AN ACT concerning the healthcare stabilization fund; relating to liability
of the fund; payments; limitations; healthcare provider coverage;
sections.

Be it enacted by the Legislature of the State of Kansas:
Section 1. K.S.A. 2018 Supp. 40-3403 is hereby amended to read as
follows: 40-3403. (a) For the purpose of paying damages for personal
injury or death arising out of the rendering of or the failure to render
professional services by a healthcare provider, self-insurer or inactive
healthcare provider subsequent to the time that such healthcare provider or
self-insurer has qualified for coverage under the provisions of this act,
there is hereby established the healthcare stabilization fund. The fund shall
be held in trust in the state treasury and accounted for separately from
other state funds. The board of governors shall administer the fund or
contract for the administration of the fund with an insurance company
authorized to do business in this state.

(b) (1) There is hereby created a board of governors that shall be
composed of such members and shall have such powers, duties and
functions as are prescribed by this act. The board of governors shall:
(A) Administer the fund and exercise and perform other powers,
duties and functions required of the board under the healthcare provider
insurance availability act;
(B) provide advice, information and testimony to the appropriate
licensing or disciplinary authority regarding the qualifications of a
healthcare provider;
(C) prepare and publish, on or before October 1 of each year, a report
for submission to the healthcare stabilization fund oversight committee
that includes a summary of the fund's activity during the preceding fiscal
year, including, but not limited to, the amount collected from surcharges,
the highest and lowest surcharges assessed, the amount paid from the fund,
the number of judgments paid from the fund, the number of settlements
paid from the fund and the fund balance at the end of the fiscal year; and
(D) have the authority to grant temporary exemptions from the
provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to
healthcare providers who have exceptional circumstances and verify in
writing that the healthcare provider will not render professional services in
this state during the period of exemption. Whenever the board grants such
an exemption, the board shall notify the state agency that licenses the
exempted healthcare provider.

(2) The board shall consist of 11 persons appointed by the
commissioner of insurance, as provided by this subsection and as follows:
(A) Three members who are licensed to practice medicine and
surgery in Kansas who are doctors of medicine and who are on, from a list
of nominees submitted to the commissioner by the Kansas medical
society;
(B) three members who are representatives of Kansas hospitals and
who are on, from a list of nominees submitted to the commissioner by the
Kansas hospital association;
(C) two members who are licensed to practice medicine and surgery
in Kansas who are doctors of osteopathic medicine and who are on, from a list
of nominees submitted to the commissioner by the Kansas association
of osteopathic medicine;
(D) one member who is licensed to practice chiropractic in Kansas
and who is on, from a list of nominees submitted to the commissioner by the
Kansas chiropractic association;
(E) one member who is a licensed professional nurse authorized to
practice as a registered nurse anesthetist who is on, from a list of nominees
submitted to the commissioner by the Kansas association of nurse
anesthetists; and
(F) one member who is a representative of adult care homes who is
on, from a list of nominees submitted to the commissioner by statewide
associations comprised of members who represent adult care homes.

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

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

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

(6) (A) The board shall appoint an executive director who shall be in the unclassified service under the Kansas civil service act and may employ attorneys and other employees who shall also be in the unclassified service under the Kansas civil service act. Such executive director, attorneys and other employees shall receive compensation fixed by the board, in accordance with appropriation acts of the legislature, not subject to approval of the governor.

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

(7) The commissioner shall:

