

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2187

2005 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2187

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 2187

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date January 26, 2005

Tape Number	Side A	Side B	Meter #
1		X	3,854-5117
Committee Clerk Signature 			

Minutes: **Chairman Mutch** opened the hearing for Senate Bill 2187. All Senators were present.

North Dakota Insurance Commissioner Jim Poolman introduced the bill, which relates to the definition of home state and bond requirements for third party administrators. See written testimony.

Senator Nething- Where do the numbers come from?

Commissioner Poolman- They came out of a model act that the NAIC has been working on for third party administrators.

Senator Krebsbach- Please explain the repeal of Section 4

Lori Wolf, Director of Licensing Investigation of the ND Insurance Dept.- That section deals with a waiving a registration requirement. It is very easy to register and become a third party administrator in ND. In my 16 years of experience in the Insurance Department, we have never granted a waiver, which is why we would like to repeal that section.

Senator Mutch- Were there ND insurance agents soliciting this type of coverage?

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2187

Hearing Date 1-26-05

Lori- Yes. Insurance agents believed in good faith that they were marketing a legitimate dental plan. As a result of these situations, we have over \$150,000 of unpaid claims and \$19,000 of uncollected claim checks. Over a million dollars of claims were unpaid around the country.

Senator Krebsbach- Are agents required to submit to the insurance department that particular company?

Lori- When you are marketing a plan that is being administered by a third party, they may be questioned on it. The agents that represent insurers would be licensed and appointed.

Senator Klein moved a DO PASS recommendation for SB 2187. Seconded by Senator

Nothing.

The committee passed the bill unanimously 7-0. Senator Kresbach is the carrier of the bill.

FISCAL NOTE

Requested by Legislative Council
03/09/2005

Amendment to: SB 2187

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$16,500		\$16,500		\$16,500
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2187 increases the annual renewal fee for third party administrators (TPA) from \$25 to \$50. Presently, the state licenses approximately 240 TPAs. The \$25 annual increase for 240 TPAs will increase revenue to the Insurance Regulatory Trust Fund by \$6,000 per year or \$12,000 per biennium.

In 2003-2004 calendar years, the Department received 53 new TPA license applications and based on an estimate of approximately 30 new TPA applications being received per year going forward, the \$75 increase for new TPA applications will potentially increase revenues to the Insurance Regulatory Trust Fund by an additional \$2,250 per year or \$4,500 per biennium, for a total of \$8,250 per year or \$16,500 per biennium.

The law if passed will require the licensing of entities that were not required to be licensed in the past, but it is too speculative to estimate how many newly regulated entities will register.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Revenues to the Insurance Regulatory Trust Fund will increase by approximately \$6,000 per year or \$12,000 per biennium based on the \$25 increase in the annual renewal licensing fee for approximately 240 third party administrators.

In 2003-2004 calendar years, the Department received 53 new TPA license applications and based on an estimate of approximately 30 new TPA applications being received per year going forward, the \$75 increase for new TPA applications will potentially increase revenues to the Insurance Regulatory Trust Fund by an additional \$2,250 per year or \$4,500 per biennium, for a total of \$8,250 per year or \$16,500 per biennium.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Laurie A. Wolf	Agency:	Insurance Department
Phone Number:	328-2442	Date Prepared:	03/10/2005

FISCAL NOTE
Requested by Legislative Council
01/12/2005

Bill/Resolution No.: SB 2187

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2003-2005 Biennium		2005-2007 Biennium		2007-2009 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues		\$16,500		\$16,500		\$16,500
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2003-2005 Biennium			2005-2007 Biennium			2007-2009 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

SB 2187 increases the annual renewal fee for third party administrators (TPA) from \$25 to \$50. Presently, the state licenses approximately 240 TPAs. The \$25 annual increase for 240 TPAs will increase revenue to the Insurance Regulatory Trust Fund by \$6,000 per year or \$12,000 per biennium.

