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Medical Professional Liability Experience Fiscal Year 2024

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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 2024. (Fiscal year 2024 covers the period of time from July 1, 2023 through June 30, 2024.) The report reflects statistical data gathered by the HCSF 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, 16 medical malpractice cases involving 20 Kansas health care providers went to trial during fiscal year 2024. These trials took place in the following jurisdictions:

Johnson County	3
Sedgwick County	2
Shawnee County	1
Wyandotte County	1
Franklin County	1
Butler County	1
Coffey County	1
Leavenworth County	1
Cowley County	1
Jackson Co., MO	3
Clay Co., MO	1

Fifteen cases resulted in defense verdicts. One case ended in hung jury.
The following chart compares this years’ experience to previous fiscal years:

Fiscal Year	Total Trials	Defense Verdict	Plaintiff Verdict	Split Verdict	Mistrials
2024	16	15	0		1
2023	21	17	3		1
2022	16	9	6		
2021	4	4			
2020	12	11	1		
2019	10	9			1
2018	12	9	3	1	
2017	16	14	1		
2016	14	12	1		1
2015	18	13	2		3
2014	27	23	3		1

*There were no trials the last four months of fiscal year 2020 due to the pandemic.

*The courts were closed most of fiscal year 2021 due to the pandemic.

B. Settlements

Claims settled by the HCSF. During FY 2024, 82 claims in 66 cases were settled involving the HCSF. Settlement amounts incurred by the HCSF for the fiscal year totaled \$30,740,000. 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.

Fiscal Year	Number of Claims/Cases	HCSF Amount	Settlement
2024	82/66	\$30,740,000.00	\$374,878
2023	95/85	\$33,419,872.84	\$351,788
2022	75/64	\$28,612,433.86	\$381,499
2021	50/40	\$17,352,000.00	\$347,040
2020	73/69	\$27,121,225.00	\$371,524
2019	74/61	\$23,407,875.00	\$316,323
2018	73/58	\$24,238,950.00	\$332,040
2017	64/53	\$21,745,583.00	\$339,775
2016	76/66	\$23,539,687.07	\$309,733
2015	60/53	\$24,322,582.00	\$405,376
2014	63/52	\$24,005,914.00	\$381,046

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

	2024	2023	2022	2021	2020	2019	2018	2017
\$1 - \$50,000	11	10	8	5	6	7	8	11
\$50,001 - \$250,000	31	37	27	20	22	30	23	21
\$250,001 - \$600,000	17	30	19	13	32	26	31	19
\$600,001 - \$1,000,000	23	18	21	12	13	11	11	13
Total Claims:	82	95	75	50	73	74	73	64

Of the 82 claims, (1) primary insurance carriers tendered their policy limits to the HCSF in 73 claims; and (2) the HCSF provided primary coverage for inactive health care providers in 9 claims. Nine claims involved contribution from an insurer whose coverage was excess of HCSF coverage.

Fiscal Year	Primary Carriers	HCSF	Excess Carriers	Total
2024	\$24,638,167.00	\$30,740,000.00	\$7,625,000.00	\$63,003,167.00
2023	\$15,200,000.00	\$33,419,872.84	\$9,135,377.16	\$57,755,250.00
2022	\$13,105,866.14	\$28,612,433.86	\$14,850,000.00	\$56,568,300.00
2021	\$8,800,000.00	\$17,352,000.00	\$7,650,000.00	\$33,802,000.00
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	\$4,228,083.00
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

Claims settled by excess insurers. In addition to the above 82 settlements, six claims were settled by an excess insurance carrier when both primary and HCSF coverage were exhausted.

Claims settled within primary coverage limits. Along with the above settlements, the HCSF was notified that primary insurance carriers settled an additional 81 claims.

Fiscal Year	Claims/Cases	Primary Insurance Carriers
2024	154/81	\$9,523,167.00
2023	114/102	\$11,388,362.00
2022	101/91	\$11,475,868.00
2021	98/88	\$9,336,634.00
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

C. HCSF Total Settlements and Verdict Amounts

During fiscal year 2024, the HCSF incurred \$30,740,000 for 82 claim settlements and no payments for jury verdicts. The following figures show total Fund settlements and jury awards since the inception of the Health Care Stabilization Fund.

Fiscal Year	Total Claims	Settlements/Jury Awards	Average Per Claim
2024	82	\$30,740,000.00	\$365,952.00
2023	98	\$35,227,372.84	\$359,462.98
2022	79	\$31,394,662.56	\$397,400.79
2021	50	\$17,352,000.00	\$347,040.00
2020	73	\$27,121,225.00	\$371,523.63
2019	74	\$23,407,875.00	\$316,322.64
2018	75	\$25,219,320.00	\$336,254.60
2017	65	\$22,545,583.00	\$346,855.12
2016	76	\$23,539,687.07	\$309,732.72
2015	62	\$24,904,319.61	\$401,682.57
2014	66	\$25,559,409.00	\$387,263.77

D. New Cases by Fiscal Year

The Health Care Stabilization Fund was notified of 285 new cases during fiscal year 2024. The following chart lists the number of new cases opened in each fiscal year since the HCSF was created.

Fiscal Year	Number of Cases
2024	285
2023	307
2022	274
2021	318
2020	302
2019	323
2018	300
2017	276
2016	248
2015	235
2014	268

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 2024	FY 2023	FY 2022	
\$945,000	\$1,437,000.00	\$1,307,134.02	Settlement Amounts
<u>\$1,711,479.98</u>	<u>\$1,606,025.77</u>	<u>\$1,073,575.00</u>	Attorney Fees and Expenses
\$2,656,479.98	\$3,043,025.77	\$2,380,709.02	Totals
6	13	10	Number of Settlements
65	46	59	Number of Pending Claims (end of FY)

Reimbursable Amounts

FY 2024	FY 2023	FY 2022	
\$ 500,000.00	\$ 500,000.00	\$ 500,000.00	Reimbursement Private Practice Reserve
<u>\$2,156,479.98</u>	<u>\$2,543,025.77</u>	<u>\$1,880,709.02</u>	Reimbursement State General Fund
\$2,656,479.98	\$3,043,025.77	\$2,380,709.02	Totals

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.

II. Residents in Training

Residents Self-Insurance Program Costs

FY 2024	FY 2023	FY 2022	
\$0	\$200,000.00	\$0	Settlement Amounts
<u>\$248,083.80</u>	<u>\$803,621.97</u>	<u>\$865,070.17</u>	Attorney Fees and Expenses
\$248,083.80	\$1,003,621.97	\$865,070.17	Totals
0	2	0	Number of Settlements
39	35	36	Number of Pending Claims (end of FY)

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

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III. Expenditures by Fiscal Year

Fiscal Year	Foundations and Faculty	Total Number Faculty	Residents in Training	Total Number Residents
2024	\$2,656,479.98	1,089	\$1,003,621.97	1,171
2023	3,043,025.77	1,014	1,003,621.97	897
2022	2,381,209.02	1,004	865,070.17	864
2021	1,763,603.18	955	748,420.73	902
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

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

	FY 24	FY 23	FY 22	FY 21	FY 20
Residents	0	0	0	\$800,000	\$300,000
Faculty, Foundations	<u>\$1,595,000</u>	<u>\$450,000</u>	<u>\$1,482,500</u>	<u>\$290,000</u>	<u>\$535,000</u>
Total	\$1,595,000	\$450,000	\$1,482,500	\$1,090,000	\$835,000