

Omnibus Health Bill

HB 2182, the Omnibus Health Bill, includes the following: Pharmacy Audit Integrity Act; Health Care Freedom Act; Inclusion of Mail Service Pharmacies in the Utilization of Unused Medications Act; Changes to the Addictions Counselor Licensure Act; Sports Injury Prevention Act and Participation of High School Athletes in Non-School Swimming and Non-School Diving Athletic Training; Amendment to the Physical Therapy Practice Act; Kansas Health Information Technology and Exchange Act; Amendments to Statutes on Regional Trauma Councils and the Advisory Committee on Trauma; Amendments to the Nurse Practices Act and Optometrist Definition Change; Amendments to Current Law on Emergency Medical Services; Franchise Practice of Dentistry and Changes to the Dental Practices Act; and Annual Benefit Cigar Dinner Exemption to the Kansas Indoor Clean Air Act.

Summary of Provisions

The bill enacts and amends several health-related provisions in Kansas law. Generally, the bill does the following:

- Creates the Pharmacy Audit Integrity Act which defines a Pharmacy Benefits Manager (PBM) under the Act, outlines the procedures for conducting an audit, details the audits to which the Act does not apply, and provides for an appeals process.
- Enacts the Health Care Freedom Act, which outlines the individual right of Kansas residents to choose to purchase or refuse to purchase health insurance.
- Permits mail order pharmacies physically located outside of Kansas, but licensed within the state, to donate unused prescription medication under the Utilization of Unused Medications Act.
- Makes changes in Chapter 45 of the 2010 Session Laws of Kansas (the Addictions Counselor Licensure Act, which becomes effective on July 1, 2011) with regard to definitions, requirements for licensure and continuing education, denial or restriction of licensure, licensure requirements for the practice of addiction counseling, and the scope of the Addictions Counselor Licensure Act.
- Creates the School Sports Injury Prevention Act and adds provisions governing the participation by student athletes in a Kansas state high school

league-sponsored sport or competition while participating in non-school swimming athletic training, non-school diving athletic training, or both.

- Amends the Physical Therapy Practice Act by expanding the allowable professional designations for physical therapists (PTs) and physical therapy assistants (PTAs), including the use of designations of educational degrees, certifications or credentials earned.
- Creates the Kansas Health Information Technology and Exchange Act. The stated purpose of this Act is to harmonize state law with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rules with respect to individual access to protected health information, safeguarding protected health information, and the use and disclosure of protected health information to facilitate the development and use of health information technology and health information exchange.
- Amends the law governing the membership of the Regional Trauma Councils (RTCs) and the Advisory Committee on Trauma (ACT) to make the committees and officers “peer review committees” and “peer review officers” who are to be granted peer review protection while acting in an official capacity under this act, only with regard to reviews of incidents involving trauma injury or trauma care. Disclosure of information to the Secretary of Health and Environment related to such review does not waive the peer review privilege.
- Amend the law to update the title of an Advanced Registered Nurse Practitioner (ARNP) to Advanced Practice Registered Nurse (APRN), changes licensure and education requirements for the role of the APRN, makes a definitional change regarding optometrists, and permits reinstatement of lapsed nurse licenses upon meeting specified requirements. The reinstatement provision expires January 1, 2012.
- Makes changes to the law regarding emergency medical services provided by individuals regulated by the Board of Emergency Medical Services (BEMS). Changes made in 2010 law allowed Emergency Medical Services (EMS) attendants to transition from authorized activities to scope of practice, changed the names of some attendant levels to reflect national nomenclature, and allowed for enhancement of skills set to create the ability to provide a higher level of care. The bill makes changes to support the transition and to provide options for those required to meet the transition requirements.
- Enacts new law to allow the franchise practice of dentistry in Kansas and revises portions of the Dental Practices Act pertaining to definitions and

oversight functions of the Kansas Dental Board. Under prior law, licensed dentists were prohibited from entering into arrangements with unlicensed proprietors and specifically prohibited from the franchise practice of dentistry.

- Amends the Kansas Indoor Clean Air Act, which bans smoking in enclosed areas or public places while providing specific exemptions where smoking is allowed. The bill adds an exemption from the statewide smoking ban for any annual benefit cigar dinner or other cigar dinner of a substantially similar nature when specific conditions are met.

The bill also contains a severability clause which allows the continued effect of remaining provisions should any provision or clause of the bill be held invalid.

Effective Dates

With the exception of provisions related to three subject areas, all other parts of this bill take effect on publication in the statute book. One is Advanced Practice Registered Nursing, which becomes effective on January 1, 2012. The other two, the Kansas Dental Practices Act provisions and the provision for reinstatement (in certain circumstances) of a registered professional nurse's license if that license has lapsed for more than 13 years, became effective on publication in the *Kansas Register* on June 9, 2011.

Greater detail of the bill's content follows.

Pharmacy Audit Integrity Act

The Pharmacy Audit Integrity Act applies to contracts between an auditing entity and a pharmacy entered into, extended or renewed on or after July 1, 2011, and does not apply to any audit, review or investigation that is initiated based upon suspected or alleged fraud, willful misrepresentation or abuse.

