

These minutes contain materials which paraphrase and/or summarize statements made during this session. Only text enclosed in quotation marks

report a speaker's exact words. For complete contents of the proceedings, please refer to the tapes.

HOUSE COMMITTEE ON BUSINESS AND CONSUMER AFFAIRS SUBCOMMITTEE NO. 2

April 16, 1991  
P.M.

Hearing Room H 170 3:00  
Tapes 9 - 10

MEMBERS PRESENT: Rep. Beverly Stein, Chair Rep. Carolyn Oakley Rep.  
Hedy Rijken Rep. John Schoon

STAFF PRESENT: Terry Connolly, Committee Administrator Annetta  
Mullins, Committee Assistant

MEASURES CONSIDERED: HB 2207 WS HB 2209 PH HB 3355 PH

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TAPE 9, SIDE A

010 CHAIR STEIN calls the meeting to order at 3:10 p.m. and opens the public hearing on HB 335 5.

HB 3355 - ALLOWS INSURED TO USE LIFE INSURANCE PROCEEDS FOR TERMINAL ILLNESS EXPENSES BEFORE DEATH. Witnesses: Rep. Lisa Naito Keith Burns, American Council of Life Insurance Dave Nelson, Oregon Life Underwriters Association Mark Jurchen, Oregon Life Underwriters Association Donna Weiner, Department of Insurance and Finance

010 REP. LISA NAITO: Keith Burns has been with the Insurance Commissioner. Legislative Counsel has drafted the HB 3355-1 amendments (EXHIBIT A) which incorporates the intent of what I would like to accomplish with this Bill and has the agreement of the industry and the commissioner.

015 KEITH BURNS, American Council of Life Insurance: We have taken all language out of the bill and the amendments are the bill. The bill would have applied only to policies in the future. Insurance companies are doing this now and by having a uniform procedure, you are going to reach far more people and reach them sooner this way than by mandating it.

038 CHAIR STEIN: Is it correct there is no prohibition against doing this now?

040 MR. BURNS: There is not. Some insurance companies are doing it. Rates and forms have to be approved in each state and they have to look at solvency and other things in the companies. By following a model legislation, they use model riders which are amendments to insurance policies. Most of the regulation is protecting the insureds rather than protecting companies. It sets up model procedures and rates and forms

will work in all jurisdictions. It facilitates the very thing the people who brought you this bill were trying to accomplish.

Almost all of the language in the amendments is out of the model legislation. By law you are saying that the insurance policy may provide for accelerated death benefits. Except for the provisions in the amendments, the only act that would trigger the benefits would be the death of the insured. Benefits are payable in the lifetime of the insured in anticipation of death or upon the occurrence of specified life-threatening or catastrophic conditions. The person wouldn't get the same as the face value, depending on the age of the policy. If it is a 30 year policy during the twenty-fifth year, the difference wouldn't be much. If the policy has been in effect for only three to five years there wouldn't be much in benefits.

He reviews the proposed amendments.

126 REP. SCHOON: The language on line 21 of page 1 says "usually requires continuous confinement in an eligible institution..." Does that fit the same category of the other conditions described in the bill?

130 MR. BURNS: Yes. Any condition that fits that definition would trigger the acceleration of the benefit.

135 REP. SCHOON: The person could live for 50 years.

MR. BURNS: I think that is true. I think you are talking about alzheimer disease, as an example.

140 REP. NAITO: Anyone with a valid power of attorney to make decisions for a person would be entitled to trigger this.

149 MR. BURNS: A conservator or guardian could also trigger it.

155 CHAIR STEIN: You list conditions and qualifying events which probably have a great deal of grey area as to whether they actually meet the requirements.

158 MR. BURNS: We have tried to select those things where they have had experience to be fixed in statute because they will work. There is a lot of room for rule making by the regulator. The committee has a copy of the model rules (SEE EXHIBIT D OF SUBCOMMITTEE NO. 2 COMMITTEE MINUTES DATED APRIL 2, 1991). That leaves a lot of latitude to the regulator to include other events. Generally they would say the doctor will submit a letter saying the person's life expectancy is 12 or 24--some will want two doctors to say that.

223 REP. STEIN: Is it clear that the way this is structured it will not interfere with a person's access to Medicaid benefits?

225 MR. BURNS: The letter (SEE EXHIBIT D OF SUBCOMMITTEE NO. 2 COMMITTEE MINUTES DATED APRIL 2, 1991) is an opinion that was asked for either by ACLI or a member of ACLI. The letter says they would not require people to exhaust those benefits before they receive Medicaid.

