Approved: February 20, 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 19, 2008 in Room 527-S of the Capitol.

All members were present except:
Representative Tom Burroughs- excused
Representative Richard Carlson- 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
Sue Fowler, Committee Secretary

Conferees appearing before the committee:
John Meetz, Kansas Department of Insurance
Brad Smoot, First American Title Insurance

Others attending:
See attached list.

Ralph Ibson, Vice President of Government Affairs, Mental Health America, (Attachment #1), gave a briefing to the committee on Mental Health Parity.

Hearing on:
HB 2686 **Requiring market conduct studies for certain insurance companies**

Proponent:

John Meetz, Kansas Department of Insurance, (Attachment #2), presented testimony before the committee in support of **HB 2686**.

Hearing was closed on **HB 2686**.

Hearing on:
HB 2865 **Title insurance; unearned premium reserves**

Proponent:

Brad Smoot, First American Title Insurance, (Attachment #3), gave testimony before the committee in support of **HB 2865**.

John Meetz, Kansas Department of Insurance (Attachment #4), appeared before the committee in support of **HB 2865**.

Hearing was closed on **HB 2865**.

Discussion and action on:
HB 2675 **Insurance agents disciplinary license actions by another state for failure to pay income tax in such state**

Representative Anthony Brown moved **HB 2675** favorable for passage. Seconded by Representative Kiegerl. Representative Peck made a substitute motion to amend **HB 2675**. Seconded by Representative Humerickhouse. Following committee discussion Representative Peck withdrew his substitute motion. Representative Dillmore made a substitute motion to table **HB 2675.** Seconded by Representative Anthony Brown. Motion carried.

MINUTES OF THE House Insurance and Financial Institutions Committee at 3:30 P.M. on February 19, 2008 in Room 527-S of the Capitol.

Representative Grant moved without objection to accept the February 18, 2008 minutes.

Next meeting will be Wednesday, February 20, 2008, 3:30 PM, in Room 527-S.

Meeting adjourned at 4:35 PM.

Insurance and Financial Institutions Committee
Guest Sign In Sheet
Tuesday, February 19, 2008

Name	Representing
[illegible signature]	United Healthcare
Ken Abitz	Ks. Ins. Dept.
Lori Church	KAPCIC
Mike Reecht	GBBA
Bill Sneed	AVIVA
LARRY MAGILL	KAIA
KERRI SPIELMAN	KAIA
Jonathan Stokes	KAJ
Brad Smoot	First American
Alex Kotoyantz	P.I.A.
Natalie Haag	Security Benefit

Briefing Statement
on
Mental Health Parity
Before the
House Insurance Committee

Ralph Ibson
Vice President for Government Affairs
Mental Health America

I'm honored to have the opportunity to speak to you today on Federal mental health parity legislation. Let me offer some context. Mental illness and substance use have a huge impact on our society. Mental disorders are the leading cause of disability in the U.S. for individuals ages 15-44. They are also a leading cause of premature death, implicated in 90% of the more than 30,000 suicides annually in this country.

Mental health and addiction disorders touch nearly every family in America. Some 54 million Americans suffer from mental health conditions, and another 26 million from addictions. These illnesses account for more than 20 percent of lost days of productive life.

Through our nation's investment in research we have made enormous advances in our understanding of mental illnesses. As the landmark 1999 Surgeon General report on mental health emphasized, mental illnesses are not only real, but diagnosable, and readily treatable with a range of effective evidence-based treatments. We know today that mental health is integral to overall health, and that mental health problems and so-called physical health problems are fundamentally intertwined. The science is irrefutable in documenting that mental illnesses have a biological basis, like other illnesses. There is no scientific foundation for policies or positions that approach behavioral health disorders as though they are somehow fundamentally different than other disorders. And yet some practices still reflect such outdated views.

Millions of Americans rely on employer-provided health insurance to get needed medical care. Yet many who experience a mental disorder confront formidable roadblocks when they turn to that insurance. The sad reality is that most employer-sponsored health plans set strict, arbitrary limits on mental health coverage, while imposing no limits, or much less strict limits, on coverage for other illnesses.

I'd ask you to imagine a friend who is undergoing treatment for cancer and learns part-way through a long course of chemotherapy that his or her insurance coverage for cancer treatment has maxed out because the health plan limits cancer care to 20 outpatient visits annually. Fortunately, people with cancer, heart disease, diabetes and other life-threatening illnesses don't encounter such barriers. But that's an everyday occurrence for people with mental illnesses, who often also face onerous cost-sharing requirements and may, for example, have to pay 50% of their costs out of pocket, while having far lower cost-sharing requirements for treatment of other illnesses.

