SENATE BILL No. 192

By Committee on Ways and Means

2-11


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

New Section 1. (a) No person shall practice as a registered dental practitioner in this state until such person has passed an examination by the Kansas dental board under such rules and regulations as the board may adopt. The fee for such examination shall be fixed by the board pursuant to K.S.A. 65-1447, and amendments thereto. A license fee shall be paid to the board in the amount fixed by the board pursuant to K.S.A. 65-1447, and amendments thereto.

(b) The board shall authorize a person to practice as a registered dental practitioner if such person is qualified under this section, works under the general supervision of a Kansas-licensed dentist pursuant to a written supervising agreement, is licensed by the board, and practices in compliance with this section and rules and regulations adopted by the board.

A supervising agreement entered into with a registered dental practitioner must include specific written protocols detailing the scope of practice the supervising dentist authorizes for the registered dental practitioner to perform, and that outlines a course of action when the registered dental practitioner encounters a patient who requires treatment that exceeds the authorized scope of practice of the registered dental practitioner. The supervising dentist must ensure that a dentist is available, in person or through distance technology, to the registered dental practitioner for timely consultation if needed and must either provide or arrange with another dentist or specialist to provide the necessary treatment to any patient who requires more treatment than the registered dental practitioner is authorized to provide.

Nothing in this act will prohibit a registered dental practitioner from working under the direct supervision of a Kansas licensed dentist.

(c) To be qualified to practice under this section, such person shall:
(1) Be a licensed dental hygienist who is also a graduate of a registered dental practitioner education program of not more than 18 months that is provided by an accredited post secondary institution comprised of a curriculum approved by the state board of regents;

(2) pass a comprehensive, competency-based clinical examination that is approved by the board and administered independently of an institution providing registered dental practitioner education;

(3) have practiced under direct supervision of a supervising dentist for at least 500 hours before practicing under general supervision; and

(4) obtain a policy of professional liability insurance and show proof of such insurance as required by rules and regulations.

(d) Registered dental practitioners shall practice in federally-designated professional workforce shortage areas, designated as such under 42 U.S.C. § 254c, indigent health care clinics, nursing homes, head start, federal and state correctional institutions or in private practice where at least 20% of total patient revenues are derived from medicaid. Registered dental practitioners may also practice in those settings provided in K.S.A. 65-1456, and amendments thereto, for dental hygienists, dental hygienists with an extended care permit I and dental hygienists with an extended care permit II, in addition to those settings contained in this act. Registered dental practitioners may practice in any other areas or sites where the board determines registered dental practitioners will improve access.

(e) Any person practicing as a registered dental practitioner in violation of the provisions of this act shall be guilty of a misdemeanor, and the board may revoke or suspend such person’s license therefor.

(f) This section shall take effect on and after July 1, 2013.

New Sec. 2. (a) The Kansas dental board may suspend or revoke the license of any dentist who shall direct any registered dental practitioner operating under such dentist’s supervision to perform any operation other than that permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and may suspend or revoke the license of any registered dental practitioner found guilty of performing any operation other than those permitted under the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. No license of any dentist or registered dental practitioner shall be suspended or revoked in any administrative proceedings without first complying with the notice and hearing requirements of the Kansas administrative procedure act.

(b) Except as otherwise provided in this section, the practice of dental therapy shall be performed under the direct or general supervision of a licensed dentist. As used in this section: (1) "Direct supervision" means that the dentist in the dental office, personally diagnoses the
condition to be treated, personally authorizes the procedure and before
dismissal of the patient evaluates the performance; and (2) "general
supervision" means the supervision of tasks or procedures without the
presence of the dentist in the office or on the premises at the time the
tasks or procedures are being performed, and pursuant to a written
supervising agreement, so long as those tasks and procedures are within
the scope of practice for a registered dental practitioner.

(c) A licensed registered dental practitioner may perform dental
services as authorized under this section including the following services
under general supervision unless restricted or prohibited in the
supervising agreement:

(1) Oral health instruction and disease prevention education,
including nutritional counseling and dietary analysis;
(2) preliminary charting of the oral cavity;
(3) making radiographs;
(4) dental prophylaxis (mechanical polishing);
(5) application of topical preventative or prophylactic agents,
including fluoride varnishes and pit and fissure sealants;
(6) pulp vitality testing;
(7) application of desensitizing medication or resin;
(8) fabrication of athletic mouthguards;
(9) placement of temporary restorations;
(10) fabrication of soft occlusal guards;
(11) tissue conditioning and soft reline;
(12) atraumatic restorative therapy;
(13) dressing changes;
(14) tooth reimplantation and stabilization;
(15) administration of local anesthetic;
(16) administration of nitrous oxide;
(17) diagnosis of oral disease;
(18) the formulation of an individualized treatment plan;
(19) extractions of primary teeth;
(20) nonsurgical extractions of periodontally diseased permanent
teeth with tooth mobility of +3 or +4. The registered dental practitioner
shall not extract a tooth for any patient if the tooth is unerupted,
impacted, fractured, or needs to be sectioned for removal;
(21) emergency palliative treatment of dental pain;
(22) the placement and removal of space maintainers;
(23) cavity preparation;
(24) restoration of primary and permanent teeth;
(25) placement of temporary crowns;
(26) preparation and placement of preformed crowns;
(27) pulpotomies on primary teeth;
(28) indirect and direct pulp capping on primary and permanent teeth;
(29) suture removal;
(30) brush biopsies;
(31) simple repairs and adjustments for patients with removable prosthetic appliances;
(32) recementing of permanent crowns;
(33) prevent potential orthodontic problems by early identification and appropriate referral; and
(34) prevent, identify, and manage dental and medical emergencies and maintain current basic life support certification.

(d) Any registered dental practitioner may practice dental hygiene and dental services as may be performed by a dental hygienist and a dental assistant under the provisions of K.S.A. 65-1423 and 65-1456, and amendments thereto. Any registered dental practitioner shall be also duly registered as a dental hygienist by the board.

(e) This section shall take effect on and after July 1, 2013.

New Sec. 3. (a) The board shall revoke or suspend the license of any licensed registered dental practitioner who is found guilty of using or attempting to use in any manner whatsoever any prophylactic lists, call lists, records, reprints or copies of same, or information gathered therefrom, of the names or patients whom the registered dental practitioner might have served in the office of a prior employer, unless such names appear upon the bona fide call or prophylactic list of the registered dental practitioner's present employer and were caused to so appear through the legitimate practice of dentistry as provided for in this act.

(b) The board shall also suspend or revoke the license of any licensed dentist who is found guilty of aiding or abetting or encouraging a registered dental practitioner employed by such dentist to make use of a so-called prophylactic call list, or the calling by telephone or by use of written letters transmitted through the mails to solicit patronage from patients formerly served in the office of any dentist formerly employing such registered dental practitioner.

(c) No order of suspension or revocation provided in this section shall be made or entered except after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act. Any final order of suspension or revocation of a license shall be reviewable in accordance with the Kansas judicial review act.

(d) This section shall take effect on and after July 1, 2013.

Sec. 4. The board shall adopt rules and regulations as may be necessary to administer the provisions of this act regarding the licensure of registered dental practitioners on or before July 1, 2013. The board
shall have such rules and regulation published in the Kansas register on
or before July 1, 2012.

Sec. 5. K.S.A. 65-1421 is hereby amended to read as follows: 65-
1421. It shall be unlawful for any person to practice dentistry, dental
therapy or dental hygiene in the state of Kansas, except:
   (a) Those who are now duly licensed dentists, pursuant to law;
   (b) those who are now duly registered dental practitioners, pursuant
to law;
   (b)(c) those who are now duly licensed dental hygienists, pursuant to
law;
   (e)(d) those who may hereafter be duly licensed as dentists,
registered dental practitioners or dental hygienists, pursuant to the
provisions of this act.

Sec. 6. K.S.A. 65-1424 is hereby amended to read as follows: 65-
1424. The term "proprietor" as used in this act includes any person who:
   (a) Employs dentists, registered dental practitioners or dental
hygienists in the operation of a dental office; or
   (b) places in possession of a dentist, registered dental practitioner or
dental hygienist or other agent such dental material or
equipment as may be necessary for the management of a dental office on
the basis of a lease or any other agreement for compensation for the use
of such material, equipment or offices; or
   (c) retains the ownership or control of dental equipment or material
or office and makes the same available in any manner for the use by
dentists, registered dental practitioners or dental hygienists or other
agents except that nothing in this subsection (e) shall apply to bona fide
sales of dental equipment or material secured by a chattel mortgage or
retain title agreement.

