



Health Care Stabilization Fund

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Medical Professional Liability Experience Fiscal Year 2016

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This report for the Board of Governors of the Health Care Stabilization Fund summarizes medical professional liability litigation experience in Kansas during fiscal year 2016. (Fiscal year 2016 covers the period of time from July 1, 2015 through June 30, 2016.) The report reflects statistical data gathered by the Fund in administering the Health Care Provider Insurance Availability Act and is based on all claims resolved during the fiscal year.

Medical professional liability refers to a claim made against a health care provider for the rendering of or failure to render professional services (K.S.A. 40-3403). Health care provider is defined in K.S.A. 40-3401 to include the following individuals: physicians, chiropractors, podiatrists, registered nurse anesthetists, nurse midwives, and physician assistants. "Health care provider" also includes the following entities: hospitals, ambulatory surgical centers, nursing facilities, assisted living facilities, and residential health care facilities. Certain professional corporations and professional limited liability companies may also be defined as a "health care provider".

It should be noted that dollar amounts will not necessarily correspond with the agency's accounting and budgeting documents because claims are not necessarily paid in the same fiscal year that the settlement was approved by the court, or the judgment was rendered by a jury. Data in this report reflects the status of cases at the end of the fiscal year. Data for prior years is for comparison purposes only, as case outcomes may have changed due to subsequent court proceedings.

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MEDICAL PROFESSIONAL LIABILITY EXPERIENCE

A. Jury Verdicts

From HCSF data, 14 medical malpractice cases involving 17 Kansas health care providers were tried to juries during fiscal year 2016. Thirteen cases were tried in Kansas courts and one case involving a Kansas health care provider was tried in Arkansas. These trials were held in the following jurisdictions:

Sedgwick County	4
Johnson County	4
U.S. District Court	1
Crawford County	1
Grant County	1
Labette County	1
Saline County	1
Arkansas	1

Of the 14 cases tried, 12 resulted in defense verdicts and one case ended in mistrial. In the case tried in Crawford County, the jury returned a verdict against the doctor and awarded the plaintiff \$100,000.

The following chart compares this year's experience to previous fiscal years:

Fiscal Year	Total Trials	Defense Verdict	Plaintiff Verdict	Split Verdict	Mistrials
2016	14	12	1		1
2015	18	13	2		3
2014	27	23	3		1
2013	18	14	4		
2012	21	19	1		1
2011	19	16	2	1	
2010	32	21	7	1	3
2009	27	20	5	1	1
2008	34	25	4	1	4
2007	36	31	5		
2006	29	23	6		
2005	34	22	7	3	2
2004	28	23	3	2	
2003	27	23	3		1
2002	19	10	6		1
2001	21	13	6	2	2
2000	28	18	7	1	2

B. Settlements

Claims settled by the Fund. During FY 2016, 76 claims in 66 cases were settled involving HCSF monies. Settlement amounts incurred by the HCSF for the fiscal year totaled \$23,539,687.07. These figures do not include settlement contributions by primary or excess insurance carriers. The settlement amounts are payments made, or to be made, by the HCSF in excess of primary coverage or on behalf of inactive health care providers.

<u>Fiscal Year</u>	<u>Number of Claims/Cases</u>	<u>Fund Amount</u>	<u>Settlement Average</u>
FY 2016	76/66	\$23,539,687.07	\$309,733
FY 2015	60/53	\$24,322,582.00	\$405,376
FY 2014	63/52	\$24,005,914.00	\$381,046
FY 2013	79/62	\$27,610,000.00	\$349,494
FY 2012	67/62	\$21,431,000.00	\$319,866
FY 2011	61/57	\$17,518,727.54	\$287,192
FY 2010	61/54	\$19,745,200.00	\$323,692
FY 2009	81/72	\$23,867,283.72	\$294,658
FY 2008	65/57	\$17,352,500.00	\$266,962
FY 2007	61/53	\$20,929,250.00	\$343,102
FY 2006	89/81	\$24,917,984.00	\$279,977
FY 2005	90/74	\$23,544,658.00	\$261,607
FY 2004	79/64	\$18,905,505.00	\$239,310
FY 2003	87/76	\$17,483,778.00	\$200,963
FY 2002	67/58	\$16,173,742.00	\$241,399
FY 2001	54/44	\$15,592,748.80	\$288,755
FY 2000	69/59	\$20,071,607.50	\$290,893
FY 1999	70/57	\$18,344,368.15	\$262,062
FY 1998	60/53	\$11,461,345.13	\$191,022
FY 1997	39/33	\$12,448,978.83	\$319,204
FY 1996	67/51	\$21,808,406.14	\$325,498
FY 1995	42/36	\$15,344,749.98	\$365,351
FY 1994	59/45	\$19,526,821.53	\$330,963
FY 1993	45/37	\$18,239,093.06	\$405,313
FY 1992	33/27	\$ 7,890,119.83	\$239,095
FY 1991	44/NA	\$16,631,491.94	\$377,988

