

Approved March 30, 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./~~p.m.~~ on March 27, 1987 in room 529-S of the Capitol.

All members were present except:

Senators Gordon, Warren, and Burke - Excused

Committee staff present:

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

Conferees appearing before the committee:

Onan Burnett, Topeka School Board, U.S.D. 501
Jim Sullins, Kansas Motor Car Dealers Association
Bill Pitsenberger, Blue Cross/Blue Shield
Ron Todd, Kansas Insurance Department

The minutes of March 26 were approved.

The hearing began on HB 2403 dealing with liability insurance on driver training cars for schools. Onan Burnett, Topeka School Board, U.S.D. 501, testified in support of the bill. He said it is designed to help school districts in being able to use dealers' tags on drivers training cars and allowing the school districts to be responsible for the insurance on these cars. At present, this is not possible, and the school districts must purchase the cars to be used as demonstrators and returned to the dealer. The bill would allow an expense of \$3 or \$4 per day per car with the use of dealers' tags rather than having to purchase the cars. The cars are used for only five or six thousand miles before returning them to the dealer.

Jim Sullins, Kansas Motor Car Dealers Association, testified further in support of HB 2403. (See Attachment I.) Sen. Werts had questions about the language of the bill which includes "non-public schools". He wondered how it would relate to "for profit schools". Mr. Sullins said this was not originally in the bill but was a House amendment meant to include parochial schools, and he assumed this is what is meant in the bill. Upon further thought, Sen. Werts said dealers would not be selling cars to "for profit schools" anyway, and Mr. Sullins agreed.

Sen. Gannon asked for a definition of an "accredited non-public school". Mr. Burnett said the intent was to mean parochial schools. Sen. Harder explained further regarding non-parochial accredited schools. This concluded the hearing on HB 2403.

Sen. Harder made a motion to report HB 2403 favorable for passage and that it be put on the consent calendar, Sen Werts seconded, and the motion carried.

The hearing on HB 2484 followed dealing with rights to continue medical group insurance policies. Bill Pitsenberger, Blue Cross/Blue Shield, testified in support of the bill. (See Attachment II.) In reference to his testimony, the chairman asked if this bill coordinates with COBRA, and Mr. Pitsenberger said that it does. Sen. Werts said if the bill is passed as is, the committee is prospectively adopting any future amendments by using the COBRA enactment date. He feels a definite date is needed instead, and Mr. Pitsenberger was agreeable to this being done.

The chairman asked if the bill addresses the difference between federal and state laws as to the six months provision and the 18 months provision stressed in Mr. Pitsenberger's testimony. Mr. Pitsenberger said it does. A short discussion followed regarding the absence of these differences in the bill, and Mr. Pitsenberger clarified that the purpose of the bill is to exempt from the application of state law those groups subject to federal law.

Ron Todd, Kansas Insurance Department, testified that the Department is in agreement

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on March 27, 1987.

with Mr. Pitsenberger regarding the questions arising about federal and state rights. The Department has no objections to the bill.

Sen. Werts made a motion to conceptually amend HB 2484 with reference to "as acts in effect in January, 1987.", Sen. Karr seconded, and the motion carried.

Sen. Werts mad a motion to recommend HB 2484 favorably as conceptually amended, Sen. Karr seconded, and the motion carried.

Discussion of bills previous heard began with a short discussion of HB 2123 dealing with deposit of assets by insurance companies. Sen. Werts made a motion to report HB 2123 favorably, Sen. Gannon seconded and began a sort discussion as to determining the magnitude of the effect of the bill, and the motion carried.

The chairman reminded the committee of a memo they had received on HB 2129 regarding risk retention from Mr. Todd and asked that they give it some attention.

With regard to HB 2407, the powers of the Credit Union Administrator, the chairman passed out copies of suggested amendments by Jim Holt of the Kansas Credit Union League. (See Attachment III.) He also informed the committee that Mr. Kasting had left word that a post audit is scheduled for April already, however, it is strickly a financial audit, not a performance. Also, the comparison of the difference in powers of the various commissioners has been prepared by staff.

The chairman passed out copies of a balloon prepared by Jerry Slaughter of the Kansas Medical Society as had been promised at the hearing on HB 2418 regarding medical malpractice. (See Attachment IV.)

The chairman had another pass out with suggested amendments from Jim Turner of the Kansas League of Savings Institutions regarding HB 2157 regarding savings and loan interstate branching. (See Attachment V.) The chairman asked if the suggestions would alleviate the concerns of the committee. A discussion followed regarding the reciprocal aspects of the bill and how it affects the revenues of the Savings and Loan Department.

