

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on January 25, 2005 in Room 234-N of the Capitol.

Committee members absent: Karin Brownlee- absent

Committee staff present: Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Sandy Yingling, Committee Secretary

Others attending: See attached list.

The Chair announced there were minutes for the member's approval at the end of the meeting.

Chair opened the meeting by announcing there would be bill introductions today and tomorrow, January 26, Senator Barnett has arranged to have the Health Savings Account people come and talk to the committee. Thursday, January 27, there will be no meeting.

The Chair introduced Jarrod Forbes, Assistant Director of Governmental Affairs, Kansas Insurance Department, to introduce his bill.

Mr. Forbes introduced himself and Michael Steiner, legislative liaison. Mr. Forbes stated that the Kansas Insurance Department had four bills introduce. (Attachment 1) 1) Federal HIPAA - a simple date change (Attachment 2); 2) Closed block of business - asking insurance companies to notify customers when they intend to close a block of business (Attachment 3); 3) Agent licensing task force - study our agent licensing procedures (Attachment 4); and 4) a bill aimed at protecting insurance for our military that have been deployed. (Attachment 5)

Senator Wysong questioned the third bill proposed on agent licensing if that was when to create a task force and Mr. Forbes affirmed.

Responding to a question from the Chair, Senator Teichman, Mr. Forbes explained that current law states insurance companies have to offer another line of business but they don't have to notify customers in writing. Mr. Forbes stated that this bill is clarifying what the notification requires.

Senator Wilson asked that on the agent licensing issue when creating this task force, were they proposing putting anyone from the legislature on it? Mr. Forbes answered that there would be five members of the legislature, two proposed by the President of the Senate, one from the minority of the Senate and two from the speaker. Senator asked if there would be some representing the industries.

Madam Chair took motions. Senator Barnett moved to introduction of the bills and seconded by Senator Steineger. All in favor, unanimous.

Chair asked if there were any other bill introductions. Chair Teichman introduced a bill on behalf of KIOGA which is an act concerning construction contracts relating to the indemnification provisions that amends KSA 16-121. (Attachment 6)

Senator Wysong moved the introduction of the bills, the motion was seconded by Senator Wilson. The motion carried.

Chair asked for any other bill introductions, there were none.

There was a motion to approve the Minutes for January 12, 13 & 18, the motion was seconded. The motion carried.

Meeting was adjourned at 9:39 a.m.

FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: January 25, 2005

NAME	REPRESENTING
Paul Jobs	KID
Mike Steiner	KID
Cathy Olsen	KS Bankers Assn.
Del De	KCA
Chad Austin	KHA
Renee Anlover	KAAP



K a n s a s I n s u r a n c e D e p a r t m e n t

Sandy Praeger COMMISSIONER OF INSURANCE

KANSAS INSURANCE DEPARTMENT
LEGISLATIVE REQUESTS
SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE
JANUARY 25, 2005

Madam Chair and members of the committee:

Thank you for the opportunity to appear before you on behalf of the Kansas Insurance Department. Today I respectfully request the introduction of four committee bills.

For your convenience, I have provided a brief description of each bill and attached the drafts to my testimony. Clearly, we will provide detailed testimony at the appropriate time, but I would be happy to stand for any questions the committee might have.

1. Federal HIPAA

Annual bill requiring a simple date change from December 31, 2004 to December 31, 2005.

2. Closed block of business

Require Insurance Companies to notify customers when they intend to close a block of business.

3. Agent licensing task force

Establish a joint legislative/insurance industry task force to study the current insurance agent licensing law.

4. Personal lines of insurance freeze for deployed soldiers

When a Kansas resident is deployed beyond the borders of the United States, their family's insurance coverage cannot be adversely affected.

Jarrold Forbes
Assistant Director
Government Affairs
Kansas Insurance Department

*Attachment 1
1-25-05
FII*

By

AN ACT concerning insurance; pertaining to HIPAA compliance; amending K.S.A. 2004 Supp. 40-2258 and repealing the existing section.

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

Section 1. K.S.A. 2004 Supp. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209 and amendments thereto which includes mental health benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental health benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental health benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such

Attachment 2
1-25-05
FII

hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any annual limit on mental health benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental health benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental health benefits except as otherwise required by K.S.A. 40-2,105 and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental health benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209 and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least 1%.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent two or more benefit package options

under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) "Aggregate lifetime limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) "annual limit" means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) "hospital, medical or surgical expense benefits" means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, but does not include mental health benefits;

(4) "mental health benefits" means benefits with respect to mental health services, as defined under the terms of the policy, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after December 31, ~~2004~~ 2005.

(i) The commissioner is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this section.

Sec. 2. K.S.A. 2004 Supp. 40-2258 is hereby repealed.

