

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2054

By Committee on Insurance

1-22

1 AN ACT concerning insurance; relating to health insurance; ~~amending~~
2 ~~certain requirements of fully-insured association health plans~~
3 **pertaining to association health plans; jurisdiction of the**
4 **commissioner; exemption from regulation as small employer health**
5 **plans; updating requirements, terminology and references related**
6 **thereto; amending K.S.A. 40-2209b and 40-2209e and K.S.A. 2018**
7 **Supp. 40-2209, 40-2209d, 40-2222, 40-2222a and 40-2222b and**
8 **repealing the existing section sections.**
9

10 *Be it enacted by the Legislature of the State of Kansas:*

11 Section 1. K.S.A. 2018 Supp. 40-2209 is hereby amended to read as
12 follows: 40-2209. (a) (1) Group sickness and accident insurance is
13 declared to be that form of sickness and accident insurance covering
14 groups of persons, with or without one or more members of their families
15 or one or more dependents. Except at the option of the employee or
16 member and except employees or members enrolling in a group policy
17 after the close of an open enrollment opportunity, no individual employee
18 or member of an insured group and no individual dependent or family
19 member may be excluded from eligibility or coverage under a policy
20 providing hospital, medical or surgical expense benefits both with respect
21 to policies issued or renewed within this state and with respect to policies
22 issued or renewed outside this state covering persons residing in this state.
23 For purposes of this section, an open enrollment opportunity shall be
24 deemed to be a period no less favorable than a period beginning on the
25 employee's or member's date of initial eligibility and ending 31 days
26 thereafter.

27 (2) An eligible employee, member or dependent who requests
28 enrollment following the open enrollment opportunity or any special
29 enrollment period for dependents as specified in ~~subsection~~ *paragraph* (3)
30 shall be considered a late enrollee. An accident and sickness insurer may
31 exclude a late enrollee, except during an open enrollment period. However,
32 an eligible employee, member or dependent shall not be considered a late
33 enrollee if:

34 (A) The individual:

35 (i) Was covered under another group policy which provided hospital,
36 medical or surgical expense benefits or was covered under section 607(1)

1 of the employee retirement income security act of 1974 (ERISA) at the
2 time the individual was eligible to enroll;

3 (ii) states in writing, at the time of the open enrollment period, that
4 coverage under another group policy—~~which~~ *that* provided hospital,
5 medical or surgical expense benefits was the reason for declining
6 enrollment, but only if the group policyholder or the accident and sickness
7 insurer required such a written statement and provided the individual with
8 notice of the requirement for a written statement and the consequences of
9 such written statement;

10 (iii) has lost coverage under another group policy providing hospital,
11 medical or surgical expense benefits or under section 607(1) of the
12 employee retirement income security act of 1974 (ERISA) as a result of
13 the termination of employment, reduction in the number of hours of
14 employment, termination of employer contributions toward such coverage,
15 the termination of the other policy's coverage, death of a spouse or divorce
16 or legal separation or was under a COBRA continuation provision and the
17 coverage under such provision was exhausted; and

18 (iv) requests enrollment within 30 days after the termination of
19 coverage under the other policy; or

20 (B) a court has ordered coverage to be provided for a spouse or minor
21 child under a covered employee's or member's policy.

22 (3) (A) If an accident and sickness insurer issues a group policy
23 providing hospital, medical or surgical expenses and makes coverage
24 available to a dependent of an eligible employee or member and such
25 dependent becomes a dependent of the employee or member through
26 marriage, birth, adoption or placement for adoption, then such group
27 policy shall provide for a dependent special enrollment period as described
28 in subsection (3)(B) of this section during which the dependent may be
29 enrolled under the policy and in the case of the birth or adoption of a child,
30 the spouse of an eligible employee or member may be enrolled if
31 otherwise eligible for coverage.

32 (B) A dependent special enrollment period under this subsection shall
33 be a period of not less than 30 days and shall begin on the later of: (i) The
34 date such dependent coverage is made available; or (ii) the date of the
35 marriage, birth or adoption or placement for adoption.

36 (C) If an eligible employee or member seeks to enroll a dependent
37 during the first 30 days of such a dependent special enrollment period, the
38 coverage of the dependent shall become effective: (i) In the case of
39 marriage, not later than the first day of the first month beginning after the
40 date the completed request for enrollment is received; (ii) in the case of the
41 birth of a dependent, as of the date of such birth; or (iii) in the case of a
42 dependent's adoption or placement for adoption, the date of such adoption
43 or placement for adoption.

1 (4) (A) No group policy providing hospital, medical or surgical
2 expense benefits issued or renewed within this state or issued or renewed
3 outside this state covering residents within this state shall limit or exclude
4 benefits for specific conditions existing at or prior to the effective date of
5 coverage thereunder. Such policy may impose a preexisting conditions
6 exclusion, not to exceed 90 days following the date of enrollment for
7 benefits for conditions whether mental or physical, regardless of the cause
8 of the condition for which medical advice, diagnosis, care or treatment was
9 recommended or received in the 90 days prior to the effective date of
10 enrollment. Any preexisting conditions exclusion shall run concurrently
11 with any waiting period.

12 (B) Such policy may impose a waiting period after full-time
13 employment starts before an employee is first eligible to enroll in any
14 applicable group policy.

15 (C) A health maintenance organization ~~which~~ *that* offers such policy
16 ~~which~~ *that* does not impose any preexisting conditions exclusion may
17 impose an affiliation period for such coverage, provided that: (i) Such
18 application period is applied uniformly without regard to any health status
19 related factors; and (ii) such affiliation period does not exceed two months.
20 The affiliation period shall run concurrently with any waiting period under
21 the plan.

22 (D) A health maintenance organization may use alternative methods
23 from those described in this subsection to address adverse selection if
24 approved by the commissioner.

25 (E) For the purposes of this section, the term "preexisting conditions
26 exclusion" shall mean, with respect to coverage, a limitation or exclusion
27 of benefits relating to a condition based on the fact that the condition was
28 present before the date of enrollment for such coverage whether or not any
29 medical advice, diagnosis, care or treatment was recommended or received
30 before such date.

31 (F) For the purposes of this section, the term "date of enrollment"
32 means the date the individual is enrolled under the group policy or, if
33 earlier, the first day of the waiting period for such enrollment.

34 (G) For the purposes of this section, the term "waiting period" means
35 with respect to a group policy the period ~~which~~ *that* must pass before the
36 individual is eligible to be covered for benefits under the terms of the
37 policy.

38 (5) Genetic information shall not be treated as a preexisting condition
39 in the absence of a diagnosis of the condition related to such information.

40 (6) A group policy providing hospital, medical or surgical expense
41 benefits may not impose any preexisting condition exclusion relating to
42 pregnancy as a preexisting condition.

