

Approved: OK
Date

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Bill Bryant at 3:30 p.m. on March 14, 1996 in Room 527S-of the Capitol.

All members were present except: Representative Tom Sawyer
Representative Phill Kline

Committee staff present: Bill Wolff, Legislative Research Department
Bruce Kinzie, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Kathleen Sebelius, Insurance Commissioner
Loretta Pyles, KS Coalition against Sexual and Domestic
Violence
Juliene Maska, Attorney General's Office
Brad Smoot, Blue Cross/Blue Shield
Jerry Slaughter, Kansas Medical Society

Others attending: See attached list

Hearing on SB 444: Prohibiting insurance trade practices which discriminate against victims of violent abuse

Kathleen Sebelius, Insurance Commissioner for the State of Kansas, presented copies of their survey of 128 life and health insurance companies that comprise 80% of the Kansas market regarding their consideration of domestic violence as an underwriting criteria (Attachment 1). 24% of the responding companies use such information as an underwriting criteria while 60% of the companies surveyed used such information in deciding whether to issue or renew a policy. This places domestic violence victims in a precarious position because if they report the violence they may be penalized by being unable to buy insurance in the future. This bill prohibits an insurance company from using evidence of domestic abuse as an underwriting criteria and is patterned after NAIC model legislation. The bill originally contained language which included property and casualty companies but this was deleted by the Senate. The property and casualty company model is being developed and will probably be presented next year.

Loretta Pyles, Kansas Coalition Against Sexual and Domestic Violence, told the Committee that KCSDV programs had provided shelter for 6,740 cases of abuse in Kansas in 1994 (Attachment 2). In addition they provided counseling and other programs for 21,565 clients. Their organization strongly supports the bill and recommends the inclusion of property and casualty insurance. Victims leaving violent situations need assistance and support in order to achieve independence and stability. By allowing insurance companies to deny coverage to such victims due to a history of abuse is counterproductive in urging them to leave violent situations.

Juliene A. Maska, Statewide Victims' Rights Coordinator from the Office of the Attorney General, testified in favor of the bill stating that domestic violence cannot be controlled by the victim and they should not be denied services because they cannot make the violence stop (Attachment 3). If victims fear the loss of insurance, it may keep them from obtaining the assistance necessary for their safety.

Brad Smoot, Blue Cross/Blue Shield, issued testimony requesting the deletion of the notice requirement contained in the bill which would require all insurers to notify all persons who are turned down for any reason (Attachment 4). The current law requires insurer to either give written explanation or advise applicants of their right to have underwriting decisions explained upon request. Insurance companies do not take abuse history so it is difficult to track this information. Committee members were concerned that explanation for denial might lead to more domestic problems. The solution of having an 800 number available for inquiry regarding denial of coverage was suggested.

CONTINUATION SHEET

MINUTES OF THE HOUSE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 527S-Statehouse, at 3:30 a.m. on March 14 , 1996.

Jerry Slaughter, Kansas Medical Society, said that the denial of health or accident insurance due to domestic abuse is to punish the victim twice (Attachment 5). This legislation would prohibit insurance companies from unfairly terminating or denying coverage or increasing the cost of a policy of health insurance because a person has been the victim of abuse.

The meeting adjourned at 4:30 p.m. The next meeting is scheduled for March 18, 1996.

HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE GUEST LIST

DATE: March 14, 1996

NAME	REPRESENTING
Tom Wilden	Kansas Insurance Dept
Valerie Peterson	KS Life Ass / P/O
Julienne Maslin	AG Office
JOHN FEDERICO	Pete Micik + Assoc
Alta Vaughn	Ks. Ins. Dept
Louetta Ryles	KCSDV
Melissa Wangemann	Hein Ebert & Weir
Carol Ridgway	Ks Ins Dept
THA KRANAR	SECURITY BENEFIT
Mary Cooper	self
Frank K. White	self
Amy Brant	self
Veresa Salenau	State Farm
Africa Self	Ks. N.O.W.



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: House Financial Institutions
and Insurance Committee

From: Kathleen Sebelius, Commissioner
of Insurance

Re: S.B. 444 (Domestic Violence)

Date: March 14, 1996

According to statistics from the Kansas Attorney General, 22,000 Kansas women were the victims of domestic violence last year. Domestic abuse is a problem that is found in every community in this state. The Kansas Legislature has taken significant steps to strengthen the laws which protect victims of abuse. Law enforcement agencies and county and district attorneys throughout the state have worked to crack down on abusers. Victims are encouraged to report abuse and to testify, where needed, in criminal proceedings. Courts and community groups are also working to provide the necessary counseling services to both victims and abusers to stop the cycle of violence.

It is unfortunate that some insurance companies are using evidence of domestic violence to deny coverage for the victims of that abuse. Nationally, women have at times found it impossible to obtain insurance once it is known by the insurer that they previously were subjected to domestic violence. Recently, the Kansas Insurance Department conducted a survey of 128 life and health insurance companies that comprise 80% of the Kansas market. The survey results indicated that 24% of the companies which responded considered a history of domestic violence as an underwriting criteria. Over 60% of the life insurance companies surveyed used such information in deciding whether to issue or renew a policy.

*House F&I
Attachment 1
March 14, 1996*

Often a health or life insurance company asks applicants for medical history as part of the application process. Companies also have the ability to get other information, such as police reports, which could indicate a history of domestic violence. It is simply bad public policy to on the one hand encourage victims to report their abuse and testify against their abusers, and on the other hand, tell victims they will not be able to obtain insurance if this fact is known. Kansas should not weaken the efforts to deal with domestic violence by allowing insurers to deny insurance coverage to someone just because they previously were a victim of abuse.

Senate Bill 444 prohibits an insurance company from using evidence of domestic abuse as an underwriting criteria. The bill is patterned after legislation already on the books in other states as well as model legislation being developed by the National Association of Insurance Commissioners. To date, fourteen states have approved domestic violence legislation which deals with this issue. In addition, two bills have been introduced in the US Congress. It is expected that the NAIC model law will be approved by the Association at its quarterly meeting in March. Legislation to deal with this issue has been supported by the American Council of Life Insurance, Aetna Insurance Company and the National Association of Attorneys General.

Since we do not have guaranteed issue of health insurance in Kansas, the proposal from the Kansas Insurance Department does not mandate coverage for victims of domestic abuse. If the applicant has a condition, such as a pre-existing medical condition, that would otherwise be cause for a denial of insurance coverage, the insurer does not have to provide insurance. The bill simply states that a history of domestic violence, in and of itself, is not a cause to deny or cancel insurance coverage.

