

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 March 19, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Jeff Colyer  
Senator Dick Kelsey- excused

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes  
Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Beverly Beam, Committee Assistant

Conferees appearing before the Committee:

Melissa Calderwood, Principal Analyst, Research Dept.  
Cindy Hermes, Kansas Insurance Dept. (Attachment 1)  
Marlee Carpenter, Kansas Association of Health Plans (Attachment 2)

Others attending:

See attached list.

The Chair called the meeting to order. She stated that this would be the last F I & I Committee meeting in the 2009 Legislative Session.

Informational Hearing on

**HB 2310 - Long-term care partnership program; exchange of policies.**

Melissa Calderwood, Principal Analyst, Research Department, gave a brief overview of **HB 2310**. She said this bill was recommended by the House Committee on Aging and Long Term Care. It amends the current law that was passed last year and went through this committee on the Long Term Care Partnership Program. The bill would require issuers of qualified long-term care partnership program policies to offer to all existing policyholders of long-term care policies the option to exchange the existing long-term care coverage for coverage that is intended to qualify under the Kansas Long-Term Care Partnership Program.

She said there are some conditions that need to be met for long-term care policies to qualify for the exchange option. They are (1) the insurer of the existing long-term care coverage would be required to certify the type of long-term care policy and would also be required to certify that the long-term care coverage was issued by the insurer on or after February 8, 2006, (2) the insurer would be required to provide the offer for exchange on a one time basis and in writing, (3) the offer would be required to remain open for a minimum of 45 days from the date of mailing by the insurer, (4) the offer would be required to be made on a nondiscriminatory basis without regard to the age or health status of the insured and (5) the issued policies would be considered exchanges and not replacement policies.

Ms. Calderwood noted that the bill was introduced by the House Committee on Federal and State Affairs at the request of a representative from the Kansas Insurance Department. She added that the fiscal note prepared by the Division of the Budget stated the bill would have no fiscal effect on state agency operations. There were no opponents to the bill.

Cindy Hermes, Kansas Insurance Department, stated that **HB 2310** requires long-term care companies to offer in writing on a one-time basis to all existing policyholders the option to exchange their existing long-term care coverage for a Kansas long-term care partnership policy. She said the offer of an exchange applies only to policies issued by the insurance company, on or after February 8, 2006, that are comparable and on the policy series that the company has certified as partnership qualified. (Attachment 1)

## CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on March 19, 2009, in Room 136-N of the Capitol.

Update on

### **SB 49 - Insurance coverage, mental health, alcoholism drug abuse or other substance use disorder benefits.**

Melissa Calderwood gave a brief overview of **SB 49**. She said this bill would require health insurance policies to provide the same benefits for the treatment of alcoholism, drug abuse or other substance use disorder as it does for any mental illness. She said those benefits would include the same co-payment, co-insurance, deductible requirements, out-of-pocket expenses and other limitations as provided by other covered services. She said such coverage would include annual coverage for not less than 45 days of inpatient care for mental illness and for 45 visits for out-patient care for mental illness. She noted that this would not apply to group policies if there is an increase in the cost of the plan of at least 2.0 percent of the first plan year and 1.0 percent each subsequent plan year. She said passage of **SB 49** would require the Kansas Insurance Department to review and approve all policies that are required to contain this coverage to assure compliance with federal requirements. She said the Kansas Health Policy Authority indicates the federal requirements of **HR 1424** will be applied to the State Employee Health Plan beginning in January 2010, which will have a greater fiscal effect than the requirements of **SB 49**.

Marlee Carpenter, testified that in discussions with the Mental Health Coalition, focus has been on making the Kansas statutes easier to administer for the insurance companies as well as looking at some of the issues the mental health community has been requesting over the last few years. She said they have come to an agreement and are very close to agreed to language. She said it is their belief that these items will make Kansas law comply with the new federal changes as well as simplify the administration of mental health for insurance companies. She stated the Kansas Insurance Department has been notified of the agreement. She said the agreement is as follows, (1) removal of the 45 day in-patient and out-patient limits; (2) removal of first dollar coverage for all groups; (3) parity for individual, small groups and large groups with the same deductibles, co-pays and co-insurance as with other conditions; (4) double the small business lifetime maximum from \$7,500 to \$15,000; (5) removal of the biologically based definitions; and (6) retention of the DSM-IV 1994 edition. (Attachment 2)

The Chair called for approval of Minutes dated March 3, 4, 5, 10, 11, and 12 which had previously been e-mailed to committee members. Senator Brownlee noted an error in a date on Page 1 of the March 3 Minutes. In paragraph one, February 26 should have been February 25. Senator Steineger moved approval of the minutes with the one correction. Senator Masterson seconded. Motion passed.

