

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 February 9, 2009, in Room 136-N of the Capitol.

All members were present except:

Senator Jim Barnett
Senator Karin Brownlee- excused
Senator Ty Masterson

Committee staff present:

Bruce Kinzie, Office of the Revisor of Statutes
Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Beverly Beam, Committee Assistant

Conferees appearing before the committee:

Melissa Calderwood, Principal Analyst, Research Department
Senator Owen, ([Attachment 1](#))
Ron Hein, Mental Health Credentialing Coalition ([Attachment 2](#))
Dr. Dan Lord, Kansas Association for Marriage and Family ([Attachment 3](#))
Dr. Rusty Andrews, Kansas Association for Marriage and Family ([Attachment 4](#))
Elaine Ptacek, Kansas Counseling Assn./Kansas Mental Health Counselors Assn. ([Attachment 5](#))
Lou Smith, Independent Insurance Agent - Wichita ([Attachment 6](#))
Gerald Snell, Chief Clinical Services Officer, Youthville ([Attachment 7](#))
Debra Schartz-Robinson, Parent ([Attachment 8](#))
Jeffery A. McCall, Parent ([Attachment 9](#))
Kyle Kessler, Vice President, Administration and Governmental Affairs, KVC Behavioral HealthCare ([Attachment 10](#))
Sister Therese Bangert, SCL, Kansas Catholic Conference ([Attachment 11](#))
Randy Nelson, Hansen Mueller Co., Courtland ([Attachment 12](#))
Steve Solomon, Ph.D, Director of Public Policy, TFI Family Services ([Attachment 13](#))
Michelle Sweeney, Policy Analyst, Association of CMHCs of Kansas, Inc. ([Attachment 14](#))
Michael Goldberg, Chief Executive Officer, Kansas Health Solutions ([Attachment 15](#))
Sarah Bremer Parks, MS, LCP, Synergy Systems Consulting, P.A. ([Attachment 16](#))
Virginia Moxley, Ph.D, Dean, Kansas State University ([Attachment 17](#))
C. R. Macchi, Ph.D, LCMFT, ([Attachment 18](#))
Trina Riley, RN, CDE, St. Francis Health Center ([Attachment 19](#))
Jeri Stonestreet, LSCSW, Stonestreet & Associates ([Attachment 20](#))
Andrew Schauer, Ph.D., Psychologist, ([Attachment 21](#))
Mary Elaine Hayes, Licensed Clinical Psychotherapist, ([Attachment 22](#))
Marc Schlosberg, Ph.D., Clinical Associates, P.A. ([Attachment 23](#))
Barrie Mariner Arachtingi, Ph.D., Licensed Psychologist, Christian Psychological Services ([Attachment 24](#))
Bruce Nystrom, Ph.D., Licensed Psychologist, ([Attachment 25](#))
Rachelle Colombo, Senior Director of Legislative Affairs, Kansas Chamber ([Attachment 26](#))
Daniel S. Murray, State Director, National Federation of Independent Business-Kansas ([Attachment 27](#))
Brad Smoot, Legislative Counsel, Kansas Blue Cross and Blue Shield of Kansas and KC ([Attachment 28](#))
Marlee Carpenter, Executive Director, Kansas Association of Health Plans ([Attachment 29](#))
Adam Buhman-Wiggs, Ph.D, Kansas Psychological Association ([Attachment 30](#))

Others attending:

See attached list.

The Chair called the meeting to order and welcomed everyone to the meeting.

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Minutes of the Senate Financial Institutions And Insurance Committee at 9:30 a.m. on February 9, 2009, in Room 136-N of the Capitol.

Hearing on

SB 104 - Insurance reimbursement for certain services.

Melissa Calderwood, Principal Analyst, Research Department, gave an overview of the bill. She stated this bill would require that when an individual or group health insurance policy provides for reimbursement to an insured individual for services rendered, the insured individual is entitled to be reimbursed, whether the service was provided by a licensed physician or any of the following licensed professionals: clinical professional counselors, clinical marriage and family therapists, or clinical psychotherapists. She said the Kansas Insurance Department indicates that the passage of **SB 104** would require an administrative change in the way the Department reviews accident and health policy forms. However, the agency states that it would absorb any additional expenditures within its current budget, she said. She noted that the Kansas Health Policy Authority states that with the enactment of **SB 104**, it would be required to provide coverage for the additional practitioners under the State Employee Health Plan. She said payments for benefits under SEHP coverage are considered off-budget expenditures.

