

Approved: March 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 March 13, 2008 in Room 527-S of the Capitol.

All members were present except:

Representative Tom Burroughs- 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 Assistant

Conferees appearing before the committee:

Senator James Barnett, District #17

Representative Delia Garcia, District #103

Representative Dale Swenson, District #97

James J. Hamilton, Jr., MD, Tallgrass General & Vascular Surgery

Justin Cessna, Self

Andy Allison, Kansas Health Policy Authority

Ron Gaches, Kansas Association of Financial Services

John Meetz, Kansas Insurance Department

Others attending:

See attached list.

Hearing on:

**SB 511 Study on bariatric surgery by the Kansas Health Policy Authority; necessity and effect of bariatric surgery for morbidly obese, impact on health insurance and cost**

Proponents:

Senator James Barnett, District #17, (Attachment #1), presented testimony before the committee in support of **SB 511**.

Melissa Calderwood, Legislative Research Department, provided a brief overview on **SB 511**.

Representative Delia Garcia, District #103, (Attachment #2), gave testimony before the committee in support of **SB 511**.

Representative Dale Swenson, District #97, (Attachment #3), appeared before the committee in support of **SB 511**.

James J. Hamilton, Jr., MD, Tallgrass General & Vascular Surgery, (Attachment #4), presented testimony before the committee in support of **SB 511**.

Justin Cessna, Self, (Attachment #5), gave testimony before the committee in support of **SB 511**.

Cynthia Smith, Sisters of Charity of Leavenworth Health System, (Attachment #6), presented written testimony in support of **SB 511**.

Larrie Ann Lower, Kansas Association of Health Plans, (Attachment #7), presented written testimony in support of **SB 511**.

CONTINUATION SHEET

MINUTES OF THE House Insurance and Financial Institutions Committee at 3:30 P.M. on March 13, 2008 in Room 527-S of the Capitol.

Neutral:

Andy Allison, Kansas Health Policy Authority, (Attachment #8), appeared before the committee as neutral to **SB 511**.

Hearing closed on **SB 511**.

Hearing on:

**SB 561**      **Removal of maximum coverage limitation on creditor/debtor group life insurance**

Melissa Calderwood, Legislative Research Department, provided a brief overview on **SB 561**.

Proponents:

Ron Gaches, Kansas Association of Financial Services, (Attachment #9), presented testimony before the committee in support of **SB 561**.

John Meetz, Kansas Insurance Department, (Attachment #10), gave testimony before the committee in support of **SB 561**.

Hearing closed on **SB 561**.

Representative Grant moved without objection to accept the minutes of March 12, 2008.

Next meeting will be Tuesday, March 18, 2008, 3:30 PM, in room 527-S.

Meeting adjourned.



**JIM BARNETT**  
 SENATOR, 17TH DISTRICT  
 CHASE, COFFEY, GREENWOOD  
 LYON, MARION, MORRIS, AND OSAGE  
 COUNTIES



TOPEKA  
 SENATE CHAMBER

COMMITTEE ASSIGNMENTS  
 CHAIR: SENATE PRESIDENTS TASK FORCE ON  
 HEALTH CARE  
 CHAIR: PUBLIC HEALTH AND WELFARE  
 CHAIR: KANSAS HEALTH POLICY AUTHORITY  
 OVERSIGHT COMMITTEE  
 MEMBER: FINANCIAL INSTITUTIONS AND  
 INSURANCE  
 HEALTH CARE STABILIZATION FUND  
 ORGANIZATION, CALENDAR AND RULES  
 FEDERAL AND STATE AFFAIRS

TESTIMONY FOR HOUSE COMMITTEE  
 ON INSURANCE AND FINANCIAL INSTITUTIONS

SENATOR JAMES BARNETT

March 13, 2008

**SB 511 - Study on bariatric surgery by the Kansas health policy authority; necessity and effect of bariatric surgery for the morbidly obese, impact on health insurance and cost analysis.**

Chairman Schultz and other distinguished members of the Committee, thank you for the opportunity to speak in support of Senate Bill 511.

Last summer, I was contacted by Justin Cessna, Wichita, Kansas. Justin suffers from morbid obesity and multiple complications including sleep apnea syndrome, congestive heart failure, and diabetes. His physicians have advised that his only hope for long-term survival is bariatric surgery. Despite being employed and insured, he lacks insurance coverage for the procedure.

Mr. Cessna has asked for the Kansas legislature to assist him with this matter. Successful passage of SB 511 would require a study by the Kansas Health Policy Authority regarding the risks and benefits of bariatric surgery. It would also carefully evaluate those patients who have indications for the surgery as well as those surgeons who should perform the surgery. When these procedures are performed in Centers of Excellence, the mortality rate is less than .3%. Recent studies from the New England Journal of Medicine and Journal of the American Medical Association have demonstrated long-term cost savings and a 73% cure rate of Type 2 diabetes from bariatric surgery.

Thank you for the opportunity to speak in support of this bill. I request your careful consideration and passage of SB 511.

