

Session of 2021

**HOUSE BILL No. 2380**

By Committee on Insurance and Pensions

2-12

1 AN ACT concerning the healthcare stabilization fund; relating to  
2 minimum professional liability insurance coverage requirements;  
3 changing membership of the board of governors; amending K.S.A.  
4 2020 Supp. 40-3402, 40-3403, 40-3408 and 40-3424 and repealing the  
5 existing sections.

, 40-3414

40-3409 and K.S.A.

service of notice thereon;

6  
7 *Be it enacted by the Legislature of the State of Kansas:*

8 Section 1. K.S.A. 2020 Supp. 40-3402 is hereby amended to read as  
9 follows: 40-3402. (a) *Prior to January 1, 2022*, a policy of professional  
10 liability insurance approved by the commissioner and issued by an insurer  
11 duly authorized to transact business in this state in which the limit of the  
12 insurer's liability is not less than \$200,000 per claim, subject to not less  
13 than a \$600,000 annual aggregate for all claims made during the policy  
14 period, shall be maintained in effect by each resident healthcare provider  
15 as a condition of active licensure or other statutory authorization to render  
16 professional service as a healthcare provider in this state, unless such  
17 healthcare provider is a self-insurer. *For all new policies and policies that*  
18 *renew on and after January 1, 2022*, a policy of professional liability  
19 insurance approved by the commissioner and issued by an insurer duly  
20 authorized to transact business in this state in which the limit of the  
21 insurer's liability is not less than \$500,000 per claim, subject to not less  
22 than a \$1,500,000 annual aggregate for all claims made during the policy  
23 period, shall be maintained by each resident healthcare provider as a  
24 condition of active licensure or other statutory authorization to render  
25 professional service as a healthcare provider in this state, unless such  
26 healthcare provider is a self-insurer. This provision shall not apply to  
27 optometrists and pharmacists on ~~or~~ and after July 1, 1991 ~~nor~~, to physical  
28 therapists on and after July 1, 1995 ~~nor~~, or to health maintenance  
29 organizations on ~~or~~ and after July 1, 1997. Such policy shall provide as a  
30 minimum coverage for claims made during the term of the policy ~~which~~  
31 *that* were incurred during the term of such policy or during the prior term  
32 of a similar policy. Any insurer offering such policy of professional  
33 liability insurance to any healthcare provider may offer to such healthcare  
34 provider a policy as prescribed in this section with deductible options.  
35 Such deductible shall be within such policy limits.

36 (1) Each insurer providing basic coverage shall, within 30 days after

1 the effective date of any policy issued in accordance with this subsection,  
2 notify the board of governors that such coverage is or will be in effect.  
3 Such notification shall be on a form approved by the board of governors  
4 and shall include information identifying the professional liability policy  
5 issued or to be issued, the name and address of all healthcare providers  
6 covered by the policy, the amount of the annual premium, the effective and  
7 expiration dates of the coverage and such other information as the board of  
8 governors shall require. A copy of the notice required by this subsection  
9 shall be furnished to the named insured.

10 (2) In the event of termination of basic coverage by cancellation,  
11 nonrenewal, expiration or otherwise by either the insurer or named  
12 insured, notice of such termination shall be furnished by the insurer to the  
13 board of governors, the state agency which licenses, registers or certifies  
14 the named insured and the named insured. Such notice shall be provided  
15 no less than 30 days prior to the effective date of any termination initiated  
16 by the insurer or within 10 business days after the date coverage is  
17 terminated at the request of the named insured and shall include the name  
18 and address of the healthcare provider or providers for whom basic  
19 coverage is terminated and the date basic coverage will cease to be in  
20 effect. No basic coverage shall be terminated by cancellation or failure to  
21 renew by the insurer unless such insurer provides a notice of termination  
22 as required by this subsection.

23 (3) Any professional liability insurance policy issued, delivered or in  
24 effect in this state on and after July 1, 1976, shall contain or be endorsed to  
25 provide basic coverage as required by subsection (a) ~~of this section~~.  
26 Notwithstanding any omitted or inconsistent language, any contract of  
27 professional liability insurance shall be construed to obligate the insurer to  
28 meet all the mandatory requirements and obligations of this act. The  
29 liability of an insurer for claims made prior to July 1, 1984, shall not  
30 exceed those limits of insurance provided by such policy prior to July 1,  
31 1984.

32 (b) A nonresident healthcare provider shall not be licensed to actively  
33 render professional service as a healthcare provider in this state unless  
34 such healthcare provider maintains continuous coverage in effect as  
35 prescribed by subsection (a), except such coverage may be provided by a  
36 nonadmitted insurer who has filed the form required by subsection (b)(1).  
37 This provision shall not apply to optometrists and pharmacists ~~on or~~ *and*  
38 after July 1, 1991 ~~nor~~, *or* to physical therapists on and after July 1, 1995.

