

Approved February 7, 1989
Date

MINUTES OF THE House COMMITTEE ON Insurance

The meeting was called to order by Dale Sprague at
Chairperson

3:30 a.m. on January 31, 1989 in room 531-n of the Capitol.

All members were present except:

Representative Delbert Gross, absent

Committee staff present: Chris Courtwright, Research Department
Bill Edds, Revisor of Statutes
Patti Kruggel, Committee Secretary

Conferees appearing before the committee:

Others present: see attached list.

The meeting was called to order by the Chairman.

Representative Bill Bryant made a motion that the minutes of 1/17/89 be approved. Representative Allen seconded the motion. The motion carried.

Ron Todd, Kansas Insurance Department, presented the legislation proposed by the Insurance Commissioner to ask for introduction by the committee.

Legislative Proposal No. 1 (Attachment 1) would provide for continuation of the Health Care Provider Insurance Availability Plan often referred to as "the medical malpractice JUA". In the absence of enactment of this or a similar proposal the statutory authority for the existing plan will expire July 1, 1989.

Legislative Proposal No. 2 (Attachment 2) suggest some refinements to the changes in the agents licensing laws enacted by the 1988 legislature.

Legislative Proposal No. 4 (Attachment 3) would permit long term care insurance coverage to be incorporated in a life insurance contract.

Legislative Proposal No. 7 (Attachment 4) would provide for the payment of health insurance benefits to newly born children who are adopted within 90 days of birth and to other adopted children from the time they are placed with the insured.

Legislative Proposal No. 8 (Attachment 5) would require the payment of maternity benefits for the natural mother of a child or children adopted by the insured if certain conditions are met.

Legislative Proposal No. 11 (Attachment 6) would strengthen and broaden the disclosure requirements applicable to retirement homes or other facilities that provide shelter, medical services or other health-related benefits pursuant to a continuing care contract as defined in the proposal.

Representative Hoy made a motion that the House Insurance Committee introduce Legislative Proposals 1, 2, 4, 7, 8, and 11. Representative Flower seconded. The motion carried.

CONTINUATION SHEET

MINUTES OF THE House COMMITTEE ON Insurance,
room 531-N, Statehouse, at 3:30 axx/p.m. on _____, 1989

The Chairman opened discussion on HB 2047 -- Health Care Stabilization Fund, RE: Proposal No. 12. In summary of last weeks hearings, the Chairman felt that the proponents expressed the need for action abolishing the fund be taken as soon as possible. The impression given by the opponent, was that they do not oppose the general concept of abolishing the Fund, but prefer a 5 year phase out.

The Chairman also stated that in his opinion the Interim Committee did not have ample time to make a deliberate study of the Joint Underwriting Authority (JUA). It needs to be addressed, what affect HB 2047 would have on the residual market mechanism, so that doctors are not left out in the cold.

A suggestion was made by Representative Turnquist that the Committee consider appointing a subcommittee to consider either adopting the Medical Society's phase down plan, or, creating an advisory board with statutory authority. He feels that the medical profession needs to have say in the decision making.

Rep. Littlejohn agreed with Rep. Turnquist's suggestion to establish a Board. He stated that in his opinion, a phase out of the fund was preferable over an immediate cut off but, reminded the Committee that a type of JUA would still be needed for adequate coverage.

Chris Courtwright, Legislative Research Department, agreed to write a letter to Ted Fay, Insurance Department. He would ask them to direct DANI & Associates. to complete the actuarial study of a complete phase down and to instruct them to look at a three and five year phase down, using the Medical Society's graph.

Jerry Slaughter, Kansas Medical Society, offered that the actuary should be asked to price out the basis of the survey of physicians, if optional coverage were offered.

The Chairman asked if there were any other inclusions for request of DANI & Associates. There were none. The Chairman asked Bill Edds, Revisor, to draft two bills: (1) the Medical Society's proposal; and (2) Rep. Turnquist's proposal. A motion was made by Rep. Cribbs, seconded by Rep. Bryant. The motion carried.

A subcommittee was requested by the Chairman, to address what affect the phase down would have on the JUA. Rep. Allen was appointed Chairperson, Represenative's Wells and Turnbaugh will serve as members.

The meeting was adjourned at 4:30 p.m.

Explanatory Memorandum For
Legislative Proposal No. 1

HB 2181

1988 Insurance
Commissioner
Proposals

Legislative Proposal No. 1 recommends that the statutory "sunset" provisions relating to the Health Care Provider Insurance Availability Plan (HCPIAP) be deleted. The law now in effect would result in the termination of the HCPIAP, the plan that makes medical malpractice insurance available, as of July 1, this year (1989). As a result, many health care providers will be unable to procure necessary professional liability protection unless the authority underlying the HCPIAP is continued.

