As Amended by House Committee of the Whole

Session of 2014

HOUSE BILL No. 2673

By Committee on Health and Human Services

2-13


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

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 A person who is dead or unconscious shall be deemed not to have withdrawn the person’s consent to such test or tests, which shall be administered in the manner provided by this section.

(b) A law enforcement officer shall request a person to submit to a test or tests deemed consented to under subsection (a): (1) If, at the time of the request, the officer has reasonable grounds to believe the person was operating or attempting to operate a vehicle while under the influence of alcohol or drugs, or both, or to believe that the person was driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, while having alcohol or other drugs in such person’s system, or was under the age of 21 years and was operating or attempting to operate a vehicle while having alcohol or other drugs in such person's system; and one of the following conditions exists: (A) The person has been arrested or otherwise taken into custody for any violation of any state statute, county resolution or city ordinance; or (B) the person has been involved in a
vehicle accident or collision resulting in property damage or personal
injury other than serious injury; or (2) if the person was operating or
attempting to operate a vehicle and such vehicle has been involved in an
accident or collision resulting in serious injury or death of any person and
the operator could be cited for any traffic offense, as defined in K.S.A. 8-
2117, and amendments thereto. The traffic offense violation shall
constitute probable cause for purposes of paragraph (2). The test or tests
under paragraph (2) shall not be required if a law enforcement officer has
reasonable grounds to believe the actions of the operator did not contribute
to the accident or collision. The law enforcement officer directing
administration of the test or tests may act on personal knowledge or on the
basis of the collective information available to law enforcement officers
involved in the accident investigation or arrest.

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

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

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

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

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

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

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withdrawing of blood once presented with the written statement provided for under this subsection. The medical professional shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(o) If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .04 or greater, the person shall be disqualified from driving a commercial motor vehicle, pursuant to K.S.A. 8-2,142, and amendments thereto. If a law enforcement officer had reasonable grounds to believe the person had been driving a commercial motor vehicle, as defined in K.S.A. 8-2,128, and amendments thereto, and the test results show a blood or breath alcohol concentration of .08 or greater, or the person refuses a test, the person's driving privileges shall be subject to suspension, or suspension and restriction, pursuant to this section, in addition to being disqualified from driving a commercial motor vehicle pursuant to K.S.A. 8-2,142, and amendments thereto.
An officer shall have probable cause to believe that the person operated a vehicle while under the influence of alcohol or drugs, or both, if the vehicle was operated by such person in such a manner as to have caused the death of or serious injury to a person. In such event, such test or tests may be made pursuant to a search warrant issued under the authority of K.S.A. 22-2502, and amendments thereto, or without a search warrant under the authority of K.S.A. 22-2501, and amendments thereto.

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

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

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

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

Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.

This act is remedial law and shall be liberally construed to promote public health, safety and welfare.

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

(1) Disabling a person from the physical capacity to remove themselves from the scene;
(2) renders a person unconscious;
(3) the immediate loss of or absence of the normal use of at least one limb;
(4) an injury determined by a physician to require surgery; or
(5) otherwise indicates the person may die or be permanently disabled by the injury.

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

(1) The judge of the district court and members of the staff of the court designated by the judge;
(2) parties to the proceedings and their attorneys;
(3) the department of social and rehabilitation services {for children and families};
(4) the juvenile's court appointed special advocate, any officer of a public or private agency or institution or any individual having custody of
a juvenile under court order or providing educational, medical or mental health services to a juvenile;

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

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

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

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

(9) juvenile intake and assessment workers;

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

(11) juvenile community corrections officers;

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

(13) as provided in subsection (c).

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

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

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

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

(c) All records of law enforcement officers and agencies and municipal courts concerning an offense committed or alleged to have been committed by a juvenile 14 or more years of age shall be subject to the same disclosure restrictions as the records of adults. Information identifying victims and alleged victims of sex offenses, as defined in article 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 55 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2013 Supp. 21-6419 through 21-6421, and amendments thereto, shall not be disclosed or open to public inspection under any circumstances. Nothing in this section shall prohibit the victim or any alleged victim of any sex offense from voluntarily disclosing such victim's identity.

(d) Relevant information, reports and records, shall be made available
to the department of corrections upon request and a showing that the
former juvenile has been convicted of a crime and placed in the custody of
the secretary of corrections.
(e) All records, reports and information obtained as a part of the
juvenile intake and assessment process for juveniles shall be confidential,
and shall not be disclosed except as provided by statutory law and rules
and regulations promulgated by the commissioner thereunder.
(1) Any court of record may order the disclosure of such records,
reports and other information to any person or entity.
(2) The head of any juvenile intake and assessment program, certified
by the commissioner of juvenile justice, may authorize disclosure of such
records, reports and other information to:
(A) A person licensed to practice the healing arts who has before that
person a juvenile whom the person reasonably suspects may be abused or
neglected;
(B) a court-appointed special advocate for a juvenile or an agency
having the legal responsibility or authorization to care for, treat or
supervise a juvenile;
(C) a parent or other person responsible for the welfare of a juvenile,
or such person's legal representative, with protection for the identity of
persons reporting and other appropriate persons;
(D) the juvenile, the attorney and a guardian ad litem, if any, for such
juvenile;
(E) the police or other law enforcement agency;
(F) an agency charged with the responsibility of preventing or
treating physical, mental or emotional abuse or neglect or sexual abuse of
children, if the agency requesting the information has standards of
confidentiality as strict or stricter than the requirements of the Kansas code
for care of children or the revised Kansas juvenile justice code, whichever
is applicable;
(G) members of a multidisciplinary team under this code;
(H) an agency authorized by a properly constituted authority to
diagnose, care for, treat or supervise a child who is the subject of a report
or record of child abuse or neglect;
(I) any individual, or public or private agency authorized by a
properly constituted authority to diagnose, care for, treat or supervise a
juvenile who is the subject of a report or record of child abuse or neglect,
specifically including the following: Physicians, psychiatrists, nurses,
nurse practitioners, psychologists, licensed social workers, child
development specialists, physicians', physician assistants, community
mental health workers, alcohol and drug abuse counselors and licensed or
registered child care providers;
(J) a citizen review board pursuant to K.S.A. 2013 Supp. 38-2207,
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and amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