HCSF settlements fall within the following ranges and are compared to individual claim settlements in previous years:

	FY16	FY15	FY14	FY13	FY12	FY11	FY10	FY09	FY08	FY07
\$000-\$9,999	1	0	0	0	0	0	0	2	0	0
\$10,000-\$49,999	12	1	5	2	7	6	5	12	6	6
\$50,000-\$99,999	3	8	10	5	10	12	11	10	12	7
\$100,000-\$499,999	39	27	24	52	32	29	29	37	34	27
\$500,000-\$800,000	21	24	24	20	18	14	16	20	13	21
Total Claims	76	60	63	79	67	61	61	81	65	61

Of the 76 claims, the Fund provided primary coverage for inactive health care providers in 20 claims (13 of these claims were against the same provider). Also, the Fund "dropped down" to provide first-dollar coverage for a claim in which aggregate primary policy limits were reached.

Primary insurance carriers tendered their policy limits to the Fund in 55 claims. Therefore, in addition to the \$23,539,687.07 incurred by the Fund, primary insurers contributed \$11,000,000 to these settlements. Further, three claims involved contribution from an insurer whose coverage was excess of Fund coverage. The total of these contributions was \$3,400,000.

<u>FY</u>	<u>Primary Carriers</u>	<u>HCSF</u>	<u>Excess Carriers</u>	<u>Total</u>
2016	\$11,000,000.00	\$23,539,687.07	\$ 3,400,000.00	\$37,939,687.07
2015	\$11,200,000.00	\$24,322,582.00	\$14,400,000.00	\$49,922,582.00
2014	\$10,135,000.00	\$24,005,914.00	\$ 3,875,000.00	\$38,015,914.00
2013	\$13,310,000.00	\$27,610,000.00	\$ 6,000,000.00	\$46,920,000.00
2012	\$10,800,000.00	\$21,431,000.00	\$ 5,083,500.00	\$37,314,500.00
2011	\$10,400,000.00	\$17,518,727.54	\$ 4,350,000.00	\$32,268,727.54
2010	\$ 9,400,000.00	\$19,745,200.00	\$14,972,500.00	\$44,117,700.00
2009	\$11,471,170.00	\$23,867,283.72	\$ 4,954,830.00	\$40,293,283.72
2008	\$10,612,500.00	\$17,352,500.00	\$ 2,425,000.00	\$30,390,000.00
2007	\$ 9,488,750.00	\$20,929,250.00	\$ 3,125,000.00	\$33,543,000.00
2006	\$14,580,000.00	\$24,917,984.00	\$ 5,089,425.00	\$44,587,409.00
2005	\$15,800,000.00	\$23,544,658.00	\$10,450,000.00	\$49,794,658.00
2004	\$12,600,000.00	\$18,905,505.00	\$ 8,550,000.00	\$40,055,505.00
2003	\$14,200,000.00	\$17,483,778.00	\$ 2,787,500.00	\$34,471,278.00
2002	\$11,400,000.00	\$16,173,742.00	\$ 2,680,000.00	\$30,253,742.00
2001	\$ 8,800,000.00	\$15,592,748.80	\$ 6,710,000.00	\$31,102,748.80
2000	\$12,515,000.00	\$20,071,607.50	\$ 2,465,000.00	\$35,051,607.50

Claims settled by primary carriers. In addition to the settlements discussed above, the HCSF was notified that primary insurance carriers settled an additional 98 claims in 93 cases.

