

UNIVERSITY OF KENTUCKY BOARD OF TRUSTEES

William E. Thro, General Counsel, University of Kentucky



AN EQUAL OPPORTUNITY UNIVERSITY

MEDICAL MALPRACTICE UPDATE

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

Medical Malpractice in Kentucky

- The University of Kentucky cannot be sued unless the General Assembly waives our immunity.
- The General Assembly has not waived immunity for medical malpractice claims against the university.
- Those can be brought against our physicians and nurses.
- That results in the need for malpractice insurance.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

Medical Malpractice Insurance

By definition:

- Medical malpractice insurance is a type of liability coverage that protects healthcare providers and organizations when a patient claims they were harmed due to medical care.

It pays for:

- Legal defense costs (attorneys, court fees, expert witnesses).
- Settlements or judgments if the provider or organization is found responsible.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

Medical Malpractice Insurance at UK

- In Kentucky, the General Assembly has created a statutory insurance fund for UK physicians, providers and nurses that covers the cost of defending claims as well as any settlement or judgment up to \$1.5 million.
- The fund is administered by a multidisciplinary committee with representation from UK, UK HealthCare, UK King's Daughters and UK St. Claire. It is co-chaired by Margaret Pisacano, deputy general counsel for medical risk, and Bill Thro, general counsel. It includes physicians, nurses, finance and lawyers.
- Our providers do not have to buy their own insurance.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

Mechanics of Medical Malpractice Insurance Claims

- **>\$1.5 million**
 - Claims are covered by the fund. This is the majority of claims.
- **\$1.5-10 million**
 - The fund buys excess insurance from Insure Blue, our captive insurance company.
- **\$10-40 million**
 - Insure Blue buys reinsurance for claims above \$10 million from Lloyd's of London Insurance Market.
- **\$40+ million**
 - The policy limits are \$40 million, but the state itself would cover anything above \$40 million.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

What is Insure Blue?

- Insure Blue is the university's captive insurance company, used to manage healthcare-related risks — primarily medical malpractice.
- It is a standard approach among large academic health systems and reflects a mature, disciplined approach to risk management. Many academic health systems like University of Kansas, Indiana University, University of Cincinnati, University of Chicago, Emory, Harvard and Johns Hopkins have captive insurance companies.
- This is not just an insurance structure — it is a tool that helps us deliver care sustainably across the Commonwealth.

What is a captive insurance company?

By definition:

- A captive insurance company is an insurance company that is owned and controlled by the organization it insures, created specifically to cover that organization's own risks.
- Instead of paying premiums to an outside insurer, the organization:
 - Pays premiums into its own insurance company and
 - Uses those funds to pay future claims.
- It is a formal, regulated version of self-insurance with structure, oversight and dedicated funding, rather than paying claims directly out of operating funds like self-insurance.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

How did we acquire Insure Blue?

Aug. 3, 2012: King's Daughters Health System formed Integrated Health Insurance Limited (IHIL).

July 2022: UK engaged Marsh to complete a captive utilization analysis to assess keeping IHIL.

Oct. 27, 2022: The UK Board of Trustees approved PR1, authorizing the transaction to acquire King's Daughters Health System and its corporations, including IHIL.*

January 1, 2023: The Cayman Government approved UK's acquisition.

April 21, 2021: UK's affiliated corporation, Beyond Blue Corporation, and King's Daughters Health System established a joint venture — Royal Blue Health LLC.

Sept. 30, 2022: If certain performance metrics were met, UK would have the option of acquiring Royal Blue Health and its subsidiary corporations.

Dec. 1, 2022: UK formally acquired Royal Blue Health LLC and corporations, including IHIL, renamed Insure Blue.

*Pending approval of the Cayman Islands Monetary Authority.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

PR 1

Office of the President
October 27, 2022

Members, Board of Trustees:

APPROVAL OF THE UNIVERSITY OF KENTUCKY'S
ACQUISITION OF ROYAL BLUE HEALTH LLC
AND ALL ITS SUBSIDIARY CORPORATIONS

Recommendation: that the Board of Trustees approve the University of Kentucky's Acquisition of Royal Blue Health LLC and all its subsidiary corporations. To accomplish this objective, the Board of Trustees should take the specific actions detailed below.

Background: On April 21, 2021, the University of Kentucky and King's Daughters Health System, Inc. established a joint venture. To create the joint venture, the university's affiliated corporation, Beyond Blue Corporation, and King's Daughters Health System, Inc. formed Royal Blue Health LLC. Most of the subsidiary corporations of King's Daughters Health System, Inc. were transferred to Royal Blue Health LLC and became wholly owned subsidiaries of Royal Blue Health LLC.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

Why do we use a captive at UK?

- **Cost control:** Instead of paying premiums to an external carrier, we retain those funds and use them to pay claims. We also can go directly a reinsurer.
- **Best practice:** Many academic health systems have captive insurance companies.
- **Stability:** Reduces reliance on expensive commercial insurance carriers that have a limited appetite for healthcare risk.
- **Flexibility:** Healthcare organizations face high-cost, unpredictable liability risks, and commercial insurance may not fully meet those needs. Insure Blue allows us to cover our complex or unique risks and respond quickly.
- **Mission support:** We are able to reinvest savings into patient care.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

Financial Impact

- To date: Approximately \$5.7 million in malpractice-related savings.
- To date: Expansion into Excess General Liability and Educators Legal Liability has led to \$1M+ total premium savings.

MEDICAL MALPRACTICE UPDATE

Insure Blue Update

Why is Insure Blue domiciled in the Cayman Islands?

- The Cayman Islands have more healthcare captives than any other jurisdiction.
- It is the leading global jurisdiction for healthcare captives because of:
 - A strong regulatory framework
 - Greater flexibility and efficiency
 - Ability to cover affiliates, joint ventures, managed hospitals and independent medical staff

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Insure Blue Update

Transparency and Insure Blue

- Insure Blue — like Beyond Blue, Champions Blue, Claire Blue and Royal Blue — is an affiliated corporation. That means it has same immunity as the university.
- Like all of the affiliated corporations, Insure Blue is subject to Open Records, Open Meetings Act, Procurement Code, etc.
- Insure Blue has two board meetings per year. One is required to be in the Cayman Islands and the other is in London, when we go to the Lloyd's market to buy reinsurance.
- Consistent with the Open Meetings Act, all of the board meetings are live streamed, so anyone is able to watch.

QUESTIONS



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