As an alternative to Legislative Proposal No. 1, the legislature may, of course, simply extend the date of termination to some future year. This is the procedure that has been followed in the past but, as the report of the 1988 Special Committee on Commercial and Financial Institutions suggests, the medical malpractice situation is not one that will be ignored if some statutory reminder is not present. In addition, the legislature established the authority for the HCPIAP in the first place and the legislature can remove such authority at any time. Thus, a statutory date certain does not appear to be necessary.

LEGISLATIVE PROPOSAL NO. 1

1 AN ACT relating to insurance; health care providers; professional
2 liability insurance; apportionment of risks among insurers; expiration;
3 amending K.S.A. 1987 Supp. 40-3413 and repealing the existing section.

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

4 Section 1. K.S.A. 40-3413 is hereby amended to read as follows:
5 40-3413. (a) Every insurer and every rating organization shall cooperate
6 in the preparation of a plan or plans for the equitable apportionment among
7 such insurers of applicants for professional liability insurance and such
8 other liability insurance as may be included in or added to the plan, who
9 are in good faith entitled to such insurance but are unable to procure the
10 same through ordinary methods. Such plan or plans shall be prepared and
11 filed with the commissioner within a reasonable time but not exceeding 60
12 calendar days from the effective date of this act. Such plan or plans shall
13 provide:

14 (1) Reasonable rules governing the equitable distribution of risks by
15 direct insurance, reinsurance or otherwise including the authority to make
16 assessments against the insurers participating in the plan or plans;

17 (2) rates and rate modifications applicable to such risks which shall
18 be reasonable, adequate and not unfairly discriminatory;

19 (3) a method whereby annually the plan shall compare the premiums
20 earned to the losses and expenses sustained by the plan for the preceding
21 fiscal year. If there is any surplus of premiums over losses and expenses
22 received for that year such surplus shall be transferred to the fund. If
23 there is any excess of losses and expenses over premiums earned such losses
24 shall be transferred from the fund;

25 (4) the limits of liability which the plan shall be required to
26 provide, but in no event shall such limits be less than those limits
27 provided for in subsection (a) of K.S.A. 40-3402 and amendments thereto;

28 (5) a method whereby applicants for insurance, insureds and insurers
29 may have a hearing on grievances and the right of appeal to the commissioner.

30 (b) The commissioner shall review the plan as soon as reasonably
31 possible after filing in order to determine where it meets the requirements
32 set forth in subsection (a). As soon as reasonably possible after the plan
33 has been filed the commissioner shall in writing approve or disapprove the
34 plan. Any plan shall be deemed approved unless disapproved within 30 days.
35 Subsequent to the waiting period the commissioner may disapprove any plan on
36 the ground that it does not meet the requirements set forth in subsection
37 (a), but only after a hearing held upon not less than 10 days' written
38 notice to every insurer and rating organization affected specifying in what
39 respect the commissioner finds that such plan fails to meet such
40 requirements, and stating when within a reasonable period thereafter such
41 plan shall be deemed no longer effective. Such order shall not affect any
42 assignment made or policy issued or made prior to the expiration of the
43 period set forth in the order. Amendments to such plan or plans shall be
44 prepared, and filed and reviewed in the same manner as herein provided with
45 respect to the original plan or plans.

46 (c) If no plan meeting the standards set forth in subsection (a) is
47 submitted to the commissioner within 60 calendar days from the effective
48 date of this act or within the period stated in any order disapproving an
49 existing plan, the commissioner shall after a hearing, if necessary to carry
50 out the purpose of this act, prepare and promulgate a plan meeting such
51 requirements.

52 (d) If, after a hearing, the commissioner finds that any activity or
53 practice of any insurer or rating organization in connection with the
54 operation of such plan or plans is unfair or unreasonable or otherwise
55 inconsistent with the provisions of this act, the commissioner may issue a
56 written order specifying in what respects such activity or practice is
57 unfair or unreasonable or otherwise inconsistent with the provisions of this
58 act and requiring discontinuance of such activity or practice.

59 (e) For every such plan or plans, there shall be a governing board
60 which shall meet at least annually to review and prescribe operating rules.
61 Such board shall consist of nine members to be appointed by the commissioner
62 as follows: Three members shall be representatives of foreign insurers, two
63 members shall be representatives of domestic insurers, two members shall be
64 representatives of the general public, one member shall be a licensed
65 insurance agent actively engaged in the solicitation of casualty insurance

66 and one member shall be a health care provider. The members shall be
67 appointed for a term of two years.

