

## 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 15, 2005 in Room 234-N of the Capitol.

All members were present.

## Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Ken Wilke, Office of Revisor of Statutes  
Sandy Yingling, Committee Secretary

## Conferees appearing before the committee:

Lew Ebert, President and CEO of The Kansas Chamber of Commerce  
Carlene Marra, Compliance Director for Humana's Kansas City Market  
William W. Sneed, America's Health Insurance Plans  
Ashley Sherard, Vice President of Lenexa Chamber of Commerce  
Cliff Sones, Wichita Independent Business Association  
William W. Sneed, National Association of Settlement Purchasers  
Sherry Diel, Kansas Real Estate Commission  
Kathy Damron, Kansas Association of Realtors

## Others attending:

See attached list.

Madam Chair called the meeting to order.

Madam Chair opened the hearing on **HB 2366**.

**HB 2366 - Accident and health insurance; removal on limitation on deductibles, coinsurance and similar payments**

Melissa Calderwood, Kansas Legislative Research Department, gave an overview of **HB 2366**. **HB 2366** amends K.S.A. 40-2215 to allow insurers to offer one or more group or individual accident and sickness insurance plans that would contain substantial deductible coinsurance, co-payment, out of pocket and other cost sharing levels. As stated in current law the bill would also allow the commissioner of insurance to disapprove the filing of an insurance company for an individual, group or life and health insurance policy within 30 days of filing.

Lew Ebert, Kansas Chamber of Commerce,

Lew Ebert, The Kansas Chamber of Commerce, testified in support of **HB 2366**. **HB 2366** arose from a Health Care Working Group that we convened last fall to study a wide range of ideas directed toward addressing the health care cost problems our members face in Kansas. (Attachment 1)

Senator Wysong asked for an example of what **HB 2366** would do? Mr. Ebert stated that **HB 2366** would provide different options to small business owners, such as different deductibles, co-pay option or expanded network payment rates that are currently not available. Senator Barone asked if there was anything that prevents the insurance companies from marketing these options? Mr. Ebert stated that they are told that the insurance department needs the statutory authority that this body and House will present to them. Senator Barone asked, what specifically prevents people from presenting these options today? Mr. Ebert said that they are told that the insurance department, right now, does not have the authority to offer a broad range of flexible plan designs. Senator Barone asked if the Chamber has done any research to validate this claim? Mr. Ebert states that this summers, parts of their health care development process, services as an opportunity, that hospitals, insurance providers and folks are aware of small and medium sized companies have concerns.

Senator Barone asked if Mr. Ebert had specific examples of the cost of insurance in Kansas vs. other locations? Is Kansas not competitive? Mr. Ebert stated that he has no information on that currently, but he

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has seen studies that suggest that health cost are higher in Kansas than many states, including the surrounding states. Senator Barnett asked how does **HB 2366** tie in with other pieces of legislation? There was to be research done and reported back to the committee in answer.

Carlene Marra, Humana, testified in support of **HB 2366**. **HB 2366** would remove some of the barriers that prevent health plans from offering more affordable health care choices to Kansas. **HB 2366** clarifies that insurers may offer more flexible products in the individual and group markets with a broad range of cost-sharing arrangements, giving employers and consumers the choice of a wide variety of low, medium and high-cost health plan options. (Attachment 2)

Senator Barone said, you talked about the law that is based on “interpretation.” Ms. Marra said, the interpretation of existing statute, that is correct. So Senator Barone asked, whenever we have a problem with interpretation, we can refer to the law, has that interpretation ever been challenged? Ms. Marra stated that yes. It has. Carriers have been submitting policies for approval for years that this interpretation has been held. Senator Barone asked if this law based on interpretation ever been challenged in court or appealed. Ms. Marra that it has been challenged, but did not know of appeals.

On the cancellation point, Senator Barone asked if it would be reasonable to add the appropriate reason for cancellation? Ms. Marra stated that there are any number of reasons to cancel a policy. Senator Barone stated that the language said “prior to the end of the term.” Based on that, any legislation that would come forth would honor this. Do you have specifics where legislation overrode policy terms and were forced to be cancelled? Ms. Marra said they were not forced to cancel, but could change something within a policy. Senator Barone stated that he is concerned about the indiscriminate cancellation of individual health policies. Ms. Marra stated that there are good reasons to change a modifier terminated policy. Senator Barone would like to have some specific reasons. Ms. Marra would have to research this. Chair Teichman asked if what is being said, is it should not only be based on the following reasons. Do you want to broaden the reasons on why you can terminate? Ms. Marra feels that this particular language, added in, is unnecessary.

Senator Brownlee asked about Ms. Marra’s request to remove paragraph c on page 4 in subsection b that list all the specified reasons. Senator Brownlee stated, in her opinion, it would be very anti-consumer friendly. Ms. Marra feels that this is limiting to insurance carriers to terminate policies. Senator Brownlee stated that it should be limiting, someone has to stand up for the consumer.

Senator Brownlee asked, what existing law is being referred to that hinders health plans from introducing more affordable options. Ms. Marra stated that it is not so much an existing law as an interpretation of the law. Senator Brownlee asked, what law and what interpretation? Ms. Marra stated it is K.S.A. 40-2215(d) which basically prohibits carriers from offering policies or prohibiting policies that are unfair or unjust. Senator asked if this was a regulation that is carried out by the insurance commissioner? Ms. Marra stated it is an interpretation and the insurance people may be better to speak to that than myself.

Senator Brownlee asked Ms. Marra what she means by “cost sharing?” Ms. Marra said it is the difference between participating and nonparticipating such as an 80/20 cost sharing.

