

Approved: 1-16-01
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Sandy Praeger at 9:30 a.m. on January 10, 2001 in Room 234-N of the Capitol.

All members were present except: Senator Teichman (Excused)

Committee staff present: Dr. Bill Wolff, Kansas Legislative Research Department
Ken Wilke, Office of the Revisor of Statutes
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Kathleen Sebelius, Kansas Commissioner of Insurance

Others attending: See attached list

Introduction

The Chair welcomed members of the FI&I Committee and staff. After introductions, the Chair reviewed the Committee agenda for the upcoming week.

Introduction of Bills

The Chair called upon Kathleen Sebelius, Kansas Insurance Commissioner, who gave an overview of the insurance industry and the Kansas Insurance Department. Commissioner Sebelius briefed the Committee on proposed legislation that the Department introduced in the House Committee on Financial Institutions and Insurance, and requested the Committee introduce the following legislation in the Senate relating to Producer Licensing Model Act, Ob-Gyn Access and HIPAA. (Attachment 1)

A conceptual motion was made and seconded by Senator Salmans that the Committee introduce the proposed legislation. The motion carried.

During Committee discussion on proposed House legislation, Commissioner Sebelius provided information on proposed privacy standards for health information that were included in the new rules for the federal Gramm-Leach-Bliley Act. She also noted there currently is no law in Kansas to protect health information privacy issues.

As a Committee request, Commissioner Sebelius agreed to provide more information on NAIC.

Adjournment

The meeting was adjourned at 10:30 a.m. The next meeting of the Committee is scheduled for January 11, 2001.

SENATE FINANCIAL INSTITUTIONS & INSURANCE
COMMITTEE GUEST LIST

DATE: 1-10-01

NAME	REPRESENTING
Jerry Slaughter	KMS
Chris Collins	KMS
Carol McDouell	Delta Dental Plans of Kansas
Lee WRIGHT	Farmers Ins
Jin Liu	Division of the Budget
Chuck Stones	KBA
Kathy Olsen	"
Bill Sneed	Am Westons
Andy Shaw	Kearney Law Office
Sarah Souk	
John Federico	Federico Consulting
David Hanson	K's Insur Assns
Anno Spiess	KAIFA
BOB HAYES	HCSF
Matt Gaddard	HCBA
Rick Pittman	Health Midwest
Ken Bone	Hein/Weir cmt
Larrie Ann Lower	KAHP
William Selzer	KID

SENATE FINANCIAL INSTITUTIONS & INSURANCE
COMMITTEE GUEST LIST

DATE: 1-10-01

NAME	REPRESENTING
Jeremy Anderson	KID
Linda DeBeusey	HS Ins Dept



Kathleen Sebelius
Commissioner of Insurance
Kansas Insurance Department

January 10, 2001

TO: Senate Committee on Financial Institutions and Insurance
FROM: Kathleen Sebelius, Insurance Commissioner
RE: Bill Introductions

Madame Chairperson and members of the Committee:

I am appearing today to request the introduction of bills by this committee on behalf of the Kansas Insurance Department. The proposed legislation deals with a variety of issues: license uniformity, OB-GYN access for a woman to receive an annual visit without having to obtain a referral from the primary care physician; and a technical amendment to our law as a result of a Health Care Financing Administration ruling.

• **Producer Licensing Model Act—**

With the passage of Gramm-Leach-Bliley Act (GLBA) by Congress last fall, states need to act toward uniformity in licensing, or trigger the National Association of Registered Agents and Brokers (NARAB) mandate contained in GLBA. The NAIC model act moves states beyond the requirements of NARAB to meet and exceed the requirements of GLBA, and improves state insurance regulation. The proposed legislation is the NAIC model act and will be integrated into the Kansas licensing statutes:

- Creates uniform definitions for “negotiate, sell, and solicit” and contains uniform exceptions to licensing requirements.
- Creates a uniform application process for both resident and non-resident applications by referencing the use of the NAIC Uniform Application.
- Establishes uniform definitions for the five major lines of insurance: Life, Accident and Health, Property, Casualty, and Variable Life and Variable Annuity. Also establishes a uniform definition for personal line insurance.
- Establishes uniform exemptions from completed pre-licensing education and examinations for licensed producers who apply for a non-resident license.

