

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:12 a.m. on February 9, 1994 in Room 529-S of the Capitol.

All members were present.

Committee staff present: William Wolff, Legislative Research Department  
Fred Carman, Revisor of Statutes  
June Kossover, Committee Secretary

Conferees appearing before the committee: Sharon Huffman, Kansas Commission on Disabilities Concerns  
Brenda Parker, Manhattan, KS  
Michael R. Todd, Lawrence, KS  
Dick Brock, Kansas Insurance Department  
Chip Wheelen, Kansas Psychiatric Society

Others attending: See attached list

Senator Steffes made a motion to approve the minutes of the meeting of February 8 as submitted. Senator Lawrence seconded the motion, and the motion carried.

The chairman opened the hearing on **SB 566**, which amends the Kansas Uninsurable Health Plan, created by HB 2511 in 1992, to reduce the waiting period for pre-existing conditions from one year to 90 days. Dr. William Wolff provided a brief summary of this legislation and explained that HB 2511 created a risk pool for persons who are otherwise uninsurable. The bill also provides that after the first year of operation, coverage of pre-existing conditions may be excluded as determined by the board.

Sharon Huffman, Kansas Commission on Disabilities Concerns, presented testimony prepared by Sharon Joseph, Chairperson of the KCDC, requesting that the bill be amended to eliminate completely the waiting period for pre-existing conditions. (Attachment #1.) Dr. Wolff clarified for Ms. Huffman that the language in the bill would not extend the waiting period.

Brenda Parker, Manhattan, KS, presented testimony strongly in support of **SB 566** and recounted her family's personal history relating to pre-existing conditions. (Attachment #2.)

Michael Todd, Lawrence, KS, offered testimony requesting that the bill be amended to remove totally the waiting period for pre-existing conditions, to remove the benefits cap, and to lower the deductible. (Attachment #3.)

Senator Praeger pointed out that the benefits cap exists under current law and this bill makes no changes with regard to this issue, and that the goal of **SB 566** is to attempt to create coverage that will be affordable.

Senator Lee expressed her concerns that the bill is "window dressing" and does not address the problem because coverage remains unaffordable to many people. Senator Bond replied that although there are some people who simply cannot afford any coverage, this bill will make coverage available to some who have been uninsured in the past.

Dick Brock, Kansas Insurance Department, testified that the Insurance Department supports this legislation and requested clarification about whether or not the 90 day waiting period would apply to everyone, even those already in the process of serving the one year waiting period. (Attachment #4.) In response to Senator Moran's question, Mr. Brock stated that there have been 412 applicants under the plan and 269 participants to date and that the premiums have been lower than anticipated. Mr. Brock clarified for Senator Praeger that approximately 130 people currently serving the one year waiting period would be affected by lowering the waiting period to 90 days.

There being no further questions and no other conferees, the hearing on **SB 566** was closed. Following further discussion regarding whether or not those currently serving waiting periods should be included in the 90 day waiting period provided in this bill, the committee agreed that no amendments were necessary.

Senator Praeger moved to pass **SB 566** favorably. The motion was seconded by Senator Corbin. The motion carried.

## CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,  
Room 529-S Statehouse, at 9:12 a.m. on February 9, 1994.

The hearing was opened on **SB 612**, regarding insurance plans subject to group health and accident requirements. Chip Wheelen, on behalf of the Kansas Psychiatric Society, requested that the bill be amended to include medically necessary treatment of mental illness and to include as an option a definition of "mental illness." (Attachment #5.)

Dr. Wolff advised that the language in lines 17-22 on page 1 should be moved to page 2. Dr. Wolff also explained that this bill would expand portability of insurance coverage and would expand the size of "small group" plan from no more than 25 employees to no more than 50 employees.

Due to time constraints, the hearing on **SB 612** will be continued on Thursday, February 10.

The committee adjourned at 10:00 a.m.

The next meeting is scheduled for February 10, 1994.

# GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 2-9-94

NAME	ADDRESS	ORGANIZATION
Michael R. Todd	201 Miller Dr. <sup>Celestia</sup> Lawrence	consumer, constituent
L.M. CORNISH	Topeka	Ks assn B/C companies Insurance - life
DICK BRACK	"	Ins Dept
KEITH R LANDIS	"	CHRISTIAN SCIENCE COMM ON PUBLICATION FOR KS
HARRY SPONG	KC.	Humana
ALAN COBB	Wichita	Wichita Hosp-HS
Andy Drope	Lawrence	Sen. Burke
W. Gross	Shawnee Miss KS	Shawnee Mission Med Ctr
Rich Githrie	Hecla Midwest	Hecla Midwest
Walter Parker	Manhattan	Ks. Farm Bureau
Brenda Parker	Manhattan	Parent
<del>Darryl Taylor</del>	<del>Topeka</del>	<del>KALA</del>
Tom Bell		
Bill Sneed	TOPEKA	HIAX
SHANNON M. ANDERSON	Chicago, IL	HAAA
Chip Wheelen	Topeka	Ks Psychiatric Soc.
Hal Anderson	Topeka	NFTB/Kansas
Bud Smoot	"	BCBS
Mary G. Hinds	El Dorado	CRAAH-
Nydia Selt	El Dorado (Leon)	CRAAA
Jasie Torrez	Topeka	Families Together
Wendell Strom	Topeka	NAARP-CLTF

# KANSAS COMMISSION ON DISABILITY CONCERNS

1430 SW Topeka Blvd  
Topeka, KS 66612-1877  
(913)296-1722 (V) 296-5044 (TTY) 296-1984 (Fax)

---

## TESTIMONY PRESENTED TO SENATE FINANCIAL INSTITUTIONS AND INSURANCE

by

Sharon Joseph, Chairperson  
February 9, 1994

### Senate Bill 566

Mr. Chair, members of the committee, thank you for this opportunity to testify in support of Senate Bill 566.

Kansas Commission on Disability Concerns advocates for full inclusion of people with disabilities into **all** aspects of life. One arena that has typically and traditionally underserved people with disabilities is health insurance. Nearly two years ago a new law was passed in Kansas that created the Kansas Uninsurable Health Insurance Plan Act. This new Plan gave fresh hope to those who previously had been unable to purchase health insurance because of health conditions.

Unfortunately for those persons whose health condition had manifested itself within the six-month period immediately prior to application for benefits, the very health condition that necessitated their application for benefits will not be a covered expense during the first 12 months of coverage. I applaud the Committee for reducing the waiting period to 90 days after May 1, 1994; but I question your intent when the current law would leave the exclusion of preexisting conditions up to the discretion of the Board. The original language in Section 1(c), line 24 **mandates** the exclusion for the first two years of operation. Now, even though the waiting period has been reduced, the proposed changes would mandate exclusions for one more year.

May I remind the Committee again that many of the individuals who would benefit from this Plan would not be allowed to receive coverage for the very condition that made it necessary for them to enroll in the first place. These are

*Senate 7141  
2/9/94*

*Attachment # 1*

not people who are waiting until the last minute, when they are deathly ill, to purchase health insurance. We are talking about people who have already been denied coverage by at least two other carriers because of health conditions, or have been accepted for health insurance subject to a permanent exclusion of a preexisting disease or medical condition.

KCDC proposes that you strike out Section 1(c), lines 24 through 36 of the Bill and allow the persons for whom this Plan was created reap the full benefits of health insurance.

Thank you very much for allowing me to speak before you today.

2141 2/9/94  
1-2

# **Committee on Financial Institutions and Insurance**

## **S.B. 566**

**Testimony by:**

**Brenda Parker**

**4303 Harbour View Road**

**Manhattan, Kansas 66502**

**Chairman Bond and members of the Committee:**

My name is Brenda Parker, and I am a mother. I appreciate the opportunity to speak to you today in strong support of S.B. 566. Prior to the birth of my daughter Kaci over four years ago, I was a successful professional businesswoman. If success can be measured in terms of nice vacations, new cars, and new homes, then I guess you would say my husband and I had it made.

