

HOUSE BILL No. 2783

By Committee on Insurance and Financial Institutions

2-7

10 AN ACT relating to insurance; concerning voluntary noncontractual mu-
11 tual aid arrangements; *[relating to coverage for patient care serv-*
12 *ices in a cancer clinical trial;]* amending K.S.A. 40-202 ~~and repeal-~~
13 ~~ing the existing section [and K.S.A. 2007 Supp. 40-2,103 and~~
14 ~~40-19c09 and repealing the existing sections].~~

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 Section 1. K.S.A. 40-202 is hereby amended to read as follows: 40-
18 202. Nothing contained in this code shall apply to:

19 (a) Grand or subordinate lodges of any fraternal benefit society which
20 admits to membership only persons engaged in one or more hazardous
21 occupations in the same or similar line of business or to fraternal benefit
22 societies as defined in and organized under article 7 of chapter 40 of the
23 Kansas Statutes Annotated and amendments thereto, unless they be ex-
24 pressly designated;

25 (b) the employees of a particular person, firm, or corporation;

26 (c) mercantile associations which simply guarantee insurance to each
27 other in the same lines of trade and do not solicit insurance from the
28 general public;

29 (d) the Swedish Mutual Aid Association of Rapp, Osage county,
30 Kansas;

31 (e) the Scandia Mutual Protective Insurance Company, of Chanute,
32 Kansas;

33 (f) the Seneca and St. Benedict Mutual Fire Insurance Company of
34 Nemaha county, Kansas;

35 (g) the mutual insurance system practiced in the Mennonite church,
36 in accordance with an old custom, either by the congregation themselves
37 or by special associations, of its members in Kansas;

38 ~~(h) the Kansas State High School Activities Association;~~

39 ~~(i) [(h)]~~ the Mutual Aid Association of the Church of the Brethren;

40 or

41 ~~(i) [(i)]~~ a voluntary noncontractual mutual aid arrangement ~~founded~~
42 ~~on or before December 31, 1982,~~ whereby the needs of participants are
43 announced and accommodated through subscriptions to a monthly

1 publication.

2 ~~Sec. 2. K.S.A. 40-202 is hereby repealed.~~

3 *[New Sec. 2. (a) As used in this section: (1) “Clinical trial”*
4 *means the controlled clinical testing in human subjects of investi-*
5 *gational new drugs, items, devices, services, treatments, diagnostics*
6 *or comparisons of approved drugs, items, devices, services, treat-*
7 *ments or diagnostics, to assess the safety, efficacy, benefits, costs,*
8 *adverse reactions or outcomes, or both, of such drugs, items, de-*
9 *vices, services, treatments or diagnostics;*

10 *[(2) “cooperative group” means a formal network of facilities*
11 *that collaborate on research projects and have an established peer*
12 *review program, including, but not limited to, the national cancer*
13 *institute clinical cooperative group and the national cancer insti-*
14 *tute community clinical oncology program;*

15 *[(3) “individual” means a member, subscriber, insured or cer-*
16 *tificate holder or a covered dependent policy holder, subscriber,*
17 *insured or certificate holder; and*

18 *[(4) (A) “patient care service” means medically necessary*
19 *drugs, devices, items, services, treatments or diagnostics that are*
20 *provided to an individual enrolled in a clinical trial, if such drugs,*
21 *items, devices, services, treatments or diagnostics would otherwise*
22 *be covered under the individual’s health plan or insurance contract,*
23 *if the individual was not enrolled in a clinical trial. Such drugs,*
24 *items, devices, services, treatments or diagnostics shall include the*
25 *following:*

26 *[(i) Health care services typically provided absent a clinical*
27 *trial;*

28 *[(ii) health care services required for the clinically appropriate*
29 *monitoring of the investigational drug, item, device, service, treat-*
30 *ment or diagnostic;*

31 *[(iii) health care services provided for the prevention of com-*
32 *plications arising from the provision of the investigational drug,*
33 *item, device, service, treatment or diagnostic; and*

34 *[(iv) health care services needed for the reasonable and neces-*
35 *sary care arising from the provision of the investigational drug,*
36 *item, device, service, treatment or diagnostic, including the diag-*
37 *nosis or treatment of the complications.*

38 *[(B) “Patient care service” does not include the following:*

39 *[(i) The cost of an investigational drug or device;*

40 *[(ii) non-health care services, including, but not limited to,*
41 *travel, housing, companion expenses and other nonclinical expenses*
42 *that a patient may be subjected to as a result of the treatment being*
43 *provided for purposes of the clinical trial;*

