Approved: February 18, 2008
Date

MINUTES OF THE HOUSE INSURANCE AND FINANCIAL INSTITUTIONS COMMITTEE

The meeting was called to order by Chairman Clark Shultz at 3:30 P.M. on February 11, 2008 in Room 527-S of the Capitol.

All members were present except:
Representative Tom Burroughs- excused
Representative Mitch Holmes- excused
Representative Oletha Faust-Goudeau- excused

Committee staff present:
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Bruce Kinzie, Revisor of Statutes Office
Ken Wilke, Revisor of Statutes Office

Conferees appearing before the committee:
Ronald R. Hein, Mental Health Credentialing Coalition
Dan Lord, Ph.D., Academic Affairs Friends University
Rusty Andrews, Ph.D., Kansas State University, Program in Marriage & Family Therapy
Elaine Hayes, Self - Written Testimony
Carla Hattan, testifying for Elaine Ptacek
Barrie Arachtingi, Kansas Psychological Association
Larrie Ann Lower, Kansas Association of Health Plans - Written Testimony
Brad Smoot, BCBS of Kansas

Others attending:
See attached list.

Hearing on:
HB 2696 **Insurance reimbursement for certain services**

Melissa Calderwood, Legislative Research Department, provided a brief overview on **HB 2696**.

Proponents:

Ronald R. Hein, Mental Health Credentialing Coalition, (Attachment #1), presented testimony before the committee in support of **HB 2696**.

Dan Lord, Ph.D., President, Academic Affairs Friends University, (Attachment #2), appeared before the committee in support of **HB 2696**.

Rusty Andrews, Ph.D., Kansas State University, Program in Marriage & Family Therapy, (Attachment #3), gave testimony in support of **HB 2696**.

Elaine Hayes, Self, (Attachment #4), presented written testimony in support of **HB 2696**.

Carla Hattan, testifying for Elaine Ptacek, (Attachment #5), appeared before the committee in support of **HB 2696**.

Opponents:

Barrie Arachtingi, Kansas Psychological Association, (Attachment #6), gave testimony in opposition to **HB 2696**.

Larrie Ann Lower, Kansas Association of Health Plans, (Attachment #7), presented written testimony in opposition to **HB 2696**.

Brad Smoot, BCBS of Kansas, (Attachment #8), appeared before the committee in opposition to **HB 2696**.

MINUTES OF THE House Insurance and Financial Institutions Committee at 3:30 P.M. on February 11, 2008 in Room 527-S of the Capitol.

Hearing closed on **HB 2696**.

Representative Grant moved without objection to accept the February 5, 2008 minutes.

Next meeting will be Tuesday, February 12, 2008. 3:30 PM, in Room 527-S.

Meeting adjourned.

Insurance and Financial Institutions Committee
Guest Sign In Sheet
Monday, February11, 2008

Name	Representing
John Reed	KID
[illegible]	MHCC
Bill Sneed	AHIP
Alex Kotogantz	P.I.A
Cory Sheedy	KHPA
Dan Murray	Federico Consulting
Patricia Bartell	KPA
[illegible]	UHG
J. Stokes	KAJ
LARRY MAGILL	KAIA
KERRI SPIELMAN	KAIA
Whitney Damron	KS Psychological Assn.

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Ronald R. Hein
Attorney-at-Law
Email: rhein@heinlaw.com

Testimony re: HB 2696, Reimbursement of Mental Health Services
House Insurance and Financial Institutions Committee
Presented by Ronald R. Hein
on behalf of
Mental Health Credentialing Coalition
February 11, 2008

Mr. Chairman, Members of the Committee:

My name is Ron Hein, and I am legislative counsel for the Mental Health Credentialing Coalition. The Coalition is comprised of the members of the Kansas Association for Marriage and Family Therapy, the Kansas Association of Masters in Psychology, and the Kansas Counseling Association/Kansas Mental Health Counselors Association.

MHCC supports HB 2696.

There are five licensees of the Behavioral Sciences Regulatory Board (BSRB), who are educated, experienced, qualified, and specifically licensed by state law to diagnose and treat mental disorders. Regarding the diagnosis and treatment of mental disorders, there is no difference between the scopes of practice of these five mental health providers. These five licensees of the BSRB are Licensed Psychologists (LP), Licensed Specialist Clinical Social Workers (LSCSW), Licensed Clinical Marriage and Family Therapists (LCMFT), Licensed Clinical Professional Counselors (LCPC), and Licensed Clinical Psychotherapists (LCP).

Unfortunately, there is a disparity of insurance reimbursement provided in current Kansas law. Social Workers and Psychologists were licensed so many years ago, that when they sought mandatory reimbursement legislation, it was prior to the current climate opposed to insurance mandates. So, under existing Kansas law, there is a mandate that any insurance policy that provides for mental health services must reimburse psychologists and LSCSWs for such services. Since those statutes were enacted, there have been no similar insurance mandates for the other equally qualified mental health providers.

For Marriage and Family Therapists, Professional Counselors, and Clinical Psychotherapists, who were licensed in the 1990's, the concept of mandatory insurance reimbursement had been more politically difficult, much to the dismay of their clients who seek mental health treatment by these professionals, and are told, depending upon their insurance company, that the services will not be reimbursed.

The issue we would like to address with this committee today is the unlevel playing field for insurance reimbursement for mental healthcare providers which results in inconsistency in state policy, lack of consumer choice, and restricted access to mental

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The issue we would like to address with this committee today is the unlevel playing field for insurance reimbursement for mental healthcare providers which results in inconsistency in state policy, lack of consumer choice, and restricted access to mental health care in Kansas, especially in rural areas.

Existing state policy also leaves the reimbursement decision up to individual insurance companies, rather than the legislature setting the reimbursement policy for the state.

The vast majority of insurance companies already reimburse our three providers (LCPs, LCMFTs, and LCPCs), most of them because the state recognizes those providers as being equivalent to LSCSWs and LPs. One of the notable exceptions from the insurance companies that reimburse our providers is the 600 lb. Gorilla in Kansas, Blue Cross Blue Shield of Kansas. Despite most Blue Cross Blue Shield companies throughout the nation reimbursing our providers, and Blue Cross Blue Shield of Kansas City reimbursing our providers, Blue Cross Blue Shield of Kansas does not currently reimburse the three mental health professionals that we represent.

The easy solution would have been to seek a legislative mandate to require reimbursement for our providers, but I urged my client that we explore other options before seeking legislation.

Understanding the political climate facing any proposed insurance mandate legislation, MHCC has cautiously approached a solution to this critical issue. Rather than seeking a legislative solution in the first instance, our group, at my urging, chose to meet with Blue Cross Blue Shield of Kansas, to demonstrate to them the value of reimbursing all BSRB licensed professionals when providing mental health insurance coverage.

We met with Blue Cross Blue Shield of Kansas, and they indicated they would not reimburse the three excluded mental health professionals because of the existence of the current mandate regarding two of those five professionals. In fact, they specifically told us they would only reimburse our three mental health providers if they were mandated by the legislature to do so.

We presented to representatives of BCBS a study which would have qualified for the impact study provided for in K.S.A. 40-2248 *et. seq*. That document clearly demonstrated that reimbursing the three mental health providers not currently reimbursed by statutory provision would provide a financial benefit to Blue Cross Blue Shield and any other insurance company, because pro-actively providing mental health services avoids greater and significant costs down the road for physical/medical services resulting from untreated mental health disorders.

