

Approved: 3/8/94
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:18 a.m. on February 24, 1994 in Room 529-S of the Capitol.

Members present: Senators Corbin, Hensley, Lee, Moran, Petty, Praeger, and Steffes.

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

Conferees appearing before the committee: Richard Brock, Kansas Insurance Department
Robert Epps, SRS
Larry Magill, Kansas Association of Insurance Agents

Others attending: See attached list

Senator Hensley made a motion, seconded by Senator Moran, to approve the minutes of the meeting of February 23 as submitted. The motion carried.

The hearing was opened on **HB 2632**, which imposes several requirements or prohibitions on insured or self-insured health insurance plans. Richard Brock, Kansas Insurance Department, submitted written testimony in support of this bill and stated that the development of **HB 2632** was a cooperative effort of the Insurance Department and the Department of Social and Rehabilitation Services. (Attachment #1.)

Robert Epps, Commissioner of Income Support/Medical Services of the Department of Social and Rehabilitation Services, testified that this bill will place into Kansas law federally mandated requirements contained in the Omnibus Budget Reconciliation Act of 1993 (OBRA 93). (Attachment #2.) Mr. Epps advised the committee that this legislation must be enacted before April 1, 1994 in order for the state to avoid potential penalties; i.e. the loss of matching federal funds on Medicaid, which represents 60% of the Medicaid funding. There were no questions and no other conferees; the hearing was closed.

Senator Corbin made a motion to move **HB 2632** favorably and to place it on the Consent Calendar. The motion was seconded by Senator Steffes. The motion carried.

The chairman opened the hearing on **HB 2635**, relating to conversion privileges of life insurance policies. Richard Brock of the Kansas Insurance Department, stated that the bill reconciles inconsistencies between two statutes, KSA 40-40-435 and KSA 40-434. Mr. Brock explained that some insurance companies have attempted to deny payment of any life insurance benefit when an insured dies after the time period stated in the contract for conversion but before the extended period of time for conversion is exhausted. (Attachment #3.) There were no other conferees; the hearing was closed.

Senator Hensley made a motion to move **HB 2635** favorably and to place it on the Consent Calendar. The motion was seconded by Senator Praeger; the motion carried.

The hearing was opened on **HB 2692**, relating to continuing education requirements for insurance agents and brokers. Larry Magill, Kansas Association of Insurance Agents, appeared as a proponent, stating that this bill would give agents the flexibility of obtaining up to one-fourth of their continuing education requirements in management courses, and would establish for non-resident brokers the same licensure eligibility factors that exist for resident brokers. (Attachment #4.)

Mr. Brock, Kansas Insurance Department, testified in support of this legislation. (Attachment #5.)

Senator Bond suggested that insurance ethics should be included in the continuing education requirements. The committee agreed with this suggestion and Senator Corbin made a motion to conceptually amend **HB 2692** to require that at least one hour of instruction in insurance ethics be required biannually after April 1, 1995. Senator Petty seconded the motion; the motion carried.

Senator Hensley made a motion to pass **HB 2692** favorably as amended. Senator Praeger seconded the motion. The motion carried.

The committee adjourned at 9:45 a.m.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE: 2/24/94

[illegible]

Testimony on
House Bill No. 2632
by
Dick Brock
Kansas Insurance Department

Introduction of House Bill No. 2632 was requested by the Insurance Department but its development was a cooperative effort of the Insurance Department and the Department of Social and Rehabilitation Services.

House Bill No. 2632 imposes several requirements or prohibitions on all insured or self-insured health insurance plans. These requirements or prohibitions are necessitated by the federal Omnibus Budget Reconciliation Act of 1993 (OBRA '93) and must be incorporated in state statutes by April 1 of this year. Failure to enact this legislation would expose Kansas to the possible loss of federal matching funds for operation of the Kansas Medicaid Program.

Specifically, the bill would:

- (1) Prohibit insurance companies, self-funded plans and others from refusing to provide, continue to provide, limit or charge a different premium for health insurance solely because an applicant or prospective insured is eligible for Medicaid;
- (2) Prohibit the imposition of requirements relating to the assignment of benefits that are different for Medicaid than other interests that might be affected; and
- (3) Prohibit an exclusion or restriction of benefits because of the availability of Medicaid.

Sections 2, 3, 4 and 5 of the bill are technical amendments necessary to make these requirements apply to health maintenance organizations, Blue Cross and Blue Shield Plans, and other third party financing mechanisms.

The proposed effective date for House Bill No. 2632 is publication in the Kansas Register in an effort to meet the April 1 deadline.

