

Senate Substitute for HOUSE BILL No. 2600

AN ACT concerning the department of health and environment; relating to powers, duties and functions thereof; providing for the assessment of fees for noncontiguous sites under the nuclear energy development and radiation control act; directing the secretary of health and environment to study and investigate maternal deaths in the state of Kansas; access to records; confidentiality; establishing the palliative care and quality of life interdisciplinary advisory council and the palliative care consumer and professional information and education program; amending K.S.A. 48-1606 and K.S.A. 2017 Supp. 65-177 and repealing the existing sections.

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

Section 1. K.S.A. 48-1606 is hereby amended to read as follows: 48-1606. (a) The secretary of health and environment shall be responsible for state radiation control.

(b) The secretary, for the protection of the public health and safety, shall develop programs for evaluation of hazards associated with use of sources of radiation.

(c) The secretary may:

(1) Advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies, political subdivisions and with groups concerned with control of sources of radiation;

(2) accept and administer grants or gifts, conditional or otherwise, in furtherance of its functions, from the federal government and from other sources, public or private;

(3) collect and disseminate information relating to control of sources of radiation;

(4) encourage, participate in, or conduct studies, investigations, training, research and demonstrations relating to control of sources of radiation;

(5) in accordance with the laws of the state, employ, compensate and prescribe the powers and duties of such individuals as may be necessary to carry out the responsibilities set forth herein;

(6) institute training programs for the purpose of qualifying personnel to carry out the provisions of this act, and make personnel available for participation in any program or programs of the federal government, other states or interstate agencies in furtherance of the purposes of this act;

(7) fix, charge and collect fees for licenses and registrations, and renewals thereof, issued under the nuclear energy development and radiation control act to cover all or any part of the cost of administering such act; and

(8) receive any moneys in the form of grants, gifts, licensing or registration fees, or as paid under an agreement with the secretary or as reimbursement for remedial action costs.

(d) Subject to the following limitations, the secretary may assess a fee for the following categories of radiation protection services:

Fee Category:

1. Special nuclear material

A. Licenses for possession and use of special nuclear material in sealed sources contained in devices used in industrial measuring systems
Maximum annual fee \$950

B. Any licenses not otherwise specified in this table for possession and use of special nuclear material, except licenses authorizing special nuclear material in unsealed form in combination that would constitute a critical mass
Maximum annual fee \$2,250

2. Source material

A. Licenses that authorize only the possession, use and/or installation of source material for shielding
Maximum annual fee \$365

B. All other source material licenses not otherwise specified in this table
Maximum annual fee \$5,700

3. Radioactive or byproduct material

A. Licenses of broad scope for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution
Maximum annual fee \$10,900

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| B. | Other licenses for possession and use of radioactive or byproduct material issued for processing or manufacturing of items containing radioactive or byproduct material for commercial distribution Maximum annual fee | \$3,300 |
| C. | Licenses authorizing the processing or manufacturing and distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources and devices containing radioactive or byproduct material. This category also includes the possession and use of source material for shielding when included on the same license Maximum annual fee | \$5,450 |
| D. | Licenses and approvals authorizing distribution or redistribution of radiopharmaceuticals, generators, reagent kits and/or sources or devices not involving processing of radioactive or byproduct material. This category also includes the possession and use of source material for shielding when included on the same license Maximum annual fee | \$2,350 |
| E. | Licenses for possession and use of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is not removed from its shield (self-shielded units) Maximum annual fee | \$1,800 |
| F. | Licenses for possession and use of less than 10,000 curies of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes Maximum annual fee | \$3,300 |
| G. | Licenses for possession and use of 10,000 curies or more of radioactive or byproduct material in sealed sources for irradiation of materials in which the source is exposed for irradiation purposes. This category also includes underwater irradiators for irradiation of materials in which the source is not exposed for irradiation purposes Maximum annual fee | \$12,050 |
| H. | Licenses issued to distribute items containing radioactive or byproduct material that require device review to persons exempt from licensing, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from licensing Maximum annual fee | \$3,000 |
| I. | Licenses issued to distribute items containing radioactive or byproduct material or quantities of radioactive or byproduct material that do not require device review to persons exempt from licensing, except for specific licenses authorizing redistribution of items that have been authorized for distribution to persons exempt from licensing Maximum annual fee | \$3,050 |
| J. | Licenses issued to distribute items containing radioactive or byproduct material that require sealed source and/or device review to persons generally licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed Maximum annual fee | \$1,100 |
| K. | Licenses issued to distribute items containing radioactive or byproduct material or quantities of radioactive or byproduct material that do not require sealed source and/or device review to persons generally licensed, except specific licenses authorizing redistribution of items that have been authorized for distribution to persons generally licensed Maximum annual fee | \$700 |