68 (f) An insurer participating in the plan approved by the commissioner
69 may pay a commission with respect to insurance written under the plan to an
70 insurance agent licensed for any other insurer participating in the plan or
71 to any insurer participating in the plan. Such commission shall be
72 reasonably equivalent to the usual customary commission paid on similar
73 types of policies issued in the voluntary market.

74 ~~(g) The provisions of this section shall expire on July 1, 1989, but~~
75 ~~any plan created hereunder shall continue to exist for the purpose of~~
76 ~~allowing policies then in effect to expire, transferring surplus to the~~
77 ~~fund, completing the payment of claims and receiving reimbursement therefor.~~

78 Sec. 2. K.S.A. 1987 Supp. 40-3413 is hereby repealed.

79 Sec. 3. This act shall take effect and be in force from and after its
80 publication in the statute book.

Explanatory Memorandum For
Legislative Proposal No. 2

HB 2382

Legislative Proposal No. 2 suggests some refinements to the significant changes in the agents licensing laws that were enacted by the 1988 Kansas Legislature. Specifically, the 1988 legislation authorized the Commissioner to contract with private business to develop and conduct agents licensing qualification examinations. This has now been done and as a result two changes in licensing procedures are now possible.

First, inasmuch as the basic prerequisite for an agent's license (e.g. good business reputation, high school graduate or equivalent, etc.) will be determined by the Insurance Department and the agents qualifying examination will be administered by a separate entity, it will no longer be necessary to determine an applicant's basic qualifications for an agent's license prior to administration of the examination. As a result, Legislative Proposal No. 2 recommends appropriate statutory amendments that will provide the flexibility necessary to permit applicants to meet the basic requirements for an agent's license and take the necessary qualifying examination in whatever order they choose.

Second, the administrative procedures that will apply under the new qualifying examination system will now permit the return of a major portion of the examination fee if the examination is not taken by an applicant and a proper notice of failure to appear as scheduled is given. Since the examination fee is established and displayed by means of an administrative regulation, removal of the statutory prohibition against returning the examination fee will permit such regulation to accommodate appropriate charges and refunds. In addition, strict notice requirements applicable to cancellation of a scheduled examination date will not be necessary under the new examination system. Therefore, Legislative Proposal No. 2 also recommends deletion of such requirements.

LEGISLATIVE PROPOSAL NO. 2

1 AN ACT relating to insurance; insurance agents; licensing, examination;
2 amending K.S.A. 1988 Supp. 40-240 and 40-241 and repealing the existing
3 sections.

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

4 Section 1. K.S.A. 1988 Supp. 40-240 is hereby amended to read as
5 follows: 40-240. (a) Any person desiring as agent to engage in the
6 insurance business, as herein set out, shall ~~first~~ apply to the
7 commissioner of insurance of this state, in the manner hereinafter
8 prescribed, for an insurance agent's license, authorizing such agent to
9 engage in and transact such business. The applicant for such license shall
10 file with the commissioner of insurance such applicant's written application
11 for a license authorizing the applicant to engage in the insurance business
12 and the applicant shall make sworn answers to such interrogatories as the
13 commissioner of insurance may require on uniform forms and supplements
14 prepared by the commissioner. A nonrefundable fee in the amount of \$20
15 shall accompany such application. Such applicant, if an individual, shall
16 establish:

17 (1) That the applicant is a graduate of an accredited four-year high
18 school or its equivalent. This requirement shall not apply to any person
19 holding a valid agent's license as of July 1, 1971, or a full-time student
20 enrolled in an accredited high school in this state while and to the extent
21 such student is participating in an insurance project sponsored by a bona
22 fide junior achievement program; and

23 (2) that the applicant is of good business reputation and is worthy of
24 a license.

25 (b) Corporations, associations, partnerships, sole proprietorships and
26 other legal entities acting as insurance agents and holding a direct agency
27 appointment from an insurance company or companies are required to obtain an
28 insurance agent's license. Application for such license shall be made to
29 the commissioner on a form prescribed by such commissioner. Before granting
30 the license, the commissioner shall determine that:

31 (1) Each officer, director, partner and employee of the applicant who
32 is acting as an insurance agent is licensed as an insurance agent;

33 (2) the applicant has disclosed to the insurance department all
34 officers, directors and partners whether or not they are licensed as
35 insurance agents;

36 (3) the applicant has disclosed to the insurance department all
37 officers, directors, partners and employees who are licensed as insurance
38 agents; and

39 (4) the applicant has designated a licensed officer, employee, partner
40 or other person responsible for the organization's compliance with the
41 insurance laws and rules and regulations of this state.

