

## HOUSE BILL No. 2702

By Committee on Judiciary

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9 AN ACT concerning insurance; relating to the health care stabilization  
10 fund; notice of action; amending K.S.A. 40-3409 and repealing the  
11 existing section.  
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13 *Be it enacted by the Legislature of the State of Kansas:*

14 Section 1. K.S.A. 40-3409 is hereby amended to read as follows: 40-  
15 3409. (a) (1) In any action filed in this state for personal injury or death  
16 arising out of the rendering of or the failure to render professional serv-  
17 ices by any health care provider covered by the fund or any inactive health  
18 care provider covered by the fund, the plaintiff shall serve a copy of the  
19 petition upon the board of governors by registered mail within ~~40~~ 30 days  
20 from filing the same, and if such service is not made the fund shall not  
21 be liable for any amount due from a judgment or a settlement nor, in  
22 such case, shall the health care provider or the provider's insurer or the  
23 inactive health care provider or the provider's insurer be liable for such  
24 amount that, if such service had been made, would have been paid by  
25 the fund; (2) in any action filed outside of this state for personal injury  
26 or death arising out of the rendering of or the failure to render profes-  
27 sional services by any health care provider or any inactive health care  
28 provider covered by the fund, the inactive health care provider, the self-  
29 insurer or the insurer of a health care provider or an inactive health care  
30 provider shall notify the board of governors, as soon as it is reasonably  
31 practicable, that such summons or petition has been filed. If the petition  
32 names as a defendant in the action a health care provider who is licensed,  
33 registered or certified by the state board of healing arts, the board of  
34 governors shall forward a copy of the petition to the state board of healing  
35 arts.

36 (b) Such action shall be defended by the insurer or the self-insurer,  
37 but if the board of governors believes it to be in the best interests of the  
38 fund, the board of governors may employ independent counsel to rep-  
39 resent the interests of the fund. The cost of employing such counsel shall  
40 be paid from the fund. The board of governors is authorized to employ  
41 independent counsel in any such action against an inactive health care  
42 provider covered by the fund.

43 (c) The attorneys of record and the board of governors shall submit

1 to the state board of healing arts expert witness reports which have been  
2 made available to the opposing parties in the case and, upon the request  
3 of the state board of healing arts, any depositions, interrogatories, admis-  
4 sions or other relevant information concerning the case which has been  
5 made available to the opposing parties in the case shall also be submitted.  
6 The board of governors shall not be required to furnish information not  
7 in the possession of the board of governors. Any report or other infor-  
8 mation made available to the state board of healing arts in accordance  
9 with this subsection shall be subject to K.S.A. 65-2898a and amendments  
10 thereto. Reasonable expenses incurred in reproducing such reports or  
11 other information shall be paid by the state board of healing arts.

12 Sec. 2. K.S.A. 40-3409 is hereby repealed.

13 Sec. 3. This act shall take effect and be in force from and after its  
14 publication in the statute book.