House Insurance  
 Date: 3-13-08  
 Attachment # 1

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TOPEKA

HOUSE OF  
 REPRESENTATIVES

COMMITTEE ASSIGNMENTS  
 COMMERCE AND LABOR  
 HEALTH AND HUMAN SERVICES  
 JUDICIARY

## House Insurance and Financial Institutions Committee

### Testimony in Support of SB 511

March 13, 2008

Mr. Chairman Shultz and Members of the Committee,

I appear today in support of SB 511 that mandates the KHPA study bariatric surgery for the morbidly obese, as well as requiring the Kansas Insurance Department and KHPA conduct a study on the impact of extending coverage for bariatric surgery to the state employee health plan, and also affordability of coverage in small employer group insurance for the high risk pool, and possibilities of reinsurance.

For those of you on this committee who do not know, I myself have lost approximately 66 pounds since July 27, 2007 when I began my weight management program at Health Strategies in Wichita [www.lifestylestrategies.biz](http://www.lifestylestrategies.biz). I was given the choice to either choose a surgery (gastric bypass) or the natural way. I chose the natural way and am so glad I did. I researched and interviewed persons who got the surgery, including my cousin. I have heard both the good and bad about the surgery, but mostly painful things about the surgery. This is what lead me to choose the natural weight management program!

I am truly excited about the PROCESS I am experiencing & my continuous formation through my choices of action! I am taking responsibility and control of my health, which is positively effecting the rest of my life as I environmentally engineer my lifestyle change. This time my weight loss program is equipping me with the necessary knowledge, skills, and strategies to help me achieve this goal and MAINTAIN for life, because I now know that 'the way we live our lives' is the main factor for obesity prevention. I love cooking with the top 5 ingredients of garlic, tomatoes, olive oil, spinach (which I didn't used to), and almonds. I have learned & now lived the experience of the difference of "satiety" and "fullness." This journey of my lifestyle change is taking me from one identity to another, and yes it has made me feel a bit disoriented, but I am embracing it because I know it is all part of the PROCESS. The transition is the toughest part, but I know I have to keep going if I want to achieve my goal. I've gone to unconscious decisions (like most Americans) to now conscious decisions; from NO structure or meal plan, to a structured & a real meal plan; from little/no exercise, to @ 4,000 calories burned physical activity/wk; from not counting calories or recording them, to counting them and recording them. Music & reviewing my past week's successes that I write on paper is what keeps me going and focused on improving my quality of life!

As the Committee debates the impact and benefits of SB 511, I would ask you also consider including my bill I co-sponsored that is on the same track, HB 2864 (enclosed copy attached).

House Insurance  
 Date: 3-13-08  
 Attachment # 2

I would like to see my bill passed, but if it were studied as part of the mandate of SB 511, that would be a good first step in working towards coverage of treatments for obesity. I would like to request that you expand the scope of SB 511 to include medically necessary treatments, and not just bariatric surgery.

The cost of my program is about \$100 per month for a weekly one hour class where I weigh in at the beginning and record it. I also have my own coach which I meet with once a week and communicate via email as well. Part of the program also includes vitamin-mineral shakes with high protein that are \$30 per box of 15 shake packets, which I use about one box per week, in addition to my fruits and vegetables. My insurance does not cover this. I even checked to see if it would cover part, and it did not. It did cover a small portion of my blood test work that I had to do in the beginning in order to begin this program as it is medically supervised by my doctor.

There are many treatments that the medical community believes are effective for obesity, and I believe our legislature should not drive medical decisions that should be made by doctors based on the needs of individual patients like myself.

The public health goal is to reduce obesity, then information about the costs and benefits of all medically necessary treatments should be examined and not be limited to bariatric surgery, which is not suitable for everyone, including children.

I welcome your thoughtful consideration of how this legislation will impact the health & welfare of all Kansans, and essentially save money in the long run especially because this epidemic of obesity leads to diabetes, heart disease, and other costly health problems.

I feel good inside, and have my blood test results to prove how my cholesterol has dropped significantly, as well as my blood pressure and lipids. I fit in clothes that I hadn't in a while. I have more energy. I feel more beautiful. I am being challenged right now during session, but just maintaining and continuing as much as physical activity and healthy snack choices until our legislative session is over. I know I can do it, and plan to continue as a lifestyle. I want to enable other Kansas to lose/ manage their weight too.

I would be glad to stand for questions at the appropriate time.

Thank You.

Delia Garcia  
House of Representatives, 103<sup>rd</sup> District

## HOUSE BILL No. 2864

By Representatives Swenson and Garcia

2-13

9 AN ACT concerning insurance; relating to mandated health benefits;  
10 providing coverage for treatment of morbid obesity; amending K.S.A.  
11 2007 Supp. 40-2,103 and 40-19c09 and repealing the existing sections;  
12 also repealing K.S.A. 40-2248, 40-2249 and 40-2249a.  
13

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

15 New Section 1. (a) Any individual or group health insurance policy,  
16 medical service plan, contract, hospital service corporation contract, hos-  
17 pital and medical service corporation contract, fraternal benefit society  
18 or health maintenance organization, municipal group-funded pool and the  
19 state employee health care benefits plan which provides coverage for  
20 hospital, medical and surgical services, other than medicare supplement  
21 or accident-only policies which are delivered, issued for delivery,  
22 amended or renewed on or after July 1, 2008, shall include coverage for  
23 services related to diagnosis and treatment of morbid obesity through  
24 gastric bypass surgery or such other methods as may be recognized by  
25 the national institutes of health as effective for long-term reversal of mor-  
26 bid obesity. Such policy, provision, contract, plan or agreement may apply  
27 to such services the same deductibles, coinsurance and other limitations  
28 as apply to other covered services.

