

MINUTES OF THE HOUSE HEALTH AND HUMAN SERVICES COMMITTEE

The meeting was called to order by Chairman Brenda Landwehr at 1:30 p.m. on February 10, 2009, in Room 784 of the Docking State Office Building.

Committee members: All members were present.

Committee staff present:

Norm Furse, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Janet Grace, Committee Assistant

Conferees appearing before the committee:

Richard Morrissey, Kansas Department of Health and Environment ([Attachment 1](#))
Jack Confer, Board of Healing Arts ([Attachment 2](#))
Scott Hess, Board of Healing Arts ([Attachment 2](#))
Jerry Slaughter, Kansas Medical Society ([Attachment 3](#))
Representative Crum ([Attachment 4](#))
Larry Magill, Kansas Association of Insurance Agents ([Attachment 5](#))
Natalie Bright, Bright and Carpenter Consulting ([Attachment 6](#))
Rachael Columbo, Kansas Chamber ([Attachment 7](#))
Corrie Edwards, Kansas Health Consumer Co. ([Attachment 8](#))
Kenneth Daniels, Topeka Independent Business Association ([Attachment 9](#))
Daniel Murray, State Director, National Federation of Independent Business ([Attachment 10](#))
Matt Goddard, Heartland Community Bankers Assn ([Attachment 11](#))
Ashley Sherard, Lenexa Chamber of Commerce ([Attachment 12](#))
Doug Wareham, Kansas Bankers Association ([Attachment 13](#))

Others attending:

See attached list.

Chairman Landwehr called the meeting to order and opened the hearing on **HB 2221**.

HB 2221 - Disclosure of certain child care information.

Richard Morrissey, Interim Director of Health for the Kansas Department of Health and Environment, appeared as a proponent of **HB 2221** ([Attachment 1](#)). **HB 2221** was introduced at the Department's request to respond to the needs of the public and especially working parents to access child care records more readily and to create more transparency and efficiency in government. In FY 2008, over 1,000 open records requests were received, mostly from parents. It is clear the public today expects information immediately and they are used to finding consumer information at their finger tips on the Internet. In addition, child care providers want to know about professional development training opportunities in their area of the state. Organizations of persons who are involved in child will be able to access information to further education, professional development, and other interests of the vocation, in keeping with the Open Records Act. A safeguard is provided in Section C by authorizing the Secretary to prohibit the release of the name, address or telephone number of a child care facility, family day care home or maternity center when necessary to protect the health, safety or welfare of the public, patients or children. To clarify the intent of Section C, the Department recommends a change to the language on page 2, line 2 to add the words "that **prohibition of** the release of information in necessary to protect the health..." The Department requests the committee to act favorably on **HB 2221** with the inclusion of **prohibition of** on page 2, line 2.

The hearing was closed on **HB 2221**.

HB 2010 - Board of healing arts; storage, maintenance and transfer of medical record; medical

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record maintenance trust fund.

Scott Hess and Jack Confer representing the Kansas Board of Healing Arts provided a proponent testimony for **HB 2010 (Attachment 2)**. This bill will give the agency the authority to retain patients' medical records after a professional in the healing arts' license has been revoked or the professional becomes incapacitated. The agency will have authority only if the professional does not have or does not follow his or her written protocol for transfer of records to another custodian in place. The purpose of **HB 2010** is to protect patients' medical records and ensure proper handling. The Board has brought two cases under the current statutory scheme to obtain abandoned records. In both cases the statute has proven inadequate to protect patients. Statutory Amendments:

- Medical Records Maintenance Trust
- Written Protocol for Record Retention
- Failure to file Written Protocol is Unprofessional Conduct
- Expedite Judicial Process (terminology is vague as traditionally written, court has shown good faith)

The records are maintained for 10 years and workers compensation records are kept for 30 years.

Jerry Slaughter, Kansas Medical Society (KMS) (Attachment 3), is an opponent for **HB 2010**. This bill has four parts. The Kansas Medical Society supports a reasonable approach to making funds available to the Board to defray its expenses in the event that it either takes responsibility for the transfer, maintenance and storage of abandoned medical records of its former licensees, or is appointed by the court as custodian of abandoned medical records pursuant to KSA 65-28, 128. The concern is about the proposed assessment process, and about the other provisions in the bill, particularly the requirement that every licensee must submit a written record retention protocol each year prior to license renewal, and that failure to do so constitutes unprofessional conduct.