Imagine an individual who has struggled for years with chronic depression so severe that she has attempted to take her life and whose health plan sets a LIFETIME limit of 75 outpatient visits for mental health care. I've spoken with people in just that situation; one of them explained to me that she would not be able to afford the continued treatment she needs once she reached the fast-

approaching 75-visit lifetime limit. Given her history, she described this arbitrary limit as in the nature of a death sentence.

Few phrases more aptly describe these kinds of insurance practices than the words "arbitrary discrimination." Regrettably it continues to be routine for health plans to single out behavioral health disorders in this way and limit access to care. It's shocking that employers and insurers so blatantly discriminate against people on the basis of a specific class of illnesses. But it's more shocking, in my view, that -- more than 40 years after the passage of Civil Rights laws and some 15 years after the passage of the Americans with Disabilities Act -- federal law permits discrimination against health plan beneficiaries on the basis of mental illness.

Congress, in the Mental Health Parity Act of 1996, did in principle outlaw health-insurance discrimination by establishing that IF a health plan provides mental health benefits, that coverage should be "on par" with medical and surgical benefits. But the 1996 law only bars disparity as it relates to annual or lifetime dollar limits between mental health coverage and coverage of other illnesses. In other words, the 1996 act was limited in its reach. It ruled out a specific, narrow practice. But it left broad loopholes. And as the General Accounting Office reported in reviewing the Act's implementation, the vast majority of employers it surveyed complied with the 1996 law, but substituted new restrictions and limitations on mental health benefits, thereby evading the spirit of the law. As GAO documented, employers routinely limited mental health benefits more severely than medical and surgical coverage, most often by restricting the number of covered outpatient visits and hospital days, and by imposing far higher cost-sharing requirements.

This year Congress is close to passing bipartisan legislation that would close the loopholes in the 1996 law. The Senate unanimously passed its bill, S. 558, last September and the House is slated to take up a similar parity bill, HR 1424, within the next few weeks. House Speaker Pelosi has identified enactment of parity legislation as a high priority this year. And President Bush early in his first term signaled his support for parity legislation in a speech in New Mexico.

The core principle of the House and Senate parity bills is the same – simply to require fairness in terms of treatment limitations and financial requirements. Neither bill mandates mental health coverage. Neither bill calls for any preferential treatment of mental health. Both bills simply say health plans may not impose stricter treatment limits or financial requirements on mental health care than care for any other illness. Both would establish a simple equity standard to ensure that mental illnesses are covered under similar terms as other illnesses for the millions of Americans who currently receive health care through their employers. We describe that standard as mental health parity. Both bills would exempt health plans covering 50 or fewer employees. Both bills amend the Public Health Service Act and ERISA, the Employer Retirement Income Security Act of 1974, which allows employers to offer uniform national health benefits by preempting states from regulating employer-sponsored benefit plans. As such, the bills establish a parity standard applicable to both the 87 million individuals covered by self-insured plans and the 31 million employees covered by insured plans that are subject to state regulation. It's particularly important to note in this regard that both bills set a federal floor, not a ceiling. Under both bills, states would not be prohibited from establishing stronger requirements, and nothing in either bill would supersede any provision of state law which establishes any standard or requirement relating to health insurance coverage. In other words, neither bill would undercut state law, and states are free to move forward on parity laws of their own and establish stronger protections.

It is fair to acknowledge that there has been resistance to parity legislation over the years. But increasingly, as people have studied the issue, they have come around to support it.

Literally hundreds of organizations have endorsed federal parity legislation. This wide scope of organizational support, representing such diverse fields as criminal justice, education, health, public health, the faith community, and veterans reflect the many communities touched by mental illness.

One corporate CEO, who testified before Congress in support of federal parity legislation, cited the billions of dollars that clinical depression alone costs U.S. businesses each year in missed days and poor work performance. This CEO testified that "Too few businesses have really examined mental health parity – typically because of misunderstandings regarding mental illness, the erroneous belief that parity means additional cost, and misperceptions about the efficacy of treatment. I was one of those business leaders until my personal circumstances made me see what was going on in our own company. Today more than ever, managers of every business have the opportunity to support their employees while, at the same time, reducing the cost to their companies of mental health-related productivity losses. I do believe that in time, most business leaders will realize, as I have, that providing mental health benefits on par with medical and surgical care is good for the bottom line. But quite frankly, we cannot afford to wait for that time. Mental health parity is good for American workers and good for the American economy."