PROPONENTS

Senator Owen testified in support of **SB 104**. He testified that Licensed Professional Counselors are often the backbone of counseling services in a community and yet are unable, in many instances, to bill insurance companies for their services because of the insurance exclusions which **SB 104** seeks to address. He said many clients are unable to pay for the services but have insurance coverage which could pay for those services but for the underwriting decisions which preclude them. ([Attachment 1](#))

Ron Hein, on behalf of Mental Health Credentialing Coalition, testified in support of **SB 104**. Mr. Hein said the issue he wanted to address is the unlevel playing field for insurance reimbursement for mental healthcare providers which results in inconsistency in state policy, lack of consumer choice and restricted access to mental health care in Kansas, especially in rural areas. He said existing state policy leaves the reimbursement decision up to individual insurance companies, rather than the legislature setting the reimbursement policy for the state. Mr. Hein said rather than seeking a legislative solution, Mental Health Credentialing Coalition chose, at his urging, to meet with Blue Cross and Blue Shield of Kansas to demonstrate to them the value of reimbursing all Behavioral Sciences Regulatory Board licensed professionals when providing mental health insurance coverage. He said BCBS of Kansas indicated they would not reimburse the three excluded mental health professionals because of the existence of the current mandate regarding two of those five professionals. They specifically told us they would only reimburse our three mental health providers if they were mandated by the legislature to do so. He noted that **SB 104** does not expand the mental health mandate imposed by K.S.A. 40-2,105a in any way as it does not increase any services that need to be provided as a part of the existing statutory mandate for mental health coverage. He said what **SB 104** does is prohibit selected insurance companies who are not currently reimbursing all of the five licensed BSRB mental health professionals from discriminating against some providers based simply on their licensing credentials. ([Attachment 2](#))

Dr. Dan Lord, Kansas Association for Marriage and Family testified in support of **SB 104**. Dr. Lord said the framework of the Legislature ten years ago has well served citizens who seek and depend on the state's mental health delivery system. He said it has supported multi disciplinary service models focused on client care and health care efficiencies. He said it has also made possible an effective state regulatory agency that can coordinate ongoing regulatory activity of licensed mental health professionals in one board rather than five. ([Attachment 3](#))

Dr. Rusty Andrews, Ph.D, Kansas State University Graduate Programs in Marriage and Family Therapy and The Mental Health Credentialing Coalition testified in support of **SB 104**. He said three basic reasons for supporting it are (1) inclusion creates no negative impact on health-care costs, (2) inclusion creates a positive impact on health-care services provided, and (3) inclusion is beneficial from a professional and public policy perspective. In addition, Dr. Andrews said all mental health professionals licensed by the State of Kansas to diagnose and treat mental disorders should be included in insurance reimbursement laws regarding mental health services. ([Attachment 4](#))

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Elaine Ptacek, Kansas Counseling Assn./Kansas Mental Health Counselors Association, testified in support of **SB 104**. Ms. Ptacek testified that being licensed at the highest level in Kansas under the supervision of the BSRB should level the playing field among all disciplines. She said the overall goal is helping our citizens attain a mentally healthy mind when they are ready to seek treatment, not delaying it because of costs or lack of choice. ([Attachment 5](#))

Lou Smith, RHU, Independent Insurance Agent, testified in support of **SB 104**. Mr. Smith said he is uniquely qualified to address the committee from two different perspectives. He said he works daily with employers struggling with the costs of their benefit packages but also understands the implications of the mental health delivery system and its affect on the quality of life of fellow Kansans. He said it is a recognized fact that the mental health of an employer's workforce can have a direct impact on their physical well being and thus their physical medical health. He said these are directly related. ([Attachment 6](#))

Gerald Snell, Chief Clinical Services Officer, Youthville, testified in support of **SB 104**. Mr. Snell said **SB 104** prohibits insurance companies from excluding otherwise qualified mental health practitioners from their provider network solely based upon their discipline. He said presently, Blue Cross and Blue Shield of Kansas refuses to credential providers who are licensed by the Behavioral Sciences Regulatory Board to practice independently, such as Licensed Clinical Marriage and Family Therapists, Licensed Clinical Professional Counselors and Licensed Clinical Psychotherapists. He noted that this decision is being made without consideration to the individual practitioner's skills, experience or ability to provide specialty services. He said outside of Medicare, BCBS of Kansas is the only insurance carrier that refuses to credential these disciplines, in spite of the fact that BCBS plans in 36 other states credential these disciplines. ([Attachment 7](#))

Debra Schartz-Robinson, Licensed Specialist Clinical Social Worker and Parent testified in support of **SB 104**, telling the story of her now 14-year-old adopted daughter and the difficulty she has had getting therapy for her due in part to living in a rural area where options for treatment are limited and having an insurance company (BCBS) that restricts treatment options. ([Attachment 8](#))

Jeffery A. McCall, Parent, testified in support of **SB 104**. He said because his family lives in an under served area, options are limited. He said BCBS should recognize the credentials the Marriage and Family Therapists have acquired and approve the services provided by these therapists. ([Attachment 9](#))

Kyle Kessler, Vice President for Administration and Governmental Affairs at KVC Behavioral HealthCare provided written testimony only in support of **SB 104**. Mr. Kessler yielded his time to others. ([Attachment 10](#))

Sister Therese Bangert, SCL, Kansas Catholic Conference ([Attachment 11](#))

Randy Nelson, Superintendent for Hansen Mueller Co., Courtland, Kansas, testified in support of **SB 104**. (Written only) ([Attachment 12](#))

