

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 8, 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: Kathleen Sebelius, Commissioner, Kansas Insurance Department
John Pepperdine, American Cancer Society

Others attending: See attached Committee Guest List

With the meeting at order Revisor Ken Wilke recapped the balloon concerning **HB 2562-Life insurance company investments; financial futures contracts**, presented to the committee February 3rd of this same year. A copy of the balloon is (Attachment #1) attached hereto and incorporated into the Minutes by reference.

Mr. Wilke pointed out, that page three (3) carried the main change. The change deals with the “aggregate amounts of 10% of the life insurance company’s admitted assets as shown on the company’s last annual or quarterly report, without the prior written approval of the commissioner of insurance....” The change will be inserted into Section (e), line 43, after the work index. The rest of the changes dealt with changing the section reference letters and line numbers. Page one (1) also dealt with changing number (3) to insert another definition to be used in this section and changing number (3) to number (4). The word to be inserted is “Counterparty”. Page two (2), dealt with the insertion of the word “SVO’ under number (14) which will also become number (16). All other numbers will change along with page number 1. This same change will continue to page number 3 through lines 5. The last of the changes will take place on page number 4, changing the letters starting with the letter (e) to (f) and continue on through the letter (h).

Upon completion of the explanation of the bill, Chairman Tomlinson, called for the bill to be worked by the committee. Representative Kirk made the motion to accept the balloon and Representative Showalter seconded the motion. Discussion on the part of Representative Myers took place as to whether the Commissioner was of with the language or not. It was confirmed the Insurance Commissioner and Department were in agreement with the language and the vote was put before the committee. The committee voted to accept the balloon. Representative Grant then made the motion to move the bill out as amended for passage, Representative Showalter seconded the motion. A vote was taken from the committee passed the bill out favorably.

With this information before the committee, the Chairman proceeded by opening the public hearing on **HB 2778**-providing coverage for secondary consultations in cancer. The Chairman recognized Commissioner of the Kansas Insurance Department, Kathleen Sebelius to the floor. Commissioner Sebelius presented Proponent Testimony to the committee. A copy of the testimony is (Attachment #2) attached hereto and incorporated into the Minutes by reference.

Commissioner Sebelius gave an overview of the bill which addresses second opinions in cancer situations. She stated the bill was before the committee for a variety of reasons. She informed the committee the bill originated as a patient protection package and is in congress now. She stated that many of these plans being offered are already in force right now in several different states, but are not consistent with one another. She informed the committee that the health plans will have front-end costs added to the coverages, coverages that are meant to be “preventative medical care, and should significantly reduce long-term costs and increase quality of life.”

The Commissioner informed the committee, she had had the issue brought to her attention by Mr. Richard Bloch, a cancer survivor himself. He has been doing a great deal of research and collection of data from many of the top cancer experts in the country. Mr. Bloch's testimony is attached to the Commissioner's testimony. It is (Attachment #3) attached hereto and incorporated into the Minutes by reference. It was stated "There is a substantial body of scientific evidence that indicates the cure rate would increase to 75% when good preventive and diagnostic procedures are allowed."

The commissioner stated that the concepts of the bill were simple and designed to save lives by being able to seek out a second opinion from specialists in this field, when there is the likelihood of cancer is present. The bill simply states "...a health plan shall provide reimbursement for a secondary consultation with a specialist, selected by the insured's physician." These same plans could not penalize a specialist financially for giving the patient the diagnosis. The Commissioner stated, "A similar provision was passed by the United States Senate in the Patient Protection measure and is pending in conference committee."

The Commissioner feels the issue is about saving money, lives and getting the cancer patient to a specialist as quickly as possible. With this the Commissioner stood for questions. Questions were posed by Representative Boston regarding the cost of the increase in rates. The fiscal note which was believed to be in error will be resubmitted to the chair at a later date. The original fiscal note showed a possible no fiscal impact on the general funds. The Commissioner then asked if there would be a direct impact on their own personal budget. Questions were raised regarding second opinions in cancer and not other areas

The changes to the bill would come under amending KSA 1999 Supp. 40-2, 103 and 40-19c09 and repealment of the existing sections. Questions continued with Representative Boston regarding Page 2, line 41. Revisor, Ken Wilke responded, answering this was "standard language on mandates." Representative Empson then questioned the limits on consultations and whether or not MRI's, CTSCAN's, etc. would also be included. Representative Kirk addressed drafting errors to which the Commissioner directed attention to the balloon.

With no further questions the Chair then recognized Mr. John Pepperdine, American Cancer Society, who also gave Proponent Testimony to the committee. A copy of the written testimony is (Attachment #4) attached hereto and incorporated into the Minutes by reference. Mr. Pepperdine stated that the Cancer Society supported the bill and that the ultimate decision should be between the doctor and patient. He also stated that most people are not aware of the need/ability to obtain a second opinion. He stated that managed care companies just help on these issues except for fiscal results. Question was asked by Representative Showalter.

