

SENATE BILL No. 176

AN ACT concerning insurance; relating to new terminology for insurance brokers; relating to limiting the insurance value of improvements on real property to the replacement cost thereof; relating to notice when a block of business is closed; relating to HIPAA compliance; amending K.S.A. 40-905, 40-2255, 40-37a01, 40-37a02, 40-37a03, 40-37a04, 40-37a05, 40-37a06 and 40-4502 and K.S.A. 2004 Supp. 40-2,131 and 40-2258 and repealing the existing sections.

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

Section 1. K.S.A. 2004 Supp. 40-2,131 is hereby amended to read as follows: 40-2,131. (a) No person, firm, association or corporation shall act in the capacity of an MGA with respect to risks located in this state for an insurer licensed in this state unless such person is a licensed ~~agent or broker~~ *producer* in this state.

(b) No person, firm, association or corporation shall act in the capacity of an MGA representing an insurer domiciled in this state with respect to risks located outside this state unless such person is licensed as ~~an agent or broker~~ *a producer* in this state pursuant to the provisions of ~~K.S.A. 40-240 or 40-3701~~ *the uniform insurance agents licensing act*, K.S.A. 2004 Supp. 40-4901 et seq., and amendments thereto.

(c) The commissioner may require a bond in an amount acceptable to the commissioner for the protection of the insurer.

(d) *For the purposes of this section, the term "producer" shall have the meaning ascribed to it in K.S.A. 2004 Supp. 40-4902 and amendments thereto.*

Sec. 2. K.S.A. 40-37a01 is hereby amended to read as follows: 40-37a01. This act may be cited as the business transacted with ~~broker~~ *producer* controlled insurer act.

Sec. 3. K.S.A. 40-37a02 is hereby amended to read as follows: 40-37a02. As used in this act:

(a) "Accredited state" means a state in which the insurance department or regulatory agency has qualified as meeting the minimum financial regulatory standards promulgated and established *from time to time* by the national association of insurance commissioners.

(b) "*Captive insurer*" means an insurance company owned by another organization whose exclusive purpose is to insure risks of the parent organization and affiliated companies or, in the case of groups and associations, an insurance organization owned by the insureds whose exclusive purpose is to insure risks to member organizations or group members, or both, and their affiliates.

(c) "Control" or "controlled" has the meaning ascribed in subsection (c) of K.S.A. 40-3302 and amendments thereto.

~~(c)~~ (d) "Controlled insurer" means a licensed insurer which is controlled, directly or indirectly by a ~~broker~~ *producer*.

~~(d)~~ (e) "~~Controlling broker~~" "*Controlling producer*" means a ~~broker~~ *producer* who, directly or indirectly, controls an insurer.

~~(e)~~ (f) "Licensed insurer" or "insurer" means any person, firm, association or corporation duly licensed to transact a property or casualty insurance business in this state. The following, inter alia, are not licensed insurers for the purposes of this act:

(1) All risk retention groups as defined in the superfund amendments reauthorization act of 1986, ~~P. L. No. public law~~ *public law* 99-499, 100 Stat. 1613 (1986); the risk retention act, 15 U.S.C. §3901 et seq. (1982 & Supp. 1986); and K.S.A. 40-4101 et seq. and amendments thereto; ~~and~~

(2) all residual market pools and joint underwriting authorities or associations; *and*

(3) *all captive insurers.*

~~(f)~~ "Broker" means an insurance broker or brokers as defined in subsection (a) of K.S.A. 40-3702 and amendments thereto, ~~or~~

(g) "*Producer*" has the meaning ascribed to it in K.S.A. 2004 Supp. 40-4902, and amendments thereto. *Producer* includes any other person, firm, association or corporation, when, for any compensation, commission or other thing of value, such person, firm, association or corporation acts or aids in any manner in soliciting, negotiating or procuring the making of any insurance contract on behalf of an insured other than the person, firm, association or corporation. "~~Broker~~" does not mean an insurance agent as defined in K.S.A. 40-239 and amendments thereto.

Sec. 4. K.S.A. 40-37a03 is hereby amended to read as follows: 40-37a03. This act shall apply to licensed insurers as defined in K.S.A. 40-

37a02, either domiciled in this state or domiciled in a state that is not an accredited state having in effect a substantially similar law. All provisions of the insurance holding company act, to the extent ~~they~~ *such provisions* are not superseded by this act, shall continue to apply to all parties within holding company systems subject to this act.

