

Approved: 3/23/94
Date

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE.

The meeting was called to order by Chairperson Richard Bond at 9:06 a.m. on March 18, 1994 in Room 529-S of the Capitol.

Members present: Senators Corbin, Lawrence, Petty, Praeger, and Steffes.

Committee staff present: William Wolff, Legislative Research Department
Fred Carman, Revisor of Statutes
June Kossover, Committee Secretary

Conferees appearing before the committee: Richard Brock, State Insurance Department
Representative Walker Hendrix
Jerry Slaughter, Kansas Medical Society
Terri Roberts, Kansas State Nursing Association
Jerel Wright, Kansas Credit Union Association
George Barbee, Kansas Association of Financial Services
Lawrence Buening, Kansas Board of Healing Arts

Others attending: See attached list

Senator Corbin moved to adopt the minutes of the meeting of March 17 as submitted. Senator Petty seconded the motion; the motion carried.

The hearing was opened on HB 2638, concerning the amount of notice property and casualty insurance companies must give when discontinuing business. Richard Brock, State Insurance Department, informed the committee that this legislation amends the statute that requires insurance companies to give 60 days notice to the Insurance Commissioner before ceasing to write or renew a kind or class of insurance. The bill would allow the Commissioner to adopt a regulation to extend the notification period for an additional 60 days, or a total of 120 days, to give consumers and agents more time to locate a new market. (Attachment #1.) There were no questions and no other conferees; the hearing was closed.

Senator Steffes moved to recommend HB 2638 favorably and to place it on the Consent Calendar. The motion was seconded by Senator Praeger. The motion carried.

The chairman opened the hearing on HB 2730, which would abolish the existing Health Care Stabilization Fund (HCSF) Board of Governors and replace it with an independent HCSF Board. Representative Walker Hendrix, the author of this legislation, explained to the committee that the intent of this bill is to end the practice of the Insurance Commissioner contracting with outside legal counsel to defend the HCSF when claims against the fund are made. Under this bill, these contracts would be entered into by the Board of Governors of the HCSF. Senator Corbin questioned why the public members of the HCSF board are being eliminated, and Representative Walker advised that having fewer members will make the board more manageable, and the HCSF is funded by the health care industry and public members have no vested interest in the fund.

Jerry Slaughter, Kansas Medical Society, advised the committee that his organization has in no way been dissatisfied with the management of the HCSF by the Insurance Commissioner's office; however, they have no opposition to this legislation. (Attachment #2.) Mr. Slaughter requested an amendment to require the HCSF Oversight Committee to prepare a transition plan and report to the Legislative Coordinating Council and that the effective date of the legislation be amended to January 1, 1995.'

Terri Roberts, Kansas State Nurses Association, requested the bill be amended on page 5, line 31, to strike the reference to the Kansas state nurses' association and insert "the Kansas Association of Nurse Anesthetists." (Attachment #3.) Senator Petty made a motion to amend the bill as requested by the KSNA. Senator Praeger seconded the motion; the motion carried.

Representative Hendrix advised the committee that the requested amendments were acceptable to him. There were no other conferees; the hearing on HB 2730 was closed. Following a discussion regarding the time frame needed for transition, Senator Praeger made a motion to amend Sec. 12 to "This act shall take effect and be in force after January 1, 1995." The motion was seconded by Senator Petty. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON FINANCIAL INSTITUTIONS AND INSURANCE,
Room 529-S Statehouse, at 9:06 a.m. on March 18, 1994.

Senator Petty moved to pass HB 2730 favorably as amended. Senator Praeger seconded the motion; the motion carried.

The chairman opened the hearing on Sub. HB 2424, increasing the amount covered by credit life insurance. Jerel Wright, Kansas Credit Union Association, appeared as a proponent of this bill, stating that it would increase from \$50,000 to \$100,000 the amount of credit life insurance that could be written on a debtor. (Attachment #4.)

George Barbee, Kansas Association of Financial Services, also appeared as a proponent of this legislation, pointing out that many items now financed by consumer loans exceed the \$50,000 limit. (Attachment #5.) There were no questions and no other conferees; the hearing was closed.

