MINUTES

HEALTH CARE STABILIZATION FUND OVERSIGHT COMMITTEE

December 19, 2008
Room 143-N—Statehouse

Members Present

Representative Eber Phelps, Presiding Officer
Darrell Conrade
Dr. Paul Kindling
Dr. Terry "Lee" Mills
Representative Jim Morrison
Penny Schwab
Dr. Arthur D. Snow

Members Absent

Dick Bond, Chairperson
Senator Jim Barnett
Senator Greta Goodwin
Dr. James Rider

Staff Present

Melissa Calderwood, Kansas Legislative Research Department
Dylan Dear, Kansas Legislative Research Department
Bruce Kinzie, Office of the Revisor of Statutes

Others Present

John Kiefhaber, Kansas Chiropractic Association
Dustin Moyer, Kansas Health Policy Authority
Jerry Slaughter, Kansas Medical Society
Dodie Wellshear, Kansas Academy of Family Physicians
Bob Williams, Kansas Association of Osteopathic Medicine
Shanelle Dupree, Kansas Health Policy Authority

At 9:03 a.m., Representative Phelps called the meeting to order and indicated that, without objection, he would preside over the Committee meeting at the request of Chairman Bond. There was no objection. The Presiding Officer (Representative Phelps) then welcomed everyone to the annual meeting of the Oversight Committee and asked the three new members appointed at the December Legislative Coordinating Council meeting to introduce themselves. Darrell Conrade (appointed as representative of the insurance industry) indicated he has an insurance agency in Newton and has worked with the Health Care Stabilization Fund for many years. Penny Schwab (appointed as a representative for health care providers) indicated she is from Copeland and is recently retired, having spent 22 years working with FQHCs (Federally-Qualified Health Centers) and the United Methodist Mexican American Ministries. Dr. Lee Mills (appointed as a representative for health care providers) indicated he also is from Newton and is serving in private practice there. Dr. Mills noted he has served as President of the Kansas Academy of Family Physicians. The new members were welcomed by the Committee and Presiding Officer who noted that the importance and history of the Fund and the role of the Oversight Committee. [The members replace former Committee members Brock, Doubek-Phillips, and Schmidt.]

The Presiding Officer then recognized Melissa Calderwood, Kansas Legislative Research Department, for an overview of relevant legislation and materials provided to the Committee for its review (Attachments 1-2). Ms. Calderwood noted an interim topic assigned by the Legislative Coordinating Council to the Special Committee on Insurance: *Study 2008 HB 2782 which would have enacted the Kansas Medical Liability Reform Act. The proposed legislation would have required the collection of Kansas specific information about medical malpractice litigation costs. Review the possibility if such additional reporting requirements were enacted how they could best be coordinated with other reporting requirements. Review and analyze relevant model acts of the National Association of Insurance Commissioners (NAIC) that might relate to HB 2782*. Ms. Calderwood provided a briefing on the legislation and an update on the conclusions of the Special Committee on Insurance. Ms. Calderwood indicated that the legislation would have required certain reporting entities, including insurance companies and the Health Care Stabilization Fund, to submit an annual report about their operations and medical malpractice and health care professional liability claims to the Insurance Department. Ms. Calderwood noted that issues reviewed by the Special Committee included making the NAIC guidelines (model act) Kansas-specific to incorporate defined terms including health care provider and self-insurer, avoiding duplication and unnecessary costs associated with the reporting requirements and data, and addressing the privacy and confidentiality provisions, including HCSF settlement agreements and the Kansas Open Records Act. Upon completion of her briefing, the Presiding Officer inquired if the Special Committee had recommended the introduction of any legislation on this topic. Ms. Calderwood indicated that the Committee had not and instead expressed interest in the progress of and potential introduction of the NAIC model (the Medical Professional Liability Closed Claim Reporting Model Law).

Ms. Calderwood also noted the relevant provisions of the enacted health reform legislation, H. Sub. for SB 81 (Attachment 3). Ms. Calderwood then noted the Committee report to the 2008 Legislature and the recommendations that have been continued in recent reports, as well as an updated article about the Fund in *The 2009 Legislator Briefing Book*.

