Approved MARCH 28, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by REPRESENTATIVE DALE SPRAGUE at
Chairperson

3:30 ~~X~~a.m./p.m. on MARCH 22, 19 88 in room 531-N of the Capitol.

All members were present except:

Representative Gross, excused

Committee staff present:

Chris Courtwright, Research Department
Bill Edds, Revisor of Statutes Office
Nancy Wolff, Secretary

Conferees appearing before the committee:

Dick Brock, Kansas Insurance Department
William W. Sneed, American Investors Insurance
Mark Heitz, American Investors Life Insurance
Bill Pittsenberger, Blue Cross-Blue Shield

The meeting was called to order by the Chairman.

Representative Littlejohn made a motion that the minutes of the meetings held on March 15, 1988 and March 16, 1988 be approved and Representative Hoy seconded the motion. The motion carried.

Hearings were held on Senate Bill 642 which was requested by American Investors Insurance Company. Chris Courtwright, Research Department explained that SB 642 would amend a section of the insurance holding company statutes. The bill would allow an insurer to pay an extraordinary dividend, with the approval of the Commissioner of Insurance, out of any funds, other than surplus profits, arising from the insurer's business. Current law provides that dividends may only be paid out of the surplus profits of the insurance company.

William W. Sneed, on behalf of American Investors Life Insurance Company, testified in support of favorable passage of Senate Bill 642. (Exhibit I) He presented the committee with a flow chart outlining how surplus profits are tracked from contributions to surplus. (Exhibit II) Mark Heitz, CEO of American Investors, stated that the surplus fund of American Investors are invested like policy reserves of the company.

There being no opponents to Senate Bill 642, the hearings were closed.

Hearings were then held on Senate Senate Bill 539. This bill would amend the statutes on group sickness and accident insurance. The bill would prohibit any policy providing benefits to any member of a single employer group from containing any provision preventing any employee from insurance coverage, with some exception. An employee or dependent who does not enroll by the end of an open enrollment period may be subject to a waiting period, not to exceed one year, for any pre-existing condition and any hospitalization in progress on the date of enrollment need not be covered.

Dick Brock, Kansas Insurance Department, testified that SB 539 was one of the Department's proposals. He stated that the bill was extensively amended in the Senate and what they were originally attempting to do was to prevent accident and health insurance companies from accepting only the healty members of a group and rejecting those whose health condition did not meet the insurer's standard.

Bill Pittsenburger, Blue Cross and Blue Shield, testified in support of SB 539 and stated that BC-BS operates on the premise that group insurance is group insurance and they will underwrite it all.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON INSURANCE,

room 531-N, Statehouse, at 3:30 XX a.m./p.m. on MARCH 22, 1988.

Health Insurance Association of America mailed a statement to the committee which stated that the Associaton opposes the language in Senate bill 539 unless additional amendments are made to clarify the language that has been proposed. (Exhibit III)

There being no other conferees, the hearings were closed.

The committee then turned its attention to Senate Bill 537, which was heard at hearings on March 15. Bill Edds reviewed the balloon copy of amendments submitted by Emaline Correll which were primarily clean-up in nature. (Exhibit IV)

Representative Beauchamp made a motion that the committee adopt the balloon amendments and Representative Brown seconded the motion. The motion carried.

Representative Hoy made a conceptual motion that the $150,000 figure throughout the bill be reduced to the original figure of $10,000 and all corresponding corrections be made throughout the bill. Representative Neufeld seconded the motion. The motion carried.

Representative Brady made amotion that Senate Bill 537 be passed as amended and Representative Hoy seconded the motion. The motion carried.

The committee then took up Senate 538 which was heard on March 16. Representative Shauf made a motion that Senate Bill 538 be passed favorably and placed on the consent calendar and Representative Brady seconded the motion. The motion carried.

The committee then turned the discussion to Senate Bill 623, heard on March 17. Representative Brady made a motion that the effective date of the bill be changed so the legislation would take effect "on publication in the Kansas Register". Representative Turnquist seconded the motion. The motion carried.

Representative Hoy made a conceptual motion that throughout the bill, a cleanup amendment be made following the word "engaged" that the language be added "or who was engaged". Representative Brady seconded the motion. The motion carried.

