

## HOUSE BILL No. 2401

By Committee on Insurance

2-9

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9 AN ACT concerning insurance; enacting the Kansas limited health serv-  
10 ices organization act.

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

13 Section 1. As used in this act, unless the context requires otherwise,  
14 the following words and phrases shall have the meanings ascribed to them  
15 in this section: (a) "Commissioner" means the commissioner of insurance  
16 of the state of Kansas.

17 (b) "Enrollee" means an individual, including dependents, who is en-  
18 titled to limited health services pursuant to a contract with an entity au-  
19 thorized to provide or arrange for such services under this act.

20 (c) "Evidence of coverage" means the certificate, agreement or con-  
21 tract issued pursuant to section 9, and amendments thereto, setting forth  
22 the coverage to which an enrollee is entitled.

23 (d) "Limited health service" means pharmaceutical services, dental  
24 care services, vision care services, mental health services, substance abuse  
25 services, podiatric care services and such other services as may be deter-  
26 mined by the commissioner to be limited health services. Limited health  
27 service shall not include hospital, medical, surgical or emergency services  
28 except as these services are provided incident to the limited health serv-  
29 ices set forth in the preceding sentence.

30 (e) "Limited health service organization" means any corporation,  
31 partnership or other entity that, in return for a prepayment, undertakes  
32 to provide or arrange for the provision of one or more limited health  
33 services to enrollees. Limited health service organization does not  
34 include:

35 (1) Any entity otherwise authorized pursuant to the laws of this state  
36 either to provide any limited health service on a prepayment or other  
37 basis or to indemnify for any limited health service;

38 (2) any entity that meets the requirements of section 7, and amend-  
39 ments thereto; or

40 (3) any provider or entity when providing or arranging for the pro-  
41 vision of limited health services pursuant to a contract with a limited  
42 health service organization or with an entity described in paragraph (1)  
43 or (2) of this subsection.

- 1 (f) "Provider" means a physician, dentist, health facility or other per-  
2 son or institution that is licensed or otherwise authorized to deliver or  
3 furnish limited health services.
- 4 (g) "Subscriber" means the person whose employment or other  
5 status, except for family dependency, is the basis for entitlement to lim-  
6 ited health services pursuant to a contract with an entity authorized to  
7 provide or arrange for such services under this act.
- 8 Sec. 2. (a) No person, corporation, partnership or other entity may  
9 operate a limited health service organization in this state without obtain-  
10 ing and maintaining a certificate of authority from the commissioner pur-  
11 suant to this act.
- 12 (b) An application for a certificate of authority to operate a limited  
13 health service organization shall be filed with the commissioner on a form  
14 prescribed by the commissioner. The application shall be verified by an  
15 officer or authorized representative of the applicant and shall set forth,  
16 or be accompanied by, the following:
- 17 (1) A copy of the applicant's basic organizational document, such as  
18 the articles of incorporation, articles of association, partnership agree-  
19 ment, trust agreement or other applicable documents and all amend-  
20 ments to these documents;
- 21 (2) a copy of all bylaws, rules and regulations or similar documents,  
22 if any, regulating the conduct of the applicant's internal affairs;
- 23 (3) a list of the names, addresses, official positions and biographical  
24 information of the individuals who are responsible for conducting the  
25 applicant's affairs, including, but not limited to, all members of the board  
26 of directors, board of trustees, executive committee or other governing  
27 board or committee, the principal officers, and any person or entity own-  
28 ing or having the right to acquire 10% or more of the voting securities of  
29 the applicant, and the partners or members in the case of a partnership  
30 or association;
- 31 (4) a statement generally describing the applicant, its facilities, per-  
32 sonnel and the limited health services to be offered;
- 33 (5) a copy of the form of any contract made or to be made between  
34 the applicant and any providers regarding the provision of limited health  
35 services to enrollees;
- 36 (6) a copy of the form of any contract made, or to be made between  
37 the applicant and any person listed in subsection (c) of this section;
- 38 (7) a copy of the form of any contract made or to be made between  
39 the applicant and any person, corporation, partnership or other entity for  
40 the performance on the applicant's behalf of any functions including, but  
41 not limited to, marketing, administration, enrollment, investment man-  
42 agement and subcontracting for the provision of limited health services  
43 to enrollees;

