

REPORTS OF STANDING COMMITTEES

MR. PRESIDENT:

The Committee on **Public Health and Welfare** recommends **HB 2223** be amended on page 1, following line 8, by inserting:

"Section 1. K.S.A. 40-3402 is hereby amended to read as follows: 40-3402. (a) Prior to January 1, 2022, a policy of professional liability insurance approved by the commissioner and issued by an insurer duly authorized to transact business in this state in which the limit of the insurer's liability is not less than \$200,000 per claim, subject to not less than a \$600,000 annual aggregate for all claims made during the policy period, shall be maintained in effect by each resident healthcare provider as a condition of active licensure or other statutory authorization to render professional service as a healthcare provider in this state, unless such healthcare provider is a self-insurer. For all new policies and policies that renew on and after January 1, 2022, a policy of professional liability insurance approved by the commissioner and issued by an insurer duly authorized to transact business in this state in which the limit of the insurer's liability is not less than \$500,000 per claim, subject to not less than a \$1,500,000 annual aggregate for all claims made during the policy period, shall be maintained by each resident healthcare provider as a condition of active licensure or other statutory authorization to render professional service as a healthcare provider in this state, unless such healthcare provider is a self-insurer. This provision shall not apply to optometrists, except as provided in subsection (f), and pharmacists on and after July 1, 1991, to physical therapists on and after July 1, 1995, or to health maintenance organizations on and after July 1, 1997. Such policy shall provide as a minimum coverage for claims made during the term of the policy that were incurred during the term of such policy or

during the prior term of a similar policy. Any insurer offering such policy of professional liability insurance to any healthcare provider may offer to such healthcare provider a policy as prescribed in this section with deductible options. Such deductible shall be within such policy limits.

(1) Each insurer providing basic coverage shall, within 30 days after the effective date of any policy issued in accordance with this subsection, notify the board of governors that such coverage is or will be in effect. Such notification shall be on a form approved by the board of governors and shall include information identifying the professional liability policy issued or to be issued, the name and address of all healthcare providers covered by the policy, the amount of the annual premium, the effective and expiration dates of the coverage and such other information as the board of governors shall require. A copy of the notice required by this subsection shall be furnished to the named insured.

(2) In the event of termination of basic coverage by cancellation, nonrenewal, expiration or otherwise by either the insurer or named insured, notice of such termination shall be furnished by the insurer to the board of governors, the state agency which licenses, registers or certifies the named insured and the named insured. Such notice shall be provided no less than 30 days prior to the effective date of any termination initiated by the insurer or within 10 business days after the date coverage is terminated at the request of the named insured and shall include the name and address of the healthcare provider or providers for whom basic coverage is terminated and the date basic coverage will cease to be in effect. No basic coverage shall be terminated by cancellation or failure to renew by the insurer unless such insurer provides a notice of termination as required by this subsection.

(3) Any professional liability insurance policy issued, delivered or in effect in this state on and after July 1, 1976, shall contain or be endorsed to provide basic coverage as required by subsection (a). Notwithstanding any omitted or inconsistent language, any contract of professional

liability insurance shall be construed to obligate the insurer to meet all the mandatory requirements and obligations of this act. The liability of an insurer for claims made prior to July 1, 1984, shall not exceed those limits of insurance provided by such policy prior to July 1, 1984.

(b) A nonresident healthcare provider shall not be licensed to actively render professional service as a healthcare provider in this state unless such healthcare provider maintains continuous coverage in effect as prescribed by subsection (a), except such coverage may be provided by a nonadmitted insurer who has filed the form required by subsection (b)(1). This provision shall not apply to optometrists, except as provided in subsection (f), and pharmacists on and after July 1, 1991, or to physical therapists on and after July 1, 1995.

(1) Every insurance company authorized to transact business in this state, that is authorized to issue professional liability insurance in any jurisdiction, shall file with the commissioner, as a condition of its continued transaction of business within this state, a form prescribed by the commissioner declaring that its professional liability insurance policies, wherever issued, shall be deemed to provide at least the insurance required by this subsection when the insured is rendering professional services as a nonresident healthcare provider in this state. Any nonadmitted insurer may file such a form.

(2) Every nonresident healthcare provider that is required to maintain basic coverage pursuant to this subsection shall pay the surcharge levied by the board of governors pursuant to K.S.A. 40-3404(a), and amendments thereto, directly to the board of governors and shall furnish to the board of governors the information required in subsection (a)(1).