The Senate Committee made a number of amendments to S.B. 444 which are acceptable to the Insurance Department. Unfortunately, the Committee made one amendment to the bill which I believe weakens its provisions by removing property and casualty insurers from the legislation. The property and casualty industry did not testify in opposition to the bill as originally drafted nor have they provided any rationale to the Department of why they should not be included in the prohibition against making underwriting decisions based on evidence of prior domestic abuse. I would note that the

NAIC is considering model legislation which would apply to property and casualty insurers and the Kansas Insurance Department will likely come before the Legislature next year to ask that these companies be added to the law.

I urge this committee to assist the victims of domestic violence in Kansas by allowing them to have access to insurance. Victims should not be punished because they report abuse, seek medical treatment for their injuries or otherwise seek to deal with their abusers. I ask you to favorably recommend this bill for passage.

STATE OF KANSAS

KANSAS INSURANCE DEPARTMENT

KATHLEEN SEBELIUS
KANSAS INSURANCE COMMISSIONER

SURVEY OF
LIFE, ACCIDENT AND HEALTH INSURERS

TOPIC:

INSURANCE COMPANIES UNDERWRITING PRACTICES
AS IT RELATES TO VICTIMS OF DOMESTIC VIOLENCE

DECEMBER 1995

UNDERWRITING PRACTICES RELATING TO
VICTIMS OF DOMESTIC VIOLENCE

SURVEY HIGHLIGHTS

128 COMPANIES WHICH MAKE UP 80% OF THE KANSAS MARKET SHARE WERE SURVEYED

OF THOSE 128 FIRMS WHO WERE CONTACTED , 114 COMPANIES RESPONDED FOR AN 89% PERCENT PARTICIPATION LEVEL

OUR SURVEY FOUND THAT 24% OF ALL FIRMS SURVEYED RESPONDED AFFIRMATIVELY TO ONE OR BOTH OF THE SURVEY QUESTIONS WHICH ASKED IF THEIR RESPECTIVE COMPANY CURRENTLY CONSIDERED AN APPLICANTS HISTORY OF DOMESTIC VIOLENCE WHEN ISSUING OR RENEWING POLICIES

OF THE VARIOUS INSURANCE CARRIERS, LIFE COMPANYS ACKNOWLEDGED UTILIZATION OF THIS UNDERWRITING CRITERION AT A SIGNIFICANTLY HIGHER RATE THAN ACCIDENT AND HEALTH INSURANCE COMPANIES

LIFE COMPANIES RESPONDED AT A 67% UTILIZATION LEVEL FOR NEW BUSINESS AND 63.4% UTILIZATION LEVEL FOR RENEWALS, AS COMPARED TO ACCIDENT AND HEALTH FIRMS WHO RESPONDED AT A 24% UTILIZATION LEVEL FOR NEW BUSINESS AND 21% UTILIZATION FOR RENEWALS

INTRODUCTION

IN THE FALL OF 1994, A DISCRIMINATORY PRACTICES WORKING GROUP OF THE ACCIDENT AND HEALTH INSURANCE (B) COMMITTEE OF NAIC WAS CREATED AS A RESULT OF A NUMBER OF INSTANCES OF DISCRIMINATION TOWARD VICTIMS OF DOMESTIC VIOLENCE WHO HAD INSURANCE OR HAD SOUGHT INSURANCE. THE MISSION OF THE COMMITTEE WAS TO STUDY THIS ISSUE AND DEVELOP A MODEL.

DURING THE NAIC'S 1995 SPRING SESSION HELD IN MIAMI, FLORIDA, THIS COMMITTEE CONDUCTED A PUBLIC HEARING INVOLVING VICTIMS OF DOMESTIC VIOLENCE THAT WERE DISCRIMINATED BY INSURANCE CARRIERS. AS A MEMBER OF THIS COMMITTEE, KANSAS COMMISSIONER KATHLEEN SEBELIUS, HEARD TESTIMONY FROM WOMEN FROM THROUGHOUT THE COUNTRY, TRANSMITTED ELECTRONICALLY TO THE COMMITTEE HEARINGS, CITING INSTANCES WHEREBY THEY WERE DENIED INSURANCE COVERAGE DUE TO THEIR HISTORY OF DOMESTIC VIOLENCE.

COMMISSIONER SEBELIUS WAS CONCERNED REGARDING THE TESTIMONY SHE HAD HEARD DURING COMMITTEE DELIBERATIONS AND UPON HER RETURN TO KANSAS ORDERED A STUDY BY HER DEPARTMENT TO LEARN MORE OF THE UNDERWRITING PRACTICES OF INSURANCE CARRIERS AS THEY RELATE TO "KANSAS" VICTIMS OF DOMESTIC VIOLENCE.

SCOPE

GENERAL PARTICIPANTS

ON JULY 31, 1995, THE KANSAS INSURANCE DEPARTMENT, UNDER THE DIRECTION OF COMMISSIONER KATHLEEN SEBELIUS INITIATED A SURVEY IN WHICH ULTIMATELY, ONE HUNDRED TWENTY EIGHT (128) LIFE, ACCIDENT, AND HEALTH INSURANCE CARRIERS WERE CONTACTED IN AN EFFORT TO OBTAIN INFORMATION ADDRESSING EACH COMPANY'S UNDERWRITING PRACTICES AS IT RELATES TO DOMESTIC VIOLENCE.

SURVEY RESPONDENTS CONSISTED OF INSURANCE COMPANIES WHICH COMPRISE EIGHTY PERCENT OF THE KANSAS MARKET SHARE IN THEIR RESPECTIVE FIELDS AND INCLUDED THIRTY TWO (32) ACCIDENT AND HEALTH RESPONDENTS, EIGHTY THREE (83) LIFE INSURANCE RESPONDENTS AND THIRTEEN (13) ADDITIONAL INSURANCE CARRIERS WHO ARE DOMICILED IN KANSAS (APPENDIX "I").

HEALTH MAINTENANCE ORGANIZATIONS (HMO's)

INITIALLY, THE KANSAS DEPARTMENT OF INSURANCE HAD INCLUDED IN THIS SURVEY THIRTEEN (13) HMO's WHO APPEARED IN A DEPARTMENTAL "TOP FORTY HEALTH INSURERS" LISTING. HOWEVER, DATA OBTAINED FROM THESE HEALTH MAINTENANCE ORGANIZATIONS HAS NOT BEEN INCORPORATED AS PART OF THE OVERALL SURVEY AS THESE COMPANIES DO NOT DIRECTLY PARTICIPATE IN THE INDIVIDUAL UNDERWRITING OF INSURANCE PLANS. INCIDENTALLY, AS A POINT OF INTEREST, WE FOUND THAT NONE OF HMO's RESPONDED IN THE AFFIRMATIVE TO ANY OF OUR SURVEY QUESTIONS.