Senator Steffes made a motion to move HB 2730 favorably and to place it on the Consent Calendar. The motion was seconded by Senator Lawrence; the motion carried.

The hearing was reopened on HB 3041, which was originally heard in the meeting of March 16. Lawrence Buening, Kansas Board of Healing Arts, presented to the committee the amendment agreed upon by the interested parties. (Attachment #6.) The amendment would require that the Board of Healing Arts receive closed claim reports with the information which is not available from the National Practitioners' Data Bank.

Senator Praeger made a motion to amend HB 3041 as requested. Senator Corbin seconded the motion. The motion carried.

Senator Praeger moved to recommend HB 3041 favorably as amended. Senator Lawrence seconded the motion. The motion carried.

The chairman informed the committee that today's meeting is the last meeting scheduled for the 1994 session, and expressed his appreciation to the committee members and staff.

The committee adjourned at 9:40 a.m.

GUEST LIST

SENATE

COMMITTEE: FINANCIAL INSTITUTIONS AND INSURANCE

DATE:

3/18/94

[illegible]

Testimony on
House Bill No. 2638
by
Dick Brock
Kansas Insurance Department

House Bill No. 2638 would amend K.S.A. 40-2,123 by authorizing the Commissioner of Insurance to adopt a regulation extending the 60 day notice period now required before an insurance company can cease writing or renewing a kind or class of property or casualty insurance.

With the recent and repeated catastrophic losses incurred by many property and casualty insurers, there have been a number of companies that have stopped writing certain lines of insurance in the state. This includes homeowners and private passenger automobile insurance. Under K.S.A. 40-2,123, carriers are required to provide the Commissioner of Insurance 60 days advance notice before discontinuing the writing or renewal of one or more kinds of property or casualty insurance. However, with the uncertain market conditions created by the storms over the past several years, 60 days simply has not provided consumers or agents an adequate amount of time to locate replacement coverage. By authorizing the Commissioner to adopt a regulation to extend the notification period for an additional 60 days, House Bill No. 2638 could give insurance consumers and agents a total of 120 days or three months to locate a new market when notified that the existing insurer will no longer be providing a particular line of insurance.

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Attachment #1

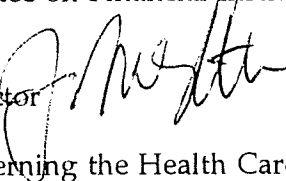


KANSAS MEDICAL SOCIETY

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March 18, 1994

TO: Senate Committee on Financial Institutions and Insurance

FROM: Jerry Slaughter
Executive Director 

SUBJECT: HB 2730; Concerning the Health Care Stabilization Fund

The Kansas Medical Society appreciates the opportunity to appear today as you consider HB 2730, a bill which would for all practical purposes transfer the responsibility for operating the HCSF to its Board of Governors. We neither support nor oppose this bill, but we do have a keen interest in its outcome.

At the outset, we would like to make it clear that in its 18 years of existence, the Fund has been managed well by the Insurance Commissioner's office. While there have been times that we did not agree with the Commissioner's policy on some issues, the administration and operation of the Fund have been fair, open and responsible.

The Fund has been through some difficult times, especially in the period from about 1980 to 1989. During those ten years, malpractice premiums increased in excess of 600% for many physicians. Because of tort reforms enacted by the Legislature in the late 80's the crisis has eased, but we have no illusions about this volatile business - it can erupt again with little warning. What we do have now that did not exist then, is a stable excess limits insurance market - the Fund, with assets which exceed \$180 million. We have come a long way through horrendous premium increases, and we would not favor any change in policy which would weaken the Fund's financial position or compromise its effective operation. There are no tax dollars in the Fund. It is supported entirely by physicians and other health care providers who are required by law to carry professional liability insurance. Those health care providers are absolutely dependent on having a financially sound Fund to provide insurance for them. If it is improperly managed, or if claims are not vigorously defended, then malpractice premiums will go up rapidly. The bottom line is that whoever manages the Fund - the Insurance Commissioner or the Board of Governors - must be a good steward of the resources, and run it as one would an insurance company: conservatively and prudently.

