



## Medical Professional Liability Experience Fiscal Year 2020

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This report for the Board of Governors of the Health Care Stabilization Fund summarizes medical professional liability litigation experience in Kansas during fiscal year 2020. (Fiscal year 2020 covers the period of time from July 1, 2019 through June 30, 2020.) The report reflects statistical data gathered by the Fund in administering the Health Care Provider Insurance Availability Act and is based on all claims resolved during the fiscal year.

Medical professional liability refers to a claim made against a health care provider for the rendering of or failure to render professional services (K.S.A. 40-3403). Health care provider is defined in K.S.A. 40-3401 to include the following individuals: physicians, chiropractors, podiatrists, registered nurse anesthetists, nurse midwives, and physician assistants. "Health care provider" also includes the following entities: hospitals, ambulatory surgical centers, nursing facilities, assisted living facilities, and residential health care facilities. Certain professional corporations and professional limited liability companies may also be defined as a "health care provider".

It should be noted that dollar amounts will not necessarily correspond with the agency's accounting and budgeting documents because claims are not necessarily paid in the same fiscal year that the settlement was approved by the court, or the judgment was rendered by a jury. Data in this report reflects the status of cases at the end of the fiscal year. Data for prior years is for comparison purposes only, as case outcomes may have changed due to subsequent court proceedings.

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## MEDICAL PROFESSIONAL LIABILITY EXPERIENCE

### A. Jury Verdicts

From HCSF data, 12 medical malpractice cases involving 18 Kansas health care providers were tried to juries during fiscal year 2020. Nine cases were tried in Kansas courts and three case involving Kansas health care providers were tried in Missouri courts. These trials were held in the following jurisdictions:

Sedgwick County	4
Johnson County	2
Douglas County	1
Morris County	1
Wyandotte County	1
Missouri Courts	3

Of the 12 cases tried, 11 resulted in complete defense verdicts. One case resulted in a verdict for the plaintiff for an amount within the primary coverage limits.

The following chart compares this year's experience to previous fiscal years. (Note: all jury trials the last four months of fiscal year 2020 were cancelled due to COVID.)

Fiscal Year	Total Trials	Defense Verdict	Plaintiff Verdict	Split Verdict	Mistrials
2020	12	11	1		
2019	10	9			1
2018	12	9	3		
2017	16	14	1	1	
2016	14	12	1		1
2015	18	13	2		3
2014	27	23	3		1
2013	18	14	4		
2012	21	19	1		1
2011	19	16	2	1	
2010	32	21	7	1	3
2009	27	20	5	1	1
2008	34	25	4	1	4
2007	36	31	5		
2006	29	23	6		
2005	34	22	7	3	2
2004	28	23	3	2	
2003	27	23	3		1
2002	19	10	6		1
2001	21	13	6	2	2
2000	28	18	7	1	2

## B. Settlements

**Claims settled by the Fund.** During FY 2020, 73 claims in 69 cases were settled involving the HCSF. Settlement amounts incurred by the HCSF for the fiscal year totaled \$27,121,225. This amount does not include settlement contributions by primary or excess insurance carriers. The settlement amounts are payments made, or to be made, by the HCSF in excess of primary coverage or on behalf of inactive health care providers.

<u>Fiscal Year</u>	<u>Number of Claims/Cases</u>	<u>Fund Amount</u>	<u>Settlement Average</u>
FY 2020	73/69	\$27,121,225.00	\$371,524
FY 2019	74/61	\$23,407,875.00	\$316,323
FY 2018	73/58	\$24,238,950.00	\$332,040
FY 2017	64/53	\$21,745,583.00	\$339,775
FY 2016	76/66	\$23,539,687.07	\$309,733
FY 2015	60/53	\$24,322,582.00	\$405,376
FY 2014	63/52	\$24,005,914.00	\$381,046
FY 2013	79/62	\$27,610,000.00	\$349,494
FY 2012	67/62	\$21,431,000.00	\$319,866
FY 2011	61/57	\$17,518,727.54	\$287,192
FY 2010	61/54	\$19,745,200.00	\$323,692
FY 2009	81/72	\$23,867,283.72	\$294,658
FY 2008	65/57	\$17,352,500.00	\$266,962
FY 2007	61/53	\$20,929,250.00	\$343,102
FY 2006	89/81	\$24,917,984.00	\$279,977
FY 2005	90/74	\$23,544,658.00	\$261,607
FY 2004	79/64	\$18,905,505.00	\$239,310
FY 2003	87/76	\$17,483,778.00	\$200,963
FY 2002	67/58	\$16,173,742.00	\$241,399
FY 2001	54/44	\$15,592,748.80	\$288,755