<u>Fiscal Year</u>	<u>Settlement Reported Claims/Cases</u>	<u>Amount Paid by Primary Insurance Carriers</u>
2016	98/93	\$ 8,968,479.00
2015	89/80	\$ 7,268,626.00
2014	97/86	\$ 8,909,740.00
2013	88/76	\$ 6,664,000.00
2012	98/81	\$ 6,603,521.00
2011	99/83	\$ 7,865,915.00
2010	110/92	\$ 8,958,622.00
2009	90/80	\$ 7,182,241.00
2008	104/88	\$ 8,486,032.00
2007	167/146	\$10,870,339.00
2006	110/98	\$ 8,545,218.00
2005	103/88	\$ 8,058,894.00
2004	99/85	\$ 6,978,801.00
2003	122/99	\$ 9,087,872.00
2002	141/124	\$10,789,299.00
2001	109/88	\$ 8,124,459.00
2000	116/102	\$ 8,390,869.00

C. HCSF Total Settlements and Verdict Amounts

During fiscal year 2016 the HCSF incurred \$23,539,687.07 in 76 claim settlements. There were no jury verdicts involving the Fund this fiscal year. The following figures show total Fund settlements and awards since the inception of the Health Care Stabilization Fund.

<u>Fiscal</u> <u>Year</u>	<u>Total</u> <u>Claims</u>	<u>Settlements &</u> <u>Jury Awards</u>	<u>Average</u> <u>Per Claim</u>
FY 2016	76	\$23,539,687.07	\$309,732.72
FY 2015	62	24,904,319.61	401,682.57
FY 2014	66	25,559,409.00	387,263.77
FY 2013	79	29,382,484.69	371,930.19
FY 2012	67	21,431,000.00	319,965.67
FY 2011	63	19,118,727.54	303,471.87
FY 2010	65	20,970,021.10	322,615.71
FY 2009	85	25,505,208.67	300,061.28
FY 2008	68	19,085,004.00	280,661.82
FY 2007	64	22,589,655.27	352,963.36
FY 2006	90	25,017,984.00	277,977.60
FY 2005	97	26,119,569.91	269,273.30
FY 2004	81	19,055,505.00	235,253.15
FY 2003	90	18,295,320.32	203,281.34
FY 2002	71	17,467,033.19	246,014.55
FY 2001	58	17,114,748.80	295,081.86
FY 2000	73	20,868,192.91	285,865.66
FY 1999	71	21,344,368.15	300,624.90
FY 1998	66	12,834,705.13	194,465.23
FY 1997	41	13,653,618.34	333,015.08
FY 1996	70	23,258,406.14	332,262.94
FY 1995	45	17,023,882.17	378,308.49
FY 1994	65	21,194,765.96	326,073.32
FY 1993	48	24,614,093.06	492,281.86
FY 1992	35	8,824,834.14	252,138.11
FY 1991	49	19,666,797.32	401,363.21
FY 1990	48	13,627,222.20	283,700.46
FY 1989	58	18,713,543.00	315,750.00
FY 1988	51	13,402,756.00	262,799.00
FY 1987	47	13,296,808.00	282,910.00
FY 1986	42	11,492,857.00	273,639.00
FY 1985	41	15,152,042.00	369,562.00
FY 1984	34	9,538,741.00	280,551.00
FY 1983	25	6,522,369.00	260,894.00
FY 1982	24	3,060,126.00	127,505.00
FY 1981	8	1,760,645.00	220,080.00
FY 1980	0	0.00	-
FY 1979	3	203,601.00	67,867.00
FY 1978	0	0.00	-
FY 1977	1	137,500.00	137,500.00

D. New Cases by Fiscal Year

The Health Care Stabilization Fund was notified of 248 new cases during fiscal year 2016. The following chart lists the number of new cases opened in each fiscal year since the Fund was established forty years ago.

Fiscal Year	Number of Cases
2016	248
2015	235
2014	268
2013	229
2012	260
2011	267
<u>2010</u>	<u>290</u>
2009	310
2008	329
2007	304
2006	457
<u>2005</u>	<u>336</u>
2004	368
2003	392
2002	361
2001	341
<u>2000</u>	<u>294</u>
1999	319
1998	293
1997	318
1996	296
<u>1995</u>	<u>326</u>
1994	247
1993	263
1992	245
1991	230
<u>1990</u>	<u>205</u>
1989	251
1988	285
1987	320
1986	276
<u>1985</u>	<u>245</u>
1984	175
1983	153
1982	124
1981	98
<u>1980</u>	<u>87</u>
1979	50
1978	19
1977	2

**University of Kansas Foundations and Faculty; Residents
Self-Insurance Programs/Primary Coverage
Reimbursement to the Health Care Stabilization Fund**