Representative Neufeld made a motion that on line 254 the word "stabilization" be changed to "availability". Representative Hoy seconded the motion. The motion carried.

Representative Shauf made a motion that the balloon (Exhibit V) be amended into SB 623 in its entirety. Representative Bryant seconded the motion and the motion carried.

Representative Hoy made a motion that SB 623 be passed favorably as amended and Representative Turnquist seconded the motion. The motion carried.

Representative Schauf madek a motion tha SB 624 be reported unfavorably and representative Brown seconded the motion. Following discussion, Representative Brown withdrew the second and Representative Harper seconded the motion.

Representative Brady made a substitute motion that Senate Bill 624 be tabled until Tuesday, and Representative Hoy seconded the motion. The motion failed 4-5.

The original motion that Senate Bill 624 be reported adversely, passed.

The meeting was adjourned.

M E M O R A N D U M

TO : The Honorable Dale Sprague
Chairman, House Insurance Committee

FROM : William W. Sneed

RE : Senate Bill 642

DATE : March 22, 1988

On behalf of American Investors Life Insurance Company, please accept this memorandum as our testimony in support of favorable passage of Senate Bill 642. We requested the introduction of Senate Bill 642 to amend the Kansas Insurance Holding Company Act found at K.S.A. 40-3306. After its introduction, the Senate Financial Institution and Insurance Committee held hearings, and on March 3, 1988, by a vote of 39-0, the bill passed the Senate.

Prior to 1974, K.S.A. 40-233 provided the statutory authority relative to insurance companies issuing dividends. This law was passed during the 1920's, and has basically remained unchanged since that point in time. During the 1970's, it became obvious to the Kansas Insurance Department and to the legislature that there was a need for regulatory guidance over insurance holding companies. Holding companies are corporate entities which own either 100% or the majority of control of an insurance company. Effective July 1, 1974, the Kansas Insurance Holding Company Act was passed by the Kansas legislature, and since then has remained basically the same. Amendments to the Holding Company Act have been made, but normally these changes have dealt with technical

revisions usually brought about by changes in various corporate laws.

The amendment before the Committee would amend the section which deals with extraordinary dividends. Again, the statute relating to insurance company dividends is found at K.S.A. 40-233, and the section dealing with insurance holding company dividends is found at K.S.A. 40-3306. During the last year, my client became aware of a possible conflict between the two named statutes. It had been the belief of my client that in relationship to dividends dealing with the holding company, K.S.A. 40-3306 would apply. However, in conferring with the Kansas Insurance Department, it is their opinion that not only would K.S.A. 40-3306 apply, but any dividends in relationship to the insurance company and its holding company would have to comply with K.S.A. 40-233.

The amendment before you would allow an insurance company to declare and pay a dividend, SUBJECT TO THE KANSAS INSURANCE DEPARTMENT'S APPROVAL, notwithstanding whether or not such dividend request would comply with K.S.A. 40-233.

Although at first glance it would appear that we are trying to avoid regulation, we are, to the contrary, trying to comply with the holding company statute. Because funding mechanisms within a holding company system are different than the funding found only within an insurance company, the holding company system needs the ability to, with the Department's approval, be able to declare dividends

when the insurance company might not normally be able to declare such dividends under K.S.A. 40-233.

K.S.A. 40-233 states that dividends can only be paid from funds arising out of surplus profits of the insurance company. If you are dealing solely with an insurance company, such regulatory provisions are applicable and straightforward. However, when dealing with a holding company system, the insurance company may have a limited amount of "surplus profits" available, but would have additional undivided surplus which a non-holding company insurance company might not have available. Thus, if an insurance company within a holding company system does in fact have these funds available, we are simply requesting the ability to make application to the Kansas Insurance Department, demonstrate that the funds are available, and request the issuance of such a dividend. Once again, these funds would not endanger that surplus which is utilized for the benefit of the policyholders. Although a term of art, such funds are more like undivided profits that you would normally find in a non-insurance company corporation.

Thus, on behalf of my client, we respectfully suggest that such an amendment is in the best interest of the policyholders. We base this conclusion on the fact that the ability to issue such dividends makes the parent holding company more marketable, and as such, increases its value.

