

MINUTES OF THE Senate Committee on Financial Institutions and Insurance.

The meeting was called to order by Chairperson Don Steffes at 9:00 a.m. on March 5, 1997 in Room 529-S of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Tom Wilder, Kansas Insurance Department
Sanford Kaufman, Pasteur Merieux Connaught
Dr. Steve Potsic, Division of health
Meg Henson, Kansas Medical Society
Representative Phyllis Gilmore

Others attending: See attached list

Hearing on HB 2083 - Disclosure of material insurance transactions

Tom Wilder, Kansas Insurance Department, reported that this bill would give the Insurance Department more flexibility in reviewing certain transactions undertaken by Kansas insurance companies (Attachment 1). This bill will adopt the current language in the NAIC Insurance Holding Company Regulatory Act so KID can meet their accreditation standards.

Revisor Fred Carman informed the Committee of possible technical amendments which will be needed due to conflicting language within the bill. A floor amendment addressing this will be prepared.

Senator Feleciano moved to report **HB 2083** favorably. The motion was seconded by Senator Praeger. Motion carried.

Hearing on HB 2137 - Expanded first dollar coverage for immunizations

Sanford Kaufman, representative of Pasteur Merieux Connaught, explained the bill as one that would extend the maximum age for children from 36 months to 72 months for immunization coverage by insurance companies (Attachment 2). Insurers would be required to cover all costs. A cost savings to state supported clinics would occur as many times doctors refer insurance patients to free clinics when their insurance coverage for immunizations has been exhausted. By allowing such immunizing, a cost/benefit of \$10-\$14 for every dollar spent on vaccines has been established by the Centers for Disease Control and Prevention.

Tom Wilder, Kansas Insurance Department, said their study showed the increase in premium per contract would be approximately \$1.92 per month (Attachment 3). Some insurance companies will require a deductible. No information is available on how the State Employees Health plan will be impacted. The Insurance Department required health insurers to include vaccine for varicella (chicken pox) to their list of prescribed vaccines in August of 1996. The bill as amended by the House would also require insurers to provide coverage for a child who is adopted by an insured from the date they are placed in the home of the insured.

Steve Potsic, M.D., Ph.D., Division of Health of the Kansas Department of Health and Environment, said the bill would authorize insurance coverage for up to five immunizations of prescribed vaccines if they are given in the proper time increments. There are times when all five doses are not required.

Meg Henson, Kansas Medical Society, said they believe this legislation would help to encourage age-appropriate immunizations for young children (Attachment 4). Some children only receive vaccines through the age of three due to the cost and lack of insurance coverage.

CONTINUATION SHEET

MINUTES OF THE Senate Committee on Financial Institutions & Insurance, Room 529-S Statehouse, on March 5, 1997.

Terri Roberts, J.D., RN, Executive Director of the Kansas State Nurses Association, presented written testimony (Attachment 5).

Representative Phyllis Gilmore reported that the amendment regarding insurance coverage for adopted children beginning at the time of placement in the home was very important because filing for adoption might not occur for several months after placement (Attachment 6). She supported a proposed balloon amendment offered by Senator Brownlee which would include coverage for the total pregnancy for the birth mother in an adoption when the potential adoptive mother would have had coverage. She also requested a technical amendment to correct the spelling of diseases for which vaccines would be made available.

Committee members discussed the possibility of such coverage being made available at additional cost to the insured.

The hearing was continued until Tuesday, March 11.

Hearing on HB 2104 - Repeal of medical insurance corporation statutes

Tom Wilder, Kansas Insurance Department, described this 1940's legislation as no longer relevant as no non-profit hospital service corporations have been formed since the early 1980's (Attachment 7). The repeal of these statutes would update the articles in health insurance law.

Fred Carman, Revisor of Statutes, advised there should be amendments added which would address conflicts in other existing statutes. Such amendments will be prepared.

Senator Praeger moved that the bill be reported favorably. Senator Feleciano seconded the motion. Motion carried.

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for March 6, 1997.



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions
and Insurance Committee

From: Tom Wilder

Re: House Bill 2083 (Material Transactions/Change of Control)

Date: March 4, 1997

I am appearing today in support of H.B. 2083 which makes several changes to the laws that govern financial transactions by insurance companies. The bill is designed to give the Insurance Department more flexibility in reviewing certain transactions undertaken by Kansas insurance companies.

Section 1 of the legislation adopts Section 3 of the 1994 National Association of Insurance Commissioners ("NAIC") Model Act on the Disclosure of Material Transactions. This new language is intended to replace K.S.A. 1995 Supp. 40-2,158 which is based on the 1992 NAIC Model Act. I have attached a copy of K.S.A. 40-2,158 to my testimony to show what provision is being repealed. Most of the changes between the 1992 Model Act and the 1994 version are minor. This amendment was requested by the NAIC to meet their accreditation standards.

Section 2 of the House Bill amends K.S.A. 1995 Supp. 40-3302 to adopt the current language in the NAIC Insurance Holding Company Regulatory Act. Under the subsection (c) of the statute as written, there is a standard by which the Insurance Department assumes someone wants to obtain control of an insurer. This presumption can be rebutted but only for the purposes of registration with the Insurance Department. Our change allows the presumption to also be rebutted for acquisition purposes as well.

Section 3 of the bill amends K.S.A. 40-3304 to remove all references to K.S.A. 40-3314. That statute requires companies that are seeking to obtain control of a Kansas insurer to notify the Department and provide information regarding the proposed acquisition. The Insurance Department can challenge a merger or acquisition through other provisions of the Insurance Code.

