

**HOUSE BILL No. 2059**

By Committee on Insurance

1-22

1 AN ACT concerning insurance; relating to health insurance; exempting  
2 certain association health plans from requirements pertaining to small  
3 employer health plans; amending K.S.A. 40-2209p and repealing the  
4 existing section.  
5

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

7 Section 1. K.S.A. 40-2209p is hereby amended to read as follows: 40-  
8 2209p. (a) ~~On and after July 1, 1997, and~~ Subject to any exclusions set out  
9 in subsections (b) through ~~(e)~~ (d), each accident and sickness insurer that  
10 offers or renews policies providing hospital, medical or surgical expense  
11 benefits to a small employer must: (1) Accept every small employer that  
12 applies for such coverage; and (2) accept for enrollment all eligible  
13 employees or dependents under such policy who apply for enrollment  
14 during the period in which the eligible employee or dependent first  
15 becomes eligible to enroll under the terms of the policy.

16 (b) (1) In the case of an accident and health insurer that offers a  
17 policy providing hospital, medical or surgical expense benefits to a small  
18 employer through a medical service enrollment area the accident and  
19 health insurer may:

20 (A) Limit the small employers that may apply for such coverage to  
21 those with eligible employees or dependents who live, work or reside in  
22 the medical service enrollment area for such policy; and

23 (B) within the medical service enrollment area of such policy, deny  
24 coverage to such small employer if the accident and sickness insurer has  
25 demonstrated to the commissioner that: (i) It will not have the capacity to  
26 deliver services adequately to small employees and dependents of any  
27 additional small employers because of its obligations to existing small  
28 employer group policyholders or certificateholders and to eligible  
29 employees and dependents; and (ii) it will apply this paragraph uniformly  
30 to all small employers without regard to the claims experience of those  
31 small employers and their employees and dependents and without regard  
32 to the health status factors of any employees or dependents.

33 (2) An accident and sickness insurer ~~which~~ *that* denies coverage to a  
34 small employer under any policy providing hospital, medical or surgical  
35 expense benefits in any medical service enrollment area in accordance  
36 with subsection (b)(1)(B) may not offer such policies to small employers

1 within such medical service enrollment area for a period of 180 days after  
2 coverage is denied.

3 (c) (1) An accident and sickness insurer may deny coverage to a  
4 small employer under a policy providing hospital, medical or surgical  
5 expense benefits if the accident and sickness insurer has demonstrated to  
6 the commissioner that:

7 (A) It does not have the financial reserves necessary to underwrite  
8 additional coverage; and

9 (B) it is applying this paragraph uniformly to all small employers in  
10 this state without regard to the claims experience of the small employers  
11 and their employees and dependents and without regard to any health  
12 status factors of any employees or dependents.

13 (2) An accident and health insurer upon denying coverage to small  
14 employers under policies providing hospital, medical or surgical expense  
15 benefits in accordance with subsection (c)(1) may not offer any policies  
16 providing hospital, medical or surgical expense benefits to any small  
17 employer for a period of 180 days after the date such policies are denied or  
18 until the accident and health insurer has demonstrated to the commissioner  
19 that it has sufficient financial reserves to underwrite additional coverage,  
20 whichever is later.

21 (d) The requirements of subsection (a) shall not be construed to  
22 preclude an accident and health insurer from establishing employer  
23 contribution rules or group participation rules for the offering of policies  
24 providing hospital, medical or surgical expense benefits to small  
25 employers.

26 ~~(e) The requirements of subsection (a) shall not apply to small  
27 employer group policies offered by an accident and health insurer if such  
28 coverage is made available only through one or more associations.~~

29 ~~(f) As used in this subsection the following mean:~~

30 (1) "Dependent" means ~~those persons as defined in subsection (k) of~~  
31 ~~the same as defined in~~ K.S.A. 40-2209d, and amendments thereto;

32 (2) "eligible employee" means ~~those persons as defined in subsection~~  
33 ~~(h) of the same as defined in~~ K.S.A. 40-2209d, and amendments thereto;

34 (3) "employer contribution rule" means a requirement relating to the  
35 minimum level or amount of employer contribution toward the premium  
36 for enrollment of employees and dependents;

37 (4) "group participation rule" means a requirement relating to the  
38 minimum number of employees and dependents that must be enrolled in  
39 relation to a specified percentage or number of eligible employees or  
40 dependents;

41 (5) "health status related factors" means: (A) a physical or mental  
42 illness medical condition;; (B) claims experience;; (C) receipt of health  
43 care;; (D) medical history;; (E) genetic information;; (F) evidence of

1 insurability including conditions arising out of acts of domestic violence;  
2 and (H) disability; and

3 (6) "small employer" means ~~those employers as defined by~~  
4 ~~subsection (z) of the same as defined in~~ K.S.A. 40-2209d, and  
5 amendments thereto.

6 Sec. 2. K.S.A. 40-2209p is hereby repealed.

7 Sec. 3. This act shall take effect and be in force from and after April  
8 1, 2019, and its publication in the Kansas register.