Thus, as the parent company increases its value, so does the insurance company.

Again, on behalf of my client, we wish to thank you for the opportunity to present this material, and would be happy to answer any questions at your request.

Respectfully submitted,

GEHRT & ROBERTS, CHARTERED

William W. Sneed

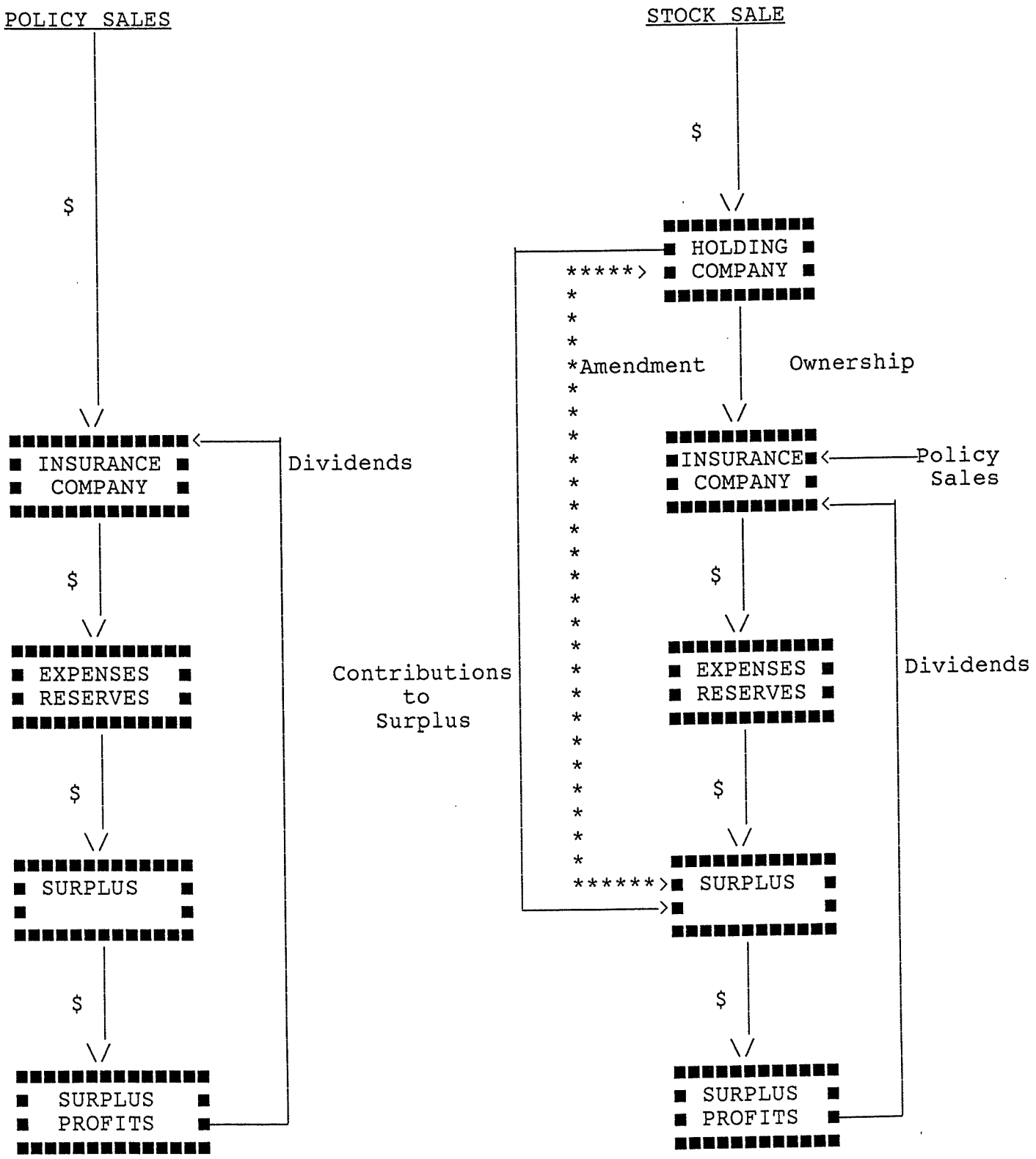
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EXHIBIT II