43 (7) A group policy providing hospital, medical or surgical expense

1 benefits may not impose any preexisting condition waiting period in the
2 case of a child who is adopted or placed for adoption before attaining 18
3 years of age and who, as of the last day of a 30-day period beginning on
4 the date of the adoption or placement for adoption, is covered by a policy
5 specified in subsection (a). This subsection shall not apply to coverage
6 before the date of such adoption or placement for adoption.

7 (8) Such policy shall waive such a preexisting conditions exclusion to
8 the extent the employee or member or individual dependent or family
9 member was covered by: (A) A group or individual sickness and accident
10 policy; (B) coverage under section 607(1) of the employees retirement
11 income security act of 1974 (ERISA); (C) a group specified in K.S.A. 40-
12 2222, and amendments thereto; (D) part A or part B of title XVIII of the
13 social security act; (E) title XIX of the social security act, other than
14 coverage consisting solely of benefits under section 1928; (F) a state
15 children's health insurance program established pursuant to title XXI of the
16 social security act; (G) chapter 55 of title 10 United States code; (H) a
17 medical care program of the Indian health service or of a tribal
18 organization; (I) the Kansas uninsurable health plan act pursuant to
19 K.S.A. 40-2217 et seq., and amendments thereto, or a similar health
20 benefits risk pool of another state; (J) a health plan offered under chapter
21 89 of title 5, United States code, (K) a health benefit plan under section
22 5(e) of the peace corps act (22 U.S.C. § 2504(e)); or (L) a group subject to
23 K.S.A. 12-2616 et seq., and amendments thereto, ~~which that~~ provided
24 hospital, medical and surgical expense benefits within 63 days prior to the
25 effective date of coverage with no gap in coverage. A group policy shall
26 credit the periods of prior coverage specified in subsection (a)(7) without
27 regard to the specific benefits covered during the period of prior coverage.
28 Any period that the employee or member is in a waiting period for any
29 coverage under a group health plan or is in an affiliation period shall not
30 be taken into account in determining the continuous period under this
31 subsection.

32 (b) (1) An accident and sickness insurer which offers group policies
33 providing hospital, medical or surgical expense benefits shall provide a
34 certification as described in subsection (b)(2): (A) At the time an eligible
35 employee, member or dependent ceases to be covered under such policy or
36 otherwise becomes covered under a COBRA continuation provision; (B) in
37 the case of an eligible employee, member or dependent being covered
38 under a COBRA continuation provision, at the time such eligible
39 employee, member or dependent ceases to be covered under a COBRA
40 continuation provision; and (C) on the request on behalf of such eligible
41 employee, member or dependent made not later than 24 months after the
42 date of the cessation of the coverage described in ~~subsection (b)-~~
43 *paragraph* (1)(A) or ~~(b)~~(1)(B), whichever is later.

1 (2) The certification described in this subsection is a written
2 certification of: (A) The period of coverage under a policy specified in
3 subsection (a) and any coverage under such COBRA continuation
4 provision; and (B) any waiting period imposed with respect to the eligible
5 employee, member or dependent for any coverage under such policy.

6 (c) Any group policy may impose participation requirements, define
7 full-time employees or members and otherwise be designed for the group
8 as a whole through negotiations between the group sponsor and the insurer
9 to the extent such design is not contrary to or inconsistent with this act.

10 (d) (1) An accident and sickness insurer offering a group policy
11 providing hospital, medical or surgical expense benefits must renew or
12 continue in force such coverage at the option of the policyholder or
13 certificateholder except as provided in paragraph (2) ~~below~~.

14 (2) An accident and sickness insurer may nonrenew or discontinue
15 coverage under a group policy providing hospital, medical or surgical
16 expense benefits based only on one or more of the following
17 circumstances:

18 (A) If the policyholder or certificateholder has failed to pay any
19 premium or contributions in accordance with the terms of the group policy
20 providing hospital, medical or surgical expense benefits or the accident
21 and sickness insurer has not received timely premium payments;

22 (B) if the policyholder or certificateholder has performed an act or
23 practice that constitutes fraud or made an intentional misrepresentation of
24 material fact under the terms of such coverage;

25 (C) if the policyholder or certificateholder has failed to comply with a
26 material plan provision relating to employer contribution or group
27 participation rules;

28 (D) if the accident and sickness insurer is ceasing to offer coverage in
29 such group market in accordance with ~~subsections~~ subsection (d)(3) or ~~(d)~~
30 (4);

31 (E) in the case of accident and sickness insurer that offers coverage
32 under a policy providing hospital, medical or surgical expense benefits
33 through an enrollment area, there is no longer any eligible employee,
34 member or dependent in connection with such policy who lives, resides or
35 works in the medical service enrollment area of the accident and sickness
36 insurer or in the area for which the accident and sickness insurer is
37 authorized to do business; or

38 (F) in the case of a group policy providing hospital, medical or
39 surgical expense benefits ~~which~~ that is offered through an association or
40 trust pursuant to ~~subsections~~ subsection (f)(3) or ~~(f)~~(5), the membership of
41 the employer in such association or trust ceases but only if such coverage
42 is terminated uniformly without regard to any health status related factor
43 relating to any eligible employee, member or dependent.

1 (3) In any case in which an accident and sickness insurer ~~which~~ *that*
2 offers a group policy providing hospital, medical or surgical expense
3 benefits decides to discontinue offering such type of group policy, such
4 coverage may be discontinued only if:

5 (A) The accident and sickness insurer notifies all policyholders and
6 certificateholders and all eligible employees or members of such
7 discontinuation at least 90 days prior to the date of the discontinuation of
8 such coverage;

9 (B) the accident and sickness insurer offers to each policyholder who
10 is provided such group policy providing hospital, medical or surgical
11 expense benefits ~~which~~ *that* is being discontinued the option to purchase
12 any other group policy providing hospital, medical or surgical expense
13 benefits currently being offered by such accident and sickness insurer; and

14 (C) in exercising the option to discontinue coverage and in offering
15 the option of coverage under subparagraph (B), the accident and sickness
16 insurer acts uniformly without regard to the claims experience of those
17 policyholders or certificateholders or any health status related factors
18 relating to any eligible employee, member or dependent covered by such
19 group policy or new employees or members who may become eligible for
20 such coverage.

21 (4) If the accident and sickness insurer elects to discontinue offering
22 group policies providing hospital, medical or surgical expense benefits or
23 group coverage to a small employer pursuant to K.S.A. 40-2209f, and
24 amendments thereto, such coverage may be discontinued only if:

25 (A) The accident and sickness insurer provides notice to the
26 insurance commissioner, to all policyholders or certificateholders and to
27 all eligible employees and members covered by such group policy
28 providing hospital, medical or surgical expense benefits at least 180 days
29 prior to the date of the discontinuation of such coverage;

30 (B) all group policies providing hospital, medical or surgical expense
31 benefits offered by such accident and sickness insurer are discontinued and
32 coverage under such policies are not renewed; and

33 (C) the accident and sickness insurer may not provide for the issuance
34 of any group policies providing hospital, medical or surgical expense
35 benefits in the discontinued market during a five year period beginning on
36 the date of the discontinuation of the last such group policy which is
37 nonrenewed.

