

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

All members were present.

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:

Matt Goddard, Heartland Community Bankers Assn. (Attachment 1)  
Michael Wasmer, D.V.M., (Attachment 2)  
Lorri Unumb, J.D.  
Kathy Ellerbeck, M.D., Developmental Pediatrician, (Attachment 3)  
James Sherman, PhD, Professor, (Attachment 4)  
Joe Fiorella, (Attachment 5)  
Stuart Jackson, (Attachment 6)  
Carrie Wright, (Attachment 7)  
Melissa Cooper, (Attachment 8)  
Austyn "Carson" Alstrom, (Attachment 9)  
Sheril Bergman, (Attachment 10)  
Kellye Schroeder, Volunteer, Capper Foundation, (Attachment 11)  
Tom Laing, Executive Director, InterHab, (Attachment 12)  
Bill Sneed, America's Health Insurance Plans (Attachment 13)  
Marlee Carpenter, Kansas Association of Health Plans, (Attachment 14)  
Brad Smoot, Blue Cross & Blue Shield of Kansas and KC (Attachment 15)  
Dan Murray, National Federation of Independent Business - Kansas (Attachment 16)  
Natalie Bright, Wichita Independent Business Association (Attachment 17)  
Rachelle Colombo, Kansas Chamber (Attachment 18)

Others attending:

See attached list.

The Chair called the meeting to order and welcomed everyone to the meeting.

Bill introductions

Matt Goddard, Heartland Community Bankers Association, introduced legislation providing consumers with better disclosures regarding unsolicited loan offers. Mr. Goddard said a "mortgage trigger" lead occurs when a lender obtains a credit report on a loan applicant from a credit reporting agency and the credit reporting agency then sells the applicant's information to another mortgage lender who in turn makes an unsolicited mortgage loan offer. He said this bill would require that anyone using a mortgage trigger must disclose to a consumer that they are not affiliated with the consumer's mortgage lender and that their solicitation is based on information purchased from a third party. (Attachment 1)

Senator Holland moved introduction. Senator Kelsey seconded. Motion passed.

Hearing on

**SB 12 - Insurance; coverage for autism.**

Melissa Calderwood, Research Department, gave an overview of the bill. Ms. Calderwood stated that **SB 12** came by way of the Legislative Educational Planning Committee. Autism Spectrum Disorder is defined as the following disorders within the autism spectrum, such as autistic disorder, Asperger's syndrome and

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pervasive developmental disorders not otherwise specified. **SB 12** would allow coverage for ASD to be subject to appropriate annual deductibles and coinsurance provisions. Any employer with 50 eligible employees would be subject to a maximum benefit of \$75,000 per member per year through age 21. Employers with 50 or fewer employees and individuals could elect to exclude such coverage from their health benefit plans. **SB 12** would require the Insurance Commissioner on or before November 30 of each year to adjust the maximum benefit using the medical care component of the Consumer Price Index and to publish the adjusted maximum benefit. The Insurance Department would also establish and administer an independent external review process for the denial of autism spectrum disorder claims. The Kansas Health Policy Authority states that with the enactment of **SB 12**, it would be required to provide coverage for the treatment of ASD under the State Employees Health Plan. Such coverage would be subject to annual deductibles and coinsurance provisions as appropriate and consistent with other benefits established under the State Employees Health Plan coverage. The State Plan currently covers hospital and physician care for ASD under the biologically based mental illness provisions of the plans. Kansas Health Policy Authority estimates that the cost to the state and non-state employee group coverage by adding ASD to the State Plan would be approximately \$4,671,000 for Fiscal Year 2010. Payments for benefits under the State Plan coverage are considered off-budget expenditures.

Michael L. Wasmer, DVM, testified in support of **SB 12**. Dr. Wasmer said in summary, enactment of **SB 12** is a critical step toward improving access to medically necessary services for individuals with autism spectrum disorders in Kansas. He said it would ease the burden on state funded programs and at the same time provide incentive for qualified service providers to remain in Kansas. ([Attachment 2](#))

Lorri Unumb, J.D., Senior Council for Autism Speaks, testified in support of **SB 12**. Professor Unumb said she traveled here from South Carolina to show her support for this bill. She stated South Carolina is one of the states that has already passed similar legislation. She said she gave up her lucrative career to advocate for children with autism full time once she saw the inequities in the insurance arena. She said autism is a medical disorder for which there is no known cure, but it is treatable. She said standard treatment protocol involves therapy called Applied Behavior Analysis or ABA therapy. ABA has been used on kids with autism for many decades, but the insurance companies continue to deny coverage for it as experimental, she said. She noted further, this denial is simply not supported by the science. She said the American Academy of Pediatrics, the National Research Council and the Surgeon General have all endorsed ABA therapy for kids with autism. She noted that it is very effective for kids with autism, about 50% of the kids who get this treatment intensively will be indistinguishable from their peers by the time they reach first grade and can enter school without special educational support. But it has to be administered intensively, and that is quite expensive. My own son's treatment has cost \$75,000 to \$80,000 per year. We have been able to afford that because my husband and I are lawyers, but how many Kansas families do you know who can afford that kind of treatment for their child with a condition that they did nothing to invite into their family. She said Harvard estimated that the cost of caring for a child with autism who does not get treatment is \$3.2 million per person for their lifetime. So, it is a fiscally responsible thing to do to pass this legislation, she said. Other states have seen that, she noted. She said South Carolina passed the bill that she drafted in 2007. Seven other states have passed it since that time. Continuing, she said she seen the implementation of the bill in South Carolina and can tell the Committee that notwithstanding the doomsday predictions of the insurance lobbyists, there have been no mass exodus of insurers, nor have there been businesses throwing in the towel because of increased premiums. In conclusion, she said the Council for Affordable Health Insurance, which is the insurance industry's own association, projected that the cost impact on premiums from this kind of bill is less than 1%. Further, the impact on the overall economy has been good through job creation.

