

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairperson Ruth Teichman at 9:30 a.m. on February 19, 2004 in Room 234-N of the Capitol.

All members were present except:

Senator David Corbin- excused
Senator Ruth Teichman- excused

Committee staff present:

Bill Wolff, Legislative Research
Terri Muchmore, Legislative Research
Ken Wilke, Office of the Revisor of Statutes
Nancy Shaughnessy, Committee Secretary

Conferees appearing before the committee:

Sherry Diel, KS Real Estate Commission
Bill Yanek, KS. Assoc of Realtors
Randy Nyp, Via Christi Regional Medical Center
Brad Smoot, BC-BS

Others attending:

See Attached List.

Senator Barnett, Vice-Chair opened the meeting, indicating he was chairing for Senator Teichman who asked to be excused from the meeting for today.

The Vice-Chair opened the hearing on **SB 404—Real Estate brokers and salespersons, licensure; prohibited acts**, and welcomed Sherry Diel to the Committee.

Sherry testified as a proponent of **SB 404**, indicating the Commission had requested the bill as a clean-up measure to clarify the authority of the Commission. To discipline a salesperson or associate broker for paying compensation to an unlicensed person, the Commission must cite at least three statutes as statutory support for the violation. The amendment language attempts to specifically address issues of this nature.

The proposed language repeals the limited prohibition on licensees providing a buyer or seller with a gift or gratuity. (Attachment 1)

Bill Yanek testified that the Kansas Association of Realtors supported **SB 404** which repeals the prohibition of offering or giving prizes, gifts or gratuities which are contingent upon an agency agreement or the sale, purchase or lease of real estate. (Attachment 2)

The Vice-Chair then closed the hearing on **SB 404** and opened the hearing on **SB 457—Nonprofit hospital and medical service corporation act, subscription agreements, nonassignability provisions**.

Randy Nyp, Via Christi Medical Center, testified before the Committee as a proponent of **SB 457**. (Attachment 3) He stated that the bill addresses a practice by Blue Cross -Blue Shield that adds, annually, at least \$1 million dollars of unnecessary cost to the Via Christi operation.

They are asking the legislature to amend K.S.A. 40-19c06(b) a statute that gives Blue Cross, and only Blue Cross, the power to deny a patient's right to assign an insurance payment to the Via Christi Medical Center.

The requested change in **SB 457** is about eliminating the bad debt and unnecessary legal action that the refusal of assignment of benefits policy has foisted on one full service hospital in the state of Kansas. The courts have repeatedly found that the decision to allow Blue Cross to engage in the practice of refusing to honor assignment, despite the unnecessary costs to providers was a public policy decision and can only be corrected by the Kansas Legislature.

CONTINUATION SHEET

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE at 9:30 a.m. on February 19, 2004 in Room 234-N of the Capitol.

Brad Smoot of BC-BS testified as an opponent of **SB 457**. (Attachment 4) For more than 20 years BCBSKS has provided, in its policies, that it would not make direct reimbursements to non-contracting providers. They do this for only one reason: To save their customers money. Direct reimbursement is a huge incentive for providers to contract with BCBS. In exchange for direct payment, providers agree to accept the BCBS reimbursement rate and agree not to bill the insured for the balance between charges and insurance payment.

BCBSKS holds the opinion that Kansas law allows other health plans to refuse to honor assignments. HMO's do not make direct payments to non-contracting providers. One of the ironies of this situation is that Via Christi has a wholly owned subsidiary, PPK, which refuses to honor assignments to Wesley Hospital. Mr. Smoot presented a letter from Wesley confirming his statement. (Attachment 5)

BCBSKS has contracted with Via Christi for direct reimbursement for services not available at the primary contracting hospital. **SB 457** as written would require BCBS to directly reimburse speciality hospitals and speciality hospitals are a growing concern in Kansas.

Absent the authority to refuse to honor assignments, BCBS may be forced to use other techniques to control cost, such as reducing reimbursement to our customers.

Mr. Smoot provided written testimony in opposition of **SB 457** from the Kansas Banker's Association, Pizza Hut International, Petroleum Marketers and Convenience Stores, Plumbing and Pipefitting Industry, Heartland Community Bankers Association. (Attachment 6-10)

The Vice-Chair closed the hearing on **SB 457**. He then asked the Committee to turn their attention to **SB 404—Real estate brokers and sales persons; licensure; prohibited acts** so the bill could be worked.

