MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON PUBLIC HEALTH, SAFETY AND WELFARE

Call to Order: By Senator Tom Hager, on February 6, 1989, at 5:32 p.m.

ROLL CALL

Members Present: Senators Tom Hager, Chairman; Tom Rasmussen, J. D. Lynch, Matt Himsl, Bill Norman, Harry H. McLane, Bob Pipinich

Members Excused: None

Members Absent: None

Staff Present: Tom Gomez, Legislative Council
Dorothy Quinn, Committee Secretary

Announcements/Discussion: None

EXECUTIVE ACTION ON SB 26

Chairman Hager called for action on SB 26: Senator Cecil Weeding, sponsor of the bill, explained the essence of the changes in the bill and the compromises which were made.

Discussion: Discussion centered around the effective date of the bill. It was explained by Mona Jamison, lobbyist for the Rocky Mountain Treatment Center, that by making it effective upon passage and approval would allow the Board of Examiners to begin an informal rule making process. Larry Akey substantiated that information. It was decided the effective date would remain as in the original bill. A statement of intent will be requested.

Recommendation and Vote: A motion was made that the Grey Bill be accepted, and that SB 26 DO PASS AS AMENDED. Motion passed unanimously.

SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE AND SAFETY
FEBRUARY 6, 1989

EXECUTIVE ACTION ON SB 182

Chairman Hager called for action on SB 182: Tom Gomez advised that the Montana Insurance Department requested an amendment on page 2. He will prepare the amendment.

Discussion: Discussion was had concerning the definition of mental health. Mona Jamison provided copies of other states' terminology, and it was decided to use the same definition as Kansas.

Recommendation and Vote: Senator Norman moved that the amendment be adopted. The motion passed unanimously. Senator Lynch moved that SB 182 DO PASS AS AMENDED. Motion passed unanimously.

EXECUTIVE ACTION ON SB 204

Chairman Hager called for action on SB 204:

Discussion: Jim Ahrens, Montana Hospital Association, gave an explanation and clarification of changes and amendments to SB 204. He stated they met with Dean Sullivan and basically all the amendments except one were agreed upon. The one in question dealt with routine inquiry. Senator Himsl requested that nurses be recognized by name (P. 11, line 7). An amendment by Senator Himsl to that effect was passed. It was further moved to amend the Routine Inquiry section. (Senators in favor: 5, opposed: 2 (Norman and Hager). Senator Lynch moved that SB 204, AS AMENDED, DO PASS. MOTION PASSED UNANIMOUSLY.

ADJOURNMENT

Executive Meeting adjourned at 6:15 p.m.

Tom Hager

SENATOR TOM HAGER, Chairman

TH/dq

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Executive Meeting ROLL CALL
Following Session

PUBLIC HEALTH COMMITTEE

51st LEGISLATIVE SESSION -- 1989 Date 2/6/89

NAME	PRESENT	ABSENT	EXCUSED
Sen. Tom Hager	X		
Sen. Tom Rasmussen	X		
Sen. Lynch	X		
Sen. Himsl	X		
Sen. Norman	X		
Sen. McLane	X		
Sen. Pipinich	X		

Each day attach to minutes.

which provides those services, except inpatient services, enumerated in s. 51.42(5)(b) to (d) for the prevention and amelioration of mental disabilities, including but not limited to mental and nervous disorders, alcoholism and drug abuse.

(b) "Hospital" is a facility described in s. 50.33(1)(a) and (c) which is licensed under s. 50.35 or is an approved public or private treatment facility for the treatment of alcoholics as defined in s. 51.45(2)(b) and (c).

(c) "Physician" has the meaning designated in s. 990.01(28).

(d) "Outpatient services" means services, medications, equipment and supplies performed or furnished by or under the supervision of or on referral from a physician at a hospital or outpatient treatment facility to a patient who is not a bed patient of the hospital or outpatient treatment facility.

(2) Required coverage for all insurers under chapters 611 and 613. (a) *Scope.* Each group disability policy, joint contract or contract providing hospital treatment coverage shall include coverage for:

1. Inpatient hospital treatment of mental and nervous disorders, alcoholism and drug abuse.

(b) *Exclusions in coverage.* Except as provided in par. (c), coverages under pars. (a) and (d) may not be subject to exclusions or limitations which are not generally applicable to other conditions covered under the policy or contract.

(c) *Minimum confinement.* Coverages under par. (a) 1 may not provide less than 30 days' confinement in any calendar year.