HCSF settlement amounts fall within the following ranges and are compared to individual claim settlements in previous years:

	FY20	FY19	FY18	FY 17	FY 16	FY 15	FY 14	FY 13
\$1 - \$50,000	6	7	8	11	14	7	10	3
\$50,001 - \$250,000	22	30	23	21	26	19	23	31
\$250,001 - \$600,000	32	26	31	19	23	17	6	31
\$600,001 - 1,000,000	13	11	11	13	13	17	24	14
Total Claims	73	74	73	64	76	60	63	79

Of the 73 claims, the Fund provided primary coverage for inactive health care providers in nine claims. In addition, the Fund "dropped down" to provide coverage for two claims in which aggregate primary policy limits were reached.

Primary insurance carriers tendered their policy limits to the Fund in 62 claims. Five claims involved contribution from an insurer whose coverage was excess of Fund coverage.

<u>FY</u>	<u>Primary Carriers</u>	<u>HCSF</u>	<u>Excess Carriers</u>	<u>Total</u>
2020	\$12,400,000/00	\$27,121,225.00	\$ 7,700,000.00	\$47,221,225.00
2019	\$11,797,022.00	\$23,407,875.00	\$ 550,000.00	\$35,754,897.00
2018	\$12,755,050.00	\$24,238,950.00	\$ 2,895,000.00	\$39,889,000.00
2017	\$11,057,500.00	\$21,745,583.00	\$ 1,425,000.00	\$34,228,083.00
2016	\$11,000,000.00	\$23,539,687.07	\$ 3,400,000.00	\$37,939,687.07
2015	\$11,200,000.00	\$24,322,582.00	\$14,400,000.00	\$49,922,582.00
2014	\$10,135,000.00	\$24,005,914.00	\$ 3,875,000.00	\$38,015,914.00
2013	\$13,310,000.00	\$27,610,000.00	\$ 6,000,000.00	\$46,920,000.00
2012	\$10,800,000.00	\$21,431,000.00	\$ 5,083,500.00	\$37,314,500.00
2011	\$10,400,000.00	\$17,518,727.54	\$ 4,350,000.00	\$32,268,727.54
2010	\$ 9,400,000.00	\$19,745,200.00	\$14,972,500.00	\$44,117,700.00
2009	\$11,471,170.00	\$23,867,283.72	\$ 4,954,830.00	\$40,293,283.72
2008	\$10,612,500.00	\$17,352,500.00	\$ 2,425,000.00	\$30,390,000.00
2007	\$ 9,488,750.00	\$20,929,250.00	\$ 3,125,000.00	\$33,543,000.00
2006	\$14,580,000.00	\$24,917,984.00	\$ 5,089,425.00	\$44,587,409.00
2005	\$15,800,000.00	\$23,544,658.00	\$10,450,000.00	\$49,794,658.00
2004	\$12,600,000.00	\$18,905,505.00	\$ 8,550,000.00	\$40,055,505.00
2003	\$14,200,000.00	\$17,483,778.00	\$ 2,787,500.00	\$34,471,278.00
2002	\$11,400,000.00	\$16,173,742.00	\$ 2,680,000.00	\$30,253,742.00
2001	\$ 8,800,000.00	\$15,592,748.80	\$ 6,710,000.00	\$31,102,748.80

**Claims settled within primary coverage limits.** In addition to the above settlements, the HCSF was notified that primary insurance carriers settled an additional 106 claims in 98 cases.

