

SENATE BILL No. 380

By Committee on Ways and Means

3-12

9 AN ACT concerning insurance; providing coverage for mental condi-
10 tions; amending K.S.A. 2006 Supp. 40-2,105, 40-2,105a and 74-7507
11 and repealing the existing sections.
12

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

14 Section 1. K.S.A. 2006 Supp. 40-2,105 is hereby amended to read as
15 follows: 40-2,105. (a) On or after the effective date of this act, every
16 insurer which issues any individual or group policy of accident and sick-
17 ness insurance providing medical, surgical or hospital expense coverage
18 for other than specific diseases or accidents only and which provides for
19 reimbursement or indemnity for services rendered to a person covered
20 by such policy in a medical care facility, must provide for reimbursement
21 or indemnity under such individual policy or under such group policy,
22 except as provided in subsection (d), which shall be limited to not less
23 than 30 days per year when such person is confined for treatment of
24 alcoholism, drug abuse or nervous or mental conditions in a medical care
25 facility licensed under the provisions of K.S.A. 65-429 and amendments
26 thereto, a treatment facility for alcoholics licensed under the provisions
27 of K.S.A. 65-4014 and amendments thereto, a treatment facility for drug
28 abusers licensed under the provisions of K.S.A. 65-4605 and amendments
29 thereto, a community mental health center or clinic licensed under the
30 provisions of K.S.A. 75-3307b and amendments thereto or a psychiatric
31 hospital licensed under the provisions of K.S.A. 75-3307b and amend-
32 ments thereto. Such individual policy or such group policy shall also pro-
33 vide for reimbursement or indemnity, except as provided in subsection
34 (d), of the costs of treatment of such person for alcoholism, drug abuse
35 and nervous or mental conditions, ~~limited to not less than 100% of the~~
36 ~~first \$100, 80% of the next \$100 and 50% of the next \$1,640 in any year~~
37 ~~and limited to not less than \$7,500 in such person's lifetime;~~ in the facil-
38 ities enumerated when confinement is not necessary for the treatment or
39 by a physician licensed or psychologist licensed to practice under the laws
40 of the state of Kansas.

41 (b) For the purposes of this section "nervous or mental conditions"
42 means disorders specified in the diagnostic and statistical manual of men-
43 tal disorders, fourth edition, ~~(DSM-IV, 1994)~~ of the American psychiatric

1 association but shall not include conditions:

2 ~~— (1) Not attributable to a mental disorder that are a focus of attention~~
 3 ~~or treatment (DSM-IV, 1994), and~~

4 ~~— (2) defined as a mental illness in K.S.A. 2006 Supp. 40-2,105a and~~
 5 ~~amendments thereto text revision (DSM-IV-TR), of the American psy-~~
 6 ~~chiatric association, as published in May, 2000, or later versions as es-~~
 7 ~~tablished in rules and regulations adopted by the behavioral sciences reg-~~
 8 ~~ulatory board pursuant to K.S.A. 74-7507, and amendments thereto.~~

9 (c) The provisions of this section shall be applicable to health main-
 10 tenance organizations organized under article 32 of chapter 40 of the
 11 Kansas Statutes Annotated.

12 (d) There shall be no coverage under the provisions of this section
 13 for any assessment against any person required by a diversion agreement
 14 or by order of a court to attend an alcohol and drug safety action program
 15 certified pursuant to K.S.A. 8-1008 and amendments thereto or for eval-
 16 uations and diagnostic tests ordered or requested in connection with
 17 criminal actions, divorce, child custody or child visitation proceedings.

18 (e) The provisions of this section shall not apply to any medicare
 19 supplement policy of insurance, as defined by the commissioner of in-
 20 surance by rule and regulation.

21 (f) The provisions of this section shall be applicable to the Kansas
 22 state employees health care benefits program developed and provided by
 23 the Kansas state employees health care commission.

24 (g) The outpatient coverage provisions of this section shall not apply
 25 to a high deductible health plan as defined in federal law if such plan is
 26 purchased in connection with a medical or health savings account pur-
 27 suant to that federal law, regardless of the effective date of the insurance
 28 policy. After the amount of eligible deductible expenses have been paid
 29 by the insured, the outpatient costs of treatment of the insured for al-
 30 colism, drug abuse and nervous or mental conditions shall be paid on
 31 the same level they are provided for a medical condition, subject to the
 32 yearly and lifetime maximums provided in subsection (a).

