

SENATE BILL No. 11

By Robert G. (Bob) Bethell Joint Committee on Home and Community Based Services and KanCare Oversight

1-11

1 AN ACT concerning the Kansas dental board; relating to the practice of
2 dental therapy; practice of dental hygiene; licensure of dental
3 therapists; amending K.S.A. 65-1421, 65-1424, 65-1431, 65-1434, 65-
4 1436, 65-1441, 65-1447, 65-1449, 65-1456, 65-1460, 65-1462, 65-
5 1469, 65-4915, 65-4921, 65-5912, 65-7304, 74-1405 and 74-1406 and
6 K.S.A. 2018 Supp. 75-2935 and 75-6102 and repealing the existing
7 sections.
8

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

10 New Section 1. (a) No person shall practice as a dental therapist in
11 this state until such person has passed an examination by the Kansas dental
12 board under such rules and regulations as the board may adopt. The fee for
13 such examination shall be fixed by the board pursuant to K.S.A. 65-1447,
14 and amendments thereto. A license fee shall be paid to the board in the
15 amount fixed by the board pursuant to K.S.A. 65-1447, and amendments
16 thereto.

17 (b) The board shall authorize a person to practice as a dental therapist
18 if such person is qualified under this section, works under the direct or
19 general supervision of a Kansas licensed dentist in accordance with section
20 2, and amendments thereto, is licensed by the board and practices in
21 accordance with this section and rules and regulations adopted by the
22 board. Any supervising dentist of a dental therapist shall: (1) Enter into
23 agreements to supervise no more than three dental therapists; and (2) be
24 employed by an indigent healthcare clinic or enrolled as a medicaid
25 provider.

26 (c) To be qualified to practice under this section, such person shall be
27 a licensed dental hygienist and shall meet the following requirements:

28 (1) (A) The person shall be a graduate of a dental therapist education
29 program approved by the board that requires the study of dental therapy,
30 that the board determines has standards of education not less than that
31 required for accreditation by the commission on dental accreditation of the
32 American dental association or its equivalent or, prior to such accreditation
33 process for dental therapy programs, is approved by a licensing entity of
34 another state or federal jurisdiction and that requires no less than 500
35 hours of clinical training; and

1 (B) if the person's dental therapist training program did not include
2 training on any individual competency listed in section 2(d) or (e), and
3 amendments thereto, the person shall provide documentation to the board's
4 satisfaction that such person has successfully completed additional training
5 on that competency;

6 (2) the person shall pass a comprehensive, competency-based clinical
7 examination that is approved by the board and administered independently
8 of an institution that provides dental therapist education; and

9 (3) the person shall obtain a policy of professional liability insurance
10 and show proof of such insurance as required by rules and regulations.

11 (d) Any person practicing as a dental therapist in violation of the
12 provisions of sections 1 through 3, and amendments thereto, shall be guilty
13 of a misdemeanor, and the board may revoke or suspend such person's
14 license.

15 (e) This section shall be part of and supplemental to the dental
16 practices act.

17 (f) This section shall take effect on and after July 1, 2021.

18 New Sec. 2. (a) The Kansas dental board may suspend or revoke the
19 license of any dentist who shall direct any dental therapist operating under
20 such dentist's supervision to perform any operation other than that
21 permitted under the provisions of article 14 of chapter 65 of the Kansas
22 Statutes Annotated, and amendments thereto, and may suspend or revoke
23 the license of any dental therapist found guilty of performing any operation
24 other than those permitted under the provisions of article 14 of chapter 65
25 of the Kansas Statutes Annotated, and amendments thereto. No license of
26 any dentist or dental therapist shall be suspended or revoked in any
27 administrative proceeding without first complying with the notice and
28 hearing requirements of the Kansas administrative procedure act.

29 (b) Except as otherwise provided in this section, the practice of dental
30 therapy shall be performed under the direct or general supervision of a
31 licensed dentist. As used in sections 1 through 3, and amendments thereto:
32 (1) "Direct supervision" means the supervision of tasks and procedures
33 with the presence of the dentist in the office or on the premises at the time
34 the tasks or procedures are being performed where the dentist personally
35 diagnoses the condition to be treated, personally authorizes the procedure
36 and, before dismissal of the patient, evaluates the dental therapist's
37 performance; and (2) "general supervision" means the supervision of tasks
38 or procedures without the presence of the dentist in the office or on the
39 premises at the time the tasks or procedures are being performed, so long as
40 those tasks and procedures are within the scope of practice for a dental
41 therapist.

42 (c) Subject to prohibitions, limitations and conditions imposed by
43 rules and regulations adopted by the Kansas dental board, a licensed dental

1 therapist may perform dental hygiene tasks and procedures that may be
2 performed by a licensed dental hygienist under K.S.A. 65-1456, and
3 amendments thereto, except that restrictions imposed by K.S.A. 65-1456,
4 and amendment thereto, that limit the locations or premises where a
5 licensed dental hygienist may perform extended care permit III dental
6 hygiene tasks and procedures shall not apply to a licensed dental therapist.

7 (d) A licensed dental therapist may perform the following services
8 under general supervision:

9 (1) Identification of oral and systemic conditions requiring evaluation
10 or treatment, or both, by dentists, physicians or other healthcare providers,
11 and management of referrals;

12 (2) comprehensive charting of the oral cavity;

13 (3) oral health instruction, disease prevention education and oral
14 health-related nutritional and dietary instruction;

15 (4) exposure of radiographic images;

16 (5) dental prophylaxis, including sub-gingival scaling or polishing
17 procedures, or both;

18 (6) application of topical preventive or prophylactic agents;

19 (7) pulp vitality testing;

20 (8) application of desensitizing medication or resin;

21 (9) fabrication of athletic mouthguards;

22 (10) placement of a temporary filling, including glass ionomer and
23 other palliative materials;

24 (11) fabrication of soft occlusal guards;

25 (12) tissue conditioning and soft reline;

26 (13) changing of periodontal dressings;

27 (14) tooth reimplantation and stabilization;

28 (15) administration of local anesthetic, if the dental therapist has
29 completed a course on local anesthesia as required by sections 1 through 3,
30 and amendments thereto;

31 (16) administration of nitrous oxide, if the dental therapist has
32 completed a course on nitrous oxide as required by sections 1 through 3,
33 and amendments thereto;

34 (17) dispensing and administering by the oral or topical route, or both,
35 non-narcotic analgesics, anti-inflammatory and antibiotic medications as
36 prescribed by a licensed healthcare provider, as defined in K.S.A. 40-3401,
37 and amendments thereto;

38 (18) the formulation of a dental therapy care plan limited to the
39 procedures in this section;

40 (19) emergency palliative treatment of dental pain limited to the
41 procedures in this section;

42 (20) the placement and removal of space maintainers;

43 (21) fabrication and placement of single-tooth temporary crowns;

- 1 (22) suture removal;
- 2 (23) brush biopsies;
- 3 (24) minor adjustments and repairs on removable prostheses;
- 4 (25) re-cementing of permanent crowns; and
- 5 (26) prevention, identification and management of dental and medical
- 6 emergencies.

7 (e) A licensed dental therapist may perform the following services
8 under direct supervision:

- 9 (1) Extraction of erupted primary teeth that are non-ankylosed and that
10 have a majority resorption of all root structures;
- 11 (2) preparation and placement of direct restoration fabricated or made
12 directly inside the mouth in primary and permanent teeth;
- 13 (3) preparation and placement of preformed crowns on primary teeth;
- 14 (4) indirect pulp capping on permanent teeth; and
- 15 (5) indirect pulp capping on primary teeth.

16 (f) Any dental therapist is authorized to supervise any dental hygienist
17 or unlicensed person.

18 (g) Any dental therapist shall maintain current basic cardiac life
19 support certification from the American heart association, or an equivalent
20 certification approved by the Kansas dental board.

21 (h) This section shall be part of and supplemental to the dental
22 practices act.

23 (i) This section shall take effect on and after July 1, 2021.

24 New Sec. 3. (a) The Kansas dental board shall revoke or suspend the
25 license of any licensed dental therapist who is found guilty of using or
26 attempting to use in any manner whatsoever any prophylactic lists, call
27 lists, records, reprints or copies of same, or information gathered therefrom,
28 of the names of patients whom the dental therapist might have served in the
29 office of a prior employer, unless such names appear upon the bona fide
30 call or prophylactic list of the dental therapist's present employer and were
31 caused to so appear through the legitimate practice of dentistry as provided
32 for in sections 1 and 2, and amendments thereto.

33 (b) The board shall suspend or revoke the license of any licensed
34 dentist who is found guilty of aiding or abetting or encouraging a dental
35 therapist employed by such dentist to make use of a so-called prophylactic
36 call list, or calling by telephone or by use of written letters transmitted
37 through the mails to solicit patronage from patients served in the office of
38 any dentist formerly employing such dental therapist.

39 (c) No order of suspension or revocation provided in this section shall
40 be made or entered except after notice and opportunity for hearing in
41 accordance with the provisions of the Kansas administrative procedure act.
42 Any final order of suspension or revocation of a license shall be reviewable
43 in accordance with the Kansas judicial review act.

1 (d) This section shall be part of and supplemental to the dental
2 practices act.

3 (e) This section shall take effect on and after July 1, 2021.

4 New Sec. 4. Prior to July 1, 2021, the Kansas dental board shall adopt
5 rules and regulations as may be necessary to administer the provisions of
6 sections 1 through 3, and amendments thereto, regarding the licensure of
7 dental therapists. Prior to July 1, 2021, the board shall have such rules and
8 regulations: Proposed; submitted to the secretary of administration and to
9 the attorney general for approval as required by K.S.A. 77-420, and
10 amendments thereto; and notice of the proposed rules and regulations given
11 and a hearing held thereon in the manner provided by K.S.A. 77-421, and
12 amendments thereto.

