Testimony from
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President, University of Kansas Physicians
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before the
Financial Institutions and Insurance Committee
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Thank you Madam Chair and members of the Committee for the opportunity to testify today. My name is Dr. Kirk Benson. I am an anesthesiologist and Professor at the University of Kansas School of Medicine. I also serve as President of the University of Kansas Physicians (UKP), which is a not for profit corporation organized in 1996 to assist the University of Kansas School Of Medicine and its clinical faculty achieve their teaching, research, and patient care missions. The UKP organization is comprised of 350 physicians and was originally designed to create a practice model that would put a single face on the physician practice at Kansas University Medical Center. I am here to testify in support of S.B. 414, which will protect the financial integrity of the Kansas Health Care Stabilization Fund (HCSF) by preventing further cuts (allotments) to State General Fund (SGF) which, by law, are required to be transferred to the HCSF.

HCSF: a national model for stabilizing medical malpractice insurance.

Thanks to the foresight of the Kansas legislature, the HCSF has been a huge success for physicians throughout Kansas, as well as for KUMC faculty and residents. As you may know, professional liability coverage for residents at the University of Kansas Medical Center (KUMC) was established on July 1, 1985, and is administered by the HCSF. On July 1, 1989, the program was expanded to include the faculty on both the Kansas City and Wichita campuses and the residents in Wichita and Salina, and to provide coverage to those residents who leave the state of Kansas (referred to as “tail coverage”). Providing professional liability coverage for faculty physicians and residents through the HCSF is critically important to support the training of physicians in our state.

Challenges of providing medical malpractice insurance for KUMC faculty and residents.

Prior to 1989, the purchase of private professional liability coverage created significant financial hardship for the University of Kansas Medical Center. Soaring premium costs and a surcharge of 125 percent over the basic premium made recruitment and retention of faculty physicians increasingly difficult. In FY 1989 alone, we paid a total of $3.9 million for professional liability coverage. Many faculty left because they could earn more in private practice. Residents faced expensive individual payments for tail coverage if they left the state of Kansas. In short, maintaining private professional liability coverage threatened our ability to continue training physicians for our state and region. By expanding the HCSF to include Kansas City and Wichita
faculty and residents, the state was able to ensure that high quality faculty physicians could afford to teach our medical students and train our residents.

**KUMC’s contribution to medical malpractice insurance.**

Physicians in Kansas carry both “primary” professional liability coverage and “excess” liability coverage. For most physicians, the HCSF serves to provide excess liability coverage only. For KUMC, the HCSF also serves as a “backstop” to our primary liability fund.

**Primary liability coverage.** KUMC’s primary liability coverage for physician faculty is provided through the Private Practice Reserve Fund. KU’s faculty physician foundations pay $500,000 annually into this Fund on behalf of the physician faculty members. For full-time faculty physicians, the Private Practice Reserve Fund then provides reimbursement up to $200,000 per malpractice claim for expenses, attorneys’ fees, and settlements/judgments. If the Private Practice Reserve Fund is exhausted, then reimbursement from the HCSF is provided. *In order to keep the HCSF in actuarial balance, the HCSF then receives a direct transfer (or demand transfer) from SGF in the same amount.*

**Excess liability coverage.** KUMC’s excess liability coverage for physician faculty is exactly the same as other physicians in the state. An annual premium is paid to the HCSF to cover claims or judgments that exceed the $200,000 level (the cut-off for primary insurance coverage). The faculty physician foundations pay on behalf of the faculty physicians, while the University pays on behalf of residents. Just as they do for other physicians in Kansas, these premiums cover the full cost for excess liability claims and no SGF demand transfer is provided to the HCSF.

**Total liability coverage.** In total, we paid more than $1.7 million for liability insurance for physician faculty and residents at KUMC. For primary liability insurance, $500,000 was paid by the KU faculty physician foundations. For excess liability coverage, $856,900 was paid from the faculty physician foundations and $362,000 was paid from the University on behalf of the residents.

**State economic challenges undermine stability of HCSF**

Facing revenue shortages in FY 2009 and FY 2010, both Governor Kathleen Sebelius and Governor Mark Parkinson suspended SGF demand transfers to the HCSF, either by line item veto or through the allotment process. For FY 2009, this in effect resulted in an overall loss to the HCSF of more than $2.9 million. Although these are economically difficult times, it is vital to the long term interests of the state to protect the HCSF and preserve the current system given that it is both cost-effective and meets its intended policy goals: to stabilize the cost of professional liability insurance for physicians in Kansas.

**Unique role of faculty and residents at KUMC**

At KU Medical Center, our goals of recruiting and retaining quality faculty physicians and training residents remain two of our highest priorities. Because of the unique role we play in training physicians for Kansas and the importance of the HCSF in providing excess liability
insurance, we fully support the HCSF and want to ensure its long term financial stability. Further cuts to HCSF are simply unsustainable and will inevitably necessitate increases in insurance premiums for our private practice physician partners across the state, as well as for KUMC physician faculty. KU Medical Center has worked and intends to continue working with key stakeholders to achieve solutions to protect the HCSF’s financial stability, and find an equitable long term solution. The nature of the HCSF is that of an insurance fund, which requires actuarial soundness. This means that, unlike other fee funds, transfers from the fund jeopardize its stability.

Thank you again for the opportunity to testify in support of S.B 414, and I am happy to stand for any questions you may have.