(c) Every healthcare provider that is a self-insurer, the university of Kansas medical center for persons engaged in residency training, as described in K.S.A. 40-3401(r)(1), and amendments thereto, the employers of persons engaged in residency training, as described in K.S.A. 40-3401(r)(2), and amendments thereto, the private practice corporations or foundations

and their full-time physician faculty employed by the university of Kansas medical center or a medical care facility or mental health center for self-insurers under K.S.A. 40-3414(e), and amendments thereto, shall pay the surcharge levied by the board of governors pursuant to K.S.A. 40-3404(a), and amendments thereto, directly to the board of governors and shall furnish to the board of governors the information required in subsections (a)(1) and (a)(2).

(d) In lieu of a claims made policy otherwise required under this section, a person engaged in residency training who is providing services as a healthcare provider but, while providing such services, is not covered by the self-insurance provisions of K.S.A. 40-3414(d), and amendments thereto, may obtain basic coverage under an occurrence form policy, if such policy provides professional liability insurance coverage and limits that are substantially the same as the professional liability insurance coverage and limits required by K.S.A. 40-3402(a), and amendments thereto. Where such occurrence form policy is in effect, the provisions of the healthcare provider insurance availability act referring to claims made policies shall be construed to mean occurrence form policies.

(e) In lieu of a claims made policy otherwise required under this section, a nonresident healthcare provider employed pursuant to a locum tenens contract to provide services in this state as a healthcare provider may obtain basic coverage under an occurrence form policy, if such policy provides professional liability insurance coverage and limits that are substantially the same as the professional liability insurance coverage and limits required by K.S.A. 40-3402, and amendments thereto. Where such occurrence form policy is in effect, the provisions of the healthcare provider insurance availability act referring to claims made policies shall be construed to mean occurrence form policies.

(f) (1) Except as provided in paragraph (2), an optometrist shall be subject to the professional liability insurance requirements of subsection (a) if such optometrist has been

credentialed to provide the incision and curettage of a chalazion, removal and biopsy of skin lesions, laser capsulotomy and laser trabeculoplasty.

(2) An optometrist shall not be subject to the requirements of subsection (a) if the initial surcharge to participate in the healthcare stabilization fund exceeds 15%.

(3) This subsection shall take effect on and after January 1, 2028.

Sec. 2. K.S.A. 40-3403 is hereby amended to read as follows: 40-3403. (a) For the purpose of paying damages for personal injury or death arising out of the rendering of or the failure to render professional services by a healthcare provider, self-insurer or inactive health care provider subsequent to the time that such healthcare provider or self-insurer has qualified for coverage under the provisions of this act, there is hereby established the healthcare stabilization fund. The fund shall be held in trust in the state treasury and accounted for separately from other state funds. The board of governors shall administer the fund or contract for the administration of the fund with an insurance company authorized to do business in this state.

(b) (1) There is hereby created a board of governors that shall be composed of such members and shall have such powers, duties and functions as are prescribed by this act. The board of governors shall:

(A) Administer the fund and exercise and perform other powers, duties and functions required of the board under the healthcare provider insurance availability act;

(B) provide advice, information and testimony to the appropriate licensing or disciplinary authority regarding the qualifications of a healthcare provider;

(C) prepare and publish, on or before October 1 of each year, a report for submission to the healthcare stabilization fund oversight committee that includes a summary of the fund's activity during the preceding fiscal year, including, but not limited to, the amount collected from surcharges, the highest and lowest surcharges assessed, the amount paid from the fund, the number

of judgments paid from the fund, the number of settlements paid from the fund and the fund balance at the end of the fiscal year; and

(D) have the authority to grant temporary exemptions from the provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to healthcare providers who have exceptional circumstances and verify in writing that the healthcare provider will not render professional services in this state during the period of exemption. Whenever the board grants such an exemption, the board shall notify the state agency that licenses the exempted healthcare provider.