Importantly, in November 2005, the prestigious National Business Group on Health released a report that recommended that employers equalize their medical and behavioral benefit structures given evidence that parity yields significant clinical benefit without increasing overall healthcare costs.

Business leaders and insurers have in fact turned around on parity. The Senate parity bill, which was widely endorsed by mental health advocacy groups and hundreds of other organizations, also won the support of the US Chamber of Commerce, the National Retail Federation, the National Association of Manufacturers, the National Association of Wholesaler-Distributors, America's Health Insurance Plans, the American Benefits Council, Aetna, Cigna, and others.

Why has there been opposition to parity over the years? Frankly, there have been many myths surrounding parity. The principle myth is that parity will be costly. But as the National Business Group on Health observed in its 2005 report, study after study has found that equalizing specialty behavioral health and general medical benefits will either not increase total healthcare expenses at all or will increase them by only a very modest amount of total healthcare premium. The most recent and largest of these studies is the most powerful. It evaluated the impact of implementing parity under the Federal Employee HB program, which covers some 8 million federal workers and their dependents. That exhaustive study published in the New England Journal of Medicine **found that providing mental health and substance abuse coverage on par with other health coverage achieved improved insurance protection without increasing health care costs.**

What has become clear with respect to arguments about the cost of parity is that the REAL costs lie in <u>not treating</u> behavioral health disorders rather than in establishing fairness in health coverage. As the National Business Group noted, the indirect costs associated with mental illness and substance-use disorders – excess turnover, lost productivity, absenteeism and disability – commonly meet or exceed the direct treatment costs, and have been estimated to be as high as $105 billion annually.

Parity legislation is by no means a panacea that will assure that all insured Americans receive all needed mental health care. But ending arbitrary insurance discrimination against mental illness can help improve people's getting the treatment they need. And outlawing such discrimination will also help end the stigma surrounding mental illness, which is a major barrier to treatment. We know, for example, that one of every two people in this country who need mental health treatment do not get it, and too many people are reluctant to seek care because of the shame our society attaches to mental illness.

Failing to treat mental illness has other profound costs. Consider the impact on children. As President Bush's New Freedom Commission on Mental Health reported, in citing the importance of early intervention for children with mental health problems, "without intervention…childhood disorders may persist and lead to a downward spiral of school failure, poor employment and poverty in adulthood. No other illnesses damage so many children so seriously."

The costs of untreated mental disorders are borne by taxpayers and communities, and are felt throughout society – in the child welfare system, in emergency rooms, in prisons and jails, in safety net programs, and in overall healthcare costs.

While enacting parity legislation is fundamentally about achieving fairness in insurance practices, it is one important step toward solving a great many problems affecting virtually every community in this country.

Kansas Insurance Department
Sandy Praeger, Commissioner of Insurance

TESTIMONY ON
HB 2686

HOUSE INSURANCE AND FINANCIAL INSTITUTIONS COMMITTEE
February 19, 2008

Mr. Chairman and Members of the Committee:

Currently under Kansas law Market regulation examinations are treated the same as financial examinations. Financial exams must be preformed on companies every 5 years. House Bill 2686 is an attempt to distinguish between the two exams.

First let me explain the difference between these two procedures. A financial examination is a critical piece of insurance regulation. A regulator must determine the financial viability of a company in order to ensure that Kansans are not purchasing products from a company that may go belly up. The purpose of a financial exam is to determine if a company has the appropriate amount of reserves to pay claims even in a disastrous event.

On the other hand, a market regulation exam does not need to be conducted nearly as often. A market regulation exam deals with a company's marketing practices rather than its financial condition. A market regulation exam is the primary resource that the department uses if a company has displayed questionable conduct, specifically in the areas of sales and claims. This type of examination is only necessary if misconduct is suspected. Furthermore, market regulation exams are usually more expensive than financial exams due to the fact that they require interviews and investigation of the companies practices, rather than simply reviewing a company's financial statement.

With the Chairman's permission we would also like to propose a balloon to the current bill that does two things. First, it changes "market conduct examination" to "market regulation examination." This change simply reflects more current industry terminology and does not change the substance of the bill. Second, we would like to change the words "to do" to "or doing" in order to clarify that we are capable of completing these exams on companies that are already admitted into Kansas.