235 REP. STEIN: Another concern is on probate and the treatment of these benefits as income.

236 MR. BURNS: There are two bills in Congress that say when you receive benefits under these circumstances they would not be subject to income tax.

250 DAVE NELSON, Oregon Life Underwriters Association: We want to commend Rep. Naito and the committee for moving ahead with this legislation to standardize the application of living benefits of life insurance policies. Our membership include about 1,600 in Oregon and we market virtually all of the life insurance sold in the state. This type

of approach is a benefit to a number of people who would like to use those proceeds for these kinds of dire conditions.

266 MARK JURCHEN, Vice President, Oregon Life Underwriters Association. We would urge you to consider the NAIC model. We have the same concern, that we not have mandated benefits. Using the NAIC models allows companies innovation that the market place and competition will allow.

Issues discussed: >Possibility of persons using minimum policy proceeds and not realizing full policy amount. >Verification of eligibility for benefits. >Disclosure statement to insured.

TAPE 10, SIDE A

Issues discussed: >Life insurance benefits in lieu of long term care insurance.

098 KEITH BURNS: In the model rule, under disclosure, the terminology speaks to policies not being marketed as long care policies.

163 DONNA WEINER, Rates and Forms Section, Department of Insurance and Finance: Line 14 says the qualifying events will be one or more and goes on. Typically you will not find an insurance company that is willing to go out at risk on an open-end issue. They will put limitations and qualifying events in the forms.

199 CHAIR STEIN: Perhaps we should limit this to 24 months.

MS. WEINER: Perhaps the 24 months should be included in (2) because the 24 months was really intended to apply to all of the qualifying conditions.

208 MR. BURNS: That is not the way the model rule reads.

250 MS. WEINER: I don't think you will find an insurance company writing an accelerated death benefit longer than 24 months, but it should be written in.

260 REP. OAKLEY: The original bill had a verification by two physicians and it isn't in the current bill.

265 MS. WEINER: You won't find a company that will write a form like this without some verification. Companies will set up their own requirements as to how they feel comfortable in exercising this option. They aren't going to be overly loose about giving the death benefit away without substantial verification of a condition. If that is desired, I think it would be more appropriate to have it in the rules than in the statute.

270 MR. BURNS: I don't find the language in the model rule. I thought it was in there.

296 CHAIR STEIN: Could it be something more general that indicates the rules shall have some kind of verification by a medical personnel and leave the latitude to the insurance companies to write their policies?

300 REP. OAKLEY: That would satisfy my concerns.

253 CHAIR STEIN: I would like for you to go back and make sure the long term care insurance and this go together.

286 CHAIR STEIN closes the public hearing on HB 3355 and asks that proponents work together to finalize the bill.

393 CHAIR STEIN opens the work session on HB 2207.

(Tape 10, Side A) HB 2207 - AUTHORIZES DIRECTOR OF DEPARTMENT OF

INSURANCE AND FINANCE TO SET CERTAIN FEES BY RULE. Witnesses: Nancy Burke, Department of Insurance and Finance

305 NANCY BURKE, Securities Section, Department of Insurance and Finance: We are presenting the hand-engrossed bill setting a cap on our fees (EXHIBIT B). This bill is asking to take our fees out of statute and place them in rules. We are asking that for two reasons: to make it consistent with the rest of the department, and to give us flexibility during the biennium. The amendments start on page 3. In line 18, add "not to exceed \$500," for the fee for both open-ended management companies or for unit investment trusts, in line 34 insert "not to exceed \$1,000" for registrations of securities offerings, and in line 40 we are dealing when over sales occur in the securities area and are inserting "not to exceed \$2,500."

377 REP. OAKLEY: How will this affect the amount of revenues you will take in?

MS. BURKE: We don't intend to change our fees. These are caps that we have established for your use. We just propose to move them into rules.

397 MS. BURKE: The fees now charged for licensing are on page 4. Insert in line 26, "not to exceed \$300" and on line 29, "not to exceed \$300." In line 30 we are dealing with application for a license for a salesperson. We propose to insert "not to exceed \$50" and in line 31, on the renewal process, we propose to insert "not to exceed \$50."

393 REP. OAKLEY: I feel uncomfortable with this even with a cap.

428 REP. SCHOON: Is there no fiscal impact with this bill?

429 MS. BURKE: We have not prepared a fiscal impact because we have no intention of changing our fees. There are no changes anticipated during this biennium.