13 New Sec. 5. The department of health and environment and the
14 Kansas dental board shall submit a joint report to the legislature on or
15 before the first day of the 2030 regular session of the legislature that details
16 the effects that enactment of sections 1 through 3, and amendments thereto,
17 have on access to dental care in rural Kansas, including, but not limited to:
18 The number and geographical distribution of practicing dental therapists;
19 the number of dentists supervising dental therapists; the number of
20 participating medicaid providers; the treated and untreated tooth decay
21 rates of medicaid beneficiaries; urgent need rates; and federally designated
22 dental health professional shortage areas.

23 Sec. 6. On and after July 1, 2021, K.S.A. 65-1421 is hereby amended
24 to read as follows: 65-1421. It shall be unlawful for any person to practice
25 dentistry, *dental therapy* or dental hygiene in the state of Kansas, except:

26 (a) Those who are now duly licensed dentists, pursuant to law;

27 (b) *those who are now duly licensed dental therapists, pursuant to*
28 *law;*

29 (c) those who are now duly licensed dental hygienists, pursuant to
30 law; *and*

31 ~~(e)~~(d) those who may hereafter be duly licensed as dentists, *dental*
32 *therapists* or dental hygienists, pursuant to the provisions of this act.

33 Sec. 7. On and after July 1, 2021, K.S.A. 65-1424 is hereby amended
34 to read as follows: 65-1424. (a) As used in this act:

35 (1) "Proprietor" means any person who employs dentists, *dental*
36 *therapists* or dental hygienists in the operation of a dental office.

37 (2) "Dental franchisor" means any person or entity, pursuant to a
38 written agreement, who provides a licensed dentist any dental practice
39 management consulting services, ~~which may include~~ *including* marketing
40 or advertising services, signage or branding consulting, or places in
41 possession of a licensed dentist such dental material or equipment as may
42 be necessary for the management of a dental office on the basis of a lease
43 or any other agreement for compensation. A person or entity is not a dental

1 franchisor if the agreement with the dentist:

2 (A) Permits the person or entity to interfere with the professional
3 judgment of the dentist; or

4 (B) contains terms that would constitute a violation of the dental
5 practices act, rules and regulations adopted by the board, any orders and
6 directives issued by the board or any other applicable law.

7 (3) (A) "Unlicensed proprietor" means any person or entity not
8 authorized to own or operate a dental practice that enters into an agreement
9 with a dentist, *dental therapist* or dental hygienist related to the practice of
10 dentistry, *dental therapy* or dental hygiene ~~which that~~:

11 ~~(A)(i)~~ Permits the person or entity to interfere with the professional
12 judgment of the dentist; or

13 ~~(B)(ii)~~ contains terms that would constitute a violation of the dental
14 practices act, rules and regulations adopted by the board, any orders and
15 directives issued by the board or any other applicable law.

16 (B) A licensee of dentistry who enters into any arrangement with an
17 unlicensed proprietor may have such license limited, suspended or revoked
18 by the board.

19 (b) The estate or agent for a deceased or substantially disabled dentist
20 may employ dentists, for a period of not more than 18 months following the
21 date of death or substantial disability of the dentist, to provide service to
22 patients until the practice can be sold or closed. Upon application showing
23 good cause, including, but not limited to, evidence of a good faith effort to
24 sell or close the dental practice, the Kansas dental board may extend the
25 time in six-month increments for a period of not more than one additional
26 year for which the practice can be sold or closed. The Kansas dental board
27 may adopt rules and regulations as necessary to carry out the provisions of
28 this section.

29 Sec. 8. On and after July 1, 2021, K.S.A. 65-1431 is hereby amended
30 to read as follows: 65-1431. (a) Each license to practice as a dentist, *dental*
31 *therapist* or dental hygienist issued by the board, shall expire on December
32 1 of the year specified by the board for the expiration of the license and
33 shall be renewed on a biennial basis. Each application for renewal shall be
34 made on a form prescribed and furnished by the board. Every licensed
35 dentist, *dental therapist* or dental hygienist shall pay to the board a renewal
36 fee fixed by the board as provided in K.S.A. 65-1447, and amendments
37 thereto.

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

40 (c) On or before December 1 of the year in which the licensee's
41 license expires, the licensee shall transmit to the board a renewal
42 application, upon a form prescribed by the board, ~~which that~~ shall include
43 such licensee's signature, post office address, the number of the license of

1 such licensee, whether such licensee has been engaged during the
2 preceding licensure period in active and continuous practice whether within
3 or without this state, and such other information as may be required by the
4 board, together with the biennial licensure fee for a *dentist, dental therapist*
5 *or dental hygienist* ~~which~~ *that* is fixed by the board pursuant to K.S.A. 65-
6 1447, and amendments thereto.

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

12 (2) A dentist who is a charitable healthcare provider in Kansas who
13 has signed an agreement to provide gratuitous services pursuant to K.S.A.
14 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of
15 continuing education credit by the performance of two hours of gratuitous
16 services to medically indigent persons up to a maximum of six continuing
17 education credits per licensure period.

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

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

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

43 (g) Upon failure of any licensee to pay the applicable renewal fee or to

1 present proof of satisfactory completion of the required program of
2 continuing education by February 1 of the year following the December in
3 which a renewal application is due, the board shall notify such licensee, in
4 writing, by mailing notice to such licensee's last registered address. Failure
5 to mail or receive such notice shall not affect the cancellation of the license
6 of such licensee.

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

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

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

24 (i) The waiver of fees under subsection (h) shall continue so long as
25 the retirement or physical disability exists. Except as provided in K.S.A.
26 65-1466, and amendments thereto, in the event the licensee returns to the
27 practice for which such person is licensed, the requirement for payment of
28 fees and continuing education requirements shall be reimposed
29 commencing with and continuing after the date the licensee returns to such
30 active practice. Except as provided in K.S.A. 65-1466, and amendments
31 thereto, the performance of any dental service, including consulting service,
32 or the performance of any *dental therapy* or dental hygiene service,
33 including consulting service, shall be deemed the resumption of such
34 service, requiring payment of license fees.

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

1 school or dental therapy program.

2 Sec. 9. On and after July 1, 2021, K.S.A. 65-1434 is hereby amended
3 to read as follows: 65-1434. (a) The board, without examination, may issue
4 a license as a dentist, *dental therapist* or dental hygienist to an applicant
5 holding a license in another state upon compliance with the requirements of
6 professional qualification and experience set forth in subsection (b). The
7 board shall prepare and adopt a form of application to be submitted by an
8 applicant for a license to be issued under this section. On the receipt of any
9 such application, the board shall conduct such review, verification or other
10 investigation of the applicant and the professional qualifications,
11 background, experience and practice of the applicant as the board deems
12 necessary to assure full compliance with the requirements of this section.
13 Any license so issued may be revoked by the board upon evidence that an
14 applicant has obtained a license under this section through
15 misrepresentation or omission of a material fact in the application or other
16 information submitted to the board.

17 (b) Each applicant for licensure under this section must evidence the
18 qualifications and meet the following requirements:

19 (1) Each applicant for licensure as a dentist under this section must
20 meet the requirements set forth in K.S.A. 65-1426, and amendments
21 thereto. *Each applicant for licensure as a dental therapist must meet all*
22 *applicable requirements set forth in section 1, and amendments thereto.*
23 Each applicant for licensure as a dental hygienist must meet any applicable
24 requirements set forth in K.S.A. 65-1455, and amendments thereto.

25 (2) Each applicant shall show evidence of having successfully
26 completed both a national board examination or an equivalent examination
27 accepted by the state in which the applicant has been previously licensed,
28 and a clinical examination, administered by any state or clinical dental
29 testing agency, of equivalent merit to the clinical examination accepted by
30 the board at the time such applicant completed such examinations.

31 (3) Each applicant for licensure as a dentist under this section shall
32 have held a license to practice dentistry in one or more other states of the
33 United States for the five-year period immediately preceding the date of
34 application and shall have engaged in the active practice of dentistry for at
35 least five years prior to the date of application. *Each applicant for licensure*
36 *as a dental therapist under this section shall have held a license to practice*
37 *dental therapy in another state of the United States for a three-year period*
38 *immediately preceding the date of application and shall have engaged in*
39 *the active practice of dental therapy for at least three years prior to the*
40 *date of application.* Each applicant for licensure as a dental hygienist under
41 this section shall have held a license to practice dental hygiene in another
42 state of the United States for the three-year period immediately preceding
43 the date of application and shall have engaged in the active practice of

1 dental hygiene for at least three years prior to the date of application.
2 Successive and continuous periods of active practice in other states will
3 comply with the active practice requirements of this paragraph-~~(3)~~. For the
4 purpose of determining the period of practice, periods of military service
5 will be considered to the extent approved by the Kansas dental board.
6 Service as a full-time faculty member in a school of dentistry will be
7 considered the practice of dentistry to the extent service involved full-time
8 instruction in dentistry including clinical dentistry. Service as a faculty
9 member in a school of dental hygiene will be considered the practice of
10 dental hygiene to the extent such service involved instruction in dental
11 hygiene including clinical dental hygiene. To be considered for the
12 purposes of this statute, any such school of dentistry, *dental therapy* or
13 dental hygiene must be approved by the Kansas dental board within the
14 meaning of K.S.A. 65-1426, and amendments thereto.

15 (4) Each such applicant shall show evidence that the applicant has
16 fully complied with all continuing education requirements imposed by the
17 state or states in which the applicant has been licensed and has practiced
18 during the ~~five years~~ *applicable time period* immediately preceding the date
19 of the application. In the event the state or states in which the applicant has
20 been licensed and practiced has no such requirement, the applicant shall
21 provide such information concerning continuing education received by the
22 applicant during the ~~five-year~~ *applicable time* period preceding application
23 as may be required by the board. All applicants must have completed
24 continuing education sufficient to comply with that continuing education
25 required of Kansas licensees during the ~~twenty-four~~ 24-month period prior
26 to the date of the application for licensure unless the Kansas dental board
27 determines, for good cause shown, that the requirement will work an undue
28 hardship upon the applicant and the requirement is not necessary for the
29 protection of the people of Kansas based upon the training and experience
30 of the applicant.

31 (5) The applicant shall provide such other information concerning the
32 applicant and the dental education, qualification, experience and
33 professional conduct of the applicant as the board in its discretion deems
34 necessary to its determination to issue a license.