The Presiding Officer next recognized Chip Wheelen, Executive Director, Health Care Stabilization Fund, to provide an overview of the 2007-2008 activities of the Health Care Stabilization Fund Board of Governors (Attachment 4). Mr. Wheelen began his report by providing staff introductions: Rita Noll, Deputy Director and Chief Attorney; Lorie Anderson, Compliance Supervisor; Russ Sutter, Contractual Actuary; and Dr. Jimmie Gleason, Board Vice-Chairman. Mr. Wheelen provided a brief history of the Fund and discussed the election of Fund coverage. Mr. Wheelen noted that few providers elect the $100,000 per claim coverage ($300,000 aggregate) and most providers continue to choose the highest coverage option ($1 million/claim and annual aggregate of $3 million

when combined with the basic level of liability insurance). Some health care providers (namely high risk specialists, large medical centers), Mr. Wheelen continued, purchase excess liability insurance in addition to the HCSF coverage. The Executive Director also highlighted the 16 categories of health care providers statutorily required to participate in the Fund.

Mr. Wheelen then commented that the Availability Act promotes marketing of commercial medical liability insurance in two principal ways – it limits the maximum liability per claim to $200,000 as well as limiting the annual aggregate losses to $600,000 for any health care provider; and, the Act, through the creation of a joint underwriting association, allows insurers to engage in prudent underwriting practices. Currently, Mr. Wheelen continued, there are about two dozen insurance companies or risk retention groups offering the primary layer of medical liability insurance in Kansas. About 80 percent of the commercial insurance coverage is sold by only five companies.

The Presiding Officer indicated there would be an agenda change and allowed Mr. Kurt Scott, Kansas Medical Mutual Insurance Company (KaMMCO), to make a comment on the status of the medical malpractice market in Kansas. Mr. Scott testified that KaMMCO currently insures over half of the state hospitals (75 percent) and physicians (55 percent) and continues to serve as the servicing carrier for the Plan (525 participating providers). Mr. Scott then characterized the national marketplace (KaMMCO is the only domestic insurer offering coverage) by noting that the marketplace at the beginning of the decade faced severe losses and saw an increase in rates for providers. The market now is much more solid, aided by tort reform measures, rate increases paid by providers, the decrease in the number of claims at the national and state level, the formation of new companies, and the increase in competition. Mr. Scott noted that over the past two years, KaMMCO has not increased rates (reduction of 3.9 percent in 2008 and physician rates are down 10 percent for 2009). The Kansas environment is good and there is a lower frequency of claims. Additionally, Mr. Scott continued, new companies are entering the Kansas market, often with aggressive rates. Mr. Scott noted that the medical malpractice market is and has been cyclical in nature, noting the potential for the next "crisis," including the outcome of two court challenges (noneconomic damages; wrongful death caps). Mr. Scott also noted the current economic environment can impact the business of insurance and reinsurance and generally, in recession times, there is an increase in workers compensation and medical professional liability claims.

The Presiding Officer thanked Mr. Scott for his report and welcomed comments from the Committee. Committee members asked about if there was a corresponding upswing in claims, as well as the severity, matching the downturn in the economy. Mr. Scott spoke to KaMMCO's rate of claims measured per 100 physicians and indicated an upward increase was expected in 2010. Mr. Scott noted that KaMMCO is specific to Kansas health care providers so it has the ability to engage in loss protection and moderate its claims experience. The impacts on KaMMCO and other insurers will be seen in the reduction in investment income and the reliance on reinsurance markets (particularly for excess lines). A Committee member inquired about coverage options available for residents who choose to moonlight and Mr. Scott indicated that the Plan covers an on "occurrence basis" while the private market had been "claims made." The private market is no longer available and the occurrence basis has proved to be the better option.