Senator Adkins asked that the word negatively be deleted from the bill and made a motion to move the bill out favorably. Senator Helgerson seconds. Motion passes.

SB 380—Liens for wreckers and towing services; notice to lienholders has previously been heard and if the Committee has no objection, the Vice-Chair would entertain a motion.

Dr. Wolff indicated that the KBA had a minor change to the language and there was one typo which had been corrected.

Senator Steineger made a motion to pass the bill out favorably as amended. Senator Brungardt seconds.

Ken Wilke suggested that we have a substitute bill. Senator Steineger indicated he would change his motion would reflect a sub bill. Brungardt seconds. Motion passes.

Meeting adjourned at 10:23 A.M.

The next meeting is scheduled for

SENATE FINANCIAL INSTITUTIONS & INSURANCE

Date: 8-19-04

Name:

Representing:

BILL YANEK

Kansas Assn. of REALTORS

Rod GACHES

GBBA

Sherry O'Dell

KS Real Estate Commission

Randy Nyp

Via Christi Regional Medical Center

May Ellen Conlee

Via Christi

FRED Luckey

KANSAS HOSP ASSN

LARRY MAGILL

KDIA

Matt Wene

Via Christi, Wichita

Chuck Stones

KBA

Matt Goddard

HCBA

TOM PALACE

YMCA OF KANSAS

Jim Byones

Sen. SALMANS

Rebecca Wemp

KS Cigar Ass'n

Janie Ann Bowen

KATAP

Jane Buxton

KFI



KANSAS

KANSAS REAL ESTATE COMMISSION
SHERRY C. DIEL, EXECUTIVE DIRECTOR

KATHLEEN SEBELIUS, GOVERNOR

Memo To: Senate Financial Institutions and Insurance Committee
From: Sherry C. Diel, Executive Director
RE: SB 404—Clarification of Authority of Kansas Real Estate Commission
Date: February 19, 2004

The Kansas Real Estate Commission requested introduction of SB 404 as a clean up measure to clarify the authority of the Commission. The requested amendments are derived from the experience over the past two years of the agency staff and the Investigation Committee in drafting agency orders for denial of licensure or for discipline purposes. Many times, the Commission has to cite several statutes to deny an application for licensure or to discipline a licensee. For instance, to discipline a salesperson or associate broker for paying compensation to an unlicensed person, the Commission must cite at least three statutes as statutory support for the violation. The proposed language attempts to specifically address issues of this nature. In addition, the proposed language repeals the limited prohibition on licensees providing a buyer or seller with a gift or gratuity.

The proposed legislation includes the following provisions:

- Page 1, Line 27-29: Amends K.S.A. 58-3043(a)(4) to clarify that the Commission may consider a licensee's reputation for honesty, trustworthiness, integrity or competence to transact the business of real estate for purposes of a renewal application. The Commission clearly has authority to consider these traits for purposes of applications for original licensure. For renewal purposes, the Commission's authority would only be found in the catchall language of current subsection (a)(4), which provides "such other matters as deemed pertinent by the commission".
- Page 2, Lines 20-26: Amends K.S.A. 58-3050 to clarify that the Commission has authority to deny licensure or to take disciplinary action against a licensee if the licensee's real estate license in another jurisdiction is revoked, suspended or placed on probation. The proposed legislation also clarifies that the Commission may deny licensure or take disciplinary action when a professional or occupational license issued to the real estate applicant or licensee by the State of Kansas or another jurisdiction is revoked, suspended or placed on probation.

- Page 3, Lines 30-31: Amends K.S.A. 58-3062(a) to include a licensee who functions as a transaction broker in a real estate transaction as being subject to the "prohibited acts" section of the real estate license law. This appears to be an oversight when BRRETA II became effective in October of 1997.
- Page 4, Lines 20-27: Amends K.S.A. 58-3062(a) by eliminating the limited prohibition on a licensee offering gifts and gratuities to a principal in a real estate transaction. The current language is extremely difficult for agency staff to interpret. A great deal of staff time is spent with complaints and inquiries from licensees asking if a gift is legal. The Commission has not received any complaints from the public on this issue. Kansas is in the extreme minority of states that significantly limit gifts and gratuities. Those states that have eliminated the prohibition have not reported any significant problems. Market forces seem to play a significant role in restraining the industry. In addition, other provisions of the law are still in place, such as the prohibition on paying compensation to an unlicensed person and the prohibition on payment of rebates.
- Page 4, Lines 27-29: Amends K.S.A. 58-3062(a) to clarify that paying compensation to an unlicensed person for activities that require a real estate license is prohibited.
- Page 7, Lines 12-14: Amends K.S.A. 58-3062(b) to prohibit a salesperson or associate broker from paying another person for performing a licensed real estate activity. An exception to the prohibition exists so that a team leader may continue to pay compensation to their affiliated team members as long as the team leader has the written consent of the supervising broker.
- Page 7, Lines 15-23: Amends K.S.A. 58-3062(b) to clarify that the Commission has authority to discipline a salesperson or associate broker for conducting licensed real estate activities without the knowledge and outside the supervision of the supervising broker.