35 (6) Each applicant shall provide a certificate of the executive director
36 of the board or other agency governing licensure of dentists, *dental*
37 *therapists* or dental hygienists of the state in which the applicant has been
38 licensed and has practiced during the required period preceding the date of
39 the application. Such certificate shall state that: (A) The applicant is
40 licensed to practice dentistry, *dental therapy* or dental hygiene in the state;
41 (B) the license of the applicant has never been suspended or revoked; (C)
42 the applicant has never been the subject of any proceeding for suspension,
43 revocation or other disciplinary action initiated by the board of licensure of

1 any such state during the period the applicant has held a license to practice
2 dentistry, *dental therapy* or dental hygiene in such state; and (D) no
3 complaint has been filed against the applicant of such substance as, in the
4 judgment of the board of licensure of such state, has required the initiation
5 of proceedings against the applicant. In the event the applicant has
6 practiced dentistry, *dental therapy* or dental hygiene in more than one other
7 state in the United States, the applicant shall file a similar certificate with
8 respect to such period or periods during which the applicant has practiced
9 in each such state.

10 (c) The Kansas dental board may direct an applicant to appear before
11 the board at a date, time and place to be determined by the Kansas dental
12 board to answer questions and provide such information concerning the
13 qualifications, background, experience and practice of the applicant as the
14 Kansas dental board may deem necessary.

15 (d) The term "applicant" as used in this section shall apply to ~~both~~
16 applicants for licensure as a dentist, *applicants for licensure as a dental*
17 *therapist* and applicants for licensure as a dental hygienist unless the
18 context otherwise indicates.

19 Sec. 10. On and after July 1, 2021, K.S.A. 65-1436 is hereby amended
20 to read as follows: 65-1436. (a) The Kansas dental board may refuse to
21 issue the license under the dental practices act, or may take any of the
22 actions with respect to any dental, *dental therapy* or dental hygiene license
23 as set forth in subsection (b), whenever it is established, after notice and
24 opportunity for hearing in accordance with the provisions of the Kansas
25 administrative procedure act, that any applicant for a dental, *dental therapy*
26 or dental hygiene license or any licensed dentist, *dental therapist* or dental
27 hygienist practicing in the state of Kansas has:

28 (1) Committed fraud, deceit or misrepresentation in obtaining any
29 license, money or other thing of value;

30 (2) habitually used intoxicants or drugs ~~which~~ *that* have rendered such
31 person unfit for the practice of dentistry, *dental therapy* or dental hygiene;

32 (3) been determined by the board to be professionally incompetent;

33 (4) committed gross, wanton or willful negligence in the practice of
34 dentistry, *dental therapy* or dental hygiene;

35 (5) employed, allowed or permitted any unlicensed person or persons
36 to perform any work in the licensee's office ~~which~~ *that* constitutes the
37 practice of dentistry, *dental therapy* or dental hygiene under the provisions
38 of the dental practices act;

39 (6) willfully violated the laws of this state relating to the practice of
40 dentistry, *dental therapy* or dental hygiene or the rules and regulations of
41 the secretary of health and environment or of the board regarding
42 sanitation;

43 (7) engaged in the division of fees, or agreed to split or divide the fee

1 received for dental service with any person for bringing or referring a
2 patient without the knowledge of the patient or the patient's legal
3 representative, except:

4 (A) The division of fees between dentists practicing in a partnership
5 and sharing professional fees;

6 (B) the division of fees between one licensed dentist employing
7 another; or

8 (C) the division of fees between a licensed dentist and a dental
9 franchisor;

10 (8) committed complicity in association with or allowed the use of the
11 licensed dentist's name in conjunction with any person who is engaged in
12 the illegal practice of dentistry;

13 (9) been convicted of a felony or a misdemeanor involving moral
14 turpitude in any jurisdiction and the licensee fails to show that the licensee
15 has been sufficiently rehabilitated to warrant the public trust;

16 (10) prescribed, dispensed, administered or distributed a prescription
17 drug or substance, including a controlled substance, in an excessive,
18 improper or inappropriate manner or quantity outside the scope of practice
19 of dentistry or in a manner that impairs the health and safety of an
20 individual;

21 (11) prescribed, purchased, administered, sold or given away
22 prescription drugs, including a controlled substance, for other than legal
23 and legitimate purposes;

24 (12) violated or been convicted of any federal or state law regulating
25 possession, distribution or use of any controlled substance;

26 (13) failed to pay license fees;

27 (14) used the name "clinic," "institute" or other title that may suggest a
28 public or semipublic activity except that the name "clinic" may be used as
29 authorized in K.S.A. 65-1435, and amendments thereto;

30 (15) committed, after becoming a licensee, any conduct ~~which~~ *that* is
31 detrimental to the public health, safety or welfare as defined by rules and
32 regulations of the board;

33 (16) engaged in a misleading, deceptive, untrue or fraudulent
34 misrepresentation in the practice of dentistry or on any document connected
35 with the practice of dentistry by knowingly submitting any misleading,
36 deceptive, untrue or fraudulent misrepresentation on a claim form, bill or
37 statement, including the systematic waiver of patient co-payment or co-
38 insurance;

39 (17) failed to keep adequate records;

40 (18) the licensee has had a license to practice dentistry revoked,
41 suspended or limited, has been censured or has had other disciplinary
42 action taken, has had an application for license denied, or voluntarily
43 surrendered the license after formal proceedings have been commenced by

1 the proper licensing authority or another state, territory or the District of
2 Columbia or other country, a certified copy of the record of the action of
3 the other jurisdiction being conclusive evidence thereof;

4 (19) failed to furnish the board, or its investigators or representatives
5 any information legally requested by the board; or

6 (20) assisted suicide in violation of K.S.A. 21-3406, prior to its repeal,
7 or K.S.A. 2018 Supp. 21-5407, and amendments thereto, as established by
8 any of the following:

9 (A) A copy of the record of criminal conviction or plea of guilty for a
10 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2018
11 Supp. 21-5407, and amendments thereto;

12 (B) a copy of the record of a judgment of contempt of court for
13 violating an injunction issued under K.S.A. 60-4404, and amendments
14 thereto; or

15 (C) a copy of the record of a judgment assessing damages under
16 K.S.A. 60-4405, and amendments thereto.

17 (b) Whenever it is established, after notice and opportunity for hearing
18 in accordance with the provisions of the Kansas administrative procedure
19 act, that a licensee is in any of the circumstances or has committed any of
20 the acts described in subsection (a), the Kansas dental board may take one
21 or any combination of the following actions with respect to the license of
22 the licensee:

23 (1) Revoke the license;

24 (2) suspend the license for such period of time as may be determined
25 by the board;

26 (3) restrict the right of the licensee to practice by imposing limitations
27 upon dental, *dental therapy* or dental hygiene procedures ~~which that~~ may
28 be performed, categories of dental disease ~~which that~~ may be treated or
29 types of patients ~~which that~~ may be treated by the dentist, *dental therapist*
30 or dental hygienist. Such restrictions shall continue for such period of time
31 as may be determined by the board, and the board may require the licensee
32 to provide additional evidence at hearing before lifting such restrictions; or

33 (4) grant a period of probation during which the imposition of one or
34 more of the actions described in subsections (b)(1) through (b)(3) will be
35 stayed subject to such conditions as may be imposed by the board including
36 a requirement that the dentist, *dental therapist* or dental hygienist refrain
37 from any course of conduct ~~which that~~ may result in further violation of the
38 dental ~~practice practices~~ act or the dentist or dental hygienist complete
39 additional or remedial instruction. The violation of any provision of the
40 dental ~~practice practices~~ act or failure to meet any condition imposed by
41 the board as set forth in the order of the board will result in immediate
42 termination of the period of probation and imposition of such other action
43 as has been taken by the board.

1 (c) As used in this section, "professionally incompetent" means:

2 (1) One or more instances involving failure to adhere to the applicable
3 standard of dental, *dental therapy* or dental hygienist care to a degree
4 ~~which~~ that constitutes gross negligence, as determined by the board;

5 (2) repeated instances involving failure to adhere to the applicable
6 standard of dental, *dental therapy* or dental hygienist care to a degree
7 ~~which~~ that constitutes ordinary negligence, as determined by the board; or

8 (3) a pattern of dental, *dental therapy* or dental hygienist practice or
9 other behavior—~~which~~ that demonstrates a manifest incapacity or
10 incompetence to practice dentistry.

11 (d) In addition to or in lieu of one or more of the actions described in
12 subsections (b)(1) through (b)(4) or in ~~subsection (e)~~ of K.S.A. 65-1444(c),
13 and amendments thereto, the board may assess a fine not in excess of
14 \$10,000 against a licensee. All fines collected pursuant to this subsection
15 shall be remitted to the state treasurer in accordance with the provisions of
16 K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
17 remittance, the state treasurer shall deposit the entire amount in the state
18 treasury and of the amount so remitted, an amount equal to the board's
19 actual costs related to fine assessment and enforcement under this
20 subsection, as certified by the president of the board to the state treasurer,
21 shall be credited to the dental board fee fund and the balance shall be
22 credited to the state general fund.

23 (e) The board, upon its own motion or upon the request of any
24 licensee who is a party to a licensure action, may require a physical or
25 mental examination, or both, of such licensee either prior to a hearing to be
26 held as a part of a licensure action or prior to the termination of any period
27 of suspension or the termination of any restrictions imposed upon the
28 licensee as provided in subsection (b).

29 Sec. 11. On and after July 1, 2021, K.S.A. 65-1441 is hereby amended
30 to read as follows: 65-1441. Whoever sells or offers to sell a diploma
31 conferring a dental degree, or a license granted pursuant to this act, or
32 procures such diploma or license with intent that it be used as evidence of
33 the right to practice dentistry, *dental therapy* or dental hygiene, as defined
34 by law, by a person other than the one upon whom it was conferred, or to
35 whom such license certificate or renewal certificate was granted, or with
36 fraudulent intent alters such diploma or license certificate or renewal
37 certificate, or uses or attempts to use it when it is so altered, shall be
38 deemed guilty of a misdemeanor. The board may refuse to grant a license to
39 practice dentistry, *dental therapy* or dental hygiene to any person found
40 guilty of making a false statement, or cheating or of fraud or deception
41 either in applying for a license or in taking any of the examinations
42 provided for under the dental practices act.

