



Kansas Health Care Stabilization Fund

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Testimony in Support of Senate Bill 101
To the House Insurance Committee
On Behalf of the Health Care Stabilization Fund Board of Governors
By Charles L. Wheelen
March 11, 2015

Senate Bill 101 contains technical clarifications of exemptions from the definition of “health care provider” under the Health Care Provider Insurance Availability Act. In other words, this bill would allow certain health care professionals to avoid the normal professional liability insurance requirements under K.S.A. 40-3402 and the normal Health Care Stabilization Fund requirements under K.S.A. 40-3404.

You may recall that last year HB2516 amended the definitions section of the Health Care Provider Insurance Availability Act. As a result, two new professions and three new types of facilities were added to the definition of health care provider. This means that these five new categories of health care providers are now required as a condition of active licensure to maintain a policy of professional liability insurance issued by a company that is approved by the Commissioner of Insurance. The policy must provide minimum limits of \$200,000 per claim subject to not less than \$600,000 annual aggregate coverage. In addition, health care providers must select one of three levels of supplemental coverage via the Health Care Stabilization Fund and must pay a premium surcharge for that coverage.

In the process of adding the five new categories of health care providers, the Legislature added some exemptions. It was recognized that advanced practice nurses and physician assistants who are employed by an agency of the federal government are covered under the federal Tort Claims Act and therefore have no need for professional liability insurance or Health Care Stabilization Fund coverage. There was a minor oversight, however, because a Senate Committee amendment exempted federally employed nurse midwives, but failed to exempt nurse anesthetists who work for the military or a federal agency.

Furthermore, it was unknown at that time that there are physician assistants who have retired from active practice but maintain an active license exclusively for the purpose of providing charity care at clinics for medically indigent patients. In this case, the physician assistants are covered under the Kansas Tort Claims Act and therefore do not need professional liability insurance nor do they need HCSF coverage.

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Another amendment contained in 2014 HB2516 delegated limited authority to our Board of Governors to grant temporary exemptions from the professional liability insurance requirements stipulated in K.S.A. 40-3402, as well as the HCSF surcharge requirements stipulated in K.S.A. 40-3404. These exemptions may be granted only when there are exceptional circumstances. We have carefully exercised this authority to grant temporary exemptions to physician assistants who serve as charitable health care providers and nurse anesthetists who are employed by a federal agency. Senate Bill 101 will grant permanent, statutory exemptions to these health care professionals.

We respectfully request your favorable action on SB101. Thank you.