

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE COMMITTEE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on January 29, 2008 in Room 136-N of the Capitol.

All members were present.

Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Bev Beam, Committee Secretary
Jill Shelley, Kansas Legislative Research Department

Conferees appearing before the committee:

Others attending:

See attached list.

Bill Introductions

The Chair called the meeting to order and asked for bill introductions. Stuart Little, on behalf of the County Treasurer of Johnson County, Kansas, introduced a bill concerning insufficient payments. Mr. Little said currently, when someone pays their car license fees and registers their vehicle by check and the check bounces, the Sheriff is sent out to take the tags off the car. If you use a credit card or any other means of electronically paying for your licensing, there is no authorization in the statute to go out and tell the Sheriff to take those tags off, he said.

Senator Wilson moved to introduce the bill. It was seconded by Senator Brungardt. Motion passed.

John Meetz with Kansas Insurance Department introduced a bill to increase fines for companies who fail to respond to inquiries from the insurance commissioner from \$500 to \$1,000 and raising the per week fine from \$100 to \$500.

John Meetz also introduced a bill based on the Viatical Settlement Model Act to mediate the NAIC Model and some elements of the NCOIL Model. He said at this point, however, there is no language.

Senator Brownlee moved introduction. Senator Steineger seconded and motion passed.

The Chair called Doug Wareham who appeared on behalf of the Kansas Bankers Association. Mr. Wareham introduced legislation to more clearly define Kansas Law regarding credit union "common bond" and "field of membership" and to also establish transparency standards for state chartered credit unions similar to those currently in place for state chartered banks in Kansas. He said the proposal is being introduced in response to performance audit findings in a May 2000 Legislative Post Audit Report that this committee has reviewed and introduced in response to recommendations adopted recently by the 2007 Interim Committee on Financial Institutions. Mr. Wareham said language has been submitted and is in the hands of the Revisor's staff. (Attachment 1)

Senator Wilson moved to introduce this bill. Senator Brungardt seconded. Motion passed.

The Chair opened the hearing on **SB 441 - concerning insurance; pertaining to HIPAA compliance.**

Melissa Calderwood, Legislative Research, gave an overview of the bill. Ms. Calderwood said SB 441 is one of the two bills from the Kansas Insurance Department that requires annual update. This bill would amend the date from December 31, 2007 to December 31, 2008. The fiscal note on the bill indicates there would be no fiscal effect associated with this enactment. The Chair closed the hearing on SB 441.

The Chair opened the hearing on **SB 439 - concerning insurance; establishing advertising standards for life insurance policies and annuities.**

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on January 29, 2008 in Room 136-N of the Capitol.

Melissa Calderwood gave an overview of SB 439. This bill states that every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of the writer, creator, designer or presenter, shall be the joint responsibility of the insurer and the insurance producer. She said in addition, advertisements shall be truthful and not misleading in fact or by implication. She said in the bill the Commissioner is permitted to determine the implications of the advertising standards established in current law which include the unfair insurance business practices and relate to the misrepresentation and false advertising of insurance policies and also false information and advertising generally. If the Commissioner determines that the advertisement has the ability to deceive or mislead the public, this law would allow her to require insurance companies or their agents to submit all or any part of that advertising material for review and approval prior to its use. Advertising plans would not be allowed to use a number of terms in connection with life insurance policies and annuities if it is reasonable to believe there is a context it could mislead or deceive. She said there is no fiscal effect associated with the enactment of the bill for the Insurance Department.

The Chair called on John Meetz, KID, for his testimony in support SB 439. Mr. Meetz testified that this bill was introduced by the Insurance Department in an attempt to regulate deceptive and misleading advertisements and presentations by those selling life insurance and annuities. He said the Department drafted a balloon in an attempt to alleviate concerns from the industry but since time was limited, more work may need to be done. Mr. Meetz said the balloon essentially simplifies the bill and goes to the root of the problem which is deceptive and misleading advertising that occurs in free seminars. The balloon gives authority to the Insurance Commissioner to determine if an advertisement is deceptive using the standards set forth in K.S.A. 40-2404 which deals with unfair and deceptive practices in insurance. He said several things were removed in an attempt to narrow the scope of the bill. (Attachment 2)