(7) subject to the approval of the commissioner, the board shall also
review and recommend the inclusion of coverage for mental health
services and such other primary and preventive health care services as the
board determines would not materially impair affordability of the plan.
(c) Expenses not covered under the plan shall include expenses for:

(1) illness or injury due to an act of war;
(2) services rendered prior to the effective date of coverage under this plan for the person on whose behalf the expense is incurred;
(3) services for which no charge would be made in the absence of insurance or for which the insured bears no legal obligation to pay;
(4) (A) services or charges incurred by the insured which are otherwise covered by:
   (i) Medicare or state law or programs;
   (ii) medical services provided for members of the United States armed forces and their dependents or for employees of such armed forces;
   (iii) military service-connected disability benefits;
   (iv) other benefit or entitlement programs provided for by the laws of the United States (except title XIX of the social security act of 1965);
   (v) workers compensation or similar programs addressing injuries, diseases, or conditions incurred in the course of employment covered by such programs;
   (vi) benefits payable without regard to fault pursuant to any motor vehicle or other liability insurance policy or equivalent self-insurance.
   (B) This exclusion shall not apply to services or charges which exceed the benefits payable under the applicable programs listed above and which are otherwise eligible for payment under this section.
(5) services the provision of which is not within the scope of the license or certificate of the institution or individual rendering such service;
(6) that part of any charge for services or articles rendered or prescribed which exceeds the rate established by K.S.A. 40-2131, and amendments thereto, for such services;
(7) services or articles not medically necessary;
(8) care which is primarily custodial or domiciliary in nature;
(9) cosmetic surgery unless provided as the result of an injury or medically necessary surgical procedure;
(10) eye surgery if corrective lenses would alleviate the problem;
(11) experimental services or supplies not generally recognized as the normal mode of treatment for the illness or injury involved;
(12) service of a blood donor and any fee for failure of the insured to replace the first three pints of blood provided in each calendar year; and
(13) personal supplies or services provided by a health care facility or any other nonmedical or nonprescribed supply or service.

(d) Except as expressly provided for in this act, no law requiring the coverage or the offer of coverage of a health care service or benefit shall apply to the plan.

(e) A plan may incorporate provisions that will direct covered persons to the most appropriate lowest cost health care provider available.
Sec. 4. K.S.A. 2013 Supp. 65-1626 is hereby amended to read as follows:

For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:
   (1) A practitioner or pursuant to the lawful direction of a practitioner;
   (2) the patient or research subject at the direction and in the presence of the practitioner; or
   (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

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

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

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

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

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

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

(h) "Chain pharmacy warehouse" means a permanent physical location for drugs or devices, or both, that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.
(i) "Co-licensee" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

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

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

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

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

(n) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication{, or a physician assistant who has authority to dispense prescription-only drugs in accordance with subsection (b) of K.S.A. 65-28a08, and amendments thereto}.{\footnotesize \textsuperscript{1}}

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

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

(q) "Drop shipment" means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of the manufacturer's prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the "normal distribution channel."

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

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

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

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

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

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

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

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

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

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

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

(A) Inmates of a jail or correctional institution or facility;
(B) residents of a juvenile detention facility, as defined by the revised
Kansas code for care of children and the revised Kansas juvenile justice
code;
(C) students of a public or private university or college, a community
college or any other institution of higher learning which is located in
Kansas;
(D) employees of a business or other employer; or
(E) persons receiving inpatient hospice services.
(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;
(B) any office of a practitioner; or
(C) a location where no prescription-only drugs are dispensed and no
prescription-only drugs other than individual prescriptions are stored or
administered.

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

(dd) "Intracompany transaction" means any transaction or transfer
between any division, subsidiary, parent or affiliated or related company
under common ownership or control of a corporate entity, or any
transaction or transfer between co-licensees of a co-licensed product.
(ee) "Medical care facility" shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

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

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

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

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

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

(hh) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible supervising [responsible] physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible supervising physician under K.S.A. 65-28a08, and amendments thereto.

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

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

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug
to a patient;
(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or
(4) a chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.
(jj) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.
(kk) "Pharmacist" means any natural person licensed under this act to practice pharmacy.
(II) "Pharmacist-in-charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.
(mm) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.
(nn) "Pharmacy," "drugstore" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.
(oo) "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers or servers, and is controlled by the pharmacy.
"Pharmacy technician" means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

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

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

"Prescriber" means a practitioner or a mid-level practitioner.