- 1 *[(iii) services associated with managing the research associated*
2 *with the clinical trial; and*
- 3 *[(iv) services that would not be covered under the patient’s pol-*
4 *icy, plan, agreement or contract for noninvestigational treatments.*
- 5 *[(b) Any policy, contract, agreement, plan or certificate of in-*
6 *surance issued, delivered or renewed within the state shall provide*
7 *coverage for patient care services provided to an individual in a*
8 *cancer clinical trial that is a prevention, screening, early detection,*
9 *treatment and survivorship study for cancer for a pilot or feasibility*
10 *trial or a phase I, phase II, phase III or phase IV clinical trial; and*
11 *has been peer reviewed and is approved by the national institutes*
12 *of health, a qualified nongovernmental research entity identified in*
13 *guidelines issued by the national institutes of health cooperative*
14 *group, the federal food and drug administration in the form of an*
15 *investigational new drug application, the United States department*
16 *of defense or veterans affairs or a qualified institutional review*
17 *board registered with the federal office for human research*
18 *protections.*
- 19 *[(c) Coverage under this section shall be subject to all other*
20 *terms and conditions of the policy, contract, agreement, plan or*
21 *certificate of insurance, including, but not limited to, provisions*
22 *requiring the use of participating providers and provisions related*
23 *to utilization review. Payment to health care providers under this*
24 *section shall be subject to the terms and conditions of the applicable*
25 *agreement between the provider and the member, including, but*
26 *not limited to, provisions relating to utilization review, audits and*
27 *the financial liability of covered persons.*
- 28 *[(d) Each such policy, contract, agreement, plan or certificate*
29 *of insurance shall provide written notice, as currently required, to*
30 *all enrollees, insureds and subscribers regarding the coverage re-*
31 *quired by the provisions of this section.*
- 32 *[(e) No such policy, contract, agreement, plan or certificate of*
33 *insurance shall deny to a patient eligibility, or continued eligibility,*
34 *to enroll or to renew coverage under terms of the policy, contract,*
35 *agreement, plan or certificate, solely for the purpose of avoiding the*
36 *requirements of this section.*
- 37 *[(f) The provisions of this section shall not apply to any policy*
38 *or certificate which provides coverage for any specified disease,*
39 *specified accident or accident only coverage, credit, dental, disa-*
40 *bility income, hospital indemnity, long-term care insurance as de-*
41 *fined by K.S.A. 40-2227, and amendments thereto, vision care or*
42 *any other limited supplemental benefit nor to any medicare suppl-*
43 *ement policy of insurance as defined by the commissioner of insur-*

1 *ance by rule and regulation, any coverage issued as a supplement*
2 *to liability insurance, workers' compensation or similar insurance,*
3 *automobile medical-payment insurance or any insurance under*
4 *which benefits are payable with or without regard to fault, whether*
5 *written on a group, blanket or individual basis.*

6 *[(g) Copayments and deductibles applied to services delivered*
7 *in a clinical trial shall be the same as those applied to the same*
8 *services if they were not delivered in a clinical trial.*

9 *[(h) The provision of services when required by this section*
10 *shall not, in itself, give rise to liability on the part of the health care*
11 *service plan.*

12 *[(i) Nothing in this section shall be construed to prohibit a plan,*
13 *policy, agreement or contract from restricting the coverage re-*
14 *quired under subsection (b) to participating hospitals and physi-*
15 *cians in Kansas.*

16 *[(j) The provisions of this section shall be applicable to the Kan-*
17 *sas state employees health care benefits program and municipal*
18 *funded pools.*

19 *[(k) The provisions of K.S.A. 40-2249a, and amendments*
20 *thereto, shall not apply to the provisions of this section.*

21 *[(l) The provisions of this section shall not apply to a policy,*
22 *plan or contract paid for under title XVIII or title XIX of the federal*
23 *social security act.*

24 *[(m) The provisions of this act shall apply to all policies, con-*
25 *tracts, agreements, plans or certificates of insurance issued or de-*
26 *livered within the state on or after January 1, 2009, and to all pol-*
27 *icies, contracts, agreements, plans or certificates of insurance in*
28 *effect before January 1, 2009, upon renewal or amendment, on or*
29 *after January 1, 2009.*