The Presiding Officer then asked Mr. Wheelen to continue his presentation. Mr. Wheelen highlighted the Board's statutory report (as required by KSA 40-3403(b)) for FY 2008. Among the highlights, surcharge revenue collections amounted to $24,264,946, with the lowest surcharge rate of $50 (chiropractor, first year of Kansas practice who selected the lowest coverage option) and the highest surcharge rate of $14,593 (neurosurgeon, five or more years of Fund liability exposure who selected the highest coverage option). There were 34 medical malpractice cases involving 41 Kansas health care providers decided as a result of a jury trial. Fifty-seven cases involving 65 claims were settled resulting in HCSF obligations amounting to $17,452,500 (average compensation per

claim was $268,500). These amounts are in addition to the compensation agreed to by primary insurers, Mr. Wheelen noted. Due to past and future periodic payment of compensation the amounts previously reported were not necessarily paid during FY 2008; instead, Mr. Wheelen noted, the total claims paid during the fiscal year amounted to $25,308,355. Of that amount, a payment of $2,203,674 was paid to the Plan. Additionally, $800,000 was paid to claimants on behalf of insurance companies that reimbursed the Fund for these payments. Mr. Wheelen stated that the actual **net claims** paid during FY 2008 totaled $22,304,681. The preliminary financial report, as of June 30, 2008, indicated assets amounting to $214,631,127, and liabilities amounting to $194,750,196.

Mr. Wheelen then commented on self-insured health care providers, noting that KSA 40-3414 allows certain health care providers to insure as well as requiring certain state facilities for veterans and the faculty and residents of the University of Kansas Medical Center and its affiliates to be self-insured. In addition to the state-owned medical care facilities and affiliates of KUMC, there currently are 13 self-insured hospitals and surgery centers. Mr. Wheelen noted that the HCSF does not receive any compensation for its administrative costs attributable to the self-insured programs affiliated with the University of Kansas. The Fund is reimbursed for claims payments up to the maximum $200,000 per claim. Rita Noll, Chief Attorney and Deputy Director, was asked to address the FY 2008 medical professional liability experience (based on all claims resolved in FY 2008 including judgments and settlements) (Attachment 5).

Ms. Noll began by noting jury verdicts. Of the 34 medical malpractice cases that were tried to juries during FY 2008, 27 cases were tried to juries in Kansas courts and seven cases involving Kansas health care providers were tried to juries in Missouri. The largest number of cases, 13, were tried in Sedgwick County. Of those 34 cases, 25 resulted in defense verdicts. Plaintiffs won verdicts in four cases, and one case resulted in a "split" verdict. (Ms. Noll's testimony included a nine-year history of total cases, defense verdicts, plaintiff verdicts, split verdicts, and mistrials). Ms. Noll then highlighted the claims settled by the Fund, noting that settlement amounts incurred by the Fund during the fiscal year totaled $17,352,500 (65 claims, 57 cases). The previous fiscal year totaled $20,929,250 (61 claims, 53 cases). The figures, Ms. Noll emphasized, do not include settlement contributions by primary or excess insurance carriers. (Ms. Noll's testimony included a history of claims and settlements from FY 1991 to FY 2008). Ms. Noll then noted that HCSF individual claim settlement contributions during FY 2008 ranged from a low of $25,000 to a high of $800,000. Of the 65 claims involving Fund moneys, the Fund provided primary coverage for inactive health care providers in six claims. The Fund received tenders of primary insurance carriers' policy limits in 54 claims (in addition to the $17.35 million incurred by the Fund – primary insurance carriers contributed $10.6 million to the settlement of those claims). Ms. Noll then noted the FY 1995 to FY 2008 settlement contributions by primary carriers, the HCSF, and excess carriers, as well as a report of HCSF total settlements and verdict amounts, as well as the new cases opened, for FY 1977 to FY 2008.