Final Action

### **HB 2214 - Insurance, risk-based capital requirements.**

Melissa Calderwood gave a brief overview of **HB 2214**. She said this bill would allow the Insurance Commissioner to adopt rules and regulations for the most current version of the risk-based capital instruction as published by the National Association of Insurance Commissioners. She said **HB 2214** would require that before such adoption, the Commissioner must prepare an impact statement indicating the projected impact upon domestic insurers and then notify the domestic insurers of the impact. She said if the projected impact would cause the amount of the domestic insurer's total adjusted capital or its risk based capital report from the previous year to change by more than 2.5 percent, or cause a domestic insurer's control level to change upon application of the later version of the risk based capital instructions, then the Insurance Commissioner would not adopt the latest version of the risk based capital instructions until approved by legislative action.

Senator Brownlee moved to amend HB 2214 to include SB 49 - Insurance coverage, mental health, alcoholism drug abuse or other substance use disorder benefits, SB 105 - Enacting the public adjusters licensing act, SB 174 - Removal of mandatory participation requirements for group life insurance and SB 260 - No cause of action for recovery of certain loss while operating uninsured motor vehicle. Senator Steineger seconded. Motion passed. Senator Steineger moved to pass out HB 2214 favorably as amended. Senator Masterson seconded. Motion carried.

CONTINUATION SHEET

Minutes of the Senate Financial Institutions and Insurance Committee at 9:30 a.m. on March 19, 2009, in Room 136-N of the Capitol.

Final Action

**HB 2292 - Requests for security freeze on consumer reports.**

Melissa Calderwood gave an overview of the bill. She stated that current law allows victims of identity theft to place a security freeze on their consumer report. She said **HB 2292** would allow all consumers to place a security freeze on their consumer report. She said the bill details different ways a consumer can contact consumer reporting agencies. She noted that this bill also details the time frames agencies would have to temporarily lift a freeze upon the request of the consumer. She added that the bill would allow consumers who suspect that they are a victim of identity theft to have the police file a report. She noted that as amended, this bill would amend security freeze provisions in the state Fair Credit Reporting Act. She said among the amendments, the bill would delete a requirement in current law that the consumer placing a security freeze on their consumer report must be a "victim of identity theft" and the related requirements for having a police report. She noted that the bill would add the following to the list of methods a consumer may utilize to contact a consumer reporting agency to request a security freeze. (1) regular mail; (2) through a secure website; or (3) by telephone (if the consumer reporting agency does not have a secure website.) She said additionally, the bill would change a requirement in current law to be permissive, allowing a third party to treat the application as incomplete. She said the bill would adjust the compliance by consumer reporting agencies with a request to lift a temporary freeze to include a provision for postal requests and electronic contact.

Ms. Calderwood continued stating that the bill was introduced by the Committee on Judiciary at the request of Representative Raj Goyle who testified that one of the main problems for victims of identity theft is that the current process is cumbersome, requiring a police report and certified mail to file a complaint. Ms. Calderwood presented two amendments to the bill as requested by Ron Gaches in his testimony. She said the first amendment is found on Page 2, lines 38 and 39 of the bill modifying the definition of security freeze and the second amendment is on Page 4, lines 14 through 16. The amendment requested would strike language at the end of the 15 minute requirement for the consumer reporting agencies to respond to and the language being stricken would be "and if received outside of these hours, by 6:15 a.m. the following day in the central time zone."

Senator Steineger moved approval of both amendments. Senator Brownlee seconded. Motion carried.

Senator Holland moved to amend and add into **HB 2292, SB 241 - Regulating distressed property consulting services.** Senator Taddiken seconded. Motion passed to approve amendment. Senator Brownlee voted no.

Senator Holland moved to pass **HB 2292** out favorably as amended. Senator Steineger seconded. Motion passed.

No further meetings are scheduled.

The meeting was adjourned at 10:05 a.m.

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

DATE: 3-19-09

NAME	REPRESENTING
Ron Gaches	CDIA
Lee Urban	KS Atty General
Eric Kutly	AARP
Linda Kumborg	Pratt Leadership
Jessica Greenlee	Pratt Leadership
Hilary Dolbe	Pratt Leadership
Ami Uphoff	Pratt Leadership
Sara Wyatt	Pratt Leadership
Shanelle Dupree	KHPA
Lori Church	KAPCIC
Lee Wight	Farmers Ins.
John Beetz	KID
Hannah Pitz	Pratt Leadership
Angie Benjamin	Pratt Leadership
Sebastian Heulskamp	Pratt Leadership
Adam Pilon	Pratt Leadership
Alex Kobyanetz	P. I. A.
Samuel Jones	UHG
Mark M. Ellis	Ks. Ins. Dept.





