

Approved February 11, 1988
Date

MINUTES OF THE HOUSE COMMITTEE ON JUDICIARY

The meeting was called to order by Representative Robert S. Wunsch at
Chairperson

3:30 a.m./p.m. on February 1, 1988 in room 313-S of the Capitol.

All members were present except:

Representatives Fuller, Peterson and Vancrum, who were excused.

Committee staff present:

Jerry Donaldson, Legislative Research Department
Jill Wolters, Revisor of Statutes Office
Mary Jane Holt, Committee Secretary

Conferees appearing before the committee:

Dan Rice, Secretary of State's Office
Ted Fay, Insurance Department
Bob Hays, Insurance Department

Dan Rice requested the Committee introduce three bills amending the Kansas general corporation code. The first bill would amend 40 sections of the corporation code to conform with the Delaware amendments that have been made by Delaware during the last 15 years. The second bill would allow the prohibition of cumulative voting in Kansas in regard to corporations. Delaware does allow the prohibition of cumulative voting with respect to corporations. The third bill deals with the proration of corporate franchise tax.

Representative O'Neal moved and Representative Snowbarger seconded to introduce the three bills requested by the Secretary of State's office as Committee bills. The motion passed.

Representative Whiteman requested the Committee introduce a bill proposed by Judge Buchele dealing with service of process.

Representative O'Neal moved and Representative Snowbarger seconded to introduce the bill requested by Representative Whiteman as a Committee bill. The motion passed.

Ted Fay and Bob Hayes presented a slide show on The Kansas Health Care Stabilization Fund, prepared by Fletcher Bell, Commissioner of Insurance.

The following exhibits were distributed to the Committee. The Kansas Health Care Stabilization Fund, (see Attachment I), Kansas Health Care Providers Insurance Information, (see Attachment II), and a review of the premiums currently approved for Kansas doctors, (see Attachment III).

The Committee meeting was adjourned at 5:00 p.m.

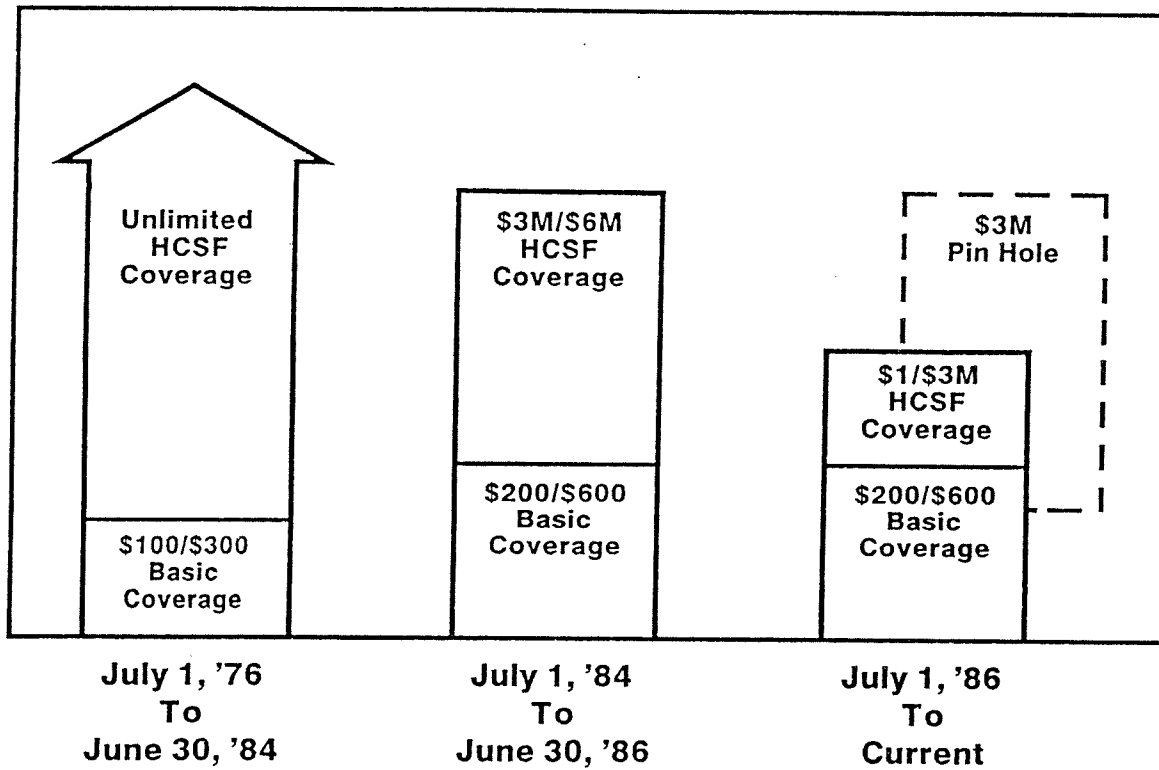
The next meeting will be Tuesday, February 2, 1988, at 3:30 p.m., in room 313-S.

**THE
KANSAS
HEALTH CARE
STABILIZATION FUND**

**Presentation By:
Fletcher Bell
Commissioner
Of Insurance**

Attachment I

HEALTH CARE STABILIZATION FUND LEVELS OF COVERAGE SINCE 1976



THE HEALTH CARE PROVIDER INSURANCE AVAILABILITY ACT – JULY 1, 1976

- 1. Mandatory Professional Liability Insurance For
Active Health Care Providers**
- 2. Establish The Health Care Stabilization Fund
For Excess Professional Liability Losses**
- 3. Establish The Health Care Provider Insurance
Availability Plan To Assure Availability Of The
Required Basic Professional Liability Insurance
Coverage**

DEFINED HEALTH CARE PROVIDERS

	Approximate Number
Physicians And Surgeons (M.D. & D.O.)	3,600
Chiropractors	350
Hospitals	170
Other Health Care Providers (Pharmacists, Reg. Physical Therapists, Podiatrists, Optometrists, Nurse Anesthetists, Mental Health Facilities, Psychiatric Hospitals, HMO's Partnerships And Professional Corporations)	2,700

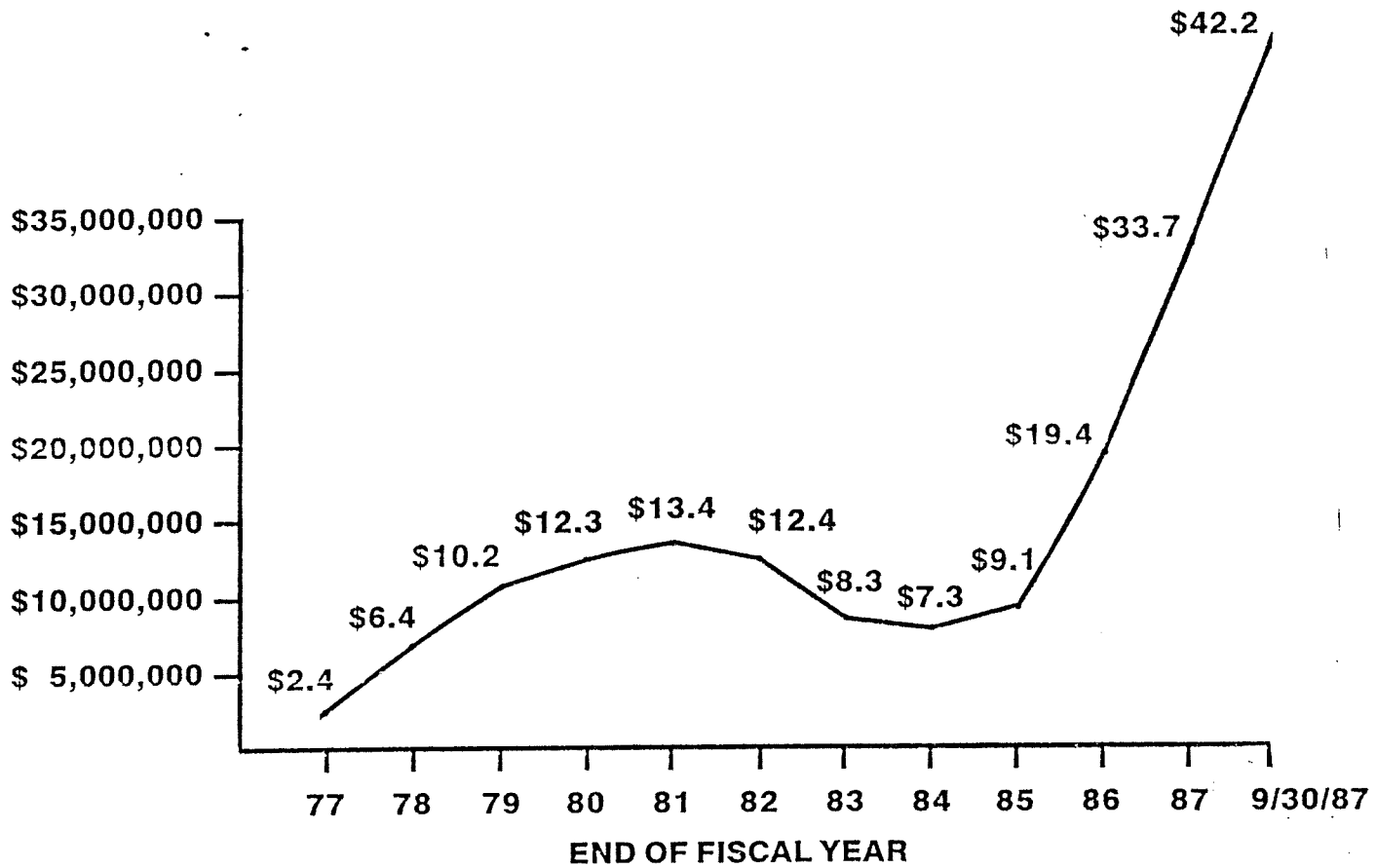
HEALTH CARE STABILIZATION FUND SURCHARGES

Fiscal Year	Surcharge	Ending HCSF Balance
1977	45%	\$ 2.4M
1978	45%	\$ 6.4M
1979	40%	\$10.2M
1980	15%	\$12.3M
1981	0%	\$13.4M
1982	0%	\$12.4M
1983	0%	\$ 8.3M
1984	50%	\$ 7.3M
1985	80%	\$ 9.1M
1986	110%	\$19.4M
1987	90%	\$33.7M
1988	90%	(9/30/87) \$42.2M