43 Sec. 12. On and after July 1, 2021, K.S.A. 65-1447 is hereby amended

1 to read as follows: 65-1447. (a) On or before October 1 of each year, the
 2 Kansas dental board shall determine the amount of funds ~~which~~ *that* will be
 3 required during the ensuing fiscal year to properly administer the laws
 4 ~~which~~ *that* the board is directed to enforce and administer and shall fix fees
 5 in accordance with this section in such reasonable sums as may be
 6 necessary for such purposes, within the limitations prescribed by subsection
 7 (b).

8 (b) The board shall collect fees provided for in this act as follows:

9 Examination fee for dental applicants—not more than.....	\$200
10 Subsequent examination fee for dental applicants—not more than.....	100
11 Examination fee for specialty qualifications—not more than.....	200
12 Credentials/qualifications fee—not more than.....	300
13 Duplicate certificate fee—not more than.....	25
14 Certificate fee, including certificate for credentials/qualifications, 15 for dentists, <i>dental therapists</i> and dental hygienists—not 16 more than.....	25
17 Biennial license renewal fee for dentists—not more than.....	325
18 Examination fee for dental hygienist applicants—not more than.....	100
19 Subsequent examination fee for dental hygienist applicants—not 20 more than.....	100
21 Biennial license renewal fee for dental hygienists—not more than.....	160
22 <i>Biennial license renewal fee for dental therapists—not more than.....</i>	<i>200</i>
23 <i>Examination fee for dental therapist applicants—not more than.....</i>	<i>150</i>
24 <i>Subsequent examination fee for dental therapist applicants—not 25 more than.....</i>	<i>100</i>
26 Reinstatement of a revoked license—not more than.....	2,000
27 Processing fee for failure to notify of change of address— 28 not more than.....	100
29 Registration fee to operate a mobile dental facility or portable 30 dental operation—not more than.....	500
31 Biennial registration renewal fee for mobile dental facility or 32 portable dental operation—not more than.....	350
33 Sedation permit—not more than.....	200

34 (c) The amounts of fees in effect on the day preceding the effective
 35 date of this act and the act of which this section is amendatory shall remain
 36 in effect until fixed in different amounts by the board under this section.
 37 The board may adopt rules and regulations for the proration of fees for a
 38 license issued for a period of time less than the biennial licensure period.

39 Sec. 13. On and after July 1, 2021, K.S.A. 65-1449 is hereby amended
 40 to read as follows: 65-1449. (a) Except as provided by subsection (b), no
 41 action to revoke or suspend a license shall be taken until the licensee has
 42 been furnished a statement in writing of the charges against the licensee,
 43 together with a notice of the time and place of the hearing. The statement of

1 charges and notice shall be served upon the licensee in accordance with the
2 provisions of the Kansas administrative procedure act.

3 (b) If the board determines that there is probable cause to revoke or
4 suspend the license of a dentist, *dental therapist* or dental hygienist for any
5 reason that exists pursuant to K.S.A. 65-1436, and amendments thereto,
6 and if the licensee's continued practice would constitute an imminent
7 danger to public health and safety, the board may initiate administrative
8 proceedings for an emergency adjudication under the provisions of the
9 Kansas administrative procedure act.

10 In no case shall a temporary suspension or temporary limitation of a
11 license under this section be in effect for more than 90 days. At the end of
12 such period of time, the licensee shall be reinstated to full licensure unless
13 the board has revoked or suspended the license of the licensee after notice
14 and hearing, provided in accordance with the provisions of the Kansas
15 administrative procedure act.

16 Sec. 14. On and after July 1, 2021, K.S.A. 65-1456 is hereby amended
17 to read as follows: 65-1456. (a) The board may suspend or revoke the
18 license of any dentist who shall permit any dental hygienist operating under
19 such dentist's supervision to perform any operation other than ~~that those~~
20 ~~permitted under the provisions of~~ article 14 of chapter 65 of the Kansas
21 Statutes Annotated, and amendments thereto, and may suspend or revoke
22 the license of any hygienist found guilty of performing any operation other
23 than those permitted under article 14 of chapter 65 of the Kansas Statutes
24 Annotated, and amendments thereto. No license of any dentist or dental
25 hygienist shall be suspended or revoked in any administrative proceedings
26 without first complying with the notice and hearing requirements of the
27 Kansas administrative procedure act.

28 (b) The practice of dental hygiene shall include those educational,
29 preventive, and therapeutic procedures ~~which that~~ result in the removal of
30 extraneous deposits, stains and debris from the teeth and the rendering of
31 smooth surfaces of the teeth to the depths of the gingival sulci. Included
32 among those educational, preventive and therapeutic procedures are the
33 instruction of the patient as to daily personal care, protecting the teeth from
34 dental caries, the scaling and polishing of the crown surfaces and the
35 planing of the root surfaces, in addition to the curettage of those soft tissues
36 lining the free gingiva to the depth of the gingival sulcus and such
37 additional educational, preventive and therapeutic procedures as the board
38 may establish by rules and regulations.

39 (c) Subject to such prohibitions, limitations and conditions as the
40 board may prescribe by rules and regulations, any licensed dental hygienist
41 may practice dental hygiene and may also perform such dental service as
42 may be performed by a dental assistant under the provisions of K.S.A. 65-
43 1423, and amendments thereto.

1 (d) Except as otherwise provided in this section, the practice of dental
2 hygiene shall be performed under the direct or general supervision of a
3 licensed dentist at the office of such licensed dentist. The board shall
4 designate by rules and regulations the procedures—~~which that~~ may be
5 performed by a dental hygienist under direct supervision and the
6 procedures—~~which that~~ may be performed under general supervision of a
7 licensed dentist. As used in this section: (1) "Direct supervision" means ~~that~~
8 ~~the dentist is in the dental office; the supervision of tasks and procedures~~
9 *with the presence of the dentist in the office or on the premises at the time*
10 *the tasks or procedures are being performed where the dentist personally*
11 *diagnoses the condition to be treated, personally authorizes the procedure*
12 *and, before dismissal of the patient, evaluates the dental hygienist's*
13 *performance; and (2) "general supervision" means a Kansas licensed dentist*
14 *may delegate verbally or by written authorization the performance of a*
15 *service, task or procedure to a licensed dental hygienist under the*
16 *supervision and responsibility of the dentist, if the dental hygienist is*
17 *licensed to perform the function; and the supervising dentist examines the*
18 *patient at the time the dental hygiene procedure is performed, or during the*
19 *12 calendar months preceding the performance of the procedure, except*
20 *that the licensed hygienist shall not be permitted to diagnose a dental*
21 *disease or ailment, prescribe any treatment or a regimen thereof, prescribe,*
22 *order or dispense medication or perform any procedure—~~which that~~ is*
23 *irreversible or—~~which that~~ involves the intentional cutting of the soft or hard*
24 *tissue by any means. A dentist is not required to be on the premises at the*
25 *time a hygienist performs a function delegated under—~~part paragraph (2)—of~~*
26 *this subsection.*

27 (e) The practice of dental hygiene may be performed at an adult care
28 home, hospital long-term care unit, state institution, local health department
29 or indigent healthcare clinic on a resident of a facility, client or patient
30 thereof so long as:

31 (1) A licensed dentist has delegated the performance of the service,
32 task or procedure;

33 (2) the dental hygienist is under the supervision and responsibility of
34 the dentist;

35 (3) either the supervising dentist is personally present or the services,
36 tasks and procedures are limited to the cleaning of teeth, education and
37 preventive care; and

38 (4) the supervising dentist examines the patient at the time the dental
39 hygiene procedure is performed or has examined the patient during the 12
40 calendar months preceding performance of the procedure.

41 (f) The practice of dental hygiene may be performed, with consent of
42 the parent or legal guardian; On children participating in residential and
43 nonresidential centers for therapeutic services; on all children in families

1 ~~which~~ *that* are receiving family preservation services; on all children in the
2 custody of the secretary for children and families or the commissioner of
3 juvenile justice authority and in an out-of-home placement residing in
4 foster care homes; on children being served by runaway youth programs
5 and homeless shelters; ~~and on children birth up to~~ *up to* five years old and
6 children in public and nonpublic schools *in* kindergarten *or grades one*
7 ~~through grade~~ 12, regardless of the time of year and children participating
8 in youth organizations, so long as such children who are dentally
9 underserved are targeted; at any state correctional institution, local health
10 department or indigent healthcare clinic, as defined in K.S.A. 65-1466, and
11 amendments thereto, and at any federally qualified health center, federally
12 qualified health center look-alike or a community health center that
13 receives funding from section 330 of the health center consolidation act, on
14 a person, inmate, client or patient thereof; and on other persons as may be
15 defined by the board; so long as:

16 (1) The dental hygienist has received an "extended care permit I" from
17 the Kansas dental board specifying that the dental hygienist has performed
18 1,200 hours of dental hygiene care within the past three years or has been
19 an instructor at an accredited dental hygiene program for two academic
20 years within the past three years;

21 (2) the dental hygienist shows proof of professional liability
22 insurance;

23 (3) the dental hygienist is sponsored by a dentist licensed in the state
24 of Kansas, including a signed agreement stating that the dentist shall
25 monitor the dental hygienist's activities, except such dentist shall not
26 monitor more than five dental hygienists with an extended care permit;

27 (4) the tasks and procedures are limited to: (A) Removal of extraneous
28 deposits, stains and debris from the teeth and the rendering of smooth
29 surfaces of the teeth to the depths of the gingival sulci; (B) the application
30 of topical anesthetic, if the dental hygienist has completed the required
31 course of instruction approved by the dental board; (C) the application of
32 fluoride; (D) dental hygiene instruction; (E) assessment of the patient's
33 apparent need for further evaluation by a dentist to diagnose the presence of
34 dental caries and other abnormalities; and (F) other duties as may be
35 delegated verbally or in writing by the sponsoring dentists consistent with
36 this act;

37 (5) the dental hygienist advises the patient and legal guardian that the
38 services are preventive in nature and do not constitute a comprehensive
39 dental diagnosis and care;

40 (6) the dental hygienist provides a copy of the findings and the report
41 of treatment to the sponsoring dentist and any other dental or medical
42 supervisor at a participating organization found in this subsection; and

43 (7) any payment to the dental hygienist for dental hygiene services is

1 received from the sponsoring dentist or the participating organization found
2 in this subsection.