(2) The board shall consist of ~~11~~ 12 persons appointed by the commissioner of insurance, as provided by this subsection and as follows:

(A) Three members who are on a list of nominees submitted to the commissioner by the Kansas medical society, at least two of whom are doctors of medicine who are licensed to practice medicine and surgery in Kansas;

(B) three members who are on a list of nominees submitted to the commissioner by the Kansas hospital association and who are representatives of Kansas hospitals;

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

(D) one member who is on a list of nominees submitted to the commissioner by the Kansas chiropractic association and who is licensed to practice chiropractic in Kansas;

(E) one member who is on a list of nominees submitted to the commissioner by the Kansas association of nurse anesthetists and who is a licensed professional nurse authorized to practice as a registered nurse anesthetist; ~~and~~

(F) one member who is on a list of nominees submitted to the commissioner by statewide associations comprised of members who represent adult care homes and who is a representative of

adult care homes; and

(G) one member who is on a list of nominees submitted to the commissioner by the Kansas optometric association and who is a licensed optometrist authorized to practice as an optometrist.

(3) When a vacancy occurs in the membership of the board of governors created by this act, the commissioner shall appoint a successor of like qualifications from a list of three nominees submitted to the commissioner by the professional society or association prescribed by this section for the category of healthcare provider required for the vacant position on the board of governors. All appointments made shall be for a term of office of four years, but no member shall be appointed for more than two successive four-year terms. Each member shall serve until a successor is appointed and qualified. Whenever a vacancy occurs in the membership of the board of governors created by this act for any reason other than the expiration of a member's term of office, the commissioner shall appoint a successor of like qualifications to fill the unexpired term. In each case of a vacancy occurring in the membership of the board of governors, the commissioner shall notify the professional society or association that represents the category of healthcare provider required for the vacant position and request a list of three nominations of healthcare providers from which to make the appointment.

(4) The board of governors shall organize in July of each year and shall elect a chairperson and vice chairperson from among its membership. Meetings shall be called by the chairperson or by a written notice signed by three members of the board.

(5) The board of governors, in addition to other duties imposed by this act, shall study and evaluate the operation of the fund and make such recommendations to the legislature as may be appropriate to ensure the viability of the fund.

(6) (A) The board shall appoint an executive director who shall be in the unclassified

service under the Kansas civil service act and may employ attorneys and other employees who shall also be in the unclassified service under the Kansas civil service act. Such executive director, attorneys and other employees shall receive compensation fixed by the board, in accordance with appropriation acts of the legislature, not subject to approval of the governor.

(B) The board may provide all office space, services, equipment, materials and supplies, and all budgeting, personnel, purchasing and related management functions required by the board in the exercise of the powers, duties and functions imposed or authorized by the healthcare provider insurance availability act or may enter into a contract with the commissioner of insurance for the provision, by the commissioner, of all or any part thereof.

(7) The commissioner shall:

(A) Provide technical and administrative assistance to the board of governors with respect to administration of the fund upon request of the board; and

(B) provide such expertise as the board may reasonably request with respect to evaluation of claims or potential claims.

(c) Except as otherwise provided by any other provision of this act, the fund shall be liable to pay:

(1) Any amount due from a judgment or settlement that is in excess of the basic coverage liability of all liable resident healthcare providers or resident self-insurers for any personal injury or death arising out of the rendering of or the failure to render professional services within or without this state;

(2) subject to the provisions of subsection (f), any amount due from a judgment or settlement that is in excess of the basic coverage liability of all liable nonresident healthcare providers or nonresident self-insurers for any such injury or death arising out of the rendering or the failure to render professional services within this state but in no event shall the fund be

obligated for claims against nonresident healthcare providers or nonresident self-insurers who have not complied with this act or for claims against nonresident healthcare providers or nonresident self-insurers that arose outside of this state;

(3) subject to the provisions of subsection (f), any amount due from a judgment or settlement against a resident inactive healthcare provider for any such injury or death arising out of the rendering of or failure to render professional services;

(4) subject to the provisions of subsection (f), any amount due from a judgment or settlement against a nonresident inactive healthcare provider for any injury or death arising out of the rendering or failure to render professional services within this state, but in no event shall the fund be obligated for claims against nonresident inactive healthcare providers:

(A) Who have not complied with this act; or

(B) for claims that arose outside of this state, unless such healthcare provider was a resident healthcare provider or resident self-insurer at the time such act occurred;

(5) subject to K.S.A. 40-3411(b), and amendments thereto, reasonable and necessary expenses for attorney fees, depositions, expert witnesses and other costs incurred in defending the fund against claims, and such expenditures shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto;

(6) any amounts expended for reinsurance obtained to protect the best interests of the fund purchased by the board of governors, which purchase shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto, but shall not be subject to the provisions of K.S.A. 75-4101, and amendments thereto;

