

## 2012 Kansas Statutes

**40-3401. Definitions.** As used in this act the following terms shall have the meanings respectively ascribed to them herein.

(a) "Applicant" means any health care provider.

(b) "Basic coverage" means a policy of professional liability insurance required to be maintained by each health care provider pursuant to the provisions of subsection (a) or (b) of K.S.A. 40-3402, 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 that month, thereafter.

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

(f) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts with the exception of physician assistants, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the department of health and environment, a health maintenance organization issued a certificate of authority by the commissioner of insurance, a podiatrist licensed by the state board of healing arts, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection, 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, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a mental health center or mental health clinic licensed by the secretary of social and rehabilitation services, except that health care provider does not include: (1) Any state institution for people with intellectual disability; (2) any state psychiatric hospital; (3) any person holding an exempt license issued by the state board of healing arts; or (4) any person holding a visiting clinical professor license from the state board of healing arts.

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

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

(i) "Plan" means the operating and administrative rules and procedures developed by insurers and rating organizations or the commissioner to make professional liability insurance available to health care providers.

(j) "Professional liability insurance" means insurance providing coverage for legal liability arising out of the performance of professional services rendered or which should have been rendered by a health care provider.

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

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

(m) "Medical care facility" means the same when used in the health care provider insurance availability act as the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility.

(n) "Mental health center" means a mental health center licensed by the secretary of social and rehabilitation services under K.S.A. 75-3307b, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center.

(o) "Mental health clinic" means a mental health clinic licensed by the secretary of social and rehabilitation services under K.S.A. 75-3307b, and amendments thereto, except that as used in the health care provider insurance availability act such term, as it relates to insurance coverage under the health care provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic.

(p) "State institution for people with intellectual disability" means Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(q) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital and Rainbow mental health facility.

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

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

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

employed by 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 or who is employed by an affiliate of the university of Kansas school of medicine as defined in K.S.A. 76-367, and amendments thereto, only when such person is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice-chancellor of the university of Kansas medical center.

(s) "Full-time physician faculty employed by the university of Kansas medical center" means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing health care.

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

**History:** L. 1976, ch. 231, § 1; L. 1977, ch. 165, § 1; L. 1979, ch. 186, § 22; L. 1980, ch. 142, § 1; L. 1981, ch. 199, § 1; L. 1982, ch. 207, § 1; L. 1984, ch. 177, § 1; L. 1985, ch. 166, § 1; L. 1986, ch. 183, § 14; L. 1986, ch. 229, § 24; L. 1986, ch. 231, § 4; L. 1986, ch. 184, § 1; L. 1986, ch. 181, § 2; L. 1986, ch. 181, § 3; L. 1986, ch. 181, § 4; L. 1987, ch. 176, § 1; L. 1987, ch. 177, § 1; L. 1987, ch. 242, § 1; L. 1987, ch. 178, § 1; L. 1987, ch. 178, § 2; L. 1988, ch. 246, § 12; L. 1989, ch. 143, § 1; L. 1990, ch. 174, § 1; L. 1990, ch. 175, § 1; L. 1991, ch. 139, § 1; L. 1992, ch. 156, § 2; L. 1994, ch. 181, § 3; L. 2000, ch. 162, § 14; L. 2001, ch. 204, § 1; L. 2003, ch. 128, § 19; L. 2012, ch. 91, § 33; July 1.