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

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

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

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

(2) subject to the provisions of subsections (e) and (m), any amount due from a judgment or settlement that is in excess of the basic coverage liability of all liable nonresident healthcare providers or nonresident self-insurers for any such injury or death arising out of the rendering or the failure to render professional services within this state but in no event shall the fund be obligated for claims against nonresident
healthcare providers or nonresident self-insurers who have not complied
with this act or for claims against nonresident healthcare providers or
nonresident self-insurers that arose outside of this state;
(3) subject to the provisions of subsections (f) (e) and (m), any
amount due from a judgment or settlement against a resident inactive
healthcare provider for any such injury or death arising out of the
rendering of or failure to render professional services;
(4) subject to the provisions of subsections (f) (e) and (m), any
amount due from a judgment or settlement against a nonresident inactive
healthcare provider for any injury or death arising out of the rendering or
failure to render professional services within this state, but in no event
shall the fund be obligated for claims against: (A) Nonresident inactive
healthcare providers who have not complied with this act; or (B)
nonresident inactive healthcare providers for claims that arose outside of
this state, unless such healthcare provider was a resident healthcare
provider or resident self-insurer at the time such act occurred;
(5) subject to K.S.A. 40-3411(b), and amendments thereto, reasonable
and necessary expenses for attorney fees, depositions, expert witnesses and
other costs incurred in defending the fund against claims, and such
expenditures shall not be subject to the provisions of K.S.A. 75-3738
through 75-3744, and amendments thereto;
(6) any amounts expended for reinsurance obtained to protect the best
interests of the fund purchased by the board of governors, which purchase
shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and
amendments thereto, but shall not be subject to the provisions of K.S.A.
75-4101, and amendments thereto;
(7) reasonable and necessary actuarial expenses incurred in
administering the act, including expenses for any actuarial studies
contracted for by the legislative coordinating council, and such
expenditures shall not be subject to the provisions of K.S.A. 75-3738
through 75-3744, and amendments thereto;
(8) periodically to the plan or plans, any amount due pursuant to
K.S.A. 40-3413(a)(3), and amendments thereto;
(9) reasonable and necessary expenses incurred by the board of
governors in the administration of the fund or in the performance of other
powers, duties or functions of the board under the healthcare provider
insurance availability act;
(10) surcharge refunds payable when the notice of cancellation
requirements of K.S.A. 40-3402, and amendments thereto, are met;
(11) subject to K.S.A. 40-3411(b), and amendments thereto,
reasonable and necessary expenses for attorney fees and other costs
incurred in defending a person engaged or who was engaged in residency
training or the private practice corporations or foundations and their full-
time physician faculty employed by the university of Kansas medical
center or any 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 from
claims for personal injury or death arising out of the rendering of or the
failure to render professional services by such healthcare provider;
(12) notwithstanding the provisions of subsection (m), any amount
due from a judgment or settlement for an injury or death arising out of the
rendering of or failure to render professional services by a person engaged
or who was engaged in residency training or the private practice
corporations or foundations and their full-time physician faculty employed
by the university of Kansas medical center or any 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;
(13) subject to the provisions of K.S.A. 65-429, and amendments
thereto, reasonable and necessary expenses for the development and
promotion of risk management education programs and for the medical
care facility licensure and risk management survey functions carried out
under K.S.A. 65-429, and amendments thereto;
(14) notwithstanding the provisions of subsection (m), any amount,
but not less than the required basic coverage limits, owed pursuant to a
judgment or settlement for any injury or death arising out of the rendering
of or failure to render professional services by a person, other than a
person described in paragraph (12), who was engaged in a postgraduate
program of residency training approved by the state board of healing arts
but who, at the time the claim was made, was no longer engaged in such
residency program;
(15) subject to K.S.A. 40-3411(b), and amendments thereto,
reasonable and necessary expenses for attorney fees and other costs
incurred in defending a person described in paragraph (14);
(16) expenses incurred by the commissioner in the performance of
duties and functions imposed upon the commissioner by the healthcare
provider insurance availability act, and expenses incurred by the
commissioner in the performance of duties and functions under contracts
entered into between the board and the commissioner as authorized by this
section; and
(17) periodically to the state general fund reimbursements of amounts
paid to members of the healthcare stabilization fund oversight committee
for compensation, travel expenses and subsistence expenses pursuant to
K.S.A. 40-3403b(e), and amendments thereto.
(d) All amounts for which the fund is liable pursuant to subsection (c)
shall be paid promptly and in full except that, if the amount for which the
fund is liable is $300,000 or more, it shall be paid by installment payments of $300,000 or 10% of the amount of the judgment including interest thereon, whichever is greater, per fiscal year, the first installment to be paid within 60 days after the fund becomes liable and each subsequent installment to be paid annually on the same date of the year the first installment was paid, until the claim has been paid in full.

(e) (1) In no event shall the fund be liable to pay in excess of $3,000,000 pursuant to any one judgment or settlement against any one healthcare provider relating to any injury or death arising out of the rendering of or the failure to render professional services on and after July 1, 1984, and before July 1, 1989, subject to an aggregate limitation for all judgments or settlements arising from all claims made in any one fiscal year in the amount of $6,000,000 for each healthcare provider.