TAPE 9, SIDE B

033 MOTION: CHAIR STEIN moves that the amendments, as included in the hand-engrossed HB 2207, BE ADOPTED.

042 VOTE: In a roll call vote, REPS. RIJKEN, SCHOON and CHAIR STEIN vote AYE. REP. OAKLEY votes NO.

046 MOTION: CHAIR STEIN moves that HB 2207, as amended, be sent to the Full

Committee with a DO PASS recommendation.

046 VOTE: In a roll call vote, REP.S RIJKEN, SCHOON and CHAIR STEIN vote AYE. REP.OAKLEY votes NO.

051 CHAIR STEIN opens the public hearing on HB 2209.

(Tape 9, Side B) HB 2209 - MAKES SUBSTANTIVE AND NONSUBSTANTIVE CHANGES TO STATUTES GOVERNING INSURANCE AGENTS, ADJUSTERS AND CONSULTANTS. Witnesses: Elaine Day, Department of Insurance and Finance Dave Nelson, Oregon Life Underwriters Association Lana Butterfield Sandy Flicker, Independent Insurance Agents

The Preliminary Staff Measure Summary is hereby made a part of these minutes (EXHIBIT C).

The HB 2209-1 proposed amendments are hereby made a part of these minutes (EXHIBIT D).

060 ELAINE DAY, Deputy Administrator, Insurance Division: The history behind this bill is the consultants licensing law was passed in 1985.

In 1989 the Insurance Division introduced legislation that was a re-write of Chapter 744, the agents licensing law. In the process of making those changes there was a major disagreement on the qualifications for agents who also act as consultants. As a result, a compromise was reached in which the consultants licensing portion of the law was passed. It had a repealer of January 1, 1992, which gave the division and the industry two years in which to reach a compromise. HB 2209 needs to be fine tuned. We have friendly amendments (EXHIBIT E) and a hand-engrossed bill (EXHIBIT F). She reviews the hand-engrossed bill.

TAPE 10, SIDE B

001 DAVE NELSON, Oregon Life Underwriters Association: We requested a consultant licensing bill in 1983 which was passed. The intent of this language is to rein the language of titles in to say that a consultant is not an advantageous term over the term insurance agent. We didn't want to see a proliferation of titles or names implying something more than an insurance agent. It would do that plus allow an insurance agent to advise a person on the nature of a client's insurance package, particularly as it would apply to estate planning. Our agents were, at that time, prohibited from sending a bill, although they would analyze the package. The purpose of the consultant's license was to allow the use of the title and to allow those providing the services above and beyond normal services associated with the sale of the product to charge a fee for it.

In 1989 we reached an interim solution whereby the term consultant could be used, but the requirement for a more stringent examination was suspended. We have been working with the Insurance Division for six months to try to craft language that resolves the problem. Under the provisions of this bill an agent can sell insurance and issue advice to his client and receive compensation through a commission from the sale of the product. He is required to take an examination, but is not required to carry errors and omissions insurance because he is selling a product for a company. The company is perceived as the deep pockets to make the client well if something goes awry in the process.

An insurance consultant can sell a product if he is a licensed agent, issue advice and receive a commission under rules that the division will subsequently prescribe, and charge a fee for additional services under rules the department will issue. He is required to carry errors and omissions insurance because if he is giving advice and charging a fee for that advice, he does not necessarily have the backing of a particular company if something goes awry and the division wants to make the client whole. An examination is not required to become a consultant, but a consultant has to have certain levels of experience (Section 17).

077 I think the bill resolves all the issues that have been discussed between the agents' associations and the department.

091 LANA BUTTERFIELD: "Good bill, should pass."

SANDY FLICKER, Independent Insurance Agents: "Echo, Echo."

094 CHAIR STEIN closes the public hearing on HB 2209 and declares the meeting adjourned at 4:43 p.m.

Respectfully submitted, Reviewed by,

Annetta MullinsTerry Connolly AssistantAdministrator

EXHIBIT SUMMARY

A -HB 3355, HB 3355-1 amendments, Rep. Lisa Naito B -HB 2207, memo and hand-engrossed HB 2207, Nancy Burke C -HB 2209, Preliminary Staff Measure Summary, staff D -HB 2209, HB 2209-1 amendments E -HB 2209, proposed amendments, Elaine Day F -HB 2209, hand-engrossed HB 2209, Elaine Day