Approved:_
Date 2-24-03

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE

The meeting was called to order by Chairperson Senator Ruth Teichman at 9:30 a.m. on February 20, 2003 in Room 234-N of the Capitol.

All members were present except: Senator Atkins, excused
Senator Steineger, excused

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

Conferees appearing before the committee: Tom Tunnel, Kansas Grain and Feed Assc.
Sandy Praeger, Comm. Of Insurance
Jim Petrick, Fiserv Health
Chuck Stones, Kansas Bankers Assc.
Larrie Ann Lower, KAHP
Brad Smoot, BC-BS
Cheryl Dillard, Coventry Health Care of Kansas

Others attending: See attached list

Senator Teichman called for questions on **SB 66.** Discussion followed on the bill.

Senator Teichman asked Dr. Wolfe to explain **SB 127 and SB 201.**
Sb 127 Is an act concerning insurance; relating to exemption from jurisdiction of commissioner of insurance; amending K.S.A. 40-2222 and repealing the existing section.
SB 201 is an act concerning insurance; relating to association health plans and the regulation thereof.
Dr. Wolfe related that the **SB 127** amends only one law 2222. Committee needs to look at the bill to be sure there is not a conflict with existing bills.
Dr Wolfe related that **SB 201** exempts small groups. If you are willing to exempt small groups, then all should be exempt.

Senator Teichman introduced Tom Tunnel, Chief Staff Officer for the Kansas Grain and Feed Assoc. Mr Tunnel appeared as a proponent of **SB 127.** (See attachment 1)

Insurance Commissioner, Sandy Praeger made comments on **SB 127, and SB 201.**
On **SB 127** she said that the department was not opposed to pooling mechanisms. However, I do want to see this plan follow the same rules all other small group health plans follow (see attachment 2)
On **SB 201,** she felt that essentially, it is making the same point. If we are going to allow new small group plans to enter the market, they need to play by the same rules that all other similar plans do. If not, then **SB 201** would create a level playing field by abandoning our small group reforms.(see attachment 2)

Jim Petrick, Fiserv Health, appeared as a proponent for **SB 127.** The final decision as to whether or not a trade association can offer and/or continue a self-funded health plan for its membvers is subject to the jurisdiction of the commissioner of insurance. (See attachment 3)

Chuck Stones, Kansas Bankers Assoc., appeared as a proponent for **SB 127. (**See attachment 4**)**

Larrie Ann Lower, Executive Director of the Kansas Assoc. Of Health Plans (KAHP).She expressed several concerns about the bill (see attachment 5)

Brad Smoot, Legislative Counsel for BC-BS . (See attachment 6)
Mr. Smoot introduced **SB 201.** Because of the potential impact of **SB 127,** we requested the introduction of **SB 201.** It is simply designed to level the playing field by allowing insurers to avoid state laws to whatever extent associations are allowed to do so. He does not believe that the passage of either bill is good public policy.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

MINUTES OF THE FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE at 9:30 a.m. on February 20, 2003 in Room 234-N of the Capitol.

Cheryl Dillard, Director, Government Relations, Coventry Health Care of Kansas. Opponent on **SB 127.** (See attachment 7)

Hearings closed
Meeting adjourned

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
GUEST LIST
DATE: 2-20-03

NAME	REPRESENTING
Jim Petrick	Fiserv Health
Bill Rotzenberger	Blue Cross/Blue Shield of Kansas
Chip Wheelen	Ass'n of Osteopathic Med.
[illegible]	BCBSKS
Dusty Buell	Bottenberg & Assoc.
Chuck Stones	KBA
Herb Iams	"
Sandy Praeger, Commissioner	KID
Terry Wells	KID
JoAnn Bunten	KID
Janet Lorenz	KID

STATEMENT OF THE

KANSAS GRAIN & FEED ASSOCIATION

SUBMITTED TO THE

SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
REGARDING SENATE BILL 127

SENATOR RUTH TEICHMAN, CHAIR

FEBRUARY 20, 2003

SEN FI+I
2-20-03
ATTACHMENT 1

KGFA MEMBERS ADVOCATE PUBLIC POLICIES THAT ADVANCE A SOUND ECONOMIC CLIMATE FOR AGRIBUSINESS TO GROW AND PROSPER SO THEY MAY CONTINUE THEIR INTEGRAL ROLE IN PROVIDING KANSANS AND THE WORLD THE SAFEST, MOST ABUNDANT FOOD SUPPLY.

Attachment 1

816 SW Tyler, Topeka KS 66612 – 785-234-0461 - Fax: 785-234-2930

Madam Chair and Members of the Senate Financial Institutions and Insurance Committee. Thank you for the opportunity to offer testimony on Senate Bill 127. I am Tom Tunnell and I serve as Chief Staff Officer for the Kansas Grain and Feed Association which is a 107 year old state association that represents the entire spectrum of Kansas businesses that receive, store, merchandise, and process the approximately one billion bushels of grain grown annually in Kansas.

I appear today in support of Senate Bill 127. Our association asked this committee to introduce SB127 because we feel something needs to be done to get control of rapidly-increasing health care insurance costs, particularly in rural Kansas where the majority of our members are located.