Sec. 5. K.S.A. 40-37a04 is hereby amended to read as follows: 40-37a04. (a) (1) The provisions of K.S.A. 40-37a04 shall apply if, in any calendar year, the aggregate amount of gross written premium on business placed with a controlled insurer by a controlling ~~broker~~ *producer* is equal to or greater than five percent of the admitted assets of the controlled insurer, as reported in the controlled insurer's quarterly statement filed as of September 30 of the prior year.

(2) Notwithstanding paragraph (1) of this subsection, the provisions of this section shall not apply if:

(A) The controlling ~~broker~~ *producer*:

(i) Places insurance only with the controlled insurer, or only with the controlled insurer and a member or members of the controlled insurer's holding company system, or the controlled insurer's parent, affiliate or subsidiary and receives no compensation based upon the amount of premiums written in connection with such insurance; and

(ii) accepts insurance placements only from nonaffiliated subproducers, and not directly from insureds; and

(B) the controlled insurer, except for insurance business written through a residual market facility established pursuant to Kansas statutes or administrative regulations, accepts insurance business only from a controlling ~~broker~~ *producer*, a ~~broker~~ *producer* controlled by the controlled insurer, or a ~~broker~~ *producer* that is a subsidiary of the controlled insurer.

(b) A controlled insurer shall not accept business from a controlling ~~broker~~ *producer* and a controlling ~~broker~~ *producer* shall not place business with a controlled insurer unless there is a written contract between the controlling ~~broker~~ *producer* and the insurer specifying the responsibilities of each party, which contract has been approved by the board of directors of the insurer and contains the following minimum provisions:

(1) The controlled insurer may terminate the contract for cause, upon written notice to the controlling ~~broker~~ *producer*. The controlled insurer shall suspend the authority of the controlling ~~broker~~ *producer* to write business during the pendency of any dispute regarding the cause for the termination;

(2) the controlling ~~broker~~ *producer* shall render accounts to the controlled insurer detailing all material transactions, including information necessary to support all commissions, charges and other fees received by, or owing to, the controlling ~~broker~~ *producer*;

(3) the controlling ~~broker~~ *producer* shall remit all funds due under the terms of the contract to the controlled insurer on at least a monthly basis. The due date shall be fixed so that premiums or installments thereof collected shall be remitted no later than 90 days after the effective date of any policy placed with the controlled insurer under this contract;

(4) all funds collected for the controlled insurer's account shall be held by the controlling ~~broker~~ *producer* in a fiduciary capacity, in one or more appropriately identified bank accounts in banks that are members of the federal reserve system, in accordance with the provisions of the insurance law as applicable. Notwithstanding the foregoing, funds of a controlling ~~broker~~ *producer* not required to be licensed in this state shall be maintained in compliance with the requirements of the controlling ~~broker's~~ *producer's* state of domicile;

(5) the controlling ~~broker~~ *producer* shall maintain separately identifiable records of business written for the controlled insurer;

(6) the contract shall not be assigned in whole or in part by the controlling ~~broker~~ *producer*;

(7) the controlled insurer shall provide the controlling ~~broker~~ *producer* with its underwriting standards, rules and procedures, manuals setting forth the rates to be charged, and the conditions for the acceptance or rejection of risks. The controlling ~~broker~~ *producer* shall adhere to the standards, rules, procedures, rates and conditions. The standards, rules, procedures, rates and conditions shall be the same as those applicable to comparable business placed with the controlled insurer by a ~~broker~~ *producer* other than the controlling ~~broker~~ *producer*;

(8) the rates and terms of the controlling ~~broker's~~ *producer's* commissions, charges or other fees and the purposes for those charges or fees. The rates of the commissions, charges and other fees shall be no greater than those applicable to comparable business placed with the controlled insurer by ~~brokers~~ *producers* other than controlling ~~brokers~~ *producers*. For purposes of this paragraph and paragraph (7) of this subsection, examples of “comparable business” includes the same lines of insurance, same kinds of insurance, same kinds of risks, similar policy limits, and similar quality of business;

(9) if the contract provides that the controlling ~~broker~~ *producer*, on insurance business placed with the insurer, is to be compensated contingent upon the insurer's profits on that business, then such compensation shall not be determined and paid until at least five years after the premiums on liability insurance are earned and at least one year after the premiums are earned on any other insurance. In no event shall the commission be paid until the adequacy of the controlled insurer's reserves on remaining claims has been independently verified pursuant to *paragraph (1) of subsection (c) of this section (d)*;