39 (1) Every insurance company authorized to transact business in this  
40 state, that is authorized to issue professional liability insurance in any  
41 jurisdiction, shall file with the commissioner, as a condition of its  
42 continued transaction of business within this state, a form prescribed by  
43 the commissioner declaring that its professional liability insurance

1 policies, wherever issued, shall be deemed to provide at least the insurance  
2 required by this subsection when the insured is rendering professional  
3 services as a nonresident healthcare provider in this state. Any  
4 nonadmitted insurer may file such a form.

5 (2) Every nonresident healthcare provider ~~who~~ *that* is required to  
6 maintain basic coverage pursuant to this subsection shall pay the surcharge  
7 levied by the board of governors pursuant to ~~subsection (a)~~ of K.S.A. 40-  
8 3404(a), and amendments thereto, directly to the board of governors and  
9 shall furnish to the board of governors the information required in  
10 subsection (a)(1).

11 (c) Every healthcare provider that is a self-insurer, the university of  
12 Kansas medical center for persons engaged in residency training, as  
13 described in ~~subsection (r)(1)~~ of K.S.A. 40-3401(r)(1), and amendments  
14 thereto, the employers of persons engaged in residency training, as  
15 described in ~~subsection (r)(2)~~ of K.S.A. 40-3401(r)(2), and amendments  
16 thereto, the private practice corporations or foundations and their full-time  
17 physician faculty employed by the university of Kansas medical center or  
18 a medical care facility or mental health center for self-insurers under  
19 ~~subsection (e)~~ of K.S.A. 40-3414(e), and amendments thereto, shall pay  
20 the surcharge levied by the board of governors pursuant to ~~subsection (a)~~  
21 of K.S.A. 40-3404(a), and amendments thereto, directly to the board of  
22 governors and shall furnish to the board of governors the information  
23 required in ~~subsection~~ *subsections* (a)(1) and (a)(2).

24 (d) In lieu of a claims made policy otherwise required under this  
25 section, a person engaged in residency training who is providing services  
26 as a healthcare provider but, while providing such services, is not covered  
27 by the self-insurance provisions of ~~subsection (d)~~ of K.S.A. 40-3414(d),  
28 and amendments thereto, may obtain basic coverage under an occurrence  
29 form policy, if such policy provides professional liability insurance  
30 coverage and limits ~~which~~ *that* are substantially the same as the  
31 professional liability insurance coverage and limits required by ~~subsection~~  
32 ~~(a)~~ of K.S.A. 40-3402(a), and amendments thereto. Where such occurrence  
33 form policy is in effect, the provisions of the healthcare provider insurance  
34 availability act referring to claims made policies shall be construed to  
35 mean occurrence form policies.

36 (e) In lieu of a claims made policy otherwise required under this  
37 section, a nonresident healthcare provider employed pursuant to a locum  
38 tenens contract to provide services in this state as a healthcare provider  
39 may obtain basic coverage under an occurrence form policy, if such policy  
40 provides professional liability insurance coverage and limits ~~which~~ *that* are  
41 substantially the same as the professional liability insurance coverage and  
42 limits required by K.S.A. 40-3402, and amendments thereto. Where such  
43 occurrence form policy is in effect, the provisions of the healthcare

1 provider insurance availability act referring to claims made policies shall  
2 be construed to mean occurrence form policies.

3 Sec. 2. K.S.A. 2020 Supp. 40-3403 is hereby amended to read as  
4 follows: 40-3403. (a) For the purpose of paying damages for personal  
5 injury or death arising out of the rendering of or the failure to render  
6 professional services by a healthcare provider, self-insurer or inactive  
7 health care provider subsequent to the time that such healthcare provider  
8 or self-insurer has qualified for coverage under the provisions of this act,  
9 there is hereby established the healthcare stabilization fund. The fund shall  
10 be held in trust in the state treasury and accounted for separately from  
11 other state funds. The board of governors shall administer the fund or  
12 contract for the administration of the fund with an insurance company  
13 authorized to do business in this state.

14 (b) (1) There is hereby created a board of governors that shall be  
15 composed of such members and shall have such powers, duties and  
16 functions as are prescribed by this act. The board of governors shall:

17 (A) Administer the fund and exercise and perform other powers,  
18 duties and functions required of the board under the healthcare provider  
19 insurance availability act;

20 (B) provide advice, information and testimony to the appropriate  
21 licensing or disciplinary authority regarding the qualifications of a  
22 healthcare provider;

23 (C) prepare and publish, on or before October 1 of each year, a report  
24 for submission to the healthcare stabilization fund oversight committee  
25 that includes a summary of the fund's activity during the preceding fiscal  
26 year, including, but not limited to, the amount collected from surcharges,  
27 the highest and lowest surcharges assessed, the amount paid from the fund,  
28 the number of judgments paid from the fund, the number of settlements  
29 paid from the fund and the fund balance at the end of the fiscal year; and

30 (D) have the authority to grant temporary exemptions from the  
31 provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to  
32 healthcare providers who have exceptional circumstances and verify in  
33 writing that the healthcare provider will not render professional services in  
34 this state during the period of exemption. Whenever the board grants such  
35 an exemption, the board shall notify the state agency that licenses the  
36 exempted healthcare provider.

