



To: Senate Committee on Judiciary

From: Rachelle Colombo
Executive Director

Date: February 5, 2026

Re: SB 413; Prohibiting counsel from suggesting an amount of damages for noneconomic loss in civil actions

The Kansas Medical Society appreciates the opportunity to present comments in support of SB 413, regarding jury anchoring.

Due to liability reforms and judicious policy, the liability climate in Kansas has been favorable for attracting business and healthcare providers over the last several decades, ensuring access to high quality care and an attractive business climate. This is largely due to the legislature's efforts to ensure that access to healthcare is a top priority.

Senate Bill 413 is a modest proposal to limit psychologically manipulative attorney tactics that contribute to excessive and arbitrary non-economic verdicts that tend to inflate healthcare costs, reduce access to care, and promote defensive medicine. This bill does not limit arguments related to past or future economic damages such as medical bills, future medical costs, or lost income. The bill narrowly targets attorney tactics related to non-economic damages such as pain, suffering, and mental anguish.

Determining an economic number for non-economic damages for pain, suffering, and mental anguish is, by definition, highly subjective. Not surprisingly, studies show that a number or calculation suggested by a lawyer for this category of damages acts as a powerful, but arbitrary, reference point that heavily influences a jury's final number.

Allowing this technique also runs counter to the spirit of Kansas law. In Kansas jury trials, juries are instructed that "there is no unit value and mathematical formula . . . for determining items such as pain, suffering, . . . and mental anguish" and that the "amount rests within your sound discretion." Kansas juries are also instructed that statements and arguments of counsel are not evidence. When attorneys are nevertheless allowed to suggest the correct amount or offer a mathematical calculation to the jury for these damages, it tends to confuse the issue and allow the attorney's subjective suggestion to unduly influence the jurors' own discretion.

SB 413 ensures that jurors are able to remain independent in their discretion regarding damages and are not unduly influenced by efforts to drive up litigation and ultimately healthcare and business cost. We urge your favorable passage of SB 413.