(10) a limit on the controlling ~~broker's~~ *producer's* writings in relation to the controlled insurer's surplus and total writings. The insurer may establish a different limit for each line or subline of business. The controlled insurer shall notify the controlling ~~broker~~ *producer* when the applicable limit is approached and shall not accept business from the controlling ~~broker~~ *producer* if the limit is reached. The controlling ~~broker~~ *producer* shall not place business with the controlled insurer if it has been notified by the controlled insurer that the limit has been reached; and

(11) the controlling ~~broker~~ *producer* may negotiate but shall not bind reinsurance on behalf of the controlled insurer on business the controlling ~~broker~~ *producer* places with the controlled insurer, except that the controlling ~~broker~~ *producer* may bind facultative reinsurance contracts pursuant to obligatory facultative agreements if the contract with the controlled insurer contains underwriting guidelines including, for both reinsurance assumed and ceded, a list of reinsurers with which such automatic agreements are in effect, the coverages and amounts or percentages that may be reinsured and commission schedules.

(c) Every controlled insurer shall have an audit committee of the board of directors composed of independent directors. The audit committee shall annually meet the management, the insurer's independent certified public accountants, and an independent casualty actuary or other independent loss reserve specialist acceptable to the commissioner to review the adequacy of the insurer's loss reserves.

(d) (1) In addition to any other required loss reserve certification, the controlled insurer shall annually, on April 1 of each year, file with the commissioner an opinion of an independent casualty actuary or other independent loss reserve specialist acceptable to the commissioner, reporting loss ratios for each line of business written and attesting to the adequacy of loss reserves established for losses incurred and outstanding as of year-end, including incurred but not reported losses, on business placed by the ~~broker~~ *producer*; and

(2) the controlled insurer shall annually report to the commissioner the amount of commissions paid to the ~~broker~~ *producer*, the percentage such amount represents of the net premiums written and comparable amounts and percentage paid to noncontrolling ~~brokers~~ *producers* for placements of the same kinds of insurance.

Sec. 6. K.S.A. 40-37a05 is hereby amended to read as follows: 40-37a05. The ~~broker~~ *producer*, prior to the effective date of the policy, shall deliver written notice to the prospective insured disclosing the relationship between the ~~broker~~ *producer* and the controlled insurer; except that, if the business is placed through a ~~person~~ *subproducer* who is not a controlling ~~broker~~ *producer*, the controlling ~~broker~~ *producer* shall retain in *such controlling producer's* records a signed commitment from the ~~person~~ *subproducer* that such ~~person~~ *subproducer* is aware of the relationship between the insurer and the ~~broker~~ *producer* and that the ~~person~~ *subproducer* has or will notify the insured.

Sec. 7. K.S.A. 40-37a06 is hereby amended to read as follows: 40-37a06. (a) (1) If the commissioner believes the controlling ~~broker~~ *producer* or any other person has not complied with this act, or any regulation

or order promulgated hereunder, the commissioner may, after a hearing conducted under the provisions of the Kansas administrative procedures act, order the controlling ~~broker~~ *producer* to cease placing business with the controlled insurer; and

(2) if it was found that because of such noncompliance, the controlled insurer or any policyholder thereof has suffered any loss or damage, the commissioner may maintain a civil action or intervene in an action brought by or on behalf of the insurer or policyholder for recovery of compensatory damages for the benefit of the insurer or policyholder or other appropriate relief.

(b) If an order for liquidation or rehabilitation of the controlled insurer has been entered pursuant to K.S.A. 40-3605 et seq. and amendments thereto, and the receiver appointed under that order believes that the controlling ~~broker~~ *producer* or any other person has not materially complied with this act, or any regulation or order promulgated hereunder, and the insurer suffered any loss or damage therefrom, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

(c) Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for in chapter 40 of the Kansas Statutes Annotated.

(d) Nothing contained in this section is intended to or shall in any manner alter or affect the rights of policyholders, claimants, creditors or other third parties.

Sec. 8. K.S.A. 40-4502 is hereby amended to read as follows: 40-4502. As used in this act:

(a) “Actuary” means a person who is a member in good standing of the American academy of actuaries.

(b) “Controlling person” means any person, firm, association or corporation who directly or indirectly has the power to direct or cause to be directed, the management, control or activities of the reinsurance intermediary.

