AN ACT concerning health and healthcare; providing for the authorization
of certain business entities to employ physicians and chiropractors;
amending K.S.A. 65-2803, 65-2836 and 65-2877a and K.S.A. 2018
Supp. 40-3401 and repealing the existing sections.

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

New Section 1. (a) Notwithstanding any other provision of law, a
business entity may employ one or more persons licensed by the state
board of healing arts to practice medicine and surgery or chiropractic
pursuant to this section, if the entity first obtains a certificate of
authorization from the state board of healing arts.

(b) (1) A business entity may apply to the state board of healing arts
for a certificate of authorization, on a form and in a manner prescribed by
the state board of healing arts, and shall include the following information:
(A) The name of the business entity;
(B) a list of the names of the owners and officers of the business
entity;
(C) a description of the apportionment of liability of all partners or
owners, if the business entity is organized as a limited partnership or a
limited liability company;
(D) a list of each responsible official if the business entity is
organized as a governmental unit; and
(E) a list of all licensed physicians and chiropractors to be hired by
the business entity.

(2) As a condition of certification, a business entity shall be required
to provide the state board of healing arts evidence of the following:
(A) The address of the business entity;
(B) a city or county occupational license; and
(C) licensure of all physicians and chiropractors to be employed by
the business entity.

(3) A business entity applying for certification shall remit a fee set by
the state board of healing arts through rules and regulations, not to exceed
$500.

(c) (1) If the state board of healing arts finds that such business entity
is in compliance with all of the requirements of this section, the state board
of healing arts shall issue a certificate of authorization to such business
entity designating the business entity as authorized to engage in the
practice of medicine and surgery or chiropractic, as applicable.
(2) A certificate of authorization shall be renewed biennially and
accompanied by a fee to be fixed by the state board of healing arts. The
renewal fee shall be accompanied by a form prescribed by the state board
of healing arts.
(d) No business entity issued a certificate of authorization under this
section shall be relieved of responsibility for the conduct or acts of its
agents or employees by reason of its compliance with the provisions of
this section, nor shall any individual licensed to practice the healing arts be
relieved of responsibility and liability for services performed by reason of
employment or relationship with such business entity. Nothing in this
section shall exempt any business entity from the provisions of any other
law applicable to the business entity.
(e) A business entity issued a certificate of authorization under this
section shall not impose or substitute its judgment for that of the physician
or chiropractor.
(f) As used in this section:
(1) (A) "Business entity" means an employer located in Kansas that
offers medicine and surgery or chiropractic services for its employees and
the dependents of such employees at the employer's work site; an
organization that is licensed to sell accident and sickness insurance in the
state that is also a mutual or non-profit health carrier, or a wholly owned
subsidiary of such organization that provides medical services for the
organization's enrollees and dependents of such enrollees; or an
information technology company that designs and provides electronic
medical records for businesses and worksite medical clinics for employers
located in Kansas.
(B) "Business entity" does not include medical care facilities under
K.S.A. 65-425, and amendments thereto, corporations licensed under
K.S.A. 40-3214, and amendments thereto, and professional corporations
organized pursuant to the professional corporation law of Kansas.
(2) "Physician" means a person licensed by the state board of healing
arts to practice medicine and surgery.
(g) The state board of healing arts shall adopt all rules and regulations
as necessary to implement and administer the provisions of this section.
(h) This section shall be a part of and supplemental to the Kansas
healing arts act.
Sec. 2. K.S.A. 2018 Supp. 40-3401 is hereby amended to read as
follows: 40-3401. As used in this act:
(a) "Applicant" means any healthcare provider.
(b) "Basic coverage" means a policy of professional liability
insurance required to be maintained by each healthcare provider pursuant
to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

(c) "Commissioner" means the commissioner of insurance.

(d) "Fiscal year" means the year commencing on the effective date of this act and each year, commencing on the first day of July thereafter.

(e) "Fund" means the healthcare stabilization fund established pursuant to K.S.A. 40-3403(a), and amendments thereto.

(f) (1) "Healthcare provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the state board of healing arts, a medical care facility licensed by the state of Kansas, a podiatrist licensed by the state board of healing arts, a health maintenance organization issued a certificate of authority by the commissioner, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are healthcare providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are healthcare providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are healthcare providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are healthcare providers as defined by this subsection, a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed prior to January 1, 1988, and continuously thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its repeal, and K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, or a mental health center or mental health clinic licensed by the state of Kansas. On and after January 1, 2015, "Healthcare provider" also means, a physician assistant licensed by the state board of healing arts, a licensed advanced practice registered nurse who is authorized by the board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a licensed advanced practice registered nurse who has been
granted a temporary authorization by the board of nursing to practice as an
advanced practice registered nurse in the classification of a nurse-midwife,
a nursing facility licensed by the state of Kansas, an assisted living facility
licensed by the state of Kansas or a business entity that holds a certificate of
authorization pursuant to section 1, and amendments thereto.
(2) "Healthcare provider" does not include:—(1) (A) Any state
institution for people with intellectual disability;—(2) (B) any state
psychiatric hospital;—(3) (C) any person holding an exempt license issued
by the state board of healing arts or the board of nursing;—(4) (D) any
person holding a visiting clinical professor license from the state board of
healing arts;—(5) (E) any person holding an inactive license issued by the
state board of healing arts;—(6) (F) any person holding a federally active
license issued by the state board of healing arts;—(7) (G) an advanced
practice registered nurse who is authorized by the board of nursing to
practice as an advanced practice registered nurse in the classification of
nurse-midwife or nurse anesthetist and who practices solely in the course
of employment or active duty in the United States government or any of its
departments, bureaus or agencies or who provides professional services as
a charitable healthcare provider as defined under K.S.A. 75-6102, and
amendments thereto; or—(8) (H) a physician assistant licensed by the state
board of healing arts who practices solely in the course of employment or
active duty in the United States government or any of its departments,
bureaus or agencies or who provides professional services as a charitable
healthcare provider as defined under K.S.A. 75-6102, and amendments thereto.
(g) "Inactive healthcare provider" means a person or other entity who
purchased basic coverage or qualified as a self-insurer on or subsequent to
the effective date of this act but who, at the time a claim is made for
personal injury or death arising out of the rendering of or the failure to
render professional services by such healthcare provider, does not have
basic coverage or self-insurance in effect solely because such person is no
longer engaged in rendering professional service as a healthcare provider.
(h) "Insurer" means any corporation, association, reciprocal
exchange, inter-insurer and any other legal entity authorized to write
bodily injury or property damage liability insurance in this state, including
workers compensation and automobile liability insurance, pursuant to the
provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of
the Kansas Statutes Annotated, and amendments thereto.
(i) "Plan" means the operating and administrative rules and
procedures developed by insurers and rating organizations or the
commissioner to make professional liability insurance available to
healthcare providers.
(j) "Professional liability insurance" means insurance providing coverage for legal liability arising out of the performance of professional services rendered or that should have been rendered by a healthcare provider.

