CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2107** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill, as printed with Senate Committee amendments as follows:

On page 5, in line 28, after "applicant" by inserting ", policy holder"; in line 33, by striking "shall" and inserting "may";

On page 6, in line 23, by striking "shall" and inserting "may"; by striking all in lines 28 through 30 and inserting the following:

"Sec. 6. K.S.A. 2012 Supp. 40-2124 is hereby amended to read as follows: 40-2124. (a) Coverage under the plan shall be subject to both deductible and coinsurance provisions set by the board. The plan shall offer to current participants and new enrollees no fewer than four choices of deductible and copayment options. Coverage shall contain a coinsurance provision for each service covered by the plan, and such copayment requirement shall not be subject to a stop-loss provision. Such coverage may provide for a percentage or dollar amount of coinsurance reduction at specific thresholds of copayment expenditures by the insured.

(b) Coverage under the plan shall be subject to a maximum lifetime benefit of ~~$3,000,000~~ $4,000,000 per covered individual.

(c) Coverage under the plan shall exclude charges or expenses incurred during the first 90 days following the effective date of coverage as to any condition:

(1) Which manifested itself during the six-month period immediately prior to the application for coverage in such manner as would cause an ordinarily prudent person to seek diagnosis, care or treatment; or

(2) for which medical advice, care or treatment was recommended or received in the six-month period immediately prior to the application for coverage. In succeeding years of operation of the plan, coverage of preexisting conditions may be excluded as determined by the board, except that no such exclusion shall exceed 180 calendar days, and no exclusion shall be applied to either a federally defined eligible individual provided that application for coverage is made not later than 63 days following the applicant's most recent prior creditable coverage or an individual under the age of 19 years who is eligible for enrollment in the plan under paragraph (3) of subsection (b) of K.S.A. 40-2122, and amendments thereto. For any individual who is eligible for the credit for health insurance costs under section 35 of the internal revenue code of 1986, the preexisting conditions limitation will not apply whenever such individual has maintained creditable health insurance coverage for an aggregate period of three months, not counting any period prior to a 63-day break in coverage, as of the date on which such individual seeks to enroll in coverage provided by this act.

(d) (1) Benefits otherwise payable under plan coverage shall be reduced by all amounts paid or payable through any other health insurance, or insurance arrangement, and by all hospital and medical expense benefits paid or payable under any workers compensation coverage, automobile medical payment or liability insurance whether provided on the basis of fault or nonfault, and by any hospital or medical benefits paid or

payable under or provided pursuant to any state or federal law or program.

(2) The association shall have a cause of action against an eligible person for the recovery of the amount of benefits paid which are not covered expenses. Benefits due from the plan may be reduced or refused as a set-off against any amount recoverable under this section.

Sec. 7. K.S.A. 40-12a08 is hereby amended to read as follows: 40-12a08. No insured shall be liable for any amounts other than the annual premium. The business of the company shall be conducted so as to preclude any distribution of income, profit or property of the company to the individual members thereof except in payment of dividends, debts, claims or indemnities or upon the final dissolution of the company. Dividends may be credited to a member's account and distributed in accordance with a plan adopted by the board of directors.

Sec. 8. K.S.A. 39-719e is hereby amended to read as follows: 39-719e. (a) Upon the request of the secretary ~~of social and rehabilitation services~~ for aging and disability services or the Kansas department of health and environment, or both, each medical benefit plan provider that provides or maintains a medical benefit plan, that provides any hospital or medical services or any other health care or other medical benefits or services, or both, in Kansas, shall provide the secretary with information, to the extent known by the medical benefit plan provider, identifying each person who is covered by such medical benefit plan or who is otherwise provided any such hospital or medical services or any other such health care or other medical benefits or services, or both, in Kansas under such medical benefit plan. The information shall be provided in such form as is

prescribed by the secretary for the purpose of comparing such information with medicaid beneficiary information maintained by the secretary to assist in identifying other health care or medical benefit coverage available to medicaid beneficiaries. The secretary shall reimburse each medical benefit plan provider that provides information under this section for the reasonable cost of providing such information.

(b) All information provided by medical benefit plan providers under this section shall be confidential and shall not be disclosed pursuant to the provisions of the open records act or under the provisions of any other law. Such information may be used solely for the purpose of determining whether medical assistance has been paid or is eligible to be paid by the secretary for which a recovery from a medical benefit plan provider is due under K.S.A. 39-719a, and amendments thereto.