We do not know all the reasons behind HB 2730, but the concept has merit. Turning over operation of the Fund to those who are insured by it gives them tremendous incentive to see that it is run properly. The only practical problem we see is that the Board of Governors is not used to having the overall responsibility for the Fund's administration, and may need some time to prepare for its new role. Accordingly, we would like to offer an amendment that would

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Attachment #2

Testimony on HB 2730
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Page Two

accomplish the transfer contemplated in this bill, but allow for a process that included some time for planning. A copy of our amendment is attached to our testimony. The amendment would require the Health Care Stabilization Fund Oversight Committee to prepare a transition plan that could take into consideration the budgetary, staffing and equipment needs which will accompany the transfer of responsibilities. The Oversight Committee would be required to report to the Legislative Coordinating Council by January 1, 1995, and upon approval of the plan by the LCC, the transfer of responsibilities would take effect. This would provide a process that would assure a smooth transition.

We appreciate the opportunity to present these comments, and would be happy to answer any questions.

JS:ns

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by the fund who does not have liability insurance in effect which is applicable to the claim and the claimant and ~~commissioner board of governors~~ cannot agree upon a settlement, an action must be commenced by the claimant against the health care provider or inactive health care provider in a court of appropriate jurisdiction for such damages as are reasonable in the premises. If an action is already pending against the health care provider or inactive health care provider, the pending action shall be conducted in all respects as if the insurer or self-insurer had not agreed to settle.

(b) Any such action against a health care provider covered by the fund or inactive health care provider covered by the fund who has liability insurance in effect which is applicable to the claim shall be defended by the insurer or self-insurer in all respects as if the insurer or self-insurer had not agreed to settle its liability. The insurer or self-insurer shall be reimbursed from the fund for the costs of such defense incurred after the settlement agreement was reached, including a reasonable attorney's fee. The ~~commissioner board of governors~~ is authorized to employ independent counsel in any such action against a health care provider or an inactive health care provider covered by the fund.

(c) In any such action the health care provider or the inactive health care provider against whom claim is made shall be obligated to attend hearings and trials, as necessary, and to give evidence.

(d) The costs of the action shall be assessed against the fund if the recovery is in excess of the amount offered by the commissioner to settle the case and against the claimant if the recovery is less than such amount.

Sec. 10 9. K.S.A. 40-3417 is hereby amended to read as follows: 40-3417. (a) *Except as otherwise provided by subsection (b), the commissioner shall prescribe may adopt* such rules and regulations as may be deemed necessary to carry out the purposes of this act.

(b) *The board of governors may adopt such rules and regulations as may be deemed necessary for the administration of the fund and the powers, duties and functions of the board of governors under the health care provider insurance availability act.*

Sec. ~~11~~ 10. K.S.A. 40-3422 is hereby amended to read as follows: 40-3422. In any medical malpractice liability action, as defined by K.S.A. 1985 Supp. 60-3401 and amendments thereto, the proceedings shall be stayed on appeal by the filing of a supersedeas bond in the full amount of the judgment against the health care provider and by the ~~commissioner of insurance~~ *chairperson of the board of governors, or the chairperson's designee*, as administrator of the health care stabilization fund without surety or other security.

Notwithstanding any other provision of this act, the transfer of powers, duties and functions of the commissioner of insurance to the board of governors prescribed by this act shall not take effect until the legislative coordinating council approves a transition plan developed by the health care stabilization fund oversight committee. The health care stabilization fund oversight committee shall prepare a transition plan which recognizes the budgetary, staffing, facilities and equipment needs which are necessary to effect a smooth transition of the powers, duties and functions specified in this act. The transition plan prepared by the health care stabilization fund oversight committee shall be submitted to the legislative coordinating council by January 1, 1995.

FOR MORE INFORMATION CONTACT:

Terri Roberts J.D., R.N.
Executive Director
700 S.W. Jackson, Suite 601
Topeka, Kansas
(913) 233-8638

March 18, 1994

H.B. 2730 HEALTH CARE INSURANCE PROVIDER INSURANCE AVAILABILITY ACT

Senator Bond and members of the Senate Financial Institutions and Insurance Committee, I am Terri Roberts, the Executive Director of the Kansas State Nurses Association.

