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| To:      | Senate Judiciary Committee   |
| From:    | Daniel W Peters, SVP & General Counsel,<br>University of Kansas Hospital Authority |
| Date:    | February 5 <sup>th</sup> , 2026  |
| Subject: | Senate Bill 413  |

Chairwoman Warren, Vice Chairman Titus, Ranking Minority Member Corson, and Members of the Senate Judiciary Committee:

My name is Daniel Peters, and I serve as Senior Vice President and General Counsel for The University of Kansas Health System. I am here today on behalf of the Health System and Kansas hospitals statewide to express our strong support for Senate Bill 413 concerning non-economic damages.

As general counsel for a major health system, one of my many responsibilities is overseeing the procurement of insurance across a broad portfolio of risk areas, including general liability, professional liability, and auto coverage. In fulfilling this responsibility, I work extensively with both domestic and London insurance markets and regularly engage with underwriters regarding the trends influencing the cost and availability of insurance in Kansas and across the United States. In addition, for nearly twenty years I have served as an independent outside director for a mid-sized liability insurance company, which has afforded me further insight into the systemic pressures shaping insurance markets over many years.

Through these combined roles, I have developed an understanding of the factors that contribute to instability in the availability and affordability of general and professional liability insurance in particular. On occasion, things do not go as we plan in the delivery of medical and health care services. When those events happen, responsible providers want to ensure an avenue exists to take responsibility for harm we unfortunately cause.

A few in this room will recall the serious disruption Kansas faced several decades ago when a nationwide medical malpractice crisis created severe challenges in obtaining professional liability insurance, creating significant uncertainty for healthcare providers. The Legislature's response, formation of the Kansas Health Care Stabilization Fund, was instrumental in restoring market confidence in Kansas by ensuring a stable baseline of coverage and predictability regarding liability expectations. One of the goals at that time was ensuring a source of recovery for patients harmed due to malpractice and balancing provider protections with patient rights. That stability, however, is now

being eroded by evolving courtroom tactics and judicial precedents. Nuclear verdicts around the country are impacting the affordability and even availability of insurance in many markets. The nuclear verdicts (typically defined as a civil jury award in excess of \$10 million and that far exceeds plaintiff's actual economic damages) often occur as a result of one or more growing trial tactics intended to manipulate a jury's opinions.

One such practice, directly addressed by Senate Bill 413, is the use of "anchoring." Anchoring involves suggesting extraordinarily high monetary figures during trial—figures that bear no relation to actual damages—with the intent of influencing a jury's award of non-economic damages. This practice has taken on heightened significance since the Kansas Supreme Court's 2019 *Hilburn* decision, which eliminated the cap on non-economic damages in certain cases. In the wake of *Hilburn*, plaintiffs' counsel have a strong incentive to introduce outsized financial figures in an effort to frame jurors' perceptions of what constitutes a "reasonable" award.

By their nature, non-economic damages, such as pain, suffering, disability, and mental anguish are inherently subjective and cannot be reduced to a formula or calculated through any objective measure. For precisely this reason, it is inappropriate for attorneys to inject artificial numbers or hypothetical comparisons into the jury's deliberations. Anchoring serves only to manipulate jurors' emotions and divert attention from the actual facts of the case. Countless law review articles and objective studies presented by some of my colleagues have demonstrated this practice to have significant improper impact on the way juries evaluate non-economic damages

Senate Bill 413 appropriately prohibits attorneys from referencing specific dollar amounts, mathematical formulas, or financial analogies to suggest the value of non-economic losses. This restriction in no way interferes with a jury's ability to assess the evidence or determine fair compensation. Rather, it reinforces the principle already reflected in Kansas Model Jury Instruction 171.02 that jurors must rely on their sound discretion, not manufactured numerical benchmarks, when determining non-economic damages.

Importantly, the bill applies equally to both plaintiffs and defendants. It grants neither side a strategic advantage but instead promotes fairness, integrity, and consistency in the judicial process. As anchoring tactics have become increasingly sophisticated, appearing in voir dire, in purported expert testimony, and especially highlighted in closing arguments, the need for legislative clarity has only grown more urgent.

Kansas has a longstanding commitment to ensuring a stable and predictable environment for healthcare providers and insurers alike, and for being able to address occasional unfortunate harm caused during the performance of health care services. Senate Bill 413 reinforces that commitment by curbing a practice that introduces volatility, undermines public confidence, and ultimately threatens the affordability of liability insurance for the healthcare professionals our communities rely upon.

For these reasons, I respectfully urge the Committee to advance Senate Bill 413. Thank you for your consideration and for your continued work to promote fairness and stability in Kansas's civil justice system.