(d) *Outpatient treatment.* Every contract or joint contract issued by an insurer subject to this section providing coverage for outpatient treatment shall provide coverage for outpatient services for mental and nervous disorders, alcoholism and drug abuse including but not limited to partial hospitalization services, prescribed drugs and collateral interviews with patients' families, relating to diagnosed alcoholism, drug abuse, or mental and nervous disorders of the patient, in an amount not less than the first $500 in any calendar year for any alcoholism or drug abuse services, or for outpatient services provided by or under contract for a board established under s. 51.42, and $500 for any other outpatient services for mental and nervous disorders. No contract or joint contract written in combination with major medical coverage shall be required to provide coverage under this paragraph for more than $500 for any combination of disabilities required to be covered under this paragraph. The department of health and social services may by rule promulgated under ch. 227 ad-

just this amount at 2-year intervals to reflect changes in the cost of medical care.

(3) Additional required coverage for corporations subject to ch. 613. Any corporation subject to ch. 613 is subject to sub. (2) and in addition its group disability policies, joint contracts or contracts which provide for hospital treatment or outpatient treatment shall provide:

(a) Outpatient hospital treatment of alcoholism;

(b) Outpatient and home dialysis treatment for kidney disease and kidney transplantation expenses; and

(c) Protection for both recipient and donor of any transplant organs, as provided in s. 49.48(3)(b).

(4) Amount of protection for organizations subject to sub. (3). Coverage under sub. (3)(b) and (c), combined with coverage under s. 632.78(2), shall not be less than $30,000 annually.

(5) Medicare exclusion. No insurer or other organization subject to this section is required to duplicate coverage available under the federal medicare program.

(6) Rules. The department of health and social services may by rule impose reasonable standards for the treatment of kidney diseases required to be covered under this section and s. 632.78(2), which shall not be inconsistent with or less stringent than applicable federal standards.

Historical Note

Source:

L.1975, c. 223, § 26, eff. May 5, 1976.
L.1975, c. 224, § 13 it, eff. May 5, 1976.
L.1975, c. 375, §§ 42g, 42r, eff. June 22, 1976.
L.1977, c. 203, § 106, eff. March 15, 1978.

Subsection (2)(a)2 relating to kidney disease coverage was repealed by L.1975, c. 375, § 42g.

Cross References

Health care service corporations, see § 148.03.
Service insurance corporations, see § 613.01 et seq.
Service insurance corporations,
Dental care, see § 447.13.
Health care, see § 148.03.
Optometric care, see § 449.15.
Pharmaceutical services, see § 450.13.

Library References

Insurance ⇐467.5.
C.J.S. Insurance § 893 et seq.

Wisconsin

632.87 Restrictions on health care services

No insurer may refuse to provide or pay for benefits for health care services provided by a licensed health care professional on the ground that they were not rendered by a physician as defined in s. 990.01(28), unless the contract clearly excludes services by such practitioners.

Committee Comment—1975

This continues (and expands the scope of) s. 207.04(1)(k) [repealed by this act], which does not deal with an unfair marketing practice but an unduly restrictive interpretation of an insurance contract. Presently it applies only to podiatrists but the same principles apply to all health care professionals. Since the legislature has licensed podiatrists (s. 448.10 et seq.), as well as other health care professionals who are not physicians, applicable insurance contracts should provide benefits for their services or payment to them, as well as for those physicians, unless they are specifically and clearly excluded by a policy which has been approved by the commissioner. But general principles of freedom of contract should be operative if the contract is clear enough. Parties negotiating for insurance coverage should be free to decide what kind of health care services they want and are willing to pay for.

Historical Note

Source:

L.1975, c. 371, § 48, eff. June 17, 1976.
L.1975, c. 422, § 144, eff. June 30, 1976.

Prior Laws:

L.1911, c. 84.
St.1911, § 1960.
L.1913, c. 601.
L.1917, c. 106, § 6.
L.1919, c. 536.
L.1923, c. 291, § 3.
St.1923, § 208.05.
St.1925, § 206.50.
St.1927, § 204.31.
L.1929, c. 233.
L.1933, c. 487, § 158.
L.1937, c. 77.
L.1939, c. 44.
L.1941, c. 176.
L.1943, c. 119.
L.1945, c. 346, 351, 356, 586.
L.1947, c. 339, 422.
L.1949, c. 194, 207.
L.1951, c. 614, § 2.
St.1951, § 204.31.
L.1953, c. 61, § 118.
L.1957, c. 321, § 3.
L.1959, c. 534, §§ 1 to 4.
L.1961, c. 33, § 32.
L.1961, c. 94, §§ 1, 3, 4.
L.1961, c. 463, § 19.
L.1963, c. 299, § 3.
L.1965, c. 249, § 71.
L.1965, c. 423, § 1.
L.1967, c. 278, § 6.
L.1969, c. 303, § 2.
L.1969, c. 337, §§ 54, 88.
L.1973, c. 275, § 2.
L.1973, c. 269, § 1.
L.1973, c. 308, § 4.
St.1973, §§ 204.31, 207.03, 207.04.
L.1975, c. 41, § 52.
L.1975, c. 98, § 4.
L.1975, c. 147, § 54(1).
L.1975, c. 223, § 26.
L.1975, c. 372, § 21.
L.1975, c. 373, § 33.

