost of long term care, Insurance Commissioner Fletcher Bell appointed an Ad Hoc Committee on long term care in July of 1986. This eleven member committee is comprised of senior citizens groups and associations, state agencies and insurance officials. So far, this committee has met on six occasions.

The members of this committee representing various organizations include:

Frank Lawler, Chairman  
Kansas State Legislative Committee  
AARP

Terry Burton, Vice President  
Blue Cross and Blue Shield of Kansas, Inc.

Richard Morrissey  
Kansas Department of Health and Environment

Janet Schalansky  
Kansas Department of Social and Rehabilitation Services

Steven Robertson, Attorney  
Health Insurance Association of America

Kevin McFarland  
Kansas Association of Homes for Aging

Mark Intermill  
Kansas Coalition on Aging  
Silver Haired Legislature

Suellen Weber, Secretary  
Kansas Department on Aging



Mary Pat Beals, Executive Director  
Kansas Head Injury Association

Richard Hummel, Executive Director  
Kansas Health Care Association

Walt Whalen, Vice President  
Pyramid Life Insurance Company (Representing)  
Kansas Life Company Association

At the committee's first meeting, Commissioner Bell provided his thoughts on some of the issues involving long term care. He stated that long term care refers to a broad spectrum of medical and support services provided to persons who have lost some or all capacity to function on their own due to a chronic illness or condition and who are expected to need such services over a prolonged period of time. He further stated that the combination of several critical factors has resulted in the spiralling of the cost and utilization of long term care services. Such factors include:

1. A dramatic growth of the over-65 population;
2. An increased tendency among the aged to seek formal long term care instead of relying on assistance from family members;
3. Significant breakthroughs in acute disease prevention which, while allowing for a greater life expectancy, have also increased the prevalence of chronic diseases that frequently cause functional impairment.

The Commissioner added that at the present time, private insurance coverage represents less than two percent of the total dollars spent for long term care. In response to the critical need to increase the insurance industry's role as a vital player in the long term care private financing arena, Commissioner Bell asked that members of the committee join us in discussing the key issues relative to developing alternatives and options which may be proposed to address long term care issues.

The agenda's for the committee's meetings have included, in part, the following items:

1. A report on the National Governors Conference in July, 1986 on Long Term Care in Portland, Oregon.
2. A review of nursing home products available and the cost (Appendix A).
3. An analysis of other state laws and regulations on long term care coverage.
4. Obstacles to long term care insurance (Appendix B).
5. The difficulties of applying insurance concepts to long term care coverage - report from Blue Cross and Blue Shield of Kansas (Appendix C).
6. A review of the NAIC Long Term Care Model Act (Appendix D).

7. Current activity of other organizations in Kansas regarding long term care (Appendix E).
8. Consumer problems associated with nursing home policies (presentation by Larry Gill and Don Bond of the Consumer Assistance Division of the Department).
9. Blue Cross and Blue Shield of Kansas comments on considerations for funding alternatives and consumer education efforts for long term care (Appendix F).

At the October and November meetings of the committee, individual committee members were given the opportunity to make presentations relative to their suggestions and ideas regarding long term care insurance coverage. A summary of their presentations is set forth in Appendix G.

In an effort to summarize the suggestions of committee members in the areas of consumer education and legislative action, an exhibit was developed by the Insurance Department staff for committee members. (Appendix H contains this information).

The committee has worked diligently on the task of providing long term care suggestions and recommendations to the insurance commissioner and possible courses of action to address the problems facing Kansas citizens in regard to long term care issues.

The remainder of this report sets forth the information presented at the Ad Hoc Committee meetings on the purchase and ownership of nursing home coverage. Also, we have included a discussion about Medicare as pertains to nursing home coverage.

#### Present Market Environment

The "Predominant Method" utilized by the insurance industry in meeting the demand for long term care is to develop and market traditional nursing home insurance which will be referred to as long term care nursing home insurance. Policies vary as to whether they cover confinement to a skilled, or intermediate nursing home facility, or both; or whether they cover skilled, intermediate or custodial care, and as to the amount of benefits that are provided for each. Many, but not all, policies now provide coverage for all three levels of care; However, they still require the consumer to go from the upper level to the lower level of care as a prerequisite to paying lesser benefits.  
(From skilled, intermediate to custodial)

One fact that runs as a common thread throughout current nursing home policies is that benefits are predicated upon "Medical Necessity." Usually, in order to receive benefits, it is common for a policy to require a hospital stay of at least three days or more. At this time, confinement in the nursing care facility must be related to the initial cause of hospitalization and confinement must be for the continued medical treatment of the original illness or injury. Once these conditions and other required criteria have been met, then benefits can

be provided if the individual is confined in an appropriate facility providing the appropriate service. These facts illustrate why it is important to know the level of care and type of facility needed before the policy will pay benefits.

### The Need for Long Term Care Coverage

People age differently, just as they live differently throughout their lives. Typically the need for long term care arises either gradually, as a person needs more and more assistance with their activities of daily living (eating, dressing, bathing, etc.), or suddenly, such as following a stroke or heart attack. Long term care differs from acute care in that long term care is usually associated with chronic, long-lasting diseases or disabilities.

National studies indicate that 20 percent of all people over the age of 65 will use a nursing home at some point in their lives.<sup>5</sup> An individual's chances of requiring a nursing home are affected by age, support from family and friends, and financial resources.

Nursing home use increases dramatically with age. One out of every 100 persons in the age 65 to 74 age group is in a nursing home on a given day. This number increases to 7 out of 100 in the 74 to 84 age group, and more than one out of 5 in the 85+ population.<sup>6</sup>

The length of time most people stay in a nursing home tends to fall into two distinct categories. One group, the "short-stayers," generally comes

from the hospital, recovering from an acute illness.<sup>7</sup> The other group are those who can no longer live outside of institutions. Usually quite elderly, they are "long-stayers" who stay a long time, perhaps the rest of their lives.

Long term care can be expensive, depending on the level of disability and the care needed. While home health care is a new and growing part of the long term care market, more than 75 percent of long term care expenditures still involve nursing home costs.

Medicaid, which is a government program jointly funded by the state and federal government for those with low income, is the largest payment source for nursing home care.<sup>8</sup> Some nursing home residents find that they have to spend their assets on their care before they can receive Medicaid support.

The second largest payment source is individual nursing home residents. Nursing home residents often start out paying for their own care then, after several months, deplete their own finances and convert to Medicaid coverage.<sup>9</sup>

However, a very important point is that Medicare pays for less than 2 percent of all nursing home expenditures.<sup>10</sup>

Private insurance pays about one percent because few people are currently covered by private insurance for long term nursing care. With the

increasing number of long-term care policies being developed, this percentage may grow.

### Nursing Home Policies

The cost and coverage of long-term nursing care insurance varies considerably from one policy to another. An individual can purchase insurance that makes payments to him or her, if the individual requires care in a nursing home. There are a few policies which provide payments for care in the home when such care is used in place of nursing home care. A few policies provide coverage only for "short stays" in nursing homes at the skilled and intermediate level. On the other hand, other policies provide coverage for longer stays at the skilled, intermediate and custodial care level. Individual policies define skilled, intermediate, custodial and home care differently. The payments may vary according to the level of care required.

There are basically three levels of nursing home care discussed in most long term care policies:

1. Skilled
2. Intermediate
3. Custodial

While specific definitions of these terms vary between insurance policies, the following explanations can serve as a general guide when reviewing long-term care policies:

Skilled Nursing Care is that level of care that is required to return an individual to their level of health which existed prior to hospitalization for an accident or illness. It requires nursing and rehabilitation services which can only be performed by skilled medical personnel such as registered or licensed nurses. Skilled nursing care must be performed under the direct orders of a physician. One or more professional nursing methods or procedures must be performed for your benefit on a daily basis and must be 24 hour a day service.

It is important to note, to be covered for skilled nursing services by Medicare, one needs to be placed in a Medicare-certified facility. Medicare tends to be very conservative in defining what constitutes skilled nursing care. This makes the Medicare skilled nursing benefit very limited.

Intermediate nursing care usually refers to a level of care delivered in a nursing home that is somewhere between "skilled" nursing care and "custodial" care. Intermediate care is similar to skilled nursing care in that it requires the orders of a physician and involves returning the individual to the level of health which existed prior to the sickness or injury. It also requires one or more nursing procedures or methods to be performed for the individual's benefit by skilled medical personnel. It is different from skilled nursing care in that procedures may be performed on an occasional basis. Both skilled and intermediate care require a plan of medical treatment and medical records.



Custodial care is the level of care required to assist an individual in meeting daily living requirements such as walking, eating, bathing, dressing, and taking medication. Custodial care can be provided by persons without medical skills or extensive training. Medicare does not cover custodial care.

Some policies require that nursing care be provided in certain types of facilities. The following facilities provide various types of nursing home care:

A Skilled Nursing Facility (SNF) is an institution licensed by the state and provides 24 hour service by a licensed nurse at least during the day, seven days a week. A skilled nursing facility is legally qualified to provide skilled care. Some hospitals have skilled nursing facilities wings that provide this type of care. There are currently 59 skilled nursing facilities in the state of Kansas.<sup>11</sup>

An Intermediate Care Facility (ICF) is an institution licensed by the state and provides care for persons who need less nursing care but are not able to live independently. Intermediate care facilities are the most common type of nursing home facilities in Kansas. Currently there are 296 intermediate care facilities licensed in the state.<sup>12</sup> An intermediate facility is legally qualified to provide intermediate care but not skilled care. In other words, a policy which provides coverage for a skilled nursing facility generally will not work in an intermediate facility.

## Policy Limitations

The staff of the Kansas Insurance Department advised Ad Hoc Committee members that the average buyer informs them that the major reason for purchasing nursing home insurance is because they fear growing old, becoming unable to take care of their everyday needs and becoming a burden on their family or society. Even when the department staff talks with consumers to explain the details of nursing home insurance and the medical requirements that must be met before the payment of benefits, and when asked how they envision utilizing nursing home insurance, the vast majority of consumers indicate they are afraid they will need help in taking care of themselves and that they do not want to have to use their life savings should this happen. These people are describing "custodial care" for "non-medical" related conditions which at the present time is not covered by the current form of private nursing home insurance.

Long-term nursing care insurance policies vary considerably. Most policies cover levels of nursing home care beyond the limited scope of Medicare for varying periods of time. Currently, there are a few policies that provide home health care benefits which may be used after a patient has spent a specific period of time in a nursing home.

Most long-term care insurance policies that are available today begin payments on the 1st or 21st day of a nursing home stay following a hospitalization of at least three days. Policies that start on the 1st day are more expensive than policies starting on the 21st day. There are some policies that start on the 101st day.

The duration of coverage for one level of care may differ from the duration provided for another level of care. For example, one policy might cover four years of skilled care and only several months of intermediate and custodial care. Other policies may provide intermediate and custodial care for the same period as skilled care.

All long term nursing care policies include some restrictions. Each policy should be carefully reviewed to identify the policy limitations. The most common restrictions are:

--Prior Hospitalization: Like Medicare, most long-term care insurance policies require three days of prior hospitalization before the insurance will pay for nursing home care. Most policies have the requirement that the nursing home care must be for the same injury or illness that caused the hospital confinement.

This is to assure that the reason for nursing home admission is an underlying medical need of care.

--Health Status: When an individual applies for long-term care insurance, they are usually asked questions designed to screen out those people who are considered to be too great a risk for the insurance company. These questions usually relate to a person's health status, prior hospitalization and nursing home confinements. Each insurance company has its own standards for evaluating answers to these questions and determining eligibility.

Often long term nursing care policies may include various exclusions. It is not unusual to exclude coverage for expenses caused by mental disorders and mental diseases. Some long-term care insurance policies have recognized this problem and only exclude coverage for mental disease and disorder if the problems are not related to a disease physically affecting the body. In most cases, this would provide insurance benefits for persons diagnosed with Alzheimer's Disease and other mental disorders.

### Medicare Coverage

To understand how long-term care insurance differs from Medicare, it is important to understand what each covers.

Medicare is a federal program which provides partial payments for medical services for persons 65 and older. Medicare is divided into two parts:

- Hospital insurance which is called Part A
- Medical insurance which is called Part B

Most American citizens over the age of 65 are eligible for Part A which pays for hospital care. Those desiring Part B coverage for doctor bills and other medical expenses must pay a monthly premium (which is deducted from their social security checks). Neither Part A nor Part B pays for the entire cost of medical services. Either the individual, or other supplementary insurance pays for deductibles and co-payments. A deductible is an initial dollar amount which the individual pays before

Medicare starts paying. A co-payment is the individual's share of expenses for covered services above the deductible.