DEADLINES

A SEPTEMBER 1, 1995 DEADLINE WAS ASSIGNED IN WHICH PARTICIPANTS WERE ASKED TO RESPOND TO OUR SURVEY. WHILE A MAJORITY OF THE COMPANIES MET THIS DEADLINE, MANY DID NOT.

THEREFORE, ON SEPTEMBER 1, 1995, A SECOND MAIL OUT WAS DIRECTED AT THOSE COMPANIES WHO DID NOT MEET THE INITIAL SURVEY RESPONSE DEADLINE. THE MAIL OUT INCLUDED A NOTICE OF REMINDER, AND ANOTHER COPY OF THE SURVEY. AT THAT TIME, TARGETED COMPANIES WERE EXTENDED AN ADDITIONAL SEVEN DAYS IN WHICH TO SUBMIT THEIR RESPONSES. THROUGHOUT OUR ENDEAVOR THE KANSAS INSURANCE DEPARTMENT MADE FOLLOW-UP CALLS TO CLARIFY RESPONSES, ANSWER COMPANY'S QUESTIONS, AND ALLOW EVERY OPPORTUNITY FOR FIRMS TO PARTICIPATE IN OUR SURVEY.

PROCEDURES

THE KANSAS DEPARTMENT OF INSURANCE'S UNDERWRITING PRACTICES AS THEY RELATE TO DOMESTIC VIOLENCE SURVEY WAS PATTERNED AFTER THOSE INSTRUMENTS UTILIZED BY OTHER STATES AND INCLUDED QUESTIONS REGARDING BASIC COMPANY DEMOGRAPHIC INFORMATION (i.e. NAME OF COMPANY, ADDRESS OF COMPANY, NAME AND TITLE OF PERSON(S) COMPLETING SURVEY, TELEPHONE NUMBER OF CONTACT PERSON), THREE QUESTIONS RELATING TO THE RESPECTIVE COMPANIES PAST AND PRESENT UNDERWRITING PRACTICES AS IT RELATES TO VICTIMS OF DOMESTIC VIOLENCE, A NARRATIVE SECTION TO DESCRIBE RESPECTIVE UNDERWRITING CRITERIA, AND A COMMENT SECTION.

THE SURVEY FURTHER ALLOWED COMPANIES THE OPPORTUNITY TO SPECIFICALLY RESPOND WHETHER DOMESTIC VIOLENCE WAS A CONSIDERATION IN THE UNDERWRITING OF NEW BUSINESS OR RENEWAL OF BUSINESS FOR LIFE AND ACCIDENT AND HEALTH POLICIES. A COPY OF THE UNDERWRITING PRACTICES RELATING TO VICTIMS OF DOMESTIC VIOLENCE SURVEY IS INCLUDED (APPENDIX "ii").

ANALYSIS OF DATA CONSISTED OF OVERVIEWING THE CUMULATIVE YES RESPONSES FOR EACH SURVEY QUESTION AND INCLUDED THE TOTAL YES RESPONSES FOR LIFE, ACCIDENT AND HEALTH CATEGORIES. THIS DEPARTMENT THEN ANALYZED THE SURVEY DATA PER THE INDIVIDUAL CATEGORIES, AND ONLY OF THOSE RESPONDENTS WHO DEFINITELY RESPONDED EITHER YES OR NO TO OUR SURVEY QUERIES.

ALSO, PLEASE NOTE THAT SOME OF THE SURVEYED COMPANIES APPEAR IN ONE OR MORE LINES OF INSURANCE CATEGORIES, THEREFORE, FOR PURPOSES OF THIS SURVEY, ALL COMPANY RESPONSES WERE TABULATED INDIVIDUALLY ON A PER CATEGORY BASIS.

FINDINGS

GENERAL

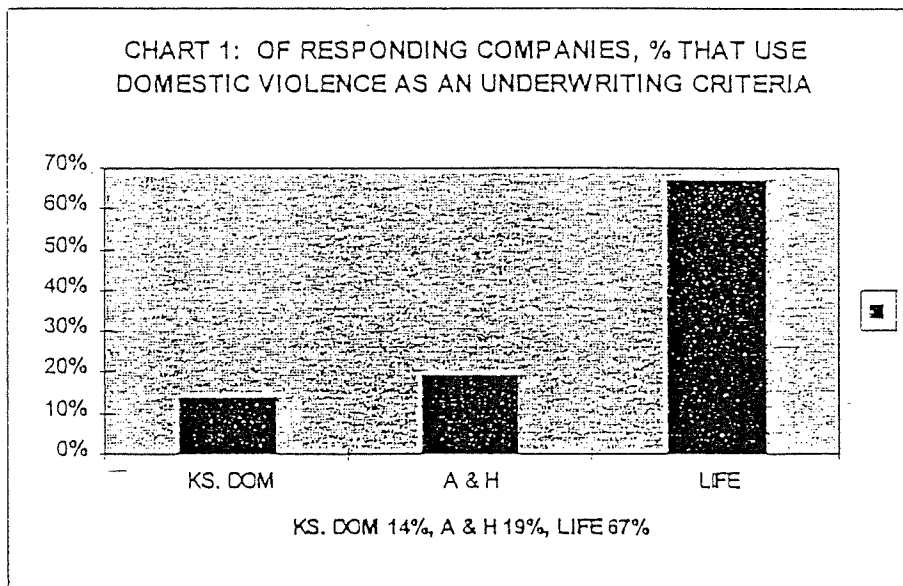
AS OF THIS REPORT, ONE HUNDRED FOURTEEN (114) COMPANIES OR EIGHTY NINE PERCENT (89%) OF THE ONE HUNDRED TWENTY EIGHT (128) FIRMS SURVEYED RESPONDED TO THE KANSAS DEPARTMENT OF INSURANCE'S "UNDERWRITING PRACTICES AS THEY RELATE TO DOMESTIC VIOLENCE" SURVEY.

SPECIFICALLY, OF THE EIGHTY-THREE (83) LIFE INSURANCE COMPANIES SURVEYED, SEVENTY SEVEN (77) OR NINETY THREE PERCENT (93%) RESPONDED; OF THE THIRTY TWO (32) ACCIDENT AND HEALTH INSURANCE CARRIERS CONTACTED, TWENTY SIX (26) OR EIGHTY ONE PERCENT (81%) RESPONDED, AND OF THE FIRMS FOUND UNDER THE HEADING OF "OTHER KANSAS DOMICILED" INSURANCE COMPANIES, WE HAD ELEVEN (11) OF THE THIRTEEN SURVEYED FIRMS RESPOND, AN EIGHTY FIVE PERCENT (85%) PARTICIPATION LEVEL.