One of the conferees following will speak about the studies which have been conducted

mandate for LSCSWs and LPs, as a means of leveling the playing field for all mental health providers. Had this legislation passed, according to BCBS, they could then look at our providers on a level playing field with the other providers they are currently mandated to reimburse. The other bill that we introduced (HB 2505) was legislation to mandate insurance reimbursement for our three co-equal mental health providers so as to level the playing field for providers and for consumers who desired to choose any of the five BSRB licensed mental health professionals.

Kansas National Association of Social Workers (KNASW) and the Kansas Psychological Association (KPA) strongly objected to the legislation repealing their existing insurance mandate. We have told both groups that we will not pursue any such legislation that would repeal their existing vendorship laws. In addition, KNASW also strongly objected to the specific wording of our legislation to seeking vendorship for our three provider groups because the legislation "opened up" the social workers reimbursement statute.

As a result, we met with the KNASW and worked out a compromise on legislation that would level the playing field for insurance reimbursement for all the co-equal mental health providers licensed by the BSRB. That legislation was introduced in the waning hours of the 2007 Session as HB 2601, simply for the purpose of having a review by an interim study.

Ultimately, KNASW also had concerns about HB 2601, which prompted the MHCC to seek introduction of HB 2696 this session. The KNASW is now neutral on the bill before you today.

HB 2696 is the proposed solution that the MHCC would propose to correct the current disparity in state law.

I would also note that the Legislative Budget Committee studied the broad issue of mental health services reimbursement issues this past summer, and specifically heard testimony on HB 2601, but recommended that the House Insurance and Financial Institutions Committee and the Senate Financial Institutions and Insurance Committee review and address HB 2601 during the 2008 Legislature. Obviously, we are now addressing such review to HB 2696, which has simply been reworded at the request of KNASW.

Obviously, our first choice would not have been to seek passage of legislation requiring insurance companies to level the playing field for providers, but it is obvious that a voluntary approach with BCBS of Kansas will not be a workable solutions. I would note that HB 2696 does not expand the mental health mandate imposed by K.S.A. 40-2, 105a in any way, shape or form, as it does not increase any services that need to be provided as a part of the existing statutory mandate for mental health coverage. What HB 2696 does, is prohibit selected insurance companies who are not currently reimbursing all of the five licensed BSRB mental health professionals, from discriminating against some providers based simply on their licensing credentials.

We are very cognizant of Kansas law which attempts to establish requirements for a mandate to be approved by the Kansas legislature. I have attached a Report for the Legislature which our organization prepared, and which we believe provides all of the information required by K.S.A. 40-2248 *et. seq.* I have also attached a larger document which contains all of the exhibits referred to in our report.

More importantly, however, I want to point out that although K.S.A. 40-2248 *et. seq.* appears to prohibit the Legislature from passing insurance legislation that meets certain criteria unless certain specific steps are taken. By its very nature, K.S.A. 40-2248 *et/ seq.* is unconstitutional because it is an unconstitutional delegation of legislative authority, and, in essence, attempts to bind a future legislature. The legislature cannot pass a law prohibiting a future legislature from enacting a law, so despite the existence of K.S.A. 40-2248 *et. seq.,* the Legislature can pass HB 2696 or any other relevant insurance legislation at any time, and thus the legislature can ignore the provisions of K.S.A. 40-2248 *et. seq.* I would note for the record that the Kansas Legislature has passed numerous pieces of legislation which would have been subject to this statute without regard to the provisions of that statute. Thus, I am certain that the legislature recognizes that such statute has no binding effect upon this or any other legislature.

Nevertheless, we have attempted to meet the requirements of the impact study required simply to show good faith. Therefore, we provided such information to this committee last year at the hearing on HB 2313 and HB 2505, to demonstrate our ability to meet the requirements of the otherwise unconstitutional statute which I have just discussed.

In the following testimony, you will hear how unfair the current laws have been to individuals and families who desire treatment for mental disorders. You will hear about the problems of access with current providers, especially access in rural areas of the state. You will also hear about studies in other states that demonstrate that additional coverage for all of the mental health providers will not create additional costs to insurance companies, or to increases in healthcare premiums. We believe, and studies indicate, that healthcare costs will actually be reduced, as competition will encourage more efficient rates for services, and possibly by more efficient provision of mental health services. In addition, insurance costs for medical services will be reduced by making accessible coverage for mental health services.

As an example of what I am arguing about reduction in additional medical reimbursement costs on insurance companies, I would cite the specific situation of a very close, personal friend of mine. Her situation, I am sure, is not unique in this state, but unfortunately points to a serious flaw in our system, especially regarding Blue Cross Blue Shield of Kansas, when it places more emphasis on reimbursement for traditional "medical" treatment, and ignores reimbursement for mental health services.

Specifically, my friends are parents of a daughter who is suffering from addiction to pain pills. Any of you who have any experience with addictions disorders are aware that alcoholics and addicts can be very deceitful and very conniving when attempting to

access their drug of choice. My friends, and the siblings of this daughter who is addicted to pain pills, sought to receive treatment for her addictions utilizing mental health services. However, when they contacted Blue Cross Blue Shield of Kansas, reimbursement was denied for addictions treatment for their daughter. In fact, ironically in denying treatment, the insurance company demonstrated a complete ignorance of mental disorders when they concluded that my friend's daughter did not need treatment for addictions to pain pills, but simply needed to contact a pain management physician who could prescribe to her the appropriate pain medication. Such refusal to reimburse for her addictions treatment, and the rationale to send a pain pill addict to a pain doctor constitutes nothing more than shear lunacy on the part of this insurance company.

As a result, in order to access pain medication, our friend's daughter sought a medical procedure that would require prescription for pain medication. Specifically, she sought a surgery, and using her deceitful and manipulative powers, which are classic symptoms of an addict, she persuaded a physician to perform surgery on her. This surgery cost $13,000 for Blue Cross Blue Shield of Kansas, which happily and naively reimbursed the procedure, even though it was absolutely note necessary, and specifically not medically necessary, which is a requirement of the contracts that Blue Cross Blue Shield of Kansas requires insured's to sign. Again, Blue Cross Blue Shield of Kansas totally ignored the information that was being provided to them, and became an unwitting co-conspirator along with the physicians who were deceived by my friend's daughter.

Subsequently, my friend's daughter agreed to seek treatment for addictions disorders, and agreed to be transferred to a facility in South Dakota. There, after biting a counselor and being arrested and ultimately placed in involuntary confinement in a locked down mental health facility, she suffered severe withdrawal from her drug addiction. In order to try to save my friend's daughter, they placed her in a chemically induced coma for four and a half days, at a cost to Blue Cross Blue Shield of Kansas, of $45,000.

In addition, as part of my friend's daughter's desire to access pain medications, she again deceived physicians into believing that she needed to have a feeding tube and to have expensive food supplements which are utilized in the feeding tube. Again, Blue Cross Blue Shield of Kansas reimbursed the expense of the procedures to insert the feeding tube, and for the costs of the food supplements. When my friends cleared out their daughter's apartment when she was institutionalized in South Dakota, they found thousands of dollars of unused food supplements which had been reimbursed by Blue Cross Blue Shield of Kansas.

This situation, which clearly demonstrates how insurance companies can incur significant medical costs as a result of refusing to reimburse pro-actively for mental health services, which could have saved insurance companies, in this case Blue Cross Blue Shield of Kansas, from scores of thousands of dollars of unnecessary expenditures.

In the instance cited for you, the issue was addictions, but the cost can result from spousal abuse, child abuse, attempted suicides, accidents resulting from drunk driving, or

numerous other medical costs which are incurred as the result of failure to provide treatment for significant people who require mental health treatment.

We respectfully urge this committee to eliminate the unfairness and the disparity which currently exists, and to recommend HB 2696 for passage by the 2008 Legislature.

