2021 Kansas Statutes

60-5502. Definitions. As used in the COVID-19 response and reopening for business liability protection act, unless the context otherwise requires:

(a) "Covered facility" means:

(1) An "adult care home" as defined in K.S.A. 39-923, and amendments thereto, except that "covered facility" includes a center approved by the centers for medicare and medicaid services as a program for all-inclusive case for the elderly (PACE) under 42 C.F.R. § 460 et seq., that provides services only to PACE participants;

(2) a "community mental health center" and a "crisis intervention center" as defined in K.S.A. 39-2002, and amendments thereto; and

(3) a "community service provider," a "community developmental disability organization" and an "institution" as defined in K.S.A. 39-1803, and amendments thereto.

(b) "COVID-19" means the novel coronavirus identified as SARS-CoV-2.

(c) "COVID-19 claim" means any claim for damages, losses, indemnification, contribution or other relief arising out of or based on exposure or potential exposure to COVID-19. "COVID-19 claim" includes a claim made by or on behalf of any person who has been exposed or potentially exposed to COVID-19, or any representative, spouse, parent, child or other relative of such person, for injury, including mental or emotional injury, death or loss to person, risk of disease or other injury, costs of medical monitoring or surveillance, or other losses allegedly caused by the person's exposure or potential exposure to COVID-19.

(d) "COVID-19 public health emergency" means the state of disaster emergency declared for the state of Kansas on March 12, 2020, any subsequent orders or amendments to such orders and any subsequent disaster emergency declared for the state of Kansas regarding the COVID-19 pandemic.

(e) "Disinfecting or cleaning supplies" includes, but is not limited to, hand sanitizers, disinfectants, sprays and wipes.

(f) "Healthcare provider" means a person or entity that is licensed, registered, certified or otherwise authorized by the state of Kansas to provide healthcare services in this state, including a hospice certified to participate in the medicare program under 42 C.F.R. § 418 et seq. "Healthcare provider" does not include any entity licensed under chapter 39 of the Kansas Statutes Annotated, and amendments thereto.

(g) "Person" means an individual, for-profit or not-for-profit business entity, business trust, estate, trust, partnership, limited liability company, association, joint venture, public corporation, government or political subdivision, agency or instrumentality or any other legal or commercial entity.

(h) "Personal protective equipment" means coveralls, face shields, gloves, gowns, masks, respirators or other equipment designed to protect the wearer from the spread of infection or illness.

(i) "Product liability claim" means any strict liability, ordinary negligence or implied warranty claim or action brought for harm caused by the manufacture, production, making, construction, fabrication, design, formula, preparation, assembly, installation, testing, warnings, instructions, marketing, packaging, storage or labeling of the relevant product.

(j) "Public health directives" means any of the following that is required by law to be followed related to public health and COVID-19:

(1) State statutes, rules and regulations or executive orders issued by the governor pursuant to K.S.A. 48-925, and amendments thereto;

(2) federal statutes or regulations from federal agencies, including the United States centers for disease control and prevention and the occupational safety and health

administration of the United States department of labor; or
(3) any lawful order or proclamation issued under authority of the Kansas emergency management act, and amendments thereto, by a board of county commissioners, the governing body of a city or a local health officer.
(k) "Qualified product" means: (1) Personal protective equipment used to protect the wearer from COVID-19 or the spread of COVID-19; (2) medical devices, equipment and supplies used to treat COVID-19, including products that are used or modified for an unapproved use to treat COVID-19 or prevent the spread of COVID-19; (3) medical devices, equipment or supplies utilized outside of the product's normal use to treat COVID-19 or to prevent the spread of COVID-19; (4) medications used to treat COVID-19, including medications prescribed or dispensed for offlabel use to attempt to combat COVID-19; (5) tests used to diagnose or determine immunity to COVID-19; (6) disinfecting or cleaning supplies; (7) clinical laboratory services certified under the federal clinical laboratory improvement amendments in section 353 of the public health service act, 42 U.S.C. § 263a; and (8) components of qualified products.
History: L. 2020, ch. 1, § 9 (Special Session); L. 2021, ch. 35, § 1; April 22.