

## MINUTES OF THE HOUSE COMMITTEE ON INSURANCE.

The meeting was called to order by Chairperson Rep. Robert Tomlinson at 3:35 p.m. on February 1, 2000 in Room 527-S of the Capitol.

All members were present except: Representative Burroughs

Committee staff present: Dr. Bill Wolff, Research  
Ken Wilke, Revisor  
Mary Best, Secretary

Conferees appearing before the committee: Linda DeCoursey-Kansas Department of Insurance  
Chris Collins-Kansas Medical Society  
Larry Ann Lower-Kansas Association of Health Plans  
Bill Sneed-Health Insurance Association of America  
Lee Wright-Farmers Insurance Group  
David Hanson-Kansas Association of Property & Casual  
Insurance Co./National Association of Independent Insurers

Others attending: See attached Committee Guest List

The first order of the meeting was for the Chair to remind conferees and guests to please sign the attendance list as there have been several who had not been doing this. With this task completed the Chairperson addressed the committee on two pieces of legislation he was introducing, one of which would eliminate the State Employee Health Commission and the second would simply place a limitation of powers on the commission. The motion was made by Representative Kirk to accept the bill request and was seconded by Representative Empson. A vote of the committee was taken and the motion was passed.

With this piece of business completed Chairperson Tomlinson opened the public hearings on **HB 2681-Health Insurance; Capitation of Pharmaceutical Benefits.** The first conferee recognized by the Chair was Ms. Linda DeCoursey, Kansas Insurance Department. Ms. DeCoursey offered Proponent Testimony to the committee. A copy of the testimony (Attachment #1) is attached hereto and incorporated into the Minutes by reference. Her testimony offered an insight to the bill which states “no health insurer shall offer or operate a compensation arrangement between the health insurer or its agents and a participating provider that may directly or indirectly serve as an inducement to reduce or limit the delivery of medically necessary service to an insured”.

There is a feeling some insurers were giving doctors financial incentives to prescribe low cost medications. While these were effective medications, the feeling was insurers were attempting to gain control of rising drug spending. Physicians enroll patients in their practices accepting a flat fee. The fees are used to pay for medications used by these groups. The physicians are reimbursed by the insurers even if no drugs are used that month. Some months the physicians have a profit balance, some months they have a loss balance, and they stand the costs.

The insurance office feels that by strengthening the current law this “will curtail any advances of this type of “cost savings” in Kansas.” While the commission has not received any complaints regarding this matter, the department felt it was bet to safe-guard against any up-coming instances.

The Insurance Department offered an amendment to the bill. The Commissioner proposed inserting the word “necessarily” into the last sentence, thereby reading, “Compensation arrangement which involve capitation payments or other risk sharing provisions shall not “necessarily” be considered inducements.”

The Insurance Department feels that by passing **HB 2681**, this will protect the Kansas consumers from these type of incentives. With this Ms. DeCoursey stood for questions.

Questions were asked by Representatives Cox, Empson, Kirk, Boston, The Chair, and Myers.

With no further questions from the committee, Ms Chris Collins, Kansas Medical Society, was given the floor. Ms. Collins gave Proponent Testimony to the committee. A copy of her testimony is (Attachment #2) is attached hereto and incorporated into the Minutes by reference.

Ms. Collins notified the committee her organization supported the bill which is a part of the Patient Protection Act. They continue to support the philosophy “that contracted arrangements which create financial incentives for providers to deliver or order less care than medically necessary should be prohibited.” They feel that although pharmaceutical services are already covered under statute it does not hurt to be more explicit. Ms. Collins then stood for questions.

Questions were presented by Chairperson Tomlinson.

The Chair then recognized Mrs. Larry Ann Lower, Kansas Association of Health Plans. Mrs. Lower gave Opposition Testimony to the committee. A copy of the testimony is (Attachment #3) attached hereto and incorporated into the Minutes by reference.

Mrs. Lower informed the committee, her organization represents twelve (12) of the thirteen (13) HMO’S serving members enrolled in Kansas. They, (KAHP) were unclear on the arrangements for pharmaceutical benefits the Commissioner was trying to address. Their polls showed “no member plan was currently offering any kind of financial incentive to limit prescription benefits.” However, with the rising costs they are attempting to address this issue while continuing try to meet the needs of their insureds by “implementing benefit plans designed to mitigate the impact of the increasing cost of prescription drugs.” The KAHP encouraged the committee not to enact legislation that is not clear and could hamper the ability to continue to provide benefit plans. Mrs. Lower then stood for question.

Questions were asked by Representative Kirk.

The Chair offered the opportunity of further comments from the visitors or conferees. Mr. Bill Sneed, representing Health Insurers Association of America, offered no written testimony, but did stand to testify his members did not feel the need for such an amendment. Questions were presented by Representatives Myers, Boston and Phelps with the latter two being directed to the Insurance Department. With this discussions on the bill were completed and public testimony was closed.

### **HB 2649-Prohibiting cancellation of homeowners insurance for filing a claim for loss.**

The first conferee to be recognized was Ms. Linda DeCoursey, Kansas Insurance Department. A copy of the testimony is (Attachment #4) attached hereto and incorporated into the Minutes by reference. Ms. DeCoursey gave Proponent Testimony. She briefed the committee on the contents and their interpretation (KID). Ms. DeCoursey also included in her testimony a few of the complaints on this issue from policy holders. Ms. DeCoursey explained this bill would prohibit cancellation or non-renewal of a homeowners policy if they filed a single loss claim due to wind, hail, or other acts of nature within any three consecutive year period the policy is enforce.