OVERALL PERCENTAGES

OUR SURVEY FOUND THAT OF ALL THE INSURANCE CARRIERS WHICH RESPONDED TO OUR SURVEY, TWENTY FOUR PERCENT (24%), OF THE FIRMS REPORTED "YES" TO QUESTIONS WHICH ASKED WHETHER THEY CONSIDERED AN APPLICANTS OR INSURED'S HISTORY WHEN DECIDING TO ISSUE OR RENEW AN ACCIDENT AND HEALTH OR LIFE POLICY.

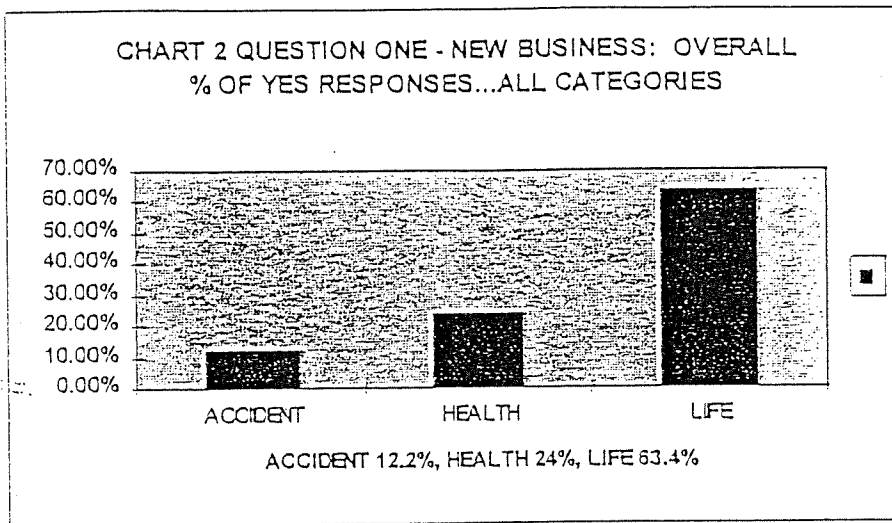
OF THE COMPANIES LISTED ON THE ACCIDENT AND HEALTH LIST, NINETEEN PERCENT (19%) OF THE FIRMS STATED THEY UTILIZE DOMESTIC VIOLENCE AS AN UNDERWRITING CONSIDERATION. OTHER COMPANIES WHO REPORTED IN THE AFFIRMATIVE INCLUDED SIXTY SEVEN PERCENT (67%) LIFE INSURANCE RESPONDENTS; AND OF THE KANSAS DOMICILED COMPANIES WHICH RESPONDED TO THE SURVEY, FOURTEEN PERCENT (14%) ANSWERED IN THE AFFIRMATIVE (CHART 1).



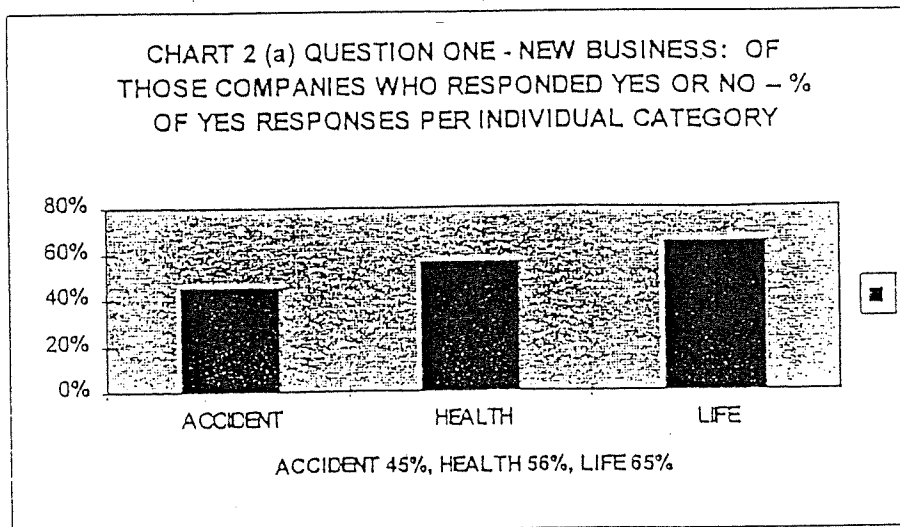
SEVEN (7) OTHER FIRMS, OR FIVE PERCENT (5%) OF THE COMPANIES SURVEYED REPORTED THAT THEY NO LONGER CONSIDER AN INDIVIDUAL'S PAST HISTORY OF DOMESTIC VIOLENCE WHEN UNDERWRITING A POLICY. ALSO REFLECTED IN THESE COMPANY'S RESPONSES WAS THE YEAR IN WHICH THEIR RESPECTIVE BUSINESSES DISCONTINUED THE PRACTICE. AN ALPHABETICAL LISTING OF ALL FIRMS WHO WERE CONTACTED ON BEHALF OF THIS SURVEY ARE ENCLOSED IN THIS REPORT (APPENDIX "iii").

SURVEY QUESTION NO. ONE: NEW BUSINESS

IN THE ANALYSIS OF THE SURVEY DATA, THE KANSAS INSURANCE DEPARTMENT BEGAN BY OVERVIEWING THE TOTAL NUMBER OF "YES" RESPONSES REPORTED FOR QUESTION NO. ONE RELATING TO UNDERWRITING PRACTICES FOR NEW BUSINESS. OUR SURVEY FOUND THAT OF THE FORTY ONE (41) AFFIRMATIVE RESPONSES TWELVE PERCENT (12.2%) WERE FOR ACCIDENT POLICIES, TWENTY FOUR PERCENT (24.4%) WERE FOR HEALTH POLICIES AND SIXTY THREE PERCENT (63.4%) WERE FOR LIFE POLICIES (CHART 2).