In 2003-2004 calendar years, the Department received 53 new TPA license applications and based on an estimate of approximately 30 new TPA applications being received per year going forward, the \$75 increase for new TPA applications will potentially increase revenues to the Insurance Regulatory Trust Fund by an additional \$2,250 per year or \$4,500 per biennium, for a total of \$8,250 per year or \$16,500 per biennium.

The law if passed will require the licensing of entities that were not required to be licensed in the past, but it is too speculative to estimate how many newly regulated entities will register.

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In 2003-2004 calendar years, the Department received 53 new TPA license applications and based on an estimate of approximately 30 new TPA applications being received per year going forward, the \$75 increase for new TPA applications will potentially increase revenues to the Insurance Regulatory Trust Fund by an additional \$2,250 per year or \$4,500 per biennium, for a total of \$8,250 per year or \$16,500 per biennium.

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C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.*

Name:	Charles E. Johnson	Agency:	Insurance Department
Phone Number:	328-4984	Date Prepared:	01/13/2005

REPORT OF STANDING COMMITTEE (410)
January 27, 2005 8:42 a.m.

Module No: SR-18-1171
Carrier: Krebsbach
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2187: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2187 was placed on the Eleventh order on the calendar.

2005 HOUSE INDUSTRY, BUSINESS AND LABOR

SB 2187

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2187

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-1-05

Tape Number	Side A	Side B	Meter #
1	x		40.3-end
Committee Clerk Signature <i>Jody Renick</i>			

Minutes:

Chairman Keiser: Opened the hearing on SB 2187.

Jim Poolman, Commissioner, North Dakota Insurance Department: Appeared in support of bill and provided a written statement (SEE ATTACHED TESTIMONY).

Representative Nottestad: When you talk about TPA's being outside of employer, are there any employers that hold this money in the house, where the employees contribute and the employer will matches the red cent and if there are would they be effected by this bill?

Jim Poolman: I'm not sure what state law allows for employers to hold those moneys in house, there would obviously be fiduciary responsibility by the employer.

Laurie Wolff, Director of Investigations, ND Insurance Department: Appeared in support of bill. This bill and the intent behind the bond was not intended when a TPA collects money, or fully insures plans made on behalf of an insurance company, we have the arm over that insurance

company, this was designed for a bond to be put in place for TPA that administer self funded plans whether it is dental, disability, health, etc.

Representative Kasper: Do you have reporting requirement in here about a TPA so that they would report on what ever basis you would like?

Laurie Wolff: Under this bill right down in its present form, we would be again acting on that bond that was in placed in the home state, so it is the home state that would have auditing market conduct and control over any of the financial requirements and they would go in and make sure that bond is being maintained.

Pat Ward, Medco Health Solutions Inc. : Appeared in opposition of bill and provided a written statement (SEE ATTACHED TESTIMONY).

Representative Kasper: Would you be amend able if you want to cover only the North Dakota premiums or the North Dakota insurers, to require that the bond be available only to North Dakota citizens, and not the other states?

Pat Ward: Yes, and I think that is what my amendment does that I offered.

Representative Keiser: On amendment B, page 2 line 28, I know that we have 650,000 people in ND, we don't have a whole lot of third party administrators (TPA) and they are not going to be writing that much business in ND given the small population, is 50,000 to high for a small TPA?

Pat Ward: I'm not sure that I know the answer to that, you may be right.

Representative Froseth: When you remove the word "self", can you explain what that changes?

Pat Ward: I'm not sure if we are talking about self funded coverage or funded, if your a TPA your funding it for someone else. **Hearing closed.**

2005 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2187

House Industry, Business and Labor Committee

Conference Committee

Hearing Date 3-7-05

Tape Number	Side A	Side B	Meter #
2	x		54-end
2		x	0-15.0
Committee Clerk Signature <i>Judy Renke</i>			

Minutes:

Chairman Keiser: Reconvened on SB 2187.

Representative Ruby: This is just a recap this deals with third party administrators and having them bonded and regulated by the Insurance Commissioner.

