

Approved: February 9, 2006

Date

MINUTES OF THE HOUSE INSURANCE COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:35 P.M. on February 7, 2006 in Room 527-S of the Capitol.

All members were present except:

Representative Nile Dillmore - excused
Representative Scott Schwab - excused

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Revisor of Statutes Office
Sue Fowler, Committee Secretary

Conferees appearing before the committee:

Jarrod Forbes, Kansas Department of Insurance, Topeka, KS
Representative Nancy Kirk, District 56, Topeka, KS
Representative Doug Gatewood, District 1, Columbus, KS
Terry Roberts, Kansas Coalition for Workplace Safety, Topeka, KS
Larry McGill, Kansas Association of Insurance Agents, Topeka, KS

Others attending:

See attached list.

Hearing on:

HB 2693: **Group health insurance - Replacement coverage allowed in HMO policies**

Proponent:

Jarrod Forbes, Kansas Department of Insurance, (Attachment #1), gave testimony in support of **HB 2693**.

Hearing closed on **HB 2693**.

Hearing on:

HB 2731: **Division of workers compensation annual survey of employers regarding workers compensation insurance carriers, self-insurers and group-funded workers compensation pools**

Proponents:

Representative Nancy Kirk, District 56, (Attachment #2), gave testimony in support of **HB 2731**.
Representative Doug Gatewood, District 1, (Attachment #3), presented testimony in support of **HB 2731**.
Terry Roberts, Kansas Coalition for Workplace Safety, (Attachment #4), appeared before the committee in support of **HB 2731**.

Opponent:

Larry McGill, Kansas Association of Insurance Agents, (Attachment #5), gave testimony in opposition of **HB 2731**.

Hearing closed on **HB 2731**.

Representative Grant moved to approve the committee minutes of February 2, 2006. Seconded by Representative Faber. Motion carried.

Meeting adjourned at 4:20 P.M.

Next meeting will be Thursday, February 9, 2006, at 3:30 P.M., in Room 527-S.

**House Insurance Committee
Guest Sign Sheet
Tuesday, February 7, 2006**

Name	Representing
RICHARD THOMAS	KACZWA
Bill Sneed	State Farm/AHIP
Terri Roberts	Ks. Coalition for Workplace Safety
Scott Heider	Ks. Self Insurers Association
Randy Van Roven	KA HTP
Dan Zackula	Cargill
Jenny Jik	"
Bill Curtis	Ks Assoc of School Bds
Alex Kotyemtz	P.I.A.
Gary Seeb	Haw Law Firm
John Peterson	RID
John Peterson	Capital Strategies
Dennis Carpenter	KS Rest & Hosp Assn



Kansas Insurance Department

Sandy Praeger COMMISSIONER OF INSURANCE

COMMENTS
ON
HB 2693—HMO CONTINUATION OF COVERAGE
HOUSE COMMITTEE ON INSURANCE
February 7, 2006

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to visit with you on behalf of the Kansas Insurance Department. House Bill 2693 is designed to make the HMO laws match those that govern all other types of health insurance plans.

On lines 39 through 41 on page one of the legislation you will find the added phrase "...or under any group policy providing similar benefits which it replaces..." This is identical to the phrase used in K.S.A. 40-2209(i) that governs all other non-HMO plans.

Mr. Chairman, our intent is for all Kansans to have continuation of coverage rights regardless of the type of insurance policy they may have. We believe HB 2693 would accomplish this by making K.S.A. 40-3209 match K.S.A. 40-2209 and close the unintended gap that currently exists in 40-3209.

Jarrod Forbes
Government Affairs Officer

House Insurance
Date: 2-6-06
Attachment # 1

NANCY A. KIRK
REPRESENTATIVE, FIFTY-SIXTH DISTRICT
SHAWNEE COUNTY
HOME ADDRESS: 932 FRAZIER
TOPEKA, KANSAS 66606
(785) 234-8806

OFFICE: ROOM 284-W, STATE CAPITOL
TOPEKA, KANSAS 66612-1504
(785) 296-7673



TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
RANKING DEMOCRAT: HEALTH & HUMAN SERVICES
MEMBER: INSURANCE
TAXATION

Testimony for HB 2731
House Insurance Committee
February 7, 2006

Mr. Chairman, Members of the Committee and Staff:

I am standing before you in support of HB2731. I served as an administrator for a long term care facility for about 20 years. During this period, I became acquainted with some of the problems with our worker's compensation system. I was ultimately responsible for the well-being of 45-50 employees everyday. In all the years I worked in long term care, there were numerous incidents in which worker's compensation benefits played an important role in caring for injured employees. Fortunately, we only had two serious incidents resulting in significant injury to employees. These cases were handled professionally and I believe, with evidence of genuine caring on our part.