3 (g) The practice of dental hygiene may be performed on persons with
4 developmental disabilities and on persons who are 65 years and older who
5 live in a residential center, an adult care home, subsidized housing, hospital
6 long-term care unit; *or* state institution or are served in a community senior
7 service center, elderly nutrition program or at the home of a homebound
8 person who qualifies for the federal home and community-based service
9 (HCBS) waiver on a resident of a facility, client or patient thereof so long
10 as:

11 (1) The dental hygienist has received an "extended care permit II"
12 from the Kansas dental board specifying that the dental hygienist has: (A)
13 Performed 1,600 hours of dental hygiene care or has been an instructor at
14 an accredited dental hygiene program for two academic years within the
15 past three years; and (B) completed six hours of training on the care of
16 special needs patients or other training as may be accepted by the board;

17 (2) the dental hygienist shows proof of professional liability
18 insurance;

19 (3) the dental hygienist is sponsored by a dentist licensed in the state
20 of Kansas, including a signed agreement stating that the dentist shall
21 monitor the dental hygienist's activities, except such dentist shall not
22 monitor more than five dental hygienists with an extended care permit II;

23 (4) the tasks and procedures are limited to: (A) Removal of extraneous
24 deposits, stains and debris from the teeth and the rendering of smooth
25 surfaces of the teeth to the depths of the gingival sulci; (B) the application
26 of topical anesthetic if the dental hygienist has completed the required
27 course of instruction approved by the dental board; (C) the application of
28 fluoride; (D) dental hygiene instruction; (E) assessment of the patient's
29 apparent need for further evaluation by a dentist to diagnose the presence of
30 dental caries and other abnormalities; and (F) other duties as may be
31 delegated verbally or in writing by the sponsoring dentist consistent with
32 this act;

33 (5) the dental hygienist advises the patient and legal guardian that the
34 services are preventive in nature and do not constitute comprehensive
35 dental diagnosis and care;

36 (6) the dental hygienist provides a copy of the findings and the report
37 of treatment to the sponsoring dentist and any other dental or medical
38 supervisor at a participating organization found in this subsection;

39 (7) any payment to the dental hygienist for dental hygiene services is
40 received from the sponsoring dentist or the participating organization found
41 in this subsection; and

42 (8) the dental hygienist completes a minimum of three hours of
43 education in the area of special needs care within the board's continuing

1 dental education requirements for relicensure.

2 (h) The expanded practice of dental hygiene may be performed, with
3 consent of the parent or legal guardian; On children participating in
4 residential and nonresidential centers for therapeutic services; on all
5 children in families ~~which~~ *that* are receiving family preservation services;
6 on all children in the custody of the secretary for children and families or
7 the commissioner of juvenile justice authority and in an out-of-home
8 placement residing in foster care homes; on children being served by
9 runaway youth programs and homeless shelters; and on children ~~birth~~ *up* to
10 five *years old* and children in public and nonpublic schools *in* kindergarten
11 *or grades one through* ~~grade~~ 12, regardless of the time of year and children
12 participating in youth organizations, so long as such children who are
13 dentally underserved are targeted; at any state correctional institution, local
14 health department or indigent healthcare clinic, as defined in K.S.A. 65-
15 1466, and amendments thereto, and at any federally qualified health center,
16 federally qualified health center look-alike or a community health center
17 that receives funding from section 330 of the health center consolidation
18 act, on a person, inmate, client or patient; on persons with developmental
19 disabilities and on persons who are 65 years and older who live in a
20 residential center, an adult care home, subsidized housing, hospital long-
21 term care unit; *or* state institution or are served in a community senior
22 service center, elderly nutrition program or at the home of a homebound
23 person who qualifies for the federal home and community-based service
24 (HCBS) waiver on a resident of a facility, client or patient thereof so long
25 as:

26 (1) The dental hygienist has received an "extended care permit III"
27 from the Kansas dental board specifying that the dental hygienist has: (A)
28 Performed 2,000 hours of dental hygiene care or has been an instructor at
29 an accredited dental hygiene program for three academic years within the
30 past four years; and (B) completed a course of study of 18 seat hours
31 approved by the board ~~which~~ *that* includes, but is not limited to, emergency
32 dental care techniques, the preparation and placement of temporary
33 restorations, the adjustment of dental prostheses and appropriate
34 pharmacology;

35 (2) the dental hygienist shows proof of professional liability
36 insurance;

37 (3) the dental hygienist is sponsored by a dentist licensed in the state
38 of Kansas, including a signed agreement stating that the dentist shall
39 monitor the dental hygienist's activities, except such dentist shall not
40 monitor more than five dental hygienists with an extended care permit III;

41 (4) the tasks and procedures are limited to: (A) Removal of extraneous
42 deposits, stains and debris from the teeth and the rendering of smooth
43 surfaces of the teeth to the depths of the gingival sulci; (B) the application

1 of topical anesthetic if the dental hygienist has completed the required
2 course of instruction approved by the dental board; (C) the application of
3 fluoride; (D) dental hygiene instruction; (E) assessment of the patient's
4 apparent need for further evaluation by a dentist to diagnose the presence of
5 dental caries and other abnormalities; (F) identification and removal of
6 decay using hand instrumentation and placing a temporary filling, including
7 glass ionomer and other palliative materials; (G) adjustment of dentures,
8 placing soft relines in dentures, checking partial dentures for sore spots and
9 placing permanent identification labeling in dentures; (H) smoothing of a
10 sharp tooth with a slow speed dental handpiece; (I) use of local anesthetic,
11 including topical, infiltration and block anesthesia, when appropriate to
12 assist with procedures where medical services are available in a nursing
13 home, health clinic or any other settings if the dental hygienist has
14 completed a course on local anesthesia and nitrous oxide as required in this
15 act; (J) extraction of deciduous teeth that are partially exfoliated with class
16 4 3 mobility; and (K) other duties as may be delegated verbally or in
17 writing by the sponsoring dentist consistent with this act;

18 (5) the dental hygienist advises the patient and legal guardian that the
19 services are palliative or preventive in nature and do not constitute
20 comprehensive dental diagnosis and care;

21 (6) the dental hygienist provides a copy of the findings and the report
22 of treatment to the sponsoring dentist and any other dental or medical
23 supervisor at a participating organization found in this subsection;

24 (7) the dental hygienist notifies the patient or the patient's parent or
25 legal guardian of such patient's need for treatment by a dentist, when the
26 dental hygienist finds an apparent need for evaluation to diagnose the
27 presence of dental caries and other abnormalities;

28 (8) any payment to the dental hygienist for dental hygiene services is
29 received from the sponsoring dentist or the participating organization found
30 in this subsection; and

31 (9) the dental hygienist completes a minimum of three hours of
32 education related to the expanded scope of dental hygiene practice in
33 subsection (h)(4) ~~of this act~~ within the board's continuing dental education
34 requirements for relicensure.

35 (i) In addition to the duties specifically mentioned in subsection (b)
36 any duly licensed dental hygienist may:

37 (1) Give fluoride treatments as a prophylactic measure, as defined by
38 the United States public health service and as recommended for use in
39 dentistry;

40 (2) remove overhanging restoration margins and periodontal surgery
41 materials by hand scaling instruments; and

42 (3) administer local block and infiltration anaesthesia and nitrous
43 oxide. (A) The administration of local anaesthesia shall be performed under

1 the direct supervision of a licensed dentist, except that topically applied
2 local anaesthesia, as defined by the board, may be administered under the
3 general supervision of a licensed dentist. (B) Each dental hygienist who
4 administers local anaesthesia, regardless of the type, shall have completed
5 courses of instruction in local anaesthesia and nitrous oxide—~~which that~~
6 have been approved by the board.

7 (j) (1) The courses of instruction required in subsection (i)(3)(B) shall
8 provide a minimum of 12 hours of instruction at a teaching institution
9 accredited by the American dental association.

10 (2) The courses of instruction shall include courses—~~which that~~ provide
11 both didactic and clinical instruction in: (A) Theory of pain control; (B)
12 anatomy; (C) medical history; (D) pharmacology; and (E) emergencies and
13 complications.

14 (3) Certification in cardiac pulmonary resuscitation shall be required
15 in all cases.

16 (k) The board is authorized to issue to a qualified dental hygienist an
17 extended care permit I—~~or~~, extended care permit II; or extended care permit
18 III as provided in subsections (f), (g) and (h)—~~of this section~~.

19 (l) Nothing in this section shall be construed to prevent a dental
20 hygienist from providing dental hygiene instruction or visual oral
21 healthcare screenings or fluoride applications in a school or community-
22 based setting regardless of the age of the patient.

23 (m) As used in this section, "dentally underserved" means a person
24 who lacks resources to pay for medically necessary healthcare services and
25 who meets the eligibility criteria for qualification as a medically indigent
26 person established by the secretary of health and environment under K.S.A.
27 75-6120, and amendments thereto.

28 Sec. 15. On and after July 1, 2021, K.S.A. 65-1460 is hereby amended
29 to read as follows: 65-1460. Any person who shall practice dentistry, *dental*
30 *therapy* or dental hygiene in this state within the meaning of this act
31 without having first obtained a license from the board, or who violates any
32 of the provisions of this act, the penalty for which is not herein specifically
33 provided, shall be deemed guilty of a misdemeanor. Anyone convicted of a
34 misdemeanor under this act shall be punished by a fine of not more than
35 ~~one thousand dollars~~ \$1,000, or by imprisonment in the county jail for not
36 more than ~~twelve~~ 12 months, or by both such fine and imprisonment, in the
37 discretion of the court.