Thank you very much for permitting me to testify, and I will be happy to yield to questions.

Testimony re: HB 2696
Reimbursement of Mental Health Services
House Insurance and Financial Institutions Committee
Presented by Daniel Lord, Ph.D., LCMFT
on behalf of
Mental Health Credentialing Coalition
February 11, 2008

Mr. Chairman, Members of the Committee:

I am Dr. Dan Lord. I am speaking today on behalf of the Mental Health Credentialing Coalition, which is comprised of the members of the Kansas Association for Marriage and Family Therapy, the Kansas Association of Masters in Psychology, and the Kansas Counseling Association/Kansas Mental Health Counselors Association. I am a Professor of Marriage and Family Therapy and Associate Vice President of Academic Affairs at Friends University in Wichita, and a Licensed Clinical Marriage and Family Therapist (LCMFT). Over the past decade, I was appointed by former Gov. Bill Graves to serve two terms on the Behavioral Sciences Regulatory Board, and also to serve on the Legislature's 1998-2000 Task Force on Providers of Mental Health Services. Additionally, from 2000 to 2005, I served on the national Association of Marital and Family Therapy Regulatory Boards as president elect, and president.

My testimony today is in regards to your consideration of HB 2696, which addresses problems in consumer access to mental health services due to inconsistent insurance reimbursement of our state's qualified mental health providers. This issue is important to the Legislature for two basic reasons. One, it is a painful and needless hardship to our state's health care consumers. And second, it is a situation that the Legislature has repeatedly recognized and worked to solve in years past.

Just as background information, I think it might be useful to talk some about mental health service delivery overall. Across the United States, the primary work force for mental health service delivery is a core of non-medical peer professions with graduate training in psychology, clinical social work, marriage and family therapy, or professional counseling. These professionals are regulated by respective state governments and their regulatory agencies in virtually every state. Standards for graduate education and training are set by their respective national accrediting bodies. They each utilize well established and respected national competency examinations for licensure. They also create quite an alphabet soup of licenses that I'll not trouble you with.

Here in Kansas, these professions successfully work together in the complex and broad array of mental health and child welfare services depended upon by our state's citizens. This has come about because of the Legislature's support for a multi-profession approach to mental health service provision in our state. In 1996, the Legislature recognized each of these professions as "qualified mental health professionals" within our community mental health centers. In 1999, out of the work of the Legislature's *Task Force on Providers of Mental Health Services*, a credentialing structure was established for Kansas that defined a uniform standard of graduate education and supervised practice supporting authorization to diagnose and treat mental disorders. For the past decade, the Behavioral Sciences Regulatory Board has worked with all five licensed professions at one table to oversee a coordinated development of administrative rules for protecting a public who could likely seek services from any of the respective profession's licensees.

The result is a regulatory and work force environment that has largely escaped the worst in-fighting of professional turf battles. Now, SRS and its contractors, and community mental health centers across the state can select mental health professionals based on a professional's strengths and skills rather than specific licensure. More importantly, because of the past decade's effective legislative solutions, consumers being served through these organizations across our state have much improved access to qualified mental health providers wherever they live.

This improved consumer access, however, does ***not*** extend to our citizens who depend on private insurance coverage for access to mental health services. Consistent insurance reimbursement of Kansas' qualified mental health providers is not occurring, and consumers are paying the price both financially and in personal distress. In rural areas, more qualified professionals are now available because of our state's regulatory framework, but many remain excluded from reimbursement. Whether urban or rural, an employer's change in health care plans can now result in a consumer's loss of a valued mental health care provider reimbursed in one plan but not another. For these citizens, disruptions in mental health care range from lengthy waiting lists during severe distress, to long and costly drives to access approved providers on restricted panels, to having to end mental health treatment at painfully sensitive points in order to seek and start again with a different provider covered by a different insurance company.

The hardships caused by inconsistent and arbitrary insurance reimbursement are problems for consumers that the Legislature has recognized and addressed in years past. The first time was in 1974, when psychologists were required to be paid for mental health care parallel to physicians and physical care. This occurred a second time in 1982 with a parallel statute addressing the services of clinical social workers. With that second action, 25 years ago, the Legislature created a solution that covered *every licensed mental health professional serving our state's citizens at that time.* In every way, HB 2696 is simply an update of that important action. It recognizes that consistent insurance coverage, for persons purchasing private health insurance, will be accomplished only by statutory action. It also will end the arbitrary exclusion of qualified providers by insurance companies who currently claim they are restricted to reimbursing only the professions covered by the two existing 25 year-old insurance statutes.

Without HB 2696, mental health reimbursement practices will continue to contradict the Legislature's priorities of the past three decades supporting an effective multi-profession mental health provider system. Left as it is now, current arbitrary reimbursement practices will continue to create inefficiencies and hardships in our state's mental health services delivery. In fact, left as they are now, current insurance reimbursement practices violate even the standard of care recently set for Medicaid services, where the full mental health provider system became available for citizens across the state this past July 1. Perhaps somewhat ironically, a person with a Medical card will have broader access to mental health services than a person *purchasing* coverage by Blue Cross/Blue Shield.

On behalf of our state's citizens and consumers of mental health services, our state's well trained core of mental health professionals, and future professionals who chose to train and hopefully serve in our state, I urge you to address updating this statutory solution to better match the Legislature's priorities supporting fair and effective mental health service delivery.

Thank you, and I would be happy to respond to questions.

Kansas House Insurance and Financial Institutions Committee
Testimony Re: HB 2696
Presented by Emmett L. "Rusty" Andrews, PhD, LCMFT
on behalf of the
Kansas State University Graduate Programs in Marriage and Family Therapy and
The Mental Health Credentialing Coalition
February 11, 2008

Mr. Chairman and Members of the Committee:

I am Dr. Rusty Andrews, a licensed clinical marriage and family therapist in private practice who is also a member of the Mental Health Credentialing Coalition. I also teach student therapists in the masters and doctoral programs in marriage and family therapy at Kansas State University and the faculty have asked me to represent them before you.

Kansas has a tremendous resource in the non-medical mental health professionals of the State. These qualified mental health professionals (QMHPs) provide services that have been shown to decrease utilization, and therefore the costs, of providing medical and surgical services. Such a reduction has been recognized in the State's inclusion of mental health services in medical insurance requirements and is a benefit to both the citizens of the State as well as insurance companies themselves.

The five QMHPs, namely Licensed Psychologists, Licensed Specialist Clinical Social Workers, Licensed Clinical Marriage and Family Therapists, Licensed Clinical Professional Counselors, and Licensed Clinical Psychotherapists, are all licensed to diagnose and treat mental disorders and to practice in an independent practice setting. By statute, third-party payers are required to reimburse for the services of Licensed Psychologists and Licensed Specialist Clinical Social Workers. These statutes were created before the other three professions were licensed in the State of Kansas. With three professions, namely Licensed Clinical Marriage and Family Therapists, Licensed Clinical Professional Counselors, and Licensed Clinical Psychotherapists, not included in these outdated laws, the public loses the advantage of being able, in many circumstances, to make their own choice regarding their mental health provider.

This testimony is intended to provide you with three basic reasons for supporting House Bill 2696. Those reasons are:

Inclusion creates no negative impact on health-care costs,
Inclusion creates a positive impact on health-care services provided, and
Inclusion is beneficial from a professional and public policy perspective.