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| L. | Licenses of broad scope for possession and use of radioactive or byproduct material issued for research and development that do not authorize commercial distribution | |
| | Maximum annual fee | \$5,900 |
| M. | Other licenses for possession and use of radioactive or byproduct material issued for research and development that do not authorize commercial distribution | |
| | Maximum annual fee | \$2,800 |
| N. | Licenses that authorize services for other licensees, except (1) Licenses that authorize only calibration and/or leak testing services are subject to the fees specified in fee category 3P; and (2) licenses that authorize waste disposal services are subject to the fees specified in fee categories 4A, 4B and 4C | |
| | Maximum annual fee | \$3,050 |
| O. | Licenses for possession and use of radioactive or byproduct material for industrial radiography operations. This category also includes the possession and use of source material for shielding when authorized on the same license | |
| | Maximum annual fee | \$6,100 |
| P. | All other specific radioactive or byproduct material licenses not otherwise specified in this table | |
| | Maximum annual fee | \$1,250 |
| Q. | Registration of generally licensed devices or sources | |
| | Maximum annual fee | \$225 |
| 4. | Waste disposal and processing | |
| A. | Licenses authorizing the possession and use of waste radioactive, by-product, source or special nuclear material for a commercial low-level radioactive waste disposal facility. | |
| | Maximum annual fee | Full cost |
| i. | Amendment to license concerning safety and environmental questions | |
| | Maximum amendment fee | Full cost |
| ii. | Amendment to license concerning administration questions (no safety or environment questions) | |
| | Maximum amendment fee | Full cost |
| B. | Licenses specifically authorizing the receipt of waste radioactive or byproduct material, source material or special nuclear material from other persons for the purpose of packaging or repackaging the material. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material | |
| | Maximum annual fee | \$5,150 |
| C. | Licenses specifically authorizing the receipt of prepackaged waste radioactive or byproduct material, source material or special nuclear material from other persons. The licensee will dispose of the material by transfer to another person authorized to receive or dispose of the material | |
| | Maximum annual fee | \$3,700 |
| 5. | Well logging | |
| A. | Licenses for possession and use of radioactive or byproduct material, source material and/or special nuclear material for well logging, well surveys and tracer studies other than field flooding tracer studies | |
| | Maximum annual fee | \$2,350 |
| B. | Licenses for possession and use of radioactive or byproduct material for field flooding tracer studies | |
| | Maximum annual fee | \$2,350 |
| 6. | Nuclear laundries | |
| A. | Licenses for commercial collection and laundry of items contaminated with radioactive or byproduct material, source material or special nuclear material | |
| | Maximum annual fee | \$11,550 |

7. Medical licenses

- A. Licenses issued for human use of radioactive or byproduct material, source material or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license
Maximum annual fee \$5,500
- B. Licenses of broad scope issued to medical institutions or two or more physicians authorizing research and development, including human use of radioactive or byproduct material except licenses for radioactive or byproduct material, source material or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under categories 7B or 7C
Maximum annual fee \$12,350
- C. Other license issued for human use of radioactive or byproduct material, source material and/or special nuclear material except licenses for radioactive or byproduct material, source material or special nuclear material in sealed sources contained in teletherapy devices. This category also includes the possession and use of source material for shielding when authorized on the same license. Separate annual fees will not be assessed for pacemaker licenses issued to medical institutions who also hold nuclear medicine licenses under categories 7B or 7C
Maximum annual fee \$2,300