A licensee of dentistry who enters into any of the above described
arrangements with an unlicensed proprietor may have such license
suspended or revoked by the board.

The estate or agent for a deceased or substantially disabled dentist
may employ dentists, for a period of not more than one year, to provide
service to patients until the practice can be sold.

Sec. 7. K.S.A. 2010 Supp. 65-1431 is hereby amended to read as
follows: 65-1431. (a) Each license to practice as a dentist, registered
dental practitioner or dental hygienist issued by the board, shall expire on
December 1 of the year specified by the board for the expiration of the
license and shall be renewed on a biennial basis. Each application for
renewal shall be made on a form prescribed and furnished by the board.
Every licensed dentist, registered dental practitioner or dental hygienist
shall pay to the board a renewal fee fixed by the board as provided in
K.S.A. 65-1447, and amendments thereto.
(b) To provide for a staggered system of biennial renewal of licenses, the board may renew licenses for less than two years.

(c) On or before December 1 of the year in which the licensee's license expires, the licensee shall transmit to the board a renewal application, upon a form prescribed by the board, which shall include such licensee's signature, post office address, the number of the license of such licensee, whether such licensee has been engaged during the preceding licensure period in active and continuous practice whether within or without this state, and such other information as may be required by the board, together with the biennial licensure fee for a registered dental practitioner or dental hygienist which is fixed by the board pursuant to K.S.A. 65-1447, and amendments thereto.

(d) The board shall require every licensee to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act.

(e) Upon fixing the biennial license renewal fee, the board shall immediately notify all licensees of the amount of the fee for the ensuing licensure period. Upon receipt of such fee and upon receipt of evidence that the licensee has satisfactorily completed a program of continuing education required by the board, the licensee shall be issued a renewal license authorizing the licensee to continue to practice in this state for a period of no more than two years.

(f) (1) Any license granted under authority of this act shall automatically be canceled if the holder thereof fails to apply for and obtain renewal prior to March 1 of the year following the December in which a renewal application is due.

(2) Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, prior to February 1, by submitting to the board the required renewal application, payment of the biennial renewal fee and proof that such licensee has satisfactorily completed a program of continuing education required by the board. Any licensee whose license is required to be renewed for the next biennial period may obtain renewal, between February 1 and March 1, by submitting to the board the required renewal application, payment of the biennial renewal fee, payment of a penalty fee of not to exceed $500 as fixed by rules and regulations by the board and proof that such licensee has satisfactorily completed a program of continuing education required by the board. The penalty fee in effect immediately prior to the effective date of this act shall continue in effect until rules and regulations establishing a penalty fee under this section become effective.
(g) Upon failure of any licensee to pay the applicable renewal fee or to present proof of satisfactory completion of the required program of continuing education by February 1 of the year following the December in which a renewal application is due, the board shall notify such licensee, in writing, by mailing notice to such licensee's last registered address. Failure to mail or receive such notice shall not affect the cancellation of the license of such licensee.

(h) The board may waive the payment of biennial fees and the continuing education requirements for the renewal of licenses without the payment of any fee for a person who has held a Kansas license to practice dentistry, dental therapy or dental hygiene if such licensee has retired from such practice or has become temporarily or permanently disabled and such licensee files with the board a certificate stating either of the following:

(1) A retiring licensee shall certify to the board that the licensee is not engaged, except as provided in K.S.A. 65-1466, and amendments thereto, in the provision of any dental service, the performance of any dental operation or procedure or the delivery of any dental hygiene service as defined by the statutes of the state of Kansas; or

(2) a disabled licensee shall certify to the board that such licensee is no longer engaged in the provision of dental services, the performance of any dental operation or the provision of any dental hygiene services as defined by the statutes of the state of Kansas by reason of any physical disability, whether permanent or temporary, and shall describe the nature of such disability.

(i) The waiver of fees under subsection (h) shall continue so long as the retirement or physical disability exists. Except as provided in K.S.A. 65-1466, and amendments thereto, in the event the licensee returns to the practice for which such person is licensed, the requirement for payment of fees and continuing education requirements shall be reimposed commencing with and continuing after the date the licensee returns to such active practice. Except as provided in K.S.A. 65-1466, and amendments thereto, the performance of any dental service, including consulting service, or the performance of any dental hygiene service, including consulting service, shall be deemed the resumption of such service, requiring payment of license fees.

(j) The Kansas dental board may adopt such rules and regulations requiring the examination and providing means for examination of those persons returning to active practice after a period of retirement or disability as the board shall deem necessary and appropriate for the protection of the people of the state of Kansas except that for an applicant to practice dental therapy or dental hygiene who is returning to active practice after a period of retirement or disability, the board shall authorize
as an alternative to the requirement for an examination that the applicant
successfully complete a refresher course as defined by the board in an
approved dental hygiene school or registered dental practitioner
program.

Sec. 8. K.S.A. 2010 Supp. 65-1434 is hereby amended to read as
follows: 65-1434. (a) The board, without examination, may issue a
license as a dentist, registered dental practitioner or dental hygienist to an
applicant holding a license in another state upon compliance with the
requirements of professional qualification and experience set forth in
subsection (b). The board shall prepare and adopt a form of application to
be submitted by an applicant for a license to be issued under this section.
On the receipt of any such application, the board shall conduct such
review, verification or other investigation of the applicant and the
professional qualifications, background, experience and practice of the
applicant as the board deems necessary to assure full compliance with the
requirements of this section. Any license so issued may be revoked by the
board upon evidence that an applicant has obtained a license under this
section through misrepresentation or omission of a material fact in the
application or other information submitted to the board.

(b) Each applicant for licensure under this section must evidence the
qualifications and meet the following requirements:

(1) Each applicant for licensure as a dentist under this section must
meet the requirements set forth in K.S.A. 65-1426, and amendments
thereto. Each applicant for licensure as a registered dental practitioner
must meet any applicable requirements set forth in section 1, and
amendments thereto. Each applicant for licensure as a dental hygienist
must meet any applicable requirements set forth in K.S.A. 65-1455, and
amendments thereto.

(2) Each applicant shall show evidence of having successfully
completed both a national board examination or an equivalent
examination accepted by the state in which the applicant has been
previously licensed, and a clinical examination, administered by any state
or clinical dental testing agency, of equivalent merit to the clinical
examination accepted by the board at the time such applicant completed
such examinations.

(3) Each applicant for licensure as a dentist under this section shall
have held a license to practice dentistry in one or more other states of the
United States for the five-year/three-year period immediately preceding
the date of application and shall have engaged in the active practice of
dentistry for at least five/three years prior to the date of application. Each
applicant for licensure as a registered dental practitioner under this
section shall have held a license to practice dental therapy in another
state of the United States for the three-year period immediately preceding
the date of application and shall have engaged in the active practice of
dental therapy for at least three years prior to the date of application.
Each applicant for licensure as a dental hygienist under this section shall
have held a license to practice dental hygiene in another state of the
United States for the three-year period immediately preceding the date of
application and shall have engaged in the active practice of dental
hygiene for at least three years prior to the date of application. Successive
and continuous periods of active practice in other states will comply with
the active practice requirements of this paragraph (3). For the purpose of
determining the period of practice, periods of military service will be
considered to the extent approved by the Kansas dental board. Service as
a full-time faculty member in a school of dentistry will be considered the
practice of dentistry to the extent service involved full-time instruction in
dentistry including clinical dentistry. Service as a faculty member in a
school of dental hygiene will be considered the practice of dental hygiene
to the extent such service involved instruction in dental hygiene including
clinical dental hygiene. To be considered for the purposes of this statute,
any such school of dentistry, dental therapy or dental hygiene must be
approved by the Kansas dental board within the meaning of K.S.A. 65-
1426, and amendments thereto.