The Chair called for testimony from those opposing the bill. First to testify was Bill Sneed who represents State Farm Insurance Company. Mr. Sneed said when issues with SB 439 were raised with the insurance industry in the Kansas Insurance Department's pre-legislative meeting, the Department described a problem it was having with investigating "public presentations" by individuals who held an insurance license and were promoting "financial service" and/or "retirement" services. He said at that time, his client advised the Department that in general, it had no problem with the Department's gathering additional regulatory oversight in this area. However, he said SB 439 goes substantially beyond that issue, and it is that broad brush approach that is the basis for opposition to this bill in its current form. Mr. Sneed noted that SB 439 is over-broad and unnecessary and creates unnecessary bureaucracy within the insurance marketplace. He said based on the current form of the bill, he respectfully requests that the Committee not take action. (Attachment 3)

The Chair said based on testimony, the Committee would not work SB 439 at this time. The Chair asked the Insurance Department to get together with those who have concerns and try to work out a solution.

Written testimony opposing this bill was also presented from American Council of Life Insurers, Larry Magill, Kansas Association of Insurance Agents and Brad Smoot, BCBS. (Attachments 4, 5, and 6)

The Chair discussed the bill introduced earlier by the Kansas Bankers Association. She said this summer when FI & I interim meetings were held and the Legislative Post Audit Report was addressed, LPA did say, in their opinion, that the credit unions were taking liberties with the laws that were on the books and going outside their authority. The Chair said testimony has been heard from credit unions and also from financial institutions, so there is a lot of information from both sides. The conclusion of the Interim Committee was that these two groups get together and discuss a solution to the situation prior to the legislative session. That did not take place. The Chair said she is disappointed that those involved did not take that opportunity because it doesn't help the Committee to have to sift through this fight without the groups coming together. She said for this reason, she is not going to take up this issue until the groups come together and talk about whether there could be a compromise. She said she intends to set up a subcommittee. She has asked Senator Wilson to chair that committee. She said he will be setting an agenda to listen to the bill set out in HB 2676 and also will be hearing the conceptual bill that is being addressed by the KBA. She said she has also appointed to that committee Senator Brownlee and Senator Steineger. She said all these meetings will be open to all who want to attend.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on January 29, 2008 in Room 136-N of the Capitol.

The Chair asked for a motion to move SB 441 out favorably. Senator Wysong so moved. Senator Steineger seconded. Motion passed to move SB 441 out favorably to the consent calendar.

The meeting adjourned at 10:35 a.m.

**SENATE FINANCIAL INSTITUTIONS & INS. COMMITTEE
GUEST LIST**

DATE: 1-29-08

NAME	REPRESENTING
Alex Kobyanetz	P.I.A.
Bill Sneed	State Farm
Paul Jones	United Healthcare
John Meete	KID
Sandy Braden	NALFA KS
Gail Bright	Office of the KS Securities Commissioner
Brad Amest	BOBSKS / Advance
D Murray	Federico Consulting
Emily Geier	Hein Law Firm
Karl Wang	Kearney & Associates
Natalie Haag	Security Benefit Life
Doug Wareham	Kansas Bankers Assn.
Patricia Olsen	KS Bankers Assn.
Effie Swanson	Sen. Derek Schmidt
Robin Jennison	KS Credit Union Assn.
John Petersen	Capital Strategies
Stuart Little	Johnson County Govt.
BUR BURKE	ISSUES MGMT GROUP
Synee Mickle	Blue Cross Blue Shield KS
Amy Campbell	KmHc



Date: January 29, 2008
To: Senate Financial Institutions & Insurance Committee
From: Doug Wareham, Senior Vice President – Government Relations
Re: Bill Introduction Request

On behalf of the Kansas Bankers Association (KBA), I would like to respectfully request the introduction of legislation designed to more clearly define Kansas law regarding credit union common bonds/fields of membership and to also establish transparency standards for state-chartered credit unions in Kansas that are similar to those in place for state-chartered bank in Kansas. This proposal is being introduced in response to the performance audit findings in the May 2006 Legislative Post Audit Report concerning the regulation of credit unions and recommendations adopted recently by the 2007 Special Interim Committee on Financial Institutions and Insurance, which were reviewed by this committee last week.