37 (2) The board shall consist of 11 persons appointed by the  
38 commissioner of insurance, as provided by this subsection and as follows:

39 (A) Three members who are *on a list of nominees submitted to the*  
40 *commissioner by the Kansas medical society, at least two of whom are*  
41 *doctors of medicine who are licensed to practice medicine and surgery in*  
42 ~~Kansas who are doctors of medicine and who are on a list of nominees~~  
43 ~~submitted to the commissioner by the Kansas medical society;~~

1 (B) three members who are *on a list of nominees submitted to the*  
2 *commissioner by the Kansas hospital association and who are*  
3 *representatives of Kansas hospitals*~~and who are on a list of nominees~~  
4 ~~submitted to the commissioner by the Kansas hospital association;~~

5 (C) two members *who are on a list of nominees submitted to the*  
6 *commissioner by the Kansas association of osteopathic medicine, who are*  
7 *licensed to practice medicine and surgery in Kansas and who are doctors*  
8 *of osteopathic medicine*~~and who are on a list of nominees submitted to the~~  
9 ~~commissioner by the Kansas association of osteopathic medicine;~~

10 (D) one member who is *on a list of nominees submitted to the*  
11 *commissioner by the Kansas chiropractic association and who is licensed*  
12 *to practice chiropractic in Kansas*~~and who is on a list of nominees~~  
13 ~~submitted to the commissioner by the Kansas chiropractic association;~~

14 (E) one member who is *on a list of nominees submitted to the*  
15 *commissioner by the Kansas association of nurse anesthetists and who is a*  
16 *licensed professional nurse authorized to practice as a registered nurse*  
17 *anesthetist*~~who is on a list of nominees submitted to the commissioner by~~  
18 ~~the Kansas association of nurse anesthetists; and~~

19 (F) one member who is *on a list of nominees submitted to the*  
20 *commissioner by statewide associations comprised of members who*  
21 *represent adult care homes and who is a representative of adult care homes*  
22 *who is on a list of nominees submitted to the commissioner by statewide*  
23 *associations comprised of members who represent adult care homes.*

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

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

1 by three members of the board.

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

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

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

20 (7) The commissioner shall:

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

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

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

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

33 (2) subject to the provisions of ~~subsections subsection (f) and (m)~~,  
34 any amount due from a judgment or settlement that is in excess of the  
35 basic coverage liability of all liable nonresident healthcare providers or  
36 nonresident self-insurers for any such injury or death arising out of the  
37 rendering or the failure to render professional services within this state but  
38 in no event shall the fund be obligated for claims against nonresident  
39 healthcare providers or nonresident self-insurers who have not complied  
40 with this act or for claims against nonresident healthcare providers or  
41 nonresident self-insurers that arose outside of this state;

42 (3) subject to the provisions of ~~subsections subsection (f) and (m)~~,  
43 any amount due from a judgment or settlement against a resident inactive

1 healthcare provider for any such injury or death arising out of the  
2 rendering of or failure to render professional services;

3 (4) subject to the provisions of ~~subsections~~ *subsection (f) and (m)*,  
4 any amount due from a judgment or settlement against a nonresident  
5 inactive healthcare provider for any injury or death arising out of the  
6 rendering or failure to render professional services within this state, but in  
7 no event shall the fund be obligated for claims against *nonresident inactive*  
8 *healthcare providers*:

9 (A) ~~Nonresident inactive healthcare providers~~ Who have not  
10 complied with this act; or

11 (B) ~~nonresident inactive healthcare providers~~ for claims that arose  
12 outside of this state, unless such healthcare provider was a resident  
13 healthcare provider or resident self-insurer at the time such act occurred;

14 (5) subject to K.S.A. 40-3411(b), and amendments thereto, reasonable  
15 and necessary expenses for attorney fees, depositions, expert witnesses and  
16 other costs incurred in defending the fund against claims, and such  
17 expenditures shall not be subject to the provisions of K.S.A. 75-3738  
18 through 75-3744, and amendments thereto;

19 (6) any amounts expended for reinsurance obtained to protect the best  
20 interests of the fund purchased by the board of governors, which purchase  
21 shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and  
22 amendments thereto, but shall not be subject to the provisions of K.S.A.  
23 75-4101, and amendments thereto;

24 (7) reasonable and necessary actuarial expenses incurred in  
25 administering the act, including expenses for any actuarial studies  
26 contracted for by the legislative coordinating council, and such  
27 expenditures shall not be subject to the provisions of K.S.A. 75-3738  
28 through 75-3744, and amendments thereto;