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

PROPOSED BILL NO. _____

By

AN ACT concerning health insurance; relating to notice when a block of business is closed; amending K.S.A. 40-2255 and repealing the existing section.

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

Section 1. K.S.A. 40-2255 is hereby amended to read as follows: 40-2255. (a) This act shall apply to individual contracts covering hospital, medical or surgical expenses, providing long-term care coverage, and medicare supplement policies, which are issued, amended, delivered or renewed on or after the effective date of this act but shall not apply to any block of long-term care coverage or medicare supplement business already in force in Kansas on such effective date.

(b) As used in this act:

(1) "Block of business" means a particular individual policy form or contract providing hospital, medical or surgical expense, long-term care or medicare supplement coverage issued by a carrier to one or more individuals which includes distinct benefits, services and terms.

(2) "Closed block of business" means a block of business which a carrier ceases to actively offer or sell to new applicants.

(3) "Carrier" means any insurance company, nonprofit medical and hospital service corporation, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by the Kansas Statutes Annotated, that offers any individual hospital, surgical or medical expense, long-term care or medicare supplement policy and which is authorized to do business in this state. "Carrier" does not include those entities identified above with respect to the sale or issuance of policies or certificates covering only accident, credit, dental, disability income, hospital indemnity, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical payment

Attachment 3
1-25-05
FII

insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(4) "Commissioner" means the commissioner of insurance.

(c) No block of business shall be closed by a carrier unless:

(1) The carrier ~~permits--existing--contract--holders--to purchase-a-contract~~ provides written notice of the carrier's decision to close a block of business to each existing policyholder or contract holder affected and offers each policyholder or contract holder affected an opportunity to purchase a policy or contract from any block of business that is not closed and which provides comparable benefits, services and terms, with no additional underwriting requirement or waiting period. Each policyholder or contract holder affected by the carrier's decision to close a block of business shall be permitted to purchase such policy or contract during the 60-day period commencing on the day following the date of the written notice;

(2) the carrier pools the experience of the closed block of business with all appropriate blocks of business that are not closed for the purpose of determining the premium rate of any contract within the closed block, with no rate penalty or surcharge beyond that which reflects the experience of the combined pool; and

(3) if a carrier does not offer or sell any block of business which provides comparable benefits, services and terms comparable to the closed block of business, paragraphs (1) and (2) shall not apply. If a block of business providing benefits, services and terms comparable to the closed block of business becomes available within 24 months of the notice to the commissioner, such block shall be open to any contract holder in accordance with the provisions of paragraphs (1) and (2). The carrier shall provide notice to the commissioner in writing

within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d).

(d) Unless an insurer presents evidence satisfactory to the commissioner that such a presumption is or would be incorrect, a block of business shall be presumed closed if either of the following circumstances exist:

(1) There has been an overall reduction in that block of 12% in the number of in-force contracts for a period of 12 months; or

(2) that block has less than 500 in-force contracts in this state.

The presumption that applies in the circumstances of subsection (d)(2) shall not apply to a block of business initiated within the previous 24 months, but notification of that block of business shall be provided to the commissioner pursuant to subsection (e).

The fact that a block of business does not meet one of the presumptions set forth in this subsection shall not preclude a determination that it is closed as defined in paragraph (2) of subsection (b).

(e) A carrier shall notify the commissioner in writing within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d). When the carrier decides to close a block of business, the written notice shall fully disclose all information required for compliance with subsection (c). When the carrier determines that a block of business is within a presumption of subsection (c), the written notice shall fully disclose all information required for compliance with a presumption of subsection (c). In the case of either notice, the carrier shall provide additional information within 15 business days after a

request by the commissioner. This subsection shall not apply to a carrier which does not have available a block of business which provides comparable benefits, services and terms comparable to the closed block of business and which has complied with the notice requirements pursuant to subsection (c)(3).

(f) A carrier shall preserve for a period of not less than five years in an identified location which is readily accessible for review by the commissioner, all books and records relating to any action taken by a carrier pursuant to subsection (c).

(g) No carrier shall offer or sell any contract, or provide misleading information about the active or closed status of a block of business, for the purpose of evading this act.

Sec. 2. K.S.A. 40-2255 is hereby repealed.

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

Proposed Bill No. _____

(Not edited by Revisor. Please always refer to actual printed bill after session starts, and not rely on this draft; changes may have occurred.)

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

A CONCURRENT RESOLUTION requesting the Kansas Commissioner of Insurance to study Kansas' current insurance agent licensing and appointment process and the need for additional legislative action, if any.