Thanks for considering this request and I would be happy to respond to questions.

*FI & I Committee
January 29, 2008
Attachment 1*



Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

TESTIMONY ON SB 439

SENATE FINANCIAL INSTITUTIONS AND INSURANCE January 29, 2008

Madam Chair and Members of the Committee:

Thank you for the opportunity to appear today in support of SB 439. This bill was introduced by the Insurance Department in an attempt to regulate deceptive and misleading advertisements and presentations by those selling life insurance and annuities.

Through discussion with the industry we have developed a balloon that attempts to address some concerns with the original language. The department drafted the balloon with an attempt to alleviate concerns from the industry but since our time was limited, we concede that more work may need to be done.

The balloon essentially simplifies the bill and attacks to root of the problem, which is deceptive and misleading advertising that occurs in free seminars. This technique is used by most sellers of life insurance policies and by itself, is not an unethical sales tactic. However, when the advertisers use deceptive or misleading language to sell their products (usually to the elderly), we feel we have an obligation to step in and regulate such practices.

The balloon gives authority to the Insurance Commissioner to determine if an advertisement is deceptive using the standards set forth in K.S.A 40-2404 which deals with unfair and deceptive practices in insurance. Once an advertisement has been determined to have the capacity or tendency to mislead or deceive then the Insurance Commissioner may require an insurer or insurance producer to submit the advertisement for review or approval prior to use.

The original bill did several things that have been stripped in the most recent version. We determined it was unfair to hold companies responsible for the actions of agents that violate the provisions of this bill. It was also determined that requiring companies and agents to file all advertising materials with the department ahead of time would create an undue administrative burden on the companies. In general, several things were removed with an attempt to narrow the scope of the bill.

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

John Meetz
Government Affairs Liaison

*FI&I Committee
January 29, 2008
Attachment 2*

AN ACT concerning insurance; establishing advertising standards for life insurance policies and annuities.

New Section 1. For the purposes of this act:

- (a) "Advertisement" means a written or oral presentation of materials, opinion or information promoting the reader's, viewer's or listener's interest in insurance, or promoting the insurer or the insurance producer.
- (b) "Commissioner" means the commissioner of insurance.
- (c) "Insurance" means any contract offering life insurance products required to be filed with the Kansas insurance commissioner which serves as a contractual mechanism for shifting the burdens of pure risks by pooling them.
- (d) "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit or negotiate life insurance, including annuities.
- (e) "Public presentation" means any meeting, held in a place normally open to the general public, involving more than five individuals not related by blood or marriage, whose presence was requested by a mailed, electronic, publication, radio, television or telephonic solicitation distributed to one hundred or more individuals offering something of value in exchange for attending the presentation and in which an insurance producer participates in any manner with the intent to sell insurance policies or annuity contracts at the meeting, prior to the meeting, or subsequent to the meeting.

New Sec. 2. (a) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. No advertisement shall have the capacity or tendency to mislead or deceive.

(b) Whether an advertisement has the capacity or tendency to mislead or deceive shall be determined by the commissioner using the standards set forth in subsections (1) and (2) of K.S.A. 40-2404 and amendments thereto. The commissioner may examine the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed in determining if the advertisement is truthful and not misleading.

(c) If the commissioner determines that an advertisement has the capacity or tendency to mislead or deceive the public, the commissioner may require an insurer or insurance producer to submit all or any part of the advertising material for review or approval prior to use.

(d) Oral advertisements shall conform to the same standards of accuracy and truthfulness as required of written advertisements.

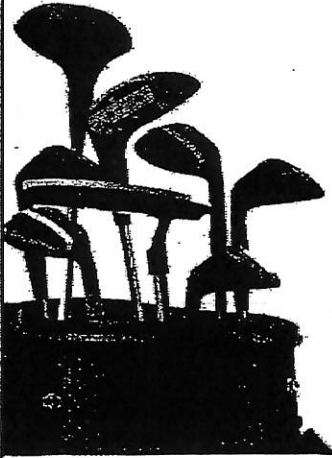
New Sec. 3. No insurance producer may contact a public presentation attendee without such attendee's explicit approval and shall cease any contact at such time as the attendee indicates that such attendee desires a cessation.