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

"Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

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

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

"Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical 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 pharmaceutical care to a degree which constitutes ordinary
negligence, as determined by the board; or
(3) a pattern of pharmacy practice or other behavior which
demonstrates a manifest incapacity or incompetence to practice pharmacy.
(yyyy) "Readily retrievable" means that records kept by automatic data
processing applications or other electronic or mechanized record-keeping
systems can be separated out from all other records within a reasonable
time not to exceed 48 hours of a request from the board or other authorized
agent or that hard-copy records are kept on which certain items are
asterisked, redlined or in some other manner visually identifiable apart
from other items appearing on the records.
(zzz) "Retail dealer" means a person selling at retail nonprescription
drugs which are prepackaged, fully prepared by the manufacturer or
distributor for use by the consumer and labeled in accordance with the
requirements of the state and federal food, drug and cosmetic acts. Such
nonprescription drugs shall not include: (1) A controlled substance; (2) a
prescription-only drug; or (3) a drug intended for human use by
hypodermic injection.
(aaaa) "Secretary" means the executive secretary of the board.
(bbba) "Third party logistics provider" means an entity that: (1)
Provides or coordinates warehousing, distribution or other services on
behalf of a manufacturer, but does not take title to the prescription drug or
have general responsibility to direct the prescription drug's sale or
disposition; (2) is registered as a wholesale distributor under the pharmacy
act of the state of Kansas; and (3) to be considered part of the normal
distribution channel, must also be an authorized distributor of record.
(cccc) "Unprofessional conduct" means:
(1) Fraud in securing a registration or permit;
(2) intentional adulteration or mislabeling of any drug, medicine,
chemical or poison;
(3) causing any drug, medicine, chemical or poison to be adulterated
or mislabeled, knowing the same to be adulterated or mislabeled;
(4) intentionally falsifying or altering records or prescriptions;
(5) unlawful possession of drugs and unlawful diversion of drugs to
others;
(6) willful betrayal of confidential information under K.S.A. 65-1654,
and amendments thereto;
(7) conduct likely to deceive, defraud or harm the public;
(8) making a false or misleading statement regarding the licensee's
professional practice or the efficacy or value of a drug;
(9) commission of any act of sexual abuse, misconduct or
exploitation related to the licensee's professional practice; or
(10) performing unnecessary tests, examinations or services which
have no legitimate pharmaceutical purpose.
"Vaccination protocol" means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

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

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

"Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers' and distributors' warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

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

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

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

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

(4) the sale, purchase or trade of a prescription drug or device or an
offer to sell, purchase or trade a prescription drug or device among
hospitals, chain pharmacy warehouses, pharmacies or other health care
entities that are under common control;
(5) the sale, purchase or trade of a prescription drug or device or the
offer to sell, purchase or trade a prescription drug or device by a charitable
organization described in 503(c)(3) of the internal revenue code of 1954 to
a nonprofit affiliate of the organization to the extent otherwise permitted
by law;
(6) the purchase or other acquisition by a hospital or other similar
health care entity that is a member of a group purchasing organization of a
prescription drug or device for its own use from the group purchasing
organization or from other hospitals or similar health care entities that are
members of these organizations;
(7) the transfer of prescription drugs or devices between pharmacies
pursuant to a centralized prescription processing agreement;
(8) the sale, purchase or trade of blood and blood components
intended for transfusion;
(9) the return of recalled, expired, damaged or otherwise non-salable
prescription drugs, when conducted by a hospital, health care entity,
pharmacy, chain pharmacy warehouse or charitable institution in
accordance with the board's rules and regulations;
(10) the sale, transfer, merger or consolidation of all or part of the
business of a retail pharmacy or pharmacies from or with another retail
pharmacy or pharmacies, whether accomplished as a purchase and sale of
stock or business assets, in accordance with the board's rules and
regulations;
(11) the distribution of drug samples by manufacturers' and
authorized distributors' representatives;
(12) the sale of minimal quantities of drugs by retail pharmacies to
licensed practitioners for office use; or
(13) the sale or transfer from a retail pharmacy or chain pharmacy
warehouse of expired, damaged, returned or recalled prescription drugs to
the original manufacturer, originating wholesale distributor or to a third
party returns processor in accordance with the board's rules and
regulations.
Sec. 5. K.S.A. 2013 Supp. 65-2802 is hereby amended to read as
follows: 65-2802. For the purpose of this act the following definitions
shall apply:
(a) The healing arts include any system, treatment, operation,
diagnosis, prescription, or practice for the ascertainment, cure, relief,
palliation, adjustment, or correction of any human disease, ailment,
deformity, or injury, alteration or enhancement of a condition or
appearance and includes specifically, but not by way of limitation, the
practice of medicine and surgery; the practice of osteopathic medicine and
surgery; and the practice of chiropractic.
(b) "Board" shall mean the state board of healing arts.
(c) "License," unless otherwise specified, shall mean a license to
practice the healing arts granted under this act.
(d) "Licensed" or "licensee," unless otherwise specified, shall mean a
person licensed under this act to practice medicine and surgery,
osteopathic medicine and surgery or chiropractic.
(e) "Healing arts school" shall mean an academic institution which
grants a doctor of chiropractic degree, doctor of medicine degree or doctor
of osteopathy degree.
(f) Wherever the masculine gender is used, it shall be construed to
include the feminine, and the singular number shall include the plural
when consistent with the intent of this act.
Sec. 6. K.S.A. 65-2803 is hereby amended to read as follows: 65-
2803. (a) Unless otherwise specified by the board, it shall be unlawful for
any person who is not licensed under the Kansas healing arts act does not
have a license, registration, permit or certificate to engage in the practice
of any profession regulated by the board or whose license, registration,
permit or certificate to practice has been revoked or suspended to engage
in the practice of the healing arts as defined in the Kansas healing arts act
any profession regulated by the board.
(b) This section shall not apply to any person licensed by the board
whose license was expired or lapsed and reinstated within a six month
period pursuant to K.S.A. 65-2809 and amendments thereto.
(c) This section shall not apply to any health care provider who in
good faith renders emergency care or assistance at the scene of an
emergency or accident as authorized by K.S.A. 65-2891, and amendments
thereto.
(c) The commission of any act or practice declared to be a violation
of this section may render the violator liable to the state or county for the
payment of a civil penalty of up to $1,000 per day for each day a person
engages in the unlawful practice of a profession regulated by the board. In
addition to such civil penalty, such violator may be assessed reasonable
costs of investigation and prosecution.
(d) Violation of this section is a class B misdemeanor non-person
{severity level 10, nonperson} felony.
Sec. 7. K.S.A. 2013 Supp. 65-2809 is hereby amended to read as
follows: 65-2809. (a) The license shall expire on the date established by
rules and regulations of the board which may provide renewal throughout
the year on a continuing basis. In each case in which a license is renewed
for a period of time of more or less than 12 months, the board may prorate
the amount of the fee established under K.S.A. 65-2852, and amendments
thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the expiration date of the license.

