Approved: February 22, 2000
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Senator Don Steffes at 9:00 a.m. on February 15 , 2000 in Room 231-N of the Capitol.

All members were present except:

Committee staff present: Dr. William Wolff, Legislative Research
Ken Wilke, Office of Revisor of Statutes
Nikki Feuerborn, Committee Secretary

Conferees appearing before the committee: Kathleen Sebelius, Kansas Insurance Commissioner
Don Gaskill, Director, Financial Surveillance Division, Kansas Insurance Department
Larrie Ann Lower, Kansas Health Plans
Kathy Greenlee, General Counsel, Kansas Insurance Department

Others attending: (See Attached)

Senator Becker moved that the minutes of February 14 be approved as presented. Motion was seconded by Senator Barone. Motion carried.

Action on SB 445–Uniform consumer credit code; concerning appraised values and appraisals
Senator Clark moved that the bill be reported favorably as amended by the Deputy Commissioner of Consumer Credit. Motion was seconded by Senator Biggs. Motion carried.

Action on SB 498 - Banks; providing for limitations on special orders issued by bank commissioner
Senator Brownlee moved that line 34 on Page 1 and lines 25 and 26 of Page 2 be removed due to redundancy. Motion was seconded by Senator Clark. Motion carried.

Senator Clark moved that the bill be reported favorable as amended. Motion was seconded by Senator Brownlee. Motion carried.

Continued Hearing on SB 443 - Codification of standard accounting procedures
Commissioner Sebelius presented an amendment regarding discounting of reserves that has been agreed upon by the Kansas Insurance Department and representatives of the Kansas Medical Mutual Insurance Company regarding the phase-out of discounting reserves (Attachment 1). KID is looking at a phase-out of approximately five to eight years while KaMMCO is requesting a ten-year plan. Any plan would be at the discretion of the Insurance Commissioner. A new commissioner could change the plan but it would be up to the Legislature to set a final date if that should occur.

Don Gaskill, Director of the Financial Surveillance Division of the Kansas Insurance Department, explained that such phase-ins are usually a three to five year process as they are a very serious matter which affects the way a company does business. If such a plan was implemented at this time, it would cut KaMMCO's reserves in half. There would only be a 20% decrease per year if this is over a five-year period. If the company should fail to develop a plan, KID would have the authority to develop a plan for the phase-in which could become effective immediately. It is important to remember that KaMMCO was created in Kansas to handle malpractice insurance due to premiums becoming outrageous in the 1970 and 80's. If such an allowance is not made for KaMMCO, it could definitely affect their marketing and their ability to do business in Kansas.

Senator Barone moved to accept the amendment as presented by the Insurance Commissioner. The motion was seconded by Senator Praeger. The motion carried.

Senator Brownlee moved to strike "reasonable period of time" and replace it with "July 1, 2005." There was no second to the motion. Commissioner Sebelius explained that such an amendment would tie the hands of the Commissioner in developing a workable plan with KaMMCO.

Senator Barone moved to report the bill favorably as amended. Motion was seconded by Senator Praeger. Motion carried.

Hearing on SB 619 - Solvency of health maintenance organizations

Kathleen Sebelius, Insurance Commissioner, explained that one Kansas HMO has been placed under supervision and one, Horizon Health Plan, Inc., was placed in formal liquidation on December 29, 1999. She suggested strengthening HMO laws in Kansas by (Attachment 2):

- Requiring a net worth requirement for HMO's. Even though Kansas has no net worth laws for HMO's they do have a deposit requirement. Net worth requirements was not instituted due to the federal government urging the states to "go forth" on the premise that if the companies went down, the providers would "take the hit" as they were the ones who worked for the HMO. Many provider groups have been destroyed due to this philosophy. Health insurance is unlike any other insurance in that it can have wild spirals–big premiums are collected at first and then six months later the bills start coming in. Capital needs must be addressed.

- Grant authority to Insurance Commissioner to liquidate an insolvent HMO.