My testimony will give you a brief history of our group program, and the next conferee, Jim Petrich, President, Fiserv Health of Wichita will explain the details of what passage of Senate Bill 127 will accomplish. Fiserv Health is the third party administrator of our plan.

Since 1969, the Kansas Grain and Feed Association has had a group health and dental insurance program which is made available only to our member companies. Our program is overseen by a committee within our association whose charge is to negotiate both coverages and annual premium amounts with our underwriting carrier. We are aided in this negotiation by our third party administrator Fiserv Health, Wichita, Kansas. Over these thirty plus years, our group prevailed and survived in spite of skyrocketing health care costs, because tough choices were made early on. Our group did not follow the path many associations' plans took of using the "all for one and one for all" approach in setting premium amounts. We knew that charging every member company the same premium, regardless of their loss experience would be disastrous. Instead, our group subscribed to a firm policy of rating participating member companies based on three criteria; average age of employees; location of company; and loss experience of participating companies.

Attached to my testimony, are charts which illustrate that over the past six years, our group has generated profits for our underwriting carrier of approximately $6.9 million dollars (not including program administration expenses). Through Senate Bill 127 we are asking the legislature for permission to self-fund our group, which would allow us to keep future profits in reserve to use to ameliorate future rate increases. If our Association is allowed to self-fund, we will continue to use prudent management policies in the administration of our program, including stop loss insurance to cover catastrophic loses. Further, we welcome the oversight of Insurance Commissioner Praeger as called for in Senate Bill 127.

Also attached is a map showing the location of the firms who participate in our program. We also have participating companies in Kansas City, Missouri, Denver and Haxtun, Colorado and Sidney, Nebraska.