Now, however, four years later and a veteran of the health care system, I measure success differently. It now means surviving and thriving. Our daughter, Kaci, was born with several physical birth defects. For two years and through thirteen surgeries on her heart, esophagus, intestines, trachea, and more, we watched our daughter fight for her life. The term "code blue" became too familiar, and our lives as we knew them were dramatically changed.

My successful career ended, our household income was cut in half, our savings were depleted, our expenses rose, and we sold our new home in exchange for a much smaller one.

During Kaci's hospitalizations, we took initiative on our own to learn as much as possible about her condition and how to take care of her. This included learning procedures such as suctioning her tracheostomy tube, replacing it, inserting a feeding tube through her nose into her stomach, learning to interpret lung sounds for possible signs of pneumonia and heart failure, changing colostomy bags, maintaining oxygen equipment, etc. We also took our own

*Senate 7141  
2/9/94*

*Attachment #2*

supplies to the hospital such as diapers, medications, colostomy and tracheostomy supplies and other equipment we used at home so costs could be kept to a minimum. Still, Kaci's one million dollar insurance policy was capped in two years, something we never thought possible, and we were faced with a thing called bankruptcy, something we never dreamed two successful people would ever have to even think about.

Kaci's pre-existing conditions prevented us from acquiring other insurance for her. Through much effort, Kaci finally received coverage through a federal waiver program designed specifically for technology dependent children called "Kidscreen". When I found out we would be accepted in the "Kidscreen" program, I felt I'd won the Lottery. At that time, Kaci, even though we were able to have her at home, required oxygen 24 hours a day, suction and respiratory machines for a tracheostomy, colostomy bag changes, gastrostomy tube feedings, and numerous medications on a 24 hour schedule. One of our doctors referred to the situation as "our I.C.U. at home".

That was then. Now, Kaci is getting well. She is no longer on oxygen, her colostomy has been reversed, and there are plans to remove the tracheostomy tube this spring. She is healthy, has not been in the hospital for a year and a half, and we're able to concentrate much more on catching up with developmental delays. She is bright, has had numerous excellent cardiac checkups, and her medications are cut substantially. She is our miracle.

She will not be technology dependent for very much longer. While this is what we and many others have prayed for these last four years, it also means we will no longer have access to medical coverage.

The Uninsurable Health Insurance plan was passed and designed, I believe, to spread the risk, and was an effort to provide an incremental health reform solution to a target group of Kansans. Its premise was good and needed. The fact is, however, if you are uninsurable and qualify for the Uninsurable Health Insurance plan, you likely have a pre-existing condition. A plan for uninsurable people with a full year waiting period for coverage of a pre-existing condition defeats the purpose. In our case, that time frame, especially if there were some unforeseen

4141 2/9/94  
2-2

problem, could bring the fear of bankruptcy again to the forefront of our lives.

The bill before you, S.B. 566, provides for a 90 day waiting period, rather than twelve months. While 90 days without any coverage may be a challenge, we understand the need for a reasonable waiting period, and we believe this is workable for us as well as others who must look to the Uninsurable Health Insurance plan as their only choice of coverage.

We want to continue to be productive, taxpaying Kansans. We want to continue to contribute to Kansas, instead of being threatened with Kansas having to contribute to us. We have fought very hard over the last four years to keep it that way. We are willing to do what it takes to pay the premiums and deductibles necessary. Our daughter Kaci is worth it. She is very special to us, and she has touched and encouraged so many others.

Mr. Chairman and members of the Committee, our daughter's future looks bright. I ask that you approve S.B. 566 so that the future of Kaci's parents, and the future of other families in Kansas like us, may look bright as well. Thank you for your time.

Senate 7/21  
2/9/94  
2-3



STATE OF KANSAS  
COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE  
February 9, 1994

testimony by: Michael R. Todd  
2011 Miller Dr.  
Lawrence, KS 66046

Thank you Chairman Bond, and members of the Financial Institutions and Insurance Committee, for allowing me to testify about Senate Bill 566. This bill could affect me, for I have a chronic illness and could have to utilize the health insurance provided by this bill if I reentered the work force. I am happy to see Senator Bond and Senator Praeger introduce legislation to allow greater access to health insurance for people like me. I would specifically like to address three specific points of Senate Bill No. 566.