Commissioner Sebelius then reviewed and urged the passage of **SB 619** which is based on the NAIC HMO Model Act. She compared the proposed assessment to a Guaranty Fund as this would provide a mechanism for policy holders who are left without insurance and owing medical bills.

Larrie Ann Lower, Executive Director of Kansas Health Plans, reviewed their position on the bill (Attachment 3). They are willing to support:

- Section 40: increased net worth requirements. Currently HMO's must maintain a net worth of $1.5 million.

- Section 39: financial reporting requirements.

- Sections 31 and 32: increased authority to the Insurance Commissioner over HMO's in liquidation.

- Risk-based capital– uncomfortable with the definition until impact can be determined.

Items they are not willing to support at this time include:

- Section 33: assessment mechanism in the event of an HMO insolvency. There are mechanisms in place to ascertain insolvencies prior to their occurrence.

Ms. Lower recommended continued work on the proposal.

Robert Day of SRS and Cheryl Dillard, Health Net, were requested to postpone their testimony as Senator Steffes is requesting **SB 619** be blessed.

Continued discussion on Horizon

Commissioner Sebelius explained that Heartland Health is the commercial company which offered health insurance throughout Kansas through Physicians Network. Heartland is a member of the Guaranty Fund whose board has voted to deny payment for the insolvency. The Kansas Insurance Department has filed an injunction.

Kathy Greenlee, General Counsel for the Kansas Insurance Department, presented updated information on the fiscal and legal status of Horizon Health Plan and its subsidiaries (Attachment 4).

The meeting was adjourned at 10:00 a.m. The next meeting is scheduled for February 16, 2000.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
GUEST LIST
DATE: 2-15-00

NAME	REPRESENTING
Chip Wheelen	Osteopathic Assn
[illegible]	Health Midwest
[illegible]	SRS
Laura Howard	SRS
Robert Day	SRS
Cheryl Dillard	HealthNet
Larrie Ann ~~Brown~~ Lower	KAHP
David Hanson	Ks Insur. Assns.
Andy Allison	Kansas Health Institute
Mike Huttles	Ks. Gov't Consulting
Kevin Barone	Hein/Weir Chtd.
George Barbee	Barbee & associates
Michael McDermott	Augusta Gazette
Amy [illegible]	[illegible]
Joyce Volmut	KS Assoc. Med. Underserved
[illegible]	KaMMCO
[illegible]	KaMMCO
Tom Bell	Ks. Hosp. Assn.
Jennifer [illegible]	Federico Consulting
Ernest C. Pogge	AARP
Jane Stuffer	
John Frederick	The Boeing Company
Kevin Davis	Am. Family Ins.

Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

TO: Senate Committee on Financial Institutions and Insurance

FROM: Kathleen Sebelius, Insurance Commissioner

RE: SB 443 – Codification of Standard Accounting Procedures

DATE: February 15, 2000

Mr. Chairman and members of the Committee:

Previous testimony presented to you on SB 443 established the 10-year history, reasons for codification of Standard Accounting Procedures, and fundamental concepts that were developed.

Codification of the Standard Accounting Procedures is to be implemented on January 1, 2001. SB 443 brings Kansas law into compliance for that implementation date. Only five statutes were found that needed revision to be consistent with the new Standard Accounting Procedures.

The attached balloon sets out an amendment for K.S.A. 40-12a09 regarding discounting of reserves that has been agreed upon by the Kansas Insurance Department and representatives of the Kansas Medical Mutual Insurance Company regarding the phase-out of discounting reserves.

Sen. Brownlee specifically asked a question regarding the repealing of K.S.A. 40-2a15 and 40-2b14 (Data Processing Equipment) on January 1, 2001. These changes reflect different methods of depreciation being used on data processing equipment and software. The Senator's question was if they were being repealed, where would the new information be found. K.S.A. 40-225 enables the Insurance Department to require companies to use the new standard accounting procedures, and the new Accounting Practices and Procedures Manual sets out where and how companies are to report the accumulated depreciation. K.S.A. 40-2a15 and 40-2b14 is therefore not needed, since the information is contained in the new manual.

We are happy for the opportunity to provide answers for your questions regarding SB 443. We respectfully ask for your favorable consideration of SB 443, as amended.