We recommend that Sections 2 and 3 of the bill be deleted entirely; that Sections 4 through 6 be renumbered accordingly; and that New Section 1, subsection (b) be amended to read as follows:

“(b) The board of healing arts may deposit not more than \$10 of each fee for the issuance or renewal of a license in the state treasury credited to the medical record maintenance trust fund. In any year in which the medical record maintenance trust fund balance is less than \$100,000 the board shall replenish the fund at the next annual renewal date, in the manner described herein. Shall assess fees of not more than \$10 from each licensee and deposit in the state treasury credited to the medical record maintenance trust fund. At any time that the balance remaining in the medical record maintenance trust fund is less than \$100,000, the board of healing arts, without delay, shall assess each licensee an additional fee of not more than \$10. The board of healing arts may order a licensee to reimburse the amount of expenses incurred by the board of healing arts in a case when such licensee failed to comply with the protocol of medical record designate a custodian or provide for the storage, maintenance, transfer and access to such licensee’s medical records upon becoming inactive. Upon receipt of each remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medical record maintenance trust fund.”

With the addition of these amendments KMS can support **HB 2010**.

The hearing on **HB 2010** was closed.

HB 2198 - Health insurance, plans for small employers; cafeteria plans; high deductible plans.

Representative Crum is a proponent of **HB 2198 (Attachment 4)**. This bill expands on provisions of last year's SB 81 in regards to small employer health plans. **SB 81** stated that any insurer that provided health benefit plans would also be required to offer a Premium Only Cafeteria Plans as permitted under Section 125 of the U.S. Code. A Section 125 Premium Only Plan allows an employee who pays any portion of his or her health insurance premium to do so with pre-tax dollars. The employer also benefits because he is not having to pay his share of the employees Social Security and Medicare withholding tax on the money withheld for the insurance. **HB 2198** would also require any employer that provides health insurance coverage for which the employee pays any portion of the premium to make available a Section 125 POP. The bill requires any insurer that offers small group health plans to offer a High Deductible Plan in conjunction with the

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establishment of

a Health Savings Account as permitted under Section 223 of the U.S. Code. Representative Crum provided the advantages of HSA's in his written and oral report. A 2007 Blue Cross Blue Shield survey found that participants enrolled in a High Deductible health plan were more likely to research health information, take part in wellness programs, track current and future health care expenses, and use the emergency room less than those in traditional plans. The study also found that consumers that enrolled in High Deductible health plans did not forgo needed health care. This bill would help bring the consumer back into the equation and given a stake in managing their health care expenses and their own wellness. The High Deductible Health Plan is effective because it places emphasis on individual accountability and responsibility.

Page 2, Section 2, number 33 provision encourages employees and employers to participate. The employer will put money in their Health Savings Accounts (HSA). If they had not previously participated, a formula will need to be calculated. The new plan will put this provision in place.

The business pays for a single for everyone to keep the rates low. Section 3, lines 12 and 13, the business pays for the single, the individual pays for the family, the employer is not required to offer HSA's for the family.

This bill is a conservative mandate. It makes health care more available to everyone.

Larry Magill a proponent from the Kansas Association of Insurance Agents (KAIA), discussed Consumer Driven Health Care (CDHC) ([Attachment 5](#)). Health insurance is simply reflecting the cost and utilization of health care. It is essential that insurance go back to what it does best, insure for catastrophic loss and that consumers budget for routine health care. One of the glaring faults with our present system is the lack of normal market forces working in health care. Mr. Magill provided a list KAIA supports. KAIA supports a mandatory offer by the insurers selling small business group health insurance a high deductible plan coupled with an HSA account. They suggest employers are presented with the high deductible/HSA option and see what results that brings. They also support the idea of making Section 125 Premium Only Plans mandatory for businesses and ensure the employers are aware of the tax advantages.