38 Sec. 16. On and after July 1, 2021, K.S.A. 65-1462 is hereby amended
39 to read as follows: 65-1462. (a) No person reporting to the Kansas dental
40 board under oath and in good faith any information such person may have
41 relating to alleged incidents of malpractice or the qualifications, fitness or
42 character of a person licensed to practice dentistry shall be subject to a civil
43 action for damages as a result of reporting such information.

1 (b) Any state, regional or local association of licensed dentists, *dental*
2 *therapists* or licensed dental hygienists, and the individual members of any
3 committee thereof, ~~which~~ *that* in good faith investigates or communicates
4 information pertaining to the alleged incidents of malpractice or the
5 qualifications, fitness or character of any licensee to the Kansas dental
6 board or to any committee or agent thereof, shall be immune from liability
7 in any civil action, that is based upon such investigation or transmittal of
8 information if the investigation and communication was made in good faith
9 and did not represent as true any matter not reasonably believed to be true.

10 Sec. 17. On and after July 1, 2021, K.S.A. 65-1469 is hereby amended
11 to read as follows: 65-1469. As used in this section:

12 (a) "Mobile dental facility or portable dental operation" means either
13 of the following:

14 (1) Any self-contained facility in which dentistry will be practiced,
15 ~~which~~ *that* may be moved, towed or transported from one location to
16 another.

17 (2) Any nonfacility in which dental equipment, utilized in the practice
18 of dentistry, is transported to and utilized on a temporary basis at an out-of-
19 office location, including, but not limited to: (A) Other dentists' offices; (B)
20 patients' homes; (C) schools; (D) nursing homes; or (E) other institutions.

21 (b) (1) No person shall operate a mobile dental facility or portable
22 dental operation in this state unless registered in accordance with this
23 section.

24 (2) In order to operate a mobile dental facility or portable dental
25 operation, the operator shall be a person or entity that is authorized to own
26 a dental practice under Kansas law and possess a current registration issued
27 by the board.

28 (3) To become registered, the operator shall:

29 (A) Complete an application in the form and manner required by the
30 board; and

31 (B) pay a registration fee in the amount established by the board
32 pursuant to K.S.A. 65-1447, and amendments thereto.

33 (c) (1) The registration under this section shall be renewed on March 1
34 of even-numbered years in the form and manner provided by the board by
35 rules and regulations.

36 (2) The registrant shall pay a registration renewal fee in the amount
37 fixed by the board under K.S.A. 65-1447, and amendments thereto.

38 (d) The board shall adopt rules and regulations as necessary to carry
39 out the provisions of this act. The rules and regulations shall include, but
40 not be limited to, requirements relating to the official address and telephone
41 number of the mobile dental facility or portable dental operation, the proper
42 maintenance of dental records, procedures for emergency follow-up care
43 for patients, appropriate communications facilities, appropriate

1 authorizations for treatment by dental patients, follow-up treatment and
2 services, personnel and address changes, notice to be provided on cessation
3 of operation and such other matters as the board deems necessary to protect
4 the public health and welfare.

5 (e) The board may refuse to issue a registration under this section or
6 may revoke or suspend a registration upon a finding by the board that an
7 applicant or person registered under this section has failed to comply with
8 any provision of the section or any rules and regulations adopted pursuant
9 to this section. No order refusing to issue a registration or order of
10 suspension or revocation shall be made or entered except after notice and
11 opportunity for hearing in accordance with the provisions of the Kansas
12 administrative procedure act. Any final order of suspension or revocation of
13 a license shall be reviewable in accordance with the Kansas judicial review
14 act.

15 (f) (1) This section applies to each operator of a mobile dental facility
16 or portable dental operation that provides dental services except those
17 specifically exempted by ~~subsection~~ *paragraph* (2).

18 (2) This section shall not apply to:

19 (A) Dentists providing dental services for federal, state and local
20 governmental agencies;

21 (B) dentists licensed to practice in Kansas providing emergency
22 treatment for their patients of record;

23 (C) dentists who are not employed by or independently contracting
24 with a mobile dental facility or portable dental operation who provide
25 nonemergency treatment for their patients of record outside the dentist's
26 physically stationary office fewer than 30 days per calendar year;

27 (D) dental hygienists who are providing dental hygiene services as
28 authorized by the Kansas dental act and the board's rules and regulations;

29 (E) a dentist *or dental therapist* who is providing dental services as a
30 charitable healthcare provider under K.S.A. 75-6102, and amendments
31 thereto;

32 (F) a dental hygienist who is providing dental hygiene services as a
33 charitable healthcare provider under K.S.A. 75-6102, and amendments
34 thereto; and

35 (G) a not-for-profit organization providing dental services.

36 (g) This section shall be part of and supplemental to the dental
37 practices act.

38 Sec. 18. On and after July 1, 2021, K.S.A. 65-4915 is hereby amended
39 to read as follows: 65-4915. (a) As used in this section:

40 (1) "Healthcare provider" means: (A) Those persons and entities
41 defined as a healthcare provider under K.S.A. 40-3401, and amendments
42 thereto; and (B) a dentist licensed by the Kansas dental board, *a dental*
43 *therapist licensed by the Kansas dental board*, a dental hygienist licensed

1 by the Kansas dental board, a professional nurse licensed by the board of
2 nursing, a practical nurse licensed by the board of nursing, a mental health
3 technician licensed by the board of nursing, a physical therapist licensed by
4 the state board of healing arts, a physical therapist assistant certified by the
5 state board of healing arts, an occupational therapist licensed by the state
6 board of healing arts, an occupational therapy assistant licensed by the state
7 board of healing arts, a respiratory therapist licensed by the state board of
8 healing arts, a physician assistant licensed by the state board of healing arts
9 and attendants and ambulance services certified by the emergency medical
10 services board.

11 (2) "Healthcare provider group" means:

12 (A) A state or local association of healthcare providers or one or more
13 committees thereof;

14 (B) the board of governors created under K.S.A. 40-3403, and
15 amendments thereto;

16 (C) an organization of healthcare providers formed pursuant to state or
17 federal law and authorized to evaluate medical and healthcare services;

18 (D) a review committee operating pursuant to K.S.A. 65-2840c, and
19 amendments thereto;

20 (E) an organized medical staff of a licensed medical care facility as
21 defined by K.S.A. 65-425, and amendments thereto, an organized medical
22 staff of a private psychiatric hospital licensed under K.S.A. 2018 Supp. 39-
23 2001 et seq., and amendments thereto, or an organized medical staff of a
24 state psychiatric hospital or state institution for people with intellectual
25 disability, as follows: Larned state hospital, Osawatomie state hospital,
26 Rainbow mental health facility, Kansas neurological institute and Parsons
27 state hospital and training center;

28 (F) a healthcare provider;

29 (G) a professional society of healthcare providers or one or more
30 committees thereof;

31 (H) a Kansas corporation whose stockholders or members are
32 healthcare providers or an association of healthcare providers, ~~which~~ *that*
33 corporation evaluates medical and healthcare services;

34 (I) an insurance company, health maintenance organization or
35 administrator of a health benefits plan ~~which~~ *that* engages in any of the
36 functions defined as peer review under this section; or

37 (J) the university of Kansas medical center.

38 (3) "Peer review" means any of the following functions:

39 (A) Evaluate and improve the quality of healthcare services rendered
40 by healthcare providers;

41 (B) determine that health services rendered were professionally
42 indicated or were performed in compliance with the applicable standard of
43 care;

1 (C) determine that the cost of healthcare rendered was considered
2 reasonable by the providers of professional health services in this area;

3 (D) evaluate the qualifications, competence and performance of the
4 providers of healthcare or to act upon matters relating to the discipline of
5 any individual provider of healthcare;

6 (E) reduce morbidity or mortality;

7 (F) establish and enforce guidelines designed to keep within
8 reasonable bounds the cost of healthcare;

9 (G) conduct of research;

10 (H) determine if a hospital's facilities are being properly utilized;

11 (I) supervise, discipline, admit, determine privileges or control
12 members of a hospital's medical staff;

13 (J) review the professional qualifications or activities of healthcare
14 providers;

15 (K) evaluate the quantity, quality and timeliness of healthcare services
16 rendered to patients in the facility;

17 (L) evaluate, review or improve methods, procedures or treatments
18 being utilized by the medical care facility or by healthcare providers in a
19 facility rendering healthcare.

20 (4) "Peer review officer or committee" means:

21 (A) An individual employed, designated or appointed by, or a
22 committee of or employed, designated or appointed by, a healthcare
23 provider group and authorized to perform peer review; or

24 (B) a healthcare provider monitoring the delivery of healthcare at
25 correctional institutions under the jurisdiction of the secretary of
26 corrections.

27 (b) Except as provided by K.S.A. 60-437, and amendments thereto,
28 and by subsections (c) and (d), the reports, statements, memoranda,
29 proceedings, findings and other records submitted to or generated by peer
30 review committees or officers shall be privileged and shall not be subject to
31 discovery, subpoena or other means of legal compulsion for their release to
32 any person or entity or be admissible in evidence in any judicial or
33 administrative proceeding. Information contained in such records shall not
34 be discoverable or admissible at trial in the form of testimony by an
35 individual who participated in the peer review process. The peer review
36 officer or committee creating or initially receiving the record is the holder
37 of the privilege established by this section. This privilege may be claimed
38 by the legal entity creating the peer review committee or officer, or by the
39 commissioner of insurance for any records or proceedings of the board of
40 governors.