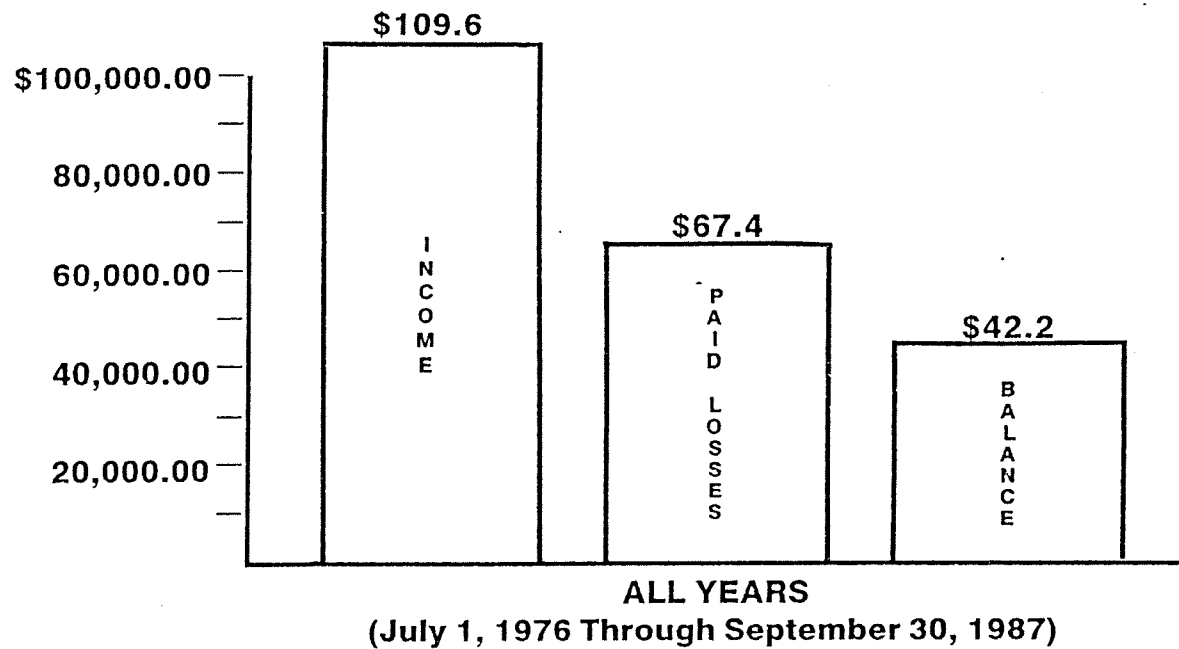
Surcharge Permitted Only When Balance Is Below \$10 Million



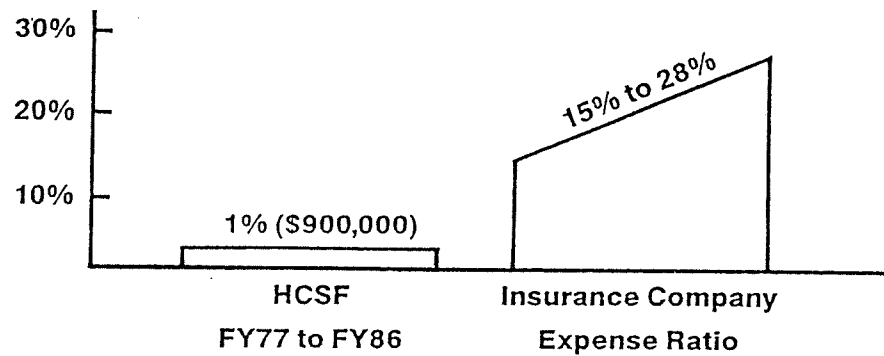
HEALTH CARE STABILIZATION FUND BALANCE (BY YEAR)



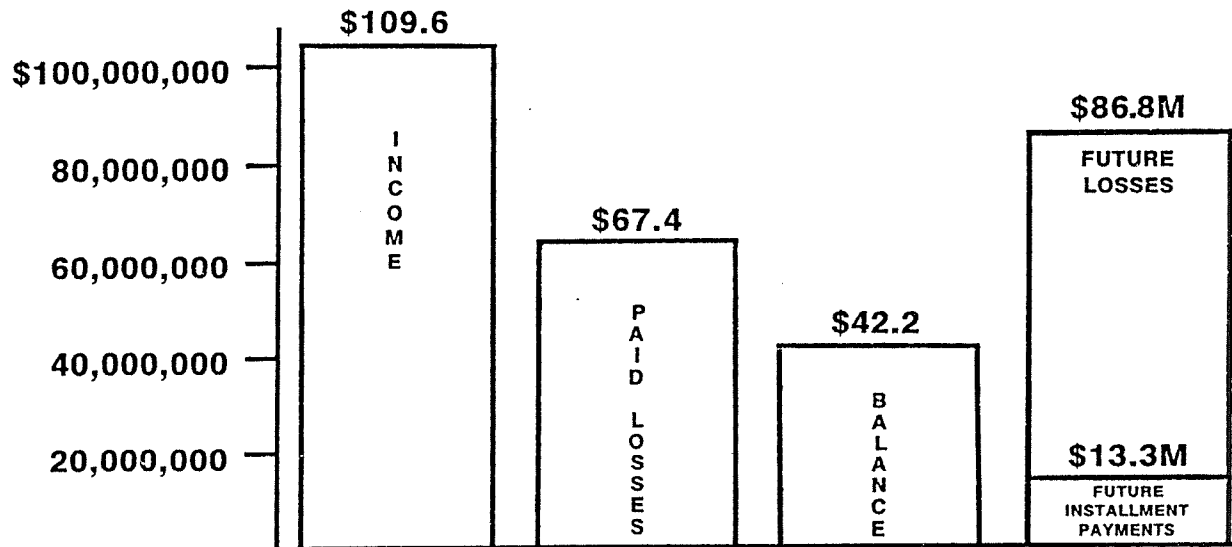
HEALTH CARE STABILIZATION FUND INCOME V. PAID LOSSES



ADMINISTRATIVE EXPENSES OF THE HEALTH CARE STABILIZATION FUND



HEALTH CARE STABILIZATION FUND INCOME, PAID LOSSES, BALANCE AND FUTURE LOSSES

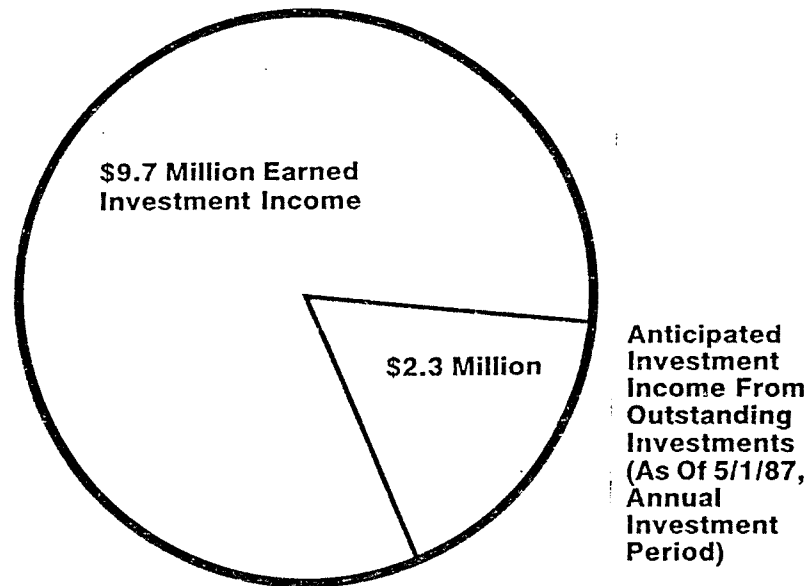


HEALTH CARE STABILIZATION FUND OUTSTANDING LIABILITIES

1. Future Installment Payments	
For Closed Cases	\$13.3M
Future Interest Cost For These Installment Payments	\$ 1.0M
2. Reserve For Known Pending Cases	\$20.1M
3. Projected Future Development On Pending Case Reserves And Estimates For Claims Not Yet Filed	\$52.4M
4. Total Fund Liabilities	\$86.8M

HEALTH CARE STABILIZATION FUND'S INVESTMENT INCOME FROM SURCHARGE RECEIPTS

Health Care Stabilization Fund Monies Are Invested Through The State's Pooled Money Investment Board. Investment Income Revenue Is Credited To The Balance Of The Health Care Stabilization Fund



Total Earned And Anticipated Investment Income From Outstanding Investments For The Health Care Stabilization Fund Is \$12.0 Million