(2) In no event shall the fund be liable to pay in excess of the amounts specified in the option selected by an active or inactive healthcare provider pursuant to subsection (l) for judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services by such healthcare provider on or after July 1, 1989, and before July 1, 2019.

(3) In no event shall the fund be liable to pay in excess of the amounts specified in subsection (l) for judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services by such healthcare provider on or after July 1, 2019.

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

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

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

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

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

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

(1) Subject to the provisions of paragraph (7), upon the payment of moneys from the healthcare stabilization fund pursuant to subsection (c)(11), the board of governors shall certify to the secretary of administration the amount of such payment, and the secretary of administration shall transfer an amount equal to the amount certified, reduced by any amount transferred pursuant to paragraph (3) or (4), from the state general fund to the healthcare stabilization fund.

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

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

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

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

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

(7) The funds required to be transferred from the state general fund to
the healthcare stabilization fund pursuant to paragraphs (1) and (2) for the
fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June
30, 2013, shall not be transferred prior to July 1, 2013. The secretary of
administration shall maintain a record of the amounts certified by the
board of governors pursuant to paragraphs (1) and (2) for the fiscal years
Beginning July 1, 2013, in addition to any other transfers required
pursuant to subsection (j) (i), the state general fund transfers that are
defered pursuant to this paragraph shall be transferred from the state
general fund to the healthcare stabilization fund in the following manner:
On July 1, 2013, and annually thereafter through July 1, 2018, an amount
equal to 20% of the total amount of state general fund transfers deferred
pursuant to this paragraph for the fiscal years ending June 30, 2010, June
pursuant to this paragraph shall not accrue interest thereon.

(j)(j) Notwithstanding any other provision of the healthcare provider
insurance availability act, no psychiatric hospital licensed under K.S.A.
2018 Supp. 39-2001 et seq., and amendments thereto, shall be assessed a
premium surcharge or be entitled to coverage under the fund if such
hospital has not paid any premium surcharge pursuant to K.S.A. 40-3404,
and amendments thereto, prior to January 1, 1988.

(j)(k) On or and after July 1, 1989, and before July 1, 2019, every
healthcare provider shall make an election to be covered by one of the
following options provided in this subsection that shall limit the liability of
the fund with respect to judgments or settlements relating to injury or
death arising out of the rendering of or failure to render professional
services on or and after July 1, 1989, and before July 1, 2019. Such
election shall be made at the time the healthcare provider renews the basic
coverage in effect on and after July 1, 1989, and before July 1, 2019, or, if
basic coverage is not in effect, such election shall be made at the time such
coverage is acquired pursuant to K.S.A. 40-3402, and amendments thereto.
Notice of the election shall be provided by the insurer providing the basic
coverage in the manner and form prescribed by the board of governors and
shall continue to be effective from year-to-year unless modified by a
subsequent election made prior to the anniversary date of the policy. The
healthcare provider may at any subsequent election reduce the dollar
amount of the coverage for the next and subsequent fiscal years, but may
not increase the same, unless specifically authorized by the board of
governors. Any election of fund coverage limits, whenever made, shall be
with respect to judgments or settlements relating to injury or death arising
out of the rendering of or failure to render professional services on or and
after the effective date of such election of fund coverage limits. Such
election shall be made for persons engaged in residency training and
persons engaged in other postgraduate training programs approved by the
state board of healing arts at medical care facilities or mental health centers in this state by the agency or institution paying the surcharge levied under K.S.A. 40-3404, and amendments thereto, for such persons. The election of fund coverage limits for 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 shall be deemed to be effective at the highest option. Such options shall be as follows:

