

**KANSAS INSURANCE DEPARTMENT**  
**Notice of Hearing on Proposed**  
**Administrative Regulation**

A public hearing will be conducted at 1:30 p.m., December 18, 2014, in the third floor conference room, Kansas Insurance Department, 420 S.W. 9th, Topeka, Kansas, to consider the adoption of the proposed rules and regulations.

The 60-day notice of the public hearing shall constitute a public comment period for the purpose of receiving written public comments on the proposed rules and regulations. All interested parties may submit written comments prior to the hearing to Diane Minear, Kansas Insurance Department, 420 S.W. 9th, Topeka, Kansas, 66612-1678, via facsimile at 785-291-3190, or via email at [dminear@ksinsurance.org](mailto:dminear@ksinsurance.org). All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing.

A summary of the proposed regulations and their economic impact follows.

**K.A.R. 40-1-37. Audited financial reports; filing requirements.** This amendment to the existing regulation adopts by reference the most recent references to the *Annual Statement Instructions, Accounting Practices and Procedures Manual* and the *Financial Condition Examiners Handbook* of National Association of Insurance Commissioners (“NAIC”). The regulation requires that insurers file on an annual basis (1) an annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants, (2) Communication of Internal Control Related Matters Noted in an Audit, and (3) Management’s Report of Internal Control over Financial Reporting.

The economic impact on companies, if any, is positive because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. NAIC rules, regulations, and instructions are promulgated after input from the insurance industry and regulators nationwide. Companies and independent certified public accountants will generally be familiar with the format and requirements of these reports.

The economic impact will be positive, if any, because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. There will be little or no economic impact on the Kansas Insurance Department, consumers, small businesses, or other governmental agencies.

**K.A.R. 40-1-48. Risk-based capital instructions for health organizations.** This amendment to the existing regulation adopts by reference the most recent version of National Association of Insurance Commissioners (“NAIC”) health risk-based capital reports, including overview and instructions, for companies. Risk based capital is a method of measuring the minimum amount of capital appropriate for an insurance entity to support its overall business operation in consideration of its size and risk profile. Risk based capital standards for health organizations were enacted in Kansas in the year

2000 and have been amended. This regulation sets out the requirements and format of the risk-based capital report that all domestic health organizations are required to file each year.

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**K.A.R. 40-4-37e. Long-term care insurance; prohibitions.** This amendment to the existing regulation would delete the language from the regulation that is inconsistent with K.S.A. 40-2228(1).

Because current practice is consistent with this amendment, there is no economic impact on health insurers.

Similarly, there will be no economic impact on the Kansas Insurance Department, consumers, small businesses, or other governmental agencies.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request any proposed regulation and the economic impact statement in an accessible format. Requests for accommodation to participate in the hearing should be made at least 5 working days in advance by contacting Diane Minear at (785) 296-2676 or via email at [dminear@ksinsurance.org](mailto:dminear@ksinsurance.org). Any individual desiring a copy of any regulation and/or the policy and procedure that is being adopted by reference, if applicable, may obtain a copy from our website, [www.ksinsurance.org](http://www.ksinsurance.org), under the Legal Issues link or by contacting Diane Minear by phone at (785) 296-2676 or via email at [dminear@ksinsurance.org](mailto:dminear@ksinsurance.org). The charge for copies is fifty cents per page.

**K.A.R. 40-1-37. Audited financial reports; filing requirements.** The Kansas insurance department's "policy and procedure requiring annual audited financial reports," dated ~~July 19, 2013~~ April 21, 2014, is hereby adopted by reference. (Authorized by K.S.A. 40-103 and ~~K.S.A. 40-225~~; implementing K.S.A. 40-222b, K.S.A. ~~2012~~ 2013 Supp. 40-222, as amended by L. 2014, ch. 101, sec. 2, and K.S.A. 40-225; effective July 10, 1989; amended Jan. 4, 1993; amended Sept. 14, 2001; amended Sept. 21, 2007; amended July 6, 2009; amended March 18, 2011; amended June 29, 2012; amended Jan. 31, 2014; amended P-\_\_\_\_\_.)

**K.A.R. 40-1-48. Risk-based capital instructions for health organizations.** The following document prepared by the national association of insurance commissioners is hereby adopted by reference:

~~"2012~~ 2013 NAIC health risk-based capital report including overview and instructions for companies as of December 31, ~~2012~~ 2013," including the appendices and excluding the unnumbered page titled "companion products" and the preceding unnumbered page; the letter dated ~~August 29, 2012~~ September 6, 2013 to health risk-based capital ~~vendors~~ subscribers from ~~Eva Young~~ Crystal Brown; the health risk-based capital newsletter, volume ~~44.1~~ 15.1, dated ~~August 2012~~ September 2013; pages i and ii through iii; ~~the paragraph titled "trend test" on page 29~~; the health risk-based capital forecasting spreadsheet instructions; page XR026 titled "pandemic and biological risk - interrogatories (for informational purposes only)"; and the "health forecasting" CD-ROM attached to the inside back cover. (Authorized by K.S.A. 40-2d29; implementing K.S.A. 40-2d02(a) ~~and~~ , as amended by L. 2014, ch. 115, sec. 186, K.S.A. 40-2d03(a), and K.S.A. 2013 Supp. 40-2d05; effective Dec. 28, 2001; amended July 5, 2002; amended

Oct. 17, 2003; amended April 23, 2004; amended March 17, 2006; amended Dec. 1, 2008; amended Jan. 3, 2011; amended June 29, 2012; amended Jan. 31, 2014; amended P-\_\_\_\_\_.)