(c) “Insurer” means any person, firm, association or corporation duly licensed in this state, pursuant to chapter 40 of the Kansas Statutes Annotated, as an insurer.

(d) “Licensed producer” means an agent, ~~broker~~ or reinsurance intermediary licensed pursuant to the applicable provision of the Kansas Statutes Annotated.

(e) “Reinsurance intermediary” means a reinsurance intermediary-broker or a reinsurance intermediary-manager as these terms are defined in subsections (f) and (g).

(f) “Reinsurance intermediary-broker” or “reinsurance broker” means any person, other than an officer or employee of the ceding insurer, firm, association or corporation who solicits, negotiates or places reinsurance cessions or retrocessions on behalf of a ceding insurer without the authority or power to bind reinsurance on behalf of such insurer.

(g) “Reinsurance intermediary-manager” or “reinsurance manager” means any person, firm, association or corporation who has authority to bind or manages all or part of the assumed reinsurance business of a reinsurer, including the management of a separate division, department or underwriting office, and acts as an agent for such reinsurer whether known as a reinsurance manager, manager or other similar term. Notwithstanding the above, the following persons shall not be considered a reinsurance manager, with respect to such reinsurer, for the purposes of this act:

(1) An employee of the reinsurer;

(2) a U.S. manager of the United States branch of an alien reinsurer;

(3) an underwriting manager who, pursuant to contract, manages all the reinsurance operations of the reinsurer, is under common control with the reinsurer, subject to the holding company act, and whose compensation is not based on the volume of premiums written;

(4) the manager of a group, association, pool or organization of insurers which engage in joint underwriting or joint reinsurance and who are subject to examination by the chief insurance regulatory official of the state in which the manager’s principal business office is located.

(h) “Reinsurer” means any person, firm, association or corporation

duly licensed in this state pursuant to chapter 40 of the Kansas Statutes Annotated as an insurer with the authority to assume reinsurance.

(i) “To be in violation” means that the reinsurance intermediary, insurer or reinsurer for whom the reinsurance intermediary was acting failed to substantially comply with the provisions of this act.

(j) For purposes of this act, a “qualified United States financial institution” means an institution that:

(1) Is organized or, in the case of a United States office of a foreign banking organization licensed, under the laws of the United States or any state thereof;

(2) is regulated, supervised and examined by United States federal or state authorities having regulatory authority over banks and trust companies; and

(3) has been determined by either the commissioner, or the securities valuation office of the national association of insurance commissioners, to meet such standards of financial condition and standing as are considered necessary and appropriate to regulate the quality of financial institutions whose letters of credit will be acceptable to the commissioner.

(k) “Commissioner” means the commissioner of insurance of this state.

Sec. 9. K.S.A. 40-905 is hereby amended to read as follows: 40-905.

(a) (1) Whenever any policy of insurance or an increase in the amount of coverage in an existing policy of insurance shall be written to insure any improvements upon real property in this state against loss by fire, tornado, windstorm or lightning, and the property insured shall be wholly destroyed, without criminal fault on the part of the insured or the insured’s assigns, the amount of insurance written in such policy shall be taken conclusively to be the true value of the property insured, and the true amount of loss and measure of damages, and the payment of money as a premium for insurance shall be prima facie evidence that the party paying for such insurance is the owner of the property insured.

(2) *Improvements on real property shall not be required to be insured for more than the reasonably estimated replacement cost of such improvements. Nothing herein shall prohibit a policy or endorsement to a policy as described in this subsection from containing an inflation guard provision or similar provision. Nothing in this section shall be deemed to create a private cause of action. For the purposes of this paragraph, “improvements on real property” means a fixture, building or other structure attached to real property and intended as a permanent addition to such real property.*

(b) The provisions of subsection (a) shall not apply to:

(1) New policies of fire insurance or existing policies of fire insurance where there has been an increase in the amount of coverage of 25% or more, until such policies have been in effect for at least 60 days. If there is a total loss by fire within the sixty-day period and the insurer pays less than the face value of the policy, the insurer shall refund the difference in premium between the amount of insurance purchased and the premium applicable for the amount of the loss actually paid. This paragraph shall not apply to a loss by fire caused by lightning.

(2) Builder’s risk policies of insurance covering property in the process of being constructed. The value of the property insured shall be the actual value of the property at the time of the loss.

Sec. 10. K.S.A. 40-2255 is hereby amended to read as follows: 40-2255.

