

HOUSE BILL No. 2673

By Committee on Health and Human Services

2-13

1 AN ACT concerning the healing arts; relating to the physician assistant
2 licensure act; Kansas healing arts act; amending K.S.A. 65-2803, 65-
3 2812, 65-2833, 65-2839a, 65-2840a, 65-2842, 65-2846, 65-2850, 65-
4 2852, 65-2857, 65-2858, 65-2860, 65-2863a, 65-2864, 65-2865, 65-
5 2866, **65-2873, 65-2874, 65-2875, 65-2885, 65-2893, 65-2898, 65-
6 28,122, 65-28,126**, 65-28a02, 65-28a06, 65-28a07, 65-28a08, 65-28a09
7 and 65-28a11 and K.S.A. 2013 Supp. 8-1001, 38-2310, 40-2123, 65-
8 1626, 65-2802, 65-2809, 65-2836, 65-2837, 65-2838, 65-2838a, 65-
9 2844, 65-2851a, 65-2867, **65-2872, 65-2895, 65-28,127, 65-28,132**, 65-
10 28a03, 65-28a05, 65-4101, 65-6112, 65-6124, 65-6129 and 72-8252
11 and repealing the existing sections; also repealing **K.S.A. 65-2877 and**
12 **K.S.A. 2013 Supp. 65-28a10.**

13

14 *Be it enacted by the Legislature of the State of Kansas:*

15 Section 1. K.S.A. 2013 Supp. 8-1001 is hereby amended to read as
16 follows: 8-1001. (a) Any person who operates or attempts to operate a
17 vehicle within this state is deemed to have given consent, subject to the
18 provisions of this article, to submit to one or more tests of the person's
19 blood, breath, urine or other bodily substance to determine the presence of
20 alcohol or drugs. The testing deemed consented to herein shall include all
21 quantitative and qualitative tests for alcohol and drugs. A person who is
22 dead or unconscious shall be deemed not to have withdrawn the person's
23 consent to such test or tests, which shall be administered in the manner
24 provided by this section.

25 (b) A law enforcement officer shall request a person to submit to a
26 test or tests deemed consented to under subsection (a): (1) If, at the time of
27 the request, the officer has reasonable grounds to believe the person was
28 operating or attempting to operate a vehicle while under the influence of
29 alcohol or drugs, or both, or to believe that the person was driving a
30 commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments
31 thereto, while having alcohol or other drugs in such person's system, or
32 was under the age of 21 years and was operating or attempting to operate a

1 vehicle while having alcohol or other drugs in such person's system; and
2 one of the following conditions exists: (A) The person has been arrested or
3 otherwise taken into custody for any violation of any state statute, county
4 resolution or city ordinance; or (B) the person has been involved in a
5 vehicle accident or collision resulting in property damage or personal
6 injury other than serious injury; or (2) if the person was operating or
7 attempting to operate a vehicle and such vehicle has been involved in an
8 accident or collision resulting in serious injury or death of any person and
9 the operator could be cited for any traffic offense, as defined in K.S.A. 8-
10 2117, and amendments thereto. The traffic offense violation shall
11 constitute probable cause for purposes of paragraph (2). The test or tests
12 under paragraph (2) shall not be required if a law enforcement officer has
13 reasonable grounds to believe the actions of the operator did not contribute
14 to the accident or collision. The law enforcement officer directing
15 administration of the test or tests may act on personal knowledge or on the
16 basis of the collective information available to law enforcement officers
17 involved in the accident investigation or arrest.

18 (c) If a law enforcement officer requests a person to submit to a test
19 of blood under this section, the withdrawal of blood at the direction of the
20 officer may be performed only by: (1) A person licensed to practice
21 medicine and surgery, licensed as a ~~physician's~~ *physician* assistant, or a
22 person acting under the direction of any such licensed person; (2) a
23 registered nurse or a licensed practical nurse; (3) any qualified medical
24 technician, including, but not limited to, an emergency medical technician-
25 intermediate, mobile intensive care technician, an emergency medical
26 technician-intermediate defibrillator, an advanced emergency medical
27 technician or a paramedic, as those terms are defined in K.S.A. 65-6112,
28 and amendments thereto, authorized by medical protocol; or (4) a
29 phlebotomist.

30 (d) A law enforcement officer may direct a medical professional
31 described in this section to draw a sample of blood from a person:

32 (1) If the person has given consent and meets the requirements of
33 subsection (b);

34 (2) if medically unable to consent, if the person meets the
35 requirements of paragraph (2) of subsection (b); or

36 (3) if the person refuses to submit to and complete a test, if the person
37 meets the requirements of paragraph (2) of subsection (b).

38 (e) When so directed by a law enforcement officer through a written
39 statement, the medical professional shall withdraw the sample as soon as
40 practical and shall deliver the sample to the law enforcement officer or
41 another law enforcement officer as directed by the requesting law
42 enforcement officer as soon as practical, provided the collection of the
43 sample does not jeopardize the person's life, cause serious injury to the

1 person or seriously impede the person's medical assessment, care or
2 treatment. The medical professional authorized herein to withdraw the
3 blood and the medical care facility where the blood is drawn may act on
4 good faith that the requirements have been met for directing the
5 withdrawing of blood once presented with the written statement provided
6 for under this subsection. The medical professional shall not require the
7 person to sign any additional consent or waiver form. In such a case, the
8 person authorized to withdraw blood and the medical care facility shall not
9 be liable in any action alleging lack of consent or lack of informed
10 consent.

11 (f) Such sample or samples shall be an independent sample and not
12 be a portion of a sample collected for medical purposes. The person
13 collecting the blood sample shall complete the collection portion of a
14 document provided by law enforcement.

15 (g) If a person must be restrained to collect the sample pursuant to
16 this section, law enforcement shall be responsible for applying any such
17 restraint utilizing acceptable law enforcement restraint practices. The
18 restraint shall be effective in controlling the person in a manner not to
19 jeopardize the person's safety or that of the medical professional or
20 attending medical or health care staff during the drawing of the sample and
21 without interfering with medical treatment.

22 (h) A law enforcement officer may request a urine sample upon
23 meeting the requirements of paragraph (1) of subsection (b) and shall
24 request a urine sample upon meeting the requirements of paragraph (2) of
25 subsection (b).

26 (i) If a law enforcement officer requests a person to submit to a test of
27 urine under this section, the collection of the urine sample shall be
28 supervised by: (1) A person licensed to practice medicine and surgery,
29 licensed as a ~~physician's~~ *physician* assistant, or a person acting under the
30 direction of any such licensed person; (2) a registered nurse or a licensed
31 practical nurse; or (3) a law enforcement officer of the same sex as the
32 person being tested. The collection of the urine sample shall be conducted
33 out of the view of any person other than the persons supervising the
34 collection of the sample and the person being tested, unless the right to
35 privacy is waived by the person being tested. When possible, the
36 supervising person shall be a law enforcement officer. The results of
37 qualitative testing for drug presence shall be admissible in evidence and
38 questions of accuracy or reliability shall go to the weight rather than the
39 admissibility of the evidence. If the person is medically unable to provide
40 a urine sample in such manner due to the injuries or treatment of the
41 injuries, the same authorization and procedure as used for the collection of
42 blood in subsections (d) and (e) shall apply to the collection of a urine
43 sample.

1 (j) No law enforcement officer who is acting in accordance with this
2 section shall be liable in any civil or criminal proceeding involving the
3 action.

4 (k) Before a test or tests are administered under this section, the
5 person shall be given oral and written notice that:

6 (1) Kansas law requires the person to submit to and complete one or
7 more tests of breath, blood or urine to determine if the person is under the
8 influence of alcohol or drugs, or both;

9 (2) the opportunity to consent to or refuse a test is not a constitutional
10 right;

11 (3) there is no constitutional right to consult with an attorney
12 regarding whether to submit to testing;

13 (4) if the person refuses to submit to and complete any test of breath,
14 blood or urine hereafter requested by a law enforcement officer, the person
15 may be charged with a separate crime of refusing to submit to a test to
16 determine the presence of alcohol or drugs, which carries criminal
17 penalties that are greater than or equal to the criminal penalties for the
18 crime of driving under the influence, if such person has:

19 (A) Any prior test refusal as defined in K.S.A. 8-1013, and
20 amendments thereto, which occurred: (i) On or after July 1, 2001; and (ii)
21 when such person was 18 years of age or older; or

22 (B) any prior conviction for a violation of K.S.A. 8-1567 or 8-2,144,
23 and amendments thereto, or a violation of an ordinance of any city or
24 resolution of any county which prohibits the acts that such section
25 prohibits, or entering into a diversion agreement in lieu of further criminal
26 proceedings on a complaint alleging any such violations, which occurred:
27 (i) On or after July 1, 2001; and (ii) when such person was 18 years of age
28 or older;

29 (5) if the person refuses to submit to and complete any test of breath,
30 blood or urine hereafter requested by a law enforcement officer, the
31 person's driving privileges will be suspended for one year for the first or
32 subsequent occurrence;

33 (6) if the person submits to and completes the test or tests and the test
34 results show:

35 (A) An alcohol concentration of .08 or greater, the person's driving
36 privileges will be suspended for 30 days for the first occurrence and one
37 year for the second or subsequent occurrence; or

38 (B) an alcohol concentration of .15 or greater, the person's driving
39 privileges will be suspended for one year for the first or subsequent
40 occurrence;

41 (7) refusal to submit to testing may be used against the person at any
42 trial on a charge arising out of the operation or attempted operation of a
43 vehicle while under the influence of alcohol or drugs, or both;

1 (8) the results of the testing may be used against the person at any
2 trial on a charge arising out of the operation or attempted operation of a
3 vehicle while under the influence of alcohol or drugs, or both; and

4 (9) after the completion of the testing, the person has the right to
5 consult with an attorney and may secure additional testing, which, if
6 desired, should be done as soon as possible and is customarily available
7 from medical care facilities willing to conduct such testing.

8 (l) If a law enforcement officer has reasonable grounds to believe that
9 the person has been driving a commercial motor vehicle, as defined in
10 K.S.A. 8-2,128, and amendments thereto, while having alcohol or other
11 drugs in such person's system, the person shall also be provided the oral
12 and written notice pursuant to K.S.A. 8-2,145, and amendments thereto.
13 Any failure to give the notices required by K.S.A. 8-2,145, and
14 amendments thereto, shall not invalidate any action taken as a result of the
15 requirements of this section. If a law enforcement officer has reasonable
16 grounds to believe that the person has been operating or attempting to
17 operate a vehicle while having alcohol or other drugs in such person's
18 system and such person was under 21 years of age, the person also shall be
19 given the notices required by K.S.A. 8-1567a, and amendments thereto.
20 Any failure to give the notices required by K.S.A. 8-1567a, and
21 amendments thereto, shall not invalidate any action taken as a result of the
22 requirements of this section.

23 (m) After giving the foregoing information, a law enforcement officer
24 shall request the person to submit to testing. The selection of the test or
25 tests shall be made by the officer. If the test results show a blood or breath
26 alcohol concentration of .08 or greater, the person's driving privileges shall
27 be subject to suspension, or suspension and restriction, as provided in
28 K.S.A. 8-1002 and 8-1014, and amendments thereto.

29 (n) The person's refusal shall be admissible in evidence against the
30 person at any trial on a charge arising out of the alleged operation or
31 attempted operation of a vehicle while under the influence of alcohol or
32 drugs, or both. The person's refusal shall be admissible in evidence against
33 the person at any trial on a charge arising out of the alleged violation of
34 K.S.A. 2013 Supp. 8-1025, and amendments thereto.

35 (o) If a law enforcement officer had reasonable grounds to believe the
36 person had been driving a commercial motor vehicle, as defined in K.S.A.
37 8-2,128, and amendments thereto, and the test results show a blood or
38 breath alcohol concentration of .04 or greater, the person shall be
39 disqualified from driving a commercial motor vehicle, pursuant to K.S.A.
40 8-2,142, and amendments thereto. If a law enforcement officer had
41 reasonable grounds to believe the person had been driving a commercial
42 motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and
43 the test results show a blood or breath alcohol concentration of .08 or

1 greater, or the person refuses a test, the person's driving privileges shall be
2 subject to suspension, or suspension and restriction, pursuant to this
3 section, in addition to being disqualified from driving a commercial motor
4 vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.

5 (p) An officer shall have probable cause to believe that the person
6 operated a vehicle while under the influence of alcohol or drugs, or both, if
7 the vehicle was operated by such person in such a manner as to have
8 caused the death of or serious injury to a person. In such event, such test or
9 tests may be made pursuant to a search warrant issued under the authority
10 of K.S.A. 22-2502, and amendments thereto, or without a search warrant
11 under the authority of K.S.A. 22-2501, and amendments thereto.

12 (q) Failure of a person to provide an adequate breath sample or
13 samples as directed shall constitute a refusal unless the person shows that
14 the failure was due to physical inability caused by a medical condition
15 unrelated to any ingested alcohol or drugs.

16 (r) It shall not be a defense that the person did not understand the
17 written or oral notice required by this section.

18 (s) No test results shall be suppressed because of technical
19 irregularities in the consent or notice required pursuant to this act.

20 (t) Nothing in this section shall be construed to limit the admissibility
21 at any trial of alcohol or drug concentration testing results obtained
22 pursuant to a search warrant.

23 (u) Upon the request of any person submitting to testing under this
24 section, a report of the results of the testing shall be made available to such
25 person.

26 (v) This act is remedial law and shall be liberally construed to
27 promote public health, safety and welfare.

28 (w) As used in this section, "serious injury" means a physical injury
29 to a person, as determined by law enforcement, which has the effect of,
30 prior to the request for testing:

31 (1) Disabling a person from the physical capacity to remove
32 themselves from the scene;

33 (2) renders a person unconscious;

34 (3) the immediate loss of or absence of the normal use of at least one
35 limb;

36 (4) an injury determined by a physician to require surgery; or

37 (5) otherwise indicates the person may die or be permanently disabled
38 by the injury.

39 Sec. 2. K.S.A. 2013 Supp. 38-2310 is hereby amended to read as
40 follows: 38-2310.

41 (1) The judge of the district court and members of the staff of the
42 court designated by the judge;

43 (2) parties to the proceedings and their attorneys;

1 (3) ~~the department of social and rehabilitation services~~ **{for children**
2 **and families}**;

3 (4) the juvenile's court appointed special advocate, any officer of a
4 public or private agency or institution or any individual having custody of
5 a juvenile under court order or providing educational, medical or mental
6 health services to a juvenile;

7 (5) any educational institution, to the extent necessary to enable the
8 educational institution to provide the safest possible environment for its
9 pupils and employees;

10 (6) any educator, to the extent necessary to enable the educator to
11 protect the personal safety of the educator and the educator's pupils;

12 (7) law enforcement officers or county or district attorneys, or their
13 staff, when necessary for the discharge of their official duties;

14 (8) the central repository, as defined by K.S.A. 22-4701, and
15 amendments thereto, for use only as a part of the juvenile offender
16 information system established under K.S.A. 2013 Supp. 38-2326, and
17 amendments thereto;

18 (9) juvenile intake and assessment workers;

19 (10) ~~the juvenile justice authority~~ **{department of corrections}**;

20 (11) juvenile community corrections officers;

21 (12) any other person when authorized by a court order, subject to
22 any conditions imposed by the order; and

23 (13) as provided in subsection (c).

24 (b) The provisions of this section shall not apply to records
25 concerning:

26 (1) A violation, by a person 14 or more years of age, of any provision
27 of chapter 8 of the Kansas Statutes Annotated, and amendments thereto, or
28 of any city ordinance or county resolution which relates to the regulation
29 of traffic on the roads, highways or streets or the operation of self-
30 propelled or nonself-propelled vehicles of any kind;

31 (2) a violation, by a person 16 or more years of age, of any provision
32 of chapter 32 of the Kansas Statutes Annotated, and amendments thereto;
33 or

34 (3) an offense for which the juvenile is prosecuted as an adult.

35 (c) All records of law enforcement officers and agencies and
36 municipal courts concerning an offense committed or alleged to have been
37 committed by a juvenile 14 or more years of age shall be subject to the
38 same disclosure restrictions as the records of adults. Information
39 identifying victims and alleged victims of sex offenses, as defined in
40 article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their
41 repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or
42 K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto,
43 shall not be disclosed or open to public inspection under any

1 circumstances. Nothing in this section shall prohibit the victim or any
2 alleged victim of any sex offense from voluntarily disclosing such victim's
3 identity.

4 (d) Relevant information, reports and records, shall be made available
5 to the department of corrections upon request and a showing that the
6 former juvenile has been convicted of a crime and placed in the custody of
7 the secretary of corrections.

8 (e) All records, reports and information obtained as a part of the
9 juvenile intake and assessment process for juveniles shall be confidential,
10 and shall not be disclosed except as provided by statutory law and rules
11 and regulations promulgated by the commissioner thereunder.

12 (1) Any court of record may order the disclosure of such records,
13 reports and other information to any person or entity.

14 (2) The head of any juvenile intake and assessment program, certified
15 by the commissioner of juvenile justice, may authorize disclosure of such
16 records, reports and other information to:

17 (A) A person licensed to practice the healing arts who has before that
18 person a juvenile whom the person reasonably suspects may be abused or
19 neglected;

20 (B) a court-appointed special advocate for a juvenile or an agency
21 having the legal responsibility or authorization to care for, treat or
22 supervise a juvenile;

23 (C) a parent or other person responsible for the welfare of a juvenile,
24 or such person's legal representative, with protection for the identity of
25 persons reporting and other appropriate persons;

26 (D) the juvenile, the attorney and a guardian ad litem, if any, for such
27 juvenile;

28 (E) the police or other law enforcement agency;

29 (F) an agency charged with the responsibility of preventing or
30 treating physical, mental or emotional abuse or neglect or sexual abuse of
31 children, if the agency requesting the information has standards of
32 confidentiality as strict or stricter than the requirements of the Kansas code
33 for care of children or the revised Kansas juvenile justice code, whichever
34 is applicable;

35 (G) members of a multidisciplinary team under this code;

36 (H) an agency authorized by a properly constituted authority to
37 diagnose, care for, treat or supervise a child who is the subject of a report
38 or record of child abuse or neglect;

39 (I) any individual, or public or private agency authorized by a
40 properly constituted authority to diagnose, care for, treat or supervise a
41 juvenile who is the subject of a report or record of child abuse or neglect,
42 specifically including the following: Physicians, psychiatrists, nurses,
43 nurse practitioners, psychologists, licensed social workers, child

1 development specialists, ~~physicians'~~ *physician* assistants, community
2 mental health workers, alcohol and drug abuse counselors and licensed or
3 registered child care providers;

4 (J) a citizen review board pursuant to K.S.A. 2013 Supp. 38-2207,
5 and amendments thereto;

6 (K) an educational institution to the extent necessary to enable such
7 institution to provide the safest possible environment for pupils and
8 employees of the institution;

9 (L) any educator to the extent necessary for the protection of the
10 educator and pupils; and

11 (M) any juvenile intake and assessment worker of another certified
12 juvenile intake and assessment program.

13 Sec. 3. K.S.A. 2013 Supp. 40-2123 is hereby amended to read as
14 follows: 40-2123. (a) The plan shall offer coverage to every eligible person
15 pursuant to which such person's covered expenses shall be indemnified or
16 reimbursed subject to the provisions of K.S.A. 40-2124, and amendments
17 thereto.

18 (b) Except for those expenses set forth in subsection (c) of this
19 section, expenses covered under the plan shall include expenses for:

20 (1) Services of persons licensed to practice medicine and surgery
21 which are medically necessary for the diagnosis or treatment of injuries,
22 illnesses or conditions;

23 (2) services of advanced registered nurse practitioners who hold a
24 certificate of qualification from the board of nursing to practice in an
25 expanded role or physicians assistants acting under the direction of a
26 ~~responsible~~ *supervising* physician when such services are provided at the
27 direction of a person licensed to practice medicine and surgery and meet
28 the requirements of paragraph (b)(1) above;

29 (3) services of licensed dentists when such procedures would
30 otherwise be performed by persons licensed to practice medicine and
31 surgery;

32 (4) emergency care, surgery and treatment of acute episodes of illness
33 or disease as defined in the plan and provided in a general hospital or
34 ambulatory surgical center as such terms are defined in K.S.A. 65-425, and
35 amendments thereto;

36 (5) medically necessary diagnostic laboratory and x-ray services;

37 (6) drugs and controlled substances prescribed by a practitioner, as
38 defined in K.S.A. 65-1626, and amendments thereto, or drugs and
39 controlled substances prescribed by a mid-level practitioner as defined in
40 K.S.A. 65-1626, and amendments thereto. Coverage for outpatient
41 prescriptions shall be subject to a mandatory 50% coinsurance provision,
42 and coverage for prescriptions administered to inpatients shall be subject
43 to a coinsurance provision as established in the plan; and

1 (7) subject to the approval of the commissioner, the board shall also
2 review and recommend the inclusion of coverage for mental health
3 services and such other primary and preventive health care services as the
4 board determines would not materially impair affordability of the plan.

5 (c) Expenses not covered under the plan shall include expenses for:

6 (1) Illness or injury due to an act of war;

7 (2) services rendered prior to the effective date of coverage under this
8 plan for the person on whose behalf the expense is incurred;

9 (3) services for which no charge would be made in the absence of
10 insurance or for which the insured bears no legal obligation to pay;

11 (4) (A) services or charges incurred by the insured which are
12 otherwise covered by:

13 (i) Medicare or state law or programs;

14 (ii) medical services provided for members of the United States
15 armed forces and their dependents or for employees of such armed forces;

16 (iii) military service-connected disability benefits;

17 (iv) other benefit or entitlement programs provided for by the laws of
18 the United States (except title XIX of the social security act of 1965);

19 (v) workers compensation or similar programs addressing injuries,
20 diseases, or conditions incurred in the course of employment covered by
21 such programs;

22 (vi) benefits payable without regard to fault pursuant to any motor
23 vehicle or other liability insurance policy or equivalent self-insurance.

24 (B) This exclusion shall not apply to services or charges which
25 exceed the benefits payable under the applicable programs listed above
26 and which are otherwise eligible for payment under this section.

27 (5) Services the provision of which is not within the scope of the
28 license or certificate of the institution or individual rendering such service;

29 (6) that part of any charge for services or articles rendered or
30 prescribed which exceeds the rate established by K.S.A. 40-2131, and
31 amendments thereto, for such services;

32 (7) services or articles not medically necessary;

33 (8) care which is primarily custodial or domiciliary in nature;

34 (9) cosmetic surgery unless provided as the result of an injury or
35 medically necessary surgical procedure;

36 (10) eye surgery if corrective lenses would alleviate the problem;

37 (11) experimental services or supplies not generally recognized as the
38 normal mode of treatment for the illness or injury involved;

39 (12) service of a blood donor and any fee for failure of the insured to
40 replace the first three pints of blood provided in each calendar year; and

41 (13) personal supplies or services provided by a health care facility or
42 any other nonmedical or nonprescribed supply or service.

43 (d) Except as expressly provided for in this act, no law requiring the

1 coverage or the offer of coverage of a health care service or benefit shall
2 apply to the plan.