Kansas Grain & Feed Association

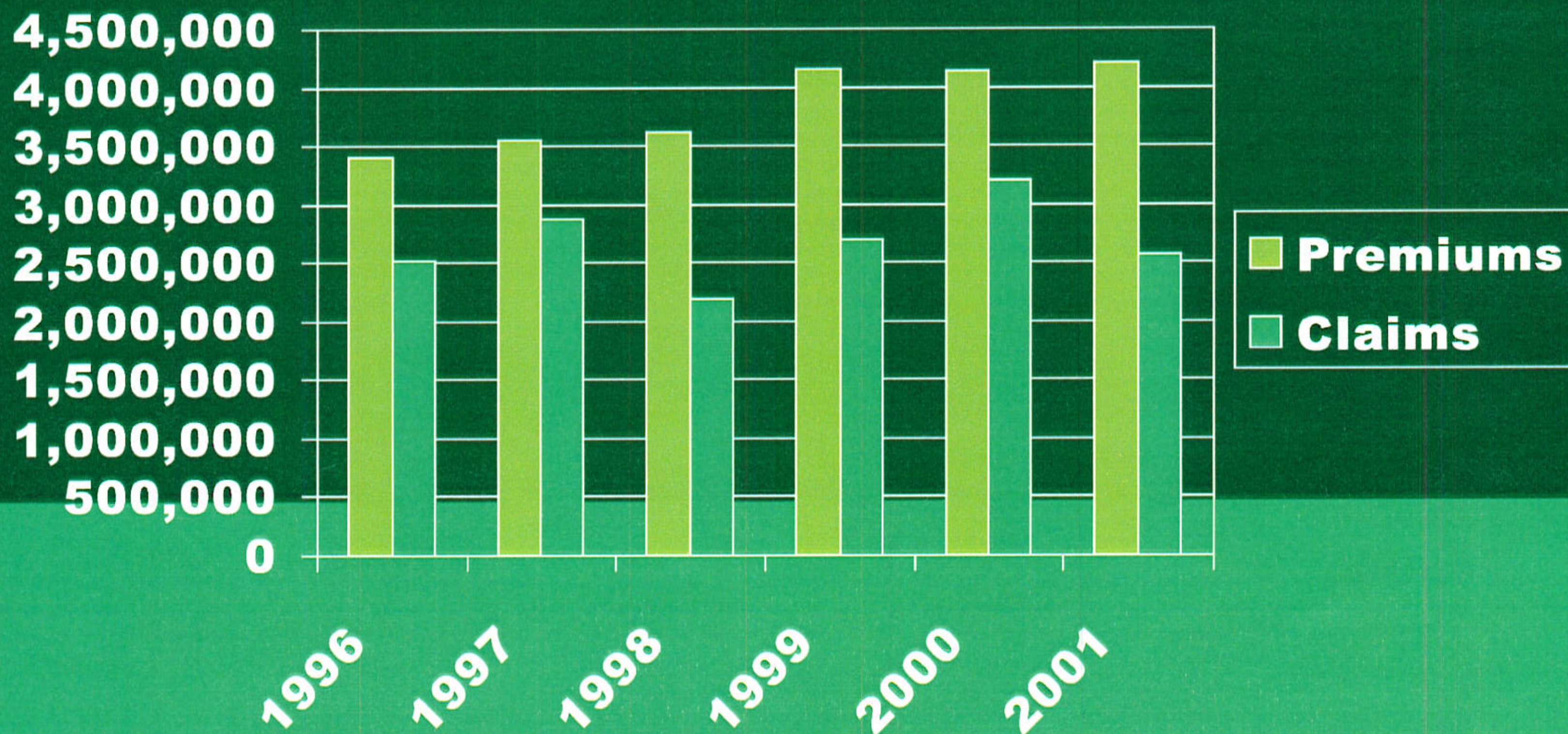
Health Insurance Program

Premiums vs. Claims

1996 - Present

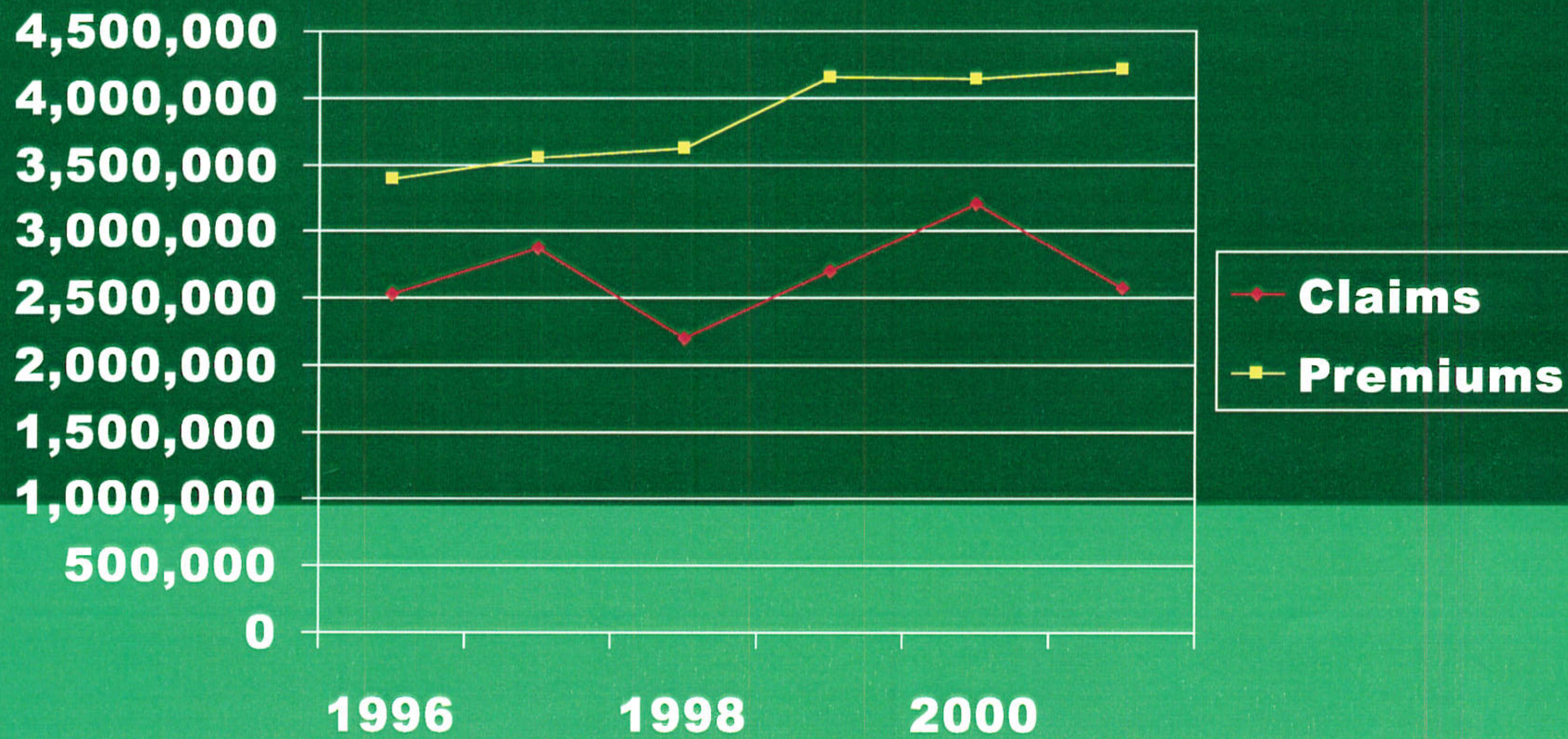
7-1

Premiums Vs. Claims



1-5

Premiums Vs. Claims



1-6

Cheyenne CN
Rawlins RA
Decatur DC
Norton NT
Phillips PL
Smith SM
Jewell JW
Republic RP
Washington WS
Marshall MS
Nemaha NM
Brown BR
Doniphan DP

Sherman SH
Thomas TH
Sheridan SD
Graham GH
Rooks RO
Osborne OB
Mitchell MC
Cloud CD
Clay CY
Riley RL
Pottawatomie PT
Jackson JA
Atchison AT
Jefferson JF
Leavenworth LV
Wyandotte WY