(c) Failure to provide information pursuant to a request by the secretary ~~of social and rehabilitation services~~ for aging and disability services or the Kansas department of health and environment, or both, under this section shall constitute a failure to reply to an inquiry of the commissioner of insurance and shall be subject to the penalties applicable thereto under K.S.A. ~~40-226~~ 40-2,125, and amendments thereto. If a medical plan provider fails to provide information to the secretary ~~of social and rehabilitation services~~ for aging and disability services or the Kansas department of health and environment, or both, pursuant to a request under this section, the secretary shall notify the commissioner of such failure. The commissioner of insurance may pursue each such failure to provide such information in accordance with K.S.A. ~~40-226~~ 40-2,125, and amendments thereto.

(d) As used in this section:

(1) "Medical benefit plan" means any accident and health insurance or any other policy, contract, plan or agreement that provides benefits or services, or both, for any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas, whether or not such benefits or services, or both, are provided pursuant to individual, group, blanket or certificates of accident and sickness insurance, any other insurance providing any accident and health insurance, or any other policy, contract, plan or agreement providing any such benefits or services, or both, in Kansas, and includes any policy, plan, contract or agreement offered in Kansas pursuant to the federal employee retirement income security act of 1974 (ERISA) that provides any hospital or medical services or any other health care or medical benefits or services, or both, in Kansas; and

(2) "medical benefit plan provider" means any insurance company, nonprofit medical and hospital service corporation, health maintenance organization, fraternal benefit society, municipal group-funded pool, group-funded workers compensation pool or any other entity providing or maintaining a medical benefit plan.

(e) No medicaid provider who rendered professional services to a medicaid beneficiary and was paid by the secretary for such services shall be liable to the medical benefit plan provider for any amounts recovered pursuant to this act or pursuant to the provisions of K.S.A. 39-719a, and amendments thereto.

Sec. 9. K.S.A. 40-1612 is hereby amended to read as follows: 40-1612. In addition to the provisions of this article, the provisions set forth in the following sections

of the Kansas Statutes Annotated, and amendments thereto, which govern other types of insurance companies shall apply to reciprocals to the extent that such provisions do not conflict with the provisions of this article: Sections 40-208, 40-209, 40-214, 40-215, 40-216, 40-218, 40-220, 40-221a, 40-222, 40-223, 40-224, 40-225, 40-229, 40-229a, 40-231, 40-233, 40-234, 40-234a, 40-235, 40-236, 40-237, 40-238, 40-239, 40-240, 40-241, 40-242, 40-244, 40-245, 40-246, except as to contracts written through traveling salaried representatives to whom no commissions are paid, 40-246a, 40-247, 40-248, 40-249, 40-250, 40-251, 40-253, ~~40-254,~~ 40-256, 40-281, 40-2,125, 40-2,126, 40-2,127, 40-2,128, 40-2,156, 40-2,156a, 40-2,157, 40-2,159, 40-952, 40-2001, 40-2002, 40-2003, 40-2004, 40-2005, 40-2006 and 40-2404 and article 2a of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, and any other provision of law pertaining to insurance which specifically refers to reciprocals.

Sec. 10. K.S.A. 40-19a10 is hereby amended to read as follows: 40-19a10. (a) Such corporations shall be subject to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, ~~40-226,~~ 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, ~~40-254,~~ 40-2,102, 40-2a01 et seq., 40-2215 to 40-2220, inclusive, 40-2253, 40-2401 to 40-2421, inclusive, 40-3301 to 40-3313, inclusive, K.S.A. 40-2,125, 40-2,154 and 40-2,161, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise

restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

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

Sec. 11. K.S.A. 2012 Supp. 40-19c09 is hereby amended to read as follows: 40-19c09. (a) Corporations organized under the nonprofit medical and hospital service corporation act shall be subject to the provisions of the Kansas general corporation code, articles 60 to 74, inclusive, of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, applicable to nonprofit corporations, to the provisions of K.S.A. 40-214, 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, ~~40-226,~~ 40-229, 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250, 40-251, 40-252, ~~40-254,~~ 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-2,161, 40-2,163 through 40-2,170, inclusive, 40-2a01 et seq., 40-2111 to 40-2116, inclusive, 40-2215 to 40-2220, inclusive, 40-2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254, 40-2401 to 40-2421, inclusive, and 40-3301 to 40-3313, inclusive, K.S.A. 2012 Supp. 40-2,105a, 40-2,105b, 40-2,184 and 40-2,190, and amendments thereto, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act.

(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social

security act of 1965 are or may be available for the same accident or illness.

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

New Sec. 12. (a) This section shall apply to all insurers transacting business in the state offering individual or group sickness and accident insurance. Such insurers also may offer a mandate lite health benefit plan. A group or individual carrier may also offer a mandate lite health benefit plan.

(b) A mandate lite health benefit plan means an individual or group sickness and accident insurance plan that does not contain one or more of the Kansas-mandated benefits other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(c) The mandate lite health benefit plan shall contain the definitions of group or individual sickness and accident insurance with respect to major medical benefits and standard provisions or rights of coverage.