29 (b) The provisions of this section shall not apply to any policy or  
30 certificate which provides coverage for any specified disease, specified  
31 accident or accident only coverage, credit, dental, disability income, hos-  
32 pital indemnity, long-term care insurance as defined by K.S.A. 40-2227  
33 and amendments thereto, vision care or any other limited supplemental  
34 benefit nor to any medicare supplement policy of insurance as defined  
35 by the commissioner of insurance by rule and regulation, any coverage  
36 issued as a supplement to liability insurance, workers compensation or  
37 similar insurance, automobile medical-payment insurance or any insur-  
38 ance under which benefits are payable with or without regard to fault,  
39 whether written on a group, blanket or individual basis.

40 (c) As used in this section "morbid obesity" means:

41 (1) A body mass index (BMI) equal to or greater than 35 kilograms  
42 per meter squared with comorbidity or coexisting medical conditions such  
43 as hypertension, cardiopulmonary conditions, sleep apnea or diabetes; or

1 (2) a BMI of 40 kilograms per meter squared without such  
2 comorbidity.

3 As used herein, BMI equals weight in kilograms divided by height in  
4 meters squared.

5 Sec. 2. K.S.A. 2007 Supp. 40-2,103 is hereby amended to read as  
6 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-  
7 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,  
8 inclusive, 40-2250, K.S.A. 2007 Supp. 40-2,105a ~~and~~, 40-2,105b *and sec-*  
9 *tion 1*, and amendments thereto, shall apply to all insurance policies,  
10 subscriber contracts or certificates of insurance delivered, renewed or  
11 issued for delivery within or outside of this state or used within this state  
12 by or for an individual who resides or is employed in this state.

13 Sec. 3. K.S.A. 2007 Supp. 40-19c09 is hereby amended to read as  
14 follows: 40-19c09. (a) Corporations organized under the nonprofit med-  
15 ical and hospital service corporation act shall be subject to the provisions  
16 of the Kansas general corporation code, articles 60 to 74, inclusive, of  
17 chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit cor-  
18 porations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-  
19 219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-  
20 235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252,  
21 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-  
22 2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through  
23 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-  
24 2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-  
25 2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-  
26 3301 to 40-3313, inclusive, K.S.A. 2007 Supp. 40-2,105a ~~and~~, 40-2,105b  
27 *and section 1*, and amendments thereto, except as the context otherwise  
28 requires, and shall not be subject to any other provisions of the insurance  
29 code except as expressly provided in this act.

30 (b) No policy, agreement, contract or certificate issued by a corpo-  
31 ration to which this section applies shall contain a provision which ex-  
32 cludes, limits or otherwise restricts coverage because medicaid benefits  
33 as permitted by title XIX of the social security act of 1965 are or may be  
34 available for the same accident or illness.

35 (c) Violation of subsection (b) shall be subject to the penalties pre-  
36 scribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

37 Sec. 4. K.S.A. 40-2248, 40-2249 and 40-2249a and K.S.A. 2007 Supp.  
38 40-2,103 and 40-19c09 are hereby repealed.

39 Sec. 5. This act shall take effect and be in force from and after its  
40 publication in the statute book.





## Wichita Eagle, The (KS)

2007-11-06

Section: WICHITALK

Edition: MAIN

Page: 8D

### 100 POUNDS DOWN AND COUNTING

MEET THREE PEOPLE WHO PROVE IT'S POSSIBLE TO FIGHT BACK IN THE BATTLE  
*KAREN SHIDELER H THE WICHITA EAGLE*

Obesity is an epidemic. Losing **weight** is the cure. But that can be such a challenge, whether you have 5 pounds to lose or 50. Two have lost more than 100 pounds each. The third is more than halfway to her goal of doing the same. Let them be your inspi

Sharice Miller grew up eating right, "for the most part. I was a healthy child. I wasn't an overweight child, but I wasn't thin."

But with her first pregnancy, with twins, she gained **weight** that she never entirely got rid of. With her second pregnancy, she g postpartum cardiomyopathy -"My heart is enlarged." Two more babies pushed her **weight** even higher.

Then, she happened to see herself reflected in a building's window on her way to vote. "I was like, 'Wow. I am so big!' " she ren pounds but isn't sure how much more. And she decided to do something about it.

Miller, 31, is working at the Cerebral Palsy Research Foundation now, but she wasn't working at the time and was able to devo the job," she says.

She went online for diet advice, though she says, "I knew what to do. I just hadn't done it."

She started counting calories, aiming for 1,500 a day. She started drinking "lots of water," and she started exercising, building t

She ate more fruits and vegetables and measured portions. She didn't seek her doctors' advice: "I was embarrassed because I "and they have all applauded me." In fact, she says, her cardiologist told her she no longer has heart disease and, having lost once took.

Miller is a YMCA member and takes core and water aerobics classes there, along with doing strength training. She also walks : good or inside when it isn't.

How does she find time to exercise 90 minutes a day, four or five days a week, with a job and five children? She'll go before the

"I make time," she says. "I don't use that as an excuse."

#### Miller's tips

1. Learn portion control. Eat as many fruit and vegetable servings each day as you should.
2. Drink lots of water.
3. Need a snack? Grab a banana or some grapes.
4. Exercise. Take a walk after dinner.

**Delia Garcia**

**Delia Garcia** is more than halfway to her goal of losing 103 pounds.

It's the second time off for much of the **weight** - she lost 80 pounds on her own three years ago but, like so many people, didn't she gained more.