The only concern about the proposed amendments that the Commission has been made aware of is the use of the word "negatively" on Page 1, Line 27. The Commission has no objections to an amendment that would allow the Commission to consider any information, positive or negative, that affects the licensee's honesty, integrity, trustworthiness, or competence to transact the business of real estate in a manner that safeguards the public's interest.

I will be happy to respond to any questions from the Committee. On behalf of the commissioners and myself, thank you for your consideration of the proposed amendments.



TO: SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
FROM: BILL YANEK, KAR DIRECTOR OF GOVERNMENTAL RELATIONS
DATE: February 19, 2004
SUBJECT: Senate Bill 404

The Kansas Association of REALTORS® supports Senate Bill 404.

One particular area of interest in SB 404 is Sec. 3 paragraph (11), which repeals the prohibition of offering or giving prizes, gifts, or gratuities which are contingent upon an agency agreement or the sale, purchase or lease of real estate.

This prohibition was enacted to protect consumers from the unscrupulous offering of inducements linked to agency agreements or the sale, purchase or lease of real estate.

However, the reality of today's real estate marketplace ensures that the offering of such inducements is limited or economically not feasible. Increasingly, the amount of profit real estate transactions yield is decreasing. This is the result of factors such as the use of the Internet in searching for and researching real estate information. The real estate industry is also regulated at an ever-increasing rate, thus leading to increases in overhead and compliance costs. All of these factors make less realistic the offering of inducements that would further erode the profit a real estate transaction may yield.

It is also important to note that the Real Estate Commission rarely, if ever, receives consumer complaints about the offering of inducements.

The Kansas Association of REALTORS® urges favorable passage of SB 404.



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Senate FI & I Committee

Meeting Date: 2-18-04

Attachment No.: 2



929 North St. Francis
Wichita, KS 67214-3882

Tel 316-268-5000

Via Christi
Regional Medical Center

**TESTIMONY PRESENTED TO THE
SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE**

February 19, 2004

Good morning, my name is Randy Nyp, CEO of Via Christi Regional Medical Center in Wichita, Kansas. We asked that SB 457 be introduced to address a practice by Blue Cross that adds, annually, at least \$1 million dollars of unnecessary cost to our operation. As part of making a decision whether to accommodate the desire of Blue Cross patients to use Via Christi Regional Medical Center, we are asking the legislature to consider amending K.S.A 40-19c06(b), a statute that gives Blue Cross, and only Blue Cross, the power to deny a patient's right to assign an insurance payment to our facility.

The basic rule in Kansas insurance law found in K.S.A. 40-439 allows a policy owner to assign his or her rights to another person or legal entity. As a normal practice in hospital admissions paperwork, patients agree to the procedures associated with billing their insurance companies, part of which, is assigning direct payment to the medical provider. I've provided the text of the statute in my testimony for your reference.

K.S.A. 40-439:

No provision in K.S.A. 40-434 and 40-435 or any other law shall be construed as prohibiting a person whose life is insured under a policy of group life or accident and health insurance or the policyowner of an individual life or accident and health policy from making an assignment of all or any part of his rights and privileges under such policy including specifically, but not by way of limitation, any right to designate a beneficiary or beneficiaries thereunder and any right to have an individual policy issued to him in accordance with subsections (8), (9) or (10) of K.S.A. 40-434 and 40-435. Subject to the terms of the policy relating to assignment of such rights and privileges thereunder, such an assignment by an insured or the policyowner, made either before or after the effective date of this section, is valid for the purpose of vesting in the assignee, in accordance with any provisions included therein as to the time at which it is to be effective, all of such rights and privileges so assigned, but without prejudice to the insurer on account of any payment it may make or individual policy it may issue in accordance with subsections (8), (9) or (10) of K.S.A. 40-434 and 40-435 prior to receipt of notice of the assignment.