3 (e) A plan may incorporate provisions that will direct covered persons
4 to the most appropriate lowest cost health care provider available.

5 Sec. 4. K.S.A. 2013 Supp. 65-1626 is hereby amended to read as
6 follows: 65-1626. For the purposes of this act:

7 (a) "Administer" means the direct application of a drug, whether by
8 injection, inhalation, ingestion or any other means, to the body of a patient
9 or research subject by:

10 (1) A practitioner or pursuant to the lawful direction of a practitioner;

11 (2) the patient or research subject at the direction and in the presence
12 of the practitioner; or

13 (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments
14 thereto.

15 (b) "Agent" means an authorized person who acts on behalf of or at
16 the direction of a manufacturer, distributor or dispenser but shall not
17 include a common carrier, public warehouseman or employee of the carrier
18 or warehouseman when acting in the usual and lawful course of the
19 carrier's or warehouseman's business.

20 (c) "Application service provider" means an entity that sells
21 electronic prescription or pharmacy prescription applications as a hosted
22 service where the entity controls access to the application and maintains
23 the software and records on its server.

24 (d) "Authorized distributor of record" means a wholesale distributor
25 with whom a manufacturer has established an ongoing relationship to
26 distribute the manufacturer's prescription drug. An ongoing relationship is
27 deemed to exist between such wholesale distributor and a manufacturer
28 when the wholesale distributor, including any affiliated group of the
29 wholesale distributor, as defined in section 1504 of the internal revenue
30 code, complies with any one of the following: (1) The wholesale
31 distributor has a written agreement currently in effect with the
32 manufacturer evidencing such ongoing relationship; and (2) the wholesale
33 distributor is listed on the manufacturer's current list of authorized
34 distributors of record, which is updated by the manufacturer on no less
35 than a monthly basis.

36 (e) "Board" means the state board of pharmacy created by K.S.A. 74-
37 1603, and amendments thereto.

38 (f) "Brand exchange" means the dispensing of a different drug
39 product of the same dosage form and strength and of the same generic
40 name as the brand name drug product prescribed.

41 (g) "Brand name" means the registered trademark name given to a
42 drug product by its manufacturer, labeler or distributor.

43 (h) "Chain pharmacy warehouse" means a permanent physical

1 location for drugs or devices, or both, that acts as a central warehouse and
2 performs intracompany sales or transfers of prescription drugs or devices
3 to chain pharmacies that have the same ownership or control. Chain
4 pharmacy warehouses must be registered as wholesale distributors.

5 (i) "Co-licensee" means a pharmaceutical manufacturer that has
6 entered into an agreement with another pharmaceutical manufacturer to
7 engage in a business activity or occupation related to the manufacture or
8 distribution of a prescription drug and the national drug code on the drug
9 product label shall be used to determine the identity of the drug
10 manufacturer.

11 (j) "DEA" means the U.S. department of justice, drug enforcement
12 administration.

13 (k) "Deliver" or "delivery" means the actual, constructive or
14 attempted transfer from one person to another of any drug whether or not
15 an agency relationship exists.

16 (l) "Direct supervision" means the process by which the responsible
17 pharmacist shall observe and direct the activities of a pharmacy student or
18 pharmacy technician to a sufficient degree to assure that all such activities
19 are performed accurately, safely and without risk or harm to patients, and
20 complete the final check before dispensing.

21 (m) "Dispense" means to deliver prescription medication to the
22 ultimate user or research subject by or pursuant to the lawful order of a
23 practitioner or pursuant to the prescription of a mid-level practitioner.

24 (n) "Dispenser" means a practitioner or pharmacist who dispenses
25 prescription medication{, or a physician assistant who has authority to
26 dispense prescription-only drugs in accordance with subsection (b) of
27 K.S.A. 65-28a08, and amendments thereto}.

28 (o) "Distribute" means to deliver, other than by administering or
29 dispensing, any drug.

30 (p) "Distributor" means a person who distributes a drug.

31 (q) "Drop shipment" means the sale, by a manufacturer, that
32 manufacturer's co-licensee, that manufacturer's third party logistics
33 provider, or that manufacturer's exclusive distributor, of the manufacturer's
34 prescription drug, to a wholesale distributor whereby the wholesale
35 distributor takes title but not possession of such prescription drug and the
36 wholesale distributor invoices the pharmacy, the chain pharmacy
37 warehouse, or other designated person authorized by law to dispense or
38 administer such prescription drug, and the pharmacy, the chain pharmacy
39 warehouse, or other designated person authorized by law to dispense or
40 administer such prescription drug receives delivery of the prescription
41 drug directly from the manufacturer, that manufacturer's co-licensee, that
42 manufacturer's third party logistics provider, or that manufacturer's
43 exclusive distributor, of such prescription drug. Drop shipment shall be

1 part of the "normal distribution channel."

2 (r) "Drug" means: (1) Articles recognized in the official United States
3 pharmacopoeia, or other such official compendiums of the United States,
4 or official national formulary, or any supplement of any of them; (2)
5 articles intended for use in the diagnosis, cure, mitigation, treatment or
6 prevention of disease in man or other animals; (3) articles, other than food,
7 intended to affect the structure or any function of the body of man or other
8 animals; and (4) articles intended for use as a component of any articles
9 specified in clause (1), (2) or (3) of this subsection; but does not include
10 devices or their components, parts or accessories, except that the term
11 "drug" shall not include amygdalin (laetrile) or any livestock remedy, if
12 such livestock remedy had been registered in accordance with the
13 provisions of article 5 of chapter 47 of the Kansas Statutes Annotated,
14 prior to its repeal.

15 (s) "Durable medical equipment" means technologically sophisticated
16 medical devices that may be used in a residence, including the following:
17 (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory
18 disease management devices; (4) continuous positive airway pressure
19 (CPAP) devices; (5) electronic and computerized wheelchairs and seating
20 systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator
21 (TENS) units; (8) low air loss cutaneous pressure management devices; (9)
22 sequential compression devices; (10) feeding pumps; (11) home
23 phototherapy devices; (12) infusion delivery devices; (13) distribution of
24 medical gases to end users for human consumption; (14) hospital beds;
25 (15) nebulizers; or (16) other similar equipment determined by the board
26 in rules and regulations adopted by the board.

27 (t) "Electronic prescription" means an electronically prepared
28 prescription that is authorized and transmitted from the prescriber to the
29 pharmacy by means of electronic transmission.

30 (u) "Electronic prescription application" means software that is used
31 to create electronic prescriptions and that is intended to be installed on the
32 prescriber's computers and servers where access and records are controlled
33 by the prescriber.

34 (v) "Electronic signature" means a confidential personalized digital
35 key, code, number or other method for secure electronic data transmissions
36 which identifies a particular person as the source of the message,
37 authenticates the signatory of the message and indicates the person's
38 approval of the information contained in the transmission.

39 (w) "Electronic transmission" means the transmission of an electronic
40 prescription, formatted as an electronic data file, from a prescriber's
41 electronic prescription application to a pharmacy's computer, where the
42 data file is imported into the pharmacy prescription application.

43 (x) "Electronically prepared prescription" means a prescription that is

1 generated using an electronic prescription application.

2 (y) "Exclusive distributor" means any entity that: (1) Contracts with a
3 manufacturer to provide or coordinate warehousing, wholesale distribution
4 or other services on behalf of a manufacturer and who takes title to that
5 manufacturer's prescription drug, but who does not have general
6 responsibility to direct the sale or disposition of the manufacturer's
7 prescription drug; (2) is registered as a wholesale distributor under the
8 pharmacy act of the state of Kansas; and (3) to be considered part of the
9 normal distribution channel, must be an authorized distributor of record.

10 (z) "Facsimile transmission" or "fax transmission" means the
11 transmission of a digital image of a prescription from the prescriber or the
12 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
13 is not limited to, transmission of a written prescription between the
14 prescriber's fax machine and the pharmacy's fax machine; transmission of
15 an electronically prepared prescription from the prescriber's electronic
16 prescription application to the pharmacy's fax machine, computer or
17 printer; or transmission of an electronically prepared prescription from the
18 prescriber's fax machine to the pharmacy's fax machine, computer or
19 printer.

20 (aa) "Generic name" means the established chemical name or official
21 name of a drug or drug product.

22 (bb) (1) "Institutional drug room" means any location where
23 prescription-only drugs are stored and from which prescription-only drugs
24 are administered or dispensed and which is maintained or operated for the
25 purpose of providing the drug needs of:

26 (A) Inmates of a jail or correctional institution or facility;

27 (B) residents of a juvenile detention facility, as defined by the revised
28 Kansas code for care of children and the revised Kansas juvenile justice
29 code;

30 (C) students of a public or private university or college, a community
31 college or any other institution of higher learning which is located in
32 Kansas;

33 (D) employees of a business or other employer; or

34 (E) persons receiving inpatient hospice services.

35 (2) "Institutional drug room" does not include:

36 (A) Any registered pharmacy;

37 (B) any office of a practitioner; or

38 (C) a location where no prescription-only drugs are dispensed and no
39 prescription-only drugs other than individual prescriptions are stored or
40 administered.

41 (cc) "Intermediary" means any technology system that receives and
42 transmits an electronic prescription between the prescriber and the
43 pharmacy.

1 (dd) "Intracompany transaction" means any transaction or transfer
2 between any division, subsidiary, parent or affiliated or related company
3 under common ownership or control of a corporate entity, or any
4 transaction or transfer between co-licensees of a co-licensed product.

5 (ee) "Medical care facility" shall have the meaning provided in
6 K.S.A. 65-425, and amendments thereto, except that the term shall also
7 include facilities licensed under the provisions of K.S.A. 75-3307b, and
8 amendments thereto, except community mental health centers and
9 facilities for people with intellectual disability.

10 (ff) "Manufacture" means the production, preparation, propagation,
11 compounding, conversion or processing of a drug either directly or
12 indirectly by extraction from substances of natural origin, independently
13 by means of chemical synthesis or by a combination of extraction and
14 chemical synthesis and includes any packaging or repackaging of the drug
15 or labeling or relabeling of its container, except that this term shall not
16 include the preparation or compounding of a drug by an individual for the
17 individual's own use or the preparation, compounding, packaging or
18 labeling of a drug by:

19 (1) A practitioner or a practitioner's authorized agent incident to such
20 practitioner's administering or dispensing of a drug in the course of the
21 practitioner's professional practice;

22 (2) a practitioner, by a practitioner's authorized agent or under a
23 practitioner's supervision for the purpose of, or as an incident to, research,
24 teaching or chemical analysis and not for sale; or

25 (3) a pharmacist or the pharmacist's authorized agent acting under the
26 direct supervision of the pharmacist for the purpose of, or incident to, the
27 dispensing of a drug by the pharmacist.

28 (gg) "Manufacturer" means a person licensed or approved by the
29 FDA to engage in the manufacture of drugs and devices.

30 (hh) "Mid-level practitioner" means an advanced practice registered
31 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
32 thereto, who has authority to prescribe drugs pursuant to a written protocol
33 with a ~~responsible supervising~~ **{responsible}** physician under K.S.A. 65-
34 1130, and amendments thereto, or a physician assistant licensed pursuant
35 to the physician assistant licensure act who has authority to prescribe drugs
36 pursuant to a written protocol with a ~~responsible supervising~~ physician
37 under K.S.A. 65-28a08, and amendments thereto.

38 (ii) "Normal distribution channel" means a chain of custody for a
39 prescription-only drug that goes from a manufacturer of the prescription-
40 only drug, from that manufacturer to that manufacturer's co-licensed
41 partner, from that manufacturer to that manufacturer's third-party logistics
42 provider, or from that manufacturer to that manufacturer's exclusive
43 distributor, directly or by drop shipment, to:

1 (1) A pharmacy to a patient or to other designated persons authorized
2 by law to dispense or administer such drug to a patient;

3 (2) a wholesale distributor to a pharmacy to a patient or other
4 designated persons authorized by law to dispense or administer such drug
5 to a patient;

6 (3) a wholesale distributor to a chain pharmacy warehouse to that
7 chain pharmacy warehouse's intracompany pharmacy to a patient or other
8 designated persons authorized by law to dispense or administer such drug
9 to a patient; or

10 (4) a chain pharmacy warehouse to the chain pharmacy warehouse's
11 intracompany pharmacy to a patient or other designated persons authorized
12 by law to dispense or administer such drug to a patient.

13 (jj) "Person" means individual, corporation, government,
14 governmental subdivision or agency, partnership, association or any other
15 legal entity.

16 (kk) "Pharmacist" means any natural person licensed under this act to
17 practice pharmacy.

18 (ll) "Pharmacist-in-charge" means the pharmacist who is responsible
19 to the board for a registered establishment's compliance with the laws and
20 regulations of this state pertaining to the practice of pharmacy,
21 manufacturing of drugs and the distribution of drugs. The pharmacist-in-
22 charge shall supervise such establishment on a full-time or a part-time
23 basis and perform such other duties relating to supervision of a registered
24 establishment as may be prescribed by the board by rules and regulations.
25 Nothing in this definition shall relieve other pharmacists or persons from
26 their responsibility to comply with state and federal laws and regulations.

27 (mm) "Pharmacist intern" means: (1) A student currently enrolled in
28 an accredited pharmacy program; (2) a graduate of an accredited pharmacy
29 program serving an internship; or (3) a graduate of a pharmacy program
30 located outside of the United States which is not accredited and who has
31 successfully passed equivalency examinations approved by the board.

32 (nn) "Pharmacy," "drugstore" or "apothecary" means premises,
33 laboratory, area or other place: (1) Where drugs are offered for sale where
34 the profession of pharmacy is practiced and where prescriptions are
35 compounded and dispensed; or (2) which has displayed upon it or within it
36 the words "pharmacist," "pharmaceutical chemist," "pharmacy,"
37 "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of
38 these words or combinations of these words or words of similar import
39 either in English or any sign containing any of these words; or (3) where
40 the characteristic symbols of pharmacy or the characteristic prescription
41 sign "Rx" may be exhibited. As used in this subsection, premises refers
42 only to the portion of any building or structure leased, used or controlled
43 by the licensee in the conduct of the business registered by the board at the

1 address for which the registration was issued.

2 (oo) "Pharmacy prescription application" means software that is used
3 to process prescription information, is installed on a pharmacy's computers
4 or servers, and is controlled by the pharmacy.

5 (pp) "Pharmacy technician" means an individual who, under the
6 direct supervision and control of a pharmacist, may perform packaging,
7 manipulative, repetitive or other nondiscretionary tasks related to the
8 processing of a prescription or medication order and who assists the
9 pharmacist in the performance of pharmacy related duties, but who does
10 not perform duties restricted to a pharmacist.

11 (qq) "Practitioner" means a person licensed to practice medicine and
12 surgery, dentist, podiatrist, veterinarian, optometrist or scientific
13 investigator or other person authorized by law to use a prescription-only
14 drug in teaching or chemical analysis or to conduct research with respect
15 to a prescription-only drug.

16 (rr) "Preceptor" means a licensed pharmacist who possesses at least
17 two years' experience as a pharmacist and who supervises students
18 obtaining the pharmaceutical experience required by law as a condition to
19 taking the examination for licensure as a pharmacist.

20 (ss) "Prescriber" means a practitioner or a mid-level practitioner.

21 (tt) "Prescription" or "prescription order" means: (1) An order to be
22 filled by a pharmacist for prescription medication issued and signed by a
23 prescriber in the authorized course of such prescriber's professional
24 practice; or (2) an order transmitted to a pharmacist through word of
25 mouth, note, telephone or other means of communication directed by such
26 prescriber, regardless of whether the communication is oral, electronic,
27 facsimile or in printed form.

28 (uu) "Prescription medication" means any drug, including label and
29 container according to context, which is dispensed pursuant to a
30 prescription order.

31 (vv) "Prescription-only drug" means any drug whether intended for
32 use by man or animal, required by federal or state law, including 21 U.S.C.
33 § 353, to be dispensed only pursuant to a written or oral prescription or
34 order of a practitioner or is restricted to use by practitioners only.

35 (ww) "Probation" means the practice or operation under a temporary
36 license, registration or permit or a conditional license, registration or
37 permit of a business or profession for which a license, registration or
38 permit is granted by the board under the provisions of the pharmacy act of
39 the state of Kansas requiring certain actions to be accomplished or certain
40 actions not to occur before a regular license, registration or permit is
41 issued.

42 (xx) "Professional incompetency" means:

43 (1) One or more instances involving failure to adhere to the

1 applicable standard of pharmaceutical care to a degree which constitutes
2 gross negligence, as determined by the board;

3 (2) repeated instances involving failure to adhere to the applicable
4 standard of pharmaceutical care to a degree which constitutes ordinary
5 negligence, as determined by the board; or

6 (3) a pattern of pharmacy practice or other behavior which
7 demonstrates a manifest incapacity or incompetence to practice pharmacy.

8 (yy) "Readily retrievable" means that records kept by automatic data
9 processing applications or other electronic or mechanized record-keeping
10 systems can be separated out from all other records within a reasonable
11 time not to exceed 48 hours of a request from the board or other authorized
12 agent or that hard-copy records are kept on which certain items are
13 asterisked, redlined or in some other manner visually identifiable apart
14 from other items appearing on the records.

15 (zz) "Retail dealer" means a person selling at retail nonprescription
16 drugs which are prepackaged, fully prepared by the manufacturer or
17 distributor for use by the consumer and labeled in accordance with the
18 requirements of the state and federal food, drug and cosmetic acts. Such
19 nonprescription drugs shall not include: (1) A controlled substance; (2) a
20 prescription-only drug; or (3) a drug intended for human use by
21 hypodermic injection.

22 (aaa) "Secretary" means the executive secretary of the board.

23 (bbb) "Third party logistics provider" means an entity that: (1)
24 Provides or coordinates warehousing, distribution or other services on
25 behalf of a manufacturer, but does not take title to the prescription drug or
26 have general responsibility to direct the prescription drug's sale or
27 disposition; (2) is registered as a wholesale distributor under the pharmacy
28 act of the state of Kansas; and (3) to be considered part of the normal
29 distribution channel, must also be an authorized distributor of record.

30 (ccc) "Unprofessional conduct" means:

31 (1) Fraud in securing a registration or permit;

32 (2) intentional adulteration or mislabeling of any drug, medicine,
33 chemical or poison;

34 (3) causing any drug, medicine, chemical or poison to be adulterated
35 or mislabeled, knowing the same to be adulterated or mislabeled;

36 (4) intentionally falsifying or altering records or prescriptions;

37 (5) unlawful possession of drugs and unlawful diversion of drugs to
38 others;

39 (6) willful betrayal of confidential information under K.S.A. 65-1654,
40 and amendments thereto;

41 (7) conduct likely to deceive, defraud or harm the public;

42 (8) making a false or misleading statement regarding the licensee's
43 professional practice or the efficacy or value of a drug;

1 (9) commission of any act of sexual abuse, misconduct or
2 exploitation related to the licensee's professional practice; or

3 (10) performing unnecessary tests, examinations or services which
4 have no legitimate pharmaceutical purpose.

5 (ddd) "Vaccination protocol" means a written protocol, agreed to by a
6 pharmacist and a person licensed to practice medicine and surgery by the
7 state board of healing arts, which establishes procedures and
8 recordkeeping and reporting requirements for administering a vaccine by
9 the pharmacist for a period of time specified therein, not to exceed two
10 years.

11 (eee) "Valid prescription order" means a prescription that is issued for
12 a legitimate medical purpose by an individual prescriber licensed by law to
13 administer and prescribe drugs and acting in the usual course of such
14 prescriber's professional practice. A prescription issued solely on the basis
15 of an internet-based questionnaire or consultation without an appropriate
16 prescriber-patient relationship is not a valid prescription order.

17 (fff) "Veterinary medical teaching hospital pharmacy" means any
18 location where prescription-only drugs are stored as part of an accredited
19 college of veterinary medicine and from which prescription-only drugs are
20 distributed for use in treatment of or administration to a nonhuman.

21 (ggg) "Wholesale distributor" means any person engaged in
22 wholesale distribution of prescription drugs or devices in or into the state,
23 including, but not limited to, manufacturers, repackagers, own-label
24 distributors, private-label distributors, jobbers, brokers, warehouses,
25 including manufacturers' and distributors' warehouses, co-licensees,
26 exclusive distributors, third party logistics providers, chain pharmacy
27 warehouses that conduct wholesale distributions, and wholesale drug
28 warehouses, independent wholesale drug traders and retail pharmacies that
29 conduct wholesale distributions. Wholesale distributor shall not include
30 persons engaged in the sale of durable medical equipment to consumers or
31 patients.

32 (hhh) "Wholesale distribution" means the distribution of prescription
33 drugs or devices by wholesale distributors to persons other than consumers
34 or patients, and includes the transfer of prescription drugs by a pharmacy
35 to another pharmacy if the total number of units of transferred drugs
36 during a twelve-month period does not exceed 5% of the total number of
37 all units dispensed by the pharmacy during the immediately preceding
38 twelve-month period. Wholesale distribution does not include:

39 (1) The sale, purchase or trade of a prescription drug or device, an
40 offer to sell, purchase or trade a prescription drug or device or the
41 dispensing of a prescription drug or device pursuant to a prescription;

42 (2) the sale, purchase or trade of a prescription drug or device or an
43 offer to sell, purchase or trade a prescription drug or device for emergency

1 medical reasons;

2 (3) intracompany transactions, as defined in this section, unless in
3 violation of own use provisions;

4 (4) the sale, purchase or trade of a prescription drug or device or an
5 offer to sell, purchase or trade a prescription drug or device among
6 hospitals, chain pharmacy warehouses, pharmacies or other health care
7 entities that are under common control;

8 (5) the sale, purchase or trade of a prescription drug or device or the
9 offer to sell, purchase or trade a prescription drug or device by a charitable
10 organization described in 503(c)(3) of the internal revenue code of 1954 to
11 a nonprofit affiliate of the organization to the extent otherwise permitted
12 by law;

13 (6) the purchase or other acquisition by a hospital or other similar
14 health care entity that is a member of a group purchasing organization of a
15 prescription drug or device for its own use from the group purchasing
16 organization or from other hospitals or similar health care entities that are
17 members of these organizations;

18 (7) the transfer of prescription drugs or devices between pharmacies
19 pursuant to a centralized prescription processing agreement;

20 (8) the sale, purchase or trade of blood and blood components
21 intended for transfusion;

22 (9) the return of recalled, expired, damaged or otherwise non-salable
23 prescription drugs, when conducted by a hospital, health care entity,
24 pharmacy, chain pharmacy warehouse or charitable institution in
25 accordance with the board's rules and regulations;

26 (10) the sale, transfer, merger or consolidation of all or part of the
27 business of a retail pharmacy or pharmacies from or with another retail
28 pharmacy or pharmacies, whether accomplished as a purchase and sale of
29 stock or business assets, in accordance with the board's rules and
30 regulations;

31 (11) the distribution of drug samples by manufacturers' and
32 authorized distributors' representatives;

33 (12) the sale of minimal quantities of drugs by retail pharmacies to
34 licensed practitioners for office use; or

35 (13) the sale or transfer from a retail pharmacy or chain pharmacy
36 warehouse of expired, damaged, returned or recalled prescription drugs to
37 the original manufacturer, originating wholesale distributor or to a third
38 party returns processor in accordance with the board's rules and
39 regulations.