This time, **Garcia** opted for an organized approach that includes learning to keep the **weight** off.

Since July 27, **Garcia** has lost 60 pounds through the Lifestyle Strategies **weight**-loss program at Health Strategies. For the first she also has fruits and vegetables.

Weekly, she weighs in and attends a class in which she learns how to cook, how to count calories and how much exercise she

The exercise, **Garcia** says, is "the exciting, fun part." She is supposed to burn at least 2,800 calories through exercise each week. She does cardio almost every day and **weight** training every other day.

She also keeps a **weight**-loss notebook, documenting what she eats, what she learns, how she exercises. Journaling is a method maintenance.

**Garcia**, who is 30, works at Connie's Mexico Cafe, which her mother owns, and she is a frequent traveler, as a consultant and which explains her **weight** loss goal).

But she has learned to stick to her eating plan. At Connie's, she keeps her blender in the restaurant kitchen to make her meal. "I just put it out there up-front" that she's watching what she eats.

#### **Garcia's tips**

1. Eat every three to four hours.
2. Drink lots of water.
3. Exercise regularly.
4. Document everything.

#### **Nate Scott**

Nate Scott had been heavy all his life but didn't realize how heavy he'd gotten - "I avoided scales" - until a cold sent him to the doctor.

He and his wife, Amy, had treated themselves to a YMCA membership but hadn't really used it much. After the doctor's visit, Scott Aerospace, signed up for his free sessions with a personal trainer.

"I started out slowly," he said, with 20 minutes of cardio. He worked up to an hour of cardio each day, plus 30 minutes of **weight**

Scott, who is 29, also started counting calories, aiming for 1,200 a day. He allowed himself one "free meal" each week.

He and his wife had tried to change their eating habits before. "It'd last for a month and then we'd be back to our old habits." They ground beef, chicken in place of red meat, fruit or 100-calorie snack packs instead of sweets.

And now he weighs 190 pounds.

Scott says a fitness challenge at work provided the continued motivation he needed. It started in May and went through the summer second place.

Now, Scott still watches what he eats, though not on weekends. His exercise is as likely to come from playing - mountain biking

"I do definitely have a lot more energy now," he says. "And I have a lot more self-esteem now, too . . . and I just feel a lot better

"When you're hauling around a lot of **weight** like that, it's rough on you."

HOUSE OF  
REPRESENTATIVES

REPRESENTATIVE, DISTRICT 97

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**DALE A. SWENSON**

COMMITTEE ASSIGNMENTS

FEDERAL & STATE AFFAIRS  
GOVERNMENT EFFICIENCY &  
TECHNOLOGY

March 13, 2008

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

I am here today to express my support for SB 511, and to request that the Committee consider additional amendments that will make the bill even more effective in addressing the problems of obesity and access to obesity treatments in Kansas.

Obesity in the United States has been on the rise since the 1970s. One of our national health goals is to reduce the rate of obesity to less than 15% of adults by 2010. However, statistics indicate that instead of decreasing, the rate of obesity in adults is increasing.

In children and teens the increase in obesity is startling. According to the National Health and Nutrition Examination Surveys (NHANES), the prevalence of obesity in children ages 2-5 years increased from 5.0% to 13.9%; for those aged 6-11 years, prevalence increased from 6.5% to 18.8%; and for those aged 12-19 years, prevalence increased from 5.0% to 17.4%.

Obesity increases the risk of other diseases, including the following:

- Hypertension (high blood pressure)
- Osteoarthritis (a degeneration of cartilage and its underlying bone within a joint)
- Dyslipidemia (for example, high total cholesterol or high levels of triglycerides)
- Type 2 diabetes
- Coronary heart disease
- Stroke
- Gallbladder disease
- Sleep apnea and respiratory problems
- Some cancers (endometrial, breast, and colon)

House Insurance  
Date: 3-13-08  
Attachment # 3

SB 511 is a good step in starting the conversation on how to address the public health problem of obesity and related health complications. I respectfully request that the Committee make the following amendments:

1. **Add the provisions HB 2864.** HB 2864, co-sponsored by Rep. Delia Garcia and me, assures that insured Kansans with morbid obesity have access to treatment. The bill mandates coverage for services related to the diagnosis and treatment of morbid obesity, as long as treatments are recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity. Currently such treatments are not covered in most health insurance policies. We believe any cost increases associated with covering obesity treatments would be more than offset by the decrease in costs associated with treating conditions such as those listed above. Such conditions are often alleviated when morbid obesity is treated effectively.
2. **Expand the scope of the study required in SB 511 to include not only bariatric surgery, but all treatments that are recognized by the National Institutes of Health as effective for the long-term reversal of morbid obesity.** The Legislature should not be practicing medicine. There are many treatments that the medical community recognizes as effective in treating obesity—not just bariatric surgery. To assure that the Legislature has appropriate information to make sound health policy decisions, we must expand the scope of the study to include additional obesity treatments found to be effective.

Thank you for the opportunity to speak on this important issue. I ask your support for SB 511 with the inclusion of my amendments.

