

**BEFORE THE COMMISSIONER OF INSURANCE  
OF THE STATE OF KANSAS**

In the Matter of the Market Regulation Examination of:

**BLUE CROSS AND BLUE SHIELD OF KANSAS, INC.**      Docket No. 110904  
**NAIC CoCode: 70729**

**CONSENT AGREEMENT AND FINAL ORDER**

This matter is before the Commissioner of Insurance ("Commissioner") for consideration of the market regulation examination report for Blue Cross and Blue Shield of Kansas, Inc. ("Company"). Before the Commissioner is whether to adopt, reject, or modify the examination report pursuant to the provisions of K.S.A. 40-222.

The Commissioner, having fully considered and reviewed the market regulation examination report, together with all written submissions, applicable rebuttals, and all relevant portions of the examiners' workpapers, finds as follows:

**Policy Reasons**

The stated policy of the State of Kansas is that the Commissioner, at her discretion, may make or direct to be made, a market regulation examination of any insurance company doing business in this state. Through the examination process, the insurance consuming public will be well served and protected.

Since the 2001 enactment of the Kansas Mental Health Parity Act, K.S.A. 40-2,105a, 40-2,105b, and 40-2,105c, and amendments thereto, and the federal Paul Wellstone and Pete Domenici Mental Health Parity and Addiction Equity Act of 2008 (MHPAEA), the Kansas Department of Insurance has not conducted a market regulation examination focused on an insurer's compliance with state and federal mental health parity laws.

### **Consent Agreement**

1. The Company has read and understands this Consent Order. The Company further understands that it has the right to retain counsel of its choice and have counsel review this Consent Agreement and Final Order. The Company agrees to the entry of this Consent Agreement and Final Order as a final order without need for a hearing under the Kansas Administrative Procedures Act.
2. The Company agrees that if the Company fails to comply with Kansas law, the Commissioner may take action to gain compliance.
3. The Company waives any and all causes of action, claims or rights, known and unknown which each may have against the Department, and any employees, agents, consultants, contractors or officials of the Department, in their individual and official capacities, as a result of any acts or omissions on the part of such persons or firms arising out of or related to the market examination that is the subject of this Consent Agreement and Final Order.
4. The Company agrees to be served a copy of this fully executed Consent Agreement and Final Order electronically or by regular U.S. Mail.
5. The Company acknowledges that this Consent Agreement and Final Order may be published on the website of the Kansas Department of Insurance. The Company understands and acknowledges that this Consent Order is a public document pursuant to the Kansas Open Records Act, K.S.A. 45-215 *et seq.*

For Blue Cross and Blue Shield of Kansas, Inc.:

Clay Britton  
Company Representative Name (Print)

Clay Britton  
Company Representative Name (Print)

11/1/24  
Date

**Findings of Fact**

1. The Commissioner has jurisdiction over this matter pursuant to K.S.A. 40-222.
2. A market examination of the Company was undertaken by the Kansas Department of Insurance ("Department") utilizing the expertise of contracted professionals and specialist examiners and consultants.
3. Following completion of the examination, a preliminary report was prepared and transmitted to the Company. The report contained findings of violation of law and observations of areas for improvement by the Company.
4. Following receipt of the preliminary report, the Company provided a written submission with certain factual corrections and objections to the report.
5. Upon receipt of the Company's response, the Department and Company engaged in a series of dialogue to resolve outstanding differences. The Department subsequently modified the report, with certain findings remaining as set forth in a final version of the report, dated October 31, 2024.

### Conclusion of Law

6. K.S.A. 40-222(a) provides, in part:

In addition, at the Commissioner's discretion the Commissioner may make, or direct to be made, a market regulation examination of any insurance company doing business in this state.
7. K.S.A. 40-222(h) provides:

When making an examination under this act, the Commissioner may retain attorneys, appraisers, independent actuaries, independent certified public accountants or other professionals and specialists as examiners, the reasonable cost of which shall be borne by the company which is the subject of the examination.
8. K.S.A. 40-222(i) provides:

Nothing contained in this act shall be construed to limit the Commissioner's authority to terminate or suspend any examination in order to pursue other legal or regulatory action pursuant to the insurance laws of this state.
9. K.S.A. 40-222(j) provides:

Nothing contained in this act shall be construed to limit the Commissioner's authority to use and, if appropriate, to make public any final or preliminary examination report in the furtherance of any legal or regulatory action which the commissioner may, in the Commissioner's sole discretion, deem appropriate.
10. K.S.A. 40-222(k)(7) provides:

All working papers, recorded information, documents and copies thereof produced by, obtained by or disclosed to the Commissioner or any other person in the course of an examination made under this act including analysis by the Commissioner pertaining to either the financial condition or the market regulation of a company must be given confidential treatment and are not subject to subpoena and may not be made public by the Commissioner or any other person, except to the extent otherwise specifically provided in K.S.A. 45-215 et seq., and amendments thereto.
11. K.S.A. 40-281(d) provides:

A person subject to any order, as defined in K.S.A. 77-502, and amendments thereto, issued by the Commissioner may request a

hearing on such order. If such a request is made, the Commissioner shall conduct a hearing in accordance with the provisions of the Kansas administrative procedure act.

12. This Order constitutes the Final Order in this matter.

**IT IS THEREFORE, BY THE COMMISSIONER OF INSURANCE, ORDERED THAT:**

1. The market regulation examination report of Blue Cross and Blue Shield of Kansas, Inc. is adopted.

2. Pursuant to K.S.A. 40-222(h) and to defray the reasonable costs of the exam, Blue Cross and Blue Shield of Kansas, Inc. is assessed and shall pay \$25,000 to the Department within 30 days after entry of this order.

**IT IS SO ORDERED THIS 4th DAY OF November 2024, IN THE CITY OF TOPEKA, COUNTY OF SHAWNEE, STATE OF KANSAS.**



Approved by the Kansas Department of  
Insurance Legal Division

A handwritten signature in black ink, appearing to read "Justin L. McFarland".

Justin L. McFarland  
General Counsel

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that she served a true and correct copy of the above and foregoing Consent Agreement and Final Order on this 4th day of November, 2024 electronically and by causing the same to be placed in the United States Mail, first class postage prepaid, addressed to the following:

Clay Britton  
Blue Cross and Blue Shield of Kansas, Inc.  
1133 SW Topeka Blvd.  
Topeka, KS 66629-0001  
[Clay.Britton@bcbsks.com](mailto:Clay.Britton@bcbsks.com)

  
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Toni Garrard  
Legal Assistant