40 Sec. 5. K.S.A. 2013 Supp. 65-2802 is hereby amended to read as
41 follows: 65-2802. For the purpose of this act the following definitions
42 shall apply:

43 (a) The healing arts include any system, treatment, operation,

1 diagnosis, prescription; or practice for the ascertainment, cure, relief,
2 palliation, adjustment; or correction of any human disease, ailment,
3 deformity, ~~or~~ injury, *alteration or enhancement of a condition or*
4 *appearance* and includes specifically, but not by way of limitation, the
5 practice of medicine and surgery; the practice of osteopathic medicine and
6 surgery; and the practice of chiropractic.

7 (b) "Board" shall mean the state board of healing arts.

8 (c) "License," *unless otherwise specified*, shall mean a license to
9 practice the healing arts granted under this act.

10 (d) "Licensed" or "licensee," *unless otherwise specified*, shall mean a
11 person licensed under this act to practice medicine and surgery,
12 osteopathic medicine and surgery or chiropractic.

13 (e) "Healing arts school" shall mean an academic institution which
14 grants a doctor of chiropractic degree, doctor of medicine degree or doctor
15 of osteopathy degree.

16 (f) Wherever the masculine gender is used, it shall be construed to
17 include the feminine, and the singular number shall include the plural
18 when consistent with the intent of this act.

19 Sec. 6. K.S.A. 65-2803 is hereby amended to read as follows: 65-
20 2803. (a) *Unless otherwise specified by the board*, it shall be unlawful for
21 any person who ~~is not licensed under the Kansas healing arts act~~ *does not*
22 *have a license, registration, permit or certificate to engage in the practice*
23 *of any profession regulated by the board* or whose license, registration,
24 *permit or certificate to practice* has been revoked or suspended to engage
25 in the practice of ~~the healing arts as defined in the Kansas healing arts act~~
26 *any profession regulated by the board*.

27 ~~(b) This section shall not apply to any person licensed by the board~~
28 ~~whose license was expired or lapsed and reinstated within a six month~~
29 ~~period pursuant to K.S.A. 65-2809 and amendments thereto.~~

30 ~~(e) (b)~~ This section shall not apply to any health care provider who in
31 good faith renders emergency care or assistance at the scene of an
32 emergency or accident as authorized by K.S.A. 65-2891, and amendments
33 thereto.

34 (c) *The commission of any act or practice declared to be a violation*
35 *of this section may render the violator liable to the state or county for the*
36 *payment of a civil penalty of up to \$1,000 per day for each day a person*
37 *engages in the unlawful practice of a profession regulated by the board. In*
38 *addition to such civil penalty, such violator may be assessed reasonable*
39 *costs of investigation and prosecution.*

40 (d) Violation of this section is ~~a class B misdemeanor non-person~~
41 **{severity level 10, nonperson}** *felony*.

42 Sec. 7. K.S.A. 2013 Supp. 65-2809 is hereby amended to read as
43 follows: 65-2809. (a) The license shall expire on the date established by

1 rules and regulations of the board which may provide renewal throughout
2 the year on a continuing basis. In each case in which a license is renewed
3 for a period of time of more or less than 12 months, the board may prorate
4 the amount of the fee established under K.S.A. 65-2852, and amendments
5 thereto. The request for renewal shall be on a form provided by the board
6 and shall be accompanied by the prescribed fee, which shall be paid not
7 later than the expiration date of the license.

8 (b) *There is hereby created a designation of an active license. The*
9 *board is authorized to issue an active license to any licensee who make*
10 *written application for such license on a form provided by the board and*
11 *remits the fee for an active license established pursuant to K.S.A. 65-2852,*
12 *and amendments thereto. Except as otherwise provided in this section, The*
13 *board shall require every active licensee in the active practice of the*
14 ~~*healing arts within the state*~~ *to submit evidence of satisfactory completion*
15 *of a program of continuing education required by the board. The*
16 *requirements for continuing education for licensees of each branch of the*
17 *healing arts shall be established by rules and regulations adopted by the*
18 *board.*

19 (c) The board, prior to renewal of a license, shall require ~~*the an*~~
20 ~~*active licensee, if in the active practice of the healing arts within the state,*~~
21 *to submit to the board evidence satisfactory to the board that the licensee is*
22 *maintaining a policy of professional liability insurance as required by*
23 *K.S.A. 40-3402, and amendments thereto, and has paid the premium*
24 *surcharges as required by K.S.A. 40-3404, and amendments thereto.*

25 (d) At least 30 days before the expiration of a licensee's license, the
26 board shall notify the licensee of the expiration by mail addressed to the
27 licensee's last mailing address as noted upon the office records. If the
28 licensee fails to pay the renewal fee by the date of the expiration of the
29 license, the licensee shall be given a second notice that the licensee's
30 license has expired, that the license will be deemed canceled if not
31 renewed within 30 days following the date of expiration, that upon receipt
32 of the renewal fee and an additional fee established by rules and
33 regulations of the board not to exceed \$500 within the thirty-day period
34 the license will not be canceled and that, if both fees are not received
35 within the thirty-day period, the license shall be deemed canceled by
36 operation of law and without further proceedings.

37 (e) Any license canceled for failure to renew may be reinstated within
38 two years of cancellation upon recommendation of the board and upon
39 payment of the renewal fees then due and upon proof of compliance with
40 the continuing educational requirements established by the board by rules
41 and regulations. Any person who has not been in the active practice of the
42 branch of the healing arts for which reinstatement is sought or who has not
43 been engaged in a formal educational program during the two years

1 preceding the application for reinstatement may be required to complete
2 such additional testing, training or education as the board may deem
3 necessary to establish the licensee's present ability to practice with
4 reasonable skill and safety.

5 (f) There is hereby created a designation of exempt license. The board
6 is authorized to issue an exempt license to any licensee who makes written
7 application for such license on a form provided by the board and remits the
8 fee for an exempt license established pursuant to K.S.A. 65-2852, and
9 amendments thereto. The board may issue an exempt license to a person
10 who is not regularly engaged in the practice of the healing arts in Kansas
11 and who does not hold oneself out to the public as being professionally
12 engaged in such practice. An exempt license shall entitle the holder to all
13 privileges attendant to the branch of the healing arts for which such license
14 is issued. Each exempt license may be renewed subject to the provisions of
15 this section. Each exempt licensee shall be subject to all provisions of the
16 healing arts act, except as otherwise provided in this subsection (f). The
17 holder of an exempt license ~~shall not~~ may be required to submit evidence
18 of satisfactory completion of a program of continuing education required
19 by this section. *The requirements for continuing education for exempt*
20 *licensees of each branch of the healing arts shall be established by rules*
21 *and regulations adopted by the board.* Each exempt licensee may apply for
22 a *an active* license to regularly engage in the practice of the appropriate
23 branch of the healing arts upon filing a written application with the board.
24 The request shall be on a form provided by the board and shall be
25 accompanied by the license fee established pursuant to K.S.A. 65-2852,
26 and amendments thereto. For the licensee whose license has been exempt
27 for less than two years, the board shall adopt rules and regulations
28 establishing appropriate continuing education requirements for exempt
29 licensees to become licensed to regularly practice the healing arts within
30 Kansas. Any licensee whose license has been exempt for more than two
31 years and who has not been in the active practice of the healing arts or
32 engaged in a formal educational program since the license has been
33 exempt may be required to complete such additional testing, training or
34 education as the board may deem necessary to establish the licensee's
35 present ability to practice with reasonable skill and safety. Nothing in this
36 subsection (f) shall be construed to prohibit a person holding an exempt
37 license from serving as a coroner or as a paid employee of: (1) A local
38 health department as defined by K.S.A. 65-241, and amendments thereto;,
39 or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and
40 amendments thereto.

41 (g) There is hereby created a designation of inactive license. The
42 board is authorized to issue an inactive license to any licensee who makes
43 written application for such license on a form provided by the board and

1 remits the fee for an inactive license established pursuant to K.S.A. 65-
2 2852, and amendments thereto. The board may issue an inactive license
3 only to a person who is not regularly engaged in the practice of the healing
4 arts in Kansas, who does not hold oneself out to the public as being
5 professionally engaged in such practice and who meets the definition of
6 inactive health care provider as defined in K.S.A. 40-3401, and
7 amendments thereto. An inactive license shall not entitle the holder to
8 practice the healing arts in this state. Each inactive license may be renewed
9 subject to the provisions of this section. Each inactive licensee shall be
10 subject to all provisions of the healing arts act, except as otherwise
11 provided in this subsection (g). The holder of an inactive license shall not
12 be required to submit evidence of satisfactory completion of a program of
13 continuing education required by K.S.A. 65-2809, and amendments
14 thereto. Each inactive licensee may apply for ~~an active license to~~
15 ~~regularly engage in the practice of the appropriate branch of the healing~~
16 ~~arts~~ upon filing a written application with the board. The request shall be
17 on a form provided by the board and shall be accompanied by the license
18 fee established pursuant to K.S.A. 65-2852, and amendments thereto. For
19 those licensees whose license has been inactive for less than two years, the
20 board shall adopt rules and regulations establishing appropriate continuing
21 education requirements for inactive licensees to become licensed to
22 regularly practice the healing arts within Kansas. Any licensee whose
23 license has been inactive for more than two years and who has not been in
24 the active practice of the healing arts or engaged in a formal education
25 program since the licensee has been inactive may be required to complete
26 such additional testing, training or education as the board may deem
27 necessary to establish the licensee's present ability to practice with
28 reasonable skill and safety.

29 (h) (1) There is hereby created a designation of federally active
30 license. The board is authorized to issue a federally active license to any
31 licensee who makes written application for such license on a form
32 provided by the board and remits the same fee required for a license
33 established under K.S.A. 65-2852, and amendments thereto. The board
34 may issue a federally active license only to a person who meets all the
35 requirements for a license to practice the healing arts in Kansas and who
36 practices that branch of the healing arts solely in the course of employment
37 or active duty in the United States government or any of its departments,
38 bureaus or agencies. A person issued a federally active license may engage
39 in limited practice outside of the course of federal employment consistent
40 with the scope of practice of exempt licensees under subsection (f), except
41 that the scope of practice of a federally active licensee shall be limited to
42 the following: (A) Performing administrative functions, including peer
43 review, disability determinations, utilization review and expert opinions;

1 (B) providing direct patient care services gratuitously or providing
2 supervision, direction or consultation for no compensation except that
3 nothing in this subpart (1)(B) shall prohibit a person licensed to practice
4 the healing arts issued a federally active license from receiving payment
5 for subsistence allowances or actual and necessary expenses incurred in
6 providing such services; and (C) rendering professional services as a
7 charitable health care provider as defined in K.S.A. 75-6102, and
8 amendments thereto.

9 (2) The provisions of subsections (a), (b), (d) and (e) of this section
10 relating to continuing education, expiration and renewal of a license shall
11 be applicable to a federally active license issued under this subsection.

12 (3) A person who practices under a federally active license shall not
13 be deemed to be rendering professional service as a health care provider in
14 this state for purposes of K.S.A. 40-3402, and amendments thereto.

15 *(j) There is hereby created the designation of reentry license. The*
16 *board is authorized to issue a reentry license to any licensee who makes*
17 *written application for such license on a form provided by the board and*
18 *remits the fee for a reentry license. The board may issue a reentry license*
19 *with requirements as the board may deem necessary to establish the*
20 *licensee's present ability to practice with reasonable skill and safety to a*
21 *person who has not regularly engaged in the practice of the healing arts*
22 *for at least two years, but who meets all the qualifications for licensure.*
23 *The requirements for issuance, renewal and scope of practice for a reentry*
24 *license shall be established by rules and regulations adopted by the board.*

25 Sec. 8. K.S.A. 65-2812 is hereby amended to read as follows: 65-
26 2812. For the purpose of administering the provisions of this act, the
27 governor shall appoint a state board of healing arts consisting of 15
28 members. At least 30 days before the expiration of any term, other than
29 that of the member appointed from the general public ~~and the licensed~~
30 ~~podiatrist member of the board~~, the professional society or association
31 shall submit to the governor a list of three or more names of persons of
32 recognized ability who have the qualifications prescribed for board
33 members for each member of the board who will be appointed from its
34 branch of the healing arts. The governor shall consider the list of persons
35 in making the appointment to the board. In case of a vacancy on the
36 board, other than that of the member appointed from the general public
37 and the licensed podiatrist member of the board, prior to the expiration of
38 a term of office, the governor shall appoint a qualified successor to fill the
39 unexpired term, and in making the appointment the governor shall give
40 consideration to the list of persons last submitted to the governor.

41 Sec. 9. K.S.A. 65-2833 is hereby amended to read as follows: 65-
42 2833. The board, without examination, may issue a license to a person
43 who has been in the active practice of a branch of the healing arts in some

1 other state, territory, the District of Columbia or other country upon
2 certificate of the proper licensing authority of that state, territory, District
3 of Columbia or other country certifying that the applicant is duly licensed,
4 that the applicant's license has never been limited, suspended or revoked,
5 that the licensee has never been censured or had other disciplinary action
6 taken and that, so far as the records of such authority are concerned, the
7 applicant is entitled to its endorsement. The applicant shall also present
8 proof satisfactory to the board:

9 (a) That the state, territory, District of Columbia or country in which
10 the applicant last practiced has and maintains standards at least equal to
11 those maintained by Kansas.

12 (b) That the applicant's original license was based upon an
13 examination at least equal in quality to the examination required in this
14 state and that the passing grade required to obtain such original license
15 was comparable to that required in this state.

16 (c) Of the date of the applicant's original and any and all endorsed
17 licenses and the date and place from which any license was attained.

18 (d) That the applicant has been actively engaged in practice under
19 such license or licenses since issued, ~~and if not, fix the time when and~~
20 ~~reason why the applicant was out of practice.~~ *The board may adopt rules*
21 *and regulations establishing qualitative and quantitative practice*
22 *activities which qualify as active practice.*

23 (e) That the applicant has a reasonable ability to communicate in
24 English.

25 An applicant for *a license by endorsement—registration* shall not be
26 licensed unless, *as determined by the board*, the applicant's individual
27 qualifications ~~meet~~ *are substantially equivalent to* the Kansas legal
28 requirements.

29 In lieu of any other requirement prescribed by law for satisfactory
30 passage of any examination in any branch of the healing arts the board
31 may accept evidence satisfactory to it that the applicant or licensee has
32 satisfactorily passed an equivalent examination given by a national board
33 of examiners in chiropractic, osteopathic medicine and surgery or
34 medicine and surgery as now required by Kansas statutes for endorsement
35 from other states.

36 Sec. 10. K.S.A. 2013 Supp. 65-2836 is hereby amended to read as
37 follows: 65-2836. A licensee's license may be revoked, suspended or
38 limited, or the licensee may be publicly or privately censured or placed
39 under probationary conditions, or an application for a license or for
40 reinstatement of a license may be denied upon a finding of the existence of
41 any of the following grounds:

42 (a) The licensee has committed fraud or misrepresentation in
43 applying for or securing an original, renewal or reinstated license.

1 (b) The licensee has committed an act of unprofessional or
2 dishonorable conduct or professional incompetency, except that the board
3 may take appropriate disciplinary action or enter into a non-disciplinary
4 resolution when a licensee has engaged in any conduct or professional
5 practice on a single occasion that, if continued, would reasonably be
6 expected to constitute an inability to practice the healing arts with
7 reasonable skill and safety to patients or unprofessional conduct as defined
8 in K.S.A. 65-2837, and amendments thereto.

9 (c) The licensee has been convicted of a felony or class A
10 misdemeanor, *or substantially similar offense in another jurisdiction*,
11 whether or not related to the practice of the healing arts. *The licensee has*
12 *been convicted in a special or general court-martial, whether or not*
13 *related to the practice of the healing arts.* The board shall revoke a
14 licensee's license following conviction of a felony *or substantially similar*
15 *offense in another jurisdiction, or following conviction in a general court-*
16 *martial* occurring after July 1, 2000, unless a $\frac{2}{3}$ majority of the board
17 members present and voting determine by clear and convincing evidence
18 that such licensee will not pose a threat to the public in such person's
19 capacity as a licensee and that such person has been sufficiently
20 rehabilitated to warrant the public trust. In the case of a person who has
21 been convicted of a felony *or convicted in a general court-martial* and
22 who applies for an original license or to reinstate a canceled license, the
23 application for a license shall be denied unless a $\frac{2}{3}$ majority of the board
24 members present and voting on such application determine by clear and
25 convincing evidence that such person will not pose a threat to the public in
26 such person's capacity as a licensee and that such person has been
27 sufficiently rehabilitated to warrant the public trust.

28 (d) The licensee has used fraudulent or false advertisements.

29 (e) The licensee is addicted to or has distributed intoxicating liquors
30 or drugs for any other than lawful purposes.

31 (f) The licensee has willfully or repeatedly violated this act, the
32 pharmacy act of the state of Kansas or the uniform controlled substances
33 act, or any rules and regulations adopted pursuant thereto, or any rules and
34 regulations of the secretary of health and environment which are relevant
35 to the practice of the healing arts.

36 (g) The licensee has unlawfully invaded the field of practice of any
37 branch of the healing arts in which the licensee is not licensed to practice.

38 (h) The licensee has engaged in the practice of the healing arts under
39 a false or assumed name, or the impersonation of another practitioner. The
40 provisions of this subsection relating to an assumed name shall not apply
41 to licensees practicing under a professional corporation or other legal
42 entity duly authorized to provide such professional services in the state of
43 Kansas.

1 (i) ~~The licensee has the inability~~ *licensee's ability* to practice the
2 healing arts with reasonable skill and safety to patients *is impaired* by
3 reason of physical or mental illness, or condition or use of alcohol, drugs
4 or controlled substances. ~~In determining whether or not such inability~~
5 ~~exists, the board, upon reasonable suspicion of such inability, shall have~~
6 ~~authority to compel a licensee to submit to mental or physical examination~~
7 ~~or drug screen, or any combination thereof, by such persons as the board~~
8 ~~may designate either in the course of an investigation or a disciplinary~~
9 ~~proceeding. To determine whether reasonable suspicion of such inability~~
10 ~~exists, the investigative information shall be presented to the board as a~~
11 ~~whole, to a review committee of professional peers of the licensee~~
12 ~~established pursuant to K.S.A. 65-2840e, and amendments thereto, or to a~~
13 ~~committee consisting of the officers of the board elected pursuant to~~
14 ~~K.S.A. 65-2818, and amendments thereto, and the executive director~~
15 ~~appointed pursuant to K.S.A. 65-2878, and amendments thereto, or to a~~
16 ~~presiding officer authorized pursuant to K.S.A. 77-514, and amendments~~
17 ~~thereto. The determination shall be made by a majority vote of the entity~~
18 ~~which reviewed the investigative information. Information submitted to~~
19 ~~the board as a whole or a review committee of peers or a committee of the~~
20 ~~officers and executive director of the board and all reports, findings and~~
21 ~~other records~~ *All information, reports, findings and other records relating*
22 *to impairment* shall be confidential and not subject to discovery by or
23 release to any person or entity *outside of a board proceeding*. The licensee
24 shall submit to the board a release of information authorizing the board to
25 obtain a report of such examination or drug screen, or both. A person
26 affected by this subsection shall be offered, at reasonable intervals, an
27 opportunity to demonstrate that such person can resume the competent
28 practice of the healing arts with reasonable skill and safety to patients. For
29 the purpose of this subsection, every person licensed to practice the
30 healing arts and who shall accept the privilege to practice the healing arts
31 in this state by so practicing or by the making and filing of a renewal to
32 practice the healing arts in this state shall be deemed to have consented to
33 submit to a mental or physical examination or a drug screen, or any
34 combination thereof, when directed in writing by the board and further to
35 have waived all objections to the admissibility of the testimony, drug
36 screen or examination report of the person conducting such examination or
37 drug screen, or both, at any proceeding or hearing before the board on the
38 ground that such testimony or examination or drug screen report
39 constitutes a privileged communication. In any proceeding by the board
40 pursuant to the provisions of this subsection, the record of such board
41 proceedings involving the mental and physical examination or drug screen,
42 or any combination thereof, shall not be used in any other administrative
43 or judicial proceeding.

1 (j) The licensee has had a license to practice the healing arts revoked,
2 suspended or limited, has been censured or has had other disciplinary
3 action taken, or an application for a license denied, by the proper licensing
4 authority of another state, territory, District of Columbia, or other country,
5 a certified copy of the record of the action of the other jurisdiction being
6 conclusive evidence thereof.

7 (k) The licensee has violated any lawful rule and regulation
8 promulgated by the board or violated any lawful order or directive of the
9 board previously entered by the board.

10 (l) The licensee has failed to report or reveal the knowledge required
11 to be reported or revealed under K.S.A. 65-28,122, and amendments
12 thereto.

13 (m) The licensee, if licensed to practice medicine and surgery, has
14 failed to inform in writing a patient suffering from any form of
15 abnormality of the breast tissue for which surgery is a recommended form
16 of treatment, of alternative methods of treatment recognized by licensees
17 of the same profession in the same or similar communities as being
18 acceptable under like conditions and circumstances.

19 (n) The licensee has cheated on or attempted to subvert the validity of
20 the examination for a license.

21 (o) The licensee has been found to be mentally ill, disabled, not guilty
22 by reason of insanity, not guilty because the licensee suffers from a mental
23 disease or defect or incompetent to stand trial by a court of competent
24 jurisdiction.

25 (p) The licensee has prescribed, sold, administered, distributed or
26 given a controlled substance to any person for other than medically
27 accepted or lawful purposes.

28 (q) The licensee has violated a federal law or regulation relating to
29 controlled substances.

30 (r) The licensee has failed to furnish the board, or its investigators or
31 representatives, any information legally requested by the board.

32 (s) Sanctions or disciplinary actions have been taken against the
33 licensee by a peer review committee, health care facility, a governmental
34 agency or department or a professional association or society for acts or
35 conduct similar to acts or conduct which would constitute grounds for
36 disciplinary action under this section.

37 (t) The licensee has failed to report to the board any adverse action
38 taken against the licensee by another state or licensing jurisdiction, a peer
39 review body, a health care facility, a professional association or society, a
40 governmental agency, by a law enforcement agency or a court for acts or
41 conduct similar to acts or conduct which would constitute grounds for
42 disciplinary action under this section.

43 (u) The licensee has surrendered a license or authorization to practice

1 the healing arts in another state or jurisdiction, has surrendered the
2 authority to utilize controlled substances issued by any state or federal
3 agency, has agreed to a limitation to or restriction of privileges at any
4 medical care facility or has surrendered the licensee's membership on any
5 professional staff or in any professional association or society while under
6 investigation for acts or conduct similar to acts or conduct which would
7 constitute grounds for disciplinary action under this section.

8 (v) The licensee has failed to report to the board surrender of the
9 licensee's license or authorization to practice the healing arts in another
10 state or jurisdiction or surrender of the licensee's membership on any
11 professional staff or in any professional association or society while under
12 investigation for acts or conduct similar to acts or conduct which would
13 constitute grounds for disciplinary action under this section.

