

HCS SB 551 -- INSURANCE REGULATION

SPONSOR: Wieland

COMMITTEE ACTION: Voted "Do Pass with HCS" by the Standing Committee on Insurance policy by a vote of 13 to 0. Voted "Do Pass" by Rules - Administrative Oversight by a vote of 9 to 1.

The following is a summary of the House Committee Substitute for SB 551.

This bill modifies provisions relating to insurance.

RECIPIENTS OF DONATED ORGANS

Under this bill, no hospital, physician, procurement organization, or other person shall determine the ultimate recipient of an anatomical gift based upon a potential recipient's physical or mental disability or congenital condition, except to the extent that the disability or condition has been found by a physician, following a case-by-case evaluation of the potential recipient, to be medically significant to the provision of the anatomical gift.

A person with a disability or congenital condition shall not be required to demonstrate post-operative independent living abilities in order to have access to a transplant if there is evidence that the person will have sufficient, compensatory support and assistance.

A court shall accord priority on its calendar and handle expeditiously any action brought to seek a remedy for purposes of enforcing compliance with this bill. This bill shall not be deemed to require referrals or recommendations for or the performance of medically inappropriate organ transplants (Section 194.320, RSMo).

MISSOURI AUTOMOBILE INSURANCE PLAN

This bill modifies existing law regarding apportionment of substandard insurance risks to create the Missouri Automobile Insurance Plan (MOAIP). MOAIP is authorized to issue motor vehicle insurance policies to applicants who are unable to procure motor vehicle liability policies through ordinary methods, rather than funding issuance of the policies through other insurers. The bill further specifies that the Director of the Department of Commerce and Insurance (director) shall consult with insurance companies who have a certificate of authority to do business in the state and actively write motor vehicle liability policies. MOAIP shall perform its functions under a plan of operation approved by the director through a board of governors as specified in the plan of

operation. The plan of operation shall prescribe the issuance of motor vehicle insurance policies, which may include the administration of the policies by a third party, as specified in the bill. MOAIP must obtain approval from the director before using forms, rates, or manuals. MOAIP is subject to the applicable insurance laws of this state unless specifically exempted, is required to file annual financial reports that are subject to examination by the director, and shall have the authority to make assessments on member insurance companies in proportion to their market share. Member insurers and members of the governing committee shall be immune from liability for omissions and actions taken in the performance of their powers and duties under the bill (Section 303.200).

INSURANCE PRODUCERS

This bill allows an insurance producer to receive up to four hours of continuing education credit per biennial reporting period for participation as an individual member or employee of a business entity producer member of a local, regional, state, or national professional insurance association with approval by the Director of the Department of Commerce and Insurance.

An insurance producer shall not use continuing education credit granted under this Section to satisfy continuing education hours required to be completed in a classroom or classroom-equivalent setting, or to satisfy any continuing education ethics requirements.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill. (Section 375.029)

CREDIT FOR REINSURANCE

This bill enacts provisions relating to credit for reinsurance as an asset or reduction from liability of an insurer.

The bill authorizes the Director of the Department of Commerce and Insurance to promulgate certain rules, as specified in the bill, to establish requirements relating to or setting forth the valuation of assets or reserve credits, the amount and forms of security supporting reinsurance agreements described in the bill, or the circumstances under which credit will be reduced or eliminated.

Credit for reinsurance is allowed when the reinsurance is ceded to an assuming insurer meeting certain conditions. This bill also requires the director to create and publish a list of reciprocal jurisdictions.

The director shall create and publish a list of assuming insurers that have satisfied the conditions set forth in this bill and to which cessions shall be granted credit as specified in the bill.