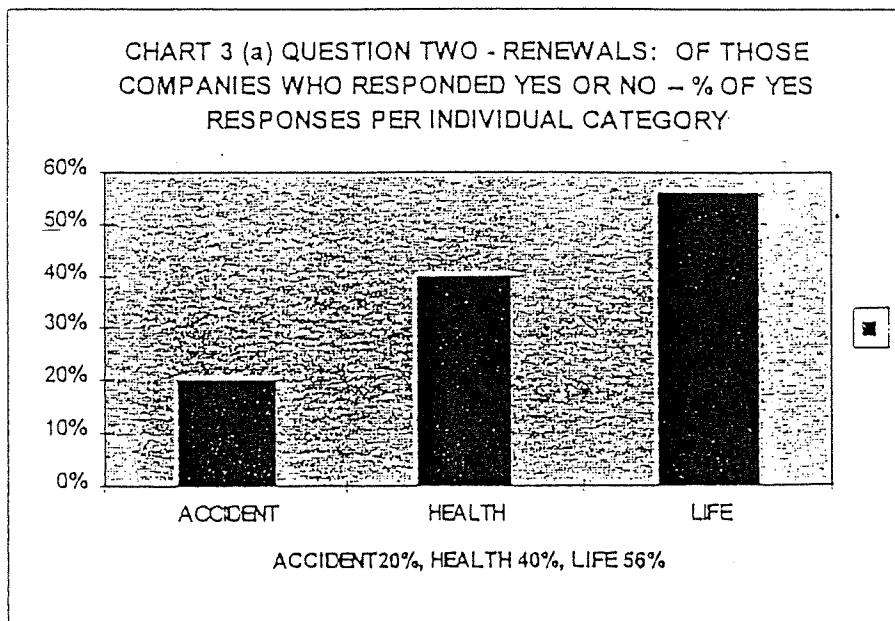
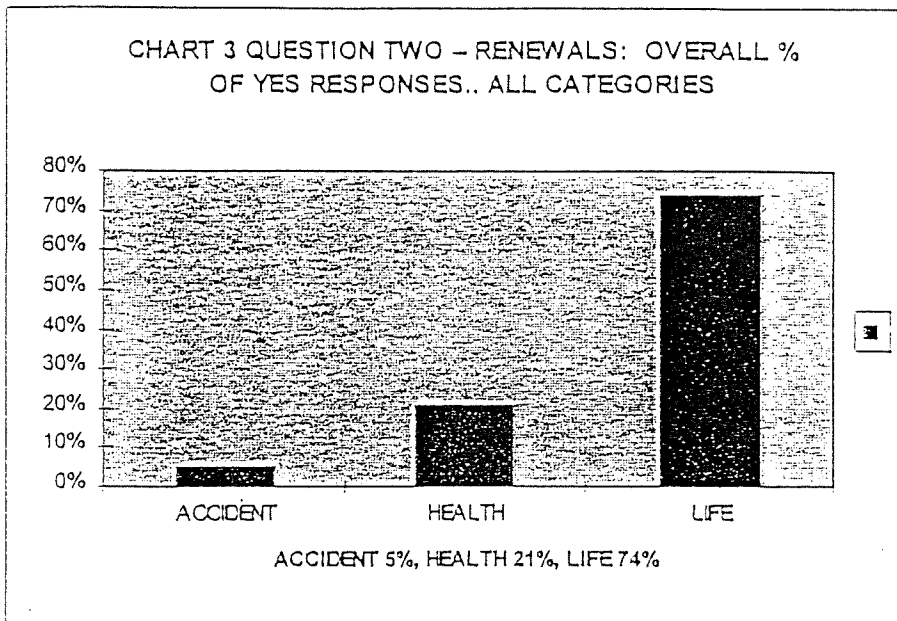


FURTHER ANALYSIS OF THIS DATA PER CATEGORY REFLECTED THAT OF THE ELEVEN (11) LIFE, ACCIDENT AND HEALTH, AND OTHER KANSAS DOMICILED COMPANIES WHO RESPONDED EITHER YES OR NO IN RESPECT TO ACCIDENT POLICIES, FORTY FIVE PERCENT (45%) RESPONDED IN THE AFFIRMATIVE. OF THE EIGHTEEN (18) COMPANIES WHO DEFINITELY RESPONDED YES OR NO REGARDING HEALTH POLICIES, FIFTY SIX PERCENT (56%) ANSWERED YES, AND OF THE FORTY (40) COMPANIES WHO RECORDED YES OR NO RESPONSES FOR LIFE POLICIES, SIXTY FIVE PERCENT (65%) ANSWERED IN THE AFFIRMATIVE (CHART 2 a).



SURVEY QUESTION NO. TWO

IN THE ANALYSIS OF DATA FOR QUESTION NO. TWO, RELATING TO THE RENEWAL OF POLICIES, THE TOTAL NUMBER OF YES RESPONSES FOR LIFE, ACCIDENT AND HEALTH, AND OTHER KANSAS DOMICILED COMPANIES EQUALED NINETEEN (19). FIVE PERCENT (5%) OF THOSE YES RESPONDENTS WERE IN THE AREA OF ACCIDENT UNDERWRITING, TWENTY ONE PERCENT (21%) IN THE AREA OF HEALTH POLICIES, AND SEVENTY FOUR PERCENT (74%) WERE IN LIFE POLICY UNDERWRITING (CHART 3).



CONTINUED ANALYSIS OF THIS DATA REFLECTED THAT OF THOSE COMPANIES WHO DEFINITELY ANSWERED YES OR NO REGARDING ACCIDENT POLICIES, TWENTY PERCENT (20%) ANSWERED IN THE AFFIRMATIVE. OF THE TEN (10) DEFINITIVE YES OR NO RESPONSES FOR HEALTH POLICIES, FORTY PERCENT (40%) ANSWERED AFFIRMATIVELY, AND OF THE TWENTY FIVE (25) DEFINITIVE YES OR NO RESPONSES FOR LIFE POLICIES, FIFTY SIX PERCENT (56%) OF THE RESPONDENTS ANSWERED IN THE AFFIRMATIVE (CHART 3 a).

SURVEY QUESTION NO. THREE

IN RESPECT TO QUESTION NO. THREE, SEVEN (7) OR FIVE PERCENT (5%) OF OUR TARGETED SURVEY PARTICIPANTS REPORTED THAT "YES", IN THE PAST, THEIR RESPECTIVE COMPANIES DID DID CONSIDER AN APPLICANTS OR INSIDER'S HISTORY OF DOMESTIC VIOLENCE WHEN DECIDING VIOLENCE WHEN DECIDING TO ISSUE OR RENEW A POLICY, BUT THE PRACTICE HAD BEEN DISCONTINUED. THE YEAR IN WHICH THE PRACTICE CEASED TO BE EMPLOYED WAS ALSO INCLUDED IN THEIR RESPONSE.

ALL RESPONSES SUBMITTED BY COMPANIES ARE INCLUDED AS PART OF THIS STUDY AND REFLECTED ON SURVEY DATA SPREADSHEETS (APPENDIX "iv").

DISCUSSION

IN OVERVIEWING THE RESPONSES OF ALL COMPANIES WHO SUBMITTED COMMENTS, OUR SURVEY FOUND THAT THE MAJORITY OF FIRMS IN BOTH CATEGORIES (i.e. COMPANIES WHO UTILIZE DOMESTIC VIOLENCE AS AN UNDERWRITING CRITERIA AND THOSE WHO DO NOT) SHARE SOME FUNDAMENTAL COMMONALITIES.

