



**To:** Senate Financial Institutions and Insurance

**From:** Rachelle Colombo  
Director of Government Affairs

**Date:** March 20, 2017

**Subject:** HB 2118; providing liability exceptions under the health care provider insurance availability act

Thank you for the opportunity of offer the following comments on behalf of the Kansas Medical Mutual Insurance Company (KaMMCO), which is the medical professional liability insurance company sponsored by the Kansas Medical Society. KaMMCO provides malpractice coverage for Kansas physicians, hospitals and several other categories of health care provider. We appreciate the opportunity to submit these comments in support of HB 2118.

Under current law, physicians and other health care providers who are employed by the federal government (i.e., the Veterans Administration and other federal facilities) and who wish to practice outside of their federal employment (“moonlighting”) must be licensed by the state and carry malpractice insurance coverage if they engage in private practice outside of the federal institution that employs them. In the past, without the benefit of the provisions of HB 2118, most professional liability insurers have been unwilling to offer part-time or “moonlighting” rates to these providers, because Kansas insurance laws do not allow insurers to limit their coverage to only those claims arising from the providers’ moonlighting activities. As a result, the potential risk for an insurer is that claims that may arise from an incident occurring as a part of their government employment, could be attributed to private malpractice insurers, thereby preventing those insurers from reducing the premiums to reflect only the exposure relative to their moonlighting activities.

Health care providers practicing in federal facilities are indemnified by the federal tort claims act, just as are “charitable health care providers” indemnified by the Kansas tort claims act, pursuant to KSA 65-7102. HB 2118 would make it clear that KaMMCO and other private insurers will feel confident that they may issue a policy of insurance, which is in compliance with the Kansas Health Care Provider Insurance Availability Act, exempting claims for professional services rendered which are covered under the provisions of either the federal tort claims act, or the Kansas Tort Claims Act, for “charitable health care providers”. This should result in private insurance becoming more available and affordable for those physicians and other providers who wish to practice outside their federal or charitable employment activities.

We respectfully request that the committee favorably consider passage of HB 2118. Thank you.