Definition. The bill defines a Pharmacy Benefits Manager (PBM) as a person, business or other entity that performs pharmacy benefits management and includes a person or other entity acting for a PBM in a contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, not-for-profit hospital or medical service organization, insurance company, third-party payor, or health program administered by the State Board of Pharmacy.

Audit Procedures. The bill requires entities conducting pharmacy audits to comply with the following procedures:

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- Provide a minimum of seven days' written notice to a pharmacy prior to conducting an on-site initial audit;
 - Require audits that involve clinical or professional judgment to be conducted by or done in consultation with a licensed pharmacist;
 - Limit the period covered by an audit to two years from the date of claim submission to, or adjudication by, the entity conducting the audit;
 - Allow pharmacies to request an extension of not more than seven days from the date of an originally scheduled on-site audit;
 - Permit pharmacies to use the records of a hospital, physician or other authorized practitioner to validate the pharmacy record;
 - Allow the use of any legal prescription which complies with the regulations of the State Board of Pharmacy to validate claims for prescriptions, refills or changes in prescriptions;
 - Require similarly situated pharmacies to be audited under the same standards and parameters; and
 - Require an auditing entity to establish a written appeals process.

Audit Calculations. The bill requires any entity conducting an audit to follow these requirements with regard to calculations:

- Overpayment and underpayment amounts will be based on actual amounts and not projections;
- Extrapolation cannot be used in calculating recoupments or penalties for audits, unless required by state or federal contracts;
- Payments to auditing companies cannot be based on a percentage of the recovery amount, unless required by contracts; and
- Accrual of interest during the audit period will not be permitted.

Audit Report Timeline and Appeals. The bill does the following:

- Requires delivery of the preliminary audit report to the pharmacy within 60 days after the audit's conclusion;

- Allows a minimum of 30 days following receipt of the preliminary audit for the pharmacy to provide documentation on any audit discrepancies;
- Requires delivery of a final audit report to the pharmacy within 120 days after receipt of a preliminary audit report or final appeal, whichever is later;
- Requires recoupment of disputed funds or repayment of funds to the entity by the pharmacy, if allowed by contracts, to the extent demonstrated or documented in the pharmacy audit findings, after final internal disposition of the audit including the appeals process;
- Allows for the withholding of future payments to a pharmacy if an identified discrepancy for an individual audit exceeds \$20,000, pending finalization of the audit;
- Protects the confidentiality of audit information, unless disclosure is required by federal or state law;
- Limits an auditor's access to previous audit reports of a pharmacy to those performed by the same entity;
- Requires an auditing entity to provide a copy of the final report, including the disclosure of any money recouped, upon request of the plan sponsor; and
- Allows a pharmacy to provide a copy of the report to the Insurance Commissioner, provided the report does not contain any personally identifiable health information in violation of the provisions of HIPAA.

Health Care Freedom Act

The bill enacts the Health Care Freedom Act, which codifies the individual right of Kansas residents to choose to purchase or refuse to purchase health insurance. The bill states the government is prohibited from interfering with a resident's right to purchase or refuse to purchase the insurance.

The bill states it is a resident's right to enter into a private contract with health care providers for lawful health care services, and that the government is prohibited from interfering with this right. The bill allows a person or employer to pay directly for the services and establish a prohibition against penalizing or fining for doing so. Likewise, the bill allows a health care provider to accept direct payment for lawful health care services and establish a prohibition against penalizing or fining for doing so.

The bill prohibits any state agency or other state entity from requiring an agreement to participate in Medicare, Medicaid or any other insurance plan, health care system or health information technology or benefit exchange as a condition for the licensure, registration or certification of a health care provider. State agencies and other governmental entities are not allowed to prohibit participation by a health care provider in a health information organization for either health information technology or benefit exchange based on whether the health care provider participates in Medicare, Medicaid or any other insurance plans or health care systems.

The bill provides that government is prohibited from enacting a law that restricts any of the rights detailed in the Act or that imposes a form of punishment for exercising the rights. The bill also states none of the Act's provisions shall render a resident liable for any type of punishment or penalty as a result of the resident's failure to obtain health insurance coverage or participate in any health care system or plan.

The bill defines a number of terms, including "direct payment or pay directly" and "lawful health care services."

Utilization of Unused Medications Act—Donations

Mail order pharmacies that are licensed in Kansas, but not physically located in the state, are allowed under the bill to make donations of unused prescription medications under the Utilization of Unused Medications Act. Only mail order pharmacies physically located within the state formerly were allowed to donate medication to be distributed under the Act. This bill also revises a statute dealing with medication packaging requirements under the Act. The bill deletes the requirement that medications in tamper-evident packaging be hermetically sealed.

Addictions Counselor Licensure Act

The bill makes certain changes in Chapter 45 of the 2010 Session Laws of Kansas.

