Approved 4/3/91
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by SENATOR RICHARD L. BOND
Chairperson
at 9:00 a.m./p~~m~~. on TUESDAY, APRIL 2, 1991 in room 529-S of the Capitol.

All members were present except

Senators Anderson, Francisco, McClure, Moran, Parrish, Reilly, Salisbury, Strick and Yost.

Committee staff present:

Bill Wolff, Research Department
Fred Carman, Revisors Office
Louise Bobo, Secretary

Conferees appearing before the committee:
None

Chairman Bond called the meeting to order at 9:14 a.m.

Minutes of Thursday, March 28, 1991 were approved as written on a motion by Senator Strick. Senator Parrish seconded the motion. The motion carried.

HB 2001 - Health insurance; community rating; eligibility for coverage under group policies.

Chairman Bond informed the committee that there were at least four basic points of this bill: (1) the underwriting provision--whether to accept everyone, (2) rate regulation--are we going to move to prior approval for everyone or have file and use, (3) do we bring Blue Cross Blue Shield in as a mutual insurance company, and (4) do we opt for community rating which would involve size of group, phase-in period, variances of community rates, and whether to include HMO's and other associations. Chairman Bond requested the committee's wishes concerning these policies.

Senator Parrish made a motion to include underwriting provisions in HB 2001. Senator Strick seconded the motion. The motion carried.

Senator Anderson made a motion to include rate regulation in HB 2001. Senator McClure seconded the motion. The motion carried.

The Chair suggested to the committee that if they were serious about making BCBS a mutual insurance company, then the language in SB 17 should be amended into HB 2001 and the language should include the words "shall mutualize".

Senator Salisbury made a motion to amend SB 17 into HB 2001 and to amend the language to read "shall mutualize". Senator Reilly seconded the motion. The motion carried.

Discussion followed on the provision of community rating. The Chair remarked that he had no preconceived ideas concerning community rating but would advise that if community rating is adopted groups that now have very small premiums will see their premiums go up, and very high premiums will not decrease but probably stay the same. The Chair also suggested to the committee that the NAIC Model Bill was very complicated and suggested sending it to the interim committee on Health Care Decisions for the 90's. A committee member asked if rates increased in order to pay for those who can not afford health care. Dick Brock responded that this would depend on the size of the group and the costs of services and that it would be hard to generalize. Another committee member stated that if we were going to consider the community rating concept, he would rather take the time and do it right. One member expressed concern that if community rating were adopted, some rates would rise so much that certain individuals would choose not to be insured.

Senator Salisbury made a motion to send the NAIC Model Bill to the interim committee on Health Care Decision for the 90's for further study and to delete the community rating portion of HB 2001. Senator Reilly seconded the motion. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,

room 529-S, Statehouse, at 9:00 a.m./~~p.m.~~ on TUESDAY, APRIL 2, 1991

Chairman Bond requested Dr. Wolff to explain the Memorandum he prepared contrasting the present provisions of HB 2001 and the suggested amendments of various conferees. (Attachment 1)

Senator Reilly made a motion to adopt the technical amendment, offered by the Insurance Department, to delete the words "providing hospital, medical or surgical expense benefits", page 2, lines 6 and 7, making it clear that the provision applies to all types of group insurance. Senator Salisbury seconded the motion. The motion carried.

Senator Strick made a motion to adopt the portion of HB 2001 through line 33, page 13, as amended. Senator Parrish seconded the motion. The motion carried.

Senator Strick made a motion to include Health Maintenance Organizations, municipal-funded pools, captive companies writing insurance for their own business, small groups (25 or fewer) organized and regulated under the terms of 1990 HB 2610, and other nonprofit corporations (dental, optometric and pharmacy) in the provisions of HB 2001. Senator Anderson seconded the motion. The motion carried.

Senator McClure made a motion to permit Staff to make such revisions as necessary in order to clarify the language of HB 2001. Senator Strick seconded the motion. The motion carried.

Senator Strick made a motion to recommend HB 2001, as amended, favorable for passage. Senator McClure seconded the motion. The motion carried.

The meeting adjourned at 10:00 a.m.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE DATE: Tues. Apr. 2, 1991

NAME	ADDRESS	ORGANIZATION
Don Hymer	Topeka	BC/BS of Ks.
Joseph Dunn	Topeka	BC/BS of Ks.
Leland Smith	Wichita	WIBA
Wendell STROM	TOPEKA	AARP-CCTF
Nancy Zogleman	Topeka	Bc/Bs of Ks
Cheryl Dillard	Overland Pk	Kaiser Permanente
George Goebel	Topeka	AARP SLC CCTF
Don Hoffman	Topeka	Delta
Jim Turner	Topeka	KNLSI
Chuck Stones	"	KBA
Sue Bond	Overland Park	
Chuck Walker	Topeka	SRS
Joe FURJANIC	TOPEKA	KCA
Bill Sneed	TOPEKA	KIAA
Michelle Gieston	Topeka	John Peterson + Assoc
Dick Brock	"	Ins Dept

