

As Amended by House Committee

Session of 2026

HOUSE BILL No. 2509

By Committee on Health and Human Services

Requested by Representative W. Carpenter

1-21

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; **adding an advanced practice registered nurse position to the board of governors of the healthcare stabilization fund**; amending **K.S.A. 40-3403 and K.S.A. 2025 Supp. 40-3401** and repealing the existing ~~section~~ **sections**.

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

1 authorization to practice nurse anesthesia under K.S.A. 65-1153, and
2 amendments thereto;

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

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

11 (M) partnership of persons who are healthcare providers under this
12 subsection;

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

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

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

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

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

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

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

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

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

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

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

38 (Y) *commencing on and after January 1, ~~2027~~ 2028, any advanced*
39 *practice registered nurse licensed or granted a temporary authorization*
40 *by the board of nursing to practice as an advanced practice nurse. Any*
41 **such advanced practice registered nurse shall be granted six months to**
42 **comply with membership requirements.**

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

- 1 (A) Any state institution for people with intellectual disability;
2 (B) any state psychiatric hospital;
3 (C) any person holding an exempt license issued by the state board of
4 healing arts or the board of nursing;
5 (D) any person holding a visiting clinical professor license from the
6 state board of healing arts;
7 (E) any person holding an inactive license issued by the state board of
8 healing arts;
9 (F) any person holding a federally active license issued by the state
10 board of healing arts;
11 (G) an advanced practice registered nurse who is authorized by the
12 board of nursing to practice as an advanced practice registered nurse in the
13 classification of nurse-midwife or nurse anesthetist and who practices
14 solely in the course of employment or active duty in the United States
15 government or any of its departments, bureaus or agencies or provides
16 professional services as a charitable healthcare provider as defined under
17 K.S.A. 75-6102, and amendments thereto; or
18 (H) a physician assistant licensed by the state board of healing arts
19 who practices solely in the course of employment or active duty in the
20 United States government or any of its departments, bureaus or agencies or
21 provides professional services as a charitable healthcare provider as
22 defined under K.S.A. 75-6102, and amendments thereto.
23 (g) "Inactive healthcare provider" means a person or other entity who
24 purchased basic coverage or qualified as a self-insurer on or subsequent to
25 the effective date of this act but who, at the time a claim is made for
26 personal injury or death arising out of the rendering of or the failure to
27 render professional services by such healthcare provider, does not have
28 basic coverage or self-insurance in effect solely because such person is no
29 longer engaged in rendering professional service as a healthcare provider.
30 (h) "Insurer" means any corporation, association, reciprocal
31 exchange, inter-insurer and any other legal entity authorized to write
32 bodily injury or property damage liability insurance in this state, including
33 workers compensation and automobile liability insurance, pursuant to the
34 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of
35 the Kansas Statutes Annotated, and amendments thereto.
36 (i) "Plan" means the operating and administrative rules and
37 procedures developed by insurers and rating organizations or the
38 commissioner to make professional liability insurance available to
39 healthcare providers.
40 (j) "Professional liability insurance" means insurance providing
41 coverage for legal liability arising out of the performance of professional
42 services rendered or that should have been rendered by a healthcare
43 provider.

1 (k) "Rating organization" means a corporation, an unincorporated
2 association, a partnership or an individual licensed pursuant to K.S.A. 40-
3 956, and amendments thereto, to make rates for professional liability
4 insurance.

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

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

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

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

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

28 (q) "State psychiatric hospital" means Larned state hospital,
29 Osawatomie state hospital and south central regional mental health
30 hospital.

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

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

42 (2) a person engaged in a postgraduate training program approved by
43 the state board of healing arts who is employed by a nonprofit corporation

1 organized to administer the graduate medical education programs of
2 community hospitals or medical care facilities affiliated with the university
3 of Kansas school of medicine or who is employed by an affiliate of the
4 university of Kansas school of medicine as defined in K.S.A. 76-367, and
5 amendments thereto, ~~but only when~~ if such person is engaged in medical
6 activities that do not include extracurricular, extra-institutional medical
7 service for which such person receives extra compensation and that have
8 not been approved by the chief operating officer of the nonprofit
9 corporation or the chief operating officer of the affiliate and the executive
10 ~~vice chancellor~~ *vice chancellor* of the university of Kansas medical center.

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

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

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

24 (v) "Board of directors" means the governing board created by K.S.A.
25 40-3413, and amendments thereto.