<u>Fiscal Year</u>	<u>Claims/Cases</u>	<u>Primary Insurance Carriers</u>
2020	106/98	\$ 9,868,875.00
2019	120/107	\$ 8,779,783.00
2018	110/97	\$10,537,420.00
2017	82/74	\$ 8,622,021.00
2016	98/93	\$ 8,968,479.00
2015	89/80	\$ 7,268,626.00
2014	97/86	\$ 8,909,740.00
2013	88/76	\$ 6,664,000.00
2012	98/81	\$ 6,603,521.00
2011	99/83	\$ 7,865,915.00
2010	110/92	\$ 8,958,622.00
2009	90/80	\$ 7,182,241.00
2008	104/88	\$ 8,486,032.00
2007	167/146	\$10,870,339.00
2006	110/98	\$ 8,545,218.00
2005	103/88	\$ 8,058,894.00
2004	99/85	\$ 6,978,801.00
2003	122/99	\$ 9,087,872.00
2002	141/124	\$10,789,299.00
2001	109/88	\$ 8,124,459.00

### C. HCSF Total Settlements and Verdict Amounts

During fiscal year 2020, the HCSF incurred \$27,121,225 in 73 claim settlements. There were no jury awards this fiscal year. The following figures show total Fund settlements and jury awards since the inception of the Health Care Stabilization Fund.

<u>Fiscal Year</u>	<u>Total Claims</u>	<u>Settlements &amp; Jury Awards</u>	<u>Average Per Claim</u>
FY 2020	73	\$27,121,225.00	\$371,523.63
FY 2019	74	23,407,875.00	316,322.64
FY 2018	75	25,219,320.00	336,257.60
FY 2017	65	22,545,583.00	346,855.12
FY 2016	76	23,539,687.07	309,732.72
FY 2015	62	24,904,319.61	401,682.57
FY 2014	66	25,559,409.00	387,263.77
FY 2013	79	29,382,484.69	371,930.19
FY 2012	67	21,431,000.00	319,865.67
FY 2011	63	19,118,727.54	303,471.87
FY 2010	65	20,970,021.10	322,615.71
FY 2009	85	25,505,208.67	300,061.28
FY 2008	68	19,085,004.00	280,661.82
FY 2007	64	22,589,655.27	352,963.36
FY 2006	90	25,017,984.00	277,977.60
FY 2005	97	26,119,569.91	269,273.30
FY 2004	81	19,055,505.00	235,253.15
FY 2003	90	18,295,320.32	203,281.34
FY 2002	71	17,467,033.19	246,014.55
FY 2001	58	17,114,748.80	295,081.86
FY 2000	73	20,868,192.91	285,865.66
FY 1999	71	21,344,368.15	300,624.90
FY 1998	66	12,834,705.13	194,465.23
FY 1997	41	13,653,618.34	333,015.08
FY 1996	70	23,258,406.14	332,262.94
FY 1995	45	17,023,882.17	378,308.49
FY 1994	65	21,194,765.96	326,073.32
FY 1993	48	24,614,093.06	492,281.86
FY 1992	35	8,824,834.14	252,138.11
FY 1991	49	19,666,797.32	401,363.21
FY 1990	48	13,627,222.20	283,700.46
FY 1989	58	18,713,543.00	315,750.00
FY 1988	51	13,402,756.00	262,799.00
FY 1987	47	13,296,808.00	282,910.00
FY 1986	42	11,492,857.00	273,639.00
FY 1985	41	15,152,042.00	369,562.00
FY 1984	34	9,538,741.00	280,551.00
FY 1983	25	6,522,369.00	260,894.00
FY 1982	24	3,060,126.00	127,505.00
FY 1981	8	1,760,645.00	220,080.00
FY 1980	0	0.00	-
FY 1979	3	203,601.00	67,867.00
FY 1978	0	0.00	-
FY 1977	1	137,500.00	137,500.00

**D. New Cases by Fiscal Year**

The Health Care Stabilization Fund was notified of 302 new cases during fiscal year 2020. The following chart lists the number of new cases opened in each fiscal year since the Fund was created.

<u>Fiscal Year</u>	<u>Number of Cases</u>
<b>2020</b>	<b>302</b>
2019	323
2018	300
2017	276
2016	248
<u>2015</u>	<u>235</u>
2014	268
2013	229
2012	260
2011	267
<u>2010</u>	<u>290</u>
2009	310
2008	329
2007	304
2006	457
<u>2005</u>	<u>336</u>
2004	368
2003	392
2002	361
2001	341
<u>2000</u>	<u>294</u>
1999	319
1998	293
1997	318
1996	296
<u>1995</u>	<u>326</u>
1994	247
1993	263
1992	245
1991	230
<u>1990</u>	<u>205</u>
1989	251
1988	285
1987	320
1986	276
<u>1985</u>	<u>245</u>
1984	175
1983	153
1982	124
1981	98
1980	87
1979	50
1978	19
1977	02



