

As Amended by House Committee

Session of 2023

SENATE BILL No. 26

By Committee on Financial Institutions and Insurance

1-11

1 AN ACT concerning insurance; relating to health maintenance
2 organizations and medicare provider organizations; applications for
3 certificates of authority; specifying certain requirements necessary to
4 demonstrate fiscal soundness; amending K.S.A. 40-3203 and repealing
5 the existing section.

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

8 Section 1. K.S.A. 40-3203 is hereby amended to read as follows: 40-
9 3203. (a) Except as otherwise provided by this act, it shall be unlawful for
10 any person to provide health care services in the manner prescribed in
11 ~~subsection (n) or subsection (r)~~ of K.S.A. 40-3202(n) or (r), and
12 amendments thereto, without first obtaining a certificate of authority from
13 the commissioner.

14 (b) Applications for a certificate of authority shall be made in the
15 form required by the commissioner and shall be verified by an officer or
16 authorized representative of the applicant and shall set forth or be
17 accompanied by:

18 (1) A copy of the basic organizational documents of the applicant
19 such as articles of incorporation, partnership agreements, trust agreements
20 or other applicable documents;

21 (2) a copy of the bylaws, regulations or similar document, if any,
22 regulating the conduct of the internal affairs of the applicant;

23 (3) a list of the names, addresses, official capacity with the
24 organization and biographical information for all of the persons who are to
25 be responsible for the conduct of its affairs, including all members of the
26 governing body, the officers and directors in the case of a corporation and
27 the partners or members in the case of a partnership or corporation;

28 (4) a sample or representative copy of any contract or agreement
29 made or to be made between the health maintenance organization or
30 medicare provider organization and any class of providers and a copy of
31 any contract made or agreement made or to be made, excluding individual
32 employment contracts or agreements, between third party administrators,
33 marketing consultants or persons listed in subsection (3) and the health
34 maintenance organization or medicare provider organization;

35 (5) a statement generally describing the organization, its enrollment
36 process, its operation, its quality assurance mechanism, its internal

1 grievance procedures, in the case of a health maintenance organization the
2 methods it proposes to use to offer its enrollees an opportunity to
3 participate in matters of policy and operation, the geographic area or areas
4 to be served, the location and hours of operation of the facilities at which
5 ~~health-care~~ *healthcare* services will be regularly available to enrollees in
6 the case of staff and group practices, the type and specialty of ~~health-care~~
7 *healthcare* personnel and the number of personnel in each specialty
8 category engaged to provide ~~health-care~~ *healthcare* services in the case of
9 staff and group practices; and a records system providing documentation
10 of utilization rates for enrollees. In cases other than staff and group
11 practices, the organization shall provide a list of names, addresses and
12 telephone numbers of providers by specialty;

13 (6) copies of all contract forms the organization proposes to offer
14 enrollees together with a table of rates to be charged;

15 (7) the following statements of the fiscal soundness of the
16 organization:

17 (A) Descriptions of financing arrangements for operational deficits
18 and for developmental costs if operational one year or less;

19 (B) a copy of the most recent unaudited financial statements of the
20 health maintenance organization or medicare provider organization;

21 (C) financial projections in conformity with statutory accounting
22 practices prescribed or otherwise permitted by the department of insurance
23 of the state of domicile for a minimum of three years ~~from the anticipated~~
24 ~~date of certification and on a monthly basis from the date of certification~~
25 ~~through one year from the date of application~~. If the health maintenance
26 organization or medicare provider organization is expected to incur a
27 deficit, projections shall be made for each deficit year and for one year
28 thereafter, *up to a maximum of five years*. All financial projections shall
29 include:

30 (i) ~~Monthly statements of revenue and expense for the first year on a~~
31 ~~gross dollar as well as per member per month basis, with quarters~~
32 ~~consistent with standard calendar year quarters;~~

33 (ii) ~~quarterly~~ Statements of revenue and expense for each ~~subsequent~~
34 year;

35 (iii) ~~(ii)~~ a ~~quarterly~~ balance sheet *for each year*; and

36 (iv) ~~(iii)~~ a statement and justification of assumptions;

37 (8) a description of the procedure to be utilized by a health
38 maintenance organization or medicare provider organization to provide
39 for:

40 (A) Offering enrollees an opportunity to participate in matters of
41 policy and operation of a health maintenance organization;

42 (B) monitoring of the quality of care provided by such organization
43 including, as a minimum, peer review; and

1 (C) resolving complaints and grievances initiated by enrollees;

2 (9) a written irrevocable consent duly executed by such applicant, if
3 the applicant is a nonresident, appointing the commissioner as the person
4 upon whom lawful process in any legal action against such organization on
5 any cause of action arising in this state may be served and that such
6 service of process shall be valid and binding in the same extent as if
7 personal service had been had and obtained upon said nonresident in this
8 state;

9 (10) a plan, in the case of group or staff practices, that will provide
10 for maintaining a medical records system ~~which~~ *that* is adequate to provide
11 an accurate documentation of utilization by every enrollee, such system to
12 identify clearly, at a minimum, each patient by name, age and sex and to
13 indicate clearly the services provided, when, where, and by whom, the
14 diagnosis, treatment and drug therapy, and in all other cases, evidence that
15 contracts with providers require that similar medical records systems be in
16 place;

17 (11) evidence of adequate insurance coverage or an adequate plan for
18 self-insurance to respond to claims for injuries arising out of the furnishing
19 of ~~health care~~ *healthcare*;

20 (12) such other information as may be required by the commissioner
21 to make the determinations required by K.S.A. 40-3204, and amendments
22 thereto; and

23 (13) in lieu of any of the application requirements imposed by this
24 section on a medicare provider organization, the commissioner may accept
25 any report or application filed by the medicare provider organization with
26 the appropriate examining agency or official of another state or agency of
27 the federal government.

28 (c) The commissioner may promulgate rules and regulations the
29 commissioner deems necessary to the proper administration of this act to
30 require a health maintenance organization or medicare provider
31 organization, subsequent to receiving its certificate of authority to submit
32 the information, modifications or amendments to the items described in
33 subsection (b) to the commissioner prior to the effectuation of the
34 modification or amendment or to require the health maintenance
35 organization to indicate the modifications to the commissioner. Any
36 modification or amendment for which the approval of the commissioner is
37 required shall be deemed approved unless disapproved within 30 days,
38 except the commissioner may postpone the action for such further time,
39 not exceeding an additional 30 days, as necessary for proper consideration.
40

41 Sec. 2. K.S.A. 40-3203 is hereby repealed.

42 Sec. 3. This act shall take effect and be in force from and after its
43 publication in the ~~statute book~~ **Kansas register**.