About 10 years ago, Blue Cross made a decision to limit the number of hospitals that it would contract with in the Wichita, Kansas marketplace. At the same time, while transitioning to a mutual insurance company, Blue Cross asked the legislature to continue to allow it to remain exempt from the established public policy of free assignability outlined in K.S.A. 40-439; a status it had previously enjoyed as a state-chartered nonprofit health insurer. Legislators, without benefit of full debate and discussion, approved the policy decision in a conference committee report. As a mutual insurance company, similar to all other insurance companies, Blue Cross was allowed to continue a practice not available to any of its competitors. As a result of this policy decision, Via Christi Regional Medical Center, the only general hospital in Kansas that Blue Cross denies a full service contract, has incurred considerable cost in added personnel, uncollected debt and attorney's fees during the past 10 years – averaging _____ per year.

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In the early years, Blue Cross denied direct payment to our hospital for all services, even those for organ transplant, burn and psychiatric care; services that are only offered by Via Christi in our community. As time went by, Blue Cross agreed to contract with us for these limited services and agreed to assignment of benefit payments for these contracted services, but continued to refuse to honor assignment or to contract for other services provided to Blue Cross patients who chose to use our hospital despite the penalties associated with utilizing an out of network provider. This decision to refuse the normal assignment policies, as allowed by law, to a non-contracting provider is an attempt to force Via Christi to refuse to provide medical services to Blue Cross subscribers who choose to use our facility.

To evaluate this policy decision, one needs to step back and consider what a PPO, a Preferred Provider Organization, promises its subscribers. This type of insurance product identifies preferred providers and encourages subscribers to utilize those providers. Even so, the contract with the subscriber specifically allows the subscriber choice to utilize other providers, while at the same time, discouraging the practice by penalizing the subscriber through use of a reduced payment amount or "penalty" for the services received by the subscriber at a non-contracting hospital or medical professional. Last fall when we considered refusing services to all Blue Cross patients, except those who enter our facility through the emergency room, we found that businesses that provide Blue Cross group policies, individual Blue Cross subscribers and their doctors were very concerned about losing the choice promised in their health insurance contracts.

You may hear that the refusal to honor assignment is a negotiating tool needed to encourage providers to contract with Blue Cross. A contracting provider is bound by utilization policies and procedures that control medical costs. Via Christi already contracts with Blue Cross for burn, organ transplant and psychiatric services and has, thereby, demonstrated its willingness to accept these utilization policies and procedures. While St. Francis Regional Medical Center and St. Joseph Medical Center both refused to respond to a Blue Cross RFP 10 years ago, since that time, Via Christi Regional Medical Center, the merged entity of St. Francis and St Joseph Medical Centers, has indicated its desire to participate in a full service contract with Blue Cross each time the opportunity has been presented.

You may hear that Blue Cross has negotiated millions of dollars in savings from Kansas medical providers as a result of this statutory authority to refuse direct payment of benefits to non-contracting medical providers. I would counter that argument by advising you that Preferred Health Systems, a health insurance company owned by Via Christi Health System, has also successfully negotiated savings from medical providers in Kansas and has done so without refusing to honor assignment of benefits in its PPO and fully insured products.

This request to the Kansas Legislature to repeal the preferential treatment given to Blue Cross is not about the cost of providing services. Due to the penalties allowed in a PPO insurance contract, Blue Cross actually pays less for its subscribers who select Via Christi Regional Medical Center for medical services. We are only asking that the check for medical services provided by Via Christi Regional Medical Center be sent directly to Via Christi Regional Medical Center, rather than to the patient as is the current practice. The contract between Blue Cross and its subscribers already dictates the amount of payment that will be made for services provided by non-contracting medical providers. That amount is currently at least 20% less than the amount that would be paid to a contracting provider.

The requested statutory change in SB 457 is about eliminating the bad debt and unnecessary legal action that the refusal of assignment of benefits policy has foisted on one full service hospital in the state of Kansas. The courts have repeatedly found that the decision to allow Blue Cross to engage in the practice of refusing to honor assignment, despite the unnecessary costs to providers, was a public policy decision and can only be corrected by the Kansas Legislature.