MEMORANDUM

Kansas Legislative Research Department

Room 545-N -- Statehouse
Topeka, Kansas 66612-1586
(913) 296-3181

April 1, 1991

To: Senate Committee on Financial Institutions and Insurance

From: Kansas Legislative Research Department

Re: H.B. 2001

H.B. 2001 would amend two sections of insurance law: the first, K.S.A. 40-2209 relates to group insurance policies and defines group sickness and accident insurance and specifies the conditions for such policies as they relate to six different categories of insureds and establishes the principles of conversion and continuation for such policies; the second, K.S.A. 40-2215, concerns the regulation of individual accident and sickness insurance by the Insurance Commissioner.

K.S.A. 40-2209 would be amended only as that section relates to defining group sickness and accident and as it specifies the conditions for such insurance by various categories. The categories are: single employer (page 1, subsection 1); labor union (page 3, subsection 2); multiple employer trusts (page 3, subsection 3); creditor, (page 3, subsection 4); association, (page 3, subsection 5); and any other type of group (page 3, subsection 6).

The first amendments in H.B. 2001, relate to the definition of group sickness and accident insurance, a definition applicable to all groups. The bill would say:

- that no person eligible for coverage under a group may be excluded from group coverage;
- that the statutory right to group coverage exists only at the time of initial eligibility and ends 31 days after that date;
- that eligibility applies to all Kansas insureds regardless of the place of issuance of the policy (extraterritoriality);
- that no policy may limit or exclude benefits for specific conditions existing at or prior to the date of coverage;
- that a policy may establish up to a one year waiting period for conditions diagnosed, treated, or for which advice was sought or received in the 90 days prior to the effective date of coverage;
- that the no exclusion for specific conditions with possible waiting periods applies to all Kansas insureds regardless of the place of issuance of the policy;
- that, to the extent any waiting period is served under a "replaced" policy shall be considered served under a new policy with no gap in coverage (portability); and

Attachment 1
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- that <u>any</u> group policy may impose participation requirements, define full-time for purposes of determining eligibility for coverage, etc.

Some conferees have expressed concerns with one or more of the above new provisions to group sickness and accident insurance and have recommended amendments:

Requirement: that no person eligible for coverage under a group may be excluded from coverage.

Dorth Coombs Insurance, Inc., recommends that individual underwriting within the group should be allowed if less than 75 percent of eligible employees participate in the group coverage.

Wichita Independent Business Association recommends that the provision from S.B. 179 requiring an insurance company to accept a group.

Requirement: that eligibility exists without individual underwriting only at the time of initial eligibility and ends 31 days after that date.

New Policy: this language establishes a policy that decisions regarding entrance under a group plan for all eligible persons (employee and dependents) must be made at the time of first eligibility and no open enrollment period needs to be offered thereafter on the same terms. (There are currently no requirements, limitations, or permits regarding open enrollment.)

Requirement: that eligibility applies to all Kansans regardless of the place of issuance of the policy.

Health Insurance Association of America (HIAA) recommends deletion of extraterritorial application of the provision relating to eligibility of all persons.

Requirement: that no policy may limit or exclude benefits for specific conditions existing at or prior to the date of coverage.

HIAA recommends that language be added to allow the terms of the contract to control benefits for specific conditions, *i.e.*, specific conditions could be excluded by contract.

Requirement: that policy may establish up to a one year waiting period for conditions diagnosed, treated or for which advice was sought or received in the 90 days prior to the effective date of coverage.

Dorth Coombs recommends that the preexisting conditions limitation should be expanded to include treatment received, recommended or sought within one year (in lieu of 90 days).

WIBA recommends that, for those businesses under COBRA, the 12-month waiting period on preexisting conditions should be increased to 18 months.

Beech Aircraft Corporation recommends that the permissible waiting period be amended

from one year to 18 months, a time consistent with its current policy.

Requirement: that any waiting period served under one policy shall be considered served under a new policy with no gap in coverage.

Dorth Coombs recommends that the provision for portability be deleted from the bill, *i.e.*, an employee changing jobs should be subject to the preexisting limitations of the new employer's plan, and add language that restricts application of the waiting period provision to persons eligible for coverage on and after January 1, 1992.

HIAA recommends that the provision for portability apply only when the previous policy provided similar benefits.

Beech Aircraft Corporation recommends deleting the sentence that prohibits a waiting period if the person had coverage from a former employer.

Requirement: that any group policy providing hospital, medical, or surgical expense benefits may impose participation requirements, etc.