Wallace WA
Logan LG
Gove GO
Trego TR
Ellis EL
Russell RS
Lincoln LC
Ottawa OT
Saline SA
Dickinson DK
Geary GE
Wabaunsee WB
Shawnee SN
Douglas DG
Johnson JO

Greeley GL
Wichita WH
Scott SC
Lane LE
Ness NS
Rush RH
Barton BT
Ellsworth EW
Rice RC
McPherson MP
Marion MN
Morris MR
Chase CS
Lyon LY
Osage OS
Franklin FR
Miami MI

Hamilton HM
Kearny KE
Finney FI
Hodgeman HG
Pawnee PN
Stafford SF
Reno RN
Harvey HV
Coffey CF
Anderson AN
Linn LN

Gray GY
Ford FO
Edwards ED
Sedgwick SG
Butler BU
Greenwood GW
Woodson WO
Allen AL
Bourbon BB

Stanton ST
Grant GT
Haskell HS
Kiowa KW
Pratt PR
Kingman KM
Wilson WL
Neosho NO
Crawford CR
Elk EK

Morton MT
Stevens SV
Seward SW
Meade ME
Clark CA
Comanche CM
Barber BA
Harper HP
Sumner SU
Cowley CL
Chautauqua CQ
Montgomery MG
Labette LB
Cherokee CK

1-7

Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS
ON
SB 127 AND 201
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
February 20, 2003

Madam Chair and members of the Committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department with respect to SB 127.

I can appreciate the desire of the proponents to set up a trade association health plan so its members can pool together for more affordable health insurance. In this time of national economic recession and insurance rate increases, everyone is looking for a way to have better coverage with lower premiums. I commend Mr. Tunnell and his association for bringing an idea to the table, but I do have concerns with SB 127.

I am not opposed to pooling mechanisms. In fact, I supported the creation of the Business Health Partnership. However, I do want to see this plan follow the same rules all other small group health plans follow. First, they would need to participate in the guaranty fund to ensure that consumers don't get left with unpaid hospital and doctor bills if a plan goes insolvent. Also, they would need to participate in the assessments made to pay claims in the high risk pool for uninsurable Kansans and they need to conform to all small group market reforms. All are necessary safeguards that would protect individuals in the plan SB 127 would create and would maintain a level playing field with the market.

I further understand the purpose of your second bill today, SB 201. Essentially, it is making the same point. If we are going to allow new small group plans to enter the market, they need to play by the same rules that all other similar plans do. If not, then SB 201 would create a level playing field by abandoning our small group reforms.

SEN. FI&I 2-20-03
attachment 2

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Over the years, this legislature has passed legislation to protect consumers of health care services. Patient protection laws, prompt pay of medical claims, mental health parity, and external review of health plan decisions are just a few. SB 127 is well-intentioned, but it could begin the process of dismantling our small group reforms. I don't want that to happen.

Thank you for the opportunity to appear today and I am happy to answer any questions the committee may have.

Sandy Praeger
Commissioner of Insurance

Jim Petrick Fiserv Health

Madam Chair and Members of the Senate Financial institutions and Insurance Committee. Thank you for the opportunity to offer testimony on Senate Bill 127. I am Jim Petrich, President of Fiserv Health – Kansas (formerly Willis of Kansas). We employ over 250 people in the Third Party Administration industry. I am here today to support Senate Bill 127.

Over the last several years access to affordable healthcare has almost evaporated for the Small Kansas Employer (particularly in rural Kansas). The number of insurance carriers willing to write Small Kansas Employers have significantly decreased to just a few viable carriers, and these carriers are now raising premium rates to unprecedented levels.

Many Small Kansas Employers have historically looked to their trade associations for help in securing medical insurance for their employees. Association plans have always treated their members more favorably then if members attempted to purchase medical insurance on their own. In an effort to provide more affordable health care to their member groups, some trade associations began establishing self-funded medical plans. This was especially true when insurance carriers became disinterested in writing trade association business in favor of Multiple Employer Trust (MET) arrangements. The MET arrangements allowed the carriers to better select risk.

The Kansas Insurance Department (KID), however, later prohibited trade associations from providing its members health care coverage under self-funded arrangements, even though their members enjoyed a higher degree of satisfaction (fewer complaints) with more affordable rates. The rationale for the KID prohibition was that it determined such arrangements were self-funded Multiple Employer Welfare Arrangements (MEWAs) that didn't provide the financial security KID felt necessary to protect plan participants from potential mismanagement of the self-funded plan **and** the loss of state premium tax.

Surprisingly, KID allowed certain trade associations (architects, dentists, truckers, independent bankers, Kansas City physician group and Coops) that had existing self-funded plans in place to continue (grandfathered), while prohibiting any new self-funded trade association plans. The larger more established trade associations that were waiting for a KID opinion as to whether or not it was legal for them to establish a self-funded health care plan for their members were prohibited from establishing self-funded health care plans, while at the same time KID allowed smaller more volatile trade associations to continue such arrangements, simply because they already had plans in place (KID proved the old theory true that *"it is better to ask for forgiveness than permission"*).