As with any benefit system, there are those who attempt to scam the system. I can honestly say, there were only two incidents during my 20 years in which employees attempted to obtain benefits they clearly were not entitled to. My concern with the worker's compensation system has always rested with the willingness of insurance companies to settle claims in order to avoid litigation. It has been my experience that it is the quick readiness of insurance carriers to settle these questionable claims that leads to many of the problems in the system.

We know that the premiums in Kansas are some of the most reasonable in the country, yet we hear repeated expressions of frustration with worker's compensation insurance from employers. My impressions about the actions of insurance companies are not substantive information, which is true of the frustrations of other employers. HB 2731 is an attempt to obtain more substantive information. The survey is voluntary for employers, but a requirement for the Department of Labor. This would help to ensure quality service from carriers, increase efficiency, and work towards the goal of lower workers' compensation insurance premiums for all employers statewide. I am hopeful the committee will recommend HB2731 favorably for passage.

House Insurance
Date: 2-6-06
Attachment # 2

DOUG GATEWOOD
REPRESENTATIVE, 1ST DISTRICT
HOME ADDRESS: P.O. BOX 306
COLUMBUS, KS 66725
(620) 429-3690

OFFICE ADDRESS: STATE CAPITOL, SUITE 273-W
TOPEKA, KANSAS 66612-1504
(785) 296-7648



TOPEKA

HOUSE OF
REPRESENTATIVES

CHAIRMAN—SOUTH EAST KANSAS
LEGISLATIVE DELEGATION
COMMITTEE ASSIGNMENTS
MEMBER: APPROPRIATIONS
AGRICULTURE
HOTLINE NUMBER: 1-800-432-3924
SPEECH/HEARING IMPAIRED: (785) 296-8430

February 7, 2006

Testimony to the House Insurance Committee

House Bill 2731

Thank you for allowing me to testify in favor of House Bill 2731.

1. Having owned and operated my own business for 31 years, I feel I understand the constant demands placed on small business.
2. HB 2731 causes the Division of Worker's Compensation to survey employers to find areas for improvement in the delivery of workers compensation insurance.
3. Attending South East Kansas forums we often heard employers' concerns about suspicious claims. Regularly, employees voiced concerns about how these claims were not adequately investigated prior to settlement.
4. We have already introduced a bill to create an investigator position in the Attorney General's office. HB 2731 gathers information from employers to help find areas for improvement in the delivery of worker's compensation insurance. If there are problems in the handling of claims or improvement of safety, that should be our focus. We should not blame employers or workers for systemic problems.

House Insurance
Date: 2-7-06
Attachment # 3

Kansas Coalition for Workplace Safety

Promoting Economic Security Through Workplace Safety for Kansas Workers and their Families.

Coalition Members:

- AARP Kansas
- Construction and General Laborers Local 1290 & 142
- Greater KC Building and Construction Trades Council
- Int Assoc of Fire Fighters, Local 64 and Local 83
- International Association of Machinist and Aerospace Workers, Dist. Lodge No. 70
- Kansas AFL-CIO
- Kansas Fire Service Alliance – KS State Fire Fighters Assoc, KS State Fire Chiefs Assoc, KS State Prof Fire Chiefs Assoc
- Kansas Association of Public Employees
- Kansas National Education Association
- Kansas Staff Organization
- Kansas State Building and Construction Trades Council
- Kansas State Council of Fire Fighters
- KS State Nurses Assoc
- KS Trial Lawyers Assoc
- Southeast Building and Construction Trades Council
- Teamsters Local No. 696, Local No. 795 & Joint Council 56 KS, MO & NE
- Topeka - Lawrence Building and Construction Trades Council
- Tri-County Labor Council/Roofers Local #20
- United Auto Workers Local No. 31
- United Steelworkers of America, District 11
- United Steelworkers Local 307
- Wichita Building and Construction Trades Council
- Wichita-Hutchinson Labor Federation of Central Kansas
- Thomas Outdoor Advertising, INC

Testimony on HB 2731 Survey of Employers Regarding Insurance Carriers, Self-Insurers, and Group Funded Pools House Insurance Committee February 7, 2006

The Kansas Coalition on Workplace Safety is neutral on HB 2731, which implements a survey of employers on workers compensation. We note that, while a survey of employers would yield important information, such information would be very one-sided. There are many parties that participate in the workers compensation system including administrative law judges, insurance carriers, health care providers, and, not least of all, workers. A survey that includes everyone “at the table” instead of only one player would be more balanced in providing a picture of what the strengths and weaknesses of Kansas’ system truly are. An effective study should ask include, at least, the following questions:

- Since employers pick the treating physician, whether the worker believes their medical care is adequate and timely, including whether all treatment ordered by the physician was provided
- Whether payments were received in a timely fashion, including payments for temporary total disability, prescription medication, and mileage
- Whether benefits are adequate and the impact on the worker and the worker’s family as a result of living on reduced income
- Whether the process for reporting an injury to the employer as well as the timelines for reporting were explained to the worker
- How many workers are accommodated due to work place injury, and the average cost of any accommodations.

