

Approved February 11, 1988
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 February 10, 1988 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:

Bill Sneed, American Investors Life
Ron Todd, Kansas Insurance Department
Cheryl Dillard, Kansas HMO Association

The minutes of February 9 were approved.

The meeting began with the request for the introduction of a bill by Bill Sneed of American Investors Life. (See Attachment I.) The bill amends the extraordinary dividends section of the Holding Company Act and is needed to avoid any conflicting statutes. Mr. Sneed noted that the Insurance Department has no problem with the bill.

Sen. Kerr made a motion to introduce the bill and refer it back to committee, Sen. Burke seconded, and the motion carried.

The hearing began on SB 536 which would require that health maintenance organizations contracts provide certain conversion of coverage provisions. Ron Todd, Kansas Insurance Department, testified in support of the bill. He explained that the bill contains the requirement that when a group policy is terminated, the person involved is given the right to continue the insurance. This is a limited conversion right because HMOs are geographical, and the person must remain in the area where he was terminated from the group policy to receive the conversion. Mr. Todd feels the bill contains a good public policy change.

The chairman asked what subsection (C) actually does. Mr. Todd said that it does the same type of things that KSA 40-209 relative to other insurance companies does. The chairman felt that line 69 was lacking a word--"for" after "incurred". Staff clarified that the words after "incurred" are modifiers and, therefore, no further words are needed.

Cheryl Dillard, Kansas HMO Association, testified in support of SB 536. (See Attachment II.) The chairman asked to whom the conversion would go in the case where the company leaves the area. Ms. Dillard said the HMO must create the opportunity to convert--not to another HMO but to a separate policy.

Sen. Harder asked if the cost would be the same for the converted policy or at an inflated cost. Ms. Dillard answered that line 48 of the bill tries to deal with this and that she thinks there is protection in other parts of the bill to keep this from happening. Sen. Kerr asked her if she envisions one HMO backing up another HMO. Ms. Dillard said this is possible because there is an eagerness to pick up the subscribers if there is an HMO in the area.

Sen. Werts had a question regarding page two, subsection (C), line 67. He asked with whom the burden rests to determine if an employee gets other coverage. Ms. Dillard said that federally approved HMOs are not permitted to drop individual subscribers but agreed that this section could read this way. Staff explained that this goes back to page one, subsection (7) where it states a conversion policy

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
room 529-S Statehouse, at 9:00 a.m./~~p.m.~~ on February 10, 1988

has to be provided only if coverage is terminated. Termination has to come first before the other sections of the statute apply. If a person is fired or if a person has some other type of coverage, coverage does not have to be provided. With this, the hearing on SB 536 concluded.

The chairman called the committee's attention to SB 537 dealing with HMOs which was heard yesterday. He recalled that there had been an amendment and that another amendment is needed on page six, lines 206 and 207, to return the language to the way it originally read. Sen. Karr made a motion to so amend lines 206 and 207, Sen. Reilly seconded, and the motion carried.

Sen. Burke made a motion to report SB 537 favorable for passage as amended, Sen. Gannon seconded, and the motion carried.

Attention was returned to SB 536. Staff and the committee discussed possible ways of dealing with "terminated" on line 63 in order to clarify the language. Staff had a suggestion submitted by John Peterson to strike lines 61 and 62 and insert "when". Sen. Werts made a motion to so amend the bill, Sen. Burke seconded, and the motion carried.

Sen. Karr made a motion to recommend SB 536 favorable for passage as amended, Sen. Burke seconded, and the motion carried.

The chairman told the committee that he had copies of a balloon of SB 489, previously heard, submitted by the Insurance Department. The Insurance Subcommittee will study the suggested amendments.

The meeting was adjourned.

SENATE COMMITTEE
ON
FINANCIAL INSTITUTIONS AND INSURANCE

OBSERVERS
(Please print)

DATE	NAME	ADDRESS	REPRESENTING
2/10/88	Tom Palace	Topeka	Savings League Services
	Joe A. Morris	TOPEKA	KLSI
	Guy Gibson	"	A.A.P. of Cong. Comm.
	Ken Baker	"	Kaiser Permanente
	Cheryl Dillard	Kansas City	Kaiser Permanente
	JACK ROBERTS	TOPEKA	BC-BS
	Bill Gloy	Topeka	FNU Kansas
	MARK HEITZ	TOPEKA	American Investors Life
	Bill Sneed	TOPEKA	American Investors Life
	RON TODD	"	Ks. Ins. Dept.
	LARRY MAGILL	"	IIAK

K.S.A. 40-3306

(c) No insurer subject to registration under K.S.A. 40-3305 shall pay any extraordinary dividend or make any other extraordinary distribution to its shareholders until (1) thirty (30) days after the commissioner of insurance has received notice of the declaration thereof and has not within such period disapproved such payment, or (2) the commissioner of insurance shall have approved such payment within such thirty (30) day period.