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

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

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

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

36 **Sec. 2. K.S.A. 40-3403 is hereby amended to read as follows: 40-**
37 **3403. (a) For the purpose of paying damages for personal injury or**
38 **death arising out of the rendering of or the failure to render**
39 **professional services by a healthcare provider, self-insurer or inactive**
40 **health care provider subsequent to the time that such healthcare**
41 **provider or self-insurer has qualified for coverage under the**
42 **provisions of this act, there is hereby established the healthcare**
43 **stabilization fund. The fund shall be held in trust in the state treasury**

1 and accounted for separately from other state funds. The board of
2 governors shall administer the fund or contract for the administration
3 of the fund with an insurance company authorized to do business in
4 this state.

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

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

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

14 (C) prepare and publish, on or before October 1 of each year, a
15 report for submission to the healthcare stabilization fund oversight
16 committee that includes a summary of the fund's activity during the
17 preceding fiscal year, including, but not limited to, the amount
18 collected from surcharges, the highest and lowest surcharges assessed,
19 the amount paid from the fund, the number of judgments paid from
20 the fund, the number of settlements paid from the fund and the fund
21 balance at the end of the fiscal year; and

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

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

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

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

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

43 (D) one member who is on a list of nominees submitted to the

1 commissioner by the Kansas chiropractic association and who is
2 licensed to practice chiropractic in Kansas;

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

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

11 (G) *one member who is on a list of nominees approved by the Kansas*
12 *board of nursing and who is an advanced practice registered nurse as*
13 *defined in K.S.A. 65-1113, and amendments thereto.*

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

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

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

41 (6) (A) The board shall appoint an executive director who shall be
42 in the unclassified service under the Kansas civil service act and may
43 employ attorneys and other employees who shall also be in the

1 unclassified service under the Kansas civil service act. Such executive
2 director, attorneys and other employees shall receive compensation
3 fixed by the board, in accordance with appropriation acts of the
4 legislature, not subject to approval of the governor.

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

12 (7) The commissioner shall:

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

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

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

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

25 (2) subject to the provisions of subsection (f), any amount due
26 from a judgment or settlement that is in excess of the basic coverage
27 liability of all liable nonresident healthcare providers or nonresident
28 self-insurers for any such injury or death arising out of the rendering
29 or the failure to render professional services within this state but in no
30 event shall the fund be obligated for claims against nonresident
31 healthcare providers or nonresident self-insurers who have not
32 complied with this act or for claims against nonresident healthcare
33 providers or nonresident self-insurers that arose outside of this state;

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

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

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

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

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

11 (6) any amounts expended for reinsurance obtained to protect the
12 best interests of the fund purchased by the board of governors, which
13 purchase shall be subject to the provisions of K.S.A. 75-3738 through
14 75-3744, and amendments thereto, but shall not be subject to the
15 provisions of K.S.A. 75-4101, and amendments thereto;

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

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

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

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

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

40 (12) any amount due from a judgment or settlement for an injury
41 or death arising out of the rendering of or failure to render
42 professional services by a person engaged or who was engaged in
43 residency training or the private practice corporations or foundations

1 and their full-time physician faculty employed by the university of
2 Kansas medical center or any nonprofit corporation organized to
3 administer the graduate medical education programs of community
4 hospitals or medical care facilities affiliated with the university of
5 Kansas school of medicine;

6 (13) subject to the provisions of K.S.A. 65-429, and amendments
7 thereto, reasonable and necessary expenses for the development and
8 promotion of risk management education programs and for the
9 medical care facility licensure and risk management survey functions
10 carried out under K.S.A. 65-429, and amendments thereto;

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

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

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

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

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

41 (e) In no event shall the fund be liable to pay in excess of
42 \$3,000,000 pursuant to any one judgment or settlement against any
43 one healthcare provider relating to any injury or death arising out of

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

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

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

14 (1) On and after July 1, 1976, if basic coverage is then in effect;

15 (2) subsequent to July 1, 1976, at such time as basic coverage
16 becomes effective; or

17 (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414,
18 and amendments thereto.

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

26 (i) Notwithstanding the provisions of K.S.A. 40-3402, and
27 amendments thereto, if the board of governors determines due to the
28 number of claims filed against a healthcare provider or the outcome of
29 those claims that an individual healthcare provider presents a
30 material risk of significant future liability to the fund, the board of
31 governors is authorized by a vote of a majority of the members
32 thereof, after notice and an opportunity for hearing in accordance
33 with the provisions of the Kansas administrative procedure act, to
34 terminate the liability of the fund for all claims against the healthcare
35 provider for damages for death or personal injury arising out of the
36 rendering of or the failure to render professional services after the
37 date of termination. The date of termination shall be 30 days after the
38 date of the determination by the board of governors. The board of
39 governors, upon termination of the liability of the fund under this
40 subsection, shall notify the licensing or other disciplinary board
41 having jurisdiction over the healthcare provider involved of the name
42 of the healthcare provider and the reasons for the termination.