Natalie Bright represented the Wichita Independent Business Association (WIBA) as a proponent of **HB 2198** ([Attachment 6](#)). Their members are pleased this committee is considering legislation aimed at improving the quality, access, and cost of health care in Kansas, particularly for small businesses. Over the last few years, WIBA had to make changes to the health insurance products they offer as well as expand their products to include both limited-benefit plans and a Health Savings Account (HSA) program in order to meet the needs of our small business members. **HB 2198** proposes to require all insurers that offer small group health plans to offer a high deductible health plan as well and requires any small employer that offers a high deductible plan to also establish an HSA. WIBA likes the idea of HSA because it allows for an insurance product that is portable for the employee and the provision that mandates an employer's contribution be equal to the employer's contribution to any other health benefit plan offered by the employer. For their members, the number one concern is the rising cost of health care. If this provision remains in **HB 2198**, this bill will not assist small employers with reducing their costs to provide coverage. It is WIBA's recommendation that this provision be removed from the bill so that employers will have the incentive to use HSA programs instead of dropping health care coverage altogether. **HB 2198** mandates what employers offer their employees for health care, and this is a concern for their members.

Rachelle Colombo, Senior Director of Legislative Affairs for the Kansas Chamber, provided an opponent view of **HB 2198** ([Attachment 7](#)). The Chamber represents small, medium and large employers all across Kansas. **HB 2198** mandates the contribution of premium savings to employee health savings accounts. While the intent of the bill and many provisions have merit, the Kansas Chamber does not support mandates as a method of implementation. Managing health care costs remains one of the top three issues affecting profitability as identified by Kansas CEOs surveyed in the Chamber's annual CEO poll. Business owners are forced to either spend investment capital to provide health benefits or are unable to attract top employees if they cannot meet the expectation to provide benefits. Both options decrease a business's ability to thrive, compete and succeed. It is imperative that we seek solutions which decrease the cost of health care and provide employers with choices over what they purchase. The Kansas Chamber is supportive of consumer driven health care, the encouragement of 125 plans, and giving employers incentive to utilize them. However, the Chamber supports the promotion, rather than the mandatory offering, of these options. The mandate is the issue with the

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Chamber.

Corrie Edwards, Kansas Health Consumer Company (KHCC), provided testimony as an opponent to **HB 2198** (Attachment 8). We object to the legislation for two primary reasons. The first is the intrusion into small business operations and the potential administrative burden of offering multiple health plans. The effect of requiring small business employers to offer and administer an additional health plan complicates an already cumbersome system. Small employers already have the option of offering HDHP/HSA plans if they choose, making this proposal unnecessary. Over the past 25 years, Americans have experienced a 244% increase in health care costs in real dollars. Technology, elder care, and chronic disease care play a huge role in these escalating costs, not the inability of consumers to comparison shop for care. Price transparency would have to be in place before consumers have a realistic chance of comparing costs and service. HDHP/HSA plans require consumers to pay more of the up-front costs of care. HDHP/HSA plans may have the impact of increasing consumer debt because they place so much of the cost of care on the consumer. KHCC recognizes the need to examine different ways to provide health coverage. We need to be cautious that our efforts to provide coverage do not result in increasing our underinsured population. The second issue is the mandate.

Kenneth Daniels, Topeka Independent Business Association, discussed EIRSA and HSA's (Attachment 9). Every impediment had been removed for HSA's. They are correct as they are and they don't need help from the legislature. Mandates are not needed and will not solve anything.

Daniel Murray, State Director, National Federation of Independent business, provided written testimony as an opponent to **HB 2198** (Attachment 10).

Matt Goddard, Heartland Community Bankers Association, provided written testimony as an opponent to **HB 2198** (Attachment 11).

Ashley Sherard, Lenexa Chamber of Commerce, provided written testimony as an opponent to **HB 2198** (Attachment 12).

Doug Wareham, Kansas Bankers Association, provided written testimony as an opponent to **HB 2198** (Attachment 13).

The hearing on **HB 2198** was closed.

The next meeting is scheduled for February 11, 2009.

The meeting was adjourned at 3:10 p.m.