Senate Financial Institutions & Insurance
Date 2/15/00
Attachment # 1

1-2

Session of 2000

SENATE BILL No. 443

By Committee on Financial Institutions and Insurance

1-19

AN ACT concerning insurance companies; relating to accounting procedures and investments; amending K.S.A. 40-12a09 and repealing the existing section; also repealing K.S.A. 40-2a15, 40-2a23, 40-2b14 and 40-2b22.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 40-12a09 is hereby amended to read as follows: 40-12a09. Each company organized pursuant to this act shall file an annual statement each year in accordance with the requirements for domestic insurers writing the same kind of insurance. ~~Any company organized pursuant to this act may state its liabilities for losses and loss adjustment expenses on a present value basis in any statement or report which the company is required to file so long as the company's surplus as reported upon such basis remains above $1 million, unless the commissioner determines the method used by the company to arrive at the present value of its liabilities for losses and loss adjustment expense is based upon unreasonable assumptions.~~

Any company organized pursuant to this section which states its liabilities for losses and loss adjustment expenses on a present value basis on the effective date of this act shall be allowed a reasonable period of time to discontinue such practice in accordance with a plan approved by the commissioner.

Sec. 2. K.S.A. 40-2a23, 40-2b22 and 40-12a09 are hereby repealed.

Sec. 3. On January 1, 2001, K.S.A. 40-2a15 and 40-2b14 are hereby repealed.

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

1-2

Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

TO: Senate Committee on Financial Institutions and Insurance

FROM: Kathleen Sebelius, Insurance Commissioner

RE: SB 619 – HMO Solvency

DATE: February 15, 2000

Mr. Chairman and members of the committee:

These are the best of times and worst of times for health maintenance organizations. According to a recent article in the National Underwriter, "Large publicly traded health maintenance organizations have reported higher earnings in recent months, but some nonprofit and privately held HMOs are struggling."

Industry experts predict that the future will reveal two trends: First, increased consolidation among the nation's largest HMOs. Second, increased insolvencies among the rest of the HMO field.

Since 1997, the nation has experienced over 25 HMO insolvencies. We, in Kansas, have not been spared. This past May, I placed two Kansas HMOs under supervision. One of those companies, Horizon Health Plan, Inc., was placed in formal liquidation on December 29, 1999. As we work with consumers, providers and owners, we continue to realize that Kansas law is inadequate and needs to be revised.

You may recall that in 1996 you adopted a comprehensive set of new HMO laws. Although those laws have been a tremendous help to the consumers, they need to be

Senate Financial Institutions & Insurance
Date 2/15
Attachment 2

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strengthened in two fundamental ways: First, we must do everything possible to prevent HMO insolvencies. Current Kansas law contains no net worth requirements for HMOs. Second, we must be able to react swiftly and decisively if an HMO becomes financially impaired. Current Kansas statutes do not provide me with explicit authority to liquidate an insolvent HMO.

In an effort to update our HMO laws, we have turned once again to the NAIC HMO Model Act for guidance. This is a brief summary of Senate Bill 619.

- Sections 1 through 28. HMO Risk Based Capital

  Creates new risk based capital requirements for HMOs. Current risk based capital statutes apply only to life and property & casualty companies.

- Section 29. Uncovered expenditures insolvency deposit

  Requires an HMO doing business in Kansas to place an additional deposit with my office. The purpose of this deposit is to protect enrollees who incur out of network claims, in the event their HMO becomes insolvent.

- Section 30. Mandatory open enrollment

  If an HMO becomes insolvent, enrollees are given a 30-day open enrollment period with other carriers. Individuals are treated as the equivalent of federally defined eligible individuals for the purposes of the Kansas uninsurable health insurance plan.

- Section 31. Rehabilitation/liquidation

  Provides statutory authority for commissioner of insurance to liquidate an HMO.

- Section 32. Supervision

  If an HMO is in a hazardous financial condition, the Commissioner may step in and order the HMO to take action to rectify the condition.