We also whole-heartedly agree with the goal of improving workers compensation coverage in Kansas. Ninety-four percent (94%) of working Kansans rely on the workers compensation system to protect them from financial ruin as a result of a workplace accident. But Kansas workers receive some of the lowest benefits in the nation, while employers enjoy some of the lowest insurance premiums and insurance carriers have achieved record profitability. While a survey might help us begin to make the changes we sorely need in Kansas, it is certainly not a cure for a broken system.

Thank you for the opportunity to provide you with our input.

House Insurance
Date: 2-7-06
Attachment # 4



Testimony on House Bill 2731
Before the House Insurance Committee
By Larry Magill
February 7, 2006

Thank you mister chairman and members of the committee for the opportunity to appear today in opposition to HB 2731, that calls for the state to do market research on workers compensation coverage providers. My name is Larry Magill and I represent the Kansas Association of Insurance Agents. We have approximately 425 member agencies across the state and another 125 branch offices that employ a total of approximately 2,500 people. Our members write roughly 70% of the business property and liability insurance in Kansas and 35% of the personal insurance. Independent agents are free to represent a number of different insurance companies.

Market Research Not a State Function

As we read HB 2731, it calls for the Division of Workers Compensation to do what amounts to market research into the satisfaction level of businesses that buy workers compensation insurance, self insure or belong to workers compensation pools. The bill does not specify how many businesses will be surveyed and rather they will be a statistically valid and random sample or one designed to reach a certain conclusion.

The bill does not create a mechanism for input on the questions that will be asked. We doubt that the Division of Workers Compensation has the expertise to design a meaningful survey and ask the right questions in the right way to get valid responses back. And there's no provision for focus groups to sharpen the research. To us, the fiscal note looks woefully inadequate to do the job properly.

Claims Investigation and Settlement Issues

Often businesses are unhappy about the way a particular claim is handled or paid. For example, if a business is unhappy that a suspected fraudulent claim was paid and that the carrier did not choose to fight it, will the survey look at the legal requirements to deny a claim based on fraud or will it simply record the dissatisfaction? Whether a carrier fights a claim or pays it involves complex legal questions and defies simple answers. Generally the business lacks the facts and expertise to judge.

And while you would hope the carrier and the agent would communicate all this to the insured, in the real world that doesn't always happen. Once the claim is reported, the agent is generally out of the loop. And it takes staff time and money to keep every party completely informed on the claim. Part of what the business pays the carrier to do is effectively and expertly manage claims. Plus you may run into HIPAA restrictions on what information the carrier can share with the employer.

And there is always the "nuisance value" of claims. A good plaintiff attorney knows that to defend a case requires the carrier to spend significant amounts with an uncertain outcome. So yes, there are a certain number of losses that can't economically be fought. Most businesses

would tell you that they want the carrier to fight to the end regardless of the odds of winning but that is not a smart decision in many cases.

Reserving Issues

Another common complaint you will hear from businesses is in the area of reserving. Will the survey look at a carrier's overall reserving practices to see how accurate they are in total or will it simply take a businesses word that they were "over reserved" on an individual claim? Most business people think that most liability claims are over reserved because they are not in the business of fighting liability or workers compensation claims. Historically far more carriers have found themselves in financial trouble over under reserving than due to over reserving. All the incentives are there to understate reserves if the carrier is trying to maximize profit, or hide poor underwriting results and make their stock look good.

But again, it's the overall reserving practices of the carrier that are important. How accurate are they? Not whether one claim's reserve was off when it finally settles.

It's a Competitive Market

An agent should sit down at least once a year with a business that has some claim frequency and review their claims history including the status of open claims. An agent may have software that can model "what if" scenarios to see what impact certain losses or reserves are having on the insured's experience modification and discuss it with the carrier and insured. A good agent will recommend use of deductibles where it makes economic sense for the business or maybe a loss sensitive rating plan. An agent will check the accuracy of audits and warn contractors that they have to have certificates of insurance from subcontractors or they will be charged for the sub's workers compensation. All of these are elements of good service but how do you capture all this in a survey by people who really don't know anything about this side of the business?

Essentially, it is up to the business to ask for the services it needs. And if they are not satisfied, there are generally alternative providers out there—and always alternative agents!

We urge the committee not to report this bill favorably. There is no precedent we know of for the state to step in and survey satisfaction levels with a particular industry. If you do this, then why not survey Kansans on their satisfaction with utilities, with their schools, or with any other good or service that they buy? A free marketplace does this type of research every day to gain a competitive advantage. In a free market the customer has the ultimate power—they can vote with their feet.

