

SENATE BILL No. 233

By Committee on Federal and State Affairs

2-10

1 AN ACT concerning gender identity medical care; creating a civil cause of
2 action against a physician who performs childhood gender
3 reassignment service; requiring revocation of a physician's license if
4 such physician performs childhood gender reassignment service;
5 amending K.S.A. 2022 Supp. 65-2836 and repealing the existing
6 section.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) An individual who had a childhood gender
10 reassignment service performed on such individual as a child may bring a
11 civil cause of action against the physician who performed the childhood
12 gender reassignment service.

13 (1) An action against a physician pursuant to this section may be
14 commenced not more than three years after the date the individual attains
15 18 years of age.

16 (b) As used in this section:

17 (1) "Childhood gender reassignment service" means performing, or
18 causing to be performed, acts including, but not limited to, any of the
19 following performed upon a child under 18 years of age for the purpose of
20 attempting to affirm the child's perception of the child's sex or gender, if
21 that perception is inconsistent with the child's sex:

22 (A) A surgery that sterilizes or is intended to result in sterilization,
23 including, but not limited to, castration, vasectomy, hysterectomy,
24 oophorectomy, orchiectomy and penectomy;

25 (B) a surgery that artificially constructs tissue with the appearance of
26 genitalia, including, but not limited to, metoidioplasty, phalloplasty and
27 vaginoplasty;

28 (C) a mastectomy;

29 (D) prescribing, dispensing, administering or otherwise supplying the
30 following medications:

31 (i) Puberty-blocking medication to delay, hinder, stop or reverse
32 normal puberty;

33 (ii) supraphysiologic doses of testosterone to females; or

34 (iii) supraphysiologic doses of estrogen to males; or

35 (E) removing any body part or tissue.

36 (2) "Physician" means a person licensed by the board of healing arts

1 to practice medicine and surgery.

2 (3) "Sex" means the biological state of being female or male based on
3 the individual's sex organs, chromosomes and endogenous hormone
4 profiles.

5 (4) "Supraphysiologic doses" means a pharmacologic dosage regimen
6 that produces blood concentrations greater than the accepted range for a
7 child's age and sex.

8 (c) The provisions of this section shall not apply if the child was born
9 with a medically verifiable disorder of sex development, including, but not
10 limited to:

11 (1) A child with external biological sex characteristics that are
12 irresolvably ambiguous, such as a child born having 46,XX chromosomes
13 with virilization, 46,XY chromosomes with undervirilization or both
14 ovarian and testicular tissue; or

15 (2) when a physician has otherwise diagnosed a disorder of sexual
16 development, in which the physician has determined through genetic or
17 biochemical testing that the child does not have the normal sex
18 chromosome structure, sex steroid hormone production or sex steroid
19 hormone action for a male or female of the child's age.

20 (d) (1) An individual who brings an action under this section may
21 seek actual damages, exemplary or punitive damages, injunctive relief and
22 other appropriate relief.

23 (2) In an action brought under this section, the court shall award a
24 prevailing plaintiff the cost of the suit including reasonable attorney fees.

25 (e) This section shall be applicable to:

26 (1) Any action commenced on or after July 1, 2023, including any
27 action that would be barred by the period of limitation applicable prior to
28 July 1, 2023; and

29 (2) any action commenced prior to July 1, 2023, and pending on July
30 1, 2023.

31 (f) This section shall be known and may be cited as the Kansas child
32 mutilation prevention act.

33 Sec. 2. K.S.A. 2022 Supp. 65-2836 is hereby amended to read as
34 follows: 65-2836. (a) A licensee's license may be revoked, suspended or
35 limited, or the licensee may be publicly censured or placed under
36 probationary conditions, or an application for a license or for reinstatement
37 of a license may be denied upon a finding of the existence of any of the
38 following grounds:

39 ~~(a)~~(1) The licensee has committed fraud or misrepresentation in
40 applying for or securing an original, renewal or reinstated license.