Laurie Wolff, ND Insurance Department: Appeared to offer amendments for SB 2187 with respect to third party administrators. Before you are a copy of the amendments that are from the department, there also is a copy from Pat Ward, they are very similar amendments with the exception of some language number 3 of the Pat Ward amendments that talk about certificate of insurance and what we are unclear about is whether or not that simply a copy of a policy or that your actually providing a certificate of insurance to show that you have a bond in place, generally you don't use that terminology when your having a bond, because that language is unclear, Pat has never clarified that.

Chairman Keiser: It seems to me that they were trying to write language in reference to 2, that says that you either have 100,000 or 10% of the aggregate, and what I thought they were trying to do is either I have the \$100,000 or the 10% or I can document to the commissioner saying that I have the insurance to cover the aggregate through certificates.

Laurie Wolff: It is either or, or the greater of the 2, I guess that is why we didn't agree to subsection 3, what we are really asking for is that there be a bond in place.

Chairman Keiser: For a regular product, if the insurance company goes insolvent, there is a fund that will cover that exposure, in this case if these third parties go insolvent it is not an insurance product its a service product so there is no fund behind them. In this case the Insurance Department is recommending a physical bond.

Representative Johnson: I would **MOVE** the **AMENDMENTS** from the Insurance Department Office.

Representative Boe: I **SECOND** the motion.

Motion carried.

Representative Nottestad: I move a **DO PASS AS AMENDED** on SB 2187.

Representative Ekstrom: I **SECOND** the **DO PASS AS AMENDED MOTION**.

Motion carried. **VOTE: 12-YES 0-NO 2-Absent (Kasper, Dosch).**

Representative Ruby will carry the bill on the floor.

Date: 3-7-05

Roll Call Vote #: 1

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO.

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number 58245.0101 . 0200

Action Taken Adopt Insurance Amendments

Motion Made By Rep N. Johnson Seconded By Rep. Boe

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	A	A			
Rep. G. Froseth	X				
Rep. J. Kasper	A	A			
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigesaa	A				

Total (Yes) 12 No 0

Absent (2) Kasper & Dosch

Floor Assignment Rep Ruby

If the vote is on an amendment, briefly indicate intent:

Date: 3-7-05

Roll Call Vote #: 2

2005 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 2B2187

House INDUSTRY, BUSINESS AND LABOR Committee

Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass As Amended

Motion Made By Rep. Nottestad Seconded By Rep. Ekstrom

Representatives	Yes	No	Representatives	Yes	No
G. Keiser-Chairman	X		Rep. B. Amerman	X	
N. Johnson-Vice Chairman	X		Rep. T. Boe	X	
Rep. D. Clark	X		Rep. M. Ekstrom	X	
Rep. D. Dietrich	X		Rep. E. Thorpe	X	
Rep. M. Dosch	A				
Rep. G. Froseth	X				
Rep. J. Kasper	A				
Rep. D. Nottestad	X				
Rep. D. Ruby	X				
Rep. D. Vigasaa	X				

Total (Yes) 12 No 0

Absent 2 (Dosch & Kasper)

Floor Assignment Rep. Ruby

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

SB 2187: Industry, Business and Labor Committee (Rep. Keiser, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (12 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). SB 2187 was placed on the Sixth order on the calendar.

Page 1, line 1, replace "sections 26.1-27-02.1 and" with "section"

Page 1, line 2, remove "the definition of home state and"

Page 1, remove lines 9 through 16

Page 2, line 21, replace "Home state bond" with "Bond"

Page 2, line 22, replace "its home state or any other" with "this"

Page 2, line 23, remove "home state" and remove "and the insurance regulatory"

Page 2, remove line 24

Page 2, line 25, replace "and cover" with "for covered"

Page 2, line 29, replace "self-funded" with "administered"

Page 2, line 30, replace "the administrator's home" with "this" and remove "and all additional states in which the"

Page 2, line 31, remove "administrator is authorized to conduct business"

Renumber accordingly

2005 SENATE INDUSTRY, BUSINESS AND LABOR

CONFERENCE COMMITTEE

SB 2187

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2187

Senate Industry, Business and Labor Committee

xxxxConference Committee

Hearing Date 4-04-05

Tape Number	Side A	Side B	Meter #
1	xxx		3245-end
1		xxxx	0-200
Committee Clerk Signature <i>Risa VanBerkom</i>			

Minutes: **Chairman Krebsbach** called the conference committee to order. Members present were: **Senator Krebsbach, Senator Nething, Senator Fairfield, Rep. N.Johnson, Rep. Ruby, and Rep. Thorpe.**

Chairman Krebsbach requested that a member from the House explain the amendments.