Sen. Karr made a motion to amend HB 2157 using Option #1 presented by Mr. Turner, Sen. Harder seconded, and the motion carried.

Sen. Karr made a motion to report HB 2157 favorably as amended, Sen. Gannon seconded, and the motion carried.

The meeting was adjourned.

SENATE COMMITTEE

ON

FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
	LMCORNISH	Topeka	Assoc of Prof & Acad Cas
	JACK ROBERTS	TOPEKA	BC-BS
	Bill Pitsenberger	Topeka	BC-BS
	Bob Todd	"	Ins. Dept.
	Oran Bennett	Topeka	USA 587#
	JIM SULLIVAN	TOPEKA	VIS MOTOR CAR DEALERS ASSN
	Lyndon Drew	Topeka	KIOH
	LARRY MAGILL	"	IIAK
	Jim May	"	ICBA

Statement Before The
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

by the
KANSAS MOTOR CAR DEALERS ASSOCIATION

Friday, March 27, 1987

RE: House Bill 2403

Mr. Chairman and Members of the Committee. I am Jim Sullins, Executive Vice President of the Kansas Motor Car Dealers Association, the state trade association representing the 370 franchised new car and new truck dealers of Kansas.

First of all, I would like to express our sincere thanks to the Committee for giving us the opportunity to come before you this morning in support of HB 2403.

The purpose of the bill is to allow vehicle dealers to take advantage of a statute enacted last session concerning the use of dealer tags on drivers education vehicles. Prior to the enactment of that statute, dealers were required to assign ownership of the drivers ed vehicle to the school, who obtained title, registration, and insurance for the vehicle in the school's name. With the new statute, the dealer is able to retain ownership of the vehicle and allow the school to use one of the dealer's d-tags on the vehicle. While this saves the schools a few dollars, it realizes tremendous savings to the dealer. Due to the cost to the dealers of providing drivers ed vehicles, some dealers were pulling out of the program. That prompted the schools to request the legislation last year, which of course, we supported.

The one problem which was not addressed adequately deals with insurance liability. It is my understanding that under the Kansas no-fault law, responsibility and liability for insurance falls on the owner of the vehicle, and not the operator.

Under the situation we have before us, that puts the vehicle dealer in a very poor position. Since the dealer may legally loan the school a drivers ed car on dealer tag, the ownership of the vehicle remains with the dealer, and so does the liability. If, for example, a dealer loaned the vehicle to the school and the vehicle was involved in an accident, all of the liability would fall on the dealer's shoulders. This frankly is not a liability that the dealers are willing to assume.

After this possible flaw was discovered, KMCDA contacted the Kansas Insurance Department. The Insurance Department looked into this very carefully and determined that the only way to transfer the liability from the dealership to the school was through legislation. While the schools could possibly do several things in an attempt to protect the dealer, the ultimate liability would fall back on the owner of the vehicle, which in this case is the dealer. So, as you can see, the only solution to this problem is to affect a change legislatively.

The change we are requesting is found in lines 29-35, and simply exempts the "owner" of a vehicle used in a drivers training program from having to provide liability insurance coverage, and places the burden for the liability insurance on the schools.

Mr. Chairman and Members of the Committee, the dealers of Kansas have for many years participated in the drivers education programs offered by our public and private schools. We have, and will continue, to provide vehicles so that our young people can receive proper training in the operation of the vehicles which they so look forward to driving.

What we and the school districts are asking for here is the opportunity for dealers to provide these vehicles in a more cost efficient manner and without fear of an unfortunate mishap costing the dealer his livelihood.

We would hope that you will give HB 2403 serious consideration and respectfully request that HB 2403 be reported favorable for passage by the full Senate.

Thank you for your time and consideration, and I would be happy to answer any questions.

enate FI&I
March 27, 1987

Testimony of Blue Cross and Blue Shield (Bill Pitsenberger) on House Bill 2484.

- °For several years, we have had state laws that provide a right to continue group coverage for 6 months (1985 changes brought in Blue Cross and Blue Shield).
- °Comprehensive Omnibus Budget Reconciliation Act of 1986 ("COBRA") creates a federal right to continue an "employer group health plan" for 18 to 36 months for groups of 20 or more employees.
- °Both laws have same objectives -- provide a cushion or safety net for some period of time following a circumstance where one would otherwise lose insurance (termination of employment, death of employee, divorce, etc).
- °Some conflicts between the laws are noted in attached excerpt from Insurance Department bulletin.
- °Other conflicts:

State Law

If employer changes insurers, people on continuation stay with old insurer.

~~Changes from single to family may be allowed during continuation.~~

No right to continue "non-core" benefits (dental, vision, etc.)