38 (e) An accident and sickness insurer offering a group policy
39 providing hospital, medical or surgical expense benefits may not establish
40 rules for eligibility (including continued eligibility) of any employee,
41 member or dependent to enroll under the terms of the group policy based
42 on any of the following factors in relation to the eligible employee,
43 member or dependent: (A) Health status; (B) medical condition,

1 including both physical and mental illness;; (C) claims experience;; (D)
2 receipt of health care;; (E) medical history;; (F) genetic information;; (G)
3 evidence of insurability, including conditions arising out of acts of
4 domestic violence;; or (H) disability. This subsection shall not be
5 construed to require a policy providing hospital, medical or surgical
6 expense benefits to provide particular benefits other than those provided
7 under the terms of such group policy or to prevent a group policy
8 providing hospital, medical or surgical expense benefits from establishing
9 limitations or restrictions on the amount, level, extent or nature of the
10 benefits or coverage for similarly situated individuals enrolled under the
11 group policy.

12 (f) Group accident and health insurance may be offered to a group
13 under the following basis:

14 (1) Under a policy issued to an employer or trustees of a fund
15 established by an employer, who is the policyholder, insuring at least two
16 employees of such employer, for the benefit of persons other than the
17 employer. The term "employees" shall include the officers, managers,
18 employees and retired employees of the employer, the partners, if the
19 employer is a partnership, the proprietor, if the employer is an individual
20 proprietorship, the officers, managers and employees and retired
21 employees of subsidiary or affiliated corporations of a corporation
22 employer, and the individual proprietors, partners, employees and retired
23 employees of individuals and firms, the business of which and of the
24 insured employer is under common control through stock ownership
25 contract, or otherwise. The policy may provide that the term "employees"
26 may include the trustees or their employees, or both, if their duties are
27 principally connected with such trusteeship. A policy issued to insure the
28 employees of a public body may provide that the term "employees" shall
29 include elected or appointed officials.

30 (2) Under a policy issued to a labor union~~which~~ that shall have a
31 constitution and bylaws insuring at least 25 members of such union.

32 (3) Under a policy issued to the trustees of a fund established by two
33 or more employers or business associations or by one or more labor unions
34 or by one or more employers and one or more labor unions, which trustees
35 shall be the policyholder, to insure employees of the employers or
36 members of the union or members of the association for the benefit of
37 persons other than the employers or the unions or the associations. The
38 term "employees" shall include the officers, managers, employees and
39 retired employees of the employer and the individual proprietor or partners
40 if the employer is an individual proprietor or partnership. The policy may
41 provide that the term "employees" shall include the trustees or their
42 employees, or both, if their duties are principally connected with such
43 trusteeship.

1 (4) A policy issued to a creditor, who shall be deemed the
2 policyholder, to insure debtors of the creditor, subject to the following
3 requirements:~~(a)~~ (A) The debtors eligible for insurance under the policy
4 shall be all of the debtors of the creditor whose indebtedness is repayable
5 in installments, or all of any class or classes determined by conditions
6 pertaining to the indebtedness or to the purchase giving rise to the
7 indebtedness.~~(b)~~; and (B) the premium for the policy shall be paid by the
8 policyholder, either from the creditor's funds or from charges collected
9 from the insured debtors, or from both.

10 (5) A policy issued to an association~~which~~ that has been organized
11 and is maintained for the purposes other than that of obtaining insurance,
12 insuring~~at least 25~~ members, employees, or employees of members of the
13 association for the benefit of persons other than the association or its
14 officers. The term "employees" shall include retired employees. The
15 premiums for the policies shall be paid by the policyholder, either wholly
16 from association funds; or funds contributed by the members of such
17 association, or by employees of such members or any combination thereof.

18 (6) Under a policy issued to any other type of group which the
19 commissioner of insurance may find is properly subject to the issuance of
20 a group sickness and accident policy or contract.

21 (g) Each such policy shall contain in substance: (1) A provision that a
22 copy of the application, if any, of the policyholder shall be attached to the
23 policy when issued, that all statements made by the policyholder or by the
24 persons insured shall be deemed representations and not warranties, and
25 that no statement made by any person insured shall be used in any contest
26 unless a copy of the instrument containing the statement is or has been
27 furnished to such person or the insured's beneficiary.

28 (2) A provision setting forth the conditions under which an
29 individual's coverage terminates under the policy, including the age, if any,
30 to which an individual's coverage under the policy shall be limited, or, the
31 age, if any, at which any additional limitations or restrictions are placed
32 upon an individual's coverage under the policy.

33 (3) Provisions setting forth the notice of claim, proofs of loss and
34 claim forms, physical examination and autopsy, time of payment of claims,
35 to whom benefits are payable, payment of claims, change of beneficiary,
36 and legal action requirements. Such provisions shall not be less favorable
37 to the individual insured or the insured's beneficiary than those
38 corresponding policy provisions required to be contained in individual
39 accident and sickness policies.

40 (4) A provision that the insurer will furnish to the policyholder, for
41 the delivery to each employee or member of the insured group, an
42 individual certificate approved by the commissioner of insurance setting
43 forth in summary form a statement of the essential features of the

1 insurance coverage of such employee or member, the procedure to be
2 followed in making claim under the policy and to whom benefits are
3 payable. Such certificate shall also contain a summary of those provisions
4 required under paragraphs (2) and (3) ~~of this subsection (g)~~ in addition to
5 the other essential features of the insurance coverage. If dependents are
6 included in the coverage, only one certificate need be issued for each
7 family unit.

8 (h) No group disability income policy ~~which~~ *that* integrates benefits
9 with social security benefits, shall provide that the amount of any
10 disability benefit actually being paid to the disabled person shall be
11 reduced by changes in the level of social security benefits resulting either
12 from changes in the social security law or due to cost of living adjustments
13 which become effective after the first day for which disability benefits
14 become payable.