14 (w) The licensee has an adverse judgment, award or settlement
15 against the licensee resulting from a medical liability claim related to acts
16 or conduct similar to acts or conduct which would constitute grounds for
17 disciplinary action under this section.

18 (x) The licensee has failed to report to the board any adverse
19 judgment, settlement or award against the licensee resulting from a
20 medical malpractice liability claim related to acts or conduct similar to acts
21 or conduct which would constitute grounds for disciplinary action under
22 this section.

23 (y) The licensee has failed to maintain a policy of professional
24 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
25 amendments thereto.

26 (z) The licensee has failed to pay the premium surcharges as required
27 by K.S.A. 40-3404, and amendments thereto.

28 (aa) The licensee has knowingly submitted any misleading, deceptive,
29 untrue or fraudulent representation on a claim form, bill or statement.

30 (bb) The licensee as the ~~responsible~~ *supervising* physician for a
31 physician assistant has failed to adequately direct and supervise the
32 physician assistant in accordance with the physician assistant licensure act
33 or rules and regulations adopted under such act.

34 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406,
35 prior to its repeal, or K.S.A. 2013 Supp. 21-5407, and amendments
36 thereto, as established by any of the following:

37 (A) A copy of the record of criminal conviction or plea of guilty for a
38 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2013
39 Supp. 21-5407, and amendments thereto.

40 (B) A copy of the record of a judgment of contempt of court for
41 violating an injunction issued under K.S.A. 60-4404, and amendments
42 thereto.

43 (C) A copy of the record of a judgment assessing damages under

1 K.S.A. 60-4405, and amendments thereto.

2 *(dd) The licensee has given a worthless check or stopped payment on*
3 *a debit or credit card for fees or moneys legally due to the board.*

4 *(ee) The licensee has knowingly or negligently abandoned medical*
5 *records.*

6 Sec. 11. K.S.A. 2013 Supp. 65-2837 is hereby amended to read as
7 follows: 65-2837. As used in K.S.A. 65-2836, and amendments thereto,
8 and in this section:

9 (a) "Professional incompetency" means:

10 (1) One or more instances involving failure to adhere to the
11 applicable standard of care to a degree which constitutes gross negligence,
12 as determined by the board.

13 (2) Repeated instances involving failure to adhere to the applicable
14 standard of care to a degree which constitutes ordinary negligence, as
15 determined by the board.

16 (3) A pattern of practice or other behavior which demonstrates a
17 manifest incapacity or incompetence to practice the healing arts.

18 (b) "Unprofessional conduct" means:

19 (1) Solicitation of professional patronage through the use of
20 fraudulent or false advertisements, or profiting by the acts of those
21 representing themselves to be agents of the licensee.

22 (2) Representing to a patient that a manifestly incurable disease,
23 condition or injury can be permanently cured.

24 (3) Assisting in the care or treatment of a patient without the consent
25 of the patient, the attending physician or the patient's legal representatives.

26 (4) The use of any letters, words, or terms, as an affix, on stationery,
27 in advertisements, or otherwise indicating that such person is entitled to
28 practice a branch of the healing arts for which such person is not licensed.

29 (5) Performing, procuring or aiding and abetting in the performance
30 or procurement of a criminal abortion.

31 (6) Willful betrayal of confidential information.

32 (7) Advertising professional superiority or the performance of
33 professional services in a superior manner.

34 (8) Advertising to guarantee any professional service or to perform
35 any operation painlessly.

36 (9) Participating in any action as a staff member of a medical care
37 facility which is designed to exclude or which results in the exclusion of
38 any person licensed to practice medicine and surgery from the medical
39 staff of a nonprofit medical care facility licensed in this state because of
40 the branch of the healing arts practiced by such person or without just
41 cause.

42 (10) Failure to effectuate the declaration of a qualified patient as
43 provided in subsection (a) of K.S.A. 65-28,107, and amendments thereto.

1 (11) Prescribing, ordering, dispensing, administering, selling,
2 supplying or giving any amphetamines or sympathomimetic amines,
3 except as authorized by K.S.A. 65-2837a, and amendments thereto.

4 (12) Conduct likely to deceive, defraud or harm the public.

5 (13) Making a false or misleading statement regarding the licensee's
6 skill or the efficacy or value of the drug, treatment or remedy prescribed
7 by the licensee or at the licensee's direction in the treatment of any disease
8 or other condition of the body or mind.

9 (14) Aiding or abetting the practice of the healing arts by an
10 unlicensed, incompetent or impaired person.

11 (15) Allowing another person or organization to use the licensee's
12 license to practice the healing arts.

13 (16) Commission of any act of sexual abuse, misconduct or other
14 improper sexual contact, which exploits the licensee-patient relationship,
15 with a patient or a person responsible for health care decisions concerning
16 such patient.

17 (17) The use of any false, fraudulent or deceptive statement in any
18 document connected with the practice of the healing arts including the
19 intentional falsifying or fraudulent altering of a patient or medical care
20 facility record.

21 (18) Obtaining any fee by fraud, deceit or misrepresentation.

22 (19) Directly or indirectly giving or receiving any fee, commission,
23 rebate or other compensation for professional services not actually and
24 personally rendered, other than through the legal functioning of lawful
25 professional partnerships, corporations, *limited liability company* or
26 associations.

27 (20) Failure to transfer patient records to another licensee when
28 requested to do so by the subject patient or by such patient's legally
29 designated representative.

30 (21) Performing unnecessary tests, examinations or services which
31 have no legitimate medical purpose.

32 (22) Charging an excessive fee for services rendered.

33 (23) Prescribing, dispensing, administering or distributing a
34 prescription drug or substance, including a controlled substance, in an
35 improper or inappropriate manner, or for other than a valid medical
36 purpose, or not in the course of the licensee's professional practice.

37 (24) Repeated failure to practice healing arts with that level of care,
38 skill and treatment which is recognized by a reasonably prudent similar
39 practitioner as being acceptable under similar conditions and
40 circumstances.

41 (25) Failure to keep written medical records which accurately
42 describe the services rendered to the patient, including patient histories,
43 pertinent findings, examination results and test results.

1 (26) Delegating professional responsibilities to a person when the
2 licensee knows or has reason to know that such person is not qualified by
3 training, experience or licensure to perform them.

4 (27) Using experimental forms of therapy without proper informed
5 patient consent, without conforming to generally accepted criteria or
6 standard protocols, without keeping detailed legible records or without
7 having periodic analysis of the study and results reviewed by a committee
8 or peers.

9 (28) Prescribing, dispensing, administering or distributing an anabolic
10 steroid or human growth hormone for other than a valid medical purpose.
11 Bodybuilding, muscle enhancement or increasing muscle bulk or strength
12 through the use of an anabolic steroid or human growth hormone by a
13 person who is in good health is not a valid medical purpose.

14 (29) Referring a patient to a health care entity for services if the
15 licensee has a significant investment interest in the health care entity,
16 unless the licensee informs the patient in writing of such significant
17 investment interest and that the patient may obtain such services
18 elsewhere.

19 (30) Failing to properly supervise, direct or delegate acts which
20 constitute the healing arts to persons who perform professional services
21 pursuant to such licensee's direction, supervision, order, referral,
22 delegation or practice protocols.

23 (31) Violating K.S.A. 65-6703, and amendments thereto.

24 (32) Charging, billing or otherwise soliciting payment from any
25 patient, patient's representative or insurer for anatomic pathology services,
26 if such services are not personally rendered by the licensee or under such
27 licensee's direct supervision. As used in this subsection, "anatomic
28 pathology services" means the gross or microscopic examination of
29 histologic processing of human organ tissue or the examination of human
30 cells from fluids, aspirates, washings, brushings or smears, including blood
31 banking services, and subcellular or molecular pathology services,
32 performed by or under the supervision of a person licensed to practice
33 medicine and surgery or a clinical laboratory. Nothing in this subsection
34 shall be construed to prohibit billing for anatomic pathology services by a
35 hospital, or by a clinical laboratory when samples are transferred between
36 clinical laboratories for the provision of anatomic pathology services.

37 (33) Engaging in conduct which violates patient trust and exploits the
38 licensee-patient relationship for personal gain.

39 (34) *Obstructing a board investigation including, but not limited to,*
40 *engaging in one or more of the following acts:*

41 (A) *Falsifying or concealing a material fact;*

42 (B) *knowingly making or causing to be made any false or misleading*
43 *statement or writing; or*

1 (C) *other acts or conduct likely to deceive or defraud the board.*

2 (c) "False advertisement" means any advertisement which is false,
3 misleading or deceptive in a material respect. In determining whether any
4 advertisement is misleading, there shall be taken into account not only
5 representations made or suggested by statement, word, design, device,
6 sound or any combination thereof, but also the extent to which the
7 advertisement fails to reveal facts material in the light of such
8 representations made.

9 (d) "Advertisement" means all representations disseminated in any
10 manner or by any means, for the purpose of inducing, or which are likely
11 to induce, directly or indirectly, the purchase of professional services.

12 (e) "Licensee" for purposes of this section and K.S.A. 65-2836, and
13 amendments thereto, shall mean all persons issued a license, permit or
14 special permit pursuant to article 28 of chapter 65 of the Kansas Statutes
15 Annotated, *and amendments thereto.*

16 (f) "License" for purposes of this section and K.S.A. 65-2836, and
17 amendments thereto, shall mean any license, permit or special permit
18 granted under article 28 of chapter 65 of the Kansas Statutes Annotated,
19 *and amendments thereto.*

20 (g) "Health care entity" means any corporation, firm, partnership or
21 other business entity which provides services for diagnosis or treatment of
22 human health conditions and which is owned separately from a referring
23 licensee's principle practice.

24 (h) "Significant investment interest" means ownership of at least 10%
25 of the value of the firm, partnership or other business entity which owns or
26 leases the health care entity, or ownership of at least 10% of the shares of
27 stock of the corporation which owns or leases the health care entity.

28 Sec. 12. K.S.A. 2013 Supp. 65-2838 is hereby amended to read as
29 follows: 65-2838. (a) The board shall have jurisdiction of proceedings to
30 take disciplinary action authorized by ~~K.S.A. 65-2836, and amendments~~
31 ~~thereto, against any licensee practicing under this~~ *the applicable practice*
32 *act. Unless otherwise specified, any such action shall be taken in*
33 *accordance with the provisions of the Kansas administrative procedure act.*

34 (b) Either before or after formal charges have been filed, the board
35 and the licensee, *registrant, permit holder or certificate holder* may enter
36 into a stipulation which shall be binding upon the board and the ~~licensee~~
37 *person* entering into such stipulation, and the board may enter its findings
38 of fact and enforcement order based upon such stipulation without the
39 necessity of filing any formal charges or holding hearings in the case. An
40 enforcement order based upon a stipulation may order any disciplinary
41 action authorized by ~~K.S.A. 65-2836, and amendments thereto,~~ *the*
42 *applicable practice act* against the ~~licensee~~ *person* entering into such
43 stipulation.

1 (c) The board may temporarily suspend or temporarily limit the
2 license, *registration, permit or certificate* of any licensee, *registrant,*
3 *permit holder or certificate holder* in accordance with the emergency
4 adjudicative proceedings under the Kansas administrative procedure act if
5 the board determines that there is cause to believe that grounds exist ~~under~~
6 ~~K.S.A. 65-2836, and amendments thereto, for disciplinary action~~
7 ~~authorized by K.S.A. 65-2836, and amendments thereto, for disciplinary~~
8 *action authorized by the applicable practice act* against the ~~licensee-~~
9 *person* and that the ~~licensee's person's~~ continuation in practice would
10 constitute an imminent danger to the public health and safety.

11 (d) The board shall adopt guidelines for the use of controlled
12 substances for the treatment of pain.

13 (e) Upon request of another regulatory or enforcement agency, or a
14 licensee, the board may render a written advisory opinion indicating
15 whether the licensee has prescribed, dispensed, administered or distributed
16 controlled substances in accordance with the treatment of pain guidelines
17 adopted by the board.

18 Sec. 13. K.S.A. 2013 Supp. 65-2838a is hereby amended to read as
19 follows: 65-2838a. (a) The board; *or a committee of the board or a peer*
20 ~~review committee established pursuant to K.S.A. 65-2840e, and~~
21 ~~amendments thereto,~~ as a non-disciplinary resolution, may enter into a
22 written agreement with a licensee, *registrant, permit holder or certificate*
23 *holder* for a professional development plan, make written
24 recommendations to ~~a licensee the person~~ or issue a written letter of
25 concern to ~~a licensee the person~~ if the board; *or committee of the board or*
26 ~~peer review committee~~ determines that the ~~licensee person~~:

27 (1) Seeks to establish continued competency for renewal ~~of licensure~~
28 other than through continued education requirements established pursuant
29 to ~~K.S.A. 65-2809, and amendments thereto~~ *the applicable practice act*;

30 (2) has been absent from clinical practice for an extended period of
31 time and seeks to resume clinical practice;

32 (3) has failed to adhere to the applicable standard of care but not to a
33 degree constituting professional incompetence, as defined by ~~K.S.A. 65-~~
34 ~~2837, and amendments thereto~~ *the applicable practice act*; or

35 (4) has engaged in an act or practice that, if continued, would
36 reasonably be expected to result in future violations of the ~~Kansas healing~~
37 ~~arts~~ *the applicable practice act*.

38 (b) Notwithstanding any other provision of law, a meeting of the
39 board; *or a committee of the board or a peer review committee established*
40 ~~pursuant to K.S.A. 65-2840e, and amendments thereto,~~ for the purpose of
41 discussing or adopting a non-disciplinary resolution authorized by this
42 section shall not be subject to the Kansas administrative procedures act,
43 K.S.A. 77-501 et seq., and amendments thereto, and shall not be subject to

1 the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and
2 amendments thereto. A non-disciplinary resolution authorized by this
3 section shall not be deemed disciplinary action or other order or
4 adjudication. No failure to adhere to the applicable standard of care or
5 violation of the Kansas healing arts act may be implied by the adoption of
6 a non-disciplinary resolution.

7 (c) A non-disciplinary resolution authorized by this section shall be
8 confidential in the manner provided by K.S.A. 65-2898a, and amendments
9 thereto, and shall not be admissible in any civil, criminal or administrative
10 action, except that such resolution shall be admissible in any disciplinary
11 proceeding by the board.

12 (d) This section shall be part of and supplemental to the Kansas
13 healing arts act.

14 Sec. 14. K.S.A. 65-2839a is hereby amended to read as follows: 65-
15 2839a. (a) In connection with any investigation by the board, the board or
16 its duly authorized agents or employees shall at all reasonable times have
17 access to, for the purpose of examination, and the right to copy any
18 document, report, record or other physical evidence of any person being
19 investigated, or any document, report, record or other evidence maintained
20 by and in possession of any clinic, office of a practitioner ~~of the healing~~
21 ~~arts of any profession regulated by the board,~~ laboratory, pharmacy,
22 medical care facility or other public or private agency if such document,
23 report, record or evidence relates to ~~medical~~ professional competence,
24 unprofessional conduct or the mental or physical ability of ~~a licensee a~~
25 ~~person to safely to practice the healing arts~~ *any profession regulated by the*
26 *board.*

27 (b) For the purpose of all investigations and proceedings conducted
28 by the board:

29 (1) The board may issue subpoenas compelling the attendance and
30 testimony of witnesses or the production for examination or copying of
31 documents or any other physical evidence if such evidence relates to
32 medical competence, unprofessional conduct or the mental or physical
33 ability of a licensee, *registrant, permit holder or certificate holder to*
34 ~~safely to practice the healing arts.~~ Within five days after the service of the
35 subpoena on any person requiring the production of any evidence in the
36 person's possession or under the person's control, such person may petition
37 the board to revoke, limit or modify the subpoena. The board shall revoke,
38 limit or modify such subpoena if in its opinion the evidence required does
39 not relate to practices which may be grounds for disciplinary action, is not
40 relevant to the charge which is the subject matter of the proceeding or
41 investigation, or does not describe with sufficient particularity the physical
42 evidence which is required to be produced. Any member of the board, or
43 any agent designated by the board, may administer oaths or affirmations,

1 examine witnesses and receive such evidence. *The board shall have the*
2 *authority to compel the production of evidence upon noncompliance with*
3 *an investigative subpoena, if in the opinion of the board or the board's*
4 *designee, the evidence demanded relates to a practice which may be*
5 *grounds for disciplinary action, is relevant to the charge which is the*
6 *subject matter of the investigation and describes with sufficient*
7 *particularity the physical evidence required to be produced.*

8 (2) Any person appearing before the board shall have the right to be
9 represented by counsel.

10 (3) The district court, upon application by the board or *after*
11 *exhaustion of available administrative remedies* by the person subpoenaed,
12 shall have jurisdiction to issue an order:

13 (A) Requiring such person to appear before the board or the boards
14 duly authorized agent to produce evidence relating to the matter under
15 investigation; or

16 (B) revoking, limiting or modifying the subpoena if in the court's
17 opinion the evidence demanded does not relate to practices which may be
18 grounds for disciplinary action, is not relevant to the charge which is the
19 subject matter of the hearing or investigation or does not describe with
20 sufficient particularity the evidence which is required to be produced.

21 (c) The board may receive from the Kansas bureau of investigation or
22 other criminal justice agencies such criminal history record information
23 (including arrest and nonconviction data), criminal intelligence
24 information and information relating to criminal and background
25 investigations as necessary for the purpose of determining initial and
26 continuing qualifications of licensees, *permit holders*, ~~and~~ registrants *and*
27 *certificate holders* of, and applicants for, licensure and registration by the
28 board. Disclosure or use of any such information received by the board or
29 of any record containing such information, for any purpose other than that
30 provided by this subsection is a class A misdemeanor and shall constitute
31 grounds for removal from office, termination of employment or denial,
32 revocation or suspension of any license ~~or~~, *permit*, registration or
33 *certificate* issued under this act. *Unless otherwise specified*, nothing in
34 this subsection shall be construed to make unlawful the disclosure of any
35 such information by the board in a hearing held pursuant to ~~this act~~ *the*
36 *practice act of any profession regulated by the board.*

37 (d) Patient records, including clinical records, medical reports,
38 laboratory statements and reports, files, films, other reports or oral
39 statements relating to diagnostic findings or treatment of patients,
40 information from which a patient or a patient's family might be identified,
41 peer review or risk management records or information received and
42 records kept by the board as a result of the investigation procedure
43 outlined in this section shall be confidential and shall not be disclosed.

1 (e) Nothing in this section or any other provision of law making
2 communications between a ~~physician~~ licensee, registrant, permit holder or
3 certificate holder and the ~~physician's~~ patient a privileged communication
4 shall apply to investigations or proceedings conducted pursuant to this
5 section. The board and its employees, agents and representatives shall keep
6 in confidence the names of any patients whose records are reviewed during
7 the course of investigations and proceedings pursuant to this section.

8 Sec. 15. K.S.A. 65-2840a is hereby amended to read as follows: 65-
9 2840a. The state board of healing arts shall appoint a disciplinary counsel,
10 who shall not otherwise be an attorney for the board, with the duties set
11 out in this act. The disciplinary counsel shall be an attorney admitted to
12 practice law in the state of Kansas. The disciplinary counsel shall have the
13 power and the duty to investigate or cause to be investigated all matters
14 involving professional incompetency, unprofessional conduct or any other
15 matter which may result in disciplinary action against a licensee,
16 registrant, permit holder or certificate holder pursuant to ~~K.S.A. 65-2836~~
17 ~~through 65-2844, and amendments thereto~~ the applicable practice act. In
18 the performance of these duties, the disciplinary counsel may apply to any
19 court having power to issue subpoenas for an order to require by subpoena
20 the attendance of any person or by subpoena duces tecum the production
21 of any records for the purpose of the production of any information
22 pertinent to an investigation. Subject to approval by the state board of
23 healing arts, the disciplinary counsel shall employ clerical and other staff
24 necessary to carry out the duties of the disciplinary counsel. The state
25 board of healing arts may adopt rules and regulations necessary to allow
26 the disciplinary counsel to properly perform the functions of such position
27 under this act.

28 Sec. 16. K.S.A. 65-2842 is hereby amended to read as follows: 65-
29 2842. (a) *Upon reasonable suspicion that a person's ability to practice*
30 *such person's profession with reasonable skill and safety to patients is*
31 *impaired by reason of physical or mental illness, or condition or use of*
32 *alcohol, drugs or controlled substances, the board shall have authority to*
33 *compel the person to submit to a mental or physical examination,*
34 *substance abuse evaluation or drug screen or any combination thereof, by*
35 *such persons as the board may designate either in the course of an*
36 *investigation or a disciplinary proceeding.*

37 (b) *To determine whether reasonable suspicion of impaired ability*
38 *exists, the investigative information shall be presented to the board as a*
39 *whole, or to a committee consisting of the officers of the board elected*
40 *pursuant to K.S.A. 65-2818, and amendments thereto, and the executive*
41 *director appointed pursuant to K.S.A. 65-2878, and amendments thereto,*
42 *or to a presiding officer authorized pursuant to K.S.A. 77-514, and*
43 *amendments thereto. The determination shall be made by a majority vote*

1 *of the entity which reviewed the investigative information. Information*
2 *submitted to the board as a whole or a committee of the officers and*
3 *executive director of the board or presiding officer and all reports,*
4 *findings and other records shall be confidential and not subject to*
5 *discovery by or release to any person or entity.*

6 *(c) The person shall submit to the board a release of information*
7 *authorizing the board to obtain a report of such examination or drug*
8 *screen, or both. Any person affected by this section shall be offered, at*
9 *reasonable intervals, an opportunity to demonstrate that such person can*
10 *resume the competent practice of such person's profession with reasonable*
11 *skill and safety to patients. For the purposes of this section, every person*
12 *who accepts the privilege to practice any profession regulated by the*
13 *board in this state by practicing or by the making and filing of a renewal*
14 *application in this state shall be deemed to have consented to submit to a*
15 *mental or physical examination, substance abuse evaluation or a drug*
16 *screen, or any combination thereof, when directed in writing by the board.*
17 *Further, such person shall be deemed to have waived all objections to the*
18 *admissibility of the testimony, drug screen or examination report of the*
19 *person conducting such examination or drug screen, or both, at any*
20 *proceeding or hearing before the board on the ground that such testimony*
21 *or examination or drug screen report constitutes a privileged*
22 *communication.*

23 *(d) In any proceeding by the board pursuant to the provisions of this*
24 *section, the records of any board proceedings involving the mental and*
25 *physical examination, substance abuse evaluation or drug screen, or any*
26 *combination thereof, shall be considered confidential and shall not be*
27 *used in any civil, criminal or administrative action, other than an*
28 *administrative or disciplinary proceeding by the board.*

29 *(e) Whenever the board directs, pursuant to subsection (i) of K.S.A.*
30 *65-2836 and amendments thereto, that a licensee, registrant, permit holder*
31 *or certificate holder submit to a mental or physical examination,*
32 *substance abuse evaluation or drug screen, or any combination thereof, the*
33 *time from the date of the board's directive until the submission to the board*
34 *of the report of the examination or drug screen, or both, shall not be*
35 *included in the computation of the time limit for hearing prescribed by the*
36 *Kansas administrative procedure act.*

37 *Sec. 17. K.S.A. 2013 Supp. 65-2844 is hereby amended to read as*
38 *follows: 65-2844. A person whose license, registration, permit or*
39 *certificate has been revoked may apply for reinstatement of the license*
40 *after the expiration of three years from the effective date of the revocation.*
41 *Application for reinstatement shall be on a form provided by the board and*
42 *shall be accompanied by a reinstatement of a revoked license, registration,*
43 *permit or certificate fee established by the board under K.S.A. 65-2852,*

1 ~~and amendments thereto~~ *the applicable practice act*. The burden of proof
2 by clear and convincing evidence shall be on the applicant to show
3 sufficient rehabilitation to justify reinstatement ~~of the license~~. If the board
4 determines a license, *registration, permit or certificate* should not be
5 reinstated, the person shall not be eligible to reapply for reinstatement for
6 three years from the effective date of the denial. All proceedings conducted
7 on an application for reinstatement shall be in accordance with the
8 provisions of the Kansas administrative procedure act and shall be
9 reviewable in accordance with the Kansas judicial review act. The board,
10 on its own motion, may stay the effectiveness of an order of revocation of
11 license, *registration, permit or certificate*.