Due to the present lack of insurance markets and unaffordable premium rates, we believe it is time for KID to reevaluate its position as it relates to association plans and their ability to establish self-funded health plans for the benefit of their member groups. This would be a key initiative to address the growing number of uninsureds among the Small Kansas Employers.

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2-20-03
Attachment
3

In an effort to address past KID concerns, and to be more consistent and fair to all trade associations, we believe K.S.A. 40-2222 should be amended to allow a non-profit professional trade association under Section 501(c) of the federal internal revenue code, incorporated in Kansas, which has maintained either a self-funded plan or fully insured plan of coverage for the payment of expenses described herein to or for the members of the association and/or their dependents for a period of 10 or more consecutive years, and which coverage is provided to at least 500 covered participants, to establish and maintain a self-funded health plan for the benefit of its members, provided:

i) state premium tax is paid by the plan at the same level as if such coverage was provided by an In-State (domestic) insurance carrier, and

ii) KID would have financial surveillance authority over such plans and require a reporting package as determined by KID to be provided at least once each year within a pre-determined time period for KID review.

The final decision as to whether or not a trade association can offer and/or continue a self-funded health plan for its members is subject to the jurisdiction of the commissioner of insurance, as stated in writing each year.

The Kansas Bankers Association

TO: Senate Financial Institutions and Insurance Committee

From: Chuck Stones, Senior Vice President

RE: SB 127

Madam Chair and Members of the Committee:

The KBA appreciates the opportunity to appear before you in support of SB 127. The KBA currently sponsors a group health plan for our members. We have been insured by Blue Cross/ Blue Shield of Kansas and have been for a very long time. Our group currently has 330 individual sub-groups insuring 6,563 employee lives. Our plan currently bills over $38 million in annual premium with over $8 million in reserves. Our plan is rated on its own experience and we pay BC/BS a retention fee for administration services.

Let me stress that we are very happy with our relationship with BC/BS of Kansas and hope we never need the provisions of SB 127. However, the health insurance market is changing rapidly. It is hard to anticipate what will happen next year, much less 5-10 years into the future. We are especially concerned with coverage for our rural members. If a change were to take place in the Kansas health care scene that would cause our members in rural Kansas to have difficulty in purchasing health insurance, we would like the option available to self insure our group and make those decisions ourselves.

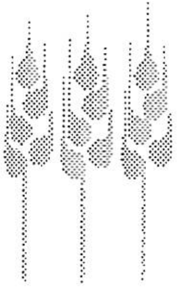
We have worked together with the Feed and Grain Association, our consultants, FISERVE of Kansas and the Insurance Commissioner to come up with a bill that would be narrow enough to include only those groups with enough experience and employees to have a reasonable chance of success. We have worked with the Insurance Commissioner to address the departments concerns with oversight and fiscal impact.

Thank you for your consideration and we urge your support.

Charles A. Stones

SEN. FI+I
2-20-03
Attachment
4

610 SW Corporate View, Box 4407 ♦Topeka, KS ♦ 66604-4407 ♦785-232-3444 fax-785-232-3484
e-mail - kbacs@ink.org



Kansas Association of Health Plans

1206 SW 10th Street
Topeka, KS 66604

785-233-2747
Fax 785-233-3518
kahp@kansasstatehouse.com

Testimony before the
Senate Financial Institutions and Insurance Committee
<u>Testimony on SB 127 and SB 201</u>
February 20, 2003

Madam Chairman 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 other entities that are connected to managed care. KAHP members serve most all of the Kansans enrolled in a Kansas licensed HMO. KAHP members also serve the Kansans enrolled in HealthWave and medicaid managed care and also many of the Kansans enrolled in PPO's and self insured plans. We appreciate the opportunity to provide comment on the two bills before you today.

SB 127, which allows for the formation of an association health plan for certain associations raises concerns for the members of the KAHP. The bill appears to require these groups to be under the jurisdiction of the insurance commissioner, see page 1 line 19, and page 2 lines 11 and 12. However, page 2 lines 15-17 of the bill states that these associations will provide the insurance coverage to its members and dependents through a trust which complies with KSA 40-2222a and amendments thereto. This statute says that the association must provide notice that the coverage is not provided by an insurance company, that the plan is not subject to the laws and regulations relating to insurance companies, is not under jurisdiction of the insurance commissioner and the if the plan defaults on covered medical expenses for any reason, the individuals covered by the plan may be liable.

The bill also then expressly states that the plan will pay premium taxes and the KID will have authority to exercise financial surveillance authority as authorized by law and require any reports. Does the lack of express language regarding other requirements indicate the association health plan will be exempt from other statutory requirements?

As mentioned, the bill is unclear to us whether the association plan will actually be subject to the jurisdiction of the commissioner. If they are then it appears KSA 2222a will need to be clarified and amendments may be necessary to clarify the requirements that must be met by these associations.

If they are not subject to the regulation of the commissioner then we have numerous concerns. Should the association be required to comply with external review, prompt pay and other regulations? Will they be required to meet the same strict solvency protections and requirements as other health plans? Are they subject to state mandates? Will they be subject to guarantee issue requirements or will they be allowed to underwrite everyone that wants in or in

SEN. FI+I 2-20-03
attachment 5

some cases deny access completely? Are they required to contribute to the high risk pool? Two representatives of KAHP member plans will expand on these questions following my testimony.

