

## HOUSE BILL No. 2509

By Committee on Health and Human Services

Requested by Representative W. Carpenter

1-21

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AN ACT concerning health and healthcare; relating to the healthcare provider insurance availability act; adding advanced practice registered nurse to the definition of healthcare provider; amending K.S.A. 2025 Supp. 40-3401 and repealing the existing section.

*Be it enacted by the Legislature of the State of Kansas:*

Section 1. K.S.A. 2025 Supp. 40-3401 is hereby amended to read as follows: 40-3401. As used in this act:

(a) "Applicant" means any healthcare provider.

(b) "Basic coverage" means a policy of professional liability insurance required to be maintained by each healthcare provider pursuant to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

(c) "Commissioner" means the commissioner of insurance.

(d) "Fiscal year" means the year commencing on the effective date of this act and each year, commencing on the first day of July thereafter.

(e) "Fund" means the healthcare stabilization fund established pursuant to K.S.A. 40-3403(a), and amendments thereto.

(f) (1) "Healthcare provider" means a:

(A) Person licensed to practice any branch of the healing arts by the state board of healing arts;

(B) person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts;

(C) person engaged in a postgraduate training program approved by the state board of healing arts;

(D) medical care facility licensed by the state of Kansas;

(E) podiatrist licensed by the state board of healing arts;

(F) health maintenance organization *that has been* issued a certificate of authority by the commissioner;

(G) optometrist licensed by the board of examiners in optometry;

(H) pharmacist licensed by the state board of pharmacy;

(I) licensed professional nurse who is authorized to practice as a registered nurse anesthetist;

(J) licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto;

1 (K) professional corporation organized pursuant to the professional  
2 corporation law of Kansas by persons who are authorized by such law to  
3 form such a corporation and are healthcare providers as defined by this  
4 subsection;

5 (L) Kansas limited liability company organized for the purpose of  
6 rendering professional services by its members who are healthcare  
7 providers as defined by this subsection and legally authorized to render the  
8 professional services for which the limited liability company is organized;

9 (M) partnership of persons who are healthcare providers under this  
10 subsection;

11 (N) Kansas ~~not-for-profit~~ *nonprofit* corporation organized for the  
12 purpose of rendering professional services by persons who are healthcare  
13 providers as defined by this subsection;

14 (O) nonprofit corporation organized to administer the graduate  
15 medical education programs of community hospitals or medical care  
16 facilities affiliated with the university of Kansas school of medicine;

17 (P) dentist certified by the state board of healing arts to administer  
18 anesthetics under K.S.A. 65-2899, and amendments thereto;

19 (Q) psychiatric hospital licensed prior to January 1, 1988, and  
20 continuously thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its  
21 repeal, and K.S.A. 39-2001 et seq., and amendments thereto, or a mental  
22 health center or mental health clinic licensed by the state of Kansas;

23 (R) physician assistant licensed by the state board of healing arts;

24 (S) licensed advanced practice registered nurse who is authorized by  
25 the board of nursing to practice as an advanced practice registered nurse in  
26 the classification of a nurse-midwife;

27 (T) maternity center, if such maternity center has been granted  
28 accreditation by the commission for accreditation of birth centers and is a  
29 maternity center as defined in K.S.A. 65-503, and amendments thereto;

30 (U) licensed advanced practice registered nurse who has been granted  
31 a temporary authorization by the board of nursing to practice as an  
32 advanced practice registered nurse in the classification of a nurse-midwife;

33 (V) nursing facility licensed by the state of Kansas;

34 (W) assisted living facility licensed by the state of Kansas; ~~or~~

35 (X) a residential healthcare facility licensed by the state of Kansas;

36 (Y) *commencing on and after January 1, 2027, any advanced*  
37 *practice registered nurse licensed or granted a temporary authorization*  
38 *by the board of nursing to practice as an advanced practice nurse.*

39 (2) "Healthcare provider" does not include:

40 (A) Any state institution for people with intellectual disability;

41 (B) any state psychiatric hospital;

42 (C) any person holding an exempt license issued by the state board of  
43 healing arts or the board of nursing;

1 (D) any person holding a visiting clinical professor license from the  
2 state board of healing arts;

3 (E) any person holding an inactive license issued by the state board of  
4 healing arts;

5 (F) any person holding a federally active license issued by the state  
6 board of healing arts;

7 (G) an advanced practice registered nurse who is authorized by the  
8 board of nursing to practice as an advanced practice registered nurse in the  
9 classification of nurse-midwife or nurse anesthetist and who practices  
10 solely in the course of employment or active duty in the United States  
11 government or any of its departments, bureaus or agencies or provides  
12 professional services as a charitable healthcare provider as defined under  
13 K.S.A. 75-6102, and amendments thereto; or

14 (H) a physician assistant licensed by the state board of healing arts  
15 who practices solely in the course of employment or active duty in the  
16 United States government or any of its departments, bureaus or agencies or  
17 provides professional services as a charitable healthcare provider as  
18 defined under K.S.A. 75-6102, and amendments thereto.

19 (g) "Inactive healthcare provider" means a person or other entity who  
20 purchased basic coverage or qualified as a self-insurer on or subsequent to  
21 the effective date of this act but who, at the time a claim is made for  
22 personal injury or death arising out of the rendering of or the failure to  
23 render professional services by such healthcare provider, does not have  
24 basic coverage or self-insurance in effect solely because such person is no  
25 longer engaged in rendering professional service as a healthcare provider.

