AN ACT concerning insurance for qualified professional associations; amending K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-2222 and repealing the existing sections health care predetermination requests relating to health insurance benefits coverage.

WHEREAS, The legislature hereby finds and declares that:

(1) Health plans have the ability today to provide a real-time explanation of benefits (EOB), enabling patients and their physicians to learn how a claim for services will be adjudicated at the point of care, including information on if the service is covered, the amount to be paid to the physician and the patient's financial responsibility for copayments, coinsurance and any remaining deductible obligation;

(2) real-time EOBs have the potential to significantly reduce health care costs by making the true cost of health care services transparent to patients and their physicians at the time treatment decisions are being made and by reducing the costs of collections which accrue when paper EOBs are not received until weeks or months after the services are provided; and

(3) real-time EOBs also have the potential to eliminate the financial uncertainty that currently plagues the health care system and would remove another layer of complexity and anxiety for patients at a time when they should be focused on their health. This is particularly important for patients for whom this financial exposure may be large, such as for the increasing number of patients with high-deductible health plans, or for those patients who purchase coverage on a health insurance exchange, for whom relatively modest changes to patient income can affect eligibility and enrollment status as they transition between medicaid, subsidized and unsubsidized qualified health plans; and

WHEREAS, The people of the state of Kansas would all benefit if health plans were required to provide real-time EOBs on request when a physician submits an electronic claim predetermination request:
Now, therefore,

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

Section 1. K.S.A. 2013 Supp. 40-2222 is hereby amended to read as follows: 40-2222. (a) Any person or other entity which provides coverage in this state for medical, surgical, chiropractic, physical therapy, speech pathology, audiology, professional mental health, dental, hospital, or optometric expenses, whether such coverage is by direct payment, reimbursement, or otherwise, shall be presumed to be subject to the jurisdiction of the commissioner of insurance unless the person or other entity:

(I) is a professional association of architects incorporated in Kansas on October 4, 1954, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1986, and complies with K.S.A. 40-2222a, and amendments thereto;

(b)(2) is a professional association of dentists incorporated in Kansas on July 2, 1972, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established November 1, 1985, and complies with K.S.A. 40-2222a, and amendments thereto;

(c) (1)(3) (A) is a trade association of banks incorporated in Kansas on August 9, 1978, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established July 1, 1989, and complies with K.S.A. 40-2222a, and amendments thereto; or

2(B) is a trade organization of banks incorporated in Kansas on June 1, 1982, which provides coverage for expenses described herein to or for members of the association or dependents, and complies with K.S.A. 40-2222a, and amendments thereto;

(d)(4) is a trade association of truckers incorporated in Kansas on July 1, 1985, which provides coverage for the payment of expenses described herein to or for the members of the association or dependents through a trust established January 1, 1990, and complies with K.S.A. 40-2222a, and amendments thereto;

(e) (5) is an association of physicians practicing in the Kansas City metropolitan area, incorporated in Missouri on March 5, 1891, and qualified as a foreign corporation in Kansas on May 19, 1987, which provides coverage for the payment of expenses described herein to or for the members of the association, their employees and dependents through a trust established November 1, 1984, and complies with K.S.A. 40-2222a, and amendments thereto;

(6) is organized as a farmers' cooperative under the Kansas—
cooperative marketing act, K.S.A. 17-1601 et seq., and amendments thereto, on January 13, 1983, and is an association of farmers' cooperatives and other like associations operated on a cooperative basis and their affiliated companies, which provides benefits for employees, and family members of such employees, of such associations, and complies with K.S.A. 40-2222a, and amendments thereto:

(f) is any other qualified trade, merchant, retail or professional association, trade association or business league incorporated in Kansas which complies with K.S.A. 40-2222a, and amendments thereto;

(g) conclusively shows by submission of an appropriate certificate, license, letter or other document issued by the United States department of labor that such person or entity is not subject to Kansas law; or

(h) conclusively shows that it is subject to the jurisdiction of an agency of this state or the federal government. For purposes of this act, tax-exempt status under section 501(c) of the federal internal revenue code of 1986 shall not be deemed to be jurisdiction of the federal government.