Ms. Noll next addressed the self-insurance programs and reimbursements for the University of Kansas Foundations and Faculty and residents (Attachment 6). Ms. Noll noted that five claims were settled during FY 2008 for the KU Foundations and Faculty for a total of $966,327.58 ($497,623.96 from the Private Practice Reserve Fund, remainder from the State General Fund). The total for FY 2007, Ms. Noll stated, had been 15 claims totaling $2.037 million, and she was anticipating a similar experience for FY 2009. FY 2008 reimbursements for the two residency programs (all from the State General Fund) totaled $648,296.80 ($501,775.96 for the Wichita Center for Graduate Medical Education (WCGME), and $146,493.84 for KU). Moneys paid by the Health Care Stabilization Fund for its excess coverage totaled $213,000. Ms. Noll noted there had been only one settlement for WCGME in FY 2008, as compared to four in FY 2007, and characterized the self-insurance program reimbursements experience in FY 2008 as a "good year."

A Committee member noted appreciation for the reporting over the years and asked Ms. Noll if she could quantify the administrative costs borne by the Fund (administering self-insured programs affiliated with KU). Ms. Noll noted that with first dollar coverage (the first $200,000), the Fund handles the claim including an evaluation and assistance and also works on risk management prior to the claims. Ms. Noll stated she had not calculated the Fund employee time, indicating that office space is utilized for claims as well as work on accounts (payments, seeking reimbursements) and these tasks have been assimilated into Fund office duties since 1990. Another Committee member questioned the variance in claims data between the two residency programs. Ms. Noll responded that the increased claims experience in Wichita is somewhat related to the legal climate in Sedgwick County, but also is related to the type of care provided by the WCGME residents (more hands-on, direct involvement in patient care). Ms. Noll stated that the Fund is trying more cases and aggressively defending residents. The Presiding Officer then inquired if FY 2009 will look more like the FY 2007 experience. Ms. Noll stated that given the first six-months of experience in the new fiscal year, FY 2009 looks more like FY 2007.

Mr. Wheelen then returned to his comments and highlighted a recent legislative issue, claims reporting. Mr. Wheelen acknowledged the information provided by Committee staff and stated the concerns the Fund had with the proposed legislation, 2008 HB 2782. Mr. Wheelen noted that the Fund does a good job on claims reporting, including reports to this legislative oversight committee, publishing information on KANView, and publishing its fiscal year reports on its website. Mr. Wheelen indicated the Fund has an obligation to protect individual data and cited HIPAA. He noted that the Fund does not report on claims under $200,000 (Fund is not involved). The Committee members discussed the privacy provision and the provision specific to review prior to July 1, 2013. The Revisor stated that the provision is much like a sunset and would require legislative review of the confidentiality provisions established in the Act prior to that date. Mr. Wheelen requested the Committee indicate its satisfaction with the adequacy of the Fund report to this Committee and the Legislature. The Committee, Mr. Wheelen continued, also could recommend deferment of any further action on this issue until the NAIC has completed its work on the model bill.

Mr. Wheelen also noted work on the defined term "medical care facility" in light of questions raised regarding HCSF coverage of institutional providers. After a series of meetings and discussions with representatives of the Kansas Department of Health and Environment, hospitals, and the medical profession, the Board adopted policies and procedures that clarify the liability coverage of the Health Care Stabilization Fund and also prescribe the application and renewal process for self-insured health care providers (Attachment 7).

Mr. Wheelen also discussed the premium surcharge, noting the Board's efforts last year to change its practice in regard to planning for future liabilities attributable to inactive health care providers (commonly referred to as "tail coverage"). The change in methodology has increased the Fund's indicated liabilities, which reduced the unassigned reserves. The Board also decided to use undiscounted liabilities for determining reserve requirements and try to achieve unassigned reserves equal to about 25 percent of the indicated liabilities. This unassigned reserves goal has been adopted as a performance measure in the Fund's annual budget request. Mr. Wheelen noted the importance of maintaining adequate unassigned reserves in order to be prepared for unforeseen circumstances. Mr. Wheelen then noted that the Board of Governors decided to increase the HCSF premium surcharge rates for most health care providers. The rate increase for most providers ranged from four to six percent. Mr. Wheelen noted that a few categories of health care providers did not experience any increase in surcharge cost this fiscal year.

