

## SENATE BILL No. 420

By Committee on Financial Institutions and Insurance

1-23

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AN ACT concerning health care provider insurance; amending K.S.A. 2001 Supp. 40-3414 and repealing the existing section.

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

Section 1. K.S.A. 2001 Supp. 40-3414 is hereby amended to read as follows: 40-3414. (a) Any health care provider, or any health care system organized and existing under the laws of this state which owns and operates two or more medical care facilities licensed by the department of health and environment, whose aggregate annual insurance premium is or would be \$100,000 or more for 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 provider or health care 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 and will continue to be possessed of ability to pay any judgment for which liability exists equal to the amount of basic coverage required of a health care provider obtained against such applicant arising from the applicant's rendering of professional services as a health care provider. In making such determination the board of governors shall consider (1) the financial condition of the applicant, (2) the procedures adopted and followed by the applicant to process and handle claims and potential claims, (3) the amount and liquidity of assets reserved for the settlement of claims or potential claims and (4) any other relevant factors. 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 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

1 subsection shall not apply to the Kansas soldiers' home, the Kansas vet-  
2 erans' home or to any person who is a self-insurer pursuant to subsection  
3 (d) or (e).

4 (b) Any such health care provider or health care system that holds a  
5 certificate of self-insurance shall pay the applicable surcharge set forth in  
6 subsection (c) of K.S.A. 40-3402 and amendments thereto.

7 (c) The Kansas soldiers' home and the Kansas veterans' home shall  
8 be self-insurers and shall pay the applicable surcharge set forth in sub-  
9 section (c) of K.S.A. 40-3402 and amendments thereto.

10 (d) Persons engaged in residency training as provided in subsections  
11 (r)(1) and (2) of K.S.A. 40-3401, and amendments thereto, shall be self-  
12 insured by the state of Kansas for occurrences arising during such train-  
13 ing, and such person shall be deemed a self-insurer for the purposes of  
14 the health care provider insurance availability act. Such self-insurance  
15 shall be applicable to a person engaged in residency training only when  
16 such person is engaged in medical activities which do not include extra-  
17 curricular, extra-institutional medical service for which such person re-  
18 ceives extra compensation and which have not been approved as provided  
19 in subsections (r)(1) and (2) of K.S.A. 40-3401, and amendments thereto.

20 (e) (1) A person engaged in a postgraduate training program ap-  
21 proved by the state board of healing arts at a medical care facility or  
22 mental health center in this state may be self-insured by such medical  
23 care facility or mental health center in accordance with this subsection  
24 (e) and in accordance with such terms and conditions of eligibility therefor  
25 as may be specified by the medical care facility or mental health center  
26 and approved by the board of governors. A person self-insured under this  
27 subsection (e) by a medical care facility or mental health center shall be  
28 deemed a self-insurer for purposes of the health care provider insurance  
29 availability act. Upon application by a medical care facility or mental  
30 health center, on a form prescribed by the board of governors, the board  
31 of governors may authorize such medical care facility or mental health  
32 center to self-insure persons engaged in postgraduate training programs  
33 approved by the state board of healing arts at such medical care facility  
34 or mental health center if the board of governors is satisfied that the  
35 medical care facility or mental health center is possessed and will continue  
36 to be possessed of ability to pay any judgment for which liability exists  
37 equal to the amount of basic coverage required of a health care provider  
38 obtained against a person engaged in such a postgraduate training pro-  
39 gram and arising from such person's rendering of or failure to render  
40 professional services as a health care provider.

41 (2) In making such determination the board of governors shall con-  
42 sider (A) the financial condition of the medical care facility or mental  
43 health center, (B) the procedures adopted by the medical care facility or

1 mental health center to process and handle claims and potential claims,  
2 (C) the amount and liquidity of assets reserved for the settlement of  
3 claims or potential claims by the medical care facility or mental health  
4 center and (D) any other factors the board of governors deems relevant.  
5 The board of governors may specify such conditions for the approval of  
6 an application as the board of governors deems necessary. Upon approval  
7 of an application, the board of governors shall issue a certificate of self-  
8 insurance to each person engaged in such postgraduate training program  
9 at the medical care facility or mental health center who is self-insured by  
10 such medical care facility or mental health center.

11 (3) Upon notice and a hearing in accordance with the provisions of  
12 the Kansas administrative procedure act, the board of governors may  
13 cancel, upon reasonable grounds therefor, a certificate of self-insurance  
14 issued pursuant to this subsection (e) or the authority of a medical care  
15 facility or mental health center to self-insure persons engaged in such  
16 postgraduate training programs at the medical care facility or mental  
17 health center. Failure of a person engaged in such postgraduate training  
18 program to comply with the terms and conditions of eligibility to be self-  
19 insured by the medical care facility or mental health center, the failure  
20 of a medical care facility or mental health center to pay any judgment for  
21 which such medical care facility or mental health center is liable as self-  
22 insurer of such person, the failure to comply with any provisions of the  
23 health care provider insurance availability act or the failure to comply  
24 with any conditions for approval of the application or any conditions con-  
25 tained in the certificate of self-insurance shall be reasonable grounds for  
26 cancellation of such certificate of self-insurance or the authority of a med-  
27 ical care facility or mental health center to self-insure such persons.