**University of Kansas Foundations and Faculty; Residents  
 Self-Insurance Programs/Primary Coverage  
 Reimbursement to the Health Care Stabilization Fund**

**I. KU Foundations and Faculty**

**Foundation Self-Insurance Program Costs**

FY 2020	FY 2019	FY 2018	
\$ 833,000.00	\$1,793,333.00	\$ 800,000.00	Settlement Amounts
<u>\$ 732,444.80</u>	<u>\$ 968,385.05</u>	<u>\$ 831,654.34</u>	Attorney Fees and Expenses
\$1,565,444.80	\$2,761,718.05	\$1,631,654.34	Totals
6	12	4	Number of settlements
41	32	40	Number of pending claims (end of FY)

**Reimbursable Amounts**

FY 2020	FY 2019	FY 2018	
\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	Reimbursement Private Practice Reserve
<u>\$1,065,444.80</u>	<u>\$2,261,718.05</u>	<u>\$1,131,654.34</u>	Reimbursement State General Fund
\$1,565,444.80	\$2,761,718.05	\$1,631,654.34	Totals

**II. Residents in Training**

**Residents Self-Insurance Program Costs**

FY 2020	FY 2019	FY 2018	
\$ 200,000.00	\$ 825,000.00	\$ 435,000.00	Settlement Amounts
<u>\$ 733,533.33</u>	<u>\$1,052,296.97</u>	<u>\$1,193,132.34</u>	Attorney Fees and Expenses
\$ 933,533.33	\$1,877,296.97	\$1,628,132.34	Totals
1	5	3	Number of settlements
14	12	25	Number of pending claims (end of FY)

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**III. Expenditures by Fiscal Year**

<b>Fiscal Year</b>	<b>Foundations and Faculty*</b>	<b>Total Number Faculty</b>	<b>Residents in Training**</b>	<b>Total Number Residents</b>
2020	\$ 1,565,444.80	919	\$ 933,533.33	820
2019	2,761,718.05	807	1,877,296.97	843
2018	1,631,654.34	735	1,628,132.34	849
2017	2,673,879.29	650	642,342.05	825
2016	1,028,751.91	652	693,324.56	856
2015	1,917,190.41	583	690,599.54	814
2014	2,175,457.87	573	799,363.81	789
2013	1,537,668.29	557	934,695.09	809
2012	1,759,733.60	506	1,201,108.99	787
2011	1,184,218.79	514	455,621.25	812
2010	1,445,658.21	412	1,201,718.01	698
2009	2,693,099.94	404	812,492.66	712
2008	966,327.58	366	648,269.80	692
2007	2,037,227.63	348	1,194,968.11	682
2006	1,407,837.70	361	871,719.27	675
2005	1,706,763.57	336	1,749,032.25	670
2004	1,825,116.29	317	2,787,112.99	627
2003	1,113,326.84	308	1,418,927.85	643
2002	583,566.19	307	723,834.54	645
2001	1,540,133.41	298	953,304.62	625
2000	691,253.39	310	735,633.12	645
1999	1,371,640.73	295	645,997.65	669
1998	1,018,435.78	283	1,072,324.05	637
1997	1,111,787.72	279	999,388.16	647
1996	4,003,062.51	285	1,331,521.75	641
1995	255,117.85	286	534,124.84	532
1994	1,959,284.79	287	574,758.65	603
1993	1,453,444.21	287	650,033.67	594
1992	645,670.10	281	810,703.77	592
1991	435,540.69	288	458,561.65	615
1990	261,035.55	277	120,796.12	546

\*Foundations and Faculty:

Amounts up to \$500,000 are reimbursed from the Private Practice Reserve Fund.

Amounts over \$500,000 are reimbursed from the State General Fund.

\*\*Residents in Training: All amounts are reimbursed from the State General Fund.

**IV. Monies Paid by the Health Care Stabilization Fund for Excess Coverage Claims**

	<b>FY 20</b>	<b>FY 19</b>	<b>FY 18</b>	<b>FY 17</b>	<b>FY 16</b>
Residents	\$300,000	\$ 622,500	\$ 800,000	0	0
Faculty, Foundations	<u>\$535,000</u>	<u>\$2,110,000</u>	<u>\$1,150,000</u>	<u>\$1,766,666</u>	<u>\$625,000</u>
Total	\$835,000	\$2,732,500	\$1,950,000	\$1,766,666	\$625,000