

Approved February 19, 1987
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Sen. Neil H. Arasmith at
Chairperson

9:00 a.m. ~~pm~~ on February 18, 1987 in room 529-S of the Capitol.

All members were present except:

Committee staff present:

Bill Wolff, Legislative Research
Myrta Anderson, Legislative Research
Bill Edds, Revisor of Statutes

Conferees appearing before the committee:

Ron Todd, Kansas Insurance Department
Dick Hummel, Kansas Health Care Association
John Grace, Kansas Association of Homes for the Aging
Frank Lawler, American Association of Retired Persons
Suellen Weber, Kansas Department of Aging
Jack Roberts, Kansas Blue Cross/Blue Shield

The minutes of February 17 were approved.

The hearing began on SB 132 dealing with long-term care insurance. Ron Todd of the Kansas Insurance Department testified in support of it. (See Attachment I.) He also said the bill needs to be amended on line 164 where "an" needs to be changed to "and". The chairman asked what the group policy would be in this case. Mr. Todd answered association groups and trustee groups. Sen. Strick asked for an example of long-term care. Mr. Todd said it includes nursing home care policies that provide coverage available when confined to a nursing home for medical treatment, not for custodial care.

Dick Hummel, Kansas Health Care Association, testified in support of the bill. He said he represents 250 licensed nursing homes. He feels that the bill is a beginning foundation for putting together some information for the public. However, he feels the bill could be amended on the first page, line 38, to expand long-term insurance to custodial care also. He will submit his suggested amendment in writing later. He feels it is important to mandate this coverage as an option by those companies that currently offer health care insurance and Medicare supplement insurance. Out of pocket expense for catastrophic illness is the greatest expense for the elderly. The purpose of mandating coverage is to protect the resources and income of the elderly. He concluded that he supports the bill, but he wonders if it goes far enough.

Sen. Strick asked what the cost of this coverage would be and if it would cover nursing home care only. Mr. Hummel estimated that the cost would be \$25 to \$30 per month and said it would also cover other types of long-term care than nursing homes. Sen. Gannon said he feels that people of this age bracket may not be able to afford this premium. Mr. Hummel replied that he felt a substantial portion could afford it, but possible incentives for purchasing this insurance need to be considered. The chairman asked Mr. Hummel if he thought anybody would purchase this insurance before going into a nursing home. Mr. Hummel answered that they probably would not, and this is the problem. The public needs to be educated that Medicare will not cover it.

John Grace, Kansas Association of Homes for the Aging, followed with testimony in support of SB 132. (See Attachment II.) Mr. Grace spoke of disclosure in his testimony, and Sen. Strick asked what he meant by it. Mr. Grace said it is the company's responsibility to disclose what benefits are included in the policy.

Frank Lawler, American Association of Retired Persons, testified in support of the bill. (See Attachment III.)

Suellen Weber, Kansas Department of Aging, offered further testimony in support of SB 132 and suggested an amendment regarding Alzheimer's disease and related diseases.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m. ~~XXXX~~ on February 18, 1987.

(See Attachment IV.) Sen. Gannon asked if the exclusion of Alzheimer's disease was the reason for the low premium quoted earlier. Ms. Weber said the AARP may be able to afford this premium, but the independent companies will have to charge more. Sen. Reilly asked if these amendments were considered by the task force of which Ms. Weber was a part. She said they were discussed but not in the terms of these amendments. The chairman asked if there are any companies that will cover Alzheimer's. Ms. Weber said it is not covered by any insurance company which has caused a lot of hardship. Her office has an Alzheimer's hotline, and many calls are received on this.

Jack Roberts, Kansas Blue Cross/Blue Shield, gave final testimony on SB 132. He said this is part of a very complex problem which the federal government is attempting to solve at this time. A Harvard study recommended to the federal government that Medicare cover long-term care. The cost for the first year would be \$50 billion. It would be funded by increasing the payroll tax. He supports the bill because it allows a potential for an innovative solution to the problem. He feels that indigents also should be addressed because this is part of the problem. There being no further time, the hearing was concluded.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2-18	MOLLY DANIELS	TOPEKA	KDOA
2/18	Suellen W. J. [unclear]	Topoka	KDOA
2/18	Marilyn Bratt	Lawrence	KINHI
2/18	DICK HUMMEL	TOPEKA	KHCA
2/18	LINDA MCGILL	"	KIBA
2/18	JACK ROBERTS	"	BC-BS
2/18	Karen B. Wickliff	Lawrence	Seniors Mult. [unclear]
2/18	Andrea Letario	Topoka	Ks. Hospital Assoc
2/18	John O. Miller	Topoka	AARP
2/18	Frank J. [unclear]	LEAWOOD, KS	AARP
"	Bill Munnsey	TOPEKA	KDAE
"	John [unclear]	"	KHFA
"	Janet Schalansky	"	SRS - Adult Sen
"	LM CORROST	"	KS Life Assn

Explanatory Memorandum For SB 132
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.