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

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

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

(l) On and after July 1, 2019, every healthcare provider shall be covered as provided in this subsection to limit the liability of the fund with respect to judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services on and after July 1, 2019. Such coverage shall be required at the time the healthcare provider renews the basic coverage in effect on July 1, 2019, or, if basic coverage is not in effect, at the time such coverage is acquired pursuant to K.S.A. 40-3402, and amendments thereto. Notice of coverage shall be provided by the insurer providing the basic coverage in the manner and form prescribed by the board of governors and shall continue to be effective from year-to-year. The fund coverage limits, whenever acquired, shall be with respect to judgments or settlements relating to injury or death arising out of the rendering of or failure to render professional services on and after the effective date such fund coverage limits are acquired. Coverage shall be acquired for persons engaged in residency training and persons engaged in other postgraduate training programs approved by the state board of healing arts at medical care facilities or mental health centers in this state by the agency or institution paying the surcharge levied under K.S.A. 40-3404, and amendments thereto, for such persons. The fund shall not be liable to pay in excess of $1,800,000
pursuant to any one judgment or settlement for any party against such healthcare provider, subject to an aggregate limitation for all judgments or settlements arising from all claims made in the fiscal year in an amount of $5,400,000 for such healthcare provider.

(m) The fund shall not be liable for any amounts due from a judgment or settlement against resident or nonresident inactive healthcare providers who first qualify as an inactive healthcare provider on or after July 1, 1989, unless such healthcare provider has been in compliance with K.S.A. 40-3402, and amendments thereto, for a period of not less than five years. If a healthcare provider has not been in compliance for five years, such healthcare provider may make application and payment for the coverage for the period while they are nonresident healthcare providers, nonresident self-insurers or resident or nonresident inactive healthcare providers to the fund. Such payment shall be made within 30 days after the healthcare provider ceases being an active healthcare provider and shall be made in an amount determined by the board of governors to be sufficient to fund anticipated claims based upon reasonably prudent actuarial principles. The provisions of this subsection shall not be applicable to any healthcare provider that becomes inactive through death or retirement, or through disability or circumstances beyond such healthcare provider's control, if such healthcare provider notifies the board of governors and receives approval for an exemption from the provisions of this subsection. Any period spent in a postgraduate program of residency training approved by the state board of healing arts shall not be included in computation of time spent in compliance with the provisions of K.S.A. 40-3402, and amendments thereto. The provisions of this subsection shall expire on July 1, 2014.

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

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

Sec. 2. K.S.A. 2018 Supp. 40-3403a is hereby amended to read as follows: 40-3403a. Any healthcare provider whose fund coverage has been
terminated under subsection (i) of K.S.A. 40-3403(h), and amendments thereto, shall, as a condition of licensure, maintain continuous professional liability insurance coverage equivalent to that provided by the fund and shall submit to the board of governors satisfactory proof of such coverage, as required by the board.

Sec. 3. K.S.A. 2018 Supp. 40-3404 is hereby amended to read as follows: 40-3404. (a) Except for any healthcare provider whose participation in the fund has been terminated pursuant to subsection (i) of K.S.A. 40-3403(h), and amendments thereto, the board of governors shall levy an annual premium surcharge on each healthcare provider who has obtained basic coverage and upon each self-insurer for each year. This provision shall not apply to optometrists and pharmacists on or after July 1, 1991, nor to physical therapists on or after July 1, 1995, nor to health maintenance organizations on and after July 1, 1997. Such premium surcharge shall be an amount based upon a rating classification system established by the board of governors which is reasonable, adequate and not unfairly discriminating. The annual premium surcharge upon the university of Kansas medical center for persons engaged in residency training, as described in paragraph (1) of subsection (r) of K.S.A. 40-3401(r)(1), and amendments thereto, shall be based on an assumed aggregate premium of $600,000. The annual premium surcharge upon the employers of persons engaged in residency training, as described in paragraph (2) of subsection (r) of K.S.A. 40-3401(r)(2), and amendments thereto, shall be based on an assumed aggregate premium of $400,000. The surcharge on such $400,000 amount shall be apportioned among the employers of persons engaged in residency training, as described in paragraph (2) of subsection (r) of K.S.A. 40-3401(r)(2), and amendments thereto, based on the number of residents employed as of July 1 of each year. The annual premium surcharge upon any 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 shall be based upon an assumed aggregate premium of $10,000. The surcharge on such assumed aggregate premium shall be apportioned among all such nonprofit corporations.