Sincerely,

Dale Swenson, Representative

District 97

State of Kansas

## House Hearing on Bariatric (Weight Loss) Surgery

- Obesity is a disease!
  - Genetic factors
  - Cultural factors
  - Environmental factors
  - Behavioral factors
- Obesity is not:
  - A character flaw
    - Obese patients have the same psychiatric profiles as the overall population
  - A lack of willpower
    - Obese patients are frequently highly successful dieters, but lack the auto-regulation to maintain weight.
- Failure to recognize obesity as a disease will lead to failure in our efforts to combat the societal epidemic of this disease.
- Diets don't work in the long term.
  - There is little data to support that dieting can sustain significant weight loss for more than 15% of patients for longer than 18 months.
  - If diets were pharmaceuticals, the FDA would not approve them because they are about as effective as the placebos in most pharmaceutical trials.
- Surgery is a safe, highly efficacious, cost effective treatment for obesity in educated, highly motivated, psychologically stable patients.
  - Bariatric Surgery reduces:
    - Cardiovascular mortality by 56%
    - Diabetes mortality by 92%
    - Cancer mortality by 60%
    - Overall mortality by 40%
      - Adams, et al. U. of Utah, NEJM
    - Swedish Study
    - 10 year follow-up 29% reduction in deaths from all causes
      - Sjostrom et al. Gothenburg University, Sweden, NEJM
  - Bariatric Surgery cures type II diabetes in 70% of patients!
    - Weight loss surgery more effective than standard therapy in treating type II diabetes
      - 70% remission with surgery, vs 13% with medical therapy
      - "The insights already beginning to be gained by studying surgical interventions for diabetes may be the most profound since the discovery of insulin." JAMA, Jan 2008
  - Bariatric surgery is cost-effective
  - Bariatric surgery is now a covered benefit for qualified Medicare recipients when surgery is performed at Bariatric Centers of Excellence
- Barriers to treatment
  - Societal bias against the obese
  - Failure of government and insurance to recognize obesity as a disease
  - Lack of insurance coverage for treatment, especially for bariatric surgery
- Personal Comments

- Laparoscopic Roux-en-Y gastric bypass in August 2005
- Lost 80 lbs
- No longer hypertensive, no longer have metabolic syndrome, no longer have sleep apnea (required CPAP before surgery)
- Now climb mountains and have a new life!
- Paid \$20000.00 in cash as my insurance (BCBS of KS) does not cover weight loss surgery.
  - BCBS of KS refused to write a policy at any price to cover this surgery as a benefit to our employees when we requested them to do so.
  - BCBS of KS has failed as a Medicare intermediary and as an intermediary for other BCBS plans in processing claims for bariatric surgery for those who have it as a covered benefit.
- Bariatric surgery
  - Is best performed in a comprehensive program which often includes
    - Pre-operative screening and education
    - Operative excellence with experienced surgeons who perform laparoscopic and open procedures tailored to patient needs
    - Designation as a Bariatric Center of Excellence by the SRC or the American College of Surgeons
    - Long term post operative follow-up to maintain weight loss and prevent nutritional deficits

Justin Cessna  
1539 W. 30<sup>th</sup> CT. N.  
Wichita, KS. 67203  
(316) 821-9943

Testimony before the House Insurance and Finance Committee

3/13/2008

I would like to begin by thanking the Honorable members of the House Insurance and Finance Committee for allowing me to testify at this hearing. My name is Justin Cessna I am a 44 year old proud life long Kansan born and raised in McPherson and now reside in Wichita. I have been married to the love of my life (Karen) 24 years this April. Together we have three children and two grandkids that have become the greatest joy of my life. I am also proud to have served my country as veteran of the United States Air Force.

In my late 20's I began my struggle with obesity, a genetic trait prevalent in my extended family. Over the years I have done everything I can to aggressively treat my obese medical condition with diets, exercise and weight loss related medicines using physicians, dietitians, counselors, and personal trainers with only marginal success over the last 18 years.

Eight years ago I started to seriously investigate the Lap Band surgical procedure, which is a minimally invasive bariatric weight loss surgery with outstanding results. I did this because exercise was becoming harder due to pain from arthritis. After all my efforts I was getting no beneficial results. At that time my weight ranged from 320 to 380 pounds at its highest point. I was a diabetic with poor control; I had high blood pressure and high cholesterol. All serious health risks

I contacted my companies' health insurance provider at the time to inquire about this surgery. They told me that they do not pay for this surgery explaining to me that they have a "written exclusion" in their policy's that states they will not pay for weight loss related medical procedures. I was discouraged but continued to fight my weight problem with my physician's help who had me on a low carb diet. When this diet failed with nominal results I began to rapidly regain the weight, which is a very common result of ending restrictive diets, only this time my weight climbing to over the 400 pound and my obesity related health problems began to quickly worsen.

Seeing the deteriorating state I was in my Primary Care Physician Dr. Brooks then wrote a Letter of Medical Necessity to my insurance company and I saw a Bariatric surgeon in Overland Park, KS who preformed Lap Band weight loss surgeries. I sent in the letters from both doctors to Blue Cross Blue Shield for approval to resolve my increasingly dire co-morbid medical conditions.

Blue Cross Blue Shield of Kansas denied benefits despite my Doctor's Letters of Medical Necessity for the same reasoning stating that their policy's have a written exclusion for this type of procedure regardless of medical necessity. I appealed and also wrote at that time to the Governor of Kansas and Insurance Commissioner. In a letter sent to the Insurance Commissioner office, Linda Liggett of Blue Cross Blue Shield of Kansas stated that "It is the position of BCBS, based on medical studies that there are no long term outcome studies showing that any of the current obesity treatments are permanent. This was an astonishingly statement. My first thought after reading this statement was; "permanent! So if I have cancer you would not treat me because the cancer could come back?" I know they don't use this argument for any other life threatening medical conditions so why are they allowed to discriminate against people who are morbidly obese.