*Senate 7/4/94
2/24/94
Attachment #1*

KANSAS DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES
Donna L. Whiteman, Secretary

Senate Committee on Financial Institutions and Insurance
Testimony for HB 2632 pertaining to
consideration of Medicaid in the application, issuance and
benefits of accident and health insurance

February 24, 1994

The SRS Mission Statement:

"The Kansas Department of Social and Rehabilitation Services empowers individuals and families to achieve and sustain independence and to participate in the rights, responsibilities and benefits of full citizenship by creating conditions and opportunities for change, by advocating for human dignity and worth, and by providing care, safety and support in collaboration with others.

Mr. Chairman, Members of the Committee, on behalf of Secretary Whiteman, I thank you for this opportunity to address you on House Bill 2632. The Department supports this legislation and cooperated with the Kansas Insurance Department in drafting the original proposal. House Bill 2632 seeks to place into Kansas law recent federally mandated requirements contained in the Omnibus Budget Reconciliation Act of 1993 also known as OBRA 93. The requirements of OBRA 93 that we are concerned with for this legislation are: 1) To place in State law specific language to apply OBRA 93 requirements to self-funded, self-administrated health benefit plans, previously exempt from any State control. 2) To prohibit the consideration of Medicaid benefits in the issuing, coverage or payment of benefits under any health insurance policy or benefit plan. 3) To establish and preserve the Medicaid program's rights of subrogation to the extent benefits were provided by the program.

Under provisions of OBRA 93, Kansas has until April 1, 1994 to pass legislation implementing the requirements of the Act. Failure to do so would render our State Plan for Medical Assistance out of compliance with federal law and result in the reduction or total loss of federal matching funds for the operation of the Kansas Medicaid Program. Currently, 60% of the Medicaid funding is received as federal matching funds. Even a small reduction in that amount would severely restrict, if not prevent, the provision of basic health care to the needy in Kansas.

The Department of Social and Rehabilitation Services urges passage of House Bill 2632, as proposed, in an expeditious manner to meet the April 1, 1994 deadline. Thank you again for this opportunity to address the Committee on House Bill 2632.

Robert L. Epps
Commissioner
Income Support/Medical Services
(913) 296-6750

Senate H+1 2/24/94
Attachment #2

SEC. 13612. LIABILITY OF THIRD PARTIES TO PAY FOR CARE AND SERVICES.

(a) **LIABILITY OF ERISA PLANS.**—(1) Section 1902(a)(25)(A) (42 U.S.C. 1396a(a)(25)(A)) is amended by striking "insurers" and inserting "insurers, group health plans (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), service benefit plans, and health maintenance organizations".

(2) Section 1903(o) (42 U.S.C. 1396b(o)) is amended by striking "regulation" and inserting "regulation and including a group health plan (as defined in section 607(1) of the Employee Retirement Income Security Act of 1974), a service benefit plan, and a health maintenance organization".

(b) **REQUIRING STATE TO PROHIBIT INSURERS FROM TAKING MEDICAID STATUS INTO ACCOUNT.**—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by adding "and" at the end of subparagraph (G); and

(3) by adding after subparagraph (G) the following new subparagraph:

"(H) that the State prohibits any health insurer (including a group health plan, as defined in section 607(1) of the Employee Retirement Income Security Act of 1974, a service benefit plan, and a health maintenance organization), in enrolling an individual or in making any payments for benefits to the individual or on the individual's behalf, from taking into account that the individual is eligible for or is provided medical assistance under a plan under this title for such State, or any other State."

(c) **STATE RIGHT TO THIRD PARTY PAYMENTS.**—Section 1902(a)(25) (42 U.S.C. 1396a(a)(25)), as amended by subsection (b), is amended—

(1) by striking "and" at the end of subparagraph (G);

(2) by adding "and" at the end of subparagraph (H); and

(3) by adding after subparagraph (H) the following new subparagraph:

"(I) that to the extent that payment has been made under the State plan for medical assist-

ance in any case where a third party has a legal liability to make payment, for such assistance, the State has in effect laws under which, to the extent that payment has been made under the State plan for medical assistance for health care items or services furnished to an individual, the State is considered to have acquired the rights of such individual to payment by any other party for such health care items or services."

(d) **EFFECTIVE DATE.**—(1) Except as provided in paragraph (2), the amendments made by subsections (a)(1), (b), and (c) shall apply to calendar quarters beginning on or after October 1, 1993, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsections (a) and (b), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the preceding sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(3) The amendment made by subsection (a)(2) shall apply to items and services furnished on or after October 1, 1993.