15 (i) A group policy of insurance delivered or issued for delivery or
16 renewed ~~which~~ *that* provides hospital, surgical or major medical expense
17 insurance, or any combination of these coverages, on an expense incurred
18 basis, shall provide that an employee or member or such employee's or
19 member's covered dependents whose insurance under the group policy has
20 been terminated for any reason, including discontinuance of the group
21 policy in its entirety or with respect to an insured class, and who has been
22 continuously insured under the group policy or under any group policy
23 providing similar benefits ~~which~~ *that* it replaces for at least three months
24 immediately prior to termination, shall be entitled to have such coverage
25 nonetheless continued under the group policy for a period of 18 months
26 and have issued to the employee or member or such employee's or
27 member's covered dependents by the insurer, at the end of such eighteen-
28 month period of continuation, a policy of health insurance ~~which~~ *that*
29 conforms to the applicable requirements specified in this subsection. This
30 requirement shall not apply to a group policy which provides benefits for
31 specific diseases or for accidental injuries only or a group policy issued to
32 an employer subject to the continuation and conversion obligations set
33 forth at title I, subtitle B, part 6 of the employee retirement income
34 security act of 1974 or at title XXII of the public health service act, as each
35 act was in effect on January 1, 1987, to the extent federal law provides the
36 employee or member or such employee's or member's covered dependents
37 with equal or greater continuation or conversion rights; or an employee or
38 member or such employee's or member's covered dependents shall not be
39 entitled to have such coverage continued or a converted policy issued to
40 the employee or member or such employee's or member's covered
41 dependents if termination of the insurance under the group policy occurred
42 because:

43 (1) The employee or member or such employee's or member's

1 covered dependents failed to pay any required contribution after receiving
2 reasonable notice of such required contribution from the insurer in
3 accordance with rules and regulations adopted by the commissioner of
4 insurance; (2) any discontinued group coverage was replaced by similar
5 group coverage within 31 days; (3) the employee or member is or could be
6 covered by medicare (title XVIII of the United States social security act as
7 added by the social security amendments of 1965 or as later amended or
8 superseded); (4) the employee or member is or could be covered to the
9 same extent by any other insured or lawful self-insured arrangement which
10 provides expense incurred hospital, surgical or medical coverage and
11 benefits for individuals in a group under which the person was not covered
12 prior to such termination; or (5) coverage for the employee or member, or
13 any covered dependent thereof, was terminated for cause as permitted by
14 the group policy or certificate of coverage approved by the commissioner.
15 In the event the group policy is terminated and not replaced the insurer
16 may issue an individual policy or certificate in lieu of a conversion policy
17 or the continuation of group coverage required herein if the individual
18 policy or certificate provides substantially similar coverage for the same or
19 less premium as the group policy. In any event, the employee or member
20 shall have the option to be issued a conversion policy ~~which~~ that meets the
21 requirements set forth in this subsection in lieu of the right to continue
22 group coverage.

23 (j) The continued coverage and the issuance of a converted policy
24 shall be subject to the following conditions:

25 (1) Written application for the converted policy shall be made and the
26 first premium paid to the insurer not later than 31 days after termination of
27 coverage under the group policy or not later than 31 days after notice is
28 received pursuant to paragraph (20) of this subsection.

29 (2) The converted policy shall be issued without evidence of
30 insurability.

31 (3) The employer shall give the employee and such employee's
32 covered dependents reasonable notice of the right to continuation of
33 coverage. The terminated employee or member shall pay to the insurance
34 carrier the premium for the eighteen-month continuation of coverage and
35 such premium shall be the same as that applicable to members or
36 employees remaining in the group. Failure to pay such premium shall
37 terminate coverage under the group policy at the end of the period for
38 which the premium has been paid. The premium rate charged for
39 converted policies issued subsequent to the period of continued coverage
40 shall be such that can be expected to produce an anticipated loss ratio of
41 not less than 80% based upon conversion, morbidity and reasonable
42 assumptions for expected trends in medical care costs. In the event the
43 group policy is terminated and is not replaced, converted policies may be

1 issued at self-sustaining rates that are not unreasonable in relation to the
2 coverage provided based on conversion, morbidity and reasonable
3 assumptions for expected trends in medical care costs. The frequency of
4 premium payment shall be the frequency customarily required by the
5 insurer for the policy form and plan selected, provided that the insurer
6 shall not require premium payments less frequently than quarterly.

7 (4) The effective date of the converted policy shall be the day
8 following the termination of insurance under the group policy.

9 (5) The converted policy shall cover the employee or member and the
10 employee's or member's dependents who were covered by the group policy
11 on the date of termination of insurance. At the option of the insurer, a
12 separate converted policy may be issued to cover any dependent.

13 (6) The insurer shall not be required to issue a converted policy
14 covering any person if such person is or could be covered by medicare
15 (title XVIII of the United States social security act as added by the social
16 security amendments of 1965 or as later amended or superseded).
17 Furthermore, the insurer shall not be required to issue a converted policy
18 covering any person if:

19 (A) (i) Such person is covered for similar benefits by another
20 hospital, surgical, medical or major medical expense insurance policy or
21 hospital or medical service subscriber contract or medical practice or other
22 prepayment plan or by any other plan or program, or

23 (ii) such person is eligible for similar benefits (whether or not
24 covered therefor) under any arrangement of coverage for individuals in a
25 group, whether on an insured or uninsured basis, or

26 (iii) similar benefits are provided for or available to such person,
27 pursuant to or in accordance with the requirements of any state or federal
28 law, and

29 (B) the benefits provided under the sources referred to in ~~in clause~~
30 ~~subparagraph (A)(i) above~~ for such person or benefits provided or
31 available under the sources referred to in ~~in clauses~~ *subparagraphs* (A)(ii)
32 and ~~(A)(iii) above~~ for such person, together with the benefits provided by
33 the converted policy, would result in over-insurance according to the
34 insurer's standards. The insurer's standards must bear some reasonable
35 relationship to actual health care costs in the area in which the insured
36 lives at the time of conversion and must be filed with the commissioner of
37 insurance prior to their use in denying coverage.

38 (7) A converted policy may include a provision whereby the insurer
39 may request information in advance of any premium due date of such
40 policy of any person covered as to whether:

41 (A) Such person is covered for similar benefits by another hospital,
42 surgical, medical or major medical expense insurance policy or hospital or
43 medical service subscriber contract or medical practice or other

1 prepayment plan or by any other plan or program;

2 (B) such person is covered for similar benefits under any arrangement
3 of coverage for individuals in a group, whether on an insured or uninsured
4 basis; or

5 (C) similar benefits are provided for or available to such person,
6 pursuant to or in accordance with the requirements of any state or federal
7 law.

8 (8) The converted policy may provide that the insurer may refuse to
9 renew the policy and the coverage of any person insured for the following
10 reasons only:

11 (A) Either the benefits provided under the sources referred to in
12 ~~clauses paragraph (6) (A)(i) and (A)(ii) of paragraph (6)~~ for such person
13 or benefits provided or available under the sources referred to in ~~clause~~
14 ~~(A)(iii) of paragraph (6)(A)(iii)~~ for such person, together with the benefits
15 provided by the converted policy, would result in over-insurance according
16 to the insurer's standards on file with the commissioner of insurance, or the
17 converted policyholder fails to provide the requested information;

18 (B) fraud or material misrepresentation in applying for any benefits
19 under the converted policy; or

20 (C) other reasons approved by the commissioner of insurance.

21 (9) An insurer shall not be required to issue a converted policy ~~which~~
22 *that* provides coverage and benefits in excess of those provided under the
23 group policy from which conversion is made.