- 1 (8) a copy of the form of any group contract that is to be issued to  
2 employers, unions, trustees or other organizations and a copy of any form  
3 of evidence of coverage to be issued to subscribers;
- 4 (9) a copy of the applicant's most recent financial statements audited  
5 by independent certified public accountants. If the financial affairs of the  
6 applicant's parent company are audited by independent certified public  
7 accountants but those of the applicant are not, then a copy of the most  
8 recent audited financial statement of the applicant's parent company, cer-  
9 tified by an independent certified public accountant, attached to which  
10 shall be consolidating financial statements of the applicant, shall satisfy  
11 this requirement unless the commissioner determines that additional or  
12 more recent financial information is required for the proper administra-  
13 tion of this act;
- 14 (10) a copy of the applicant's financial plan, including a three-year  
15 projection of anticipated operating results, a statement of the sources of  
16 working capital and any other sources of funding and provisions for  
17 contingencies;
- 18 (11) a schedule of rates and charges;
- 19 (12) a description of the proposed method of marketing;
- 20 (13) a statement acknowledging that all lawful process in any legal  
21 action or proceeding against the applicant on a cause of action arising in  
22 this state is valid if served in accordance with K.S.A. 40-218 and amend-  
23 ments thereto;
- 24 (14) a description of the complaint procedures to be established and  
25 maintained as required under this act;
- 26 (15) a description of the quality assessment and utilization review  
27 procedures to be utilized by the applicant;
- 28 (16) a description of how the applicant will comply with the solvency  
29 provisions of this act;
- 30 (17) the fee for issuance of a certificate of authority, as provided in  
31 this act; and
- 32 (18) such other information as the commissioner may reasonably re-  
33 quire to make the determinations required by this act.
- 34 (c) The commissioner may promulgate rules and regulations the com-  
35 missioner deems necessary to the proper administration of this act to  
36 require a limited health service organization, subsequent to receiving its  
37 certificate of authority to submit the information, modifications or  
38 amendments to the items described in subsection (b) to the commissioner  
39 prior to the effectuation of the modification or amendment or to require  
40 the limited health service organization to indicate the modifications to  
41 the commissioner.
- 42 (d) Any modification or amendment for which the approval of the  
43 commissioner is required shall be deemed approved unless disapproved

1 within 30 days, except the commissioner may postpone the action for such  
2 further time, not exceeding an additional 30 days, as necessary for proper  
3 consideration.

4 Sec. 3. (a) Following receipt of an application filed pursuant to this  
5 act, the commissioner shall review the application and notify the applicant  
6 of any deficiencies. The commissioner shall issue a certificate of authority  
7 to an applicant provided that the following conditions are met:

8 (1) The requirements of this act have been fulfilled;

9 (2) the individuals responsible for conducting the applicant's affairs  
10 are competent, trustworthy and possess good business reputations, and  
11 have had appropriate experience, training or education;

12 (3) the applicant is financially responsible and may reasonably be ex-  
13 pected to meet its obligations to enrollees and to prospective enrollees.  
14 In making this determination, the commissioner may consider:

15 (A) The financial soundness of the applicant's arrangements for lim-  
16 ited health services and the minimum standard rates, deductibles, copay-  
17 ments and other patient charges used in connection therewith;

18 (B) the adequacy of applicant's working capital, other sources of  
19 funding, and provisions for contingencies;

20 (C) any agreement for paying the cost of the limited health services  
21 or for alternative coverage in the event of insolvency of the limited health  
22 service organization; and

23 (D) the manner in which the solvency requirements of this act have  
24 been fulfilled;

25 (4) the agreements with providers for the provision of limited health  
26 services contain the provisions required by this act; and

27 (5) any deficiencies identified by the commissioner have been  
28 corrected.

29 (b) If the certificate of authority is denied, the commissioner shall  
30 notify the applicant and shall specify the reasons for denial in the notice.  
31 The limited health service organization shall have 15 days from the date  
32 of receipt of the notice to request a hearing before the commissioner in  
33 accordance with the provisions of the Kansas administrative procedure  
34 act.