Definitions. Specifically, the bill does the following:

- Eliminates case management from the scope of "addiction counseling";
- Expands independent practice, as applied to addiction counseling and licensed clinical addiction counselors, to include not only the diagnosis and treatment of substance abuse disorders but to allow for both independent practice and diagnosis and treatment of substance abuse disorders; and
- Allows a licensed addiction counselor, on and after July 1, 2011, to practice in treatment facilities exempted under KSA 59-29b46(m). (Among the

exempted facilities are licensed medical care facilities, licensed adult care homes, community-based alcohol and drug safety action programs, and state institutions at which detoxification services may have been obtained.)

Licensure Requirements. The bill does the following:

- Changes, from August 1 to September 1, 2011, the effective date of the provision prohibiting individuals engaging in the practice of addictions counseling or representing themselves as the following without first obtaining the requisite license under the Act: licensed addiction counselors, addiction counselors, substance abuse counselors, alcohol and drug counselors, licensed clinical addiction counselors, clinical addiction counselors, clinical substance abuse counselors, or clinical alcohol and drug counselors.
- Provides that an applicant for licensure as an addiction counselor who holds a Baccalaureate degree in a related field have:
 - Included as part of the related field course work, a minimum number of semester hours of course work in substance abuse disorders, without the specific requirement that the course work be in the diagnosis and treatment of substance abuse disorders; or
 - Additional course work in addiction counseling including course work in substance abuse disorders, to be distinguished from practicum.
- Provides applicants seeking licensure as clinical addiction counselors (who are licensed addiction counselors or meet all of the requirements for licensure as addiction counselors) a new option to enable the applicants to meet a part of the licensure requirements. This option is completion of a Master's degree in a related field and licensure by the Board as a licensed addiction counselor.
- Eliminates, as a condition of licensure, that individuals who are "grandfathered in" under the Act as licensed addiction counselors have been actively engaged in the practice of addiction counseling in Kansas as registered alcohol and other drug counselors, alcohol and drug credentialed counselors, or credentialed alcohol and other drug abuse counselors within three years of the effective date of this act, and instead requires that these individuals be registered in Kansas in those capacities in the same period of time.
- Eliminates, as a condition of licensure, that individuals who would be grandfathered in under the Act as licensed clinical addiction counselors have been actively engaged in the practice of addiction counseling in Kansas as

alcohol and other drug counselors within three years of the effective date of this act, and instead would require registration in Kansas in that capacity in the same period of time.

- Provides (upon application, payment of fees and completion of applicable continuing education requirements) that individuals credentialed by the Department of Social and Rehabilitation Services (SRS) as alcohol and drug counselors who have been actively engaged in the practice, supervision or administration of addiction counseling in Kansas for not less than four years; hold a Master's degree in a related field; and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, be:
 - Licensed as clinical addiction counselors;
 - Able to engage in the independent practice of addiction counseling; and
 - Authorized to diagnose and treat substance use disorders specified in the edition of The Diagnostic and Statistical Manual of Mental Disorders of the American Psychiatric Association designated by the Behavioral Sciences Regulatory Board (Board) by rules and regulations.

Licensure Requirements—Other Jurisdictions. The bill provides for the issuance of a license to an applicant currently registered, certified or licensed to practice addiction counseling in another jurisdiction if:

- The standards required in that jurisdiction are substantially equivalent to the requirements of the Addictions Counselor Licensure Act and rules and regulations of the Board; or
- The applicant demonstrates compliance with standards adopted by the Board.

Continuing Education. The bill clarifies the continuing education requirements to distinguish between requirements applicable only to clinical addiction counselor applicants and those applicable to both the clinical addiction counselor applicants and addiction counselor applicants.

Denial or Restriction of Licenses. The bill removes the requirement for a hearing prior to Behavioral Sciences Regulatory Board refusal to grant a license or Board action

to suspend, revoke, condition, limit, qualify or restrict any licensure issued under this act and requires only the opportunity for a hearing.

Scope. The bill clarifies the scope of the Act so as not to be construed as authorizing the practice or applying to the activities and services of other professions licensed by the Board.

Health and Safety of School Athletes

School Sports Injury Prevention Act. The bill enacts the School Sports Injury Prevention Act, which applies to any public or accredited private high school, middle school, or junior high school. The State Board of Education is required to distribute information regarding the nature of risks of concussion and head injury. Further, the new law requires that a student suffering, or suspected of having suffered, a concussion or head injury be immediately removed from a sport competition or practice. Specific conditions must be met before a student would be allowed to return to competition or practice.

The bill requires:

- The State Board of Education, in cooperation with the Kansas State High School Activities Association (KSHSAA), to gather information on the nature and risk of concussion and head injury, including the dangers of continuing to play or practice after suffering such an injury, and distribute the information to coaches, school athletes, and parents or guardians of school athletes;
- A concussion and head injury information release form be signed by the athlete and the athlete's parent or guardian and returned to the school prior to participation in any sport competition or practice session. A new signed release form must be returned to the school each school year that a student participates in sports competitions and practice sessions;
- Immediate removal of a school athlete from a sport competition or practice session if a concussion or head injury has been suffered or is suspected;
- Evaluation by a health care provider (defined under the Act as a person licensed by the State Board of Healing Arts to practice medicine and surgery) of any school athlete who has been removed from a sport competition or practice session; and
- Written clearance by the health care provider performing the evaluation prior to return to competition or practice.