(4) Each such applicant shall show evidence that the applicant has
fully complied with all continuing education requirements imposed by the
state or states in which the applicant has been licensed and has practiced
during the five three years immediately preceding the date of the
application. In the event the state or states in which the applicant has been
licensed and practiced has no such requirement, the applicant shall
provide such information concerning continuing education received by
the applicant during the five-year three-year period preceding application
as may be required by the board. All applicants must have completed
continuing education sufficient to comply with that continuing education
required of Kansas licensees during the twenty-four-month period prior to
the date of the application for licensure unless the Kansas dental board
determines, for good cause shown, that the requirement will work an
undue hardship upon the applicant and the requirement is not necessary
for the protection of the people of Kansas based upon the training and
experience of the applicant.

(5) The applicant shall provide such other information concerning
the applicant and the dental education, qualification, experience and
professional conduct of the applicant as the board in its discretion deems
necessary to its determination to issue a license.

(6) Each applicant shall provide a certificate of the executive
director of the board or other agency governing licensure of dentists,
registered dental practitioners or dental hygienists of the state in which
the applicant has been licensed and has practiced during the required
period preceding the date of the application. Such certificate shall state
that: (A) The applicant is licensed to practice dentistry, dental therapy or
dental hygiene in the state; (B) the license of the applicant has never been
suspended or revoked; (C) the applicant has never been the subject of any
proceeding for suspension, revocation or other disciplinary action
initiated by the board of licensure of any such state during the period the
applicant has held a license to practice dentistry or dental hygiene in such
state; and (D) no complaint has been filed against the applicant of such
substance as, in the judgment of the board of licensure of such state, has
required the initiation of proceedings against the applicant. In the event
the applicant has practiced dentistry, dental therapy or dental hygiene in
more than one other state in the United States, the applicant shall file a
similar certificate with respect to such period or periods during which the
applicant has practiced in each such state.

(c) The Kansas dental board may direct an applicant to appear
before the board at a date, time and place to be determined by the Kansas
dental board to answer questions and provide such information
concerning the qualifications, background, experience and practice of the
applicant as the Kansas dental board may deem necessary.

(d) The term "applicant" as used in this section shall apply to both
applicants for licensure as a dentist, applicants for licensure as a
registered dental practitioner and applicants for licensure as a dental
hygienist unless the context otherwise indicates.

Sec. 9. K.S.A. 2010 Supp. 65-1436 is hereby amended to read as
follows: 65-1436. (a) The Kansas dental board may refuse to issue the
license provided for in this act, or may take any of the actions with
respect to any dental, dental therapy or dental hygiene license as set forth
in subsection (b), whenever it is established, after notice and opportunity
for hearing in accordance with the provisions of the Kansas
administrative procedure act, that any applicant for a dental, dental
therapy or dental hygiene license or any licensed dentist or dental
hygienist practicing in the state of Kansas has:

(1) Committed fraud, deceit or misrepresentation in obtaining any
license, money or other thing of value;
(2) habitually used intoxicants or drugs which have rendered such
person unfit for the practice of dentistry or dental hygiene;
(3) been determined by the board to be professionally incompetent;
(4) committed gross, wanton or willful negligence in the practice of
dentistry or dental hygiene;
(5) employed, allowed or permitted any unlicensed person or
persons to perform any work in the licensee's office which constitutes the
practice of dentistry, dental therapy or dental hygiene under the
provisions of this act;
(6) willfully violated the laws of this state relating to the practice of
dentistry, dental therapy or dental hygiene or the rules and regulations of
the secretary of health and environment or of the board regarding
sanitation;
(7) engaged in the division of fees, or agreed to split or divide the
fee received for dental service with any person for bringing or referring a
patient without the knowledge of the patient or the patient's legal
representative, except the division of fees between dentists practicing in a
partnership and sharing professional fees, or in case of one licensed
dentist employing another;
(8) committed complicity in association with or allowed the use of
the licensed dentist's name in conjunction with any person who is
engaged in the illegal practice of dentistry;
(9) been convicted of a felony or a misdemeanor involving moral
turpitude in any jurisdiction and the licensee fails to show that the
licensee has been sufficiently rehabilitated to warrant the public trust;
(10) prescribed, dispensed, administered or distributed a prescription
drug or substance, including a controlled substance, in an excessive,
improper or inappropriate manner or quantity outside the scope of
practice of dentistry or in a manner that impairs the health and safety of
an individual;
(11) prescribed, purchased, administered, sold or given away
prescription drugs, including a controlled substance, for other than legal
and legitimate purposes;
(12) violated or been convicted of any federal or state law regulating
possession, distribution or use of any controlled substance;
(13) failed to pay license fees;
(14) used the name "clinic," "institute" or other title that may
suggest a public or semipublic activity except that the name "clinic" may
be used as authorized in K.S.A. 65-1435, and amendments thereto;
(15) committed, after becoming a licensee, any conduct which is
detrimental to the public health, safety or welfare as defined by rules and
regulations of the board;
(16) engaged in a misleading, deceptive, untrue or fraudulent
misrepresentation in the practice of dentistry or on any document
connected with the practice of dentistry by knowingly submitting any
misleading, deceptive, untrue or fraudulent misrepresentation on a claim
form, bill or statement, including the systematic waiver of patient co-
payment or co-insurance;
(17) failed to keep adequate records;
(18) the licensee has had a license to practice dentistry revoked,
suspended or limited, has been censured or has had other disciplinary
action taken, an application for license denied, or voluntarily surrendered
the license after formal proceedings have been commenced by the proper
licensing authority or another state, territory or the District of Columbia
or other country, a certified copy of the record of the action of the other
jurisdiction being conclusive evidence thereof;
   (19) failed to furnish the board, or its investigators or representatives
any information legally requested by the board; or
   (20) assisted suicide in violation of K.S.A. 21-3406, prior to its
repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas,
and amendments thereto, as established by any of the following:
   (A) 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 section 42
of chapter 136 of the 2010 Session Laws of Kansas, and amendments
thereto.
   (B) 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.
   (C) A copy of the record of a judgment assessing damages under
K.S.A. 60-4405, and amendments thereto.
(b) Whenever it is established, after notice and opportunity for
hearing in accordance with the provisions of the Kansas administrative
procedure act, that a licensee is in any of the circumstances or has
committed any of the acts described in subsection (a), the Kansas dental
board may take one or any combination of the following actions with
respect to the license of the licensee:
   (1) Revoke the license.
   (2) Suspend the license for such period of time as may be
determined by the board.
   (3) Restrict the right of the licensee to practice by imposing
limitations upon dental, dental therapy or dental hygiene procedures
which may be performed, categories of dental disease which may be
treated or types of patients which may be treated by the dentist, registered
dental practitioner or dental hygienist. Such restrictions shall continue for
such period of time as may be determined by the board, and the board
may require the licensee to provide additional evidence at hearing before
lifting such restrictions.
   (4) Grant a period of probation during which the imposition of one
or more of the actions described in subsections (b)(1) through (b)
paragraphs (1) through (3) will be stayed subject to such conditions as
may be imposed by the board including a requirement that the dentist,
registered dental practitioner or dental hygienist refrain from any course
of conduct which may result in further violation of the dental practice act
or the dentist, registered dental practitioner or dental hygienist complete
additional or remedial instruction. The violation of any provision of the
dental practice act or failure to meet any condition imposed by the board
as set forth in the order of the board will result in immediate termination
of the period of probation and imposition of such other action as has been
taken by the board.

(c) As used in this section, "professionally incompetent" means:
(1) One or more instances involving failure to adhere to the
applicable standard of dental, dental therapy or dental hygienist care to a
degree which constitutes gross negligence, as determined by the board;
(2) repeated instances involving failure to adhere to the applicable
standard of dental, dental therapy or dental hygienist care to a degree
which constitutes ordinary negligence, as determined by the board; or
(3) a pattern of dental, dental therapy or dental hygienist practice or
other behavior which demonstrates a manifest incapacity or incompetence
to practice dentistry.

(d) In addition to or in lieu of one or more of the actions described in
subsections (b)(1) through (b)(4) or in subsection (c) of K.S.A. 65-1444,
and amendments thereto, the board may assess a fine not in excess of
$10,000 against a licensee. All fines collected pursuant to this subsection
shall be remitted to the state treasurer in accordance with the provisions
of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
remittance, the state treasurer shall deposit the entire amount in the state
treasury and of the amount so remitted, an amount equal to the board's
actual costs related to fine assessment and enforcement under this
subsection, as certified by the president of the board to the state treasurer,
shall be credited to the dental board fee fund and the balance shall be
credited to the state general fund.