Cross References

Health care service corporations, see § 148.03.
Service insurance corporations, see § 613.01 et seq.

Service insurance corporations,
Dental care, see § 447.13.
Health care, see § 148.03.
Optometric care, see § 449.15.
Pharmaceutical services, see § 450.13.

Library References

Insurance ⇐531.1. C.J.S. Insurance §§ 897, 980.

632.88 Policy extension for handicapped children

(1) Termination of coverage. Every hospital or medical expense insurance policy or contract that provides that coverage of a dependent child of a person insured under the policy shall terminate upon attainment of a limiting age for dependent children specified in the policy shall also provide that the age limitation may not operate to terminate the coverage of a dependent child while the child is and continues to be both:

(a) Incapable of self-sustaining employment because of mental retardation or physical handicap; and

(b) Chiefly dependent upon the person insured under the policy for support and maintenance.

(2) Proof of incapacity. The insurer may require that proof of the incapacity and dependency be furnished by the person insured under the policy within 31 days of the date the child attains the limiting age, and at any time thereafter except that the insurer may not require proof more frequently than annually after the 2-year period immediately following attainment of the limiting age by the child.

Committee Comment—1975

This continues ss. 204.315 and 204.335.

Historical Note

Source:

L.1975, c. 375, § 42, eff. June 22, 1976.

Prior Laws:

L.1971, c. 284, §§ 1, 2.
St.1973, §§ 204.315, 204.335.

Library References

Insurance ⇐523.5. C.J.S. Insurance §§ 897 et seq., 980.

632.89 Required coverage of alcoholism and other diseases

(1) Definitions. In this section:

(a) "Outpatient treatment facility" means a facility licensed or approved by the department of health and social services whose outpatient services meet the standards established in s. 51.42(12) and

§ 10141. Identification of applicant's race, color, religion, ancestry or national origin prohibited

Law Review Commentaries

Faith healing. (1975) 8 Loyola L.Rev. (Calif.) 396.

§ 10143. Genetic disability traits; enrollment, rates and commissions

(a) No insurance company licensed in this state shall refuse to issue or sell or renew any policy of life or disability insurance after appropriate application solely by reason of the fact that the person to be insured carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but not be limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A. No such policy issued and delivered in this state to any association, corporation, firm, fund, individual, group, order, organization, society, or trust subject to the supervision of the commissioner shall demand or require a higher premium rate or charge by reason of the fact that the person to be insured carries such traits than is at that time required of any other association, corporation, firm, fund, individual, group, order, organization, society, or trust in an otherwise identical classification, nor shall any association, corporation, firm, fund, group, individual, order, organization, society, or trust make or require any rebate, discrimination, or discount upon the amount to be paid or the service to be rendered on such policy because the person to be insured carries such traits.

(b) No insurance company licensed in this state shall insert in a policy of life or disability insurance any condition, nor make any stipulation, whereby the person insured who carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier, including, but not limited to, Tay-Sachs trait, sickle cell trait, thalassemia trait, and X-linked hemophilia A, shall bind himself, his heirs, executors, administrators, or assignees to accept any sum or service less than the full value or amount of the policy in case of a claim accruing thereon other than such as are imposed upon other persons in similar cases and any such stipulation or condition so made or inserted shall be void.

(c) No insurance company licensed in this state shall fix any lower rate in the fees or commissions of agents or brokers for writing or renewing a policy of life or disability insurance solely because the applicant carries a gene which may, under some circumstances, be associated with disability in that person's offspring, but which causes no adverse effects on the carrier. Such genes shall include, but are not limited to, Tay-Sachs trait, sickle cell trait, or X-linked hemophilia A.

(Added by Stats.1977, c. 732, p. 2322, § 3.)

Library References

Insurance ⇐11.1.
C.J.S. Insurance § 60 et seq.

§ 10144. Physically or mentally impaired person; coverage and rates

No insurer issuing, providing, or administering any contract of individual or group insurance providing life, annuity, or disability benefits applied for and issued on or after January 1, 1984, shall refuse to insure, or refuse to continue to insure, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of * * * a physical or mental impairment, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual and reasonably anticipated experience.

* * *

"Physical or mental impairment" means any physical, sensory, or mental impairment which substantially limits one or more of that person's major life activities.

(Added by Stats.1980, c. 352, p. 697, § 2. Amended by Stats.1982, c. 620, p. 2611, § 1, operative Jan. 1, 1984; Stats.1985, c. 971, § 1.5.)

