

HOUSE BILL No. 2864

By Representatives Swenson and Garcia

2-13

9 AN ACT concerning insurance; relating to mandated health benefits;
10 providing coverage for treatment of morbid obesity; amending K.S.A.
11 2007 Supp. 40-2,103 and 40-19c09 and repealing the existing sections;
12 also repealing K.S.A. 40-2248, 40-2249 and 40-2249a.
13

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

15 New Section 1. (a) Any individual or group health insurance policy,
16 medical service plan, contract, hospital service corporation contract, hos-
17 pital and medical service corporation contract, fraternal benefit society
18 or health maintenance organization, municipal group-funded pool and the
19 state employee health care benefits plan which provides coverage for
20 hospital, medical and surgical services, other than medicare supplement
21 or accident-only policies which are delivered, issued for delivery,
22 amended or renewed on or after July 1, 2008, shall include coverage for
23 services related to diagnosis and treatment of morbid obesity through
24 gastric bypass surgery or such other methods as may be recognized by
25 the national institutes of health as effective for long-term reversal of mor-
26 bid obesity. Such policy, provision, contract, plan or agreement may apply
27 to such services the same deductibles, coinsurance and other limitations
28 as apply to other covered services.

29 (b) The provisions of this section shall not apply to any policy or
30 certificate which provides coverage for any specified disease, specified
31 accident or accident only coverage, credit, dental, disability income, hos-
32 pital indemnity, long-term care insurance as defined by K.S.A. 40-2227
33 and amendments thereto, vision care or any other limited supplemental
34 benefit nor to any medicare supplement policy of insurance as defined
35 by the commissioner of insurance by rule and regulation, any coverage
36 issued as a supplement to liability insurance, workers compensation or
37 similar insurance, automobile medical-payment insurance or any insur-
38 ance under which benefits are payable with or without regard to fault,
39 whether written on a group, blanket or individual basis.

40 (c) As used in this section "morbid obesity" means:

41 (1) A body mass index (BMI) equal to or greater than 35 kilograms
42 per meter squared with comorbidity or coexisting medical conditions such
43 as hypertension, cardiopulmonary conditions, sleep apnea or diabetes; or

1 (2) a BMI of 40 kilograms per meter squared without such
2 comorbidity.

3 As used herein, BMI equals weight in kilograms divided by height in
4 meters squared.

5 Sec. 2. K.S.A. 2007 Supp. 40-2,103 is hereby amended to read as
6 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
7 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,
8 inclusive, 40-2250, K.S.A. 2007 Supp. 40-2,105a ~~and~~ 40-2,105b *and section*
9 *1*, and amendments thereto, shall apply to all insurance policies,
10 subscriber contracts or certificates of insurance delivered, renewed or
11 issued for delivery within or outside of this state or used within this state
12 by or for an individual who resides or is employed in this state.

13 Sec. 3. K.S.A. 2007 Supp. 40-19c09 is hereby amended to read as
14 follows: 40-19c09. (a) Corporations organized under the nonprofit med-
15 ical and hospital service corporation act shall be subject to the provisions
16 of the Kansas general corporation code, articles 60 to 74, inclusive, of
17 chapter 17 of the Kansas Statutes Annotated, applicable to nonprofit cor-
18 porations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-
19 219, 40-222, 40-223, 40-224, 40-225, 40-226, 40-229, 40-230, 40-231, 40-
20 235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252,
21 40-254, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-
22 2,116, 40-2,117, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through
23 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-
24 2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-
25 2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-
26 3301 to 40-3313, inclusive, K.S.A. 2007 Supp. 40-2,105a ~~and~~ 40-2,105b
27 *and section 1*, and amendments thereto, except as the context otherwise
28 requires, and shall not be subject to any other provisions of the insurance
29 code except as expressly provided in this act.

30 (b) No policy, agreement, contract or certificate issued by a corpo-
31 ration to which this section applies shall contain a provision which ex-
32 cludes, limits or otherwise restricts coverage because medicaid benefits
33 as permitted by title XIX of the social security act of 1965 are or may be
34 available for the same accident or illness.

35 (c) Violation of subsection (b) shall be subject to the penalties pre-
36 scribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.

37 Sec. 4. K.S.A. 40-2248, 40-2249 and 40-2249a and K.S.A. 2007 Supp.
38 40-2,103 and 40-19c09 are hereby repealed.

39 Sec. 5. This act shall take effect and be in force from and after its
40 publication in the statute book.