

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 February 22, 2008 in Room 136-N of the Capitol.

All members were present except Senators Brungardt, Schmidt and Barnett.

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.

Final Action

SB 498 - concerning insurance; relating to the amount of certain penalties

The Chair called the meeting to order and asked Ken Wilke to give an overview of SB 498.

Mr. Wilke said SB 498 proposed to amend K.S.A. 40-2,125 to change the fine penalty levels for the Insurance Commissioner. The fines would increase from \$500 to \$1,000 and an additional penalty from \$100 up to \$500 per week thereafter. Mr. Wilke said that during the hearing there was a question raised about what agencies in other states are doing. He said he received a communication from John Campbell, general counsel at the Insurance Department, and Mr. Campbell suggested that Page 1, subsection (b) be taken out and replaced as follows: "If any person fails to file any report or other information with the commissioner as required by statute or fails to respond to any proper inquiry of the commissioner, the commissioner, after notice and opportunity for hearing, in addition to any other penalty provided by law, may impose a civil penalty in the amount fixed by rules and regulations of the commissioner in an amount not less than \$100 nor more than \$5,000 for each violation and, in the case of a continuing violation, every day such violation continues shall be deemed a separate violation." Mr. Wilke said there are other technical amendments on page 2 which include striking lines 18 and 19 and lines 26 starting with the word "include", line 27, line 28 and line 29 and replacing it as follows: "include insurance agents and brokers as such terms are defined in K.S.A. 2007 Supp. 40-4902 and amendments thereto."

Senator Steineger moved the balloon amendment be not less than \$500 and the technical amendments. Senator Brownlee seconded. Motion passed.

Senator Steineger moved to pass the bill out favorably as amended. Senator Barone seconded. Motion passed.

Final Action

SB 443 - concerning the long-term care partnership program

Ken Wilke gave an overview of the bill. Mr. Wilke said SB 443 deals with the long-term care insurance program. He said on Page 3 there needs to be a technical amendment inserting "care insurance" after long term because we have used the term long-term care policy throughout. The second thing this balloon does is on page 4 in line 27 where it is rewritten to state the only official having rules and regulations authority under this act would be the Insurance Commissioner. Reference to the Executive Director of the Health Policy Authority, the Secretary of SRS and the Secretary of the Department on Aging would be deleted.

CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 22, 2008 in Room 136-N of the Capitol.

Bill Sneed testified that it was discovered after the hearing that on page 3, lines 16 through 42 of SB 443 the wording dealing with the exchanges of old policies with new policies should be stricken. He said they are waiting on guidance from the Feds because there are tax consequences. He said they thought since there isn't a decision from the feds, it would be better to take that out now. He said that is why we are asking the committee to take that out. The Insurance Department concurs. (Attachment 1)

Senator Steineger moved to amend Ken Wilke's amendment along with the other amendment from the industry that strikes page 3 lines 16 through 42.

Senator Wilson seconded. Motion passed.

Senator Steineger moved to pass the bill out favorably as amended. Senator Barone seconded. Motion passed.

Final Action

SB 563 - concerning health insurance; pertaining to utilization review

Ken Wilke gave an overview of SB 563, stating that this is a bill that deals with utilization review organizations. It deals with notification of the admission of patients and basically delays it until the next business day after the patient gets to the health care facility. What is at issue here is what happens if the patient is unstable or uncommunicative. Can the hospital basically make a good communication of data required?

Mr. Wilke said attached to Mr. Lucky's testimony on Thursday, February 21, was a proposed amendment to this bill. Mr. Wilke said Mr. Lucky has changed the bill slightly to clarify a little more about the communication period making sure it is the next business day after in-patient admissions on weekends or holidays or any emergency in-patient or outpatient admission regardless of when the patient presents for services. He said new subsection 3 would prevent a utilization review organization from reducing or denying payment to a provider for its failure to comply with the utilization review organization's policy that conflicts with the rules and regulations adopted under K.S.A. 40-2211.

Senator Brownlee moved to accept the amendments as presented by the Hospital Association. Senator Steineger seconded. Motion passed.

Senator Brownlee moved to pass the bill out favorably as amended. Senator Steineger seconded. Motion passed.

The meeting adjourned at 10:30 a.m.

1 insurance shall post, on their respective websites, information on how to
2 access the national clearinghouse established under the federal deficit
3 reduction act of 2005, public law 109-171, when the national clearing-
4 house becomes available to consumers.

5 Sec. 4. The commissioner of insurance shall: (a) Determine the level
6 of inflation protection reasonably necessary to protect individuals who
7 purchase a Kansas long-term care partnership program policy.

8 (b) Not impose any requirement affecting the terms or benefits of
9 qualified long-term partnership program policies other than the require-
10 ments of section 1917 (b) of the social security act, 42 U.S.C. 1396p,
11 section 6021 of the federal deficit reduction act of 2005, public law 109-
12 171, or any applicable federal regulation or guidelines unless the com-
13 missioner imposes such a requirement on all long-term policies sold in
14 this state without regard to whether the policy is covered under the part-
15 nership or is offered in connection with such partnership.

16 ~~(c) Require all insurers offering a qualified long-term care part-
17 nership program policy to exchange any policy or certificate for a qualified
18 long-term care partnership program policy.~~

19 (1) Each policy exchanged under this provision shall not be subject
20 to any medical underwriting or approval process if there is no change in
21 coverage which would cause a material increase in risk to the insurer.

22 (2) Any portion of the policy that was issued prior to the exchange
23 date shall be priced based on the policyholder's age when the policy was
24 originally issued.

25 (3) Any portion of the policy that is added as a result of the exchange
26 may be priced based on the policyholder's age at the time of the exchange.

27 (4) The issue date for an exchanged policy or certificate issued on or
28 before the effective date of the state plan amendment shall be the:

29 (A) Effective date of the state plan amendment, if the insured has
30 not received any benefits under the policy at the time of the exchange;
31 or

32 (B) date of exchange if the insured has received benefits paid under
33 the policy or certificate.

34 (5) The issue date for an exchanged policy or certificate issued after
35 the effective date of the state plan amendment shall be the:

36 (A) Date the original policy or certificate was issued, if the insured
37 has not received any benefits under the policy at the time of the exchange;
38 or

39 (B) date of exchange if the insured has received benefits paid under
40 the policy or certificate.

41 (6) The policyholder or certificate holder shall have the right to refuse
42 any addition to a policy.

43 Sec. 5. Each issuer of qualified long-term care partnership program

*FI&I Committee
February 22, 2008
Attachment 1*