Insurance Department recommends deletion of the words "providing hospital, medical or surgical expense benefits" making it clear that the provision applies to all types of group insurance.

K.S.A. 40-2215 would be amended to require:

- that all forms, classification or risks, and the premium rates for any group or blanket policy or certificate of accident and sickness insurance be filed with the Insurance Commissioner prior to their use;
- that any risk classification, premium rates, etc., shall not establish an unreasonable, excessive or unfairly discriminatory rate, discriminate against any individuals eligible for participation in a group, or establish rating classifications within a group that are based upon medical conditions;
- that rates for sickness and accident insurance shall be made giving consideration to past and prospective loss experience, past and prospective expenses, adequate contingency reserves, other relevant factors within and without the state; and rates to an employer of 25 or fewer employees, including employers covered under a policy issued to an association or trust, located within or outside the state, shall be based on the aggregate loss and expense experience of all such employers insured by the insurer (community rating);
- that groups created under K.S.A. 40-2209(A)(5) -- associations, in existence on January 1, 1991, and whose rates were established solely on the basis of their own experience are exempt from community rating;
- that rates apply to all employers insured in this state by the insurance company but may vary from employer to employer from a community rate by no more

than 50 percent above the community rate; however, no rate would be allowed to increase more than 80 percent during any annual period without significant change in the risk, and there would be no prohibition against the application of rates to a particular employer that are less than the community rate;

- that, with respect to existing contracts on the effective date of this act, in any case where the premium rate exceeds the community rate by more than 50 percent, no increase in rates could be made until the beginning of a rating period in which the premium rates would be lower than 50 percent more than the community rate (five years after the effective date of the act, no rates could exceed the community rate by more than 50 percent.); and

- that the Commissioner could at any time, after right of hearing is extended, disapprove any rate filed.

Some conferees have expressed concern with one or more of the above new regulations on group policies and have recommended amendments:

Requirement: that all forms, classification of risks, and the premium rates for groups be filed with the Insurance Commissioner prior to their use.

HIAA recommends that Section 2 of the bill be deleted and in its place insert the provisions of the National Association of Insurance Commissioner's model act for Small Group Rating and Renewal Requirements.

Dorth Coombs recommends that the requirement for filing of classification of risks and the premium rates pertaining thereto be deleted from the bill.

Blue Cross/Blue Shield (BC/BS) recommends that, since this provision removes prior rate approval of its rates, the Committee consider the provisions of S.B. 17 that allow for the conversion of BC/BS into a mutual insurance company as well as the provisions of S.B. 16, concerning the appointment of the board of directors of BC/BS.

Requirement: that any risk classification, premium rates, etc., shall not establish an unreasonable, excessive or unfairly discriminatory rate, discriminate against any individual eligible for participation in a group, or establish rating classifications within a group that are based upon medical conditions.

WIBA recommends that risk classification within a group not be based on age and occupation as well as medical condition.

Requirement: that rates for small groups, 25 or fewer employees, be community rated.

WIBA recommends that the size of groups covered by community rates be increased from 25 to 50.

Requirement: that association groups created under (A)(5) of K.S.A. 40-2209 be exempt.

Independent Insurance Agents of Kansas (IIAK) recommends that the language of the

exemption be expanded to include bona fide trade or professional associations sponsored plans under (A)(3) of K.S.A. 40-2209 (multiple employer trusts).

Kansas Nebraska League of Savings Institutions recommends that the exemption be expanded to include groups have existing plans that would be eligible under (A)(5).

Requirement: that the rate applicable to an employer may vary from the community rate by no more than 50 percent and that the annual increase may not exceed 80 percent.

WIBA recommends that the 50 percent variation be lowered to 30 percent and the 80 percent annual maximum increase be lowered to 50 percent.

Requirement: that, with respect to existing contracts, in cases where the premium rate exceeds the community rate by 50 percent, no increase in rates could be made until the beginning of a rating period in which the premium rate would be lower than 50 percent more than the community rate (five years after the effective date of the act, no rates could exceed the community rate by more than 50 percent).

WIBA recommends that the 50 percent caps be reduced to 30 percent. Further, new language is suggested in which, in the five years following the effective date of the act, all rates over 130 percent of the community rate would be phased down each year until they reached 130 of the community rate. Also, rates less than 80 percent of the community rate would be phased up each year until they reached 80 percent. At no time after five years could rates fall below the 80 percent of the community group rate.

Finally, as presently worded, H.B. 2001 does not apply to Health Maintenance Organizations (HMOs), to municipal-funded pools, to captive companies writing insurance for their own business, to small groups (25 or fewer employees) organized and regulated under the terms of 1990 H.B. 2610, and other nonprofit corporations (dental, optometric and pharmacy). Should the provisions of H.B. 2001 be made applicable to these groups or entities?

91-347/WGW