The bill exempts a health care provider who provides a written clearance, and is not an employee of the school district, from liability for civil damages resulting from any act or omission in rendering care, except for acts or omissions which constitute gross negligence or willful or wanton misconduct.

Participation by High School Athletes. The bill also prevents the KSHSAA and its member high schools, as well as administrators, principals, coaches, teachers and others affiliated with the KSHSAA and member high schools, from adopting rules or regulations or interpreting existing rules and regulations in such a way as to prohibit a student athlete from training with any Kansas State High School League-sponsored sport or competition while the student is participating in non-school swimming athletic training, non-school diving athletic training, or both, during the high school sport season and throughout the year if:

- The non-school swimming, non-school diving athletic training, or both, is under the jurisdiction of and sanctioned by the national body of the sport, U.S.A. Swimming, Inc., or U.S.A. Diving, Inc., and is conducted in a manner which protects the health and safety of a student athlete; and
- The student athlete meets the reasonable and ordinary requirements established by the school for participation in the student athlete's high school swimming program or diving program, or both, including requirements designed to protect the health and safety of such student athlete.

Physical Therapy Practice Act

The bill amends the Physical Therapy Practice Act by expanding the allowable professional designations for physical therapists (PTs) and physical therapy assistants (PTAs), including the use of designations of educational degrees, certifications or credentials earned. The bill also inserts a definition for the phrase "recognized by the Board" and makes technical amendments.

Licensed Physical Therapists. The bill does the following:

- Allows a licensed PT to designate or describe himself or herself as a "doctor of physical therapy," and use similar abbreviations or words. In written or oral communication, when using the letters or term "Dr." or "Doctor" in conjunction with a licensed PTs professional practice, PTs must identify themselves as a "physical therapists" or "doctors of physical therapy";
- Allows licensed PTs to list or use in conjunction with their names any letters, words, abbreviations or other insignia to designate educational degrees,

certifications or credentials recognized by the Board of Healing Arts (Board) which the PT has earned; and

- Prohibits the use of the term “doctor of physical therapy” by an individual not licensed as a PT or whose license has been suspended or revoked in any manner.

Physical Therapy Assistants. The bill allows certified PTAs to list or use in conjunction with their names any letters, words, abbreviations or other insignia to designate educational degrees, certifications or credentials which the PTA has earned.

Kansas Health Information Technology and Exchange Act

The bill creates the Kansas Health Information Technology and Exchange Act, with the stated purpose of harmonizing state law with the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy rules with respect to individual access, safeguarding, and the use and disclosure of protected health information to facilitate the development and use of health information technology and health information exchange.

Definitions. Among the applicable definitions in the Act are the following:

- “Approved HIO” means a health information organization operating in the state which has been approved by the Kansas Health Information Exchange, Inc. (Corporation);
- “Covered entity” means a health care provider, a health care component of a hybrid entity, a health plan or a health care clearinghouse;
- “Health care provider” means a health care provider, as that term is defined by the HIPAA privacy rule, that furnishes health care to individuals in the state; and
- “Health information technology” means an information processing application using computer hardware and software for the storage, retrieval, use and disclosure of health information for communication, decision-making, quality, safety and efficiency of health care. Health information technology includes, but is not limited to an electronic health record; a personal health record; health information exchange; electronic order entry; and electronic decision support.

Duties of Covered Entity. The bill requires a covered entity to:

- Provide an individual or the individual’s personal representative with access to the individual’s protected health information which is maintained by the

covered entity in a designated record set in compliance with HIPAA privacy rules; and

- Implement and maintain appropriate administrative, technical and physical safeguards to protect the privacy of protected health information in a manner consistent with HIPAA rules.

Disclosure of Information. A covered entity is prohibited under the bill from the use and disclosure of protected health information, with certain exceptions as follows:

- The use and disclosure is consistent with an authorization that satisfies HIPAA requirements;
- The use and disclosure without authorization is permitted under applicable sections of the HIPAA privacy rules; or
- The use and disclosure is as required under 45 C.F.R. 164.502 of the HIPAA privacy rules.

Further, notwithstanding the above conditions, the Act does not permit the disclosure of protected health information by a covered entity to an approved HIO without an authorization which satisfies HIPAA, unless:

- A current participation agreement exists between the covered entity and the approved HIO;
- The disclosure to the approved HIO is done in a manner consistent with the approved HIO's established procedures;
- Prior to disclosure to the approved HIO, the covered entity must provide the individual (whose information is to be disclosed), or the individual's representative, with notice required under Section 32 of this Act relating to participation agreements; and
- The covered entity restricts disclosure to the approved HIO of any protected health information concerning the individual that is the subject of a written request by the individual, or the personal representative, for reasonable restrictions on disclosure of all or any specified categories of the individual's protected health information, following the covered entity's receipt of the written request.