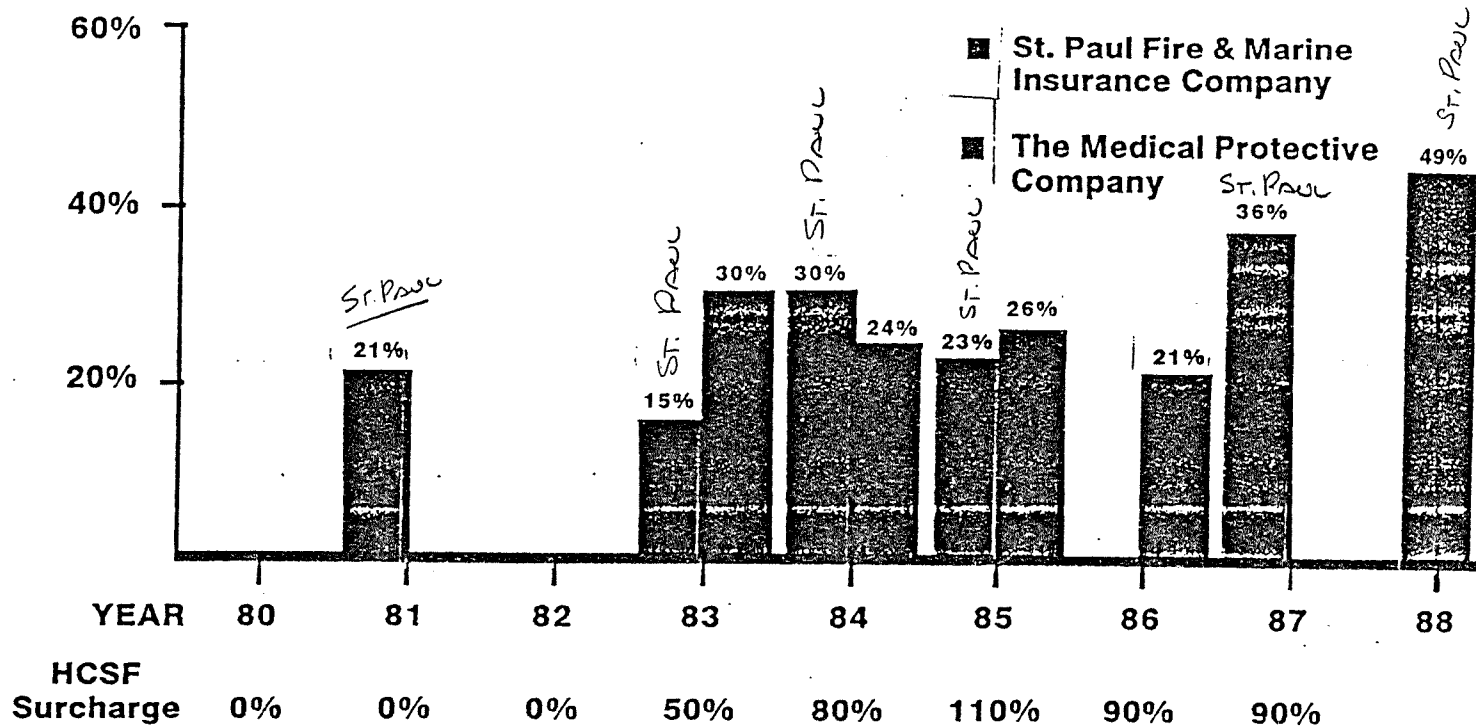
**COST COMPARISON FOR A
FAMILY PRACTICE DOCTOR
INSURED BY ST. PAUL**

<u>State</u>	<u>Total Coverage Limits</u>	<u>Total Cost</u>	<u>Additional Cost For Tail Coverage</u>
Oklahoma	\$1,200,000/\$3,600,000	\$10,310	\$17,529
Nebraska	\$1,200,000/\$3,600,000	\$11,760	\$20,869
Indiana	\$500,000	\$16,578	\$26,483
Kansas	\$1,200,000/\$3,600,000	\$18,162	\$0
St. Louis, MO	\$1,200,000/\$3,600,000	\$46,267	\$81,442
Los Angeles, CA	\$1,200,000/\$3,600,000	\$51,740	\$81,797

COST COMPARISON FOR A OB / GYN SPECIALIST INSURED BY ST. PAUL

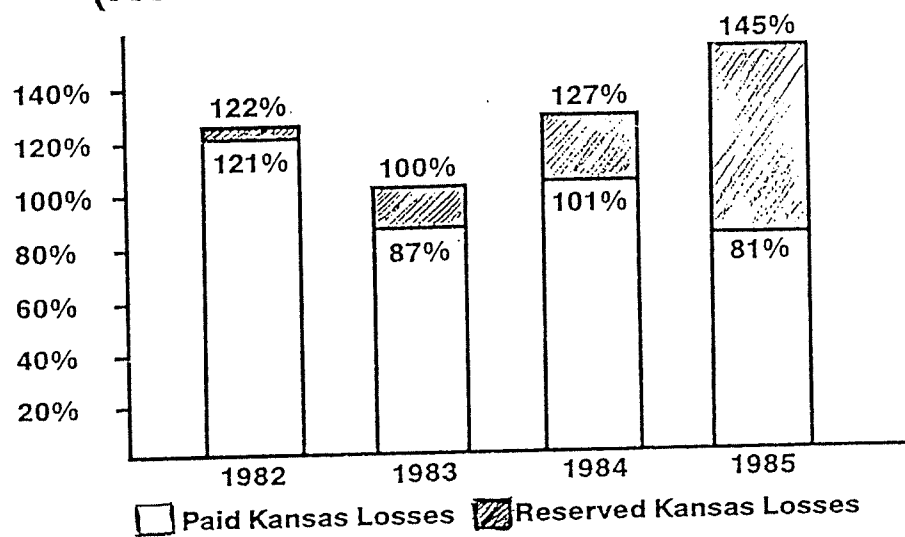
<u>State</u>	<u>Total Coverage Limits</u>	<u>Total Costs</u>	<u>Additional Cost For Tail Coverage</u>
Oklahoma	\$1,200,000 / \$3,600,000	\$32,232	\$55,060
Nebraska	\$1,200,000 / \$3,600,000	\$36,681	\$65,483
Indiana	\$500,000	\$45,578	\$37,515
Kansas	\$1,200,000 / \$3,600,000	\$51,815	- 0 -
Colorado	\$1,200,000 / \$3,600,000	\$66,818	\$105,703
St. Louis, MO	\$1,200,000 / \$3,600,000	\$143,092	\$252,432
Los Angeles, CA	\$1,200,000 / \$3,600,000	\$169,060	\$267,719

INSURANCE RATE INCREASES FOR THE TWO PRINCIPLE INSURANCE COMPANIES PHYSICIANS AND SURGEONS



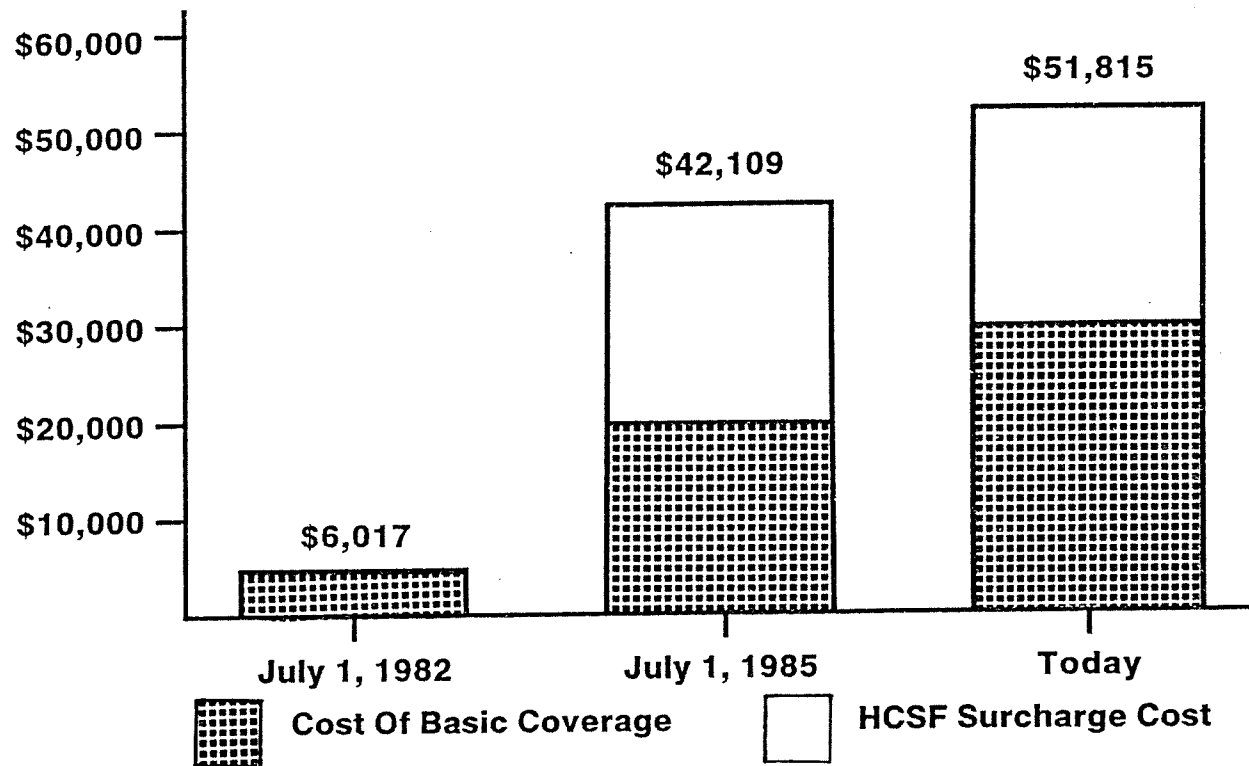
KANSAS DATA FOR THE MEDICAL PROTECTIVE COMPANY

(KS Premiums ÷ KS Losses = %)