(a) This act shall apply to individual contracts covering hospital, medical or surgical expenses, providing long-term care coverage, and medicare supplement policies, which are issued, amended, delivered or renewed on or after the effective date of this act but shall not apply to any block of long-term care coverage or medicare supplement business already in force in Kansas on such effective date.

(b) As used in this act:

(1) “Block of business” means a particular individual policy form or contract providing hospital, medical or surgical expense, long-term care or medicare supplement coverage issued by a carrier to one or more individuals which includes distinct benefits, services and terms.

(2) “Closed block of business” means a block of business which a carrier ceases to actively offer or sell to new applicants.

(3) “Carrier” means any insurance company, nonprofit medical and

hospital service corporation, municipal group-funded pool, fraternal benefit society or health maintenance organization, as these terms are defined by the Kansas Statutes Annotated, that offers any individual hospital, surgical or medical expense, long-term care or medicare supplement policy and which is authorized to do business in this state. “Carrier” does not include those entities identified above with respect to the sale or issuance of policies or certificates covering only accident, credit, dental, disability income, hospital indemnity, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers compensation or similar law, automobile medical payment insurance, or insurance under which benefits are payable with or without regard to fault and which is statutorily required to be contained in any liability insurance policy or equivalent self-insurance.

(4) “Commissioner” means the commissioner of insurance.

(c) No block of business shall be closed by a carrier unless:

(1) ~~The carrier permits existing contract holders to purchase a contract~~ *provides written notice of the carrier’s decision to close a block of business to each existing policyholder or contract holder affected and offers each policyholder or contract holder affected an opportunity to purchase a policy or contract from any block of business that is not closed and which provides comparable benefits, services and terms, with no additional underwriting requirement or waiting period. Each policyholder or contract holder affected by the carrier’s decision to close a block of business shall be permitted to purchase such policy or contract during the 30-day period commencing on the day following the date of the written notice;*

(2) the carrier pools the experience of the closed block of business with all appropriate blocks of business that are not closed for the purpose of determining the premium rate of any contract within the closed block, with no rate penalty or surcharge beyond that which reflects the experience of the combined pool; and

(3) if a carrier does not offer or sell any block of business which provides comparable benefits, services and terms comparable to the closed block of business, paragraphs (1) and (2) shall not apply. If a block of business providing benefits, services and terms comparable to the closed block of business becomes available within 24 months of the notice to the commissioner, such block shall be open to any contract holder in accordance with the provisions of paragraphs (1) and (2). The carrier shall provide notice to the commissioner in writing within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d).

(d) Unless an insurer presents evidence satisfactory to the commissioner that such a presumption is or would be incorrect, a block of business shall be presumed closed if either of the following circumstances exist:

(1) There has been an overall reduction in that block of 12% in the number of in-force contracts for a period of 12 months; or

(2) that block has less than 500 in-force contracts in this state.

The presumption that applies in the circumstances of subsection (d)(2) shall not apply to a block of business initiated within the previous 24 months, but notification of that block of business shall be provided to the commissioner pursuant to subsection (e).

The fact that a block of business does not meet one of the presumptions set forth in this subsection shall not preclude a determination that it is closed as defined in paragraph (2) of subsection (b).

(e) A carrier shall notify the commissioner in writing within 30 days of its decision to close a block of business or, in the absence of an actual decision to close a block of business, within 30 days of its determination that a block of business is within one of the presumptions set forth in subsection (d). When the carrier decides to close a block of business, the written notice shall fully disclose all information required for compliance with subsection (c). When the carrier determines that a block of business is within a presumption of subsection (c), the written notice shall fully disclose all information required for compliance with a presumption of subsection (c). In the case of either notice, the carrier shall provide additional information within 15 business days after a request by the com-

missioner. This subsection shall not apply to a carrier which does not have available a block of business which provides comparable benefits, services and terms comparable to the closed block of business and which has complied with the notice requirements pursuant to subsection (c)(3).

(f) A carrier shall preserve for a period of not less than five years in an identified location which is readily accessible for review by the commissioner, all books and records relating to any action taken by a carrier pursuant to subsection (c).

(g) No carrier shall offer or sell any contract, or provide misleading information about the active or closed status of a block of business, for the purpose of evading this act.

