

KANSAS OFFICE *of*  
**REVISOR *of* STATUTES**

LEGISLATURE *of* THE STATE *of* KANSAS  
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**MEMORANDUM**

To: House Committee on Insurance and Pensions  
From: Office of Revisor of Statutes  
Date: February 22, 2021  
Subject: Bill Brief for HB 2380

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HB 2380 increases the minimum professional liability insurance coverage requirements of certain healthcare providers and changes the membership of the board of governors of the healthcare stabilization fund. The bill amends K.S.A. 2020 Supp. 40-3402, 40-3403, 40-3408, and 40-3424.

Section 1 amends K.S.A. 2020 Supp. 40-3402, pertaining to the minimum professional liability insurance coverage limits that certain healthcare providers are required to carry in this state. Under current law, healthcare providers, as defined in K.S.A. 40-3401, and amendments thereto, with the exception of pharmacists and optometrists, are required to maintain a policy of professional liability insurance in which the limit of the insurer's liability is not less than \$200,000 per claim, subject to not less than a \$600,000 annual aggregate for all claims made during a policy period. HB 2380 would change those limits, effective on and after January 1, 2022, to a minimum of not less than \$500,000 per claim, subject to not less than a \$1,500,000 annual aggregate for all claims made during the policy period.

Section 2 amends K.S.A. 2020 Supp. 40-3403 in several different ways. While the amendments in subsection (b)(2)(A) through (F) have been made primarily for readability, the amendment to subparagraph (A) adds a new requirement that at least two of the three nominees be Doctors of Medicine. Current law does not specify the number of the nominees who must hold that degree. Section 2, in subsection (d) would increase the threshold amount from \$300,000 to \$500,000 that would require the fund to pay a judgement or settlement by making installment payments of \$500,000 or 10% of the judgement, whichever is greater. Lastly, Effective January 1, 2022, Section 2 would require healthcare providers to make an election to be covered by one of two options provided, limiting the liability of the fund with respect to

judgements or settlements relating to injury or death arising out of the rendering or failure to render professional services on or after January 1, 2022. Current law provides three options from which each healthcare provider may choose one.

Section 3 amends K.S.A. 2020 Supp. 40-3408, pertaining to the liability of an insurer or self-insurer for injury or death arising out of an act or omission of a healthcare provider. Under current law, the insurer of a healthcare provider covered by the fund or a self-insurer is liable for the first \$200,000 of a claim for personal injury or death arising out of the rendering of or the failure to render professional services by such healthcare provider, subject to an annual aggregate of \$600,000 for all such claims against the healthcare provider. The bill would amend current law by not stating dollar amounts at all. The bill would simply provide that the insurer of a healthcare provider shall be liable only for the amount of basic coverage in effect on the date of the incident giving rise to the claim, subject to an annual aggregate amount of not less than three times the primary amount for all such claims against the healthcare provider.

Section 4 amends K.S.A. 2020 Supp. 40-3424, pertaining to fund liability for judgements or settlements against inactive healthcare providers. On and after January 1, 2022, House bill 2380 would place a limit of three times the amount of minimum professional liability insurance in effect on the date of the incident giving rise to the claim as the aggregate fund liability for all judgements and settlements made in any fiscal year against a resident or nonresident inactive healthcare provider.