42 (c) The insurance department may require any documents reasonably
43 necessary to verify the information contained in the application.

44 (d)(1) Agents licensed pursuant to subsection (b) shall advise the
45 commissioner of any officers, directors, partners or employees who are
46 licensed as individual insurance agents and are not disclosed at the time
47 application is made for a license within 15 working days of their
48 affiliation with the licensee. Failure to provide the commissioner with
49 such information shall subject the licensee to a monetary penalty of \$10 per
50 day for each working day the required information is late subject to a
51 maximum of \$300 per person per licensing year.

52 (2) Officers, directors, partners or employees disclosed at the time of
53 the original application or reported thereafter whose affiliation with the
54 licensee is terminated shall be reported to the commissioner within 30 days
55 of the effective date of termination. Failure to report such termination
56 shall subject the licensee to the penalty prescribed in paragraph (1) of
57 this subsection.

58 Sec. 2. K.S.A. 1988 Supp. 40-241 is hereby amended to read as follows:
59 40-241. ~~If the commissioner of insurance is satisfied that the applicant~~
60 ~~for an agent's license is of good business reputation and is otherwise~~
61 ~~qualified in the line of business, the Any applicant or prospective~~
62 ~~applicant for an agent's license if an individual shall be given an~~
63 ~~examination by the commissioner or the commissioner's designee to determine~~
64 ~~whether such applicant possesses the competence and knowledge of the kinds~~
65 ~~of insurance and transactions under the license applied for or to be applied~~
66 ~~for, of the duties and responsibilities of such a license and of the~~

67 pertinent provisions of the laws of this state. The applicant shall be
68 tested on each class or subclassification of insurance which may be
69 written. An examination fee prescribed in rules and regulations adopted by
70 the commissioner shall be paid by the applicant and shall be required for
71 each class of insurance for each attempt to pass the examination. Such
72 examination fee shall be in addition to the certification fee required under
73 K.S.A. 40-252, and amendments thereto. There shall be five classes of
74 insurance for the purposes of this act:

- 75 (1) Life;
- 76 (2) health and accident;
- 77 (3) casualty and allied lines;
- 78 (4) property and allied lines; and
- 79 (5) variable contracts.

80 The commissioner of insurance shall adopt rules and regulations with
81 respect to the scope, subclassification, type and conduct of such
82 examination. Examinations shall be given to applicants at least twice a
83 month in Topeka, Kansas, and at least quarterly in other convenient
84 locations in the state of Kansas. The commissioner shall publish or arrange
85 for the publication of information and material which applicants can use to
86 prepare for such examination. One or more rating organizations, advisory
87 organizations or other associations may be designated by the commissioner to
88 assist in, or assume responsibility for, distribution of the study manuals
89 to applicants and other interested parties. Persons purchasing the study
90 manual shall be charged a reasonable fee established or approved by the
91 commissioner. In the event the publication and distribution of the study
92 material or the development and conduct of examinations is delegated to
93 private firms, organizations or associations and the state incurs no expense
94 or obligation, the provisions of K.S.A. 75-3738 to 75-3744, inclusive, and
95 amendments thereto, shall not apply. If the commissioner of insurance finds
96 that the individual applicant is trustworthy, competent and has
97 satisfactorily completed the examination, the commissioner shall forthwith
98 issue to the applicant a license as an insurance agent but the issuance of
99 such license shall confer no authority to transact business in this state
100 until the agent has been certified by a company pursuant to K.S.A. 40-241i
101 and amendments thereto. If such applicant fails to satisfactorily complete
102 the examination, the examination may be retaken following a waiting period

103 of not less than seven days from the date of the last attempt. If the
104 applicant again fails to satisfactorily complete the written examination, it
105 may be retaken following another waiting period of not less than seven days
106 from the date of the most recent attempt. Thereafter, the examination may
107 be retaken following a waiting period of not less than six months from the
108 date of the most recent attempt. The certification and examination fee
109 shall not be returned for any reason and the examination fee shall be
110 forfeited if the applicant fails to appear for the examination or fails to
111 notify the commissioner or the commissioner's designee by certified mail of
112 their inability to appear at least three working days prior to the scheduled
113 examination date. The commissioner of insurance shall keep a permanent
114 record of all agents' licenses issued and the insurance companies that the
115 respective agents were certified to represent under such licenses for a
116 period of 10 years.