(b) For the purposes of this section, a qualified trade, merchant, retail or professional association or business league shall mean any bona fide trade, merchant, retail or professional association or business league that:

1. Has been in existence for at least five calendar years; and
2. Is comprised of five or more employers.

Sec. 2. K.S.A. 40-2222a is hereby amended to read as follows: 40-2222a. At the time the initial application for coverage is taken with respect to new applicants and upon the first renewal, reinstatement or extension of coverage following the effective date of this act with respect to persons previously covered, each association described in subsections (a), (b), (c), (d) and (e) of K.S.A. 40-2222, and amendments thereto, shall provide a written notice stating that:

(a) The coverage is not provided by an insurance company;
(b) the plan is not subject to the laws and regulations relating to insurance companies;
(e) the plan is not under the jurisdiction of the commissioner of insurance; and
(d) if the plan does not pay medical expenses that are eligible for payment under the plan for any reason, the individuals covered by the plan may be liable for such expenses.

Sec. 3. K.S.A. 40-2222b is hereby amended to read as follows: 40-2222b. (a) As a condition precedent to continuation of the exemption provided by K.S.A. 40-2222, and amendments thereto, each association described in subsections (a), (b), (c), (d) and (e) of K.S.A. subsection (a) of K.S.A. 40-2222, and amendments thereto, shall, no later
than May 1 of each year, pay a tax at the rate of 1% per annum upon the
annual Kansas gross premium collected during the preceding calendar
year. In the computation of the tax, such associations shall be entitled to
deduct any annual Kansas gross premiums returned on account of
cancellation or dividends returned to members or expenditures used for the
purchase of reinsurance or stop-loss coverage.

(b) Every association subject to taxation under the provisions of this
section shall pay the tax imposed and make a return thereof
under oath to
the commissioner of insurance under such rules and regulations and in
such form and manner as the commissioner may prescribe.

Sec. 4. K.S.A. 40-2222a and 40-2222b and K.S.A. 2013 Supp. 40-
2222 are hereby repealed.

Section 1. (a) This section shall be known as and may be cited as
the predetermination of health care benefits act.

(b)(1) Health plans that receive an electronic health care
predetermination request consistent with the requirements set forth in
subsection (c) shall provide to the requesting healthcare provider
information on the amounts of expected benefits coverage on the
procedures specified in the request that is accurate at the time of the
health plan's response.

(2) Any predetermination request provided under this section in
good faith shall be deemed to be an estimate only and shall not be
binding upon the health plan with regard to the final amount of benefits
actually provided by the health plan.

(c) The amounts for the referenced services in subsection (b) shall
include:

(1) The amount the patient will be expected to pay, clearly
identifying any deductible amount, coinsurance and copayment;

(2) the amount the healthcare provider will be paid;

(3) the amount the institution will be paid; and

(4) whether any payments will be reduced, but not to $0, or
increased from the agreed fee schedule amounts, and if so, the health
care policy that identifies why the payments will be reduced or increased.

(d) This electronic request and response transaction shall be known
as the health care predetermination request and response. The health
care predetermination request and response shall be conducted in
accordance with the transactions and code sets standards promulgated
pursuant to the health insurance portability and accountability act of
1996 (HIPAA) public law 104-191, and 45 code of federal regulations,
parts 160 and 162 or later versions, specifically, the ASC X12 837 health
care predetermination: Professional transaction or the ASC X12 837
healthcare predetermination; institutional and any of their respective
successors, without regard to whether this transaction is mandated by
HIPAA. It shall also comply with any operating rules that may be adopted with respect to this transaction or any of its successors, without regard to whether these operating rules are mandated by HIPAA.

(e) The health plan's response to the health care predetermination request shall be returned using the same transmission method as that of the submission. This includes a real-time response for a real-time request.

(f) For purposes of this section:

(1) "Health plan" shall have the same meaning as that term is defined in K.S.A. 40-4602, and amendments thereto;

(2) "Healthcare provider" shall have the same meaning as the term "provider" as such term is defined in K.S.A. 40-4602, and amendments thereto. Healthcare provider shall also include:

(A) An advanced practice registered nurse as defined in K.S.A. 65-1113, and amendments thereto; and

(B) A physician assistant as defined in K.S.A. 65-28a02, and amendments thereto; and

(3) "Payment" means only a deductible or coinsurance payment and does not include a copayment.

(g) This act precludes the collection of any payment prior to or as a condition of receiving the health benefit services that are the subject of a predetermination request, unless this practice is not prohibited by the provider agreement with the health plan.

(h) The commissioner of insurance shall adopt rules and regulations necessary to carry out the provisions of this section.

Sec. 5. This act shall take effect and be in force from and after July 1, 2017, and its publication in the statute book.