**40-4-37e. Long-term care insurance; ~~prohibited policy provisions~~**

**prohibitions.** A Each long-term care policy shall ~~not~~ be prohibited from the following:

(a) ~~Contain an~~ Containing more than one elimination period ~~greater than 100~~ days for ~~each period of confinement in a nursing home or for all confinements~~ periods of confinement in a nursing home ~~which that~~ are due to the same or related causes and separated from each other by less than six months;

(b) ~~Exclude~~ excluding coverage for confinement to an intermediate nursing facility ~~when if benefits are provided for nursing care~~ are provided;

(c) ~~provide~~ providing coverage for skilled nursing care only or ~~provide~~ providing significantly more coverage for skilled care in a facility than coverage for lower levels of care;

(d) ~~be~~ being delivered or issued for delivery to any person in this state, unless every printed portion of the text of the policy is plainly printed in not less than 10-point type;

(e) ~~require~~ requiring prior confinement to a hospital or prior confinement for a greater level of nursing care as a condition ~~precedent to the payment of~~ for paying inpatient benefits;

(f) ~~be~~ being delivered in this state, unless the following notice is attached to the policy:

“IMPORTANT NOTICE”

“Please read the copy of the application attached to this policy. Carefully check the application and write to the company...~~(address)~~..., within 30 days, if any information shown ~~on it is not correct and complete,~~ incorrect or incomplete or if any past medical history has been left out of the application. This application is a part of the policy and the policy was issued on the basis that answers to all questions and the information shown on the application are correct and complete.”

This statement, preferably in the form of a sticker to be placed on the policy, shall be printed in a prominent manner on paper or in ink of a contrasting color. The insurer may, with the approval of the commissioner of insurance, substitute wording of similar import ~~so long as~~ if equal results are obtained. This requirement shall not apply if the application for insurance is not attached to and made a part of the contract; ;

(g) ~~be~~ being cancelled, nonrenewed, ; or otherwise terminated on the grounds of the age or the deterioration of the mental or physical health of the insured individual or certificate holder; and

(h) if ~~it~~ the policy provides benefits for home health care or community care services, ~~limit~~ limiting or ~~exclude~~ excluding benefits by any of the following means:

(1) ~~By~~ Requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided;

(2) ~~by~~ requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services in a home, community, ; or institutional setting before home health care services are covered;

(3) ~~by~~ limiting eligible services to services provided by registered nurses or licensed practical nurses;

(4) ~~by~~ requiring that a nurse or therapist provide services covered by the policy ~~that if the services~~ can be provided instead by a home health aide, or other licensed or certified home care worker acting within the scope of the home care worker's licensure or certification;

(5) ~~by~~ excluding coverage for personal care services provided by a home health aide;

(6) ~~by~~ requiring that the provision of home health care services be at a level of certification or licensure greater than that required by the eligible service;

(7) ~~by~~ requiring that the insured or claimant have an acute condition before home health care services are covered;

(8) ~~by~~ limiting benefits to only those services provided by medicare-certified agencies or providers; or

(9) ~~by~~ excluding coverage for adult day care services. (Authorized by K.S.A. 40-103, K.S.A. ~~1994~~ 2013 Supp. 40-2228; implementing K.S.A. ~~1994~~ 2013 Supp. 40-2228; effective Jan. 4, 1993; amended P-\_\_\_\_\_.)

## **ECONOMIC IMPACT STATEMENT**

### ***Proposed Kansas Administrative Regulation 40-1-37***

Pursuant to the requirement of K.S.A. 77-416(b) the Kansas Insurance Department submits the following description of the economic impact of the above referenced proposed regulation K.A.R. 40-1-37:

1. This regulation adopts by reference the most recent references to the *Annual Statement Instructions, Accounting Practices and Procedures Manual* and the *Financial Condition Examiners Handbook* of National Association of Insurance Commissioners (“NAIC”). The regulation requires that insurers file on an annual basis (1) an annual audit of financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants, (2) Communication of Internal Control Related Matters Noted in an Audit, and (3) Management’s Report of Internal Control over Financial Reporting.

2. The economic impact on companies, if any, is positive because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. NAIC rules, regulations, and instructions are promulgated after input from the insurance industry and regulators nationwide. Companies and independent certified public accountants will generally be familiar with the format and requirements of these reports.

3. The economic impact will be positive, if any, because the reports that are required to be filed in Kansas are uniform formats as established by the NAIC. There will be little or no economic impact on the Kansas Insurance Department, consumers, small businesses, or other governmental agencies.

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### **ECONOMIC IMPACT STATEMENT**

#### ***Proposed Kansas Administrative Regulation 40-4-37e***

Pursuant to the requirement of K.S.A. 77-416(b) the Kansas Insurance Department submits the following description of the economic impact of the above referenced proposed amendment to K.A.R. 40-4-37e:

1. This amendment to the existing regulation would delete the language from the regulation that is inconsistent with K.S.A. 40-2228(1).

2. Because current practice is consistent with this amendment, there is no economic impact on health insurers.

3. Similarly, there will be no economic impact on the Kansas Insurance Department, consumers, small businesses, or other governmental agencies.