- Section 33. Assessment

  When an HMO is declared insolvent, allows the commissioner to levy an assessment against the remaining HMOs in order to pay claims for uncovered out-of-network expenditures.

- Section 37. Amends definitions

  Health Carrier definition is added.

  Uncovered expenditures definition is modified.

- Section 38. Unconscionable Act

  A provider cannot collect money from a patient if the money is actually owed to the provider by an HMO. Attempting to collect from a patient in this situation will be an unconscionable act under the Kansas consumer protection act.

- Section 40. Net worth requirements

  Kansas currently has no minimum net worth requirements for HMOs. This provision sets a minimum net worth requirement of $1.5 million for an HMO seeking admission into this state. Additionally, it establishes net worth requirements for current HMOs, with a four-year phase-in.

- Section 41. Amends Impaired or Insolvent Insurers Act

  Adds HMOs and reciprocals to the list of entities we have authority to liquidate.

- Section 42. Amends Open Records Act

  Allows us to keep HMO risk based capital reports confidential.

HMO insolvencies are devastating, in that they disrupt the lives of consumers and providers alike. We ask you help in making certain that an HMO who enrolls consumers today will be here to deliver services in the future.

Mr. Chairman, several technical amendments are needed to the bill, and Kansas Insurance Department staff and the committee revisor will be meeting to best determine the balloon for those revisions.

Financial strength is the ultimate consumer protection. We urge your favorable consideration of Senate Bill 619.

HEALTH ORGANIZATION
SUPERVISION AND DELINQUENCY PROCEEDINGS
1997-1999
(Companies in Supervision Omitted)

STATE	COMPANY	TYPE	STATUS	PROVIDER-OWNED
Alaska	None			
Alabama				
Arkansas	None			
Arizona	None			
California	Medpartners Provider Network	PPM	Bankruptcy	No
	Greater Pacific HMO	HMO		
Colorado	None			
Connecticut	Suburban Health Plan, Inc.	HMO	Liquidation	
District of Columbia				
Delaware	None			
Florida	Sunrise Healthcare Plan, Inc.	HMO	Liquidation	
	Ultramedix Health Care Systems, Inc.	HMO	Liquidation	
	Champion Healthcare, Inc.	HMO	Liquidation	
	Healthplans of America, Inc.	HMO	Liquidation	
Georgia	Master Health Plan, Inc.	HMO	Liquidation	No
	AmeriCan Medical Plans of Georgia, Inc.	HMO	Rehabilitation	No
Hawaii				
Iowa	None			
Idaho				
Illinois	None			

STATE	COMPANY	TYPE	STATUS	PROVIDER-OWNED
Indiana	None			
Kansas	Horizon Health Plan, Inc.	HMO	Liquidation	Yes
Kentucky	Owensboro Community Health Plan d/b/a Medquest	HMO	Rehabilitation	Yes
Louisiana				
Massachusetts	Harvard-Pilgrim	HMO	Liquidation	
Maryland	Prime Health, Inc.	HMO	Rehabilitation	No
Maine	None			
Michigan				
Minnesota	None			
Missouri				
Mississippi	AmeriCan Medical Plans of Mississippi, Inc.	HMO	Rehabilitation	
	Care 3, Inc.	HMO	Rehabilitation	
Montana	None			
North Carolina				
North Dakota	None			
Nebraska	None			
New Hampshire	None			
New Jersey	HIP Health Plan of New Jersey	HMO	Liquidation	
	American Preferred provider Plan, Inc.	HMO	Liquidation	
	Health Plans of America—NJ	HMO	Liquidation	No
	Garden State Hospitalization Plan		Liquidation	No
New Mexico	None			
Nevada				
New York				