The Kansas State Nurses Association has not taken a formal position on H.B. 2730. We would like to offer a small amendment to this bill, that would permit the Kansas Association of Nurse Anesthetists (KANA) to recommend the list of Registered Nurse Anesthetists (RNA's) to the Insurance Commissioner, rather than the Kansas State Nurses Association. (Page 5, line 31)

RNA's are the only category of Registered Nurses required to participate in the Health Care Stabilization Fund. There are currently approximately 500 RNA's in the state, and we believe that the Kansas Association of Nurse Anesthetists would be the more appropriate organization to recommend names for consideration of appointment.

Thank you.

Kansas State Nurses Association Constituent of The American Nurses Association

700 SW Jackson, Suite 601 * Topeka, Kansas 66603-3731 * (913) 233-8638 * Fax (913) 233-5222
Carolyn Middendorf, M.N., R.N. -- President * Terri Roberts, J.D., R.N. -- Executive Director

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Attachment 3

1 previously left the state for one of the reasons specified in this
 2 paragraph and returns to the state and recommences practice, the
 3 board of governors may refund any amount paid by the health care
 4 provider pursuant to subsection (m) of this section if no claims have
 5 been filed against such health care provider during the provider's
 6 temporary absence from the state.

7 (2) The board shall consist of ~~14~~ 10 persons appointed by the
 8 commissioner of insurance, *as provided by this subsection (b) and*
 9 *as follows:*

10 (A) ~~The commissioner of insurance, or the designee of the~~
 11 ~~commissioner, who shall act as chairperson; (B) Two members~~
 12 ~~appointed from the public at large who are not affiliated with~~
 13 ~~any health care provider; (C) Three members who are licensed~~
 14 ~~to practice medicine and surgery in Kansas who are doctors of med-~~
 15 ~~icine and who are on a list of nominees submitted to the commissioner~~
 16 ~~by the Kansas medical society;~~

17 ~~(D) (B) three members who are representatives of Kansas hos-~~
 18 ~~pitals and who are on a list of nominees submitted to the commis-~~
 19 ~~sioner by the Kansas hospital association;~~

20 ~~(E) (C) two members who are licensed to practice medicine and~~
 21 ~~surgery in Kansas who are doctors of osteopathic medicine and who~~
 22 ~~are on a list of nominees submitted to the commissioner by the Kansas~~
 23 ~~association of osteopathic medicine;~~

24 ~~(F) (D) one member who is licensed to practice chiropractic in~~
 25 ~~Kansas and who is on a list of nominees submitted to the commis-~~
 26 ~~sioner by the Kansas chiropractic association;~~

27 ~~(G) (E) one member who is a licensed professional nurse au-~~
 28 ~~thorized to practice as a registered nurse anesthetist; and~~

29 ~~(H) one member of another category of health care providers~~
 30 ~~who is on a list of nominees submitted to the commissioner by the~~
 31 ~~Kansas state nurses' association.~~

32 (3) On and after the effective date of this act, whenever a vacancy
 33 occurs in the membership of the board of governors created by this
 34 act, the commissioner shall appoint a successor of like qualifications
 35 from a list of nominees submitted to the commissioner by the pro-
 36 fessional society or association prescribed by this section for the
 37 category of health care provider required for the vacant position on
 38 the board of governors. Except as otherwise provided by this section,
 39 all appointments made shall be for a term of office of four years,
 40 but no member shall be appointed for more than two successive
 41 four-year terms. Each member shall serve until a successor is ap-
 42 pointed and qualified. Whenever a vacancy occurs in the membership
 43 of the board of governors created by this act for any reason other

MARCH 18, 1994

KSNA
 the voice of Nursing in Kansas

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TERRI ROBERTS, J.D., R.N.
 EXECUTIVE DIRECTOR

AMENDMENT

KANSAS ASSOCIATION OF NURSE ANESTHETISTS

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Kansas Credit Union Association

The trade association and financial services provider for credit unions

**Testimony on Sub. House Bill 2424
concerning group life insurance policies**

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316-722-4251 800-362-2076
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Presented to the
Senate Financial Institutions and Insurance Committee

March 18, 1994

Mr. Chairman and members of the Committee:

I am Jerel Wright, Governmental Affairs Director, for the Kansas Credit Union Association, here today to ask for your support of Sub. HB 2424 which amends K.S.A. § 40-433.