As mentioned earlier, Medicare is not designed to cover long-term care and, therefore, provides little nursing home coverage. Medicare covers up to 100 days of skilled nursing home care in a Medicare certified facility. Medicare skilled care requires that an individual be transferred to a Medicare-certified skilled nursing facility after at least a three-day hospitalization and receive daily skilled nursing or skilled rehabilitation therapies to improve their condition. Medicare does not pay for intermediate or custodial care.

#### Ad Hoc Committee's Recommendation

As a result of people living longer, there will be an increasing demand for long term nursing care services and an increasing need to use health resources efficiently.

Long term care may be the major health issue in the 80's and beyond. Both government and private resources must meet current challenges and plan for the future needs of our expanding elderly population. At this time, it appears that insurance is the best policy approach to solving the long-term care problem. The Ad Hoc Committee on Long Term Care has spent a considerable amount of time discussing options and alternatives which may be proposed to address long term care issues. Although the committee continues to work on its charge, it has recommended the enactment by the Kansas legislature of an act similar to the Insurance

Department's legislature Proposal No. 2. (Appendix I) This proposal suggests the establishment of various requirements and standards relating to long term care insurance.

The proposal does not mandate any type of coverage. It does, however, authorize the Commissioner to adopt regulations that will establish specific standards for customary contractual provisions. These would include terms of renewability, coverage of dependents, waiting periods, pre-existing conditions, termination, exclusions, etc. In addition, the proposal itself contains specific minimum provisions relating to pre-existing conditions.

Enactment of this proposal will not solve all the problems relating to long term care insurance. It will, however, establish a foundation which can serve as a guide to product development and, more important, it will establish minimum performance and disclosure requirements that will enable senior citizens to become better informed purchasers.

In future meetings of the Ad Hoc Committee, it is anticipated that various other proposals to address long-term care issues will be discussed. The committee realizes that there are no simple solutions or easy answers in resolving long-term care reimbursement problems. However, by working together, we believe the committee and the department will be able to strengthen our health coverage system for the benefit of the citizens of this state.

## FOOTNOTES

### INTRODUCTION

1. Issue Brief and Employee Benefit Note, Employee Benefit Research Institution (EBRI), November, 1985, Number 48.
2. "A Guide to Services and Long Term Care Choices for Older Kansans", Kansas Department on Aging, November, 1980.
3. Cindy Shenoy, "An Estimate of the Cost of Alzheimer's Disease in Kansas", p. 25, Funded by the Kansas Department on Aging, Institute for Public Policy and Business Research.
4. Ron Hagan, Director of Insurance Services, AARP, National Governor's Association Conference, July, 1986, Portland, Oregon.
5. National Center for Health Statistics' National Health Interview Survey 1981, Developments in Aging. 1985 Volume 1, Pursuant to Senate Resolution 85, Section 19, February 28, 1985 Resolution authorizing a study of the problem of the aged and aging.
6. National Center for Health Statistics, 1977 National Nursing Home Survey.
7. "The Right Place at the Right Time - A Guide to Long Term Care Choices." A publication of the Health Advocacy Service Program Department, AARP, page 38, 1985.
8. "State Health Notes", Number 61 March, 1986, Intergovernmental Health Policy Project, George Washington University, Washington, D.C. 20037.
9. Congressional Quarterly, "The Hidden Hole in the Safety Net? Funding Long Term Care", May 31, 1986, Volume 44, Number 22, page 1228.
10. Mark Meiners, Ph.d., James O. Gallub, "Long Term Care Insurance: The Edge of a Emerging Market", Healthcare Financial Management.
11. Dick Morrissey, Department of Health and Environment, Bureau of Adult and Child Care 1986. (Information includes Adult Care Homes Only, information does not include Long Term Care units that do provide for skilled or intermediate care.)
12. Ibid.

Appendix A - Nursing home products available and the cost

Appendix B - Obstacles to long term care insurance

Appendix C - The difficulties of applying insurance concepts to long  
term care coverage

Appendix D - NAIC Long Term Care Model Act

Appendix E - Current activity of other organizations in Kansas regarding  
long term care

Appendix F - Considerations for funding alternations and consumer  
education for long term care

Appendix G - Summary of presentations by committee members

Appendix H - Proposed alternatives and options for long term care

Appendix I - Legislative Proposal No. 2 of the Kansas Insurance  
Department (reference page 16)



APPENDIX A

The attached chart gives examples of the nursing home policies currently being marketed in Kansas. All of these policies cover skilled and custodial care and a few cover home care. The home care benefit is half of the daily amount allowed for institutional care. Most require a prior hospitalization of at least 3 days before skilled nursing home care is covered. In all instances, custodial care is covered only after a period of covered skilled nursing home care.

All policies require evidence of good health for eligibility. Rates increase with age.

<u>Company Name</u>	<u>Waiting Period</u>	<u>Prior Hospital Care Required</u>	<u>Home Care Covered</u>	<u>Pre-Existing Conditions Covered</u>	<u>Mental Disease Covered</u>	<u>\$ Maximum Time Maximum</u>	<u>Average Annual Premium - Age 70</u>
Pyramid Life	20 to 100 days	Yes	No	After 6 months	No	\$50 per day 4 yrs. skilled \$25 per day 12 mos. custodial	\$ 558.00
Bankers Life & Casualty	0 to 100 days	Yes	Yes (½ institutional benefit)	After 6 months	No	\$50 per day 3 years	\$ 486.00
Aetna Life & Annuity Co.	20 or 100 days	No	Yes (½ institutional benefit)	After 6 months	No	\$100 per day 4 years	\$1135.00
United Equitable Ins. Co.	0 to 100 days	No	Yes (½ institutional benefit)	After 6 months	No	\$50 per day 3 years	\$ 636.00
Harvest Life Ins. Co.	0 to 100 days	Yes	Yes (½ institutional benefit)	After 6 months	No	\$60 per day 5 years (1 year per illness or injury)	\$ 636.00
Federal Home Life Ins. Co.	0 to 100 days	Yes	Yes (½ institutional benefit)	After 6 months	No	\$60 per day 5 years (1 year per illness or injury)	\$ 636.00
American Integrity Ins. Co.	0 to 100 days	Yes	No	After 6 months	No	\$30 per day 2 years	\$ 700.00
Reserve Life Ins. Co.	20 to 365 days	Yes	Yes (½ institutional benefit)	After 6 months	No	\$60 per day 3 years	\$ 954.00
Gerber Life Ins. Co.	0 to 100 days	Yes	No	After 6 months	No	\$50 per day 2 years	\$1020.00

APPENDIX B

## AD HOC COMMITTEE ON LONG TERM CARE

### OBSTACLES TO LONG TERM CARE INSURANCE \*

Insurers have long been reluctant to enter the long term care field, sighting several obstacles such as the following:

1. Adverse Selection. (the danger of too many high risk policyholders) Reliable actuarial data is lacking. To protect themselves, insurers have commonly used controls such as stringent medical underwriting, pre-existing condition exclusions, and upper age limits for eligibility. Attracting a younger age group to long term care insurance or the successful marketing of group policies could substantially minimize the problem.
2. Unnecessary Utilization. (risk of using a covered service because it is available, or when it is not necessary or appropriate). Various utilization controls, including carefully defined and uniform benefits coverages can limit induce demand.
3. Premium Pricing on Certainties. (due to inflation and other factors). The most common form of benefits, indemnity benefits, shifts the risk of inflation to the consumer. Insurers also protect themselves by methods such as using age scale premiums, limiting renewability rights or retaining the right to increase their rate table.
4. Marketing in Efficiencies. (without a great demand for group coverage, most policies have been individual). yet, individual policies have proven successful on a small scale, even though sales cost and commissions make them more expensive. Prototype group plans are beginning to appear (e.g., AARP, Blue Cross of Michigan - UAW Plan, Blue Cross of North Dakota), and some states are considering mandatory long term care in group plans.
5. Public Misperception. A Gallup poll in 1983 commission by AARP revealed that nearly 8% of the population survey thought that Medicare would pay for all or part of a long term care nursing home stay and 50% thought that private insurance (primarily Medigap Policy) would pay. Clearly, better consumer education is needed.
6. Affordability - It Cost To Much. Long - range experience and data are lacking regarding the cost of long term care insurance.

7. Regulatory Restraints. State regulatory schemes have generally not been very responsive to the types of benefits needed under long term care policies. However, the state regulatory environment is changing to recognize the need for experimentation and flexibility in this new product.

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\* Taken from: BIFOCAL - Bar Associations in Focus on Aging and the Law, Volume 6, Number 4 "An Advocate's Primer on Long-Term Care Insurance" - Charles P. Sabatino - Winter 1985, Page 2.

BCP:crc

APPENDIX C

Corporate Office (913) 232-1000  
Customer Service (913) 232-1622, or  
(In-State Toll Free) 1 (800) 432-3990  
State Employees (913) 234-0495  
(In-State Toll Free) 1 (800) 332-0307



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

Plan 65 Claims (913) 232-1000  
SWB Employees (913) 232-1727  
Federal Employees (913) 232-3379, or  
(In-State Toll Free) 1 (800) 432-0379

August 11, 1986

Mr. Richard G. Huncker  
Supervisor, Accident and Health Division  
Kansas Insurance Department  
420 S.W. 9th  
Topeka, Kansas 66612

Dear Rich,

Attached is the write up you requested attempting to explain the difficulties of applying insurance concepts to Long Term Care coverage.

I'm not sure this will be of much value but it might provoke some thought or discussion on this aspect of the problem.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terry".

Terry D. Burton  
Vice President, Life Insurance Services

TDB:ls  
attachment



Insurance is a means of sharing losses, or transferring risks. It provides a way to "spread" that risk or possible financial burden of a loss over a larger number of people.

The greater the potential loss if an event occurs, the more interest there is in transferring the risk of that loss. Insurance provides a way of pooling funds to share that risk among those who have risks of a like nature.

For the insurance concept to work at it's best and lowest cost, there should be a significantly larger number of people with similar risks contributing to a pool and a low number of people who will actually have a need (at least in the very near future) or of having a loss resulting in a withdrawal from that pool.

It is called adverse or anti-selection when insurance is purchased in immediate anticipation of experiencing a loss as a result of the insured event occurring.

The more people, therefore, buying insurance in anticipation of an immediate loss the higher the premium must be. The ultimate result could be that the dollars being paid out to each individual must equal the dollars that individual has paid in plus probably an administration fee.

In the case of Long Term Care insurance the marketplace at this time is considered to be those people who have the highest likelihood of needing nursing home or long term care almost immediately. A classic arrangement for adverse selection.

Insurance companies try to negate this in several ways, some of which are:

Health Statement Underwriting - Refusing to insure a person with existing chronic health conditions that make the need for the care almost a certainty.

Longer term waiting periods before the coverage is effective. This assures some level of contribution to the pool of funds prior to being able to draw them out in benefits or insurance claims.

Pre-Existing Exclusions - If a condition exists at the time the coverage is purchased, the waiting period is prolonged for that particular condition.

Age Rating - The need for long term care in some instances is a function of age. Higher rates for the older enrollees reflect a higher likelihood of use and again can approach a level of just dollar trading. That is, the premium is equal to the benefits to be received.

APPENDIX D

Draft: 12/9/86

~~LONG-TERM CARE INSURANCE MODEL ACT~~

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- Section 7. Administrative Procedures
- Section 8. Severability
- Section 9. Effective Date

**Section 1. Purpose**

The purpose of this Act is to promote the public interest, to promote the availability of long-term care insurance policies, to protect applicants for long-term care insurance as defined from unfair or deceptive sales or enrollment practices, to establish standards for long-term care insurance, to facilitate public understanding and comparison of long-term care insurance policies, and to facilitate flexibility and innovation in the development of long-term care insurance coverage.

Comments: The purpose clause evidences legislative intent to protect the public while recognizing the need to permit flexibility and innovation with respect to long-term care insurance coverage.

**Section 2. Scope**

The requirements of this Act shall apply to policies delivered or issued for delivery in this state on or after the effective date of this Act. This Act is not intended to supersede the obligations of entities subject to this Act to comply with the substance of other applicable insurance laws insofar as they do not conflict with this Act, except that laws and regulations designed and intended to apply to medicare supplement insurance policies shall not be applied to long-term care insurance. A policy which is not advertised, marketed or offered as long-term care insurance or nursing home insurance need not meet the requirements of this Act. This Section makes clear that entities subject to the Act must continue to comply with other applicable insurance legislation not in conflict with this Act.