Federal Law

If employer changes insurers, people on continuation go to new insurer.

~~Changes from single to family may not be possible during continuation.~~

Right to continue "non-core" benefits.

- °Biggest problems -- sorting out conflicting rights, responsibilities, liabilities of employees and employers, insureds and insurers.
- °House Bill 2484 merely exempts from state law those persons having continuation rights under federal law.

°Advantages:

- Clarifies the rights of the employees/insureds and the obligations and liabilities of the employers/insurers.
- Simplifies administration.
- Promotes sound decision-making.
- Increases the insureds/employees' understanding.
- Decreases incentive to self-insure.

**Comparison of
Continuation and Conversion of Group Health Benefits** *at present*

**KANSAS LAW
APPLICABILITY**

All insured groups
regardless of size

RESPONSIBILITY FOR ADHERENCE

The obligation is on the
insurance company

ELIGIBILITY

Employees or covered dependents
who have been covered
continuously for three months,
and has his/her group insurance
terminated for any reason, is
generally eligible for
continuation and conversion
benefits. The continuation
period applicable is 6 months.

Continuation and conversion
privileges are available to a
spouse or child whose coverage
under the group terminates
because of:

1. Death of the employee
2. A divorce of an employee;
or,
3. Child ceasing to be an
eligible dependent as
defined in the group
policy

**TERMINATION OF PERIOD OF
CONTINUATION**

There are no provisions for
termination of the period of
continuation once it
has started, with the
exception of failure to pay the
required premium. There are
reasons that could preclude
an insurer from offering the

**FEDERAL LAW*
APPLICABILITY**

Employer sponsored groups
with 20 or more employees including
self-funded arrangements, however
federal employers and church plans
are exempted.

RESPONSIBILITY FOR ADHERENCE

The obligation is on the
employer

ELIGIBILITY

Employees who lose group health
coverage due to voluntary termination
or discharge (other than for gross
misconduct). These individuals will
be allowed to continue to self-pay
their group health insurance for
18 months.

The following individuals are eligible
for 36 months continued coverage:

1. Surviving spouses and children of
deceased employees
2. Legally separated, divorced or
Medicare ineligible spouses and
children of current employees
3. Children of current employees who
lose coverage because of age or
marriage.

TERMINATION OF PERIOD OF CONTINUATION

Eligibility for continuation benefits
end if:

1. The individual has group health
coverage through another employer
(including a spouse's employer)
or from Medicare

continuation or conversion benefits otherwise required by Kansas law. These reasons are applicable if the insureds coverage terminated because:

1. Any discontinued group coverage was replaced by similar group coverage within 31 days.
2. The employee or member is or could be covered by any other similar group health plan which would not be available prior to termination.
3. He or she failed to pay any required premium contribution.
4. The employee or member is or could be covered by Medicare

NOTIFICATION

The entire responsibility for notification is placed on the insurer, therefore a covered person's failure to notify the carrier, employer, or administrator, should not constitute a waiver of any right under state law. After receiving notification of the right to continue health benefits or convert to an individual health policy, the insured has 31 days in which to notify the carrier that continuation or conversion is desired.

RATES

The insurer may charge the individual what the group is being charged and change premiums when the group's premiums are changed.

2. The premium for continuation coverage is not paid on time, or
3. The employer no longer sponsors group health coverage for any of its employees.

NOTIFICATION

The employee or family member has the responsibility to inform the plan administrator of a divorce, legal separation, or a child losing dependent status under a qualifying group health plan. The employer has the responsibility to notify the plan administrator of the employee's death, termination of employment, reduction in hours, or Medicare eligibility. The insured has at least 60 days from the date that coverage would terminate, to notify the plan administrator that continuation coverage is desired.

RATES

For insured plans, the employee may be charged up to 102% of the rate charged to the group. For a self-insured plan, a reasonable estimate of the per person cost of the plan

may be assessed to the employee or to the person continuing coverage.

CONVERSION

The option of converting to an individual health insurance policy is subject to the same eligibility requirements as those applicable to the continuation privilege. These are outlined in the eligibility section of this appendix.

One difference is that if the group policy is terminated and not replaced, the employee or member, at their option or at the option of the insurer, may be issued a conversion policy.

*The information contained in this comparison is based upon a preliminary interpretation of the Federal Act. Federal regulations and interpretation may result in changes in the administration of COBRA.

FP:jlh
2280

CONVERSION

At the end of the 18 or 36 month continuation period, the insured must be provided 180 days to enroll under an individual conversion policy otherwise available under the plan.