If the director determines an assuming insurer no longer meets one or more requirements for recognition as specified in the bill, the director may revoke or suspend the insurer's eligibility for recognition in accordance with the bill. While an assuming insurer's eligibility is suspended, no reinsurance agreement issued, amended, or renewed after the date of suspension shall qualify for credit, except to the extent that the assuming insurer's obligations are secured as provided by law. If an assuming insurer's eligibility is revoked, no credit for reinsurance may be granted after the effective date of revocation with respect to any reinsurance agreement entered into by the insurer, before or after the revocation, except to the extent the insurer's obligations are secured as provided by law.

If subject to a legal process of rehabilitation, liquidation, or conservation, as applicable, the ceding insurer or its representative may seek a court order requiring that the assuming insurer post security for all outstanding liabilities.

Nothing in this bill shall limit or in any way alter the capacity of parties to a reinsurance agreement to agree on requirements for security or other terms in that reinsurance agreement, except as expressly prohibited by law.

Credit may be taken as specified in the bill only for reinsurance agreements entered into, amended, or renewed on or after January 1, 2021, and only with respect to losses incurred and reserves reported on or after the later of: the date on which the assuming insurer has met applicable eligibility requirements, or the effective date of the new reinsurance agreement, amendment, or renewal.

Nothing in this bill shall alter or impair a ceding insurer's right to take credit for reinsurance under the bill as long as the reinsurance qualifies for credit under another applicable provision of law.

Nothing in this bill shall limit or in any way alter the capacity of parties to any reinsurance agreement to renegotiate the agreement.

The bill authorizes the director to adopt rules and regulations applicable to reinsurance agreements relating to certain life insurance policies, variable annuities with guaranteed benefits,

long-term care insurance policies, and such other life and health insurance and annuity products as to which the NAIC adopts model rules with respect to credit for reinsurance.

A rule adopted under these provisions regarding life insurance policies may apply to any treaty containing policies issued on or after January 1, 2015, or policies issued prior to January 1, 2015, if risk pertaining to such pre-2015 policies is ceded in connection with a treaty on or after January 1, 2015. A rule adopted under these provisions may require the ceding insurer, in calculating the amounts or forms of security required to be held, to use the NAIC valuation manual to the extent applicable.

Regulations adopted under this authority shall not apply to cessions to an assuming insurer that:

(1) Meets the conditions set forth in this bill or, if this state has not fully implemented the provisions of this bill, is operating in at least five states that have implemented the provisions of this bill; or

(2) Is certified in this state; or maintains at least \$250 million in capital and surplus as specified in the bill and is licensed in at least 26 states, or is licensed in at least 10 states and licensed or accredited in at least 35 states.

BREAST CANCER SCREENING

This bill modifies an insurance mandate relating to breast cancer screening and evaluation.

In addition to existing coverage requirements, the bill adds "detectors" to the X-ray equipment specifically listed as being covered under the mandate and specifies that coverage for certain breast cancer screening and evaluation services shall be provided yearly to any woman deemed by her physician to have an above-average risk for breast cancer in accordance with American College of Radiology (ACR) guidelines, rather than specifically to women with a personal or family history of breast cancer.

Requires coverage of any additional or supplemental imaging, such as breast MRI or ultrasound, deemed medically necessary by a treating physician for proper screening or evaluation in accordance with applicable ACR guidelines. Furthermore, the bill requires coverage of ultrasound or MRI services when determined by a treating physician to be medically necessary for the screening or evaluation of breast cancer for any woman deemed by the treating physician to have an above-average risk of breast cancer in accordance with ACR guidelines for breast cancer screening.

Lastly, provisions relating to out-of-pocket expenditures are modified to apply to the additional modalities required to be covered under the bill (Section 376.782).

LIFE INSURANCE AND ORGAN DONORS

This bill prohibits insurers from using a person's status as a living organ donor as a sole factor in the offering, issuance, cancellation, price, or conditions of an insurance policy including the amount of coverage provided under an insurance policy.

Any materials related to live organ donation from a recognized live organ donation organization received by the departments of Commerce and Insurance or Health and Senior Services may be made available to the public.

