

REPORTS OF STANDING COMMITTEES

MR. SPEAKER:

The Committee on **Health and Human Services** recommends **HB 2676** be amended on page 1, following line 7, 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 and pharmacists, except as provided in subsection (f), 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 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) A pharmacist shall be subject to the professional liability insurance requirements of

subsection (a) if such pharmacist independently initiates therapy pursuant to K.S.A. 2025 Supp. 65-16,131, and amendments thereto.

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

Sec. 2. K.S.A. 2025 Supp. 65-1626a is hereby amended to read as follows: 65-1626a.

(a) For the purpose of the pharmacy act of the state of Kansas, the following individuals shall be deemed to be engaged in the practice of pharmacy:

(1) Individuals who publicly profess to be a pharmacist, or publicly profess to assume the duties incident to being a pharmacist and their knowledge of drugs or drug actions, or both; and

(2) individuals who attach to their name any words or abbreviation indicating that they are a pharmacist licensed to practice pharmacy in Kansas.

(b) As used in this section:

(1) "Practice of pharmacy" means:

(A) The interpretation and evaluation of prescription orders;

(B) the compounding, dispensing and labeling of drugs and devices pursuant to prescription orders;

(C) the administering of vaccine pursuant to a vaccination protocol;

(D) the participation in drug selection according to state law and participation in drug utilization reviews;

(E) the proper and safe storage of prescription drugs and prescription devices and the maintenance of proper records thereof in accordance with law;

(F) consultation with patients and other health care practitioners about the safe and effective use of prescription drugs and prescription devices;

(G) performance of collaborative drug therapy management pursuant to a written

collaborative practice agreement with one or more physicians who have an established physician-patient relationship;

(H) participation in the offering or performing of those acts, services, operations or transactions necessary in the conduct, operation, management and control of a pharmacy; ~~and~~

(I) initiation of therapy for the conditions specified in K.S.A. 2025 Supp. 65-16,131, and amendments thereto; and

(J) dispensing a one-time emergency refill of a noncontrolled prescription drug for up to a 90-day supply when no refills remain and, in the pharmacists' professional judgment, continuation of therapy is necessary to prevent interruption of care.

(2) "Collaborative drug therapy management" means a practice of pharmacy where a pharmacist performs certain pharmaceutical-related patient care functions for a specific patient which have been delegated to the pharmacist by a physician through a collaborative practice agreement. A physician who enters into a collaborative practice agreement is responsible for the care of the patient following initial diagnosis and assessment and for the direction and supervision of the pharmacist throughout the collaborative drug therapy management process. Nothing in this subsection shall be construed to permit a pharmacist to alter a physician's orders or directions, diagnose or treat any disease, independently prescribe drugs or independently practice medicine and surgery.

(3) "Collaborative practice agreement" means a written agreement or protocol between one or more pharmacists and one or more physicians that provides for collaborative drug therapy management. Such collaborative practice agreement shall contain certain specified conditions or limitations pursuant to the collaborating physician's order, standing order, delegation or protocol. A collaborative practice agreement shall be: (A) Consistent with the normal and customary specialty, competence and lawful practice of the physician; and (B) appropriate to the

pharmacist's training and experience.

(4) "Physician" means a person licensed to practice medicine and surgery in this state.

(c) Nothing in this section shall be construed to:

(1) Add any additional requirements for registration or for a permit under the pharmacy act of the state of Kansas or for approval under K.S.A. 65-1643(g), and amendments thereto;

(2) prevent persons other than pharmacists from engaging in drug utilization review;

(3) require persons lawfully in possession of prescription drugs or prescription devices to meet any storage or record keeping requirements except such storage and record keeping requirements as may be otherwise provided by law; or

(4) affect any person consulting with a healthcare practitioner about the safe and effective use of prescription drugs or prescription devices.";

Also on page 1, in line 19, after "emergency" by inserting "that threatens the health or safety of the patient if the prescription is not immediately dispensed. In such cases, only the sufficient quantity shall be provided until the patient is able to consult with or be seen by the patient's personal physician or other primary care provider"; in line 20, after "(2)" by inserting "Nothing in subsection (a) shall be construed to authorize a pharmacist to prescribe a controlled substance, except for a medication prescribed for the treatment of opioid use disorder or for medication-assisted treatment.

(3)";

On page 2, in line 24, before "K.S.A" by inserting "K.S.A. 40-3402 and"; also in line 24, after "Supp." by inserting "65-1626a and"; also in line 24, by striking "is" and inserting "are";

And by renumbering sections accordingly;

On page 1, in the title, in line 4, after the semicolon by inserting "adding pharmacists who initiate such therapy to the healthcare stabilization fund; allowing for a 90-day emergency supply

of a noncontrolled prescription drug to be filled when no refills remain;"; also in line 4, after "amending" by inserting "K.S.A. 40-3402 and"; also in line 4, after "Supp." by inserting "65-1626a and"; in line 5, by striking "section" and inserting "sections"; and the bill be passed as amended.

_____Chairperson