Ms. DeCoursey reminded the committee that purchasing insurance is usually a requirement of banks and other lending facilities in order to obtain a home loan. The Department feels this bill affords some protection to those homeowners who must still maintain insurance on mortgaged property. She then compared this to the much stricter laws we apply to auto insurance.

Ms. DeCoursey felt that this would also prevent homeowners from paying higher premiums, when after the one time claim cancellation, they are usually forced to pay when changing to another company. It was also brought out that many companies are reluctant or will even refuse to write a new policy for someone who has had their policy cancelled after a loss. Ms. DeCoursey stated that in the "Past years, more rating flexibility has been given to companies writing homeowners' insurance in Kansas through territorial rating. Now it is time to provide the consumer protections which are an important balance to market flexibility. With this Ms. DeCoursey stood for questions.

Questions were asked by Representatives Empson, Boston, Myers (regarding Sect. 1) (Revisor Wilke responded) and Chairperson Tomlinson.

Mr. Bill Sneed, State Farm Insurance, presented Opponent Testimony to the committee. A copy of the written testimony is (Attachment #5) attached hereto and incorporated into the Minutes by reference.

Mr. Sneed offered testimony to the committee from State Farm's point, stating "State Farm, like many of the property/casualty companies doing business in this state, does not cancel or nonrenew property insurance policy after one storm loss." Mr. Sneed stated this is only done as a last resort and only after considering several factors. Mr. Sneed feels this bill restricts policy writing in this state, and that the three year loss limitation makes underwriting even more difficult. They also view the restriction as a penalty on the companies who have remained in this state when so many other companies have pulled out rather than work with these restrictions. They feel the companies who have brought insurance writing to this level are the companies who have long ago left Kansas. With this Mr. Sneed stood for questions.

Mr. Lee Wright, Farmers Insurance Group, gave Opponent Testimony to the committee. A copy of the testimony is (Attachment #6) attached hereto and incorporated into the Minutes by reference. Mr. Wright basically presented the same opposition to the bill as Mr. Sneed offered, adding they saw no indication of a rise in cancellation or lack of companies to cover homeowners. Mr. Wright also reminded the committee that Farmers Insurance Group is also an ongoing member of the Commissioners' Task Force on Natural Disasters, and throughout the meetings there has been no indication of a cancellation problem presented.

Mr. Wright offered, "If a Homeowners insurance availability problem does develop within our state, then the best solution is to encourage additional new companies to write business in Kansas. Mandated underwriting restrictions like the ones found in **HB 2649** tend to discourage rather than attract new companies to enter the marketplace." With this Mr. Wright stood for questions.

Questions were posed by Representatives Boston and Myers.

Mr. David Hanson, Kansas Association of Property & Casualty and National Association Independent Insurers, was the next conferee to be recognized by the Chairperson. Mr. Hanson also gave Opponent Testimony. Copies of the written testimony are (Attachments #7 & 8) are attached hereto and incorporated into the Minutes by reference.

Mr. Hanson also (representing over two hundred (200) members in property and casualty insurance companies doing business in Kansas) strongly opposed this piece of legislation on the premise that this bill place restrictions on the way insurers do business would do little to protect the consumer, but instead make it more difficult for insurers to provide and make the necessary decisions regarding policies awhile staying and remaining competitive in Kansas. Mr. Hanson informed that in "1997 representatives of three (3) NAII companies, along with legislative leaders, the Commissioner, and business development leaders came together in a task force to explore ways to improve the business climate in Kansas. This same task force drew a positive impact these insurers have on the Kansas economy and sent this same message to other insurance companies to bring their companies and jobs here.

The negative aspect is, the feeling the regulatory climate is unnecessarily burdensome for insurers to come to Kansas to compete. The Legislature and Commissioner, it is felt have made great strides in improving the environment.

This includes the “approval of territorial rating, reduction or rate filing requirements and increased use of deductibles”. Yet they feel when the insurers see a bill such as this they wonder if Kansas does want a regulatory environment that is less burdensome. Mr. Hanson continued on to further explain the downside of the three year cancellation period and its effect on the insurers, which is the inability to cancel a policy holder who have a string of loss claims within this period or has become unreasonable in their frequency of claims.

He further informed the committee these costs are passed on to other policy holders and could possibly reduce the quality of protection they are or would be receiving. Mr. Hanson then stood for questions.

Questions were presented by Representatives Meyers, Kirk, Showalter, and Boston (addressing “all other acts of nature”).

Written testimony also opposing the bill was presented to the committee for Mr. Kevin Davis, American Family Insurance. A copy of the written testimony is (Attached #9) attached hereto and incorporated into the Minutes by reference. Mr. Davis supports previous opposing testimony.

With no further testimony from either side of the issue, public hearings on **HB 2649** were closed.

With no new or old business the meeting of this day was adjourned.

The time is 4:50 p.m.

The next meeting will be held February 3<sup>rd</sup> at the regular time.