Inclusion Creates No Negative Impact On Health-Care Costs

Conventional wisdom would seem to suggest that when the number of available providers is increased, the total utilization of the services provided by those providers and the costs associated with that utilization would also be increased. In fact, this assumption appears to lead a major third-party payer in Kansas to disagree with the idea of adding all Kansas-licensed QMHPs to the existing reimbursement laws. However, recent studies have shown that increasing the number of providers does not have an impact on costs. For instance, the United States Office of Personnel Management conducted a major study regarding the addition of other

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providers to the Federal Employees Health Benefits program (OPM, 1986). The study's authors concluded that "We are no longer prepared to argue that, should the Congress decide to mandate coverage of alternative practitioners, such action would inevitably have significant deleterious consequences for the Program." Rather than depleting the program's resources, the study stated that "there is the incontestable fact that alternative providers have been recognized under many of our plans for a considerable period of time now, not only without adverse consequences, but in some cases with beneficial ones."

In another study reviewing the literature on mental health reimbursement, the Muskie School of Public Service at the University of Southern Maine, funded by the Office of Rural Health Policy (2002) stated that "Studies have found no significant increase in costs to insurance carriers resulting from extending reimbursement to new mental health professions."

Two studies in 2001 commissioned by the North Carolina Legislature evaluated the cost of adding marriage and family therapists to those providers reimbursed under the State's Teachers' and State Employees' Comprehensive Major Medical Plan. Both studies concluded that there would be no measurable increase in costs to the Plan.

Other studies have shown that members of the three professions currently excluded from the existing reimbursement laws often provide treatment regimens for mental disorders that are far shorter than the average length of treatment provided by other professionals. For instance, one study found that marriage and family therapists average eleven sessions per case compared to fourteen sessions for other approaches to therapy. Shorter length of treatment contributes to lower costs.

Inclusion Creates a Positive Impact on Health-Care Services Provided

The five Qualified Mental Health Providers designated by the State of Kansas come from a variety of educational backgrounds and this diversity increases choice for consumers. Such diversity among QMHPs is positive for the overall provision of mental health services and will, in the long run and possibly the short-run, permit reduction of longer, more intense, more costly mental health services. Inclusion of Kansas Licensed Clinical Marriage and Family Therapists, Licensed Clinical Professional Counselors, and Licensed Clinical Psychotherapists in the existing reimbursement laws enhances the choices consumers have regarding their mental health services.

Another positive impact on health-care service is the availability of members of these three professions in the rural areas of the State. Many of these practitioners are already practicing in underserved, rural areas. Reimbursing providers who tend to be more urban-based while not reimbursing mental health providers populating rural areas presents problems for consumers and the public health of the State. Since research has shown that mental health services help reduce the utilization of medical and surgical services, increasing the availability of mental health providers in rural areas can ease access problems in these areas and reduce the need for future medical and surgical services.

Inclusion is Beneficial from a Professional and Public Policy Perspective

While professional pride may lead to turf battles that can become passionate and heated, research demonstrates that it is usually difficult to distinguish between the different mental health professions when it comes to effectiveness in treating mental disorders. Most third-party payers already rely on the State to determine (through clinical licensure) who should be providing mental health services to their customers and ignore which school the provider was graduated from. For instance, nearly all medical insurance companies operating in the State of Kansas reimburse Licensed Clinical Marriage and Family Therapists for the diagnosis and treatment of mental disorders. One notable exception is the payer holding the largest market share in the State, Blue Cross/Blue Shield of Kansas, thereby creating confusion for their Kansas customers as these consumers call to schedule mental health services with otherwise qualified mental health providers. Elsewhere the problem does not exist as Blue Cross/Blue Shield licensees in at least 36 states reimburse either Licensed Clinical Marriage and Family Therapists, Licensed Clinical Professional Counselors, or both.

When health-care coverage is not consistent with existing Kansas licensure laws, it is also more difficult for members of the various professions to work collaboratively to serve the public. If one professional feels it is important to involve another professional in the treatment of a client because of particular areas of expertise, it becomes unnecessarily difficult when the first order of business must be determining if the other professional is reimbursable by the client's health plan.

Final Comments

In addition to the preceding three reasons for including Licensed Clinical Marriage and Family Therapists, Licensed Clinical Professional Counselors, and Licensed Clinical Psychotherapists in the existing reimbursement laws in Kansas, I would like to add a note from the perspective of the marriage and family therapy graduate programs at Kansas State University. The State makes a major investment in a number of Kansas young people every year in our programs at the masters and doctoral level. Because of the lack of inclusion in the reimbursement laws, many of those students we have educated and trained leave the State for more inclusive states. Not only do we lose talented therapists, we lose strong potential leaders who go on to provide leadership in clinics, practices, and educational programs in states where all insurance companies reimburse for marriage and family therapists' services to individuals, couples, and families. As a graduate of both the masters and doctoral programs at Kansas State, I can tell you that I am one of the rare doctoral graduates to fight to remain in Kansas, where I was born and raised. My practice focuses on clients who can privately pay for the services they receive but I am regularly contacted by people in north-central Kansas who want to use my services but cannot afford to do so because their particular insurance company will not pay for those services.

All mental health professionals licensed by the State of Kansas to diagnose and treat mental disorders should be included in insurance reimbursement laws regarding mental health services. My support for this bill comes from a sense of fairness and the desire to promote what is right and helpful for the people of Kansas.

In addition to my testimony, I have a letter from a Clinical Psychologist who could not be here today in support of House Bill 2696. I have attached a copy of that letter to my testimony at his request.

I stand ready for questions from the committee.

Andrews & associates

February 11, 2008

To the Chairman and Members of the House Insurance and Financial Institutions Committee:

I regret that I cannot attend today's hearing on House Bill 2696 to lend my support to this bill. The press of my work with clients prevents me from being there in person, but I have asked my colleague, Dr. Rusty Andrews, to add my words to his.

As a Licensed Psychologist in Kansas, my duty to my clients is most important to me. My ability to collaborate with other licensed professionals is vital to my ability to best serve those clients. The current state of Kansas law inhibits that ability to serve the citizens of our State. Because marriage and family therapists, and other qualified mental health providers, are not included in the laws that require third-party payers to reimburse for mental health services, I cannot refer those clients using Blue Cross/Blue Shield for appropriate care. In my own office we have myself, a Clinical Psychologist, and several marriage and family therapists. While Blue Cross/Blue Shield reimburses for my services, in accordance with current law, I cannot involve another of the licensed professionals across the hall in those patients' care. That is at times against the best interests of the client.

Passage of House Bill 2696 remedies this inequity and lets me do my job as a Clinical Psychologist to the best of my ability. As a member of a profession that is included in the current reimbursement statutes, I do not hesitate to ask for your support of this bill.

With best regards,

John Fajen, PhD, LP

1019 Poyntz Avenue, Suite C Manhattan, Kansas 66502
785-539-5455 Fax 785-776-7570

Re: House Bill 2696
House Finance & Insurance Committee
November 9, 2007

Mr. Chairman and Committee Members:

My name is **Mary Elaine Hayes, Licensed Clinical Psychotherapist (LCP),** and I am testifying for the **Kansas Association of Masters in Psychology (KAMP)** group and as a member of the MHCC. I am a private practitioner at Ark Valley Counseling Center in Derby, Kansas where I have been since 2000. Previously, I was employed for 5 ½ years in community mental health centers in Butler and Sedgwick Counties in Kansas.