24 (10) If the converted policy provides that any hospital, surgical or
25 medical benefits payable may be reduced by the amount of any such
26 benefits payable under the group policy after the termination of the
27 individual's insurance or the converted policy includes provisions so that
28 during the first policy year the benefits payable under the converted policy,
29 together with the benefits payable under the group policy, shall not exceed
30 those that would have been payable had the individual's insurance under
31 the group policy remained in force and effect, the converted policy shall
32 provide credit for deductibles, copayments and other conditions satisfied
33 under the group policy.

34 (11) Subject to the provisions and conditions of this act, if the group
35 insurance policy from which conversion is made insures the employee or
36 member for major medical expense insurance, the employee or member
37 shall be entitled to obtain a converted policy providing catastrophic or
38 major medical coverage under a plan meeting the following requirements:

39 (A) A maximum benefit at least equal to either, at the option of the
40 insurer, ~~paragraphs the amount described in clause (i) or (ii) below:~~

41 (i) The smaller of the following amounts:

42 The maximum benefit provided under the group policy or a maximum
43 payment of \$250,000 per covered person for all covered medical expenses

1 incurred during the covered person's lifetime.

2 (ii) The smaller of the following amounts:

3 The maximum benefit provided under the group policy or a maximum
4 payment of \$250,000 for each unrelated injury or sickness.

5 (B) Payment of benefits at the rate of 80% of covered medical
6 expenses ~~which~~ *that* are in excess of the deductible, until 20% of such
7 expenses in a benefit period reaches \$1,000, after which benefits will be
8 paid at the rate of 100% during the remainder of such benefit period.
9 Payment of benefits for outpatient treatment of mental illness, if provided
10 in the converted policy, may be at a lesser rate but not less than 50%.

11 (C) A deductible for each benefit period which, at the option of the
12 insurer, shall be: (i) The sum of the benefits deductible and \$100; or (ii)
13 the corresponding deductible in the group policy. The term "benefits
14 deductible," as used herein, means the value of any benefits provided on
15 an expense incurred basis ~~which~~ *that* are provided with respect to covered
16 medical expenses by any other hospital, surgical, or medical insurance
17 policy or hospital or medical service subscriber contract or medical
18 practice or other prepayment plan, or any other plan or program whether
19 on an insured or uninsured basis, or in accordance with the requirements of
20 any state or federal law and, if pursuant to the conditions of paragraph
21 (13), the converted policy provides both basic hospital or surgical
22 coverage and major medical coverage, the value of such basic benefits.

23 If the maximum benefit is determined by ~~clause subparagraph (A)(ii)~~
24 ~~of this paragraph~~, the insurer may require that the deductible be satisfied
25 during a period of not less than three months if the deductible is \$100 or
26 less, and not less than six months if the deductible exceeds \$100.

27 (D) The benefit period shall be each calendar year when the
28 maximum benefit is determined by ~~clause subparagraph (A)(i) of this~~
29 ~~paragraph~~ or 24 months when the maximum benefit is determined by
30 ~~clause subparagraph (A)(ii) of this paragraph~~.

31 (E) The term "covered medical expenses," as used above, shall
32 include at least, in the case of hospital room and board charges 80% of the
33 average semiprivate room and board rate for the hospital in which the
34 individual is confined and twice such amount for charges in an intensive
35 care unit. Any surgical schedule shall be consistent with those customarily
36 offered by the insurer under group or individual health insurance policies
37 and must provide at least a \$1,200 maximum benefit.

38 (12) The conversion privilege required by this act shall, if the group
39 insurance policy insures the employee or member for basic hospital or
40 surgical expense insurance as well as major medical expense insurance,
41 make available the plans of benefits set forth in paragraph (11). At the
42 option of the insurer, such plans of benefits may be provided under one
43 policy.

1 The insurer may also, in lieu of the plans of benefits set forth in
2 paragraph (11), provide a policy of comprehensive medical expense
3 benefits without first dollar coverage. The policy shall conform to the
4 requirements of paragraph (11). An insurer electing to provide such a
5 policy shall make available a low deductible option, not to exceed \$100, a
6 high deductible option between \$500 and \$1,000, and a third deductible
7 option midway between the high and low deductible options.

8 (13) The insurer, at its option, may also offer alternative plans for
9 group health conversion in addition to those required by this act.

10 (14) In the event coverage would be continued under the group policy
11 on an employee following the employee's retirement prior to the time the
12 employee is or could be covered by medicare, the employee may elect, in
13 lieu of such continuation of group insurance, to have the same conversion
14 rights as would apply had such person's insurance terminated at retirement
15 by reason of termination of employment or membership.

16 (15) The converted policy may provide for reduction of coverage on
17 any person upon such person's eligibility for coverage under medicare
18 (title XVIII of the United States social security act as added by the social
19 security amendments of 1965 or as later amended or superseded) or under
20 any other state or federal law providing for benefits similar to those
21 provided by the converted policy.

22 (16) Subject to the conditions set forth above, the continuation and
23 conversion privileges shall also be available:

24 (A) To the surviving spouse, if any, at the death of the employee or
25 member, with respect to the spouse and such children whose coverage
26 under the group policy terminates by reason of such death, otherwise to
27 each surviving child whose coverage under the group policy terminates by
28 reason of such death, or, if the group policy provides for continuation of
29 dependents' coverage following the employee's or member's death, at the
30 end of such continuation;

31 (B) to the spouse of the employee or member upon termination of
32 coverage of the spouse, while the employee or member remains insured
33 under the group policy, by reason of ceasing to be a qualified family
34 member under the group policy, with respect to the spouse and such
35 children whose coverage under the group policy terminates at the same
36 time; or

37 (C) to a child solely with respect to such child upon termination of
38 such coverage by reason of ceasing to be a qualified family member under
39 the group policy, if a conversion privilege is not otherwise provided above
40 with respect to such termination.

41 (17) The insurer may elect to provide group insurance coverage
42 ~~which~~ *that* complies with this act in lieu of the issuance of a converted
43 individual policy.

1 (18) A notification of the conversion privilege shall be included in
2 each certificate of coverage.

3 (19) A converted policy ~~which~~ *that* is delivered outside this state must
4 be on a form ~~which~~ *that* could be delivered in such other jurisdiction as a
5 converted policy had the group policy been issued in that jurisdiction.

6 (20) The insurer shall give the employee or member and such
7 employee's or member's covered dependents: (A) Reasonable notice of the
8 right to convert at least once during the eighteen-month continuation
9 period; or (B) for persons covered under 29 U.S.C. §§ 1161 et seq., notice
10 of the right to a conversion policy required by this subsection (d) shall be
11 given at least 30 days prior to the end of the continuation period provided
12 by 29 U.S.C. §§ 1161 et seq. or from the date the employer ceases to
13 provide any similar group health plan to any employee. Such notices shall
14 be provided in accordance with rules and regulations adopted by the
15 commissioner of insurance.