A covered entity that uses or discloses protected health information in compliance with this section of this Act is immune from any civil or criminal liability or adverse administrative action as a result or related to the disclosure.

Authorization Form. The Act requires that, within six months of the effective date of the Act, the Secretary of the Kansas Department of Health and Environment (KDHE) develop and adopt by rules and regulations a standard authorization form for the use and disclosure of protected health information which meets HIPAA requirements for use and disclosure. A properly completed standard authorization form is considered valid authorization for the disclosure requested.

Within six months of the effective date of the Act, the Secretary of KDHE must develop educational material designed to increase awareness and improve understanding of the newly created standard authorization form for the use and disclosure of protected health information.

Fees for Copies. Under the Act, the covered entity is allowed to charge fees for furnishing copies of the protected health information record, with the fees established and updated by the Secretary of KDHE. No fees may be charged for disclosures between a covered entity and an approved HIO.

Conflicts with State Law. Any provision of state law in conflict with provisions of the Act is superseded by the rules set out in the Act, except that the Act may not limit or restrict the application and effect of the Kansas statutes regarding peer review, risk management, or any statutory health care provider-patient privilege. The Act may not limit or restrict the ability of a state agency to require the disclosure of protected health information by any person or entity pursuant to law.

Public Health Purpose for Disclosure. The Act allows a health care provider to disclose protected health information without authorization to any state agency for any public health purpose required by law.

Setting of Standards of HIOs. The Kansas Health Information Exchange, Inc. (Corporation) must establish and revise standards for the approval and operation of statewide and regional HIOs operating in the state as approved HIOs. Among these standards are those needed for satisfaction of certification standards for health information exchanges promulgated by the federal government and adherence to nationally recognized standards for interoperability.

Approval Process. The Corporation is required by the Act to establish and implement processes for the approval of an HIO, the re-approval of HIOs at appropriate intervals, and for the investigation of reported concerns and complaints regarding approved HIOs and measures to address the deficiencies.

Participation Agreement Requirements. The Corporation also must establish requirements for participation agreements. Among the requirements are procedures to allow a covered entity to disclose protected health information to an approved HIO, to allow the covered entity access to health information from the HIO, and to establish specifications of the written notice to the individual before disclosure of information. The written notice may be incorporated into the covered entity's notice of privacy practices required under the HIPAA privacy rule. The information required in the written notice is set out in this section of the Act.

HIO Receipt of Financial Support. The Act requires an HIO to be approved to be eligible for financial support from the State, or assistance or support from the State in securing any other source of funding.

HIO Immunity for Use or Disclosure. An approved HIO that uses or discloses protected health information in compliance with rules adopted by the Corporation is immune from civil or criminal liability or any adverse administrative action resulting from such use or disclosure.

Uniform Electronic Transactions Act. Except for a printing issue, the bill would have amended part of the Uniform Electronic Transactions Act to allow the definition of "transaction" to include actions or sets of actions occurring between two or more persons relating to the conduct of health care. With this amendment, transactions among entities and persons covered in the Act would have fallen under the Uniform Electronic Transactions Act. (A Revisor's Note will be added at the end of the statute to explain this issue.)

Statutes Repealed. The Act repeals statutes dealing with access to health care records, enforcement and rule and regulation authority.

Regional Trauma Council and Advisory Committee on Trauma

The bill amends the law to limit peer review protection to reviews of incidents involving trauma injury or trauma care. Any meeting, or part of any meeting, of the Advisory Committee on Trauma (ACT) or of a Regional Trauma Council (RTC) during which a review of incidents involving trauma injury or trauma care is discussed must be conducted in a closed session. The ACT, any RTC, and officers of any of these committees, when acting in their official capacity in considering incidents of a trauma injury or trauma care, are considered peer review committees and peer review officers.

The bill allows the ACT, an RTC or an officer thereof to advise, report to, and discuss activities, information, and findings of the committee related to incidents of trauma injury or trauma care with the Secretary of Health and Environment without waiving peer review privilege. The records and findings of these committees or officers remain privileged. The

provisions of this bill related to peer review and disclosure of information to the Secretary of Health and Environment related to incidents of trauma injury or trauma care expire on July 1, 2016, unless reviewed and reenacted by the Legislature prior to that date. The bill also makes technical amendments to the law.

A “peer review officer or committee” defined (KSA 2010 Supp. 65-4915) as:

- An individual employed, designated or appointed by, or a committee of or employed, designated or appointed by, a health care provider group and authorized to perform peer review; or
- A health care provider monitoring the delivery of health care at correctional institutions under the jurisdiction of the Secretary of Corrections.