I must explain a little background about my professional credential. Individuals, who obtain their Masters level degree in psychology then receive a license from the Sate of Kansas which licenses us as Masters Level Psychologists. We are still permitted to practice within the jurisdiction of a Community Mental Health Center (CMHC) as a Licensed Masters Level Psychologist (LMLP), and when practicing within the jurisdiction of the CMHC, LMLPs are reimbursed by virtually all insurance companies, including Blue Cross Blue Shield of Kansas. However, back in the 90's when legislation was moving through the legislative process to authorize the providers, who are the subject of this hearing today, to be able to diagnose and treat mental disorders, among other things in independent practice, the Kansas Psychological Association vehemently objected to Masters Level Psychologists being able to call themselves by their diploma and licensed name if they were practicing in independent practice. It was necessary to reach a compromise, and as a result, any Masters Level Psychologist practicing in independent practice, as opposed to within a CMHC, was required to be licensed by the title Licensed Clinical Psychotherapist.

The Kansas Psychological Association, which represents Ph.D. psychologists, objected to the Masters Level Psychologists utilizing the term Psychologist in their name. Therefore, although I have been trained as a Masters Level Psychologist, I am now licensed by the state of Kansas and credentialed as a Licensed Clinical Psychotherapist when I am seeing patients in independent practice.

It is ironic that Blue Cross Blue Shield of Kansas will not reimburse Licensed Clinical Psychotherapists in independent practice for seeing patients insured by that insurer, but they will reimburse the same individuals with the exact same training, if those individuals are seeing patients at a CMHC. This is indeed, distinction without a difference, and there is no justification for Blue Cross Blue Shield of Kansas, or any other insurance company, to reimburse those providers only if they are operating within a CMHC, as opposed to independent practice.

Again, both the Masters Level Psychologists and the Clinical Psychotherapists have the same training, experience, posteducational practicum experience, and are licensed by the State of Kansas to diagnose and treat mental disorders on the same level as all of the other licensees of the Behavioral Science Regulatory Board (BSRB).

In the community mental health centers, I saw Blue Cross/Blue Shield clients regularly and the CMHCs billed BC/BS for my services under the direction of either the psychiatrist or psychologist in the agency. After I started my own business, I attempted to credential and obtain reimbursement with BC/BS but was told that they did not credential or pay for the services of Licensed Clinical Psychotherapists. They only credentialed Medical Doctors (MDs), Licensed Psychologists (LPs), and Licensed Specialist Clinical Social Workers (LSCSWs) and did not intend to add additional licensees. I found this to be extremely shortsighted since I was still seeing BC/BS clients at the CMHC and getting paid and yet be unable to see BC/BS clients in my private practice. I recently checked with CMHCs in various places in the state and this continues to be common practice seven years later.

I am currently a contracted provider with Tricare West (the military insurer in this region) and all my credentialing was done through BC/BS (who now manages their mental health benefits.) Yet, I am still unable to be a provider for BC/BS clients!

Another major BC/BS issue in Sedgwick County occurred when Wichita Child Guidance Center (WCGC) and Family Consultation Services (FCS) stopped affiliating with ComCare, Sedgwick County's Community Mental Health Center(CMHC). I was still working at WCGC in the late 90s when we stopped being a CMHC and a number of BC/BS clients and/or their families were affected. Licensed Clinical Psychotherapists had to stop seeing BC/BS clients and clients had to get therapy with an LSCSW in the agency. It was a difficult process. The same situation occurred at Family Consultation Services within the last several months when FCS was purchased by Youthville, the local foster care agency. All of their clients who were seeing Licensed Clinical Psychotherapists or Licensed Clinical Marriage and Family Therapists now had to transfer to LSCSWs in the agency. This, too, has caused a lot of undue stress on already vulnerable clients and their families.

The inequity of the system is confusing to clients. They do not understand why masters level providers with the same statutory ability to diagnose and treat and who are licensed at the same level by the state are not allowed as providers by certain insurance companies. All clients know is that they should be allowed to have a choice of qualified providers close to where they live. It is difficult for people to have to make a decision to seek treatment in Wichita which can be up to a 45 minute drive, wait for another BC/BS provider to open up in Derby, pay an LCP out of pocket for insurance that has already been purchased, or forget treatment altogether.

I appreciate the committee's willingness to consider a more equitable system to meet the needs of our clients whether they are seeing therapists in CMHCs or in private practice. Thanks for your attention to this vital issue.

I will be glad to answer any questions at this time.

Heartland Rural Counseling Services, Inc.
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Colby, Kansas 67701
785-460-7588
Fax – 785-460-2396

Testimony re: Reimbursement of Mental Health Services
House Insurance and Financial Institutions Committee
Presented by Elaine Ptacek
On behalf of the
Mental Health Credentialing Coalition
February 11, 2008

Mr. Chairman, Members of the Committee:

My name is Elaine Ptacek from Colby Kansas. I am speaking today on behalf of the Mental Health Credentialing Coalition, which is comprised of the members of the Kansas Counseling Association/Kansas Mental Health Counselors Association, Kansas Association of Masters in Psychology and the Kansas Association for Marriage and Family Therapy. I am in Private Practice with Heartland Rural Counseling Services in Colby, Kansas as a Licensed Clinical Professional Counselor. I have worked in the Mental Health field since 1990. I am a Mental Health Consultant with the Smart Start Program in Northwest Kansas and mental health volunteer for our local Red Cross. I have served as a President of the Kansas Mental Health Counseling Association and currently serve as the Legislative Advocacy Chairman of KCA

My testimony today encourages the Insurance /Financial Institutions Committee to push for reimbursement of all BSRB Master Level Clinical Licensees in the mental health field and not just Social Workers and PhD Psychologists. We are asking your support of HB 2696. Being from Northwest Kansas, rural areas face many challenges of access to mental health care.

* BCBS has not expanded their provider network since 1995 and we did not get licensure until 1997.

* We are reimbursed by most all insurance companies and are providers for the state mental health programs, Medicaid and Healthwave 21.

* In 2003 a committee representing the Mental Health Credentialing Coalition presented information to BCBS representatives and they have continued to deny the expansion of the provider network.

* BCBS will reimburse all mental health licensees, even if they are not clinical, if they are working in the Community Mental Health Centers in the state, but refuse to reimburse those of us in private practice with clinical licensure.

House Insurance
Date: 2-11-08
Attachment # 5

* In Northwest Kansas, approximately 65-70% of our population has BCBS for their Medical and Mental Health. This puts a real financial strain on our clients who must self pay and do not have choice or access. They must access the Community Mental Health Center.

* When a family with BCBS can't afford self pay, referring them to an LSCSW is difficult as the closest one who is not connected to the Community Mental Health Center is 100 miles from Colby.

* When a client calls, we must ask about insurance first because if they have BCBS, the client needs to know their options of self pay, drive over 100 miles to see a LSCSW or access the CMHC.

* I am reimbursed by several out of state BCBS's. We send our Insurance billing form-HICF 1500 to BCBS in Topeka and they submit it to the out of state provider and then Kansas BCBS writes us the check. It is difficult to understand why out of state BCBS companies will reimburse us but Kansas will not and yet they write the check.

* I have contacted BCBS over 20 times from 1999-2007 in hopes they would recognize the shortage of providers and allow choice to their consumers. I was told by BCBS to have the 3 largest BCBS businesses in Northwest Kansas to write a letter to the local BCBS representative issuing concerns about the shortage of mental health providers for their employees but after all the work, they still refused to expand the provider network. I asked BCBS about doing a pilot program in Western Kansas but they refused. I won't give up because I see clients frustrated and angry when they cannot afford self pay and often seek no services.

I have contacted several Board of Regent University Alumni Offices to find out the number of graduates in the Counseling program who have stayed in Kansas and who have left Kansas over the last 10 years. Insurance reimbursement is not a problem in most states.

Kansas University had 215 Counseling Psychology masters' level grads still in KS and 180 outside of Kansas.

Fort Hays State University Alumni with KS address with the psychology majors was 200. Out of state address with this majors—222.

