



Kansas Health Care Stabilization Fund

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Bulletin 2014-2

TO: Independent Insurance Agents and Companies Authorized to Offer Professional Liability Insurance to Kansas Health Care Providers

FROM: Charles L. Wheelen, Executive Director, Health Care Stabilization Fund

DATE: April 24, 2014

SUBJECT: 2014 House Bill 2516

This year the Legislature passed and the Governor approved a comprehensive update of the Health Care Provider Insurance Availability Act. Most of the amendments in House Bill 2516 consist of technical changes or they replace or eliminate obsolete language. There are, however, some significant improvements. The following are highlights:

- Tail coverage via the HCSF for inactive health care providers will be simplified and enhanced as of July 1, 2014. The five-year compliance requirement will expire such that all health care providers who discontinue their Kansas practice, inactivate their license, and cancel their primary insurance policy will receive the equivalent of an extended reporting endorsement via the HCSF. Furthermore, the level of Fund tail coverage will be supplemented by the minimum coverage required for basic coverage as specified in K.S.A. 40-3402. Currently that amount is \$200,000 per claim subject to an annual aggregate limit of \$600,000. The level of Fund tail coverage will be the amount of Fund coverage in effect on the date of the incident giving rise to the claim plus the minimum primary limits. For most health care providers, this means that upon becoming inactive, they will have the benefit of HCSF tail coverage with limits of \$1.0 million per claim subject to an annual aggregate limit of \$3.0 million. Health care providers will not be required to make additional payment for these tail coverage improvements.
- New language is added to K.S.A. 40-3401 to define "locum tenens contract" as an agreement not exceeding 182 days per calendar year that employs a health care provider to render services in Kansas. A separate amendment is incorporated in K.S.A. 40-3402 that allows a non-resident health care provider who is employed pursuant to a locum tenens contract to be insured under an occurrence policy. In other words a limited exception from the normal claims made requirement is allowed in the case of non-resident locum tenens, but claims made policies remain acceptable. For companies or risk retention groups that are not authorized to sell insurance in Kansas, a Declaration of Compliance will be necessary.
- Two additional professions and three additional types of facilities are added to the definition of "health care provider" in K.S.A. 40-3401, but not until January 1, 2015. This allows a six-month transition period for physician assistants, advance practice nurse-midwives, nursing facilities, assisted living facilities, and residential health care facilities. Another amendment requires the joint underwriting association to offer a prior acts policy to those five new categories of health care providers who may need such a policy.

A copy of the final, enrolled version of HB2516 and a staff summary can be downloaded from the Kansas Legislature's website at http://www.kslegislature.org/li/b2013_14/measures/hb2516/.

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