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MEMORANDUM

To: House Committee on Insurance
From: Jason Thompson, Senior Assistant Revisor of Statutes
Date: February 7, 2017
Subject: Bill Brief for HB 2118

HB 2118 amends the health care provider insurance availability act to provide for liability exceptions and inactive provider coverage limits and to exempt certain licensed providers from the act.

New Section 1 would be part of and supplemental to the health care provider insurance availability act. It would provide that the health care stabilization fund shall not be liable for any claim against a health care provider for if the health care provider's liability for the incident giving rise to the claim is the result of professional services rendered as a charitable healthcare provider or is covered under the federal tort claims act.

Section 2 amends K.S.A. 40-3401, the definition section for the health care provider insurance availability act. Subsection (s) is amended to provide that the “full-time physician faculty employed by the university of Kansas medical center” to include a person who is also employed part-time by the United States department of veterans affairs if such employment is approved by the executive vice-chancellor of the university of Kansas medical center. A new subsection (z) is added to define “charitable health care provider” by referencing the definition in K.S.A. 75-6102. Please see page 3 for a copy of the referenced language.

Section 3 amends K.S.A. 40-3408, also part of the act, to provide that an insurer that provides coverage to a health care provider may exclude from coverage any liability incurred by such health care provider as a result of professional services rendered as a charitable health care provider or that is covered under the federal tort claims act.

Section 4 amends K.S.A. 40-3424, also part of the act, to provide that the aggregate fund liability for all judgments and settlements arising from all claims made in any fiscal year against

a resident or nonresident inactive health care provider shall not exceed \$3,000,000 in any fiscal year.

Finally, section 5 amends K.S.A. 65-1131, part of the Kansas nurse practice act. The bill amends current law so that an advanced practice registered nurse who has been granted an exempt license shall be exempt from the requirements of K.S.A. 40-3402 and 40-3404, both part of the health care provider insurance availability act. The bill also adds an inactive license option for an advanced practice registered nurse, and those license holders would also be exempt from the requirements of K.S.A. 40-3402 and 40-3404. This would exempt such nurses from the requirement of carrying professional liability insurance and from the annual premium surcharge for professional liability insurance.

75-6102. Definitions. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

...

(e) “Charitable healthcare provider” means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts, a mental health practitioner licensed by the behavioral sciences regulatory board, an ultrasound technologist currently registered in any area of sonography credentialed through the American registry of radiology technologists, the American registry for diagnostic medical sonography or cardiovascular credentialing international and working under the supervision of a person licensed to practice medicine and surgery, or a healthcare provider as the term “healthcare provider” is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

(1) The secretary of health and environment under K.S.A. 75-6120, and amendments thereto, who, pursuant to such agreement, gratuitously renders professional services to a person who has provided information which would reasonably lead the healthcare provider to make the good faith assumption that such person meets the definition of medically indigent person as defined by this section or to a person receiving medical assistance from the programs operated by the department of health and environment, and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto;

(2) the secretary of health and environment and who, pursuant to such agreement, gratuitously renders professional services in conducting children’s immunization programs administered by the secretary;

(3) a local health department or indigent healthcare clinic, which renders professional services to medically indigent persons or persons receiving medical assistance from the programs operated by the department of health and environment gratuitously or for a fee paid by the local health department or indigent healthcare clinic to such provider and who is considered an employee of the state of Kansas under K.S.A. 75-6120, and amendments thereto. Professional services rendered by a provider under this paragraph shall be considered gratuitous notwithstanding fees based on income eligibility guidelines charged by a local health department or indigent healthcare clinic and notwithstanding any fee paid by the local health department or indigent healthcare clinic to a provider in accordance with this paragraph; or

(4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental hygienist services defined by K.S.A. 65-1456, and amendments thereto, that are targeted, but are not limited to, medically indigent persons, and are provided on a gratuitous basis: (A) At a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location; (B) at the office location of a dentist or dental hygienist provided the care be delivered as part of a program organized by a not-for-profit organization and approved by the secretary of health and environment; or (C) as part of a charitable program organized by the dentist that has been approved by the secretary of health and environment upon a showing that the dentist seeks to treat medically indigent patients on a gratuitous basis, except that such dentistry services and dental hygienist services shall not include “oral and maxillofacial surgery” as defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result in “deep sedation” or “general anesthesia” as defined by K.A.R. 71-5-7.