35 Sec. 4. Within 60 days after the effective date of this act, every lim-  
36 ited health service organization operating in this state without a certificate  
37 of authority shall submit an application for a certificate of authority to the  
38 commissioner. Each such organization may continue to operate during  
39 the pendency of its application. In the event an application is denied  
40 under this section, the applicant will then be treated as a limited health  
41 service organization whose certificate of authority has been revoked.

42 Sec. 5. (a) An entity authorized pursuant to the laws of this state to  
43 operate a health maintenance organization, an accident and health insur-

1   ance company, a nonprofit health, hospital or medical service corporation  
2   or a fraternal benefit society and that is not otherwise authorized pursuant  
3   to the laws of this state to offer limited health services on a per capita or  
4   fixed prepayment basis may do so by filing for approval with the com-  
5   missioner the information required by this act.

6   (b) If the commissioner disapproves the filing, the procedures set  
7   forth in this act shall be followed.

8   Sec. 6. (a) (1) Prior to use, a limited health service organization shall  
9   file with the commissioner a notice of any change in rates, charges or  
10  benefits and of any material modification of any matter or document  
11  furnished pursuant to this act, together with supporting documents nec-  
12  essary to justify the change or modification.

13  (2) If the commissioner does not disapprove such filing within 30 days  
14  of its receipt by the commissioner, such filing shall be deemed approved.

15  (b) (1) If a limited health service organization desires to add one or  
16  more limited health services, it shall file a notice with the commissioner  
17  and, at the same time, shall submit the information required by this act  
18  (if different from that filed with the limited health service organization's  
19  application), and shall demonstrate compliance with the provider con-  
20  tracts, solvency and fees sections of this act.

21  (2) If the commissioner does not disapprove such filing within 30 days  
22  of its receipt by the commissioner, such filing shall be deemed approved.

23  (c) If any such filing is disapproved, the commissioner shall notify the  
24  limited health service organization and shall specify the reasons for dis-  
25  approval. The limited health service organization shall have 15 days from  
26  the date of receipt of notice of disapproval to request a hearing before  
27  the commissioner in accordance with the Kansas administrative proce-  
28  dure act.

29  Sec. 7. (a) Every subscriber shall be issued a certificate of coverage  
30  which shall contain a clear and complete statement of:

31  (1) The limited health services to which each enrollee is entitled;

32  (2) any limitation of the services, kinds of services or benefits to be  
33  provided;

34  (3) any exclusions, including any deductible, copayment or other  
35  charges;

36  (4) where and in what manner information is available as to where  
37  and how services may be obtained; and

38  (5) the method for resolving complaints.

39  (b) Any amendment to the evidence of coverage may be provided to  
40  the subscriber in a separate document.

41  Sec. 8. The rates and charges shall be reasonable in relation to the  
42  services provided. The commissioner may request information from the  
43  limited health service organization supporting the appropriateness of the

1 rates and charges.

2 Sec. 9. (a) (1) A limited health service organization organized under  
3 the laws of this state shall be deemed to be a domestic insurer for pur-  
4 poses of K.S.A. 40-3301 et seq., and amendments thereto, unless specif-  
5 ically exempted in writing by the commissioner from one or more of the  
6 provisions of that act.

7 (2) A limited health service organization shall be subject to the pro-  
8 visions of K.S.A. 40-2401 et seq. and amendments thereto.

9 (3) No other provision of the insurance code shall apply to a limited  
10 health service organization unless such an organization is specifically men-  
11 tioned therein.

12 (b) The provision of limited health services by a limited health service  
13 organization or other entity pursuant to this act shall not be deemed to  
14 be the practice of medicine or other healing arts.

15 (c) Solicitation to arrange for or provide limited health services in  
16 accordance with this act shall not be construed to violate any provision of  
17 law relating to solicitation or advertising by health professionals.