(b) In the case of a resident healthcare provider who is not a self-insurer, the premium surcharge shall be collected in addition to the annual premium for the basic coverage by the insurer and shall not be subject to the provisions of K.S.A. 40-252, 40-955 and 40-2801 et seq., and amendments thereto. The amount of the premium surcharge shall be shown separately on the policy or an endorsement thereto and shall be specifically identified as such. Such premium surcharge shall be due and payable by the insurer to the board of governors within 30 days after the annual premium for the basic coverage is received by the insurer. Within
15 days immediately following the effective date of this act, the board of
governors shall send to each insurer information necessary for their
compliance with this subsection. The certificate of authority of any insurer
who fails to comply with the provisions of this subsection shall be
suspended pursuant to K.S.A. 40-222, and amendments thereto, until such
insurer shall pay the annual premium surcharge due and payable to the
board of governors. In the case of a nonresident healthcare provider or a
self-insurer, the premium surcharge shall be paid upon submitting
documentation of compliance with K.S.A. 40-3402, and amendments
thereto.

(c) In setting the amount of such surcharge, the board of governors
may require any healthcare provider who has paid a surcharge for less than
24 months to pay a higher surcharge than other healthcare providers.

Sec. 4. K.S.A. 2018 Supp. 40-3414 is hereby amended to read as
follows: 40-3414. (a) Any healthcare provider or any healthcare system
organized and existing under the laws of this state which owns and
operates more than one medical care facility or more than one healthcare
facility, as defined in K.S.A. 40-3401, and amendments thereto, licensed
by the state of Kansas, whose aggregate annual insurance premium is or
would be $100,000 or more for basic coverage calculated in accordance
with rating procedures approved by the commissioner pursuant to K.S.A.
40-3413, and amendments thereto, may qualify as a self-insurer by
obtaining a certificate of self-insurance from the board of governors. Upon
application of any such healthcare provider or healthcare system, on a
form prescribed by the board of governors, the board of governors may
issue a certificate of self-insurance if the board of governors is satisfied
that the applicant is possessed and will continue to be possessed of ability
to pay any judgment for which liability exists equal to the amount of basic
coverage required of a healthcare provider obtained against such applicant
arising from the applicant's rendering of professional services as a
healthcare provider. In making such determination the board of governors
shall consider: (1) The financial condition of the applicant; (2) the
procedures adopted and followed by the applicant to process and handle
claims and potential claims; (3) the amount and liquidity of assets reserved
for the settlement of claims or potential claims; and (4) any other relevant
factors. The certificate of self-insurance may contain reasonable conditions
prescribed by the board of governors. Upon notice and a hearing in
accordance with the provisions of the Kansas administrative procedure act,
the board of governors may cancel a certificate of self-insurance upon
reasonable grounds therefor. Failure to pay any judgment for which the
self-insurer is liable arising from the self-insurer's rendering of
professional services as a healthcare provider, the failure to comply with
any provision of this act or the failure to comply with any conditions
contained in the certificate of self-insurance shall be reasonable grounds
for the cancellation of such certificate of self-insurance. The provisions of
this subsection shall not apply to the Kansas soldiers' home, the Kansas
veterans' home or to any person who is a self-insurer pursuant to
subsection (d) or (e).

(b) Any such healthcare provider or healthcare system that holds a
certificate of self-insurance shall pay the applicable surcharge set forth in
K.S.A. 40-3402(c), and amendments thereto.

(c) The Kansas soldiers' home and the Kansas veterans' home shall be
self-insurers and shall pay the applicable surcharge set forth in K.S.A. 40-
3402(c), and amendments thereto.

(d) Persons engaged in residency training as provided in K.S.A. 40-
3401(r)(1) and (2), and amendments thereto, shall be self-insured by the
state of Kansas for occurrences arising during such training, and such
person shall be deemed a self-insurer for the purposes of the healthcare
provider insurance availability act. Such self-insurance shall be applicable
to a person engaged in residency training 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 as provided in K.S.A.
40-3401(r)(1) and (2), and amendments thereto.

(e) (1) A person engaged in a postgraduate training program approved
by the state board of healing arts at a medical care facility or mental health
center in this state may be self-insured by such medical care facility or
mental health center in accordance with this subsection (e) and in
accordance with such terms and conditions of eligibility therefor as may be
specified by the medical care facility or mental health center and approved
by the board of governors. A person self-insured under this subsection (e)
by a medical care facility or mental health center shall be deemed a self-
insurer for purposes of the healthcare provider insurance availability act.
Upon application by a medical care facility or mental health center, on a
form prescribed by the board of governors, the board of governors may
authorize such medical care facility or mental health center to self-insure
persons engaged in postgraduate training programs approved by the state
board of healing arts at such medical care facility or mental health center if
the board of governors is satisfied that the medical care facility or mental
health center is possessed and will continue to be possessed of ability to
pay any judgment for which liability exists equal to the amount of basic
coverage required of a healthcare provider obtained against a person
engaged in such a postgraduate training program and arising from such
person's rendering of or failure to render professional services as a
healthcare provider.