STATE	COMPANY	TYPE	STATUS	PROVIDER-OWNED
Ohio	Personal Physicians Care, Inc.	HMO	Liquidation	No
	DayMed Health Maintenance Plan	HMO	Liquidation	No
Oklahoma				
Oregon				
Pennsylvania	HIP Health Plan of Pennsylvania	HMO	Liquidation	No
	Physicians Care PPO	PPO	Liquidation	Yes
Puerto Rico				
Rhode Island				
South Carolina				
South Dakota	None			
Tennessee	Mid-South Health Plans	HMO	Receivership (voluntary for purposes of runoff)	Yes
Texas	Comprehensive Health Services of Texas, Inc.	HMO	Receivership	No
	Comprehensive Health of Texas, Inc. d/b/a WellChoice	HMO	Receivership	No
Utah	None			
Virginia	None			
Vermont	None			
Washington	Unified Physicians of Washington	HMDI	Liquidation	Yes
Wisconsin	None			
West Virginia	None			
Wyoming	None			

Kansas Association of Health Plans

Testimony before the
Senate Financial Institutions and Insurance Committee
The Honorable Don Steffes, Chairman
<u>Hearings on SB 619</u>
February 15, 2000

Good morning Chairman Steffes and members of the committee. Thank you for allowing me to appear before you today. I am Larrie Ann Lower, Executive Director of the Kansas Association of Health Plans (KAHP).

The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and others entities that support managed care. Members of the KAHP serve many of the Kansans who are insured by an HMO.

The KAHP would first like to state that we have been very supportive of the Commissioner's efforts with this issue. Throughout the past couple of months I and various members of KAHP have been working with the Commissioner's office on this bill through meetings and conference calls concerning the many issues included in this legislation. We certainly appreciate the opportunity we have had to work with the Commissioner's office to this point.

The KAHP believes that protections should be in place to assure consumers that they are enrolled in financially viable health plans that have the resources to provide or arrange for their enrollees' health care needs. With that in mind, there are portions of this legislation that KAHP can support.

Among the portions we support include: Section 40, the increased net worth requirements, in general, HMO's must maintain an minimum net worth of $1.5 million; Section 39, the financial reporting requirements; and Sections 31 and 32, which would give increased authority to the Insurance Commissioner over HMO's in liquidation. There are also portions of this bill, that we may be able to support with additional time for review, such as the risk based capital requirements. We would like to note that we do support the concept of risk based capital

Senate Financial Institutions & Insurance

Date 2/15/00

Attachment # 3

requirements, however this legislation contains a definition we had not seen before either in the NAIC language nor in earlier drafts of this legislation. This is not to say that we don't support this change in definition, we just have not had the time to determine the impact this change represents. There may indeed be more sections of this legislation we can support, we just have not had time to thoroughly review this legislation.

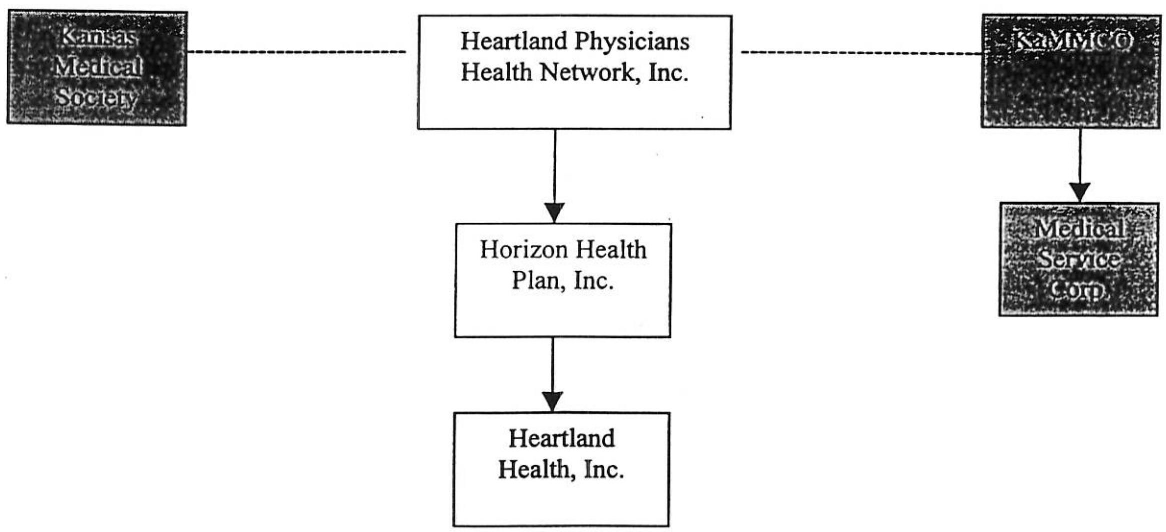
However, there are portions of this bill, that we oppose at this time. One of those being New Section 33 which provides for an assessment mechanism in the event of a HMO insolvency. The KAHP adamantly believes that if there are the proper mechanisms in place that help prevent insolvencies before they occur, then an assessment is unnecessary. The front end solutions offer consumers much more protection than an assessment, which is used only after a plan has become insolvent. I believe you will hear from other opponents on this issue both today and in the future.