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

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

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

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing educational requirements established by the board by rules and regulations. Any person who has not been in the active practice of the branch of the healing arts for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.
(f) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of the healing arts in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (f). The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of the appropriate branch of the healing arts upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of the healing arts or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection (f) shall be construed to prohibit a person holding an exempt license from serving as a coroner or as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created a designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of the healing arts in Kansas, who does not hold oneself out to the public as being
professionally engaged in such practice and who meets the definition of
inactive health care provider as defined in K.S.A. 40-3401, and
amendments thereto. An inactive license shall not entitle the holder to
practice the healing arts in this state. Each inactive license may be renewed
subject to the provisions of this section. Each inactive licensee shall be
subject to all provisions of the healing arts act, except as otherwise
provided in this subsection (g). The holder of an inactive license shall not
be required to submit evidence of satisfactory completion of a program of
continuing education required by K.S.A. 65-2809, and amendments
thereto. Each inactive licensee may apply for a license to
regularly engage in the practice of the appropriate branch of the healing
arts upon filing a written application with the board. The request shall be
on a form provided by the board and shall be accompanied by the license
fee established pursuant to K.S.A. 65-2852, and amendments thereto. For
those licensees whose license has been inactive for less than two years, the
board shall adopt rules and regulations establishing appropriate continuing
education requirements for inactive licensees to become licensed to
regularly practice the healing arts within Kansas. Any licensee whose
license has been inactive for more than two years and who has not been in
the active practice of the healing arts or engaged in a formal education
program since the licensee has been inactive may be required to complete
such additional testing, training or education as the board may deem
necessary to establish the licensee's present ability to practice with
reasonable skill and safety.

(h) (1) There is hereby created a designation of federally active
license. The board is authorized to issue a federally active license to any
licensee who makes written application for such license on a form
provided by the board and remits the same fee required for a license
established under K.S.A. 65-2852, and amendments thereto. The board
may issue a federally active license only to a person who meets all the
requirements for a license to practice the healing arts in Kansas and who
practices that branch of the healing arts solely in the course of employment
or active duty in the United States government or any of its departments,
bureaus or agencies. A person issued a federally active license may engage
in limited practice outside of the course of federal employment consistent
with the scope of practice of exempt licensees under subsection (f), except
that the scope of practice of a federally active licensee shall be limited to
the following: (A) Performing administrative functions, including peer
review, disability determinations, utilization review and expert opinions;
(B) providing direct patient care services gratuitously or providing
supervision, direction or consultation for no compensation except that
nothing in this subpart (1)(B) shall prohibit a person licensed to practice
the healing arts issued a federally active license from receiving payment
for subsistence allowances or actual and necessary expenses incurred in
providing such services; and (C) rendering professional services as a
charitable health care provider as defined in K.S.A. 75-6102, and
amendments thereto.

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

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

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

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

Sec. 9. K.S.A. 65-2833 is hereby amended to read as follows: 65-
2833. The board, without examination, may issue a license to a person
who has been in the active practice of a branch of the healing arts in some
other state, territory, the District of Columbia or other country upon
certificate of the proper licensing authority of that state, territory, District
of Columbia or other country certifying that the applicant is duly licensed,
that the applicant's license has never been limited, suspended or revoked,
that the licensee has never been censured or had other disciplinary action
taken and that, so far as the records of such authority are concerned, the
applicant is entitled to its endorsement. The applicant shall also present
proof satisfactory to the board:
(a) That the state, territory, District of Columbia or country in which
the applicant last practiced has and maintains standards at least equal to
those maintained by Kansas.
(b) That the applicant's original license was based upon an
examination at least equal in quality to the examination required in this
state and that the passing grade required to obtain such original license
was comparable to that required in this state.
(c) Of the date of the applicant's original and any and all endorsed
licenses and the date and place from which any license was attained.
(d) That the applicant has been actively engaged in practice under
such license or licenses since issued, and if not, fix the time when and
reason why the applicant was out of practice. The board may adopt rules
and regulations establishing qualitative and quantitative practice
activities which qualify as active practice.
(e) That the applicant has a reasonable ability to communicate in
English.

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

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

Sec. 10. K.S.A. 2013 Supp. 65-2836 is hereby amended to read as
follows: 65-2836. A licensee's license may be revoked, suspended or
limited, or the licensee may be publicly or privately censured or placed
under probationary conditions, or an application for a license or for
reinstatement of a license may be denied upon a finding of the existence of
any of the following grounds:
(a) The licensee has committed fraud or misrepresentation in
applying for or securing an original, renewal or reinstated license.
(b) The licensee has committed an act of unprofessional or
dishonorable conduct or professional incompetency, except that the board
may take appropriate disciplinary action or enter into a non-disciplinary
resolution when a licensee has engaged in any conduct or professional
practice on a single occasion that, if continued, would reasonably be
expected to constitute an inability to practice the healing arts with
reasonable skill and safety to patients or unprofessional conduct as defined
in K.S.A. 65-2837, and amendments thereto.