16 (k) (1) No policy issued by an insurer to which this section applies
17 shall contain a provision ~~which~~ *that* excludes, limits or otherwise restricts
18 coverage because medicaid benefits as permitted by title XIX of the social
19 security act of 1965 are or may be available for the same accident or
20 illness.

21 (2) Violation of this subsection shall be subject to the penalties
22 prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

23 (l) The commissioner is hereby authorized to adopt such rules and
24 regulations as may be necessary to carry out the provisions of this section.

25 **Sec. 2. On and after April 1, 2019, K.S.A. 40-2209b is hereby**
26 **amended to read as follows: 40-2209b. (a) The provisions of K.S.A. 40-**
27 **2209b through 40-2209j and 40-2209m through 40-2209o, and**
28 **amendments thereto, shall be known and may be cited as the small**
29 **employer health insurance availability act.**

30 **(b) The purpose and intent of ~~this~~ the small employer health**
31 **insurance availability act are to promote the availability of health**
32 **insurance coverage to small employers regardless of their health**
33 **status or claims experience, to prevent abusive rating practices, to**
34 **require disclosure of rating practices to purchasers, to establish rules**
35 **regarding renewability of coverage, to establish limitations on the use**
36 **of pre-existing condition exclusions, to provide for development of**
37 **"basic" and "standard" health benefit plans to be offered to all small**
38 **employers, to provide for establishment of a reinsurance program,**
39 **and to improve the overall fairness and efficiency of the small group**
40 **health insurance market.**

41 **Sec. 3. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2209d is**
42 **hereby amended to read as follows: 40-2209d. As used in ~~this~~ the small**
43 **employer health insurance availability act:**

1 (a) "Actuarial certification" means a written statement by a
2 member of the American academy of actuaries or other individual
3 acceptable to the commissioner that a small employer carrier is in
4 compliance with the provisions of K.S.A. 40-2209h, and amendments
5 thereto, based upon the person's examination, including a review of
6 the appropriate records and of the actuarial assumptions and methods
7 used by the small employer carrier in establishing premium rates for
8 applicable health benefit plans.

9 (b) "Approved service area" means a geographical area, as
10 approved by the commissioner to transact insurance in this state,
11 within which the carrier is authorized to provide coverage.

12 (c) "Base premium rate" means, for each class of business as to a
13 rating period, the lowest premium rate charged or that could have
14 been charged under the rating system for that class of business, by the
15 small employer carrier to small employers with similar case
16 characteristics for health benefit plans with the same or similar
17 coverage.

18 (d) "Carrier" or "small employer carrier" means any insurance
19 company, nonprofit medical and hospital service corporation,
20 nonprofit optometric, dental, and pharmacy service corporations,
21 municipal group-funded pool, fraternal benefit society or health
22 maintenance organization, as these terms are defined ~~by~~ *in chapter 40*
23 *of the Kansas Statutes Annotated, and amendments thereto, that offers*
24 *health benefit plans covering eligible employees of one or more small*
25 *employers in this state.*

26 (e) "Case characteristics" means, with respect to a small
27 employer, the geographic area in which the employees reside; the age
28 and sex of the individual employees and their dependents; the
29 appropriate industry classification as determined by the carrier, and
30 the number of employees and dependents and such other objective
31 criteria as may be approved family composition by the commissioner.
32 "Case characteristics" shall not include claim experience, health
33 status and duration of coverage since issue.

34 (f) "Class of business" means all or a separate grouping of small
35 employers established pursuant to K.S.A. 40-2209g, and amendments
36 thereto.

37 (g) "Commissioner" means the commissioner of insurance.

38 (h) "Department" means the insurance department.

39 (i) "Dependent" means the spouse or child of an eligible
40 employee, subject to applicable terms of the health benefits plan
41 covering such employee and the dependent eligibility standards
42 established by the board.

43 (j) "Eligible employee" means an employee who works on a full-

1 time basis, with a normal work week of 30 or more hours, and
2 includes a sole proprietor, a partner of a partnership or an
3 independent contractor, provided such sole proprietor, partner or
4 independent contractor is included as an employee under a health
5 benefit plan of a small employer but does not include an employee who
6 works on a part-time, temporary or substitute basis.

7 (k) "Financially impaired" means a member which, after the
8 effective date of this act, is not insolvent but is:

9 (1) Deemed by the commissioner to be in a hazardous financial
10 condition pursuant to K.S.A. 40-222d, and amendments thereto; or

11 (2) placed under an order of rehabilitation or conservation by a
12 court of competent jurisdiction.

13 (l) "Health benefit plan" means any hospital or medical expense
14 policy, health, hospital or medical service corporation contract, and a
15 plan provided by a municipal group-funded pool, or—a health
16 maintenance organization contract offered by an employer or any
17 certificate issued under any such policies, contracts or plans. "Health
18 benefit plan" also includes a cafeteria plan authorized by 26 U.S.C.
19 section § 125 which ~~that~~ offers the option of receiving health insurance
20 coverage through a high deductible health plan and the establishment
21 of a health savings account. In order for an eligible individual to
22 obtain a high deductible health plan through the cafeteria plan, such
23 individual shall present evidence to the employer that such individual
24 has established a health savings account in compliance with 26 U.S.C.
25 section § 223, and any—amendments—and regulations promulgated
26 thereunder. "Health benefit plan" does not include policies or
27 certificates covering only accident, credit, dental, disability income,
28 long-term care, hospital indemnity, medicare supplement, specified
29 disease, vision care, coverage issued as a supplement to liability
30 insurance, insurance arising out of a workers compensation or similar
31 law, automobile medical-payment insurance, or insurance under
32 which benefits are payable with or without regard to fault and which
33 is statutorily required to be contained in any liability insurance policy
34 or equivalent self-insurance.

35 (m) "Health savings account" ~~shall have the same meaning ascribed~~
36 ~~to it means the same as in subsection (d) of 26 U.S.C. section § 223(d).~~

37 (n) "High deductible health plan" ~~shall mean~~ means a policy or
38 contract of health insurance or health care plan that meets the criteria
39 established in—subsection (e)—of 26 U.S.C.—section § 223(c) and any
40 regulations promulgated thereunder.

41 (o) "Index rate" means, for each class of business as to a rating
42 period for small employers with similar case characteristics, the
43 arithmetic average of the applicable base premium rate and the

1 corresponding highest premium rate.

2 (p) "Initial enrollment period" means the period of time specified
3 in the health benefit plan during which an individual is first eligible to
4 enroll in a small employer health benefit plan. Such period shall be no
5 less favorable than a period beginning on the employee's or member's
6 date of initial eligibility and ending 31 days thereafter.