DATE: March 26, 1987
TO: The Senate Committee on Financial Institutions
and Insurance
FROM: Jim Holt, Legislative Consultant, Kansas Credit Union
League
SUBJECT: Suggested Amendment to HB 2407

MR. CHAIRMAN AND MEMBERS OF THE COMMITTEE, after a review of the provisions of this bill and SB 334, we are suggesting an amendment that is attached to this memo.

The amendment is consistent with the spirit of the Administrators bill and with the notice provisions of the Kansas Administrative Procedures Act. This amendment does not affect the type or timing of action the Administrator can take in relation to any order he may make. It only requires that each such order, whether given to a credit union or a person, be accompanied by a notice of right to appeal under KSA 17-2241 and the Kansas Administrative Procedures Act. The Administrator has reviewed this proposed change and indicated that he has no problem with it.

While SB 334 will amend some of the same provisions of the credit union law which this bill changes, most of the changes in HB 2407 are substantive and refer to 17-2241 for appeal procedures. By adopting this amendment the appeal procedures suggested in SB 334 will be substantially adopted and the effective date of these changes will be available a year earlier than provided in SB 334 which has an effective date of 1988.

MR. CHAIRMAN, I will attempt to answer any questions the committee may have on this proposed amendment.

0269 *damage that seriously prejudices the interests of the members.*
 0270 *The credit union may appeal the order pursuant to K.S.A.*
 0271 *17-2241, and amendments thereto.*

0272 (c) *The administrator shall have the power to subpoena*
 0273 *witnesses, compel their attendance, require the production of*
 0274 *evidence, administer oaths and examine any person under oath*
 0275 *in connection with any subject relating to a duty imposed upon*
 0276 *or authority vested in the administrator.*

0277 ✓ *Sec. 5. K.S.A. 17-2249 is hereby amended to read as follows:*
 0278 *17-2249. (a) If any credit union shall fail to obtain and maintain*
 0279 *insurance upon its shares as required under the provisions of*
 0280 *K.S.A. 17-2246, and amendments thereto, the administrator shall*
 0281 *notify the credit union that a continuation of such failure will*
 0282 *result in the revocation of its certificate of approval. If after*
 0283 *receipt of such notice the credit union fails or refuses to obtain*
 0284 *such insurance, the administrator shall, after a hearing or an*
 0285 *opportunity for a hearing has been given said credit union, grant*
 0286 *an extension of time in the manner authorized by K.S.A. 17-2246,*
 0287 *and amendments thereto, or revoke the certificate of approval*
 0288 *and shall cause one of said the administrator's agents to take*
 0289 *possession of the business of such credit union and retain pos-*
 0290 *session thereof until such time as such insurance is obtained or*
 0291 *the affairs of the credit union are finally liquidated. A credit*
 0292 *union may appeal such action pursuant to K.S.A. 17-2241, and*
 0293 *amendments thereto.*

0294 (b) *If any credit union shall fail to give notice that it does not*
 0295 *maintain insurance upon its shares in the manner required under*
 0296 *the provisions of K.S.A. 17-2247, and amendments thereto, the*
 0297 *credit union administrator shall notify such institution that a*
 0298 *continuation of such failure will result in the revocation of its*
 0299 *certificate of approval. If after receipt of such notice the credit*
 0300 *union fails or refuses to comply, the administrator shall, after a*
 0301 *hearing or an opportunity for a hearing has been given to such*
 0302 *credit union, grant an extension of time in the manner authorized*
 0303 *by K.S.A. 17-2247, and amendments thereto, or revoke its certifi-*
 0304 *cate of approval. Thereupon Proceedings shall be commenced*
 0305 *for the dissolution of such institution in the manner provided by*

Sec. 5. K.S.A. 172241 is hereby amended to read as follows:
 17-2241. An appeal may be taken to the council from any finding, ruling, order, decision or the final action of the administrator by any credit union or person who feels aggrieved thereby. In order for any finding, ruling, order, decision or final action of the administrator to be binding on a credit union or person, such finding, ruling, order, decision or final action must be accompanied by a notice of the affected credit union or person's right to appeal such action to the council. Notice of such appeal shall be filed with the chairman of the council within thirty (30) days after such findings, ruling, order, decision or other action, and a copy served upon the administrator. Such notice shall contain a brief statement of the pertinent facts upon which such appeal is grounded. ~~The council shall fix a date, time and place for hearing said appeal.~~ Upon receipt of a timely appeal, the council shall conduct a hearing thereon in accordance with the provisions of the Kansas administrative procedures act and shall notify the credit union, person or its their attorney of record thereof at least thirty (30) days prior to the date of said hearing. All decisions of the council arising out of an appeal shall be final and binding on all parties involved in such appeal.