In conclusion, this legislation has come a long way from the earlier drafts and the Commissioner's office should be commended for their hard work, however the industry simply needs additional time to work through this lengthy and complicated legislation in order to provide more appropriate comments. We will be glad to continue to work with the Commissioner's office on this issue. With the Chairman's permission, I will turn this over to a few of the health plans who have reviewed portions of this legislation and would like to make a few comments or if you have questions for me, I will be happy to try and answer your questions.

Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

Testimony before Senate Financial Institutions & Insurance Committee
February 2, 2000
Provided by Kathy Greenlee, General Counsel

Heartland Physicians Health Network, Inc.
Organizational Chart effective 2/1/98



The founders of HPHN are affiliated with both the Kansas Medical Society and KaMMCO, a physician-owned, medical malpractice corporation.

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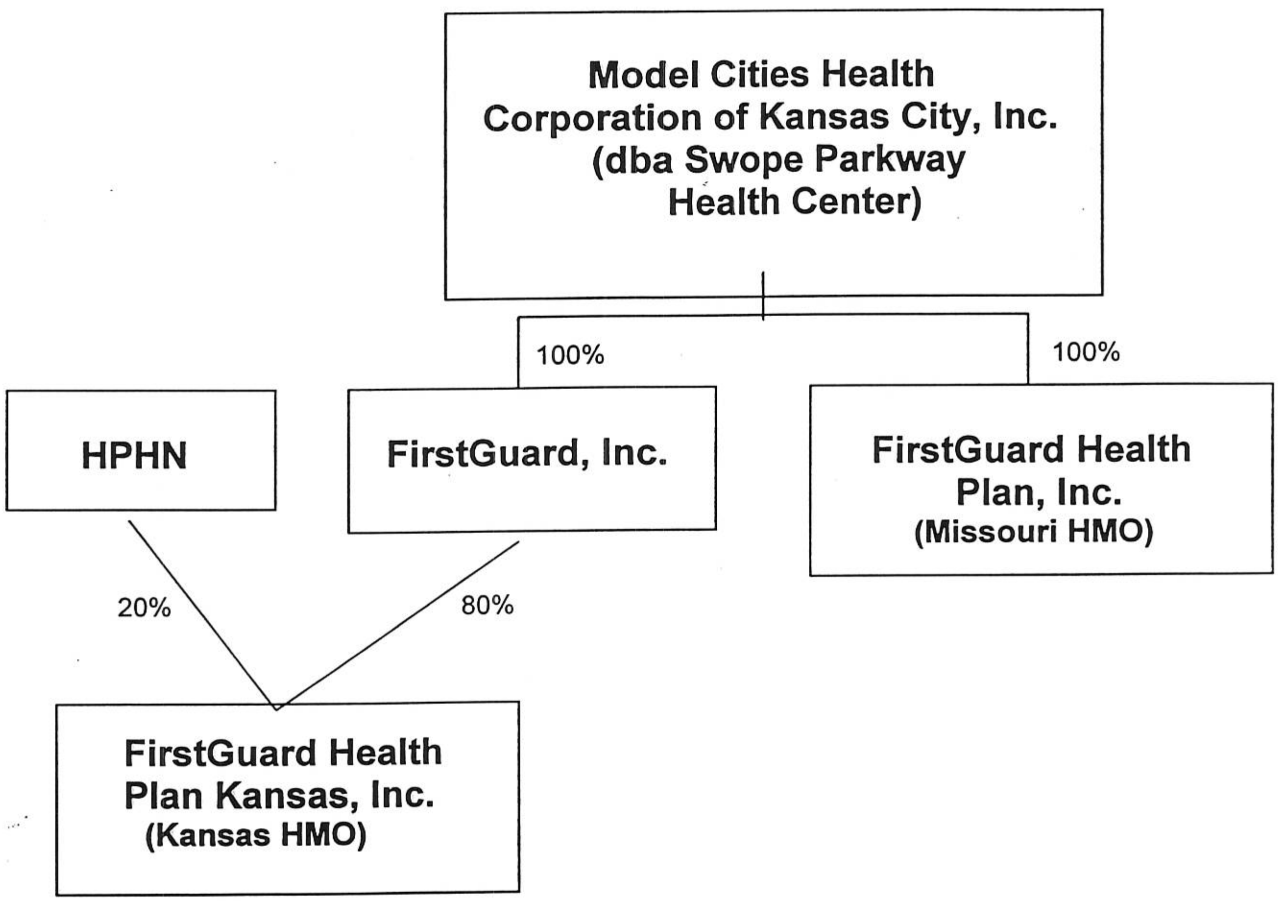
Senate Financial Institutions & Insurance
Date 2/15/00
Attachment # 4