33 Sec. 2. K.S.A. 2006 Supp. 40-2,105a is hereby amended to read as
 34 follows: 40-2,105a. (a) ~~(1)~~ Any group health insurance policy, medical
 35 service plan, contract, hospital service corporation contract, hospital and
 36 medical service corporation contract, fraternal benefit society or health
 37 maintenance organization which provides coverage for mental health ben-
 38 efits and which is delivered, issued for delivery, amended or renewed on
 39 or after ~~January 1, 2002~~ July 1, 2007, shall include coverage for diagnosis
 40 and treatment of mental illnesses. ~~Except as provided in paragraph (2),~~
 41 ~~such~~ Such coverage shall be subject to the same deductibles, coinsurance
 42 and other limitations as apply to other covered services.

43 ~~(2) The coverage required by paragraph (1) shall include annual cov-~~

1 ~~erage for both 45 days of in-patient care for mental illness and for 45~~
2 ~~visits for out-patient care for mental illness.~~

3 (1) *The plan shall ensure that the:*

4 (A) *Financial requirements applicable to coverage for mental health*
5 *benefits are no more restrictive than the financial requirements applied*
6 *to substantially all medical and surgical benefits covered by the plan,*
7 *including deductibles, co-payments, coinsurance, out-of-pocket expenses*
8 *and annual and lifetime limits, except that the plan may not establish*
9 *separate cost sharing requirements that are applicable only with respect*
10 *to mental health benefits;*

11 (B) *treatment limitations applicable to such mental health benefits are*
12 *no more restrictive than the treatment limitations applied to substantially*
13 *all medical and surgical benefits covered by the plan, including limits on*
14 *the frequency of treatment, number of visits, days of coverage or other*
15 *similar limits on the scope or duration of treatment;*

16 (C) *treatment for maintenance therapy and support for any recurrent*
17 *nervous or mental condition shall be provided in the same manner as*
18 *maintenance therapy and support is provided for any recurrent physical*
19 *condition; and*

20 (D) *reimbursement for the full continuum of care for the treatment*
21 *of any nervous or mental condition maintenance shall be provided in the*
22 *same manner that full continuum of care for the treatment of any medical*
23 *illness is reimbursed.*

24 (2) *Whenever the plan provides both medical and surgical benefits*
25 *and mental health benefits, the plan shall not be prohibited from:*

26 (A) *Negotiating separate reimbursement or provider payment rates*
27 *and service delivery systems for different benefits consistent with para-*
28 *graph (1);*

29 (B) *managing the provision of mental health benefits in order to pro-*
30 *vide medically necessary services for covered benefits, including through*
31 *the use of any utilization review, authorization or management practices,*
32 *the application of medical necessity and appropriateness criteria appli-*
33 *cable to behavioral health, and the contracting with and use of a network*
34 *of providers; or*

35 (C) *applying the provisions of this section in a manner that takes into*
36 *consideration similar treatment settings or similar treatments.*

37 (3) (A) *Whenever the plan provides both medical and surgical ben-*
38 *efits and mental health benefits, and provides such benefits on both an*
39 *in- and out-of-network basis pursuant to the terms of the plan, such plan*
40 *shall ensure that the requirements of this section are applied to both in-*
41 *and out-of-network services by comparing in-network medical and sur-*
42 *gical benefits to in-network mental health benefits and out-of-network*
43 *medical and surgical benefits to out-of-network mental health benefits,*

1 *except that in no event shall this paragraph require the provision of out-*
2 *of-network coverage for mental health benefits even in the case where out-*
3 *of-network coverage is provided for medical and surgical benefits.*

4 (B) *Nothing in clause (A) shall be construed as requiring that the plan*
5 *eliminate an out-of-network provider option from such plan pursuant to*
6 *the terms thereof.*

7 (b) Notwithstanding the provisions of K.S.A. 40-2249a, and amend-
8 ments thereto, the state insurance department shall deliver to the presi-
9 dent of the senate and to the speaker of the house of representatives on
10 or before January 1, 2003, a report indicating the impact of providing
11 mental illness benefits required by this act. Such report shall include
12 information regarding access to and usage of such services and the cost
13 of such services.