(7) reasonable and necessary actuarial expenses incurred in administering the act, including expenses for any actuarial studies contracted for by the legislative coordinating council, and such expenditures shall not be subject to the provisions of K.S.A. 75-3738 through 75-3744,

and amendments thereto;

(8) periodically to the plan or plans, any amount due pursuant to K.S.A. 40-3413(a)(3), and amendments thereto;

(9) reasonable and necessary expenses incurred by the board of governors in the administration of the fund or in the performance of other powers, duties or functions of the board under the healthcare provider insurance availability act;

(10) surcharge refunds payable when the notice of cancellation requirements of K.S.A. 40-3402, and amendments thereto, are met;

(11) subject to K.S.A. 40-3411(b), and amendments thereto, reasonable and necessary expenses for attorney fees and other costs incurred in defending a person engaged or who was engaged in residency training or the private practice corporations or foundations and their full-time physician faculty employed by the university of Kansas medical center or any nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine from claims for personal injury or death arising out of the rendering of or the failure to render professional services by such healthcare provider;

(12) any amount due from a judgment or settlement for an injury or death arising out of the rendering of or failure to render professional services by a person engaged or who was engaged in residency training or the private practice corporations or foundations and their full-time physician faculty employed by the university of Kansas medical center or any nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine;

(13) subject to the provisions of K.S.A. 65-429, and amendments thereto, reasonable and necessary expenses for the development and promotion of risk management education programs

and for the medical care facility licensure and risk management survey functions carried out under K.S.A. 65-429, and amendments thereto;

(14) any amount, but not less than the required basic coverage limits, owed pursuant to a judgment or settlement for any injury or death arising out of the rendering of or failure to render professional services by a person, other than a person described in paragraph (12), who was engaged in a postgraduate program of residency training approved by the state board of healing arts but who, at the time the claim was made, was no longer engaged in such residency program;

(15) subject to K.S.A. 40-3411(b), and amendments thereto, reasonable and necessary expenses for attorney fees and other costs incurred in defending a person described in paragraph (14);

(16) expenses incurred by the commissioner in the performance of duties and functions imposed upon the commissioner by the healthcare provider insurance availability act, and expenses incurred by the commissioner in the performance of duties and functions under contracts entered into between the board and the commissioner as authorized by this section; and

(17) periodically to the state general fund reimbursements of amounts paid to members of the healthcare stabilization fund oversight committee for compensation, travel expenses and subsistence expenses pursuant to K.S.A. 40-3403b(e), and amendments thereto.

(d) All amounts for which the fund is liable pursuant to subsection (c) shall be paid promptly and in full except that, if the amount for which the fund is liable is \$500,000 or more, it shall be paid by installment payments of \$500,000 or 10% of the amount of the judgment including interest thereon, whichever is greater, per fiscal year, the first installment to be paid within 60 days after the fund becomes liable and each subsequent installment to be paid annually on the same date of the year the first installment was paid, until the claim has been paid in full.

(e) In no event shall the fund be liable to pay in excess of \$3,000,000 pursuant to any one

judgment or settlement against any one healthcare provider relating to any injury or death arising out of the rendering of or the failure to render professional services on and after July 1, 1984, and before July 1, 1989, subject to an aggregate limitation for all judgments or settlements arising from all claims made in any one fiscal year in the amount of \$6,000,000 for each healthcare provider.

(f) In no event shall the fund be liable to pay in excess of the amounts specified in the option selected by an active or inactive healthcare provider pursuant to subsection (l) for judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services by such healthcare provider on or after July 1, 1989.

(g) A healthcare provider shall be deemed to have qualified for coverage under the fund:

- (1) On and after July 1, 1976, if basic coverage is then in effect;
- (2) subsequent to July 1, 1976, at such time as basic coverage becomes effective; or
- (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

(h) A healthcare provider who is qualified for coverage under the fund shall have no vicarious liability or responsibility for any injury or death arising out of the rendering of or the failure to render professional services inside or outside this state by any other healthcare provider who is also qualified for coverage under the fund. The provisions of this subsection shall apply to all claims filed on or after July 1, 1986.