The House Insurance Committee further amended the bill at our request to delete K.S.A. 40-3314. This is the provision that details whether or not an acquisition is anti-competitive. I have attached a copy of K.S.A. 40-3314 to my testimony to show what language is being repealed.

I would ask that the Committee approve House Bill 2083.

(c) The following information is required to be disclosed in any report of a material acquisition or disposition of assets:

- (1) Date of the transaction;
- (2) manner of acquisition or disposition;
- (3) description of the assets involved;
- (4) nature and amount of the consideration given or received;
- (5) purpose of, or reason for, the transaction;
- (6) manner by which the amount of consideration was determined;
- (7) gain or loss recognized or realized as a result of the transaction; and
- (8) name or names of the person or persons from whom the assets were acquired or to whom they were disposed.

History: L. 1994, ch. 89, § 2; July 1.

40-2,158. Material nonrenewals, cancellations or revisions of ceded reinsurance agreements; defined; reports; information required to be disclosed. (a) Nonrenewals, cancellations or revisions of ceded reinsurance agreements need not be reported pursuant to subsection (a) of K.S.A. 1996 Supp. 40-2,156 if the nonrenewals, cancellations or revisions are not material. For purposes of this act, a material nonrenewal, cancellation or revision is one that affects for property and casualty business, including accident and sickness insurance, when written as such, more than 50% of an insurer's ceded written premium, or for life, annuity and accident and sickness business, more than 50% of the total reserve credit taken for business ceded, on an annualized basis as indicated in the insurer's more recently filed statement of financial condition. Notwithstanding the foregoing part of this subsection (a), no filing is required if the insurer's ceded written premium or the total reserve credit taken for business ceded represents, on an annualized basis, less than 10% of direct plus assumed written premium or 10% of the statutory reserve requirement prior to any cession, respectively.

(b) Subject to the criteria stated in subsection (a), a report shall be filed without regard to which party has initiated the nonrenewal, cancellation or revisions of ceded reinsurance when one or more of the following conditions exist:

- (1) The entire cession has been canceled, nonrenewed or revised and ceded indemnity and loss adjustment expense reserves after any nonrenewal, cancellation or revision represent less than 50% of the comparable reserves that would

have been ceded had the nonrenewal, cancellation or revision not occurred;

(2) an authorized or accredited reinsurer has been replaced on an existing cession by an unauthorized reinsurer; or

(3) collateral requirements previously established for unauthorized reinsurers have been substantially reduced or eliminated.

Subject to the materiality criteria, for purposes of subparts (2) and (3) of this subsection (b), a report shall be filed if the result of the revision affects more than 10% of the cession.

(c) The following information is required to be disclosed in any report of a material nonrenewal, cancellation or revision of ceded reinsurance agreements:

(1) Effective date of the nonrenewal cancellation or revision;

(2) the description of the transaction with an identification of the initiator thereof;

(3) purpose of, or reason for, the transaction; and

(4) if applicable, the identity of the replacement reinsurers.

History: L. 1994, ch. 89, § 3; July 1.

40-2,159. Reports on a nonconsolidated basis; exception. Insurers are required to report all material acquisitions and dispositions of assets and all material nonrenewals, cancellations or revisions of ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or 100% reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than \$1,000,000 total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than 5% of the insurer's capital and surplus.

History: L. 1994, ch. 89, § 4; July 1.

40-2,160. Coverage for minimum inpatient care following birth of child. (a) As used in this section:

- (1) "Health plan" means any insurer or corporation which issues individual and group health insurance policies providing coverage on an expense-incurred basis, individual and group service

Law Review and Bar Journal References:

"Recent Developments in Kansas Insurance Law: A Survey. Some Analysis, and Some Suggestions." Robert H. Jerry II. 32 K.L.R. 287, 338, 339 (1984).

40-3311. Violations of act; penalties. (a) Any insurer, without just cause, failing to file any registration statement within the time prescribed in subsections (a) and (d) of K.S.A. 40-3305 and amendments thereto shall be subject to a penalty of \$100 for each day's delay. The maximum penalty under this section is \$10,000. The commissioner may reduce the penalty if the insurer demonstrates to the commissioner that the imposition of the penalty would constitute a financial hardship to the insurer.

(b) Every director or officer of an insurance holding company system who knowingly violates, participates in, or assents to, or who knowingly shall permit any of the officers or agents of the insurer to engage in transactions or make investments which have not been properly reported or submitted pursuant to subsection (a) of K.S.A. 40-3305 or subsections (c) or (d) of K.S.A. 40-3306 and amendments thereto, or which otherwise violates this act, shall pay, in such directors' or officers' individual capacity, a civil forfeiture of not more than \$5,000 per violation, after notice and hearing before the commissioner. In determining the amount of the civil forfeiture, the commissioner shall take into account the appropriateness of the forfeiture with respect to the gravity of the violation, the history of previous violations, and such other matters as justice may require.

(c) Whenever it appears to the commissioner that any insurer subject to this act or any director, officer, employee or agent thereof has engaged in any transaction or entered into a contract which is subject to K.S.A. 40-3306 and amendments thereto and which would not have been approved had such approval been requested, the commissioner may order the insurer to cease and desist immediately any further activity under that transaction or contract. After notice and hearing the commissioner may also order the insurer to void any such contracts and restore the status quo if such action is in the best interest of the policyholders, creditors or the public.

(d) Whenever it appears to the commissioner that any insurer or any director, officer, employee or agent thereof has committed a willful violation of this act, the commissioner may cause criminal proceedings to be insti-

tuted by the district court for the county in which the principal office of the insurer is located or if such insurer has no such office in this state, then by the district court for Shawnee county against such insurer or the responsible director, officer, employee or agent thereof. Any insurer which willfully violates this act may be fined not more than \$50,000. Any individual who willfully violates this act may be fined in individual capacity not more than \$10,000 or, be imprisoned for not more than one to three years, or both.