(e) The board, upon its own motion or upon the request of any
licensee who is a party to a licensure action, may require a physical or
mental examination, or both, of such licensee either prior to a hearing to
be held as a part of a licensure action or prior to the termination of any
period of suspension or the termination of any restrictions imposed upon
the licensee as provided in subsection (b).

Sec. 10. K.S.A. 65-1441 is hereby amended to read as follows: 65-
1441. Whoever sells or offers to sell a diploma conferring a dental
degree, or a license granted pursuant to this act, or procures such diploma
or license with intent that it be used as evidence of the right to practice
dentistry, dental therapy or dental hygiene, as defined by law, by a person
other than the one upon whom it was conferred, or to whom such license
certificate or renewal certificate was granted, or with fraudulent intent
alters such diploma or license certificate or renewal certificate, or uses or
attempts to use it when it is so altered, shall be deemed guilty of a
misdemeanor. The board may refuse to grant a license to practice
dentistry, dental therapy or dental hygiene to any person found guilty of making a false statement, or cheating or of fraud or deception either in applying for a license or in taking any of the examinations provided for under the dental practices act.

Sec. 11. K.S.A. 2010 Supp. 65-1447 is hereby amended to read as follows: 65-1447. (a) On or before October 1 of each year, the Kansas dental board shall determine the amount of funds which will be required during the ensuing fiscal year to properly administer the laws which the board is directed to enforce and administer and shall fix fees in accordance with this section in such reasonable sums as may be necessary for such purposes, within the limitations prescribed by subsection (b).

(b) The board shall collect fees provided for in this act as follows:
Examination fee for dental applicants—not more than ........ $200
Subsequent examination fee for dental applicants—not more than ................................................................. 100
Examination fee for specialty qualifications—not more than ................................................................. 200
 Credentials/qualifications fee—not more than ................. 300
 Duplicate certificate fee—not more than ......................... 25
 Certificate fee, including certificate for credentials/qualifications, for dentists, registered dental practitioner and dental hygienists—not more than ........ 25
 Biennial license renewal fee for dentists—not more than .325
 Examination fee for dental hygienist applicants—not more than ................................................................. 100
 Subsequent examination fee for dental hygienist applicants—not more than ................................................. 100
 Biennial license renewal fee for dental hygienists—not more than ................................................................. 160
 Biennial license renewal fee for registered dental practitioner—not more than ................ 200
 Examination fee for registered dental practitioner applicant—not more than ...................... 150
 Subsequent examination fee for registered dental practitioner applicant—not more than .... 100
 Reinstatement of a revoked license—not more than ...... 2,000
 Processing fee for failure to notify of change of address—not more than ................................................................. 100
 Registration fee to operate a mobile dental facility
 or portable dental operation—not more than 500

Biennial registration renewal fee for mobile dental
facility or portable dental operation—not more than
350

Sedation permit—not more than..............................200

(c) The amounts of fees in effect on the day preceding the effective
date of this act and the act of which this section is amendatory shall
remain in effect until fixed in different amounts by the board under this
section. The board may adopt rules and regulations for the proration of
fees for a license issued for a period of time less than the biennial
licensure period.

Sec. 12. K.S.A. 65-1449 is hereby amended to read as follows: 65-
1449. (a) Except as provided by subsection (b), no action to revoke or
suspend a license shall be taken until the licensee has been furnished a
statement in writing of the charges against the licensee, together with a
notice of the time and place of the hearing. The statement of charges and
notice shall be served upon the licensee in accordance with the provisions
of the Kansas administrative procedure act.

(b) If the board determines that there is probable cause to revoke or
suspend the license of a dentist, registered dental practitioner or dental
hygienist for any reason that exists pursuant to K.S.A. 65-1436, and
amendments thereto, and if the licensee's continued practice would
constitute an imminent danger to public health and safety, the board may
initiate administrative proceedings for an emergency adjudication under
the provisions of the Kansas administrative procedure act.

In no case shall a temporary suspension or temporary limitation of a
license under this section be in effect for more than 90 days. At the end
of such period of time, the licensee shall be reinstated to full licensure
unless the board has revoked or suspended the license of the licensee
after notice and hearing, provided in accordance with the provisions of
the Kansas administrative procedure act.

Sec. 13. K.S.A. 65-1460 is hereby amended to read as follows: 65-
1460. Any person who shall practice dentistry, dental therapy or dental
hygiene in this state within the meaning of this act without having first
obtained a license from the board, or who violates any of the provisions
of this act, the penalty for which is not herein specifically provided, shall
be deemed guilty of a misdemeanor. Anyone convicted of a misdemeanor
under this act shall be punished by a fine of not more than one thousand
dollars $1,000, or by imprisonment in the county jail for not more than
twelve months, or by both such fine and imprisonment, in the discretion
of the court.

Sec. 14. K.S.A. 65-1462 is hereby amended to read as follows: 65-
1462. (a) No person reporting to the Kansas dental board under oath and
in good faith any information such person may have relating to alleged
incidents of malpractice or the qualifications, fitness or character of a
person licensed to practice dentistry shall be subject to a civil action for
damages as a result of reporting such information.
(b) Any state, regional or local association of licensed dentists,
licensed registered dental practitioners or licensed dental hygienists, and
the individual members of any committee thereof, which in good faith
investigates or communicates information pertaining to the alleged
incidents of malpractice or the qualifications, fitness or character of any
licensee to the Kansas dental board or to any committee or agent thereof,
shall be immune from liability in any civil action, that is based upon such
investigation or transmittal of information if the investigation and
communication was made in good faith and did not represent as true any
matter not reasonably believed to be true.
Sec. 15. K.S.A. 2010 Supp. 65-1469 is hereby amended to read as
follows: 65-1469. As used in this section:
(a) "Mobile dental facility or portable dental operation" means either
of the following:
(1) Any self-contained facility in which dentistry will be practiced,
which may be moved, towed or transported from one location to another.
(2) Any nonfacility in which dental equipment, utilized in the
practice of dentistry, is transported to and utilized on a temporary basis at
an out-of-office location, including, but not limited to: (A) Other dentists'
offices; (B) patients' homes; (C) schools; (D) nursing homes; or (E) other
institutions.
(b) (1) No person shall operate a mobile dental facility or portable
dental operation in this state unless registered in accordance with this
section.
(2) In order to operate a mobile dental facility or portable dental
operation, the operator shall be a person or entity that is authorized to
own a dental practice under Kansas law and possess a current registration
issued by the board.
(3) To become registered, the operator shall:
(A) Complete an application in the form and manner required by the
board; and
(B) pay a registration fee in the amount established by the board
pursuant to K.S.A. 65-1447, and amendments thereto.
(c) (1) The registration under this section shall be renewed on March
1 of even-numbered years in the form and manner provided by the board
by rules and regulations.
(2) The registrant shall pay a registration renewal fee in the amount
fixed by the board under K.S.A. 65-1447, and amendments thereto.
(d) The board shall adopt rules and regulations as necessary to carry out the provisions of this act. The rules and regulations shall include, but not be limited to, requirements relating to the official address and telephone number of the mobile dental facility or portable dental operation, the proper maintenance of dental records, procedures for emergency follow-up care for patients, appropriate communications facilities, appropriate authorizations for treatment by dental patients, follow-up treatment and services, personnel and address changes, notice to be provided on cessation of operation and such other matters as the board deems necessary to protect the public health and welfare.

(e) The board may refuse to issue a registration under this section or may revoke or suspend a registration upon a finding by the board that an applicant or person registered under this section has failed to comply with any provision of the section or any rules and regulations adopted pursuant to this section. No order refusing to issue a registration or order of suspension or revocation shall be made or entered except after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act. Any final order of suspension or revocation of a license shall be reviewable in accordance with the Kansas judicial review act.

(f) (1) This section applies to each operator of a mobile dental facility or portable dental operation that provides dental services except those specifically exempted by subsection paragraph (2).

(2) This section shall not apply to:
   (A) Dentists providing dental services for federal, state and local governmental agencies;
   (B) dentists licensed to practice in Kansas providing emergency treatment for their patients of record;
   (C) dentists who are not employed by or independently contracting with a mobile dental facility or portable dental operation who provide nonemergency treatment for their patients of record outside the dentist's physically stationary office fewer than 30 days per calendar year;
   (D) dental hygienists who are providing dental hygiene services as authorized by the Kansas dental act and the board's rules and regulations;
   (E) a dentist or registered dental practitioner who is providing dental services as a charitable health care provider under K.S.A. 75-6102, and amendments thereto;
   (F) a dental hygienist who is providing dental hygiene services as a charitable health care provider under K.S.A. 75-6102, and amendments thereto; and
   (G) a not-for-profit organization providing dental services.