For the reasons stated above, we would like to ask the committee to recommend House Bill 2686 favorable for passage to clarify the differences between two critical types of examinations that are central to our regulatory capacity.

Thank you for the opportunity to appear today and I would now stand for any questions.

John Meetz
Government Affairs Liaison

House Insurance
Date: 2-19-08
Attachment # 2

Section 1. K.S.A. 2007 Supp. 40-222 is hereby amended to read as follows: 40-222. (a) Whenever the commissioner of insurance deems it necessary but at least once every five years, the commissioner may make, or direct to be made, ~~an examination of the affairs and financial condition~~ *a financial examination* of any insurance company in the process of organization, or applying for admission or doing business in this state. *In addition, at the commissioner's discretion the commissioner may make, or direct to be made, a market regulation ~~conduct~~ examination of any insurance company ~~in the process of organization or applying for admission to do~~ doing business in this state.*

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Statement of Brad Smoot
Legislative Counsel
First American Title Insurance Company
House Insurance & Financial Institutions Committee
Regarding 2008 House Bill 2865
February 19, 2008

Mr. Chairman and Members:

On behalf of First American Title Insurance Company, I want share our appreciation and thanks for introducing HB 2865 at our request. First American Title is one of the largest insurers of real estate titles in the world, operating in forty-nine states and the District of Columbia. Indeed, it is this scope of operation which gives rise to this recommended amendment to K.S.A. 40-234c which governs the requirements for maintaining unearned premium reserves by foreign (out of state) title insurers. Enacted in 1971, the foreign reserve requirements must be equal to or higher than the requirements for a Kansas domiciled title insurance company as specified in K.S.A. 40-234b.

While that standard has some parochial appeal, it does create real problems for multi-state insurers like First American by forcing the insurer to maintain unique reserve arrangements, including the creation of a subsidiary title insurance company specific to each state with such requirements. For this reason, most states do not impose such requirements. Instead, they rely on the reserve requirements of the state of domicile. For us, that is California. In addition, the National Association of Insurance Commissioners (NAIC) has developed a model bill for use by the states to create some semblance of uniformity in reserve standards. Kansas has not yet adopted the NAIC model for domestic or foreign companies.

You can be confident that the reserve requirements of other states, including California, are sufficient since your colleagues and insurance regulators in those states have the same interest in maintaining the financial integrity of companies doing business in their state, whether domestic of foreign. In addition, the Kansas Insurance Department has reviewed this proposed legislation and is supportive of the changes made by HB 2865. You may also want to note that there are no domestic title insurance companies in Kansas except First American Title Insurance of Kansas, a subsidiary of First American, created for the sole purpose of complying with Kansas' unusual reserve law.

We think that such unique laws and the measures that must be taken to comply with them add unnecessary costs to the title insurance business, which as you might expect, must get passed along to real estate purchasers who acquire title insurance to protect their important investments. Striking the proviso language of K.S.A. 40-234c, as provided in HB 2865, will reduce those unnecessary costs for all concerned and bring Kansas in line with the majority of other states. Thank you for your time and we urge the Committee to approve HB 2865.

House Insurance
Date: 2-19-08
Attachment # 3

Kansas Insurance Department
Sandy Praeger, Commissioner of Insurance

TESTIMONY ON
HB 2865

HOUSE INSURANCE AND FINANCIAL INSTITUTIONS
February 19, 2008

Mr. Chairman and Members of the Committee:

I would like to thank the committee for the opportunity to appear today in support of HB 2865.

This bill provides that non-domestic title companies will maintain a statutory premium reserve (i.e., unearned premium reserve) based on the title companies domestic state's requirements. It eliminates the need for non-domestic companies to file a "Special Title Insurance Exhibit" showing the unearned premium reserve based on Kansas requirements. It reduces the administrative time of the title company and the Department regarding the preparation and review of the "Special Title Insurance Exhibit."

The Insurance Department supports this legislation in an effort to eliminate a redundant regulatory burden for title companies wishing to enter the state. We feel this legislation will encourage more title companies to enter our marketplace, thus creating more competition. More competition means a cheaper and better product for Kansans.

Thank you for the opportunity to appear today and I would be happy to answer any questions.

John Meetz
Government Affairs Liaison

House Insurance
Date: 2-19-08
Attachment # 4

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