(e) Any officer, director or employee of an insurance holding company system who knew or reasonably should have known they were subscribing to or making or causing to be made any false statements, false reports or false filings with the intent to deceive the commissioner in the performance of duties under this act, upon conviction thereof, shall be imprisoned for not more than five to 10 years or fined \$100,000, or both. Any fines imposed shall be paid by the officer, director or employee in such person's individual capacity.

History: L. 1974, ch. 183, § 11; L. 1976, ch. 217, § 3; L. 1991, ch. 138, § 6; L. 1992, ch. 288, § 7; July 1, 1993.

Law Review and Bar Journal References:

"Recent Developments in Kansas Insurance Law: A Survey. Some Analysis, and Some Suggestions." Robert H. Jerry II. 32 K.L.R. 287, 339 (1984).

40-3311a. Same; suspension, revocation or refusal to renew certificate of authority. On and after July 1, 1993, when it appears to the commissioner that any person has committed a violation of this act which makes the continued operation of an insurer contrary to the interests of policyholders or the public, the commissioner may, after giving notice and an opportunity to be heard, determine to suspend, revoke or refuse to renew such insurer's license or authority to do business in this state for such period as the commissioner finds is required for the protection of policyholders or the public. Any such determination shall be accompanied by specific findings of fact and conclusions of law.

History: L. 1992, ch. 288, § 8; July 1.

40-3312.

History: L. 1974, ch. 183, § 12; Repealed, L. 1986, ch. 318, § 146; July 1.

40-3313.

History: L. 1976, ch. 217, § 4; Repealed, L. 1988, ch. 356, § 361; July 1, 1989.

40-3314. Acquisition of insurer; change of control; pre-acquisition notification; com-

petitive standard; orders of commissioner, violations, penalties. (a) *Definitions.* The following definitions shall apply for the purposes of this section only:

(1) "Acquisition" means any agreement, arrangement or activity the consummation of which results in a person acquiring directly or indirectly the control of another person and includes, but is not limited to, the acquisition of voting securities, the acquisition of assets, bulk reinsurance and mergers.

(2) An "involved insurer" includes an insurer which either acquires or is acquired, is affiliated with an acquirer or acquired or is the result of a merger.

(b) *Scope.*

(1) Except as provided in paragraph (2) of this subsection, this section applies to any acquisition in which there is a change in control of an insurer authorized to do business in this state.

(2) This section shall not apply to the following:

(A) An acquisition subject to approval or disapproval by the commissioner pursuant to K.S.A. 40-3304 and amendments thereto;

(B) a purchase of securities solely for investment purposes so long as such securities are not used by voting or otherwise to cause or attempt to cause the substantial lessening of competition in any insurance market in this state. If a purchase of securities results in a presumption of control under K.S.A. 40-3302(c) and amendments thereto, it is not solely for investment purposes unless the commissioner of the insurer's state of domicile accepts a disclaimer of control or affirmatively finds that control does not exist and such disclaimer action or affirmative finding is communicated by the domiciliary commissioner to the commissioner of this state;

(C) the acquisition of a person by another person when both persons are neither directly nor through affiliates primarily engaged in the business of insurance, if pre-acquisition notification is filed with the commissioner in accordance with subsection (c)(1) 30 days prior to the proposed effective date of the acquisition. However, such pre-acquisition notification is not required for exclusion from this section if the acquisition would otherwise be excluded from this section by any other subparagraph of subsection (b)(2);

(D) the acquisition of already affiliated persons;

(E) an acquisition if, as an immediate result of the acquisition:

(i) In no market would the combined market share of the involved insurers exceed 5% of the total market;

(ii) there would be no increase in any market share; or

(iii) in no market would:

(aa) The combined market share of the involved insurers exceeds 12% of the total market; and

(bb) the market share increases by more than 2% of the total market.

For the purpose of this subparagraph (2)(E), a market means direct written insurance premium in this state for a line of business as contained in the annual statement required to be filed by insurers licensed to do business in this state.

(F) An acquisition for which a pre-acquisition notification would be required pursuant to this section due solely to the resulting effect on the ocean marine insurance line of business:

(C) an acquisition of an insurer whose domiciliary commissioner affirmatively finds that such insurer is in failing condition, there is a lack of feasible alternative to improving such condition, the public benefits of improving such insurer's condition through the acquisition exceed the public benefits that would arise from not lessening competition, and such findings are communicated by the domiciliary commissioner to the commissioner of this state.

(c) *Pre-acquisition notification, waiting period.* An acquisition covered by subsection (b) may be subject to an order pursuant to subsection (e) unless the acquiring person files a pre-acquisition notification and the waiting period has expired. The acquired person may file a pre-acquisition notification. The commissioner shall give confidential treatment to information submitted under this subsection in the same manner as provided in K.S.A. 40-3308 and amendments thereto.

(1) The pre-acquisition notification shall be in such form and contain such information as prescribed by the national association of insurance commissioners relating to those markets which, under subsection (b)(2)(E), cause the acquisition not to be exempted from the provisions of this section. The commissioner may require such additional material and information to determine whether the proposed acquisition, if consummated, would violate the competitive standard of subsection (d). The required information may include an opinion of

an economist as to the competitive impact of the acquisition in this state accompanied by a summary of the education and experience of such person indicating the ability to render an informed opinion.

(2) The waiting period required shall begin on the date of receipt of the commissioner of a pre-acquisition notification and shall end on the earlier of the 30th day after the date of such receipt or termination of the waiting period by the commissioner. Prior to the end of the waiting period, the commissioner on a one-time basis may require the submission of additional needed information relevant to the proposed acquisition, in which event the waiting period shall end on the earlier of the 30th day after receipt of such additional information by the commissioner or termination of the waiting period by the commissioner.

