

## 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 21, 2008 in Room 136-N of the Capitol.

All members were present.

## Committee staff present:

Melissa Calderwood, Kansas Legislative Research Department  
Ken Wilke, Office of Revisor of Statutes  
Bev Beam, Committee Secretary  
Jill Shelley, Kansas Legislative Research Department

## Conferees appearing before the committee:

Fred Lucky, Kansas Hospital Assn.  
Jarrod Forbes, United Health Care  
Joe Thesing, National Assn. Of Mutual Ins. Cos.  
Bob Tomlinson, KID  
Bill Sneed, State Farm Insurance  
Larry Magill, KAIA  
Rey Becker, PCI  
Lee Wright, Farmers Insurance (written only)  
Brad Smoot, BCBS (written only)  
David A. Hanson, Kansas Insurance Associations (written only)  
Rick Wilborn, Farmers Alliance Mutual Ins. Co. (written only)

## Others attending:

See attached list.

The Chair called the meeting to order and resumed the hearing on **SB 563 - concerning health insurance; pertaining to utilization review.**

Ms. Calderwood gave an overview of the bill stating it would create an admission standard, essentially a next day standard. It would provide that if a patient was unstable or uncommunicative, they could not have been deemed present to that health care facility until that patient was able to provide their insurance information and the health care facility was able to inquire about their insurance coverage.

Fred Lucky, Kansas Hospital Association, testified in support of SB 563. He said this legislation would prohibit a utilization review organization from requiring notification of admission prior to the next business day after a patient presents to a health care facility. Mr. Lucky said it is difficult to see what potential benefit is derived by requiring a 24-clock-hour admission notification policy at all, much less any benefit that outweighs the immediate and substantial burden the protocol will impose on both urban and rural hospitals and the patients they serve. (Attachment 1)

Testifying in opposition was Jarrod Forbes, United Health Care. Mr. Forbes highlighted written testimony from James S. Watson, Vice President, State Affairs, UnitedHealth Group. Mr. Forbes said UnitedHealthcare is currently conducting a pilot program, with 200 hospitals around the country – including Kansas hospitals – to obtain notification from those facilities within 24 hours after a UnitedHealthcare customer is admitted. He said the purpose of the pilot is to identify the operational issues, electronic submission issues and unique weekend holiday issues associated with each of six notification transmission channels. Mr. Forbes noted that UnitedHealthcare respects the concerns of the Kansas Hospital Association; however, we believe that the data driven processes being studied in the pilot program will get us to our mutual goal in a collaborative way. He said unfortunately, the pilot has just begun to produce the needed data for the pilot hospitals and UnitedHealthcare to make improvements to the process. He said this bill at this time is premature in that it attempts to address problems that both UnitedHealthcare and the hospital industry are working hard to ensure do not occur when the notification program is operational. (Attachment 2)

The Chair closed the hearing on SB 563.

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 21, 2008 in Room 136-N of the Capitol.

Hearing on:

**SB 560 - an act establishing the property/casualty flex-rating regulatory improvement act; pertaining to personal lines insurance written on risks in this state by any insurer authorized to do business in this state**

**SB 274 - concerning insurance; enacting the property/casualty modernization act**

Melissa Calderwood gave an overview of SB 560 and SB 274. Ms. Calderwood stated there was an interim committee that looked at both of these bills. She said there was a recommendation that the task force favorably support the NCOIL flex-rating regulatory model act which you see today as SB 560 and the task force noted it did consider SB 274 and that issues regarding prior approval and competitive rating would require further consideration by the legislature.

SB 274 would enact the property/casualty modernization act and amend statutes governing rate and form filings. The act separates property/casualty markets into two sections, competitive - which is the new section 3 of the bill - and non-competitive into new section 4 and, separately, large risk. The Insurance Commissioner is given the ability to monitor the competitive nature of the market and would be responsible for determining if a reasonable degree of competition exists or does not exist in that market. There is a provision regarding rate disapproval that is also in SB 560.

In this act, it establishes that the rate could not be excessive, inadequate, or discriminatory. The act would establish filing requirements for these lines of insurance and uses filed would be requirement for the competitive market with the Insurance Company filing the rate no later than 30 days after the rate has been in use.

Large risks are addressed in Section 8 of the bill. It would establish for large commercial risks, that they are no-file and not subject to the use and file requirements for the competitive and non-competitive personal lines and small commercial risks. There are the procedures for hearings and actions the Insurance Commissioner may take if there are violations of the act and the associated penalty. The Commissioner is given authority to adopt rules and regulations to administer the act. There are a few minor amendments to current law to conform to the act.

The second bill, SB 560, was requested this year for introduction by State Farm Insurance Companies. It would enact another model act, the property and casualty flex-rating regulatory improvement act. This act would pertain to personal lines insurance. Rate filings made by an insurer under this act would provide for an overall statewide rate increase or decrease of no more than 12% in the aggregate statewide for all coverages. No more than one rate filing may be made by an insurer pursuant to the process established in the bill unless there has been a combination of the filing. There is a 12% limitation that would not apply on an individual insured basis. There was a fiscal note and both of those could be implemented by the Insurance Department within its current budget.