Senator Wilson stated that the insurance companies could be regulated to where they have to follow the rules or not do business in this state at all. Senator Wilson asked if an insurance company does business in the state, are they required to sell a particular product? Ms. Marra, state they are not required to sell a particular product. Senator Wilson stated this presents a consumer problem because we have become so cumbersome in directing the insurance companies to offer what we think is consumer friendly when in essence they just do not have to offer it at all.

Ken Wilke asked in reference to subsection d of K.S.A. 40-2213, the mention of the 30% differential. At what point do you consider the differential too tight? Ms. Marra stated she cannot make that call, but as a consumer she would like the option of a higher differential. Mr. Wilke asked, in reference to page 4, line 23 through 26 and the corresponding provision on page 5, lines 22 through 24, what is unjust? How does this affect the consumer? Ms. Marra stated it would be the approval of the insurance department.

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Bill Sneed, America's Health Insurance Plans, offered written testimony in support of **HB 2366**. (Attachment 3)

Cliff Sones, Wichita Independent Business Association, offered written testimony in support of **HB 2366**. (Attachment 4)

Ashley Sherard, Lenexa Chamber of Commerce, offered written testimony in support of **HB 2366**. (Attachment 5)

Jarrold Forbes, Kansas Insurance Department, explained that in a particular situation the consumer had at least four months to find other coverage if they did not like the switch of coverage. It is Mr. Forbes understanding that this is the only complaint that the Consumer Division had in regards to this entire block of business. Senator Wilson asked if there had been any wholesale complaint other than this one particular consumer's problem? Mr. Forbes stated, not to their office. Senator Wilson asked if this was the amendment that was offered up on the Floor or the committee as a whole? It was believed to be a Floor amendment. Senator Wilson said since this amendment had no discussion in Committee, in Mr. Forbes opinion, is this a necessary amendment? Mr. Forbes said that give the KID only had the one consumer's complaint, we believe the company operated within the guidelines of law that we have now. The Department does not believe this amendment is necessary now.

Senator Brownlee stated a concern she has, is the one opportunity a year the consumer has to change a policy vs. the insurance company's opportunity to change at any time during the term of the policy. Mr. Forbes stated, so long as it meets certain guidelines.

Senator Barone was concerned about this only "one" complaint to the consumers' division of the KID. He states that he personally has made more complaints than that and on behalf of his constituents he can recall five complaints where their insurance has been cancelled. Senator Wilson said that the complaint was specific. Mr. Forbes offered clarification. It is his understanding that this amendment originated out of a particular individual's complaint about what happened in their case. Senator Barone stated he has problems with cancellation resulting from medical conditions or restricted drug usage and similar things. Senator Wilson stated that he does not believe this means the Department of any insurance company can just pick and choose who and when they want to cancel. It would have to be done in the way of a block, i.e., a particular age group, region. Senator Barone asked the KID to provide the committee when an individual policy can be cancelled? Mr. Forbes said he would.

Chair Teichman pointed out that she had **HB 2366** scheduled to work March 16, but could move it to a later date.

Madam Chair closed the hearing on **HB 2366**.

Madam Chair opened the hearing on **HB 2160**.

**HB 2160 - Structured settlement protection act**

Bill Sneed, National Association of Settlement Purchasers, testified in support of **HB 2160**. **HB 2160** was passed by the House 123 to 0. (Attachment 6) Mr. Sneed introduced the Committee to graphic triangles, theoretical 3-ring circuses and threw in some nut shells to explain **HB 2160**.

Senator Wysong set up the scenario that he is the consumer, things have changed and I am going to go back to my insurance company that wrote the deal and restructure the deal. How do I go to the courthouse and get that approved? Mr. Sneed answered that Kansas law does not allow this type arrangement under workers compensation. There is a specific provision that prohibits this. Mr. Sneed stated that they forgot to include that in the original bill and it was corrected in the House committee so that it is consistent with Kansas law.

Madam Chair closed the hearing on **HB 2160**.

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MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on March 15, 2005 in Room 234-N of the Capitol.

Madam Chair opened the hearing on **SB 269**.

**SB 269 - Real estate brokers and salespersons; escrow account requirements; prohibited acts; rebates**

Sherry Diel, Kansas Real Estate Commission, testified in support of **SB 269**. **SB 269** contains four proposed amendments to the Kansas Real Estate Brokers' and Salespersons' License Act, K.S.A. 58-30334, and the Kansas Brokerage Relationships in Real Estate Transactions Act, K.S.A. 58-30,101. Three of the amendments are cleanups in nature. (Attachment 7) Chair Teichman stated these cleanups were agreements that were worked out between the Realtors and title people over the long summer.

Senator Wysong asked if a branch broker with a commercial license for the state of Kansas finds a broker outside of the state who wants to bring a client into the Kansas to purchase a piece of listed real estate, what is the fee? Ms. Diel stated that usually there is an out-of-state brokerage that handles a lot of WalMart transactions and when they are looking at property in Kansas. They want their broker to handle it, if that broker is not licensed in Kansas, that particular transaction a foreign licensee can enter into an agreement with a Kansas broker. Senator Wysong asked if when the deal is put together are the fees split? Ms. Diel said the agreement requires that they specify how the fees are split. There is also a list of other things that need specified such as where the escrow money is held.

Kathy Damron, Kansas Association of Realtors, testified in support of **SB 269**. (Attachment 8)

John Peterson, Kansas Land Title Association, testified in support of **SB 269**.

There were no other questions.

Madam Chair closed the hearing on **SB 269**.

Madam Chair asked for approval of Committee Minutes for February 1, 8, 9, 10, 15, 16, 17, 22 and March 2 which were given to the Committee March 8.

Senator Wilson moved to approve the minutes, Senator Schmidt seconded the motion. The motion carried with the exception of Senator Wysong who passed because of illness.

The meeting was adjourned at 10:31 a.m.