12 Sec. 18. K.S.A. 65-2846 is hereby amended to read as follows: 65-
13 2846. (a) *For all professions regulated by the board*, if the board's order is
14 adverse to the licensee, *registrant, permit holder, certificate holder* or
15 applicant for reinstatement of license, costs incurred by the board in
16 conducting any *investigation or* proceeding under the Kansas
17 administrative procedure act may be assessed against the parties to the
18 proceeding in such proportion as the board may determine upon
19 consideration of all relevant circumstances including the nature of the
20 proceeding and the level of participation by the parties. *Costs assessed by*
21 *the board pursuant to K.S.A. 65-2846, and amendments thereto, shall be*
22 *considered costs in an administrative matter pursuant to 11 U.S.C. § 523.*
23 If the board is the unsuccessful party, the costs shall be paid from the
24 healing arts fee fund.

25 (b) For purposes of this section, costs incurred shall ~~mean include,~~
26 *but are not limited to:* The presiding officer fees and expenses, costs of
27 making any transcripts, *reasonable investigative costs*, witness fees and
28 expenses, mileage, travel allowances and subsistence expenses of board
29 employees and fees and expenses of agents of the board who provide
30 services pursuant to K.S.A. 65-2878a, and amendments thereto. Costs
31 incurred shall not include presiding officer fees and expenses ~~or costs of~~
32 ~~making and preparing the record~~ unless the board has designated or
33 retained the services of independent contractors to perform such functions.

34 (c) The board shall make any assessment of costs incurred as part of
35 the final order rendered in the proceeding. Such order shall include
36 findings and conclusions in support of the assessment of costs.

37 Sec. 19. K.S.A. 65-2850 is hereby amended to read as follows: 65-
38 2850. In the event the board appeals, no bond shall be required. If the
39 licensee appeals, the only bond required shall be one running to the state,
40 in an amount to be fixed by the court for the payment of the costs both
41 before the board and in the district court, and the bond shall be approved
42 by the judge of the district court. *The bond shall be cash or professional*
43 *surety*.

1 Sec. 20. K.S.A. 2013 Supp. 65-2851a is hereby amended to read as
2 follows: 65-2851a. (a) *Unless otherwise specified*, all administrative
3 proceedings provided for by ~~article 28 of chapter 65 of the Kansas Statutes~~
4 ~~Annotated~~ *the practice act of each profession regulated by the board* and
5 affecting any licensee ~~licensed under that article~~, *registrant, permit holder*
6 *or certificate holder* shall be conducted in accordance with the provisions
7 of the Kansas administrative procedure act.

8 (b) Judicial review and civil enforcement of any agency action under
9 article 28 of chapter 65 of the Kansas Statutes Annotated, *and amendments*
10 *thereto*, shall be in accordance with the Kansas judicial review act.

11 Sec. 21. K.S.A. 65-2852 is hereby amended to read as follows: 65-
12 2852. The following fees shall be established by the board by rules and
13 regulations and collected by the board:

14 (a) For a license, issued upon the basis of an examination ~~given by~~
15 ~~the board~~, in a sum of not more than \$300;

16 (b) for a license, issued without examination and by endorsement, in
17 a sum of not more than \$300;

18 (c) for a license, issued upon a certificate from the national boards, in
19 a sum of not more than \$300;

20 (d) for the renewal of a license, the sum of not more than \$500;

21 (e) for a temporary permit, in a sum of not more than \$60;

22 (f) for an institutional license, in a sum of not more than \$300;

23 (g) for a visiting professor temporary license, in a sum of not more
24 than \$50;

25 (h) for a certified statement from the board that a licensee is licensed
26 in this state, the sum of not more than \$30;

27 (i) for any copy of any license issued by the board, the sum of not
28 more than \$30;

29 (j) for any examination given by the board, a sum in an amount equal
30 to the cost to the board of the examination;

31 (k) for application for and issuance of a special permit under K.S.A.
32 65-2811a, and amendments thereto, the sum of not more than \$60;

33 (l) for an exempt or inactive license or renewal of an exempt or
34 inactive license, the sum of not more than \$150;

35 (m) for conversion of an exempt or inactive license to a license to
36 practice the healing arts, the sum of not more than \$300;

37 (n) for reinstatement of a revoked license, in a sum of not more than
38 \$1,000;

39 (o) for a visiting clinical professor license, or renewal of a visiting
40 clinical professor license, in a sum of not more than \$300;

41 (p) for a postgraduate permit in a sum of not more than \$60;

42 (q) for a limited permit or renewal of a limited permit, the sum of not
43 more than \$60; and

1 (r) for a written verification of any license or permit, the sum of not
2 more than \$25.

3 Sec. 22. K.S.A. 65-2857 is hereby amended to read as follows: 65-
4 2857. An action in injunction or quo warranto may be brought and
5 maintained in the name of the state of Kansas to enjoin or oust from the
6 unlawful practice of ~~the healing arts, any person who shall practice the~~
7 ~~healing arts as defined in this act~~ *any profession regulated by the board or*
8 *any profession defined by the practice acts administered by the board*
9 without being duly licensed therefor.

10 Sec. 23. K.S.A. 65-2858 is hereby amended to read as follows: 65-
11 2858. The authority conferred by the preceding section shall be in addition
12 to, and not in lieu of, authority to prosecute criminally any person
13 unlawfully engaged in ~~the practice of the healing arts~~. The granting and
14 enforcing of an injunction or quo warranto to prevent ~~the unlawful practice~~
15 ~~of the healing arts~~ is a preventive measure, not a punitive measure, and the
16 fact that a person has been charged with or convicted of criminally having
17 so practiced shall not prevent the issuance of a writ of injunction or quo
18 warranto to prevent ~~his~~ *such person's* further practice; nor shall the fact
19 that a writ of injunction or quo warranto has been granted to prevent
20 further practice preclude the institution of criminal prosecution and
21 punishment.

22 Sec. 24. K.S.A. 65-2860 is hereby amended to read as follows: 65-
23 2860. Any person who shall present to the board a diploma or certificate of
24 which ~~he or she~~ *such person* is not the rightful owner for the purpose of
25 procuring a license, or who shall falsely impersonate anyone to whom a
26 license, *registration, permit or certificate* has been issued by ~~said board,~~
27 ~~shall be deemed guilty of a class A misdemeanor~~ *the board. Violation of*
28 *this section is an unclassified nonperson felony. In addition, violation of*
29 *this section may render the violator liable for a civil penalty, as well as*
30 *reasonable costs of investigation and prosecution, unless otherwise*
31 *specified.*

32 Sec. 25. K.S.A. 65-2863a is hereby amended to read as follows: 65-
33 2863a. (a) The state board of healing arts, in addition to any other penalty
34 prescribed under the Kansas healing arts act, may assess a civil fine, after
35 proper notice and an opportunity to be heard, against a licensee for a
36 violation of the Kansas healing arts act in an amount not to exceed \$5,000
37 for the first violation, \$10,000 for the second violation and \$15,000 for the
38 third violation and for each subsequent violation. All fines assessed and
39 collected under this section shall be remitted to the state treasurer in
40 accordance with the provisions of K.S.A. 75-4215, and amendments
41 thereto. Upon receipt of each such remittance, the state treasurer shall
42 deposit the entire amount in the state treasury to the credit of the state
43 general fund. *For the purposes of this section, fines shall be considered*

1 *administrative fines pursuant to 11 U.S.C. § 523.*

2 (b) This section shall be part of and supplemental to the Kansas
3 healing arts act.

4 Sec. 26. K.S.A. 65-2864 is hereby amended to read as follows: 65-
5 2864. The board shall enforce the provisions of ~~this act~~ *all practice acts*
6 *administered by the board* and for that purpose shall make all necessary
7 investigations relative thereto. Every licensee, *registrant, permit holder or*
8 *certificate holder* in this state, including members of the board, shall
9 furnish the board such evidence as ~~he~~ *such person* may have relative to
10 any alleged violation which is being investigated. ~~He~~ *Such person* shall
11 also report to the board the name of every person without a license that ~~he~~
12 *such person* has reason to believe is engaged in practicing ~~the healing arts~~
13 *in this state any profession regulated by the board.*

14 Sec. 27. K.S.A. 65-2865 is hereby amended to read as follows: 65-
15 2865. The board shall promulgate all necessary rules and regulations, not
16 inconsistent herewith, for carrying out the provisions of ~~this act~~ *any*
17 *practice act administered by the board*, which rules and regulations shall
18 include standards for the dispensing of drugs by persons licensed to
19 practice medicine and surgery. It may also adopt rules and regulations
20 supplementing any of the provisions herein contained but not inconsistent
21 with ~~this act~~ *any practice act administered by the board*. All rules and
22 regulations promulgated and adopted by the board shall be filed with the
23 secretary of state as required by law.

24 Sec. 28. K.S.A. 65-2866 is hereby amended to read as follows: 65-
25 2866. (a) Upon the request of the board, the attorney general or county or
26 district attorney of the proper county shall institute in the name of the state
27 or board the proper proceedings against any person regarding whom a
28 complaint has been made charging ~~him or her~~ *such person* with the
29 violation of any of the provisions of this act, and the attorney general, and
30 such county or district attorney, at the request of the attorney general or of
31 the board shall appear and prosecute any and all such actions.

32 (b) *In pursuing an action under the Kansas healing arts act solely in*
33 *the name of the state or county, the attorney general and the county or*
34 *district attorney are authorized to sue for and collect reasonable expenses*
35 *and investigation fees as determined by the court. Civil penalties or*
36 *contempt penalties sued for and recovered by the attorney general shall be*
37 *paid into the state general fund. Civil penalties and contempt penalties*
38 *sued for and recovered by the county or district attorney shall be paid into*
39 *the general fund of the county where the proceedings were instituted.*

40 Sec. 29. K.S.A. 2013 Supp. 65-2867 is hereby amended to read as
41 follows: 65-2867. (a) It shall be unlawful for any person who is not
42 licensed under the Kansas healing arts act or whose license has been
43 revoked or suspended to open or maintain an office for the practice of the

1 healing arts as defined in this act or to announce or hold out to the public
2 the intention, authority or skill to practice the healing arts as defined in the
3 Kansas healing arts act by the use of any professional degree or
4 designation, sign, card, circular, device, advertisement or representation.

5 ~~(b) This section shall not apply to any person licensed by the board
6 whose license was expired or lapsed and reinstated within a six month
7 period pursuant to K.S.A. 65-2809, and amendments thereto.~~

8 ~~(e) (b)~~ This section shall not apply to any health care provider who in
9 good faith renders emergency care or assistance at the scene of an
10 emergency or accident as authorized by K.S.A. 65-2891, and amendments
11 thereto.

12 ~~(d) (c)~~ It shall not be considered a violation of the Kansas healing arts
13 act if an unlicensed person appends to such person's name the word
14 "doctor" or the letters "M.D.," "D.O." or "D.C.," if such person has earned
15 such professional degree from an accredited healing arts school or college,
16 and if the use of such word or initials is not misleading the public, patients
17 or other health care providers that such person: (1) Is engaged in the
18 practice of the healing arts within this state; or (2) is licensed to practice
19 the healing arts in this state. The provisions of this subsection shall apply
20 to any proceeding pending before the board that has not reached a final
21 order or disposition by the board prior to the effective date of this act and
22 to any proceeding commenced before the board on or after the effective
23 date of this act.

24 (e) Violation of this section is a ~~class C misdemeanor~~ {severity level
25 **10, nonperson felony. In addition, violation of this section may subject**
26 **a person to civil fines and assessment of reasonable costs of**
27 **investigation and prosecution}.**

28 *Sec. 30. K.S.A. 2013 Supp. 65-2872 is hereby amended to read as*
29 *follows: 65-2872. The practice of the healing arts shall not be construed*
30 *to include the following persons:*

31 *(a) Persons rendering gratuitous services in the case of an*
32 *emergency.*

33 *(b) Persons gratuitously administering ordinary household*
34 *remedies.*

35 *(c) The members of any church practicing their religious tenets*
36 *provided they shall not be exempt from complying with all public health*
37 *regulations of the state.*

38 *(d) Students while in actual classroom attendance in an accredited*
39 *healing arts school who after completing one year's study treat diseases*
40 *under the supervision of a licensed instructor.*

41 *(e) Students upon the completion of at least three years study in an*
42 *accredited healing arts school and who, as a part of their academic*
43 *requirements for a degree, serve a preceptorship not to exceed 180 days*

1 *under the supervision of a licensed practitioner.*

2 *(f) Persons who massage for the purpose of relaxation, muscle*
3 *conditioning, or figure improvement, provided no drugs are used and*
4 *such persons do not hold themselves out to be physicians or healers.*

5 *(g) Persons whose professional services are performed under the*
6 *supervision or by order of or referral from a practitioner who is licensed*
7 *under this act.*

8 *(h) Persons in the general fields of psychology, education and*
9 *social work, dealing with the social, psychological and moral well-being*
10 *of individuals ~~and/or~~ or groups, or both, provided they do not use drugs*
11 *and do not hold themselves out to be the physicians, surgeons,*
12 *osteopathic physicians or chiropractors.*

13 *(i) Practitioners of the healing arts in the United States army, navy,*
14 *air force, public health service, and coast guard or other military service*
15 *when acting in the line of duty in this state.*

16 *(j) Practitioners of the healing arts licensed in another state when*
17 *and while incidentally called into this state in consultation with*
18 *practitioners licensed in this state.*

19 *(k) Dentists practicing their professions, when licensed and*
20 *practicing in accordance with the provisions of article 14 of chapter 65*
21 *of the Kansas Statutes Annotated, and amendments thereto, and any*
22 *interpretation thereof by the supreme court of this state.*

23 *(l) Optometrists practicing their professions, when licensed and*
24 *practicing under and in accordance with the provisions of article 15 of*
25 *chapter 65 of the Kansas Statutes Annotated, and amendments thereto,*
26 *and any interpretation thereof by the supreme court of this state.*

27 *(m) Nurses practicing their profession when licensed and*
28 *practicing under and in accordance with the provisions of article 11 of*
29 *chapter 65 of the Kansas Statutes Annotated, and amendments thereto,*
30 *and any interpretation thereof by the supreme court of this state.*

31 *(n) Podiatrists practicing their profession, when licensed and*
32 *practicing under and in accordance with the provisions of article 20 of*
33 *chapter 65 of the Kansas Statutes Annotated, and amendments thereto,*
34 *and any interpretation thereof by the supreme court of this state.*

35 *(o) Every act or practice falling in the field of the healing art, not*
36 *specifically excepted herein, shall constitute the practice thereof.*

37 *(p) Pharmacists practicing their profession, when licensed and*
38 *practicing under and in accordance with the provisions of article 16 of*
39 *chapter 65 of the Kansas Statutes Annotated, and amendments thereto,*
40 *and any interpretation thereof by the supreme court of this state.*

41 *(q) A dentist licensed in accordance with the provisions of article 14*
42 *of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,*
43 *who administers general and local anesthetics to facilitate medical*

1 *procedures conducted by a person licensed to practice medicine and*
2 *surgery if such dentist is certified by the board of healing arts under*
3 *K.S.A. 65-2899, and amendments thereto, to administer such general*
4 *and local anesthetics.*

5 *(r) Practitioners of the healing arts duly licensed under the laws of*
6 *another state who do not open an office or maintain or appoint a place*
7 *to regularly meet patients or to receive calls within this state, but who*
8 *order services which are performed in this state in accordance with rules*
9 *and regulations of the board. The board shall adopt rules and*
10 *regulations identifying circumstances in which professional services*
11 *may be performed in this state based upon an order by a practitioner of*
12 *the healing arts licensed under the laws of another state.*

13 *(s) Persons licensed by the state board of cosmetology practicing*
14 *their professions, when licensed and practicing under and in accordance*
15 *with the provisions of article 19 of chapter 65 of the Kansas Statutes*
16 *Annotated, and amendments thereto, and any interpretation thereof by the*
17 *supreme court of this state.*

18 *Sec. 31. K.S.A. 65-2873 is hereby amended to read as follows: 65-*
19 *2873. (a) Each applicant for a license by examination to practice any*
20 *branch of the healing arts in this state shall:*

21 *(1) Present to the board evidence of proficiency in the basic*
22 *sciences issued by the national board of medical examiners, the board of*
23 *examiners of osteopathic physicians and surgeons or the national board*
24 *of chiropractic examiners or such other examining body as may be*
25 *approved by the board or in lieu thereof pass such examination as the*
26 *board may require in the basic science subjects;*

27 *(2) present proof that the applicant is a graduate of an accredited*
28 *healing arts school or college; and*

29 *(3) pass an examination prescribed and conducted by the board*
30 *covering the subjects incident to the practice of the branch of healing art*
31 *for which the applicant applies.*

32 *(b) Any person seeking a license to practice medicine and surgery*
33 *shall present proof that such person has completed acceptable*
34 *postgraduate study as may be required by the board by regulations.*

35 *(c) The board may authorize an applicant who does not meet the*
36 *requirements of paragraph (2) of subsection (a) to take the examination*
37 *for licensure if the applicant:*

38 *(1) Has completed three years of postgraduate training as approved*
39 *by the board;*

40 *(2) is a graduate of a school in which ~~has been in operation for not~~*
41 *~~less than 15 years and the graduates of which have been licensed in~~*
42 *~~another state or states which has standards similar to Kansas; and~~*

43 *(3) meets all other requirements for taking the examination for*

1 *licensure of the Kansas healing arts act.*

2 *(d) In addition to the examination required under paragraph (3) of*
 3 *subsection (a), if the applicant is a foreign medical graduate the*
 4 *applicant shall pass an examination given by the educational*
 5 *commission for foreign medical graduates.*

6 *(e) No person licensed to practice and actively engaged in the*
 7 *practice of the healing arts shall attach to such person's name any title,*
 8 *or any word or abbreviation indicating that such person is a doctor of*
 9 *any branch of the healing arts other than the branch of the healing arts*
 10 *in which such person holds a license but shall attach to such person's*
 11 *name the degree or degrees to which such person is entitled by reason of*
 12 *such person's diploma.*

13 *Sec. 32. K.S.A. 65-2874 is hereby amended to read as follows: 65-*
 14 *2874. (a) An accredited school of medicine for the purpose of this act*
 15 *shall be a school or college which requires the study of medicine and*
 16 *surgery in all of its branches, which the board shall determine to have a*
 17 ~~*standard of education*~~ *educational standards substantially equivalent to*
 18 ~~*the university of Kansas school of medicine*~~ *minimum educational*
 19 *standards for medical colleges as established by the liaison committee on*
 20 *medical education or any successor organization that is the official*
 21 *accrediting body of educational programs leading to the degree of doctor*
 22 *of medicine and recognized for such purpose by the federal department of*
 23 *education and the council on postsecondary education. All such schools*
 24 *shall be approved by the board.*

25 *(b) The board shall adopt rules and regulations establishing the*
 26 *criteria which a school shall satisfy in meeting the standard established*
 27 *under subsection (a). The criteria shall establish the minimum*
 28 *standards in the following areas:*

- 29 *(1) Admission requirements;*
 30 *(2) basic science coursework;*
 31 *(3) clinical coursework;*
 32 *(4) qualification of faculty;*
 33 *(5) ratio of faculty to students;*
 34 *(6) library;*
 35 *(7) clinical facilities;*
 36 *(8) laboratories;*
 37 *(9) equipment;*
 38 ~~*(10) specimens;*~~
 39 ~~*(11)*~~*(9) financial qualifications;*
 40 *(10) graduation requirements; and*
 41 ~~*(12)*~~*(11) accreditation by independent agency.*

42 *(c) The board may send a questionnaire developed by the board to*
 43 *any school for which the board does not have sufficient information to*

1 *determine whether the school meets the requirements of this statute or*
2 *rules and regulations adopted pursuant to this statute. The*
3 *questionnaire providing the necessary information shall be completed*
4 *and returned to the board in order for the school to be considered for*
5 *approval.*

6 *(d) The board is authorized to contract with investigative agencies,*
7 *commissions or consultants to assist the board in obtaining information*
8 *about schools. In entering such contracts the authority to approve*
9 *schools shall remain solely with the board.*

10 *Sec. 33. K.S.A. 65-2875 is hereby amended to read as follows: 65-*
11 *2875. An accredited school of osteopathic medicine for the purpose of*
12 *this act shall be a school or college which requires the study of*
13 *osteopathic medicine and surgery in all of its branches which the board*
14 *shall determine to have a standard of education not below that of the*
15 *Kirksville college of osteopathy and surgery educational standards*
16 *substantially equivalent to the minimum educational standards for*
17 *osteopathic colleges as established by the American osteopathic*
18 *association or any successor organization that is the official accrediting*
19 *body of educational programs leading to the degree of doctor of*
20 *osteopathy. All such schools shall be approved by the board.*

21 *Sec. 34. K.S.A. 65-2885 is hereby amended to read as follows: 65-*
22 *2885. No person licensed hereunder shall use a title in connection with*
23 *his such person's name which in any way represents him such person as*
24 *engaged in the practice of any branch of the healing arts for which he*
25 *such person holds no license: Provided, however, That every such. Every*
26 *licensee, when using the letters or term "Dr." or "Doctor," shall use the*
27 *appropriate words or letters to identify himself such licensee with the*
28 *particular branch of the healing arts in which he the licensee holds a*
29 *license.*

30 *Sec. 35. K.S.A. 65-2893 is hereby amended to read as follows: 65-*
31 *2893. In any case of death wherein notification of the coroner is not*
32 *required by K.S.A. ~~19-1031~~ 22a-231, and amendments thereto, or any*
33 *case in which the coroner does not elect to perform an autopsy, an*
34 *autopsy may be performed upon the body of a deceased person by a*
35 *physician or surgeon when so authorized, in writing by the decedent*
36 *during his lifetime. Additionally, unless the physician or surgeon has*
37 *knowledge that contrary directions have been given by the decedent, the*
38 *following persons in the order of priority stated, may consent to the*
39 *performance of an autopsy: (1)(a) The spouse, if one survives and if not*
40 *incapacitated. If no spouse survives or if the spouse is incapacitated;*