Please reconsider the policy decision amended into the conference committee report of SB 66 in 1993 that gave Blue Cross the exclusive right to refuse to honor assignment. We ask for your support of SB 457 to remedy this action for hospitals in Kansas.

Thank you for giving us this opportunity to present our case to you. I would be happy to answer questions.

BRAD SMOOT

ATTORNEY AT LAW

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Statement of Brad Smoot
Legislative Counsel
Blue Cross Blue Shield of Kansas
Senate Financial Institutions & Insurance Committee
Regarding 2004 Senate Bill 457

February 19, 2004

Madam Chair and Members,

On behalf of Blue Cross Blue Shield of Kansas, a domestic mutual insurance company serving over 600,000 Kansans in 103 counties, we are pleased to have an opportunity to comment on SB 457. This bill would remove authority for BCBSKS to refuse direct reimbursement to non-contracting hospitals. As introduced, the bill applies only to BCBSKS, even though other health plans doing business in Kansas have and do exercise the authority to refuse to pay non-contracting hospitals. We adamantly oppose this measure.

First, a little history. For more than twenty years BCBSKS has provided in its policies that it would not make direct reimbursement to non-contracting providers. We do this for only one reason: To save our customers money. Direct reimbursement is a huge incentive for providers to contract with BCBSKS. In exchange for direct payment, providers agree to accept our reimbursement rate and agree not to bill our customers for the balance between their charges and our payment. This is a huge benefit to our customers. It helps us lower the insured portion of the payment and reduces the out-of-pocket expense of our insureds. In 2002, Kansas providers wrote off over \$500 million dollars in charges that would have been paid by us or balanced billed to our customers.

Although the general rule is that assignments of benefits are to be honored by insurers, Kansas has long recognized an exception for the purpose of cost containment. The Kansas Supreme Court and the federal courts have all acknowledged cost containment as an important public policy. Similar conclusions have been reached by courts of other states, including Colorado, Pennsylvania and Delaware. About thirteen years ago, we made an effort to encourage competition among the Wichita hospitals to reduce our rising inpatient costs. We asked for proposals from the three big hospitals to become our principal contracting hospitals. Both St. Francis and St. Joseph refused to bid. Wesley got the contract. In exchange for lower reimbursement rates, Wesley got most of our customers and direct reimbursement. St. Francis sued in U.S. District Court and lost. They then brought the issue to the Capitol where, after full hearings in the House Insurance Committee, the bill died.

Recently, we re-bid the Wichita hospital contract. This time Via Christi chose to bid. Wesley was successful in renewing the contract and our customers are getting

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exceptional discounts as a result. Having lost the bid, Via Christi is again here before the legislature asking for relief from one of the tools we use to save our customers' dollars.

That's the history. Now, a bit about the law. We believe that Kansas law allows other health plans to refuse to honor assignments. BCBSKC refuses to honor assignments with non-contracting hospitals in Kansas. Medicare refuses assignments to non-contracting providers. We believe that other health plans who currently do not exercise the right to refuse assignment can legally do so under state law. HMO's don't make direct payments to out of network providers. It is one of the great ironies of this bill that a very successful HMO in Wichita owned by Via Christi, one of our biggest competitors, refuses to honor assignments of benefits to Wesley hospital. If refusing assignments is such bad public policy, why should other health plans or programs be allowed to continue the exact same practice? Rather than "leveling the playing field" as proponents would suggest, S 457 strips only BCBSKS of this right. We think every health plan ought to have this right.

Next, let's talk practicalities. First, BCBSKS has contracted with Via Christi for direct reimbursement for services not available at our primary contracting hospital. The list of services is extensive and includes in-patient mental health, transplants and burn care. In 2003, we paid Via Christi directly over \$16 million. We even raised our reimbursement rates to Via Christi for these specialty services in our new contract and will undoubtedly pay them even more this year. In addition, we contract for services with all other hospitals owned by Via Christi or in which it has an interest.

Secondly, as written, S 457 would require us to directly reimburse specialty hospitals with which we currently do not contract. None of our competitors would be required to do the same. The explosion of specialty hospitals in Kansas has become a real concern to many, including acute care hospitals, and one would have to question the wisdom of forcing the state's largest carrier to support expansion of these facilities.