14 (c) For the purposes of this section: (1) "Mental illness" means ~~the~~
15 ~~following: Schizophrenia, schizoaffective disorder, schizophreniform dis-~~
16 ~~order, brief reactive psychosis, paranoid or delusional disorder, atypical~~
17 ~~psychosis, major affective disorders (bipolar and major depression), cy-~~
18 ~~clothymic and dysthymic disorders, obsessive compulsive disorder, panic~~
19 ~~disorder, pervasive developmental disorder, including autism, attention~~
20 ~~deficit disorder and attention deficit hyperactive disorder as such terms~~
21 ~~are any disorder defined in the diagnostic and statistical manual of mental~~
22 ~~disorders, fourth edition, (DSM-IV, 1994) text revision (DSM-IV-TR) of~~
23 ~~the American psychiatric association but shall not include conditions not~~
24 ~~attributable to a mental disorder that are a focus of attention or treatment~~
25 ~~or later version as established by rules and regulations of the behavioral~~
26 ~~sciences regulatory board.~~

27 (2) "Full continuum of care" includes: *Outpatient treatment, intensive*
28 *outpatient treatment, partial and day hospital treatment, residential treat-*
29 *ment and inpatient treatment for any individual or dependent covered by*
30 *the plan.*

31 (3) "The plan" means *any group health insurance policy, medical*
32 *service plan, contract, hospital service corporation contract, hospital and*
33 *medical service corporation contract, fraternal benefit society or health*
34 *maintenance organization which provides coverage for mental health*
35 *benefits.*

36 (d) The provisions of this section shall be applicable to health main-
37 tenance organizations organized under article 32 of chapter 40 of the
38 Kansas Statutes Annotated.

39 (e) The provisions of this section shall not apply to any medicare
40 supplement policy of insurance, as defined by the commissioner of in-
41 surance by rule and regulation.

42 (f) The provisions of this section shall be applicable to the Kansas
43 state employees health care benefits program and municipal funded

1 pools.

2 (g) The provisions of this section shall not apply to any policy or cer-
3 tificate which provides coverage for any specified disease, specified ac-
4 cident or accident only coverage, credit, dental, disability income, hospital
5 indemnity, long-term care insurance as defined by K.S.A. 40-2227 and
6 amendments thereto, vision care or any other limited supplemental ben-
7 efit nor to any medicare supplement policy of insurance as defined by
8 the commissioner of insurance by rule and regulation, any coverage issued
9 as a supplement to liability insurance, workers compensation or similar
10 insurance, automobile medical-payment insurance or any insurance un-
11 der which benefits are payable with or without regard to fault, whether
12 written on a group, blanket or individual basis.

13 (h) From and after January 1, 2002, the provisions of K.S.A. 40-2,105,
14 and amendments thereto, shall not apply to mental illnesses as defined
15 in this act.

16 (i) There shall be no coverage under this section for evaluations and
17 diagnostic tests ordered or requested in connection with criminal actions,
18 divorce, child custody or child visitation proceedings.

19 Sec. 3. K.S.A. 2006 Supp. 74-7507 is hereby amended to read as
20 follows: 74-7507. (a) The behavioral sciences regulatory board shall have
21 the following powers, duties and functions:

22 (1) Recommend to the appropriate district or county attorneys pros-
23 ecution for violations of this act, the licensure of psychologists act of the
24 state of Kansas, the professional counselors licensure act, K.S.A. 65-6301
25 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-
26 5374, inclusive, and K.S.A. 2006 Supp. 74-5375, and amendments
27 thereto, the marriage and family therapists licensure act or the alcohol
28 and other drug abuse counselor registration act;

29 (2) compile and publish annually a list of the names and addresses of
30 all persons who are licensed under this act, are licensed under the licen-
31 sure of psychologists act of the state of Kansas, are licensed under the
32 professional counselors licensure act, are licensed under K.S.A. 65-6301
33 to 65-6320, inclusive, and amendments thereto, are licensed under K.S.A.
34 74-5361 to 74-5374, inclusive, and K.S.A. 2006 Supp. 74-5375, and
35 amendments thereto, are licensed under the marriage and family thera-
36 pists licensure act or are registered under the alcohol and other drug
37 abuse counselor registration act;

38 (3) prescribe the form and contents of examinations required under
39 this act, the licensure of psychologists act of the state of Kansas, the
40 professional counselors licensure act, K.S.A. 65-6301 to 65-6320, inclu-
41 sive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and
42 K.S.A. 2006 Supp. 74-5375, and amendments thereto, the marriage and
43 family therapists licensure act or the alcohol and other drug abuse coun-

1 selor registration act;

2 (4) enter into contracts necessary to administer this act, the licensure
3 of psychologists act of the state of Kansas, the professional counselors
4 licensure act, K.S.A. 65-6301 to 65-6320, inclusive, and amendments
5 thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2006 Supp. 74-
6 5375, and amendments thereto, the marriage and family therapists licen-
7 sure act or the alcohol and other drug abuse counselor registration act;