House Insurance  
Date: 3-13-08  
Attachment # 5

In June of 2007 after my weight climbed to an astounding 430 pounds due in part to diabetic medication which causes weight gain I suffered the devastating condition of **Congestive Heart Failure**. My Cardiologist (Dr. Ashcom) and Diabetic Physician (Dr. Bloom) tell me that without serious weight loss my life will be significantly shortened and they both agree that Lap band surgery is the only medical option left. With a five year mortality rate for Congestive Heart Failure at 25%, and me being at the highest risk because of the weight, Dr. Bloom tried to convince Blue Cross Blue Shield of Kansas that this surgery is a matter of life and death in a letter written 8/13/07. Again Blue Cross Blue Shield of Kansas denied benefits.

**I CAN NOT FOR THE LIFE OF ME UNDERSTAND HOW IS THIS POSSIBLE?** I now have the following Medical Co-Morbid conditions related to my Morbid Obesity: Congestive Heart Failure, uncontrolled Type II diabetes, High Blood Pressure, Depression, Obstructive Sleep Apnea, Osteoarthritis, High Cholesterol, Acid Reflux Disease and Nocturnal Hypoxia. I take 10 different prescriptions and use a CPAP Machine for the Obstructive Sleep Apnea. I am in constant pain; I feel hopeless, scared, mad and hurt that after working and paying into health insurance since I was 18 years old now that I have a life or death illness My Health insurance company BCBS will not pay for the surgical treatment that will save my life. Treatment Dr. Bloom wanted me to point out they (meaning the Doctors who have treated me and written the Medical Necessity letters) do not financially benefit from.

My Type II Diabetic is poorly controlled. Congestive Heart Failure will continue to weaken my heart to the point that the only option will be a heart transplant in which I would not be a candidate because of my obesity. I am constantly afraid I will wind up disabled unnecessarily so for lack of a simple surgery. I underwent an MRI just last week because I could not walk for three days due to agonizing hip pain. X rays taken at my doctors' office showed the arthritics in my hip joint to be bone on bone.

A Rand Corp. study published in the 2004 journal Health Affairs found the number of people age 30-49 who could not care for themselves or do other routine tasks increased by more than half from 1984 to 2000 due to the rise in obesity. I pride myself on being a productive member of society. To become disabled and a burden on the state would be devastating to me. It is unbelievable that in 2008 insurance companies are allowed to discriminate against the obese.

In the last twelve months Blue Cross Blue Shield has paid \$11,200 (their cost) in medicine alone and another 12,235 (their cost) in hospital and doctor bills. That is an astonishing \$23,435.00 all together. This year alone would have more than paid for the surgery and had they approved the lap band surgery when I requested it to begin with I wouldn't have had to suffer Congestive Heart Failure. Yet BCBS is more than willing to put out this amount of money year after year. This makes absolutely no sense at all.

I turn to you because I and many others need help and fast! I am desperate! I do not want to die prematurely. I want to live and see my grandkids grow up. My family is distraught and I hate to watch them suffer because of my completely reversible health problems. A study from the Baritric edge which is a Johnson and Johnson Company shows that after bariatric surgery a 76.8% complete resolution in type II diabetes and 86 % total found improvement or resolution, 92% Resolution of High Blood Pressure, 93% improvement in cholesterol, 90% resolution in arthritis, 85.7% resolution in sleep Apnea, and 98% resolution in Acid Reflux.

I hope you will be able to help the dilemma of the morbid obese with common sense legislation. If you need any other information please do not hesitate to ask. I look forward to hearing from you and I thank you for your time.



**Written Testimony on Senate Bill 511**  
*Study on Bariatric Surgery for the Morbidly Obese  
and its effect on medical expenses and health care insurance*

The Sisters of Charity of Leavenworth religious community was founded in 1858 by Mother Xavier Ross and the early Sisters responding to a call for health and social services in the ranching and mining communities throughout the Western states. From such humble origins, these committed women built the **SCL Health System**, which is made up of nine hospitals and four stand-alone clinics located in the states of Kansas, California, Colorado, Montana and California.

SCL Health System operates three hospitals in Kansas – **St. Francis Health Center in Topeka, Providence Medical Center in Kansas City, Kansas, and Saint John Hospital in Leavenworth** – as well as three safety net clinics.

**SCL Health System strongly supports Senate Bill 511.**

Attached is a letter from Michael E. Schrader, CEO of St. Francis Health Center in Topeka, to Senator Barnett, chair of the, provided to the Senate Public Health and Welfare Committee in January during an informational hearing on the subject of the benefits of bariatric surgery. **St. Francis Health Center is an ABMBS Center of Excellence for Bariatric Surgery.** St. Francis Health Center and SCL Health System believe a study of bariatric surgery is warranted and will demonstrate that improving access to this procedure through government (Medicaid) and private insurance coverage would be cost effective and improve the quality of life of patients who suffer from obesity and related illnesses.