43 (j) (1) Subject to the provisions of paragraph (7), upon the

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

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

15 (3) The university of Kansas medical center private practice
16 foundation reserve fund is hereby established in the state treasury. If
17 the balance in such reserve fund is less than \$500,000 on July 1 of any
18 year, the private practice corporations or foundations referred to in
19 K.S.A. 40-3402(c), and amendments thereto, shall remit the amount
20 necessary to increase such balance to \$500,000 to the state treasurer
21 for credit to such reserve fund as soon after such July 1 date as is
22 practicable. Upon receipt of each such remittance, the state treasurer
23 shall credit the same to such reserve fund. When compliance with the
24 foregoing provisions of this paragraph have been achieved on or after
25 July 1 of any year in which the same are applicable, the state treasurer
26 shall certify to the board of governors that such reserve fund has been
27 funded for the year in the manner required by law. Moneys in such
28 reserve fund may be invested or reinvested in accordance with the
29 provisions of K.S.A. 40-3406, and amendments thereto, and any
30 income or interest earned by such investments shall be credited to
31 such reserve fund. Upon payment of moneys from the healthcare
32 stabilization fund pursuant to subsection (c)(11) or (c)(12) with respect
33 to any private practice corporation or foundation or any of its full-
34 time physician faculty employed by the university of Kansas, the
35 secretary of administration shall transfer an amount equal to the
36 amount paid from the university of Kansas medical center private
37 practice foundation reserve fund to the healthcare stabilization fund
38 or, if the balance in such reserve fund is less than the amount so paid,
39 an amount equal to the balance in such reserve fund.

40 (4) The graduate medical education administration reserve fund
41 is hereby established in the state treasury. If the balance in such
42 reserve fund is less than \$40,000 on July 1 of any year, the nonprofit
43 corporations organized to administer the graduate medical education

1 programs of community hospitals or medical care facilities affiliated
2 with the university of Kansas school of medicine shall remit the
3 amount necessary to increase such balance to \$40,000 to the state
4 treasurer for credit to such reserve fund as soon after such July 1 date
5 as is practicable. Upon receipt of each such remittance, the state
6 treasurer shall credit the same to such reserve fund. When compliance
7 with the foregoing provisions of this paragraph have been achieved on
8 or after July 1 of any year in which the same are applicable, the state
9 treasurer shall certify to the board of governors that such reserve fund
10 has been funded for the year in the manner required by law. Moneys
11 in such reserve fund may be invested or reinvested in accordance with
12 the provisions of K.S.A. 40-3406, and amendments thereto, and any
13 income or interest earned by such investments shall be credited to
14 such reserve fund. Upon payment of moneys from the healthcare
15 stabilization fund pursuant to subsection (c)(11) or (c)(12) with respect
16 to any nonprofit corporations organized to administer the graduate
17 medical education programs of community hospitals or medical care
18 facilities affiliated with the university of Kansas school of medicine the
19 secretary of administration shall transfer an amount equal to the
20 amount paid from the graduate medical education administration
21 reserve fund to the healthcare stabilization fund or, if the balance in
22 such reserve fund is less than the amount so paid, an amount equal to
23 the balance in such reserve fund.

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

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

33 (7) The funds required to be transferred from the state general
34 fund to the healthcare stabilization fund pursuant to paragraphs (1)
35 and (2) for the fiscal years ending June 30, 2010, June 30, 2011, June
36 30, 2012, and June 30, 2013, shall not be transferred prior to July 1,
37 2013. The secretary of administration shall maintain a record of the
38 amounts certified by the board of governors pursuant to paragraphs
39 (1) and (2) for the fiscal years ending June 30, 2010, June 30, 2011,
40 June 30, 2012, and June 30, 2013. Beginning July 1, 2013, in addition
41 to any other transfers required pursuant to subsection (j), the state
42 general fund transfers that are deferred pursuant to this paragraph
43 shall be transferred from the state general fund to the healthcare

1 stabilization fund in the following manner: On July 1, 2013, and
2 annually thereafter through July 1, 2018, an amount equal to 20% of
3 the total amount of state general fund transfers deferred pursuant to
4 this paragraph for the fiscal years ending June 30, 2010, June 30,
5 2011, June 30, 2012, and June 30, 2013. The amounts deferred
6 pursuant to this paragraph shall not accrue interest thereon.