(d) *Competitive standard.*

(1) The commissioner may enter an order under subsection (e)(1) with respect to an acquisition if there is substantial evidence that the effect of the acquisition may be substantially to lessen competition in any line of insurance in this state or tend to create a monopoly therein or if the insurer fails to file adequate information in compliance with subsection (c).

(2) In determining whether a proposed acquisition would violate the competitive standard of paragraph (1) of subsection (d), the commissioner shall consider the following:

(A) Any acquisition covered under subsection (b) involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standards:

(i) If the market is highly concentrated and the involved insurers possess the following shares of the market:

| Insurer A | Insurer B |
|-----------|------------|
| 4% | 4% or more |
| 10% | 2% or more |
| 15% | 1% or more |

(ii) or, if the market is not highly concentrated and the involved insurers possess the following shares of the market:

| Insurer A | Insurer B |
|-----------|------------|
| 5% | 5% or more |
| 10% | 4% or more |
| 15% | 3% or more |
| 19% | 1% or more |

A highly concentrated market is one in which the share of the four largest insurers is

75% or more of the market. Percentages not shown in the tables are interpolated proportionately to the percentages that are shown. If more than two insurers are involved, exceeding the total of the two columns in the table is prima facie evidence of violation of the competitive standard in paragraph (1) of this subsection (d). For the purpose of this subparagraph (A), the insurer with the largest share of the market shall be deemed to be Insurer A.

(B) There is a significant trend toward increased concentration when the aggregate market share of any grouping of the largest insurers in the market, from the two largest to the eight largest, has increased by 7% or more of the market over a period of time extending from any base year five to 10 years prior to the acquisition up to the time of the acquisition. Any acquisition or merger covered under subsection (b) involving two or more insurers competing in the same market is prima facie evidence of violation of the competitive standard in paragraph (1) of this subsection (d) if:

- (i) There is a significant trend toward increased concentration in the market;
- (ii) one of the insurers involved is one of the insurers in a grouping of such large insurers showing the requisite increase in the market share; and
- (iii) another involved insurer's market is 2% or more.

(C) For the purposes of subsection (d)(2):

- (i) The term "insurer" includes any company or group of companies under common management, ownership or control;
- (ii) the term "market" means the relevant product and geographical markets. In determining the relevant product and geographical markets, the commissioner shall give due consideration to, among other things, the definitions or guidelines, if any, promulgated by the national association of insurance commissioners and to information, if any, submitted by parties to the acquisition. In the absence of sufficient information to the contrary, the relevant product market is assumed to be the direct written insurance premium for a line of business, such line being that used in the annual statement required to be filed by insurers doing business in this state, and the relevant geographical market is assumed to be this state;
- (iii) the burden of showing prima facie evidence of violation of the competitive standard rests upon the commissioner.

(D) Even though an acquisition is not prima facie violative of the competitive standard under subparagraphs (2)(A) and (B) of this subsection (d), the commissioner may establish the requisite anticompetitive effect based upon other substantial evidence. Even though an acquisition is prima facie violative of the competitive standard under subparagraphs (2)(A) and (B) of this subsection (d), a party may establish the absence of the requisite anticompetitive effect based upon other substantial evidence. Relevant factors in making a determination under this paragraph include, but are not limited to, the following: Market shares, volatility of ranking of market leaders, number of competitors, concentration, trend of concentration in the industry, and ease of entry and exit into the market.

(3) An order may not be entered under subsection (e)(1) if:

(A) The acquisition will yield substantial economies of scale or economies in resource utilization that cannot be feasibly achieved in any other way, and the public benefits which would arise from such economies exceed the public benefits which would arise from not lessening competition; or

(B) the acquisition will substantially increase the availability of insurance, and the public benefits of such increase exceed the public benefits which would arise from not lessening competition.

(e) *Orders and penalties.*

(1) (A) If an acquisition violates the standards of this section, the commissioner may enter an order:

(i) Requiring an involved insurer to cease and desist from doing business in this state with respect to the line or lines of insurance involved in the violation; or

(ii) denying the application of an acquired or acquiring insurer for a license to do business in this state.

(B) Such an order shall not be entered unless:

(i) There is a hearing;

(ii) notice of such hearing is issued prior to the end of the waiting period and not less than 15 days prior to the hearing; and

(iii) the hearing is concluded and the order is issued no later than 60 days after the end of the waiting period. Every order shall be accompanied by a written decision of the commissioner setting forth findings of fact and conclusions of law.

(C) An order entered under this paragraph shall not become final earlier than 30 days after it is issued, during which time the involved insurer may submit a plan to remedy the anticompetitive impact of the acquisition within a reasonable time. Based upon such plan or other information, the commissioner shall specify the conditions, if any, under the time period during which the aspects of the acquisition causing a violation of the standards of this section would be remedied and the order vacated or modified.

(D) An order pursuant to this subsection (e)(1) shall not apply if the acquisition is not consummated.

(2) Any person who violates a cease and desist order of the commissioner under this subsection (e)(1) and while such order is in effect, may after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to any one or more of the following:

(A) A monetary penalty of not more than \$10,000 for each day of violation; and/or

(B) suspension or revocation of such person's license.

(3) Any insurer or other person who fails to make a filing required by this section and who also fails to demonstrate a good faith effort to comply with any such filing requirement, shall be subject to a fine of not more than \$50,000.

(f) *Inapplicable provisions.* Subsections (b) and (c) of K.S.A. 40-3310 and amendments thereto do not apply to acquisitions covered under subsection (b).