STATEMENT TO THE HOUSE INSURANCE COMMITTEE

OF THE KANSAS LEGISLATURE

ON BEHALF OF THE HEALTH INSURANCE ASSOCIATION OF AMERICA

CONCERNING SENATE BILL 539

The Health Insurance Association of America (HIAA) represents approximately 360 insurance companies responsible for over 85% of the health insurance written by health insurance companies in the United States today. The HIAA opposes the proposed language in Senate Bill 539 unless there are additional amendments to clarify the language that has been proposed.

First, on page 2, line 51 through 56, provides for a continuation of coverage in situations involving the replacement of one policy by another policy. While the HIAA has long supported the National Association of Insurance Commissioners "Group Coverage Discontinuance and Replacement Model Regulation", there is a need for additional language which makes it clear that the insured under the replaced policy is subject to preexisting condition limitations, deductibles and waiting periods of a replacing policy. As a result, the HIAA would suggest the following underlined language be added in page 2 on line 56 after the word "policy".

A replacing policy may subject an insured to any preexisting condition waiting periods, deductibles and other such limitations only to the extent to which similar limitations remain unexpired under the policy being replaced.

EXHIBIT III

Second, the proposed amendatory language from line 56 through 69 appears to apply to "new issue" policies. Most situations involving a change in health care plans are the result of the replacement of one insurance policy with another policy. However, there are "new issue" situations in which a company decides for the first time to offer health care benefits to its employees or a self-insured makes a determination to obtain health care benefits for its employees under a health insurance contract. The HIAA requests a second amendment which is technical in nature and would be inserted in line 0057 as follows:

> Except employees and individual dependent or family members enrolling in a group policy . . . This amendment clarifies the status of dependents and family members as being eligible as "late entrants". "Late entrants" are persons attempting to enroll in the group policy after the open enrollment period.

Finally, while these two proposals urged by the HIAA as clarifications would be helpful in understanding and implementing Senate Bill 539, they do not remove the HIAA's basic objection to legislation that may force employers into the self-funded market. There are valid reasons why a newly issued group policy may exclude an employee or an employee's family member. Some employers may decide not to provide dependent coverage. When an employer becomes self-insured, the Life and Health Guaranty Fund, Unfair Claims Settlement Practices Act, mandated benefit laws, continuation and conversion requirements, etc. do not apply as well as a loss of premium tax revenue to the state. Therefore, the HIAA maintains that this law should not be place on

insurance carriers but if the legislature believes that every working individual should have health insurance coverage, then they should require employers, not insurance companies, to obtain health care coverage for their employees. Thus, all employees would be covered in the state, not just the approximately 50% that have health care benefits provided under insurance contracts.

Thank you for the opportunity to express the position of the HIAA on Senate Bill 539.

Respectfully submitted,

Stephen W. Robertson

Senior Counsel
312-297-1490

rollment process, its operation, its quality assurance mechanism, its internal grievance procedures, the methods it proposes to use to offer its enrollees an opportunity to participate in matters of policy and operation, the geographic area or areas to be served, the location and hours of operation of the facilities at which health care services will be regularly available to enrollees *in the case of staff and group practices* ~~*(in all other cases a list of providers by specialty, with addresses and telephone numbers)*~~, the type and specialty of health care personnel engaged to provide health care services, ~~the number of personnel in each category~~ and a records system providing documentation of utilization rates for enrollees;

(5) copies of all contract forms the organization proposes to offer enrollees together with a table of rates to be charged;

(6) ~~a statement of the financial condition of the organization, balance sheet and projected sources and uses of funds;~~ *the following statements of the fiscal soundness of the organization:*

(A) Descriptions of financing arrangements for operational deficits and for developmental costs if operational one year or less;

(B) a copy of the most recent unaudited financial statements of the health maintenance organization;

(C) financial projections as follows:

~~*(i)*~~ *For a minimum of three years from the anticipated date of certification and on a monthly basis from the date of certification through one year;*

(ii) if the health maintenance organization is expected to incur a deficit, projections for each deficit year and for one year thereafter;