(g) This section shall be part of and supplemental to the dental practices act.
Sec. 16. K.S.A. 2010 Supp. 65-4915 is hereby amended to read as
follows: 65-4915. (a) As used in this section:
(1) "Health care provider" means: (A) Those persons and entities
defined as a health care provider under K.S.A. 40-3401, and amendments
thereto; and (B) a dentist licensed by the Kansas dental board, a
registered dental practitioner licensed by the Kansas dental board, a
dental hygienist licensed by the Kansas dental board, a professional nurse
licensed by the board of nursing, a practical nurse licensed by the board
of nursing, a mental health technician licensed by the board of nursing, a
physical therapist licensed by the state board of healing arts, a physical
therapist assistant certified by the state board of healing arts, an
occupational therapist licensed by the state board of healing arts, an
occupational therapy assistant licensed by the state board of healing arts,
a respiratory therapist licensed by the state board of healing arts, a
physician assistant licensed by the state board of healing arts and
attendants and ambulance services certified by the emergency medical
services board.
(2) "Health care provider group" means:
(A) A state or local association of health care providers or one or
more committees thereof;
(B) the board of governors created under K.S.A. 40-3403, and
amendments thereto;
(C) an organization of health care providers formed pursuant to state
or federal law and authorized to evaluate medical and health care
services;
(D) a review committee operating pursuant to K.S.A. 65-2840c, and
amendments thereto;
(E) an organized medical staff of a licensed medical care facility as
defined by K.S.A. 65-425, and amendments thereto, an organized medical
staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
amendments thereto, or an organized medical staff of a state
psychiatric hospital or state institution for the mentally retarded, as
follows: Larned state hospital, Osawatomie state hospital, Rainbow
mental health facility, Kansas neurological institute and Parsons state
hospital and training center;
(F) a health care provider;
(G) a professional society of health care providers or one or more
committees thereof;
(H) a Kansas corporation whose stockholders or members are health
care providers or an association of health care providers, which
corporation evaluates medical and health care services; or
(I) an insurance company, health maintenance organization or
administrator of a health benefits plan which engages in any of the
functions defined as peer review under this section.

(3) "Peer review" means any of the following functions:

(A) Evaluate and improve the quality of health care services rendered by health care providers;

(B) determine that health services rendered were professionally indicated or were performed in compliance with the applicable standard of care;

(C) determine that the cost of health care rendered was considered reasonable by the providers of professional health services in this area;

(D) evaluate the qualifications, competence and performance of the providers of health care or to act upon matters relating to the discipline of any individual provider of health care;

(E) reduce morbidity or mortality;

(F) establish and enforce guidelines designed to keep within reasonable bounds the cost of health care;

(G) conduct of research;

(H) determine if a hospital's facilities are being properly utilized;

(I) supervise, discipline, admit, determine privileges or control members of a hospital's medical staff;

(J) review the professional qualifications or activities of health care providers;

(K) evaluate the quantity, quality and timeliness of health care services rendered to patients in the facility;

(L) evaluate, review or improve methods, procedures or treatments being utilized by the medical care facility or by health care providers in a facility rendering health care.

(4) "Peer review officer or committee" means:

(A) 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

(B) a health care provider monitoring the delivery of health care at correctional institutions under the jurisdiction of the secretary of corrections.

(b) Except as provided by K.S.A. 60-437, and amendments thereto, and by subsections (c) and (d), the reports, statements, memoranda, proceedings, findings and other records submitted to or generated by peer review committees or officers shall be privileged and shall not be subject to discovery, subpoena or other means of legal compulsion for their release to any person or entity or be admissible in evidence in any judicial or administrative proceeding. Information contained in such records shall not be discoverable or admissible at trial in the form of testimony by an individual who participated in the peer review process. The peer review officer or committee creating or initially receiving the record is the holder.
of the privilege established by this section. This privilege may be claimed
by the legal entity creating the peer review committee or officer, or by the
commissioner of insurance for any records or proceedings of the board of
governors.

(c) Subsection (b) shall not apply to proceedings in which a health
care provider contests the revocation, denial, restriction or termination of
staff privileges or the license, registration, certification or other
authorization to practice of the health care provider. A licensing agency in
conducting a disciplinary proceeding in which admission of any peer
review committee report, record or testimony is proposed shall hold the
hearing in closed session when any such report, record or testimony is
disclosed. Unless otherwise provided by law, a licensing agency
conducting a disciplinary proceeding may close only that portion of the
hearing in which disclosure of a report or record privileged under this
section is proposed. In closing a portion of a hearing as provided by this
section, the presiding officer may exclude any person from the hearing
location except the licensee, the licensee's attorney, the agency's attorney,
the witness, the court reporter and appropriate staff support for either
counsel. The licensing agency shall make the portions of the agency
record in which such report or record is disclosed subject to a protective
order prohibiting further disclosure of such report or record. Such report
or record shall not be subject to discovery, subpoena or other means of
legal compulsion for their release to any person or entity. No person in
attendance at a closed portion of a disciplinary proceeding shall at a
subsequent civil, criminal or administrative hearing, be required to testify
regarding the existence or content of a report or record privileged under
this section which was disclosed in a closed portion of a hearing, nor
shall such testimony be admitted into evidence in any subsequent civil,
criminal or administrative hearing. A licensing agency conducting a
disciplinary proceeding may review peer review committee records,
testimony or reports but must prove its findings with independently
obtained testimony or records which shall be presented as part of the
disciplinary proceeding in open meeting of the licensing agency. Offering
such testimony or records in an open public hearing shall not be deemed a
waiver of the peer review privilege relating to any peer review committee
testimony, records or report.

(d) Nothing in this section shall limit the authority, which may
otherwise be provided by law, of the commissioner of insurance, the state
board of healing arts or other health care provider licensing or
disciplinary boards of this state to require a peer review committee or
officer to report to it any disciplinary action or recommendation of such
committee or officer; to transfer to it records of such committee's or
officer's proceedings or actions to restrict or revoke the license,
registration, certification or other authorization to practice of a health care
provider; or to terminate the liability of the fund for all claims against a
specific health care provider for damages for death or personal injury
pursuant to subsection (i) of K.S.A. 40-3403, and amendments thereto.
Reports and records so furnished shall not be subject to discovery,
subpoena or other means of legal compulsion for their release to any
person or entity and shall not be admissible in evidence in any judicial or
administrative proceeding other than a disciplinary proceeding by the
state board of healing arts or other health care provider licensing or
disciplinary boards of this state.

(e) A peer review committee or officer may report to and discuss its
activities, information and findings to other peer review committees or
officers or to a board of directors or an administrative officer of a health
care provider without waiver of the privilege provided by subsection (b)
and the records of all such committees or officers relating to such report
shall be privileged as provided by subsection (b).

(f) Nothing in this section shall be construed to prevent an insured
from obtaining information pertaining to payment of benefits under a
contract with an insurance company, a health maintenance organization or
an administrator of a health benefits plan.

Sec. 17. K.S.A. 2010 Supp. 65-4921 is hereby amended to read as
follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930, and
amendments thereto:

(a) "Appropriate licensing agency" means the agency that issued the
license to the individual or health care provider who is the subject of a
report under this act.

(b) "Department" means the department of health and environment.

(c) "Health care provider" means: (1) Those persons and entities
defined as a health care provider under K.S.A. 40-3401, and amendments
thereto; and (2) a dentist licensed by the Kansas dental board, a
registered dental practitioner licensed by the Kansas dental board, a
dental hygienist licensed by the Kansas dental board, a professional nurse
licensed by the board of nursing, a practical nurse licensed by the board
of nursing, a mental health technician licensed by the board of nursing, a
physical therapist licensed by the state board of healing arts, a physical
therapist assistant certified by the state board of healing arts, an
occupational therapist licensed by the state board of healing arts, an
occupational therapy assistant licensed by the state board of healing arts
and a respiratory therapist licensed by the state board of healing arts.