First, the bill as written, states that "At least one option shall provide for a minimum annual deductible of \$5000." People with disabilities and chronic illnesses are overwhelmingly unemployed or underemployed. At 66%, we have the highest unemployment rate of any minority group in the United States. A deductible of \$5000 is an insurmountable sum to a person with out a job, or making minimum wage. Some may say that this provision would eliminate unnecessary medical expenses. I say that it will prevent people from seeking treatment when they need it, forcing them to go to the emergency room of their local hospital when their condition worsens. This is far more expensive than treating the condition in the first place.

Secondly, the bill calls for "a maximum lifetime benefit of \$500,000 per individual." I have dealt with benefit caps in the past. In 1979, the mobile home I lived in caught fire while I was asleep. I tried to escape through a window, but passed out from smoke inhalation. I was left with third degree burns over my entire lower body, and first and second degree burns over the upper body. After over two months of treatment at the Kansas University Medical Burn Unit, I returned home. However, my medical insurance only covered the costs of the first two weeks, due to a benefit cap. Since I worked for one week of the quarter, I had to "spend down" to qualify for Medicaid to begin paying my bills. I had to pay approximately 10% of the total cost of my hospitalization. It took many years for me to pay this in full.

The effect of a benefit cap is to deny coverage when it is needed most. I can tell you from personal experience that to lie in a hospital bed and find out that your insurance will not cover any more expenses does not help in the healing process. It is a terrible feeling to not know how you are going to pay the bill.

Lastly, Senate Bill No. 566 allows for a 90 day exclusion for preexisting conditions. I applaud the effort to reduce the amount of time from 12 months to 90 days. However, we need to eliminate preexisting condition exclusions entirely. It is a form of discrimination against people with disabilities and chronic illnesses. I understand that the reason for these exclusions are to prevent people from waiting until the last minute to seek coverage, when they will cost the insurance company more money. However, what will actually happen is that people who are currently covered by other private or public health insurance, and could use

*Senate 7141  
2/9/94  
Attachment #3*

the health insurance provided by this bill when they get or change a job, will not do it because they would not be covered for 90 days. Many people with disabilities and chronic illnesses cannot wait 90 days for treatment, myself included.

I have Blue Cross and Blue Shield coverage from my former employer, the state of Kansas. As a recipient of KPERS disability income I cannot accept any job offer because the moment I start working, I lose my health insurance. If these points of Senate Bill No. 566 are not addressed, the people who it was designed for will not be able to take advantage of leaving our welfare and social security rolls and become productive members of society. People with disabilities and chronic illnesses will not be able to search for better jobs, because they cannot risk going without health insurance. I urge you to make the changes I have pointed out and allow the group of people with the highest unemployment rate in the nation to seek out more and better jobs. Allow us to contribute to society.

41-1 2/9/94  
3-2

Testimony on  
Senate Bill No. 566

by

Dick Brock

Kansas Insurance Department

Senate Bill No. 566 would reduce the waiting period for preexisting conditions from one year to 90 days for persons insured under the uninsurable health insurance plan created by 1992 House Substitute for House Bill No. 2511. This change would become operative May 1, 1994, which coincides with the date the uninsurable health insurance plan became operational. As currently drafted, it appears the 90 day waiting period would become effective for contracts already in force as well as those issued after May 1, 1994. If it is to apply only to contracts issued after May 1, the words "issued, continued or renewed" should probably be inserted in line 26, page 1 immediately following the word "coverage".

The original legislation contained authority for this waiting period to be reduced by administrative action of the Board of Directors of the plan after the plan had been in operation for two years. Senate Bill No. 566 in effect reverses this process by statutorily limiting the waiting period to 90 days for the 1994-95 plan year but authorizing the Board of Directors to change it thereafter. In succeeding years, the waiting period may be increased from 90 days to a maximum of 180 days or may be reduced below the 90 days. It could even be eliminated.