# Kansas Insurance Department

Sandy Praeger, Commissioner of Insurance

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## INFORMATION REGARDING HOUSE BILL 2310

March 19, 2009

Madam Chairman and Members of the Committee:

Thank you for the opportunity to address the committee on House Bill 2310.

House Bill 2310 was achieved through collaboration with America's Health Insurance Plans (AHIP), John Hancock, MetLife and Genworth.

House Bill 2310 requires long-term care companies offer in writing on a one-time basis to all existing policyholders the option to exchange their existing long-term care coverage for a Kansas long-term care partnership policy.

The offer of an exchange applies only to policies issued by the insurance company, on or after February 8, 2006, that are comparable and on the policy series that the company has certified as partnership qualified. President George W. Bush signed into law the Deficit Reduction Act on February 8, 2006, allowing all interested states participation in the long-term care partnership program.

The policy must contain specific consumer protection provisions, be a tax-qualified policy and have inflation protection. If the policy is sold to an individual:

- who has not attained age 61 as of the date of purchase, the policy must provide compound inflation.
- who has not attained age 76, the policy must provide some level of inflation – either simple or compound.
- who has attained age 76, the policy may have inflation protection but not required.

The policyholder will have a minimum of 45 days from the date of the mailing of the option to make a decision.

The insurer may underwrite if the policy is amended to provide additional benefits or the exchange would require the issuance of a new policy. Any portion of the policy that is added because of the exchange may be priced based on the policyholder's age at the time of the exchange. The consumer will not be able to exchange the policy if the individual is in the elimination period or on claim status.

Thank you for this opportunity, and I will stand for questions.

*FI;I Committee  
3-19-09  
Attachment 1*

# Kansas Association of Health Plans

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March 19, 2009

**Update on SB 49  
Before the Senate Financial Institutions and Insurance Committee  
Marlee Carpenter, Executive Director**

Chairman Teichman and members of the Committee;

I am Marlee Carpenter, Executive Director of the Kansas Association of Health Plans (KAHP). The KAHP is a nonprofit association dedicated to providing the public information on managed care health plans. Members of the KAHP are Kansas licensed health maintenance organizations, preferred provider organizations and other entities that are associated with managed care. KAHP members serve the majority of Kansans enrolled in private health insurance. KAHP members also serve the Kansans enrolled in HealthWave and Medicaid managed care. We appreciate the opportunity to provide comments to this committee.

KAHP has been working with the Mental Health Coalition for the last few weeks on an agreement to simplify the mental health parity statues and ensure that the statues comply with federal law. As background, updated mental health parity provisions were passed as part of the federal stimulus package. SB 49 was proposed by the Kansas Department of Insurance to make Kansas laws comply with the new federal parity act. If Kansas' law does not comply, the federal law will preempt Kansas law and the Kansas Department of Insurance will no longer have enforcement powers over these statutes. KAHP wants to keep enforcement of these statutes with the Kansas Department of Insurance.

In reviewing SB 49, our members became concerned about provisions contained in the bill. In addition, current law is very complicated to administer with the first dollar coverage provisions and our members wanted to simplify the administration of current law. The first of our members concerns with compliance with federal law deal with the current law provisions that require up to 45 days of in-patient and out-patient treatment. SB 49 adds new language that reads: "*not less than 45 days*". To comply with federal law, parity must exist. By not eliminating the 45 day language and adding the "*not less than*" language creates confusion between large and small group plans and raises questions about Kansas' compliance with the federal law.

In addition, current law requires first dollar coverage for individuals, small groups and large groups. Under the new federal parity act, large groups must have full parity. SB

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Attachment 2*

49 does not eliminate the first dollar coverage for the large group plans. If SB 49 was enacted, large groups would receive both first dollar coverage and full parity. We believe that is parity plus.

In our discussions with the Mental Health Coalition, we have focused on making the Kansas statutes easier to administer for the insurance companies as well as looking at some of the issues the mental health community has been requesting over the last few years. We have come to an agreement on Tuesday and are very close to agreed to language. We believe that these items will make Kansas law comply with the new federal changes as well as simplify the administration of mental health for insurance companies. We have notified the Kansas Department of Insurance of our agreement.

The agreement is as follows:

- Removal of the 45 day in-patient and out-patient limits.
- Removal of first dollar coverage for all groups.
- Parity for individual, small groups and large groups with the same deductibles, co-pays and co-insurance as with other conditions.
- Double the small business lifetime maximum from \$7,500 to \$15,000.
- Removal of the biologically based definitions.
- Retention of the DSM-IV 1994 edition.

We hope to have agreed to language either today or tomorrow and will continue to keep the committee informed as we move forward with this agreement.

Thank you for your time and I will be happy to stand for questions.