

February 7, 2023

The Honorable Brenda Landwehr, Chairperson
House Committee on Health and Human Services
300 SW 10th Avenue, Room 112-N
Topeka, Kansas 66612

Dear Representative Landwehr:

SUBJECT: Fiscal Note for HB 2171 by House Committee on Judiciary

In accordance with KSA 75-3715a, the following fiscal note concerning HB 2171 is respectfully submitted to your committee.

HB 2171 would specify that factual information is not protected as privileged information in a peer review process under KSA 65-4915 or in a risk management review process under KSA 65-4925. The bill would state that deliberations, analyses, findings, conclusions, and recommendations of any peer review committee or officer would remain protected and would not be subject to discovery in any claim process or civil action. The bill would also modify provisions on the peer review process related to privileged information to add witness testimony, affidavits, and data, as well as add other clarifications on what would qualify as privileged information.

The Kansas Department for Aging and Disability Services notes that HB 2171 would likely have a fiscal effect on the agency, as well as healthcare providers, but a total effect could not be estimated. Enactment of the bill would result in increased requests for peer review documents to be turned over to claimants and plaintiffs in civil actions and would require subject reporters, witnesses, and committee members to provide documents and testimony in those civil proceedings. The agency states this could create an increase on the workload of hospital counsel and staff involved in the peer review process to review and respond to requests, subpoenas, and court orders requiring release of peer review documents and requiring their testimony in civil actions. It could result in increased litigation being filed against the agency and could lead to a need for more FTE positions. The bill could lead to increased litigation being filed against the healthcare provider.

The Kansas Board of Nursing indicates that the bill would result in expenditures for revision of regulations affected by enactment of the bill, which are estimated to be under \$500. The Kansas Board of Healing Arts indicates the bill would not provide any additional revenue and

any increased expenditures could be handled within existing resources. According to the Kansas Department of Health and Environment, Kansas Dental Board, the Kansas Board of Emergency Medical Services, and the University of Kansas Medical Center, enactment of HB 2171 would not result in a fiscal effect on the operations of any of the respective agencies. Any fiscal effect associated with HB 2171 is not reflected in *The FY 2024 Governor's Budget Report*.

Sincerely,

A handwritten signature in black ink, appearing to read "Adam Proffitt", with a stylized flourish at the end.

Adam Proffitt
Director of the Budget

cc: Amy Penrod, Department of Health & Environment
Leigh Keck, Department for Aging & Disability Services
Susan Gile, Board of Healing Arts
Charity Carlat, Dental Board
Joe House, Emergency Medical Services
Jill Simons, Board of Nursing
Jeff Dewitt, University of Kansas