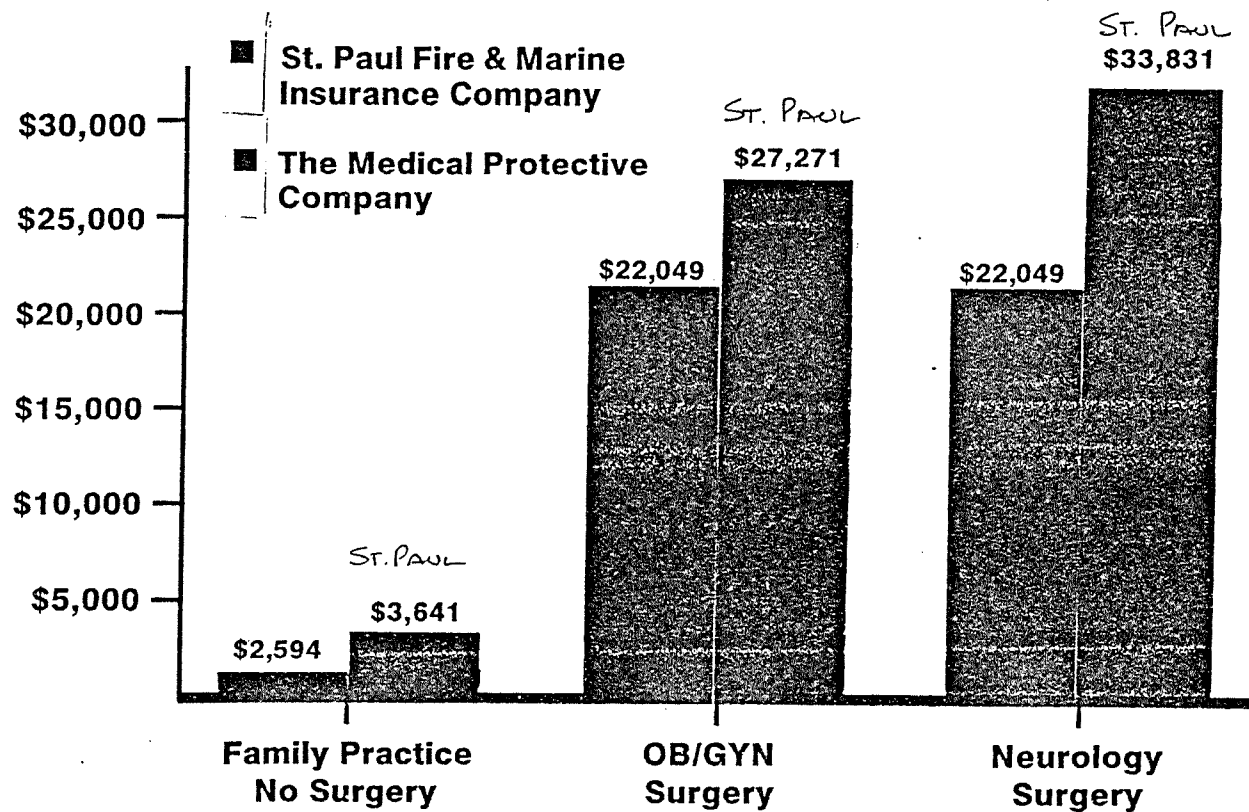


Basic Limits Evaluation As Of 6/30/87

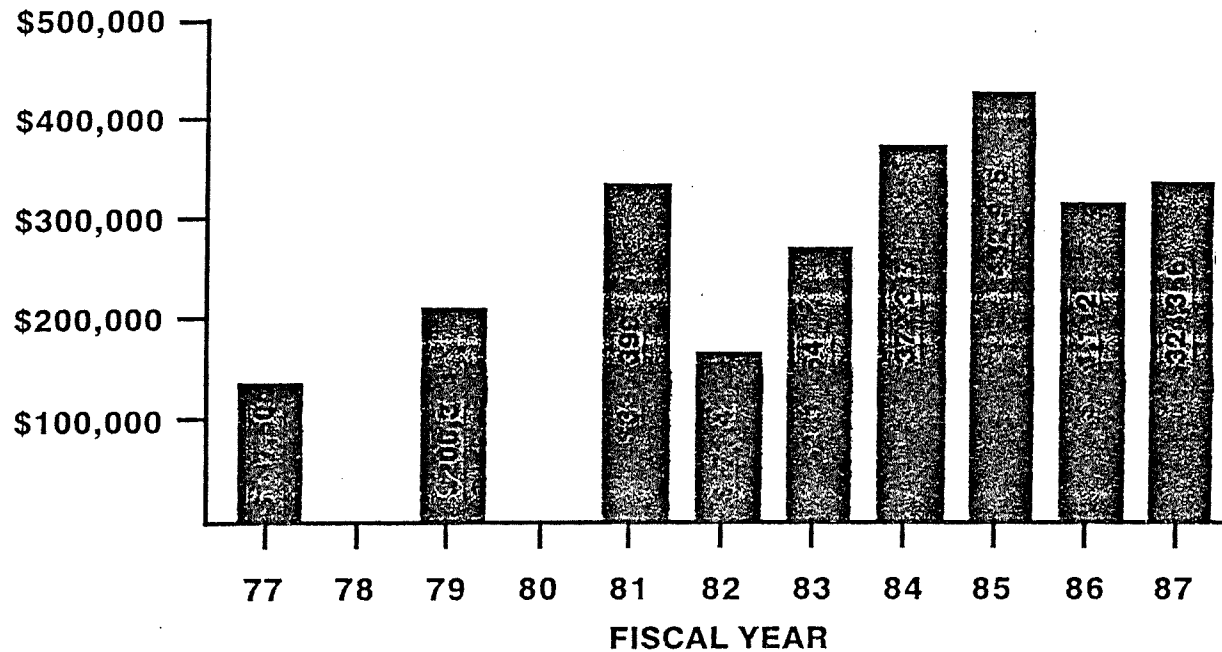
PREMIUM AND SURCHARGE COST FOR OB/GYN SPECIALIST INSURED WITH ST. PAUL FIRE & MARINE INSURANCE CO.



KANSAS PHYSICIANS AND SURGEONS RATES



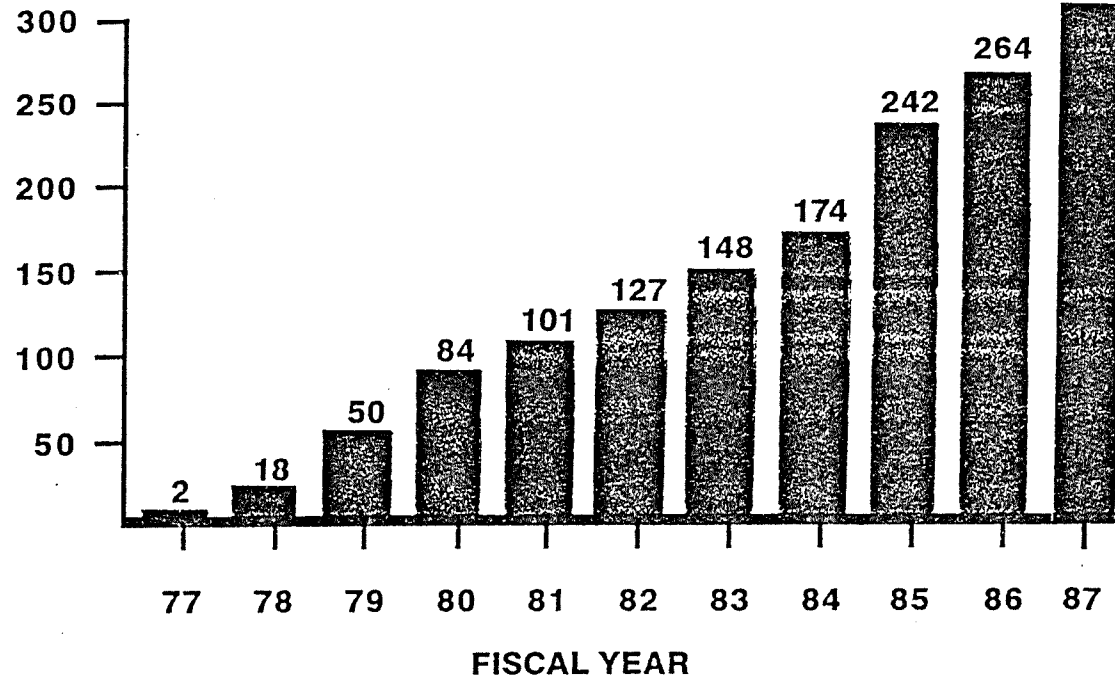
HEALTH CARE STABILIZATION FUND'S AVERAGE EXCESS PAID LOSS EXPERIENCE



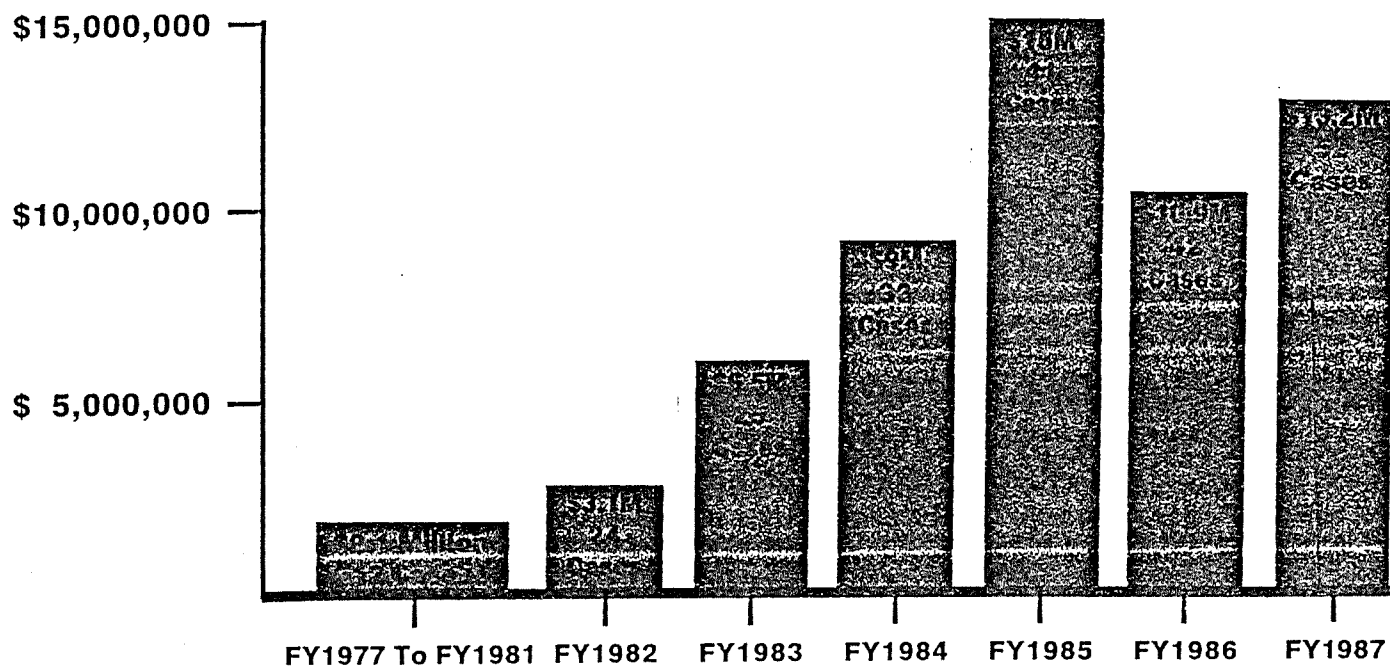
Notes: 1) Does Not Include Those Losses Paid When The Fund Was The Primary Coverage.
2) Does Not Include Any Amounts Paid By The Primary Insurance Company.