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Testimony on
House Bill No. 2635

by

Dick Brock

Kansas Insurance Department

House Bill No. 2635 would correct an inconsistency in the current statutes that relate to the conversion of group life insurance to individual coverage. Specifically, K.S.A. 40-435 requires insurance companies to provide notification to eligible individuals of their right to convert from group life to individual coverage. If written notification is not provided at least 15 days prior to the expiration date of the time period the group policy allows the insured to apply for a conversion policy, the statute requires the company to provide the insured with additional time to exercise such right. That additional time may not extend more than 60 days beyond the time period stated in the policy during which the insured may apply for individual coverage. K.S.A. 40-435, however, also explicitly states that it is not to be construed to extend coverage beyond the time period stated in the group policy.

K.S.A. 40-434(10), on the other hand, provides that if the insured dies within the period allowed to apply for a conversion policy, the amount of life insurance which such insured would have been entitled to apply for under the individual policy is payable under the group policy. This may be at a later time than the expiration date of the time period stated in the group policy which raises the question as to which statutory provision applies.

In the past, some insurance companies have argued that K.S.A. 40-435 extends only the time to apply for conversion and not coverage. Consequently, those companies attempt to deny the payment of any life insurance benefit when an insured dies after the time period stated in the contract and before the end of the additional 60 days notification period. House Bill No. 2635 will clarify the inconsistent provisions of the two statutes to the benefit of Kansas insurance consumers by requiring the life insurance benefit to be paid during the entire time period which the insured has to apply for conversion coverage.

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Attachment #3

Testimony on HB 2692
Before the Senate Financial Institutions and Insurance Committee
By: Larry W. Magill, Jr., Executive Vice President
Kansas Association of Insurance Agents
February 24, 1994

Thank you, Mr. Chairman, and members of the committee for the opportunity to appear today in support of HB 2692, a measure we asked the House Financial Institutions and Insurance Committee to introduce. The bill seeks to accomplish two things: 1) It would allow up to three hours of the required 12 hours of property-casualty continuing education and up to three hours of the required 12 hours of life and health continuing education to be in agency management courses every two years and; 2) It allows nonresident broker license applicants to use professional designation courses to meet the 15 hours of business courses required to obtain a brokers license.

Independent agents are in a struggle for survival. Insurance companies have been steadily and significantly reducing commissions. Companies are continually increasing the premium volume required to obtain and keep an insurance company contract. Sophisticated and expensive computer systems are becoming a requirement along with fax machines and laptops. Insurance pricing has been "soft" since the late 80's with little increases in premium written from one year to the next. All of this is putting tremendous pressure on agencies to manage themselves better to stay in business.

While the principal goal of continuing education is to improve the technical knowledge of agents to benefit and protect consumers, good customer service from a well-managed and efficient agency also benefits consumers. If rural agents can't survive, consumers may lose the last

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option to purchase insurance locally. At the very least, consumer options are fewer with less competition in the marketplace. We believe a well managed agency offers the consumer better service, local options and ultimately more competitive choices.

At least ten states currently authorize continuing education for insurance agency management courses: Colorado, Delaware, Georgia, Idaho, Kentucky, Louisiana, Oregon, Tennessee, Utah and West Virginia. It may be more since the continuing education summary we used wasn't that clear on what a number of states would approve.

Attached is an editorial from one of our industry's leading agent newsletters with over 3,000 member subscribers countrywide decrying the lack of budget dollars for agency management education. Since most agencies in Kansas license virtually all people in their offices, agent continuing education expenses are considerably higher than before mandatory continuing education. In this age of shrinking bottom lines for agencies, they cannot afford the cost or time to also attend agency management courses.

HB 2692 will give them the flexibility of obtaining up to one-fourth of their hours needed for a property-casualty or life and health license in management courses. It doesn't require it. We feel certain it will be somewhat self-regulating. The younger, newer people in the business will pick up their continuing education in professional designation or other technical courses they need to be effective selling and servicing customers, while the older, more experienced agency principals will likely opt for some management courses.

The second change we propose merely treats nonresident agents the

same as residents who apply for brokers licenses. In 1991 with our support, the Insurance Department changed the post-licensure education requirement for resident brokers to allow life/health or property/casualty insurance courses provided through an accredited college, university or community college; or professional designation courses determined equivalent by the Commissioner. Prior to that, a person had to obtain 15 credit hours of business or accounting courses within five years from the date they obtained their resident brokers license.