8 (5) adopt an official seal;

9 (6) adopt and enforce rules and regulations for professional conduct
10 of persons licensed under the licensure of psychologists act of the state
11 of Kansas, licensed under the professional counselors licensure act, li-
12 censed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments
13 thereto, licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A.
14 2006 Supp. 74-5375, and amendments thereto, licensed under the mar-
15 riage and family therapists licensure act or registered under the alcohol
16 and other drug abuse counselor registration act;

17 (7) adopt and enforce rules and regulations establishing requirements
18 for the continuing education of persons licensed under the licensure of
19 psychologists act of the state of Kansas, licensed under the professional
20 counselors licensure act, licensed under K.S.A. 65-6301 to 65-6320, in-
21 clusive, and amendments thereto, licensed under K.S.A. 74-5361 to 74-
22 5374, inclusive, and K.S.A. 2006 Supp. 74-5375, and amendments
23 thereto, licensed under the marriage and family therapists licensure act
24 or registered under the alcohol and other drug abuse counselor registra-
25 tion act;

26 (8) adopt rules and regulations establishing classes of social work spe-
27 cialties which will be recognized for licensure under K.S.A. 65-6301 to
28 65-6318, inclusive, and amendments thereto;

29 (9) adopt rules and regulations establishing procedures for examina-
30 tion of candidates for licensure under the licensure of psychologists act
31 of the state of Kansas, for licensure under the professional counselors
32 licensure act, for licensure under K.S.A. 65-6301 to 65-6320, inclusive,
33 and amendments thereto, for licensure under K.S.A. 74-5361 to 74-5374,
34 inclusive, and K.S.A. 2006 Supp. 74-5375, and amendments thereto, for
35 licensure under the marriage and family therapists licensure act, for reg-
36 istration under the alcohol and other drug abuse counselor registration
37 act and for issuance of such certificates and such licenses;

38 (10) adopt rules and regulations as may be necessary for the admin-
39 istration of this act, the licensure of psychologists act of the state of Kan-
40 sas, the professional counselors licensure act, K.S.A. 65-6301 to 65-6320,
41 inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive,
42 and K.S.A. 2006 Supp. 74-5375, and amendments thereto, the marriage
43 and family therapists licensure act and the alcohol and other drug abuse

1 counselor registration act and to carry out the purposes thereof;

2 *(11) adopt rules and regulations as may be necessary to update the*
3 *version of the diagnostic and statistical manual of mental disorders pur-*
4 *suant to section 1 and amendments thereto;*

5 ~~(11)~~ (12) appoint an executive director and other employees as pro-
6 vided in K.S.A. 74-7501 and amendments thereto; and

7 ~~(12)~~ (13) exercise such other powers and perform such other func-
8 tions and duties as may be prescribed by law.

9 (b) The behavioral sciences regulatory board, in addition to any other
10 penalty, may assess an administrative penalty, after notice and an oppor-
11 tunity to be heard, against a licensee or registrant for a violation of any
12 of the provisions of the licensure of psychologists act of the state of Kan-
13 sas, the professional counselors licensure act, K.S.A. 65-6301 to 65-6320,
14 inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive,
15 and K.S.A. 2006 Supp. 74-5375, and amendments thereto, the marriage
16 and family therapists licensure act or the alcohol and other drug abuse
17 counselor registration act in an amount not to exceed \$1,000. All fines
18 assessed and collected under this section shall be remitted to the state
19 treasurer in accordance with the provisions of K.S.A. 75-4215 and amend-
20 ments thereto. Upon receipt of each such remittance, the state treasurer
21 shall deposit the entire amount in the state treasury to the credit of the
22 state general fund.

23 (c) If an order of the behavioral sciences regulatory board is adverse
24 to a licensee or registrant of the board, the costs shall be charged to such
25 person as in ordinary civil actions in the district court in an amount not
26 to exceed \$200. The board shall pay any additional costs and, if the board
27 is the unsuccessful party, the costs shall be paid by the board. Witness
28 fees and costs may be taxed in accordance with statutes governing taxation
29 of witness fees and costs in the district court.

30 New Sec. 4. The provisions of K.S.A. 40-2249a shall not apply to
31 sections 1 and 2 and amendments thereto.

32 Sec. 5. K.S.A. 2006 Supp. 40-2,105, 40-2,105a and 74-7507 are
33 hereby repealed.

34 Sec. 6. This act shall take effect and be in force from and after its
35 publication in the statute book.