

SENATE BILL No. 41

By Committee on Public Health and Welfare

1-21

1 AN ACT concerning health and healthcare; relating to the healthcare
2 provider insurance availability act; adding advanced practice registered
3 nurse to the definition of healthcare provider; amending K.S.A. 40-
4 3401 and repealing the existing section.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 40-3401 is hereby amended to read as follows: 40-
8 3401. As used in this act:

9 (a) "Applicant" means any healthcare provider.

10 (b) "Basic coverage" means a policy of professional liability
11 insurance required to be maintained by each healthcare provider pursuant
12 to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

13 (c) "Commissioner" means the commissioner of insurance.

14 (d) "Fiscal year" means the year commencing on the effective date of
15 this act and each year, commencing on the first day of July thereafter.

16 (e) "Fund" means the healthcare stabilization fund established
17 pursuant to K.S.A. 40-3403(a), and amendments thereto.

18 (f) (1) "Healthcare provider" means a:

19 (A) Person licensed to practice any branch of the healing arts by the
20 state board of healing arts;~~;~~

21 (B) person who holds a temporary permit to practice any branch of
22 the healing arts issued by the state board of healing arts;~~;~~

23 (C) person engaged in a postgraduate training program approved by
24 the state board of healing arts;~~;~~

25 (D) medical care facility licensed by the state of Kansas;~~;~~

26 (E) podiatrist licensed by the state board of healing arts;~~;~~

27 (F) health maintenance organization *that has been* issued a certificate
28 of authority by the commissioner;~~;~~

29 (G) optometrist licensed by the board of examiners in optometry;~~;~~

30 (H) pharmacist licensed by the state board of pharmacy;~~;~~

31 (I) licensed professional nurse who is authorized to practice as a
32 registered nurse anesthetist;~~;~~

33 (J) licensed professional nurse who has been granted a temporary
34 authorization to practice nurse anesthesia under K.S.A. 65-1153, and
35 amendments thereto;~~;~~

36 (K) professional corporation organized pursuant to the professional

1 corporation law of Kansas by persons who are authorized by such law to
2 form such a corporation and who are healthcare providers as defined by
3 this subsection~~;~~~~a~~;

4 (L) Kansas limited liability company organized for the purpose of
5 rendering professional services by its members who are healthcare
6 providers as defined by this subsection and who are legally authorized to
7 render the professional services for which the limited liability company is
8 organized~~;~~~~a~~;

9 (M) partnership of persons who are healthcare providers under this
10 subsection~~;~~~~a~~;

11 (N) Kansas ~~not-for-profit~~ *nonprofit* corporation organized for the
12 purpose of rendering professional services by persons who are healthcare
13 providers as defined by this subsection~~;~~~~a~~;

14 (O) nonprofit corporation organized to administer the graduate
15 medical education programs of community hospitals or medical care
16 facilities affiliated with the university of Kansas school of medicine~~;~~~~a~~;

17 (P) dentist certified by the state board of healing arts to administer
18 anesthetics under K.S.A. 65-2899, and amendments thereto~~;~~~~a~~;

19 (Q) psychiatric hospital licensed prior to January 1, 1988, and
20 continuously thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its
21 repeal, and K.S.A. 39-2001 et seq., and amendments thereto, or a mental
22 health center or mental health clinic licensed by the state of Kansas. ~~On~~
23 ~~and after January 1, 2015, "healthcare provider" also means a~~;

24 (R) physician assistant licensed by the state board of healing arts~~;~~~~a~~;

25 (S) licensed advanced practice registered nurse who is authorized by
26 the board of nursing to practice as an advanced practice registered nurse in
27 the classification of a nurse-midwife~~;~~~~a~~;

28 (T) licensed advanced practice registered nurse who has been granted
29 a temporary authorization by the board of nursing to practice as an
30 advanced practice registered nurse in the classification of a nurse-midwife;
31 ~~a~~;

32 (U) *advanced practice registered nurse who has been issued a license*
33 *pursuant to K.S.A 65-1131, and amendments thereto, and who has*
34 *authority to prescribe drugs under K.S.A. 65-1130, and amendments*
35 *thereto*;

36 (V) nursing facility licensed by the state of Kansas~~;~~~~an~~;

37 (W) assisted living facility licensed by the state of Kansas; or

38 (X) a residential healthcare facility licensed by the state of Kansas.

39 (2) "Healthcare provider" does not include:

40 ~~(1)~~(A) Any state institution for people with intellectual disability;

41 ~~(2)~~(B) any state psychiatric hospital;

42 ~~(3)~~(C) any person holding an exempt license issued by the state
43 board of healing arts or the board of nursing;

1 ~~(4)~~(D) any person holding a visiting clinical professor license from
2 the state board of healing arts;

3 ~~(5)~~(E) any person holding an inactive license issued by the state
4 board of healing arts;-

5 ~~(6)~~(F) any person holding a federally active license issued by the
6 state board of healing arts;

7 ~~(7)~~(G) an advanced practice registered nurse who is authorized by
8 the board of nursing to practice as an advanced practice registered nurse in
9 the classification of nurse-midwife or nurse anesthetist and who practices
10 solely in the course of employment or active duty in the United States
11 government or any of its departments, bureaus or agencies or ~~who~~
12 provides professional services as a charitable healthcare provider as
13 defined under K.S.A. 75-6102, and amendments thereto; or

14 ~~(8)~~(H) a physician assistant licensed by the state board of healing arts
15 who practices solely in the course of employment or active duty in the
16 United States government or any of its departments, bureaus or agencies or
17 ~~who~~ provides professional services as a charitable healthcare provider as
18 defined under K.S.A. 75-6102, and amendments thereto.