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

13 (l) (1) On or after July 1, 1989, and prior to January 1, 2022,
14 every healthcare provider shall make an election to be covered by one
15 of the following options provided in subparagraph (A) that shall limit
16 the liability of the fund with respect to judgments or settlements
17 relating to injury or death arising out of the rendering of or failure to
18 render professional services on or after July 1, 1989. On and after
19 January 1, 2022, every healthcare provider shall make an election to
20 be covered by one of the following options provided in subparagraph
21 (B) that shall limit the liability of the fund with respect to judgments
22 or settlements relating to injury or death arising out of the rendering
23 of or failure to render professional services on or after January 1,
24 2022. Such election shall be made at the time the healthcare provider
25 renews the basic coverage, or, if basic coverage is not in effect, such
26 election shall be made at the time such coverage is acquired pursuant
27 to K.S.A. 40-3402, and amendments thereto. A medical care facility or
28 a healthcare facility deemed qualified as a self-insurer under K.S.A.
29 40-3414(a), and amendments thereto, may opt out of the requirements
30 set forth in subparagraph (B) if such medical care facility or
31 healthcare facility substantially meets the minimum coverage
32 requirements of this section through coverage provided by the captive
33 insurance company of such medical care facility or healthcare facility.
34 Notice of the election shall be provided by the insurer providing the
35 basic coverage in the manner and form prescribed by the board of
36 governors and shall continue to be effective from year to year unless
37 modified by a subsequent election made prior to the anniversary date
38 of the policy. The healthcare provider may at any subsequent election
39 reduce the dollar amount of the coverage for the next and subsequent
40 fiscal years, but may not increase the same, unless specifically
41 authorized by the board of governors. Any election of fund coverage
42 limits, whenever made, shall be with respect to judgments or
43 settlements relating to injury or death arising out of the rendering of

1 or failure to render professional services on or after the effective date
2 of such election of fund coverage limits. Such election shall be made
3 for persons engaged in residency training and persons engaged in
4 other postgraduate training programs approved by the state board of
5 healing arts at medical care facilities or mental health centers in this
6 state by the agency or institution paying the surcharge levied under
7 K.S.A. 40-3404, and amendments thereto, for such persons. The
8 election of fund coverage limits for a nonprofit corporation organized
9 to administer the graduate medical education programs of community
10 hospitals or medical care facilities affiliated with the university of
11 Kansas school of medicine shall be deemed to be effective at the
12 highest option. Such options shall be as follows:

13 (A) (i) *OPTION 1.* The fund shall not be liable to pay in excess of
14 \$100,000 pursuant to any one judgment or settlement for any party
15 against such healthcare provider, subject to an aggregate limitation
16 for all judgments or settlements arising from all claims made in the
17 fiscal year in an amount of \$300,000 for such provider.

18 (ii) *OPTION 2.* The fund shall not be liable to pay in excess of
19 \$300,000 pursuant to any one judgment or settlement for any party
20 against such healthcare provider, subject to an aggregate limitation
21 for all judgments or settlements arising from all claims made in the
22 fiscal year in an amount of \$900,000 for such provider.

23 (iii) *OPTION 3.* The fund shall not be liable to pay in excess of
24 \$800,000 pursuant to any one judgment or settlement for any party
25 against such healthcare provider, subject to an aggregate limitation
26 for all judgments or settlements arising from all claims made in the
27 fiscal year in an amount of \$2,400,000 for such healthcare provider.

28 (B) (i) *OPTION 1.* The fund shall not be liable to pay in excess of
29 \$500,000 pursuant to any one judgment or settlement for any party
30 against such healthcare provider, subject to an aggregate limitation
31 for all judgments or settlements arising from all claims made in the
32 fiscal year in an amount of \$1,500,000 for such healthcare provider.

33 (ii) *OPTION 2.* The fund shall not be liable to pay in excess of
34 \$1,500,000 pursuant to any one judgment or settlement for any party
35 against such healthcare provider, subject to an aggregate limitation
36 for all judgments or settlements arising from all claims made in the
37 fiscal year in an amount of \$4,500,000 for such healthcare provider.

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

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

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

17 ~~Sec.-2: 3. K.S.A. 40-3403 and K.S.A. 2025 Supp. 40-3401-is are~~
18 ~~hereby repealed.~~

19 ~~Sec.-3: 4. This act shall take effect and be in force from and after its~~
20 ~~publication in the statute book.~~