

SENATE BILL No. 417

By Committee on Public Health and Welfare

2-9

1 AN ACT enacting the Kansas contraceptive equity act; providing
2 insurance coverage for contraceptives; amending K.S.A. 2017 Supp.
3 40-2,103 and 40-19c09 and repealing the existing sections.
4

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

6 New Section 1. (a) (1) Except as provided in subsection (b) and
7 section 2, and amendments thereto, any individual or group health
8 insurance policy, medical service plan, contract, hospital service
9 corporation contract, hospital and medical service corporation contract,
10 fraternal benefit society or health maintenance organization that provides
11 coverage for accident and health services and that is delivered, issued for
12 delivery, amended or renewed on or after January 1, 2019, shall provide
13 coverage for all of the following services and contraceptive methods:

14 (A) All federal food and drug administration-approved contraceptive
15 drugs, devices and other products, including those prescribed by the
16 covered person's provider or as otherwise authorized under state or federal
17 law. The following conditions shall apply:

18 (i) If there is a therapeutic equivalent of a federal food and drug
19 administration-approved contraceptive drug, device or product, the insurer
20 or plan must include either the original federal food and drug
21 administration-approved contraceptive drug, device or product or at least
22 one of its therapeutic equivalents; and

23 (ii) if the covered contraceptive drug, device or product is deemed
24 medically inadvisable by the covered person's provider, the insurer or plan
25 shall defer to the determination and judgment of the attending provider and
26 provide coverage for an alternate prescribed contraceptive drug, device or
27 product;

28 (B) voluntary sterilization procedures;

29 (C) patient education and counseling on contraception; and

30 (D) follow-up services related to the drugs, devices, products and
31 procedures covered under this section, including, but not limited to,
32 management of side effects, counseling for continued adherence and
33 device insertion and removal.

34 (2) An insurer or plan subject to this section shall not impose a
35 deductible, coinsurance, copayment, or any other cost-sharing requirement
36 on the coverage provided pursuant to this section. This subsection shall not

1 apply to grandfathered health plans.

2 (3) Except as otherwise authorized under this section, an insurer or
3 plan shall not impose any restrictions or delays on the coverage required
4 under this section.

5 (4) Benefits for an enrollee under this section shall be the same for an
6 enrollee's covered spouse or domestic partner and covered nonspouse
7 dependents.

8 (b) A religious employer may request an insurer or plan contract
9 without coverage for federal food or drug administration-approved
10 contraceptive methods used for contraceptive purposes that are contrary to
11 the religious employer's religious tenets. If so requested, an insurer or plan
12 contract shall be provided without coverage for contraceptive methods.
13 Every religious employer that invokes the exemption provided under this
14 subsection shall provide written notice to prospective enrollees prior to
15 enrollment with the insurer or plan, listing the contraceptive health care
16 services the employer refuses to cover for religious reasons.

17 (c) Nothing in this section shall be construed to exclude coverage for
18 contraceptive supplies as prescribed by a provider, acting within the
19 provider's scope of practice, for reasons other than contraceptive purposes
20 or for contraception that is necessary to preserve the life or health of an
21 enrollee.

22 (d) Nothing in this section shall be construed to require an insurer or
23 plan contract to cover experimental or investigational treatments.

24 (e) For purposes of this section, the following definitions apply:

25 (1) "Grandfathered health plan" has the meaning set forth in section
26 1251 of the federal patient protection and affordable care act (public law
27 111-148), as amended by the federal health care and education
28 reconciliation act of 2010 (public law 111-152), and any rules, regulations
29 or guidance issued thereunder.

30 (2) "Provider" means an individual who is certified or licensed
31 pursuant to law with authority to prescribe drugs.

32 (3) "Religious employer" means an organization that is organized and
33 operates as a nonprofit entity and is referred to in section 6033(a)(3)(A)(i)
34 or (iii) of the internal revenue code of 1986, as amended.

35 (4) "Therapeutic equivalent" has the meaning set forth by the federal
36 food and drug administration.