In conclusion, if the committee wishes to pursue this legislation we would ask that the legislation clearly state whether these associations are subject to the jurisdiction of the Commissioner and whether they must abide by all of the same regulations and protections put in place over the many years by various legislatures. If these associations are going to be allowed to be out from under the protective umbrella of the insurance department, then KAHP members ask that you seriously consider SB 201, which Brad Smoot will discuss in his testimony.

Again thank you for allowing us to appear before you and I'll be happy to answer any questions.

mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the commissioner of insurance unless the person or other entity: (a) is a professional association of architects incorporated in Kansas on October 4, 1954, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1986, and complies with K.S.A. 40-2222a;

(b) is a professional association of dentists incorporated in Kansas on July 3, 1972, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1985, and complies with K.S.A. 40-2222a;

(c) is a trade association of banks incorporated in Kansas on August 9, 1978, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established July 1, 1989, and complies with K.S.A. 40-2222a;

(d) is a trade association of truckers incorporated in Kansas on July 1, 1985, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established January 1, 1990, and complies with K.S.A. 40-2222a;

(e) is an association of physicians practicing in the Kansas City metropolitan area, incorporated in Missouri on March 5, 1891, and qualified as a foreign corporation in Kansas on May 19, 1987, which provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents through a trust established November 1, 1984, and complies with K.S.A. 40-2222a;

(f) conclusively shows by submission of an appropriate certificate, license, letter or other document issued by the United States department of labor that such person or entity is not subject to Kansas law; or

(g) conclusively shows that it is subject to the jurisdiction of an agency of this state or the federal government. For purposes of this act, tax exempt status under section 501(c) of the federal internal revenue code of 1986 shall not be deemed to be jurisdiction of the federal government.

History: L. 1983, ch. 150, § 1; L. 1991, ch. 135, § 1; May 2.

40-2222a. Same; associations not subject to jurisdiction of commissioner to provide applicants with written notice of nature of coverage. At the time the initial application for coverage is taken with respect to new applicants and upon the first renewal, reinstatement or extension of coverage following the effective date of this act with respect to persons previously covered, each association described in subsections (a), (b), (c), (d) and (e) of K.S.A. 40-2222, and amendments thereto, shall provide a written notice stating that:

(a) The coverage is not provided by an insurance company;

(b) the plan is not subject to the laws and regulations relating to insurance companies;

(c) the plan is not under the jurisdiction of the commissioner of insurance; and

(d) if the plan does not pay medical expenses that are eligible for payment under the plan for any reason, the individuals covered by the plan may be liable for such expenses.

History: L. 1991, ch. 135, § 2; May 2.

40-2222b. Same; premium tax, rate, computation, return and payment. (a) As a condition precedent to continuation of the exemption provided by K.S.A. 40-2222, and amendments thereto, each association described in subsections (a), (b), (c), (d) and (e) thereof shall, no later than May 1 of each year, pay a tax at the rate of 1% per annum upon the annual Kansas gross premium collected during the preceding calendar year. In the computation of the tax, such associations shall be entitled to deduct any annual Kansas gross premiums returned on account of cancellation or dividends returned to members or expenditures used for the purchase of reinsurance or stop-loss coverage.

(b) Every association subject to taxation under the provisions of this section shall pay the tax imposed and make a return thereof under oath to the commissioner of insurance under such rules and regulations and in such form and manner as the commissioner may prescribe.

History: L. 1991, ch. 135, § 3; May 2.

40-2223. Same; examination; subject to insurance laws. Any person or entity unable to show under K.S.A. 40-2222 that it is subject to the jurisdiction of an agency of this state or the federal government shall: (a) Submit to an examination by the insurance commissioner to determine the organization and solvency of the person or the en-

BRAD SMOOT

ATTORNEY AT LAW

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(785) 234-3687 (fax)

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

Statement of Brad Smoot
Legislative Counsel
Blue Cross Blue Shield of Kansas and Blue Cross Blue Shield of Kansas City
Senate Financial Institutions & Insurance Committee
Regarding 2003 Senate Bills 127 and 201

February 20, 2003

Madam Chair and Members,

On behalf of Blue Cross Blue Shield of Kansas, a domestic mutual insurance company serving 700,000 Kansans in 103 counties and Blue Cross Blue Shield of Kansas City, a hospital and medical service corporation serving 300,000 Kansans in Johnson and Wyandotte Counties, we are pleased to have an opportunity to comment on the above-referenced bills.

You seem to have before you one of the most fundamental of insurance and regulatory issues – namely, what activities constitute the business of insurance such that they need to be regulated like insurance. In other words, should employers who purchase health insurance through an association be treated differently than employers who purchase similar coverage through a licensed insurer?