18 Sec. 10. Notwithstanding any other law of this state, a limited health  
19 service organization, health maintenance organization, accident and  
20 health insurance company, nonprofit health or hospital or medical service  
21 corporation or fraternal benefit society may exclude, in any contract or  
22 policy issued to a group, any coverage that would duplicate the coverage  
23 for limited health services (whether in the form of services, supplies or  
24 reimbursement), insofar as the coverage or service is provided in accord-  
25 ance with this act under a contract or policy issued to the same group or  
26 to a part of that group by a limited health service organization, a health  
27 maintenance organization, an accident and health insurance company, a  
28 nonprofit health or hospital or medical service corporation or a fraternal  
29 benefit society.

30 Sec. 11. Each limited health service organization shall provide in its  
31 certificate of coverage the procedures for resolving enrollee grievances.  
32 At a minimum, the certificate of coverage shall include the following  
33 provisions:

34 (a) The definition of a grievance;

35 (b) how, where and to whom the enrollee should file such enrollee's  
36 grievance; and

37 (c) that upon receiving notification of a grievance related for payment  
38 of a bill for services, the limited health service organization shall:

39 (1) Acknowledge receipt of the grievance in writing within 10 working  
40 days after receipt of such grievance unless such grievance is resolved  
41 within that period of time;

42 (2) conduct a complete investigation of the grievance within 20 work-  
43 ing days after receipt of a grievance, unless the investigation cannot be

1 completed within this period of time; and

2 (3) every limited health service organization shall establish and main-  
3 tain a complaint system providing reasonable procedures for resolving  
4 written complaints initiated by enrollees and providers. Nothing herein  
5 shall be construed to preclude an enrollee or a provider from filing a  
6 complaint with the commissioner or as limiting the commissioner's ability  
7 to investigate any such complaint.

8 Sec. 12. (a) The commissioner may examine the affairs of any limited  
9 health service organization as often as is reasonably necessary to protect  
10 the interests of the people of this state, but not less frequently than once  
11 every three years.

12 (b) Every limited health service organization shall make its relevant  
13 books and records available for an examination and in every way cooperate  
14 with the commissioner to facilitate an examination.

15 (c) The reasonable expenses of an examination under this section  
16 shall be charged to the organization being examined and remitted to the  
17 commissioner.

18 (d) In lieu of an examination, the commissioner may accept the report  
19 of an examination made by the appropriate examining agency or official  
20 of another state or agency of the federal government.

21 Sec. 13. With the exception of investments made in accordance with  
22 other provisions of this act, the investable funds of a limited health service  
23 organization shall be invested only in securities or other instruments per-  
24 mitted by article 2a of chapter 40 of the Kansas Statutes Annotated, and  
25 amendments thereto, or such other securities or investments as the com-  
26 missioner may permit.

27 Sec. 14. No individual may apply, procure, negotiate or place for  
28 others any policy or contract of a limited health service organization unless  
29 that individual holds a license or is otherwise authorized to sell accident  
30 and health insurance policies, health, hospital or medical service con-  
31 tracts, or health maintenance organization contracts.

32 Sec. 15. All contracts with providers or with entities subcontracting  
33 for the provision of limited health services to enrollees on a prepayment  
34 or other basis shall contain or shall be required to contain the following  
35 terms and conditions: (a) In the event the limited health service organi-  
36 zation fails to pay for limited health services for any reason whatsoever,  
37 including, but not limited to, insolvency or breach of contract, the en-  
38 rollees shall not be liable to the provider for any sums owed to the pro-  
39 vider under the contract.

40 (b) No provider, agent, trustee or assignee thereof may maintain an  
41 action at law or attempt to collect from the enrollee any sum owed to the  
42 provider by the limited health service organization.

43 (c) These provisions do not prohibit collection of any uncovered

1 charge consented to by an enrollee or collection of any copayment re-  
2 gardless of the reason giving rise to the termination.

3 (d) Termination of the contract shall not release the provider from  
4 completing any procedure in progress on any enrollee then receiving  
5 treatment for a specific condition for a period not to exceed 30 days, at  
6 the same schedule of copayment or other applicable charge in effect upon  
7 the effective date of termination of the contract.

8 (e) Any amendment to these foregoing provisions of the contract shall  
9 be submitted to and be approved by the commissioner prior to such  
10 amendment becoming effective.