Increase in Insurance Cap

Sub. HB 2424 makes one change in Kansas law by increasing to \$100,000.00 (page 3, line 5) the maximum amount of credit life insurance a creditor may offer through a group credit life insurance policy. Currently, the maximum amount of insurance on the life of any debtor shall not exceed the amount owed by the debtor or \$50,000.00, whichever is less.

A number of credit unions are providing real estate loans and the \$50,000.00 cap falls far short of allowing full coverage for the loan.

Kansas Part of Minority with a Cap

Kansas is one of only eleven states which operate with a cap of \$50,000.00 or less and four of these states have a higher limit for loans secured by real estate. Eight states operate with a cap between \$50,000.00 and \$200,000.00 while the vast majority operate with no cap. Thirty-two states have no cap including most of the states surrounding Kansas. (see attachment)

Change Made in 1988 to Protect the Debtor

The Kansas legislature adopted a significant change in 1988. Lawmakers mandated that when a creditor requires credit life insurance, the creditor shall notify the debtor that the debtor has the option to provide the insurance through their own policy (K.S.A. § 16a-4-109).

Thank you, Mr. Chairman, for allowing me to testify on Sub. HB 2424. I will stand for questions at your direction.

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Attachment 4

GROUP CREDIT LIFE INSURANCE DOLLAR LIMITS

- (1) \$25,000 limit - (1) state

District of Columbia (\$75,000 for loans secured by real estate)

- (2) \$40,000 limit - (4) states

Kentucky (maximum applies when loan is 10 years or less. Loans over 10 years, no maximum applies.)

Massachusetts

New Jersey (\$75,000 for loans secured by real estate)

Vermont (\$80,000 for loans secured by realestate)

- (3) \$50,000 limit - (6) states

Florida

Kansas

Louisiana

Maryland

Ohio

Texas (\$125,000 for loans secured by real estate for first mortgages only)

- (4) \$55,000 limit - (1) state

New York (\$110,000 for loans secured by real estate)

- (5) \$70,000 - (1) state

Virginia

- (6) \$75,000 - (2) states

Georgia

Idaho

- (7) \$80,000* - (1) state

Michigan (*\$80,000 maximum amount for mortgage loans only is adjusted annually by the United States Department of Labor Consumer Price Index as computed for each calendar year)

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GROUP CREDIT LIFE INSURANCE DOLLAR LIMITS
(Continued)

(8) \$100,000 - (2) states

Oklahoma
Pennsylvania

(9) \$200,000 - (1) state

Iowa

(10) No Limits - (32) states

Alabama
Alaska
Arizona
Arkansas
California
Colorado
Connecticut
Delaware
Hawaii
Illinois
Indiana
Maine
Minnesota
Mississippi
Missouri
Montana
Nebraska
Nevada
New Hampshire
New Mexico
North Carolina
North Dakota
Oregon
Rhode Island
South Carolina
South Dakota
Tennessee
Utah
Washington
West Virginia
Wisconsin
Wyoming

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4.3

The Kansas Association of Financial Services

George Barbee, Executive Director
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Statement to Senate Financial Institutions and Insurance Committee HB 2424

Mr. Chairman and members of the committee my name is George Barbee appearing today on behalf of the Kansas Association of Financial Services in support of House Bill 2424.

Mr. Wright has explained the need for this amendment and we concur with his remarks. Consumer finance loans have changed dramatically during the last decade. Finance companies find that they are making more loans for mobile homes, second mortgages, and larger loans on automobiles. These amounts are exceeding the \$50,000 limit for an insurance product that is, in itself, a consumer benefit.

The consumer is not subjected to a detailed application, but rather only very limited underwriting questions to determine insurability. These questions vary from one company to another, but are typically approximately five questions regarding serious health problems.

The regulations governing the issuance of credit life insurance state that anyone under 65 years of age cannot be denied coverage unless they will turn 66 before the loan is scheduled to be paid off. And, the rate is the same for all credit life insureds. An insured of age 60 pays the same rate as an insured of age 30.