41 ~~(b)~~(2) The licensee has committed an act of unprofessional or
42 dishonorable conduct or professional incompetency, except that the board
43 may take appropriate disciplinary action or enter into a non-disciplinary

1 resolution when a licensee has engaged in any conduct or professional
2 practice on a single occasion that, if continued, would reasonably be
3 expected to constitute an inability to practice the healing arts with
4 reasonable skill and safety to patients or unprofessional conduct as defined
5 in K.S.A. 65-2837, and amendments thereto.

6 ~~(e)~~(3) The licensee has been convicted of a felony or class A
7 misdemeanor, or substantially similar offense in another jurisdiction,
8 whether or not related to the practice of the healing arts, or the licensee has
9 been convicted in a special or general court-martial, whether or not related
10 to the practice of the healing arts. The board shall revoke a licensee's
11 license following conviction of a felony or substantially similar offense in
12 another jurisdiction, or following conviction in a general court-martial
13 occurring after July 1, 2000, unless a $\frac{2}{3}$ majority of the board members
14 present and voting determine by clear and convincing evidence that such
15 licensee will not pose a threat to the public in such person's capacity as a
16 licensee and that such person has been sufficiently rehabilitated to warrant
17 the public trust. In the case of a person who has been convicted of a felony
18 or convicted in a general court-martial and who applies for an original
19 license or to reinstate a canceled license, the application for a license shall
20 be denied unless a $\frac{2}{3}$ majority of the board members present and voting on
21 such application determine by clear and convincing evidence that such
22 person will not pose a threat to the public in such person's capacity as a
23 licensee and that such person has been sufficiently rehabilitated to warrant
24 the public trust.

25 ~~(d)~~(4) The licensee has used fraudulent or false advertisements.

26 ~~(e)~~(5) The licensee is addicted to or has distributed intoxicating
27 liquors or drugs for any other than lawful purposes.

28 ~~(f)~~(6) The licensee has willfully or repeatedly violated this act, the
29 pharmacy act of the state of Kansas or the uniform controlled substances
30 act, or any rules and regulations adopted pursuant thereto, or any rules and
31 regulations of the secretary of health and environment that are relevant to
32 the practice of the healing arts.

33 ~~(g)~~(7) The licensee has unlawfully invaded the field of practice of any
34 branch of the healing arts in which the licensee is not licensed to practice.

35 ~~(h)~~(8) The licensee has engaged in the practice of the healing arts
36 under a false or assumed name, or the impersonation of another
37 practitioner. The provisions of this subsection relating to an assumed name
38 shall not apply to licensees practicing under a professional corporation,
39 under a business entity that holds a certificate of authorization pursuant to
40 K.S.A. 2022 Supp. 65-28,134, and amendments thereto, or under any other
41 legal entity duly authorized to provide such professional services in the
42 state of Kansas.

43 ~~(i)~~(9) The licensee's ability to practice the healing arts with

1 reasonable skill and safety to patients is impaired by reason of physical or
2 mental illness, or condition or use of alcohol, drugs or controlled
3 substances. All information, reports, findings and other records relating to
4 impairment shall be confidential and not subject to discovery by or release
5 to any person or entity outside of a board proceeding.

6 ~~(j)~~(10) The licensee has had a license to practice the healing arts
7 revoked, suspended or limited, has been censured or has had other
8 disciplinary action taken, or an application for a license denied, by the
9 proper licensing authority of another state, territory, District of Columbia,
10 or other country.

11 ~~(k)~~(11) The licensee has violated any lawful rule and regulation
12 promulgated by the board or violated any lawful order or directive of the
13 board previously entered by the board.

14 ~~(l)~~(12) The licensee has failed to report or reveal the knowledge
15 required to be reported or revealed under K.S.A. 65-28,122, and
16 amendments thereto.

17 ~~(m)~~(13) The licensee, if licensed to practice medicine and surgery,
18 has failed to inform in writing a patient suffering from any form of
19 abnormality of the breast tissue for which surgery is a recommended form
20 of treatment, of alternative methods of treatment recognized by licensees
21 of the same profession in the same or similar communities as being
22 acceptable under like conditions and circumstances.

23 ~~(n)~~(14) The licensee has cheated on or attempted to subvert the
24 validity of the examination for a license.