New Sec. 4. It is not intended that this act conflict with or supersede any law or rule and regulation currently in force or subsequently adopted in this state governing specific aspects of the sale or replacement of life insurance including, but not limited to, laws or rules and regulations dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, replacement of life insurance policies, illustration of life insurance policies, and annuity disclosure. Consequently, no disclosure pursuant to or required under those laws shall be deemed to be an advertisement within the meaning of this act.

New Sec. 5. The commissioner may, after notice and hearing, promulgate reasonable rules and regulations necessary to carry out the provisions of this act.

New Sec. 6. Sections 1 through 6, and amendments thereto, shall be known and may be cited as the advertising of life insurance and annuities act.

New Sec. 7. Violations of the advertising of life insurance and annuities act and amendments thereto, shall be considered violations of the uniform insurance agents licensing act and shall subject the violator to the penalty provisions of K.S.A. 2007 Supp. 40-4909.



FREE FOOD. FREE GOLF. FREE DRINKS.

It doesn't get any better than this!

**JOIN US FOR GOLF NIGHT
TUESDAY, MARCH 14, 2006**

Enjoy a beautiful sunset!

Enjoy a complimentary gourmet dinner!

Enjoy an open bar!

And...

A special presentation on advanced estate and financial strategies for wealth retirees ages 70-85. This presentation is appropriate for those with a net worth of \$3 million or more. It will be held at the finest penthouse office in all of South Florida — [REDACTED]

Attendees will receive...

- Priceless information
- An incredible dining experience
- A free sleeve of Titleist, Callaway or Nike golf balls
- A chance to win a free set of Callaway golf clubs

Presentation begins at 5pm...

- Followed by gourmet dinner
- An incredible sunset
- And free golf equipment

SEATING AVAILABLE TO FIRST 40 CALLERS. PLEASE RSVP 1-888-[REDACTED]

The Experts in Retirement Income Planning

This appendix contains a sample of advertisements (many of which appeared in local newspapers and mass-mailed invitations) soliciting attendance at sales seminars. They are included as illustrative examples of the types of advertisements commonly used. Including them in this report does not indicate that they contain either accurate or inaccurate statements. The names of the sponsors, addresses, telephone numbers and other identifying information have been redacted.

Is the Beneficiary of Your IRA the IRS?

Little Known Tax Laws Can Cost You Up to 71% Of Your IRA!
**When Was The Last Time You Checked Your Beneficiary?
Are You Sure You Have The Right One?**

If You Are Retired Or About To Retire, Have Over \$100,000 In IRAs, 401(K) and Other Retirement Accounts and Want To Help Protect Your "Nest Egg" From Being Taxed Up To 71%.

Learn Strategies that can potentially help YOU:

- Reduce your required minimum distribution and reduce your income taxes up to 42% or more!
- Create a family legacy using tax-deferred compounding through an inherited IRA Trust, which can last for 60 or more years.
- Determine who should and should not be the beneficiary of your IRA.
- Find out why leaving your 401(K) at your company after you retire may be a huge mistake.
- Take money out of your IRA tax-free through little-known strategies.

(Based on applying the highest Federal Income and State Income Tax rates at death as well as the highest Federal Estate Tax rate and IRS publication 915 regarding the taxation of Social Security Benefits)
Please be sure to consult with a qualified tax advisor and an attorney.

ATTEND THIS FREE WORKSHOP!

Saturday, March 18, 2006
10:00 - 12:00 a.m.

Workshop to be held at
[Redacted]
[Redacted]
[Redacted]

Refreshments Served

Your Workshop Sponsor:

[Redacted] Inc.-Registered Investment Advisor

Speaker: [Redacted] CEO, CSA
has over 25 years of experience working with
retiring employees of many local companies.
He has been recognized as one of the nations
"Top 1% of Financial Advisors" by [Redacted]

Securities Offered Through
[Redacted]

Seating Is Limited, So Call (800)

To Reserve Your Seat

This appendix contains a sample of advertisements (many of which appeared in local newspapers and mass-mailed invitations) soliciting attendance at sales seminars. They are included as illustrative examples of the types of advertisements commonly used. Including them in this report does not indicate that they contain either accurate or inaccurate statements. The names of the sponsors, addresses, telephone numbers and other identifying information have been redacted.