37 (f) The provisions of K.S.A. 40-2249a, and amendments thereto, shall
38 not apply to the provisions of this section.

39 New Sec. 2. The provisions of section 1, and amendments thereto,
40 shall not apply to any policy or certificate that provides coverage for any
41 specified disease, specified accident or accident-only coverage, credit,
42 dental, disability income, hospital indemnity, long-term care insurance as
43 defined by K.S.A. 40-2227, and amendments thereto, vision care or any

1 other limited supplemental benefit nor to any medicare supplement policy
2 of insurance as defined by the commissioner of insurance by rule and
3 regulation, any coverage issued as a supplement to liability insurance,
4 workers' compensation or similar insurance, automobile medical-payment
5 insurance or any insurance under which benefits are payable with or
6 without regard to fault, whether written on a group, blanket or individual
7 basis.

8 New Sec. 3. Sections 1 and 2, and amendments thereto, shall be
9 known and may be cited as the Kansas contraceptive equity act.

10 Sec. 4. K.S.A. 2017 Supp. 40-2,103 is hereby amended to read as
11 follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-
12 2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170,
13 ~~inclusive~~, 40-2250, K.S.A. 2017 Supp. 40-2,105a, 40-2,105b, 40-2,184,
14 40-2,190 ~~and~~, 40-2,194 *and section I*, and amendments thereto, shall apply
15 to all insurance policies, subscriber contracts or certificates of insurance
16 delivered, renewed or issued for delivery within or outside of this state or
17 used within this state by or for an individual who resides or is employed in
18 this state.

19 Sec. 5. K.S.A. 2017 Supp. 40-19c09 is hereby amended to read as
20 follows: 40-19c09. (a) Corporations organized under the nonprofit medical
21 and hospital service corporation act shall be subject to the provisions of
22 the Kansas general corporation code, articles 60 to 74, inclusive, of
23 chapter 17 of the Kansas Statutes Annotated, and amendments thereto,
24 applicable to nonprofit corporations, to the provisions of K.S.A. 40-214,
25 40-215, 40-216, 40-218, 40-219, 40-222, 40-223, 40-224, 40-225, 40-229,
26 40-230, 40-231, 40-235, 40-236, 40-237, 40-247, 40-248, 40-249, 40-250,
27 40-251, 40-252, 40-2,100, 40-2,101, 40-2,102, 40-2,103, 40-2,104, 40-
28 2,105, 40-2,116, 40-2,117, 40-2,125, 40-2,153, 40-2,154, 40-2,160, 40-
29 2,161, 40-2,163 through 40-2,170, ~~inclusive~~, 40-2a01 et seq., 40-2111 ~~to~~
30 *through* 40-2116, ~~inclusive~~, 40-2215 ~~to through~~ 40-2220, ~~inclusive~~, 40-
31 2221a, 40-2221b, 40-2229, 40-2230, 40-2250, 40-2251, 40-2253, 40-2254,
32 40-2401 ~~to through~~ 40-2421, ~~inclusive~~, and 40-3301 ~~to through~~ 40-3313,
33 ~~inclusive~~, K.S.A. 2017 Supp. 40-2,105a, 40-2,105b, 40-2,184, 40-2,190
34 ~~and~~, 40-2,194 *and section I*, and amendments thereto, except as the
35 context otherwise requires, and shall not be subject to any other provisions
36 of the insurance code except as expressly provided in this act.

37 (b) No policy, agreement, contract or certificate issued by a
38 corporation to which this section applies shall contain a provision ~~which~~
39 *that* excludes, limits or otherwise restricts coverage because medicaid
40 benefits as permitted by title XIX of the social security act of 1965 are or
41 may be available for the same accident or illness.

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

1 Sec. 6. K.S.A. 2017 Supp. 40-2,103 and 40-19c09 are hereby
2 repealed.

3 Sec. 7. This act shall take effect and be in force from and after its
4 publication in the statute book.