Advanced Practice Registered Nursing (APRN)

APRNs. The bill makes the following specific changes to the Nurse Practice Act regarding APRN:

- Replaces all references to an ARNP in statute with APRN;
- Requires an APRN to be licensed, instead of holding a certificate of qualification as currently is required;
- Replaces language referring to the disciplinary action which may be taken against a holder of a certificate of qualification to instead apply to the holder of a temporary permit;
- Replaces the use of “categories” in describing the types of ARNPs with “roles” (Under prior law, the four recognized categories are Nurse Practitioner, Clinical Nurse Specialist, Certified Nurse Midwife, and Certified Registered Nurse Anesthetist);
- Requires a Master’s or higher degree for an APRN;
- Allows an ARNP registered to practice prior to the effective date of the Act to be deemed licensed as an APRN without requiring the filing of a new application;
- Treats any application for registration which has been filed but not granted prior to the effective date of the Act, to be processed as an application for licensure under this bill; and

- Requires continuing education for an APRN specific to the advance practice nursing role.

Optometrist Definition Change. The bill changes the definition of “practitioner” with regard to the licensure of an optometrist in the Regulation of Pharmacists Act.

Reinstatement of Lapsed Nurse License. The bill permits a registered professional nurse whose license has lapsed to apply to the nursing board for reinstatement as a registered professional nurse, and waives the requirement to complete a refresher course, if the following conditions are present:

- The nursing license has lapsed for more than 13 years;
- The nurse has been employed for at least 10 of the last 13 years while providing the type of patient care that is substantially comparable to patient care provided by a registered professional nurse.

The nurse is to be reinstated as a registered professional nurse upon application to the Board of Nursing (Board), review by the Board of the nurse’s work history, and payment of the reinstatement fee. The reinstatement provision expires on January 1, 2012.

Emergency Medical Services

The bill amends the law regarding emergency medical services provided by individuals regulated by the Board of Emergency Medical Services (Board). Changes made in 2010 law allowed Emergency Medical Services (EMS) attendants to transition from authorized activities to scope of practice, changed the names of some attendant levels to reflect national nomenclature, and allowed for enhancement of skill sets to create the ability to provide a higher level of care.

Specifically, the bill makes changes to support the transition and to provide options for those required to meet the transition requirements. The bill does the following:

- Allows EMS attendants the option to transition to a lower level of certification, if they so choose;
- Changes the initiation date for transition from January 1, 2011, to December 31, 2011, to allow attendants complete certification cycles to accomplish the transition requirements;
- Allows transitioning upon application and completion of requirements, in addition to renewal times provided in current law; and

CERTIFICATE(S) HELD	TRANSITION TO (CERTIFICATE TYPE)	CONDITIONS OPTION 1	CONDITIONS OPTION 2	IF EMT FAILS TO MEET EITHER OPTION 1 OR 2 OF THE TRANSITION REQUIREMENTS
Emergency Medical Technician-Intermediate (EMT-I); or EMT-I held together with EMT-Defibrillator (EMT-D) Section 83	Advanced EMT	By application, upon successful completion of the Board-prescribed transition course and validation of cognitive and psychomotor competency as determined by Board rules and regulations; or	Upon application for renewal (first or second opportunity after 12/31/2011), provided the individual has completed all continuing education hour requirements including successful completion of a transition course. Does not have to file an original application for certification as an Advanced EMT.	May complete the Board-prescribed EMT or Emergency Medical Responder (EMR) transition course, provide validation of cognitive and psychomotor competency and complete all continuing education requirements including successful completion of a Board-prescribed transition course. Then certificate holder may either (1) apply to transition to an EMT or an EMR (depending on course successfully completed); or (2) upon renewal application for renewal of certificate(s), individual will be renewed as an EMT or EMR, depending on course successfully completed. Does not have to file an original application for certification as an EMT or an EMR.
EMT-D (Section 85)	Advanced EMT	By application, upon successful completion of an EMT-I initial course of instruction and the completion of the Board-prescribed transition course, and validation of cognitive and psychomotor competency as determined by Board rules and regulations; or	Same as above except (1) transition is from EMT-D to Advanced EMT; and (2) application for renewal refers to the second opportunity after 12/31/2011.	Same as above.
EMT at current basic level (Section 84)	EMT	By application, upon successful completion of the Board-prescribed transition course and validation of cognitive and psychomotor competency as determined by Board rules and regulations; or	Same as above except transition is from EMT at current basic level to EMT; and (2) application for renewal refers to the first opportunity after 12/31/2011. Does not have to file an original application for certification as an EMT.	May complete the Board-prescribed EMR transition course, provide validation of cognitive and psychomotor competency and complete all continuing education requirements including successful completion of a Board-prescribed transition course. Then, upon application for renewal of an EMT certificate, EMT would be deemed to hold a certificate as an EMR without having to file an original application as an EMR.
First Responder (Section 86)	EMR	Same as above; or	Same as above except (1) transition is from First Responder to EMR; and (2) application for renewal refers to the first opportunity after 12/31/2011. Does not have to file an original application for certification as an EMR.	N/A

- Permits an emergency medical technician-intermediate (EMT-I), an advanced emergency medical technician (Advanced EMT), an emergency medical technician (EMT), an emergency medical technician-defibrillator (EMT-D) and an emergency medical responder (EMR) to provide medical services within their scope of practice when authorized by medical protocols or upon order when direct voice communication is maintained and monitored by specific authorized medical personnel.