*Respectfully submitted,*  
*Cynthia Smith*  
*Advocacy Counsel*

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# St. Francis Health Center

*Sisters of Charity of Leavenworth Health System*

*Office of the President/CEO*

January 17, 2008

Senator James Barnett, Chairman  
Senate Public Health and Welfare Committee  
State Capitol Building  
Topeka, Kansas 66612

Dear Senator Barnett:

St. Francis Health Center and Tallgrass Surgical Specialists have been working diligently over the past two-plus years to establish a Center of Excellence for Bariatric Surgery. Our efforts were rewarded this past April, when St. Francis Health Center and Tallgrass Surgical Specialists were approved by the American Society of Metabolic and Bariatric Surgery (ASMBS) to be recognized as an ASMBS Center of Excellence.

St. Francis Health Center's support of bariatric surgery is based on the outcomes research that has been conducted on the beneficial results of this surgery. This research, coupled with the current knowledge that obesity is a pathway to multiple chronic illnesses, and premature death, brings us to our position of support for bariatric surgery. Annual costs of medical care are 37% higher for obese patients than for those of normal weight. Obese individuals spend 77% more on medications than do people of normal weight.<sup>1</sup> Clearly an increase in the patient's quality of life with the added benefit of lower overall health care costs, are compelling reasons to support the inclusion of bariatric surgery in any array of covered health care services.


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<sup>1</sup> Finkelstein, EA, Fiebelkorn IC, Wang G. National Medical spending attributable to overweight and obesity: How much, and who's paying? Health Affairs Web Exclusive. 2003; W3:219-226.

Senator James Barnett  
January 17, 2008  
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St. Francis Health Center supports an open dialogue concerning the efficacy of bariatric surgery; the cost benefit to the patient and the community; and most importantly, the increased quality of life and productivity experienced by the recipients.

Sincerely,



Michael E. Schrader  
President/CEO

Larrie Ann Lower  
Attorney at Law  
212 SW Eighth Avenue Suite 201  
Topeka, KS 66603  
785-640-2747  
larrie\_ann@yahoo.com

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Written testimony before the House Insurance and Financial Institutions Committee

SB 511

Kansas Association of Health Plans

March 13, 2008

Mister Chair and members of the Committee. Thank you for allowing me to submit written testimony before you 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 also serve the Kansans enrolled in HealthWave and Medicaid managed care and also many of the Kansans enrolled in PPO's and self insured plans. We appreciate the opportunity to provide comment on SB 511 which requests a study on the issue of obesity, the potential cost impact should the state provide coverage of bariatric surgery to the state employees and the affordability of this coverage in the small employer group market.

As most of you know many times each year, the KAHP stands before you in opposition to bills requesting that insurance companies be mandated to cover certain benefits. These requests range from wigs for cancer patients, hearing aids for children and nutritional supplements to clinical trials and mental health to name only a very few. The proponents generally have real stories of financial struggles resulting from a decision by an insurance company or employer not to provide coverage for certain procedures or items. Testifying on these issues is never easy and usually controversial, however, we must continue to express the concerns we have for our customers about the potential for rising premiums due to these requests for additional coverage. In the past, KAHP consistently testifies in opposition to the proposed mandate, but caveats the potential passage of mandates with a request that the proponents meet certain requirements set out in statute designed to protect consumers from potential cost increases. SB 511 does just that and we commend Sen. Barnett and the proponents for following these valuable protections. One statute requires a cost impact report be performed prior to the legislature considering a mandate bill (KSA 40-2248). A second requires the testing of any new mandate first on the state employees' health plan in order to

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help determine its cost impact, commonly called the "test track" legislation (KSA 40-2249a). Each mandate has some merit. One particular mandate may not have significant cost increases associated with it for one reason or another, however taken together mandates add to the cost of health insurance premiums. The cost impact study and the test track legislation provide safety valves to help protect your constituents and our policyholders from unnecessary state mandates.

Again thank you for allowing us to submit these comments and I'll be happy to answer any questions you may have.



## House Insurance & Financial Institutions Committee: SB 511 – Study on Coverage for Bariatric Surgery

March 13, 2008

Andrew Allison, PhD  
Deputy Director  
Kansas Health Policy Authority

1

## History

- Prior to Plan Year 2008, all treatment for obesity was excluded from coverage under the State Employee Health Plan (SEHP)
- Medicaid reimbursed for weight-loss medications but excluded coverage for bariatric surgery
- The Health Care Commission (HCC) considered coverage for bariatric surgery in 2006
- KHPA engaged in Statewide Health Reform initiative in 2007 and 2008 emphasizing prevention and wellness
- Consistent with KHPA initiatives in the area of prevention and wellness, HCC decided to cover preventive and non-invasive obesity treatments for 2008 under SEHP

2

## Health Care Commission Review of Bariatric Surgery in 2006

- Findings:
  - Preventive, non-invasive treatment not covered at that time
  - Relatively high incidence of complications and even death
  - Morbidity and mortality vary considerably with experience of surgeon and hospital
  - No Centers of Excellence in Kansas
  - Long-term cost-effectiveness not yet demonstrated

3

## Health Care Commission Review of Bariatric Surgery in 2006

- KHPA Staff Recommendations for State Employee Health Plan (SEHP):
  - Educate consumers on available options for promoting wellness and addressing weight problems
  - Review SEHP plans for 2008 to examine possible expansion in preventive benefits
  - Review HealthQuest program to consider initiatives in the following areas:
    - Physician-supervised weight management
    - Behavior modification
    - Healthy eating
    - Exercise
  - SEHP and Medicaid Staff review of bariatric surgery exclusion
    - Retain exclusion of bariatric surgery

