

SESSION OF 2008

**SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2783**

As Amended by Senate Committee of the Whole

**Brief\***

HB 2783, as amended, would remove all voluntary non-contractual mutual aid arrangements from the application of the Kansas Insurance Code. Under current law, the Insurance Code excludes only such arrangements founded on or before December 31, 1982. The bill also would require any insurance policy, coverage, or other certificate issued, delivered, or renewed on and after January 1, 2009, including the State Employee Health Benefit Program and the municipal group funded pool, within Kansas to provide coverage for patient care services provided to an individual in a cancer clinical trial.

**Cancer Clinical Trial Coverage – Patient Care Services**

The bill would create definitions for the terms “clinical trial,” “cooperative group,” “individual,” and “patient care service.” A “patient care service” would be defined to mean “medically necessary drugs, devices, items, services, treatments or diagnostics that are provided an individual enrolled in a clinical trial, if such drugs, items, devices, services, treatments or diagnostics would otherwise be covered under the individual’s health plan or insurance contract, if the individual was not enrolled in a clinical trial.”

Specifically, the coverage is to be provided to a patient involved in a cancer clinical trial that is a prevention, screening, early detection, treatment and survivorship study for cancer for a pilot or feasibility trial or a Phase I, Phase II, Phase III, or

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\*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

Phase IV clinical trial; the trial must have been peer reviewed and approved by the National Institutes of Health, a qualified nongovernmental research entity identified in guidelines issued by the National Institutes of Health cooperative group, the federal Food and Drug Administration in the form of an investigational new drug application, the U.S. Department of Defense of Veterans Affairs, or a qualified institutional review board registered with the federal Office for Human Research Protections.

The bill also would specify that the coverage is to be subject to all other terms and conditions of the policy, certificate, or similar agreement including the use of participating providers (networks) and utilization review. Each entity providing coverage would be required to notify its insureds (policyholders) of the coverage required under this Act, and coverage could not be denied solely for the purpose of avoiding the requirements of the Act. Copayments and deductibles for the services delivered in the clinical trial would be identical to those applied to the same services if they were not delivered in a clinical trial.

### **Cancer Clinical Trial Coverage – Exceptions**

The coverage requirement would not apply to any policy or certificate that provides coverage for a specified disease or accident, credit, dental, disability income, hospital indemnity, long-term care insurance, vision care, or any other limited supplemental benefit policy. Additionally the coverage requirement would not apply to any policy or plan under Title XVIII or XIX of the federal Social Security Act.

The bill also would specify that the test track outlined in KSA 40-2249a for the study of proposed mandated coverage does not apply to the cancer clinical trial requirements in the bill.

This act is to apply to all insurance policies, contracts, agreements, or certificates issued or delivered, effective, and renewed, within Kansas on and after January 1, 2009.

Current Kansas law applying to all insurance policies and nonprofit medical and hospital service corporations would be amended to include the cancer clinical trial coverage provisions.

### **Advisory Committee**

The bill would create a Clinical Trials Coverage Advisory Committee, which would assess the economic impact of the costs for patient care coverage that would be required by the bill. The nine members of the committee would be appointed by the Insurance Commissioner, to three-year terms; the Commissioner or the Commissioner's designee would be chairperson, and the Insurance Department would provide staff and administrative support. This committee would report on its findings and any recommendations for changes to the requirements in this bill to the chairpersons of the House Committee on Insurance and Financial Institutions and the Senate Financial Institutions and Insurance Committee on or before January 1, 2011.

The bill would specify the members to be appointed by the Insurance Commissioner:

- Four selected from nominations made by the Kansas Association of Health Plans; two are to be medical directors of health insurers;
- One representing the University of Kansas School of Medicine, nominated by the dean of that school;
- One licensed physician who has experience in cancer treatment and clinical trials, nominated by the Kansas Medical Society;

- One representing hospitals, nominated by the Kansas Hospital Association; and
- One representing the general public, appointed by the Insurance Commissioner.

The Insurance Commissioner or the Commissioner's designee also would serve on the committee.

### **Background**

HB 2783 was introduced at the request of the Alliance of Health Care Sharing Ministries whose representative noted that the Alliance represents a group of ministries like the one that was exempted from the Insurance Code in 1994. Because a date is specified in the current statute and because of the voluntary and ministerial nature of these organizations, the Alliance requested the newer-formed entities also be recognized by the Insurance Code as ministries and not health insurance companies. There were no opponents to the bill at the time of the Committee hearing.

The Senate Committee of the Whole recommended two amendments. The first amendment inserts provisions of SB 629 (as amended by Senate Committee of the Whole) that would require insurance policies and other similar coverage issued, delivered, or renewed on and after January 1, 2009 to provide coverage for patient care services provided to an individual in a cancer clinical trial. The second amendment deletes the Kansas State High School Activities Association from the list of those associations exempted from the application of the Insurance Code.

The fiscal note prepared by the Division of the Budget on the original bill states that the Kansas Insurance Department indicates there would be no fiscal effect with the enactment of the bill. The fiscal note for SB 629 stated that the Kansas Insurance Department indicates the bill could be implemented

within existing resources. A request for fiscal information was made to the Kansas Health Policy Authority; the estimation of the fiscal effect of the bill on the State Employee Health Benefits Plan requires an actuarial review that is not yet complete. A revised fiscal note will be provided once this information has been received. Any fiscal effect associated with the passage of the bill is not included in *The FY 2009 Governor's Budget Report*.