Proposed Model Cities Health Corp. Organizational Chart
After Closing With Heartland Physicians Health Network (HPHN)



4-2

COMPANY BACKGROUND AND STATUS

1. Heartland Physicians Health Network, Inc. (HPHN)

Heartland Physicians Health Network, Inc. is a for-profit Kansas corporation. HPHN is a holding company and a statewide provider network owned exclusively by members of the Kansas Medical Society (KMS). The company was incorporated August 5, 1994 and is governed by an eighteen member Board of Directors, all of whom are Kansas physicians. HPHN has two subsidiaries, Horizon Health Plan, Inc. and Heartland Health, Inc.

2. Kansas Medical Mutual Insurance Company (KaMMCO)*

Kansas Medical Mutual Insurance Company was organized and incorporated on March 20, 1989 as a Kansas domestic, not-for-profit, mutual insurance company. The company was formed by the Kansas Medical Society (KMS) for the purpose of issuing contracts of insurance which provide medical professional liability insurance for health care provider members of KMS.

3. Horizon Health Plan, Inc. (Horizon)*

Horizon Health Plan, Inc. was organized as a health maintenance organization (HMO) on January 17, 1996. Horizon was formed as a vehicle to contract with the State of Kansas to provide Medicaid beneficiaries with a managed care program know as PrimeCare. In 1998, Horizon bid and received a contract with the State of Kansas to provide the children's health insurance program known as HealthWave. Horizon is a direct subsidiary of Heartland Physicians Health Network, Inc.

STATUS: The Commissioner of Insurance placed Horizon into liquidation in Shawnee County District Court on December 29, 1999. The liquidator is Robert Kennedy, an attorney from Lawrence.. Horizon had been placed under the supervision of the Commissioner of Insurance on May 20, 1999. Approximately two weeks ago, the liquidator mailed a claims printout out to all Horizon providers. The providers were asked to compare the printout to their billing records in order to make certain that our records accurately reflect their outstanding bills. Providers have been given until February 21, 2000 to notify the liquidator of any problems. At this point, outstanding claims total $10.5 million. Within the next month or so, FirstGuard will pay Horizon $2 million for the assignment of the SRS contracts. No further payments are due from SRS. The liquidator intends to file a distribution plan with the court within the next 60 days. Our estimate at this point is that providers will receive 56-57 cents on the dollar. The Kansas Life and Health Guaranty Association does not cover the outstanding claims of an HMO.

*Indicates that the entity is regulated by the Kansas Insurance Department.

4. **Heartland Health, Inc. (Heartland)***

Heartland Health, Inc. was admitted to Kansas on January 5, 1995 and wrote accident and health coverage. Client health plans included self-insured employers, health insurance companies, health and welfare trusts, co-ops and health insurance programs. Heartland is a direct subsidiary of Horizon Health Plan, Inc.