30 *[Sec. 3. K.S.A. 2007 Supp. 40-2,103 is hereby amended to read*
31 *as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101,*
32 *40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through*
33 *40-2,170, inclusive, 40-2250, K.S.A. 2007 Supp. 40-2,105a and 40-*
34 *2,105b and section 2, and amendments thereto, shall apply to all*
35 *insurance policies, subscriber contracts or certificates of insurance*
36 *delivered, renewed or issued for delivery within or outside of this*
37 *state or used within this state by or for an individual who resides*
38 *or is employed in this state.*

39 *[Sec. 4. K.S.A. 2007 Supp. 40-19c09 is hereby amended to read*
40 *as follows: 40-19c09. (a) Corporations organized under the non-*
41 *profit medical and hospital service corporation act shall be subject*
42 *to the provisions of the Kansas general corporation code, articles*
43 *60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated,*

1 *applicable to nonprofit corporations, to the provisions of K.S.A. 40-*
2 *214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-*
3 *225, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-*
4 *247, 40-248, 40-249, 40-250, 40-251, 40-252, 40-254, 40-2,100,*
5 *40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-*
6 *2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-*
7 *2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-*
8 *2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230,*
9 *40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive,*
10 *and 40-3301 to 40-3313, inclusive, K.S.A. 2007 Supp. 40-2,105a and*
11 *40-2,105b and section 2, and amendments thereto, except as the con-*
12 *text otherwise requires, and shall not be subject to any other pro-*
13 *visions of the insurance code except as expressly provided in this*
14 *act.*

15 *[(b) No policy, agreement, contract or certificate issued by a*
16 *corporation to which this section applies shall contain a provision*
17 *which excludes, limits or otherwise restricts coverage because med-*
18 *icaid benefits as permitted by title XIX of the social security act of*
19 *1965 are or may be available for the same accident or illness.*

20 *[(c) Violation of subsection (b) shall be subject to the penalties*
21 *prescribed by K.S.A. 40-2407 and 40-2411, and amendments*
22 *thereto.*

23 *[New Sec. 5. (a) (1) There is hereby created a clinical trials*
24 *coverage advisory committee which shall assess the economic im-*
25 *act of the health insurance coverage required by this act for pa-*
26 *tient care costs in clinical trials. In order to assess the costs and*
27 *benefits of insurance coverage for patient care costs incurred in*
28 *clinical trials, the advisory committee may request and collect from*
29 *insurers aggregate clinical and financial data related to coverage*
30 *for services provided pursuant to this act.*

31 *[(2) The clinical trials coverage advisory committee shall be at-*
32 *tached to the insurance department. The insurance department*
33 *shall provide staff and administrative support required by the ad-*
34 *visory committee.*

35 *[(b) The advisory committee shall consist of nine members ap-*
36 *pointed by the commissioner of insurance as follows:*

37 *[(1) Four persons, two of whom shall be medical directors of*
38 *health insurers, selected from nominations made by the Kansas as-*
39 *sociation of health plans;*

40 *[(2) one person representing the university of Kansas school of*
41 *medicine nominated by the dean of such school;*

42 *[(3) one licensed physician who has experience in cancer treat-*
43 *ment and clinical trials nominated by the Kansas medical society;*

- 1 ***[(4) one person representing hospitals nominated by the Kansas***
2 ***hospital association;***
3 ***[(5) one person representing the general public appointed by***
4 ***the commissioner of insurance; and***
5 ***[(6) the commissioner of insurance or the commissioner's***
6 ***designee.***
7 ***[(c) Each appointment to the clinical trials coverage advisory***
8 ***committee shall be for a term of three years.***
9 ***[(d) The insurance commissioner or the commissioner's desig-***
10 ***nee shall serve as chairperson of the clinical trials coverage advi-***
11 ***sory committee.***
12 ***[(e) The clinical trials coverage advisory committee shall pre-***
13 ***pare a report of its findings and any recommendations for changes***
14 ***to this act to the chairs of the house committee on insurance and***
15 ***financial institutions and the senate financial institutions and in-***
16 ***surance committee on or before January 1, 2011.***
17 ***[Sec. 6. K.S.A. 40-202 and K.S.A. 2007 Supp. 40-2,103 and 40-***
18 ***19c09 are hereby repealed.]***
19 ***Sec. ~~7~~ [7.]*** This act shall take effect and be in force from and after
20 its publication in the statute book.