29 (8) periodically to the plan or plans, any amount due pursuant to  
30 K.S.A. 40-3413(a)(3), and amendments thereto;

31 (9) reasonable and necessary expenses incurred by the board of  
32 governors in the administration of the fund or in the performance of other  
33 powers, duties or functions of the board under the healthcare provider  
34 insurance availability act;

35 (10) surcharge refunds payable when the notice of cancellation  
36 requirements of K.S.A. 40-3402, and amendments thereto, are met;

37 (11) subject to K.S.A. 40-3411(b), and amendments thereto,  
38 reasonable and necessary expenses for attorney fees and other costs  
39 incurred in defending a person engaged or who was engaged in residency  
40 training or the private practice corporations or foundations and their full-  
41 time physician faculty employed by the university of Kansas medical  
42 center or any nonprofit corporation organized to administer the graduate  
43 medical education programs of community hospitals or medical care

1 facilities affiliated with the university of Kansas school of medicine from  
2 claims for personal injury or death arising out of the rendering of or the  
3 failure to render professional services by such healthcare provider;

4 (12) ~~notwithstanding the provisions of subsection (m),~~ any amount  
5 due from a judgment or settlement for an injury or death arising out of the  
6 rendering of or failure to render professional services by a person engaged  
7 or who was engaged in residency training or the private practice  
8 corporations or foundations and their full-time physician faculty employed  
9 by the university of Kansas medical center or any nonprofit corporation  
10 organized to administer the graduate medical education programs of  
11 community hospitals or medical care facilities affiliated with the university  
12 of Kansas school of medicine;

13 (13) subject to the provisions of K.S.A. 65-429, and amendments  
14 thereto, reasonable and necessary expenses for the development and  
15 promotion of risk management education programs and for the medical  
16 care facility licensure and risk management survey functions carried out  
17 under K.S.A. 65-429, and amendments thereto;

18 (14) ~~notwithstanding the provisions of subsection (m),~~ any amount,  
19 but not less than the required basic coverage limits, owed pursuant to a  
20 judgment or settlement for any injury or death arising out of the rendering  
21 of or failure to render professional services by a person, other than a  
22 person described in paragraph (12), who was engaged in a postgraduate  
23 program of residency training approved by the state board of healing arts  
24 but who, at the time the claim was made, was no longer engaged in such  
25 residency program;

26 (15) subject to K.S.A. 40-3411(b), and amendments thereto,  
27 reasonable and necessary expenses for attorney fees and other costs  
28 incurred in defending a person described in paragraph (14);

29 (16) expenses incurred by the commissioner in the performance of  
30 duties and functions imposed upon the commissioner by the healthcare  
31 provider insurance availability act, and expenses incurred by the  
32 commissioner in the performance of duties and functions under contracts  
33 entered into between the board and the commissioner as authorized by this  
34 section; and

35 (17) periodically to the state general fund reimbursements of amounts  
36 paid to members of the healthcare stabilization fund oversight committee  
37 for compensation, travel expenses and subsistence expenses pursuant to  
38 K.S.A. 40-3403b(e), and amendments thereto.

39 (d) All amounts for which the fund is liable pursuant to subsection (c)  
40 shall be paid promptly and in full except that, if the amount for which the  
41 fund is liable is ~~\$300,000~~ \$500,000 or more, it shall be paid by installment  
42 payments of ~~\$300,000~~ \$500,000 or 10% of the amount of the judgment  
43 including interest thereon, whichever is greater, per fiscal year, the first



1 installment to be paid within 60 days after the fund becomes liable and  
2 each subsequent installment to be paid annually on the same date of the  
3 year the first installment was paid, until the claim has been paid in full.

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

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

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

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

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

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

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

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

1 healthcare provider and the reasons for the termination.

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

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

17 (3) The university of Kansas medical center private practice  
18 foundation reserve fund is hereby established in the state treasury. If the  
19 balance in such reserve fund is less than \$500,000 on July 1 of any year,  
20 the private practice corporations or foundations referred to in K.S.A. 40-  
21 3402(c), and amendments thereto, shall remit the amount necessary to  
22 increase such balance to \$500,000 to the state treasurer for credit to such  
23 reserve fund as soon after such July 1 date as is practicable. Upon receipt  
24 of each such remittance, the state treasurer shall credit the same to such  
25 reserve fund. When compliance with the foregoing provisions of this  
26 paragraph have been achieved on or after July 1 of any year in which the  
27 same are applicable, the state treasurer shall certify to the board of  
28 governors that such reserve fund has been funded for the year in the  
29 manner required by law. Moneys in such reserve fund may be invested or  
30 reinvested in accordance with the provisions of K.S.A. 40-3406, and  
31 amendments thereto, and any income or interest earned by such  
32 investments shall be credited to such reserve fund. Upon payment of  
33 moneys from the healthcare stabilization fund pursuant to subsection (c)  
34 (11) or (c)(12) with respect to any private practice corporation or  
35 foundation or any of its full-time physician faculty employed by the  
36 university of Kansas, the secretary of administration shall transfer an  
37 amount equal to the amount paid from the university of Kansas medical  
38 center private practice foundation reserve fund to the healthcare  
39 stabilization fund or, if the balance in such reserve fund is less than the  
40 amount so paid, an amount equal to the balance in such reserve fund.