117 Sec. 3. K.S.A. 1988 Supp. 40-240 and 40-241 are hereby repealed.

118 Sec. 4. This act shall take effect and be in force from and after its
119 publication in the statute book.

Explanatory Memorandum For
Legislative Proposal No. 4

HB 2283

Legislative Proposal No. 4 recommends an exception to the current statutory prohibition against the inclusion of health and accident insurance coverage in a life insurance policy.

In 1987 the Kansas Legislature enacted new statutory guidelines governing the sale and development of long term care insurance. In addition, such legislation authorized the Commissioner to establish minimum standards for long term care insurance policies which, among other things: "recognize the unique, developing and experimental nature ..." of such insurance. Since current law will not permit a combination of life and accident and health coverage in one contract, enactment of Legislative Proposal No. 4 would open up one potentially fruitful area of experimentation that is not now available. Some insurers have expressed an interest in developing a life insurance product that would permit an exchange of all or a portion of the death benefit for long term care benefits of equivalent value at the option of the insured. This kind of product would offer several advantages not the least of which is the fact that it would permit purchasers to accommodate long term care needs on a contingency basis without forcing a decision at the time of purchase. Whether or not this interest will be translated into an actual product by enactment of Legislative Proposal No. 4 is not known but without such enactment, products of this nature can not be considered in Kansas.

LEGISLATIVE PROPOSAL NO. 4

1 AN ACT relating to insurance; life insurance policies; long term care
2 insurance; combination policies; amending K.S.A. 40-401 and repealing the
3 existing section.

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

4 Section 1. K.S.A. 40-401 is hereby amended to read as follows:
5 40-401. Any 10 or more persons, a majority of whom are citizens of this
6 state, may associate in accordance with the provisions of this code and form
7 an incorporated company, upon either the stock or mutual plan, to make
8 insurance upon the lives of persons and every insurance appertaining thereto
9 or connected therewith and to grant, purchase or dispose of annuities. Such
10 companies may incorporate in their policies provisions for the waiver of
11 premiums or for the granting of an annuity to the insured, or for special
12 surrender values or other benefits in the event that the insured shall from
13 any cause become totally and permanently disabled, and any such company may
14 provide for the payment of a larger sum if death is caused by accident than
15 if it results from any other causes. For the purposes of this section,
16 "totally and permanently disabled" means disabled continuously for a period,
17 such period to be specified in any such provision, of not less than 60 days
18 nor more than one year, except this provision shall not apply to and
19 specifically excludes group life insurance. Such company may make insurance
20 on the health of individuals, against accidental personal injury,
21 disablement or death and against loss, liability or expense on account
22 thereof. Such company so transacting such health and accident insurance
23 business, or either kind, shall maintain statutory and separate reserves for
24 such business, shall issue such contracts only in separate policies except
25 that long term care insurance meeting the applicable requirements of K.S.A.
26 1987 Supp. 40-2227 and 40-2228 may be incorporated in life insurance
27 policies if approved by the commissioner and shall make separate reports to
28 the commissioner of insurance of the premiums received and expenses and
29 losses incurred in connection with such business.

30 The business of life insurance in this state shall not be in any way
31 conducted or transacted by any company which in this state makes insurance
32 on marine, fire, inland or any other like risks, except that, life, health
33 and accident insurance on the group or industrial plan may be combined in
34 one policy, which shall show the premium charged for life insurance and the
35 premium charged for health and accident insurance and the insured, at the
36 insured's option, may discontinue either and by payment of the stated
37 premium continue the other. The amount of capital stock of a company
38 organized on the stock plan shall be not less than \$600,000.

39 Companies organized on the mutual plan shall be required to have
40 applications from at least 200 persons for insurance upon their lives,
41 aggregating not less than \$400,000, upon which one full annual premium in
42 cash shall have been paid. No such company shall transact any business of
43 insurance until, if a stock company, all the capital stock named in its
44 charter has been paid in cash including all contributions to surplus to be
45 made by the original purchasers of such stock. The surplus shall be at
46 least \$600,000, and at least \$400,000, in securities authorized by this code
47 shall have been deposited with the state treasurer and commissioner of
48 insurance as joint custodians and if a mutual company a guaranty fund of at
49 least \$1,200,000, and at least \$400,000 of which shall be in securities as
50 authorized in this code and deposited with the state treasurer and
51 commissioner of insurance as joint custodians. The guaranty fund may be
52 returned to the contributors with interest at 6% per annum whenever the
53 surplus shall equal the amount of such guaranty fund and interest, and no
54 company shall transact any business of insurance unless it shall maintain
55 the capital or surplus or both required of a company commencing to transact
56 business, or, if a mutual company, the required number and amount of
57 applications for insurance have been received and the annual premiums
58 collected in cash. The securities deposited pursuant to this section shall
59 be held by the state treasurer and commissioner of insurance as joint
60 custodians in trust for the benefit and protection of the policyholders or
61 creditors, or both, of the company depositing the same and may be withdrawn
62 only upon order of the commissioner of insurance.