Mr. Chairman and members of the committee thank you for this opportunity to speak to House Bill 2424 as we ask you to report this bill favorably.

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HOUSE BILL No. 3041

By Committee on Financial Institutions and Insurance

2-15

8 AN ACT repealing ~~K.S.A. 40-1126 through 40-1129~~; concerning pro-
9 fessional liability insurance; requiring the reporting of certain in-
10 formation to the commissioner of insurance.

11
12 *Be it enacted by the Legislature of the State of Kansas:*

13 ~~Section 1. K.S.A. 40-1126 through 40-1129 are hereby repealed.~~

14 Sec. 2. 4 This act shall take effect and be in force from and after
15 its publication in the statute book.

amending K.S.A. 40-1126 and 40-1127
and repealing the existing sections;
also repealing K.S.A. 40-1128.

NOTE: New Sections 1, 2, and 3 on
following attached pages.

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Attachment 6

New Section 1. K.S.A. 40-1126 is hereby amended to read as follows:

40-1126. (a) Every insurer providing professional liability insurance to a health care provider, ~~a person engaged in any technical profession, as defined by K.S.A. 74-7003 and amendments thereto, any attorney admitted to practice before the supreme court of this state or any certified public accountant licensed to practice by the board of accountancy~~ shall report to the commissioner of insurance: ~~(1) Any claim or action for damages for personal injuries or loss claimed to have been caused by error, omission, or negligence in performance of such insured's professional services or based on a claimed performance of professional services without consent, if the claim resulted in:~~ (i) A final judgment in any amount, (ii) a settlement in any amount, (iii) a final disposition not resulting in payment on behalf of the insured; and (2) the amount of ~~premiums charged for professional liability insurance of the types described in clause (1) of subsection (a) for the past calendar year, which shall be reported as separate items so that each such type may be distinguished from premiums charged for other types of insurance.~~

(b) Reports of the information required by ~~clause (2) of subsection (a)~~ shall be filed with the commissioner of insurance annually on or before March 1; ~~reports of the information required by clause (1) of subsection (a)~~ shall be filed with the commissioner of insurance no later than 30 days following the results of a claim set out in items (i), (ii) or (iii) of clause (1) of subsection (a).

who is licensed, registered or certified by the state board of healing arts and covered by the health care stabilization fund established pursuant to subsection (a) of K.S.A. 40-3403 and amendments thereto or entity with whom the insurer contracts for purposes of complying with this act

and the state board of healing arts
a

upon final disposition of the action.

and the state board of healing arts

final disposition of the action.

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~~(c) As used in K.S.A. 40-1126 to 40-1128, inclusive, and amendments thereto, the term "health care provider" means a person licensed to practice the healing arts or engaged in a postgraduate training program approved by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts, a licensed dentist, a licensed professional nurse, a licensed optometrist, a licensed pharmacist, a licensed medical care facility, a health maintenance organization issued a certificate of authority by the commissioner of insurance, a licensed podiatrist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a registered physical therapist or a community mental health center or mental health clinic licensed by the secretary of social and rehabilitation services.~~

New Section 2. K.S.A. 40-1127 is hereby amended to read as follows: 40-1127. The reports required by clause (1) of subsection (a) of K.S.A. 40-1126 shall contain: (a) ~~The name, address, and specialty~~ insured's and license number issued by the state board of healing arts coverage of the insured; (b) ~~the insured's policy number;~~ (c) action; and (c) the name of the plaintiff and the injured party, if different. date of occurrence which created the claim; (d) date of suit if filed; (e) date and amount of judgment or settlement, if any; and the parties involved in the distributions of such judgment or settlement and the amount received by any such party; (f) date and reason for final disposition if no judgment or settlement; (g) a summary of the occurrence which created the claim; and (h) such other information as the commissioner may require. The

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~~commissioner of insurance shall provide a copy of each such report relating to health care providers to the board which licenses or registers such health care provider or the secretary of health and environment in the case of a licensed medical care facility.~~

New Section 3. K.S.A. 40-1126 through 40-1128 are hereby repealed.

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