7 (q) "Late enrollee" means an eligible employee or dependent who
8 requests enrollment in a small employer's health benefit plan
9 following the initial enrollment period provided under the terms of the
10 first plan for which such employee or dependent was eligible through
11 such small employer, however an eligible employee or dependent shall
12 not be considered a late enrollee if:

13 (1) The individual:

14 (A) Was covered under another employer-provided health benefit
15 plan or was covered under section 607(1) of the employee retirement
16 income security act of 1974 (ERISA) at the time the individual was
17 eligible to enroll;

18 (B) states in writing, at the time of the initial eligibility, that
19 coverage under another employer health benefit plan was the reason
20 for declining enrollment but only if the group policyholder or the
21 accident and sickness issuer required such a written statement and
22 provided the individual with notice of the requirement for a written
23 statement and the consequences of such written statement;

24 (C) has lost coverage under another employer health benefit plan
25 or under section 607(1) of the employee retirement income security act
26 of 1974 (ERISA) as a result of the termination of employment,
27 reduction in the number of hours of employment, termination of
28 employer contributions toward such coverage, the termination of the
29 other plan's coverage, death of a spouse, or divorce or legal
30 separation; and

31 (D) requests enrollment within 63 days after the termination of
32 coverage under another employer health benefit plan; or

33 (2) the individual is employed by an employer who offers multiple
34 health benefit plans and the individual elects a different health benefit
35 plan during an open enrollment period; or

36 (3) a court has ordered coverage to be provided for a spouse or
37 minor child under a covered employee's plan.

38 (r) "New business premium rate" means, for each class of
39 business as to a rating period, the lowest premium rate charged or
40 offered, or which could have been charged or offered, by the small
41 employer carrier to small employers with similar case characteristics
42 for newly issued health benefit plans with the same or similar
43 coverage.

1 (s) "Preexisting conditions exclusion" means a policy provision
2 which excludes or limits coverage for charges or expenses incurred
3 during a specified period not to exceed 90 days following the insured's
4 effective date of enrollment as to a condition, whether physical or
5 mental, regardless of the cause of the condition for which medical
6 advice, diagnosis, care or treatment was recommended or received in
7 the six months immediately preceding the effective date of enrollment.

8 (t) "Premium" means moneys paid by a small employer or
9 eligible employees or both as a condition of receiving coverage from a
10 small employer carrier, including any fees or other contributions
11 associated with the health benefit plan.

12 (u) "Rating period" means the calendar period for which
13 premium rates established by a small employer carrier are assumed to
14 be in effect but any period of less than one year shall be considered as
15 a full year.

16 (v) "Waiting period" means a period of time after full-time
17 employment begins before an employee is first eligible to enroll in any
18 applicable health benefit plan offered by the small employer.

19 (w) "Small employer" means any person, firm, corporation, *or*
20 partnership ~~or association~~ eligible for group sickness and accident
21 insurance pursuant to ~~subsection (a)~~ of K.S.A. 40-2209, and
22 amendments thereto, actively engaged in business whose total
23 employed work force consisted of, on at least 50% of its working days
24 during the preceding year, of at least two and no more than 50 eligible
25 employees, the majority of whom were employed within the state. In
26 determining the number of eligible employees, *employees participating*
27 *in an association health plan shall be counted in the aggregate at the*
28 *association level. Also in determining the number of eligible employees*
29 ~~companies which that are affiliated companies or which that are eligible~~
30 ~~to file a combined tax return for purposes of state taxation, shall be~~
31 ~~considered one employer. Except as otherwise specifically provided,~~
32 ~~the provisions of this act which the small employer health insurance~~
33 ~~availability act apply to a small employer which that has a health~~
34 ~~benefit plan shall continue to apply until the plan anniversary~~
35 ~~following the date the employer no longer meets the requirements of~~
36 ~~this definition.~~

37 (x) "Affiliate" or "affiliated" means an entity or person who
38 directly or indirectly through one or more intermediaries, controls or
39 is controlled by, or is under common control with, a specified entity or
40 person.

41 (y) "Association health plan" or "AHP" means a coverage for the
42 payment of expenses described in K.S.A. 40-2222, and amendments
43 thereto, offered by a qualified trade, merchant, retail or professional

1 association or business league that complies with the provisions of K.S.A.
2 40-2222a and 40-2222b, and amendments thereto.

3 (z) "Qualified trade, merchant, retail or professional association or
4 business league" means any bona fide trade merchant, retail or
5 professional association or business league that: (1) Has been in existence
6 for at least five calendar years; (2) is comprised of five or more
7 employers; and (3) is incorporated in this state, has a principal office
8 located in this state, or has a principal office within a metropolitan area
9 that has boundaries within this state.

10 **Sec. 4. On and after April 1, 2019, K.S.A. 40-2209e is hereby**
11 **amended to read as follows: 40-2209e. (a) Any individual or group**
12 **health benefit plan issued to a group authorized by subsection (a) of**
13 **K.S.A. 40-2209(a), and amendments thereto, shall be subject to the**
14 **provisions of this act if it provides health care benefits covering**
15 **employees of a small employer and if it meets any one of the following**
16 **conditions:**

17 (1) Any portion of the premium is paid by a small employer, or
18 any covered individual, whether through wage adjustments,
19 reimbursement, withholding or otherwise;

20 (2) the health benefit plan is treated by the employer or any of the
21 covered individuals as part of a plan or program for the purposes of
22 section 106 or section 162 of the United States internal revenue code;
23 or

24 (3) with the permission of the board, the carrier elects to renew or
25 continue a health benefit plan covering employees of an employer who
26 no longer meets the definition of a "small employer."

27 ~~(b) For purposes of this act an aggregation of two or more small~~
28 ~~employers covered under a trust arrangement or a policy issued to an~~
29 ~~association of small employers pursuant to K.S.A. 40-2209, and~~
30 ~~amendments thereto, shall permit employee or member units of more than~~
31 ~~two but less than 51 employees or members and their dependents to~~
32 ~~participate in any health benefit plan to which this act applies. Any group~~
33 ~~which includes employee or member units of 50 or fewer employees shall~~
34 ~~be subject to the provisions of this act notwithstanding its inclusion of~~
35 ~~employee or member units with more than 50 employees or members.~~

36 ~~(e)—~~Except as expressly provided in this act, no health benefit plan
37 offered to a small employer shall be subject to:

38 (1) Any law that would inhibit any carrier from contracting with
39 providers or groups of providers with respect to health care services
40 or benefits;

41 (2) any law that would impose any restriction on the ability to
42 negotiate with providers regarding the level or method of reimbursing
43 care or services provided under the health benefit plan.

1 ~~(d)~~(c) Individual policies of accident and sickness insurance
2 issued to individuals and their dependents totally independent of any
3 group, association or trust arrangement permitted under K.S.A. 40-
4 2209, and amendments thereto, shall not be subject to the provisions
5 of this act.