The Organization of
Nonprofit Homes and
Services for the Elderly

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TESTIMONY BEFORE THE COMMITTEE
ON FINANCIAL INSTITUTIONS AND INSURANCE
CHAIRMAN, NEIL ARASMITH

February 18, 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 Morning members of the committee.

We support Senate Bill # 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 # 132

Senate Bill #132 represents a consensus of the various groups, ideas and suggestions on this legislation. In addition, Senate Bill #132 contains many of the recommendations of the National Association of Insurance Commissioners Model legislation.

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



1986-1987
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February 18, 1987

The Hon. Neil H. Arasmith, Chairman &
Members of the Senate Committee on
Financial Institutions and Insurance
Room No. 529-S, Capitol Building
Topeka, Kansas 66612

SUBJECT: S.B. No. 132, The Long-Term Care Insurance Act.

Mr. Chairman and Members of the Committee:

Thank you Mr. Chairman for the opportunity to testify today on behalf of S.B. No. 132, The Long-Term Insurance Act.

I was privileged this past year to have served on Commissioner Bell's Ad Hoc Committee on Long Term Care Insurance. This was a learning experience in health care insurance from the point of view of the carrier and the consumer.

The bill you have before you today reflects the total of the best ideas from over 30 members. In addition the Committee studied the recently approved model law on Life-Time Care Insurance adopted by the National Association of Insurance Commissioners. Long-term care insurance is currently not covered for regulatory and administrative purposes by state statute. It is needed legislation giving the Commissioner authority to develop rules, regulations standards and requirements for financial disclosure for the welfare of both consumer and the insurance companies.

The proposed bill allows a great deal of flexibility in the design of long term care benefits, a feature in the definition of LTC insurance which has two strong benefits for the consumer:

- 1) Insurance companies selling in Kansas can be very innovative which translates into being able to offer consumers a wider than usual choice of benefits and coverage.
- 2) Marketing a variety of innovative policies will also benefit the consumer by creating competition.



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Another noteworthy feature of S.B. No. 132 is the definition which is NOT intended to require that LTC be medically necessary. This is not the usual pattern but a liberal one for the consumer.

In addition this bill requires the insurance company to deliver to a purchaser of LTC insurance a written outline of the benefits, exclusions, exceptions and limitations, to name a few.

It should be borne in mind that the LTC insurance act, if adopted will not be a panacea for all care service needs.

Because this is a relatively new type of insurance, the companies marketing the product do not have the extent of experience to allow them to offer a low cost product. Most elderly would like to protect themselves from costly nursing home care. "According to research by ICF, Inc. for AARP, some 8.5% of elderly households will incur expenditure for nursing home care alone. These expenditures will average nearly \$21,000 in 1986"¹

Research by AARP in late 1984 among their members found a "serious misconception both among the younger, as well as older members as to the extent that Medicare and/or private insurance would meet the substantial costs associated with long-term care". "Nearly 80% of AARP's members, . . . believed Medicare would pay most if not all of the costs . . . of long-term care confinements in a nursing home" and "over 50% . . . felt that their private or group insurance would meet most, if not all the expense. Overcoming such misconceptions offers a challenge to the Kansas Insurance Department and to insurance companies marketing LTC insurance.

The fact remains S.B. No. 132 offers consumers an opportunity to obtain an alternative method for acquiring Long-Term health service and should therefore be made available as soon as possible.

¹"Rationale for Private Long Term Care Insurance", p. 3, February 1987, American Association of Retired Persons, 1909 K Street N.W., Washington, D.c.

TESTIMONY ON SB 132
TO
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE
BY THE
KANSAS DEPARTMENT ON AGING
FEBRUARY 18, 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
2/17/87

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).)