8. Civil defense

- A. Licenses for possession and use of radioactive or byproduct material, source material or special nuclear material for civil defense activities
Maximum annual fee \$650

9. Device, product or sealed source safety evaluation

- A. Safety evaluation review of devices or products containing radioactive or byproduct material, source material or special nuclear material, except reactor fuel devices, for commercial distribution. This fee shall apply to each device or product
Maximum annual fee \$3,500
- B. Safety evaluation review of devices or products containing radioactive or byproduct material, source material or special nuclear material manufactured in accordance with the unique specifications of, and for use by, a single applicant, except reactor fuel devices. This fee shall apply to each device or product
Maximum annual fee \$3,500
- C. Safety evaluation of sealed sources containing radioactive or byproduct material, source material or special nuclear material, except reactor fuel, for commercial distribution. This fee shall apply to each device or product
Maximum annual fee \$1,100
- D. Registrations issued for the safety evaluation of sealed sources containing radioactive or byproduct material, source material or special nuclear material, manufactured in accordance with the unique specifications of, and for use by, a single applicant. This fee shall apply to each device or product
Maximum annual fee \$365

10. Special projects

- A. Hourly rate for radiation control program activities for which there is not an established fee category or for radiation protection services provided to nonlicensees and nonregistrants
Maximum hourly rate..... \$79

11. Reciprocity

- A. Licensees who conduct activities under a reciprocal agreement
 - Maximum annual fee \$750
- B. Registrants who conduct activities under a reciprocal agreement
 - Maximum annual fee \$200

12. X-ray machines

- A. Base registration fee per facility
 - Maximum annual fee \$200
- B. Registration fee for each x-ray tube at a facility. This fee is in addition to the base registration fee
 - Maximum annual fee per x-ray tube \$50

13. Accelerators

- A. Particle accelerators
 - Maximum annual fee \$300

14. New license and registration applications

- A. New license and registration applications. Equal to annual fee of applicable category

For licenses or registrations that authorize more than one activity, an annual fee shall be assessed for each of the applicable categories.

(e) (1) *An additional fee up to 50% of the maximum annual fee shall be assessed for each noncontiguous site where radioactive material is stored or used under the same license, per category.*

(2) *As used in this subsection, “noncontiguous site” means a location more than one mile away from the main safety office where licensure records are maintained.*

(f) The secretary shall adopt rules and regulations fixing the fees for the radiation protection services provided under this act and shall periodically increase or decrease such fees consistent with the need to cover all or any part of the cost of administering such act.

Sec. 2. K.S.A. 2017 Supp. 65-177 is hereby amended to read as follows: 65-177. (a) ~~The term (1) “Data,” as used in K.S.A. 65-177 through 65-179, and amendments thereto, shall be construed to include~~ *includes* all facts, information, records of interviews, written reports, statements, notes; or memoranda secured in connection with an authorized medical research study.

(2) *“Maternal death” means the death of any woman from any cause while pregnant or within one calendar year of the end of any pregnancy, regardless of the duration of the pregnancy or the site of the end of the pregnancy.*

(b) (1) *The secretary of health and environment shall have access to all law enforcement investigative information regarding a maternal death in Kansas, any autopsy records and coroner’s investigative records relating to the death, any medical records of the mother and any records of the Kansas department for children and families or any other state social service agency that has provided services to the mother.*

(2) (A) *The secretary may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any books, records or papers relevant to the cause of any maternal death being investigated by the secretary. Any books, records or papers received by the secretary pursuant to the subpoena shall be confidential and privileged information and not subject to disclosure.*

(B) *The provisions of this paragraph providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this paragraph pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.*

(c) *The secretary of health and environment shall:*

- (1) *Identify maternal death cases;*
- (2) *review medical records and other relevant data;*
- (3) *contact family members and other affected or involved persons to collect additional relevant data;*
- (4) *consult with relevant experts to evaluate the records and data collected;*
- (5) *make determinations regarding the preventability of maternal deaths;*

(6) *develop recommendations and actionable strategies to prevent maternal deaths; and*

(7) *disseminate findings and recommendations to the legislature, healthcare providers, healthcare facilities and the general public.*