I. KU Foundations and Faculty

Foundation Self-Insurance Program Costs

FY 2016	FY 2015	FY 2014	
\$ 395,000.00	\$1,006,000.00	\$1,530,000.00	Settlement Amounts
\$ 633,751.91	\$ 911,190.41	\$ 645,457.87	Attorney Fees and Expenses
<u>\$1,028,751.91</u>	<u>\$1,917,190.41</u>	<u>\$2,175,457.87</u>	Totals

Reimbursable Amounts

FY 2016	FY 2015	FY 2014	
\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	Reimbursement Private Practice Reserve
\$ 528,751.91	\$1,417,190.41	\$1,675,457.87	Reimbursement State General Fund
<u>\$1,028,751.91</u>	<u>\$1,917,190.41</u>	<u>\$2,175,457.87</u>	Totals

II. KU and WCGME Residents

Residents Self-Insurance Program Costs

FY 2016	FY 2015	FY 2014	
0	\$ 40,000.00	0	Settlements, WCGME Residents
0	0	0	Settlements, KU Residents
\$664,698.71	\$496,271.45	\$539,702.75	Fees & Expenses, WCGME Residents
\$ 28,625.85	\$154,328.09	\$259,661.06	Fees & Expenses, KU Residents
<u>\$693,324.56</u>	<u>\$690,599.54</u>	<u>\$799,363.81</u>	Totals

Reimbursable Amounts

FY 2016	FY 2015	FY 2014	
\$664,698.71	\$536,271.45	\$539,702.75	WCGME Reimbursement-General Fund
\$ 28,625.85	\$154,328.09	\$259,661.06	KU Reimbursement-General Fund
<u>\$693,324.56</u>	<u>\$690,599.54</u>	<u>\$799,363.81</u>	Totals - State General Fund

III. Expenditures by Fiscal Year

Fiscal Year	Foundations and Faculty*	KU and WCGME Residents**
2016	\$ 1,028,751.91	\$ 693,324.56
2015	1,917,190.41	690,599.54
2014	2,175,457.87	799,363.81
2013	1,537,668.29	934,695.09
2012	1,759,733.60	1,201,108.99
2011	1,184,218.79	455,621.25
2010	1,445,658.21	1,201,718.01
2009	2,693,099.94	812,492.66
2008	966,327.58	648,269.80
2007	2,037,227.63	1,194,968.11
2006	1,407,837.70	871,719.27
2005	1,706,763.57	1,749,032.25
2004	1,825,116.29	2,787,112.99
2003	1,113,326.84	1,418,927.85
2002	583,566.19	723,834.54
2001	1,540,133.41	953,304.62
2000	691,253.39	735,633.12
1999	1,371,640.73	645,997.65
1998	1,018,435.78	1,072,324.05
1997	1,111,787.72	999,388.16
1996	4,003,062.51	1,331,521.75
1995	255,117.85	534,124.84
1994	1,959,284.79	574,758.65
1993	1,453,444.21	650,033.67
1992	645,670.10	810,703.77
1991	435,540.69	458,561.65
1990	261,035.55	120,796.12

*Foundations and Faculty:

Amounts up to \$500,000 are reimbursed from the Private Practice Reserve Fund.

Amounts over \$500,000 are reimbursed from the State General Fund.

FY 10, FY 11, FY 12, FY 13, HCSF received reimbursement only from the Private Practice Reserve Fund.

**KU and WCGME Residents:

All amounts are reimbursed from the State General Fund.

FY 10, FY 11, FY 12, FY 13, HCSF received no reimbursement.

The total accrued amounts to be received from the State General Fund were \$7,720,422.23. As scheduled, the HCSF has received reimbursements totaling \$6,176,337.78 (July 1, 2013, 2014, 2015 and 2016). The remaining payment of \$1,544,084.45 is due July 1, 2017.

IV. **Monies Paid by the Health Care Stabilization Fund for Excess Coverage Claims**

	FY 16	FY 15	FY 14	FY 13	FY 12
WCGME Residents	0	0	0	0	0
K.U. Residents	0	0	0	0	\$150,000
Faculty, Foundations	<u>\$625,000</u>	<u>\$1,013,000</u>	<u>\$2,975,000</u>	<u>\$1,267,500</u>	<u>\$600,000</u>
Total	\$625,000	\$1,013,000	\$2,975,000	\$1,267,500	\$750,000