STATUS: The Commissioner of Insurance placed Heartland in liquidation in Shawnee County District Court on May 10, 1999. The liquidator is Dan Watkins, an attorney from Lawrence. All claims for services to Heartland insureds have been processed and forwarded to the Kansas Life and Health Guaranty Association. In early January, the guaranty association paid $886,000 to non-network providers. However, $4.5 million in network provider claims have not been paid by the guaranty association. The guaranty association has taken the position that the network provider claims are not covered under guaranty association act since the contracts between the providers and Heartland contained a "hold harmless" provision. The Commissioner of Insurance believes that the guaranty association is responsible for these claims. This dispute is now being litigated in the context of the liquidation proceeding. The guaranty association and the Kansas Hospital Association have intervened. Heartland has less than $750,000 in assets available to pay claims.

5. **FirstGuard Health Plan Kansas, Inc. (FirstGuard)***

FirstGuard Health Plan Kansas, Inc. is a Kansas domestic HMO which is organized for profit. It has been licensed in Kansas since April 30, 1999. It is committed to serving underserved populations. The primary reason the company was formed was so that it could assume the Kansas Medicaid business that had previously been provided by Horizon Health Plan, Inc.

STATUS: On May 1, 1999, FirstGuard assumed the PrimeCare and HealthWave contracts. FirstGuard did not assume any liabilities of Horizon Health Plan but only purchased certain contract rights. FirstGuard did not assume responsibility for the run out of unpaid claims and expenses incurred before the transfer of the SRS contracts. Soon after assuming the SRS contracts, FirstGuard became concerned that the per member per month (PMPM) rate they were receiving was less than they had anticipated. SRS took steps to increase payments to FirstGuard. The Health Care Financing Administration has approved the assignment of the SRS contracts from Horizon to FirstGuard. The Kansas Insurance Department is working closely with FirstGuard and SRS to ensure that the contracts are adequately funded and that the company remains financially sound.

* Indicates that the entity is regulated by the Kansas Insurance Department.

Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

TO: Senate Financial Institutions & Insurance Committee

FROM: Kathy Greenlee, General Counsel Kathy Greenlee

DATE: February 15, 2000

RE: Heartland Health, Inc.

Heartland Health, Inc was admitted to Kansas on January 5, 1995 and wrote accident and health coverage. Client health plans included self-insured employers, health insurance companies, health and welfare trusts, co-ops and health insurance programs. Heartland is a direct subsidiary of Horizon Health Plan, Inc.

STATUS: The commissioner of insurance placed Heartland in liquidation in Shawnee County District Court on May 10, 1999. The deputy liquidator is Dan Watkins, an attorney from Lawrence. All claims for services to Heartland insureds and providers have been processed and forwarded to the Kansas Life and Health Guaranty Association.

In early January, the guaranty association paid $886,000 to non-network providers. However, $4.5 million in network provider claims have not been paid by the guaranty association.

The guaranty association has taken the position that the network provider claims are not covered under the guaranty association act since the contracts between the providers and Heartland contain a "hold harmless" provision. The commissioner of insurance strenuously disagrees with the guaranty association position.

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In late October 1999, the guaranty association filed a motion to intervene and an application for declaratory judgment. The liquidator filed a counterclaim which has been answered. In early February, the liquidator also filed a motion for summary judgment. The application for declaratory judgment and motion for summary judgment are both pending.

On January 21, 2000, the Kansas Hospital Association filed a motion requesting the court to allow it to intervene on behalf of its member hospitals. The guaranty association opposed the KHA motion to intervene. On February 2, 2000, Judge Bullock overruled the KHA motion to intervene and stated that the "liquidator remedies are exclusive."

The court has set a briefing schedule for the guaranty association's application for declaratory judgment. The liquidator has not received a response to his motion for summary judgment or a briefing schedule.

Although the commissioner and liquidator strongly disagree with position of the guaranty association, we anticipate that this matter will take several months to resolve.