63 Until May 1, 1989, life insurers, which phrase shall include a fraternal
64 benefit society which has filed with the commissioner of insurance a plan
65 for conversion to a stock or mutual life insurance company under the terms

66 of K.S.A. 40-726 to 40-733, inclusive, and amendments thereto, and which
67 plan has been approved by the commissioner, which were authorized to do
68 business in Kansas after January 1, 1969, but before January 1, 1984, shall
69 be required to have a paid-up capital stock, surplus and deposit equal to
70 that which was required by this section prior to the passage of this act.
71 After May 1, 1989, such companies shall comply with the paid-up capital
72 stock, surplus and deposit requirements provided by this act.

73 Until May 1, 1989, companies doing business in this state on January 1,
74 1969, shall be required to have a paid-up capital stock, surplus and deposit
75 equal to that required of such companies prior to the passage of this act.

76 On and after May 1, 1989, companies doing business in this state on January
77 1, 1969, shall be required to have a paid-up capital stock, surplus and
78 deposit equal to that required of all other companies to whom this section
79 applies immediately prior to the passage of this act.

80 On and after May 1, 1994, companies doing business in this state on
81 January 1, 1969, shall comply with the paid-up capital, surplus and deposit
82 requirements provided by this act.

83 Sec. 2. K.S.A. 40-401 is hereby repealed.

84 Sec. 3. This act shall take effect and be in force from and after its
85 publication in the statute book.

Explanatory Memorandum For
Legislative Proposal No. 7

Current Kansas law requires accident and health insurance policies which cover a family member of the insured to provide benefits to a newly born child from the moment of birth. Legislative Proposal No. 7 simply extends this law to include children adopted within 90 days of birth. In addition, the proposal recommends additional statutory language to require the payment of health insurance benefits from the date of placement to children placed for adoption with the insured.

LEGISLATIVE PROPOSAL NO. 7

1 AN ACT relating to insurance; accident and sickness coverage; coverage
2 for adopted children; amending K.S.A. 40-2,102 and repealing the existing
3 section.

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

4 Section 1. K.S.A. 40-2,102 is hereby amended to read as follows:
5 40-2,102. All individual and group health insurance policies providing
6 coverage on an expense incurred basis and individual and group service or
7 indemnity type contracts issued by a profit or nonprofit corporation which
8 provides coverage for a family member of the insured or subscriber shall, as
9 to such family members' coverage, also provide that the health insurance
10 benefits applicable for children shall be payable from the moment of birth
11 with respect to a newly born child of or a child adopted within 90 days of
12 birth by the insured or subscriber from the moment of birth. Such benefits
13 shall also be payable from at least the date of placement to any other child
14 who has been placed for adoption with the insured and for whom the
15 application and consent procedures have been completed pursuant to
16 applicable state or federal law.

17 The coverage for newly born or adopted children shall consist of
18 coverage of injury or sickness including the necessary care and treatment of
19 medically diagnosed congenital defects and birth abnormalities.

20 If payment of a specific premium or subscription fee is required to
21 provide coverage for a child, the policy or contract may require that
22 notification of birth of a newly born or adopted child and payment of the
23 required premium or fees must be furnished to the insurer or nonprofit
24 service or indemnity corporation within thirty-one (31) days after the date
25 of birth in order to have the coverage continue beyond such thirty-one day
26 period.

27 Sec. 2. K.S.A. 40-2,102 is hereby repealed.

28 Sec. 3. This act shall take effect and be in force from and after its
29 publication in the statute book.

Explanatory Memorandum For
Legislative Proposal No. 8

Legislative Proposal No. 8 would require all accident and sickness policies used within this state by an individual who resides or is employed in this state and providing maternity benefits to provide such benefits to adoptive parents if: (1) preexisting conditions, waiting periods, etc. have been met; (2) the child is adopted within one year of birth; (3) the insured is legally obligated to pay the maternity costs; and, (4) appropriate notice of the adoption is provided the insurer.

LEGISLATIVE PROPOSAL NO. 8

1 AN ACT relating to insurance; accident and sickness coverage; maternity
2 benefits; adoption; applicability; amending K.S.A. 40-19c09 and repealing
3 the existing section.

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

4 New Section 1. This act applies to any individual group or blanket
5 policy of accident and sickness including any contract issued by a health
6 maintenance organization policy, contract, plan or agreement for medical
7 service issued, delivered, renewed or issued for delivery on or after the
8 effective date of this act within or outside this state or used within this
9 state by or for an individual who resides or is employed within this state.