41 (c) Subsection (b) shall not apply to proceedings in which a healthcare
42 provider contests the revocation, denial, restriction or termination of staff
43 privileges or the license, registration, certification or other authorization to

1 practice of the healthcare provider. A licensing agency in conducting a
2 disciplinary proceeding in which admission of any peer review committee
3 report, record or testimony is proposed shall hold the hearing in closed
4 session when any such report, record or testimony is disclosed. Unless
5 otherwise provided by law, a licensing agency conducting a disciplinary
6 proceeding may close only that portion of the hearing in which disclosure
7 of a report or record privileged under this section is proposed. In closing a
8 portion of a hearing as provided by this section, the presiding officer may
9 exclude any person from the hearing location except the licensee, the
10 licensee's attorney, the agency's attorney, the witness, the court reporter and
11 appropriate staff support for either counsel. The licensing agency shall
12 make the portions of the agency record in which such report or record is
13 disclosed subject to a protective order prohibiting further disclosure of such
14 report or record. Such report or record shall not be subject to discovery,
15 subpoena or other means of legal compulsion for their release to any person
16 or entity. No person in attendance at a closed portion of a disciplinary
17 proceeding shall at a subsequent civil, criminal or administrative hearing,
18 be required to testify regarding the existence or content of a report or
19 record privileged under this section that was disclosed in a closed portion
20 of a hearing, nor shall such testimony be admitted into evidence in any
21 subsequent civil, criminal or administrative hearing. A licensing agency
22 conducting a disciplinary proceeding may review peer review committee
23 records, testimony or reports but must prove its findings with
24 independently obtained testimony or records that shall be presented as part
25 of the disciplinary proceeding in open meeting of the licensing agency.
26 Offering such testimony or records in an open public hearing shall not be
27 deemed a waiver of the peer review privilege relating to any peer review
28 committee testimony, records or report.

29 (d) Nothing in this section shall limit the authority that may otherwise
30 be provided by law of the commissioner of insurance, the state board of
31 healing arts or other healthcare provider licensing or disciplinary boards of
32 this state to require a peer review committee or officer to report to it any
33 disciplinary action or recommendation of such committee or officer; to
34 transfer to it records of such committee's or officer's proceedings or actions
35 to restrict or revoke the license, registration, certification or other
36 authorization to practice of a healthcare provider; or to terminate the
37 liability of the fund for all claims against a specific healthcare provider for
38 damages for death or personal injury pursuant to K.S.A. 40-3403(i), and
39 amendments thereto. Reports and records so furnished shall not be subject
40 to discovery, subpoena or other means of legal compulsion for their release
41 to any person or entity and shall not be admissible in evidence in any
42 judicial or administrative proceeding other than a disciplinary proceeding
43 by the state board of healing arts or other healthcare provider licensing or

1 disciplinary boards of this state.

2 (e) A peer review committee or officer may report to and discuss its
3 activities, information and findings to other peer review committees or
4 officers or to a board of directors or an administrative officer of a
5 healthcare provider without waiver of the privilege provided by subsection
6 (b) and the records of all such committees or officers relating to such report
7 shall be privileged as provided by subsection (b).

8 (f) Nothing in this section shall be construed to prevent an insured
9 from obtaining information pertaining to payment of benefits under a
10 contract with an insurance company, a health maintenance organization or
11 an administrator of a health benefits plan.

12 Sec. 19. On and after July 1, 2021, K.S.A. 65-4921 is hereby amended
13 to read as follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930,
14 and amendments thereto:

15 (a) "Appropriate licensing agency" means the agency that issued the
16 license to the individual or healthcare provider who is the subject of a
17 report under this act.

18 (b) "Department" means the department of health and environment.

19 (c) "Healthcare provider" means: (1) Those persons and entities
20 defined as a healthcare provider under K.S.A. 40-3401, and amendments
21 thereto; and (2) a dentist licensed by the Kansas dental board, *a dental*
22 *therapist licensed by the Kansas dental board*, a dental hygienist licensed
23 by the Kansas dental board, a professional nurse licensed by the board of
24 nursing, a practical nurse licensed by the board of nursing, a mental health
25 technician licensed by the board of nursing, a physical therapist licensed by
26 the state board of healing arts, a physical therapist assistant certified by the
27 state board of healing arts, an occupational therapist licensed by the state
28 board of healing arts, an occupational therapy assistant licensed by the state
29 board of healing arts and a respiratory therapist licensed by the state board
30 of healing arts.

31 (d) "License," "licensee" and "licensing" include comparable terms
32 that relate to regulation similar to licensure, such as registration.

33 (e) "Medical care facility" means: (1) A medical care facility licensed
34 under K.S.A. 65-425 et seq., and amendments thereto; (2) a private
35 psychiatric hospital licensed under K.S.A. 2018 Supp. 39-2001 et seq., and
36 amendments thereto; and (3) state psychiatric hospitals and state
37 institutions for people with intellectual disability, as follows: Larned state
38 hospital, Osawatomie state hospital, Rainbow mental health facility, Kansas
39 neurological institute and Parsons state hospital and training center.

40 (f) "Reportable incident" means an act by a healthcare provider that:
41 (1) Is or may be below the applicable standard of care and has a reasonable
42 probability of causing injury to a patient; or (2) may be grounds for
43 disciplinary action by the appropriate licensing agency.

1 (g) "Risk manager" means the individual designated by a medical care
2 facility to administer its internal risk management program and to receive
3 reports of reportable incidents within the facility.

4 (h) "Secretary" means the secretary of health and environment.

5 Sec. 20. On and after July 1, 2021, K.S.A. 65-5912 is hereby amended
6 to read as follows: 65-5912. (a) Nothing in this act shall be construed to
7 require any insurer or other entity regulated under chapter 40 of the Kansas
8 Statutes Annotated, *and amendments thereto*, or any other law of this state
9 to provide coverage for or indemnify for the services provided by a person
10 licensed under this act.

11 (b) So long as the following persons do not hold themselves out to the
12 public to be dietitians or licensed dietitians or use these titles in
13 combination with other titles or use the abbreviation L.D., or any
14 combination thereof, nothing in this act shall be construed to apply:

15 (1) To any person licensed to practice the healing arts, a licensed
16 dentist, *a licensed dental therapist*, a licensed dental hygienist, a licensed
17 professional nurse, a licensed practical nurse, a licensed psychologist, a
18 licensed masters level psychologist, a licensed pharmacist or an employee
19 thereof, a physician assistant, a licensed professional counselor;

20 (2) to any unlicensed employee of a licensed adult care home or a
21 licensed medical care facility as long as such person is working under the
22 general direction of a licensee in the healing arts, nursing or a dietetic
23 services supervisor as defined in regulations adopted by the secretary of
24 health and environment or a consultant licensed under this act;

25 (3) to any dietetic technician or dietetic assistant;

26 (4) to any student enrolled in an approved academic program in
27 dietetics, home economics, nutrition, education or other like curriculum,
28 while engaged in such academic program;

29 (5) to prevent any person, including persons employed in health food
30 stores, from furnishing nutrition information as to the use of food, food
31 materials or dietary supplements, nor to prevent in any way the free
32 dissemination of information or of literature as long as no individual
33 engaged in such practices holds oneself out as being licensed under this act;

34 (6) to prohibit any individual from marketing or distributing food
35 products, including dietary supplements, or to prevent any such person
36 from providing information to customers regarding the use of such
37 products;

38 (7) to prevent any employee of the state or a political subdivision who
39 is employed in nutrition-related programs from engaging in activities
40 included within the definition of dietetics practice as a part of such person's
41 employment;

42 (8) to any person who performs the activities and services of a
43 licensed dietitian or nutrition educator as an employee of the state or a

1 political subdivision, an elementary or secondary school, an educational
2 institution, a licensed institution, or a not-for-profit organization;

3 (9) to any person serving in the armed forces, the public health
4 service, the veterans administration or as an employee of the federal
5 government;

6 (10) to any person who has a degree in home economics insofar as the
7 activities of such person are within the scope of such person's education
8 and training;

9 (11) to any person who counsels or provides weight-control services
10 as a part of a franchised or recognized weight-control program or a weight-
11 control program that operates under the general direction of a person
12 licensed to practice the healing arts, nursing or a person licensed under this
13 act;

14 (12) to any person who is acting as a representative of a trade
15 association and who engages in one or more activities included within the
16 practice of dietetics as a representative of such association;

17 (13) to a licensed physical therapist who makes a dietetic or nutritional
18 assessment or gives dietetic or nutritional advice in the normal practice of
19 such person's profession or as otherwise authorized by law;

20 (14) to a dietitian licensed, registered or otherwise authorized to
21 practice dietetics in another state who is providing consultation in this state;

22 (15) to any person conducting a teaching clinical demonstration ~~which~~
23 *that* is carried out in an educational institution or an affiliated clinical
24 facility or healthcare agency;

25 (16) to any person conducting classes or disseminating information
26 relating to nonmedical nutrition; or

27 (17) to any person permitted to practice under K.S.A. 65-2872a, and
28 amendments thereto.

29 (c) Nothing in this act shall be construed to interfere with the religious
30 practices or observances of a bona fide religious organization, nor to
31 prevent any person from caring for the sick in accordance with tenets and
32 practices of any church or religious denomination ~~which~~ *that* teaches
33 reliance upon spiritual means through prayer for healing.

34 Sec. 21. On and after July 1, 2021, K.S.A. 65-7304 is hereby amended
35 to read as follows: 65-7304. The following shall be exempt from the
36 requirement of a license pursuant to this act:

37 (a) A licensed practitioner;

38 (b) a person issued a postgraduate permit by the board or students
39 while in actual attendance in an accredited healthcare educational program
40 for radiologic technology and under the supervision of a qualified
41 instructor;

42 (c) healthcare providers in the United States armed forces, public
43 health services, federal facilities and other military service when acting in

1 the line of duty in this state;

2 (d) persons rendering assistance in the case of an emergency;

3 (e) a licensed dental hygienist, *a licensed dental therapist* or an
4 unlicensed person working under the supervision of a licensed dentist who
5 has been trained by a licensed dentist on the proper use of dental
6 radiographic equipment for the purpose of providing medical imaging for
7 dental diagnostic purposes consistent with K.S.A. 65-1422 et seq., and
8 amendments thereto; and

9 (f) a licensed physician assistant, a licensed nurse or an unlicensed
10 person performing radiologic technology procedures who is: (1) Working
11 under the supervision of a licensed practitioner or a person designated by a
12 hospital licensed pursuant to K.S.A. 65-425 et seq., and amendments
13 thereto; and (2) who has been trained on the proper use of equipment for
14 the purpose of performing radiologic technology procedures consistent with
15 K.S.A. 65-2001 et seq.; or K.S.A. 65-2801 et seq., and amendments thereto.
16 The board shall adopt rules and regulations to assure that persons exempted
17 from licensure under this subsection receive continuing education
18 consistent with their practice authorized herein.