Steve Solomon, PhD, Director of Public Policy, TIF Famikly Services ([Attachment 13](#))

Michelle Sweeney, Policy Analyst, Association of CMHCs of Kansas, Inc. (Written only) ([Attachment 14](#))

Michael Goldberg, CEO, Kansas Health Solutions (Written only) ([Attachment 15](#))

Sarah Bremer Parks, MS, LCP (Written only) ([Attachment 16](#))

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Jeri Stonestreet, LSCSW, Stonestreet & Associates (Written only) ([Attachment 20](#))

Andrew Schauer, PhD, Psychologist (Written only) ([Attachment 21](#))

Mary Elaine Hayes, Licensed Clinical Psychotherapist (Written only) ([Attachment 22](#))

Marc Schlosberg, PhD, Clinical Associates, P.A. (Written only) ([Attachment 23](#))

Barrie Mariner Arachtingi, PhD, Christian Psychological Services (Written only) ([Attachment 24](#))

Bruce Nystrom, PhD, Licensed Psychologist (Written only) ([Attachment 25](#))

Rachelle Colombo, Senior Director of Legislative Affairs, The Kansas Chamber (Written only) ([Attachment 26](#))

Daniel S. Murray, State Director, National Federation of Independent Business-Kansas (Written only) ([Attachment 27](#))

OPPONENTS

Brad Smoot, Legislative Counsel, Blue Cross Blue Shield of Kansas, testified in opposition to **SB 104**. Mr. Smoot stated that at a time when lawmakers, employers and families are searching to design and pay for affordable health insurance and even expand coverage to the growing number of uninsured, it seems totally counterproductive to expand by law the number of providers who must be “reimbursed.” Further, Mr. Smoot said that unless the law mandates otherwise, insurers contract with enough providers in various categories and regions to serve their insureds. He said their contracts insist that providers not “balance bill” their patients for the difference between the agreed contract price and what that provider would like to have charged. He said if you are a BCBS customer, you see this reflected in your hospital or doctor’s bill. Mr. Smoot noted that last year, BCBSKS saved its policyholders about \$800 million through its contractual prohibition on “balance billing.” He said again this year, however, these three provider groups ask you to mandate that BCBS reimburse them. He said despite BCBS’s request last year that proponents clarify the issue, SB 104 does not. Mr. Smoot said not to assume that these three mental health provider groups have no access to BCBSKS patients or reimbursement because they do. He said BCBSKS pays such providers when they work and bill through community mental health centers. He said the issue is not whether these providers can get paid for their services, but whether the legislature will force BCBSKS to pay them directly or allow BCBSKS to continue payment through the community mental health centers methodology. In conclusion, Mr. Smoot said if BCBSKS policyholders say they want BCBSKS to contract with these three mental health provider groups, it will. If the market tells BCBSKS it needs to contract with these providers to be competitive, it will. If the community mental health center model is broken, let’s fix it. If we have too many mental health providers, let’s not encourage it. If we have poor distribution of providers, let’s address that; however, **SB 104** addresses none of these issues. ([Attachment 28](#))

Marlee Carpenter, Executive Director, Kansas Association of Health Plans, testified in opposition to **SB 104**. Ms. Carpenter stated that KAHP members are dedicated to providing low cost health insurance to Kansas citizens. She said each additional coverage or provider mandate that is enacted increases the cost of health insurance and the plan’s ability to provide new, innovative and lower cost health insurance products. She said every health insurance mandate is brought to the legislature with good intention, but as additional mandates have been enacted, health insurance companies have become limited in the types of lower cost plans they can offer. ([Attachment 29](#))

Adam Buhman-Wiggs, PhD, Kansas Psychological Association, testified in opposition to **SB 104**. Dr. Wiggs stated that Kansas law has a clear and established procedure by which mandates are issued. He said the Kansas legislature identified two steps that must be followed before a mandate would be issued: (1) completion of a cost-benefit analysis and, subsequent to that analysis, (2) piloting the mandate with state employees. He said both steps are critically important and established in precedent, and the MHCC has completed neither nor pursued their completion. In summary, Dr. Wiggs stated that it is not the intention of

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the KPA to discourage other sub-doctoral mental health provider groups from obtaining vendorship within the state. He said the KPA is very sensitive to factors that would enable wider access to mental health services in Kansas. He noted, however, the KPA strongly believes that the established review process and implementation strategies for vendorship, for which there is historical precedent and demonstrated prudence, must be maintained for the MHCC provider groups, as had occurred previously for other mental health providers. He said such adherence is seen as a means by which the State of Kansas may be fiscally responsible and appropriately address the issues of provider access based on data, while simultaneously ensuring that mechanisms are in place not only to protect the health and emotional well-being of the population, but also to protect the healthcare marketplace in the state and the insurability of its citizens. (Attachment 30)

The Chair closed the hearing on **SB 104**.

The next meeting is scheduled for February 10, 2009.

The meeting was adjourned at 10:30 a.m.