Since a multi-employer health plan is taking on risk and spreading costs and losses among its members, most state legislatures have recognized that such is the very essence of insurance and that all of the public safeguards which apply to insurance companies should apply to such plans. That is, they should have adequate risk-based capital to provide an adequate surplus and guard against financial default, they should participate in guaranty associations and be subject to assessments, and their rates should be required to meet the same standards as those applicable to insurers. After much analysis and public discussion, that is exactly the conclusion the Kansas legislature reached in the passage of K.S.A. 40-2222. SB 127 would amend this statute, but unfortunately, it is not at all clear which, if any, of these requirements would apply to a qualifying non-profit trade association.

Beyond these financial safeguards, the Kansas legislature has recognized several elements of coverage to be so important to the public welfare that they are specifically imposed by statute. As we understand SB 127, qualifying associations would not be subject to these laws either. The association would not have to cover chiropractors, D.O.s, dentists, podiatrists, certified psychologists, advanced registered nurse practitioners or licensed specialist social workers. Nor would they have to provide coverage for newborns, mammograms and pap smears, diabetic education and supplies, mental health and substance abuse or other such mandated benefits. They would not have to provide continuation coverage and conversion policies when a person loses coverage

SEN. FI+I
2-20-03
attachment 6

under the group. They would not have to abide by prompt payment or unfair trade practice rules. They would be able to deny claims for lack of medical necessity or as experimental without being subject to state external review requirements. Insurers are subject to all these requirements. What about a trade association health plan would justify exempting it from these very same requirements that you, the legislature, thought important enough to enact into law? What about the businesses and families covered by such plans would justify denying them these same protections?

As we understand SB 127, qualifying trade association plans would be able to rate employer units to discourage enrollment of less healthy groups and encourage enrollment of more healthy groups. That could occur because the rating constraints applicable to small groups under current Kansas law would apparently not apply to non-profit trade associations operating under SB 127.

Because of the potential impact SB 127, we requested the introduction of SB 201. It is simply designed to level the playing field by allowing insurers to avoid state laws to whatever extent associations are allowed to do so. It would only be effective if federal or state law similar to SB 127 were to be enacted. Please understand that we do not believe that the passage of either bill is good public policy.

The public policy regarding pooling of small employer groups for rating purposes was a subject of lengthy debate in the early 1990s. That debate culminated in the passage of laws that eliminated a lot of abuses in the small group insurance market and stabilized rates for those markets. We understand the frustration that renewed increases in medical costs, passed along as insurance rate increases, create for small employers. However, before we make changes in the existing public policy, perhaps with unintended and devastating consequences, we think a review commensurate with the importance of that public policy should be undertaken.

Testimony of Cheryl Dillard
Director, Government Relations
Coventry Health Care of Kansas
Kansas Senate Insurance Committee
Senate Bill 127
Thursday, February 20, 2003

Madame Chair, Committee members, thank you for the opportunity to appear before you today to express our concerns with SB 127, the association health plan bill. Coventry Health Care has members in Kansas City, Lawrence and Wichita. We are one of the health plans who are offered to Kansas State employees.

SB 127 is a very good example of the old saying, "All that glitters is not gold". While it appears to open the door for only one trade association or a few trade associations to offer health benefits to their members, instead it takes a major step towards eroding the fully insured health insurance market in Kansas. For that reason, we oppose this bill.

In addition, we have questions about the bill:

*Would SB 127 permit "cherry-picking", with the healthy members joining the association plan and unhealthy members excluded?

*Would association plans have to meet the reserve requirements of the risk-based capital protections required in Kansas of fully insured health plans?

*Would association plans be exempted from state consumer protection laws or from state privacy protection laws?

*Are there built-in protections against fraud and abuse?

*Would association plans include benefit mandates enacted by the Kansas legislature?

Attached to my testimony is a recent article from the Chicago Tribune, dealing with association plans. It's a balanced article, citing the pluses and minuses of this approach. Our view is that the minuses are significant. To quote the Tribune, ".....the idea has less-obvious side effects that can destabilize the insurance market, create financially unstable insurers and result in fraudulent health coverage schemes."

Thank you for the opportunity to appear before you today.

SEN. FI+I
2-20-03
Attachment 7

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Association health plans seek strong dose of support

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Hundreds of independent farmers for Sunkist Growers Inc. banded together in the 1990s to try to control their health insurance costs.

That idea, known today as an association health plan, is gaining momentum in Congress and is supported by President Bush. It started with a simple premise: Together, small firms would have more leverage with insurance companies. Or small firms could join to launch their own self-insured plans.

Yet critics, including insurers, state insurance regulators and some neutral parties, charge the idea has less-obvious side effects that can destabilize the insurance market, create financially unstable insurers and result in fraudulent health coverage schemes.

As evidence, they point to examples like the Sunkist growers, whose plan collapsed in 2001, forcing thousands of families to scramble for health coverage. "You can't construct a giant by having lots of midgets stand on each others' shoulders," said Mark Pauly, professor of health-care systems at the University of Pennsylvania's Wharton School of Business.

The idea behind association health plans has been around for decades, but it's enjoying a surge of support from small-business lobbying groups and Bush as insurance premiums rapidly escalate.