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

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

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

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

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

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

(i) The licensee has the inability licensee's ability to practice the
healing arts with reasonable skill and safety to patients is impaired by
reason of physical or mental illness, or condition or use of alcohol, drugs
or controlled substances. In determining whether or not such inability-
exists, the board, upon reasonable suspicion of such inability, shall have
authority to compel a licensee to submit to mental or physical examination
or drug screen, or any combination thereof, by such persons as the board
may designate either in the course of an investigation or a disciplinary
proceeding. To determine whether reasonable suspicion of such inability
exists, the investigative information shall be presented to the board as a
whole, to a review committee of professional peers of the licensee
established pursuant to K.S.A. 65-2840c, and amendments thereto, or to a
committee consisting of the officers of the board elected pursuant to
K.S.A. 65-2818, and amendments thereto, and the executive director
appointed pursuant to K.S.A. 65-2878, and amendments thereto, or to a
presiding officer authorized pursuant to K.S.A. 77-514, and amendments
thereto. The determination shall be made by a majority vote of the entity
which reviewed the investigative information. Information submitted to
the board as a whole or a review committee of peers or a committee of the
officers and executive director of the board and all reports, findings and
other records relating to impairment shall be confidential and not subject to discovery by or
release to any person or entity outside of a board proceeding. The licensee
shall submit to the board a release of information authorizing the board to
obtain a report of such examination or drug screen, or both. A person
affected by this subsection shall be offered, at reasonable intervals, an
opportunity to demonstrate that such person can resume the competent
practice of the healing arts with reasonable skill and safety to patients. For
the purpose of this subsection, every person licensed to practice the
healing arts in this state who shall accept the privilege to practice the healing arts
in this state by so practicing or by the making and filing of a renewal to
practice the healing arts in this state shall be deemed to have consented to
submit to a mental or physical examination or a drug screen, or any
combination thereof, when directed in writing by the board and further to
have waived all objections to the admissibility of the testimony, drug
screen or examination report of the person conducting such examination or
drug screen, or both, at any proceeding or hearing before the board on the
ground that such testimony or examination or drug screen report
constitutes a privileged communication. In any proceeding by the board
pursuant to the provisions of this subsection, the record of such board
proceedings involving the mental and physical examination or drug screen,
or any combination thereof, shall not be used in any other administrative
or judicial proceeding.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2013 Supp. 21-5407, 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 K.S.A. 2013 Supp. 21-5407, 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.

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

(ee) The licensee has knowingly or negligently abandoned medical
Sec. 11. K.S.A. 2013 Supp. 65-2837 is hereby amended to read as follows: 65-2837. As used in K.S.A. 65-2836, and amendments thereto, and in this section:

(a) "Professional incompetency" means:
(1) One or more instances involving failure to adhere to the applicable standard of 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 care to a degree which constitutes ordinary negligence, as determined by the board.
(3) A pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to practice the healing arts.

(b) "Unprofessional conduct" means:
(1) Solicitation of professional patronage through the use of fraudulent or false advertisements, or profiting by the acts of those representing themselves to be agents of the licensee.
(2) Representing to a patient that a manifestly incurable disease, condition or injury can be permanently cured.
(3) Assisting in the care or treatment of a patient without the consent of the patient, the attending physician or the patient's legal representatives.
(4) The use of any letters, words, or terms, as an affix, on stationery, in advertisements, or otherwise indicating that such person is entitled to practice a branch of the healing arts for which such person is not licensed.
(5) Performing, procuring or aiding and abetting in the performance or procurement of a criminal abortion.
(6) Willful betrayal of confidential information.
(7) Advertising professional superiority or the performance of professional services in a superior manner.
(8) Advertising to guarantee any professional service or to perform any operation painlessly.
(9) Participating in any action as a staff member of a medical care facility which is designed to exclude or which results in the exclusion of any person licensed to practice medicine and surgery from the medical staff of a nonprofit medical care facility licensed in this state because of the branch of the healing arts practiced by such person or without just cause.
(10) Failure to effectuate the declaration of a qualified patient as provided in subsection (a) of K.S.A. 65-28,107, and amendments thereto.
(11) Prescribing, ordering, dispensing, administering, selling, supplying or giving any amphetamines or sympathomimetic amines, except as authorized by K.S.A. 65-2837a, and amendments thereto.
(12) Conduct likely to deceive, defraud or harm the public.
(13) Making a false or misleading statement regarding the licensee's skill or the efficacy or value of the drug, treatment or remedy prescribed by the licensee or at the licensee's direction in the treatment of any disease or other condition of the body or mind.

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

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

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

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

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

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

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

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

(22) Charging an excessive fee for services rendered.

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

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

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

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

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

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

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

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

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

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

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

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

(A) Falsifying or concealing a material fact;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Seeks to establish continued competency for renewal of licensure
other than through continued education requirements established pursuant
to K.S.A. 65-2809, and amendments thereto the applicable practice act;
(2) has been absent from clinical practice for an extended period of
time and seeks to resume clinical practice;
(3) has failed to adhere to the applicable standard of care but not to a
degree constituting professional incompetence, as defined by K.S.A. 65-
2837, and amendments thereto the applicable practice act; or
(4) has engaged in an act or practice that, if continued, would
reasonably be expected to result in future violations of the Kansas healing
arts the applicable practice act.