41 (4) The graduate medical education administration reserve fund is  
42 hereby established in the state treasury. If the balance in such reserve fund  
43 is less than \$40,000 on July 1 of any year, the nonprofit corporations

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

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

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

33 (7) The funds required to be transferred from the state general fund to  
34 the healthcare stabilization fund pursuant to paragraphs (1) and (2) for the  
35 fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and June  
36 30, 2013, shall not be transferred prior to July 1, 2013. The secretary of  
37 administration shall maintain a record of the amounts certified by the  
38 board of governors pursuant to paragraphs (1) and (2) for the fiscal years  
39 ending June 30, 2010, June 30, 2011, June 30, 2012, and June 30, 2013.  
40 Beginning July 1, 2013, in addition to any other transfers required  
41 pursuant to subsection (j), the state general fund transfers that are deferred  
42 pursuant to this paragraph shall be transferred from the state general fund  
43 to the healthcare stabilization fund in the following manner: On July 1,

1 2013, and annually thereafter through July 1, 2018, an amount equal to  
2 20% of the total amount of state general fund transfers deferred pursuant  
3 to this paragraph for the fiscal years ending June 30, 2010, June 30, 2011,  
4 June 30, 2012, and June 30, 2013. The amounts deferred pursuant to this  
5 paragraph shall not accrue interest thereon.

6 (k) Notwithstanding any other provision of the healthcare provider  
7 insurance availability act, no psychiatric hospital licensed under K.S.A.  
8 2020 Supp. 39-2001 et seq., and amendments thereto, shall be assessed a  
9 premium surcharge or be entitled to coverage under the fund if such  
10 hospital has not paid any premium surcharge pursuant to K.S.A. 40-3404,  
11 and amendments thereto, prior to January 1, 1988.

12 (l) ~~On or after July 1, 1989, and prior to January 1, 2022, every~~  
13 ~~healthcare provider shall make an election to be covered by one of the~~  
14 ~~following options provided in this subsection paragraph (1) that shall limit~~  
15 ~~the liability of the fund with respect to judgments or settlements relating to~~  
16 ~~injury or death arising out of the rendering of or failure to render~~  
17 ~~professional services on or after July 1, 1989. On and after January 1,~~  
18 ~~2022, every healthcare provider shall make an election to be covered by~~  
19 ~~one of the following options provided in paragraph (2) that shall limit the~~  
20 ~~liability of the fund with respect to judgments or settlements relating to~~  
21 ~~injury or death arising out of the rendering of or failure to render~~  
22 ~~professional services on or after January 1, 2022. Such election shall be~~  
23 ~~made at the time the healthcare provider renews the basic coverage in~~  
24 ~~effect on July 1, 1989, or, if basic coverage is not in effect, such election~~  
25 ~~shall be made at the time such coverage is acquired pursuant to K.S.A. 40-~~  
26 ~~3402, and amendments thereto. Notice of the election shall be provided by~~  
27 ~~the insurer providing the basic coverage in the manner and form prescribed~~  
28 ~~by the board of governors and shall continue to be effective from year to~~  
29 ~~year unless modified by a subsequent election made prior to the~~  
30 ~~anniversary date of the policy. The healthcare provider may at any~~  
31 ~~subsequent election reduce the dollar amount of the coverage for the next~~  
32 ~~and subsequent fiscal years, but may not increase the same, unless~~  
33 ~~specifically authorized by the board of governors. Any election of fund~~  
34 ~~coverage limits, whenever made, shall be with respect to judgments or~~  
35 ~~settlements relating to injury or death arising out of the rendering of or~~  
36 ~~failure to render professional services on or after the effective date of such~~  
37 ~~election of fund coverage limits. Such election shall be made for persons~~  
38 ~~engaged in residency training and persons engaged in other postgraduate~~  
39 ~~training programs approved by the state board of healing arts at medical~~  
40 ~~care facilities or mental health centers in this state by the agency or~~  
41 ~~institution paying the surcharge levied under K.S.A. 40-3404, and~~  
42 ~~amendments thereto, for such persons. The election of fund coverage~~  
43 ~~limits for a nonprofit corporation organized to administer the graduate~~

1

A medical care facility or a healthcare facility deemed qualified as a self-insurer under K.S.A. 40-3414(a), and amendments thereto, may opt out of the requirements set forth in paragraph (B) so long as such medical care facility or healthcare facility substantially meets the minimum coverage requirements of this section through coverage provided by the captive insurance company of such medical care facility or healthcare facility.