Historical Note

1982 Amendment. Substituted "providing life, annuity, or disability benefits applied for and issued on or after January 1, 1984," for "providing hospital, medical, or surgical benefits applied for and issued on or after January 1, 1981,"; inserted "blindness, partial blindness, or," and substituted "or is related to actual and reasonably anticipated experience" for "applied to actual experience, or, if insufficient actual experience is available, then to sound underwriting practices" in the first paragraph; and added the second and third paragraphs.

Section 3 of Stats.1982, c. 620, p. 2612, provides:

"This act shall become operative on January 1, 1984."

1985 Legislation

The 1985 amendment substituted in the first paragraph "solely because of a physical or mental impairment" for "solely because of blindness, partial blindness, or a physical or mental impairment"; and deleted a second paragraph, which read:

"'Blindness or partial blindness' means central visual acuity of not more than 20/200 in the better eye, after correction, or visual acuity greater than 20/200 but with a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees, certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist."

Legislative intent concerning Stats.1985, c. 971, see note under Health & S.C. § 1367.4.

Library References

Insurance ⇐523.5.
C.J.S. Insurance §§ 807 et seq., 980.

§ 10145. Blindness or partial blindness

No insurer issuing, providing, or administering any contract of individual or group insurance providing life, annuity, or disability benefits applied for and issued on or after January 1, 1986, shall refuse to insure, or refuse to continue to insure, or limit the amount, extent, or kind of coverage available to an individual, or charge a different rate for the same coverage solely because of blindness or partial blindness.

"Blindness or partial blindness" means central visual acuity of not more than 20/200 in the better eye, after correction, or visual acuity greater than 20/200 but with a limitation in the fields of vision so that the widest diameter of the visual field subtends an angle no greater than 20 degrees, certified by a licensed physician and surgeon who specializes in diseases of the eye or a licensed optometrist.

(Added by Stats.1985, c. 971 , § 2.)

Historical Note

1985 Legislation.

Legislative intent concerning Stats.1985, c. 971, see note under Health & S.C. § 1367.4.

ARTICLE 3. POLICY PROVISIONS REQUIRED

§ 10151. Nonforfeiture provisions

WESTLAW Electronic Research

See WESTLAW Electronic Research Guide following the Preface.

Notes of Decisions

1. In general

Life policy, which provided for 60 days extended term insurance after default in payments even though policy had been in effect for only six months, was in compliance with, and indeed more liberal than, requirements of standard nonforfeiture law. Furtado v. Metropolitan Life Ins. Co., Inc. (1976) 131 Cal.Rptr. 250, 60 C.A.3d 17.

2. Life insurance

Where life policy contained provision for 31-day grace period following default in premium payment, provided for 60-day extended term insurance, to be measured from due date of default, and further provided that extended term insurance did not take effect until premium was in default beyond grace period, policy was not ambiguous and it was not necessary to construe terms of policy against insurer. Furtado v. Metropolitan Life Ins. Co., Inc. (1976) 131 Cal.Rptr. 250, 60 C.A.3d 17.

10. Period of term insurance

Provision of life policy which specified that terms of extended term insurance was to be measured from due date of premium in default, which appeared in quite readable print under bold-faced caption "Extended Term Insurance," which in turn appeared under large-lettered heading "Insurance Options on Nonpayment of Premiums," was "conspicuous, plain and clear." Furtado v. Metropolitan Life Ins. Co., Inc. (1976) 131 Cal.Rptr. 250, 60 C.A.3d 17.

Where life policy contained one clause which stated that policy would remain in effect during 31-day grace period following default in payment of premiums, and another clause granted 60-day period of extended term insurance following default in payment, to be "measured from due date of default," policy clearly and unequivocally provided that grace period and extended term would run concurrently rather than consecutively. Id.

ARTICLE 3a. STANDARD NONFORFEITURE LAW FOR LIFE INSURANCE

Heading of Article 3a was amended by Stats.1981, c. 767, p. 2983, § 2; Stats.1983, c. 101, § 147.

Vermont

§ 4088. Appeal

Any person, partnership, or corporation aggrieved by any action of the commissioner may obtain a review by appeal to the superior court within and for the county of Washington. Such appeal shall be on the basis of the record of the proceedings before the commissioner and shall not be limited to questions of law. If the appeal is from an order of the commissioner, such order shall not take effect during the pendency of the appeal unless the court shall determine otherwise. The court may review all the facts and in disposing of any issue before it may modify, affirm, or reverse any order of the commissioner in whole or in part. Either party may appeal from the decision of the superior court to the supreme court in the manner provided by law.

HISTORY

Source. 1953, No. 106, § 28.

Revision note. References to "court of chancery" changed to "superior court" pursuant to 1971, No. 185 (Adj. Sess.), § 236(d) and 1973, No. 193 (Adj. Sess.), § 3. See notes under §§ 71 and 219 of Title 4.