### **Section 3. Short Title**

This Act may be known and cited as the "Long-Term Care Insurance Act."

Comments: This section is self-explanatory.

### **Section 4. Definitions**

Unless the context requires otherwise, the definitions in this section apply throughout this Act.

- A. "Long-Term Care Insurance" means any insurance policy or rider advertised, marketed, offered or designed to provide coverage for not less than 12 consecutive months for each covered person on an expense incurred, indemnity, prepaid or other basis, for one or more necessary or medically necessary diagnostic, preventive,

therapeutic, rehabilitative, maintenance, or personal care services, provided in a setting other than an acute care unit of a hospital. Such term includes group and individual policies or riders whether issued by insurers, fraternal benefit societies, nonprofit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations or any similar organization. Long-term care insurance shall not include any insurance policy which is offered primarily to provide basic Medicare supplement coverage, basic hospital expense coverage, basic medical-surgical expense coverage, hospital confinement indemnity coverage, major medical expense coverage, disability income protection coverage, accident only coverage, specified disease or specified accident coverage, or limited benefit health coverage.

B. "Applicant" means:

- (1) in the case of an individual long-term care insurance policy, the person who seeks to contract for benefits, and
- (2) in the case of a group long-term care insurance policy, the proposed certificate holder.

C. "Certificate" means, for the purposes of this Act, any certificate issued under a group long-term care insurance policy, which policy has been delivered or issued for delivery in this state.

D. "Commissioner" means the Insurance Commissioner of this state.

Drafting Note: Where the word "Commissioner" appears in this Act, the appropriate designation for the chief insurance supervisory official of the state should be substituted.

E. "Group long-term care insurance" means a long-term care insurance policy which is delivered or issued for delivery in this state and issued to:

(1) One or more employers or labor organizations, or to a trust or to the trustees of a fund established by one or more employers or labor organizations, or a combination thereof, for employees or former employees or a combination thereof or for members or former members or a combination thereof, of the labor organizations; or

(2) Any professional, trade or occupational association for its members or former or retired members, or combination thereof, if such association:

(a) Is composed of individuals all of whom are or were actively engaged in the same profession, trade or occupation; and

(b) Has been maintained in good faith for purposes other than obtaining insurance; or

(3)

An association or to a trust or to the trustee(s) of a fund established, created, or maintained for the benefit of members of one or more associations. Prior to advertising, marketing or offering such policy within this state, the association or associations, or the insurer of the association or associations, shall file evidence with the Commissioner that the association or associations have at the outset a minimum of 100 persons and have been organized and maintained in good faith for purposes other than that of obtaining insurance; have been in active existence for at least one year; and have a constitution and by-laws which provide that (i) the association or associations hold regular meetings not less than annually to further purposes of the members, (ii) except for credit unions, the association or associations collect dues or solicit contributions from members, and (iii) the members have voting privileges and representation on the governing board and committees. Thirty (30) days after such filing the association or associations will be deemed to satisfy such organizational requirements, unless the Commissioner makes a finding that the association or associations do not satisfy those organizational requirements.

(4) A group other than as described in subsections E(1), E(2) and E(3), subject to a finding by the Commissioner that:

(a) The issuance of the group policy is not contrary to the best interest of the public;



(b) The issuance of the group policy would result in economies of acquisition or administration; and

(c) The benefits are reasonable in relation to the premiums charged.

F. "Policy" means, for the purposes of this Act, any policy, contract, subscriber agreement, rider or endorsement delivered or issued for delivery in this state by an insurer, fraternal benefit society, nonprofit health, hospital, or medical service corporation, prepaid health plan, health maintenance organization or any similar organization.

Drafting Note: This Act is intended to apply to the specified group and individual policies, contracts, and certificates whether issued by insurers, fraternal benefit societies, non-profit health, hospital, and medical service corporations, prepaid health plans, health maintenance organizations, or any similar organization. In order to include such organizations, each state should identify them in accordance with its statutory terminology or by specific statutory citation. Depending upon state law, insurance department jurisdiction, and other factors, separate legislation may be required. In any event, the legislation should provide that the particular terminology used by these plans and organizations may be substituted for, or added to, the corresponding terms used in this Act. The term "regulations" should be replaced by the terms "rules and regulations" or "rules" as may be appropriate under state law.

The definition of "long-term care insurance" under this Act is designed to allow maximum flexibility in benefit scope, intensity and level, while assuring that the purchaser's reasonable expectations for a long-term care insurance policy are met. The Act is intended to permit long-term care insurance policies to cover either diagnostic, preventive, therapeutic, rehabilitative, maintenance, or personal care services, or any combination thereof, and not to mandate coverage for each of these types of services. Pursuant to the definition, long-term care insurance may be either a group or individual insurance policy or a rider to such a policy, e.g., life, or accident and sickness. The language in the definition concerning "other than an acute care unit of a hospital" is intended to allow payment of benefits when a portion of a hospital has been designated for, and duly licensed or certified as a long-term care provider or swing bed.

Section 5. Limits of Group Long Term Care Insurance

No Group Long Term Care Insurance Coverage may be offered to a resident of this state under a group policy issued in another state to a group described in E(4), unless this state or another state having statutory and regulatory Long Term Care Insurance requirements substantially similar to those adopted in this state has made a determination that such requirements have been met.

Section 6. Disclosure and Performance Standards for Long-Term Care Insurance

- A. The Commissioner may adopt regulations that include standards for full and fair disclosure setting forth the manner, content, and required disclosures for the sale of long-term care insurance policies, terms of renewability, initial and subsequent conditions of eligibility, nonduplication of coverage provisions, coverage of dependents, pre-existing conditions, termination of insurance, probationary periods, limitations, exceptions, reductions, elimination periods, requirements for replacement, recurrent conditions, and definitions of terms.

Comments: This subsection permits the adoption of regulations establishing disclosure standards, renewability and eligibility terms and conditions, and other performance requirements for long-term care insurance. Regulations under this subsection should recognize the developing and unique nature of long-term care insurance and the distinction between group and individual long-term care insurance policies.

- B. No long-term care insurance policy may:

- (1) Be cancelled, nonrenewed, or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; or,

- (2) Contain a provision establishing a new waiting period in the event existing coverage is converted to or replaced by a new or other form within the same company, except with respect to an increase in benefits voluntarily selected by the insured individual or group policyholder.

C. Pre-existing Condition:

- (1) No long-term care insurance policy or certificate shall use a definition of "pre-existing condition" which is more restrictive than the following: Pre-existing condition means the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis, care or treatment, or a condition for which medical advice or treatment was recommended by, or received from a provider of health care services, within the limitation periods specified in (a) and (b) below:

- (a) 6 months preceding the effective date of coverage of an insured person who is 65 years of age or older on the effective date of coverage; or

- (b) 24 months preceding the effective date of coverage of an insured person who is under age 65 on the effective date of coverage.

- (2) No long-term care insurance policy may exclude coverage for a loss or confinement which is the result of a pre-existing condition unless such loss or confinement begins within the periods specified in (a) or (b) below:
- (a) 6 months following the effective date of coverage of an insured person who is 65 years of age or older on the effective date of coverage; or
  - (b) 24 months following the effective date of coverage of an insured person who is under 65 on the effective date of coverage.
- (3) The commissioner may extend the limitation periods set forth in subsections 5(C)(1) and (2) above as to specific age group categories in specific policy forms upon findings that the extension is in the best interest of the public.
- (4) The definition of "pre-existing condition" does not prohibit an insurer from using an application form designed to elicit the complete health history of an applicant, and, on the basis of the answers on that application, from underwriting in accordance with that insurer's established underwriting standards.

Comments: The definition of pre-existing condition is consistent with the requirement of Section 5 of the NAIC Model Regulation to implement the Individual Accident and Sickness Insurance Minimum Standards Act. Companies now selling long-term care insurance generally use much shorter pre-existing condition periods than those authorized, in part for business

and competitive reasons. It is not anticipated that competitive forces would permit significant lengthening of such periods.

D. Prior Institutionalization:

No long-term care insurance policy which provides benefits only following institutionalization shall condition such benefits upon admission to a facility for the same or related conditions within a period of less than thirty (30) days after discharge from the institution.

E. The Commissioner may adopt regulations establishing loss ratio standards for long-term care insurance policies provided that a specific reference to long-term care insurance policies is contained in the regulation.

F. Right to Return - Free Look Provision:

(1) Individual long-term care insurance policyholders shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason. Individual long-term care insurance policies shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance that the policyholder shall have the right to return the policy within ten (10) days of its delivery and to have the premium refunded if, after examination of the policy, the policyholder is not satisfied for any reason.

(2) A person insured under a long-term care insurance policy issued pursuant to a direct response within thirty (30) days of its delivery and to have the premium refunded if, after examination, the insured person is not satisfied for any reason. Long-term care insurance policies issued pursuant to a direct response solicitation shall have a notice prominently printed on the first page or attached thereto stating in substance that the insured person shall have the right to return the policy within thirty (30) days of its delivery and to have the premium refunded if after examination the insured person is not satisfied for any reason.

6. An outline of coverage shall be delivered to an applicant for an individual long-term care insurance policy at the time of application for an individual policy. In the case of direct response solicitations, the insurer shall deliver the outline of coverage upon the applicant's request, but regardless of request shall make such delivery no later than at the time of policy delivery. Such outline of coverage shall include:

(1) A description of the principal benefits and coverage provided in the policy;

(2) A statement of the principal exclusions, reductions and limitations contained in the policy;

- (3) A statement of the renewal provisions, including any reservation in the policy of a right to change premiums; and
  - (4) A statement that the outline of coverage is a summary of the policy issued or applied for, and that the policy should be consulted to determine governing contractual provisions.
- H. A certificate issued pursuant to a group long-term care insurance policy which policy is delivered or issued for delivery in this state shall include:
- (1) A description of the principal benefits and coverage provided in the policy;
  - (2) A statement of the principal exclusions, reductions and limitations contained in the policy; and
  - (3) A statement that the group master policy determines governing contractual provisions.
- I. No policy may be advertised, marketed or offered as long-term care or nursing home insurance unless it complies with the provisions of this Act.

Comments: The above provisions are deemed appropriate due to the particular nature of long-term care insurance, and are consistent with group insurance laws. Specific standards would be contained in regulations implementing this Act.

Section 7. **Administrative Procedures**

Regulations adopted pursuant to this Act shall be in accordance with the provisions of (cite section of state insurance code relating to the adoption and promulgation of rules and regulations or cite the state's administrative procedures act, if applicable).

Comments. This section is self-explanatory.

Section 8. **Severability**

If any provision of this Act or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Comments: This section is self-explanatory.

Section 9. **Effective Date**

This Act shall be effective (insert date).



APPENDIX E

Based upon our research, we have listed a cursory summary of current activity in Kansas regarding Long Term Care.

<u>Organization or Association</u>	<u>Position on Long Term Care</u>	<u>How It Affects Insurance</u>
Kansas Medical Society Kansas Department on Aging Kansas Department of Social and Rehabilita- tion Services Kansas Department of Health and Environment	These organizations and associations issued a Joint Position Statement on Long Term Care. The position states that actions are needed in three areas to insure that the Kansas elderly have access.	The organizations and associations feel that a full continuum of long term care services will be of little value if reimbursement systems do not support the services.
Kansas Department on Aging Kansas Department of Health and Environment Kansas Department of Social and Rehabilita- tion Services	House Concurrent Resolution #5052, which mandates the Secretaries of Aging, Health and Environment, and SRS to jointly develop a plan for providing community long term care for the elderly in Kansas.	Possible Reimbursement
AARP	AARP and others are working to overcome the obstacles to developing a long term care policy.	
	AARP conducted a Long Term Care Research Study in 1984. The study showed a strong need for, and a strong interest in purchasing long term care insurance that covered extended nursing home and home health care.	
Kansas Alzheimers Task Force	Submitted a report for 1986 which stated that Kansas has one of the highest percentages of elderly in the country and demographics indicate a current need for long term care in the state. Introduced 1986 House Bill 3064.; this bill did not pass	The task force recommendation in regard to long term care insurance is that Kansas insurance law should be amended to require that all health insurance policies sold in Kansas include an option for insurance coverage for long term care.