HCSF CASE FILES (BY FISCAL YEAR)

No. Of
New Cases



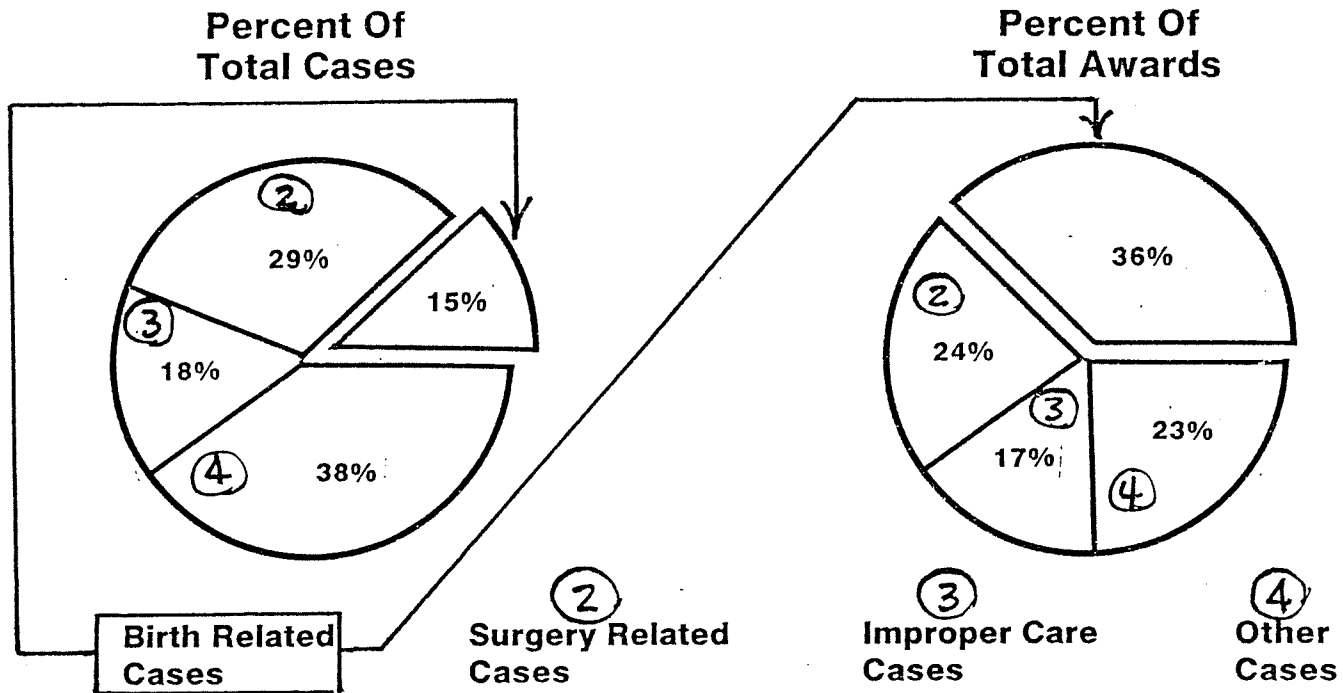
HCSF CASE AWARDS (BY FISCAL YEAR)



FREQUENCY FIGURES FOR THE HEALTH CARE STABILIZATION FUND

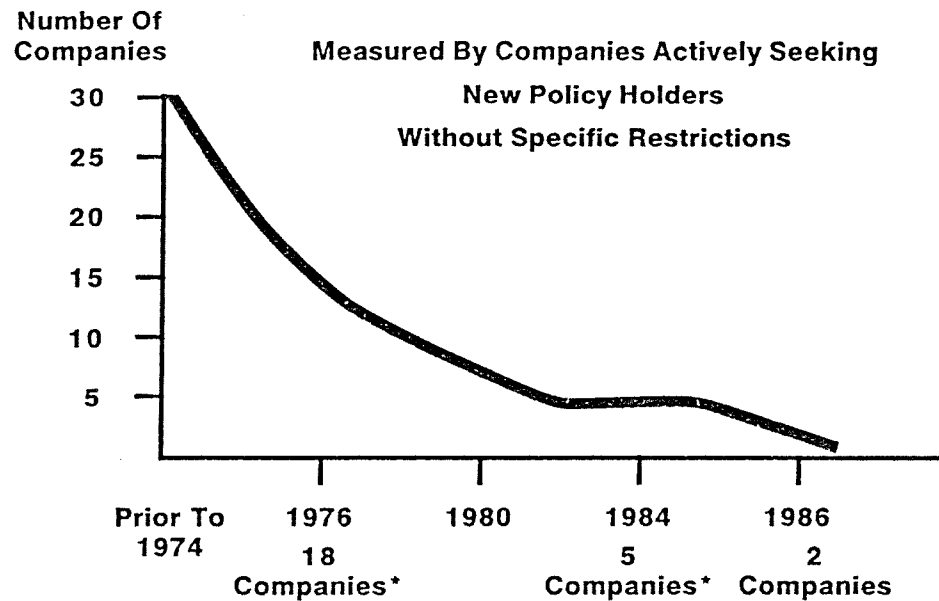
Number Of Providers	Number Of Claims
1,444	1
152	2
56	3 (8 Hospitals, 5 Professional Associations, 2 Osteopath Doctors, 41 Medical Doctors)
16	4 (7 Hospitals, 3 Professional Associations, 1 Osteopath Doctor, 1 Podiatrist, 4 Medical Doctors)
7	5 (1 Hospital, 2 Professional Associations, 4 Medical Doctors)
3	6 (1 Hospital, 1 Professional Association, 1 Medical Doctor)
1	7 (1 Doctor Osteopath)
12	More Than 7 (10 Hospitals, 1 Professional Association, 1 Medical Doctor)
Total Providers	Total Cases 835
1,691	

HEALTH CARE STABILIZATION FUND'S CASE EXPERIENCE



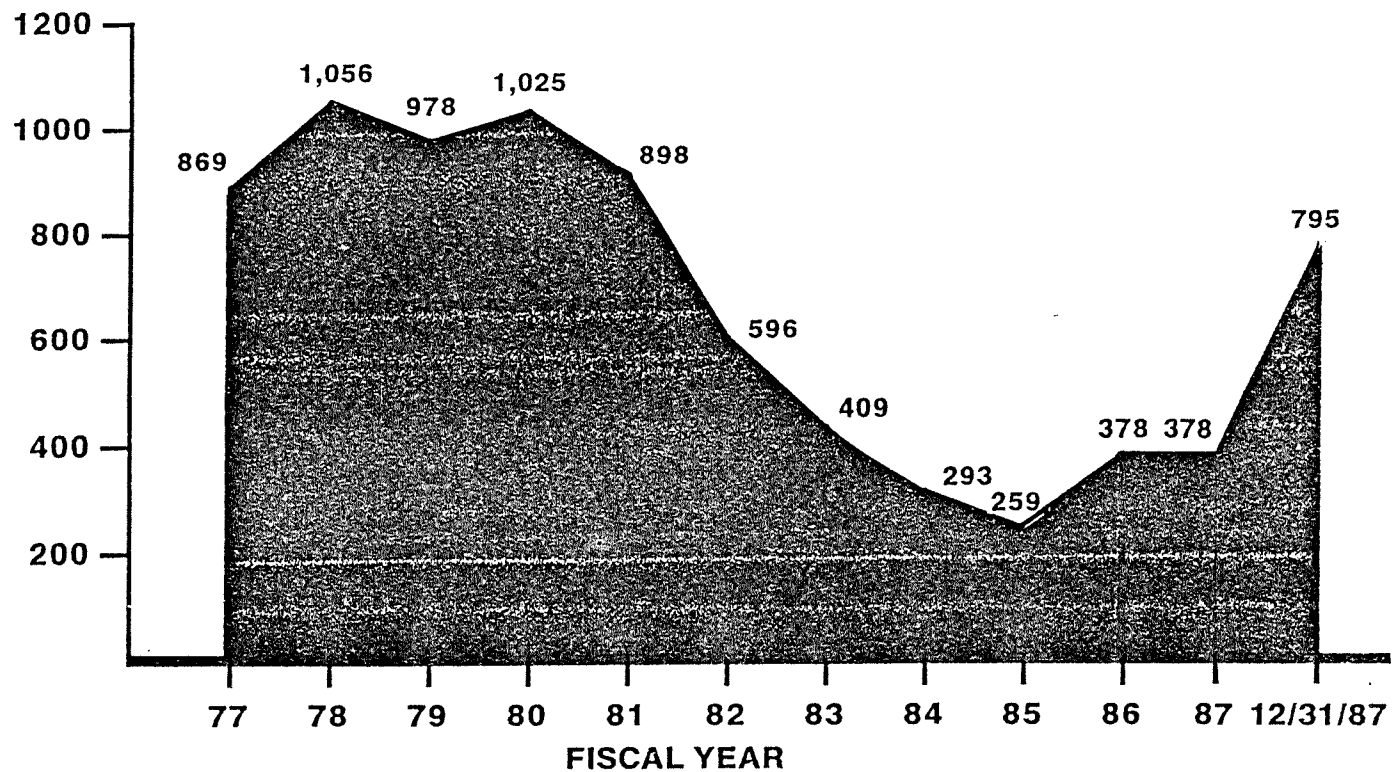
LEVELS OF COMPETITION FOR PHYSICIANS PROFESSIONAL LIABILITY INSURANCE

Level Of Competition For Physician Medical Malpractice Insurance



*These Companies (Approximated Listing) Provided About 90% Of The Kansas Voluntary Medical Professional Liability Coverage For Kansas Doctors.

HEALTH CARE PROVIDER INSURANCE AVAILABILITY PLAN NUMBER OF INSURED HEALTH CARE PROVIDERS



COLLATERAL SOURCE
1985 S.B. 110
Farley Decision

<u>Year</u>	<u>HCSF Surcharge Levied</u>	<u>Should Have Been</u>
FY 1986	110%	116%
FY 1987	90%	100%
FY 1988	90%	106%