Pittsburg University had 102 graduates in the Counseling program the past 10 years and approximately 60-65% left the state of Kansas.

I feel being licensed at the highest level in Kansas under the supervision of the BSRB should level the playing field among all disciplines. The overall goal is helping our citizens attain a mentally healthy mind when they are ready to seek treatment not delaying it because of costs or lack of choice.

I would like to read 2 testimonials from clients who are paying out of there own pockets (see attachments).

I would like to read 2 testimonials from Licensed Clinical Professional Counselors (see attachments).

I would concur with the comments of Dr. Lord regarding standardization of the credentialing process for mental health providers and the fact that within the CMHC system all these providers can be selected based upon abilities rather than licensure category. That same policy should be utilized for private practitioners as well by the reimbursing community.

As you consider future actions to benefit mental health delivery in Kansas, I urge you to consider the points I have raised today and support HB 2696.

Thank you and I apologize for not being able to testify in person.

My name is Samantha Miller and my story is not unlike thousands of other Kansans, a newly divorced mother of two boys. I and my children are struggling to maintain financially and mentally thru these times.
My children are in elementary school have been thrust into a different world and now face new and various struggles. These struggles are evident at home and in school. Leaving me to cope with the new attitudes and actions of my children. It has become quite apparent that both of my children could benefit from counseling or therapy.
While searching for a qualified child therapist I looked toward my health care provider, Blue Cross Blue Shield of Kansas. For the best interest of my children I attempted to seek a therapist that came highly recommend; yet, under my insurance plan through Blue Cross Blue Shield of Kansas, I am currently unable to secure the expertise of this licensed clinical counselor in the field of child and adolescent therapy. Due to the Blue Cross Blue Shield plan I have limited choices, I am faced with paying 100% out of pocket, or choosing a less qualified mental health provider. It is my understanding that other states such, as Iowa and Illinois; offer its Blue Cross Blue Shield clients the help and relief families' needs during difficult times.
Why should Kansas children suffer?
Why is Mental Health not considered in Kansas?

In conclusion there are programs implemented in our schools called "No Child Left Behind" yet when it comes to Mental Health Care in Kansas, Blue Cross Blue Shield needs to make better strides in providing an equal Health Care package for all Kansans.

Sincerely,

Samantha Miller

I am a single mom in Western Kansas providing for my 3 children after leaving an abusive relationship with their father of 14 years. In August, 2007 my children and I left our home and found shelter in a Safe Home. Mentally, emotionally, and physically we could not live with the man who so called loved us anymore. I felt like we needed some reassurance this is not a normal way of living our lives.

My kids and I are currently in family and individual counseling with Heartland Rural Counseling Services in Colby, Kansas. The insurance coverage we have is Blue Cross Blue Shield of Kansas so I am paying out of pocket for this therapy. In order for us to travel to our counseling sessions that would be covered by BCBS, we would have to travel to Hays, Kansas or Denver, Colorado. This would require a 6 - 7 hour trip round trip. With the busy schedules of the kids school, sports, and activities, and also my 40 hour plus work week, this is not possible for us to travel to these counseling providers. I do believe the legislative needs to consider expanding the provider network for those of us in need of counseling services to help families to overcome the mental and emotional scars caused by Domestic Violence and Abuse.

Judy Herl

Testimonials

As a Ph.D. level LCPC with nearly seven years of post-licensure experience, BCBS' policies have made it nearly impossible for me to practice in Kansas. I was able to keep a small private practice afloat in Pratt for almost three years only by accepting extremely low cash payments from BCBS clients who could not bill. This forced me to overbook, which led to burnout, and eventually to seek an academic post and move my now part-time practice to Newton. The story has been the same here. Four of every five calls I get from potential new clients are on BCBS, and if I am fortunate, one of those four will book an intake, despite the fact that I have slashed my cash fees to less than 50% of what other practitioners in the area charge. I cannot make a living this way, and I blame BCBS.

Brian S. Mills Ph.D. LCPC CADC 1
Licensed Clinical Professional Counselor
Certified Alcohol and Drug Counselor
Assistant Professor of Psychology, Tabor College

My name is Dennis Smith. I am a Licensed Clinical Professional Counselor in private practice in Olathe for 15 years. I have tried numerous times to become an in-network provider for BCBS. I have been denied every time. I receive numerous calls each year from BCBS insured's who want to see me, but I cannot bill their insurance. I am a contract provider with numerous insurance companies including Aetna, Cigna, Humana, United Health Care, Value Options, and others. I see no logical reason for BCBS to deny me provider status. I would appreciate your help. Thank you.

I am a Licensed Clinical Professional Counselor living in a small, rural community in Northwest Kansas. My husband is a Board Certified Family Practice physician and we have lived in Oberlin for 23 years. We both believe in higher education, continuing education, and national certification for our vocations. The majority of citizens in our area have BCBS insurance. Through the years I have had to turn away many clients in need of mental health services due to the non-provider issue. Our community mental health centers are overbooked and thus lag behind in providing timely services. The 6 year drought has also had a profound impact on our economy and mental health concerns. Most clients cannot afford to pay out of pocket for services when their insurance does not recognize my credentials. I feel being licensed at the highest level in Kansas under the supervision of the Behavioral Sciences Regulatory Board should level the playing field among disciplines. I feel there is room for all of the licensed groups to participate in making our citizens a healthier lot and to give them freedom of choice. Counselors are taught that the client relationship is very critical to the process so I do not hesitate to refer if I cannot provide the needed services or if the client or I feel we are not right for each other. Northwest Kansas is also limited in the number of certified clinical professionals available so BCBS is single-handedly restricting services available to Social Workers which amounts to restraint of trade. We may be less populous than Eastern Kansas but we still deserve quality and availability of care. Thank you for your consideration. Delayne May M.S, LCPC

I have been affected by BC/BS refusing to recognize me as a provider in my private practice at Ark Valley Counseling Center in Derby, KS. Derby has a large number of Boeing employees who have BC/BS insurance. We constantly get calls from people who are anxious to get into a provider but are limited in their access of service because the people who are BC/BS providers are often not able to take new clients in a timely manner and since I am a Licensed Clinical Psychologist I am not one of the groups that BC/BS accept on their panel. I would like to be able to accept BC/BS clients. Since I am right there in Derby many of the Boeing people are not anxious to go to a provider in Wichita and they have a hard time understanding why their insurance will not pay for my services when I am an educated, experienced, and licensed therapist.

Elaine Hayes, MS
Licensed Clinical Psychotherapist
Ark Valley Counseling Center
Derby, Kansas 67037

I am a Licensed Clinical Professional Counselor in Kansas and find this exclusion arbitrary and unreasonable. Being a major insurance company in Kansas, many of my clients are covered by BCBS. This has adversely affected my therapist/client relationship in a number of situations because the BCBS exclusion has prevented our therapeutic relationship from focusing solely on therapy and brought payment issues into our sessions. Existing client relationships have terminated over this matter. In other situations, clients have been referred to me or specifically sought out my services based on recommendations, but the BCBS exclusion has prevented the client from seeing me due to non-coverage. Many clients have elected to pay of pocket and not use their insurance coverage in order to utilize my services. Other clients have made a decision to elect for different insurance coverage so my services are covered. The most distressing situations occur when clients indicate that if they cannot be seen in my office they are making a decision to not be seen at all. On a related point, I am a Licensed Professional Counselor in Missouri and have clients covered by BCBS. The Kansas BCBS exclusion is inconsistent with Missouri. The provider decision by BCBS is based solely on a arbitrary degree designation. I am a licensed attorney in Kansas and Missouri, Approved Mediator, Mediation Trainer, Licensed Clinical Professional Counselor in Kansas and a Licensed Professional Counselor in Missouri and a National Certified Counselor through the NBCC. This list does not include the numerous certifications and training that I have obtained. This arbitrary decision should be removed so clients do not have to face a barrier in obtaining needed mental health services.
Terri Clinton Dichiser, MA, JD, LCPC, NCC