Kansas State University  
Kaiser Study

This report is a county by county comparison of the 105 counties in Kansas offering long term care services. It was done at the request of the Department on Aging.

This report is being used as background information for House Concurrent Resolution 5052.

Silver Haired  
Legislature

Their number one priority for the 1987 Legislative Session is their Senior Care Act which addresses long term care.

Working on Proposed  
Legislation

Statewide Health  
Coordinating Council

Recommended in 1984 in the Kansas Health Plan Report that long term care be promoted as a goal for state policy period.

The council is encouraging further expansion of the market for private health insurance and other alternatives in financing long term care through a coordinated approval with appropriate agencies and groups at the local, state and national levels.

Kansas Coalition on  
Aging

The Kansas Coalition on Aging views long term care as a priority for 1986-87 and plans to look at the whole issue as well as methods to insure quality in regard to community long term care. They have recently developed a position paper on long term care.

This organization is quite supportive of House Bill No. 5052.

APPENDIX F

GENERAL BUSINESS  
OR  
PLAN 65 CLAIMS

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



## Blue Cross and Blue Shield

of Kansas  
1133 Topeka Avenue  
P. O. Box 239  
Topeka, Kansas 66629

CLAIMS OR MEMBERSHIP

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

- Considerations for: a) Funding Alternatives for Long Term Care  
b) Consumer Education Efforts for Long Term Care

STATE EMPLOYEES

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

It is a given fact that the aging population of the United States will have a major impact on our society in the future. While this committee is charged with looking at possible solutions to the financing of long term health and/or care needs, it must be remembered this is just one (although an important one) of many issues that will need to be faced. There will be considerable contention for funds for many worthwhile needs related to senior citizens in the next few years.

S. W. BELL EMPLOYEES

In Topeka  
913 232-1727  
  
In-State  
1-800-432-2345

It should be repeated that it is the position of Blue Cross and Blue Shield of Kansas that mandating coverages by the insurance industry offers at best only short term solutions and most likely will only exacerbate the problems in the long run. Briefly again, mandates result in reducing the base of insured persons either through making the coverages unaffordable or forcing more and more decision makers to adopt ways to avoid the mandates such as self-insurance. Mandates stifle innovation, and depending on the built-in restrictions, tend to limit any future development beyond what is necessary to meet the mandate.

FEDERAL EMPLOYEES

In Topeka  
913 232-3379  
  
In-State  
1-800-432-0379

Because of the magnitude of the need for the provision of funding for long term care, there must be some recognition that the problem is social in nature. Many of the same elements are in place on this issue as were in place in the late 50's and early 60's. The general health needs of older citizens were recognized to be beyond the ability of the insurance industry alone to solve. The result, of course, was Medicare. While Medicare has been far from perfect, it has filled a real need and there has come about a blend of sorts with the insurance industry to fill acute health care needs for the elderly. There needs to be a social solution to satisfying the long term care needs of our citizens that involves the government with the insurance industry providing complementary or expanded coverages similar to Medicare today.

FARM BUREAU MEMBERS

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

Longer term actions could also take place through tax incentives for employers, employees and others to establish prefunded programs or insurance similar to the way pension plans are handled today. This would permit funding of these programs in a less costly manner. In addition, it can provide a meaningful level of funding as the government sector reduces its share in future years. We have seen in Medicare that as inflation has occurred, more of the costs have been shifted to the individual. No doubt, any long term care program started now would experience the same thing and employer-employee funding as a fringe benefit would be one method to ease that cost transference in later years.

MEDICARE BENEFICIARIES

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

- a) Funding Alternatives for Long Term Care
- b) Consumer Education Efforts for Long Term Care

The Insurance Department is to be commended on its efforts in consumer education and, in particular, in behalf of the senior citizens of Kansas. The Commissioner's forums and the participation by various staff in numerous meetings and seminars is very well received. Obviously, these efforts should continue.

An additional possibility might be a letter from the Commissioner to the various insurers requesting they use whatever means that might be available such as newsletters, mailing stuffers, etc., to remind their policyholders and members of any benefits and limitations their policies or contracts might have related to long term care.

While this committee is charged with offering suggestions specific to long term care, there are any number of other advocacy groups who also believe in their respective causes. To require some disclaimer on each policy or contract related to long term or nursing home care could open the door to similar requirements for other meaningful causes. The ultimate results could mean confusion and distraction from the intent of the contract itself to fully describe the benefits.

In summary, there appear to be no easy solutions. It is not realistic for the government to force the solution solely to the insurance or private sector through mandates....rather there should be both public and private sector solutions for both funding and education efforts.

10/20/86

APPENDIX G

Summary Presentations of Members of the AD-Hoc Committee  
on Long Term Care

Blue Cross and Blue Shield - (Terry Burton)

Terry Burton recommended that the state should provide an atmosphere that would encourage experimentation by insurance companies through permissive legislation.

He felt the proposed NAIC model long term care legislation would permit an insurance company to experiment outside of the more traditional approaches to these type benefits.

Burton also stated that both the state and federal levels need to provide consideration of tax breaks to provide incentives to offer coverage as an employee fringe benefit. With such offering, rates could be lower and individuals would be encouraged to provide for themselves.

Burton identified potential problems with mandating that insurance companies provide these type coverages. These include reducing the base of insured persons through resulting increased costs, and stifling innovation beyond what is necessary to meet the mandate.

Kansas Association of Homes for the Aging - (Kevin McFarland)

The Association believes that a realistic goal for Kansas would be to encourage the development of a number of quality long term care insurance



products. McFarland mentioned several components which could be examined in the development of long term care insurance products in our state.

- (1) Standardized definition for skilled, intermediate nursing care, personal care, etc.
- (2) Policies should include minimum benefit standards. These standards should not be too stringent as to prevent company experimentation.
- (3) Disclosure requirements exceptions and limitations should be disclosed in full terms and clear language.
- (4) Stiff penalties for companies who mislead consumers.

His recommendations also included:

- (1) A public information campaign conducted by the Insurance Department and the Kansas Department on Aging on the basic elements of long term care.
- (2) The state legislature could use state tax policy to encourage financial planning for retirement and long term care expenses.
  - (a) Consumers should be allowed a tax deduction or credit for premiums on long term care policies.

- (b) Kansas should reduce the premium tax rate paid by insurers on qualified long term care policies. (Colorado bill)
  
- (3) The development of a governmental reinsurance fund for long term care insurance similar to the medical malpractice fund set up for medical doctors.
  
- (4) Kansas should consider the benefits of undertaking a demonstration project waiving Medicaid spend down provisions for persons who purchase long term care policies containing minimum benefits and exhausted policy benefits.

Kansas Health Care Association - (Dick Hummel)

The Association suggests efforts to expand the long term care insurance market in Kansas. They feel three items are necessary to make this expansion possible and should be discussed thoroughly.

- (1) Minimum policy standards.
  
- (2) The spreading of the risk to those who are eligible to receive long term insurance care.
  
- (3) Education of the consumer.

In regard to minimum policy standards, such coverage should not require complex levels of care determinations and all policies should cover

skilled and intermediate care. All policies should cover at least four years of skilled or intermediate care, should be cancellable by the company only on grounds such as non-payment of premiums. These policies should not be tied into Medicare Part A requirements. Exclusions should not prevent coverage for chronic conditions closely correlated with the normal aging process including Alzheimers disease. Exclusions should be clearly stated.

In regard to the spreading of the risk, the Association feels that it may be necessary to require that all MEDIGAP policies sold in the state of Kansas should include Long Term Care insurance coverage within the minimum policy standards. To help the elderly afford the extra cost of this coverage long term care insurance should afford the opportunity for children and others to purchase the coverage on behalf of a qualifying relative and for the purchaser to receive a taxation deduction or credit sufficient to make the purchase desirable. Consideration should also be given to reducing the premium tax rate paid by insurers on policies.

In regard to education of the consumer, the Association feels that it is important to educate the consumer as to the importance of long term care insurance and possibly a statewide multi-hosted symposium might be conducted.

Kansas Health Plan - (Dick Morrissey)

Dick Morrissey discussed the "Kansas Health Plan" and various options and recommendations which were made from the Statewide Health Coordinating Council in March 1985. Recommendations mentioned in this plan include:

- (1) Public awareness and education such as the Senior Citizen Forums, a promotion of medical insurance policies individually marketed by insurance companies, the expansion of HMOs for the Medicare eligible population and an educational effort implemented by the AARP.
  
- (2) Encourage further expansion of the market for private insurance and other alternatives in financing long term care. The insurance industry is encouraged to reduce the obstacles associated with the further development of comprehensive long term care beyond the additional MEDIGAP policies.

The report further states that the statewide health coordinating council will continue to gather information regarding home equity conversion as a probable method of financing long term care; to continue to monitor the changes in Medicare and its consequential effects of such changes on the elderly population.

Kansas Coalition on Aging - (Mark Intermill)

Mark submitted a summary which stated that the Association does not believe that long term care insurance is capable of financing long term care services unless premiums are reduced dramatically and therefore objects the recommendations contained in the NAIC exposure draft to tighten Medicaid eligibility requirements and reduce access to the Medicaid program by middle income elderly who divest themselves of resources to obtain program eligibility.

The summary further stated that the Association would like to explore mandatory inclusion of long term care coverage in group health care contracts as has been done recently with mental health care and alcohol and drug treatment. The Coalition is concerned about lack of coverage for mental illness by most existing long term care insurance policies.

In addition, the Association believes that long term care insurance coverage of in-home services such as licensure or certification of in-home long term care providers would make coverage a lesser risk for insurance companies.

SRS - (Robert Harder)

Dr. Harder stated in a letter dated September 26, 1986, to Commissioner Bell, that the State Department of Social Rehabilitative Services is supportive of the efforts of the Long Term Care Task Force.

In addition, Dr. Harder stated that he is supportive of public education efforts whereby Kansans can be well informed about what coverage they have with their existing policies.

The other major objective he feels should be addressed is to encourage the development of insurance policies which cover a wide range of services. These services should include, at a minimum, home health care, intermediate care, home and community based services, and skilled nursing facility care.

Health Insurance Association of America - (Steve Robertson)

Steve sent the committee a statement from the Association concerning long term care. This material states that the NAIC and HIAA have both recognized the need to address the area of long term care. Both organizations have appointed high level task forces to study this topic. They are carefully examining such issues as:

- (1) The removal of existing regulatory barriers to the development of long term care products.
- (2) Alternative and innovated funding mechanisms.
- (3) Actuarial data necessary to determine appropriate pricing.
- (4) Incentives for the purchase and sell of these products.

(5) Development of educational materials for the public and industry.

(6) Appropriate regulation of long term care insurance.

Both the NAIC and HIAA are currently developing recommendations in these six areas which are expected by the fall of 1986.

AARP - (Frank Lawler)

Frank submitted a research report on the area of long term care which stated that AARP has a strong commitment to developing a long term care program that recognizes and accommodates the need for a variety of personal care services, that are not strictly medical in nature -- such as homemakers/chore, home health, and nutrition services. These services are often more effective than institutional care in meeting the needs of chronic care patients.

He offered the following comments in regard to various areas where the Kansas Insurance Department could consider for possible implementation.

- (1) Legislation and/or state regulation should encourage the insurance industry to innovate and experiment with new policy design.
- (2) The department should provide incentives for both provider and the insured, i.g. discounting of providers tax on premium income

as in Colorado and income tax credit for the insured on the amount of premiums paid for long term care insurance.

- (3) Premium pay-out ratio should be reasonable as a means of holding down premium cost in preference to requiring premium/pay-out ratios exceeding NAIC recommendations.
- (4) Policies should spell out specific coverage provided and in clear language with a complete explanation of exclusions and limitations. etc.
- (5) If any passing on of unpaid hospital bills is to occur, it would seem appropriate and fair for such costs to be paid by adding to the income tax rate a specific amount to be earmarked for a trust fund for that purpose.

AARP supports lifetime care. The state legislative committee has the subject under consideration for priority in the 1987 legislative session. The potential of numerous new lifetime care communities within the State's borders with new tax revenues and providing needed employment. AARP believes the Insurance Department could support and endorse AARP recommendations involving lifetime care.

AARP stresses the need for joint state and industry educational effort as incentive for early enrollment in Long Term Care Insurance in order to lock-in premiums at lower rates which will be affordable after retirement.



The 21 page report, written by Frank Lawler, provided additional information on objectionable conditions for insurance, research, education needs, lifetime care, and trivia on long term care.