41 *(2)(b) an adult child;*

42 *(3)(c) either parent;*

43 *(4)(d) an adult brother or sister;*

- 1 ~~(5)(e)~~ *the guardian of the decedent at the time of his death;*
 2 ~~(6)(f)~~ *any other person or agency authorized or under obligation to*
 3 *dispose of the body.*

4 *If there is no surviving spouse and an adult child is not immediately*
 5 *available at the time of death, the autopsy may be authorized by either*
 6 *parent; if a parent is not immediately available, it may be authorized by*
 7 *any adult brother or sister: ~~Provided, That.~~ Such autopsy shall not be*
 8 *performed under a consent given as required by a member of the class*
 9 *listed in ~~(2), (3) or (4) above~~ subsection (b), (c) or (d), if, before such*
 10 *autopsy is performed, any member of the class shall object to the*
 11 *performance of such autopsy in writing to the physician or surgeon by*
 12 *whom the autopsy is to be performed.*

13 *Sec. 36. K.S.A. 2013 Supp. 65-2895 is hereby amended to read as*
 14 *follows: 65-2895. (a) There is hereby created an institutional license*
 15 *which may be issued by the board to a person who:*

16 *(1) Is a graduate of an accredited school of medicine or osteopathic*
 17 *medicine or a school which ~~has been in operation for not less than 15~~*
 18 *years and the graduates of which have been licensed in another state or*
 19 *states which have standards similar to Kansas;*

20 *(2) has completed at least two years in a postgraduate training*
 21 *program in the United States approved by the board; and*

22 *(3) who is employed as provided in this section.*

23 *(b) Subject to the restrictions of this section, the institutional*
 24 *license shall confer upon the holder the right and privilege to practice*
 25 *medicine and surgery and shall obligate the holder to comply with all*
 26 *requirements of such license.*

27 *(c) The practice privileges of institutional license holders are*
 28 *restricted and shall be valid only during the period in which:*

29 *(1) The holder is employed by any institution within the ~~department~~*
 30 *of social and rehabilitation Kansas department for aging and disability*
 31 *services, employed by any institution within the department of*
 32 *corrections or employed pursuant to a contract entered into by the*
 33 *department of social and rehabilitation Kansas department for aging and*
 34 *disability services or the department of corrections with a third party,*
 35 *and only within the institution to which the holder is assigned; and*

36 *(2) the holder has been employed for at least three years as*
 37 *described in subsection (c)(1) and is employed to provide mental health*
 38 *services in Kansas in the employ of a Kansas licensed community mental*
 39 *health center, or one of its contracted affiliates, or a federal, state,*
 40 *county or municipal agency, or other political subdivision, or a*
 41 *contractor of a federal, state, county or municipal agency, or other*
 42 *political subdivision, or a duly chartered educational institution, or a*
 43 *medical care facility licensed under K.S.A. 65-425 et seq., and*

1 *amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-*
2 *3307b, and amendments thereto, or a contractor of such educational*
3 *institution, medical care facility or psychiatric hospital, and whose*
4 *practice, in any such employment, is limited to providing mental health*
5 *services, is a part of the duties of such licensee's paid position and is*
6 *performed solely on behalf of the employer;* ~~or~~

7 (3) ~~the holder has been employed for at least three years as described~~
8 ~~in subsection (c)(1) and is providing mental health services pursuant to a~~
9 ~~written protocol with a person who holds a license to practice medicine~~
10 ~~and surgery other than an institutional license.~~

11 (d) *An institutional license shall expire on the date established by*
12 *rules and regulations of the board which may provide for renewal*
13 *throughout the year on a continuing basis. In each case in which an*
14 *institutional license is renewed for a period of time of more or less than 12*
15 *months, the board may prorate the amount of the fee established under*
16 *K.S.A. 65-2852, and amendments thereto. The request for renewal shall be*
17 *on a form provided by the board and shall be accompanied by the*
18 *prescribed fee, which shall be paid not later than the expiration date of the*
19 *license. An institutional license shall be valid for a period of two years*
20 *after the date of issuance and may be renewed for an additional two-year*
21 *periods one-year period if the applicant for renewal meets the*
22 *requirements under subsection (c) of this section, has submitted an*
23 *application for renewal on a form provided by the board, has paid the*
24 *renewal fee established by rules and regulations of the board of not to*
25 *exceed \$500 and has submitted evidence of satisfactory completion of a*
26 *program of continuing education required by the board. In addition, an*
27 *applicant for renewal who is employed as described in subsection (c)(1)*
28 *shall submit with the application for renewal a recommendation that the*
29 *institutional license be renewed signed by the superintendent of the*
30 *institution to which the institutional license holder is assigned.*

31 (e) *Nothing in this section shall prohibit any person who was issued*
32 *an institutional license prior to the effective date of this act from having*
33 *the institutional license reinstated by the board if the person meets the*
34 *requirements for an institutional license described in subsection (a).*

35 (f) *This section shall be a part of and supplemental to the Kansas*
36 *healing arts act.*

37 *Sec. 37. K.S.A. 65-2898 is hereby amended to read as follows: 65-*
38 *2898. (a) No person reporting to the state board of healing arts in good*
39 *faith any information such person may have relating to alleged incidents*
40 *of malpractice, or the qualifications, fitness or character of, or*
41 *disciplinary action taken against, a person licensed, registered or*
42 *certified by the board shall be subject to a civil action for damages as a*
43 *result of reporting such information.*

1 **(b) Any state, regional or local association composed of persons**
2 **licensed to practice a branch of the healing arts profession regulated by**
3 **the board and the individual members of any committee thereof, which**
4 **in good faith investigates or communicates information pertaining to the**
5 **alleged incidents of malpractice, or the qualifications, fitness or**
6 **character of, or disciplinary action taken against, any licensee,**
7 **registrant or certificate holder to the state board of healing arts or to any**
8 **committee or agent thereof, shall be immune from liability in any civil**
9 **action, that is based upon such investigation or transmittal of**
10 **information if the investigation and communication was made in good**
11 **faith and did not represent as true any matter not reasonably believed to**
12 **be true.**

13 **Sec. 38. K.S.A. 65-28,122 is hereby amended to read as follows: 65-**
14 **28,122. (a) Subject to the provisions of subsection (c) of K.S.A. 65-**
15 **4923, and amendments thereto, any person licensed to practice the healing**
16 **arts, registered or certified to practice any profession regulated by the**
17 **board who possesses knowledge not subject to the physician-patient**
18 **privilege that another person so licensed, registered or certified has**
19 **committed any act enumerated under K.S.A. 65-2836 and amendments**
20 **thereto any practice act administered by the board which may be a**
21 **ground for disciplinary action pursuant to K.S.A. 65-2836 and**
22 **amendments thereto shall immediately report such knowledge, under**
23 **oath, to the state board of healing arts. A person licensed to practice the**
24 **healing arts, registered or certified to practice any profession regulated by**
25 **the board who possesses such knowledge shall reveal fully such**
26 **knowledge upon official request of the state board of healing arts.**

27 **(b) As used in subsection (a), "knowledge" means familiarity because**
28 **of direct involvement or observation of the incident.**

29 **(c) The provisions of subsection (a) shall not apply to any person**
30 **licensed, registered or certified to practice any profession regulated by the**
31 **board who is acting solely as a consultant or providing a review at the**
32 **request of any person or party.**

33 **(d) This section shall be part of and supplemental to the Kansas**
34 **healing arts act.**

35 **Sec. 39. K.S.A. 65-28,126 is hereby amended to read as follows: 65-**
36 **28,126. (a) It shall be the duty of each licensee to notify the state board**
37 **of healing arts in writing within 30 days of any changes in the licensee's**
38 **mailing address and practice addresses.**

39 **(b) A penalty in the amount not to exceed \$100 for the first**
40 **violation of subsection (a) and \$150 for each subsequent violation of**
41 **subsection (a) may be assessed by the state board of healing arts under**
42 **the provisions of K.S.A. 65-2863a, and amendments thereto.**

43 **(c) This section shall be part of and supplemental to the Kansas**

1 *healing arts act.*

2 *Sec. 40. K.S.A. 2013 Supp. 65-28,127 is hereby amended to read as*
3 *follows: 65-28,127. (a) Every supervising or responsible licensee who*
4 *directs, supervises, orders, refers, accepts responsibility for, enters into*
5 *written agreements or practice protocols with, or who delegates acts*
6 *which constitute the practice of the healing arts to other persons shall:*

7 *(1) Be actively engaged in the practice of the healing arts in*
8 *Kansas;*

9 *(2) review and keep current any required written agreements or*
10 *practice protocols between the supervising or responsible licensee and*
11 *such persons, as may be determined by the board;*

12 *(3) direct, supervise, order, refer, enter into a written agreement or*
13 *practice protocol with, or delegate to such persons only those acts and*
14 *functions which the supervising or responsible licensee knows or has*
15 *reason to believe can be competently performed by such person and is*
16 *not in violation of any other statute or regulation;*

17 *(4) direct, supervise, order, refer, enter into a written agreement or*
18 *practice protocol with, or delegate to other persons only those acts and*
19 *functions which are within the normal and customary specialty,*
20 *competence and lawful practice of the supervising or responsible*
21 *licensee;*

22 *(5) provide for a qualified, substitute licensee who accepts*
23 *responsibility for the direction, supervision, delegation and written*
24 *agreements or practice protocols with such persons when the supervising*
25 *or responsible licensee is temporarily absent; and*

26 *(6) comply with all rules and regulations of the board establishing*
27 *limits and conditions on the delegation and supervision of services*
28 *constituting the practice of medicine and surgery.*

29 *(b) "Responsible licensee" means a person licensed by the state*
30 *board of healing arts to practice medicine and surgery or chiropractic*
31 *who has accepted responsibility for the actions of persons who perform*
32 *acts pursuant to written agreements or practice protocols with, or at the*
33 *order of, or referral, direction, supervision or delegation from such*
34 *responsible licensee.*

35 *(c) Except as otherwise provided by rules and regulations of the*
36 *board implementing this section, the physician assistant licensure act*
37 *shall govern the direction and supervision of physician assistants by*
38 *persons licensed by the state board of healing arts to practice medicine*
39 *and surgery.*

40 *(d) Nothing in subsection (a)(4) shall be construed to prohibit a*
41 *person licensed to practice medicine and surgery from ordering,*
42 *authorizing or directing anesthesia care by a registered nurse anesthetist*
43 *pursuant to K.S.A. 65-1158, and amendments thereto.*

1 (e) *Nothing in this section shall be construed to prohibit a person*
2 *licensed to practice medicine and surgery from ordering, authorizing or*
3 *directing physical therapy services pursuant to K.S.A. 65-2901 et seq.,*
4 *and amendments thereto.*

5 (f) *Nothing in this section shall be construed to prohibit a person*
6 *licensed to practice medicine and surgery from entering into a co-*
7 *management relationship with an optometrist pursuant to K.S.A. 65-*
8 *1501 et seq., and amendments thereto.*

9 (g) *The board may adopt rules and regulations establishing limits*
10 *and conditions on the delegation and supervision of services constituting*
11 *the practice of medicine and surgery.*

12 (h) *As used in this section, "supervising physician" means a*
13 *physician who has accepted continuous and ultimate responsibility for the*
14 *medical services rendered and actions of the physician assistant while*
15 *performing under the direction and supervision of the supervising*
16 *physician.*

17 (i) *This section shall be part of and supplemental to the Kansas*
18 *healing arts act.*

19 **Sec. 41.** *K.S.A. 2013 Supp. 65-28,132 is hereby amended to read as*
20 *follows: 65-28,132. (a) For the purpose of paying for storage,*
21 *maintenance and transfer of medical records by the board of healing*
22 *arts, there is hereby established the medical record maintenance trust*
23 *fund. All payments and disbursements from the medical records*
24 *maintenance trust fund shall be made upon warrants of the director of*
25 *accounts and reports issued pursuant to vouchers approved by the*
26 *executive director of the board or by any person designated by the board.*

27 (b) *The board may certify to the director of accounts and reports*
28 *that a specific amount, but not more than \$10, of each fee for the*
29 *issuance or renewal of a license be credited to the medical records*
30 *maintenance trust fund until such time the balance exceeds \$100,000. At*
31 *any time the balance in the medical records trust fund falls below*
32 *\$100,000, the board shall certify again to the director of accounts and*
33 *reports that a specific amount, but not to exceed \$10, of each fee for the*
34 *issuance or renewal of a license be deposited in the state treasury and*
35 *credited to the medical records maintenance trust fund. The board may*
36 *order a licensee to reimburse the amount of expenses incurred by the*
37 *board in a case when such licensee failed to designate a custodian or*
38 *provide for the storage, maintenance, transfer and access to such*
39 *licensee's medical records upon becoming inactive. Upon receipt of each*
40 *such remittance, the state treasurer shall deposit the entire amount in*
41 *the state treasury to the credit of the medical records maintenance trust*
42 *fund. All funds deposited and credited to the medical records maintenance*
43 *fund shall be expended for the purposes set forth in this section.*

1 (c) *On or before the 10th day of each month, the director of*
2 *accounts and reports shall transfer from the state general fund to the*
3 *medical records maintenance trust fund interest earnings based on: (1)*
4 *The average daily balance of moneys in the medical records*
5 *maintenance trust fund for the preceding month; and (2) the net*
6 *earnings rate of the pooled money investment portfolio for the preceding*
7 *month.*

8 (d) *The board of healing arts shall adopt rules and regulations*
9 *establishing the procedures and standards necessary to implement the*
10 *provisions of this section within one year of the effective date of this*
11 *section.*

12 (e) *This section shall be part of and supplemental to the Kansas*
13 *healing arts act.*

14 Sec. ~~30~~ 42. K.S.A. 65-28a02 is hereby amended to read as follows:
15 65-28a02. (a) The following words and phrases when used in the physician
16 assistant licensure act shall have the meanings respectively ascribed to
17 them in this section:

18 (1) "Board" means the state board of healing arts.

19 (2) "Direction and supervision" means the guidance, direction and
20 coordination of activities of a physician assistant by such physician
21 assistant's ~~responsible or designated~~ *supervising* physician, whether
22 written or verbal, whether immediate or by prior arrangement, in
23 accordance with standards established by the board by rules and
24 regulations, which standards shall be designed to ensure adequate direction
25 and supervision by the ~~responsible or designated~~ *supervising* physician of
26 the physician assistant. The term "direction and supervision" shall not be
27 construed to mean that the immediate or physical presence of the
28 ~~responsible or designated~~ *supervising* physician is required during the
29 performance of the physician assistant.

30 (3) "Physician" means any person licensed by the state board of
31 healing arts to practice medicine and surgery.

32 (4) "Physician assistant" means a person who is licensed in
33 accordance with the provisions of K.S.A. 65-28a04, and amendments
34 thereto, and who provides patient services under the direction and
35 supervision of a ~~responsible~~ *supervising* physician.

36 (5) "~~Responsible~~ *Supervising* physician" means a physician who has
37 accepted ~~continuous and ultimate~~ responsibility for the medical services
38 rendered and actions of the physician assistant while performing under the
39 direction and supervision of the ~~responsible~~ *supervising* physician.

40 (6) "~~Designated physician~~" means a physician ~~designated by the~~
41 ~~responsible physician to ensure direction and supervision of the physician~~
42 ~~assistant.~~

43 (7) (6) "Licensee," for purposes of the physician assistant licensure

1 act, means all persons issued a license or temporary license pursuant to the
2 physician assistant licensure act.

3 (8) (7) "License," for purposes of the physician assistant licensure act,
4 means any license or temporary license granted by the physician assistant
5 licensure act.

6 Sec. ~~31~~ 43. K.S.A. 2013 Supp. 65-28a03 is hereby amended to read
7 as follows: 65-28a03. (a) *There is hereby created a designation of active*
8 *license. The board is authorized to issue an active license to a physician*
9 *assistant who makes written application for such license on a form*
10 *provided by the board and remits the fee for an active license established*
11 *pursuant to subsection (f). As a condition of engaging in active practice as*
12 *a physician assistant, each licensed physician assistant shall file a request*
13 *to engage in active practice signed by the physician assistant and the*
14 *physician who will be responsible for the physician assistant. The request*
15 *shall contain such information as required by rules and regulations adopted*
16 *by the board. The board shall maintain a list of the names of physician*
17 *assistants who may engage in active practice in this state.*

18 (b) All licenses, except temporary licenses, shall expire on the date of
19 expiration established by rules and regulations of the ~~state board of healing~~
20 ~~arts~~ and may be renewed as required by the board. The request for renewal
21 shall be on a form provided by the ~~state board of healing arts~~ and shall be
22 accompanied by the renewal fee established pursuant to this section, which
23 shall be paid not later than the expiration date of the license. *The board,*
24 *prior to renewal of an active license, shall require the licensee to submit to*
25 *the board evidence satisfactory to the board that the licensee is*
26 *maintaining a policy of professional liability insurance as required by*
27 *K.S.A. 40-3402, and amendments thereto, and has paid the premium*
28 *surcharges as required by K.S.A. 40-3404, and amendments thereto.*

29 (c) At least 30 days before the expiration of the license of a physician
30 assistant, except a temporary license, the ~~state board of healing arts~~ shall
31 notify the licensee of the expiration by mail addressed to the licensee's last
32 mailing address as noted upon the office records of the board. If the
33 licensee fails to pay the renewal fee by the date of expiration of the
34 license, the licensee shall be given a second notice that the licensee's
35 license has expired and the license may be renewed only if the renewal fee
36 and the late renewal fee are received by the ~~state board of healing arts~~
37 within the 30-day period following the date of expiration and that, if both
38 fees are not received within the 30-day period, the license shall be deemed
39 canceled by operation of law without further proceedings for failure to
40 renew and shall be reissued only after the license has been reinstated under
41 subsection (d).

42 (d) Any license canceled for failure to renew as herein provided may
43 be reinstated upon recommendation of the ~~state board of healing arts~~ and

1 upon payment of the reinstatement fee and upon submitting evidence of
2 satisfactory completion of any applicable continuing education
3 requirements established by the board. The board shall adopt rules and
4 regulations establishing appropriate continuing education requirements for
5 reinstatement of licenses canceled for failure to renew.

6 (e) There is hereby created the designation of inactive license. The
7 board is authorized to issue an inactive license to any licensee who makes
8 written application for such license on a form provided by the board and
9 remits the fee for an inactive license established pursuant to subsection ~~(g)~~
10 *(f)* of this section. The board may issue an inactive license only to a person
11 who meets all the requirements for a license to practice as a physician
12 assistant and who does not engage in active practice as a physician
13 assistant in the state of Kansas. An inactive license shall not entitle the
14 holder to engage in active practice. The provisions of subsections (c) and
15 (d) of this section relating to expiration, renewal and reinstatement of a
16 license shall be applicable to an inactive license issued under this
17 subsection. Each inactive licensee may apply to engage in active practice
18 by presenting a request required by subsection (a) *and submit to the board*
19 *evidence satisfactory to the board that such licensee is maintaining a*
20 *policy of professional liability insurance as required by K.S.A. 40-3402,*
21 *and amendments thereto, and has paid the premium surcharges as*
22 *required by K.S.A. 40-3404, and amendments thereto. The request shall*
23 *contain such information as required by rules and regulations adopted by*
24 *the board. The request shall be accompanied by the fee established*
25 *pursuant to subsection ~~(g)~~ (f) .*

26 ~~(f) There is hereby created a designation of federally active license.~~
27 ~~The board is authorized to issue a federally active license to any licensee~~
28 ~~who makes a written application for such license on a form provided by~~
29 ~~the board and remits the same fee required for a license established under~~
30 ~~subsection (g). The board may issue a federally active license only to a~~
31 ~~person who meets all the requirements for a license to practice as a~~
32 ~~physician assistant and who practices as a physician assistant solely in the~~
33 ~~course of employment or active duty in the United States government or~~
34 ~~any of its departments, bureaus or agencies. The provisions of subsections~~
35 ~~(e) and (d) relating to expiration, renewal and reinstatement of a license~~
36 ~~shall be applicable to a federally active license issued under this~~
37 ~~subsection. Each federally active licensee may apply to engage in active~~
38 ~~practice by presenting a request required by subsection (a) of this section.~~

39 ~~(g) (f)~~ The following fees shall be fixed by rules and regulations
40 adopted by the state board of healing arts and shall be collected by the
41 board:

42 (1) For ~~any~~ *an active* license as a physician assistant, the sum of not
43 more than \$200;

1 (2) for any license by endorsement as a physician assistant, the sum
2 of not more than \$200;

3 ~~(2)~~ (3) for temporary licensure as a physician assistant, the sum of not
4 more than \$30;

5 ~~(3)~~ (4) for the renewal of ~~a~~ *an active* license to practice as a physician
6 assistant ~~or a federally active license~~, the sum of not more than \$150;

7 ~~(4)~~ (5) for renewal of an inactive license, the sum of not more than
8 \$150;

9 ~~(5)~~ (6) for the late renewal of any license as a physician assistant, the
10 sum of not more than \$250;

11 ~~(6)~~ (7) for reinstatement of a license canceled for failure to renew, the
12 sum of not more than \$250;

13 ~~(7)~~ (8) for a certified statement from the board that a physician
14 assistant is licensed in this state, the sum of not more than \$30;

15 ~~(8)~~ (9) for a copy of the licensure certificate of a physician assistant,
16 the sum of not more than \$25; and

17 ~~(9)~~ (10) for conversion of an inactive license to ~~a~~ *an active* license to
18 actively practice as a physician assistant ~~or a federally active license~~, the
19 sum of not more than \$150.

20 ~~(h)~~ (g) The ~~state board of healing arts~~ shall remit all moneys received
21 by or for the board under the provisions of this act to the state treasurer
22 and such money shall be deposited in the state treasury, credited to the
23 state general fund and the healing arts fee fund and expended all in
24 accordance with K.S.A. 65-2855, and amendments thereto.

25 ~~(i)~~ (h) The board may promulgate all necessary rules and regulations
26 for carrying out the provisions of this act.