I am currently the Chief Executive Officer of Catholic Charities of Salina, Inc. which covers the 31 counties in North Central and North West Kansas. In the five offices that I supervise in Manhattan, Salina, Concordia, Hays, and Colby, I hire Clinical Social Workers, Clinical Professional Counselors, Clinical Marriage and Family Therapists, and

Master's Level Psychologists. I find all of these disciplines to be comparable with perhaps the latter three having the superior training in clinical skills and diagnosis. At Catholic Charities, we are able to receive most third party payments from insurance, employee assistance plans, and Medicare. However, only our social workers are reimbursable through Blue Cross/Blue Shield. I personally have a doctorate in counseling and formerly worked in private practices in Illinois and Missouri in the Chicago and St. Louis areas and was clinical director of a residential treatment center in Missouri. In both states I was able to receive reimbursement by Blue Cross/Blue Shield as a licensed professional counselor and a nationally certified clinical mental health counselor. In Kansas I am not eligible for reimbursement by Blue Cross/Blue Shield. I believe there should be parity among the four professional disciplines offering clinical mental health services. Particularly in western Kansas where there are no Master's Level Social Work programs in institutions of higher learning, there is the additional issue of access to quality mental health services which could be rectified by the inclusion of equivalent clinical disciplines. Interestingly, our clinically licensed professional counselors do receive reimbursement from Blue Cross/Blue Shield of other states when employees work for a company whose headquarters and insurance carrier is based in another state. It seems to me that it is an issue of best practice to provide access for clients to mental health services across the four qualified "clinical" mental health disciplines.

Karen S. Hauser, Ed.D., N.C.C., C.C.M.H.C.
Chief Executive Officer
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K P A

KANSAS PSYCHOLOGICAL ASSOCIATION

TESTIMONY

TO: **The Honorable Clark Schultz, Chair**
And Members of the House Financial Institutions and Insurance Committee

FROM: **Barrie Arachtingi, PhD**
On Behalf of the
Kansas Psychological Association

RE: **HB 2696 – AN ACT concerning insurance; providing reimbursement for certain services**

DATE: **February 11, 2008**

Good afternoon Chairman Schultz and Members of the Financial Institutions and Insurance Committee. I am Barrie Arachtingi and I appear before you today on behalf of the Kansas Psychological Association in opposition to HB2696.

The Kansas Psychological Association (KPA) represents doctoral level psychologists in our state. We comprise the most advanced trained group of non-physician mental and behavioral health specialists in the state of Kansas. According to the Behavioral Sciences Regulatory Board, which regulates licensure for psychologists in Kansas, there are currently 730 licensed psychologists in our state.

The KPA is not opposed to vendorship for the group of practitioners represented by the Mental Health Credentialing Coalition (MHCC). However, we are opposed to HB2696 for several reasons.

Kansas law has a clear and established procedure by which mandates are issued. There are two clear procedures that the Kansas legislature has identified that must be followed before a mandate would be issued. Previous history exhibits wisdom on the part of the Kansas legislature when it required other providers to perform cost analyses before they were able to secure their vendorships in this state. The cost analysis studies should be conducted by an independent group who does not have a stake in the outcome. The studies should demonstrate empirically why the legislature should issue the mandate.

The MHCC's contention that the mandate would reach rural community members is unfounded at this time, as there is no empirical research to suggest such. In fact, 75% of independent practice licensees are located in 7 counties (i.e., Johnson, Sedgwick, Shawnee, Douglas, Riley, Reno, and Saline). Rather than relying upon the hearsay of a few individuals to determine whether an area is underserved, data provided by the US

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Department of Health and Human Services indicates that 14 counties have a shortage of two or three full-time mental health professionals (i.e., Grant, Gray, Greely, Hamilton, Lincoln, Neosho, Ottawa, Jewell, Marshall, Mitchell, Pottawatomie, Republic, Washington, and Woodson). The Federal government counts non-federally employed LPs, LSCSWs, and LCMFTs when making the designation of "underserved." Even when we account for the numbers of LCP and LCPCs in these 14 counties, there are not enough to fill the gap. Over 40 providers would be needed in order to declassify all of these counties. While it may be comforting to believe that an insurance mandate would result in 40 licensees moving into these counties, we think it is more likely that LCP, LCPC, and LCMFT licensees would remain in the communities in which they currently reside. As previously mentioned, those communities are the ones populated by the majority of other licensees. If master's level providers are finding themselves cash strapped, market saturation should be considered as a possible cause. Perhaps this is where an economic impact study could shed some light on these open questions. At this point, however, the three license groups of the MHCC have failed to conduct an adequate cost study.

The second step to establish a need for a legislative mandate is a pilot study conducted on state employees in order to empirically demonstrate the utilization of their services. Such a process allows the legislature to see what would happen if they issued the mandate. So far, this has been a prudent course of action for the Kansas legislature. Since the MHCC has yet to produce an adequate cost study, a pilot study has not been initiated.

The KPA understands that such an empirical approach takes a great deal of time and effort. However, we steadfastly believe that data driven decision making leads to better outcomes as opposed to adopting solutions that are emotionally driven and not well researched. One argument against the cost study and pilot study might be that it is "difficult." The fact that something is difficult and requires effort and tenacity should not be grounds for the Kansas legislature to withhold the rigorous standards that has helped them reach good decisions in the past.

Rather than go through the necessary procedures that the Kansas legislature has outlined for a mandate, MHCC chose to utilize other measures to secure their vendorship. First, they attempted to "level the playing field" by stating, "A review of Exhibit 2, and the statutes themselves, clearly demonstrates that the requirements [for both sub-doctoral and doctoral level providers] are virtually equal, and undeniably equivalent." Exhibit 2 is the table provided by MHCC outlining the training and requirements for all of the mental health disciplines governed by the Behavioral Science Regulatory Board. The table, however, is full of inaccuracies. The KPA has provided a table to correct the errors and clarify information about those who are licensed to practice *independently*.

Importantly, it is not a "level playing field" and requirements for sub-doctoral clinicians and doctoral level psychologists are vastly different. For the psychologist, the completion of their doctoral degree generally takes five to seven years as opposed to two years for the sub-doctoral level clinician. Two and seven are not equal. The MHCC has claimed that 5 years of the doctoral training curriculum is focused on research. That simply is

untrue. Because of the stringent entry requirement of a PhD program, approximately 11% of all applicants are actually accepted by accredited universities. During the degree completion, psychologists are required to complete several doctoral level practicum experiences, additional classes in diagnostic assessment, oral and written comprehensive exams, a rigorous course of research that must withstand the critique of their professors, and a minimum of 1800 hours of a supervised internship experience. Upon the completion of their degree they are also required to participate in one year of full-time supervision as well as pass an exam in order to obtain licensure. The rigorousness of selection and training sets the psychologists apart from the other behavioral health care providers making psychologists premier health care providers.