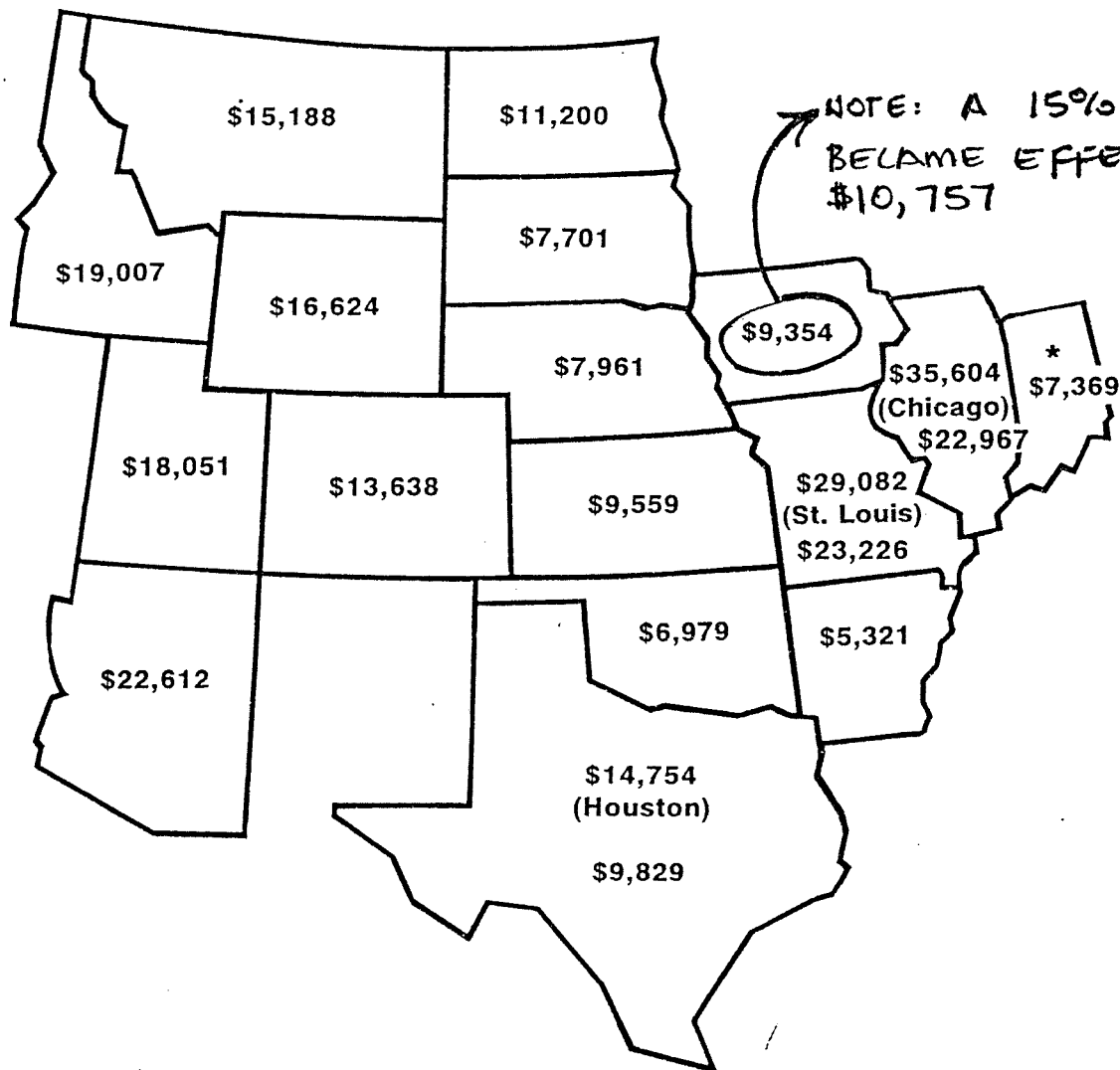
**With The Farley Decision And The Current 90%
Surcharge, By June 30, 1988 The Fund Will Be
Short An Estimated \$3.6 Million.**

POTENTIAL EFFECT OF THE FARLEY DECISION

<u>YEAR</u>	<u>HCSF SURCHARGE WITH NEW LAWS IN EFFECT</u>	<u>WITHOUT BOTH THE 1985 AND 1986 LEGISLATION</u>
FY 1988	90%	130%
FY 1989 (ESTIMATED)	90%	140% to 162%

**STATE PREMIUM COST COMPARISON
FOR A CLASS IV DOCTOR INSURED WITH
THE ST. PAUL FIRE AND MARINE INSURANCE COMPANY
(AS OF AUGUST 1, 1987)
COVERAGE LIMITS OF \$200,000/\$600,000**

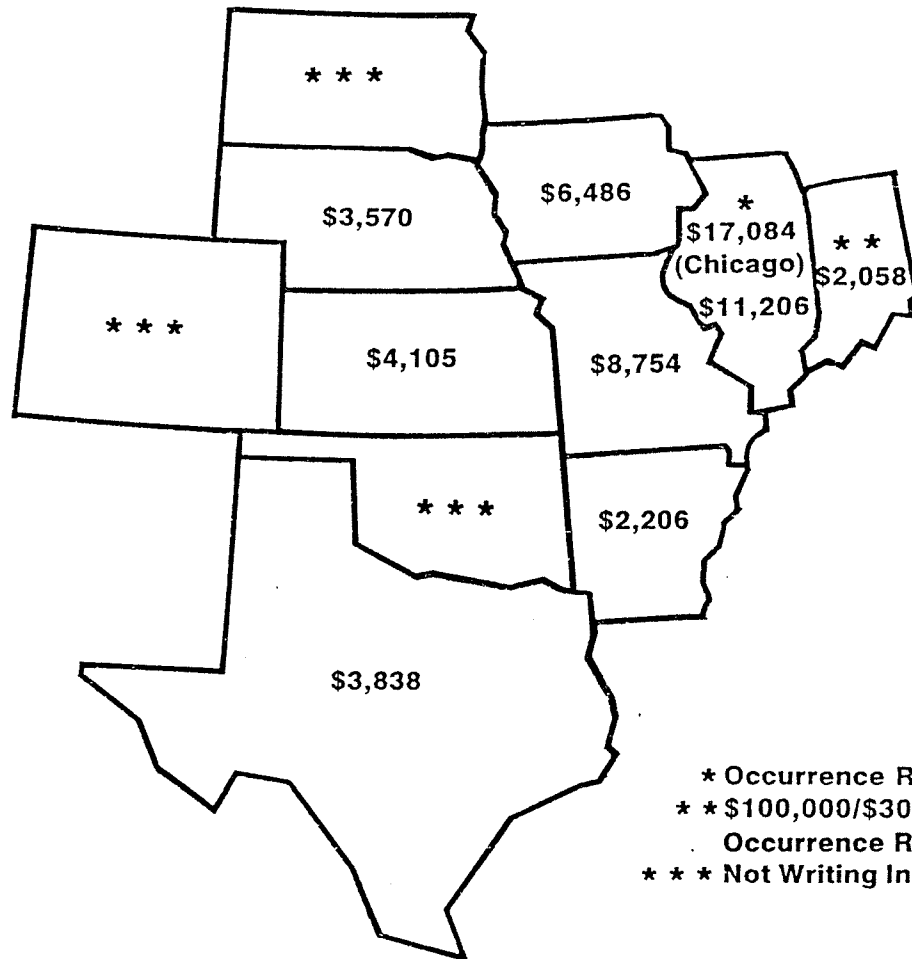
Other Kansas Rates	
Class I	\$3,641
Class II	\$5,380
Class III	\$7,121
Class V	\$16,428
Class VI	\$21,850
Class VII	\$27,271
Class VIII	\$33,831



**STATE PREMIUM COST COMPARISON FOR A CLASS III
DOCTOR INSURED WITH THE MEDICAL PROTECTIVE CO.
(AS OF AUGUST 1, 1987)
COVERAGE LIMITS OF \$200,000/\$600,000**

**Other Kansas
Rates**

Class I	\$1,642
Class II	\$3,038
Class IV	\$5,747
Class V	\$10,180
Class VI	\$11,822
Class VII	\$13,957
Class VIII	\$14,778



* Occurrence Rates
 ** \$100,000/\$300,000 Occurrence Rate
 *** Not Writing In This State

**KANSAS
HEALTH CARE
PROVIDERS
INSURANCE
INFORMATION**



Published by
FLETCHER BELL
Commissioner
of Insurance

Issued: July 1, 1987

The Kansas Health Care Provider Insurance Availability Act (The Act) became effective July 1, 1976, to assure the availability of professional liability insurance for specific categories of health care providers. This Act contains provisions which fall into three major areas. The first area requires health care providers actively engaged in rendering professional services in Kansas to maintain the mandatory basic professional liability coverage. The second area established the Health Care Stabilization Fund as an excess loss fund for qualifying health care providers and provided for Health Care Stabilization Fund assessments, investment of Fund monies, claim payment responsibilities, and other matters relating to the financial operation of the Fund. The third major area of the Act established the availability mechanism which provides the required basic professional liability coverage for any health care provider who is unable to obtain the required coverage from the voluntary insurance markets.

Certain provisions of the Act were significantly revised by the legislature in the years 1984 and 1986. The 1984 revisions increased the required basic professional liability coverage to \$200,000/\$600,000, reduced the Health Care Stabilization Fund coverage to \$3,000,000/\$6,000,000 and required the surcharge to be levied on an accrual basis. These changes became effective on July 1, 1984. The 1986 revisions included a \$1,000,000 limitation on liability, or cap, for Medical Malpractice actions filed or made against Kansas health care providers, and reduced the Health Care Stabilization Fund coverage to \$1,000,000/\$3,000,000 per health care provider.

The 1986 and 1987 legislation also revised other provisions of the Act. It established several additional procedures for the licensing of health care providers, processing of Medical Malpractice claims and suits, self-insurance provisions for residents at the University of Kansas Medical Center, Premium Financing of the Health Care Stabilization Fund surcharge and other areas intended to favorably impact the overall problems associated with the Medical Malpractice environment.

The following portions of this brochure are intended to assist individual health care providers in gaining a general understanding of the basic concepts contained in the Kansas Health Care Provider Insurance Availability Act; however, this brochure does not provide specific information regarding changes in the areas of legal processing of claims, or suits or other requirements which are the responsibility of the licensing agencies for health care providers.

Attachment II

WHO IS A DEFINED HEALTH CARE PROVIDER?

Physicians, Surgeons and other persons who are licensed by the Kansas State Board of Healing Arts or who hold a temporary permit issued by the Kansas State Board of Healing Arts

Dentists certified by the Kansas State Board of Healing Arts to administer Anesthetics

Osteopaths

Chiropractors

Podiatrists

Physical Therapists

Persons engaged in a postgraduate training program approved by the Kansas State Board of Healing Arts

Registered nurse anesthetists including a licensed professional nurse granted temporary authorization to practice nurse anesthesia

Pharmacists

Optometrists

Professional corporations and partnerships of health care providers

Non-Profit Corporations organized to render professional services by defined health care providers

Health Maintenance Organizations

Medical Care Facilities (i.e., general hospital, special hospital, ambulatory surgical center or recuperation center)

Mental Health Centers and Mental Health Clinics licensed by the Kansas Secretary of Social and Rehabilitation Services (except for any state institution for the mentally retarded or any state psychiatric hospital)

Psychiatric Hospitals licensed under K.S.A. 75-3303b if HCPIA Act Compliance is established between July 1, 1987 and January 1, 1988. This does not apply to any state psychiatric hospital.

WHAT IS THE HEALTH CARE STABILIZATION FUND?

It is a fund established for the purpose of paying damages for personal injury or death arising out of the rendering of, or the failure to render, professional services by a health care provider who has obtained the required basic coverage and has paid the applicable Health Care Stabilization Fund surcharge. For resident active health care providers who have complied with the provisions of the Act, the Fund provides coverage for judgments or settlements that are in excess of the required basic professional liability coverage; provided, the claim or suit arose from an incident occurring during a period when the health care provider maintained the required basic coverage. Resident health care providers are afforded Fund coverage, subject to the Fund's coverage limitations, for professional services rendered or omitted within or outside of Kansas on the same basis that their required basic professional liability policy would afford coverage.

