

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2325

As Amended by Senate Committee on Public
Health and Welfare

Brief*

HB 2325, as amended, would amend the Health Care Provider Insurance Availability Act to add certain maternity centers to the definition of “health care provider” and to add facilities where elective abortions are performed to the list of entities that are not health care providers as defined in the bill, which would make such facilities ineligible to purchase professional liability insurance from the Health Care Stabilization Fund (Fund).

The bill would require a maternity center participating in the Fund (professional liability coverage) to have accreditation by the Commission for Accreditation of Birth Centers and meet the licensure definition for maternity center (KSA 65-503). [Note: Under this licensure definition, a “maternity center” is a facility that provides delivery services for normal, uncomplicated pregnancies but does not include a medical care facility, as defined by KSA 65-425.]

The bill would also make technical amendments to reorganize provisions listing professionals and facilities subject to the requirement of participation in the Fund.

The bill would require that facilities where elective abortions are performed would be ineligible to purchase professional liability insurance from the Fund. The facilities would need to maintain continuous professional liability insurance coverage equivalent to that provided by the Fund as a condition of licensure and to submit satisfactory proof of

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

such coverage to the Fund's Board of Governors, which administers the Fund and advises the appropriate licensing and disciplinary authorities regarding the qualifications of healthcare providers.

Background

The bill was introduced by the House Committee on Insurance at the request of Representative Proctor.

[*Note:* The bill, as introduced, would codify a budget proviso included in Section 15 of the 2022 Omnibus Appropriations Bill (HB 2510).]

The bill was referred to the Senate Committee on Public Health and Welfare, which amended the bill to add the contents of SB 219, as recommended by the Senate Committee on Public Health and Welfare.

SB 219 was introduced by the Senate Committee on Federal and State Affairs at the request of Senator Erickson.

SB 219 was referred to the Senate Committee on Public Health and Welfare. The bill was passed by the Senate Committee of the Whole on February 22, 2023, as recommended by the Senate Committee on Public Health and Welfare. The bill was referred to the House Committee on Health and Human Services, but the House Committee took no action on the bill.

HB 2325 Add Certain Maternity Centers to the Definition of Health Care Provider

House Committee on Insurance

In the House Committee hearing on February 15, 2023, **proponent** testimony was provided by the Chief Executive Officer and Co-founder of New Birth Company and an

account executive with HUB Mid-America who has worked to help the birth center to secure professional liability insurance coverage. The conferees spoke to the challenges in securing affordable malpractice insurance and indicated the bill would provide vital access to a birth affirming facility service for KanCare members and Kansas families.

Neutral testimony was provided by the Executive Director of the Fund's Board of Governors, who indicated that current law allows maternity centers organized as professional corporations to be included as defined "health care providers." The bill would provide an additional avenue for a maternity center that is not organized as a professional corporation.

The House Committee amended the bill to require maternity centers to meet two criteria, rather than one of the criteria.

Senate Committee on Public Health and Welfare

In the Senate Committee meeting on March 15, 2023, **proponent** testimony was provided by the Chief Executive Officer and Co-founder of New Birth Company and an account executive with HUB Mid-America who worked to help secure liability coverage for the stand-alone birthing center. The proponents noted the difficulty in securing affordable malpractice insurance and indicated the bill would ensure needed access to life affirming birth facility services.

Neutral testimony was provided by the Executive Director of the Fund's Board of Governors substantially similar to that provided in the House Committee on Insurance hearing. The Executive Director stated the Board was neutral on who should be included as a health care provider.

No additional testimony was provided.

SB 219 Expand List of Facilities Ineligible to Purchase Professional Liability Insurance from the Health Care Stabilization Fund

Senate Committee on Public Health and Welfare

In the Senate Committee meeting on February 17, 2023, Senators Masterson and Steffen and a precinct committeewoman provided **proponent** testimony on the bill, stating, as a matter of policy, Kansas prohibits taxpayer funding of abortion. The proponents stated, as a natural extension of that policy, facilities that perform elective abortions should not be able to access the Fund, which is a state resource.

Written-only proponent testimony was provided by representatives of Kansans for Life and Kansas Family Voice and 16 private citizens.

Written-only **opponent** testimony was provided by a private citizen.

Fiscal Information

HB 2325 Add Certain Maternity Centers to the Definition of Health Care Provider

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the bill would have no fiscal effect.

SB 219 Expand List of Facilities Ineligible to Purchase Professional Liability Insurance from the Health Care Stabilization Fund

According to the fiscal note prepared by the Division of the Budget on the bill, the Kansas Insurance Department and

the Health Care Stabilization Fund (agency) both state enactment of the bill would have no fiscal effect.

Insurance; Health Care Provider Insurance Availability Act; defined health care providers; professional liability insurance; maternity centers; Health Care Stabilization Fund; ineligible health care providers; elective abortion facilities