(b) Notwithstanding any other provision of law, a meeting of the
board, or a committee of the board or a peer review committee established
pursuant to K.S.A. 65-2840c, and amendments thereto, for the purpose of
discussing or adopting a non-disciplinary resolution authorized by this
section shall not be subject to the Kansas administrative procedures act,
K.S.A. 77-501 et seq., and amendments thereto, and shall not be subject to
the Kansas open meetings act as provided in K.S.A. 75-4317 et seq., and
amendments thereto. A non-disciplinary resolution authorized by this
section shall not be deemed disciplinary action or other order or
adjudication. No failure to adhere to the applicable standard of care or
violation of the Kansas healing arts act may be implied by the adoption of
a non-disciplinary resolution.

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

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

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

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

(1) The board may issue subpoenas compelling the attendance and
testimony of witnesses or the production for examination or copying of
documents or any other physical evidence if such evidence relates to
medical competence, unprofessional conduct or the mental or physical
ability of a licensee, registrant, permit holder or certificate holder to
safely to practice the healing arts. Within five days after the service of the
subpoena on any person requiring the production of any evidence in the
person's possession or under the person's control, such person may petition
the board to revoke, limit or modify the subpoena. The board shall revoke,
limit or modify such subpoena if in its opinion the evidence required does
not relate to practices which may be grounds for disciplinary action, is not
relevant to the charge which is the subject matter of the proceeding or
investigation, or does not describe with sufficient particularity the physical
evidence which is required to be produced. Any member of the board, or
any agent designated by the board, may administer oaths or affirmations,
examine witnesses and receive such evidence. The board shall have the
authority to compel the production of evidence upon noncompliance with
an investigative subpoena, if in the opinion of the board or the board's
designee, the evidence demanded relates to a practice which may be
grounds for disciplinary action, is relevant to the charge which is the subject matter of the investigation and describes with sufficient particularity the physical evidence required to be produced.

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

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

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

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

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

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

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

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

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

(b) To determine whether reasonable suspicion of impaired ability exists, the investigative information shall be presented to the board as a whole, or to a committee consisting of the officers of the board elected pursuant to K.S.A. 65-2818, and amendments thereto, and the executive director appointed pursuant to K.S.A. 65-2878, and amendments thereto, or to a presiding officer authorized pursuant to K.S.A. 77-514, and amendments thereto. The determination shall be made by a majority vote of the entity which reviewed the investigative information. Information submitted to the board as a whole or a committee of the officers and executive director of the board or presiding officer and all reports, findings and other records shall be confidential and not subject to
discovery by or release to any person or entity.

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

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

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

Sec. 17. K.S.A. 2013 Supp. 65-2844 is hereby amended to read as follows: 65-2844. A person whose license, registration, permit or certificate has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by a reinstatement of a revoked license, registration, permit or certificate fee established by the board under K.S.A. 65-2852, and amendments thereto the applicable practice act. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license. If the board determines a license, registration, permit or certificate should not be
reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. The board, on its own motion, may stay the effectiveness of an order of revocation of license, registration, permit or certificate.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Sec. 25. K.S.A. 65-2863a is hereby amended to read as follows: 65-
2863a. (a) The state board of healing arts, in addition to any other penalty
prescribed under the Kansas healing arts act, may assess a civil fine, after
proper notice and an opportunity to be heard, against a licensee for a
violation of the Kansas healing arts act in an amount not to exceed $5,000
for the first violation, $10,000 for the second violation and $15,000 for the
third violation and for each subsequent violation. All fines assessed and
collected under this section 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 to the credit of the state
general fund. For the purposes of this section, fines shall be considered
administrative fines pursuant to 11 U.S.C. § 523.

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

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

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

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

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

Sec. 29. K.S.A. 2013 Supp. 65-2867 is hereby amended to read as follows: 65-2867. (a) It shall be unlawful for any person who is not licensed under the Kansas healing arts act or whose license has been revoked or suspended to open or maintain an office for the practice of the healing arts as defined in this act or to announce or hold out to the public the intention, authority or skill to practice the healing arts as defined in the Kansas healing arts act by the use of any professional degree or designation, sign, card, circular, device, advertisement or representation.
(b) This section shall not apply to any person licensed by the board whose license was expired or lapsed and reinstated within a six month period pursuant to K.S.A. 65-2809, and amendments thereto.

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

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

(e) Violation of this section is a class C misdemeanor. In addition, violation of this section may subject a person to civil fines and assessment of reasonable costs of investigation and prosecution.

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

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

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

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

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

(5) “Responsible Supervising physician” means a physician who has
accepted continuous and ultimate responsibility for the medical services
rendered and actions of the physician assistant while performing under the
direction and supervision of the responsible supervising physician.

(6) “Designated physician” means a physician designated by the
responsible physician to ensure direction and supervision of the physician
assistant.

(7) “Licensee,” for purposes of the physician assistant licensure
act, means all persons issued a license or temporary license pursuant to the
physician assistant licensure act.

(8) “License,” for purposes of the physician assistant licensure act,
means any license or temporary license granted by the physician assistant
licensure act.

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

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

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

(d) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the state board of healing arts and upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

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

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

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

1. For any an active license as a physician assistant, the sum of not more than $200;
2. For any license by endorsement as a physician assistant, the sum of not more than $200;
3. For temporary licensure as a physician assistant, the sum of not more than $30;
4. For the renewal of an active license to practice as a physician assistant or a federally active license, the sum of not more than $150;
5. For renewal of an inactive license, the sum of not more than $150;
6. For the late renewal of any license as a physician assistant, the sum of not more than $250;
7. For reinstatement of a license canceled for failure to renew, the sum of not more than $250;
8. For a certified statement from the board that a physician assistant is licensed in this state, the sum of not more than $30;
9. For a copy of the licensure certificate of a physician assistant, the sum of not more than $25; and
10. For conversion of an inactive license to an active license to actively practice as a physician assistant or a federally active license, the sum of not more than $150.