19 (g) "Inactive healthcare provider" means a person or other entity who
20 purchased basic coverage or qualified as a self-insurer on or subsequent to
21 the effective date of this act but who, at the time a claim is made for
22 personal injury or death arising out of the rendering of or the failure to
23 render professional services by such healthcare provider, does not have
24 basic coverage or self-insurance in effect solely because such person is no
25 longer engaged in rendering professional service as a healthcare provider.

26 (h) "Insurer" means any corporation, association, reciprocal
27 exchange, inter-insurer and any other legal entity authorized to write
28 bodily injury or property damage liability insurance in this state, including
29 workers compensation and automobile liability insurance, pursuant to the
30 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of
31 the Kansas Statutes Annotated, and amendments thereto.

32 (i) "Plan" means the operating and administrative rules and
33 procedures developed by insurers and rating organizations or the
34 commissioner to make professional liability insurance available to
35 healthcare providers.

36 (j) "Professional liability insurance" means insurance providing
37 coverage for legal liability arising out of the performance of professional
38 services rendered or that should have been rendered by a healthcare
39 provider.

40 (k) "Rating organization" means a corporation, an unincorporated
41 association, a partnership or an individual licensed pursuant to K.S.A. 40-
42 956, and amendments thereto, to make rates for professional liability
43 insurance.

1 (l) "Self-insurer" means a healthcare provider who qualifies as a self-
2 insurer pursuant to K.S.A. 40-3414, and amendments thereto.

3 (m) "Medical care facility" means ~~the same~~, when used in the
4 healthcare provider insurance availability act, *the same* as defined in
5 K.S.A. 65-425, and amendments thereto, except that as used in the
6 healthcare provider insurance availability act, such term, as it relates to
7 insurance coverage under the healthcare provider insurance availability
8 act, also includes any director, trustee, officer or administrator of a medical
9 care facility.

10 (n) "Mental health center" means a mental health center licensed by
11 the state of Kansas under K.S.A. 39-2001 et seq., and amendments thereto,
12 except that, as used in the healthcare provider insurance availability act,
13 such term, as it relates to insurance coverage under the healthcare provider
14 insurance availability act, also includes any director, trustee, officer or
15 administrator of a mental health center.

16 (o) "Mental health clinic" means a mental health clinic licensed by
17 the state of Kansas under K.S.A. 39-2001 et seq., and amendments thereto,
18 except that, as used in the healthcare provider insurance availability act,
19 such term, as it relates to insurance coverage under the healthcare provider
20 insurance availability act, also includes any director, trustee, officer or
21 administrator of a mental health clinic.

22 (p) "State institution for people with intellectual disability" means
23 Winfield state hospital and training center, Parsons state hospital and
24 training center and the Kansas neurological institute.

25 (q) "State psychiatric hospital" means Larned state hospital,
26 Osawatomie state hospital and Rainbow mental health facility.

27 (r) "Person engaged in residency training" means:

28 (1) A person engaged in a postgraduate training program approved by
29 the state board of healing arts who is employed by and is studying at the
30 university of Kansas medical center *but only when if* such person is
31 engaged in medical activities that do not include extracurricular, extra-
32 institutional medical service for which such person receives extra
33 compensation and that have not been approved by the dean of the school
34 of medicine and the executive vice-chancellor of the university of Kansas
35 medical center. Persons engaged in residency training shall be considered
36 resident healthcare providers for purposes of K.S.A. 40-3401 et seq., and
37 amendments thereto; and

38 (2) a person engaged in a postgraduate training program approved by
39 the state board of healing arts who is employed by a nonprofit corporation
40 organized to administer the graduate medical education programs of
41 community hospitals or medical care facilities affiliated with the university
42 of Kansas school of medicine or who is employed by an affiliate of the
43 university of Kansas school of medicine as defined in K.S.A. 76-367, and

1 amendments thereto, *but only*~~when~~*if* such person is engaged in medical
2 activities that do not include extracurricular, extra-institutional medical
3 service for which such person receives extra compensation and that have
4 not been approved by the chief operating officer of the nonprofit
5 corporation or the chief operating officer of the affiliate and the executive
6 vice-chancellor of the university of Kansas medical center.

7 (s) "Full-time physician faculty employed by the university of Kansas
8 medical center" means a person licensed to practice medicine and surgery
9 who holds a full-time appointment at the university of Kansas medical
10 center when such person is providing healthcare. A person licensed to
11 practice medicine and surgery who holds a full-time appointment at the
12 university of Kansas medical center may also be employed ~~part-time~~ *part*
13 *time* by the United States department of veterans affairs if such
14 employment is approved by the executive vice-chancellor of the university
15 of Kansas medical center.

16 (t) "Sexual act" or "sexual activity" means that sexual conduct that
17 constitutes a criminal or tortious act under the laws of the state of Kansas.

18 (u) "Board" means the board of governors created by K.S.A. 40-3403,
19 and amendments thereto.

20 (v) "Board of directors" means the governing board created by K.S.A.
21 40-3413, and amendments thereto.

22 (w) "Locum tenens contract" means a temporary agreement not
23 exceeding 182 days per calendar year that employs a healthcare provider
24 to actively render professional services in this state.

25 (x) "Professional services" means patient care or other services
26 authorized under the act governing licensure of a healthcare provider.

27 (y) "Healthcare facility" means a nursing facility, an assisted living
28 facility or a residential healthcare facility as all such terms are defined in
29 K.S.A. 39-923, and amendments thereto.

30 (z) "Charitable healthcare provider" means the same as defined in
31 K.S.A. 75-6102, and amendments thereto.

32 Sec. 2. K.S.A. 40-3401 is hereby repealed.

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