25 ~~(o)~~(15) The licensee has been found to be mentally ill, disabled, not
26 guilty by reason of insanity, not guilty because the licensee suffers from a
27 mental disease or defect or incompetent to stand trial by a court of
28 competent jurisdiction.

29 ~~(p)~~(16) The licensee has prescribed, sold, administered, distributed or
30 given a controlled substance to any person for other than medically
31 accepted or lawful purposes.

32 ~~(q)~~(17) The licensee has violated a federal law or regulation relating
33 to controlled substances.

34 ~~(r)~~(18) The licensee has failed to furnish the board, or its investigators
35 or representatives, any information legally requested by the board.

36 ~~(s)~~(19) Sanctions or disciplinary actions have been taken against the
37 licensee by a peer review committee, healthcare facility, a governmental
38 agency or department or a professional association or society for acts or
39 conduct similar to acts or conduct that would constitute grounds for
40 disciplinary action under this section.

41 ~~(t)~~(20) The licensee has failed to report to the board any adverse
42 action taken against the licensee by another state or licensing jurisdiction,
43 a peer review body, a healthcare facility, a professional association or

1 society, a governmental agency, by a law enforcement agency or a court
2 for acts or conduct similar to acts or conduct that would constitute grounds
3 for disciplinary action under this section.

4 ~~(tt)~~(21) The licensee has surrendered a license or authorization to
5 practice the healing arts in another state or jurisdiction, has surrendered the
6 authority to utilize controlled substances issued by any state or federal
7 agency, has agreed to a limitation to or restriction of privileges at any
8 medical care facility or has surrendered the licensee's membership on any
9 professional staff or in any professional association or society while under
10 investigation for acts or conduct similar to acts or conduct that would
11 constitute grounds for disciplinary action under this section.

12 ~~(tv)~~(22) The licensee has failed to report to the board surrender of the
13 licensee's license or authorization to practice the healing arts in another
14 state or jurisdiction or surrender of the licensee's membership on any
15 professional staff or in any professional association or society while under
16 investigation for acts or conduct similar to acts or conduct that would
17 constitute grounds for disciplinary action under this section.

18 ~~(tw)~~(23) The licensee has an adverse judgment, award or settlement
19 against the licensee resulting from a medical liability claim related to acts
20 or conduct similar to acts or conduct that would constitute grounds for
21 disciplinary action under this section.

22 ~~(tx)~~(24) The licensee has failed to report to the board any adverse
23 judgment, settlement or award against the licensee resulting from a
24 medical malpractice liability claim related to acts or conduct similar to acts
25 or conduct that would constitute grounds for disciplinary action under this
26 section.

27 ~~(ty)~~(25) The licensee has failed to maintain a policy of professional
28 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
29 amendments thereto.

30 ~~(tz)~~(26) The licensee has failed to pay the premium surcharges as
31 required by K.S.A. 40-3404, and amendments thereto.

32 ~~(aa)~~(27) The licensee has knowingly submitted any misleading,
33 deceptive, untrue or fraudulent representation on a claim form, bill or
34 statement.

35 ~~(bb)~~(28) The licensee as the supervising physician for a physician
36 assistant has failed to adequately direct and supervise the physician
37 assistant in accordance with the physician assistant licensure act or rules
38 and regulations adopted under such act.

39 ~~(ee)~~(29) The licensee has assisted suicide in violation of K.S.A. 21-
40 3406, prior to its repeal, or K.S.A. 2022 Supp. 21-5407, and amendments
41 thereto, as established by any of the following:

42 ~~(t)~~(A) A copy of the record of criminal conviction or plea of guilty
43 for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A.

1 2022 Supp. 21-5407, and amendments thereto.

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

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

7 ~~(dd)~~(30) The licensee has given a worthless check or stopped
8 payment on a debit or credit card for fees or moneys legally due to the
9 board.

10 ~~(ee)~~(31) The licensee has knowingly or negligently abandoned
11 medical records.

12 *(b) A physician's license shall be revoked upon a finding that the*
13 *physician has performed a childhood gender reassignment service, as*
14 *defined in section 1, and amendments thereto.*

15 Sec. 3. K.S.A. 2022 Supp. 65-2836 is hereby repealed.

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