History: L. 1991, ch. 138, § 2; L. 1992, ch. 288, § 9; July 1, 1993.

~~40-3315. Liquidation or rehabilitation of insurers; what is recoverable by receiver. (a) If an order for liquidation or rehabilitation of a domestic insurer has been entered, the receiver appointed under such order shall have a right to recover on behalf of the insurer:~~

~~(1) From any parent corporation or holding company or person or affiliate who otherwise controlled the insurer, the amount of distributions, other than distributions of shares of the same class of stock, paid by the insurer on its capital stock; or~~

~~(2) any payment in the form of a bonus, termination settlement or extraordinary lump-sum salary adjustment made by the insurer or its subsidiary or subsidiaries to a director, officer or employee, where the distribution or~~

PASTEUR MÉRIEUX CONNAUGHT USA

ROUTE 611, P.O. BOX 187
SWIFTWATER, PENNSYLVANIA 18370-0187
TELEPHONE: 717-839-7187 FAX: 717-839-7235

Senator Steffes and Members of the Senate Financial Institutions and Insurance Committee:

My name is Sanford Kaufman, Director of State Government Affairs for Pasteur Mérieux Connaught. I want to thank you for the opportunity to testify on behalf on this bill, as we did two years ago for Senate Bill 36.

Pasteur Mérieux Connaught is a major developer and manufacturer of both pediatric and adult vaccines. The company has a strong commitment to research and development of vaccines in the U.S. But we have also been asked to provide expertise and support for activities that will help bolster immunization rates.

Pasteur Mérieux Connaught continues to be deeply interested in working toward increasing age-appropriate immunization rates in both Kansas and the rest of the United States. Your action when you enacted Senate Bill 36 in 1995, which included immunization in insurance coverage, with no co-pays or deductibles, increases the likelihood that children will get vaccines on time and where they usually receive their healthcare. Senate Bill 36 focused on the most vulnerable children, who are two years of age and younger. By extending the age that this measure covers to age 72 months, we deal more effectively with the reality that, for whatever reason, many children are not immunized by age two but rather catch-up at school entry. The key role which will be played by this measure will be to eliminate one more barrier to the timely immunization of children at no cost to the State Treasury. This bill also reflects the most up-to-date CDC recommendations, i.e., chickenpox vaccine. The cost/benefit of vaccines is widely acknowledged, and according to the Centers For Disease Control and Prevention, can save \$10-14 in treatment costs for every dollar spent on vaccines. This is one reason for the continuing focus and attention being paid to expanding insurance coverage for immunization services.

We would ask that this measure be recommended for passage by this Committee. Thank you.

Senate F.I.S.
Attachment 2
3/5/97



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions
and Insurance Committee

From: Tom Wilder

Re: H.B. 2137 (Coverage for Immunizations)

Date: March 4, 1997

I am appearing today in support of House Bill 2137 which adds to the list of required childhood immunizations that must be paid for by health insurers. The bill specifies the number of doses of each vaccine that should be provided. In addition, the legislation adds another recommended vaccine for varicella (chicken pox) that would be covered by insurance. Finally, H.B. 2137 expands mandated coverage for childhood immunizations from 36 months to 72 months of age.

The current statute only requires insurers to pay for up to three doses of each vaccine. The amendment increases the number of doses of certain vaccines to the amount which is recommended by the American Academy of Pediatrics and the American Academy of Family Physicians. The additional vaccine for chicken pox is also recommended by those two groups. Health insurers are currently required to pay for the chicken pox vaccine based on a ruling by the Secretary of Health and Environment that the vaccine be added to the list of "approved vaccines." The Insurance Department issued a Bulletin on August 13, 1996 to all health insurers requiring them to add this vaccine to their coverage.

The House Health and Human Services Committee amended the bill to require insurers to provide coverage for a child who is adopted by an insured from the date they are placed in the home of the insured. There are cases where a child is placed in the home

Senate FWD
Attachment 3

3/5/97

of adoptive parents for several months before the adoption petition is filed with the courts. The current statute states that coverage will start within 31 days from the time the adoption petition is on file.

I would ask that the Committee approve H.B. 2137.

Recommended Childhood Immunization Schedule United States, January - December 1997

Vaccines ¹are listed under the routinely recommended ages. **Bars** indicate range of acceptable ages for vaccination. **Shaded bars** indicate catch-up vaccination: at 11-12 years of age, Hepatitis B vaccine should be administered to children not previously vaccinated, and Varicella Virus vaccine should be administered to unvaccinated children who lack a reliable history of chickenpox.

| Age ▶ Vaccine ▼ | Birth | 1 mo | 2 mos | 4 mos | 6 mos | 12 mos | 15 mos | 18 mos | 4-6 yrs | 11-12 yrs | 14-16 yrs |
|---|---------|------|--------------------|----------------|------------------|--------------------|--------------------------|--------|---------------------|------------------|-----------|
| Hepatitis B ^{2,3} | Hep B-1 | | Hep B-2 | | Hep B-3 | | | | | Hep B | |
| Diphtheria, Tetanus, Pertussis ⁴ | | | DTaP or DTP | DTaP or DTP | DTaP or DTP | | DTaP or DTP ⁴ | | DTaP or DTP | Td | |
| <i>H. influenzae</i> type b ⁵ | | | Hib | Hib | Hib ⁵ | Hib ⁵ | | | | | |
| Polio ⁶ | | | Polio ⁶ | Polio | | Polio ⁶ | | | Polio | | |
| Measles, Mumps, Rubella ⁷ | | | | | | MMR | | | MMR ⁷ or | MMR ⁷ | |
| Varicella ⁸ | | | | | | Var | | | | Var | |

Approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP), and the American Academy of Family Physicians (AAFP).