27 Sec. ~~32~~ 44. K.S.A. 2013 Supp. 65-28a05 is hereby amended to read
28 as follows: 65-28a05. A licensee's license may be revoked, suspended or
29 limited, or the licensee may be publicly or privately censured, or an
30 application for a license or for reinstatement of a license may be denied
31 upon a finding of the existence of any of the following grounds:

32 (a) The licensee has committed an act of unprofessional conduct as
33 defined by rules and regulations adopted by the board;

34 (b) the licensee has obtained a license by means of fraud,
35 misrepresentations or concealment of material facts;

36 (c) the licensee has committed an act of professional incompetency as
37 defined by rules and regulations adopted by the board;

38 (d) the licensee has been convicted of a felony;

39 (e) the licensee has violated any provision of this act, and
40 amendments thereto;

41 (f) the licensee has violated any lawful order or rule and regulation of
42 the board;

43 (g) *the licensee has been found to be mentally ill, disabled, not guilty*

1 *by reason of insanity, not guilty because the licensee suffers from a mental*
2 *disease or defect or is incompetent to stand trial by a court of competent*
3 *jurisdiction;*

4 *(h) the licensee has violated a federal law or regulation relating to*
5 *controlled substances;*

6 *(i) the licensee has failed to report to the board any adverse action*
7 *taken against the licensee by another state or licensing jurisdiction, a peer*
8 *review body, a health care facility, a professional association or society, a*
9 *governmental agency, by a law enforcement agency or a court for acts or*
10 *conduct similar to acts or conduct which would constitute grounds for*
11 *disciplinary action under this section;*

12 *(j) the licensee has surrendered a license or authorization to practice*
13 *as a physician assistant in another state or jurisdiction, has surrendered*
14 *the authority to utilize controlled substances issued by any state or federal*
15 *agency, has agreed to a limitation to or restriction of privileges at any*
16 *medical care facility or has surrendered the licensee's membership on any*
17 *professional staff or in any professional association or society while under*
18 *investigation for acts or conduct similar to acts or conduct which would*
19 *constitute grounds for disciplinary action under this section;*

20 *(k) the licensee has failed to report to the board the surrender of the*
21 *licensee's license or authorization to practice as a physician assistant in*
22 *another state or jurisdiction or the surrender of the licensee's membership*
23 *on any professional staff or in any professional association or society*
24 *while under investigation for acts or conduct similar to acts or conduct*
25 *which would constitute grounds for disciplinary action under this section;*

26 *(l) the licensee has an adverse judgment, award or settlement against*
27 *the licensee resulting from a medical liability claim related to acts or*
28 *conduct similar to acts or conduct which would constitute grounds for*
29 *disciplinary action under this section;*

30 *(m) the licensee has failed to report to the board any adverse*
31 *judgment, settlement or award against the licensee resulting from a*
32 *medical malpractice liability claim related to acts or conduct similar to*
33 *acts or conduct which would constitute grounds for disciplinary action*
34 *under this section;*

35 *(n) the licensee's ability to practice with reasonable skill and safety*
36 *to patients is impaired by reason of physical or mental illness, or*
37 *condition or use of alcohol, drugs or controlled substances. All*
38 *information, reports, findings and other records relating to impairment*
39 *shall be confidential and not subject to discovery by or release to any*
40 *person or entity outside of a board proceeding;*

41 ~~(g)~~ *(o) the licensee has exceeded or has acted outside the scope of*
42 *authority given the physician assistant by the responsible supervising*
43 *physician or by this act; or*

1 ~~(h)~~ (p) the licensee has assisted suicide in violation of K.S.A. 21-
2 3406, prior to its repeal, or K.S.A. 2013 Supp. 21-5407, and amendments
3 thereto, as established by any of the following:

4 (1) A copy of the record of criminal conviction or plea of guilty for a
5 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2013
6 Supp. 21-5407, and amendments thereto.

7 (2) A copy of the record of a judgment of contempt of court for
8 violating an injunction issued under K.S.A. 60-4404, and amendments
9 thereto.

10 (3) A copy of the record of a judgment assessing damages under
11 K.S.A. 60-4405, and amendments thereto.

12 Sec. ~~33~~ 45. K.S.A. 65-28a06 is hereby amended to read as follows:
13 65-28a06. (a) It shall be unlawful for any person who is not licensed under
14 this act or whose license has been revoked or suspended to engage in the
15 practice as a physician assistant as defined by this act.

16 (b) No person shall use any title, abbreviation, letters, figures, sign,
17 card or device to indicate that any person is a licensed physician assistant,
18 nor shall any person represent oneself to be a licensed physician assistant
19 unless such person has been duly licensed as a physician assistant in
20 accordance with the provisions of this act.

21 (c) The provisions of this act shall not be construed to include the
22 following persons:

23 (1) Persons rendering gratuitous services in the case of an emergency.

24 (2) Persons gratuitously administering ordinary household remedies.

25 (3) Individuals practicing religious beliefs which provide for reliance
26 on spiritual means alone for healing.

27 (4) Students while performing professional services in an approved
28 physician assistant education and training program ~~who after completing~~
29 ~~one year's study treat diseases~~ under the supervision of an approved
30 instructor.

31 ~~(5) Students upon the completion of an approved physician assistant~~
32 ~~education and training program and who, as a part of their academic~~
33 ~~requirements for a degree, serve a preceptorship not to exceed 90 days~~
34 ~~under the supervision of a licensed physician.~~

35 ~~(6)~~ (5) Persons whose professional services are performed under the
36 direct and personal supervision or by order of a practitioner who is
37 licensed under the healing arts act.

38 ~~(7)~~ (6) Other health care providers licensed, registered, certified or
39 otherwise credentialed by agencies of the state of Kansas.

40 ~~(8) Physician assistants in the United States army, navy, air force,~~
41 ~~public health service, coast guard, other military service and under other~~
42 ~~federal employment when acting in the line of duty in this state~~ (7)

43 *Persons who practice as physician assistants solely in the course of*

1 *employment or active duty in the United States government or any of its*
2 *departments, bureaus or agencies.*

3 (d) Any person violating the provisions of this section shall be guilty
4 of a class B misdemeanor.

5 Sec. ~~34.~~ 46. K.S.A. 65-28a07 is hereby amended to read as follows:
6 65-28a07. (a) ~~The state board of healing arts~~ shall provide for the
7 temporary licensure of any physician assistant who has made proper
8 application for licensure, has the required qualifications for licensure,
9 except for examination, and has paid the prescribed license fee. Such
10 temporary license shall authorize the person so licensed to provide patient
11 services within the limits of the temporary license.

12 (b) A temporary license is valid: (1) ~~For one year~~ *six months* from the
13 date of issuance; or (2) until the ~~state board of healing arts~~ makes a final
14 determination on the applicant's request for licensure. ~~The state board of~~
15 ~~healing arts~~ may extend a temporary license, upon a majority vote of the
16 members of the board, for a period not to exceed one year.

17 Sec. ~~35.~~ 47. K.S.A. 65-28a08 is hereby amended to read as follows:
18 65-28a08. (a) The practice of a physician assistant shall include medical
19 services within the education, training and experience of the physician
20 assistant that are delegated by the ~~responsible supervising~~ physician.
21 Physician assistants practice in a dependent role with a ~~responsible~~
22 ~~supervising~~ physician, and may perform those duties and responsibilities
23 through delegated authority or written ~~protocol~~ *agreement*. Medical
24 services rendered by physician assistants may be performed in any setting
25 authorized by the ~~responsible supervising~~ physician, including but not
26 limited to, clinics, hospitals, ambulatory surgical centers, patient homes,
27 nursing homes and other medical institutions.

28 (b) (1) A person licensed as a physician assistant may perform, only
29 under the direction and supervision of a physician, acts which constitute
30 the practice of medicine and surgery to the extent and in the manner
31 authorized by the physician responsible for the physician assistant and
32 only to the extent such acts are consistent with rules and regulations
33 adopted by the board which relate to acts performed by a physician
34 assistant under the ~~responsible supervising~~ physician's direction and
35 supervision. A physician assistant may prescribe drugs pursuant to a
36 written ~~protocol~~ *agreement* as authorized by the ~~responsible supervising~~
37 physician.

38 (2) *A physician assistant, when authorized by a supervising*
39 *physician, may dispense prescription-only drugs:*

40 (A) *In accordance with rules and regulations adopted by the board*
41 *governing prescription-only drugs;*

42 (B) *when dispensing such prescription-only drugs is in the best*
43 *interests of the patient and pharmacy services are not readily available;*

1 *and*

2 *(C) if such prescription-only drugs do not exceed the quantity*
3 *necessary for a 72-hour supply.*

4 *(c) Before a physician assistant shall perform under the direction and*
5 *supervision of a ^{supervising} physician, such physician assistant shall be*
6 *identified to the patient and others involved in providing the patient*
7 *services as a physician assistant to the ~~responsible~~ ^{supervising} physician.*
8 *Physician assistants licensed under the provisions of this act shall keep*
9 *~~their~~ such person's license available for inspection at their primary place of*
10 *business. A physician assistant may not perform any act or procedure*
11 *performed in the practice of optometry except as provided in K.S.A. 65-*
12 *1508 and 65-2887, and amendments thereto.*

13 *(d) (1) The board shall adopt rules and regulations governing the*
14 *practice of physician assistants, including the delegation, direction and*
15 *supervision responsibilities of a supervising physician. Such rules and*
16 *regulations shall establish conditions and limitations as the board*
17 *determines to be necessary to protect the public health and safety, and*
18 *may include a limit upon the number of physician assistants that a*
19 *supervising physician is able to safely and properly supervise. In*
20 *developing rules and regulations relating to the practice of physician*
21 *assistants, the board shall take into consideration the amount of training*
22 *and capabilities of physician assistants, the different practice settings in*
23 *which physician assistants and supervising physicians practice, the needs*
24 *of the geographic area of the state in which the physician assistant and the*
25 *supervising physician practice and the differing degrees of direction and*
26 *supervision by a supervising physician appropriate for such settings and*
27 *areas.*

28 *(2) The board shall adopt rules and regulations governing the*
29 *prescribing of drugs by physician assistants and the responsibilities of the*
30 *~~responsible~~ ^{supervising} physician with respect thereto. Such rules and*
31 *regulations shall establish such conditions and limitations as the board*
32 *determines to be necessary to protect the public health and safety. In*
33 *developing rules and regulations relating to the prescribing of drugs by*
34 *physician assistants, the board shall take into consideration the amount of*
35 *training and capabilities of physician assistants, the different practice*
36 *settings in which physician assistants and ~~responsible~~ ^{supervising}*
37 *physicians practice, the degree of direction and supervision to be provided*
38 *by a ~~responsible~~ ^{supervising} physician and the needs of the geographic*
39 *area of the state in which the ^{supervising} physician's physician assistant*
40 *and the ~~responsible~~ ^{supervising} physician practice. In all cases in which a*
41 *physician assistant is authorized to prescribe drugs by a ~~responsible~~*
42 *^{supervising} physician, a written ~~protocol~~ ^{agreement} between the*
43 *~~responsible~~ ^{supervising} physician and the physician assistant containing*

1 the essential terms of such authorization shall be in effect. Any written
2 prescription order shall include the name, address and telephone number of
3 the ~~responsible~~ *supervising* physician. In no case shall the scope of the
4 authority of the physician assistant to prescribe drugs exceed the normal
5 and customary practice of the ~~responsible~~ *supervising* physician in the
6 prescribing of drugs.

7 (e) The physician assistant may ~~not dispense drugs, but may~~ request,
8 receive and sign for professional samples and may distribute professional
9 samples to patients pursuant to a written ~~protocol~~ *agreement* as authorized
10 by the ~~responsible~~ *supervising* physician. In order to prescribe *or dispense*
11 controlled substances, the physician assistant shall register with the federal
12 drug enforcement administration.

13 (f) As used in this section, "drug" means those articles and substances
14 defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

15 Sec. ~~36~~ **48**. K.S.A. 65-28a09 is hereby amended to read as follows:
16 65-28a09. (a) If a ~~responsible~~ *supervising* physician temporarily leaves
17 such physician's customary location of practice, the ~~responsible~~
18 *supervising* physician shall, by prior arrangement, name ~~a designated~~
19 *another supervising* physician who shall provide direction and supervision to
20 the physician assistant ~~of such responsible physician~~.

21 (b) A physician assistant shall not perform professional services
22 unless the name, address and signature of each ~~responsible~~ *supervising*
23 physician and the form required under subsection (a)(2) of K.S.A. 65-
24 28a03, and amendments thereto, have been provided to the board. A
25 ~~responsible~~ *supervising* physician *and physician assistant* shall notify the
26 board when supervision and direction of the physician assistant has
27 terminated. The board shall provide forms for identifying each ~~designated~~
28 *supervising* physician and for giving notice that direction and supervision
29 has terminated. These forms may direct that additional information be
30 provided, including a copy of any ~~protocols~~ *written agreements*, as
31 required by rules and regulations adopted by the board.

32 Sec. ~~37~~ **49**. K.S.A. 65-28a11 is hereby amended to read as follows:
33 65-28a11. (a) There is established a physician assistant council to advise
34 the board in carrying out the provisions of K.S.A. 65-28a01 through ~~65-~~
35 ~~28a10, inclusive 65-28a09~~, and amendments thereto. The council shall
36 consist of five members, all citizens and residents of the state of Kansas
37 appointed as follows: One member shall be a physician appointed by the
38 ~~state board of healing arts~~ who is a ~~responsible~~ *supervising* physician for a
39 physician assistant; one member shall be the president of the ~~state board of~~
40 ~~healing arts~~ or a person designated by the president; and three members
41 shall be licensed physician assistants appointed by the governor. The
42 governor, insofar as possible, shall appoint persons from different
43 geographical areas and persons who represent various types of practice

1 settings. If a vacancy occurs on the council, the appointing authority of the
2 position which has become vacant shall appoint a person of like
3 qualifications to fill the vacant position for the unexpired term, if any. The
4 Kansas academy of physician assistants shall recommend the names of
5 licensed physician assistants to the governor in a number equal to at least
6 twice the positions or vacancies to be filled, and the governor may appoint
7 members to fill the positions or vacancies from the submitted list.
8 Members of the council appointed by the governor on and after the
9 effective date of this act shall be appointed for terms of three years and
10 until their successors are appointed and qualified except that of the
11 members first appointed by the governor on or after the effective date of
12 this act one shall be appointed for a term of one year, one shall be
13 appointed for a term of two years and one shall be appointed for a term of
14 three years, as designated by the governor. The member appointed by the
15 ~~state board of healing arts~~ shall serve at the pleasure of the ~~state board of~~
16 ~~healing arts~~. A member designated by the president of the ~~state board of~~
17 ~~healing arts~~ shall serve at the pleasure of the president.

18 (b) Members of the council attending meetings of the council, or
19 attending a subcommittee meeting thereof authorized by the council, shall
20 be paid amounts provided in subsection (e) of K.S.A. 75-3223, and
21 amendments thereto, from the healing arts fee fund.

22 ~~Sec. 38.~~ **50.** K.S.A. 2013 Supp. 65-4101 is hereby amended to read as
23 follows: 65-4101. As used in this act: (a) "Administer" means the direct
24 application of a controlled substance, whether by injection, inhalation,
25 ingestion or any other means, to the body of a patient or research subject
26 by:

27 (1) A practitioner or pursuant to the lawful direction of a practitioner;
28 or

29 (2) the patient or research subject at the direction and in the presence
30 of the practitioner.

31 (b) "Agent" means an authorized person who acts on behalf of or at
32 the direction of a manufacturer, distributor or dispenser. It does not include
33 a common carrier, public warehouseman or employee of the carrier or
34 warehouseman.

35 (c) "Application service provider" means an entity that sells
36 electronic prescription or pharmacy prescription applications as a hosted
37 service where the entity controls access to the application and maintains
38 the software and records on its server.

39 (d) "Board" means the state board of pharmacy.

40 (e) "Bureau" means the bureau of narcotics and dangerous drugs,
41 United States department of justice, or its successor agency.

42 (f) "Controlled substance" means any drug, substance or immediate
43 precursor included in any of the schedules designated in K.S.A. 65-4105,

1 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

2 (g) (1) "Controlled substance analog" means a substance that is
3 intended for human consumption, and:

4 (A) The chemical structure of which is substantially similar to the
5 chemical structure of a controlled substance listed in or added to the
6 schedules designated in K.S.A. 65-4105 or 65-4107, and amendments
7 thereto;

8 (B) which has a stimulant, depressant or hallucinogenic effect on the
9 central nervous system substantially similar to the stimulant, depressant or
10 hallucinogenic effect on the central nervous system of a controlled
11 substance included in the schedules designated in K.S.A. 65-4105 or 65-
12 4107, and amendments thereto; or

13 (C) with respect to a particular individual, which such individual
14 represents or intends to have a stimulant, depressant or hallucinogenic
15 effect on the central nervous system substantially similar to the stimulant,
16 depressant or hallucinogenic effect on the central nervous system of a
17 controlled substance included in the schedules designated in K.S.A. 65-
18 4105 or 65-4107, and amendments thereto.

19 (2) "Controlled substance analog" does not include:

20 (A) A controlled substance;

21 (B) a substance for which there is an approved new drug application;
22 or

23 (C) a substance with respect to which an exemption is in effect for
24 investigational use by a particular person under section 505 of the federal
25 food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with
26 respect to the substance is permitted by the exemption.

27 (h) "Counterfeit substance" means a controlled substance which, or
28 the container or labeling of which, without authorization bears the
29 trademark, trade name or other identifying mark, imprint, number or
30 device or any likeness thereof of a manufacturer, distributor or dispenser
31 other than the person who in fact manufactured, distributed or dispensed
32 the substance.

33 (i) "Cultivate" means the planting or promotion of growth of five or
34 more plants which contain or can produce controlled substances.

35 (j) "DEA" means the U.S. department of justice, drug enforcement
36 administration.

37 (k) "Deliver" or "delivery" means the actual, constructive or
38 attempted transfer from one person to another of a controlled substance,
39 whether or not there is an agency relationship.

40 (l) "Dispense" means to deliver a controlled substance to an ultimate
41 user or research subject by or pursuant to the lawful order of a practitioner,
42 including the packaging, labeling or compounding necessary to prepare the
43 substance for that delivery, or pursuant to the prescription of a mid-level

1 practitioner.

2 (m) "Dispenser" means a practitioner or pharmacist who dispenses{,
3 **or a physician assistant who has authority to dispense prescription-**
4 **only drugs in accordance with subsection (b) of K.S.A. 65-28a08, and**
5 **amendments thereto}**.

6 (n) "Distribute" means to deliver other than by administering or
7 dispensing a controlled substance.

8 (o) "Distributor" means a person who distributes.

9 (p) "Drug" means: (1) Substances recognized as drugs in the official
10 United States pharmacopoeia, official homeopathic pharmacopoeia of the
11 United States or official national formulary or any supplement to any of
12 them; (2) substances intended for use in the diagnosis, cure, mitigation,
13 treatment or prevention of disease in man or animals; (3) substances (other
14 than food) intended to affect the structure or any function of the body of
15 man or animals; and (4) substances intended for use as a component of any
16 article specified in clause (1), (2) or (3) of this subsection. It does not
17 include devices or their components, parts or accessories.

18 (q) "Immediate precursor" means a substance which the board has
19 found to be and by rule and regulation designates as being the principal
20 compound commonly used or produced primarily for use and which is an
21 immediate chemical intermediary used or likely to be used in the
22 manufacture of a controlled substance, the control of which is necessary to
23 prevent, curtail or limit manufacture.

24 (r) "Electronic prescription" means an electronically prepared
25 prescription that is authorized and transmitted from the prescriber to the
26 pharmacy by means of electronic transmission.

27 (s) "Electronic prescription application" means software that is used
28 to create electronic prescriptions and that is intended to be installed on the
29 prescriber's computers and servers where access and records are controlled
30 by the prescriber.

31 (t) "Electronic signature" means a confidential personalized digital
32 key, code, number or other method for secure electronic data transmissions
33 which identifies a particular person as the source of the message,
34 authenticates the signatory of the message and indicates the person's
35 approval of the information contained in the transmission.

36 (u) "Electronic transmission" means the transmission of an electronic
37 prescription, formatted as an electronic data file, from a prescriber's
38 electronic prescription application to a pharmacy's computer, where the
39 data file is imported into the pharmacy prescription application.

40 (v) "Electronically prepared prescription" means a prescription that is
41 generated using an electronic prescription application.

42 (w) "Facsimile transmission" or "fax transmission" means the
43 transmission of a digital image of a prescription from the prescriber or the

1 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
2 is not limited to, transmission of a written prescription between the
3 prescriber's fax machine and the pharmacy's fax machine; transmission of
4 an electronically prepared prescription from the prescriber's electronic
5 prescription application to the pharmacy's fax machine, computer or
6 printer; or transmission of an electronically prepared prescription from the
7 prescriber's fax machine to the pharmacy's fax machine, computer or
8 printer.

9 (x) "Intermediary" means any technology system that receives and
10 transmits an electronic prescription between the prescriber and the
11 pharmacy.

12 (y) "Isomer" means all enantiomers and diastereomers.

13 (z) "Manufacture" means the production, preparation, propagation,
14 compounding, conversion or processing of a controlled substance either
15 directly or indirectly or by extraction from substances of natural origin or
16 independently by means of chemical synthesis or by a combination of
17 extraction and chemical synthesis and includes any packaging or
18 repackaging of the substance or labeling or relabeling of its container,
19 except that this term does not include the preparation or compounding of a
20 controlled substance by an individual for the individual's own lawful use
21 or the preparation, compounding, packaging or labeling of a controlled
22 substance:

23 (1) By a practitioner or the practitioner's agent pursuant to a lawful
24 order of a practitioner as an incident to the practitioner's administering or
25 dispensing of a controlled substance in the course of the practitioner's
26 professional practice; or

27 (2) by a practitioner or by the practitioner's authorized agent under
28 such practitioner's supervision for the purpose of or as an incident to
29 research, teaching or chemical analysis or by a pharmacist or medical care
30 facility as an incident to dispensing of a controlled substance.

31 (aa) "Marijuana" means all parts of all varieties of the plant Cannabis
32 whether growing or not, the seeds thereof, the resin extracted from any
33 part of the plant and every compound, manufacture, salt, derivative,
34 mixture or preparation of the plant, its seeds or resin. It does not include
35 the mature stalks of the plant, fiber produced from the stalks, oil or cake
36 made from the seeds of the plant, any other compound, manufacture, salt,
37 derivative, mixture or preparation of the mature stalks, except the resin
38 extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant
39 which is incapable of germination.

40 (bb) "Medical care facility" shall have the meaning ascribed to that
41 term in K.S.A. 65-425, and amendments thereto.

42 (cc) "Mid-level practitioner" means an advanced practice registered
43 nurse issued a license pursuant to K.S.A. 65-1131, and amendments

1 thereto, who has authority to prescribe drugs pursuant to a written protocol
2 with a ~~responsible supervising~~ **{responsible}** physician under K.S.A. 65-
3 1130, and amendments thereto, or a physician assistant licensed under the
4 physician assistant licensure act who has authority to prescribe drugs
5 pursuant to a written protocol with a ~~responsible supervising~~ physician
6 under K.S.A. 65-28a08, and amendments thereto.

7 (dd) "Narcotic drug" means any of the following whether produced
8 directly or indirectly by extraction from substances of vegetable origin or
9 independently by means of chemical synthesis or by a combination of
10 extraction and chemical synthesis:

11 (1) Opium and opiate and any salt, compound, derivative or
12 preparation of opium or opiate;

13 (2) any salt, compound, isomer, derivative or preparation thereof
14 which is chemically equivalent or identical with any of the substances
15 referred to in clause (1) but not including the isoquinoline alkaloids of
16 opium;

17 (3) opium poppy and poppy straw;

18 (4) coca leaves and any salt, compound, derivative or preparation of
19 coca leaves, and any salt, compound, isomer, derivative or preparation
20 thereof which is chemically equivalent or identical with any of these
21 substances, but not including decocainized coca leaves or extractions of
22 coca leaves which do not contain cocaine or ecgonine.

23 (ee) "Opiate" means any substance having an addiction-forming or
24 addiction-sustaining liability similar to morphine or being capable of
25 conversion into a drug having addiction-forming or addiction-sustaining
26 liability. It does not include, unless specifically designated as controlled
27 under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer
28 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
29 include its racemic and levorotatory forms.

30 (ff) "Opium poppy" means the plant of the species *Papaver*
31 *somniferum* L. except its seeds.