(i) Notwithstanding the provisions of K.S.A. 40-3402, and amendments thereto, if the board of governors determines due to the number of claims filed against a healthcare provider or the outcome of those claims that an individual healthcare provider presents a material risk of significant future liability to the fund, the board of governors is authorized by a vote of a majority of the members thereof, after notice and an opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, to terminate the liability of the fund for all

claims against the healthcare provider for damages for death or personal injury arising out of the rendering of or the failure to render professional services after the date of termination. The date of termination shall be 30 days after the date of the determination by the board of governors. The board of governors, upon termination of the liability of the fund under this subsection, shall notify the licensing or other disciplinary board having jurisdiction over the healthcare provider involved of the name of the healthcare provider and the reasons for the termination.

(j) (1) Subject to the provisions of paragraph (7), upon the payment of moneys from the healthcare stabilization fund pursuant to subsection (c)(11), the board of governors shall certify to the secretary of administration the amount of such payment, and the secretary of administration shall transfer an amount equal to the amount certified, reduced by any amount transferred pursuant to paragraph (3) or (4), from the state general fund to the healthcare stabilization fund.

(2) Subject to the provisions of paragraph (7), upon the payment of moneys from the healthcare stabilization fund pursuant to subsection (c)(12), the board of governors shall certify to the secretary of administration the amount of such payment that is equal to the basic coverage liability of self-insurers, and the secretary of administration shall transfer an amount equal to the amount certified, reduced by any amount transferred pursuant to paragraph (3) or (4), from the state general fund to the healthcare stabilization fund.

(3) The university of Kansas medical center private practice foundation reserve fund is hereby established in the state treasury. If the balance in such reserve fund is less than \$500,000 on July 1 of any year, the private practice corporations or foundations referred to in K.S.A. 40-3402(c), and amendments thereto, shall remit the amount necessary to increase such balance to \$500,000 to the state treasurer for credit to such reserve fund as soon after such July 1 date as is practicable. Upon receipt of each such remittance, the state treasurer shall credit the same to such reserve fund. When compliance with the foregoing provisions of this paragraph have been

achieved on or after July 1 of any year in which the same are applicable, the state treasurer shall certify to the board of governors that such reserve fund has been funded for the year in the manner required by law. Moneys in such reserve fund may be invested or reinvested in accordance with the provisions of K.S.A. 40-3406, and amendments thereto, and any income or interest earned by such investments shall be credited to such reserve fund. Upon payment of moneys from the healthcare stabilization fund pursuant to subsection (c)(11) or (c)(12) with respect to any private practice corporation or foundation or any of its full-time physician faculty employed by the university of Kansas, the secretary of administration shall transfer an amount equal to the amount paid from the university of Kansas medical center private practice foundation reserve fund to the healthcare stabilization fund or, if the balance in such reserve fund is less than the amount so paid, an amount equal to the balance in such reserve fund.

(4) The graduate medical education administration reserve fund is hereby established in the state treasury. If the balance in such reserve fund is less than \$40,000 on July 1 of any year, the nonprofit corporations organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall remit the amount necessary to increase such balance to \$40,000 to the state treasurer for credit to such reserve fund as soon after such July 1 date as is practicable. Upon receipt of each such remittance, the state treasurer shall credit the same to such reserve fund. When compliance with the foregoing provisions of this paragraph have been achieved on or after July 1 of any year in which the same are applicable, the state treasurer shall certify to the board of governors that such reserve fund has been funded for the year in the manner required by law. Moneys in such reserve fund may be invested or reinvested in accordance with the provisions of K.S.A. 40-3406, and amendments thereto, and any income or interest earned by such investments shall be credited to such reserve fund. Upon payment of moneys from the healthcare stabilization

fund pursuant to subsection (c)(11) or (c)(12) with respect to any nonprofit corporations organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine the secretary of administration shall transfer an amount equal to the amount paid from the graduate medical education administration reserve fund to the healthcare stabilization fund or, if the balance in such reserve fund is less than the amount so paid, an amount equal to the balance in such reserve fund.

(5) Upon payment of moneys from the healthcare stabilization fund pursuant to subsection (c)(14) or (c)(15), the board of governors shall certify to the secretary of administration the amount of such payment, and the secretary of administration shall transfer an amount equal to the amount certified from the state general fund to the healthcare stabilization fund.

(6) Transfers from the state general fund to the healthcare stabilization fund pursuant to this subsection shall not be subject to the provisions of K.S.A. 75-3722, and amendments thereto.