11 Sec. 16. (a) Except as provided in paragraph (d), before issuing any  
12 certificate of authority, the commissioner shall require that the limited  
13 health service organization have an initial net worth of \$1,500,000, of  
14 which \$750,000 shall be met by cash or cash equivalents, and shall there-  
15 after maintain such minimum net worth of \$1,500,000.

16 (b) For the purpose of this section:

17 (1) "Minimum net worth" means the excess of total assets over total  
18 liabilities, excluding liabilities which have been subordinated in a manner  
19 acceptable to the commissioner.

20 (2) "Net worth" means net equity reduced by the value assigned to  
21 intangible assets including, but not limited to, goodwill; going concern  
22 value; organizational expense; starting-up costs; long-term prepayments  
23 of deferred charges; nonreturnable deposits; and obligations of any offi-  
24 cer, director, owner or affiliate, except short-term obligations of an affil-  
25 iate for goods or services arising in the normal course of business that are  
26 payable on the same terms as equivalent transactions with a nonaffiliate  
27 and that are not past due.

28 (3) "Cash or cash equivalents" means those current assets that can  
29 be converted to cash in one year or less.

30 (c) Unless otherwise provided below, each limited health service or-  
31 ganization shall deposit with the commissioner or with any organization  
32 or trustee acceptable to the commissioner through which a custodial or  
33 controlled account is utilized, cash, securities or any combination of these  
34 or other measures, for the benefit of all of the enrollees of the limited  
35 health service organization, that are acceptable in the amount of  
36 \$100,000.

37 (1) The deposit shall be an admitted asset of the limited health service  
38 organization in the determination of tangible net equity.

39 (2) All income from deposits shall be an asset of the limited health  
40 service organization. A limited health service organization may withdraw  
41 a deposit or any part thereof after making a substitute deposit of equal  
42 amount and value.

43 (3) Any securities shall be approved by the commissioner before be-

1 ing substituted.

2 (4) The deposit shall be used to protect the interests of the limited  
3 health service organization's enrollees and to assure continuation of lim-  
4 ited health care services to enrollees of a limited health service organi-  
5 zation that is in rehabilitation or conservation. If a limited health service  
6 organization is placed in receivership or liquidation, the deposit shall be  
7 an asset subject to provisions of the liquidation act.

8 (5) The commissioner may reduce or eliminate the deposit require-  
9 ment if the limited health service organization has made an acceptable  
10 deposit with the state or jurisdiction of domicile for the protection of all  
11 enrollees, wherever located, and delivers to the commissioner a certificate  
12 to that effect, duly authenticated by the appropriate state official holding  
13 the deposit.

14 (d) The commissioner may waive any of the requirements set forth  
15 in subsections (a) through (c) whenever satisfied that:

16 (1) The organization has sufficient net worth or an adequate history  
17 of generating net income to assure its financial viability, or both, for the  
18 next year;

19 (2) the organization's performance and obligations are guaranteed by  
20 an organization with sufficient net worth and an adequate history of gen-  
21 erating net income; or

22 (3) the assets of the organization or its contracts with insurers, hos-  
23 pital or medical service corporations, governments or other organizations  
24 are reasonably sufficient to assure the performance of its obligations.

25 (e) The commissioner shall require that each limited health service  
26 organization have a plan for handling insolvency which allows for contin-  
27 uation of coverage and benefits for the duration of the contract period.

28 (f) The health organization risk-based capital requirements, as stated  
29 in K.S.A. 40-2d01, et seq., shall not apply to any limited health service  
30 organization contracting for services provided under Title XVIII, XIX or  
31 XXI of the social security act or any other public benefits, provided the  
32 public benefit contracts represent at least 90% of the premium volume  
33 of the limited health service organization.

34 Sec. 17. Each limited health service organization shall demonstrate  
35 that it has the assets available to meet any projected losses. The assets  
36 required under this section may be satisfied by any combination of assets  
37 and other arrangements acceptable to the commissioner, including pa-  
38 rental guarantees and letters of credit.

