

7-121b. Attorney fees in damage actions for acts or omissions of health care providers; approval; definitions. (a) Subject to subsection (b) of K.S.A. 40-3411, and amendments thereto, whenever a civil action is commenced by filing a petition or whenever a pleading states a claim in a district court for damages for personal injuries or death arising out of the rendering of or the failure to render professional services by any health care provider, compensation for reasonable attorney fees to be paid by each litigant in the action shall be approved by the judge after an evidentiary hearing and prior to final disposition of the case by the district court. Compensation for reasonable attorney fees for services performed in an appeal of a judgment in any such action to the court of appeals shall be approved after an evidentiary hearing by the chief judge or by the presiding judge of the panel hearing the case. Compensation for reasonable attorney fees for services performed in an appeal of a judgment in any such action to the supreme court shall be approved after an evidentiary hearing by the departmental justice for the department in which the appeal originated. In determining the reasonableness of such compensation, the judge or justice shall consider the following:

(1) The time and labor required, the novelty and difficulty of the questions involved and the skill requisite to perform the legal service properly.

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the attorney.

(3) The fee customarily charged in the locality for similar legal services.

(4) The amount involved and the results obtained.

(5) The time limitations imposed by the client or by the circumstances.

(6) The nature and length of the professional relationship with the client.

(7) The experience, reputation and ability of the attorney or attorneys performing the services.

(8) Whether the fee is fixed or contingent.

(b) As used in this section:

(1) "Health care provider" means a person licensed to practice any branch of the healing arts, a person who holds a temporary permit to practice any branch of the healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a licensed medical care facility, a health maintenance organization, a licensed dentist, a licensed professional nurse, a licensed practical nurse, a licensed optometrist, a licensed podiatrist, a licensed pharmacist, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a licensed physical therapist or an officer, employee or agent thereof acting in the course and scope of such person's employment or agency; and

(2) "professional services" means those services which require licensure, registration or certification by agencies of the state for the performance thereof.

History: L. 1976, ch. 248, § 1; L. 1986, ch. 231, § 2; L. 1986, ch. 229, § 22; L. 1986, ch. 10, § 1; L. 1988, ch. 246, § 10; L. 1994, ch. 181, § 2; L. 2003, ch. 128, § 15; Apr. 1, 2004.