(7) The funds required to be transferred from the state general fund to the healthcare stabilization fund pursuant to paragraphs (1) and (2) for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013, shall not be transferred prior to July 1, 2013. The secretary of administration shall maintain a record of the amounts certified by the board of governors pursuant to paragraphs (1) and (2) for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013. Beginning July 1, 2013, in addition to any other transfers required pursuant to subsection (j), the state general fund transfers that are deferred pursuant to this paragraph shall be transferred from the state general fund to the healthcare stabilization fund in the following manner: On July 1, 2013, and annually thereafter through July 1, 2018, an amount equal to 20% of the total amount of state general fund transfers deferred pursuant to this paragraph for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013. The amounts deferred pursuant to this paragraph shall not accrue interest thereon.

(k) Notwithstanding any other provision of the healthcare provider insurance availability act, no psychiatric hospital licensed under K.S.A. 39-2001 et seq., and amendments thereto, shall be assessed a premium surcharge or be entitled to coverage under the fund if such hospital has not paid any premium surcharge pursuant to K.S.A. 40-3404, and amendments thereto, prior to January 1, 1988.

(l) (1) On or after July 1, 1989, and prior to January 1, 2022, every healthcare provider shall make an election to be covered by one of the following options provided in subparagraph (A) that shall limit the liability of the fund with respect to judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services on or after July 1, 1989. On and after January 1, 2022, every healthcare provider shall make an election to be covered by one of the following options provided in subparagraph (B) that shall limit the liability of the fund with respect to judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services on or after January 1, 2022. Such election shall be made at the time the healthcare provider renews the basic coverage, or, if basic coverage is not in effect, such election shall be made at the time such coverage is acquired pursuant to K.S.A. 40-3402, and amendments thereto. A medical care facility or a healthcare facility deemed qualified as a self-insurer under K.S.A. 40-3414(a), and amendments thereto, may opt out of the requirements set forth in subparagraph (B) if such medical care facility or healthcare facility substantially meets the minimum coverage requirements of this section through coverage provided by the captive insurance company of such medical care facility or healthcare facility. Notice of the election shall be provided by the insurer providing the basic coverage in the manner and form prescribed by the board of governors and shall continue to be effective from year to year unless modified by a subsequent election made prior to the anniversary date of the policy. The healthcare provider may at any subsequent election reduce the dollar amount of the coverage for the next and

subsequent fiscal years, but may not increase the same, unless specifically authorized by the board of governors. Any election of fund coverage limits, whenever made, shall be with respect to judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services on or after the effective date of such election of fund coverage limits. Such election shall be made for persons engaged in residency training and persons engaged in other postgraduate training programs approved by the state board of healing arts at medical care facilities or mental health centers in this state by the agency or institution paying the surcharge levied under K.S.A. 40-3404, and amendments thereto, for such persons. The election of fund coverage limits for a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine shall be deemed to be effective at the highest option. Such options shall be as follows:

(A) (i) *OPTION 1.* The fund shall not be liable to pay in excess of \$100,000 pursuant to any one judgment or settlement for any party against such healthcare provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$300,000 for such provider.

(ii) *OPTION 2.* The fund shall not be liable to pay in excess of \$300,000 pursuant to any one judgment or settlement for any party against such healthcare provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$900,000 for such provider.

(iii) *OPTION 3.* The fund shall not be liable to pay in excess of \$800,000 pursuant to any one judgment or settlement for any party against such healthcare provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$2,400,000 for such healthcare provider.

(B) (i) *OPTION 1.* The fund shall not be liable to pay in excess of \$500,000 pursuant to any one judgment or settlement for any party against such healthcare provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$1,500,000 for such healthcare provider.

(ii) *OPTION 2.* The fund shall not be liable to pay in excess of \$1,500,000 pursuant to any one judgment or settlement for any party against such healthcare provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of \$4,500,000 for such healthcare provider.

(2) The board of governors shall have the authority to adjust the amounts provided in subparagraph (B) as the board deems necessary to effectuate the provisions of the healthcare provider insurance availability act, except that the minimum coverage for a healthcare provider shall not be less than \$1,000,000 per claim and \$3,000,000 in the aggregate.

(m) In the event of a claim against a healthcare provider for personal injury or death arising out of the rendering of or the failure to render professional services by such healthcare provider, the liability of the fund shall be limited to the amount of coverage selected by the healthcare provider at the time of the incident giving rise to the claim.