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Attachment No. 1

- Establishes uniform standards for license denials, non-renewals and revocations.
- Establishes uniform standards regarding commissions related to the sale of an insurance policy.
- Establishes uniform standards for agent appointments.
- Establishes uniform procedures as to how regulators, companies, and agents should report and administratively resolve “not for cause” and “for cause” terminations.

- **OB-GYN Access -**

Bill requires health insurers to permit a woman insured by the insurer to visit an in-network obstetrician or gynecologist for routine gynecological care at least one time each calendar year without requiring the woman to first visit a primary care provider, so long as the care is medically necessary and includes routine care, and the obstetrician or gynecologist confers with the woman's primary care provider before performing a diagnostic procedure that is not routine gynecological care rendered during the visit. This provision is made a part of and supplemental to the Patient Protection Act.

- **HIPAA**

K.S.A. 40-2254 regarding extension of payment benefits is now out of compliance with the issuance of a Health Care Financing Administration (HCFA) bulletin. Laws enacted prior to HIPAA address when an employer with a disabled employee or dependent switches its group health plan coverage from one issuer (the “prior carrier”) to another (the “succeeding carrier”). The State succeeding carrier law cannot eliminate the succeeding carrier’s legal obligation under federal law to enroll an individual who is disabled at the time that the original health insurance coverage is terminated.

**Bill proposals requested by the Insurance Commissioner
introduced in the
House Committee on Financial Institutions and Insurance**

- **Privacy of Nonpublic Personal Health Information** - The proposed bill amends the language passed last session to allow the insurance commissioner to adopt the September 26, 2000 NAIC model regulation. Once adopted, the regulation language will be exactly the same in all 50 states and the District of Columbia.

To ensure uniformity from state to state, the grant of regulatory authority passed last session in Kansas must be clarified to allow the Commissioner to issue the NAIC model regulation.

In Fall 1999, Congress passed the Gramm-Leach-Bliley Act (GLBA), which broke down many of the depression-era barriers between banks, insurance companies, and other financial institutions. The most important feature of GLBA is that it allows these institutions, for the first time, to affiliate within a financial holding company.

Title V of GLBA establishes rules to govern the disclosure of consumers' personal information. The central feature of Title V is the "opt-out" standard, which requires financial institutions to give consumers an opportunity to opt-out of all information disclosure. If consumers fail to take the affirmative act to opt-out, their information could be shared with anyone. Even if consumers do opt-out, entities would be allowed to share consumers' personal information with affiliates. Title V requires federal regulators to issue regulations to enforce these privacy standards upon financial institutions and securities firms, and requires state insurance departments to issue regulations for insurance companies.

Last Session, the Kansas Legislature amended the unfair trade practices act granting the Insurance Commissioner authority to issue rules and regulations for the financial nonpublic personal information, but tied these regulations to the standards in the federal regulations under Title V.

On September 26, 2000, the National Association of Insurance Commissioners unanimously adopted a model regulation, which provides uniform standards for all insurance companies, including an "opt-in" standard for disclosure of health information. The goal of the model regulation is to maintain uniformity with the federal rules to ensure a level playing field between insurers and their competitors in the financial services sector, and to provide greater protection for consumers health information. The regulations make clear that insurers wishing to share, sell, market, or give away health information, except for specific business exceptions, must receive permission.

- **Viatical law update** - In 1999, the Kansas Legislature made changes to the viatical law. Because of the changing environment with these types of insurance products, the NAIC has revised the model act to improve state insurance regulation. Viatical settlements are arrangements intended to provide dying life insurance policyholders with cash for immediate use. With viatical settlements rising from a \$50 million business in 1991 to \$1 billion in 1998, and that the business also evolving to include "life settlements" for healthy seniors; a market worth over \$100 billion, updates to the current law are needed. The proposed legislation establishes the necessary safeguards for viators' privacy, covers life settlements, and lays out protections for investors. The proposed changes include: 1) new definitions, 2) advertising restrictions and guidelines, 3) privacy issues; 4) expands disclosure requirements; 5) adds fraud prevention and control section; 6) expands the licensing laws for agents and brokers; and 7) establishes conduct and procedures for examinations of companies.
- **Malpractice screening panel forms** - K.S.A. 60-3505 and 65-4904 require forms to be sent from the malpractice screening panels to the insurance commissioner. There is no apparent reason for this practice to be continued. The proposed legislation deletes such references requesting this action.

- **Risk Based Capital** - Annual bill to update the RBC instructions used by carriers to file data with the insurance department, reflecting that companies should use the RBC instructions effective on December 31, 2000.