FOR EXAMPLE, OF ALL THOSE FIRMS WHO SUBMITTED COMMENTS, NEARLY ALL STATED THAT THEY DO NOT DIRECTLY SOLICIT DOMESTIC VIOLENCE INFORMATION FROM THEIR APPLICANTS, ALTHOUGH IT IS NOT UNUSUAL FOR THIS INFORMATION TO ARISE DURING THE DEVELOPMENT OF AN APPLICATION FOR INSURANCE COVERAGE.

MOST COMPANIES STATED THAT THEIR UNDERWRITING CRITERION IS BASED ON ALL MEDICAL AND NON-MEDICAL FACTORS, AND AN INDIVIDUALS HISTORY OF BEING A SUBJECT OF DOMESTIC VIOLENCE IS NOT THE SOLE CAUSE FOR UNFAVORABLE ACTION, BUT RATHER ONE OF MANY ELEMENTS FACTORED INTO THEIR RESPECTIVE FORMULAS FOR INSURABILITY.

THE GENERAL CONSENSUS AMONG OUR RESPONDENTS WAS THAT IN THOSE CASES WHERE DOMESTIC VIOLENCE IS REPETITIVE, LIFE THREATENING, OR HAS RESULTED IN SEVERE BODILY OR PSYCHOLOGICAL INJURY, FIRMS WOULD REVIEW THIS INFORMATION ON APPLICATIONS ON A CASE BY CASE BASIS AND ACT UPON THIS INFORMATION ACCORDINGLY.

FINALLY, COMPANIES STATED THAT IN ORDER TO PROVIDE EQUITABLE PREMIUM RATES FOR ALL THEIR INSURED, INSURANCE COMPANIES MUST BE ABLE TO CONSIDER ALL RELEVANT FACTORS, INCLUDING EXPOSURE TO VIOLENCE.

CONCLUSIONS

BASED ON OUR SURVEY DATA, WE FOUND THAT THE MAJORITY OF THE ACCIDENT AND HEALTH, AND LIFE INSURANCE CARRIERS WHICH MAKE UP EIGHTY PERCENT OF THE KANSAS MARKET SHARE, AS WELL AS THOSE OTHER KANSAS DOMICILED INSURANCE CARRIERS WHICH WERE SURVEYED, DO NOT UTILIZE AN APPLICANT'S HISTORY OF BEING A SUBJECT OF DOMESTIC VIOLENCE IN THEIR UNDERWRITING PRACTICES.

HOWEVER, OUR SURVEY FURTHER REFLECTED THAT A SIGNIFICANT AMOUNT OF COMPANIES, OR TWENTY FOUR PERCENT (24%), STATED THAT THEIR COMPANIES CURRENTLY DO TAKE INTO CONSIDERATION AN APPLICANT'S HISTORY OF DOMESTIC VIOLENCE WHEN ISSUING A NEW POLICY OR RENEWING AN INSURED'S POLICY.

OF THE VARIOUS INSURANCE CARRIERS, LIFE INSURANCE COMPANIES ACKNOWLEDGED UTILIZATION OF THIS UNDERWRITING CRITERION AT A SIGNIFICANTLY HIGHER RATE THAN THAT OF ACCIDENT AND HEALTH COMPANIES WHO PARTICIPATED IN THIS SURVEY.

WHEN ANALYZING OUR SURVEY DATA, WE FOUND THAT OF ALL OUR RESPONDENTS, NOT ONE COMPANY UTILIZES AN INDIVIDUAL'S HISTORY OF BEING A VICTIM OF DOMESTIC VIOLENCE TO AUTOMATICALLY DENY APPLICATIONS FOR INSURANCE COVERAGE. COMPANIES STATED THAT APPLICATIONS IN WHICH DOMESTIC VIOLENCE WAS EVIDENT, WERE CONSIDERED INDIVIDUALLY, ON A CASE BY CASE BASIS.

OF THOSE COMPANIES WHO ANSWERED YES TO ANY PORTION(S) OF SURVEY QUESTIONS, RELATING TO CONSIDERATION OF AN APPLICANTS DOMESTIC VIOLENCE HISTORY, FIRMS REPORTED THAT THEY HAD SPECIFIC ELEMENTS OF CONCERN WHICH WERE FACTORED INTO THEIR FORMULAS FOR INSURABILITY. FOREMOST AMONG THEIR CONSIDERATIONS WERE ISSUES OF RISK AFFECTING MORTALITY OR MORBIDITY; WHETHER THE ABUSE IS CURRENT, RESIDUAL, OR EXTREME; WHETHER THE APPLICANT'S SITUATION IS LIFE THREATENING; AND THE PROXIMITY OF THE PERPETRATOR OF THE VICTIM(S).

SUMMARY

THE RESULTS OF OUR "UNDERWRITING PRACTICES RELATING TO VICTIMS OF DOMESTIC VIOLENCE" SURVEY PROVED TO BE VERY INFORMATIVE AND EDUCATIONAL.

WE FOUND THAT WHILE THE VARIOUS INSURANCE CARRIERS TAKE VERY DIFFERENT APPROACHES IN THE MANNER IN WHICH THEY PROCESS APPLICATIONS IN WHICH DOMESTIC VIOLENCE IS REVEALED, ALL THE FIRMS WHO RESPONDED TO OUR SURVEY EXPRESSED A SINCERE, AND DEEP CONCERN OVER THIS ISSUE.

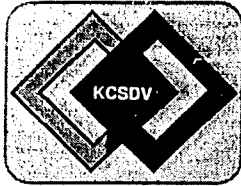
COMPANY REMARKS VARIED FROM THOSE WHO DID NOT UTILIZE DOMESTIC VIOLENCE AS AN UNDERWRITING CRITERIA TO THOSE FIRMS WHO SUGGESTED THAT BY NEGATIVELY CONSIDERING THIS ISSUE IN THEIR UNDERWRITING PRACTICES THEY ARE PROTECTING INDIVIDUALS BY REMOVING THE INCENTIVE THAT WOULD BRING THEM POTENTIAL HARM.

