An Act concerning charitable healthcare providers; relating to continuing education credits for gratuitous care; application of the Kansas tort claims act; amending K.S.A. 75-6120 and K.S.A. 2015 Supp. 65-1431, 65-2809 and 75-6102 and repealing the existing sections.

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

Section 1. K.S.A. 2015 Supp. 65-1431 is hereby amended to read as follows: 65-1431. (a) Each license to practice as a dentist or dental hygienist issued by the board, shall expire on December 1 of the year specified by the board for the expiration of the license and shall be renewed on a biennial basis. Each application for renewal shall be made on a form prescribed and furnished by the board. Every licensed dentist or dental hygienist shall pay to the board a renewal fee fixed by the board as provided in K.S.A. 65-1447, and amendments thereto.

(b) To provide for a staggered system of biennial renewal of licenses, the board may renew licenses for less than two years.

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

(d) (1) The board shall require every licensee to submit with the renewal application evidence of satisfactory completion of a program of continuing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing education as soon as possible after the effective date of this act.

(2) A dentist who is a charitable healthcare provider in Kansas who
has signed an agreement to provide gratuitous services pursuant to K.S.A.
75-6102 and 75-6120, and amendments thereto, may fulfill one hour of
continuing education credit by the performance of two hours of gratuitous
services to medically indigent persons up to a maximum of six continuing
education credits per licensure period.

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

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

(2) Any licensee whose license is required to be renewed for the
next biennial period may obtain renewal, prior to February 1, by
submitting to the board the required renewal application, payment of
the biennial renewal fee and proof that such licensee has satisfactorily
completed a program of continuing education required by the board.
Any licensee whose license is required to be renewed for the next
biennial period may obtain renewal, between February 1 and March
1, by submitting to the board the required renewal application,
payment of the biennial renewal fee, payment of a penalty fee of not to
exceed $500 as fixed by rules and regulations by the board and proof
that such licensee has satisfactorily completed a program of
continuing education required by the board. The penalty fee in effect
immediately prior to the effective date of this act shall continue in
effect until rules and regulations establishing a penalty fee under this
section become effective.

(g) Upon failure of any licensee to pay the applicable renewal fee
or to present proof of satisfactory completion of the required program
of continuing education by February 1 of the year following the
December in which a renewal application is due, the board shall notify
such licensee, in writing, by mailing notice to such licensee's last
registered address. Failure to mail or receive such notice shall not
affect the cancellation of the license of such licensee.

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

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

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

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

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

Section 1, Sec. 2. K.S.A. 2015 Supp. 65-2809 is hereby amended to read as follows: 65-2809. (a) The license shall be canceled 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 renewal 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. The board shall require every active licensee 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 an active 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.

(d) At least 30 days before the renewal date of a licensee's license, the board shall notify the licensee of the renewal date by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee fails to submit the renewal application and pay the renewal fee by the renewal date of the license, the licensee shall be given notice that the licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license, that the license will be deemed canceled if not renewed within 30 days following the renewal date, that upon receipt of the renewal application and renewal fee and an additional fee established by rules and regulations of the board not to exceed $500 within the 30-day period the license will not be canceled and that, if both fees are not received within the 30-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 may 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 healthcare 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 healthcare 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 an active license 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 subsection (h)(1)(B) subparaphraph 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 healthcare 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, cancellation, renewal and reinstatement 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 healthcare provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

(j) (1) There is hereby created the designation of reentry active license. The board is authorized to issue a reentry active 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 active license. The board may issue a reentry active 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, maintenance and scope of practice for a reentry active license shall be established by rules and regulations adopted by the board.

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

(j) A charitable healthcare provider in Kansas who has signed an agreement to provide gratuitous services pursuant to K.S.A. 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of continuing education credit by the performance of two hours of gratuitous services to eligible low income medically indigent persons up to a maximum of eight continuing education credits per licensure period.

(k) The board shall provide a measurement report annually, starting on January 15, 2017, to the senate committee on public health and welfare and the house committee on health and human services detailing by profession the number of gratuitous continuing education units used, compared to the number of continuous education units required.