(d) (1) *Healthcare providers licensed pursuant to chapters 65 and 74 of the Kansas Statutes Annotated, and amendments thereto, medical care facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, maternity centers licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and pharmacies licensed pursuant to article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall provide reasonable access to all relevant medical records associated with a maternal death case under review by the secretary.*

(2) *A healthcare provider, medical care facility, maternity center or pharmacy providing access to medical records pursuant to this section shall not be held liable for civil damages or be subject to criminal or disciplinary administrative action for good faith efforts to provide such records.*

(e) (1) *Information, records, reports, statements, notes, memoranda or other data collected pursuant to this section shall be privileged and confidential and shall not be admissible as evidence in any action of any kind in any court or before another tribunal, board, agency or person. Such information, records, reports, statements, notes, memoranda or other data shall not be exhibited nor their contents disclosed in any way, in whole or in part, by any officer or representative of the department of health and environment or any other person, except as may be necessary for the purpose of furthering the investigation of the case to which they relate. No person participating in such investigation shall disclose, in any manner, the information so obtained.*

(2) *The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.*

(f) (1) *All proceedings and activities of the secretary or representatives of the secretary under this section, opinions of the secretary or representatives of the secretary formed as a result of such proceedings and activities and records obtained, created or maintained pursuant to this section, including records of interviews, written reports and statements procured by the secretary or any other person, agency or organization acting jointly or under contract with the department of health and environment in connection with the requirements of this section, shall be confidential and not subject to the provisions of the open records act or the open meetings act or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. Nothing in this section shall be construed to limit or otherwise restrict the right to discover or use in any civil or criminal proceeding any document or record that is available and entirely independent of proceedings and activities of the secretary or representatives of the secretary under this section.*

(2) *The secretary or representatives of the secretary shall not be questioned in any civil or criminal proceeding regarding the information presented in or opinions formed as a result of an investigation. Nothing in this section shall be construed to prevent the secretary or representatives of the secretary from testifying to information obtained independently of this section or that is public information.*

(3) *The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2023, unless the legislature acts to reenact such provisions. The legislature shall review the provisions of this subsection pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2023.*

(g) *Reports of aggregate non-individually identifiable data shall be compiled on a routine basis for distribution in an effort to further study the causes and problems associated with maternal deaths. Reports shall be distributed to healthcare providers and medical care facilities and other persons necessary to reduce the maternal death rate.*

(h) *The secretary of health and environment shall receive data secured in connection with medical research studies conducted for the purpose of reducing morbidity or mortality from maternal, perinatal and*

anesthetic causes. Such studies may be conducted by the secretary of health and environment and staff or with other qualified persons, agencies or organizations. If such studies are conducted with any funding not provided by the state of Kansas, then the source of such funding shall be clearly identified in such study. Where authorization to conduct such a study is granted by the secretary of health and environment, all data voluntarily made available to the secretary of health and environment in connection with such study shall be treated as confidential and shall be used solely for purposes of medical research. Research files and opinions expressed upon the evidence found in such research shall not be admissible as evidence in any action in any court or before any other tribunal, except that statistics or tables resulting from such data shall be admissible and may be received as evidence. This section shall not affect the right of any patient or such patient's guardians, representatives or heirs to require hospitals, physicians, sanatoriums, rest homes, nursing homes or other persons or agencies to furnish such patient's hospital record to such patient's representatives upon written authorization, or the admissibility in evidence thereof.

~~(e)~~(i) No employee of the secretary of health and environment shall interview any patient named in any such report, nor any relative of any such patient, unless otherwise provided in K.S.A. 65-2422d, and amendments thereto. Nothing in this section shall prohibit the publication by the secretary of health and environment or a duly authorized cooperating person, agency or organization, of final reports or statistical compilations derived from morbidity or mortality studies, which reports or compilations do not identify individuals, associations, corporations or institutions which were the subjects of such studies, or reveal sources of information.

New Sec. 3. (a) There is hereby created the palliative care and quality of life interdisciplinary advisory council within the department of health and environment. The purpose of this council is to develop recommendations and advise the department of health and environment on matters related to the establishment, maintenance, operation, outcomes evaluation of palliative care initiatives in the state, and effectiveness of the palliative care consumer and professional information and education program.