IN THE FINAL ANALYSIS, IT BECAME APPARENT THAT A SIGNIFICANT PERCENTAGE OF THESE COMPANIES, FEEL VERY STRONGLY THAT BUSINESS JUDGMENTS CANNOT BE INFLUENCED BY SOCIAL CONSCIOUSNESS. FOR THESE RESPONDENTS, THEIR FOREMOST CONCERNS RESTS IN THOSE POLICIES AND PRACTICES WHICH THEY BELIEVE SERVE THE BEST INTERESTS OF THEIR POLICYHOLDERS. TO THAT END, THEY HOLD STEADFASTLY TO WHAT THEY VIEW AS SOUND BUSINESS PRACTICES AND FUNDAMENTAL PRINCIPLES OF INSURANCE UNDERWRITING WHICH INCLUDE FACTORING IN CONSIDERATIONS OF AN APPLICANT'S HISTORY OF BEING A SUBJECT OF DOMESTIC VIOLENCE IN THEIR COMPANY'S FORMULA FOR INSURABILITY.

AS OF THIS WRITING, CONNECTICUT, MASSACHUSETTS, DELAWARE, FLORIDA, IOWA AND CALIFORNIA HAVE PASSED LEGISLATION PROHIBITING INSURANCE CARRIERS FROM REFUSING TO ISSUE OR RENEW COVERAGE BECAUSE THE APPLICANT HAS BEEN A VICTIM OF DOMESTIC VIOLENCE.

SIMILAR LEGISLATION IS PENDING IN LOUISIANA, MICHIGAN, PENNSYLVANIA, NEW JERSEY, NEW YORK, WISCONSIN, AND WASHINGTON

AGAIN, WE THANK ALL THE INSURANCE CARRIERS WHO PARTICIPATED IN THIS SURVEY AND APPRECIATE ALL THE COOPERATION WE RECEIVED THROUGHOUT THIS PROCESS.



KANSAS COALITION AGAINST SEXUAL AND DOMESTIC VIOLENCE

820 S.E. Quincy, Suite 416, Topeka, Kansas 66612 • 913 232-9784 • FAX 913 232-9937

UNITED AGAINST VIOLENCE

Member Programs

TESTIMONY BEFORE DR. BILL BRYANT AND THE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE OF THE KANSAS HOUSE OF REPRESENTATIVES, MARCH 14, 1996

- Atchison
- Dodge City
- El Dorado
- Emporia
- Garden City
- Great Bend
- Hays
- Horton
- Hutchinson
- Iola
- Junction City
- Kansas City
- Lawrence
- Leavenworth
- Liberal
- Manhattan
- McPherson
- Morrill
- Newton
- Overland Park
- Pittsburg
- Salina
- Topeka
- Ulysses
- Wichita
- Winfield

Good afternoon, Representatives. My name is Loretta Pyles, and I am the Community Facilitator at Women's Transitional Care Services, Inc., a battered women's shelter, in Lawrence. I am here today representing the Kansas Coalition against Sexual and Domestic Violence (KCSOV). Thank you for allowing me this opportunity to testify on Senate Bill 444.

KCSOV, a statewide organization dedicated to the goal of ending domestic violence and sexual assault in Kansas, was founded 14 years ago in 1982. Over the years, the Coalition has grown from a loosely organized grassroots organization of small women's shelters scattered across the state to a cohesive network of domestic violence programs working together for the benefit of battered persons. KCSOV is the battered woman's voice in public policy, keeping policy makers such as yourselves informed of the needs and priorities of this otherwise silent group of citizens.

There are currently 30 members in the network of domestic violence programs across Kansas. Through domestic violence programs, families in every county across Kansas have access to victim services. Although programs offer a myriad of services including court advocacy, personal crisis counseling, group therapy, transportation, educational counseling, and assistance with housing and job placement, safety is always the highest priority. KCSOV accredits programs by setting high standards for victim service and monitoring program compliance. We are proud to say that Kansas has a strong and viable system for providing safety to battered persons and their children.

In 1994 alone, KCSOV domestic violence programs sheltered 6,740 women, children and men. In addition, the programs provided individual counseling to 17,249 and group counseling to 5,751 women, children and men. In sum, the KCSOV programs in 1994 served 12, 135 women, 9,021 children, and 409 men, for a total of 21,565 clients.

Executive Director
Patricia A. Bledsoe

Assoc. Director
Janice M. Guthrie

Through KCSOV, these individuals are represented in several state and national organizations and committees including the Kansas Organization for Victim Assistance (KOVA), the Violence Against Women

Janice M. Guthrie
Attachment 2
March 14, 1996

Act State Planning Committee of the Attorney General's Office, the Alternate Dispute Resolution Council Legislative Committee of the Kansas Supreme Court, the Crime Victim's Compensation Board, the National Network to End Domestic Violence, and the National Coalition Against Sexual Assault. Through these associations, battered persons are given a voice in both state and national victim-related issues.

Senate Bill 444 takes a strong position against status underwriting for victims of domestic violence. KCSDV supports this bill without reservation. We believe the most superior argument for enacting this bill reveals the inherent contradiction between strong public policy that affirms protection and assistance to the abused and the lack of legislation prohibiting insurance discrimination to the abused.

In order for a victim to leave a violent situation she needs independence and stability. This cannot be achieved without the assistance and support of the community, i.e. without the tools necessary for intervention and assistance. This includes having the ability to obtain medical documentation and police reports, as well as to access social services.

If by investigating and uncovering this paper trail of medical and legal documents, insurance companies are using domestic violence as an underwriting criterion, then we contradict ourselves when we say that women should not stand for abuse. Over the past twenty years, great efforts have been made in our communities to train physicians and law enforcement officers to identify and document abuse. Clearly, no one wants to see victims stop seeking out the avenues that have been created to enable them to end the violence in their lives.

We know that 24% of insurance companies are using domestic violence as an underwriting criterion. But, just exactly how this practice is effecting victims, we cannot really know, as the victims themselves do not even know. This is because insurance companies are not required to disclose information relating to adverse underwriting decisions.

One may argue that victims of domestic violence are receiving special treatment. However, one should keep in mind that there is strong public policy favoring this class of citizens. Remember, we are concerned with victims of crime. There is no good reason why we should stand and watch them be further discriminated against.

Finally, we would like to commend the group of Senators who worked diligently on this bill. However, we believe there is no good reason to exclude property and casualty insurances from this bill. All companies and insurances should have the same guidelines for non-discrimination.

Again, KCSDV urges you to enact Senate Bill 444. Thank you for your attention. We will be happy to answer any questions you may have about our position.