4

## KHPA Health Reform Recommendations

- Health Reform Goals:
  - Promote personal responsibility to embrace healthy behaviors
  - Emphasize value of preventive care
  - Emphasize benefits of medical homes in caring for chronic diseases
- Targeted Risk Factors:
  - Behaviors & Disease:
    - Tobacco Use
    - Obesity
    - Chronic Diseases
  - Populations:
    - Families
    - Communities
    - Schools
    - Workplaces

5

## State Employee Health Plan Changes in 2008

- Provide coverage for non-surgical treatment of obesity
- Expanded coverage for consultation with a dietitian
  - Coverage not limited to diabetics
- Added coverage for prescription weight loss medications

6



## HealthQuest for 2008

- Healthy Lifestyle Programs Includes:
  - Healthy eating and weight management information
  - Health coaches to provide ongoing support
  - Teleclass: Healthy Weight
  - Online class and tools

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## Medicaid

- Continues to provide reimbursement for prescription weight-loss medications with prior authorization
- Provides for reimbursement for medical nutrition therapy for children under the KanBeHealthy program

8

## New Developments

- Kansas now has two Centers of Excellence for bariatric surgery as designated by the American Society for Bariatric Surgery
- Centers for Medicare & Medicaid Services (CMS) has 3 certified centers in Kansas to provide bariatric services to Medicare beneficiaries
  - Limited geographic area
- Continued increase in insurance coverage and prevalence of bariatric surgery
- Explosion in research
  - Emerging evidence of the positive health impact for the extremely obese
  - Continued advancement in procedures and knowledge of quality indicators

9

## Additional Considerations

- Estimated cost of coverage for the State Employee Health Plan:
  - As much as \$13 Million annually
- Additional costs of coverage in Medicaid
- Costs will depend on pre-certification requirements

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## Summary

- Recognized Problem:
  - Obesity and overweight epidemic in U.S. and in Kansas
  - Increasing costs for chronic diseases due to overweight and obesity
- KHPA Health Reform Recommendations:
  - Emphasize value of preventive care
  - Emphasize benefits of medical homes in caring for chronic diseases
    - Smoking
    - Overweight and obesity
- KHPA Policies for Coverage of Obesity
  - Changes have been made to State Employee Health Plan, and are proposed in Medicaid, to emphasize prevention and treatment for high-cost conditions such as overweight and obesity
  - New evidence supporting potential value of bariatric surgery merits consideration

11



<http://www.khpa.ks.gov/>

12



# GACHES, BRADEN, BARBEE & ASSOCIATES

Public Affairs & Association Management

825 S. Kansas Avenue, Suite 500 ♦ Topeka, Kansas 66612 ♦ Phone: (785) 233-4512 ♦ Fax: (785) 233-2206

**Testimony of Kansas Association of Financial Services  
Presented by Ron Gaches, Executive Director  
Supporting Enactment of SB 561: Pertaining to  
Coverage Limits on Creditor/Debtor Group Life Insurance  
Submitted to House Financial Institutions and Insurance Committee  
Thursday, March 13, 2008**

Thank you Chairman Schultz for this opportunity to speak in support of SB 561, a proposal to eliminate the cap on coverage limits of creditor/debtor group life insurance.

A person's home is usually their greatest asset and their monthly mortgage expense is usually their largest monthly expense. Protecting the family's home in case of untimely death is a high priority for many families. Credit life insurance is intended to pay off a person's entire mortgage balance should the home owner pass away during the term of the loan.

In Kansas, the average home value in Kansas is nearly \$135,000 in Kansas, according to HomeRoute.com. This value is substantially more than the current statutory cap of \$100,000 on credit life insurance. When the statutory cap of \$100,000 is removed, the new statutory cap will be the value of the outstanding mortgage on the home.

According to the Life Insurance and Market Research Association only 68 percent of United States adults have life insurance. Nearly a third of all adults have no life insurance.

Many people qualify for credit life insurance who would not qualify for individual life insurance policies. This is especially advantageous for individuals who are older or who may have pre-existing health conditions. No physicals are required to obtain credit life insurance, whereas pre-existing health conditions may disqualify an individual from purchasing coverage in the regular life insurance market.

The Kansas Insurance Department regulates these policies. The purchase of credit life insurance is completely optional; it is not a condition of receiving a loan. Premiums are typically paid on a monthly basis as part of the monthly mortgage payment.

This bill passed the Senate by a vote of 40 - 0 on February 20 and no opponents appeared in the Senate hearings.

Thank you for your time and consideration. KAFS urges you to support passage of SB 561. I'll respond to any questions.

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# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## TESTIMONY ON SB 561

### HOUSE INSURANCE AND FINANCIAL INSTITUTIONS March 13, 2008

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to appear today in support of Senate Bill 561. This bill amends K.S.A 40-433(2) (d). The current statute limits the amount of insurance on the life of any debtor to the amount owed or \$100,000, whichever is less. The proposed language would eliminate the \$100,000.00 cap, and leave the amount of insurance as that owed by that debtor.

The Insurance Department believes that the cap of \$100,000 is arbitrary and supports its removal, under the condition that the law would still limit the insurance to the amount owed by the debtor.

Thank you and I would now stand for questions.

John Meetz  
Government Affairs Liaison

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