(d) The mandate lite health benefit plan may be issued on a group or individual basis.

(e) The insured shall be provided with a written notice that one or more of the state-mandated benefits are not included in the mandate lite health benefit plan.

(1) The mandate lite health benefit plan shall specify the health services that are included and shall specifically list the health services that will be limited or not covered from the list of state-mandated coverage other than K.S.A. 40-2,100 and 40-2,166, and amendments thereto.

(2) The insurer is required to retain a signed copy of this notice on file as a part

of the original application as evidence that the insured has acknowledged such notice.

(3) Such signed copy may be in original form, electronic file form or in any other reproducible file form as may be consistent with the insurer's method of retaining application copies.

(f) The definition of preexisting conditions may not be more restrictive than the definition of preexisting conditions normally used for the corresponding regular individual or group insurance contracts.

(g) The mandate lite health benefit plan may offer:

(1) Various optional combinations of coverage for generic, formulary and non-formulary drugs.

(2) The mandate lite health benefit plan may offer drug discount plans.

(h) A mandate lite health benefit plan may charge additional premiums for each optional benefit offered. Optional benefits may include mandated benefits that are not included in the mandate lite health benefit plan.

(i) This section shall be known and may be cited as the mandate lite health benefit plan act.

New Sec. 13. (a) Any portion of the health insurance premiums paid by consumers that are in fact passed through as commissions shall not be considered a part of administrative expenses and shall be excluded from all determinations of the medical loss ratio calculations when totaling the ratio of premiums paid by a consumer used for claims versus administrative expenses for a policy. Any portion of premiums identified as commissions must be paid to a nonemployee in order to be excluded. Any portion of the

premiums retained by the insurance company or its employees must be considered as a part of the calculation of the medical loss ratio as administrative related income.

(b) For the purposes of this section, "commission" means commissions to agents, consultation fees, counseling fees, consultant fees, and similar advising or sales compensation to a nonemployee licensed agent.

New Sec. 14. (a) For the purposes of this section:

(1) "Specially designed policy" means an insurance policy that by design may not meet all or part of the definitions of a group or individual sickness and accident insurance policy and includes temporary sickness and accident insurance on a short-term basis.

(2) "Short-term" means an insurance policy period of six months or 12 months, based upon policy design, which offers not more than one renewal period with or without a requirement of medical re-underwriting or medical requalification.

(A) Because a short-term policy addresses the special needs for temporary coverage, a short-term policy is not subject to continuation provisions of the health insurance portability and accountability act of 1996 (public law 104-191).

(B) Because a short-term policy addresses the special needs for temporary coverage, a short-term policy shall be exempt from medical loss ratio calculations associated with individual sickness and accident insurance issued within the state unless such calculation excludes any monthly administration fee associated with the sale of such policy.

(b) Specially designed policies shall include policies designed to provide

sickness and accident insurance for specific coverage of benefits or services that may be excluded as benefits or services cited under section 12, and amendments thereto. Specially designed policies may include the following stand-alone policies and coverages:

(1) Chiropractic plans;

(2) acupuncture coverage plans;

(3) holistic medical treatment plans;

(4) podiatrist plans;

(5) pharmacy plans;

(6) psychiatric plans;

(7) allergy plans; and

(8) such other stand-alone plans or combinations of plans of accepted traditional and nontraditional medical practice as shall be allowable for exclusion from group or individual plans under section 12, and amendments thereto.

(c) No specially designed policy shall be deemed to be included under the definition of group sickness and accident insurance, including short-term, limited-duration health insurance, issued or renewed inside or outside of this state and covering persons residing in this state.

Sec. 15. K.S.A. 39-719e, 40-254, 40-2,112, 40-12a08, 40-1612 and 40-19a10 and K.S.A. 2012 Supp. 40-19c09 and 40-2124 are hereby repealed.

Sec. 16. This act shall take effect and be in force from and after its publication in the statute book.";

On page 1, in the title, in line 1, by striking all after the semicolon; in line 2, by striking all before "enacting"; in line 3, by striking "allowing"; by striking all in line 4; in line 5, by striking all before the period and inserting "relating to the Kansas uninsurable health plan act; relating to updating certain statutory references; relating to mandate lite health benefit plans; amending K.S.A. 39-719e, 40-2,112, 40-12a08, 40-1612 and 40-19a10 and K.S.A. 2012 Supp. 40-19c09 and 40-2124 and repealing the existing sections; also repealing K.S.A. 40-254";

And your committee on conference recommends the adoption of this report.

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Conferees on part of Senate

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Conferees on part of House