KANSAS MEDICAL SOCIETY

1300 Topeka Avenue · Topeka, Kansas 66612 · (913) 235-2383

March 25, 1987

The Honorable Neil Arasmith
Chairman
Senate Financial Institutions and Insurance Committee
State Capitol Building
Topeka, Kansas 66612

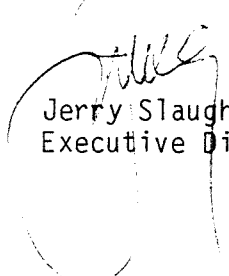
Dear Neil:

Thank you again for the opportunity yesterday to appear in support of HB 2418, the bill which contains several technical and cleanup amendments to the medical malpractice act passed last year.

During the hearing the Board of Healing Arts and the Kansas Hospital Association presented a couple of technical amendments which all conferees agreed should be adopted. Following the hearing we met with the various groups and prepared the enclosed balloon draft which contains all the suggested amendments. We would recommend that these be adopted by your committee.

Thanks again for the opportunity to appear on the bill, and if you have any questions about these amendments or other provisions of the bill, I would be happy to provide additional details.

Sincerely yours,



Jerry Slaughter
Executive Director

JS:nb

Enc.

0344 assessed a premium surcharge or be entitled to coverage under
 0345 the fund if such hospital has not paid any premium surcharge
 0346 pursuant to K.S.A. 40-3404 and amendments thereto prior to the
 0347 ~~effective date of this act and submits annually to the commis-~~ } January 1, 1988.
 0348 ~~sioner evidence, satisfactory to the commissioner, of professional~~ }
 0349 ~~liability insurance coverage or self-insurance in an amount not~~ } Delete
 0350 ~~less than the aggregate amount of coverage provided by basic~~ }
 0351 ~~coverage and coverage under the fund.]~~

0352 Sec. 3. K.S.A. 40-3404 is hereby amended to read as follows:
 0353 40-3404. (a) Except for any health care provider whose partici-
 0354 pation in the fund has been terminated pursuant to subsection (i)
 0355 of K.S.A. 40-3403 and amendments thereto, the commissioner
 0356 shall levy an annual premium surcharge on each health care
 0357 provider who has obtained basic coverage and upon each self-
 0358 insurer for each fiscal year. Such premium surcharge shall be an
 0359 amount equal to a percentage of the annual premium paid by the
 0360 health care provider for the basic coverage required to be main-
 0361 tained as a condition to coverage by the fund by subsection (a) of
 0362 K.S.A. 40-3402 and amendments thereto. The annual premium
 0363 surcharge upon each self-insurer, except for the university of
 0364 Kansas medical center for persons engaged in residency training,
 0365 shall be an amount equal to a percentage of the amount such
 0366 self-insurer would pay for basic coverage as calculated in ac-
 0367 cordance with rating procedures approved by the commissioner
 0368 pursuant to K.S.A. 40-3413 and amendments thereto. The annual
 0369 premium surcharge upon the university of Kansas medical
 0370 center for persons engaged in residency training shall be an
 0371 amount equal to a percentage of an assumed aggregate premium
 0372 of \$600,000.

0373 (b) In the case of a resident health care provider who is not a
 0374 self-insurer, the premium surcharge shall be collected in addi-
 0375 tion to the annual premium for the basic coverage by the insurer
 0376 and shall not be subject to the provisions of K.S.A. 40-252,
 0377 40-1113 and 40-2801 *et seq.*, and amendments thereto. The
 0378 amount of the premium surcharge shall be shown separately on
 0379 the policy or an endorsement thereto and shall be specifically
 0380 identified as such. Such premium surcharge shall be due and

0566 relocating within or expanding within the state. This exceptio
0567 shall not include those records pertaining to application o
0568 agencies for permits or licenses necessary to do business or t
0569 expand business operations within this state, except as otherwis
0570 provided by law.

0571 (32) The bidder's list of contractors who have requested bi
0572 proposals for construction projects from any public agency, unt
0573 a bid is accepted or all bids rejected.

0574 (33) Engineering and architectural estimates made by or fo
0575 any public agency relative to public improvements.

0576 (34) Financial information submitted by contractors in quali
0577 fication statements to any public agency.

0578 (35) Records involved in the obtaining and processing o
0579 intellectual property rights that are expected to be, wholly o
0580 partially vested in or owned by a state educational institution, a
0581 defined in K.S.A. 76-711 and amendments thereto, or an assignee
0582 of the institution organized and existing for the benefit of the
0583 institution.