Sec. 11. K.S.A. 2004 Supp. 40-2258 is hereby amended to read as follows: 40-2258. (a) An accident and sickness insurer which offers coverage through a group policy providing hospital, medical or surgical expense benefits pursuant to K.S.A. 40-2209 and amendments thereto which includes mental health benefits shall be subject to the following requirements:

(1) If the policy does not include an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits, the policy may not impose any aggregate lifetime limit on mental health benefits;

(2) if the policy includes an aggregate lifetime limit on substantially all hospital, medical and surgical expense benefits the plan shall either: (A) Apply the applicable lifetime limit both to the hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguished in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any aggregate lifetime limit on mental health benefits that is less than the applicable lifetime limit on hospital, medical and surgical expense benefits;

(3) if the policy does not include an annual limit on substantially all hospital, medical and surgical expense benefits, the plan or coverage may not impose any annual limit on mental health benefits; and

(4) if the policy includes an annual limit on substantially all hospital, medical and surgical expense benefits the policy shall either: (A) Apply the applicable annual limit both to hospital, medical and surgical expense benefits to which it otherwise would apply and to mental health benefits and not distinguish in the application of such limit between such hospital, medical and surgical expense benefits and mental health benefits; or (B) not include any annual limit on mental health benefits that is less than the applicable annual limit.

(b) If the group policy providing hospital, medical or surgical expense benefits is not otherwise covered by subsection (a) and either does not apply a lifetime or annual benefit or applies different lifetime or annual benefits to different categories of hospital, medical and surgical expense benefits, the commissioner may adopt rules and regulations under which subsections (a)(2) and (a)(4) are applied to such policies with respect to mental health benefits by substituting for the applicable lifetime or annual limits an average limit that is computed taking into account the weighted average of the lifetime or annual limits applicable to such categories.

(c) Nothing in this section shall be construed as either:

(1) Requiring an accident and sickness policy to offer mental health benefits except as otherwise required by K.S.A. 40-2,105 and amendments thereto; or

(2) affecting any terms and conditions of a policy which does include mental health benefits including provisions regarding cost sharing, limits on the number of visits or days of coverage, requirements relating to medical necessity, requirements relating to the amount, duration or scope of mental health benefits under the plan or coverage, except as specifically provided in subsection (a).

(d) This section shall not apply to any group accident and health insurance policy which is sold to a small employer as defined in K.S.A. 40-2209 and amendments thereto.

(e) This section shall not apply with respect to a group policy providing hospital, medical or surgical expense benefits if the application of this section will result in an increase in the cost under the plan of at least 1%.

(f) In the case of a group policy providing hospital, medical or surgical expense benefits that offers an eligible employee, member or dependent

two or more benefit package options under the policy, subsections (a) and (b) shall be applied separately with respect to each such option.

(g) As used in this section:

(1) “Aggregate lifetime limit” means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount that may be paid with respect to such benefits under the policy with respect to an eligible employee, member or dependent;

(2) “annual limit” means, with respect to benefits under a group policy providing hospital, medical or surgical expense benefits, a dollar limitation on the total amount of benefits that may be paid with respect to such benefits in a 12-month period under the policy with respect to an eligible employee, member or dependent;

(3) “hospital, medical or surgical expense benefits” means benefits with respect to hospital, medical or surgical services, as defined under the terms of the policy, but does not include mental health benefits;

(4) “mental health benefits” means benefits with respect to mental health services, as defined under the terms of the policy, but does not include benefits with respect to treatment of substance abuse or chemical dependency.

(h) This section shall be effective for group policies providing hospital, medical or surgical expense benefits which are entered into or renewed after January 1, 1998. This section shall not apply to benefits for services furnished on or after December 31, ~~2004~~ 2005.

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

Sec. 12. K.S.A. 40-905, 40-2255, 40-37a01, 40-37a02, 40-37a03, 40-37a04, 40-37a05, 40-37a06 and 40-4502 and K.S.A. 2004 Supp. 40-2,131 and 40-2258 are hereby repealed.

Sec. 13. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the SENATE, and passed that body

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SENATE concurred in  
HOUSE amendments \_\_\_\_\_

\_\_\_\_\_  
*President of the Senate.*  
\_\_\_\_\_  
*Secretary of the Senate.*

Passed the HOUSE  
as amended \_\_\_\_\_

\_\_\_\_\_  
*Speaker of the House.*  
\_\_\_\_\_  
*Chief Clerk of the House.*

APPROVED \_\_\_\_\_  
\_\_\_\_\_  
*Governor.*