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STATE OF KANSAS

*Office of the Attorney General*

State Capitol Bldg. (913) 296-2215 Topeka, Kansas 66612

VERN MILLER  
Attorney General

November 27, 1974

Opinion No. 74-379

Mr. Lawrence O. Barry  
Special Attorney  
Kansas State Insurance Department  
State Office Building, First Floor  
Topeka, Kansas 66612

Dear Mr. Barry:

You inquire whether Blue Cross - Blue Shield and fraternal benefit societies are subject to the requirements of Article 30 of Chapter 40 of the Kansas Statutes Annotated.

K.S.A. 40-3003 provides:

"(a) This act shall apply to direct life insurance policies, health insurance policies, annuity contracts, and contracts supplemental to life and health insurance policies and annuity contracts issued by persons authorized to transact insurance in this state at any time.

(b) This act shall not apply to:

(1) Any such policies or contracts, or any part of such policies or contracts, under which the risk is borne by the policyholder;

(2) Any such policy or contract or part thereof assumed by the impaired insurer under a contract of reinsurance, other than reinsurance for which assumption certificates have been issued;

(3) Any such policy or contract issued by persons transacting business pursuant to the provisions of K.S.A. 1971 Supp. 40-202."

Blue Cross - Blue Shield is incorporated under the laws of Kansas as "Kansas Blue Cross" and "Kansas Blue Shield." The former is a "mutual nonprofit hospital service corporation"

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and subject to the provisions of Article 18 of Chapter 40, Kansas Statutes Annotated. The latter is a "mutual nonprofit medical corporation" subject to the provision of Article 19 of Chapter 40, Kansas Statutes Annotated.

K.S.A. 40-1809 provides:

"Such corporations shall be subject to the provisions of this act and to K.S.A. 40-214, 40-215, 40-218, 40-219, 40-222, 40-224, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-247, 40-248, 40-249, 40-250, 40-254, 40-2401 to 40-2421, inclusive, and K.S.A. 1971 Supp. 40-216, 40-223, 40-225, 40-237, 40-251 and 40-252, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except expressly provided in this act." [Emphasis supplied.]

K.S.A. 40-1909 provides:

"Such corporations shall be subject to the provisions of section 1 [40-2,100] of 1973 Senate Bill No. 184 and section 1 [40-2,101] of this act, to the act of which this section is amendatory and to K.S.A. 40-214, 40-215, 40-218, 40-219, 40-222, 40-224, 40-226, 40-229, 40-230, 40-231, 40-235, 40-236, 40-247, 40-248, 40-249, 40-250, 40-254, 40-2401 to 40-2421, inclusive, and amendments thereto, and K.S.A. 1972 Supp. 40-216, 40-223, 40-225, 40-237, 40-251, 40-252 and 40-2a19, inclusive, except as the context otherwise requires, and shall not be subject to any other provisions of the insurance code except as expressly provided in this act." [Emphasis supplied.]

Article 30 of Chapter 40 is not mentioned in either of the above statutes and thus, in clear and unambiguous terms, is not applicable to the Blue Cross - Blue Shield operation within this state.

K.S.A. 40-3003(b) provides in pertinent part:

"(b) This act shall not apply to:

(3) Any such policy or contract issued by persons transacting business pursuant to the provisions of K.S.A. 1971 Supp. 40-202."

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K.S.A. 1971 Supp. 40-202 provides in pertinent part:

"Nothing contained in this code shall apply to grand or subordinate lodges of any fraternal benefit society which admits to membership only persons engaged in one or more hazardous occupations in the same or similar line of business or to fraternal benefit societies as defined in and organized under article 7 of chapter 40 of the Kansas Statutes Annotated and amendments thereto, unless they be expressly designated;...."

The language of K.S.A. 40-3003 and 1971 Supp. 40-202 makes it clear that fraternal benefit societies are not to be included under article 30 of Chapter 40, Kansas Statutes Annotated.

It is our opinion that Blue Cross - Blue Shield and fraternal benefit societies are not subject to the requirements of Article 30 of Chapter 40, Kansas Statutes Annotated.

Yours very truly,



VERN MILLER  
Attorney General

VM:DRH:CD:tp