Polsinelli

Shalton | Flanigan | Suelthaus PC

Memorandum

TO: THE HONORABLE RUTH TEICHMAN
CHAIR, SENATE FINANCIAL INSTITUTIONS AND INSURANCE
COMMITTEE

FROM: WILLIAM W. SNEED, LEGISLATIVE COUNSEL
THE STATE FARM INSURANCE COMPANIES

RE: S.B. 439

DATE: JANUARY 29, 2008

Madam Chair, Members of the Committee: My name is Bill Sneed and I am Legislative Counsel for the State Farm Insurance Companies. State Farm is the largest insurer of homes and automobiles in Kansas. State Farm insures one out of every three cars and one out of every four homes in the United States. We appreciate the opportunity to share with the Committee our thoughts regarding S.B. 439.

When this issue was raised with the insurance industry in the Kansas Insurance Department's pre-legislative meeting, the Department described a problem it was having with investigating "public presentations" by individuals who held an insurance license and were promoting "financial service" and/or "retirement" services. At that time, my client informed the Department that in general it had no problem with the Department's gathering additional regulatory oversight in this area.

However, S.B. 439 goes substantially beyond that issue, and it is that broad brush approach that is the basis for our opposition to this bill in its current form. Nevertheless, we did meet with the Insurance Department to share our concerns, and it is our understanding that the Department is undertaking to draft amendments to move the bill back to its original intent.

For the record, though, I would like to state for the record some of the specific problems my client has with S.B. 439.

1. The definition of "public presentation" seems overly broad. The limitation on the presentation is simply more than five members of the public. We do not believe that defining a "public presentation" by the number of people attending creates adequate safeguards with respect to privacy.

555 S. Kansas Avenue, Suite 101
Topeka, Kansas 66603-3423
Telephone: (785) 233-1446
Fax: (785) 233-1939

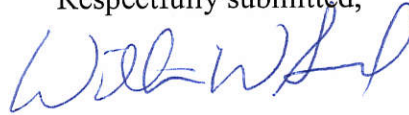
FI&I Committee
January 29, 2008
Attachment 3

2. Although insurers have the ability to control advertising on materials where the company is specifically mentioned or logos are attached, insurance companies have no control over advertisements issued by insurance agents that are generic in form and not tied to a specific company.
3. The additional sections dealing with advertisements seem over-broad and unnecessary due to the fact that advertising is covered by the Unfair Trade Practices Act.
4. We are unaware of any state that has this type of legislation, either in law or pending; thus, we have no way of identifying what other problems this proposed legislation is attempting to address.

Thus, we believe S.B. 439 is over-broad and unnecessary and creates unnecessary bureaucracy within the insurance marketplace. Based upon the current form of the bill, we respectfully request that the Committee not take action on S.B. 439.

I am available for additional questions or comments at your convenience.

Respectfully submitted,



William W. Sneed

WWS



James D. Hall
Regional Vice President, State Relations

January 28, 2008

The Honorable Ruth Teichman
Chair, Committee on Financial Institutions and Insurance
State Capitol, Room 241 E
300 SW 10th Street
Topeka, KS 66612

Re: Senate Bill 439 – Oppose in Current Form

Dear Senator Teichman:

I am writing on behalf of the American Council of Life Insurers (ACLI), a national trade association whose 353 members account for 93 percent of the total life insurance premiums and 95 percent of the annuity considerations in the United States. ACLI has 299 members licensed in Kansas.

The ACLI is concerned about the provisions of SB 439, which would set forth new requirements relating to life insurance advertising. We are very much in agreement with the Kansas Insurance Department that false or misleading advertising should be prohibited. But, there are several provisions of SB 439 that fail to recognize the variety of marketing avenues that modern life insurers use to sell their products. Because of these provisions in the bill, the ACLI must oppose SB 439 in its current form. We are, however, quite willing to work with the Kansas Insurance Department to achieve the Department's goal while recognizing an insurer's limitations regarding advertising oversight.