Absent the authority to refuse to honor assignments, BCBSKS may be forced to use other techniques to control costs. We may further reduce our reimbursement to our customers who use non-contracting hospitals, leaving the patient with fewer dollars to pay the hospital. This would be bad for Via Christi and bad for our customers. That is what many health plans do and we would prefer not to be forced into changing our payment structures in that fashion.

Lastly, this fight is all about money. Not really about the dollars lost to unscrupulous or irresponsible patients who refuse to pay their bills. It's really about an insurer's ability to negotiate good rates and prevent balance billing. It's about controlling premium increases and reducing out of pocket expenses for our customers. At a time when U.S. health care spending is growing at a 10% clip, driven mostly by exploding hospital costs, how is the public served by eliminating from a Kansas based insurance company one of the few tools it has to help control those costs? S 457 does not serve the public and is, in fact, anti-consumer.



550 North Hillside
Wichita, Kansas 67214-4976
Telephone 316/688-2468

February 18, 2004

Mr. Andrew Corbin
Vice President External Sales and Provider Affairs
BlueCross BlueShield of Kansas
1133 SW Topeka Boulevard
Topeka, KS 66629

Dear Mr. Corbin:

It has come to my attention that the Senate Financial Institutions and Insurance Committee is hearing testimony concerning Senate Bill 457 and the assignment of benefits to insureds. I wanted to make you aware that the practice of not assigning benefits to a non-contracted provider is common in the insurance industry and in the State of Kansas.

Specifically in Wichita, Preferred Plus of Kansas (PPK), a wholly owned subsidiary of the Via Christi Health System, does not pay Wesley Medical Center directly, instead choosing to pay the patient instead. Other insurance companies operating here pay their insureds directly and then expect those individuals to pay the provider.

I have been involved in the managed care industry for over fifteen (15) years and in several different states and can assure you that this is a common practice in the industry. As you well know, this increase the opportunity for competition and negotiation among insurance companies and providers, which in turn helps moderate health care insurance costs.

While WMC understands that non-assignment of benefits is a concern for providers, we also understand that it is a common practice in the industry and we have learned to work within these parameters.

If I can provide you further information, please do not hesitate to contact me at (316) 962-7469. Thank you for your time and consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Wicklund", written over a horizontal line.

Thomas D. Wicklund
Vice President Managed Care

Cc: Julie Hein

Senate F I & I Committee

Meeting Date: 2-19-04

Attachment No.: 5

February 19, 2004

Senator Ruth Teichman, Chairman
Senate Financial Institutions & Insurance Committee
State Capital, Room 143-N
300 SW 10th Avenue
Topeka, KS 66612

RE: Senate Bill 457

Dear Senator Teichman:

After reviewing Senate bill 457, we have some concerns that we would like to have considered by the Committee in their discussion of the bill.

The Kansas Bankers Association has sponsored a health plan for its members for many years. The plan has been with Blue Cross Blue Shield of Kansas since 1948. We have been fortunate to have strong participation by our members for all of those years with close to 90% of our member banks participating in the plan.

As you are probably aware, health costs have risen to such levels that it is increasingly difficult for our members to provide insurance coverage to their employees. Hospital costs are one of the largest components of health care costs. There are limited tools to help in slowing the rate of increase in health care costs and an insurer's ability to refuse to honor assignment of benefits is one of them. We would not like to see this tool taken away, especially when health care costs already far exceed the rate of inflation.

The bill before your committee would make non-contracting providers be paid directly by the insurance company. That would clearly erode the providers' incentive to contract with insurance companies. Thus, companies wanting to maintain an adequate network of providers would be forced to increase their reimbursement to encourage participation, and that would result in even higher health insurance premiums.

This proposed legislation appears to hurt the employees of our members in at least two ways. As mostly small employers, our banks will feel even more pressure to pass costs on to their employees, and more employees will be exposed to "balancing billing" for the services they receive from those non-contracting providers, since those providers cannot be forced to write-off balances above what the insurance company pays.

Thank you for your interest in this matter.

Sincerely yours,



Herbert E. Iams, President
KBA Insurance, Inc.
Kansas Bankers Association

HI/bi

Senate F I & I Committee

Meeting Date: 2-19-04

Attachment No.: 6



**International
PIZZA HUT
Franchise Holders
ASSOCIATION**

February 16, 2004

Senator Ruth Teichman
Chairman of the Senate Financial Institutions and Insurance Committee
State Capitol, Room 143-N,
300 S.W. Tenth Avenue, Topeka KS 66612

Dear Senator Teichman:

Health care costs continue to rise making it difficult for the small business owners who are members of our association to provide an affordable health care program for their employees. Senate Bill 457 requiring mandatory assignment of payments from non-profit insurance companies to non-contracting providers will only make it more difficult to control these escalating costs.

