Approved 3/30/90
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by SENATOR RICHARD L. BOND at
Chairperson

12:00 xxx/p.m. on TUESDAY, MARCH 27, 1990 in room 529-S of the Capitol.

~~All~~ members ~~were~~ present ~~except:~~ NOON

Senators Karr, Kerr, McClure, Moran, Parrish, Reilly, Salisbury, Strick and Yost.

Committee staff present:
Bill Edds, Revisors Office
Bill Wolff, Research Department
Louise Bobo, Committee Secretary

Conferees appearing before the committee:
Rich Huncker, Kansas Insurance Department
Bill Sneed, Health Insurance Association of America

Chairman Bond convened the meeting at 12:10 p.m.

HB 3012 - The Chairman summarized the testimonies heard on Monday and asked the committee's wishes regarding this bill. Written testimony by Bill Pitsenberger, Blue Cross Blue Shield, concerning the constitutionality of amendments to the bill, was handed out to the committee members. (Attachment 1) Senator Yost said that while he is very supportive of the concept of the bill he thinks that it needs more work and study.

Senator Yost made a motion to request an interim study for HB 3012. Senator Strick seconded the motion. The motion carried.

HB 3027 - Insurance: plan for recording and reporting loss and expense experience for health insurers.

Rich Huncker, Kansas Insurance Department, addressed the committee in support of this bill and told the committee that accident and sickness insurance is the only major line of insurance without a centralized system of aggregating loss and expense experience for use in ratemaking. He further stated that this proposal would give the Insurance Commissioner the authority to develop or approve statistical plans to be used by each insurer writing accident and sickness insurance in Kansas. (Attachment 2)

Bill Sneed, Health Insurance Association of America, spoke before the committee and strongly urged that this bill be referred for interim study. He said that this bill was part of an overall study of health insurance issues and to pass this bill requiring statistical data would be premature. (Attachment 3)

A brief discussion followed the testimony with one committee member desiring to know what harm it would do to pass this bill now and let the Insurance Commissioner begin to design perimeters. Mr. Sneed replied that, if the bill is passed, they will continue to work with the Insurance Department and the interim committee to develop statistical information. Another member wondered if the effective date should be changed. Mr. Sneed replied that it would probably be best to implement the bill on January 1, 1991.

There being no further conferees, Chairman Bond announced the hearing closed and inquired of the committee their wishes regarding HB 3027.

Senator Reilly made a motion to pass HB 3027 out of committee with a favorable recommendation. Senator Yost seconded the motion. The motion carried.

The meeting adjourned at 12:28 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

William Pitsenberger
Blue Cross and Blue Shield of Kansas, Inc.

CONSTITUTIONAL ISSUES -- HOUSE BILL 3012

The regulation of Blue Cross and Blue Shield group rates, and the lack of regulation of the group insurance rates of other health insurers, currently exists in the statutes but is highlighted by the proposed amendments to H.B. 3012. The requirement of rate regulation coupled with community rating for Blue Cross, compared to only an obligation for community rating with no rate regulation for other insurers, could quickly make Blue Cross both non-competitive and financially insolvent. This threat requires us to consider the constitutionality of both the existing and proposed differences in regulation of rates of Blue Cross compared to other health insurers, due to lack of equal protection.

To meet equal protection muster, differences in statutory classification must bear a rational relationship to a legitimate governmental objective.

At one time, when Blue Cross was categorized as a charitable and benevolent institution and when it was tax-exempt under federal law, there may have been some argument that Blue Cross was intended to serve a different purpose by the legislature than ordinary insurance.

Blue Cross lost its state charitable and benevolent designation in the early 70's, and became obligated to pay property and premium tax. Two years ago, the federal government took away its tax-exempt status.

Today, there is no reason to believe that the legislature intends Blue Cross to serve a purpose different then health insurance companies generally. Blue Cross is treated interchangeably with other health insurers for the purposes of the state employee benefit program, health insurance for cities, counties and school districts, regulation of investments, subjection to Insurance Department audits and examinations, mandated benefits, and other purposes.

Although we have only begun looking at the subject in the last day, our first impression is that there is no legitimate government objective which is met by regulatory the rates of Blue Cross health insurance and not the rates of our competitors. While this has probably been the case at least since the loss of our tax-exempt status, the proposed amendments to H.B. 3012 which delete rate regulation of others brings this issue into sharp focus.

Were H.B. 3012 to pass with the proposed amendment, we likely would challenge not only its constitutionality but also the constitutionality of the existing disparity in rate regulation, seeking to strike down the authority of the state to regulate Blue Cross group rates altogether.

Attachment 1
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Kansas Insurance Department
Testimony Before the
Senate Committee on Financial Institutions and Insurance
on House Bill No. 3027
Presented by Rich Huncker

There are two types of basic data required of insurance companies. These are: financial and statistical. The annual statement each insurance company, HMO and prepaid service plan is required to file pursuant to K.S.A. 40-225 is the primary source document for financial information. This is the document we and other regulators rely on for evaluation of individual insurer solvency and profitability. Because the same annual statement is filed in all states, it is also the prime data source for measuring overall industry profitability.

Generally, the annual statement provides detailed information about assets and liabilities including calendar year data on premiums, losses, reserves, expenses, dividends and investments. This is, of course, calendar year data so the premiums and losses do not always relate to the same policies and the loss data is simply an aggregate number which reveals nothing about loss frequency, cause of loss and other details that play a prominent role in ratemaking.