(d) "License," "licensee" and "licensing" include comparable terms
which relate to regulation similar to licensure, such as registration.

(e) "Medical care facility" means: (1) A medical care facility
licensed under K.S.A. 65-425 et seq., and amendments thereto; (2) a
private psychiatric hospital licensed under K.S.A. 75-3307b, and
amendments thereto; and (3) state psychiatric hospitals and state
institutions for the mentally retarded, as follows: Larned state hospital,
Osawatomie state hospital, Rainbow mental health facility, Kansas
neurological institute and Parsons state hospital and training center.
(f) "Reportable incident" means an act by a health care provider
which: (1) Is or may be below the applicable standard of care and has a
reasonable probability of causing injury to a patient; or (2) may be
grounds for disciplinary action by the appropriate licensing agency.
(g) "Risk manager" means the individual designated by a medical
care facility to administer its internal risk management program and to
receive reports of reportable incidents within the facility.
(h) "Secretary" means the secretary of health and environment.
Sec. 18. K.S.A. 2010 Supp. 65-5912 is hereby amended to read as
follows: 65-5912. (a) Nothing in this act shall be construed to require any
insurer or other entity regulated under chapter 40 of the Kansas Statutes
Annotated or any other law of this state to provide coverage for or
indemnify for the services provided by a person licensed under this act.
(b) So long as the following persons do not hold themselves out to
the public to be dietitians or licensed dietitians or use these titles in
combination with other titles or use the abbreviation L.D., or any
combination thereof, nothing in this act shall be construed to apply:
(1) To any person licensed to practice the healing arts, a licensed
dentist, a registered dental practitioner; a licensed dental hygienist, a
licensed professional nurse, a licensed practical nurse, a licensed
psychologist, a licensed masters level psychologist, a licensed pharmacist
or an employee thereof, a physician assistant, a licensed professional
counselor;
(2) to any unlicensed employee of a licensed adult care home or a
licensed medical care facility as long as such person is working under the
general direction of a licensee in the healing arts, nursing or a dietetic
services supervisor as defined in regulations adopted by the secretary of
health and environment or a consultant licensed under this act;
(3) to any dietetic technician or dietetic assistant;
(4) to any student enrolled in an approved academic program in
dietetics, home economics, nutrition, education or other like curriculum,
while engaged in such academic program;
(5) to prevent any person, including persons employed in health
food stores, from furnishing nutrition information as to the use of food,
food materials or dietary supplements, nor to prevent in any way the free
dissemination of information or of literature as long as no individual
engaged in such practices holds oneself out as being licensed under this
act;
(6) to prohibit any individual from marketing or distributing food products, including dietary supplements, or to prevent any such person from providing information to customers regarding the use of such products;

(7) to prevent any employee of the state or a political subdivision who is employed in nutrition-related programs from engaging in activities included within the definition of dietetics practice as a part of such person's employment;

(8) to any person who performs the activities and services of a licensed dietitian or nutrition educator as an employee of the state or a political subdivision, an elementary or secondary school, an educational institution, a licensed institution, or a not-for-profit organization;

(9) to any person serving in the armed forces, the public health service, the veterans administration or as an employee of the federal government;

(10) to any person who has a degree in home economics insofar as the activities of such person are within the scope of such person's education and training;

(11) to any person who counsels or provides weight-control services as a part of a franchised or recognized weight-control program or a weight-control program that operates under the general direction of a person licensed to practice the healing arts, nursing or a person licensed under this act;

(12) to any person who is acting as a representative of a trade association and who engages in one or more activities included within the practice of dietetics as a representative of such association;

(13) to a licensed physical therapist who makes a dietetic or nutritional assessment or gives dietetic or nutritional advice in the normal practice of such person's profession or as otherwise authorized by law;

(14) to a dietitian licensed, registered or otherwise authorized to practice dietetics in another state who is providing consultation in this state;

(15) to any person conducting a teaching clinical demonstration which is carried out in an educational institution or an affiliated clinical facility or health care agency;

(16) to any person conducting classes or disseminating information relating to nonmedical nutrition; or

(17) to any person permitted to practice under K.S.A. 65-2872a, and amendments thereto.

(c) Nothing in this act shall be construed to interfere with the religious practices or observances of a bona fide religious organization, nor to prevent any person from caring for the sick in accordance with tenets and practices of any church or religious denomination which
teaches reliance upon spiritual means through prayer for healing.

Sec. 19. K.S.A. 2010 Supp. 65-7304 is hereby amended to read as follows: 65-7304. The following shall be exempt from the requirement of a license pursuant to this act:

(a) A licensed registered dental practitioner;
(b) a person issued a postgraduate permit by the board or students while in actual attendance in an accredited health care educational program for radiologic technology and under the supervision of a qualified instructor;
(c) health care providers in the United States armed forces, public health services, federal facilities and other military service when acting in the line of duty in this state;
(d) persons rendering assistance in the case of an emergency;
(e) a licensed dental hygienist, a registered dental practitioner or an unlicensed person working under the supervision of a licensed dentist who has been trained by a licensed dentist on the proper use of dental radiographic equipment for the purpose of providing medical imaging for dental diagnostic purposes consistent with K.S.A. 65-1422 et seq., and amendments thereto; and
(f) a licensed physician assistant, a licensed nurse or an unlicensed person performing radiologic technology procedures who is: (1) Working under the supervision of a licensed registered dental practitioner or a person designated by a hospital licensed pursuant to K.S.A. 65-425 et seq., and amendments thereto; and (2) who has been trained on the proper use of equipment for the purpose of performing radiologic technology procedures consistent with K.S.A. 65-2001, et seq., or K.S.A. 65-2801, et seq., and amendments thereto. The board shall adopt rules and regulations to assure that persons exempted from licensure under this subsection receive continuing education consistent with their practice authorized herein.

(g) This section shall take effect on and after July 1, 2005.

Sec. 20. K.S.A. 74-1404 is hereby amended to read as follows: 74-1404. (a) In order to accomplish the purpose and to provide for the enforcement of this act, there is hereby created the Kansas dental board. The board shall be vested with authority to carry out the purposes and enforce the provisions of this act. The board shall consist of the following: (1) Six licensed and qualified resident dentists; (2) two resident registered dental practitioners; (3) two licensed and qualified resident dental hygienists; and (4) one representative of the general public. At least 30 days before the expiration of any term, other than that of the member appointed from the general public or a member who is a dental hygienist or a registered dental practitioner, the Kansas dental association or its successor shall submit to the governor a list of three
names of persons of recognized ability who have the qualifications prescribed for the dentist board members. At least 30 days before the initial appointment and expiration of the term of the registered dental practitioner member of the board, the dental hygiene association shall submit to the governor a list of three names of persons of recognized ability who have the qualifications prescribed for the registered dental practitioner member. At least 30 days before the expiration of the term of the dental hygienist member of the board, the Kansas dental hygiene association shall submit to the governor a list of three names of persons of recognized ability who have the qualifications prescribed for the dental hygienist member. For the four new members to be appointed under this act, such names shall be submitted within 10 days after the effective date of this act. The governor shall consider such list of persons in making the appointment to the board.

(b) The members shall be appointed by the governor in the manner hereinafter prescribed for terms of four years and until their successors are appointed and qualified. Of the six licensed dentists on the board, one shall be appointed from each congressional district and two shall be appointed from the state at large. On and after the effective date of this act, no person shall be appointed for more than two consecutive four-year terms. No person in any way connected with a dental supply or dental laboratory business shall be eligible for appointment to the board. No person shall be eligible for appointment to the board who has been convicted of a violation of any of the provisions of this or any other prior dental practice act or who has been convicted of a felony. A dentist who is an officer of the Kansas dental association shall not be eligible for appointment to the Kansas dental board. A dental hygienist who is an officer of the Kansas dental hygienists association shall not be eligible for appointment to the Kansas dental board. No dentist or dental hygienist shall be appointed to the board who has not been engaged in the active practice of dentistry or dental hygiene in the state of Kansas for at least five years next preceding appointment. Whenever a vacancy occurs it shall be filled by appointment for the remainder of the unexpired term in the same manner as an original appointment is made. Upon the expiration of terms of office of members, successors shall be appointed in the same manner as original appointments for terms of four years.

