Testimony from  
Kirk Benson, MD  
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, formerly KUPI), 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 faculty physicians. I am here on behalf of the University of Kansas School of Medicine and its faculty physicians 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) transfers made to the HCSF on behalf of KU School of Medicine faculty and residents in Kansas City and Wichita.

The HCSF serves a critical need for recruiting and retaining KUMC physician faculty.

Thanks to the foresight of the Kansas legislature, the HCSF has contributed to a stable medical malpractice insurance environment for physicians throughout Kansas, as well as for KUMC faculty and residents. 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.

Securing high quality faculty physicians to train our medical students and residents provides benefits to patients throughout Kansas and the region.

Prior to 1989, the purchase of private professional liability coverage created significant financial hardship for the University of Kansas Medical Center. Because of the unique responsibility of training medical students, higher premium costs and surcharges of 125 percent over basic insurance 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. A number of faculty left because they could earn more in private practice, and cover the rising cost of insurance. Our residents in training faced expensive individual payments for tail coverage if
they left the state of Kansas which impacted resident recruitment. In short, maintaining private professional liability coverage threatened our ability to continue training physicians for our state and region, as well as our ability to attract the best residents. 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.

**The State has made a commitment to share responsibility for professional liability coverage with KUMC, and should honor that commitment.**

Physicians in Kansas carry both “primary” professional liability coverage and “excess” liability that provides coverage for higher limits of exposure. For most physicians, the HCSF serves to provide excess liability coverage only. For KUMC, the HCSF also serves as a “backstop” for our partially self-funded liability coverage.

**Primary liability coverage.** KUMC’s primary liability coverage for physician faculty is partially self-insured and shared with the State of Kansas through the HCSF. KU’s faculty physician foundations pay $500,000 annually into the Private Practice Reserve 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. If the Private Practice Reserve Fund is exhausted, then reimbursement from the HCSF is provided by direct transfer from the State General Fund as defined in the statutory provisions KSA 40-3403(c) and (j); and also at KSA 40-3414(d), (h) and (i).

**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.

**Current budget challenges undermine the long-term stability of HCSF; SB 414 will help protect the HCSF from further budget shortfalls.**

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.
The HCSF supports the unique role of faculty and residents at KUMC, whose priority is to train physicians for Kansas.

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, and most certainly for KUMC physician faculty. Moreover, because of the $14.4 million in cuts to the KUMC budget in FY 2010, the University is not in a financial position to fully self-insure our professional liability insurance. Instead, KUMC has been forced to eliminate 79 positions, shift salary portions of 363 positions to other sources of funding including clinical revenue, reduce the number of nursing students, and slowed down the recruitment for quality researchers and clinical staff needed for us to be successful in our application for NCI designation.

In summary, on behalf of KU School of Medicine faculty and residents in Kansas City and Wichita, we strongly support the integrity of the HCSF. 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.