1 medical education programs of community hospitals or medical care  
2 facilities affiliated with the university of Kansas school of medicine shall  
3 be deemed to be effective at the highest option. Such options shall be as  
4 follows:

5 ~~(1)(A)~~ *OPTION 1. The fund shall not be liable to pay in excess of  
6 \$100,000 pursuant to any one judgment or settlement for any party against  
7 such healthcare provider, subject to an aggregate limitation for all  
8 judgments or settlements arising from all claims made in the fiscal year in  
9 an amount of \$300,000 for such provider.*

10 ~~(2)(B)~~ *OPTION 2. The fund shall not be liable to pay in excess of  
11 \$300,000 pursuant to any one judgment or settlement for any party against  
12 such healthcare provider, subject to an aggregate limitation for all  
13 judgments or settlements arising from all claims made in the fiscal year in  
14 an amount of \$900,000 for such provider.*

15 ~~(3)(C)~~ *OPTION 3. The fund shall not be liable to pay in excess of  
16 \$800,000 pursuant to any one judgment or settlement for any party against  
17 such healthcare provider, subject to an aggregate limitation for all  
18 judgments or settlements arising from all claims made in the fiscal year in  
19 an amount of \$2,400,000 for such healthcare provider.*

20 ~~(2)(A)~~ *OPTION 1. The fund shall not be liable to pay in excess of  
21 \$500,000 pursuant to any one judgment or settlement for any party  
22 against such healthcare provider; subject to an aggregate limitation for all  
23 judgments or settlements arising from all claims made in the fiscal year in  
24 an amount of \$1,500,000 for such healthcare provider.*

25 ~~(B)~~ *OPTION 2. The fund shall not be liable to pay in excess of  
26 \$1,500,000 pursuant to any one judgment or settlement for any party  
27 against such healthcare provider; subject to an aggregate limitation for all  
28 judgments or settlements arising from all claims made in the fiscal year in  
29 an amount of \$4,500,000 for such healthcare provider.*

30 ~~(m) The fund shall not be liable for any amounts due from a judgment  
31 or settlement against resident or nonresident inactive healthcare providers  
32 who first qualify as an inactive healthcare provider on or after July 1,  
33 1989, unless such healthcare provider has been in compliance with K.S.A.  
34 40-3402, and amendments thereto, for a period of not less than five years.  
35 If a healthcare provider has not been in compliance for five years, such  
36 healthcare provider may make application and payment for the coverage  
37 for the period while they are nonresident healthcare providers, nonresident  
38 self-insurers or resident or nonresident inactive healthcare providers to the  
39 fund. Such payment shall be made within 30 days after the healthcare  
40 provider ceases being an active healthcare provider and shall be made in  
41 an amount determined by the board of governors to be sufficient to fund  
42 anticipated claims based upon reasonably prudent actuarial principles. The  
43 provisions of this subsection shall not be applicable to any healthcare~~

(i)  
(ii)  
(iii)  
(B)(i)  
(ii)

redesignation of subelements

(2) The board of governors shall have the authority to adjust the amounts provided in paragraph (1)(B) as the board deems necessary to effectuate the provisions of the healthcare provider insurance availability act, provided that the minimum coverage for a healthcare provider shall not be less than \$1,000,000 per claim and \$3,000,000 in the aggregate.

1 provider that becomes inactive through death or retirement, or through  
2 disability or circumstances beyond such healthcare provider's control, if  
3 such healthcare provider notifies the board of governors and receives  
4 approval for an exemption from the provisions of this subsection. Any  
5 period spent in a postgraduate program of residency training approved by  
6 the state board of healing arts shall not be included in computation of time  
7 spent in compliance with the provisions of K.S.A. 40-3402, and  
8 amendments thereto. The provisions of this subsection shall expire on July  
9 1, 2014.

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

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

24 Sec. 3. K.S.A. 2020 Supp. 40-3408 is hereby amended to read as  
25 follows: 40-3408. (a) ~~The insurer of a healthcare provider covered by the~~  
26 ~~fund or self-insurer shall be liable only for the first \$200,000 of a claim for~~  
27 ~~personal injury or death arising out of the rendering of or the failure to~~  
28 ~~render professional services by such healthcare provider, subject to an~~  
29 ~~annual aggregate of \$600,000 for all such claims against the healthcare~~  
30 ~~provider. For a claim for personal injury or death arising out of the~~  
31 ~~rendering of or the failure to render professional services by a healthcare~~  
32 ~~provider, the insurer of a healthcare provider covered by the fund or self-~~  
33 ~~insurer shall be liable only for the amount of basic coverage in effect on~~  
34 ~~the date of the incident giving rise to the claim, subject to an annual~~  
35 ~~aggregate amount of not less than three times the primary amount for all~~  
36 ~~such claims against the healthcare provider. However, If any liability~~  
37 ~~insurance in excess of such amounts is applicable to any claim or would be~~  
38 ~~applicable in the absence of this act, any payments from the fund shall be~~  
39 ~~excess over such amounts paid, payable or that would have been payable~~  
40 ~~in the absence of this act.~~

41 (b) If any inactive healthcare provider has liability insurance in effect  
42 ~~which~~ that is applicable to any claim or would be applicable in the absence  
43 of this act, any payments from the fund shall be excess over such amounts

1 paid, payable or that would have been payable in the absence of this act.