(2) In making such determination the board of governors shall
consider: (A) The financial condition of the medical care facility or mental health center; (B) the procedures adopted by the medical care facility or mental health center to process and handle claims and potential claims; (C) the amount and liquidity of assets reserved for the settlement of claims or potential claims by the medical care facility or mental health center; and (D) any other factors the board of governors deems relevant. The board of governors may specify such conditions for the approval of an application as the board of governors deems necessary. Upon approval of an application, the board of governors shall issue a certificate of self-insurance to each person engaged in such postgraduate training program at the medical care facility or mental health center who is self-insured by such medical care facility or mental health center.

(3) Upon notice and a hearing in accordance with the provisions of the Kansas administrative procedure act, the board of governors may cancel, upon reasonable grounds therefor, a certificate of self-insurance issued pursuant to this subsection (e) or the authority of a medical care facility or mental health center to self-insure persons engaged in such postgraduate training programs at the medical care facility or mental health center. Failure of a person engaged in such postgraduate training program to comply with the terms and conditions of eligibility to be self-insured by the medical care facility or mental health center, the failure of a medical care facility or mental health center to pay any judgment for which such medical care facility or mental health center is liable as self-insurer of such person, the failure to comply with any provisions of the healthcare provider insurance availability act or the failure to comply with any conditions for approval of the application or any conditions contained in the certificate of self-insurance shall be reasonable grounds for cancellation of such certificate of self-insurance or the authority of a medical care facility or mental health center to self-insure such persons.

(4) A medical care facility or mental health center authorized to self-insure persons engaged in such postgraduate training programs shall pay the applicable surcharge set forth in K.S.A. 40-3402(c), and amendments thereto, on behalf of such persons.

(5) As used in this subsection (e), "medical care facility" does not include the university of Kansas medical center or those community hospitals or medical care facilities described in K.S.A. 40-3401(r)(2), and amendments thereto.

(f) For the purposes of subsection (a), "healthcare provider" may include each healthcare provider in any group of healthcare providers who practice as a group to provide physician services only for a health maintenance organization, any professional corporations, partnerships or not-for-profit corporations formed by such group and the health maintenance organization itself. The premiums for each such provider,
health maintenance organization and group corporation or partnership may
be aggregated for the purpose of being eligible for and subject to the
statutory requirements for self-insurance as set forth in this section.

(g) The provisions of subsections (a) and (f), relating to healthcare
systems, shall not affect the responsibility of individual healthcare
providers as defined in K.S.A. 40-3401(f), and amendments thereto, or
organizations whose premiums are aggregated for purposes of being
eligible for self-insurance from individually meeting the requirements
imposed by K.S.A. 40-3402, and amendments thereto, with respect to the
ability to respond to injury or damages to the extent specified therein and
K.S.A. 40-3404, and amendments thereto, with respect to the payment of
the healthcare stabilization fund surcharge.

(h) Each private practice corporation or foundation and their full-time
physician faculty employed by the university of Kansas medical center and
each 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 shall be
deemed a self-insurer for the purposes of the healthcare provider insurance
availability act. The private practice corporation or foundation of which
the full-time physician faculty is a member and each 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 shall pay the applicable surcharge set forth
in K.S.A. 40-3404(a), and amendments thereto, on behalf of the private
practice corporation or foundation and their full-time physician faculty
employed by the university of Kansas medical center or on behalf of 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.

(i) (1) Subject to the provisions of paragraph (4), for the purposes of
the healthcare provider insurance availability act, each 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 shall be deemed to have been
a healthcare provider as defined in K.S.A. 40-3401, and amendments
thereto, from on and after July 1, 1997.

