

Senator William Stouffer, Chairman
Senator Victor Callahan
Steve Reintjes, MD
John Stanley, MD
David Carpenter



Representative Robert Schaaf, MD
Representative Curt Dougherty
Lancer Gates, DO
Gloria Solis, RN, MSN, MBA

Health Care Stabilization Fund Feasibility Board

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March 7, 2008

Meeting Minutes

Call to Order: The meeting was called to order at approximately 12:35pm.

Board Members in Attendance: Senator William Stouffer, Senator Victor Callahan, Rep. Rob Schaaf, Gloria Solis, RN, Dr. John Stanley, Dr. Lancer Gates.

Others in Attendance: Brent Kabler, Unni Mundaya, Dianna Pell, DIFP; Chip Wheelen, Executive Director of Kansas Health Care Stabilization Fund; Andrew Tiegen, MO Medical Malpractice Joint Underwriting Association (MMMJUA).

Materials: "Report to the Missouri Health Care Stabilization Fund Feasibility Board," by Chip Wheelen.

Approval of Minutes: Motion to approve the minutes was made by Sen. Callahan and seconded by Gloria Solis with all in favor.

Presentation on Kansas Health Care Stabilization Fund (Chip Wheelen)

Changes to Fund Based on Experience

Since its inception, the Kansas Health Care Stabilization Fund (HCSF) has had to make major decisions to improve the fund. It had to remove a cap on reserves for the fund because accidents happen and there will be some major long term payments from the fund. It put in a requirement that doctors had to participate in the fund for at least 5 years in order to have tail coverage when they retired/left the state (plus they have to pay an additional surcharge for the coverage for the first 5 years). They created tiered limits of excess coverage provided by the fund, so that doctors can choose their limit (there is now a private market for excess coverage over the fund excess). They also moved to claims-made policies from occurrence-based policies (many providers have occurrence-based policies in Missouri).

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Tort Reform

The HCSF is just one piece of the medical malpractice reform puzzle. There has to be a push for tort reform as well. The Kansas HCSF's actuary said that Missouri's tort reform is not as tight as Kansas'. Missouri has higher caps on non-economic damages and still has vicarious liability. Kansas has lower limits, does not have vicarious liability and has a homestead law (which would require a constitution change in Missouri).

Surcharge on KS Residents Practicing in MO

The HCSF charges a 25% surcharge to Kansas residents that practice in Missouri. There has been no indication that the 717 physician members living in Kansas and practicing in Missouri have had any difficulty securing private coverage for the first \$200,000 (before the HCSF kicks in). However, Missouri would be able to compete for more doctors if the Missouri tort reforms matched Kansas law.

Other Information

The HCSF has three attorneys, two paralegals and actuaries on staff. The board of governors includes medical doctors and doctors of osteopathy (5 physicians in total), a chiropractor, a certified registered nurse anesthetist and three hospital administrators. There are about 10,000 providers in the fund (including institutional providers).

There are about 600 doctors covered by the Kansas JUA for their first \$200,000 of coverage. The JUA lost \$2.2 million last year. Losses are covered by HCSF reserves.

Chip Wheelen can be contacted at chip.wheelen@hcsf.org said he was available by speakerphone if there are questions for him at future meetings.

Presentation on Missouri JUA (Andrew Tiegen)

Description

The med mal JUA provides coverage "of last resort" because it is guarantee-issue. It is an occurrence-based plan, even though the majority of people in the market have claims-made plans. The JUA insures 190 facilities, many of which are long term care facilities, and 3-4 doctors, who are all neurosurgeons. The JUA is currently financially sound. It is funded by premiums and there can be an assessment across all general casualty lines (auto insurance, etc.) if needed. The JUA board is made up of carriers.

Stabilizing the Med Mal Market

In times of crisis, the JUA should ideally take on more people, then release these people to the private market in better times. This helps stabilize rates in the private market. However, the Missouri JUA has some built-in obstacles to this ebb and flow. The most significant obstacle is the 100% surcharge on first year premium in order to enter the JUA. The residual market should

not compete with the private market, so a surcharge or higher premium is reasonable, but 100% may be excessive. Kansas' JUA only charges a 30% surcharge. In addition, the JUA is not

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offering the same product that the private market is offering and a move to offer claims made policies should be considered.

Sen. Stouffer expressed interest in changes that would allow the JUA to function better and become a stabilization mechanism.

Andrew Teigen can be contacted at ateigen@hayscompanies.com. He is available for any follow-up necessary.

Recommendations to Board of Healing Arts

Department staff gave recommendations to the Board of Healing Arts on changes to the physician license application and renewal documents. The changes, which expand the information collected and make response mandatory, will be presented at the April meeting of the Board of Healing Arts by department staff.

The department is going to collect information on claims history from now on (actually starting in 2007) and going forward. There is not the manpower available to deal with information from previous years.

Med Mal Data Collection Legislation

House Bill 2265 will be heard in Rep. Wilson's House Committee on Health Insurance next Tuesday. Rep. Schaaf sent the language to some insurers who have said they are comfortable with it. The Missouri Insurance Coalition and other companies have not responded yet. In the Senate, the language would have to be added as an amendment. Sen. Stouffer and Sen. Callahan said they would work on adding the amendment. Brent Kabler said the confidentiality standards in HB 2256 either meets or exceeds federal guidelines for collecting confidential information. The bill is much more descriptive than HB 1837 (2006) so that it is clear what the department can collect.

Next Meeting

The next meeting of the Health Care Stabilization Fund Feasibility Board will be on June 13. The group is interested in the following topics for the next meeting:

- Report on Board of Healing Arts data collection
- New data for 2007
- Legislative wrap-up for 2008 session

- Work on a questionnaire to doctors on their interest in a stabilization fund – maybe we could take a sample? Perhaps we could ask professional organizations to survey their membership?

The meeting adjourned.

FINAL APPROVED