0584 (36) *Any report or record which is made pursuant to K.S.A.*
0585 *1986 Supp. 65-4922, 65-4923 or 65-4924, and amendments*
0586 *thereto, and which is privileged pursuant to K.S.A. 65-4915 or*
0587 *K.S.A. 1986 Supp. 65-4925, and amendments thereto.*

0588 ~~(37) Any information used by the commissioner of insurance~~
0589 ~~to determine experience ratings of health care providers pursu~~ } Delete
0590 ~~ant to K.S.A. 40-3404a and amendments thereto.~~

0591 (b) Except to the extent disclosure is otherwise required by
0592 law or as appropriate during the course of an administrative
0593 proceeding or on appeal from agency action, a public agency or
0594 officer shall not disclose financial information of a taxpayer
0595 which may be required or requested by a county appraiser to
0596 assist in the determination of the value of the taxpayer's property
0597 for ad valorem taxation purposes; or any financial information of
0598 a personal nature required or requested by a public agency or
0599 officer, including a name, job description or title revealing the
0600 salary or other compensation of officers, employees or applicants
0601 for employment with a firm, corporation or agency, except a
0602 public agency. Nothing contained herein shall be construed to

0973 admissible in evidence in any judicial or administrative pro
 0974 ceeding. *Information contained in such records shall not be*
 0975 *discoverable or admissible at trial in the form of testimony by*
 0976 *an individual who participated in the peer review process.* This
 0977 privilege may be claimed by the legal entity creating the peer
 0978 review committee *or officer*, or by the commissioner of insur-
 0979 ance for any records or proceedings of the board of governors.

0980 (d) ~~Subsection (e) of this section (c)~~ *Subsection (b)* shall not
 0981 apply to proceedings in which a health care provider contests the
 0982 revocation, denial, restriction or termination of staff privileges or
 0983 the license, registration, certification or other authorization to
 0984 practice of the health care provider.

0985 (e) (d) Nothing in this section shall limit the authority, which
 0986 may otherwise be provided by law, of the commissioner of
 0987 insurance, the state board of healing arts or other health care
 0988 provider licensing or disciplinary boards of this state to require a
 0989 peer review committee *or officer* to report to it any disciplinary
 0990 action or recommendation of such committee, *or officer*; to
 0991 transfer to it records of such committee's *or officer's* proceedings
 0992 or actions to restrict or revoke the license, registration, certifica-
 0993 tion or other authorization to practice of a health care provider; or
 0994 to terminate the liability of the fund for all claims against a
 0995 specific health care provider for damages for death or personal
 0996 injury pursuant to subsection (g) (i) of K.S.A. 40-3403 and
 0997 amendments thereto. Prior to the filing of an action initiating a
 0998 formal disciplinary proceeding against a health care provider by
 0999 the state board of healing arts or other health care provider
 1000 licensing or disciplinary boards of this state, reports and records
 1001 so furnished shall not be subject to discovery, subpoena or other
 1002 means of legal compulsion and their release to any persons or
 1003 entity will not be admissible in evidence in any judicial or
 1004 administrative proceeding. After such an action is filed, the
 1005 reports and records dealing with the licensee and related to the
 1006 action shall be deemed public records.

1007 (e) *A peer review committee or officer may report its find-*
 1008 *ings to another peer review committee or officer* ~~without waiver~~
 1009 *of the privilege provided by subsection (b) and the records of all*

or to a board of directors or an administrat
 officer of a health care provider

0010 such committees or officers relating to such report shall be
0012 privileged as provided by subsection (b).

0013 Sec. 6 8. K.S.A. 1986 Supp. 65-4921 is hereby amended to
0014 read as follows: 65-4921. As used in K.S.A. 1986 Supp. 65-4921
0015 through 65-4930, and amendments thereto:

0016 (a) "Appropriate licensing agency" means the agency that
0017 issued the license to the individual or health care provider who
0018 is the subject of a report under this act.

0019 (b) "Department" means the department of health and envi-
0020 ronment.

0021 (b) (c) "Health care provider" has the meaning provided by
0022 K.S.A. 40-3401 and amendments thereto.

0023 (c) (d) "License," "licensee" and "licensing" include com-
0024 parable terms which relate to regulation similar to licensure,
0025 such as certification or registration.

0026 (d) (e) "Medical care facility" has the meaning provided by
0027 K.S.A. 65-425 and amendments thereto.

0028 (e) (f) "Reportable incident" means an act by a health care
0029 provider which: (1) Is or may be below the applicable standard of
0030 care; or (2) may be grounds for disciplinary action, pursuant to
0031 K.S.A. 65-2836 and amendments thereto and has a reasonable
0032 probability of causing injury to a patient.

and has a reasonable probability of causing
injury to a patient

by the appropriate licensing agency.