INDUCEMENTS TO INSURANCE

The bill allows insurers and insurance producers to provide products or services in conjunction with a policy of property and casualty insurance for free, at a discount or at market value, if the products or services are intended to prevent or mitigate loss, provide loss control, reduce rates or claims, educate about risk of loss, monitor or assess risk, identify sources of risk, develop strategies for the elimination or reduction of risk, or provide post-loss services.

The insurers or producers may offer gifts, goods, or merchandise containing advertising and promotional offers. These products or services shall not be considered an inducement to insurance, a rebate, nor any other impermissible consideration prohibited under law. These products or services are not required to be included in contract or policy form filings.

The Director of the Department of Commerce and Insurance may establish rules to exempt, but not restrict, additional categories of products or services with regard to the prohibitions against inducements to insurance (Section 379.402).

The bill also exempts commercial property and casualty insurers from the prohibitions against inducements to insurance, except with regard to any producer commission reduction not included in the insurer's rate filings. (Section 376.404)

MISSOURI BASIC PROPERTY INSURANCE INSPECTION AND PLACEMENT PROGRAM

This bill modifies the Missouri Basic Property Insurance Inspection and Placement Program. The bill requires 10 of the members of the

program's governing committee to be elected as specified in the program's plan of operation, rather than prescribing entities from which the members shall be elected. Member insurers and members of the governing committee shall be immune from liability for omissions and actions taken in the performance of their powers and duties under the bill (Section 379.860).

GROUP PERSONAL LINES PROPERTY AND CASUALTY INSURANCE

This bill sets forth the requirements for group personal lines property and casualty insurance master policies. All eligible employees of an employer and members of a labor union or similar employee organization shall be eligible to participate unless such person rejects the coverage in writing. The master policy will be issued to the policyholder and all covered employees or members will receive a certificate of coverage setting forth a statement as to the insurance protection to which they are entitled. No master policy or certificate of insurance shall be issued or delivered in this state unless the rating plan and amendments thereto used in the determination of the master policy premium meet the applicable filing requirements in this state and the rates shall not be unfairly discriminatory if adjusted to reflect past and prospective loss experience or group expense factors.

The bill addresses policy coverage requirements, group rating requirements, the duties and limitations of insurers, solicitation, negotiation, conversion, and regulatory jurisdiction.

These provisions shall not apply to the mass marketing or any other type of marketing of individual personal lines property and casualty insurance policies, to policies of credit property or credit casualty insurance or to policies of personal automobile insurance or personal motor vehicle liability insurance.

This bill has an effective date of January 1, 2021 and any master policy that is currently in effect on that date has 12 months to comply with these provisions.

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill. (Sections 379.1800 to 379.1816)

MEDICAL MALPRACTICE JOINT UNDERWRITING ASSOCIATION

The bill modifies the authority to create a medical malpractice insurance joint underwriting association by specifying that the composition of the association's board of directors shall be established by its plan of operation, and provides that member insurers and members of the governing committee shall be immune

from liability for omissions and actions taken in the performance of their powers and duties specified in the bill. This bill requires all policies of insurance written by the association to be written to "provide medical malpractice insurance coverage as provided in the plan of operation", rather than to "apply to injury which results from acts or omissions occurring during the policy period. The bill specifies that the association's board of directors shall be established by its plan of operation, rather than prescribing entities from which the members shall be elected (Sections 383.155, 383.160 and 383.175).

The following is a summary of the public testimony from the committee hearing. The testimony was based on the introduced version of the bill.

PROPONENTS: Supporters say that the bill will help to get more people to be live kidney donors. Donors are discriminated against when they apply for life insurance and long term disability policies because they donated a kidney and saved someones live. Their premiums are increased or they are denied coverage when they apply for such coverages. Live donations save lives and could save medicare and medicaid lots of money.

Testifying for the bill were Senator Wieland; Kathleen Davis, National Kidney Foundation; Kumal Malhotna; and Missouri Insurance Coalition.

OPPONENTS: There was no opposition voiced to the committee.