Kansas Life Association (Walt Whalen)

Walt Whalen stressed that it is important to remember that health insurance is supposed to reimburse for "medical care" and not to "maintain a level of living".

He recommended that no action be taken until the final adoption of the NAIC report in December. This report includes the Long Term Care Model Act which encourages company experimentation, contains model regulations and a sample consumer guide.

Whalen also recommended a revision or modification of the advertising regulation or guidelines in regard to long term care.

Kansas Department of Aging - (Suellen Weber)

Suellen discussed House Bill 3064 which will probably be re-introduced in the 1987 legislative session. The proposed act would amend existing insurance laws to require all health care policies sold in the state to include an option for coverage of long term care services, both in-home and institutional. Weber urged the committee to support this bill and

recommended the state's encouragement in the marketing of long term care insurance.

She mentioned the Kansas Department on Aging would be willing to conduct joint Forums with the Insurance Department in each of the state's eleven Area Agencies on Aging. The Kansas Department on Aging also invites the Insurance Department to participate in aging-related conferences and meetings as an additional opportunity to reach Older Kansans.

Kansas Head Injury Association - (Mary Pat Beals)

The Association believes that since the majority of persons who sustain head injury are between the ages of 15 and 24, the Department should develop legislation for long term care insurance for both the younger policyholder and his/her family.

Beals stated the Association would support a public education campaign and would work cooperatively with state and private agencies to develop solutions to address the challenge of providing long term care insurance for the need of head injured persons.

BCP:crc

CABCP/REPOR

APPENDIX H

PROPOSED ALTERNATIVES AND OPTIONS FOR LONG TERM CARE \*

Consumer Education -

The Development of educational materials for the public industry.

The development of Brochures and Shoppers Guide.

Newspaper Articles could be written to inform the public about Long Term Care.

The development of public information campaigns with the Department on Aging; statewide conferences; and multi hosted symposiums.

A position paper on Long Term Care Insurance could be developed. Various organizations could be asked to endorse this paper to attest to the credibility of support for Long Term Care Insurance.

A short documentary film could be developed which would be shown statewide on television stations.

The documentary film could be sent to various offices throughout the state for showing and presentation.

Bumper stickers could be made proclaiming the need for Long Term Care.

Legislative -

NAIC Long Term Care Model Act (allows company experimentation)

Nursing Home Regulations.

House Bill No. 3064

Revision of Advertising regulations.

There could be incentives for the purchase and selling of these products.

There could be consideration of tax breaks to provide incentives as employee fringe benefits and to companies.

The State legislature could use state tax policy to encourage financial planning for retirement and Long Term Care expenses.

There could be an opportunity for children and others to purchase coverage on behalf of a qualifying relative for the the purchaser to receive a taxation reduction on credit sufficient to make the purchase desirable.

Establish a Governmental Reinsurance Fund.

A demonstration project waiving Medicaid spend down provisions could be undertaken.

All Medigap policies in Kansas could include Long Term Care coverage within policy standards.

Video-taped testimonies from leaders and the "man on the street" could be developed.

Seek federal funding for development of and educational program.

Create programs which will provide benefits to younger age groups.

Integrate Long Term Care into Senior Citizens Forums.

A letter could be sent from the Commissioner to remind policyholders of benefits and limitations which their policies or contracts may have related to Long Term Care.

BCP:jbah  
4167

Comprehensive legislation governing lifetime care institutions could be developed.

A trust fund for unpaid hospital bills could be developed.

Mandatory inclusion in group health care contracts.

Expansion of HMO's.

The option of using Home Equity Conversion as a method to finance Long Term Care.

In-home and social type options could be considered.

\* These alternatives and options for Long Term Care are suggestions made by committee members of the Ad Hoc Committee.

APPENDIX I

LEGISLATIVE PROPOSAL NO. 2

1 AN ACT relating to insurance; long-term care insurance; definitions;  
2 disclosure requirements.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF KANSAS:

3 Section 1. This act may be known and cited as the "Long-Term Care  
4 Insurance Act".

5 Sec. 2. The requirements of this act shall apply to policies delivered  
6 or issued for delivery in this state on or after the effective date of this  
7 act. This act is not intended to supersede the obligation of entities  
8 subject to this act to comply with the substance of other applicable  
9 insurance laws insofar as they do not conflict with this act, except that  
10 laws and regulations designed and intended to apply to medicare supplement  
11 insurance policies shall not be applied to long-term care insurance. A  
12 policy which is not primarily advertised, marketed or offered as long-term  
13 care insurance need not meet the requirements of this act.

14 Sec. 3. Unless the context requires otherwise, the definitions in this  
15 section apply throughout this act.

16 (a) "Long-Term Care Insurance" means any insurance policy primarily  
17 advertised, marketed, offered or designed to provide coverage for not less  
18 than 12 consecutive months for each covered person on an expense incurred,  
19 indemnity, prepaid, or other basis, for one or more necessary or diagnostic,  
20 preventive, therapeutic, rehabilitative, maintenance, custodial, residential  
21 or personal care services, provided in a setting other than an acute care  
22 unit of a hospital. Such term includes group and individual policies or  
23 riders whether issued by insurers, fraternal benefit societies, nonprofit  
24 health, hospital, and medical service corporations, prepaid health plans,  
25 health maintenance organizations, or any similar organization. Long-term  
26 care insurance shall not include any insurance policy which is offered  
27 primarily to provide basic medicare supplement coverage, basic hospital  
28 expense coverage, basic medical-surgical expense coverage, hospital  
29 confinement indemnity coverage, major medical expense coverage, disability  
30 income protection coverage, accident only coverage, specified disease or

31 specified accident coverage, or limited benefit health coverage but the  
32 inclusion or attachment of long-term care insurance coverage to one of the  
33 foregoing products shall not exempt it from the requirements of this act.

34 (b) "Applicant" means:

35 (1) In the case of an individual long-term care insurance policy, the  
36 person who seeks to contract for such benefits, and

37 (2) in the case of a group long-term care insurance policy, the  
38 proposed certificateholder.

39 (c) "Certificate" means, for the purposes of this act, any certificate  
40 issued under a group long-term care insurance policy, which policy has been  
41 delivered or issued for delivery in this state.

42 (d) "Commissioner" means the insurance commissioner of this state.

43 (e) "Group long-term care insurance" means a long-term care insurance  
44 policy:

45 (1) Delivered or issued for delivery in this state and issued to a  
46 group as defined in K.S.A. 40-2209:

47 (2) No group long term care insurance coverage may be offered to a  
48 resident of this state under a group policy issued in another state to a  
49 group defined in, (e)(1), unless this state or another state having statutory  
50 and regulatory long term care insurance requirements substantially similar  
51 to those adopted in this state has made a determination that such  
52 requirements have been met.

53 (f) "Policy" means, except as otherwise provided in subsection 3(e)(2)  
54 of this act, any individual or group policy, contract, subscriber agreement,  
55 rider or endorsement delivered or issued for delivery in this state by an  
56 insurer, fraternal benefit society, nonprofit health, hospital, or medical  
57 service corporation, prepaid health plan, health maintenance organization or  
58 any similar organization.

59 Sec. 4. Disclosure and performance standards for long-term care  
60 insurance. (a) The commissioner may issue reasonable regulations:

61 (1) To establish specific standards for policy provisions of long-term  
62 care insurance policies. Such standards shall be in addition to and in  
63 accordance with applicable laws of this state, and shall address terms of  
64 renewability, initial and subsequent conditions of eligibility,  
65 nonduplication of coverage provisions, coverage of dependents, preexisting  
66 conditions, termination of insurance, probationary periods, limitations,



67 exceptions, reductions, elimination periods, requirements for replacement,  
68 recurrent conditions and definitions of terms; or

69 (2) To specify prohibited policy provisions not otherwise specifically  
70 authorized by statute which, in the opinion of the commissioner, are unjust,  
71 unfair or unfairly discriminatory to any person insured under a long-term  
72 care insurance policy.

73 (b) Regulations issued by the commissioner shall:

74 (1) Recognize the unique, developing and experimental nature of long-  
75 term care insurance; and

76 (2) recognize the appropriate distinctions necessary between group and  
77 individual long-term care insurance policies.

78 (c) The commissioner may adopt regulations establishing loss ratio  
79 standards for long-term care insurance policies provided that a specific  
80 reference to long-term care insurance policies is contained in the  
81 regulation.

82 (d) No long-term care insurance policy may:

83 (1) Be cancelled, nonrenewed, or otherwise terminated solely on the  
84 grounds of the age or the deterioration of the mental or physical health of  
85 the insured individual or certificateholder; or,

86 (2) Contain a provision establishing any new waiting period in the  
87 event existing coverage is converted to or replaced by a new or other form  
88 within the same company, except with respect to an increase in benefits  
89 voluntarily selected by the insured individual or group policyholder.

90 (e) Preexisting condition:

91 (1) No long-term care insurance policy or certificate shall use a  
92 definition of "preexisting condition" which is more restrictive than the  
93 following: Preexisting condition means the existence of symptoms which  
94 would cause an ordinarily prudent person to seek diagnosis, care or  
95 treatment, or a condition for which medical advice or treatment was  
96 recommended by, or received from a provider of health care services, within  
97 the limitation periods specified in (A) and (B) below:

98 (A) Six months preceding the effective date of coverage of an insured  
99 person who is 65 years of age or older on the effective date of coverage; or

100 (B) twenty-four months preceding the effective date of coverage of an  
101 insured person who is under age 65 on the effective date of coverage.

102 (2) No long-term care insurance policy may exclude coverage for a loss  
103 or confinement which is the result of a preexisting condition unless such  
104 loss or confinement begins within the periods specified in (A) or (B) below:

105 (A) Six months following the effective date of coverage of an insured  
106 person who is 65 years of age or older on the effective date of coverage; or

107 (B) twenty-four months following the effective date of coverage of an  
108 insured person who is under age 65 on the effective date of coverage.

109 (3) The commissioner may extend the limitation periods set forth in  
110 subsections 4(e)(1) and 4(e)(2) above as to specific age group categories or  
111 specific policy forms upon finding that the extension is not contrary to the  
112 best interest of the public.

113 (4) The definition of "preexisting condition" does not prohibit an  
114 insurer from using an application form designed to elicit the complete  
115 health history of an applicant, and, on the basis of the answers on that  
116 application, from underwriting in accordance with that insurer's established  
117 underwriting standards.

118 (f) No long-term care insurance policy shall require prior  
119 institutionalization as a condition precedent to the payment of benefits.

120 (g) In order to provide for fair disclosure in the sale of long-term  
121 care insurance policies:

122 (1) An outline of coverage shall be delivered to an applicant for a  
123 long-term care insurance policy at the time of application. In the case of  
124 direct response solicitations, the insurer shall deliver the outline of  
125 coverage upon the applicant's request, but regardless of request shall make  
126 such delivery no later than at the time of policy delivery. Such outline of  
127 coverage shall include:

128 (A) A description of the principal benefits and coverage provided in  
129 the policy;

130 (B) a statement of the principal exclusions, reductions and limitations  
131 contained in the policy;

132 (C) a statement of the renewal provisions, including any reservation in  
133 the policy of a right to change premiums; and

134 (D) a statement that the outline of coverage is a summary of the policy  
135 issued or applied for, and that the policy should be consulted to determine  
136 governing contractual provisions.

137           (2) A certificate issued pursuant to a group long-term care insurance  
138 policy which policy is delivered or issued for delivery in this state shall  
139 include the information required by K.S.A. 40-2209(B)(4).

140           (h) No policy may be advertised, marketed or offered as long-term care  
141 insurance unless it complies with the provisions of this act.

142           Sec. 5. This act shall take effect and be in force on and after January  
143 1, 1988 and its publication in the statute book.

Explanatory Memorandum For  
Legislative Proposal No. 2

Legislative Proposal No. 2 suggests the establishment of various requirements and standards relating to long-term care insurance.

The definition of long-term care insurance contained in this proposal is particularly important because it is intended to allow maximum flexibility in the design of long-term care benefits while assuring that the public's reasonable expectations for long-term care protection are met. Worthy of specific note is the fact that this definition is not intended to require that long-term care be medically necessary before coverage would be effective. To the contrary, it is becoming increasingly evident that residential or custodial type care is a very significant, perhaps the most significant, concern of senior citizens and the definition has been purposely drafted in a way that will permit long-term care insurance products to meet this need.