§ 4089. Mental illness

(a) Any group health insurance policy providing coverage on an expense incurred basis, and any group service contract issued by a nonprofit corporation shall provide benefits for mental health care, as an option and after the payment of a premium, at least equal to the following minimum:

(1) In the case of benefits paid for confinement as an inpatient in a licensed general hospital, or in a public or licensed mental hospital, including inpatient care at community mental health centers, the period of confinement for which benefits shall be payable shall be forty-five day equivalents of active care per policy year or calendar year, whichever is applicable;

(2) In the case of outpatient services furnished by a licensed general hospital or public or licensed mental hospital, by a qualified mental health facility qualified under subsection (d) or by a licensed mental health professional, if such a facility is approved by the secretary of the agency of human services, the reasonable charges for such services shall be included as covered medical expenses and benefits shall be payable at a rate of 100 percent with respect to the first five visits by a covered person in a policy

year or calendar year and at a rate of 80 percent thereafter; provided that benefits payable under this subdivision with respect to the covered person may be limited to five hundred dollars in the policy year or calendar year, whichever is applicable. For the purposes of this section, "outpatient services" means consultations, diagnosis or treatment provided by a facility or by a licensed mental health professional approved by the secretary of the agency of human services.

(3) In the case of partial hospitalization the period of treatment for which benefits shall be payable shall be forty-five day equivalents of active care per policy year or calendar year, whichever is applicable. For the purpose of this section "partial hospitalization" means a service of more than two, but less than twenty-four hours which provides treatment which can reasonably be expected to lead to full or partial recovery of the patient or which promotes emotional or psychological change to alleviate the effects of mental disorders, or prevents deterioration of patient's emotional or physical functions.

(b) To be eligible for coverage, a service must be rendered:

(1) In a mental health facility qualified under subsection (d) below, or;

(2) By a licensed mental health professional.

(c) In the case of a nonprofit hospital or medical service corporation, the nonprofit corporation may require a mental health facility or licensed mental health professional to enter into a contract as a condition of providing benefits.

(d) The secretary of the agency of human services shall establish, by promulgating rules and regulations in accordance with the administrative procedure act, the mental health facilities that are qualified to render services as provided for by this section.

(e) Insurance carriers may require reasonable utilization review prior to payment of benefits under this section.

(f) The benefits required under subsection (a) of this section shall be available for the active treatment of any mental or nervous condition or mental disorder falling under any of the diagnostic categories listed in the mental disorders section of the international classification of disease as periodically revised.—Added 1975, No. 209 (Adj. Sess.), § 1, eff. October 1, 1976.

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.

CASE ANNOTATIONS

1. Group insurance policy "made" where master policy delivered; issuance of certificates to individuals not controlling. Simms v. Metropolitan Life Ins. Co., 9 K.A.2d 640, 642, 644, 685 P.2d 321 (1984).

40-2,106. Definitions. For the purposes of this act: (1) "Independent insurance agent" means any licensed agent representing an insurance company on an independent contractor basis and not as an employee. This term shall include only those agents not obligated by contract to place insurance accounts with any insurance company or group of companies.

(2) "Insurance company" means any property or casualty insurance company admitted to the state of Kansas, except the term shall not include any company which requires membership in the company, as contained in the articles of incorporation or bylaws of such company, as a prerequisite to insuring that member.

(3) "Commissioner" means the commissioner of insurance.

History: L. 1977, ch. 163, § 1; L. 1982, ch. 199, § 1; July 1.

40-2,107. Minimum notice requirements for cancellation of insurance agency contract by insurance company. (a) Insurance companies may contract with independent insurance agents as to binding authority, policy services, adjusting services, commissions and other subjects of interest between agent and company. Such contracts which have been effective for more than one year shall not be terminated or amended by the company except by mutual agreement or unless 180 days' prior notice has been tendered to the agent, except that this shall not apply to terminations for fraud, material misrepresentation or failure to pay such agent's account less the agent's commission and any disputed items within 10 days after written demand by the company. During such notice period all contractual conditions existing prior to such notice shall continue.

(b) Any independent insurance agent whose contract with an insurance company has been terminated under the provisions of subsection (a) shall have until the policy renewal date, but not more than one year, to

place the business written under such terminated contract with another insurance company.

History: L. 1977, ch. 163, § 2; L. 1982, ch. 199, § 2; L. 1985, ch. 161, § 1; July 1.

40-2,108. Same; rules and regulations by commissioner. The commissioner shall promulgate such rules and regulations as are necessary to carry out the provisions of this act. Violations of this act shall be violations of the unfair trade practices act, K.S.A. 40-2407 and 40-2411. This act shall not apply if the commissioner determines nonrenewal or policy limitation is necessary to preserve insurance company solvency or protect policyholders interests.