The MHCC contends that the Licensed Clinical Marriage and Family Therapist, the Licensed Clinical Professional Counselor, and the Licensed Clinical Psychotherapist are equivalently trained and credentialed by the BSRB. If this is a fact, then why are there numerous licensing titles? Why are they not collective in their licensing title in order to reduce consumer confusion? Aside from the social workers, the LCPC, LCP, and the LCMFT are all still in their infancy with regards to their established identity as mental health providers. For example, with something as basic as supervision, the three sub-doctoral providers can be supervised by a variety of licensed and unlicensed practitioners in order to obtain their licensure. In contrast, psychologists are supervised by psychologists and social workers are supervised by social workers. The sub-doctoral providers need to be collective in their identity or be able to stand on their own in order maintain the highest standards of practice and scrutiny.

The MHCC contends that there should be a mandate for authorization of their services because it is "fair." Is it fair that insurance companies should be told that they must authorize payment to the LCPC, LCP, and the LCMFT when there is no clear indication that there is a need to do so? Again, without the cost study and the pilot study on the state employees, there is no empirical evidence that supports legislation to mandate insurance to authorize payment to these sub-doctoral providers. "Fairness" is not a valid argument for a mandate.

The MHCC argues that most insurance companies choose to reimburse the LCPC, LCP, and the LCMFT and therefore, there should be a state mandate for all insurance companies to do so. They contend that if HB2696 was passed, only a few isolated companies who do not currently reimburse the providers would have to make any changes in their existing coverage. This indicates that leaving the choice up to the insurance companies is working and therefore, no state mandate is indicated.

It is not the intention of the KPA to discourage other sub-doctoral mental health provider groups from obtaining vendorship within the state. The KPA is sensitive to factors that would enable wider access to mental health services within the state. However, the KPA strongly believes that the review process and implementation strategies for vendorship, for which there is historical precedent, be maintained for these provider groups as had occurred previously for other mental health providers. This is seen as a means of the state

of Kansas being fiscally responsible and appropriately addressing the issues of provider access while ensuring that mechanisms are in place to protect the health and emotional well-being of the population as well as the healthcare marketplace in the state of Kansas.

On behalf of the Kansas Psychological Association, I thank you for your consideration of our concerns about HB2696.

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Kansas Association of Health Plans
Written testimony before the
House Insurance and Financial Institutions Committee
HB 2696
February 11, 2008

Mister Chairman and members of the Committee. Thank you for allowing me to submit testimony 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 associated with managed care. KAHP members serve most all Kansans enrolled in private health insurance. KAHP members also serve the Kansans enrolled in HealthWave and Medicaid managed care. We appreciate the opportunity to provide comment on HB 2696.

The KAHP appears today in opposition to HB 2696. This bill would require health plans to reimburse for services provided by certain mental health providers. This bill is an example of a turf battle between providers of similar services. Historically, provider groups approach the legislature through the health committees to expand their scope of practice. After the scope of practice is expanded, they then return to the health committees to seek direct access to the patient. After they obtain an increase in their scope of practice and direct access to the patient the providers then approach the health plans seeking reimbursement. If the health plan refuses to reimburse a certain group of providers, they then return to the legislature through the insurance committees to seek reimbursement through a mandate. We ask that the marketplace be allowed to determine which providers health plans should reimburse through the passage of HB 2696.

In addition, this bill does not meet the requirements set forth in statute requiring a cost impact report be performed prior to the legislature considering a mandate bill (KSA 40-2248) and other legislation requiring the testing of any new mandate first on the state employees health plan in order to help determine its cost impact commonly called the "test track" legislation (KSA 40-2249a). As I mentioned last year many bills have been introduced requiring increased mental health coverage, mandating hearing aids, testing, fitting and supplies,

mandating colon cancer screening, autism, bariatric surgery, nutritional supplements and telemedicine coverage. All of these bills including HB 2696 are proposals demanding health plans pay for more services or providers. If you determine that this particular mandate is wise, we ask that you require the proponents to follow current law and submit a cost impact study and agree to test track the requirement first on the state employees' health plan to help protect your constituents and our policyholders from unwise and uneconomical state mandates.

Thank you and I'll be happy to answer any questions you may have.

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Statement of Brad Smoot
Legislative Counsel
Blue Cross Blue Shield of Kansas
House Insurance & Financial Institutions Committee
Regarding 2008 House Bill 2696
February 11, 2008

Mr. Chairman and Members:

Thank you for this opportunity to comment on HB 2696, a provider mandate bill imposing upon health insurers the obligation to pay for services rendered by marriage and family therapists and professional counselors. On behalf of Blue Cross Blue Shield of Kansas, its 800,000 customers and premium payers in the 103 counties we serve, we must respectfully oppose this and similar mandate legislation.

At a time when legislators, the Kansas Health Policy Authority, employers and other premium payers are searching for ways to expand health insurance to the uninsured and design affordable insurance policies, it seems totally counterproductive to mandate the expansion of the types of providers that must be covered as a matter of law.

This is not a new issue. This committee held hearings last year on HB 2505, designed to impose similar obligations for the benefit of these provider groups. That bill did not pass, but appears to be similar in substance to HB 2696. Since last session, BCBSKS has not received customer complaints about the lack of access to these providers. Employer groups aren't asking us to add these providers to our network. In short, despite the provider interest in this issue over the last year, we are not hearing from our customers about a market shortage of mental health providers or a market demand to change our payment policies. Most of us are accustomed to market driven choices. Whether it is a product or service, consumer demand drives the decision to pay. So often in health care, when the market doesn't demand a service or product, interest groups turn to the legislature to force payment. It's not new, and in fact this practice has created some of the oddities of today's health insurance coverage. For example, pharmacy, vision and dental are not required to be part of all health insurance policies but social workers, psychologists and chiropractors are.

Unless the law requires otherwise, insurance carriers contract with enough providers in various categories and geographic areas across the state to serve their insureds. They negotiate prices as best they can and many, like BCBSKS, demand from their contract providers that they not "balance bill" their patients (our customers; your constituents) for the difference between what they've agreed to accept from the insurer and what they would like to charge. You see the results of this contractual provision when you read your hospital bill or physician statement. There are allowed amounts paid by the insurer and amounts disallowed as excessive. The contractual ban on "balance billing" saved BCBSKS customers $800 million last year alone. Unfortunately, HB 2696 does not clarify the balance billing issue. It simply says insurers must

"reimburse" two special classes of providers. If they don't contract with us, but we still have to reimburse, how do we prevent them from balance billing our customers?

Most carriers pay for the mental health services these providers deliver. BCBSKS does too. We have just chosen to do so through the mechanism of the community hospital or mental health center. In the early eighties, the legislature embarked on an effort to make mental health services more widely available. The network of community mental health centers offers an array of mental health providers from psychiatrists to marriage and family therapists; from psychologists to professional counselors. All are paid by BCBSKS when billed in connection with a hospital or community mental health center. BCBSKS committed to this legislative effort years ago and still believes that delivery of these services in a coordinated community setting is the best practice.

If the community mental health center model is broken, let's fix it. If we have too many mental health providers, let's not encourage it. If we have a poor distribution of providers in some rural parts of our state, let's address that. Unfortunately, HB 2696 does not do any of these things.

Finally, we concur with the Kansas Association of Health Plans that proponents of this mandate are obligated to follow the state laws requiring a cost benefit analysis and testing of the mandate on the state employees' health plan before imposing it on private employers and families. The Kansas Health Policy Authority has been charged (by 2007 SB 11) with changing our health care delivery and financing system. It manages the largest employee group in the state (state employee plan) which is a great testing ground and it collects the largest health care data base with which to evaluate various policies, products, procedures, providers and systems that make up Kansas health care. Taxpayers pay for all that. Health insurers pay for much of the data collection. It would be a shame not to utilize those resources for most every health care policy you make. In the years to come, health insurance policies might look very different. Services and providers might change. BCBSKS thinks the marketplace and the data should guide our decisions. Thank you.