0033 (f) (g) "Risk manager" means the individual designated by a
0034 medical care facility to administer its internal risk management
0035 program and to receive reports of reportable incidents within the
0036 facility.

0037 (g) (h) "Secretary" means the secretary of health and envi-
0038 ronment.

0039 Sec. 7 9. K.S.A. 1986 Supp. 65-4922 is hereby amended to
0040 read as follows: 65-4922. (a) Each medical care facility shall
0041 establish and maintain an internal risk management program
0042 which shall consist of:

0043 (1) A system for investigation and analysis of the frequency
0044 and causes of reportable incidents within the facility;

0045 (2) measures to minimize the occurrence of reportable in-
0046 cidents and the resulting injuries within the facility; and

0047 (3) a reporting system based upon the duty of all health care

0085 follows:

0086 (1) If the reportable incident did not occur in a medical care
 0087 facility, the report shall be made to the appropriate state or
 0088 county professional society or organization, which shall refer the
 0089 matter to a professional practices review committee duly consti-
 0090 tuted pursuant to the society's or organization's bylaws. The
 0091 committee shall investigate all such reports and take appropriate
 0092 action. The committee shall have the duty to ~~include with its~~
 0093 ~~quarterly~~ report to the appropriate state licensing agency any
 0094 finding by the committee that a health care provider acted below
 0095 the applicable standard of care, ~~or in a manner which may be~~
 0096 ~~grounds for disciplinary action pursuant to K.S.A. 65-2836 and~~
 0097 ~~amendments thereto and which has a reasonable probability of~~
 0098 ~~causing injury to a patient~~, so that the agency may take appro-
 0099 priate disciplinary measures.

which action had a reasonable probability
 of causing injury to a patient;
 by the appropriate licensing agency.

0100 (2) If the reportable incident occurred within a medical care
 0101 facility, the report shall be made to the chief of the medical staff,
 0102 chief administrative officer or risk manager of the facility. The
 0103 chief of the medical staff, chief administrative officer or risk
 0104 manager shall refer the report to the appropriate executive com-
 0105 mittee or professional practices peer review committee which is
 0106 duly constituted pursuant to the bylaws of the facility. The
 0107 committee shall investigate all such reports and take appropriate
 0108 action, including recommendation of a restriction of privileges at
 0109 the appropriate medical care facility. In making its investigation,
 0110 the committee may also consider treatment rendered by the
 0111 health care provider outside the facility. The committee shall
 0112 have the duty to report to the appropriate state licensing agency
 0113 any finding by the committee that a health care provider acted
 0114 below the applicable standard of care, ~~or in a manner which may~~
 0115 ~~be grounds for disciplinary action pursuant to K.S.A. 65-2836 and~~
 0116 ~~amendments thereto and which has a reasonable probability of~~
 0117 ~~causing injury to a patient~~, so that the agency may take appro-
 0118 priate disciplinary measures.

which action had a reasonable probability
 of causing injury to a patient;
 by the appropriate licensing agency.

0119 (3) If the health care provider involved in the reportable
 0120 incident is a medical care facility, the report shall be made to the
 0121 chief of the medical staff, chief administrative officer or risk

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0159 number of reportable incidents reported, whether an investiga-
0160 tion was conducted and any action taken.

0161 (c) If a state agency that licenses health care providers de-
0162 termines that a review or executive committee referred to in
0163 subsection (a) is not fulfilling its duties under this section, the
0164 agency, upon notice and an opportunity to be heard, may require
0165 all reports pursuant to this section to be made directly to the
0166 agency.

0167 (f) The provisions of this section shall not apply to a health
0168 care provider acting solely as a consultant or providing review at
0169 the request of any person or party.

0170 Sec. 0 11. K.S.A. 1986 Supp. 65-4925 is hereby amended to
0171 read as follows: 65-4925. (a) The ~~following~~ reports and records
0172 made pursuant to K.S.A. 1986 Supp. 65-4923 or 65-4924, and
0173 amendments thereto, shall be confidential and ~~are not privi-~~
0174 ~~leged. Such reports and records shall not be subject to discov-~~
0175 ~~ery, subpoena or other means of legal compulsion for their~~
0176 ~~release to any person or entity and shall not be admissible in any~~
0177 ~~civil or administrative action other than a disciplinary proceed-~~
0178 ~~ing by the appropriate state licensing agency.~~

0179 (1) Reports and records of executive or review committees of
0180 medical care facilities or of a professional society or organization;

0181 (2) reports and records of the chief of the medical staff, chief
0182 administrative officer or risk manager of a medical care facility;
0183 and

0184 (3) reports and records of any state licensing agency or im-
0185 paired provider committee of a professional society or organiza-
0186 tion; and

0187 (4) reports made pursuant to this act to or by a medical care
0188 facility risk manager, any committee or any consultant.

