AN ACT relating to health insurance; concerning genetic testing by insurance and health entities; [providing reimbursement for orally administered anticancer medications; amending K.S.A. 40-2259 and [K.S.A. 2009 Supp. 40-2,103 and 40-19c09 and] repealing the existing section [sections].

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

New Section 1. (a) Any individual or group health insurance policy, medical service plan, contract, hospital service corporation contract, hospital and medical service corporation contract, fraternal benefit society or health maintenance organization, municipal group-funded pool and the state employee health care benefits plan which provides coverage for prescription drugs and which is delivered, issued for delivery, amended or renewed on and after July 1, 2011, shall provide coverage for a prescribed, orally administered anticancer medication used to kill or slow the growth of cancerous cells on a basis no less favorable than intravenously administered or injected cancer medications that are covered as medical benefits.

(b) Any policy, provision, contract, plan or agreement under this section may apply the same deductibles, coinsurance and other limitations as apply to other covered services.

(c) (1) From and after the effective date of this act, the provisions of this section shall apply to the state employees health care benefits program.

(2) Pursuant to the provisions of K.S.A. 40-2249a, and amendments thereto, on or before March 1, 2011, the state health care benefits commission shall submit to the president of the senate and to the speaker of the house of representatives, a report indicating the impact the provisions of this section has had on the state health care benefits program, including data on the utilization and costs of such coverage. Such report shall also include a recommendation whether such coverage should continue for the state health care
benefits program or whether additional utilization and cost data is required.

[Sec. 2. K.S.A. 2008 Supp. 40-2,103 is hereby amended to read as follows: 40-2,103. The requirements of K.S.A. 40-2,100, 40-2,101, 40-2,102, 40-2,104, 40-2,105, 40-2,114, 40-2,160, 40-2,165 through 40-2,170, inclusive, 40-2250, K.S.A. 2008 Supp. 40-2,105a and 40-2,105b and section 1, and amendments thereto, shall apply to all insurance policies, subscriber contracts or certificates of insurance delivered, renewed or issued for delivery within or outside of this state or used within this state by or for an individual who resides or is employed in this state.


[(b) No policy, agreement, contract or certificate issued by a corporation to which this section applies shall contain a provision which excludes, limits or otherwise restricts coverage because medicaid benefits as permitted by title XIX of the social security act of 1965 are or may be available for the same accident or illness.

[(c) Violation of subsection (b) shall be subject to the penalties prescribed by K.S.A. 40-2407 and 40-2411, and amendments thereto.]

Section 4. K.S.A. 40-2259 is hereby amended to read as follows: 40-2259. (a) As used in this section, “genetic screening or testing” means a laboratory test of a person’s genes or chromosomes for abnormalities, defects or deficiencies, including carrier status, that are linked to physical or mental disorders or impairments, or that indicate a suscep-
tibility to illness, disease or other disorders, whether physical or mental, which test is a direct test for abnormalities, defects or deficiencies, and not an indirect manifestation of genetic disorders.

(b) Except as permitted by subsection (c), an insurance company, health maintenance organization, nonprofit medical and hospital, dental, optometric or pharmacy corporation, or a group subject to K.S.A. 12-2616 et seq., and amendments thereto, offering group policies and certificates of coverage or individual policies providing hospital, medical or surgical expense benefits, shall not:

(1) Require or request directly or indirectly any individual or a member of the individual's family to obtain a genetic test;
(2) require or request directly or indirectly any individual to reveal whether the individual or a member of the individual's family has obtained a genetic test or the results of the test, if obtained by the individual or a member of the individual's family;
(3) condition the provision of insurance coverage or health care benefits on whether an individual or a member of the individual's family has obtained a genetic test or the results of the test, if obtained by the individual or a member of the individual's family;
(4) consider in the determination of rates or any other aspect of insurance coverage or health care benefits provided to an individual whether an individual or a member of the individual's family has obtained a genetic test or the results of the test, if obtained by the individual or a member of the individual's family;
(5) require any individual, as a condition of enrollment or continued enrollment, to pay a premium or contribution which is greater than such premium or contribution for a similarly situated individual on the basis of whether the individual or a member of the individual's family has obtained a genetic test or the results of such test; or
(6) adjust premium or contribution amounts on the basis of whether the individual or a member of the individual's family has obtained a genetic test or the results of such test.

(c) An insurance company, health maintenance organization, nonprofit medical and hospital, dental, optometric or pharmacy corporation, or a group subject to K.S.A. 12-2616 et seq., and amendments thereto, offering group policies and certificates of coverage or individual policies providing hospital, medical or surgical expense benefits may request, but shall not require, that an individual or a member of the individual's family undergo a genetic test if each of the following conditions are met:

(1) A written request is made pursuant to research that complies with part 46 of Title 45 of the Code of Federal Regulations or equivalent federal regulations as in existence immediately prior to July 1, 2010, or any later version as may be adopted by the insurance commissioner by rule or
regulation and any applicable state or local laws or regulations for the
protection of human subjects in research;
(2) the individual or a member of the individual’s family, or in the
case of a minor child, a legal guardian of such minor child, to whom such
written request is made is advised in writing that:
(i) Compliance with the request is voluntary; and
(ii) non-compliance will have no effect on enrollment status or pre-
mium or contribution amounts;
(3) no genetic information collected or acquired under subsection (c)
shall be used for underwriting purposes;
(4) the insurance commissioner is advised in writing that such insur-
ance company, health maintenance organization, non-profit medical and
hospital, dental, optometric or pharmacy corporation, or group subject to
K.S.A. 40-2259 is in compliance with all other conditions the insurance commissioner may, by
regulation, require for activities conducted under this section.
Subsection (b) does not apply to an insurer writing life
insurance, disability income insurance or long-term care insurance
coverage.
An insurer writing life insurance, disability income insurance
or long-term care insurance coverage that obtains information under
paragraphs (1) or (2) of subsection (b), shall not:
(1) Use the information contrary to paragraphs (3) or (4) of subsec-
tion (b) in writing a type of insurance coverage other than life for the
individual or a member of the individual’s family; or
(2) provide for rates or any other aspect of coverage that is not rea-
sonably related to the risk involved.
Sec. 2. [5.] K.S.A. 40-2259 is [and K.S.A. 2009 Supp. 40-2,103
and 40-19c09 are] hereby repealed.
Sec. 3. [6.] This act shall take effect and be in force from and after
its publication in the statute book.