6 Sec. 5. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2222 is
7 hereby amended to read as follows: 40-2222. (a) Any person or other
8 entity ~~which~~ *that* provides coverage in this state for medical, surgical,
9 chiropractic, physical therapy, speech pathology, audiology,
10 professional mental health, dental, hospital, or optometric expenses,
11 whether such coverage is by direct payment, reimbursement, or
12 otherwise, shall be presumed to be subject to the jurisdiction of the
13 commissioner of insurance unless the person or other entity:

14 (1) Is a professional association of architects incorporated in
15 Kansas on October 4, 1954, ~~which~~ *that* provides coverage for the
16 payment of expenses described herein to or for the members of the
17 association or dependents through a trust established November 1,
18 1986, and complies with K.S.A. 40-2222a, and amendments thereto;

19 (2) is a professional association of dentists incorporated in Kansas
20 on July 3, 1972, ~~which~~ *that* provides coverage for the payment of
21 expenses described herein to or for the members of the association or
22 dependents through ~~a an established~~ *an established* trust established ~~November 1,~~
23 ~~1985,~~ and complies with K.S.A. 40-2222a, and amendments thereto;

24 (3) (A) is a trade association of banks incorporated in Kansas on
25 August 9, 1978, ~~which~~ *that* provides coverage for the payment of
26 expenses described herein to or for the members of the association or
27 dependents through a trust established July 1, 1989, and complies with
28 K.S.A. 40-2222a, and amendments thereto; or

29 (B) is a trade organization of banks incorporated in Kansas on
30 June 1, 1982, ~~which~~ *that* provides coverage for expenses described
31 herein to or for members of the association or dependents, and
32 complies with K.S.A. 40-2222a, and amendments thereto;

33 (4) is a trade association of truckers incorporated in Kansas on
34 July 1, 1985, ~~which~~ *that* provides coverage for the payment of expenses
35 described herein to or for the members of the association or
36 dependents through a trust established January 1, 1990, and complies
37 with K.S.A. 40-2222a, and amendments thereto;

38 (5) is an association of physicians practicing in the Kansas City
39 metropolitan area, incorporated in Missouri on March 5, 1891, and
40 qualified as a foreign corporation in Kansas on May 19, 1987, ~~which~~
41 *that* provides coverage for the payment of expenses described herein to
42 or for the members of the association, their employees and dependents
43 through a trust established November 1, 1984, and complies with

1 **K.S.A. 40-2222a, and amendments thereto;**

2 **(6) is organized as a farmers' cooperative under the Kansas**
3 **cooperative marketing act, K.S.A. 17-1601 et seq., and amendments**
4 **thereto, on January 13, 1983, and is an association of farmers'**
5 **cooperatives and other like associations operated on a cooperative**
6 **basis and their affiliated companies, ~~which~~ *that* provides benefits for**
7 **employees, and family members of such employees, of such**
8 **associations, and complies with K.S.A. 40-2222a, and amendments**
9 **thereto;**

10 **(7) is any other qualified trade, merchant, retail, or professional**
11 **association or business league ~~incorporated in Kansas which~~ *that***
12 ***provides coverage for the payment of expenses described herein to or for***
13 ***the members of the association, their employees and dependents and that***
14 **complies with K.S.A. 40-2222a, and amendments thereto;**

15 **(8) conclusively shows by submission of an appropriate**
16 **certificate, license, letter or other document issued by the United**
17 **States department of labor that such person or entity is not subject to**
18 **Kansas law; or**

19 **(9) conclusively shows that it is subject to the jurisdiction of an**
20 **agency of this state or the federal government. For purposes of this**
21 **act, tax exempt status under section 501(c) of the federal internal**
22 **revenue code of 1986 shall not be deemed to be jurisdiction of the**
23 **federal government.**

24 **(b) For the purposes of this section, a qualified trade, merchant,**
25 **retail or professional association or business league ~~shall mean any~~**
26 **~~bona fide trade, merchant, retail or professional association or business~~**
27 **~~league that:~~**

28 **~~(1) Has been in existence for at least five calendar years; and~~**

29 **~~(2) is comprised of five or more employers~~ *means the same as in***
30 ***K.S.A. 40-2209d, and amendments thereto.***

31 **Sec. 6. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2222a is**
32 **hereby amended to read as follows: 40-2222a. At the time the initial**
33 **application for coverage is taken with respect to new applicants and**
34 **upon the first renewal, reinstatement or extension of coverage**
35 **following the effective date of this act with respect to persons**
36 **previously covered, each association described in ~~subsection (a) of~~**
37 **K.S.A. 40-2222, and amendments thereto, shall provide a written**
38 **notice stating that:**

39 **(a) The coverage is not provided by an insurance company;**

40 **(b) the plan is not subject to the laws and regulations relating to**
41 **insurance companies;**

42 **(c) the plan is not under the jurisdiction of the commissioner of**
43 **insurance; and**

1 (d) if the plan does not pay medical expenses that are eligible for
2 payment under the plan for any reason, the individuals covered by the
3 plan may be liable for such expenses.

4 **Sec. 7. On and after April 1, 2019, K.S.A. 2018 Supp. 40-2222b is**
5 **hereby amended to read as follows: 40-2222b. (a) As a condition**
6 **precedent to continuation of the exemption provided by K.S.A. 40-**
7 **2222, and amendments thereto, each association described in**
8 **subsection (a) of K.S.A. 40-2222, and amendments thereto, shall, no**
9 **later than May 1 of each year, pay a tax at the rate of 1% per annum**
10 **upon the annual Kansas gross premium collected during the preceding**
11 **calendar year. For associations that have a principal office within a**
12 **metropolitan area that has boundaries in Kansas and associations that**
13 **have their principal office located within the borders of this state and offer**
14 **policies to non-residents of Kansas, the tax owed under this section shall**
15 **be based upon the gross premium collected during the preceding year**
16 **relating to health benefit plans issued to members that have a principal**
17 **place of business in Kansas. In the computation of the tax, such**
18 **associations shall be entitled to deduct any annual Kansas gross**
19 **premiums returned on account of cancellation or dividends returned**
20 **to members or expenditures used for the purchase of reinsurance or**
21 **stop-loss coverage.**

22 (b) Every association subject to taxation under the provisions of
23 this section shall pay the tax imposed and make a return under oath to
24 the commissioner of insurance under such rules and regulations and
25 in such form and manner as the commissioner may prescribe.

26 ~~Sec. 8.~~ K.S.A. 2018 Supp. 40-2209 is hereby repealed.

27 **Sec. 9. On and after April 1, 2019, K.S.A. 40-2209b and 40-2209e**
28 **and K.S.A. 2018 Supp. 40-2209d, 40-2222, 40-2222a and 40-2222b are**
29 **hereby repealed.**

30 ~~Sec. 10.~~ This act shall take effect and be in force from and after its
31 publication in the Kansas register.