The proposal does not mandate any type of coverage. It does, however, authorize the commissioner to adopt regulations that will establish specific standards for customary contractual provisions. These would include terms of renewability, coverage of dependents, waiting periods, preexisting conditions, termination, exclusions, etc. In addition, the proposal itself contains specific minimum provisions relating to preexisting conditions.

Finally, the proposal would require the delivery of a written outline of coverage. Such outline would provide the insured a brief description of the benefits, a summary of exclusions, exceptions and limitations and various other information designed to enhance consumer understanding of the long-term care insurance product they have purchased.

It is to be emphasized that enactment of Legislative Proposal No. 2 will not resolve all the needs and desires of the public regarding long-term care. Enactment would, however, define the subject, authorize the commissioner to establish minimum standards applicable to the terms of various contractual provisions and require delivery of an outline of coverage to applicants for an individual long-term care insurance policy.

Enactment of this proposal will not solve all the problems relating to long-term care insurance. It will, however, establish a foundation which can serve as a guide to product development and, more important, it will establish minimum performance and disclosure requirements that will enable senior citizens to become better informed purchasers.

M E M O R A N D U M

TO: Fletcher Bell  
Commissioner of Insurance

FROM: Donald W. Bond, Supervisor  
Life/Accident & Health Unit

Larry Gill, Representative  
Information/Education/Special Projects Unit

SUBJECT: Long Term Care

DATE: November 20, 1986

Recently, Don Bond and myself were asked by Richard Huncker to appear before your task force assigned to study and make recommendations regarding the current status of long term care. Rich felt that Don and I might add insight from a consumer's point of view because of our statewide contact with Kansas consumers.

As you are well aware, the predominant method utilized by the insurance industry in meeting the demand for long term care is to develop and market traditional nursing home insurance. Policies vary as to whether they cover skilled, intermediate or custodial care and as to the amount of benefits that are provided for each. Many, but not all, policies now provide coverage for all three levels of care, however, they still require the consumer to go from the upper level to the lower level of care as a prerequisite to paying lesser benefits.

One fact that runs as a common thread throughout current nursing home policies is that benefits are predicated upon medical necessity. In order to receive benefits, it is common for a policy to require a hospital stay of at least three days or more. Confinement in the nursing care facility must be related to the initial cause of hospitalization and confinement must be for the continued medical treatment of the original illness or injury. Once these conditions and other required criteria have been met, then benefits can be provided if confined in an appropriate facility providing an appropriate service.

Whether it stems from a telephone conversation, a Senior Citizen Forum, etc., the average buyer informs us that the major reason for purchasing nursing home insurance is because they fear growing old, becoming unable to take care of their everyday needs and becoming a burden on family or society. Even when we talk to consumers and explain the details of nursing home insurance and the medical requirements that must be met

before the payment of benefits, when asked how they envision utilizing nursing home insurance, the vast majority of consumers indicate they are afraid they will need help in taking care of themselves and that they do not want to have to use their life savings should this happen. These people are describing custodial care for non-medical related conditions which will never be covered by the current form of nursing home insurance.

It is with this information in mind that we express our concern. Based upon our visit to the task force, it would appear they are headed toward making a recommendation to you of adopting a set of minimum standards, probably the NAIC's, that will add uniformity to the nursing home policies being issued. While it certainly has merit, and is something that is needed, it does not address the concerns we view regarding those persons who are looking for a form of insurance which does not exist.

When it was suggested during the task force meeting that coverage should be developed and marketed that would fill the needs of persons who need long term care insurance, irregardless of medical necessity, responses ranged from: "It would be prohibitively expensive", to "It's not the insurance industry's responsibility to provide a 'social service'." We are concerned that we may be looking at this situation and judging it by standards that have not changed as rapidly as has the plight of our nation's elderly.

As we see the situation, long term care for the elderly encompasses two things:

- (1) The social problem of caring for those elderly who need confinement for essentially non-medical reasons; i.e., are simply too old to care for themselves, and
- (2) those who need care for medical reasons.

A retirement income annuity contract could be a solution for both situations; but, a tremendous educational campaign would be needed (too late for today's elderly) to gear the thinking to this type of coverage. The other alternative, that is not new, is nursing home policies. Some companies have had these policies available for fifteen years, mostly providing skilled care. The vast majority of nursing homes in Kansas, however, are licensed as Intermediate Care Homes; and, at least 50% of the people confined to nursing homes are receiving custodial care. The products being approved for sale to Kansas residents, should, in our opinion, provide a benefit that would meet the needs of the insured and not simply be a windfall for the insurance company. As an example, a copy of the Medico Life Insurance Company policy is attached. This policy provides a lengthy benefit of six years for confinement for skilled nursing care. It pays for one year for intermediate

Memorandum  
Page 3  
November 20, 1986

nursing care and pays for six months for custodial care. In view of the above statistics, how is this policy going to really benefit a Kansas citizen unless they are unfortunate enough to require skilled nursing care for six years, which in all probability is unlikely. In our opinion, stringent minimum benefit standards for nursing home policies need to be adopted this next session of the Legislature to ensure that Kansas citizens have available to them only those policies that will be of benefit and meet their needs. The time is now for this action in view of the publicity and activity by companies in this market. Too many people have been sold inferior products on which we will no doubt receive many complaints over the next several years. This market is only going to grow and it is imperative that we have and get a handle on the products for this market without delay. Our citizens simply do not need to be subjected to products that are written to lend themselves to being easily misrepresented. Any nursing home policy sold in Kansas should provide coverage for confinement to both a skilled nursing and intermediate care home, and should provide an equal benefit (dollar amount and length of time payable) for skilled nursing care, intermediate nursing care and custodial care.

As always, should you wish to discuss this issue or if you desire additional information, please do not hesitate to contact us.

Respectfully submitted,

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Donald W. Bond

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Larry Gill

DWB:LG:jlca  
2492  
Attachment  
cc: Rich Huncker

***Kansas***  
**NURSING**  
**HOME**  
**INSURANCE**  
**FACTS**  
**TO *HELP* YOU**



**FLETCHER BELL**

**COMMISSIONER OF INSURANCE**

House Insurance Committee  
March 30, 1987  
Att. 3





From The Desk of

**FLETCHER BELL**

COMMISSIONER OF INSURANCE

Dear Fellow Kansan:

Many policies are being sold in Kansas that provide coverage for confinement in nursing homes. These policies vary according to the benefits provided, the definition of a covered facility and the level of care required by the contract. If you are considering the purchase of a nursing home policy, it is important that you thoroughly understand the benefits as well as the limitations of the policy.

This brochure has been prepared to assist you in purchasing nursing home policies. We hope this information will be helpful to you.

A handwritten signature in cursive script that reads "Fletcher Bell".

Fletcher Bell  
Commissioner of Insurance

## GENERAL INFORMATION

In Kansas there are three primary classifications of nursing homes: (1) Skilled Nursing Home, (2) Intermediate Care Home, and (3) Personal Care Home. Information concerning services offered, charges, and admission policies of a home should be obtained through direct contact with the home.

Information concerning the licensing of nursing homes is available from the: Office of Health Facilities, Kansas Department of Health and Environment, Forbes Field, Building 740, Topeka, Kansas 66620 (913)862-9360.

## NURSING HOME POLICIES

Nursing home policies are limited policies and the following items should be considered when shopping for such a policy:

### 1. Type of Facility

Nursing home policies may provide benefits only if you are confined in a Skilled Nursing Home. Some policies are even more restrictive in that they require that confinement be in a Medicare certified facility. A few policies, however, may provide benefits if you are confined in a licensed Intermediate Care Home or a licensed Personal Care Home. It should be noted that there are only a limited number of nursing homes in Kansas which are certified by Medicare or licensed as Skilled Nursing Homes. There are many licensed Intermediate Care and Personal Care Facilities. However, nursing home policies, as previously pointed out, may not provide benefits for confinement in such facilities. Therefore, before purchasing a policy, it is a good idea to check the nursing homes in your area to determine what type of facility is available.

2. Level of Care

Generally, benefits will be provided only if you are actually receiving skilled nursing care on a daily basis. Custodial care is normally not covered and many patients in nursing homes receive custodial care rather than skilled care. Care is considered custodial when it is primarily for the purpose of meeting personal needs such as requiring assistance in walking, bathing, dressing, eating and taking medication.

3. Conditions Which Must Be Met

Most nursing home policies require that you be confined to a hospital for at least 3 days prior to entering the nursing home, that you be admitted to the nursing home on your doctor's orders within 14 to 30 days after release from the hospital (depending upon the policy requirement) and that you be admitted to the nursing home for the same condition for which you were hospital confined. You will generally receive benefits only if you are confined due to a sickness or injury and only as long as your doctor states that your confinement is medically necessary.

## QUESTIONS AND ANSWERS

- Q. Will nursing home policies provide benefits for confinement in a nursing home if Medicare benefits are being provided for the confinement?
- A. Yes, in fact most nursing home policies are designed to supplement the benefits provided by Medicare. However, Medicare does not pay on many nursing home confinements due to the fact that there are very few Medicare certified nursing homes in the State of Kansas and a persons must be receiving skilled care on a daily basis in a Medicare certified facility to qualify for Medicare benefits. See Pages 9 and 10 for a list of nursing homes certified by Medicare.
- Q. What nursing home benefits are provided by Medicare?
- A. The Medicare program is divided into two parts, Part A (Hospital Insurance) and Part B (Medical Insurance). If your confinement in a skilled nursing facility is covered by Medicare, Part A hospital insurance can help pay for all covered services for the first 20 days you are in a Medicare certified skilled nursing facility if you are receiving skilled nursing care on a daily basis. For the 21st through 100th day, Medicare hospital insurance can pay for all covered services for skilled nursing care except for \$61.50 a day for calendar year 1986. The services of a physician while you are confined in a skilled nursing home are usually covered by Part B of Medicare.

- Q. What is skilled nursing care?
- A. Skilled nursing care may only be provided by, or under the supervision of, licensed nursing personnel. Skilled nursing care must be provided on a daily basis to qualify for nursing home benefits and must be provided under the general direction of a physician. Also, included in skilled nursing care are skilled rehabilitation services such as physical, occupational and speech therapy.
- Q. What is intermediate care?
- A. Care similar to skilled nursing care however, care is not for an acute medical condition and is not provided on a full time 24 hours a day basis.
- Q. What is custodial care?
- A. Care is considered custodial when it is provided primarily for the purpose of meeting personal needs and could be provided by persons without professional skills or training. This type of care would include the need for assistance in walking, getting in and out of bed, bathing, dressing, eating, and taking medication.
- Q. Do any nursing home policies provide benefits for custodial care?
- A. Yes, there are a few policies being sold in Kansas which do provide limited benefits for custodial care. However, most policies require that you first be confined, at least 3 days, in a hospital or skilled nursing facility in order for benefits to be payable.

CHECKLIST - THINGS TO DO

1. Determine the type of facility in which you must be confined to receive benefits under the policy, (i.e., Medicare certified, licensed as Skilled Nursing Home, Intermediate Care Home, etc.) If you are not sure if a nursing home must be certified by Medicare, what type of license a nursing home may have, or you are not sure what nursing homes are covered by the policy, check with the nursing home, the Department of Health & Environment, Medicare, or the insurance company.
2. Determine the level of care required by the policy in order for benefits to be payable. (Skilled nursing care, intermediate care, etc.) REMEMBER: CUSTODIAL CARE COVERAGE IS OFTEN LIMITED.
3. Determine if there are any requirements contained in the policy that must be met prior to entering a nursing home (confinement in a hospital, etc.) before benefits are payable.
4. Familiarize yourself with all of the requirements under the policy that must be met in order for benefits to be paid (confined for medical reasons, under the care of a doctor, etc.)
5. Make sure the representative is licensed to sell insurance in Kansas. Ask to see his or her license.
6. Ask the insurance representative any questions you may have about the policy. Do not hesitate to ask the representative to respond in writing to the questions and keep the response with your policy in a safe place.

MEDICARE CERTIFIED FACILITIES

As of March 1, 1985, the nursing homes listed below were certified by Medicare. This list changes frequently. For updated information on whether or not a nursing home is certified by Medicare, you can call the Medicare Hot Line 1-800-432-3531.