Rep. N.Johnson: I think most of the changes was to make it within the state.

Rep. Ruby: That amendment was proposed by the insurance commissioner's office and apparently, the third party administrators have problems with it relating to the bond for the percentage of overall, so we complied with that. At least they have the bond that way.

And then there was a change from a self-funded plan to be administered by a third party.

Chairman Krebsbach: So in other words, the bonding requirement would be only on the dollars of insurance written with in the state?

Page 2

Senate Industry, Business and Labor Committee

Bill/Resolution Number SB 2187

Hearing Date 4-04-05

Rep. Ruby: Initially, the bond requirement was the home-state bond. They thought that that would be a problem. They thought it would be better just to say "bond requirement". Rather than specify to each state.

Senator Nething: So if we put the flexibility in, the burden of proof will be on the TPA that wants to satisfy the commissioner.

The hearing was recessed until 4-08-05.

2005 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2187

Senate Industry, Business and Labor Committee

~~X~~ Conference Committee

Hearing Date 4-08-05

Tape Number	Side A	Side B	Meter #
2	xxxx		0
Committee Clerk Signature <i>Lisa VanBerkom</i>			

Minutes: Chairman Krebsbach called the conference committee to order. Members present were:

Chairman Krebsbach, Senator Nething, Senator Fairfield, Rep. N. Johnson, Rep. Ruby, Rep. Thorpe.

Chairman Krebsbach: When we were last here, there seemed to be a little bit of disparity between the insurance commissioner's office and Mr. Ward who wanted to have a different type of coverage for this. His idea was if they had insurance coverage that was satisfactory, that that should suffice instead of the bond. After some consideration and thought, that would be okay language to add. However, there was not a comfort level, in taking in full, the recommendation from Mr. Ward to remove words "for the use and benefit of the". So I would like our intern to draft an amendment.

Rep. Thorpe moved that the Senate Accede and further amend.

Senator Nething seconded.

Roll Call Vote: 6 yes. 0 no. 0 absent. Carrier: Senator Krebsbach

(Bill Number) 2187 (, as (re)engrossed):

Your Conference Committee

For the Senate:	Attend	Vote
Chair Krebsbach	PP	Y
Sen Nothing	PP	Y
Sen. Fairfield	PP	Y

For the House:	Attend	Vote
Rep. N. Johnson	PP	Y
Rep. Ruby	PP	Y
Rep. Thorpe	PP	Y

recommends that the (SENATE/HOUSE) (ACCEDE to) (RECEDE from)
723/724 725/726 S724/H726 S723/H725
the (Senate/House) amendments on (SJ/HJ) page(s) _____ - _____

and place _____ on the Seventh order.
727

, adopt (further) amendments as follows, and place
2187 on the Seventh order:

having been unable to agree, recommends that the committee be discharged
and a new committee be appointed. 690/515

((Re)Engrossed) _____ was placed on the Seventh order of business on the
calendar.

DATE: ____/____/____

CARRIER: _____

LC NO. _____ of amendment

LC NO. _____ of engrossment

Emergency clause added or deleted _____

Statement of purpose of amendment _____

(1) LC (2) LC (3) DESK (4) COMM.

REPORT OF CONFERENCE COMMITTEE

SB 2187: Your conference committee (Sens. Krebsbach, Nething, Fairfield and Reps. N. Johnson, Ruby, Thorpe) recommends that the **SENATE ACCEDE** to the House amendments on SJ page 785, adopt further amendments as follows, and place SB 2187 on the Seventh order:

That the Senate accede to the House Amendments as printed on page 785 of the Senate Journal and page 943 of the House Journal and that Senate Bill No. 2187 be further amended as follows:

Page 2, line 23, after "bond" insert "or proof of insurance satisfactory to the commissioner"

Renumber accordingly

SB 2187 was placed on the Seventh order of business on the calendar.