Next, Mr. Russel Sutter, Towers Perrin, was recognized to provide an actuarial report (Attachment 8). Mr. Sutter, actuary to the Fund, began his presentation, noting that findings reported to the Board in March 2008 included: the Fund is financially sound; loss experience on prior years

was generally doing better than previously expected; Fund assets were higher than expected; and experience by class varied significantly. Mr. Sutter indicated that a concern shared with the Board was the potential drop in investment income, given the rapid decline in short-term interest rates that occurred in early 2008. Considering this information, Mr. Sutter continued, the Board elected to raise surcharge rates by an average of five percent.

Mr. Sutter next reported to the Committee that as of June 30, 2008, the Fund held assets of $210.0 million and liabilities (discounted) of $174.5 million, with $35.5 million in reserve. Projections for June 2009 include $212.0 million in assets and liabilities of $179.8 (discounted), with $32.2 million in reserve. (Discounted liabilities assume a 3.5 percent yield.) The actuary then highlighted the estimates of Fund liabilities at June 30, 2008, and June 30, 2009. Projections for losses and expenses for active providers indicate an increase (losses increase an estimated $4.0 million; expenses increase $1.2 million). Another increase is projected in inactive providers (tail coverage), increasing from $49.3 million to $50.5 million. Mr. Sutter noted that with the change in consideration of tail coverage, projections are being made out to 2055 in the model. A Committee member questioned the length of time associated with a claim, from time of occurrence. Ms. Noll commented that the statute of limitations in Kansas is eight years. Future payments remained constant and very little change was projected for claim handling. Mr. Sutter then addressed pending claims, noting a concern regarding the significant increase in the number of open claims and amount in reserves since December 2006 (open claims; 12/31/2006: 169; 12/31/2007: 198; 10/31/2008: 222). Mr. Sutter noted, however, that reserve adequacy may have increased in the last few years.

Mr. Sutter then highlighted the tail liabilities for active providers, noting that the firm's 2008 review reflected the change in recognition of tail liabilities. In prior years, he continued, only the liabilities of inactive providers were estimated. The 2008 review included liabilities of future tail claims from currently active providers with five or more years of Fund compliance; this change in approach increases the Fund liabilities by more than $30 million (estimate includes claims expenses, which add 50 percent to the liability). The model, discussed briefly above, has three key sets of assumptions: how many providers "earn" their tail; when do earners quit; and when do quitters have claims reported. The current estimates of tail liabilities include: providers with five or more years in FY 2008 staying active until 2037; claims reported through FY 2045; and claims paid through FY 2055. The actuary then reviewed findings by provider class, noting that while the analysis of experience by Fund class continues to show significant differences in relative loss experience among classes, the variability has narrowed since the initial study in 2005. Class 11 (specialty surgery – neurosurgery) had the highest rate in loss experience which was reflected in the surcharge increase approved by the Board. Mr. Sutter noted the goal would be to have no one class subsidizing another. Mr. Sutter's presentation also included a comparison of the Fund's surcharge revenue history with the corresponding losses from active providers and a separate comparison of recent rate changes by class and fiscal year. Mr. Sutter then reviewed the FY 2009 surcharge: Fund classes 1,12, and 14 saw no change; Fund classes 2, 4, 5, 7, 8, 10, and 11 saw a 6.0 percent increase; Fund classes 3, 6, 9, and 13 saw a 4.0 percent increase. Fund classes 15 through 21 (Plan insureds; corporations, facilities; and residency training programs) saw a 35 to 37 percent increase.

Mr. Sutter concluded his report noting the implications of the financial crisis. He noted that while many insurance companies have been noted (in the media), most situations relate to either life/annuity products or asset impairment issues. The core of property/casualty results, with some exceptions, remain reasonable. The two implications for the Fund, he concluded, are: the market value of assets has dipped below amortized cost, and near-term, investment yields appear likely to be relatively low.