39 Sec. 18. Each limited health service organization shall maintain in  
40 force a fidelity bond in its own name on its officers and employees in an  
41 amount not less than \$175,000 or in any other amount prescribed by the  
42 commissioner. Except as otherwise provided by this subsection, the bond  
43 must be issued by an insurance company that is licensed to do business

1 in this state or, if the fidelity bond required by this subsection is not  
2 available from an insurance company that holds a certificate of authority  
3 in this state, a fidelity bond procured by a surplus lines agent resident in  
4 this state and licensed in compliance with K.S.A. 40-246b, and amend-  
5 ments thereto, shall satisfy the requirements of this subsection.

6 Sec. 19. (a) On or before April 1, each limited health service organ-  
7 ization shall file with the commissioner annually, a report verified by at  
8 least two principal officers covering the preceding calendar year.

9 (b) The report shall be on forms prescribed by the commissioner and  
10 shall include:

11 (1) A financial statement of the organization, including its balance  
12 sheet, income statement and statement of changes in financial position  
13 for the preceding year, certified by an independent public accountant or  
14 a consolidated audited financial statement of its parent company certified  
15 by an independent public accountant, attached to which shall be consol-  
16 idating financial statements of the limited health service organization;

17 (2) the number of subscribers at the beginning of the year, the num-  
18 ber of subscribers as of the end of the year and the number of enrollments  
19 terminated during the year; and

20 (3) such other information relating to the performance of the organ-  
21 ization as is necessary to enable the commissioner to carry out the com-  
22 missioner's duties under this act.

23 (c) The commissioner may require more frequent reports containing  
24 such information as is necessary to enable the commissioner to carry out  
25 the commissioner's duties under this act.

26 (d) The commissioner may assess a fine of up to \$100 per day for  
27 each day any required report is late, and the commissioner may suspend  
28 the organization's certificate of authority pending the proper filing of the  
29 required report by the organization.

30 Sec. 20. (a) The commissioner may suspend or revoke the certificate  
31 of authority issued to a limited health service organization pursuant to  
32 this act upon determining that any of the following conditions exist:

33 (1) The limited health service organization is operating significantly  
34 in contravention of its basic organizational document or in a manner con-  
35 trary to that described in and reasonably inferred from any other infor-  
36 mation submitted pursuant to this act, unless amendments to the sub-  
37 missions have been filed with and approved by the commissioner;

38 (2) the limited health service organization issues a certificate of cov-  
39 erage or uses any rate or charge that does not comply with the require-  
40 ments of this act;

41 (3) the limited health service organization is unable to fulfill its ob-  
42 ligations to furnish limited health services;

43 (4) the limited health service organization is not financially respon-

- 1 sible and may reasonably be expected to be unable to meet its obligations  
2 to enrollees or prospective enrollees;
- 3 (5) the tangible net equity of the limited health service organization  
4 is less than that required by this act or the limited health service organ-  
5 ization has failed to correct any deficiency in its tangible net equity as  
6 required by the commissioner;
- 7 (6) the limited health service organization has failed to implement in  
8 a reasonable manner the complaint system required by this act;
- 9 (7) the continued operation of the limited health service organization  
10 would be hazardous to its enrollees; or
- 11 (8) the limited health service organization has otherwise failed to  
12 comply with this act.
- 13 (b) If the commissioner has cause to believe that grounds for the  
14 suspension or revocation of a certificate of authority exist, the commis-  
15 sioner shall notify the limited health service organization in writing spe-  
16 cifically stating the grounds for suspension or revocation and fixing a time  
17 not more than 60 days thereafter for a hearing on the matter in accord-  
18 ance with the procedures of the Kansas administrative procedure act.
- 19 (c) When the certificate of authority of a limited health service or-  
20 ganization is revoked, the organization shall proceed, immediately follow-  
21 ing the effective date of the order of revocation, to wind up its affairs,  
22 and shall conduct no further business except as may be essential to the  
23 orderly conclusion of the affairs of the organization. Such limited health  
24 service organization shall engage in no further advertising or solicitation  
25 whatsoever.
- 26 (d) By written order, the commissioner may permit such further op-  
27 eration of the limited health services organization as the commissioner  
28 may find to be in the best interest of enrollees, to the end that enrollees  
29 will be afforded the greatest practical opportunity to obtain continuing  
30 limited health services.
- 31 Sec. 21. In lieu of any penalty specified elsewhere in this act, or when  
32 no penalty is specifically provided, whenever a limited health service or-  
33 ganization or other person, corporation, partnership or entity subject to  
34 this act has been found, pursuant to the procedures of the Kansas ad-  
35 ministrative procedure act to have violated any provision of this act, the  
36 commissioner may:
- 37 (a) Issue and cause to be served upon the organization, person or  
38 entity charged with the violation a copy of the findings and an order  
39 requiring the organization, person or entity to cease and desist from en-  
40 gaging in the act or practice that constitutes the violation; and
- 41 (b) impose a monetary penalty of not more than \$1,000 for each vi-  
42 olation, but not to exceed an aggregate penalty of \$10,000.
- 43 Sec. 22. (a) Any rehabilitation, conservation or liquidation of a lim-