New Section 2 in SB 439 states that: "Every insurer shall establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements, regardless of the writer, creator, designer or presenter, shall be the joint responsibility of the insurer and the insurance producer."

Such a requirement might be feasible if life insurers still produced all of their own advertising materials and distributed those materials through a controlled system of captive agents. But today, the majority of life insurers market their products through a variety of independent agents, broker/dealers, banks and other financial institutions. These independent entities are like many other types of retailers; they offer a variety of products from a variety of manufacturers. They may use advertising materials supplied by the manufacturer, but they also produce and distribute their own advertising. Each life insurer uses a system of literally thousands of agents. The result is that in an independent agent marketplace an agent might neglect to supply every insurer with all the advertising materials that the agent is using. Under such circumstances, it would not be appropriate to hold the insurance company responsible for maintaining and reviewing a complete advertising file.

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American Council of Life Insurers
101 Constitution Avenue, NW, Washington, DC 20001-2133
(913) 599-2320 t (202) 572-4767 f jameshall@acli.com
www.acli.com

*FI&I Committee
January 29
Attachment 4*

The Honorable Ruth Teichman
Page 2
January 28, 2008

ACLI fully supports the NAIC Advertisements of Life Insurance and Annuities Model Regulation. ACLI likewise fully supports the NAIC Unfair Trade Practices Model Act. These existing state laws and regulations provide ample enforcement tools for combating the use of agent designations or advertisements that have no educational basis, or that are used to potentially mislead consumers. As mentioned above, insurance products are increasingly being marketed and sold by independent third-party producers who have their own compliance obligations to insurance regulators and in some cases, to securities regulators as well. It is important to recognize that a life insurance company can only review materials developed for use in the sale of its products. A company cannot control or be held responsible for materials which do not contain the names of their products, services, or company used by an independent contractor/third-party producer (i.e. business cards, introductory letters, etc.) to introduce him or herself to prospective clients, or to otherwise market his or her services to the public.

Because of the above described circumstances involved in modern life insurance product marketing, we likewise are concerned about the provisions of New Section 7 of the bill. Under that proposed provision, a life insurer would again be faced with the practical difficulty of maintaining "a specimen copy of every printed, published or prepared advertisement of its individual policies and specimen copies of typical printed, published or prepared advertisements of its blanket, franchise and group policies, hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any life insurance policy or annuity advertised."

Once again, the ACLI wishes to emphasize that we support the Insurance Department's goal of prohibiting false or misleading advertising. Such activity tarnishes the reputation of our entire industry. However, the legislation to achieve that goal must recognize the realities of modern life insurance marketing.

Thank you for the opportunity to offer comments on Senate Bill 439.

Very truly yours,

A handwritten signature in black ink that reads "James D. Hall". The signature is written in a cursive, flowing style.

James D. Hall

Kansas Association of Insurance Agents



Testimony on Senate Bill 439
Before the Senate Financial Institutions & Insurance Committee
By Larry Magill
January 29, 2008

Thank you madam Chair and members of the Committee for the opportunity to submit written testimony in opposition to Senate Bill 439 as it was introduced. My name is Larry Magill and I'm representing the Kansas Association of Insurance Agents. We have approximately 520 member agencies and branches throughout the state and our members employ approximately 2,500 Kansans.

We understand that the Department has drafted a balloon or substitute bill that addresses many of our concerns. We do still object to new section 3 of the revised bill that prohibits producers from contacting participants at one of these events. We have a Federal No Call Law and a Kansas version. We do not need a KID version. If Federal law would allow the contact, then it should be allowed unless the Department can make a case that producers are abusing people who take advantage of "free" lunches—which we all know don't really exist.