The bill expands the Board membership to include two additional members who are physicians and are actively involved in emergency medical services. The rule and regulation authority of the Board in specific areas, among which are licensure fees and requirements for a quality assurance and improvement program for ambulance services, also is expanded. Further, the bill expands the grounds for disciplinary action against an operator, an attendant, an instructor-coordinator, and a training officer.

EMS Board Membership. The bill increases the Board membership from thirteen to fifteen members with the Governor appointing two physicians who are actively involved in emergency medical services, bringing the total number of physicians on the Board to three. The two new physician members serve staggered terms which begin after July 1, 2011.

EMS Board Authority. The rule and regulation authority of the Board is expanded to include the adoption of rules and regulations for fees for licensure, temporary licensure, and renewal of licensure for ambulances and rescue vehicles; requirements for a quality assurance and improvement program for ambulance services; and staffing requirements for attendant or medical services personnel for ambulance services and vehicles.

Further, the bill states that nothing in the Act or Chapter 65, Article 61 of Kansas Statutes Annotated, dealing with emergency medical services, authorizes the Board to specify who may or may not ride in a helicopter that is being used as an ambulance.

Definition Changes. The term “medical adviser” changes to “medical director” when referring to a physician.

A “training officer” means a person who is certified under this Act to teach, coordinate or both, initial courses of instruction for first responders or emergency medical responders and continuing education as prescribed by the Board.

Transitions for EMS Licensees. The bill provides that a number of EMS certificate holders may transition to a higher level under specified conditions. The following table lists the types of certificates and the conditions that must be met for each in order to make the transition. Failure to meet the transition requirements results in forfeiture of the certificate holder’s certification.

Scopes of Practice, Emergency Medical Technician-Intermediate (EMT-I). The bill provides that an individual holding a valid certificate as an EMT-I may:

- Perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions and ringers lactate IV solutions, endotracheal intubation and administration of nebulized albuterol when:
 - Approved by medical protocols; or
 - Ordered by voice contact by radio or telephone monitored by a physician, physician assistant where authorized by a physician, advanced registered nurse practitioner where authorized by a physician, or licensed professional nurse where authorized by a physician, and direct communication is maintained.

Scopes of Practice, Advanced Emergency Medical Technician. The bill provides that an Advanced Emergency Medical Technician who has completed successfully an approved course of instruction, local specialized device training and competency validation may perform any of the listed interventions, by the use of the devices, medications and equipment, or any combination of such, as specifically identified in rules and regulations, when:

- Authorized by medical protocols; or
- Upon order when direct communication is maintained by radio, telephone or video conference with a physician, physician assistant where authorized by a physician, advanced registered nurse practitioner where authorized by a physician, or licensed professional nurse where authorized by a physician.

The bill allows electrocardiogram (ECG) interpretation and clarifies that both generic or trade name medications could be administered by one or more of the listed methods when authorized by medical protocols or upon order when direct communication is maintained, as described previously.

Scopes of Practice, Emergency Medical Technician (EMT). The bill eliminates the monitoring of a peripheral intravenous line delivering intravenous fluids during interfacility transport from the scope of practice of an EMT.

Upon transition, prior law provides that an EMT who has completed successfully an approved course of instruction, local specialized device training and competency validation may perform any activities identified in KSA 65-6144, and any of the listed interventions,

by the use of the devices, medications and equipment, or any combination of such, as specifically identified in rules and regulations, when:

- Authorized by medical protocols; or
- Upon order when direct communication is maintained by radio, telephone or video conference with a physician, physician assistant where authorized by a physician, advanced registered nurse practitioner where authorized by a physician, or licensed professional nurse where authorized by a physician.

Scope of Practice, Emergency Medical Technician-Defibrillator (EMT-D). The bill provides that an individual holding a valid certificate as an EMT-D may perform any of the activities identified in KSA 65-6121, electrocardiographic monitoring and defibrillation when:

- Approved by medical protocols; or
- Ordered by radio or telephone voice contact monitored by a physician, physician assistant where authorized by a physician, advanced registered nurse practitioner where authorized by a physician, or licensed professional nurse where authorized by a physician, and when direct communication is maintained.

Scope of Practice, Emergency Medical Responder. The bill provides that, upon transition, an Emergency Medical Responder who has completed successfully an approved course of instruction, local specialized device training and competency validation may perform any of the listed interventions, by the use of the devices, medications and equipment, or any combination of such, as specifically identified in rules and regulations, when:

- Authorized by medical protocols; or
- Upon order when direct communication is maintained by radio, telephone or video conference and is monitored by a physician, physician assistant where authorized by a physician, advanced registered nurse practitioner where authorized by a physician, or licensed professional nurse where authorized by a physician.

Medical Director. The bill changes the term “medical adviser” to “medical director” in the statutes dealing with liability for civil damages and the duties of a medical director. The bill also requires each emergency medical service to have a medical director whose duties would include the implementation of medical protocols and to approve and monitor the education of the attendants.