1 ited health service organization shall be deemed to be the rehabilitation,  
2 conservation or liquidation of an insurance company and shall be con-  
3 ducted under the supervision of the commissioner pursuant to the law  
4 governing the rehabilitation liquidation or conservation of insurance  
5 companies.

6 (b) A limited health service organization shall not be subject to the  
7 laws and regulations governing insurance insolvency guaranty funds, nor  
8 shall any insurance insolvency guaranty fund provide protection to indi-  
9 viduals entitled to receive limited health services from a limited health  
10 service organization.

11 Sec. 23. Each limited health service organization subject to this act  
12 shall pay to the commissioner the following filing fees:

- 13 (a) For an application for a certificate of authority, \$150;
- 14 (b) for an amendment to the certificate of authority, \$10; and
- 15 (c) for each annual report, \$50.

16 Sec. 24. (a) Any information pertaining to the diagnosis, treatment  
17 or health of any enrollee obtained from the person or from a provider by  
18 a limited health service organization and any contract with providers sub-  
19 mitted pursuant to the requirements of this act shall be held in confidence  
20 and shall not be disclosed to any person except:

- 21 (1) To the extent that it may be necessary to carry out the purposes  
22 of this act;
- 23 (2) upon the express consent of the enrollee or applicant, provider  
24 or limited health service organization, as appropriate;
- 25 (3) pursuant to statute or court order for the production of evidence  
26 or the discovery thereof; or
- 27 (4) in the event of claim or litigation wherein the data or information  
28 is relevant.

29 (b) With respect to any information pertaining to the diagnosis, treat-  
30 ment or health of any enrollee or applicant, a limited health service or-  
31 ganization shall be entitled to claim any statutory privileges against dis-  
32 closure that the provider who furnished the information to the limited  
33 health service organization is entitled to claim.

34 (c) In addition, any information provided to the commissioner that  
35 constitutes a trade secret, as defined in K.S.A. 60-3320 et seq., and  
36 amendments thereto, is privileged information, or is part of a department  
37 investigation or examination shall be held in confidence.

38 (d) The provisions of subsections (b) and (c) of this section shall ex-  
39 pire on July 1, 2010 pursuant to K.S.A. 45-229, and amendments thereto,  
40 unless the legislature acts to reenact these provisions. The legislature shall  
41 review this section prior to July 1, 2010.

42 Sec. 25. Each limited health service organization shall be deemed an  
43 insurance company and shall subject to the same taxes and fees imposed

1 upon insurance companies and entitled to the same tax deductions, re-  
2 ductions, abatements and credits that insurance companies are entitled  
3 to receive.

4 Sec. 26. If any section, term or provision of this act shall be adjudged  
5 invalid for any reason by a court of competent jurisdiction, the judgment  
6 shall not affect, impair or invalidate any other section, term or provision  
7 of this act, but the remaining sections, terms and provisions shall be and  
8 remain in full force and effect.

9 Sec. 27. Pursuant to the rules and regulations filing act, the com-  
10 missioner may promulgate rules and regulations necessary to carry out  
11 the provisions of this act.

12 Sec. 28. (a) This act may be cited as the Kansas limited health service  
13 organization act.

14 (b) This act shall be administered by the commissioner.

15 Sec. 29. This act shall take effect and be in force from and after its  
16 publication in the statute book.