(c) Upon the effective date of this act, in order to expand the membership to the prescribed six dentists and two dental hygienists, the governor shall appoint three additional dentists and one additional hygienist to the board in the manner described in this section. Of the three new dental members, one shall serve until April 30, 2000, one shall serve until April 30, 2001 and one shall serve until April 30, 2002, as designated by the governor. Thereafter, all terms shall be four-year terms.
beginning May 1 of the appointment year and expiring April 30 four years later. When the terms of the existing dentist members which expire May 1, 2000, and May 1, 2001 conclude, then successors shall be appointed for four year terms beginning May 1 and expiring April 30 four years later. The additional dental hygienist appointed upon the effective date of this act shall serve until April 30, 2002, and thereafter the successor shall serve a four-year term beginning May 1 and expiring April 30 four years later. Upon the expiration of terms of office of members, successors shall be appointed in the same manner as original appointments for terms of four years. Of the two new registered dental practitioner members, one shall serve a two-year term beginning May 1, 2015, until April 30, 2017, and thereafter the successor shall serve a four-year term. Another registered dental practitioner member shall serve a four-year term beginning May 1, 2015, until April 30, 2019, and thereafter the successor shall serve a four-year term.

Sec. 21. K.S.A. 74-1405 is hereby amended to read as follows: 74-1405. (a) The board at its first meeting day of each year shall elect from its members a president, vice-president and secretary. The board shall have a common seal. The board shall hold two regular meetings each year at times to be fixed by the board, and special meetings at such other times as may be necessary.

(b) Members of the Kansas dental board attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, or conducting examinations for dental, registered dental practitioners or dental hygienists licenses or conducting inspections of dental laboratories required by K.S.A. 65-1438, and amendments thereto, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. Members of the board conducting examinations for dental, registered dental practitioners or dental hygienists licenses may receive amounts for compensation, subsistence allowances, mileage or other expenses from a nonstate agency for conducting such examinations but no member receiving any such amounts shall be paid any compensation, subsistence allowances, mileage or other expenses under this section for conducting such examinations.

(c) The official office of the board shall be in Topeka. Meetings shall be held in Topeka or at such other places as the board shall determine to be most appropriate. Service of process may be had upon the board by delivery of process to the secretary of state who shall mail the same by registered or certified mail to the executive director of the board.

(d) The board may appoint an executive director who shall be in the unclassified service of the Kansas civil service act. The executive director shall receive an annual salary fixed by the board and approved by the
governor. The executive director shall be the legal custodian of all property, money, minutes, records, and proceedings and seal of the board.

(e) The board in its discretion may affiliate as an active member with the national association of dental examiners and any organization of one or more state boards for the purpose of conducting a standard examination of candidates for licensure as dentists, registered dental practitioners or dental hygienists and pay regular dues to such association or organization, and may send members of the board to the meetings of the national association and the meetings of any organization of state boards of dental examiners organized for the purpose of conducting a standard examination of candidates for licensure as dentists, registered dental practitioners and dental hygienists.

(f) The executive director shall remit all moneys received by or for such executive director from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of each such deposit shall be credited to the state general fund and the balance shall be credited to the dental board fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

Sec. 22. K.S.A. 74-1406 is hereby amended to read as follows: 74-1406. The board shall exercise, subject to the provisions of this act, the following powers and duties:

(a) Adopt such rules for its governance as it may deem proper.

(b) Adopt rules and regulations for qualification and licensing of registered dental practitioners and dental hygienists.

(c) Adopt rules and regulations regarding sanitation.

(d) Conduct examinations to ascertain the qualification and fitness of applicants for licenses as dentists or certificates as specialists in dentistry.

(e) Pass upon the qualifications of applicants for reciprocal licenses.

(f) Prescribe rules and regulations for examination of candidates.

(g) Formulate rules and regulations by which dental schools and colleges shall be approved.

(h) Grant licenses, issue license certificates as specialists in dentistry and issue renewal licenses and certificates as specialists in dentistry in conformity with this act to such applicants and dentists as have been found qualified.

(i) Conduct hearings or proceedings to revoke or suspend and to revoke or suspend a license, certificate or renewal license or certificate
granted under the authority of this act or previous acts.

(j) Employ such persons as it may deem necessary to assist in
carrying out the duties of the board in the administration and enforcement
of this act, and to provide offices, furniture, fixtures, supplies, printing or
secretarial service, and may expend such funds as may be deemed
necessary therefor, and may appoint an attorney to advise and assist in the
carrying out and enforcing of the provisions of this act.

(k) Investigate violations of the act that may come to the knowledge
of the board, and institute or cause to be instituted before the board or in a
proper court appropriate proceedings in connection therewith.

(l) Adopt rules and regulations to carry out and make effective the
provisions of this act and modify or repeal such rules and regulations
whenever in the discretion of the board it is deemed necessary.

Sec. 23. K.S.A. 2010 Supp. 75-2935 is hereby amended to read as
follows: 75-2935. The civil service of the state of Kansas is hereby
divided into the unclassified and the classified services:

(1) The unclassified service comprises positions held by state
officers or employees who are:

(a) Chosen by election or appointment to fill an elective office;
(b) members of boards and commissions, heads of departments
 required by law to be appointed by the governor or by other elective
 officers, and the executive or administrative heads of offices,
departments, divisions and institutions specifically established by law;
(c) except as otherwise provided under this section, one personal
secretary to each elective officer of this state, and in addition thereto, 10
deputies, clerks or employees designated by such elective officer;
(d) all employees in the office of the governor;
(e) officers and employees of the senate and house of representatives
of the legislature and of the legislative coordinating council and all
officers and employees of the office of revisor of statutes, of the
legislative research department, of the division of legislative
administrative services, of the division of post audit and the legislative
counsel;
(f) chancellor, president, deans, administrative officers, student
health service physicians, pharmacists, teaching and research personnel,
health care employees and student employees in the institutions under the
state board of regents, the executive officer of the board of regents and
the executive officer's employees other than clerical employees, and, at
the discretion of the state board of regents, directors or administrative
officers of departments and divisions of the institution and county
extension agents, except that this subsection (1)(f) paragraph shall not be
construed to include the custodial, clerical or maintenance employees, or
any employees performing duties in connection with the business
operations of any such institution, except administrative officers and
directors; as used in this subsection (f) paragraph, "health care
employees" means employees of the university of Kansas medical center
who provide health care services at the university of Kansas medical
center and who are medical technicians or technologists or respiratory
therapists, who are licensed professional nurses or licensed practical
nurses, or who are in job classes which are designated for this purpose by
the chancellor of the university of Kansas upon a finding by the
chancellor that such designation is required for the university of Kansas
medical center to recruit or retain personnel for positions in the
designated job classes; and employees of any institution under the state
board of regents who are medical technologists;
(g) operations, maintenance and security personnel employed to
implement agreements entered into by the adjutant general and the federal
national guard bureau, and officers and enlisted persons in the national
guard and the naval militia;
(h) persons engaged in public work for the state but employed by
contractors when the performance of such contract is authorized by the
legislature or other competent authority;
(i) persons temporarily employed or designated by the legislature or
by a legislative committee or commission or other competent authority to
make or conduct a special inquiry, investigation, examination or
installation;
(j) officers and employees in the office of the attorney general and
special counsel to state departments appointed by the attorney general,
except that officers and employees of the division of the Kansas bureau of
investigation shall be in the classified or unclassified service as provided
in K.S.A. 75-711, and amendments thereto;
(k) all employees of courts;
(l) client, patient and inmate help in any state facility or institution;
(m) all attorneys for boards, commissions and departments;
(n) the secretary and assistant secretary of the Kansas state historical
society;
(o) physician specialists, dentists, registered dental practitioners,
dental hygienists, pharmacists, medical technologists and long term care
workers employed by the department of social and rehabilitation services;
(p) physician specialists, dentists and medical technologists
employed by any board, commission or department or by any institution
under the jurisdiction thereof;
(q) student employees enrolled in public institutions of higher
learning;
(r) administrative officers, directors and teaching personnel of the
state board of education and the state department of education and of any
institution under the supervision and control of the state board of
education, except that this subsection (1)(r) paragraph shall not be
construed to include the custodial, clerical or maintenance employees, or
any employees performing duties in connection with the business
operations of any such institution, except administrative officers and
directors;