Mr. Wheelen then continued his remarks to discuss contemporary issues facing the Fund. Mr. Wheelen noted the earlier discussion about reporting medical malpractice claim information and

the concern about reporting information from settlement agreements, as most of the settlement agreements approved by the courts include provisions of confidentiality. Mr. Wheelen noted that the Fund has two ethical and legal duties: protecting the confidentiality of patient information; and honoring the court approved confidentiality of a settlement agreement. Yet, Mr. Wheelen emphasized, the Fund Board of Governors is a state agency, subject to the Kansas Open Records Act. Mr. Wheelen noted the Board believes that its individual claims information should be exempt from the Kansas Open Records Act; aggregate claim information should, however, be public information. Mr. Wheelen requested that the Committee report endorse this principle and the need to exempt individual claims from the Kansas Open Records Act.

Mr. Wheelen next addressed the status of an information management project first reviewed at the December 2007 meeting. Mr. Wheelen noted that the 2008 Legislature supported the HCSF request for supplemental expenditure authority which enabled the Fund Board of Governors to contract for services with a consultant. Mr. Wheelen reviewed the bid process and indicated the Board entered into a contract with Virchow Krause and Company of Madison, Wisconsin. The consultant determined, among other things, that: ". . . HCSF's systems and processes are heavily manual and paper based, provide limited real time and historical information tracking, have led to process inefficiencies, do not provide the functionality needed by users, and are not flexible or expandable enough to grow and adapt to the changing and evolving needs of HCSF." The consultants were not able to obtain cost estimates from vendors that sell information systems and software designed for professional liability insurance companies. Without a reliable estimate, it is difficult, Mr. Wheelen continued, to determine how much budget authority will be needed to proceed. Mr. Wheelen noted concerns about pursuing a project with a cumulative amount of $250,000 or more for a small agency, lacking technical expertise. The agency had hoped to use Kansas Savings Incentive Program (KSIP) funds to afford the cost of technology development; however, the Board of Governors was recently informed of a moratorium on all KSIP expenditures. Mr. Wheelen indicated that in view of uncertain KSIP funding availability, it will be necessary to ask the Legislature to authorize additional expenditure authority in order to afford an information technology consultant. It is estimated that the consultant contract will not exceed $40,000. Mr. Wheelen requested the Committee consider endorsing the request for additional expenditure authority to proceed with plans for a new information technology system. Mr. Wheelen also requested the Committee consider an endorsement of a request to exempt the Fund Board of Governors from the state purchasing laws regarding acceptance of the lowest bid. The Board, he noted, would best be served by companies that already have experience with professional liability insurance systems.

Committee members asked about the timing of the request, including any supplemental budget requests, and how the project would be funded. Mr. Wheelen responded, noting that the previous supplemental year request did not pass until April and the project would be funded 100 percent by HCSF dollars. Another Committee member encouraged Mr. Wheelen to visit with DISC about the project and agency needs. Mr. Wheelen thanked the Committee for its consideration of the Board of Governors' report, indicating that the Fund has accomplished what the Legislature intended: providing stability by assuring that physicians and other care professionals have access to liability insurance.

Following the formal presentations, the Presiding Officer asked if anyone had any suggested changes to the Health Care Provider Insurance Availability Act. There were no plan amendments suggested by those present.

The Presiding Officer then asked for additional comments on the current status of the medical malpractice market in Kansas and recognized Jerry Slaughter, Executive Director, Kansas Medical Society. Mr. Slaughter characterized the current market experience as a time of relative tranquility, with Kansas experiencing a strongly properly run Fund and tort reform. The market also was

described as a viable, vigorous market. Mr. Slaughter then responded to the statutory questions posed to the Committee each year, noting the Oversight Committee needs to continue meeting and the report it generates is incredibly important. The actuarial report provided by Towers Perrin, he continued, is superb and the Medical Society is supportive of the reporting of tail liabilities, viewing this change as appropriate and responsible. Mr. Slaughter then offered support for the Board of Governors' recommendations (accuracy and adequacy of its reporting; exemption from KORA; increased expenditure authority for information management; and exemption from certain purchasing requirements). Mr. Slaughter noted the State's financial condition, describing it as "challenging," especially for FY 2010. He recommended the Committee include language in its report regarding an admonition that the funds from physicians and other health care providers' surcharge payments be held in trust and be used to pay claims.