Medicalodge of Wichita  
2280 S. Minneapolis  
Wichita, KS 67211

Woodlawn Nursing Home  
1600 S. Woodlawn  
Wichita, KS 67218

Brewster Place  
1205 W. 29th St.  
Topeka, KS 66611

Medicalodge  
2520 S. Rouse  
Pittsburg, KS 66762

Mercy Hospital SNF  
218 E. Pack Street  
Moundridge, KS 67107

Northeast Nursing Center  
5005 E. 21st Street  
Wichita, KS 67208

Regency Health Care  
Center  
1615 Park Avenue  
Osawatomie, KS 66064

College Hill Nursing  
Center  
2423 Kimball, Box 113  
Manhattan, KS 66502

Knutson Manor  
P.O. Box 623  
El Dorado, KS 67402

Anderson County Hosp. SNF  
P.O. Box 309  
Garnett, KS 66032

St. Luke's Hospital  
SNF  
1323 North A. Street  
Wellington, KS 67152

Eventide Convalescent  
Center  
2015 E. Tenth Street  
Topeka, KS 66607

Windson Estates SNF  
623 S. Third Street  
Salina, KS 67401

St. John's of Hays SNF  
24th and Canterbury Road  
Hays, KS 67601

Green Meadows Nursing  
Center  
215 N. Lamra  
Haysville, KS 67060

Kansas Masonic Home  
SNF  
401 S. Seneca Street  
Wichita, KS 67213

Meadowlark Hills SNF  
2121 Meadowlark Road  
Manhattan, KS 66502

Christ Villa NG  
Center  
15555 Meridian  
Wichita, KS 67203

Pioneer Manor  
Box 9, 6th and Polk  
Hugoton, KS 67951

Medicalodge West  
2910 Midland Ave.  
Coffeyville, KS 67337

SB Allen Memorial  
Hosp. SNF  
720 W. Central  
El Dorado, KS 67042



BROCHURES

These additional brochures are available from the Insurance Department:

Life Insurance Facts To Help You

Kansas Health Insurance Facts To Help You

Kansas Auto Insurance Facts To Help You

Kansas Homeowners Insurance Facts To Help You

Kansas Flood Insurance Facts To Help You

Kansas Cancer Insurance Facts To Help You

Kansas Health Insurance Facts To Help Senior  
Citizens

Kansas Medicare Supplement Insurance Shopper's  
Guide

WHERE AND HOW TO FILE AN INQUIRY  
OF COMPLAINT

If you have an insurance question or problem, you should first work with your agent or company to resolve the matter.

If you cannot get the matter resolved, feel free to contact your Kansas Insurance Department for assistance. Inquiries and complaints should be sent to FLETCHER BELL, COMMISSIONER OF INSURANCE, KANSAS INSURANCE DEPARTMENT, 420 S.W. 9TH STREET, TOPEKA, KANSAS 66612. Wichita area residents may direct their inquiries and complaints directly to: KANSAS INSURANCE DEPARTMENT, 1512 N. BROADWAY, WICHITA, KANSAS 67214. An inquiry or complaint may be made in person at these offices or in writing by simply providing the name of the insurance company, the policy number and a brief statement of your complaint.

TOLL FREE HOT LINE

1-800-432-2484

Any individual who has an insurance problem or desires information may call the Consumer Assistance Division of the Insurance Department from anywhere in the state by dialing 1-800-432-2484. Individuals in the Topeka area may call 296-3071 and those in the Wichita area may call 267-5279.

10M-6/86

Explanatory Memorandum For  
Senate Bill No. 132  
(Legislative Proposal No. 2)

While I have no hard evidence to support this conclusion, it seems reasonable to assume that Kansas has one of the highest percentages of elderly in the country. Whether this supposition is correct or not, we don't need any numbers or PhD. dissertations to know that the need for some kind of financing mechanism to pay the costs -- or a portion of the costs -- of long-term care is both real and immediate. At the same time, the struggles many of us have had as well as our counterparts in other states and concerned officials at the federal level reveal that financing long-term care is not an easy task. However, in an attempt to at least begin to develop a Kansas solution, Commissioner Bell created an Ad Hoc Committee on Long Term Care last July. This committee is comprised of 11 members representing senior citizen groups, state agencies and the insurance industry. It is not finished with its work by any means but Senate Bill No. 132 does represent what could be considered the committee's first work product.

Senate Bill No. 132 is patterned after a model bill developed by the National Association of Insurance Commissioners and suggests the establishment of various requirements and standards relating to long-term care insurance.

The definition of long-term care insurance contained in this proposal is particularly important because it is intended to allow maximum flexibility in the design of long-term care benefits while assuring that the public's reasonable expectations for long-term care protection are met. Worthy of specific note is the fact that this definition is not intended to require that long-term care be medically necessary before coverage would be effective. To the contrary, it is becoming increasingly evident that residential or custodial type care is a very significant, perhaps the most significant, concern of senior citizens and the definition has been purposely drafted in a way that will permit long-term care insurance products to meet this need.

The bill does not mandate any type of coverage. It does, however, authorize the Commissioner to adopt regulations that will establish specific standards for customary contractual provisions. These would include terms of renewability, coverage of dependents, waiting periods, preexisting conditions, termination, exclusions, etc. In addition, the bill itself contains specific minimum provisions relating to preexisting conditions.

Finally, the bill would require the delivery of a written outline of coverage. Such outline would provide the insured a brief description of the benefits, a summary of exclusions, exceptions and limitations and various other information designed to enhance consumer understanding of the long-term care insurance product they have purchased.

It is to be emphasized that enactment of Senate Bill No. 132 will not resolve all the needs and desires of the public regarding long-term care. Enactment would, however, define the subject, authorize the Commissioner to establish minimum standards applicable to the terms of various contractual provisions and require delivery of an outline of coverage to applicants for an individual long-term care insurance policy.

All of us would like to see legislation that would make long-term care insurance available that would meet everyone's needs and everyone's ability to pay. Senate Bill No. 132 will not do that and such a utopian measure is probably beyond human reach. But Senate Bill No. 132 does take an important first step. It will establish a foundation which can serve as a guide to product development and, more important, it will establish minimum performance and disclosure requirements that will enable senior citizens to become better informed purchasers.

TESTIMONY PRESENTED BEFORE THE HOUSE INSURANCE COMMITTEE

By Dick Hummel, Executive Director Kansas Health Care Association, Inc.

March 30, 1987

SENATE BILL NO. 132 AMENDED

"AN ACT relating to insurance; concerning long term care insurance...."



Mr. Chairman and Committee Members:

On behalf of the Kansas Health Care Association, a voluntary non-profit organization representing over 200 licensed adult care homes, both proprietary and non-profit nursing homes, thank you for this opportunity.

We support S.B. 132, a beginning step to encourage the development of long-term care insurance and to protect and educate the public about such coverage.

Nursing home costs are the single largest, out-of-pocket health care expense for the elderly -- not hospital care or physician services. Of out-of-pocket expenses over \$2,000 for persons over age 65, 81 percent is for nursing home care.

For persons over the age of 85, there holds a three in five chance that nursing home care will be needed; for those over 65, a 25 percent chance of a long term care stay sometime in their lives.

Unfortunately, the elderly mistakenly believe that Medicare will pay for nursing home care if ever needed. Medicare funds only about two percent of nursing home services; its coverage is very limited. What occurs is that persons will exhaust their personal, private resources (average length of stay over two years in a nursing home) and become eligible for medical assistance, Medicaid.

"We Care"

There are those who estimate that long-term care insurance, fully developed with incentives to purchase such protection, could reduce nursing home Medicaid expenditures by 25 percent. (Projected SRS nursing home budget for FY 88 is \$110 million).

The largest barrier to the expansion of long-term care insurance is the misconception by the elderly that Medicare will pay for their care. Public education has begun to correct this misunderstanding. Education also will help persons to plan for their health care needs, to understand the devastating financial blow an extended stay in a long-term care facility can result in, and to consider long-term care insurance coverage as a viable vehicle to protect their assets and resources.

The expensive nature of long-term care, coupled with the aging of the population, means that pressure on government budgets to finance long-term care will continue to increase. Medicare and Medicaid programs have strained government budgets to the limit; out-of-pocket expenses of long-term care to the elderly will grow and access to care diminish as a result of these trends. Changes must be made in the way long term care is financed if access to care is to be maintained and the elderly are to avoid the catastrophic consequences of needing long term care.

S.B. 132 is an initial, small step towards this direction. However, we wish to present to you a bold initiative, an expansion and amendment to the bill which would require insurance companies that write Medicare supplemental insurance coverage to include optional long-term care benefits. While understanding this is a controversial proposal, it is in our opinion a logical and consequential place to start. Recall it is those elderly with Medicare coverage and supplemental insurance who believe they will be protected against the costs of nursing home expenses when the situation arises.

Thank you for this opportunity.

0047 policies or riders whether issued by insurers, fraternal benefit  
0048 societies, nonprofit health, hospital, and medical service corpo-  
0049 rations, prepaid health plans, health maintenance organizations,  
0050 or any similar organization. Long-term care insurance shall not  
0051 include any insurance policy which is offered primarily to pro-  
0052 vide ~~basic medicare supplement coverage~~, basic hospital ex-  
0053 pense coverage, basic medical-surgical expense coverage, hos-  
0054 pital confinement indemnity coverage, major medical expense  
0055 coverage, disability income protection coverage, accident-only  
0056 coverage, specified disease or specified accident coverage, or  
0057 limited benefit health coverage, but the inclusion or attachment  
0058 of long-term care insurance coverage to one of the foregoing  
0059 products shall not exempt it from the requirements of this act.

0060 (b) "Applicant" means:

0061 (1) In the case of an individual long-term care insurance  
0062 policy, the person who seeks to contract for such benefits; and

0063 (2) in the case of a group long-term care insurance policy, the  
0064 proposed certificateholder.

0065 (c) "Certificate" means any certificate issued under a group  
0066 long-term care insurance policy, which policy has been deliv-  
0067 ered or issued for delivery in this state.

0068 (d) "Commissioner" means the insurance commissioner of  
0069 this state.

0070 (e) "Group long-term care insurance" means a long-term care  
0071 insurance policy delivered or issued for delivery in this state and  
0072 issued to a group as defined in K.S.A. 40-2209, and amendments  
0073 thereto. No group long-term care insurance coverage may be  
0074 offered to a resident of this state under a group policy issued in  
0075 another state to a group defined in K.S.A. 40-2209, and amend-  
0076 ments thereto, unless this state, or another state having statutory  
0077 and regulatory long-term care insurance requirements substan-  
0078 tially similar to those adopted in this state, has made a determi-  
0079 nation that such requirements have been met.

0080 (f) "Policy" means, except as otherwise provided in subsec-  
0081 tion (e) of this section, any individual or group policy, contract,  
0082 subscriber agreement, rider or endorsement delivered or issued  
0083 for delivery in this state by an insurer, fraternal benefit society,

ADD: MEDICARE SUPPLEMENT INSURANCE  
POLICIES SHALL INCLUDE OPTIONAL  
LONG TERM CARE COVERAGE FOR A  
POLICY PERIOD OF NOT LESS THAN  
24 MONTHS OF PROTECTION.

## **KANSAS' OLDER CITIZENS**

In Kansas, 436,000 persons are over age 60. They constitute 24.4 percent of the voting-age population in our state. Because persons 60 and over register and vote in much higher proportions than any other group, older people comprise as much as 40-50 percent of the actual voters in many elections.

Many older people are eager to participate in all facets of political life. Quite often, older persons are involved in registering voters, assisting voters in traveling to the polls, and actually conducting poll operations on election day. They believe in the Eisenhower adage, "Politics should be the part-time profession of every citizen."

With increased longevity for the elderly of our nation, the older population of Kansas is expected to continue to grow steadily. During the years 1980-1984, the population aged 60+ realized a 5.8 percent increase. The latest census data indicate that this same age group (60+) constitutes 17.9 percent of our state's total population.

## **AMERICAN ASSOCIATION OF RETIRED PERSONS**

AARP was founded in 1958 as a voluntary nonprofit and nonpartisan organization to help improve the quality of life of not only its members, but all older people. It is dedicated to helping its members meet the challenges of pre-retirement and retirement living and achieve a dynamic maturity of independence and purpose.

In Kansas, 295,130 individuals belong to the American Association of Retired Persons. Association volunteers serve their communities through a variety of programs, from free tax counseling to support for newly widowed persons. The Association also offers a variety of educational and advocacy programs for older workers, who make up one-fourth of AARP's total membership.

AARP is the largest membership organization of older Americans. Nationally, AARP membership totals more than 22 million and is a representative cross section of the older population. There are more than 3,500 local AARP chapters nationwide.

New AARP initiatives marshal Association resources to address health care concerns, the status of minority elderly, issues of concern to mid-life and older women, and the changing role and needs of mid-life and older workers.