Inherent in the very concept of an uninsurable risk pool is the fact that most applicants will have some sort of preexisting medical condition that prevents access to affordable coverage in the voluntary market. Thus, on the surface, there seems to be a significant conflict between the objective of a health risk pool which is to provide guaranteed access to insurance coverage yet exclude, for a period of time, coverage for the very condition that may well be the reason coverage from the pool is necessary. On the other hand, if there is no waiting period whatsoever or if the waiting period is too short, people could wait until they are ill or at least not feeling well before purchasing coverage. To do so would leave them

Senate 71-1 2/9/94  
Attachment #4

vulnerable to accidents or the onset of a serious illness without warning but even then coverage could presumably be acquired in sufficient time to accommodate much of the expense unless some type of exclusion or other limitation was applied. The problem could be compounded by the absence of a waiting period because once an episode of illness is over, there would be no need to continue coverage since, again in the absence of some provision to prevent it, coverage could again be purchased when another illness strikes.

For the insurance mechanism to function even with respect to an uninsurable pool, there has to be some element of risk sharing, covered events have to be unexpected and fortuitous at least to some degree and there must be more risks that in the long run pay more in premiums than they receive in claim payments than the other way around. Admittedly, most health risk pools don't always meet this latter goal and certainly don't often meet it from a pure dollars in-dollars out standpoint. Nevertheless, without some incentive or disincentive to procure insurance prior to a covered event these principles are not only violated, they are ignored. The result would be the equivalent of buying fire insurance on a building that is already on fire.

Senate Bill No. 566 attempts to adhere to these principles by retaining a waiting period but reducing it to 90 days. Whether this is sufficient to prevent excessive abuse is not known. It will certainly require some increase in premium by virtue of the fact that claims for preexisting conditions will enter the system 9 months earlier.

Finally, if the amendment I mentioned earlier is adopted, the uninsurable health insurance plan will have been in effect for a year when the reduced waiting period becomes operable. Therefore, the population of persons with a chronic preexisting condition who were waiting for such a plan to become available because they had no other choice were presumably early applicants. As a result, reducing the waiting period as proposed by Senate Bill 566 should not produce a sudden and significant influx of claims. Consequently, any rate impact caused by its enactment should not be dramatic or immediate.

7141 2/9/94  
4-2

Senate Bill No. 566

The Insurance Department supports Senate Bill 566 but we do so without knowing what the actuarial impact might be.

1 shall contain a provision which excludes, limits or otherwise restricts  
2 coverage because medicaid benefits as permitted by title XIX of the  
3 social security act of 1965 are or may be available for the same  
4 accident or illness.

5 (2) Violation of this subsection shall be subject to the penalties  
6 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

7 Sec. 2. K.S.A. 40-2209e is hereby amended to read as follows:

8 40-2209e. (a) Any individual or group health benefit plan issued to  
9 a group authorized by subsection (A) of K.S.A. 40-2209 and amend-  
10 ments thereto shall be subject to the provisions of this act if it  
11 provides health care benefits covering employees of a small employer  
12 and if it meets any one of the following conditions:

13 (1) Any portion of the premium is paid by a small employer, or  
14 any covered individual, whether through wage adjustments, reim-  
15 bursement, withholding or otherwise;

16 (2) the health benefit plan is treated by the employer or any of  
17 the covered individuals as part of a plan or program for the purposes  
18 of section 106 or section 162 of the United States internal revenue  
19 code; or

20 (3) with the permission of the board, the carrier elects to renew  
21 or continue a health benefit plan covering employees of an employer  
22 who no longer meets the definition of a "small employer."

23 (b) For purposes of this act an aggregation of two or more small  
24 employers covered under a trust arrangement or a policy issued to  
25 an association of small employers pursuant to subsection (A)(3) or (5)  
26 of K.S.A. 40-2209 and amendments thereto shall permit employee  
27 or member units of more than two but less than ~~26~~ 51 employees  
28 or members and their dependents to participate in any health benefit  
29 plan to which this act applies. Any group which includes employee  
30 or member units of ~~25~~ 50 or fewer employees shall be subject to  
31 the provisions of this act notwithstanding its inclusion of employee  
32 or member units with more than ~~25~~ 50 employees or members.