WHEREAS, the Kansas State Legislature created the Kansas Insurance Department in 1871; and

WHEREAS, the Kansas Insurance Department has established an agent licensing and appointment process; and

WHEREAS, The Kansas Insurance Department may need to request legislative changes to the Kansas Insurance Laws: Now, therefore,

Be it resolved by the Senate of the State of Kansas, the House of Representatives concurring therein: That a task force be formed consisting of 14 members to include two members appointed by the President of the Senate, one member by the minority leader of the Senate, two members appointed by the Speaker of the House of Representatives, one member appointed by minority leader of the House of Representatives, the insurance commissioner or the commissioner's designee, one person representing a domestic property and casualty insurance company appointed by the insurance commissioner from a list submitted by the Kansas Association of Property and Casualty Insurance Companies, one person representing foreign stock insurance companies appointed by the insurance commissioner from a list submitted by the American Insurance Association, one person representing foreign insurance companies appointed by the insurance commissioner from a list submitted by the Property Casualty Insurance Association of America, one person representing a property and casualty insurance company appointed by the insurance commissioner from a list submitted by the national Association Mutual Insurance Companies, two members representing the licensed Kansas insurance agents appointed by the insurance commissioner from a list submitted by the Kansas Association of Insurance Agents, one member representing Kansas insurance agents appointed by the insurance commissioner from a list submitted by the Kansas Association of Insurance and Financial Advisors. The commissioner shall appoint the chairperson and the vice chairperson from the membership of the committee. The chairperson and the vice chairperson shall not be of the same political party. Legislative members serving on the task force shall receive pay and allowances as provided for legislative service. All other task force members shall not receive any compensation, subsistence, mileage or other allowances for serving on the task force or attending any meeting thereof.

Be it further resolved: That the task force shall be charged to recommend changes to the Kansas Insurance Agent Licensing Law if they believe necessary by a majority vote.

Be it further resolved: That the task force shall be staffed by the appropriate members of Legislative Research and the Revisor's office.

*Attachment 4
1-25-05
FII*

Be it further resolved: That the task force shall submit a final report to the President of the Senate, the Speaker of the House and the Insurance Commissioner by January 1, 2006.

PROPOSED BILL NO. _____

By

AN ACT concerning insurance; relating to certain insurance policies issued to Kansas residents deployed in military service.

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

Section 1. As used in this act:

(a) "Personal insurance" means private passenger automobile, motorcycle, mobile homeowners, homeowners, renters and non-commercial dwelling fire insurance policies and boat, personal watercraft, snowmobile and recreational vehicle policies. Personal insurance shall also include individual life and individual health insurance including an individual health insurance policy containing spouse or spouse and dependent coverage.

(b) "Adverse tier placement" means being subject to the rates of any tier with less coverage or higher premiums than the tier within which the insured is currently insured.

Sec. 2. No personal line of insurance issued to a Kansas resident on active military deployment beyond the borders of the United States of America, or the spouse or any dependent of such Kansas resident, shall be subject to cancellation, non-renewal, premium increase or adverse tier placement for the term of their deployment unless such cancellation, non-renewal, premium increase or adverse tier placement is the result of:

- (a) Unpaid premiums; or
- (b) policy changes initiated by a covered individual; or
- (c) negligence on the part of any individual covered under such personal line of insurance.

Sec. 3. The commissioner of insurance is hereby authorized to adopt such rules and regulations as may be necessary to carry out the provisions of this act.

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

Attachment 5
1-25-05
FIL

SENATE BILL NO. _____

By Committee on Financial Institutions and Insurance

AN ACT concerning construction contracts; relating to indemnification provisions; amending K.S.A. 2004 Supp. 16-121 and repealing the existing section.

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

Section 1. K.S.A. 2004 Supp. 16-121 is hereby amended to read as follows: 16-121. (a) When used in this section:

(1) "Construction contract" means an agreement for the design, construction, alteration, renovation, repair or maintenance of a building, structure, highway, road, bridge, water line, sewer line, oil line, gas line, appurtenance or other improvement to real property, including any moving, demolition ~~or excavation~~, excavation, oil and gas lease or other contract pertaining to oil and gas exploration, development, operations and production activities on or in connection with an oil and gas lease, except that no deed, lease, easement, license or other instrument granting an interest in or the right to possess property shall be deemed to be a construction contract even if the instrument includes the right to design, construct, alter, renovate, repair or maintain improvements on such real property.

(2) "Damages" means personal injury damages, property damages or economic loss.

(3) "Indemnification provision" means a covenant, promise, agreement or understanding in connection with a construction contract that requires the promisor to hold harmless, indemnify or defend the promisee or others against liability for damages.

(b) An indemnification provision in a construction contract or other agreement, including, but not limited to, a right of entry, entered into in connection with a construction contract, which requires the indemnitor to indemnify the indemnitee for the indemnitee's negligence is against public policy and is void and unenforceable.

(c) This act shall not be construed to affect or impair the contractual obligation of a contractor or owner to provide railroad protective insurance or general liability insurance.

*Attachment 6
1-25-05
FII*

(d) This section applies only to indemnification provisions entered into after the act takes effect.

Sec. 2. K.S.A. 2004 Supp. 16-121 is hereby repealed.

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