## **KANSAS STATE LEGISLATIVE COMMITTEE**

The AARP State Legislative Committee (SLC) decides and promotes the legislative objectives to be sought by the Association in each state legislative session. Composed of volunteers from across the state, the Committee works on behalf of not only AARP members, but all older persons and the state community.

Each year the State Legislative Committee in Kansas selects legislative priorities based on the needs of the state's residents, using guidelines developed by the AARP National Legislative Council. Members of the SLC work with legislators to promote passage of legislation beneficial to Kansas' older population.

The Kansas State Legislative Committee participates responsibly in the legislative process, from a bill's conception to its signing into law and translating its intent into administrative procedures and regulations. Additional AARP volunteers often work under the direction of the State Legislative Committee in monitoring bill movement, attending hearings, and consulting with legislators and staff on SLC priorities.



# PRINCIPAL LEGISLATIVE PRIORITIES OF OUR KANSAS MEMBERSHIP FOR 1987

## PRIORITIES

- Enact "Division of Assets" legislation.
- Expand and coordinate community in-home services offering quality alternatives. Control and expand health care services for low income Kansans.
- Equalizing adult care home rates charged to private pay and public assistance residents.
- Exempt Social Security benefits from state income tax and protect the purchasing power of retirement income.
- Legislation establishing legal representatives for consumers in the utility rate hearing process.

## SUPPORT ITEMS

- Legislation or regulations to enhance the quality of nursing home care.
- Support improved retirement benefits for retired teachers and state employees.
- Support efforts to meet health care needs for the uninsured and underinsured.
- Establish regulations and statutes governing and promoting the sale of long-term care insurance.
- Legislative and regulatory actions to restrain health care costs and enhance the quality of health care.

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## KANSAS FACTS FOR YOU TO REMEMBER

# 1987

KANSAS STATE  
LEGISLATIVE COMMITTEE  
AMERICAN ASSOCIATION OF  
RETIRED PERSONS

TESTIMONY ON SB 132  
TO  
HOUSE COMMITTEE ON INSURANCE  
BY THE  
KANSAS DEPARTMENT ON AGING  
MARCH 30, 1987

Bill Summary:

Act would authorize Commissioner of Insurance to adopt rules and regulations concerning long term care insurance.

Bill Brief:

- 1) Long term care insurance policy would provide coverage for not less than 12 consecutive months in a setting other than an acute care unit of a hospital.
- 2) Group and individual policies are included.
- 3) Rules and regulations may be adopted to:
  - a) Establish specific standards;
  - b) Specify prohibited policy provisions;
  - c) Prohibit cancellation, nonrenewal, or termination of a policy solely on the grounds of age or the deterioration of the mental and physical health of the insured;
  - d) Establish a preexisting condition period of six months for an insured person 65 years of age or older and 24 months for an insured person who is under age 65;
  - e) Prohibit the requirement of prior institutionalization as a condition precedent to the payment of benefits;
  - f) Require the delivery of an outline of coverage at the time of application which shall include a description of the principal benefits; a statement of principal exclusions; a statement of renewal provisions including any reservation in the policy of a right to change premiums.
- 4) Act shall take effect after January 1, 1988 and its publication in the statute book.

Bill Testimony:

According to a study released by the U.S. House Select Committee on Aging in 1986, two-thirds of individuals and one-third of couples aged 66 and older will spend themselves in to poverty within 13 weeks if stricken by a chronic illness that requires long-term care. Nursing home care is the largest catastrophic expense for individuals age 65 and over.

In 1984, only 1.1 percent of the elderly's expenses for nursing home care was paid by private insurance. The elderly and their families themselves paid the greatest percentage of the cost for their care in a nursing home, 50.1 percent, directly out-of-pocket. Medicaid covered 41.5 percent of the total and Medicare only 2.2 percent. The other long term care alternative, home

care, is also seldom covered by insurance. Typically, 50 percent of the cost of home health care is paid by public programs, 48 percent comes from out-of-pocket, and only 2 percent is paid by private insurance.

The U.S. House Select Committee on Aging has reported that each year about one million middle-class people are impoverished because of their own medical bills or those of their relatives. The Health Care Financing Administration reported that in 1984 approximately half of the Medicaid beneficiaries in nursing homes were not initially poor, but they "spent down" as a result of catastrophic illness and became eligible for Medicaid by depleting their assets.

Recent data on the income and resources of older Americans suggest that long-term care insurance is well within the means of most senior citizens. Many of the individuals currently spending down to become Medicaid eligible could have afforded private insurance protection for long-term care had policies been available.

The problem is that long-term care insurance is an underdeveloped and little-known industry. State legislatures must encourage the private market to be more aggressive in expanding private long-term care insurance coverage. In 1986, 14 states passed legislation regulating long term care insurance. Prior to 1986 only a few states had legislation that went further than simply mandating a study.

Kansas, too, has taken steps to address the issue of long-term care insurance. The Kansas Alzheimer's and Related Diseases Task Force (created by the 1985 Legislature) recommended a long-term care insurance act, H.B. 3064, which was heard in the 1986 session. Many Older Kansans and aging professionals were supportive of the legislation. Although the bill died in committee, the issue did not die.

The Department on Aging was pleased to be represented on Commissioner of Insurance Fletcher Bell's Ad Hoc Committee on Long Term Care Insurance which recommended the introduction of S.B. 132 to the 1987 Legislature. S.B. 132 is necessary so that the Commissioner can implement rules and regulations concerning long term care insurance. Kansas needs to take a place with other states which have already implemented long term care insurance legislation.

S.B. 132 has many commendable features which the Department on Aging strongly supports. For example, the bill would include coverage for both institutional and non-institutional long term care; the bill does not require that care be medically necessary; the bill does not require prior hospitalization in order that coverage commence; the preexisting condition limit is reasonable; cancellation, nonrenewal or termination of a policy on the grounds of age or deterioration of mental or physical health is not permitted.

Although these features are commendable, the Department on Aging offers an amendment to the bill. Even with S.B. 132 insurance companies could exclude certain diseases from long term care insurance coverage. The exclusion of Alzheimer's and related disorders from long term care insurance coverage should be prohibited. Too many Kansans are discovering that the long term care insurance they have is worthless to them when a family member is stricken with one of these debilitating diseases.

Helen Owens of Kansas City, Kansas purchased a comprehensive medical lifetime policy with maximum payment unlimited. Her monthly premiums are \$183. Helen's husband was recently diagnosed with Alzheimer's Disease. The insurance company has refused to pay the maximum payment because the policy states that the payment is unlimited except for "mental and nervous disorders." The insurance company will pay 50 percent of Mr. Owens' nursing home stay for only 120 days. The average Alzheimer's patient can be expected to live 6 to 8 years after the onset of the disease; some many live as long as 20 years. Helen Owens' long term care insurance policy will not help her husband.

Even those people who have a long term care insurance policy are no better off than those who do not have a policy when a certain disease is excluded from coverage.

While the Department on Aging is pleased that S.B. 132 would prohibit the cancellation or nonrenewal of a long term care insurance policy due to the onset of a mental disorder, the bill should specify that such disorders and Alzheimer's and related diseases could not be excluded from coverage in any policy offered in the State.

Recommended Action:

The Kansas Department on Aging supports the favorable passage of S.B. 132 with the attached amendment which would prohibit the exclusion of Alzheimer's and related diseases, and nervous and mental conditions from long term care insurance coverage.

SW:mj  
3/27/87

KANSAS DEPARTMENT ON AGING

AMENDMENT TO S.B. 132

New Section 4 (inserted between existing Section 3 & 4)

- (a) Every insurer, which issues any individual or group policy providing long term care insurance coverage, must provide for such coverage when the insured is disabled by Alzheimer's disease, diseases of a related type, or nervous and mental conditions.
- (b) For the purposes of this section: (1) "Alzheimer's disease" means a brain disorder characterized by a progressive dementia that occurs in middle or late life. The pathologic characteristics are degeneration of specific nerve cells, presence of neuritic plaques and neurofibrillary tangles.  
(2) "Diseases of a related type" means any progressive neurological disorder which has dementia as one of its manifestations. This includes but is not limited to multi-infarct dementia, Parkinson's disease and Huntington's disease.  
(3) "Nervous and mental conditions" means disorders specified in the diagnostic and statistical manual of mental disorders, third edition, (DSM-III, 1980) of the American Psychiatric Association but shall not include conditions not attributable to a mental disorder that are a focus of attention or treatment (DSM-III, V Codes). (K.S.A. 40-2, 105(b).)



The Organization of  
Nonprofit Homes and  
Services for the Elderly

Kansas Association of Homes for the Aging  
One Townsite Plaza  
Fifth and Kansas Avenue  
Topeka, Kansas 66603

913-233-7443

TESTIMONY BEFORE THE HOUSE INSURANCE COMMITTEE  
CHAIRMAN, DALE SPRAGUE

March 30, 1987

RE: Senate Bill No. 132

An act relating to insurance; concerning long-term care insurance; authorizing the commissioner of insurance to adopt rules and regulations establishing certain standards for contractual provisions; providing certain disclosure requirements.

Presented by John Grace, Executive Director of the Kansas Association of Homes for the Aging; a nonprofit organization, representing the church, governmental, and community sponsored homes, housing and services for the elderly of Kansas.

Thank you Mr. Chairman and Good Afternoon members of the committee.

We Support Senate Bill No. 132.

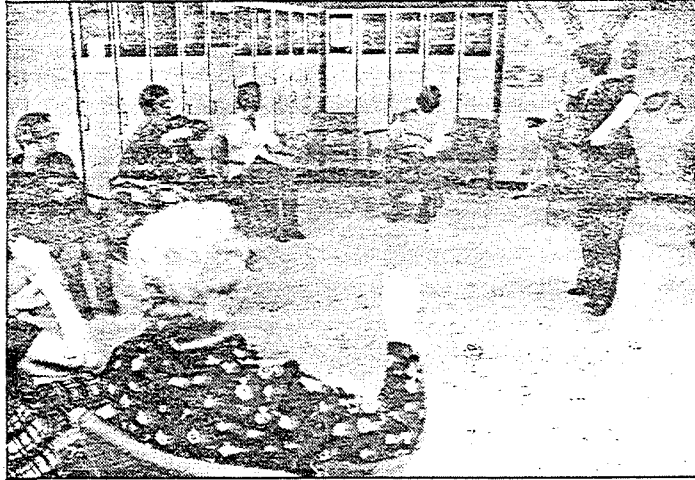
During the summer of 1986 we participated in the Commissioner on Insurance Ad Hoc Committee on Long Term Care Insurance along with several other consumer, governmental and provider organizations.

Senate Bill No 132

Senate Bill No. 132 represents a consensus of the various groups, ideas and suggestions on this legislation. In addition, Senate Bill No. 132 contains many of the recommendations of the National Association of Insurance Commissioners Model legislation.

Thank you, Mr. Chairman and members of the committee.

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Kansas City, Mo.—436-8575

**Countryside Adult Day Center**  
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**Shalom Adult Day Health Center**  
Kansas City, Mo.—333-7800

**Independence Regional Health Center**  
Independence, Mo. 64050—836-8100

**Research Adult Day Centers**  
Kansas City, Mo. 64106—421-6225

**Research Leawood Adult Day Center**  
Leawood, Ks.—648-7969

**Seton Adult Day Health Center**  
Kansas City, Mo.—231-0303



Proposed Amendment to SB 133  
(As Amended by Senate Committee of the Whole)

On page 7, after line 266, by inserting a new section to read as follows:

"Sec. 2. K.S.A. 16a-4-109 is hereby amended to read as follows: 16a-4-109. If a creditor requires insurance, upon notice--to--the--creditor the consumer shall have the option of providing the required insurance through an existing policy of insurance owned or controlled by the consumer, or through a policy to be obtained and paid for by the consumer, but the creditor may for reasonable cause decline the insurance provided by the consumer. The creditor shall provide the consumer with a written notice separate from the loan agreement or other instrument fully informing the consumer of the option authorized by this section.";

Also on page 7, in line 267, after "K.S.A." by inserting "16a-4-109 and"; also in line 267, by striking "is" and inserting "are"; by renumbering original sections 2 and 3 as 3 and 4, respectively;

In the title, in line 19, after the semicolon by inserting "disclosure requirements with respect to consumer credit insurance;"; also in line 19, after "K.S.A." by inserting "16a-4-109 and"; in line 20, by striking "section" and inserting "sections";