(n) Notwithstanding anything in article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to the contrary, the fund shall in no event be liable for any claims against any healthcare provider based upon or relating to the healthcare provider's sexual acts or activity, but in such cases the fund may pay reasonable and necessary expenses for attorney fees incurred in defending the fund against such claim. The fund may recover all or a portion of such expenses for attorney fees if an adverse judgment is returned against the healthcare provider for damages resulting from the healthcare provider's sexual acts or activity.";

Also on page 1, in line 34, by striking the second comma and inserting "and"; also in line 34,

by striking all after "trabeculoplasty";

On page 2, in line 1, by striking all before the semicolon; in line 6, after the period by inserting "The board shall not adopt a rule and regulation authorized pursuant to this paragraph without first receiving a recommendation from the interprofessional advisory committee that such procedure is appropriate for an optometrist to perform."; in line 28, before "with" by inserting ", the performance of incision and curettage of a chalazion, removal and biopsy of skin lesions, laser capsulotomy and laser trabeculoplasty"; in line 42, by striking "2024" and inserting "2025";

On page 4, in line 31, by striking "2024" and inserting "2025";

On page 6, in line 20, by striking "2024" and inserting "2025";

On page 7, in line 8, by striking all after "(b)"; by striking all in line 9; in line 10, by striking all before the first period and inserting "(1) A licensee who seeks to administer or perform a procedure referenced by K.S.A. 65-1501(a)(4) or (5), and amendments thereto, that requires the use of injections or lasers shall be required to receive credentialing as follows:

(A) A licensee who graduated from an accredited college or school of optometry on or after July 1, 2020, shall be granted such credentialing by the board upon submitting a request to the board; or

(B) a licensee who graduated from an accredited college or school of optometry prior to July 1, 2020, shall be granted credentialing when the board receives proof of successful completion of a 32-hour certification program that:

(i) Includes both didactic and clinical or laboratory experiences and testing approved by the board; and

(ii) is presented by a school or college of optometry or school of medicine that is approved by the board.

(2) (A) A licensee that has received credentialing under paragraph (1) shall submit a report

to the board on a quarterly basis that contains:

- (i) The name of the optometrist;
- (ii) the total number of procedures performed during that quarter;
- (iii) the location where each procedure was performed; and
- (iv) the outcome for each procedure or patient.

(B) A reporting optometrist shall certify the accuracy of the information contained in the report.

(C) Beginning July 1, 2027, and annually thereafter, the board shall compile and make public the information contained in reports received under this subsection, but shall redact any personally identifiable information prior to making such reports public.

(D) The provisions of this paragraph shall expire on July 1, 2031.";

On page 8, following line 32, by inserting:

"Sec. 10. K.S.A. 74-1505 is hereby amended to read as follows: 74-1505. (a) The board shall appoint a seven-member committee to be known as the interprofessional advisory committee which, as requested by the board, ~~shall make recommendations on clinical or practice related issues, including procedure coding matters and appropriate treatments for ocular diseases and conditions~~ may review new technologies to make recommendations for consideration by the board. The board may request that the committee meet to review a procedure and make a recommendation whether or not the procedure is appropriate for an optometrist to perform.

(b) The interprofessional advisory committee shall consist of one member of the board appointed by the board who shall serve as a nonvoting chair, together with three optometrists licensed to practice optometry in this state chosen by the board from those nominated by the Kansas optometric association and three ophthalmologists licensed to practice in this state chosen by the board from those nominated by the Kansas ~~medical society and the Kansas association of~~

~~osteopathic medicine of eye physicians and surgeons.~~ The Kansas optometric association and the Kansas medical society of eye physicians and surgeons shall submit six nominees to the board. ~~The Kansas association of osteopathic medicine shall submit two nominees to the board.~~ Persons appointed to the committee shall serve terms of three years and without compensation. All expenses of the committee shall be paid by the board.

(c) This section shall be a part of and supplemental to the optometry law.";

Also on page 8, in line 33, after "K.S.A." by inserting "40-3402, 40-3403,"; in line 34, by striking "2024" and inserting "2025";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after the first "K.S.A." by inserting "40-3402, 40-3403,"; also in line 4, by striking the first "and" and inserting a comma; also in line 4, after "74-1504" by inserting "and 74-1505"; in line 5, by striking "2024" and inserting "2025"; in line 6, by striking "and 74-1505" and the bill be passed as amended.

Chairperson