32 (gg) "Person" means an individual, corporation, government, or
33 governmental subdivision or agency, business trust, estate, trust,
34 partnership or association or any other legal entity.

35 (hh) "Pharmacist" means any natural person licensed under K.S.A.
36 65-1625 et seq., to practice pharmacy.

37 (ii) "Pharmacist intern" means: (1) A student currently enrolled in an
38 accredited pharmacy program; (2) a graduate of an accredited pharmacy
39 program serving such person's internship; or (3) a graduate of a pharmacy
40 program located outside of the United States which is not accredited and
41 who had successfully passed equivalency examinations approved by the
42 board.

43 (jj) "Pharmacy prescription application" means software that is used

1 to process prescription information, is installed on a pharmacy's computers
2 and servers, and is controlled by the pharmacy.

3 (kk) "Poppy straw" means all parts, except the seeds, of the opium
4 poppy, after mowing.

5 (ll) "Practitioner" means a person licensed to practice medicine and
6 surgery, dentist, podiatrist, veterinarian, optometrist, or scientific
7 investigator or other person authorized by law to use a controlled
8 substance in teaching or chemical analysis or to conduct research with
9 respect to a controlled substance.

10 (mm) "Prescriber" means a practitioner or a mid-level practitioner.

11 (nn) "Production" includes the manufacture, planting, cultivation,
12 growing or harvesting of a controlled substance.

13 (oo) "Readily retrievable" means that records kept by automatic data
14 processing applications or other electronic or mechanized recordkeeping
15 systems can be separated out from all other records within a reasonable
16 time not to exceed 48 hours of a request from the board or other authorized
17 agent or that hard-copy records are kept on which certain items are
18 asterisked, redlined or in some other manner visually identifiable apart
19 from other items appearing on the records.

20 (pp) "Ultimate user" means a person who lawfully possesses a
21 controlled substance for such person's own use or for the use of a member
22 of such person's household or for administering to an animal owned by
23 such person or by a member of such person's household.

24 Sec. ~~39~~ 51. K.S.A. 2013 Supp. 65-6112 is hereby amended to read as
25 follows: 65-6112. As used in this act:

26 (a) "Administrator" means the executive director of the emergency
27 medical services board.

28 (b) "Advanced emergency medical technician" means a person who
29 holds an advanced emergency medical technician certificate issued
30 pursuant to this act.

31 (c) "Advanced practice registered nurse" means an advanced practice
32 registered nurse as defined in K.S.A. 65-1113, and amendments thereto.

33 (d) "Ambulance" means any privately or publicly owned motor
34 vehicle, airplane or helicopter designed, constructed, prepared, staffed and
35 equipped for use in transporting and providing emergency care for
36 individuals who are ill or injured.

37 (e) "Ambulance service" means any organization operated for the
38 purpose of transporting sick or injured persons to or from a place where
39 medical care is furnished, whether or not such persons may be in need of
40 emergency or medical care in transit.

41 (f) "Attendant" means a first responder, an emergency medical
42 responder, emergency medical technician, emergency medical technician-
43 intermediate, emergency medical technician-defibrillator, emergency

1 medical technician-intermediate/defibrillator, advanced emergency
2 medical technician, mobile intensive care technician or paramedic certified
3 pursuant to this act.

4 (g) "Board" means the emergency medical services board established
5 pursuant to K.S.A. 65-6102, and amendments thereto.

6 (h) "Emergency medical service" means the effective and coordinated
7 delivery of such care as may be required by an emergency which includes
8 the care and transportation of individuals by ambulance services and the
9 performance of authorized emergency care by a physician, advanced
10 practice registered nurse, professional nurse, a licensed physician assistant
11 or attendant.

12 (i) "Emergency medical technician" means a person who holds an
13 emergency medical technician certificate issued pursuant to this act.

14 (j) "Emergency medical technician-defibrillator" means a person who
15 holds an emergency medical technician-defibrillator certificate issued
16 pursuant to this act.

17 (k) "Emergency medical technician-intermediate" means a person
18 who holds an emergency medical technician-intermediate certificate issued
19 pursuant to this act.

20 (l) "Emergency medical technician-intermediate/defibrillator" means
21 a person who holds both an emergency medical technician-intermediate
22 and emergency medical technician-defibrillator certificate issued pursuant
23 to this act.

24 (m) "Emergency medical responder" means a person who holds an
25 emergency medical responder certificate issued pursuant to this act.

26 (n) "First responder" means a person who holds a first responder
27 certificate issued pursuant to this act.

28 (o) "Hospital" means a hospital as defined by K.S.A. 65-425, and
29 amendments thereto.

30 (p) "Instructor-coordinator" means a person who is certified under
31 this act to teach initial certification and continuing education classes.

32 (q) "Medical director" means a physician.

33 (r) "Medical protocols" mean written guidelines which authorize
34 attendants to perform certain medical procedures prior to contacting a
35 physician, physician assistant authorized by a physician, advanced practice
36 registered nurse authorized by a physician or professional nurse authorized
37 by a physician. The medical protocols shall be approved by a county
38 medical society or the medical staff of a hospital to which the ambulance
39 service primarily transports patients, or if neither of the above are able or
40 available to approve the medical protocols, then the medical protocols
41 shall be submitted to the medical advisory council for approval.

42 (s) "Mobile intensive care technician" means a person who holds a
43 mobile intensive care technician certificate issued pursuant to this act.

1 (t) "Municipality" means any city, county, township, fire district or
2 ambulance service district.

3 (u) "Nonemergency transportation" means the care and transport of a
4 sick or injured person under a foreseen combination of circumstances
5 calling for continuing care of such person. As used in this subsection,
6 transportation includes performance of the authorized level of services of
7 the attendant whether within or outside the vehicle as part of such
8 transportation services.

9 (v) "Operator" means a person or municipality who has a permit to
10 operate an ambulance service in the state of Kansas.

11 (w) "Paramedic" means a person who holds a paramedic certificate
12 issued pursuant to this act.

13 (x) "Person" means an individual, a partnership, an association, a
14 joint-stock company or a corporation.

15 (y) "Physician" means a person licensed by the state board of healing
16 arts to practice medicine and surgery.

17 (z) "Physician assistant" means a person who is licensed under the
18 physician assistant licensure act and who is acting under the direction of a
19 ~~responsible~~ *supervising* physician.

20 (aa) "Professional nurse" means a licensed professional nurse as
21 defined by K.S.A. 65-1113, and amendments thereto.

22 (bb) "Provider of training" means a corporation, partnership,
23 accredited postsecondary education institution, ambulance service, fire
24 department, hospital or municipality that conducts training programs that
25 include, but are not limited to, initial courses of instruction and continuing
26 education for attendants, instructor-coordinators or training officers.

27 (cc) "~~Responsible~~ *Supervising* physician" means—~~responsible~~
28 *supervising* physician as such term is defined under K.S.A. 65-28a02, and
29 amendments thereto.

30 (dd) "Training officer" means a person who is certified pursuant to
31 this act to teach, coordinate or both, initial courses of instruction for first
32 responders or emergency medical responders and continuing education as
33 prescribed by the board.

34 ~~Sec. 40, 52.~~ K.S.A. 2013 Supp. 65-6124 is hereby amended to read as
35 follows: 65-6124. (a) No physician, physician assistant, advanced practice
36 registered nurse or licensed professional nurse, who gives emergency
37 instructions to an attendant as defined by K.S.A. 65-6112, and
38 amendments thereto, during an emergency, shall be liable for any civil
39 damages as a result of issuing the instructions, except such damages which
40 may result from gross negligence in giving such instructions.

41 (b) No attendant as defined by K.S.A. 65-6112, and amendments
42 thereto, who renders emergency care during an emergency pursuant to
43 instructions given by a physician, the ~~responsible~~ *supervising* physician for

1 a physician assistant, advanced practice registered nurse or licensed
2 professional nurse shall be liable for civil damages as a result of
3 implementing such instructions, except such damages which may result
4 from gross negligence or by willful or wanton acts or omissions on the part
5 of such attendant as defined by K.S.A. 65-6112, and amendments thereto.

6 (c) No person certified as an instructor-coordinator and no training
7 officer shall be liable for any civil damages which may result from such
8 instructor-coordinator's or training officer's course of instruction, except
9 such damages which may result from gross negligence or by willful or
10 wanton acts or omissions on the part of the instructor-coordinator or
11 training officer.

12 (d) No medical adviser who reviews, approves and monitors the
13 activities of attendants shall be liable for any civil damages as a result of
14 such review, approval or monitoring, except such damages which may
15 result from gross negligence in such review, approval or monitoring.

16 Sec. ~~41~~ 53. K.S.A. 2013 Supp. 65-6129 is hereby amended to read as
17 follows: 65-6129. (a) (1) Application for an attendant's certificate shall be
18 made to the board. The board shall not grant an attendant's certificate
19 unless the applicant meets the following requirements:

20 (A) (i) Has successfully completed coursework required by the rules
21 and regulations adopted by the board;

22 (ii) has successfully completed coursework in another jurisdiction
23 that is substantially equivalent to that required by the rules and regulations
24 adopted by the board; or

25 (iii) has provided evidence that such applicant holds a current and
26 active certification with the national registry of emergency medical
27 technicians, completed emergency medical technician training as a
28 member of the army, navy, marine corps, air force, air or army national
29 guard, coast guard or any branch of the military reserves of the United
30 States that is substantially equivalent to that required by the rules and
31 regulations adopted by the board, and such applicant separated from such
32 military service with an honorable discharge;

33 (B) (i) has passed the examination required by the rules and
34 regulations adopted by the board; or

35 (ii) has passed the certification or licensing examination in another
36 jurisdiction that has been approved by the board; and

37 (C) has paid an application fee required by the rules and regulations
38 adopted by the board.

39 (2) The board may grant an attendant's certificate to any applicant
40 who meets the requirements under subsection (a)(1)(A)(iii) but was
41 separated from such military service with a general discharge under
42 honorable conditions.

43 (b) (1) The board shall not grant a temporary attendant's certificate

1 unless the applicant meets the following requirements:

2 (A) If the applicant is certified or licensed as an attendant in another
3 jurisdiction, but the applicant's coursework is determined not to be
4 substantially equivalent to that required by the board, such temporary
5 certificate shall be valid for one year from the date of issuance or until the
6 applicant has completed the required coursework, whichever occurs first;
7 or

8 (B) if the applicant has completed the required coursework, has taken
9 the required examination, but has not received the results of the
10 examination, such temporary certificate shall be valid for 120 days from
11 the date of the examination.

12 (2) An applicant who has been granted a temporary certificate shall
13 be under the direct supervision of a physician, a ~~physician's~~ *physician*
14 assistant, a professional nurse or an attendant holding a certificate at the
15 same level or higher than that of the applicant.

16 (c) The board shall not grant an initial emergency medical technician-
17 intermediate certificate, advanced emergency medical technician
18 certificate, mobile intensive care technician certificate or paramedic
19 certificate as a result of successful course completion in the state of
20 Kansas, unless the applicant for such an initial certificate is certified as an
21 emergency medical technician.

22 (d) An attendant's certificate shall expire on the date prescribed by the
23 board. An attendant's certificate may be renewed for a period of two years
24 upon payment of a fee as prescribed by rule and regulation of the board
25 and upon presentation of satisfactory proof that the attendant has
26 successfully completed continuing education as prescribed by the board.

27 (e) All fees received pursuant to the provisions of this section shall be
28 remitted to the state treasurer in accordance with the provisions of K.S.A.
29 75-4215, and amendments thereto. Upon receipt of each such remittance,
30 the state treasurer shall deposit the entire amount in the state treasury to
31 the credit of the emergency medical services operating fund established by
32 K.S.A. 65-6151, and amendments thereto.

33 (f) If a person who was previously certified as an attendant applies
34 for an attendant's certificate after the certificate's expiration, the board may
35 grant a certificate without the person completing an initial course of
36 instruction or passing a certification examination if the person has
37 completed education requirements and has paid a fee as specified in rules
38 and regulations adopted by the board.

39 (g) The board shall adopt, through rules and regulations, a formal list
40 of graduated sanctions for violations of article 61 of chapter 65 of the
41 Kansas Statutes Annotated, and amendments thereto, which shall specify
42 the number and severity of violations for the imposition of each level of
43 sanction.

1 Sec. ~~42~~, 54. K.S.A. 2013 Supp. 72-8252 is hereby amended to read as
2 follows: 72-8252. (a) As used in this section:

3 (1) "Medication" means a medicine prescribed by a health care
4 provider for the treatment of anaphylaxis or asthma including, but not
5 limited to, any medicine defined in section 201 of the federal food, drug
6 and cosmetic act, inhaled bronchodilators and auto-injectible epinephrine.

7 (2) "Health care provider" means: (A) A physician licensed to
8 practice medicine and surgery; (B) an advanced practice registered nurse
9 issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who
10 has authority to prescribe drugs as provided by K.S.A. 65-1130, and
11 amendments thereto; or (C) a physician assistant licensed pursuant to the
12 physician assistant licensure act who has authority to prescribe drugs
13 pursuant to a written protocol with a ~~responsible~~ *supervising* physician
14 under K.S.A. 65-28a08, and amendments thereto.

15 (3) "School" means any public or accredited nonpublic school.

16 (4) "Self-administration" means a student's discretionary use of such
17 student's medication pursuant to a prescription or written direction from a
18 health care provider.

19 (b) Each school district shall adopt a policy authorizing the self-
20 administration of medication by students enrolled in kindergarten or any of
21 the grades 1 through 12. A student shall meet all requirements of a policy
22 adopted pursuant to this subsection. Such policy shall include:

23 (1) A requirement of a written statement from the student's health
24 care provider stating the name and purpose of the medication; the
25 prescribed dosage; the time the medication is to be regularly administered,
26 and any additional special circumstances under which the medication is to
27 be administered; and the length of time for which the medication is
28 prescribed;

29 (2) a requirement that the student has demonstrated to the health care
30 provider or such provider's designee and the school nurse or such nurse's
31 designee the skill level necessary to use the medication and any device that
32 is necessary to administer such medication as prescribed. If there is no
33 school nurse, the school shall designate a person for the purposes of this
34 subsection;

35 (3) a requirement that the health care provider has prepared a written
36 treatment plan for managing asthma or anaphylaxis episodes of the student
37 and for medication use by the student during school hours;

38 (4) a requirement that the student's parent or guardian has completed
39 and submitted to the school any written documentation required by the
40 school, including the treatment plan prepared as required by paragraph (3)
41 and documents related to liability;

42 (5) a requirement that all teachers responsible for the student's
43 supervision shall be notified that permission to carry medications and self-

1 medicate has been granted; and

2 (6) any other requirement imposed by the school district pursuant to
3 this section and subsection (e) of K.S.A. 72-8205, and amendments
4 thereto.

5 (c) A school district shall require annual renewal of parental
6 authorization for the self-administration of medication.

7 (d) A school district, and its officers, employees and agents, which
8 authorizes the self-administration of medication in compliance with the
9 provisions of this section shall not be held liable in any action for damage,
10 injury or death resulting directly or indirectly from the self-administration
11 of medication.

12 (e) A school district shall provide written notification to the parent or
13 guardian of a student that the school district and its officers, employees
14 and agents are not liable for damage, injury or death resulting directly or
15 indirectly from the self-administration of medication. The parent or
16 guardian of the student shall sign a statement acknowledging that the
17 school district and its officers, employees or agents incur no liability for
18 damage, injury or death resulting directly or indirectly from the self-
19 administration of medication and agreeing to release, indemnify and hold
20 the school and its officers, employees and agents, harmless from and
21 against any claims relating to the self-administration of such medication.

22 (f) A school district shall require that any back-up medication
23 provided by the student's parent or guardian be kept at the student's school
24 in a location to which the student has immediate access in the event of an
25 asthma or anaphylaxis emergency.

26 (g) A school district shall require that information described in
27 paragraphs (3) and (4) of subsection (b) be kept on file at the student's
28 school in a location easily accessible in the event of an asthma or
29 anaphylaxis emergency.

30 (h) An authorization granted pursuant to subsection (b) shall allow a
31 student to possess and use such student's medication at any place where a
32 student is subject to the jurisdiction or supervision of the school district or
33 its officers, employees or agents.

34 (i) A board of education may adopt a policy pursuant to subsection
35 (e) of K.S.A. 72-8205, and amendments thereto, which:

36 (1) Imposes requirements relating to the self-administration of
37 medication which are in addition to those required by this section; and

38 (2) establishes a procedure for, and the conditions under which, the
39 authorization for the self-administration of medication may be revoked.

40 New Sec. ~~43~~ 55. (a) Unless otherwise specified, the administration
41 and procedural provisions of the Kansas healing arts act shall apply to any
42 profession regulated by the board.

43 (b) This section shall be part of and supplemental to the Kansas

1 healing arts act.

2 ~~New Sec. 44. (a) There is hereby created an interim license. The~~
3 ~~board is authorized to issue an interim license to a person who—~~

4 ~~(1) Makes written application for such license on a form provided by~~
5 ~~the board;~~

6 ~~(2) remits the fee for an interim license;~~

7 ~~(3) has successfully completed at least one year of a postgraduate~~
8 ~~training program approved by the board;~~

9 ~~(4) is engaged in a full-time postgraduate training program approved~~
10 ~~by the board; and~~

11 ~~(5) has passed the examinations for licensure required under K.S.A.~~
12 ~~65-2873, and amendments thereto.~~

13 ~~(b) The requirements for issuance and renewal of an interim license~~
14 ~~shall be established by rules and regulations adopted by the board. An~~
15 ~~interim license shall entitle the holder to all privileges attendant to the~~
16 ~~branch of the healing arts for which such license is used.~~

17 ~~(c) This section shall be part of and supplemental to the Kansas~~
18 ~~healing arts act.~~

19 ~~New Sec. 45-44. 56. (a) Any violation of the provisions of the~~
20 ~~physician assistant licensure act shall constitute a class B misdemeanor.~~

21 ~~(b) When it appears to the board that any person is violating any of~~
22 ~~the provisions of the physician assistant licensure act, the board may bring~~
23 ~~an action in the name of the state in a court of competent jurisdiction for~~
24 ~~an injunction against such violation, without regard to whether~~
25 ~~proceedings have been or may be instituted before the board or whether~~
26 ~~criminal proceedings have been or may be instituted.~~

27 ~~(c) The board, in addition to any other penalty prescribed under the~~
28 ~~physician assistant licensure act, may assess a civil fine, after proper notice~~
29 ~~and an opportunity to be heard, against a licensee for a violation of the~~
30 ~~physician assistant licensure act in an amount not to exceed \$5,000 for the~~
31 ~~first violation, \$10,000 for the second violation and \$15,000 for the third~~
32 ~~violation and for each subsequent violation. All fines assessed and~~
33 ~~collected under this section shall be remitted to the state treasurer in~~
34 ~~accordance with the provisions of K.S.A. 75-4215, and amendments~~
35 ~~thereto. Upon receipt of each such remittance, the state treasurer shall~~
36 ~~deposit the entire amount in the state treasury to the credit of the state~~
37 ~~general fund.~~

38 ~~(d) Costs assessed by the board pursuant to subsection (c) shall be~~
39 ~~considered costs in an administrative matter pursuant to 11 U.S.C. § 523.~~
40 ~~If the board is the unsuccessful party, the costs shall be paid from the~~
41 ~~healing arts fee fund.~~

42 ~~(e) This section shall be part of and supplemental to the physician~~
43 ~~assistant licensure act.~~

1 New Sec. ~~46-45~~ 57. (a) It shall be the duty of each licensee to notify
2 the board in writing within 30 days of any changes in the licensee's home
3 mailing address or primary practice mailing address.

4 (b) In addition to any other penalty prescribed under the physician
5 assistant licensure act, the board may assess a civil fine for a violation of
6 subsection (a) in an amount not to exceed \$100 for a first violation and
7 \$150 for each subsequent violation.

8 (c) Costs assessed by the board pursuant to subsection (b), shall be
9 considered costs in an administrative matter pursuant to 11 U.S.C. § 523.
10 If the board is an unsuccessful party, the costs shall be paid from the
11 healing arts fee fund.

12 (d) This section shall be part of and supplemental to the physician
13 assistant licensure act.

14 New Sec. ~~4746~~ 58. (a) There is hereby created a license by
15 endorsement. The board is authorized to issue a license by endorsement
16 without examination to a person who has been in active practice as a
17 physician assistant in some other state, territory, District of Columbia or
18 other country upon certificate of the proper licensing authority of that
19 state, territory, District of Columbia or other country certifying that the
20 applicant is duly licensed, that the applicant's license has never been
21 limited, suspended or revoked, that the licensee has never been censured or
22 had other disciplinary action taken and that, so far as the records of such
23 authority are concerned, the applicant is entitled to its endorsement. The
24 applicant shall also present proof satisfactory to the board:

25 (1) That the state, territory, District of Columbia or country in which
26 the applicant last practiced has and maintains standards at least equal to
27 those maintained by Kansas;

28 (2) that the applicant's original license was based upon an
29 examination at least equal in quality to the examination required in this
30 state and that the passing grade required to obtain such original license
31 was comparable to that required in this state;

32 (3) the date of the applicant's original and all endorsed licenses, and
33 the date and place from which any license was attained;

34 (4) that the applicant has been actively engaged in practice under
35 such license or licenses since issuance. The board may adopt rules and
36 regulations establishing appropriate qualitative and quantitative practice
37 activities to qualify as active practice; and

38 (5) that the applicant has a reasonable ability to communicate in
39 English.

40 (b) An applicant for a license by endorsement shall not be licensed
41 unless, as determined by the board, the applicant's qualifications are
42 substantially equivalent to Kansas requirements. In lieu of any other
43 requirement prescribed by law for satisfactory passage of any examination

1 for physician assistants, the board may accept evidence demonstrating that
2 the applicant or licensee has satisfactorily passed an equivalent
3 examination given by a national board of examiners for physician
4 assistants.

5 (c) This section shall be part of and supplemental to the physician
6 assistant licensure act.

7 Sec. ~~48~~ 47. **59.** K.S.A. 65-2803, 65-2812, 65-2833, 65-2839a, 65-
8 2840a, 65-2842, 65-2846, 65-2850, 65-2852, 65-2857, 65-2858, 65-2860,
9 65-2863a, 65-2864, 65-2865, 65-2866, **65-2873, 65-2874, 65-2875, 65-**
10 **2877, 65-2885, 65-2893, 65-2898, 65-28,122, 65-28,126,** 65-28a02, 65-
11 28a06, 65-28a07, 65-28a08, 65-28a09 and 65-28a11 and K.S.A. 2013
12 Supp. 8-1001, 38-2310, 40-2123, 65-1626, 65-2802, 65-2809, 65-2836,
13 65-2837, 65-2838, 65-2838a, 65-2844, 65-2851a, 65-2867, **65-2872, 65-**
14 **2895, 65-28,127, 65-28,132,** 65-28a03, 65-28a05, 65-28a10, 65-4101, 65-
15 6112, 65-6124, 65-6129 and 72-8252 are hereby repealed.

16 Sec. ~~49~~ 48. **60.** This act shall take effect and be in force from and
17 after July 1, 2015 and its publication in the statute book.