10 New Sec. 2. Any policy, provision, contract, plan or agreement to which
11 this act applies that provides coverage for maternity benefits shall also
12 provide that the maternity benefits apply to the costs of the birth of any
13 child legally adopted by the insured if: (a) All preexisting conditions,
14 waiting periods and other limitations have been met by the insured;

15 (b) the insured is legally obligated to pay the costs of the birth;

16 (c) the child is adopted within one year of birth; and

17 (d) the insured has notified the insurer, nonprofit medical and
18 hospital service corporation, fraternal benefit society or health
19 maintenance organization within 60 days of receipt of the consent to
20 adoption required by K.S.A. 1987 Supp. 59-2102 that adoption is contemplated
21 or within 60 days after a change in insurance policies, plans or companies.

22 New Sec. 3. The coverage prescribed by section 2 of this act is excess
23 over any other coverage the natural mother may have for maternity benefits.
24 If such other coverage exists the agency, attorney or individual arranging
25 the adoption shall make arrangements for the insurance to pay those costs
26 that may be covered under that policy and shall advise the adopting parent
27 in writing of the existence and extent of the coverage without disclosing
28 any confidential information such as the identity of the natural parent.
29 The insured adopting parents shall notify their insurer of the existence and
30 extent of the other coverage.

31 Sec. 4. K.S.A. 40-19c09 is hereby amended to read as follows:

32 40-19c09. Corporations organized under the nonprofit medical and hospital
33 service corporation act shall be subject to the provisions of the Kansas
34 general corporation code, articles 60 to 74, inclusive, of chapter 17 of the
35 Kansas Statutes Annotated, applicable to nonprofit corporations, to the
36 provisions of K.S.A. 40-2,116 and 40-2,117 and to the provisions of K.S.A.
37 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225,
38 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248,
39 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100, 40-2,101, 40-2,102,
40 40-2,103, 40-2,104, 40-2,105, 40-2a01 to 40-2a19, inclusive, 40-2111 to
41 40-2116, inclusive, 40-2216 to 40-2220, inclusive, 40-2401 to 40-2421,
42 inclusive, and 40-3301 to 40-3313, inclusive, Bill No. ., and
43 amendments thereto, except as the context otherwise requires, and shall not
44 be subject to any other provisions of the insurance code except as expressly
45 provided in this act.

46 Sec. 5. K.S.A. 40-19c09 is hereby repealed.

47 Sec. 6. This act shall take effect and be in force from and after its
48 publication in the statute book.

LEGISLATIVE PROPOSAL NO. 11

HB 2381

AN ACT relating to continuing care agreements; definitions; disclosure; filing requirements; penalties; repealing K.S.A. 1988 Supp. 16-1101 et seq.

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

New Section 1. As used in this act:

(a) "Continuing-care contract" means an agreement pursuant to which a provider undertakes to furnish to a person not related by consanguinity or affinity to the provider, shelter and medical or nursing services or other health-related benefits which requires a present or deferred transfer of assets or an entrance fee in addition to or instead of periodic charges, and the amount of the assets of \$5,000 or in equivalent value or such greater amount as set by the commissioner in regulations; or continuing care contract shall also mean an agreement of any other provider who voluntarily applies for a certificate pursuant to section 5 of this act.

(b) "Entrance fee" means the total of any initial or deferred transfer to, or for the benefit of, a provider of a sum of money or other property made or promised to be made as full or partial consideration for acceptance of a person as a resident pursuant to a continuing-care contract;

(c) "Home" means the facility or facilities occupied, or planned to be occupied, by five or more residents where the provider undertakes pursuant to a continuing care contract to provide continuing care to such residents.

(d) "Provider" or "continuing care provider" means the person, corporation, partnership, association or other legal entity which agrees to provide continuing care to residents in a home.

(e) "Resident" means an individual or individuals who have entered into an agreement with a provider for continuing care in a home.

(f) "Commissioner" means commissioner of insurance of the state of Kansas.

Sec. 2. A provider shall be required to complete an annual disclosure statement prescribed by the commissioner and shall be required to deliver the disclosure statement to individuals who are prospective residents, or

current residents who request such disclosure statement. The text of the disclosure statement shall contain the following information:

(a) The name and business address of the provider and a statement of whether the provider is an individual, partnership, corporation or any other legal entity.

(b) The names of the individual or individuals who constitute the provider or, if the provider is a partnership, corporation or other legal entity, whether for profit or not for profit, the names of the officers, directors, trustees or managing or general partners of the provider. If the provider is a corporation, the name of any individual who owns 10% or more of the stock of such corporation shall also be disclosed.