2005 TESTIMONY

SB 2187

Business

Tuesday, August 24, 2004

Phony health-insurance firms stick companies with big bills

Officials warn of policies that are just too good

JUDY MCCLINTOCK
Statesman Journal
August 24, 2004

When Judy Powell, owner of Benefit Resources, a small insurance agency in Portland, purchased a dental plan from My Smart Benefits, she was conducting a test.



Judy Powell, an insurance broker shown last week in her Portland office, was a victim of a health-insurance scam. Officials warn that such schemes are on the rise.

"I wanted to see if it would be a good insurance company to recommend to my clients," she said.

It failed Powell's test.

"We purchased a dental plan from My Smart Benefits and they took our premium," she said, "but they didn't pay claims."

My Smart Benefits has had a string of offenses since Powell's experience.

In October 2003, the state of North Dakota issued a cease- and-desist order against the company because of several complaints about the company's late payment or nonpayment of claims.

North Dakota Insurance Commissioner Jim Poolman said the state was concerned that the company may have had neither the proper staff, nor the financial ability to handle claim payments.

The cease-and-desist order told the company to stop selling new plans in North Dakota and to revise all existing policies.

In addition, North Dakota, revoked the insurance license of company president Jonathon Hogge.

Now, approximately nine months later, Oregon has followed in North Dakota's footsteps with the same administrative actions.

On July 30, Oregon Insurance Division Administrator Joel Ario issued a cease-and-desist order against My Smart Benefits and a proposal to revoke Hogge's insurance license in Oregon.

The company was failing to pay claims, said John Piper, public information officer for the insurance division.

My Smart Benefits is not the only company to sell fraudulent insurance in Oregon.

Insurance

To avoid getting scammed by phony insurers, regulators recommend a "Stop, Call and Confirm" procedure:

Stop before signing anything or writing a check.

Call the Oregon Insurance Division at (503) 947-7984 or (888) 877-4894.

Confirm that the company is legitimate and licensed to do business in Oregon.

Scam tipoffs

Things to look for when considering a policy:

Aggressive marketing and high-pressure-sales approaches with plenty of fine print and disclaimers.

Premiums that are far below the average price for comparable insurance products on the market.

Few coverage limitations: If it sounds too good to be true, it probably is too good to be true.

Source: Joel Ario, Oregon Insurance Division Administrator

Paul Savory, co-owner of Southwest Office Supply in Portland, recently was deceived into buying a fake health-insurance policy by an Idaho-based company.

"We were approached by a company that represented themselves as a human resource company," he said, "and one of their offerings was health insurance."

With exceptionally lower prices than what Savory and his 20-employee company were paying, he accepted the new coverage plan.

As in the case of Powell, the company took Savory's and his employees' money but failed to pay claims.

"Two months after signing," he said, "the company ran out of money."

Savory is now personally responsible for \$12,000 of medical bills, and many of his employees have bills in the hundreds and even thousands of dollars.

"There is a lot of anger," he said.

Powell and Savory are not alone.

Between 2000 and 2002, \$252 million in insurance claims went unpaid because of phony insurers, according to a study by the federal General Accounting Office.

The study found that 144 false brokers sold fake health-insurance products to more than 200,000 policyholders.

Scam artists and phony insurers are becoming a larger problem each day, Piper said.

"We are getting more complaints from more people who thought they had insurance coverage," he said, "but when it came time to file a claim, they had problems getting the claim filed."

Ario said: "Fake insurance policies take a variety of forms, but they are almost always marketed to think you're buying insurance protection."

The seller wants you to think that you will be covered by insurance if you file a claim, Ario said.

The most significant problem seen in Oregon, Piper said, is with health insurance and in small-company settings.

These situations do not have easy solutions, Piper said.

"It is not easy to get the money back," he said.