For non-resident health care providers rendering professional services in Kansas and complying with the basic coverage and Fund surcharge requirements, the coverage of the fund will be applicable only to those claims arising from the non-resident's Kansas professional services. Additional information regarding the compliance requirements for non-resident health care providers may be obtained from the office of the Commissioner of Insurance.

WHY DOES THE ACT DISTINGUISH BETWEEN RESIDENT AND NON-RESIDENT HEALTH CARE PROVIDERS?

The terms "resident health care provider" and "non-resident health care provider" are not specifically defined in the Act. In practice, however, these two terms are important since the Kansas resident health care provider enjoys the protection of the Health Care Stabilization Fund in any state or country where the individual health care provider's basic coverage is applicable. For a non-resident health care provider, Health Care Stabilization Fund coverage is available only for the Kansas portion of their practice while the non-resident has been in compliance with the Kansas Act. Other distinctions between resident and non-resident health care providers are contained in the Act.

Guidelines to be followed in determining if an individual is a resident or non-resident of Kansas are the same for determining a general residency in any location. Residency is based upon where the health care provider lives and not where the health care provider's office is located.

WHAT ARE THE HEALTH CARE STABILIZATION FUND'S EXCESS COVERAGE LIMITATIONS?

Since the original Act became effective in 1976 the Fund has provided three different levels of excess coverage. All of these coverage limitations have been applicable to professional services that were rendered or were failed to be rendered while the coverage limitations were in effect; that is, Fund coverage is based upon when the alleged injury occurred and is not based on the date when a claim or suit is made against the health care provider. The following schedule provides a description of the Health Care Stabilization Fund's coverage limitations:

<u>For Professional Services Rendered or Failed to be Rendered on the Following Dates</u>	<u>Health Care Stabilization Fund Coverage Limitations Applicable Regardless of the Date a Claim or Suit is Made Against a Health Care Provider</u>
July 1, 1976 through June 30, 1984	Unlimited Excess Coverage
July 1, 1984 through June 30, 1986	\$3,000,000 per claim with an annual aggregate of \$6,000,000 for all claims during a fiscal year
On and after July 1, 1986	\$1,000,000 per claim with an annual aggregate of \$3,000,000 for all claims during a fiscal year

WHAT IS THE HEALTH CARE STABILIZATION FUND "PIN-HOLE" COVERAGE THAT WAS INCLUDED IN THE 1986 LEGISLATION?

The pin-hole provision establishes a provision for a claimant who has received a jury award or has settled for an amount itemized at greater than the \$1 million cap, to petition the court for supplemental benefits for future medical care and other related benefits up to total benefits to the claimant of \$3 million. This provision is applicable to claims and suits arising from professional service rendered or which should have been rendered on or after July 1, 1986. The \$3 million pin-hole provision is the responsibility of the fund.

BECAUSE OF THE HEALTH CARE STABILIZATION FUND COVERAGE LIMITATION, DO I NEED TO PURCHASE ADDITIONAL EXCESS COVERAGE?

The Insurance Department does not recommend or suggest that a health care provider purchase or not purchase additional excess professional liability insurance coverage. It is suggested, however, that you review this matter with your insurance agent and legal representative.

It is extremely important for Kansas resident health care providers who are providing professional services outside of Kansas to understand that the Kansas \$1 million cap on awards will not be applicable to those claims or suits made or brought against the health care provider in other states. Resident health care providers providing professional services in other states may wish to consider the advisability of obtaining additional excess coverage.

HOW IS THE ANNUAL HEALTH CARE STABILIZATION FUND SURCHARGE PERCENTAGE ESTABLISHED?

The surcharge percentage is levied annually by the Commissioner of Insurance and is based on the recommendations of an actuary in accordance with the provisions of the Act.

SCHEDULE OF PAST AND CURRENT
HEALTH CARE STABILIZATION
SURCHARGE

<u>Fiscal Year</u>	<u>HCSF Surcharge</u>	<u>HCSF Balance on June 30 of each year</u>
1977	45%	\$ 2.4 \bar{M}
1978	45%	\$ 6.4 \bar{M}
1979	40%	\$10.2 \bar{M}
1980	15%	\$12.3 \bar{M}
1981*	-0-	\$13.4 \bar{M}
1982*	-0-	\$12.4 \bar{M}
1983*	-0-	\$ 8.3 \bar{M}
1984	50%	\$ 7.3 \bar{M}
1985	80%	\$ 9.1 \bar{M}
1986	110%	\$19.4 \bar{M}
1987	90%	\$32.4 \bar{M} (3/31/87)
1988	90%	

*The zero (0) surcharge percentages resulted from a statutory provision which precluded surcharge collections when the Fund balance was in excess of \$10,000,000.

WHAT HAVE BEEN THE TOTAL JUDGMENTS AND SETTLEMENTS AGAINST THE HEALTH CARE STABILIZATION FUND?

For the period of July 1, 1976 through December 31, 1986, the total paid judgments and settlements, defense costs and operating expenses have been \$56,508,885. This includes HCSF transfers of \$7,909,128 to the Health Care Provider Insurance Availability Plan from July 1, 1982 through June 30, 1986.

HOW DOES A HEALTH CARE PROVIDER COMPLY WITH THE BASIC COVERAGE REQUIREMENT?

The term "basic coverage" means that each health care provider must maintain, while in active practice in this state, professional liability coverage of not less than \$200,000 per claim subject to not less than \$600,000 annual aggregate for all claims made during the policy period. A professional liability insurance policy providing the basic coverage may qualify if obtained from an insurance company authorized to write such insurance in this state or, if not available by this means, from the Health Care Provider Insurance Availability Plan. For Kansas resident health care providers, professional liability insurance coverage from a non-admitted insurance facility will not satisfy the basic coverage requirement. Any health care provider desiring to qualify as a self-insurer should contact the Commissioner of Insurance.

Non-resident health care providers should contact the Commissioner of Insurance for the necessary compliance instructions and non-resident compliance forms.

WHAT ARE THE SPECIAL PROFESSIONAL LIABILITY INSURANCE REQUIREMENTS FOR UNIVERSITY OF KANSAS MEDICAL CENTER POSTGRADUATE TRAINING PROGRAM RESIDENTS?

UKMC residents who are engaged in "moonlighting" activities outside of the UKMC training programs are required to obtain specific professional liability coverage for those activities. The law permits these residents to have either a claims-made policy or an occurrence policy. A claims-made policy for moonlighting activities would be of questionable value in many cases and the occurrence policy might be preferred. Unfortunately, insurers are not required to provide occurrence professional liability insurance policy programs and it is doubtful that they will. UKMC residents may obtain occurrence professional liability coverage for their moonlighting activities from the Health Care Provider Insurance Availability Plan.

IS IT MANDATORY THAT A HEALTH CARE PROVIDER MAINTAIN THE BASIC COVERAGE AND PAY THE HEALTH CARE STABILIZATION FUND SURCHARGE?

Yes, these are prerequisites to rendering professional services in this state and proof of professional liability insurance and payment of the fund surcharge may be required prior to a license being issued to a health care provider. If the health care provider is in violation of the law, the state agency responsible for the licensure, certification, or registration of the health care provider will, through the Attorney General, initiate the appropriate action to enjoin the health care provider from rendering professional services in this state.

WHAT SHOULD I DO IF I CANNOT OBTAIN BASIC COVERAGE IN THE VOLUNTARY INSURANCE MARKET?

Any health care provider who is currently licensed, registered, or certified to render health care service in Kansas may obtain basic coverage from the Kansas Health Care Provider Insurance Availability Plan, provided basic coverage is not available from the normal insurance market. Any licensed casualty insurance agent should be able to provide assistance in making application to the Kansas Health Care Provider Insurance Availability Plan (telephone number 316-223-5252). The Plan is being administered by The Medical Protective Company of Fort Wayne, Indiana.

AFTER OBTAINING THE BASIC COVERAGE, WHAT OTHER REQUIREMENTS MUST BE COMPLIED WITH?

When the basic coverage is obtained or renewed, the insurance company will collect the basic coverage premium and the applicable Health Care Stabilization Fund surcharge. A self-insurer, other than the UKMC residents' training program, will be required to pay a surcharge based on the commensurate basic coverage premium which would have been charged by the Kansas Health Care Provider Insurance Availability Plan.

DOES THE DEFINITION OF "BASIC COVERAGE" MEAN THAT MY MEDICAL ASSISTANTS CAN BE INSURED UNDER MY PRESENT POLICY?

It is permissible if the required basic coverage for individual health care providers is being afforded in the policy. In essence, a defined "health care provider" cannot "share" the required basic coverage limits of liability with any other insured.

IF I HAVE BEEN COMPLYING WITH THE LAW, AM I PERMITTED TO CHANGE INSURANCE COMPANIES?

Yes. In most situations a health care provider who wishes to change insurance companies will not encounter any problems. If the health care provider was previously insured under a claims-made insurance policy, the new insurance company will be required to provide prior acts coverage.

IF I AM A RESIDENT OF KANSAS WHO HAS BEEN ISSUED AN "INACTIVE" LICENSE BY THE KANSAS BOARD OF HEALING ARTS AND I AM ALSO LICENSED IN ANOTHER STATE WHERE I AM ACTUALLY ENGAGED IN RENDERING PROFESSIONAL SERVICES, MUST I COMPLY WITH THE KANSAS HEALTH CARE STABILIZATION FUND LAW? I DO NOT RENDER ANY PROFESSIONAL SERVICES IN KANSAS.

No, but it may be difficult for such a resident health care provider to locate professional liability insurance without the insurer placing that health care provider into compliance with the Kansas Health Care Stabilization Fund laws. Individual resident health care providers, with an inactive license issued by the Kansas Board of Healing Arts, may find it necessary to attempt to locate professional liability insurance coverage from a non-admitted insurer through a properly licensed Kansas insurance agent.

THE KANSAS BOARD OF HEALING ARTS IS NOW AUTHORIZED TO ISSUE AN "EXEMPT" LICENSE. IF THIS EXEMPT LICENSE IS OBTAINED WHAT STATUS DOES THE HOLDER HAVE WITH THE HCSF?

Any individual obtaining this exempt license from the Kansas Board of Healing Arts will not be a defined health care provider and will not be permitted to comply with HCSF law.

WHAT HAPPENS IF I TERMINATE MY PRACTICE IN KANSAS?