Kathy Ellerbeck, MD, Developmental-Behavioral Pediatrician Center for Child Health and Development, University of Kansas School of Medicine, testified in support of **SB 12**. Dr. Ellerbeck testified in summary that autism is a medical/neurobiological condition, and other neurological disorders are covered; autism should not be excluded. She said intensive intervention improves outcomes for children and for families and in the end, for the state of Kansas. ([Attachment 3](#))

James Sherman, Professor, Department of Applied Behavioral Science, University of Kansas, testified in support of **SB 12**. Professor Sherman stated that early intervention means that the intervention should start as early as possible, ideally as soon as it is clearly recognized that the child has autism. He said this may be as early as when the child is one and one-half to two years old. He said using an early intensive behavioral

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approach with children with autism is a long and hard road, but it's worth it. He said according to the evidence currently available, of the children with autism who received an intervention that started early enough, was intensive enough, lasted long enough and used systematic teaching methods to develop language, social behavior, self-help activities, and skills that replace problem behavior, 45 to 50 percent of the children were able to enter elementary school and progress normally through elementary school and the remainder of their schooling without any special supports. In conclusion, Professor Sherman stated that early intervention is worth it in terms of dollars and in terms of just basic humanity and care for the people who need our help. He said simply we need some way of paying for effective early intervention and insurance is one reasonable way of doing this for families who have insurance. ([Attachment 4](#))

The following are parents of autistic children, an autistic child, and a volunteer who testified in support of **SB 12**. Also, the Executive Director of Interhab who supplied written testimony only. Their testimony is also attached:

Joe Fiorella, Parent ([Attachment 5](#))

Stuart Jackson, Parent ([Attachment 6](#))

Carrie Wright, Parent ([Attachment 7](#))

Melissa Cooper, Parent ([Attachment 8](#))

Austyn "Carson" Alstrom ([Attachment 9](#))

Sheril Bergman, Parent ([Attachment 10](#))

Kellye Schroeder, Volunteer, Capper Foundation ([Attachment 11](#))

Tom Laing, Excursive Director, Interhab (written only ([Attachment 12](#)))

Bill Sneed, on behalf of America's Health Insurance Plans, testified in opposition to **SB 12**. Mr. Sneed stated that due to the apparent increased prevalence of autism, policymakers must carefully evaluate all methods of funding autism treatment and services. He said various existing laws require schools to provide autism treatment and services and for outreach services to preschool-aged children. He said many health insurance plans currently provide benefits for medically necessary treatments for autism that are performed by licensed practitioners such as medication. He said it is the contention of America's Health Insurance Plans that expansion of coverage is not in the best interest of the insuring public. ([Attachment 13](#))

Marlee Carpenter, representing Kansas Association of Health Plans, testified in opposition to **SB 12**. Ms. Carpenter stated that health insurance carriers already provide coverage for medically necessary services to children diagnosed with an autism spectrum disorder. She said in addition, state and federal mental health parity laws already require that these conditions be covered the same as any other medical condition. ([Attachment 14](#))

Brad Smoot, on behalf of Blue Cross Blue Shield of Kansas and Blue Cross Blue Shield of Kansas City, testified in opposition to **SB 12**. Mr. Smoot said autism is a complex, life-long developmental disability but, one that is currently covered by the same medical coverage under BCBS plans that would be available to any other covered member. He said that coverage would typically include routine medical care, childhood immunizations, surgery, hospitalization and pharmaceuticals. He said more specifically, BCBS covers certain procedures determined to be medically necessary or assessment and treatment of ASD, including physical and speech therapy. He said Kansas law already mandates coverage for autism mental health services. Mr. Smoot said while **SB 12** would dramatically expand coverage for some, it would allow for exclusion of coverage for others and while it would guarantee issuance of a policy to a family with autistic children, it might price those same families out of all health care coverage completely. ([Attachment 15](#))

Daniel Murray, State Director, National Federation of Independent Business - Kansas, testified that NFIB is greatly concerned by government imposed mandates that discourage consumer control and increase the cost of employee health plans, therefore, it is opposed to **SB 12**. He said mandate driven increases in premium costs might determine whether a small business is capable of providing insurance benefits to its employees. ([Attachment 16](#))

Natalie Bright, Wichita Independent Business Association presented written testimony in opposition to **SB 12**. ([Attachment 17](#))

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Rachelle Colombo, Kansas Chamber of Commerce, presented written testimony in opposition to **SB 12**. (Attachment 18)

The next meeting is scheduled for February 3, 2009.

The meeting was adjourned at 10:30 a.m.