FEB - 03 97 (MON) 10:56

KDHE IMMUNIZATION

TEL: 913-296-6510

P. 005

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3-5

4-3

1 This schedule indicates the recommended age for routine administration of currently licensed childhood vaccines. Some combination vaccines are available and may be used whenever administration of all components of the vaccine is indicated. Providers should consult the manufacturers' package inserts for detailed recommendations.

2 Infants born to HBsAg-negative mothers should receive 2.5 µg of Merck vaccine (Recombivax HB®) or 10 µg of SmithKline Beecham (SB) vaccine (Engerix-B®). The 2nd dose should be administered ≥1 mo after the 1st dose.

Infants born to HBsAg-positive mothers should receive 0.5 mL hepatitis B immune globulin (HBIG) within 12 hrs of birth, and either 5 µg of Merck vaccine (Recombivax HB®) or 10 µg of SB vaccine (Engerix-B®) at a separate site. The 2nd dose is recommended at 1-2 mos of age and the 3rd dose at 6 mos of age.

Infants born to mothers whose HBsAg status is unknown should receive either 5 µg of Merck vaccine (Recombivax HB®) or 10 µg of SB vaccine (Engerix-B®) within 12 hrs of birth. The 2nd dose of vaccine is recommended at 1 mo of age and the 3rd dose at 6 mos of age. Blood should be drawn at the time of delivery to determine the mother's HBsAg status; if it is positive, the infant should receive HBIG as soon as possible (no later than 1 wk of age). The dosage and timing of subsequent vaccine doses should be based upon the mother's HBsAg status.

3 Children and adolescents who have not been vaccinated against hepatitis B in infancy may begin the series during any childhood visit. Those who have not previously received 3 doses of hepatitis B vaccine should initiate or complete the series during the 11-12 year-old visit. The 2nd dose should be administered at least 1 mo after the 1st dose, and the 3rd dose should be administered at least 4 mos after the 1st dose, and at least 2 mos after the 2nd dose.

4 DTaP (diphtheria and tetanus toxoids and acellular pertussis vaccine) is the preferred vaccine for all doses in the vaccination series, including completion of the series in children who have received ≥1 dose of whole-cell DTP vaccine. Whole-cell DTP is an acceptable alternative to DTaP. The 4th dose of DTaP may be administered as early as 12 mos of age, provided 6 mos have elapsed since the 3rd dose, and if the child is considered unlikely to return at 15-18 mos of age. Td (tetanus and diphtheria toxoids, adsorbed, for adult use) is recommended at 11-12 yrs of age if at least 5 yrs have elapsed since the last dose of DTP, DTaP, or DT. Subsequent routine Td boosters are recommended every 10 yrs.

5 Three *H. influenzae* type b (Hib) conjugate vaccines are licensed for infant use. If PRP-OMP (PedvaxHIB® [Merck]) is administered at 2 and 4 mos of age, a dose at 6 mos is not required. After completing the primary series, any Hib conjugate vaccine may be used as a booster.

6 Two poliovirus vaccines are currently licensed in the US: inactivated poliovirus vaccine (IPV) and oral poliovirus vaccine (OPV). The following schedules are all acceptable by the ACIP, the AAP, and the AAFP, and parents and providers may choose among them:

1. IPV at 2 and 4 mos; OPV at 12-18 mos and 4-6 yrs
2. IPV at 2, 4, 12-18 mos, and 4-6 yrs
3. OPV at 2, 4, 6-18 mos, and 4-6 yrs

The ACIP routinely recommends schedule 1. IPV is the only poliovirus vaccine recommended for immunocompromised persons and their household contacts.

7 The 2nd dose of MMR is routinely recommended at 4-6 yrs of age or at 11-12 yrs of age, but may be administered during any visit, provided at least 1 mo has elapsed since receipt of the 1st dose, and that both doses are administered at or after 12 mos of age.


8 Susceptible children may receive Varicella vaccine (Var) during any visit after the 1st birthday, and unvaccinated persons who lack a reliable history of chickenpox should be vaccinated during the 11-12 year-old visit. Susceptible persons ≥13 yrs of age should receive 2 doses, at least 1 mo apart.



KANSAS MEDICAL SOCIETY

March 5, 1997

To: Senate Financial Institutions and Insurance Committee

From: Meg Henson 
Director of Government Affairs

Subject: HB 2137 - Immunizations

The Kansas Medical Society appreciates the opportunity to appear today in support of HB 2137, relating to immunizations. This bill would extend first dollar coverage for certain immunizations of children through age six. KMS believes this legislation would help to encourage age-appropriate immunizations for young children.

The importance of immunizations for children is well established. Children can be protected from many major and potentially life-threatening diseases if they are adequately vaccinated. However, because most of these vaccines are costly, some children are not immunized at all, or are immunized only through age three.

The American Academy of Pediatrics, Advisory Committee on Immunization Practices and the American Academy of Family Physicians recommends a schedule of immunizations for children prior to attending school (attached). As you can see, some vaccines should be administered in a series of periodic intervals on children above three years old. Diphtheria-tetanus-pertussis (DTP), measles-mumps-rubella and polio shots are recommended between the ages of four and six. HB 2137 would not only help ensure that children are vaccinated, but that they are vaccinated completely and at the appropriate times in their lives.

Thank you for considering our comments. I would be happy to respond to any questions.