Because the Bill specifically applies to non-profit insurance companies, Blue Cross/Blue Shield is singled out and would not be able to effectively compete with other insurance companies. This legislation would require non-contracting providers to be paid directly by Blue Cross. That would erode the ability of Blue Cross to develop an adequate network of providers without increasing their reimbursement to encourage participation. This would put Blue Cross at a disadvantage to other insurance companies and result in increased health insurance premiums to our members.

I encourage you to continue to explore ways to address the crisis we are facing with health care costs. However, Senate Bill 457 will only make matters worse.

Very truly yours,

Chris W. Prater
Vice President, Finance and CFO
IPHFHA, Inc.

7829 East Rockhill | Suite 201 | Wichita, Kansas 67206 | 316-685

Senate FI & I Committee

Meeting Date: 2-19-04

Attachment No.: 1



February 16, 2004

Senator Ruth Teichman
State Capitol, Room 143-N
300 S.W. Tenth Street
Topeka, Kansas 66612

Dear Senator Teichman:

The Petroleum Marketers and Convenience Store Association of Kansas (PMCA), offers a health insurance program to our membership through Blue Cross and Blue Shield of Kansas (BCBK). We have had a long standing relationship with Blue Cross and Blue Shield and value the contracts that they have in place with health providers throughout the state. I feel strongly that the contracting provider network that Blue Cross and Blue Shield has in place is a huge benefit to the participants in our health plan.

On Thursday the Senate Financial Institutions and Insurance Committee will discuss SB 457, assignment of benefits. PMCA opposes this bill. Health care costs have a huge impact on small businesses that offer health insurance to their employees. Insurers have limited tools to hold health care costs down and refusal to honor assignment is one of them. Each year we evaluate the benefits of keeping Blue Cross and Blue Shield as our insurer. Obviously increased premiums are the impetus for any company to consider changing health care providers. But when we go to our Board of Trustees with the Blue Cross Blue Shield renewal we always point out our utilization analysis that shows "billed charges" and "allowed charges." Contracting providers are well aware of the benefit amount they will receive for services rendered and they accept the amount that Blue Cross and Blue Shield will pay. The benefit of that contract between provider and the Blues is a savings to our group plan and to the employee.

Non contracting providers charge whatever they want regardless what BCBS says they will pay. If an employee that has BCBS as their insurer goes to a non-contracting provider, BCBS pays "their amount" directly to our employee, and the employee is responsible for paying the provider. We stress to our participants to use contracting providers because if they don't they may receive lesser benefit payments from BCBS and they are responsible to pay any balance over and above the allowed benefit payment from BCBS.

Senator Teichman, I feel the SB 457 is anti-consumer and has the potential of raising my health insurance premiums if all providers refused to contract with BCBS. We save \$250,000-300,000 annually due to the contract BCBS has with its providers (both hospital and doctor). If this bill passes, there is clearly less incentive for providers to contract with BCBS since they would be paid directly and wouldn't have to chase the insured for payment that BCBS would have otherwise made to the insured.

For the reasons stated above, PMCA opposes SB 457.

Sincerely,

Thomas M. Palace
Executive Director PMCA of Kansas

Petroleum Marketers and Convenience Store Association of Kansas
201 NW Highway 24 • Suite 320 • PO Box 847
Topeka, KS 66608-0479
785-233-9655 Fax: 785-354-4374

Senate F I & I Committee

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**PLUMBING AND PIPEFITTING INDUSTRY
HEALTH AND WELFARE FUND OF KANSAS
505 S. BROADWAY, SUITE 117
WICHITA, KANSAS 67202-3922**

PHONE (316) 264-2339
FAX (316) 264-9245

WWW.PPI-FUND.ORG

JOE D. PUCCI, ADMINISTRATOR
E-MAIL JDP@PPI-FUND.ORG

February 17, 2004

SENATOR RUTH TEICHMAN, CHAIRMAN OF THE SENATE
FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE
STATE CAPITOL, ROOM 143-N
300 S.W. TENTH AVENUE
TOPEKA KS 66612.