Joe Thesing, National Association of Mutual Insurance Companies (NAMIC), testified in support of SB 560. Mr. Thesing stated NAMIC is a strong proponent of a reformed system of state regulation of insurance through the passage of regulatory modernization laws such as the Property/Casualty Flex-Rating Regulatory Improvement Act. He continued that NAMIC is also a strong proponent of reformed market conduct and financial solvency regulation to protect the interests of consumers and policyholders. He said his company's ultimate goal is to achieve a regulatory system that befits a mature industry operating in a highly competitive marketplace. He said SB 560 is the bi-product of a unanimous recommendation made last year by Kansas Insurance Department Fee Modernization and Rating Laws Task Force. He said the task force was established to study personal lines regulatory modernization and other topics. He noted that SB 560 would adopt the NCOIL Flex-Rating Regulatory Improvement Model Act. He said enactment of SB 560 will benefit consumers by encouraging more insurers to enter the market, thus enhancing competition. He continued that passage of this bill will send a strong message to congress that states can improve and modernize the state system of insurance regulation. He said passage of SB 560 is the next logical step in the process toward ensuring that Kansas insurance markets remain competitive. (Attachment 3)

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 21, 2008 in Room 136-N of the Capitol.

Bob Tomlinson, Assistant Commissioner of Insurance, testified that SB 560 was written to create some degree of flexibility in rating regulation without eliminating it altogether. He said this bill would allow rates for personal lines insurance to be adjusted by 12% without any filing with the Kansas Insurance Department. He continued that though this procedure has only been adopted by very few states, it has been regarded by the industry as an innovative compromise that would increase speed to market. He said the Insurance Department agrees with this assertion. He said this appears to be an appropriate time for this approach because we have a healthy market and competition should keep rates reasonable. He said for this reason, the Kansas Insurance Department has proposed an amendment that constricts the 12% band in two ways. First, he said it lowers the overall rating band to 7%. This number was determined by assessing the median Kansas homeowner insurance premium, and determining the monetary effect that an average Kansas insurance consumer could absorb, he said. He noted that the second part of the amendment recognized that the 12% band in the original bill is actually an average of the changes in rates for the consumers across a certain product line. He said the rate increases for any given consumer within the product line could substantially increase as long as the mean is within the 12% band. He said for this reason, the department is proposing a 25% cap on individual policies within the rate increase.

With regard to SB 274, Mr. Tomlinson testified in opposition, stating that one of the primary functions of the Kansas Insurance Department and insurance regulators around the nation has been to regulate rates, especially rate increases. SB 274 eliminates rate reviewing procedures of the insurance department unless the Commissioner has determined that a non-competitive market exists. A non-competitive market is usually the primary catalyst for a company to want to raise its rates, he said. He noted that determining when a non-competitive market exists is difficult to do, and unfortunately non-competitive markets are only discovered after rates have been raised. He said the rating system provided for under SB 274 would leave the Insurance Department and Kansas consumers helpless to rate increases. (Attachment 4)

Bill Sneed, Legislative Counsel for The State Farm Insurance Companies, testified in support of both SB 560 and SB 274. Mr. Sneed said State Farm strongly advocates competitive rating laws and supports these bills which both implement the National Council of Insurance Legislators (NCOIL) insurance modernization model laws. Mr. Sneed said State Farm believes that it is to the benefit of the consumer to create a highly competitive insurance market placing maximum reliance on competitive forces to assure reasonable rates and quality service. Under SB 274, an insurer would be able to develop rates, start using them, and then file the rates with the Insurance Department for personal lines. SB 560 does the same thing, but only if the overall increase or decrease is less than 12%. Mr. Sneed noted that it is important to note that both bills still allow for the Kansas Insurance Department to retain general oversight over the rate regulation. The Insurance Department has a multitude of tools in order to make sure that the marketplace is working fairly and with no discrimination, he said (Attachment 5)

Larry Magill, Kansas Association of Insurance Agents, testified in support of SB 560. Mr. Magill said modernization of Kansas' rating laws has been something we have support for some time when we modernized commercial insurance rate regulation. We have a healthy, competitive insurance market in Kansas for all the major lines of insurance, including personal lines and a competitive market will self-regulate prices. He noted that SB 560 is a compromise between complete rate deregulation and the status quo. It provides a flex-rating approach that allows insurers to change their rates once per year either up or down 12%, he said. (Attachment 6)

Rey Becker, Property Casualty Insurers Association of America, testified in support of SB 560. He stated the nation's insurance regulatory trend, which has been driven in part by state legislators, is aimed toward greater rate modernization. The National Conference of Insurance legislators and American Legislative Exchange Council, both comprising insurance lawmakers throughout the country, advocate open competition. Modernization of insurance rates is a key element to preserving state regulation of insurance, and state legislators can play a key role in making sure that modernization is implemented quickly and efficiently. He said PCI remains committed to working with legislators and regulators to enhance and improve the state regulatory system to foster a healthy and competitive insurance marketplace. (Attachment 7)

Rick Wilborn, Farmers Alliance Mutual Insurance Co. presented written testimony only. (Attachment 8)

Lee Wright, Farmers Insurance presented written testimony only. (Attachment 9)

## CONTINUATION SHEET

MINUTES OF THE Senate Financial Institutions and Insurance Committee at 9:30 A.M. on February 21, 2008 in Room 136-N of the Capitol.

Brad Smoot, Blue Cross Blue Shield of Kansas presented written testimony only. (Attachment 10)

David A. Hanson, Kansas Insurance Associations presented written testimony only. (Attachment 11)

The Chair said the committee would meet Friday, February 23, from 9:30 a.m. to 10 a.m. to take final action on the following:

**SB 498 - concerning insurance; relating to the amount of certain penalties**

**SB 443 - concerning the long-term care partnership program**

**SB 563 - concerning health insurance; pertaining to utilization review**

The Chair said the Committee will meet Monday, February 25, to continue hearing SB 601 and SB 624 and will meet Tuesday February 26 to hear SB 629 and finish SB 560.

The meeting adjourned at 10:30 a.m.