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

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

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

(a) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;
(b) the licensee has obtained a license by means of fraud, misrepresentations or concealment of material facts;
(c) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;
(d) the licensee has been convicted of a felony;
(e) the licensee has violated any provision of this act, and amendments thereto;
(f) the licensee has violated any lawful order or rule and regulation of the board;
(g) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or is incompetent to stand trial by a court of competent jurisdiction;
(h) the licensee has violated a federal law or regulation relating to controlled substances;
(i) the licensee has failed to report to the board any adverse action taken against the licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, by a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
(j) the licensee has surrendered a license or authorization to practice as a physician assistant in another state or jurisdiction, has surrendered the authority to utilize controlled substances issued by any state or federal agency, has agreed to a limitation to or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
(k) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as a physician assistant in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
(l) the licensee has an adverse judgment, award or settlement against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;
(m) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action.
under this section;

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

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

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

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

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

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

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

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

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

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

(2) Persons gratuitously administering ordinary household remedies.

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

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

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

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

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

(8) Physician assistants in the United States army, navy, air force,
public health service, coast guard, other military service and under other
federal employment when acting in the line of duty in this state (7)
Persons who practice as physician assistants solely in the course of
employment or active duty in the United States government or any of its
departments, bureaus or agencies.

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

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

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

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

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

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

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

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

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

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

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

(2) The board shall adopt rules and regulations governing the prescribing of drugs by physician assistants and the responsibilities of the responsible supervising physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the prescribing of drugs by
physician assistants, the board shall take into consideration the amount of
training and capabilities of physician assistants, the different practice
settings in which physician assistants and—responsible supervising
physicians practice, the degree of direction and supervision to be provided
by a—responsible supervising physician and the needs of the geographic
area of the state in which the supervising physician's physician assistant
and the responsible supervising physician practice. In all cases in which a
physician assistant is authorized to prescribe drugs by a—responsible—

supervising physician, a written—protocol agreement between the
responsible supervising physician and the physician assistant containing
the essential terms of such authorization shall be in effect. Any written
prescription order shall include the name, address and telephone number of
the responsible supervising physician. In no case shall the scope of the
authority of the physician assistant to prescribe drugs exceed the normal
and customary practice of the responsible supervising physician in the
prescribing of drugs.

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

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

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

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

Sec. 37. K.S.A. 65-28a11 is hereby amended to read as follows: 65-
28a11. (a) There is established a physician assistant council to advise the
board in carrying out the provisions of K.S.A. 65-28a01 through 65-28a10, inclusive 65-28a09, and amendments thereto. The council shall consist of five members, all citizens and residents of the state of Kansas appointed as follows: One member shall be a physician appointed by the state board of healing arts who is a responsible supervising physician for a physician assistant; one member shall be the president of the state board of healing arts or a person designated by the president; and three members shall be licensed physician assistants appointed by the governor. The governor, insofar as possible, shall appoint persons from different geographical areas and persons who represent various types of practice settings. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any. The Kansas academy of physician assistants shall recommend the names of licensed physician assistants to the governor in a number equal to at least twice the positions or vacancies to be filled, and the governor may appoint members to fill the positions or vacancies from the submitted list. Members of the council appointed by the governor on and after the effective date of this act shall be appointed for terms of three years and until their successors are appointed and qualified except that of the members first appointed by the governor on or after the effective date of this act one shall be appointed for a term of one year, one shall be appointed for a term of two years and one shall be appointed for a term of three years, as designated by the governor. The member appointed by the state board of healing arts shall serve at the pleasure of the state board of healing arts. A member designated by the president of the state board of healing arts shall serve at the pleasure of the president. (b) Members of the council attending meetings of the council, or attending a subcommittee meeting thereof authorized by the council, shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto, from the healing arts fee fund.

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

(1) A practitioner or pursuant to the lawful direction of a practitioner;
 or
(2) the patient or research subject at the direction and in the presence of the practitioner.

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

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

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

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

(f) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

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

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

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

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

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

(A) A controlled substance;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(w) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

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

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

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

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

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

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

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

(cc) "Mid-level practitioner" means an advanced practice registered
nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible supervising physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible supervising physician under K.S.A. 65-28a08, and amendments thereto.

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

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

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

(3) opium poppy and poppy straw;

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

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

(ff) "Opium poppy" means the plant of the species Papaver somniferum l. except its seeds.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(d) "Ambulance" means any privately or publicly owned motor
vehicle, airplane or helicopter designed, constructed, prepared, staffed and
equipped for use in transporting and providing emergency care for
individuals who are ill or injured.
(e) "Ambulance service" means any organization operated for the
purpose of transporting sick or injured persons to or from a place where
medical care is furnished, whether or not such persons may be in need of
emergency or medical care in transit.
(f) "Attendant" means a first responder, an emergency medical
responder, emergency medical technician, emergency medical technician-
intermediate, emergency medical technician-defibrillator, emergency
medical technician-intermediate/defibrillator, advanced emergency
medical technician, mobile intensive care technician or paramedic certified
pursuant to this act.
(g) "Board" means the emergency medical services board established
pursuant to K.S.A. 65-6102, and amendments thereto.
(h) "Emergency medical service" means the effective and coordinated
delivery of such care as may be required by an emergency which includes
the care and transportation of individuals by ambulance services and the
performance of authorized emergency care by a physician, advanced
practice registered nurse, professional nurse, a licensed physician assistant
or attendant.
(i) "Emergency medical technician" means a person who holds an
emergency medical technician certificate issued pursuant to this act.
(j) "Emergency medical technician-defibrillator" means a person who
holds an emergency medical technician-defibrillator certificate issued
pursuant to this act.
(k) "Emergency medical technician-intermediate" means a person
who holds an emergency medical technician-intermediate certificate issued
pursuant to this act.
(l) "Emergency medical technician-intermediate/defibrillator" means
a person who holds both an emergency medical technician-intermediate
and emergency medical technician-defibrillator certificate issued pursuant
to this act.
(m) "Emergency medical responder" means a person who holds an
emergency medical responder certificate issued pursuant to this act.
(n) "First responder" means a person who holds a first responder
certificate issued pursuant to this act.
(o) "Hospital" means a hospital as defined by K.S.A. 65-425, and
amendments thereto.
(p) "Instructor-coordinator" means a person who is certified under
this act to teach initial certification and continuing education classes.
(q) "Medical director" means a physician.
(r) "Medical protocols" mean written guidelines which authorize
attendants to perform certain medical procedures prior to contacting a
physician, physician assistant authorized by a physician, advanced practice
registered nurse authorized by a physician or professional nurse authorized
by a physician. The medical protocols shall be approved by a county
medical society or the medical staff of a hospital to which the ambulance
service primarily transports patients, or if neither of the above are able or
available to approve the medical protocols, then the medical protocols
shall be submitted to the medical advisory council for approval.