The individual might have to pay out of their own pocket, he said, as in Savory's and Powell's cases.

In many cases, the Oregon Insurance Division hears about complaints too late, Piper said, and by that time it is much more difficult to claim anything on the part of the consumer.

"By that time, many companies are out of business or have moved out of town," he said.

"In some cases, we have taken a cease-and-desist order, meaning they can't do business in Oregon."

The increase of cases similar to Powell's and Savory's have Ario joining state insurance regulators nationwide in a public awareness campaign — called Stop, Call and Confirm — that aims to prevent insurance frauds.

"If consumers stop, call and confirm before they buy insurance, they may avoid getting stuck with unpaid claims," Ario said. "They also can help us track down and take action against the con artists who sell fake insurance."

To protect yourself from fraudulent insurers, Ario recommends to look for aggressive marketing, premiums far below the average, and few coverage limitations.

"If the policy information sounds too good to be true, it is," Piper said.

"Make sure the company is legitimate," Savory said, "I hope that companies of our size don't fall into the same trap we did."

SENATE BILL NO. 2187

Presented by: Jim Poolman
Commissioner
North Dakota Insurance Department

Same given to house

Before: Senate Industry, Business and Labor Committee
Senator Duane Mutch, Chairman

Date: January 26, 2005

TESTIMONY

Mr. Chairman and members of the committee:

Good morning. My name is Jim Poolman, North Dakota Insurance Commissioner. I stand before you today in support of Senate Bill No. 2187. Thank you to Senator Krebsbach for being the prime sponsor on the bill.

Senate Bill No. 2187 deals with third-party administrators (TPA) which are defined as an entity who collects insurance premiums or who adjusts or settles claims on residents of this state in connection with life or health insurance coverage or annuities. More specifically, the bill is being proposed in order to address issues that arise when an entity is administering only self-funded insurance plans as distinguished from a fully insured plan and is not licensed as a TPA in this state. A self-funded plan is most often a plan provided by an employer, such as Cloverdale, and not funded by an actual insurance company.

Under current law, entities administering only self-funded life or health insurance plans may be considered exempt from licensure since in most cases they are deemed to be an "exempt plan" under ERISA (Employee Retirement and Income Security Act) and operate under federal, not state law.

Recently, we have received several complaints regarding the mishandling of insurance premiums and the delay in claim payments by entities administering self-insured plans. In most cases, we have very little, if any, authority to go after the entity and try to assist our residents in getting claims paid or premiums refunded. Presently, consumers have to rely upon the federal Department of Labor for assistance.

As Commissioner, I believe it is vitally necessary to have some regulatory authority over entities that come into the state and administer employee benefit plans and purport to look and act like an insurance company without any oversight from my office. It is my hope that at a minimum, the Legislature will impose a license requirement for entities administering self-funded plans and also require that an administrator administering self-insured plans maintain a surety bond that can be acted on by not only its home state but all the states it is doing business in.

I will briefly describe the four main parts to this bill:

Section 1 – Adds new language to provide a definition of “home state”. This definition is taken directly from the NAIC Third-Party Administrator Model Act.

Section 2 – Amends the penalty for acting as a third-party administrator in this state without a license. Essentially, this section increases the penalty from a Class B misdemeanor to a Class C felony and makes it the same type of penalty as provided in N.D. Cent. Code Chapter 26.1-26 relating to acting as an insurance producer without a license in this state. It also makes it consistent with another bill that was introduced and will be heard before you relating to acting as unauthorized insurance companies or other entities in this state without the required licenses.

Section 3 – This section amends the filing fee by increasing it from \$25 to \$100 and also amends the annual renewal fee from \$25 to \$50 in order to maintain the Certificate of Authority. The increase in fees are being proposed to bring them more in line with

the current licensing fee structure for all of the other entities that we process applications and issue licenses for in this state.