Requirements for Attendant's Certificate. The bill adds payment of a fee as required by rules and regulations adopted by the Board to the requirements to be met before the Board would grant an attendant's certificate.

Disciplinary Action, Operator. The bill adds engaging in unprofessional conduct, as defined by rules and regulations of the EMS Board, as a new ground for disciplinary action against an operator.

Disciplinary Action, Attendant, Instructor-Coordinator, or Training Officer. The bill creates a new ground for disciplinary action against an attendant, instructor-coordinator, or training officer when disciplinary action has been taken by a licensing or other regulatory authority of another state, agency of the government, U.S. territory or other country. A certified copy of such disciplinary record or order, or other disciplinary action, by any of these entities would be *prima facie* evidence of such fact.

Amendments to the Dental Practices Act; Proprietor Arrangements

The bill enacts new law to allow the franchise practice of dentistry in Kansas and revise portions of the Dental Practices Act pertaining to definitions and oversight functions of the Kansas Dental Board (Board). Under prior law, licensed dentists were prohibited from entering into arrangements with unlicensed proprietors and specifically prohibited from the franchise practice of dentistry.

Under the bill, a "dental franchisor," with exceptions to the definition described later, is defined as any person or entity, pursuant to a written agreement, who provides dental practice management services, or dental material or equipment necessary for dental practice management, to a licensed dentist under a lease or an agreement for compensation. A person or entity entering into an agreement with a licensed dentist for dental office administrative services is required to register with the Board. The bill also allows licensed dentists to practice dentistry as employees of a general hospital in counties with a population of less than 50,000.

Definitions. The bill makes the following changes to the Act:

- Revises the definition of "proprietor" to mean any person who employs dentists or dental hygienists in the operation of a dental office and eliminate language referring to proprietors placing or retaining ownership of dental material or equipment in the possession of a dentist or dental hygienist by lease or other agreement for compensation;
- Adds a definition for "dental franchisor," as defined above, and clarifies that a person or entity is not a dental franchisor if the agreement with the dentist:

- Permits interference with the professional judgment of the dentist;
or
- Contains terms constituting a violation of the Dental Practices Act, rules and regulations adopted by the Board, any orders or directives issued by the Board or any other applicable law;
- Adds a definition for “licensed dentist” to mean a dentist licensed under the Dental Practices Act; and
- Adds a definition for “unlicensed proprietor” to mean any person or entity not authorized to own or operate a dental practice that enters into an agreement with a dentist or dental hygienist related to the practice of dentistry or dental hygiene which:
 - Permits interference with the professional judgment of the dentist;
or
 - Contains terms constituting a violation of the Dental Practices Act, rules and regulations adopted by the Board, any orders or directives issued by the Board or any other applicable law.

Oversight by the Kansas Dental Board. The bill does the following:

- Adds a new category of disciplinary action available to the Board, specifically to limit the license of a dentist;
- Deletes the requirement to have the name of a professional dental practice approved by the Board and instead requires that the name may not misrepresent the dentist to the public, with the Board having the authority to determine the issue of misrepresentation; and
- Adds a new section of law requiring registration with the Board for any unlicensed person or entity (term excludes a professional corporation or limited liability company composed of dentists) entering into an agreement with a licensed dentist to provide dental office administrative services. Any person or entity required to register has 30 days to complete the registration. The 30 days begins either on the date of execution of the contract or agreement or 30 days from July 1, 2011, depending upon whether the contract or agreement existed prior to July 1, 2011. Any changes in the company name and contact information for the registered person or entity who are parties to the agreement must be reported within 30 days of such change. This new section includes language permitting the Board to inspect the contract or agreement.

Employment with General Hospitals. The bill permits a licensed dentist to practice dentistry as an employee of a general hospital in a county with a population of less than 50,000.

Dental Franchises. The bill does the following:

- Deletes language prohibiting the franchise practice of dentistry.
- Revises language to permit the division of fees between a licensed dentist and a dental franchisor.
- Adds a new section of law to do the following:
 - Prohibits any contract or agreement involving a licensed dentist from containing language that would permit specified functions to be controlled by a person or entity other than a licensed dentist;
 - Permits a person or entity, acting on behalf of a licensed dentist, to perform or arrange for office administrative services;
 - Specifies the parties which are allowed to enter into agreements with a licensed dentist, professional corporation or limited liability company owned by a licensed dentist; and
 - Adds an indemnification clause to protect the parties to the agreement.
- Makes technical changes.

Kansas Indoor Clean Air Act—Amendment

The bill amends the Kansas Indoor Clean Air Act, which bans smoking in enclosed areas or public places while providing specific exemptions where smoking is allowed. The bill adds an exemption from the statewide smoking ban for any annual benefit cigar dinner or other cigar dinner of a substantially similar nature that is:

- Conducted for charitable purposes by a 501(c)(3) not-for-profit organization;
- Conducted no more than once per calendar year; and
- Has been held during the three previous years.