History: L. 1977, ch. 163, § 3; July 1.

40-2,109. Mental or physical handicaps; rate discrimination prohibited; enforcement. (a) No insurance company shall charge unfair discriminatory premiums, policy fees or rates for, or refuse to provide, any policy or contract of life insurance, life annuity or policy containing disability coverage for a person solely because the applicant therefor has a mental or physical handicap unless the rate differential, or refusal to provide, is based on sound actuarial principles or is related to actual or reasonably anticipated experience. No insurance company shall unfairly discriminate in the payments of dividends, other benefits payable under a policy, or in any of the terms and conditions of such policy or contract solely because the owner of the policy or contract has a mental or physical handicap unless the difference is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(b) Nothing in this section shall be construed as requiring an insurance company to provide insurance coverage against a mental or physical handicap which the applicant or policyholder has already sustained.

(c) Enforcement of the provisions of this section shall be in accordance with article 24 of chapter 40 of the Kansas Statutes Annotated, and acts amendatory thereof and supplemental thereto.

History: L. 1978, ch. 169, § 1; L. 1980, ch. 133, § 1; July 1.

40-2,110. Reporting fire losses; rules and regulations; report forms. (a) Every property or casualty insurance company transacting business in this state shall file with the state fire marshal, directly or through a reporting service, a monthly report of each fire loss paid which exceeds five hundred dollars ($500) and an annual report setting forth the total number of fire losses and the total amount of losses paid.

(b) The state fire marshal shall adopt rules and regulations prescribing the contents of the reports required to be filed pursuant to the provisions of subsection (a) and prescribing the time for filing such reports. The state fire marshal shall make report forms available upon request.

History: L. 1980, ch. 136, § 1; July 1.

Source or prior law:
40-903.

40-2,111. Definitions. As used in K.S.A. 40-2,111 through 40-2,113, and amendments thereto: (a) "Adverse underwriting decision" means: Any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

(1) A declination of insurance coverage;

(2) a termination of insurance coverage;

(3) an offer to insure at higher than standard rates, with respect to life, health or disability insurance coverage; or

(4) the charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished, with respect to property or casualty insurance coverage.

(b) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance company or agent of requested insurance coverage.

(c) "Health care institution" means any medical care facility, adult care home, drug abuse and alcoholic treatment facility, home-health agency certified for federal reimbursement, mental health center or mental health clinic licensed by the secretary of social and rehabilitation services, kidney disease treatment center, county, city-county or multicounty health departments and health-maintenance organization.

(d) "Health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, advanced registered nurse practitioner, licensed optometrist, registered physical therapist, licensed social worker, registered

Kansas

40-295. Automobile insurance policies; discrimination on basis of age of insured prohibited in issuance, extension or renewal. No insurance company licensed to o business in the state of Kansas shall in he issuance, extension or renewal of any olicy or contract of automobile insurance r the acceptance of any application thereor discriminate unfairly solely because of he age of the person to be insured: *Provided,* That nothing herein shall be contrued to interfere with the application of ny applicable rate classification with repect to such policy or contract of insurance ursuant to article 11 of chapter 40 of the ansas Statutes Annotated. Any insurance ompany violating the provisions of this act hall be subject to the penalties authorized y K.S.A. 40-1120.

History: L. 1971, ch. 171, § 1; July 1.

40-296. Same; offer of insurance by one of group of affiliated insurors, effect. An offer of insurance by any one of a group of affiliated insurors shall constitute compliance with this act on behalf of an insurance company and all of its affiliates: *Provided, however,* That the premium charged in the affiliate company shall be at no higher rate than the then current rate charged by the affiliate company for such classification.

History: L. 1971, ch. 171, § 2; July 1.

40-297. Same; group of affiliated insurors defined. The term "group of affiliated insurors" as used in K.S.A. 40-296 shall mean two or more insurance companies which are under substantially the same management and/or financial control.

History: L. 1971, ch. 171, § 3; July 1.

40-298. Sale of insurance in connection with sale and financing of automobile; definitions. As used in this act, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Automobile dealer" means a dealer as defined by K.S.A. 8-178;

(b) "Automobile" means a passenger vehicle as defined by subsection (x) of K.S.A. 8-126;

(c) "Dealer" means any automobile dealer or lending agency;

(d) "Lending agency" means any person engaged in the business of financing or lending money to any person to be used in the purchase or financing of a motor vehicle; and

(e) "Person" means any individual, partnership, corporation or other association of persons.

History: L. 1972, ch. 178, § 1; July 1.