(2) Subject to the provisions of paragraph (4), for the purposes of the
healthcare provider insurance availability act, each 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 shall be deemed to have been a self-insurer
within the meaning of subsection (h), and amendments thereto, from on
and after July 1, 1997.
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3 Subject to the provisions of paragraph (4), for the purposes of the
healthcare provider insurance availability act, the election of fund
coverage limits for each 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
shall be deemed to have been effective at the highest option, as provided in
K.S.A. 40-3403(l)(k), and amendments thereto, from on and after July 1, 1997, and before July 1, 2019, and at the limit provided in K.S.A. 40-
3403(l), and amendments thereto, on and after July 1, 2019.

4 No 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 shall
be required to pay to the fund any annual premium surcharge for any
period prior to the effective date of this act. Any annual premium
surcharge for the period commencing on the effective date of this act and
ending on June 30, 2001, shall be prorated.

Sec. 5. K.S.A. 2018 Supp. 40-3424 is hereby amended to read as
follows: 40-3424. (a) For all claims made on and after July 1, 2014, and
before July 1, 2019, the amount of fund liability for a judgment or
settlement against a resident or nonresident inactive healthcare provider
shall be equal to the minimum professional liability insurance policy limits
required pursuant to K.S.A. 40-3402, and amendments thereto, plus the
level of coverage selected by the healthcare provider pursuant to K.S.A.
40-3403(l), and amendments thereto, at the time of the incident giving
rise to a claim. The aggregate fund liability for all judgments and
settlements arising from all claims made in any fiscal year against a
resident or nonresident inactive healthcare provider shall not exceed
$3,000,000 in any fiscal year.

(b) For all claims made on and after July 1, 2019, the amount of fund
liability for a judgment or settlement against a resident or nonresident
inactive healthcare provider shall be equal to the minimum professional
liability insurance policy limits required pursuant to K.S.A. 40-3402, and
amendments thereto, plus the level of coverage required pursuant to K.S.A.
40-3403(l), and amendments thereto, at the time of the incident giving rise
to a claim. The aggregate fund liability for all judgments and settlements
arising from all claims made in any fiscal year against a resident or
nonresident inactive healthcare provider shall not exceed $3,000,000 in
any fiscal year.

(c) This section shall be a part of and supplemental to the healthcare
provider insurance availability act.

Sec. 6. K.S.A. 65-28,124 is hereby amended to read as follows: 65-
28,124. (a) There is hereby created a designation of visiting clinical
professor license which may be issued by the board to a person who is
qualified for a license for the practice of medicine and surgery on an active basis under the Kansas healing arts act. The application for a visiting clinical professor license shall be made to the board upon forms approved by the board and shall be accompanied with a statement from the chief administrative officer of the university of Kansas school of medicine at the university of Kansas medical center stating that the person is under contract with the university of Kansas medical center or one of the affiliated private practice foundations of the university of Kansas medical center to provide patient care and clinical teaching at the university of Kansas medical center or at one of the affiliated private practice foundations at the university of Kansas medical center and that the information on the application has been verified to be correct. Application for a visiting clinical professor license and for any renewal or reinstatement thereof shall be also accompanied by proof that the person has the professional liability insurance that would be required if the person were defined as a healthcare provider by subsection (f) of K.S.A. 40-3401(f), and amendments thereto, in an amount of not less than the basic coverage specified under subsection (a) of K.S.A. 40-3402(a), and amendments thereto, plus an amount of not less than the amount specified under OPTION 3 of subsection (l) of K.S.A. 40-3403(l), and amendments thereto, and by an affidavit that the person will maintain this professional liability insurance during the time that the visiting clinical professor license is valid. A visiting clinical professor license shall be valid only for the practice of medicine and surgery at the university of Kansas medical center or at one of the affiliated private practice foundations at the university of Kansas medical center. Physicians who are defined as full time physician faculty employed by the university of Kansas medical center under subsection (s) of K.S.A. 40-3401(s), and amendments thereto, are not eligible for a visiting clinical professor license.

(b) The provisions of subsections (a), (d) and (e) of K.S.A. 65-2809(a), (d) and (e), and amendments thereto, relating to expiration and renewal of a license, and the provisions of subsection (b) of K.S.A. 65-2809(b), and amendments thereto, relating to continuing education requirements, shall be applicable to a visiting clinical professor license issued under this section.

(c) This section shall be a part of and supplemental to the Kansas healing arts act.


Sec. 8. This act shall take effect and be in force from and after its publication in the statute book.