Section 4 – This section requires that a TPA that administers self-insured plans in its home state or any other state maintain a surety bond for the use and benefit of all states in which the TPA is doing business. Requiring a TPA to maintain a bond when administering self-funded plans would provide some protection for North Dakota residents insured under such plans in the event the TPA mishandles the premiums. For a TPA that administers fully insured plans, I have the authority to pursue the licensed insurance company in order to obtain relief for consumers. I presently do not have authority for self-insured plans and this law change will require that a bond be in place to provide some relief for consumers.

That concludes my testimony on Senate Bill No. 2187 and I would respectfully request a favorable consideration of the bill from this committee. If there are any questions, I would be happy to answer them.

Thank you.

**TESTIMONY SUBMITTED IN OPPOSITION TO NORTH DAKOTA
SENATE BILL 2187**

HOUSE INDUSTRY, BUSINESS & LABOR COMMITTEE

Submitted by:

**Patrick J. Ward
Zuger Kirmis & Smith
For
Medco Health Solutions, Inc.**

March 1, 2005

Chairman Keiser and members of the House IBL Committee. My name is Pat Ward and I am here to represent Medco Health Solutions, Inc., which is a pharmacy benefits management company, or "PBM." I would like to thank you for this opportunity to testify today regarding our opposition to Senate Bill 2187. We support the concept of standardization of the third party administrator statutes across the country, but oppose the process in this bill that places an unfair economic burden on companies that have to comply with multiple state third party administrator statutes.

After HB 1332, you know more about PBM's than you ever thought you would. That bill will require PBM's to register as TPA's and be regulated accordingly. We have already done so in North Dakota.

Medco is a leading provider of comprehensive, high-quality, affordable prescription drug care in the United States. We work with patients, pharmacists, physicians and health plan sponsors to improve the quality of pharmaceutical care provided to patients, while helping to control the growth in drug costs. We work under contract with health plan clients throughout the country that are providing prescription drug benefits for their members and employees, totaling more than 60 million covered lives. Our clients include:

- Fortune 500 corporations and smaller employers
- local, state and federal employee and retiree groups
- Blue Cross/Blue Shield plans
- unions, and
- insurance carriers and managed care plans.

The premise of the model language being proposed in Senate Bill 2187 is a good one, in that it would require third party administrators to secure and post one large surety bond in their home state. The bond then would be for the benefit of the domicile state, as well as, other states in which the third party administrator is authorized to conduct business. Unfortunately, other states have not adopted the model language, and third party administrators will still be required to post surety bonds in all the other states in which they are authorized to do business, plus now be required to increase the surety bond in their home state.

If SB 2187 passes in the current form Medco will have to increase its surety bond in our home state of New Jersey by 100 fold in order to comply with the new bonding requirements. (New surety bond will be 10% of the aggregate total of self-funded coverage under the plans handled in our home state and all additional states in which we are authorized to do business.) , plus continue to post a bond in the other 17 states where we are licensed as a TPA. This new bonding requirement in addition to all the other bonds that we currently post adds a huge and unnecessary economic burden. Medco is a multi-billion dollar company.

We are requesting that you consider one of two alternatives as an amendment to make this bill more palatable. Amendment A requests that the committee add language that will postpone implementing the new bonding requirements for a

period of three years, to allow sufficient time for other states to adopt the model language, and lessen the financial burden.

Our proposed Amendment B would simply tie the percentage requirement to funds administered in North Dakota or allow us to provide proof of adequate insurance coverage.

We urge you to consider and adopt one of these amendments, or to kill this bill.

**NORTH DAKOTA SENATE BILL 2187
MEDCO AMENDMENT A**

NEW: Section 5. Effective Date. The effective date of Section 3. Section 26.1-27-03.1 will not become effective until January 1, 2008.

2/28/2005

Alternative Proposed Medco Amendment B to SB 2187

Page 2, line 28, replace "One hundred" with "Fifty"

Page 2, line 29, remove "self-"

Page 2, line 30, replace "administrator's home state and all additional states in which the" with "State of North Dakota; or

3. Produce certificates of insurance evidencing coverage in excess of the aggregate amount of monies remitted to the administrator in the course of business during one fiscal year."

Page 2, remove line 31

Re-number accordingly