Rising health-care costs have particularly battered small firms. Premiums at companies with between three and 199 employees jumped an average of 10.3 percent in 2000, 12.5 percent in 2001 and 13.2 percent last year, exceeding the increases each year at larger firms, according to research from the Kaiser Family Foundation.

As a result, fewer small firms are offering workers health benefits, falling from 67 percent in 2000 to 61 percent last year, the foundation found.

If passed, the association health plan legislation would let groups like the National Restaurant Association and the U.S. Chamber of Commerce pull together hundreds or thousands of small firms to get health coverage.

One of the most attractive features in the legislation to these groups is that the self-insured plans would not have to adhere to state-mandated benefits and regulations, putting them on more equal footing as self-funded plans at large companies.

This would likely result in many firms having a lower cost option for health insurance, although it may be a bare-bones policy.

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Still, many small-business officials say offering employees some health coverage is better than nothing.

"It's something we would love to have for our employees because it's one of the best retention tools," said Ivan Matsunaga, an executive vice president at the Connie's Pizza chain, which pays for health benefits only for executives.

While many small-business officials think association health plans could help, few see them as a panacea to the problem of escalating health-care costs.

Critics charge that the plans will not result in many more small firms offering health insurance. While about 41 million people nationwide are uninsured, including 24 million business employees and their families, the plans will result in only 330,000 additional people getting insurance, according to a report from the Congressional Budget Office.

Still, even Wharton's Pauly, who is skeptical about the plans' impact, isn't against giving them a try.

"Nothing else has worked," he noted.

Supporters of the legislation say the government report underestimated how small firms could save in the plans.

More than 2 million uninsured workers would gain health coverage under the plans, estimated Duane Musser, a lobbyist representing the Association Health Care Coalition, which includes 80 small-business groups.

"Small employers are desperate to do something to get affordable health benefits," Musser said. "The small-business community has really rallied around this."

Some states, including Illinois, allow associations to pull small businesses together to buy health insurance, but they must follow state regulations.

Associations with existing plans said besides giving them leverage with insurers, they can create specialized offerings. For example, the plan offered by the American Council of Engineers covers hearing aids and glasses for its members.

Several associations that offer plans said the administrative costs of tracking and following different rules in dozens of different states significantly raises the cost of their programs.

John Schubert, a senior consulting actuary at PricewaterhouseCoopers in Chicago, said most of the savings from association health plans would come from not having to follow the state regulations; a smaller slice would be due to the power of group purchasing.

Critics of the legislation express concern about whether the plans' solvency requirements are strict enough, who would oversee the organizations and the plans will cherry-pick the healthiest patients, resulting in higher premiums for other businesses.

Similar plans that folded misjudged the cost of care and how often plan members would seek services. This mistake is more common when a group doesn't have a long health history.

Insurers also object that the new plans would enjoy an unfair advantage by not having to follow state regulations or keep rates within a particular range, which many states require.

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"The private market could be the dumping groups for businesses that employ people with health conditions," said Mila Kofman, an assistant research professor at Georgetown University's Institute for Health Care Research and Policy.

State insurance regulators worry about fraudulent groups preying on small firms. These groups, which often appear when insurance premiums rise, pose as legitimate groups offering low premiums but disappear when bills come due.

Many insurance officials fear such fraudulent groups would proliferate if the association plan legislation passes.

"It would be the Nail Biters Association or the Union of People That Have Hair," said Bill McAndrew, assistant deputy director of the Illinois Department of Insurance.

There is also concern about how closely these associations would be watched. Insurers are mainly regulated by state insurance departments, but the association plans would fall under the authority of the Department of Labor.

"The Department of Labor has never been a proactive regulator," said Mary Nell Lehnhard, senior vice president at the Blue Cross and Blue Shield Association. "They don't have the culture, not to mention they don't have the people."

Musser dismissed the Blue Cross concerns, saying the group wants to block competition. "They have dominant market share in a lot of the state markets, and they don't want to give that up," he said.

But others point to the experiences of those like the Sunkist growers as a note of caution.

"This was a good example of what can happen when there are miscalculations," Kofman said. "It was not run by criminals. It was run by very well-intentioned people."

Musser said the Sunkist plan wouldn't have qualified as an association under the federal legislation and that its downfall was partially a failure of state insurance regulators.

Yet several people tracking the federal legislation say these types of problems could become more common.

Schubert, who worked on a group that evaluated the legislation, said the solvency requirements on the plans would be "totally inadequate" compared with the standards insurers must meet. Even Musser said about the solvency issues, "That's something that needs to be looked at."

The legislation, which the House of Representatives has previously approved, appears to have its best chance of clearing Congress this session.

"Association health plans stand in the strongest position they've been in for quite some time," said Brendan Flanagan, a lobbyist with the National Restaurant Association.

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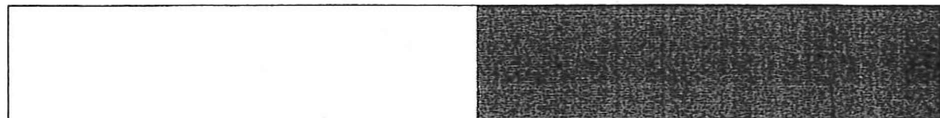

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