~~We were concerned that SB 439 was overly vague and provided broad, over-reaching power to the Department to unilaterally declare any advertisement they do not like as a violation. An advertisement "shall be truthful and not misleading in fact or by implication" in section 3 of SB 439 but what constitutes misleading is not defined. It further states that an advertisement of a policy "shall be sufficiently complete and clear so as to avoid deception". Insurance policies are complex legal documents and no advertisement is going to completely divulge all the details and possible implications of a policy form. This has the chilling effect of subjecting anyone who advertises a life or annuity policy to severe penalties including loss of license, and thereby, livelihood.~~

In addition to the extremely broad language of the Unfair Trade Practices Act and the extremely broad language of K.S.A. 40-4909 that they seek to amend in this bill, the Department has regulation 40-9-118 which adopts the NAIC's 6 pages of "Rules Governing the Advertising of Life Insurance". All of these laws and regulations provide ample ways for the Department to police the insurance business as other administrations before them have done.

For example, under 40-4909 that was included in SB 439, any violation of any statute in Chapter 40 or any rule or regulation can cost an agent their livelihood, breaking any insurance law or regulation of any other state, demonstrating any *incompetence, untrustworthiness or financial irresponsibility* (whatever those terms mean) in the conduct of their business can all cost an agent their livelihood and the business they may have worked all their life to build.

Number 12 states that accepting business from an individual who is not licensed is a violation. We hope that means an insurer but it isn't clear. Doesn't an agent accept insurance business from unlicensed individuals every day?

*FI & I Committee
January 29, 2008
Attachment 5*

And number 16 provides that any misleading representation or incomplete comparison of policies is a violation that could cost you your license. But for those of you who have changed insurers, do you recall any time that you were walked through a line by line comparison of the two competing policies, and if you weren't, wasn't that a clear violation of this statute?

KSA 40-4909 was passed as part of the massive Producer Licensing Model Act when Governor Sebelius was Commissioner and this part received no attention. We think this needs serious re-writing for it to realistically reflect the way the business is conducted and to avoid giving whoever is Commissioner the ability to take a persons license on a whim.

We appreciate the Department working with representatives of the industry on SB 439. Because of the changes we understand the Department is making in SB 439 and if the Committee will remove new section 3 of the balloon or substitute bill, we will remove our objection to the proposal. However, we still feel that now is a good time to take a careful look at the overly broad and ill-defined authority granted to the Department in KSA 40-4909.



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TOPEKA, KANSAS 66612
(785) 233-0016
(785) 234-3687 (fax)
bsmoot@nomb.com

BRAD SMOOT
ATTORNEY AT LAW

10200 STATE LINE ROAD
SUITE 230
LEAWOOD, KANSAS 66206

**Statement of Brad Smoot, Legislative Counsel
Blue Cross Blue Shield of Kansas
Senate Financial Institutions & Insurance Committee
Regarding 2008 Senate Bill 439
January 29, 2008
(Written Only)**

Madam Chair and Members:

Blue Cross Blue Shield of Kansas provides group and non group health insurance coverage to approximately 800,000 of your fellow Kansans. In our efforts to provide employee benefits sought by many Kansas employers, we own a small life insurance company, the Advance Insurance Company of Kansas, that sells group and individual life insurance products. Our life insurance agents do have some concerns about SB 439 in its current form.

Page one, line 29 defines "public presentations" as any meeting involving more than five members of the public. Group life policies are purchased by an employer for the benefit of the employees. Our agents hold meetings with employees for the purpose of explaining benefits and offering life insurance to those attending. We don't think it was the intent to interfere with the ability of an employer to arrange meetings so an insurer may explain benefits and offerings to employees who are eligible for life insurance through a group plan.

Page two, lines 24-29, require insurers to give 30 days notice before making a covered presentation. As a practical matter, employers often request our agents to conduct educational meetings with their employees regarding the group life benefit and do so with only a few days notice to us. Were group life insurers to comply with this requirement, employers as well as their employees would be inconvenienced and uninformed about their employers' benefits.

While we appreciate the desire of the Kansas Insurance Department to protect consumers against unscrupulous marketing practices, the language of SB 439 is so broad as to encumber common practices in the group life market unnecessarily and without justification. We encourage the Committee to consider alternate language, including exemption of group life sales or other clarifying language or hold the matter for further study. Thank you.

*FI&I Committee
January 29, 2008
Attachment 6*