0189 (b) No person in attendance at any meeting of an executive or
0190 review committee of a medical care facility or of a professional
0191 society or organization while such committee is engaged in the
0192 duties imposed by K.S.A. 1986 Supp. 65-4923 shall be compelled
0193 to testify in any civil, criminal or administrative action, other
0194 than a disciplinary proceeding by the appropriate licensing
0195 agency, as to any committee discussions or proceedings.

Delete

, including:

Delete

, the board of directors, administrative officer

Such reports and records shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity and shall not be admissible in any civil or administrative action other than a disciplinary proceeding by the appropriate state licensing agency.

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0122 manager of the facility. The chief of the medical staff, chief
 0123 administrative officer or risk manager shall refer the report to the
 0124 appropriate executive committee which is duly constituted pur-
 0125 suant to the bylaws of the facility. The executive committee shall
 0126 investigate all such reports and take appropriate action. The
 0127 committee shall have the duty to report to the department of
 0128 health and environment any finding that the facility acted below
 0129 the applicable standard of care ~~or in a manner which may be~~
 0130 ~~grounds for disciplinary action pursuant to K.S.A. 65-2836 and~~
 0131 ~~amendments thereto~~ and which has a reasonable probability of
 0132 causing injury to a patient, so that appropriate disciplinary mea-
 0133 sures may be taken.

0134 (4) As used in this subsection (a), "knowledge" means famil-
 0135 iarity because of direct involvement or observation of the in-
 0136 cident.

0137 (5) This subsection (a) shall not be construed to modify or
 0138 negate the physician-patient privilege, the psychologist-client
 0139 privilege or the social worker-client privilege as codified by
 0140 Kansas statutes.

0141 (b) If a reportable incident is reported to a state agency which
 0142 licenses health care providers, the agency may investigate the
 0143 report or may refer the report to a review or executive committee
 0144 to which the report could have been made under subsection (a)
 0145 for investigation by such committee.

0146 (c) When a report is made under this section, the person
 0147 making the report shall not be required to report the reportable
 0148 incident pursuant to K.S.A. 65-28,122 and amendments thereto.
 0149 When a report made under this section is investigated pursuant
 0150 to the procedure set forth under this section, the person or entity
 0151 to which the report is made shall not be required to report the
 0152 reportable incident pursuant to K.S.A. 65-28,121 or 65-28,122,
 0153 and amendments thereto.

0151 (d) Each review and executive committee referred to in sub-
 0155 section (a) shall submit to the appropriate state licensing agency,
 0156 on a form promulgated by such agency, at least once every three
 0157 months, a report summarizing the reports received by the com-
 0158 mittee pursuant to this section. The report shall include the

in a manner which is

Delete

KLSI Kansas League of Savings Institutions

JAMES R. TURNER, President • Suite 512 • 700 Kansas Ave. • Topeka, KS 66603 • 913/232-8215

March 25, 1987

TO: SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE
FROM: JIM TURNER, KANSAS LEAGUE OF SAVINGS INSTITUTIONS
RE: AMENDMENTS TO H.B. 2157

Pursuant to the committee request we have attached two proposed amendments to H.B. 2157 to clarify the restriction on branches in states other than Kansas. We would prefer Option 1 as it would allow the State Savings and Loan Department the regulatory flexibility needed if the Federal regs are changed in the future. However, we would accept either amendment as important to the continuation of a viable State Savings and Loan Department.

During the past year four of the thirty two state-chartered associations provided 67% of the fee income to sustain the S&L Department. We were advised by two of these associations yesterday (Franklin Savings, Ottawa, and Fidelity Savings, Wichita) that they will proceed with conversion to federally-chartered should H.B. 2157 not be enacted. These two associations represent 48% of the fee income to the Department this year.

Obviously, a move to assign H.B. 2157 to an interim would be a major step in the abolition of the State S&L Department and elimination of the dual system in Kansas.

J.T.

JRT:bw

Encl.

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AMENDMENTS TO H.B. 2157

Insert the following language on line 29 and line 37 after the word Kansas:

Option 1: Such regulations shall not exceed the authority granted to federally chartered savings and loan associations to operate a branch in a state other than Kansas.

Insert the following language on line 29 and line 37 after the word Kansas:

Option 2: Such branch office in a state other than Kansas may be established only in connection with the acquisition of a failing institution under supervisory control.