(k) "Rating organization" means a corporation, an unincorporated association, a partnership or an individual licensed pursuant to K.S.A. 40-956, and amendments thereto, to make rates for professional liability insurance.

(l) "Self-insurer" means a healthcare provider who qualifies as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

(m) "Medical care facility" means the same when used in the healthcare provider insurance availability act as defined in K.S.A. 65-425, and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility.

(n) "Mental health center" means a mental health center licensed by the state of Kansas under K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center.

(o) "Mental health clinic" means a mental health clinic licensed by the state of Kansas under K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic.

(p) "State institution for people with intellectual disability" means Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(q) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital and Rainbow mental health facility.

(r) "Person engaged in residency training" means:

(1) A person engaged in a postgraduate training program approved by the state board of healing arts who is employed by and is studying at the university of Kansas medical center only when such person is engaged in medical activities that do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and that have not been approved by the dean of the school of medicine and the executive vice-chancellor of the university of Kansas medical center. Persons engaged in residency training shall be considered resident healthcare providers for purposes of K.S.A. 40-3401 et seq., and
amendments thereto; and

(2) a person engaged in a postgraduate training program approved by the state board of healing arts who is employed by a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine or who is employed by an affiliate of the university of Kansas school of medicine as defined in K.S.A. 76-367, and amendments thereto, only when such person is engaged in medical activities that do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and that have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice-chancellor of the university of Kansas medical center.

(s) "Full-time physician faculty employed by the university of Kansas medical center" means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing healthcare. A person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center may also be employed part-time by the United States department of veterans affairs if such employment is approved by the executive vice-chancellor of the university of Kansas medical center.

(t) "Sexual act" or "sexual activity" means that sexual conduct that constitutes a criminal or tortious act under the laws of the state of Kansas.

(u) "Board" means the board of governors created by K.S.A. 40-3403, and amendments thereto.

(v) "Board of directors" means the governing board created by K.S.A. 40-3413, and amendments thereto.

(w) "Locum tenens contract" means a temporary agreement not exceeding 182 days per calendar year that employs a healthcare provider to actively render professional services in this state.

(x) "Professional services" means patient care or other services authorized under the act governing licensure of a healthcare provider.

(y) "Healthcare facility" means a nursing facility, an assisted living facility or a residential healthcare facility as all such terms are defined in K.S.A. 39-923, and amendments thereto.

(z) "Charitable healthcare provider" means the same as defined in K.S.A. 75-6102, and amendments thereto.

Sec. 3. K.S.A. 65-2803 is hereby amended to read as follows: 65-2803. (a) Unless otherwise specified by the board or as provided in section 1, and amendment thereto, it shall be unlawful for any person who does not have a license, registration, permit or certificate to engage in the practice of any profession regulated by the board or whose license,
registration, permit or certificate to practice has been revoked or suspended to engage in the practice of any profession regulated by the board.

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

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

(d) Violation of this section is a severity level 10, nonperson felony.

Sec. 4. K.S.A. 65-2836 is hereby amended to read as follows: 65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

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

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

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

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

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

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

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

(h) The licensee has engaged in the practice of the healing arts under
a false or assumed name, or the impersonation of another practitioner. The
provisions of this subsection relating to an assumed name shall not apply
to licensees practicing under a professional corporation, under a business
entity that holds a certificate of authorization pursuant to section 1, and
amendments thereto, or under any other legal entity duly authorized to
provide such professional services in the state of Kansas.

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

(j) The licensee has had a license to practice the healing arts revoked,
suspended or limited, has been censured or has had other disciplinary
action taken, or an application for a license denied, by the proper licensing
authority of another state, territory, District of Columbia, or other country.

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

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

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

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

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

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

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

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

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

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

(u) The licensee has surrendered a license or authorization to practice the healing arts in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct—which that would constitute grounds for disciplinary action under this section.

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

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

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

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

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

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

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

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as established by any of the following:

(1) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018 Supp. 21-5407, and amendments thereto.

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

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

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

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

Sec. 5. K.S.A. 65-2877a is hereby amended to read as follows: 65-2877a. The healing arts act and any other provision of law prohibiting practice of the healing arts by a general corporation shall not apply to a healing arts school approved by the board if the healing arts school is a non-profit entity under section 501(c)(3) of the internal revenue code of 1986, is approved by the state board of regents, and as part of its academic requirements provides clinical training to its students under the supervision of persons who are licensed to practice a branch of the healing arts in this state.

Sec. 7. This act shall take effect and be in force from and after January 1, 2020 and its publication in the statute book.