The next conferee to be recognized was Mr. Bill Sneed, Health Insurance Association of America. Mr. Sneed offered Opponent Testimony to the committee. A copy of his written testimony is (Attachment #5) attached hereto and incorporated into the Minutes by reference. Mr. Sneed informed the committee Kansas law does not disallow anyone from getting a second opinion. The problem is **who** will pay for it? Much of Mr. Sneed's testimony provided information on his clients position relative to mandates. Mr. Sneed also provided information based on a study entitled *The Price of State Mandated Benefits*, by Jon Gabel and Gail A. Jensen. It was stated, in 1989, "states had passed more than 700 mandates, most of which required insurers to cover specific diseases or to pay for the services of certain types of providers." It also stated that through these studies it was determined mandates raised insurance coverage rates, discouraged small businesses from providing coverage, and encouraged firms to self insure. Further results of the study were included in Mr. Sneed's handout. Mr. Sneed's handout also included other information on mandates and how they affect the insurance market and the policyholders.

Questions were asked by Representatives Kirk, Boston and Grant, covering second opinions, exact language of each situation, and benefit packages designed by the employer.

Larry Ann Lower, Kansas Association of Health Plans, was the next conferee to be recognized by the Chairman. Ms Lower presented Opponent Testimony to the committee. A copy of the testimony is (Attachment #5) attached hereto and incorporated into the Minutes by reference. Ms. Lower and her clients were in opposition to further mandates put on insurance providers, especially those for full coverage for "secondary consultations with a specialist chosen by the attending physician to confirm or refute the positive or negative diagnosis of cancer at no additional cost to the consumer." Ms. Lower stated they have three (3)

distinct concerns: (1) The terms “full coverage” and “at no additional costs.” Are carriers being forced to disregard any and all copays and/or any deductibles when there is a second consultation? (2) How many “second opinions are going to be allowed, and (3) “...the attending physician can select any specialist regardless of whether the specialist is a participating network provider?”

Ms. Lower requested the committee allow the providers to “meet the demands of the marketplace rather than enacting an unclear mandate that may inadvertently cause the cost of health insurance to rise.” With this Ms. Lower stood for questions. Questions were presented by Representative Kirk, Empson and the Chairman.

Mr. Terry Leatherman, Kansas Chamber of Commerce and Industry, presented written Opponent Testimony only to the committee. Mr. Leatherman basically agreed with the former conferees. A copy of Mr. Leatherman's testimony is (Attachment #6) attached hereto and incorporated into the Minutes by reference.

The Chair called for further discussions or testimonies on the bill. With none the public hearings were closed.

Public hearings on **HB 2770-Insurance; providing coverage for diagnosis and treatment of osteoporosis.**

The Chair recognized Insurance Commissioner Kathleen Sebelius. The commissioner gave an overview of bill stating the bill “is to provide insurance coverage to individuals with a condition or medical history for which bone mass measurement (bone density testing) is determined to be medically necessary for the individual's diagnosis and treatment of osteoporosis.” A copy of the testimony and analysis is (Attachments #7&8) attached hereto and incorporated into the Minutes by reference. The Commissioner presented an amendment to KSA 1999 Supp. 40-19c09 and 40-2,103. In the new section the act would be known as the “bone measurement coverage act.” She then explained the new sections 2 and 3 with the changes to sections 4, 5 with repeals to section 6. Section 7 would hold the effective date: Statute book. An analysis of the bill regarding whether or not health care insurers in Kansas provide coverage for bone density testing was attached. The Commissioner then stood for questions.

The Chairman again addressed the fiscal note. He requested another note. Questions continued regarding numbers of people this bill would cover that were not already covered, who determines who qualified physicians are, to the cost of these tests. Asking questions beside the Chair were, Representatives Boston, Kirk.

Opponents to the bill were then recognized. Mr. Bill Sneed, Health Insurance Association of America, gave Opponent Testimony. A copy of the testimony is (Attachment #9) attached hereto and incorporated into the Minutes by reference. Mr. Sneed again addressed mandates being passed down to companies. Mr. Sneed was unaware of any company among his clients that did not already cover bone density tests and/or the diagnosis and treatment of osteoporosis. Mr. Sneed also addressed lines 18-19 which carried the term “medically necessary.” He stated to their knowledge, “all insurance contracts under the purview of the Kansas Insurance Department require coverage for “medically necessary” testing and/or treatment.” Mr. Sneed's clients feel this may be a requirement for a bone density test “regardless of a physician's determination of medical necessity.” These are service mandates already in Kansas Laws. They also felt that if this is the case they had not seen any documentation that a mandate such as this would be cost effective in today's marketplace. Mr. Sneed stood for questions. As there were none the Chair recognized Larry Ann Lower.

Ms. Lower, Kansas Association of Health Plans, gave Opponent Testimony to the committee. A copy of the testimony is (Attachment #10) attached hereto and incorporated into the Minutes by reference. Ms. Lower explained Managed Health Care to the committee and that the survey of her HMO's showed they are all currently providing coverage for bone density testing if the individual has a condition, medical history or is over menopause and testing is determined medically necessary. Mr. Lower and her clients feel that before any further mandates are passed that the new legislation be subject to the provisions of K.S.A. 1999 Supp. 40-2249a. Which requires testing of any new mandates, on the state employees health plan to determine the cost impact. Ms. Lower stood for questions. Questions were raised by Representatives Kirk, Toelkes and Boston.

The Chair requested any further discussions on this bill. As there were none the public discussions on this bill were closed. With no further business, the meeting was adjourned. Time is 5:21 p.m.

The next meeting will be held February 10th of this year. The meeting will be moved to Room 519-S.