*Senate F.D.D.
Attachment 4*

3/5/97

Recommended Childhood Immunization Schedule United States, January - December 1997

4-2

Vaccines ¹ are listed under the routinely recommended ages. **Bars** indicate range of acceptable ages for vaccination. **Shaded bars** indicate catch-up vaccination: at 11-12 years of age, Hepatitis B vaccine should be administered to children not previously vaccinated, and Varicella Virus vaccine should be administered to unvaccinated children who lack a reliable history of chickenpox.

| Age ▶ Vaccine ▼ | Birth | 1 mo | 2 mos | 4 mos | 6 mos | 12 mos | 15 mos | 18 mos | 4-6 yrs | 11-12 yrs | 14-16 yrs |
|---|---------|------|--------------------|----------------|------------------|--------------------|--------------------------|--------|----------------|-----------|-----------|
| Hepatitis B ^{2,3} | Hep B-1 | | Hep B-2 | | Hep B-3 | | | | | Hep B | |
| Diphtheria, Tetanus, Pertussis ⁴ | | | DTaP or DTP | DTaP or DTP | DTaP or DTP | | DTaP or DTP ⁴ | | DTaP or DTP | Td | |
| <i>H. influenzae</i> type b ⁵ | | | Hib | Hib | Hib ⁵ | Hib ⁶ | | | | | |
| Polio ⁶ | | | Polio ⁶ | Polio | | Polio ⁶ | | | Polio | | |
| Measles, Mumps, Rubella ⁷ | | | | | | MMR | | | MMR' or MMR' | | |
| Varicella ⁸ | | | | | | Var | | | | Var | |

Approved by the Advisory Committee on Immunization Practices (ACIP), the American Academy of Pediatrics (AAP),
and the American Academy of Family Physicians (AAFP).

This schedule indicates the recommended age for routine administration of currently licensed childhood vaccines. Some combination vaccines are available and may be used whenever administration of all components of the vaccine is indicated. Providers should consult the manufacturers' package inserts for detailed recommendations.

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4-3



700 SW Jackson, Suite 601
Topeka, Kansas 66603-3731

913/233-8638 * FAX 913/233-5222

the Voice of Nursing in Kansas

Betty Smith-Campbell, Ph.D., R.N.
President

Terri Roberts, J.D., R.N.
Executive Director

FOR MORE INFORMATION CONTACT:
Terri Roberts JD, RN, Executive
Director

700 SW Jackson, Suite 601
Topeka, KS 66603-3731
(913) 233-8638

March 5, 1997

**HB 2137 Health Insurance Coverage for
Childhood Immunizations, 36 Months- 5 Years**

WRITTEN TESTIMONY

Chairperson Steffes, and members of the Senate Financial Insitutions and Insurance Committee, the Kansas State Nurses Association is very supportive of the changes proposed in HB 2137 which will provide first dollar insurance coverage for immunizations for children 36 months to 5 years old. This will compliment the current statutes that require such coverage for 0-36 months of age.

The recommended amendments to the insurance statutes lend support to basic Public Health Principles. Principles in disease prevention are based on ensuring safety and general well being of the community at large. By practicing immunization health principles the community is protected against contagious diseases such as measles and subsequent pain and suffering due to complications. For example, a typical hospitalization due to Measles complications averages \$3,600.00. Other complications may include pneumonia or dehydration and in some cases encephalitis.

Children's immunization rates in Kansas are getting much better, but are still affected by COST. Cost and access continue to be barriers. Parental surveys indicate that cost remains a barrier in obtaining immunizations.

Immunization services across Kansas are delivered by a diverse array of public and private health care providers. At any one given time an individual can obtain immunizations from approximately 4 different providers. Those being private physician, federally qualified health centers, city or county health departments, and underserved clinics. In Kansas the public/private service delivery is split 35% private and 65% public sector.

It is important that children obtain age-appropriate immunizations. Legislation such as HB 2137 will be one more positive step towards decreasing barriers such as cost.

THANK YOU

*Senate FPs
Attachment 5*

3/5/97

State of Kansas
House of Representatives

HOME ADDRESS: 10365 WEST 159TH STREET
OLATHE, KANSAS 66062
(913) 897-3494
FAX: (913) 897-6676
OFFICE: SUITE 303-N STATEHOUSE
TOPEKA, KANSAS 66612-1504
(913) 296-7500
pgilmore@ink.org



TOPEKA

PHYLLIS GILMORE
Representative, Twenty-Seventh District

COMMITTEE ASSIGNMENTS
CHAIRMAN: JOINT COMMITTEE ON CHILDREN
& FAMILIES
MEMBER: BUSINESS COMMERCE & LABOR
HEALTH & HUMAN SERVICES
JUDICIARY

State Financial Institutions and Insurance

March 5, 1997

HB 2137 was amended in committee changing the commencement of medical insurance coverage for adopted children from the date of filing an adoption petition to the date of placement of a child in the potential adoptive home.

While I support the original version of House Bill 2137 as well as the amended version of this bill, I also stand in support of another possible amendment. This amendment speaks of another problem in this statute of which I have recently become aware. I believe K.S.A. 40-2, 102 (4) (B) (1) was intended to provide the same coverage for an birth mother in an adoption when the potential adoptive mother would have had coverage.

It has recently come to my attention that some insurance providers are distinguishing between coverage for the total pregnancy and coverage for just the "delivery." This I do not believe was the original intent of this statute when it was originally passed by the legislature. Attached is a recent letter regarding this issue. Hopefully, the proposed amendment corrects this issue.

Thank you for allowing me to testify in support of House Bill 2137 and the proposed amendment.

Senate F.D.S.
Attachment 6

3/5/97

PRINCIPAL HEALTH CARE OF KANSAS CITY, INC.

