

§ 116-350.105. Establishment and administration of self-insurance trust funds; rules and regulations; defense of actions against covered persons; application of G.S. 143-300.6.

(a) In the event the Board elects to act as self-insurer of a program of liability insurance, it may establish one or more insurance trust accounts to be used only for the purposes authorized by this Article; provided, however, said program of liability insurance shall not be subject to regulation by the Commissioner of Insurance. The Board is authorized to receive and accept any gift, donation, appropriation, or transfer of funds made for the purposes of this section and to deposit such funds in the insurance trust accounts. All expenses incurred in collecting, receiving, and maintaining such funds and in otherwise administering the self-insured program of liability insurance shall be paid from such insurance trust accounts.

(b) Subject to all requirements and limitations of this Article, the Board is authorized to adopt rules for the establishment and administration of the self-insured program of liability insurance, including, but not limited to, rules and regulations concerning the eligibility for and terms and conditions of participation in the program, the assessment of charges against participants, the management of the insurance trust accounts, and the negotiation, settlement, litigation, and payment of claims.

(c) The Board is authorized to create a UNC Health Liability Insurance Trust Fund Council composed of not more than 13 members; one member each shall be appointed by the State Attorney General, the State Insurance Commissioner, the Director of the Office of State Budget and Management, and the State Treasurer; the remaining members shall be appointed by the Board. Subject to all requirements and limitations of this Article and to any rules and regulations adopted by the Board under the terms of subsection (b) of this section, the Board may delegate to the UNC Health Liability Insurance Trust Fund Council responsibility and authority for the administration of the self-insured liability insurance program and of the insurance trust accounts established pursuant to such program.

(d) Defense of all suits or actions against an individual health care practitioner who is covered by a self-insured program of liability insurance established by the Board under the provisions of this Article may be provided by the Attorney General in accordance with the provisions of G.S. 143-300.3 of Article 31A of Chapter 143; provided, that in the event it should be determined pursuant to G.S. 143-300.4 that defense of such a claim should not be provided by the State, or if it should be determined pursuant to G.S. 143-300.5 and G.S. 147-17 that counsel other than the Attorney General should be employed or, if the individual health care practitioner is not an employee of the State as defined in G.S. 143-300.2, then private legal counsel may be employed by the UNC Health Liability Insurance Trust Fund Council and paid for from funds in the insurance trust accounts.

(e) For purposes of the requirements of G.S. 143-300.6, the coverage provided State employees by any self-insured program of liability insurance established by the Board pursuant to the provisions of this Article shall be deemed to be commercial liability insurance coverage within the meaning of G.S. 143-300.6(c).

(f) By rules adopted by the Board in accordance with subsection (b) of this section, the Board may provide that funds maintained in insurance trust accounts under such a self-insured program of liability insurance may be used to pay any expenses, including damages ordered to be paid, which may be incurred by the System or the University of North Carolina Hospitals at Chapel Hill with respect to any claim, based on alleged negligent acts in the provision of health care services, which may be prosecuted under the provisions of Article 31 of Chapter 143 of the General Statutes. (2023-134, s. 4.10(b).)