2 (c) Notwithstanding anything in article 34 of chapter 40 of the Kansas  
3 Statutes Annotated, and amendments thereto, to the contrary, an insurer  
4 that provides coverage to a healthcare provider may exclude from  
5 coverage any liability incurred by such provider:

6 (1) From the rendering of or the failure to render professional  
7 services by any other healthcare provider who is required by K.S.A. 40-  
8 3402, and amendments thereto, to maintain professional liability insurance  
9 in effect as a condition to rendering professional services as a healthcare  
10 provider in this state; or

11 (2) based upon or relating to the healthcare provider's sexual acts or  
12 activity, but in such cases the insurer may provide reasonable and  
13 necessary expenses for attorney fees incurred in defending against such  
14 claim. The insurer may recover all or a portion of such expenses for  
15 attorney fees if an adverse judgment is returned against the healthcare  
16 provider for damages resulting from the healthcare provider's sexual acts  
17 or activity.

18 (d) The fund shall not be liable for payment of any claim excluded by  
19 an insurer pursuant to this section or any claim otherwise excluded from  
20 coverage under a healthcare provider's professional liability insurance.

21 (e) Notwithstanding any provision of article 34 of chapter 40 of the  
22 Kansas Statutes Annotated, and amendments thereto, to the contrary, an  
23 insurer that provides coverage to a healthcare provider may exclude from  
24 coverage:

25 (1) Any liability incurred by such healthcare provider as a result of  
26 professional services rendered as a charitable healthcare provider; or

27 (2) any liability incurred by such healthcare provider that is covered  
28 under the federal tort claims act pursuant to chapter 171 of title 28 of the  
29 United States code.

30 ¶Sec. 4. K.S.A. 2020 Supp. 40-3424 is hereby amended to read as  
31 follows: 40-3424. (a) For all claims made on and after July 1, 2014, the  
32 amount of fund liability for a judgment or settlement against a resident or  
33 nonresident inactive healthcare provider shall be equal to the minimum  
34 professional liability insurance policy limits required pursuant to K.S.A.  
35 40-3402, and amendments thereto, *and in effect on the date of the incident*  
36 *giving rise to a claim*, plus the level of coverage selected by the healthcare  
37 provider pursuant to K.S.A. 40-3403(l), and amendments thereto, at the  
38 ~~time of the incident giving rise to a claim. The aggregate fund liability for~~  
39 ~~all judgments and settlements arising from all claims made in any fiscal~~  
40 ~~year against a resident or nonresident inactive healthcare provider shall not~~  
41 ~~exceed \$3,000,000 in any fiscal year.~~

42 (b) ~~This section shall be part of and supplemental to the healthcare~~  
43 ~~provider insurance availability act~~ *For all claims made for incidents*

insert Sec. 4, K.S.A. 40-3409 here, followed by  
Sec. 5, K.S.A. 40-3414 and renumber sections  
accordingly.

new strike - moved to subsection (b)  
below

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.

1 *occurring on or after January 1, 2022, the aggregate fund liability for all*  
2 *judgments and settlements made in any fiscal year against a resident or*  
3 *nonresident inactive healthcare provider shall not exceed three times the*  
4 *coverage amount in subsection (a).*

5 Sec. 5. K.S.A. 2020 Supp. 40-3402, 40-3403, 40-3408 and 40-3424  
6 are hereby repealed.

40-3409 and K.S.A.

, 40-3414

7 Sec. 6. This act shall take effect and be in force from and after its  
8 publication in the statute book.



Sec. 4. K.S.A. 40-3409 is hereby amended to read as follows: 40-3409. (a) (1) In any action filed in this state for personal injury or death arising out of the rendering of or the failure to render professional services by any ~~health-care~~ healthcare provider covered by the fund or any inactive ~~health-care~~ healthcare provider covered by the fund, the plaintiff shall serve a copy of the petition upon the board of governors by registered mail, certified mail, priority mail, commercial delivery service or first class mail within ~~10~~ 30 calendar days from filing the same, and if such service is not made the fund shall not be liable for any amount due from a judgment or a settlement nor, in such case, shall the ~~health-care~~ healthcare provider or the provider's insurer or the inactive ~~health-care~~ healthcare provider or the provider's insurer be liable for such amount that, if such service had been made, would have been paid by the fund; (2) in any action filed outside of this state for personal injury or death arising out of the rendering of or the failure to render professional services by any ~~health-care~~ healthcare provider or any inactive ~~health-care~~ healthcare provider covered by the fund, the inactive ~~health-care~~ healthcare provider, the self-insurer or the insurer of a ~~health-care~~ healthcare provider or an inactive ~~health-care~~ healthcare provider shall notify the board of governors, as soon as it is reasonably practicable, that such summons or petition has been filed. If the petition names as a defendant in the action a ~~health-care~~ healthcare provider who is licensed, registered or certified by the state board of healing arts, the board of governors shall forward a copy of the petition to the state board of healing arts.