(c) With respect to a provider which is either not incorporated or not established and operated on a not-for-profit basis, the names and business addresses of any individual having any ownership or any beneficial interest in the provider and a description of such individual's interest in or occupation with the provider.

(d) A statement as to whether or not the provider is, or is affiliated with, a religious, charitable or other nonprofit organization and the extent of the affiliation, if any; the extent to which any affiliate organization will be responsible for the financial and contractual obligations of the provider; the provision of the United States internal revenue code, if any, under which the provider or any of the provider's affiliates is or are exempt from the payment of federal income taxes; and, a statement of whether the home is exempt from local property taxation.

(e) A statement that the provider is required to have an annual certified audit by a certified public accountant and that a copy of such audit shall be made available upon request.

(f) If the operation of the home has not yet commenced, and with receipt of contract considerations as defined in sections 1 (a) and (b), the provider shall provide a statement of the anticipated source and application of the funds used or to be used in the purchase or construction of the facility, including but not limited to:

(1) An estimate of such costs as financing expense, legal expense, land costs, marketing costs, and other similar costs which the provider expects to incur or become obligated for prior to the commencement of operations.

(2) A description of any mortgage loan or any other financing intended to be used for the financing of the facility, including the anticipated terms and costs of such financing.

(3) An estimate of the total entrance fee to be received from or on behalf of residents at or prior to commencement of operation; and

(4) An estimate of the funds, if any, which are anticipated to be necessary to fund start-up losses and provide reserve funds to assure full performance of the obligations of the provider under continuing-care contracts.

(g) A statement as to whether the manager or any official or director of the provider, has been convicted of a crime or been a party of any civil action claiming fraud, embezzlement, fraudulent conversion or misappropriation of property which resulted in a judgment against said person and whether any such person has had any state or federal license or permits related to care and housing suspended or revoked.

(h) A statement of the years of experience of the provider and manager in the operation of homes providing continuing care.

(i) A statement of the fiscal year of the provider.

Sec. 3. A provider shall file by December 31 of each year with the commissioner an annual disclosure statement and the continuing care contract in section 4 and within each calendar year an annual audit certified by a certified public accountant, within three months following the end of the providers fiscal year.

Sec. 4. The provider shall provide the commissioner a copy of any continuing care contract form entered into on or after the effective date of this act or entered into between the provider and any resident which shall include or have attached thereto:

(a) A description of all fees and or charges required of residents, a description of all services to be provided or committed to providing in the future and a description of any services for which an extra charge is made over and above entrance fees and periodic charges that are provided for in the agreement.

(b) A listing of the terms and conditions under which the agreement may be cancelled by either party to the agreement or by which any or all of the entrance fee or transfer of assets would be refunded, less the value of any services received.

(c) A statement describing health and financial conditions required to continue as a resident, including any changes in either health or financial conditions of the resident.

Sec. 5. No provider shall act as or hold themselves out to be a continuing care provider as defined in this act in this state, unless the provider shall hold a certificate of registration as a continuing care provider issued by the commissioner of insurance. Application for such certificate shall be made to the commissioner on a form prescribed by such commissioner and shall be accompanied by a filing fee of \$50. Such certificate may be continued for successive annual periods by notifying the commissioner of insurance of such intent and payment of a \$25 continuation fee. Such certificate shall be issued or continued by the commissioner to a continuing care provider unless the commissioner after due notice and hearing shall have determined that the continuing care provider is not in compliance with this act.

Sec. 6. (a) Failure to hold the certificate required by section 5 of this act or to comply with any of the requirements of this act shall subject the continuing care provider to a fine of not more than \$500 unless such continuing care provider knew or reasonably should have known that such failure was a violation of this act in which case the penalty shall be not more than \$5,000.

(b) After reasonable notice and hearing, the commissioner may impose a penalty as provided in subsection (a) or revoke or suspend such certificate, upon finding that either the continuing care provider violated any of the requirements of this act or the continuing care provider is not in compliance with this act.

Sec. 7. If there is a change of ownership, or management of the provider or home, the new owners must file all required documents of this act within 90 days of change.

Sec. 8. Rules and regulations. The commissioner shall promulgate rules and regulations necessary to carry out the provisions of this act. The commissioner shall collect and make available in a single volume all continuing care provider rules and regulations promulgated by the commissioner.

Sec. 9. K.S.A. 1988 Supp. 16-1101 et seq. is hereby repealed.

Sec. 10. This act shall take effect and be in force from and after its publication in the statute book.