The Presiding Officer then invited Committee discussion on recommendations for the Committee report. *It was moved by Representative Morrison and seconded by Dr. Mills to accept the recommendations by Mr. Wheelen and Mr. Slaughter.* Those recommendations are:

Claims Reporting. The Committee is satisfied with the adequacy of information currently reported on an annual basis by the Health Care Stabilization Fund Board of Governors. The Committee recognizes the review of claims reporting legislation by the 2008 Interim Special Committee on Insurance and supportive of its recommendation to defer any further action on this issue until the National Association of Insurance Commissioners (NAIC) has completed its work on model legislation.

Kansas Open Records Act, Individual Claims. The Committee shares the concern of the Board of Governors regarding privacy and confidentiality. The Committee recognizes that while the Board of Governors is a public agency, personally-identifiable medical information is subject to HIPAA and further, most of the settlement agreements (claims) approved by the courts include provisions for confidentiality. The Committee endorses the recommendation of the Board of Governors and believes that individual claims information should be exempt from the Kansas Open Records Act, while the Board's aggregate claims information should be public information.

Information Management System, Expenditure Authority and Exemption from Purchasing Laws. The Committee continues in its support of the modernization of information management and technology at the Health Care Stabilization Fund Board of Governors. The Committee notes the previous work done by a consultant for the Board of Governors which indicates that the HCSF's systems and processes are "heavily manual and paper based, provide limited real time and historical information tracking, have led to process inefficiencies, do not provide the functionality needed by users, and are not flexible or expandable enough to grow and adapt to the changing and evolving needs of HCSF." The Committee also notes that the Fund will not be permitted (in the near future) to use KSIP expenditure authority for technology development and is therefore supportive of an increased expenditure authority for State Operations in an amount not likely to exceed $40,000 for an information technology consultant. Further, the Committee recognizes that the system will require specifications unique to a professional liability insurance system, and to expedite the quality and outcome of the project, an exemption from KSA 75-3739 and 75-3740 is necessary in this system design.

Fund To Be Held In Trust. The Committee recommends the continuing of the following language to the Legislative Coordinating Council, the Legislature, and the Governor regarding the Health Care Stabilization Fund:

- The Health Care Stabilization Fund Oversight Committee continues to be concerned about and is opposed to any transfer of money from the HCSF to the

State General Fund. The HCSF provides Kansas doctors, hospitals, and the defined health care providers with individual professional liability coverage. The HCSF is funded by payments made by or on the behalf of each individual health care provider. Those payments made to the HCSF by health providers are not a fee. The State shares no responsibility for the liabilities of the HCSF. Furthermore, as set forth in the Health Care Provider Insurance Availability Act, the HCSF is required to be ". . . held in trust in the state treasury and accounted for separately from other state funds."

- Further, this Committee believes the following to be true: All surcharge payments, reimbursements, and other receipts made payable to the Health Care Stabilization Fund shall be credited to the Health Care Stabilization Fund. At the end of any fiscal year, all unexpended and unencumbered moneys in such Health Care Stabilization Fund shall remain therein and not be credited to or transferred to the State General Fund or to any other fund.

In its consideration of these recommendations, the Committee also makes note of the *gratis* work through administrative support done by the Fund on behalf of the two residency programs. *The motion carried*.

The Presiding Officer then welcomed comment on the two statutory questions posed to the Oversight Committee. *It was moved by Dr. Kindling and seconded by Ms. Schwab that the Committee should be continued*. *The motion carried*. The Committee then considered the necessity of contracting for an independent actuarial review in light of the information provided by the Board of Governors staff and its actuary. *It was moved by Dr. Kindling and seconded by Mr. Conrade that there is no need to request an independent actuarial review*. *The motion carried*.

The Presiding Officer then thanked the new Committee members, serving members, staff, and attendees for their participation in this annual review. There being no further business to come before the Committee, the meeting was adjourned at 11:45 a.m.

Prepared by Melissa Calderwood
Edited by Dylan Dear

Approved by Committee on:

January 29, 2009
(date)

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