

## **Nuclear Energy Development and Radiation Control Act; Maternal Deaths; Palliative Care; Senate Sub. for HB 2600**

**Senate Sub. for HB 2600** amends the Nuclear Energy Development and Radiation Control Act, provides for the study and investigation of maternal deaths by the Secretary of Health and Environment (Secretary), and creates the Palliative Care and Quality of Life Interdisciplinary Advisory Council (Council) and the State Palliative Care Consumer and Professional Information and Education Program (Program) within the Kansas Department of Health and Environment (KDHE).

### ***Nuclear Energy Development and Radiation Control Act***

The bill requires the assessment of an additional fee up to 50.0 percent of the maximum annual licensing fee for each noncontiguous site where radioactive material is stored or used under the same license, per category. “Noncontiguous site” means a location more than one mile away from the main safety office where licensure records are maintained.

### ***Study and Investigation of Maternal Deaths***

The bill provides for the study and investigation of maternal deaths by the Secretary; defines “maternal death”; provides for access to records related to maternal death and addresses the confidentiality of those records; and establishes a July 1, 2023, expiration date for provisions addressing confidentiality of the records, unless the provisions are reenacted by the Legislature prior to their expiration. The Legislature is required to review the confidentiality provisions prior to the expiration date established in the bill. Additionally, the bill requires reports of aggregate non-individually identifiable data to be compiled on a routine basis for distribution to further study the causes and problems associated with maternal death.

### ***Definition of “Maternal Death”***

“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.

### ***Access to Records by the Secretary***

The bill requires the Secretary to 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.

The bill authorizes the Secretary to apply to the district court for, and the 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 through a subpoena are confidential and privileged information and are not subject to disclosure.

The provisions related to the confidentiality of the records received by the Secretary pursuant to a subpoena expire on July 1, 2023, unless reenacted by the Legislature. The Legislature is required to review these confidentiality provisions prior to the expiration date.

### *Duties of the Secretary*

The bill requires the Secretary to identify maternal death cases; review medical records and other relevant data; contact family members and other affected or involved persons to collect additional relevant data; consult with relevant experts to evaluate the records and data collected; make determinations regarding the preventability of maternal deaths; develop recommendations and actionable strategies to prevent maternal deaths; and disseminate findings and recommendations to the Legislature, healthcare providers, healthcare facilities, and the general public.

### *Access to Medical Records*

The bill requires the following to provide reasonable access to all relevant medical records associated with a maternal death case under review by the Secretary:

- Healthcare providers licensed pursuant to Chapters 65 and 74 of the Kansas statutes [*Note: Examples of licensed healthcare providers include advanced practice registered nurse, practical nurse, and professional nurse; dentist and dental hygienist; optometrist; pharmacist; podiatrist; individual licensed to practice medicine and surgery, osteopathic medicine and surgery, or chiropractic; physician assistant; physical therapist; mental health technician; occupational therapist and occupational therapy assistant; respiratory therapist; professional counselor and clinical professional counselor; licensed dietitian; baccalaureate social worker, master social worker, and specialist clinical social worker; marriage and family therapist and clinical marriage and family therapist; speech-language pathologist and audiologist; addiction counselor, master's addiction counselor, and clinical addiction counselor; naturopathic doctor; radiologic technologist; behavior analyst and assistant behavior analyst; licensed acupuncturist; psychologist and master's level psychologist; and individual with licensure to practice fitting and dispensing of hearing instruments.*];
- Medical care facilities licensed pursuant to Article 4 of Chapter 65 of the Kansas statutes (hospital, ambulatory surgical center, or recuperation center);
- Maternity centers licensed pursuant to Article 5 of Chapter 65 of the Kansas statutes; and
- Pharmacies licensed pursuant to Article 16 of Chapter 65 of the Kansas statutes.

When making good-faith efforts to provide access to medical records as required under the bill, these providers are exempt from liability for civil damages and are not subject to criminal or disciplinary administrative action.

Information, records, reports, statements, notes, memoranda, or other data collected are privileged and confidential and are not admissible as evidence in any court action or before another tribunal, board, agency, or person. Exhibition of this information or disclosure of the contents in any manner by any officer or representative of KDHE or any other person is prohibited, except when necessary to further the investigation of the related case. Anyone participating in the investigation is prohibited from disclosing the information obtained. The confidentiality provisions related to these records expire on July 1, 2023, unless reenacted by the Legislature. The bill requires the Legislature to review the confidentiality provisions prior to their expiration.