Dear Senator Teichman:

I am the Administrator for a "self-funded" Health and Welfare Fund. Our Plan currently covers 2,279 individuals. I am very concerned about SB 457. It is my understanding this legislation would require all not for profit insurance arrangements to accept Assignment of Benefits from service providers that are not contracting providers with our Plan.

Though on the surface this legislation would appear to be in the best interest of all Kansans, in reality the opposite will be the long term effect. When our Plan negotiates an allowable charge schedule with various providers, one of the incentives for a provider to sign is the fact that we pay our contracting providers directly. Doing so is a Plan expense. Why should we be required to pay a provider directly if they do not agree to our allowable charge?

If you allow this legislation to pass you will be increasing the cost of health insurance in our State. Those facilities which currently contract with us will give less of a discount and those that do not will receive the bulk of their fees no matter what they charge. It's absurd to think that the provider community will not raise their rates accordingly and refuse any serious negotiation of their rates.

Let's get it out in the open. I suspect this legislation was sponsored by Via Christi and that they are pressuring all legislators to pass this unfair requirement.

Their stance does make perfect financial sense if you leave the consumer out of the equation, but a "why buy the cow if the milks free" mentality has no place when we are talking about health care.

All Kansans will pay the price if this pork passes. I urge you to reject SB 457.

Joe Pucci



Administrator

Senate FI & I Committee

Meeting Date: 2-19-04

Attachment No.: 9



Matthew S. Goddard, Vice President

700 S. Kansas Ave., Suite 512
Topeka, Kansas 66603
(785) 232-8215

February 17, 2004

The Honorable Ruth Teichman
State Capitol
Topeka, KS 66612

Dear Senator Teichman,

As we briefly discussed in the hallway last week, the Heartland Community Bankers Association has several serious concerns with Senate Bill 457. We believe the bill asks the legislature to intervene in what is simply a business dispute between two parties and we do not see a need for a forced, legislative solution. In fact, the legislative solution contained in SB 457 would have serious repercussions for health insurance consumers in Kansas.

Through a subsidiary, HCBA markets a Blue Cross Blue Shield of Kansas group health plan to our member institutions. We have over 1,000 member employees currently enrolled, the vast majority of which reside and seek medical care in Kansas. Every year we struggle at renewal time to keep premiums affordable. In recent years we have considered it a great victory if we are able to keep increases in the low teens. If we are unable to keep premiums at a reasonable level, our members will be forced to pass on more of the health insurance cost to their employees and more employees may choose to go without medical insurance.

One of the tools we have to combat rising health care costs is the cap system in place at Blue Cross. In order to be a part of the Blue Cross network of physicians or hospitals, a service provider must agree to accept a predetermined cost for various services and any charge above that amount is considered a "write-off." In recent years the cap system has helped our group claims by writing off more than 30 percent of total billings, more than \$3 million annually. Every contracting provider in Blue Cross network must participate in the cap program. Providers outside of the network are not subject to the cap program and can charge and collect whatever amounts they wish.

Insureds have an incentive to visit contracted service providers because, in addition to the cap program, they are subjected to a higher co-pay for leaving the Blue Cross network. The service provider has an incentive to contract with Blue Cross and participate in the cap program because they are more attractive as a provider to Blue Cross policyholders. In addition, Blue Cross pays contracted providers directly but makes payment directly to insureds when they leave the network. Blue Cross does not allow for assignment of benefits, meaning insureds can't tell Blue Cross to pay their reimbursement directly to the noncontracting provider. Reimbursement is the impetus for SB 457.

Senate FI & I Committee

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Honorable Ruth Teichman
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Senate Bill 457 would force Blue Cross to make payments directly to out-of-network hospitals. This would give hospitals one of the major benefits of being a contracting provider without first requiring their participation in the cap program. Hospitals could then choose to leave the Blue Cross network, charge fees well in excess of those allowed under the cap program and still enjoy direct reimbursement from Blue Cross. Such a scenario ultimately results in higher medical costs to Kansas consumers.

There is nothing wrong with a service provider, be it a doctor or hospital, from making a business decision not to contract with Blue Cross Blue Shield. A provider has every right to charge the fees they consider appropriate and to avoid any programs that would restrict that right. A provider must understand, however, that an insurance company should also have the right to treat contracting providers differently from noncontracting providers. Senate Bill 457 infringes on that ability.

We appreciate your consideration of our concerns regarding Senate Bill 457.

Sincerely,



Matthew Goddard
Vice President