A Managed Health Care Company

February 10, 1997

Mr. Mike McMullen
5210 W. 69th Street
Prairie Village, KS 66802

Member's Name: Austin McMullen
Member No.: 904287*03
Date of Birth: 11-26-97 *ab*

Dear Mr. McMullen:

We have received your faxed letter to us regarding charges for Austin's birth mother during her pregnancy. We have thoroughly investigated this issue, along with the K.S.A. 40-2,102 (4) (3) (1) which reads:

"... all contracts issued by health maintenance organizations or authorized to transact business in this state which provides coverage for a family member of the enrollee, insured or subscriber, as to such family member's coverage, shall also offer an option where the health insurance benefits shall include delivery expenses at birth of the birth mother of a child adopted within 90 days of birth of such child by the enrollee,...

The intent of this law is to make coverage of the adopted child more easily attainable, not to cover all charges of the birth mother. Delivery expenses only are covered, provided all HMO rules are followed, as stated above. The cerclage you refer to is considered OB care, not delivery expenses. We show that all expenses in connection with Austin's birth have been paid. You are correct in that we would have paid for this procedure for your wife, as she would have been a member of Principal Health Care throughout the pregnancy. We hope this helps clarify this issue for you.

We do wish you and Janet much health and happiness with your two new baby boys. If we may be of further assistance, please contact our Customer Service Department at 941-3030 or toll free 1-800-969-3343.

Sincerely,



Peggy Riggs
Customer Service Manager

PR:js

1001 East 101st Terrace - Suite 300
Kansas City, MO 64131-3368 (816) 941-3030
(800) 969-3343/FAX (816) 941-8516

Member of **the Principal**

Financial
Group

1 rubella; *one dose of vaccine against varicella* and such other vaccines and
 2 dosages as may be prescribed by the secretary of health and environment.
 3 The required benefits shall apply to immunizations administered to each
 4 newly born child from birth to 36.72 months of age and shall not be
 5 subject to any deductible, copayment or coinsurance requirements.

6 (3) If payment of a specific premium or subscription fee is required
 7 to provide coverage for a child, the policy or contract may require that
 8 notification of birth of a newly born child or the filing of the petition for
 9 adoption or certification that a child has been placed in the home
 10 for adoption and payment of the required premium or fees must be
 11 furnished to the health maintenance organization, insurer or nonprofit
 12 service or indemnity corporation within 31 days after the date of birth or
 13 the filing of the petition for adoption or the placement of the child in
 14 the home in order to have the coverage continue beyond such 31-day
 15 period.

16 (4) The contract issued by a health maintenance organization may
 17 provide that the benefits required pursuant to this subsection shall be
 18 covered benefits only if the services are rendered by a provider who is
 19 designated by and affiliated with the health maintenance organization.

20 (b) (1) All individual and group health insurance policies providing
 21 coverage on an expense incurred basis, individual and group service or
 22 indemnity type contracts issued by a profit or nonprofit corporation and
 23 all contracts issued by health maintenance organizations organized or au-
 24 thorized to transact business in this state which provides coverage for a
 25 family member of the enrollee, insured or subscriber, as to such family
 26 members' coverage, shall also offer an option whereby the health insur-
 27 ance benefits shall include delivery expenses at birth of the birth mother
 28 of a child adopted within 90 days of birth of such child by the enrollee,
 29 insured or subscriber subject to the same limitations contained in such
 30 policy or contract applicable to the enrollee, insured or subscriber. Such
 31 offer of an option regarding such delivery expense shall be made to the
 32 enrollee of a health maintenance organization and to the insured and, to
 33 the individual subscribers in the case of a group health insurance policy.

34 (2) Contracts issued by a health maintenance organization may pro-
 35 vide that the benefits required pursuant to paragraph (1) of this subsec-
 36 tion, shall be covered benefits only if the services are rendered by a pro-
 37 vider who is designated by and affiliated with the health maintenance
 38 organization.

39 Sec. 2. K.S.A. 1996 Supp. 40-2,102 is hereby repealed.

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

obstetrical expenses (including those expenses
 arising out of complications during pregnancy
 and delivery) and

8-9



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

MEMORANDUM

To: Senate Financial Institutions
and Insurance Committee

From: Tom Wilder

Re: House Bill 2104 (Medical Service Corporations)

Date: March 4, 1997

The Insurance Department is asking your Committee to approve H.B. 2104 which repeals several articles of the Kansas health insurance law. We are seeking to delete Articles 18, 19, 19b and 19d because these statutes are not used by any insurance companies in Kansas. The provisions allow for the establishment of nonprofit hospital service corporations, nonprofit medical service corporations, nonprofit optometric service corporations and nonprofit pharmacy service corporations. The laws apply to the following types of insurers:

(1.) Article 18 (Nonprofit Hospital Service Corporations) - The law was originally approved in 1941 and was used to incorporate Blue Cross and Blue Shield of Kansas City. No companies have been formed under this law since the early 1980s.

(2.) Article 19 (Nonprofit Medical Service Corporations) - This legislation was used by Blue Cross and Blue Shield of Kansas up until the early 1980s. No companies have been incorporated under this law since that time. The law originally dates from 1945.

(3.) Article 19b (Nonprofit Optometric Service Corporations) - Vision Service Plan of Kansas, Inc. was licensed under this statute from December 28, 1992 until

*Senate Filed
Attachment 7
3/5/97*

September 30, 1994. No insurers are currently using this provision. The law was originally passed in 1975.

(4.) Article 19d (Nonprofit Pharmacy Service Corporations) - No company has used this statute since it was passed in 1987.

We would ask that these statutes be repealed and that other laws which reference the four Articles be amended. This will allow the Insurance Department to repeal 51 obsolete statutes which are no longer of use.

I would ask that you approve H.B. 2104 favorably for passage.