#### *Confidentiality of Records Resulting from KDHE Review*

The following are confidential records and are not subject to the Kansas Open Records Act or Kansas Open Meetings Act, or subject to subpoena, discovery, or introduction into evidence in any civil or criminal proceeding:

- Proceedings, activities, and the resulting opinions of the Secretary or the Secretary's representatives; and
- Records obtained, created, or maintained, 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 KDHE in connection with investigating maternal death.

The bill specifies the right to discover or use in any civil or criminal proceeding any document or record that is available and entirely independent of the proceedings and activities of the Secretary or the Secretary's representatives is not limited or otherwise restricted.

The bill prohibits the Secretary or the Secretary's representatives from being questioned in a civil or criminal proceeding regarding the information presented in or opinions formed as a result of an investigation. The Secretary or the Secretary's representatives are allowed to testify to information that is public or obtained independently of investigations, activities, and proceedings by the Secretary or the Secretary's representatives or any other person, agency, or organization acting jointly or under contract with KDHE in connection with investigating maternal death.

The provisions regarding the confidentiality of this information expire on July 1, 2023, unless reenacted by the Legislature prior to their expiration.

#### *Compilation and Distribution of Aggregate Reports*

In an effort to further study the causes and problems associated with maternal death, the bill requires reports of aggregate non-individually identifiable data to be compiled on a routine

basis for distribution to healthcare providers, medical care facilities, and other persons necessary to reduce the maternal death rate.

### ***Palliative Care***

The Council is responsible for developing recommendations and advising KDHE on matters related to the establishment, maintenance, operation, outcomes evaluation of palliative care initiatives in the state, and effectiveness of the Program. The Program's purpose is to maximize the effectiveness of palliative care initiatives in the state by ensuring comprehensive and accurate information and education about palliative care is available to the public, healthcare providers, and healthcare facilities. The bill also defines "palliative care."

### ***Council Composition, Appointment, Terms, and Compensation***

The Council consists of 13 members appointed on or before October 1, 2018, with appointments as follows:

- Two members by the Governor;
- Two members by the Speaker of the House of Representatives;
- One member by the Majority Leader of the House of Representatives;
- One member by the Minority Leader of the House of Representatives;
- Two members by the President of the Senate;
- One member by the Minority Leader of the Senate;
- One member of the House Committee on Health and Human Services by the chairperson of the House Committee;
- One member of the Senate Committee on Public Health and Welfare by the chairperson of the Senate Committee;
- One member by the Secretary to represent KDHE; and
- One member by the Secretary for Aging and Disability Services to represent the Kansas Department for Aging and Disability Services (KDADS).

Council members serve for three years and at the pleasure of their respective appointing authorities. The Council members appoint the chairperson and vice-chairperson, whose duties are established by the Council. KDHE is required to fix the time and place for regular Council meetings, with at least two meetings required annually.

Council members serve without compensation but are reimbursed for actual and necessary expenses incurred in the performance of their duties.

### *Council Member Qualifications*

The bill requires Council members to be individuals with experience and expertise in interdisciplinary palliative care medical, nursing, social work, pharmacy, and spiritual guidance. The bill specifies the Council membership must include healthcare professionals with palliative care work experience or expertise in palliative care delivery models in a variety of settings and with a variety of populations. The Council is required to have a minimum of two members who are board-certified hospice and palliative medicine physicians or nurses and at least one member who is a patient or caregiver.

### *Definition of Palliative Care*

Palliative care means an approach that improves the quality of life of patients and their families facing the problems 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:

- Provides relief from pain and other distressing symptoms;
- Affirms life and regards dying as a normal process;
- Intends neither to hasten or postpone death;
- Integrates psychological and spiritual aspects of patient care;
- Offers a support system to help patients live as actively as possible until death;
- Offers a support system to help the family cope during the patient's illness and their own bereavement;
- Uses a team approach to address the needs of patients and their families, including bereavement counseling, if indicated;
- Enhances the quality of life, and may also positively influence the course of illness; and
- Applies early in the course of illness, in conjunction with other therapies intended to prolong life, such as chemotherapy or radiation, and includes investigations needed to better understand and manage distressing clinical complications.

### *KDHE's Program Responsibilities*

With regard to the Program, KDHE is required to publish information and resources on its website, including links to external resources, about palliative care for the public, healthcare providers, and healthcare facilities; develop and implement any other initiatives regarding palliative care services and education KDHE determines will further the Program's purposes; and consult with the Council. The information to be published on the KDHE website includes, but is not limited to, healthcare provider continuing education opportunities, information about palliative care delivery in home and other environments, and consumer educational materials and referral information for palliative care, including hospice. Palliative care has the meaning as described in the section regarding the Council.