As Dick Brock mentioned in his appearance before the joint house and senate committee hearing on general health insurance issues a few weeks ago, accident and sickness insurance is the one and only major line of insurance we know of that does not have some kind of systematic, centralized system of aggregating loss and expense experience for use in ratemaking. In Insurance 101, we learn that one of the fundamental principles of insurance is that the risk of loss must be represented by a group of relatively homogeneous exposure units that is of sufficient size to permit a reasonably accurate prediction of average loss by application of the law of large numbers. Perhaps accident and health insurance actuaries are just smarter than their contemporaries that make rates for other kinds of insurance or maybe they have some secret reservoir of

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information they use. If so, House Bill No. 3027 should attract some disclosure of its whereabouts but thus far it has not done so.

We are aware of the Prevailing Health Care Charge System administered and marketed by the Health Insurance Association of America who testified before this committee earlier this session. As I understand it, this system collects charge information from medical doctors and dentists for about -- or maybe exactly -- 4,000 different medical procedures and 400 different dental procedures. This information is then assembled by range of charges by procedure by frequency and by zip code. However, this information would not tell an individual insurer anything about the relationship between the premium charged, losses and loss expenses incurred or administrative expenses involved on an industry-wide basis. Each company would, of course, have its own experience but with rare exceptions such individual company experience would not generally be of sufficient quantity to be considered a reasonably accurate predictor of loss.

House Bill No. 3027 addresses this apparent information deficiency by directing the Commissioner to develop or approve statistical plans to be used by each insurer writing accident and sickness insurance in this state in reporting its premium, loss and expense experience. The stipulated statistical plan would, of course, permit the experience of all companies to be combined into industry-wide and at least statewide aggregates that would in time provide a statistical data base which would be of sufficient credibility for ratemaking, rate review and other decision-making and public policy needs.

The precise detail of the information that would be required by the statistical plans required by House Bill No. 3027 is, of course, not yet known. This will be an extremely complicated task and will require the use of specialized professional expertise. However, it certainly will identify the generic types of accident and health insurance products that are available and require various kinds of information to be reported and coded separately for each. For example -- and only as an example -- the

statistics will obviously need to be separated or separable with respect to group versus individual. Then under individual we could have individual medicare supplement policies; individual dread or specified disease policies; hospital expense coverage; medical-surgical expense coverage, etc. Under each of these products insurers would be required to report their written premiums, earned premiums, losses paid, losses outstanding, allocated loss adjustment expenses paid and outstanding, the number of claims, the type or cause of loss, perhaps the zip code or some other territorial designation of the claimant, and all of this would be required to be reported on a policy year or accident year basis so the losses ultimately paid under a policy would match the premiums collected to pay those losses.

Needless to say, putting this all down in a form computers can understand, putting a system in place so the data can be cross-checked and purified before being released to the data base, and finding some entity with the capability and resources to do it will take some time. But it is done in other lines of insurance and it is an essential ingredient of proper pricing. Consequently, we believe you should give House Bill No. 3027 your favorable consideration or require any opponents to be very specific about why it can't or shouldn't be done as well as convince you that the data systems they now use are highly reliable. We are very mindful of the fact that health insurance has been around for a long time yet a uniform, required statistical reporting system has not evolved. Perhaps there is a good reason but, if so, we have no information to even suggest what that reason is.

The one caveat I want to repeat is that the implementation of a centralized statistical data system for accident and sickness insurance will not produce immediate results. It takes time for insurance data to mature and it takes even more time for enough data to be amassed to permit many kinds of analysis. In addition, the collection of reliable data won't solve the accident and health insurance problems -- it might even tell us the situation is worse than we thought but few problems are solved without sufficient, reliable information and enactment of House

Bill No. 3027 will represent a first step toward obtaining that kind of information.

MEMORANDUM

TO : Senator Richard Bond
Chairman, Senate Financial Institutions and Insurance Committee

FROM : William W. Sneed
Legislative Counsel - HIAA

DATE : March 26, 1990

RE : House Bill 3027

Mr. Chairman and members of the Committee: my name is Bill Sneed and I am Legislative Counsel for the Health Insurance Association of American ("HIAA"). The HIAA is a health insurance trade association consisting of over 325 insurance companies that write over 85% of the health insurance in the United States today. Please accept this memorandum as our testimony in regard to House Bill 3027 and our request that this bill not be acted upon and included in a request for an interim study.

In conjunction with our testimony on House Bill 3012, we strongly urge that the Senate consider referring House Bill 3027 for interim study. As we stated in our testimony on House Bill 3012, it is our belief that this summer the entire gambit of problems dealing with the health insurance industry should be reviewed by the legislative body. An integral part of this review would be what record of loss and expense experience should be provided to the Kansas Insurance Department. However, most important is not simply providing the numbers but defining what

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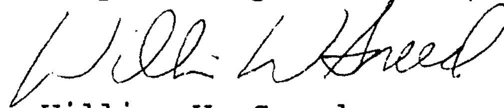
real numbers you wish to generate so that the reports that are provided are meaningful.

We are all aware that the insurance industry is bombarded by numbers and statistics. Thus, it is of utmost importance to know exactly what specific area is needed for review so that the statistical information provided in the report will be of value.

We believe that such a bill is an important component of the overall picture. However, until the entire picture is defined, passing a bill requiring reports to the Kansas Insurance Department is premature.

Therefore, we strongly urge that the Senate defer action on House Bill 3027 and include the essence of this bill in an interim study. I am available for questions on this matter at your convenience.

Respectfully submitted,



William W. Sneed