Apparently through an oversight, the Department did not suggest a similar change in the nonresident broker education requirement contained in 40-3706. That statute only allows use of 15 credit hours of business or accounting courses. Our proposed change would allow the Insurance Department to give credit for equivalent professional designation courses to meet the 15 hour requirement for nonresident broker applicants. Although the language is slightly different, this will essentially treat nonresidents on an equal basis with residents who apply for brokers licenses.

We supported the original change in 1991 because we felt that professional designation courses that taught technical insurance knowledge were more relevant for a brokers license than college business and accounting courses.

We urge the committee to act favorably on HB 2692 which passed the House on a vote of 124 to 0. We would be happy to answer questions or provide any additional information the committee desires.

WEEKLY MARKETEER



INSURANCE MARKETING
&
MANAGEMENT SERVICES

TWO CHEERS FOR CONTINUING ED

A lot can be said for continuing-education requirements: They spur your staff to develop the professionalism essential for quality service, encouraging your best people to become even better. They weed out the part-timers, the also-rans, the ribbon clerks, and the "I'm working for the agency so insure my family" types. *Unfortunately, meeting C.E. requirements can leave agents and brokers worse off than when they started — and too often does.*

Come Again?

Every agency or brokerage has a finite amount of resources (money, time, and effort) to invest in developing the skills of its staff. You have only so many educational dollars in your budget. In most cases, most of these funds flow to C.E. courses. The result: The management training that's every bit as essential to your business' growth tends to fall by the wayside. Product knowledge and professional expertise are all well and good — but by and large, they won't help you or your staff manage one whit more effectively.

Room At The Top — For Improvement

The establishment of C.E. requirements began the death knell for management seminars. Agents just weren't willing to invest their education dollars in building managerial skills. That's unfortunate, especially in this era of slashed budgets, soft markets, tightening regulations, and stiff competition. The industry needs highly-skilled, creative management now more than ever. Even the best-trained employees in the world need guidance; they're like superbly trained dancers waiting for someone to choreograph them into a meaningful dance.

Do Yourself A Favor

Let your state or provincial regulator know that learning the fundamentals of management is every bit as important as mastering the intricacies of the latest Homeowners form. Until C.E. credits are awarded for studying techniques essential to running an agency or brokerage, management education (indeed, management in general) will continue to languish. The only other hope is that agents, brokers, and companies will begin to appreciate the advantages of considering long-term management training in their short-term planning — and become willing to invest in a major effort to educate their managers. Cross your fingers, but don't hold your breath.

Testimony on
House Bill No. 2692
by
Dick Brock
Kansas Insurance Department

House Bill No. 2692 amends the continuing education law applicable to insurance agents to permit a limited amount of credit for insurance agency management courses. Under the continuing education law, insurance agents are required to successfully complete a minimum of 12 hours of approved continuing education courses every two years to maintain a license to sell property and/or casualty insurance in Kansas. Another 12 hours of credit is required to maintain a life and/or health license and lesser requirements apply to certain specialty lines such as crop-hail, title and prearranged funeral contracts. Currently, the statutes do not permit approval of courses for continuing education credit the primary focus of which is to enhance a person's ability to operate or manage an insurance agency. It seems reasonable to assume that proper and efficient management of an agency's operation would be of direct benefit to the insurance consumers served by that agency. Properly accounting for the premiums received, claims processed, policy expiration and/or renewal dates and so forth are all functions an agency must perform and if they are not performed well the interests of policyholders can be adversely affected. Therefore, the Department supports Section 1 of House Bill No. 2692.

The Department also supports Section 2 of the bill. Actually Section 2 is a housekeeping amendment the Department asked the Kansas Association of Insurance Agents to include. In 1991 the education requirements applicable to insurance brokers who are residents of Kansas were changed to permit a professional designation to be deemed equivalent to the 15 hours of college credit originally required. Because the education requirements applicable to nonresident insurance brokers are contained in a separate statute, the need for a comparable amendment relating to nonresidents was overlooked in 1991. Section 2 of House Bill No. 2692 would correct this oversight.

Senate 7/4/94
2/24/94
attachment #5

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

Your Committee on Financial Institutions and Insurance

Recommends that House Bill No. 2692

"AN ACT relating to insurance; concerning certain licensing requirements for agents and brokers; amending K.S.A. 40-240f and 40-3706 and repealing the existing sections."

Be amended:

On page 1, in line 43, before the period by inserting the following: "which, on and after April 1, 1995, shall include at least one hour of instruction in insurance ethics";

On page 2, in line 5, before the period by inserting the following: "which, on and after April 1, 1995, shall include at least one hour of instruction in insurance ethics";

And the bill be passed as amended.

Chairperson

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