State of Kansas

Office of the Attorney General

301 S.W. 10TH AVENUE, TOPEKA 66612-1597

CARLA J. STOVALL
ATTORNEY GENERAL

MAIN PHONE: (913) 296-2215
CONSUMER PROTECTION: 296-3751
FAX: 296-6296

TESTIMONY OF
JULIENE A. MASKA
STATEWIDE VICTIMS' RIGHTS COORDINATOR
BEFORE THE
HOUSE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
RE: SENATE BILL 444

MARCH 14, 1996

Chairman Bryant and Members of the Committee:

I urge the Committee's support of Senate Bill 444 as amended by the Senate Committee of the Whole. Victims of domestic violence should not be discriminated against for the violence they are forced to endure. In Kansas, thousands of victims seek assistance from violence. They suffer severe injuries and trauma. When victims of domestic violence seek assistance, whether from hospitals, medical providers, courts, shelter programs, or mental health facilities, they must be assured that they can be covered by insurance. Domestic violence is not a crime that can be controlled by the victim and they should not be denied services because they cannot make the violence stop.

The survey compiled by Insurance Commissioner Sebelius reveals that some insurance companies do consider domestic violence when issuing or renewing insurance. Victims of domestic violence and their children must be able to seek help from medical providers and other professionals. If victims fear the loss of insurance, it may keep victims from obtaining the assistance necessary for their safety. Senate Bill 444 is a beginning in addressing this important and complex issue.

Thank you for your consideration for this very important bill.

*House F&I
Attachment 3
March 14, 1996*

BRAD SMOOT
ATTORNEY AT LAW

EIGHTH & JACKSON STREET
MERCANTILE BANK BUILDING
SUITE 808
TOPEKA, KANSAS 66612
(913) 233-0016
(913) 234-3687 FAX

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206
(913) 649-6836

Testimony Of Brad Smoot, Legislative Counsel
Blue Cross Blue Shield Of Kansas
Regarding Senate Bill 444
Before
House Financial Institutions And Insurance Committee
March 14, 1996

I am Brad Smoot, legislative counsel for Blue Cross Blue Shield of Kansas, a domestic health insurer providing coverage for more than 700,000 Kansans in 103 counties of the state. Thank you for this opportunity to comment on S 444.

Blue Cross Blue Shield does not use domestic abuse information in underwriting and we have no problem with the objective of S 444. We do have a minor amendment for the Committee's consideration. On page 5, lines 22-25, the law requires insurers who underwrite on the basis of a preexisting physical or mental condition to explain to the applicant the reasons for the underwriting action. Current law, K.S.A. 1995 Supp. 40-2,112, requires insurers to either give written explanation or advise applicants of their right to have underwriting decisions explained upon request.

If S-444 is read to require all preexisting condition underwriting to be explained even without a request, it is broader than the subject of this bill and contrary to current law. If it is read to require such notice only in cases where the underwriting involved conditions "caused by abuse" as referenced in Section 1(7)(d)(iv), then insurers have two standards of notice and must gather information on abuse in order to comply with this new standard . . . just opposite the intent of this legislation.

We suggest deleting the notice requirement contained in Section 1(7)(d)(iv). This would return insurers to the notice requirements of current law. Or, in the alternative, insert a reference to the current notice requirements contained in K.S.A. 1995 Supp. 40-2,112. See attached balloon.

Thank you for your consideration of your concerns.

House F&I
Attachment 4
March 14, 1996

1 (iii) No insurer that issues a life or accident and health policy
 2 to an individual who is, has been or may be the subject of domestic
 3 abuse shall be subject to civil or criminal liability for the death or
 4 any injuries suffered by that individual as a result of domestic
 5 abuse.

6 (iv) Nothing in this section shall be construed to prohibit a per-
 7 son from underwriting or rating a risk on the basis of a preexisting
 8 physical or mental condition, even if such condition has been caused
 9 by abuse, provided that:

10 (A) The person routinely underwrites or rates such condition in
 11 the same manner with respect to an insured or an applicant who is
 12 not a victim of abuse;

13 (B) no person shall refuse to insure, refuse to continue to insure,
 14 limit the amount, extent or kind of coverage available to an indi-
 15 vidual or charge a different rate for the same coverage solely be-
 16 cause of physical or mental condition, except where the refusal,
 17 limitation or rate differential is based on sound actuarial principles;

18 (C) the fact that an individual is, has been or may be the subject
 19 of abuse may not be considered a physical or mental condition; and

20 (D) such underwriting or rating is not used to evade the intent
 21 of this section or any other provision of the Kansas insurance code.

22 (v) Any person who underwrites or rates a risk on the basis of
 23 preexisting physical or mental condition as set forth in subsection
 24 (7)(d)(iv) must explain the reason for its action to the applicant or
 25 insured in writing.

26 (vi) The provisions of subsection (d) shall apply to all policies
 27 of life and accident and health insurance issued in this state after
 28 the effective date of this act and all existing contracts which are
 29 renewed on or after the effective date of this act.

30 (8) Rebates. (a) Except as otherwise expressly provided by law, know-
 31 ingly permitting, offering to make or making any contract of life insur-
 32 ance, life annuity or accident and health insurance, or agreement as to
 33 such contract other than as plainly expressed in the insurance contract
 34 issued thereon; paying, allowing, giving or offering to pay, allow or give,
 35 directly or indirectly, as inducement to such insurance, or annuity, any
 36 rebate of premiums payable on the contract, any special favor or advan-
 37 tage in the dividends or other benefits thereon, or any valuable consid-
 38 eration or inducement whatever not specified in the contract; or giving,
 39 selling, purchasing or offering to give, sell or purchase as inducement to
 40 such insurance contract or annuity or in connection therewith, any stocks,
 41 bonds or other securities of any insurance company or other corporation,
 42 association or partnership, or any dividends or profits accrued thereon,
 43 or anything of value whatsoever not specified in the contract.

shall treat such underwriting or rating as an
adverse underwriting decision pursuant to
K. S. A. 40-2;112.



KANSAS MEDICAL SOCIETY

623 SW 10th Ave. • Topeka, Kansas 66612 • (913) 235-2383
WATS 800-332-0156 FAX 913-235-5114

March 14, 1996

TO: House Committee on Financial Institutions and Insurance

FROM: Jerry Slaughter
Executive Director

A handwritten signature in black ink, appearing to read 'J. Slaughter'.

SUBJECT: SB 444; relating to prohibiting insurance underwriting discrimination against victims of domestic abuse

The Kansas Medical Society appreciates the opportunity to appear today in support of SB 444, as amended by the Senate. This legislation would prohibit insurance companies from unfairly terminating or denying coverage, or increasing the cost of a policy of health insurance because a person has been the victim of abuse. The thought of an insurance company or health plan refusing to cover the innocent victim of domestic abuse because they have been abused is unacceptable. To allow such practices to exist is to punish the victim twice. This legislation sends a clear message that domestic abuse is a serious matter, and that innocent victims of abuse should not be further victimized by a system which is insensitive to their special needs.

We are grateful for the opportunity to offer these comments, and would be happy to respond to any questions.

*Hand Fwd
attachment 5
March 14, 1996*