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STATEMENT OF BRAD SMOOT
LEGISLATIVE COUNSEL
BLUE CROSS BLUE SHIELD OF KANSAS
SENATE WAYS AND MEANS COMMITTEE
Regarding 2017 Senate Bill 94
February 8, 2017

Madam Chair and Members:

BCBSKS and its more than 1600 Kansas employees operating from 11 different communities serve approximately 930,000 of your fellow Kansans in 103 Kansas counties. We contract with 100% of the acute care medical facilities in the state, 99% of medical doctors, and 97% other providers in our service area. This enables our members to have access to the health care services they need and deserve.

BCBSKS is a mutual insurance company, which means the company is owned by and operated for the benefit of our policyholders. Nearly \$2.6 billion was paid last year for over 18.9 million claims on their behalf. We handle these claims efficiently, averaging about 90% of our premium dollar in payments to providers, mostly in Kansas. With the remaining premium, we maintain reserves, pay employees and provide facilities, equipment and other routine operational costs, including more than \$77.9 million in federal, state and local taxes in 2015.

On behalf of our BCBSKS customers and policyholders, we must respectfully oppose SB 94, as it is currently written. As you know, the Affordable Care Act (ACA) required insurers to expand benefits and accept all applicants without regard to their health status. Through the ACA, thousands of Kansans were able to purchase federally subsidized individual health insurance. Unfortunately, health insurance claims have far exceeded the amount of premiums being collected under our traditional PPO policies.

In 2014, BCBSKS created a wholly owned subsidiary named BlueCross BlueShield Kansas Solutions, Inc. Solutions is a not-for-profit health maintenance organization (HMO) designed to provide lower cost health insurance options for Kansans. Unlike many HMO's, Solutions' policies do not require the use of a gatekeeper to access care or restrict patients to a narrow network of providers. Solutions uses the same broad provider network as our mutual insurance company. The biggest difference is that Solutions does not include out of network benefits. This means that Solutions members do not receive insurance coverage for services that are not delivered within our 103 county service area.

During the 2015 legislative session, the privilege fee for health maintenance organizations was raised retroactively from 1% to 3.31% for the January 1, 2015 reporting period. Unfortunately, the ACA requires insurers to file and lock in their rates almost a year in advance of selling any policies. The Solutions 2015 insurance plan rates had been filed back in April 2014 so it was impossible to build the new 3.31% privilege fee into the rates resulting in even larger losses.

The exclusive provider organization (EPO) law was enacted in 2016 to allow PPO insurers to sell policies that are similar to HMO plans. BCBSKS considered building EPO plans and moving its Solutions members over to the new policies, but the ACA prohibited moving insureds from a subsidiary to a parent company and vice versa. The ACA would have required Solutions to notify its approximately 50,000 members that their policies were cancelled effective December 31, 2016 and denied us the opportunity to directly market the new EPO plans to former Solutions members.

In short, while the Kansas Legislature's well-intended effort to allow carriers to restructure their companies and plans to escape the growing HMO privilege fee, the federal government effectively prevented it. In addition, other PPO carriers dropped out of the individual market in 2016. If Solutions had dropped out of the market, tens of thousands of Kansans would have not been able to easily re-enroll in federally subsidized coverage. Therefore, our HMO stayed on the Exchange despite millions of dollars in losses and millions more in new state privilege fees.

As a result of other carriers leaving the Exchange and individual market entirely, the Solutions 2017 individual market membership is much larger than it was in 2016. When Solutions filed its 2017 rates back in April 2016, it factored in the 3.31% privilege fee and tried to account for the instability

in the individual market. However, a 5.77% privilege fee was not the law 10 months ago and could not be built into the rates filed and approved 10 months ago.

The retroactive provisions of SB 94 will cause Solutions' privilege fee to increase by another \$8.1 million on top of the estimated \$10.9 million we expect to pay for 2017. That is approximately \$16 million more in taxes to BCBSKS/Solutions than would have been paid before the state began the dramatic privilege fee increases to fund KanCare and the Medicaid MCO's.

A prospective privilege fee increase beginning January 1, 2018, as provided in HB 2065, would allow insurers in the individual and small group markets to file adequate rates to account for the additional tax. In addition, the ACA has modified its rules for 2018 plan years so Solutions will be able to "crosswalk" its insureds among their affiliated companies without cancelling insurance for more than 70,000 of our fellow Kansans. In short, if the tax increase is effective for 2018 (not retroactive to the 2017 plan year) the option of building new EPO plans for Solutions members is real.

Therefore, we respectfully ask you to at least amend the effective date for any privilege fee increase to January 1, 2018, to prevent additional chaos in an already unstable and increasingly expensive Kansas individual health insurance market.

Thank you.