28 (4) A medical care facility or mental health center authorized to self-  
29 insure persons engaged in such postgraduate training programs shall pay  
30 the applicable surcharge set forth in subsection (c) of K.S.A. 40-3402 and  
31 amendments thereto on behalf of such persons.

32 (5) As used in this subsection (e), “medical care facility” does not  
33 include the university of Kansas medical center or those community hos-  
34 pitals or medical care facilities described in subsection (r)(2) of K.S.A.  
35 40-3401, and amendments thereto.

36 (f) For the purposes of subsection (a), “health care provider” may  
37 include each health care provider in any group of health care providers  
38 who practice as a group to provide physician services only for a health  
39 maintenance organization, any professional corporations, partnerships or  
40 not-for-profit corporations formed by such group and the health main-  
41 tenance organization itself. The premiums for each such provider, health  
42 maintenance organization and group corporation or partnership may be  
43 aggregated for the purpose of being eligible for and subject to the stat-

1 utory requirements for self-insurance as set forth in this section.

2 (g) The provisions of subsections (a) and (f), relating to health care  
3 systems, shall not affect the responsibility of individual health care pro-  
4 viders as defined in subsection (f) of K.S.A. 40-3401 and amendments  
5 thereto or organizations whose premiums are aggregated for purposes of  
6 being eligible for self-insurance from individually meeting the require-  
7 ments imposed by K.S.A. 40-3402 and amendments thereto with respect  
8 to the ability to respond to injury or damages to the extent specified  
9 therein and K.S.A. 40-3404 and amendments thereto with respect to the  
10 payment of the health care stabilization fund surcharge.

11 (h) Each private practice corporation or foundation and their full-  
12 time physician faculty employed by the university of Kansas medical cen-  
13 ter and each nonprofit corporation organized to administer the graduate  
14 medical education programs of community hospitals or medical care fa-  
15 cilities affiliated with the university of Kansas school of medicine shall be  
16 deemed a self-insurer for the purposes of the health care provider insur-  
17 ance availability act. The private practice corporation or foundation of  
18 which the full-time physician faculty is a member and each nonprofit  
19 corporation organized to administer the graduate medical education pro-  
20 grams of community hospitals or medical care facilities affiliated with the  
21 university of Kansas school of medicine shall pay the applicable surcharge  
22 set forth in subsection (a) of K.S.A. 40-3404, and amendments thereto,  
23 on behalf of the private practice corporation or foundation and their full-  
24 time physician faculty employed by the university of Kansas medical cen-  
25 ter or on behalf of a nonprofit corporation organized to administer the  
26 graduate medical education programs of community hospitals or medical  
27 care facilities affiliated with the university of Kansas school of medicine.

28 (i) (1) Subject to the provisions of paragraph (4), for the purposes of  
29 the health care provider insurance availability act, each nonprofit corpo-  
30 ration organized to administer the graduate medical education programs  
31 of community hospitals or medical care facilities affiliated with the uni-  
32 versity of Kansas school of medicine shall be deemed to have been a  
33 health care provider as defined in K.S.A. 40-3401, and amendments  
34 thereto, from and after July 1, ~~1997~~ 2001.

35 (2) Subject to the provisions of paragraph (4), for the purposes of the  
36 health care provider insurance availability act, each nonprofit corporation  
37 organized to administer the graduate medical education programs of com-  
38 munity hospitals or medical care facilities affiliated with the university of  
39 Kansas school of medicine shall be deemed to have been a self insurer  
40 within the meaning of subsection (h) of this section, and amendments  
41 thereto, from and after July 1, ~~1997~~ 2001.

42 (3) Subject to the provisions of paragraph (4), for the purposes of the  
43 health care provider insurance availability act, the election of fund cov-

1 erage limits for each nonprofit corporation organized to administer the  
2 graduate medical education programs of community hospitals or medical  
3 care facilities affiliated with the university of Kansas school of medicine  
4 shall be deemed to have been effective at the highest option, as provided  
5 in subsection (l) of K.S.A. 40-3403, and amendments thereto, from and  
6 after July 1, ~~1997~~ 2001.

7 (4) No nonprofit corporation organized to administer the graduate  
8 medical education programs of community hospitals or medical care fa-  
9 cilities affiliated with the university of Kansas school of medicine shall be  
10 required to pay to the fund any annual premium surcharge for any period  
11 prior to the effective date of this act. Any annual premium surcharge for  
12 the period commencing on the effective date of this act and ending on  
13 June 30, 2001, shall be prorated.

14 Sec. 2. K.S.A. 2001 Supp. 40-3414 is hereby repealed.

15 Sec. 3. This act shall take effect and be in force from and after its  
16 publication in the Kansas register.

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