(b) Such action shall be defended by the insurer or the self-insurer, but if the board of governors believes it to be in the best interests of the fund, the board of governors may employ independent counsel to represent the interests of the fund. The cost of

employing such counsel shall be paid from the fund. The board of governors is authorized to employ independent counsel in any such action against an inactive ~~health-care~~ [healthcare](#) provider covered by the fund.

(c) The attorneys of record and the board of governors shall submit to the state board of healing arts expert witness reports which have been made available to the opposing parties in the case and, upon the request of the state board of healing arts, any depositions, interrogatories, admissions or other relevant information concerning the case which has been made available to the opposing parties in the case shall also be submitted. The board of governors shall not be required to furnish information not in the possession of the board of governors. Any report or other information made available to the state board of healing arts in accordance with this subsection shall be subject to K.S.A. 65-2898a, and amendments thereto. Reasonable expenses incurred in reproducing such reports or other information shall be paid by the state board of healing arts.

Sec. 5 K.S.A. 2020 Supp. 40-3414 is hereby amended to read as follows: 40-3414. (a) (1) Any ~~health-care~~ healthcare provider or any ~~health-care~~ healthcare system organized and existing under the laws of this state which that owns and operates more than one medical care facility or more than one ~~health-care~~ 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~~ \$150,000 or 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 ~~health-care~~ healthcare provider or ~~health-care~~ 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 possesses and will continue to be possessed of possess the ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a ~~health-care~~ healthcare provider obtained against such applicant arising from the applicant's rendering of professional services as a ~~health-care~~ healthcare provider.

(2) In making such determination the board of governors shall consider:

~~(1)~~(A) The financial condition of the applicant;

~~(2)~~(B) the procedures adopted and followed by the applicant to process and handle claims and potential claims;

~~(3)~~(C) the amount and liquidity of assets reserved for the settlement of claims or potential claims; and

~~(4)~~(D) any other relevant ~~factors~~ the board deems relevant.

(3) Any applicant for self-insurance that owns and operates more than one medical care facility or more than one healthcare facility shall be deemed qualified by the board of governors if such applicant is insured by a captive insurance company, as defined in K.S.A. 40- 4301, and amendments thereto, or under the laws of the state of domicile of any such captive insurance company.

(4) 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 ~~health care~~ 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~~ individual who is a self-insurer pursuant to subsection (d) or (e).

(b) Any such health care ~~healthcare~~ provider or ~~health care~~ 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~~ individual shall be deemed a self-insurer for the purposes of the ~~health care~~ healthcare provider insurance availability act. Such self-insurance shall be applicable to ~~a person an individual~~ engaged in residency training only when such ~~person~~ individual is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such ~~person~~ individual 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) 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~~ individual 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~~ individuals engaged in such postgraduate training programs at the medical care facility or mental health center. Failure of ~~a person~~ an individual 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~~ individual, the failure to comply with any provisions of the ~~health-care~~ 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), "~~health-care~~ healthcare provider" may include each ~~health-care~~ healthcare provider in any group of ~~health-care~~ 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 ~~health-care~~ healthcare systems, shall not affect the responsibility of individual ~~health-care~~ 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 ~~health-care~~ 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 ~~health-care~~ 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.

(3) Any applicant for self-insurance that owns and operates more than one medical care facility or more than one healthcare facility shall be deemed qualified by the board of governors if such applicant is insured by a captive insurance company, as defined in K.S.A. 40- 4301, and amendments thereto, or under the laws of the state of domicile of any such captive insurance company.

(4) 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 ~~health care~~ 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~~ individual who is a self-insurer pursuant to subsection (d) or (e).

(b) Any such health care ~~healthcare~~ provider or ~~health care~~ 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~~ individual shall be deemed a self-insurer for the purposes of the ~~health care~~ healthcare provider insurance availability act. Such self-insurance shall be applicable to ~~a person an individual~~ engaged in residency training only when such ~~person~~ individual is engaged in medical activities which do not include extracurricular, extra-institutional medical service for which such ~~person~~ individual receives extra compensation and which have not been approved as provided in K.S.A. 40-3401(r)(1) and (2), and amendments thereto.