(iii) using accrual accounting system with generally accepted accounting principles;

~~*(D) financial projections shall include:*~~

(i) Monthly statements of revenue and expense for the first year on a gross dollar as well as per-member-per-month basis, with quarters consistent with standard calendar year quarters;

(ii) quarterly statements of revenue and expense for each subsequent year;

and the number of personnel in each specialty category.

in the case of staff and group practices

. In cases other than staff and group practices, the organization shall provide a list of names, addresses and telephone numbers of providers by specialty.

using an accrual accounting system with generally accepted accounting principles for a minimum of three years from the anticipated date of certification and on a monthly basis from the date of certification through one year. If the health maintenance organization is expected to incur a deficit, projections shall be made for each deficit year and for one year thereafter. Financial projections shall include:

EXHIBIT IV

sioner shall certify to the director of accounts and reports the amount of such payment, and the director of accounts and reports shall transfer an amount equal to the amount certified from the state general fund to the health care stabilization fund.

(2) Upon the payment of moneys from the health care stabilization fund pursuant to subsection (c)(12), the commissioner shall certify to the director of accounts and reports the amount of such payment which is equal to the basic coverage liability of self-insurers, and the director of accounts and reports shall transfer an amount equal to the amount certified from the state general fund to the health care stabilization fund.

(k) Notwithstanding any other provision of the health care provider insurance availability act, no psychiatric hospital licensed under K.S.A. 75-3307b and amendments thereto shall be assessed a premium surcharge or be entitled to coverage under the fund if such hospital has not paid any premium surcharge pursuant to K.S.A. 40-3404 and amendments thereto prior to January 1, 1988.

Sec. 2. K.S.A. 40-3414 is hereby amended to read as follows: 40-3414. (a) Any health care provider^ whose annual insurance premium is or would be $100,000 or more for basic coverage calculated in accordance with rating procedures approved by the commissioner pursuant to K.S.A. 40-3413 and amendments thereto, may qualify as a self-insurer by obtaining a certificate of self-insurance from the commissioner. Upon application of any such health care provider^, on a form prescribed by the commissioner, the commissioner may issue a certificate of self-insurance if the commissioner is satisfied that the applicant is possessed and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against such applicant arising from the applicant's rendering of professional services as a health care provider. In making such determination the commissioner shall consider (1) the financial condition of the applicant, (2) the procedures adopted and followed by the applicant to process and handle claims and potential claims, (3) the amount and liquidity of assets reserved for the settlement of

or any health care system organized and existing under the laws of this state which owns or controls and operates two or more medical care facilities licensed by the department of health and environment whose aggregate (hospitals)

or health care system

EXHIBIT V

claims or potential claims and (4) any other relevant factors. The certificate of self-insurance may contain reasonable conditions prescribed by the commissioner. Upon not less than five days' notice and a hearing pursuant to such notice, the commissioner may cancel a certificate of self-insurance upon reasonable grounds therefor. Failure to pay any judgment for which the self-insurer is liable arising from the self-insurer's rendering of professional services as a health care provider, the failure to comply with any provision of this act or the failure to comply with any conditions contained in the certificate of self-insurance shall be reasonable grounds for the cancellation of such certificate of self-insurance. The provisions of this subsection shall not apply to the Kansas soldiers' home or to any person who is a self-insurer pursuant to subsection (d) or (e).

(b) Any health care provider ~~who~~ such holds a certificate of self-insurance shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and amendments thereto.

(c) The Kansas soldiers' home shall be a self-insurer and shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and amendments thereto.

(d) A person engaged in residency training shall be self-insured by the university of Kansas medical center *for occurrences arising during such training*, and such person shall be deemed a self-insurer for the purposes of the health care provider insurance stabilization act. The university of Kansas medical center shall pay the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and amendments thereto on behalf of such person. Such self-insurance shall be applicable to a person engaged in residency training only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the dean of the school of medicine and the executive vice-chancellor of the university of Kansas medical center.

(e) (1) A person engaged in a postgraduate training program approved by the state board of healing arts at a medical care facility or mental health center in this state may be self-insured

or health care system that

(hospitals)