Sec.–2. 3. K.S.A. 2015 Supp. 75-6102 is hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and amendments thereto, unless the context clearly requires otherwise:

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

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

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

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

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

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

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

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

(G) an employee of an indigent healthcare clinic;

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

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

(J) any member of a regional search and rescue team or regional hazardous materials response team contracting with the state fire marshal pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2015 Supp. 75-1518, and amendments thereto, in connection with authorized training or upon activation for an emergency response; and
medical students enrolled at the university of Kansas medical center who are in clinical training, on or after July 1, 2008, at the university of Kansas medical center or at another healthcare institution.

(2) "Employee" does not include: (A) An individual or entity for actions within the scope of K.S.A. 60-3614, and amendments thereto; or

(B) any independent contractor under contract with a governmental entity except those contractors specifically listed in subsection (d)(1).

(e) "Charitable healthcare provider" means a person licensed by the state board of healing arts as an exempt licensee or a federally active licensee, a person issued a limited permit by the state board of healing arts, a physician assistant licensed by the state board of healing arts, a mental health practitioner licensed by the behavioral sciences regulatory board, an ultrasound technologist currently registered in any area of sonography credentialed through the American registry of radiology technologists, the American registry for diagnostic medical sonography or cardiovascular credentialing international and working under the supervision of a person licensed to practice medicine and surgery, or a healthcare provider as the term "healthcare provider" is defined under K.S.A. 65-4921, and amendments thereto, who has entered into an agreement with:

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

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

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

(4) the secretary of health and environment to provide dentistry services defined by K.S.A. 65-1422 et seq., and amendments thereto, or dental hygienist services defined by K.S.A. 65-1456, and amendments thereto, that are targeted, but are not limited to, medically indigent persons, and are provided on a gratuitous basis: (A) At a location sponsored by a not-for-profit organization that is not the dentist or dental hygienist office location; (B) at the office location of a dentist or dental hygienist provided the care be delivered as part of a program organized by a not-for-profit organization and approved by the secretary of health and environment; or (C) as part of a charitable program organized by the dentist that has been approved by the secretary of health and environment upon a showing that the dentist seeks to treat medically indigent patients on a gratuitous basis, except that such dentistry services and dental hygienist services shall not include "oral and maxillofacial surgery" as defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

(5) (f) The secretary of health and environment shall annually, starting on January 15, 2017, report to the senate committee on public health and welfare and the house committee of health and human services what type of charitable health care providers have signed agreements under the act and how many are using it to provide gratuitous care.

(f) (g) "Medically indigent person" means a person who lacks resources to pay for medically necessary healthcare services and who meets the eligibility criteria for qualification as a medically indigent person established by the secretary of health and environment under K.S.A. 75-6120, and amendments thereto.

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

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

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

Sec. 4. K.S.A. 75-6120 is hereby amended to read as follows: 75-6120. (a) The secretary of health and environment may enter into agreements with charitable healthcare providers in which such charitable healthcare provider stipulates to the secretary of health and environment that when such charitable healthcare provider renders
professional services to a medically indigent person such services will be provided gratuitously. The secretary of health and environment shall adopt rules and regulations which specify the conditions for termination of any such agreement, and such rules and regulations are hereby made a part of any such agreement. A charitable healthcare provider for purposes of any claim for damages arising as a result of rendering professional services to a medically indigent person, which professional services were rendered gratuitously at a time when an agreement entered into by the charitable healthcare provider with the secretary of health and environment under this section was in effect, shall be considered an employee of the state under the Kansas tort claims act, notwithstanding the provisions of article 34 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(b) The secretary of health and environment shall establish by rules and regulations eligibility criteria for determining whether a person qualifies as a medically indigent person.

(c) Any claim arising from the rendering of or failure to render professional services by a charitable healthcare provider brought pursuant to the Kansas tort claims act shall not be considered by an insurance company in determining the rate charged for any professional liability insurance policy for healthcare providers or whether to cancel any such policy.

(d) The secretary of health and environment shall annually report, starting on January 15, 2017, to the senate committee on public health and welfare and the house committee on health and human services which type of charitable healthcare providers have signed agreements under the act and how many are using it to provide gratuitous care.

(e) This section shall be part of and supplemental to the Kansas tort claims act.

Sec. 3. K.S.A. 75-6120 and K.S.A. 2015 Supp. 65-1431, 65-2809 and 75-6102 are hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its publication in the statute book.