40-299. Sale of physical damage insurance in connection with sale and financing of automobile; acknowledgment by purchaser, form; suspension, or revocation of license. Whenever any dealer, or any agent, officer or employee of such dealer, who also is an insurance agent, as defined by K.S.A. 40-239, shall provide only for automobile physical damage insurance in connection with the sale and financing of an automobile, such dealer, agent, officer or employee also must obtain a written acknowledgment by the purchaser of the automobile that the insurance coverage so provided for such automobile does not include automobile liability insurance sufficient to fulfill the requirements of the Kansas automobile injury reparations act. Such acknowledgment shall be made in the manner and form prescribed by the commissioner of insurance, and a copy thereof shall be furnished the purchaser. The insurance agent's license of any such dealer, agent, officer or employee who fails to obtain the acknowledgment required herein shall be subject to suspension or revocation by the commissioner pursuant to the provisions of K.S.A. 40-242.

History: L. 1972, ch. 178, § 2; L. 1974, ch. 187, § 1; July 1.

40-2,100. Insurance coverage to include reimbursement or indemnity for services performed by optometrist, dentist or podiatrist. Notwithstanding any provision of any individual, group or blanket policy of accident and sickness, medical or surgical expense insurance coverage or any provision of a policy, contract, plan or agreement for medical service, issued on or after the effective date of this act, whenever such policy, contract, plan or agreement provides for reimbursement or indemnity for any service which is within the lawful scope of practice of any practitioner licensed under the healing arts act of this state, reimbursement or indemnification under such policy contract, plan or agreement shall not be denied when such services are performed by an optometrist, dentist or podiatrist acting within the lawful scope of their license.

History: L. 1973, ch. 194, § 1; July 1.

40-2,101. No policies, contracts or agreements for medical service shall deny reimbursement or indemnification for any service within scope of practice licensed under Kansas healing arts act. Notwithstanding any provision of any individual, group or blanket policy of accident and sickness, medical or surgical expense insurance coverage or any provision of a policy, contract, plan or agreement for medical service, issued on or after the effective date of this act, whenever such policy, contract, plan or agreement provides for reimbursement or indemnity for any service which is within the lawful scope of practice of any practitioner licensed under the Kansas healing arts act, reimbursement or indemnification under such policy contract, plan or agreement shall not be denied when such service is rendered by any such licensed practitioner within the lawful scope of his license.

History: L. 1973, ch. 195, § 1; July 1.

40-2,102. Insurance coverage for newly born children; notification of birth. All individual and group health insurance policies providing coverage on an expense incurred basis and individual and group service or indemnity type contracts issued by a profit or nonprofit corporation which provides coverage for a family member of the insured or subscriber shall, as to such family members' coverage, also provide that the health insurance benefits applicable for children shall be payable with respect to a newly born child of the insured or subscriber from the moment of birth.

The coverage for newly born children shall consist of coverage of injury or sickness including the necessary care and treatment of medically diagnosed congenital defects and birth abnormalities.

If payment of a specific premium or subscription fee is required to provide coverage for a child, the policy or contract may require that notification of birth of a newly born child and payment of the required premium or fees must be furnished to the insurer or nonprofit service or indemnity corporation within thirty-one (31) days after the date of birth in order to have the coverage continue beyond such thirty-one day period.

History: L. 1974, ch. 190, § 4; July 1.

40-2,103. Application of 40-2,100, 40-2,101, 40-2,102 and 40-2,104. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102 and 40-2,104 and amendments thereto shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.

History: L. 1974, ch. 190, § 5; L. 1984, ch. 168, § 1; July 1.

CASE ANNOTATIONS

1. Statute enacted for health and welfare of employees and residents of Kansas within police power of state; statute not too vague and application permissible under commerce clause. Blue Cross and Blue Shield of Kansas City v. Bell, 596 F.Supp. 1053, 1059 (1984).

40-2,104. Insurance coverage to include reimbursement for services performed by licensed psychologist. Notwithstanding any provision of an individual or group policy or contract of health and accident insurance, delivered within the state whenever such policy or contract shall provide for reimbursement for any service within the lawful scope of practice of a duly licensed psychologist within the state of Kansas, the insured, or any other person covered by the policy or contract shall be allowed and entitled to reimbursement for such service irrespective of whether it was provided or performed by a duly licensed physician or a duly licensed psychologist.

History: L. 1974, ch. 189, § 1; L. 1986, ch. 299, § 7; June 1.