If the health care provider has complied with the requirements of the Act, the Fund will provide coverage for professional liability claims arising out of the health care provider's Kansas practice without requiring the health care provider to purchase any additional basic coverage or to pay any additional Health Care Stabilization Fund surcharge after becoming an inactive health care provider in Kansas. This applies even if claims-made insurance is obtained as basic coverage. If you have been purchasing additional excess professional liability insurance, you should contact that insurance company's agent for additional information and coverage requirements.

WHY DOES THE ACT REFER TO ACTIVE AND INACTIVE HEALTH CARE PROVIDERS?

An active health care provider is actively engaged in the rendering of professional services. This means that any act of a professional nature (e.g., the writing of a prescription, etc.) would result in designating a health care provider as being "active". The major importance of being a designated "active health care provider" is that these individuals are required to maintain the required basic professional liability coverage as a condition to benefiting from the coverage afforded by the Health Care Stabilization Fund.

The Act defines an "inactive" health care provider as one who does not maintain basic coverage solely because such person is no longer rendering professional services as a health care provider in Kansas. (For example, the writing of a prescription or reviewing an x-ray are professional services rendered). Anyone

who is rendering professional services in Kansas without maintaining the required basic professional liability coverage is not an inactive health care provider and is not provided coverage from the Health Care Stabilization Fund for claims made after the termination of their basic coverage. This restriction (or voiding) of Health Care Stabilization Fund coverage is applicable even if the services involved in the claim were rendered at a time when the health care provider did have the basic coverage in effect. Health care providers who retired or otherwise terminate their practice in Kansas, but render services in this state after dropping their coverage, are considered to be in non-compliance. This could void their continuing coverage from the Health Care Stabilization Fund.

WILL THE STABILIZATION FUND RETURN ANY UNUSED PORTION OF MY SURCHARGE PAYMENT IF I TERMINATE THE REQUIRED BASIC COVERAGE POLICY?

Yes. A request for refund may be made to the Commissioner of Insurance.

WILL THE HEALTH CARE STABILIZATION FUND ACCEPT INSTALLMENT PAYMENTS OF THE SURCHARGE?

No, but Kansas insurance laws permit a premium finance company to include the Health Care Stabilization Fund surcharge amounts in their premium financing agreements. Health care providers should request the assistance of their insurance agent for additional information regarding these matters.

HOW DOES THE HEALTH CARE STABILIZATION FUND BECOME AWARE OF SUITS AND CLAIMS OF HEALTH CARE PROVIDERS?

The plaintiff filing an action in this state must serve a copy of the petition upon the Commissioner of Insurance within ten (10) days of filing the action. If any action is filed against a resident health care provider outside of this state, the health care provider or the health care provider's insurance company must notify the Commissioner of Insurance as soon after such summons or petition has been filed as is reasonably practical. From the standpoint of the health care provider, claims will continue to be processed in a normal manner with usual and customary defense provided by the basic coverage insurer and/or the Health Care Stabilization Fund.

If a claim is made by, or on behalf of, a patient (without formal legal action being filed), the health care provider should notify their insurance company or the Commissioner as soon as it is reasonably practical.

All inactive health care providers should contact the office of the Commissioner of Insurance as soon as they have any notice of a claim, regardless of whether or not actual court proceedings have been commenced by the filing of a petition.

Any health care provider, active or inactive, who is sued outside of Kansas or in a federal court has an obligation to notify the Health Care Stabilization Fund.

WHO PROVIDES THE DEFENSE ATTORNEY IF I AM NAMED IN A CLAIM OR SUIT ARISING FROM A MEDICAL INCIDENT DURING THE PERIOD I COMPLIED WITH THE ACT?

Defense provisions currently afforded by your professional liability insurance policy will not change. Should the policy be exhausted or no longer be in effect, the Health Care Stabilization Fund, subject to its coverage limitations, will afford the usual and customary defense in a fashion similar to what would have been provided under your professional liability insurance policy.

WITH ALL OF THE LEGISLATIVE REVISIONS, WHY IS THE SURCHARGE BEING CONTINUED AT 90% AND WHY HAVE SOME INSURANCE COMPANIES CONTINUED TO RAISE THEIR PREMIUM RATES?

A substantial portion of the legislative revisions are applicable on a prospective basis and the full effect of the revisions will not accrue for several years. Because of the prospective implementation (i.e., to be applicable to new professional services rendered on or after July 1, 1986) most claims and suits settled during the next three to four years will be from alleged injuries that occurred prior to July 1, 1986, and will not benefit from the new limitations and caps. The current Health Care Stabilization Fund surcharge was reduced approximately 25% based upon the new legislative revisions.

Some insurance companies are, in fact, raising premium rates subsequent to the enactment of the legislative revisions based upon the continued increases of actual losses and inflationary trend factors. For these insurance companies, adequate past and prospective loss information, as well as consideration of other relevant supporting information, adequately supported the approval of the higher premium rates.

IF YOU SHOULD HAVE ANY QUESTIONS OR SPECIFIC PROBLEMS, PLEASE WRITE:

FLETCHER BELL
Commissioner of Insurance
Kansas Insurance Department
420 S.W. 9th Street
Topeka, Kansas 66612

OR CALL

1-800-432-2484 (Kansas only)

In Topeka, Call 296-3071

PHYSICIAN AND SURGEON
\$200,000/\$600,000 Premium Rates for the State of Kansas
(as of January 1, 1988)

This document provides a review of the premiums currently approved for Kansas doctors. The first series of nine tables represent basic classification rate groupings for doctors. While most companies utilize only eight rate classification groups, the following nine groups have been created for this review in order that an accurate representation of the Kansas premiums can be furnished.

Individual premium amounts presented in this review are the insurance companies' approved mature claims made premium amount (without any adjustments). For example, St. Paul uses a premium discount that may reduce the actual premium paid. These premium amounts do not include the Health Care Stabilization Fund Surcharge.

REVIEW CLASS GROUP I
FAMILY PRACTICE, NO SURGERY

<u>Company Name</u>	<u>Premium</u>
Medical Protective Company	\$ 1,642*
Medical Defense Insurance Company	\$ 2,128
PHICO	\$ 2,222
St. Paul Fire and Marine Insurance Company	\$ 3,641
The Plan	\$ 3,641
Providers Insurance Company	\$ 3,073

*Will be \$2,594 on 3-1-88

REVIEW CLASS GROUP II
PHYSICIAN, NO MAJOR SURGERY (COLONOSCOPY)

<u>Company Name</u>	<u>Premium</u>
Medical Protective Company	\$ 3,038*
PHICO	\$ 3,555
Medical Defense Insurance Company	\$ 3,938
St. Paul Fire and Marine Insurance Company	\$ 5,380
The Plan	\$ 5,380
Providers Insurance Company	\$ 9,349

*Will be \$4,799 on 3-1-88

Attachment III

REVIEW CLASS GROUP III
EMERGENCY MEDICINE

<u>Company Name</u>	<u>Premium</u>
Medical Protective Company	\$ 4,105*
Medical Defense Insurance Company	\$ 6,315
PHICO	\$ 6,665
St. Paul Fire and Marine Insurance Company	\$ 9,559
The Plan	\$ 9,559
Providers Insurance Company	\$ 9,349

*Will be \$8,820 on 3-1-88

REVIEW CLASS GROUP IV
SURGERY, UROLOGICAL

<u>Company Name</u>	<u>Premium</u>
St. Paul Fire and Marine Insurance Company	\$ 7,121
The Plan	\$ 7,121
Medical Protective Company	\$ 5,747*
PHICO	\$ 8,332
Medical Defense Insurance Company	\$ 9,517
Providers Insurance Company	\$13,309

*Will be \$6,226 on 3-1-88

REVIEW CLASS GROUP V
ANESTHESIOLOGY

<u>Company Name</u>	<u>Premium</u>
Medical Protective Company	\$10,180*
St. Paul Fire and Marine Insurance Company	\$14,621
The Plan	\$14,621
PHICO	\$11,358
Providers Insurance Company	\$20,598
Medical Defense Insurance Company	\$27,904

*Will be \$14,267 on 3-1-88

REVIEW CLASS GROUP VI
SURGERY, PLASTIC

<u>Company Name</u>	<u>Premium</u>
Medical Protective Company	\$11,822*
St. Paul Fire and Marine Insurance Company	\$16,428
The Plan	\$16,428
PHICO	\$13,629
Medical Defense Insurance Company	\$19,512
Providers Insurance Company	\$23,767

*Will be \$17,120 on 3-1-88

REVIEW CLASS GROUP VII
SURGERY, CARDIAC

<u>Company Name</u>	<u>Premium</u>
PHICO	\$13,629
Medical Protective Company	\$13,957*
St. Paul Fire and Marine Insurance Company	\$21,850
The Plan	\$21,850
Medical Defense Insurance Company	\$24,254
Providers Insurance Company	\$26,935

*Will be \$19,455 on 3-1-88

REVIEW CLASS GROUP VIII
SURGERY, OBSTETRICS/GYNECOLOGY

<u>Company Name</u>	<u>Premium</u>
Medical Protective Company	\$14,778*
PHICO	\$15,901
St. Paul Fire and Marine Insurance Company	\$27,271
The Plan	\$27,271
Providers Insurance Company	\$23,767
Medical Defense Insurance Company	\$27,904

*Will be \$22,049 on 3-1-88

REVIEW CLASS GROUP IX
SURGERY, NEUROLOGY

<u>Company Name</u>	<u>Premium</u>
Medical Protective Company	\$14,778*
PHICO	\$18,173
St. Paul Fire and Marine Insurance Company	\$33,831
The Plan	\$33,831
Medical Defense Insurance Company	\$27,904
Providers Insurance Company	\$30,104

*Will be \$22,049 on 3-1-88

EXPLANATORY NOTES

1. Approximately nine (9) insurance companies are currently writing professional liability insurance for Kansas doctors; however, five voluntary insurers and The Plan provide the professional liability insurance for about 95% of the Kansas doctors. The other insurance companies write only a few doctors, often in a very specialized situation (for example, an insurer provides the coverage for only those doctors who are contract employees of a nationwide emergency room physicians group).
2. "The Plan" refers to the Health Care Provider Insurance Availability Plan. Premium amounts for The Plan are the manual rates and do not include any premium amounts that may result from The Plan's experience rating surcharge program. There are Kansas doctors who are experience rated by The Plan and these doctors are paying much higher premiums than those listed in tables set forth in this review.
3. There are lower premium amounts available for Kansas doctors in certain situations. For example, doctors engaged in a post-graduate training program are usually written at lower, or discounted, rate level.
4. Kansas resident doctors who practice principally in another state, pay the premium amounts that are applicable to that other state.

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