33 (c) Except as expressly provided for in this act, no law requiring  
34 the coverage or the offer of coverage of a health care service or  
35 benefit shall apply to any SEHC plan offered or delivered to a small  
36 employer.

37 (d) Except as expressly provided in this act, no health benefit  
38 plan offered to a small employer shall be subject to:

39 (1) Any law that would inhibit any carrier from contracting with  
40 providers or groups of providers with respect to health care services  
41 or benefits;

42 (2) any law that would impose any restriction on the ability to  
43 negotiate with providers regarding the level or method of reim-

Amendment requested by Chip Wheelen on behalf  
Kansas Psychiatric Society

Notwithstanding the provisions of K.S.A 40-2,105  
and amendments thereto, coverage for diagnosis and  
medically necessary treatment of mental illness  
shall be the same as coverage for other hospital,  
medical and surgical expense benefits.

**[optional definition]** For purposes of this act  
"mental illness" means a clinically significant  
behavioral or psychological syndrome or pattern  
that occurs in an individual and that is associated  
with present distress or disability or with a  
significantly increased risk of suffering death,  
pain or disability.

Senate 4/1/11  
2/8/94 Attachment #5

Attachment #5  
Senate 4/1/11  
2/9/94



**40-2,105.** Insurance coverage for services rendered in treatment of alcoholism, drug abuse or nervous or mental conditions; applicability or nonapplicability of section. (a) On or after the effective date of this act, every insurer which issues any individual or group policy of accident and sickness insurance providing medical, surgical or hospital expense coverage for other than specific diseases or ac-

cidents only and which provides for reimbursement or indemnity for services rendered to a person covered by such policy in a medical care facility, must provide for reimbursement or indemnity under such individual policy or under such group policy, except as provided in subsection (d), which shall be limited to not less than 30 days per year when such person is confined for treatment of alcoholism, drug abuse or nervous or mental conditions in a medical care facility licensed under the provisions of K.S.A. 65-429 and amendments thereto, a treatment facility for alcoholics licensed under the provisions of K.S.A. 65-4014 and amendments thereto, a treatment facility for drug abusers licensed under the provisions of K.S.A. 65-4605 and amendments thereto, a community mental health center or clinic licensed under the provisions of K.S.A. 75-3307b and amendments thereto or a psychiatric hospital licensed under the provisions of K.S.A. 75-3307b and amendments thereto. Such individual policy or such group policy shall also provide for reimbursement or indemnity, except as provided in subsection (d), of the costs of treatment of such person for alcoholism, drug abuse and nervous or mental conditions, limited to not less than 100% of the first \$100, 80% of the next \$100 and 50% of the next \$1,640 in any year and limited to not less than \$7,500 in such person's lifetime, in the facilities enumerated when confinement is not necessary for the treatment or by a physician licensed or psychologist licensed to practice under the laws of the state of Kansas.

(b) For the purposes of this section "nervous or mental conditions" means disorders specified in the diagnostic and statistical manual of mental disorders, third edition, (DSM-III, 1980) of the American psychiatric association but shall not include conditions not attributable to a mental disorder that are a focus of attention or treatment (DSM-III, V Codes).

(c) The provisions of this section shall be applicable to health maintenance organizations organized under article 32 of chapter 40 of the Kansas Statutes Annotated.

(d) There shall be no coverage under the provisions of this section for any assessment against any person required by a diversion agreement or by order of a court to attend an alcohol and drug safety action program certified pursuant to K.S.A. 8-1008 and amendments thereto.

(e) The provisions of this section shall not apply to any medicare supplement policy of

insurance, as defined by the commissioner of insurance by rule and regulation.

History: L. 1977, ch. 161, § 1; L. 1978, ch. 166, § 1; L. 1986, ch. 299, § 8; L. 1986, ch. 174, § 1; July 1.

8/2  
1414  
E-5

444  
5-2  
2/9/94