26 (h) "Insurer" means any corporation, association, reciprocal  
27 exchange, inter-insurer and any other legal entity authorized to write  
28 bodily injury or property damage liability insurance in this state, including  
29 workers compensation and automobile liability insurance, pursuant to the  
30 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of  
31 the Kansas Statutes Annotated, and amendments thereto.

32 (i) "Plan" means the operating and administrative rules and  
33 procedures developed by insurers and rating organizations or the  
34 commissioner to make professional liability insurance available to  
35 healthcare providers.

36 (j) "Professional liability insurance" means insurance providing  
37 coverage for legal liability arising out of the performance of professional  
38 services rendered or that should have been rendered by a healthcare  
39 provider.

40 (k) "Rating organization" means a corporation, an unincorporated  
41 association, a partnership or an individual licensed pursuant to K.S.A. 40-  
42 956, and amendments thereto, to make rates for professional liability  
43 insurance.

1 (l) "Self-insurer" means a healthcare provider who qualifies as a self-  
2 insurer pursuant to K.S.A. 40-3414, and amendments thereto.

3 (m) "Medical care facility," ~~means the same~~ when used in the  
4 healthcare provider insurance availability act, *means the same* as defined  
5 in K.S.A. 65-425, and amendments thereto, except that, as used in the  
6 healthcare provider insurance availability act, ~~such term~~ "*medical care*  
7 *facility*," as it relates to insurance coverage under the healthcare provider  
8 insurance availability act, also includes any director, trustee, officer or  
9 administrator of a medical care facility.

10 (n) "Mental health center" means a mental health center licensed by  
11 the state of Kansas under K.S.A. 39-2001 et seq., and amendments thereto,  
12 except that, as used in the healthcare provider insurance availability act,  
13 ~~such term~~ "*mental health center*," as it relates to insurance coverage under  
14 the healthcare provider insurance availability act, also includes any  
15 director, trustee, officer or administrator of a mental health center.

16 (o) "Mental health clinic" means a mental health clinic licensed by  
17 the state of Kansas under K.S.A. 39-2001 et seq., and amendments thereto,  
18 except that, as used in the healthcare provider insurance availability act,  
19 ~~such term~~ "*mental health clinic*," as it relates to insurance coverage under  
20 the healthcare provider insurance availability act, also includes any  
21 director, trustee, officer or administrator of a mental health clinic.

22 (p) "State institution for people with intellectual disability" means  
23 Parsons state hospital and the Kansas neurological institute.

24 (q) "State psychiatric hospital" means Larned state hospital,  
25 Osawatomie state hospital and south central regional mental health  
26 hospital.

27 (r) "Person engaged in residency training" means:

28 (1) A person engaged in a postgraduate training program approved by  
29 the state board of healing arts who is employed by and is studying at the  
30 university of Kansas medical center *but only when if* such person is  
31 engaged in medical activities that do not include extracurricular, extra-  
32 institutional medical service for which such person receives extra  
33 compensation and that have not been approved by the dean of the school  
34 of medicine and the executive vice-chancellor of the university of Kansas  
35 medical center. Persons engaged in residency training shall be considered  
36 resident healthcare providers for purposes of K.S.A. 40-3401 et seq., and  
37 amendments thereto; and

38 (2) a person engaged in a postgraduate training program approved by  
39 the state board of healing arts who is employed by a nonprofit corporation  
40 organized to administer the graduate medical education programs of  
41 community hospitals or medical care facilities affiliated with the university  
42 of Kansas school of medicine or who is employed by an affiliate of the  
43 university of Kansas school of medicine as defined in K.S.A. 76-367, and

1 amendments thereto, ~~but only when~~ *if* such person is engaged in medical  
2 activities that do not include extracurricular, extra-institutional medical  
3 service for which such person receives extra compensation and that have  
4 not been approved by the chief operating officer of the nonprofit  
5 corporation or the chief operating officer of the affiliate and the executive  
6 ~~vice-chancellor~~ *vice chancellor* of the university of Kansas medical center.

7 (s) "Full-time physician faculty employed by the university of Kansas  
8 medical center" means a person licensed to practice medicine and surgery  
9 who holds a full-time appointment at the university of Kansas medical  
10 center when such person is providing healthcare. A person licensed to  
11 practice medicine and surgery who holds a full-time appointment at the  
12 university of Kansas medical center may also be employed ~~part-time~~ *part*  
13 *time* by the United States department of veterans affairs if such  
14 employment is approved by the executive ~~vice-chancellor~~ *vice chancellor*  
15 of the university of Kansas medical center.

16 (t) "Sexual act" or "sexual activity" means sexual conduct that  
17 constitutes a criminal or tortious act under the laws of the state of Kansas.

18 (u) "Board" means the board of governors created by K.S.A. 40-3403,  
19 and amendments thereto.

20 (v) "Board of directors" means the governing board created by K.S.A.  
21 40-3413, and amendments thereto.

22 (w) "Locum tenens contract" means a temporary agreement not  
23 exceeding 182 days per calendar year that employs a healthcare provider  
24 to actively render professional services in this state.

25 (x) "Professional services" means patient care or other services  
26 authorized under the act governing licensure of a healthcare provider.

27 (y) "Healthcare facility" means a nursing facility, an assisted living  
28 facility or a residential healthcare facility as all such terms are defined in  
29 K.S.A. 39-923, and amendments thereto.

30 (z) "Charitable healthcare provider" means the same as defined in  
31 K.S.A. 75-6102, and amendments thereto.

32 Sec. 2. K.S.A. 2025 Supp. 40-3401 is hereby repealed.

33 Sec. 3. This act shall take effect and be in force from and after its  
34 publication in the statute book.