(s) all officers and employees in the office of the secretary of state;
(t) one personal secretary and one special assistant to the following:
The secretary of administration, the secretary of aging, the secretary of
agriculture, the secretary of commerce, the secretary of corrections, the
secretary of health and environment, the superintendent of the Kansas
highway patrol, the secretary of labor, the secretary of revenue, the
secretary of social and rehabilitation services, the secretary of
transportation, the secretary of wildlife and parks and the commissioner
of juvenile justice;
(u) one personal secretary and one special assistant to the chancellor
and presidents of institutions under the state board of regents;
(v) one personal secretary and one special assistant to the executive
vice chancellor of the university of Kansas medical center;
(w) one public information officer and one chief attorney for the
following: The department of administration, the department on aging, the
department of agriculture, the department of commerce, the
department of corrections, the department of health and environment, the
department of labor, the department of revenue, the department of social
and rehabilitation services, the department of transportation, the Kansas
department of wildlife and parks and the commissioner of juvenile
justice;
(x) civil service examination monitors;
(y) one executive director, one general counsel and one director of
public affairs and consumer protection in the office of the state
corporation commission;
(z) specifically designated by law as being in the unclassified
service;
(aa) all officers and employees of Kansas, Inc. and the Kansas
technology enterprise corporation;
(bb) any position that is classified as a position in the information
resource manager job class series, that is the chief position responsible
for all information resources management for a state agency, and that
becomes vacant on or after the effective date of this act. Nothing in this
section shall affect the classified status of any employee in the classified
service who is employed on the date immediately preceding the effective
date of this act in any position that is a classified position in the
information resource manager job class series and the unclassified status
as prescribed by this subsection shall apply only to a person appointed to
any such position on or after the effective date of this act that is the chief
position responsible for all information resources management for a state
agency; and

(cc) positions at state institutions of higher education that have been
converted to unclassified positions pursuant to K.S.A. 2010 Supp. 76-
715a, and amendments thereto.

(2) The classified service comprises all positions now existing or
hereafter created which are not included in the unclassified service.
Appointments in the classified service shall be made according to merit
and fitness from eligible pools which so far as practicable shall be
competitive. No person shall be appointed, promoted, reduced or
discharged as an officer, clerk, employee or laborer in the classified
service in any manner or by any means other than those prescribed in the
Kansas civil service act and the rules adopted in accordance therewith.

(3) For positions involving unskilled, or semiskilled duties, the
secretary of administration, as provided by law, shall establish rules and
regulations concerning certifications, appointments, layoffs and
reemployment which may be different from the rules and regulations
established concerning these processes for other positions in the classified
service.

(4) Officers authorized by law to make appointments to positions in
the unclassified service, and appointing officers of departments or
institutions whose employees are exempt from the provisions of the
Kansas civil service act because of the constitutional status of such
departments or institutions shall be permitted to make appointments from
appropriate pools of eligibles maintained by the division of personnel
services.

Sec. 24. K.S.A. 2010 Supp. 75-6102 is hereby amended to read as
follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
amendments thereto, unless the context clearly requires otherwise:

(a) "State" means the state of Kansas and any department or branch
of state government, or any agency, authority, institution or other
instrumentality thereof.

(b) "Municipality" means any county, township, city, school district
or other political or taxing subdivision of the state, or any agency,
authority, institution or other instrumentality thereof.

(c) "Governmental entity" means state or municipality.

(d) (1) "Employee" means: (A) Any officer, employee, servant or
member of a board, commission, committee, division, department, branch
or council of a governmental entity, including elected or appointed
officials and persons acting on behalf or in service of a governmental
entity in any official capacity, whether with or without compensation, and
a charitable health care provider;

(B) any steward or racing judge appointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless of whether the services of such steward or racing judge are rendered pursuant to contract as an independent contractor;

(C) employees of the United States marshal's service engaged in the transportation of inmates on behalf of the secretary of corrections;

(D) a person who is an employee of a nonprofit independent contractor, other than a municipality, under contract to provide educational or vocational training to inmates in the custody of the secretary of corrections and who is engaged in providing such service in an institution under the control of the secretary of corrections provided that such employee does not otherwise have coverage for such acts and omissions within the scope of their employment through a liability insurance contract of such independent contractor;

(E) a person who is an employee or volunteer of a nonprofit program, other than a municipality, who has contracted with the commissioner of juvenile justice or with another nonprofit program that has contracted with the commissioner of juvenile justice to provide a juvenile justice program for juvenile offenders in a judicial district provided that such employee or volunteer does not otherwise have coverage for such acts and omissions within the scope of their employment or volunteer activities through a liability insurance contract of such nonprofit program;

(F) a person who contracts with the Kansas guardianship program to provide services as a court-appointed guardian or conservator;

(G) an employee of an indigent health care clinic;

(H) former employees for acts and omissions within the scope of their employment during their former employment with the governmental entity;

(I) any member of a regional medical emergency response team, created under the provisions of K.S.A. 48-928, and amendments thereto, in connection with authorized training or upon activation for an emergency response; and

(J) medical students enrolled at the university of Kansas medical center who are in clinical training, on or after July 1, 2008, at the university of Kansas medical center or at another health care institution.

(2) "Employee" does not include: (A) An individual or entity for actions within the scope of K.S.A. 60-3614, and amendments thereto; or (B) any independent contractor under contract with a governmental entity except those contractors specifically listed in paragraph (1) of this subsection.

(e) "Charitable health care provider" means a person licensed by the
state board of healing arts as an exempt licensee or a federally active
licensee, a person issued a limited permit by the state board of healing
arts, a physician assistant licensed by the state board of healing arts, a
mental health practitioner licensed by the behavioral sciences regulatory
board or a health care provider as the term "health care provider" is
defined under K.S.A. 65-4921, and amendments thereto, who has entered
into an agreement with:

(1) The secretary of health and environment under K.S.A. 75-6120,
and amendments thereto, who, pursuant to such agreement, gratuitously
renders professional services to a person who has provided information
which would reasonably lead the health care provider to make the good
faith assumption that such person meets the definition of medically
indigent person as defined by this section or to a person receiving
medical assistance from the programs operated by the Kansas health
policy authority, and who is considered an employee of the state of
Kansas under K.S.A. 75-6120, and amendments thereto;

(2) the secretary of health and environment and who, pursuant to
such agreement, gratuitously renders professional services in conducting
children's immunization programs administered by the secretary;

(3) a local health department or indigent health care clinic, which
renders professional services to medically indigent persons or persons
receiving medical assistance from the programs operated by the Kansas
health policy authority gratuitously or for a fee paid by the local health
department or indigent health care clinic to such provider and who is
considered an employee of the state of Kansas under K.S.A. 75-6120, and
amendments thereto. Professional services rendered by a provider under
this paragraph (3) shall be considered gratuitous notwithstanding fees
based on income eligibility guidelines charged by a local health
department or indigent health care clinic and notwithstanding any fee
paid by the local health department or indigent health care clinic to a
provider in accordance with this paragraph (3); or

(4) the secretary of health and environment to provide dentistry
services defined by K.S.A. 65-1422 et seq., and amendments thereto,
registered dental practitioner services defined by section 3, and
amendments thereto, or dental hygienist services defined by K.S.A. 65-
1456, and amendments thereto, that are targeted, but are not limited to
medically indigent persons, and are provided on a gratuitous basis at a
location sponsored by a not-for-profit organization that is not the dentist
or dental hygienist office location. Except that such dentistry services and
dental hygienist services shall not include "oral and maxillofacial
surgery" as defined by Kansas administrative regulation K.A.R. 71-2-2, or
use sedation or general anesthesia that result in "deep sedation" or
"general anesthesia" as defined by Kansas administrative regulation K.A.R.
(f) "Medically indigent person" means a person who lacks resources to pay for medically necessary health care services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

(g) "Indigent health care clinic" means an outpatient medical care clinic operated on a not-for-profit basis which has a contractual agreement in effect with the secretary of health and environment to provide health care services to medically indigent persons.

(h) "Local health department" shall have the meaning ascribed to such term under K.S.A. 65-241, and amendments thereto.

(i) "Fire control, fire rescue or emergency medical services equipment" means any vehicle, firefighting tool, protective clothing, breathing apparatus and any other supplies, tools or equipment used in firefighting or fire rescue or in the provision of emergency medical services.


Sec. 26. This act shall take effect and be in force from and after its publication in the statute book.