(s) "Mobile intensive care technician" means a person who holds a
mobile intensive care technician certificate issued pursuant to this act.
(t) "Municipality" means any city, county, township, fire district or
ambulance service district.
(u) "Nonemergency transportation" means the care and transport of a
sick or injured person under a foreseen combination of circumstances
calling for continuing care of such person. As used in this subsection,
transportation includes performance of the authorized level of services of
the attendant whether within or outside the vehicle as part of such
transportation services.
(v) "Operator" means a person or municipality who has a permit to
operate an ambulance service in the state of Kansas.
(w) "Paramedic" means a person who holds a paramedic certificate
issued pursuant to this act.
(x) "Person" means an individual, a partnership, an association, a
joint-stock company or a corporation.
(y) "Physician" means a person licensed by the state board of healing
arts to practice medicine and surgery.
(z) "Physician assistant" means a person who is licensed under the
physician assistant licensure act and who is acting under the direction of a
responsible supervising physician.
(aa) "Professional nurse" means a licensed professional nurse as
defined by K.S.A. 65-1113, and amendments thereto.
(bb) "Provider of training" means a corporation, partnership,
accredited postsecondary education institution, ambulance service, fire
department, hospital or municipality that conducts training programs that
include, but are not limited to, initial courses of instruction and continuing
education for attendants, instructor-coordinators or training officers.
(cc) "Responsible Supervising physician" means—responsible—
supervising physician as such term is defined under K.S.A. 65-28a02, and
amendments thereto.
(dd) "Training officer" means a person who is certified pursuant to
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.
Sec. 40. K.S.A. 2013 Supp. 65-6124 is hereby amended to read as follows: 65-6124. (a) No physician, physician assistant, advanced practice registered nurse or licensed professional nurse, who gives emergency instructions to an attendant as defined by K.S.A. 65-6112, and amendments thereto, during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages which may result from gross negligence in giving such instructions.

(b) No attendant as defined by K.S.A. 65-6112, and amendments thereto, who renders emergency care during an emergency pursuant to instructions given by a physician, the responsible supervising physician for a physician assistant, advanced practice registered nurse or licensed professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of such attendant as defined by K.S.A. 65-6112, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

(b) (1) The board shall not grant a temporary attendant's certificate
unless the applicant meets the following requirements:

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

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

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

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

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

(e) All fees received pursuant to the provisions of this section 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 to
the credit of the emergency medical services operating fund established by
K.S.A. 65-6151, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

(5) a requirement that all teachers responsible for the student's supervision shall be notified that permission to carry medications and self-medicate has been granted; and

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

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

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

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

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

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

(h) An authorization granted pursuant to subsection (b) shall allow a student to possess and use such student's medication at any place where a student is subject to the jurisdiction or supervision of the school district or its officers, employees or agents.
(i) A board of education may adopt a policy pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto, which:

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

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

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

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

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

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

(2) remits the fee for an interim license;

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

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

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

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

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

New Sec. 45. (a) Any violation of the provisions of the physician assistant licensure act shall constitute a class B misdemeanor.

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

(c) The board, in addition to any other penalty prescribed under the physician assistant licensure act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the physician assistant licensure act in an amount not to exceed $5,000 for the first violation, $10,000 for the second violation and $15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section 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 to the credit of the state general fund.

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

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

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

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

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

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

New Sec. 47. (a) There is hereby created a license by endorsement. The board is authorized to issue a license by endorsement without examination to a person who has been in active practice as a physician assistant in some other state, territory, District of Columbia or other country upon certificate of the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or had other disciplinary action taken and that, so far as the records of such authority are concerned, the applicant is entitled to its endorsement. The applicant shall also present proof satisfactory to the board:

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

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

(3) the date of the applicant’s original and all endorsed licenses, and the date and place from which any license was attained;
(4) that the applicant has been actively engaged in practice under such license or licenses since issuance. The board may adopt rules and regulations establishing appropriate qualitative and quantitative practice activities to qualify as active practice; and

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

(b) An applicant for a license by endorsement shall not be licensed unless, as determined by the board, the applicant's qualifications are substantially equivalent to Kansas requirements. In lieu of any other requirement prescribed by law for satisfactory passage of any examination for physician assistants, the board may accept evidence demonstrating that the applicant or licensee has satisfactorily passed an equivalent examination given by a national board of examiners for physician assistants.

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


Sec. 49. This act shall take effect and be in force from and after July 1, 2015 and its publication in the statute book.