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 accidents 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

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SB 182

Amendments to Senate Bill No. 182
First Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
February 7, 1989

1. Page 2, line 1.
Following: "53-24-208"
Insert: "or by the appropriate licensing authority of any state"

2. Page 2, lines 16 through 19.
Following: "~~disorder~~" on line 16
Strike: remainder of line 16 through "functions" on line 19
Insert: "a disorder included in the current edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American psychiatric association"

3. Page 4, line 13.
Strike: "20% or"

4. Page 4, line 14.
Strike: "whichever is greater,"

2/6/89
SB204

Amendments to Senate Bill No. 204
First Reading Copy

For the Senate Public Health, Welfare and Safety Committee

Prepared by Tom Gomez, Staff Researcher
February 7, 1989

1. Title, line 8.
Following: "72-17-301,"
Insert: "72-17-311,"

2. Page 2, line 4.
Strike: "12"
Insert: "13"

3. Page 4, lines 7 and 8.
Following: "is" on line 7
Strike: remainder of line 7 through "examiners" on line 8
Insert: "certified pursuant to 72-17-311"

4. Page 4, line 19.
Following: line 18
Insert: "(8) "Ophthalmologist" means a licensed physician or surgeon who specializes in the treatment or correction of diseases of the eye."
Renumber: subsequent subsections

5. Page 5, line 17.
Following: "is"
Strike: "licensed"
Insert: "certified"

6. Page 8, line 2.
Following: "presence"
Strike: "or"
Insert: "of"

7. Page 9, line 4.
Strike: "10"
Insert: "11"

8. Page 9, line 5.
Strike: "11"
Insert: "12"

9. Page 10, line 21.
Strike: "10(1)"
Insert: "11"

10. Page 11, line 7.
Following: "technician,"
Insert: "nurse,"

20. Page 17, line 20.
Following: "72-17-202"
Insert: "or if there are medical or emotional conditions under which the request would contribute to severe emotional distress"

21. Page 18, line 19.
Strike: "10(1)"
Insert: "11(1)"

22. Page 18, line 20.
Strike: "11"
Insert: "12"

23. Page 19, lines 6 through 19.
Strike: section 13 in its entirety
Renumber: subsequent sections

24. Page 21, line 7.
Strike: "10"
Insert: "11"

25. Page 21, line 9.
Strike: "10"
Insert: "11"

11. Page 11, line 13.
Strike: "10"
Insert: "11"

12. Page 12, line 14.
Following: "under"
Strike: "72-17-201(2)"
Insert: "[section 11(1)(c)]"

13. Page 13, line 4.
Following: "who"
Strike: "tends"
Insert: "attends"

14. Page 13, line 14.
Following: line 13
Insert: "**Section 9.** Section 72-17-311, MCA, is amended to read:
"**72-17-311. Eye enucleations -- ~~technicians~~ enucleators -- qualifications.** (1) Eye enucleations for purposes of anatomical gifts may be performed:
(a) by a licensed physician or surgeon; or
(b) by ~~a technician~~ an enucleator trained in eye enucleation.
(2) An acceptable course in eye enucleation must include the anatomy and physiology of the eye, instruction in maintaining a sterile field during the enucleation procedure, and use of appropriate instruments and sterile procedures for removal and preservation of corneal tissue.
(3) Certification of satisfactory completion of a course in eye enucleation must be provided by the ophthalmologist who teaches the course. This certification qualifies ~~a technician~~ an enucleator to perform eye enucleations for a period of 3 years from the date of completion of the course.""
Renumber: subsequent sections

15. Page 15, line 23.
Strike: "10(1)"
Insert: "11(1)"

16. Page 16, line 2.
Strike: "10(1)"
Insert: "11(1)"

17. Page 16, line 22 through page 17, line 9.
Strike: subsection (1) in its entirety
Renumber: subsequent subsections

18. Page 17, line 16.
Strike: "10(1)"
Insert: "11(1)"

19. Page 17, line 19.
Following: "gift"
Strike: "if"
Insert: "is"

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date Feb. 6, 1989 Bill No. SB 26 Time 5:32 P.M

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

~~Louise Sullivan~~ D Quinn
Secretary

Sen. Tom Hager
Chairman

Motion: Motion made that the Gray Bill be accepted, do pass as amended. Passed unanimously.

1989

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date Feb. 6, 1989 Bill No. SB 182 Time 5:55

NAME	YES	NO
SEN. TOM HAGER	X	
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN	X	
SEN. McLANE	X	
SEN. PIPINICH	X	

Louise Sullivan
Secretary

Sen. Tom Hager
Chairman

Motion: Sen. Lynch moved that SB 182 do pass as amended. Passed unanimously

1989

ROLL CALL VOTE

SENATE COMMITTEE PUBLIC HEALTH

Date Feb. 6, 1989 Bill No. SB 204 Time 6:05

NAME	YES	NO
SEN. TOM HAGER		X
SEN. TOM RASMUSSEN	X	
SEN. LYNCH	X	
SEN. HIMSL	X	
SEN. NORMAN		X
SEN. McLANE	X	
SEN. PIPINICH	X	

~~Louise Sullivan~~ D. Zuern
Secretary

Sen. Tom Hager
Chairman

Motion: Sen Lynch moved that SB 204, as amended, do pass. Motion carried. In favor 5, opposed 2

1989