For purposes of this section, an extraordinary dividend or distribution includes any dividend or distribution of cash or other property, whose fair market value together with that of other dividends or distributions made within the preceding twelve (12) months exceeds the greater of (1) ten percent (10%) of such insurer's surplus as regards policyholders as of the 31st day of December next preceding, or (2) the net gain from operations of such insurer, if such insurer is a life insurer, or the net investment income, if such insurer is not a life insurer, for the twelve (12) month period ending the 31st day of December next preceding, but shall not include pro rata distributions of any class of the insurer's own securities. An extraordinary dividend or distribution shall also include any dividend or distribution made or paid out of any funds other than surplus profits arising from the insurer's business, as defined in K.S.A. 40-233. The provisions of K.S.A. 40-233 shall not be construed so as to prohibit an insurer, subject to registration under K.S.A. 40-3305, from making or paying an extraordinary dividend or distribution in accordance with this section.

Notwithstanding any other provisions of law, an insurer may declare an *Attachment I*

extraordinary dividend or distribution which is conditional upon the commissioner's approval hereof, and such a declaration shall confer no rights upon shareholders until (1) the commissioner of insurance has approved the payment of such dividend or distribution or (2) the commissioner of insurance has not disapproved such payment within the thirty (30) day period referred to above.

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TESTIMONY OF KANSAS HMO ASSOCIATION
BEFORE KANSAS SENATE COMMITTEE ON FINANCIAL
INSTITUTIONS AND INSURANCE

SENATE BILL NO. 536
FEBRUARY 10, 1988

Mr. Chairman, I am Cheryl Dillard, Government Relations Manager for Kaiser Permanente in Kansas City and President of the Kansas HMO Association. I am pleased to appear before the Committee to speak in support of Senate Bill No. 536.

The Kansas HMO Association has as members 12 health maintenance organizations who operate in the state of Kansas. Our members represent both Kansas-based as well as national organizations. The Kansas HMO Association was incorporated in 1986 and was formed for a number of purposes:

- to inform various audiences, among them legislators and regulators, about the managed health care industry;
- to provide services for members of the Association;
- to establish a good working relationship with the Commissioner and the Kansas Insurance Department.

It is the latter area where the Association has had the most success. We have established a relationship which we think joins the goals of the Association with those of the Insurance Commissioner - namely, to protect consumers, to increase consumer confidence in the HMO industry and to promote the growth in Kansas of the HMO industry.

Senate Bill No. 536 is a product of the cooperative effort between the Association and Commissioner Bell. In 1987, an HMO terminated coverage for members in a number of unprofitable markets in Kansas, but continued operations in others. Commissioner Bell's attention was drawn to the issue of members of HMOs losing health benefits coverage as the result of such an event. Senate Bill No. 536 was drafted as a result of that interest.

The Commissioner approached the Association on the subject of this conversion bill and invited our assistance in drafting legislation which would protect consumers and, at the same time, not unnecessarily handicap HMO industry operations in the state. The bill you are considering today meets both requirements and is the product of a joint effort between the Department and the Association.

HMOs grow and become successful by gaining new members. The great majority of HMO members join our plans through group contracts; that is, employers who have decided to offer an HMO to their employees as part of a company benefit plan. It is important to our industry that both employers and their work forces view HMOs as stable organizations, capable of providing health benefits coverage for a long period of time. When one HMO has financial difficulties or offers poor service to its

Attachment II

members, the reputation of the whole industry can suffer. The enactment of Senate Bill No. 536 will, we hope, increase consumer confidence in the HMOs who operate in Kansas.

The Bill provides that HMO members whose coverage is terminated for any reason have the right to obtain a converted contract, subject to certain exclusions.

This policy, already contained in the contracts of many HMOs, evidences our corporate responsibility to our subscribers and their families and allows them to continue coverage in an uninterrupted fashion.

Because it will increase consumer confidence in the HMO industry and because it seeks to codify the socially responsible manner in which most HMOs currently conduct their business, Senate Bill No. 536 has the support of the Kansas HMO Association.