(b) (1) The palliative care and quality of life interdisciplinary advisory council shall consist of 13 members appointed on or before October 1, 2018. The members shall be appointed as follows: (A) Two members appointed by the governor; (B) two members appointed by the speaker of the house of representatives; (C) one member appointed by the minority leader of the house of representatives; (D) two members appointed by the president of the senate; (E) one member appointed by the minority leader of the senate; (F) one member appointed by the secretary of health and environment who shall represent the department of health and environment; (G) one member appointed by the secretary for aging and disability services who shall represent the department for aging and disability services; (H) one member of the house committee on health and human services appointed by the chair of the house committee on health and human services; (I) one member appointed by the majority leader of the house of representatives; and (J) one member of the senate committee on public health and welfare appointed by the chair of the senate committee on public health and welfare.

(2) Members of the palliative care and quality of life interdisciplinary advisory council shall be individuals with experience and expertise in interdisciplinary palliative care medical, nursing, social work, pharmacy and spiritual guidance. Membership shall specifically include health care professionals having palliative care work experience or expertise in palliative care delivery models in a variety of inpatient, outpatient and community settings and with a variety of populations including pediatric, youth and adults. At least two members of the palliative care and quality of life interdisciplinary advisory council shall be board-certified hospice and palliative medicine physicians or nurses, and at least one member shall be a patient or a caregiver.

(3) Members of the palliative care and quality of life interdisciplinary advisory council shall serve for a period of three years and shall serve at the pleasure of their respective appointing authorities. The members shall elect a chair and vice chair whose duties shall be established by the coun-

cil. The department of health and environment shall fix a time and place for regular meetings of the council, which shall meet at least twice annually.

(4) Members of the palliative care and quality of life interdisciplinary advisory council shall serve without compensation, but shall be reimbursed for their actual and necessary expenses incurred in the performance of their duties.

(c) “Palliative care” means an approach that improves the quality of life of patients and their families facing the problem associated with life-threatening illness, through the prevention and relief of suffering by means of early identification and impeccable assessment and treatment of pain and other problems, physical, psychosocial and spiritual. Palliative care:

- (1) Provides relief from pain and other distressing symptoms;
- (2) affirms life and regards dying as a normal process;
- (3) intends neither to hasten or postpone death;
- (4) integrates the psychological and spiritual aspects of patient care;
- (5) offers a support system to help patients live as actively as possible until death;
- (6) offers a support system to help the family cope during the patient’s illness and in their own bereavement;
- (7) uses a team approach to address the needs of patients and their families, including bereavement counseling, if indicated;
- (8) will enhance quality of life, and may also positively influence the course of illness; and
- (9) is applicable early in the course of illness, in conjunction with other therapies that are intended to prolong life, such as chemotherapy or radiation therapy, and includes those investigations needed to better understand and manage distressing clinical complications.

New Sec. 4. (a) There is hereby created the state palliative care consumer and professional information and education program in the department of health and environment. The purpose of the state palliative care consumer and professional information and education program is to maximize the effectiveness of palliative care initiatives in the state by ensuring that comprehensive and accurate information and education about palliative care is available to the public, health care providers and health care facilities.

(b) The department of health and environment:

- (1) Shall publish information and resources on its website, including links to external resources, about palliative care for the public, health care providers and health care facilities. The information shall include, but not be limited to, the following:
 - (A) Continuing education opportunities for health care providers;
 - (B) information about palliative care delivery in home, primary, secondary and tertiary environments; and
 - (C) consumer educational materials and referral information for palliative care, including hospice;
- (2) may develop and implement any other initiatives regarding palliative care services and education that it determines would further the purposes of this section; and
- (3) shall consult with the palliative care and quality of life interdisciplinary advisory council.

(c) “Palliative care” shall have the meaning ascribed to it in section 3, and amendments thereto.

Sec. 5. K.S.A. 48-1606 and K.S.A. 2017 Supp. 65-177 are hereby repealed.

Sec. 6. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.