19 ~~(g) This section shall take effect on and after July 1, 2005.~~

20 Sec. 22. On and after July 1, 2021, K.S.A. 74-1405 is hereby amended
21 to read as follows: 74-1405. (a) The board at its first meeting day of each
22 year shall elect from its members a president, vice-president and secretary.
23 The board shall have a common seal. The board shall hold two regular
24 meetings each year at times to be fixed by the board, and special meetings
25 at such other times as may be necessary.

26 (b) Members of the Kansas dental board attending meetings of such
27 board, or attending a subcommittee meeting thereof authorized by such
28 board, or conducting examinations for dental, *dental therapist* or dental
29 hygienists licenses or conducting inspections of dental laboratories required
30 by K.S.A. 65-1438, and amendments thereto, shall be paid compensation,
31 subsistence allowances, mileage and other expenses as provided in K.S.A.
32 75-3223, and amendments thereto. Members of the board conducting
33 examinations for dental, *dental therapist* or dental hygienists licenses may
34 receive amounts for compensation, subsistence allowances, mileage or
35 other expenses from a nonstate agency for conducting such examinations
36 but no member receiving any such amounts shall be paid any
37 compensation, subsistence allowances, mileage or other expenses under
38 this section for conducting such examinations.

39 (c) The official office of the board shall be in Topeka. Meetings shall
40 be held in Topeka or at such other places as the board shall determine to be
41 most appropriate. Service of process may be had upon the board by
42 delivery of process to the secretary of state who shall mail the same by
43 registered or certified mail to the executive director of the board.

1 (d) The board may appoint an executive director who shall be in the
2 unclassified service of the Kansas civil service act. The executive director
3 shall receive an annual salary fixed by the board and approved by the
4 governor. The executive director shall be the legal custodian of all property,
5 money, minutes, records, and proceedings and seal of the board.

6 (e) The board in its discretion may affiliate as an active member with
7 the national association of dental examiners and any organization of one or
8 more state boards for the purpose of conducting a standard examination of
9 candidates for licensure as dentists, *dental therapists* or dental hygienists
10 and pay regular dues to such association or organization, and may send
11 members of the board to the meetings of the national association and the
12 meetings of any organization of state boards of dental examiners organized
13 for the purpose of conducting a standard examination of candidates for
14 licensure as dentists, *dental therapists* and dental hygienists.

15 (f) The executive director shall remit all moneys received by or for
16 such executive director from fees, charges or penalties to the state treasurer
17 in accordance with the provisions of K.S.A. 75-4215, and amendments
18 thereto. Upon receipt of each such remittance, the state treasurer shall
19 deposit the entire amount in the state treasury. Ten percent of each such
20 deposit shall be credited to the state general fund and the balance shall be
21 credited to the dental board fee fund. All expenditures from such fund shall
22 be made in accordance with appropriation acts upon warrants of the
23 director of accounts and reports issued pursuant to vouchers approved by
24 the president of the board or by a person or persons designated by the
25 president.

26 Sec. 23. On and after July 1, 2021, K.S.A. 74-1406 is hereby amended
27 to read as follows: 74-1406. The board shall exercise, subject to the
28 provisions of this act, the following powers and duties:

29 (a) Adopt such rules for its governance as it may deem proper.

30 (b) Adopt rules and regulations for qualification and licensing of
31 *dental therapists and dental hygienists*.

32 (c) Adopt rules and regulations regarding sanitation.

33 (d) Conduct examinations to ascertain the qualification and fitness of
34 applicants for licenses as dentists or certificates as specialists in dentistry.

35 (e) Pass upon the qualifications of applicants for reciprocal licenses.

36 (f) Prescribe rules and regulations for examination of candidates.

37 (g) Formulate rules and regulations by which dental schools and
38 colleges shall be approved.

39 (h) Grant licenses, issue license certificates as specialists in dentistry
40 and issue renewal licenses and certificates as specialists in dentistry in
41 conformity with this act to such applicants and dentists as have been found
42 qualified.

43 (i) Conduct hearings or proceedings to revoke or suspend and to

1 revoke or suspend a license, certificate or renewal license or certificate
2 granted under the authority of this act or previous acts.

3 (j) Employ such persons as it may deem necessary to assist in carrying
4 out the duties of the board in the administration and enforcement of this act,
5 and to provide offices, furniture, fixtures, supplies, printing or secretarial
6 service, and may expend such funds as may be deemed necessary therefor,
7 and may appoint an attorney to advise and assist in the carrying out and
8 enforcing of the provisions of this act.

9 (k) Investigate violations of the act that may come to the knowledge of
10 the board, and institute or cause to be instituted before the board or in a
11 proper court appropriate proceedings in connection therewith.

12 (l) Adopt rules and regulations to carry out and make effective the
13 provisions of this act and modify or repeal such rules and regulations
14 whenever in the discretion of the board it is deemed necessary.

15 Sec. 24. On and after July 1, 2021, K.S.A. 2018 Supp. 75-2935 is
16 hereby amended to read as follows: 75-2935. The civil service of the state
17 of Kansas is hereby divided into the unclassified and the classified services.

18 (1) The unclassified service comprises positions held by state officers
19 or employees who are:

20 (a) Chosen by election or appointment to fill an elective office;

21 (b) members of boards and commissions, heads of departments
22 required by law to be appointed by the governor or by other elective
23 officers, and the executive or administrative heads of offices, departments,
24 divisions and institutions specifically established by law;

25 (c) except as otherwise provided under this section, one personal
26 secretary to each elective officer of this state, and in addition thereto, 10
27 deputies, clerks or employees designated by such elective officer;

28 (d) all employees in the office of the governor;

29 (e) officers and employees of the senate and house of representatives
30 of the legislature and of the legislative coordinating council and all officers
31 and employees of the office of revisor of statutes, of the legislative research
32 department, of the division of legislative administrative services, of the
33 division of post audit and the legislative counsel;

34 (f) chancellor, president, deans, administrative officers, student health
35 service physicians, pharmacists, teaching and research personnel,
36 healthcare employees and student employees in the institutions under the
37 state board of regents, the executive officer of the board of regents and the
38 executive officer's employees other than clerical employees, and, at the
39 discretion of the state board of regents, directors or administrative officers
40 of departments and divisions of the institution and county extension agents,
41 except that this ~~subsection (1)(f)~~ *paragraph* shall not be construed to
42 include the custodial, clerical or maintenance employees, or any employees
43 performing duties in connection with the business operations of any such

1 institution, except administrative officers and directors; as used in this
2 ~~subsection (1)(f) paragraph~~, "healthcare employees" means employees of
3 the university of Kansas medical center who provide healthcare services at
4 the university of Kansas medical center and who are medical technicians or
5 technologists or respiratory therapists, who are licensed professional nurses
6 or licensed practical nurses, or who are in job classes ~~which~~ *that* are
7 designated for this purpose by the chancellor of the university of Kansas
8 upon a finding by the chancellor that such designation is required for the
9 university of Kansas medical center to recruit or retain personnel for
10 positions in the designated job classes; and employees of any institution
11 under the state board of regents who are medical technologists;

12 (g) operations, maintenance and security personnel employed to
13 implement agreements entered into by the adjutant general and the federal
14 national guard bureau, and officers and enlisted persons in the national
15 guard and the naval militia;

16 (h) persons engaged in public work for the state but employed by
17 contractors when the performance of such contract is authorized by the
18 legislature or other competent authority;

19 (i) persons temporarily employed or designated by the legislature or
20 by a legislative committee or commission or other competent authority to
21 make or conduct a special inquiry, investigation, examination or
22 installation;

23 (j) officers and employees in the office of the attorney general and
24 special counsel to state departments appointed by the attorney general,
25 except that officers and employees of the division of the Kansas bureau of
26 investigation shall be in the classified or unclassified service as provided in
27 K.S.A. 75-711, and amendments thereto;

28 (k) all employees of courts;

29 (l) client, patient and inmate help in any state facility or institution;

30 (m) all attorneys for boards, commissions and departments;

31 (n) the secretary and assistant secretary of the Kansas state historical
32 society;

33 (o) physician specialists, dentists, *dental therapists*, dental hygienists,
34 pharmacists, medical technologists and long term care workers employed
35 by the Kansas department for aging and disability services;

36 (p) physician specialists, dentists and medical technologists employed
37 by any board, commission or department or by any institution under the
38 jurisdiction thereof;

39 (q) student employees enrolled in public institutions of higher
40 learning;

41 (r) administrative officers, directors and teaching personnel of the
42 state board of education and the state department of education and of any
43 institution under the supervision and control of the state board of education,

1 except that this ~~subsection (1)(r)~~ *paragraph* shall not be construed to
2 include the custodial, clerical or maintenance employees, or any employees
3 performing duties in connection with the business operations of any such
4 institution, except administrative officers and directors;

5 (s) all officers and employees in the office of the secretary of state;

6 (t) one personal secretary and one special assistant to the following:
7 The secretary of administration, the secretary for aging and disability
8 services, the secretary of agriculture, the secretary of commerce, the
9 secretary of corrections, the secretary of health and environment, the
10 superintendent of the Kansas highway patrol, the secretary of labor, the
11 secretary of revenue, the secretary for children and families, the secretary
12 of transportation, the secretary of wildlife, parks and tourism and the
13 commissioner of juvenile justice;

14 (u) one personal secretary and one special assistant to the chancellor
15 and presidents of institutions under the state board of regents;

16 (v) one personal secretary and one special assistant to the executive
17 vice chancellor of the university of Kansas medical center;

18 (w) one public information officer and one chief attorney for the
19 following: The department of administration, the Kansas department for
20 aging and disability services, the department of agriculture, the department
21 of commerce, the department of corrections, the department of health and
22 environment, the department of labor, the department of revenue, the
23 Kansas department for children and families, the department of
24 transportation, the Kansas department of wildlife, parks and tourism and
25 the commissioner of juvenile justice;

26 (x) if designated by the appointing authority, persons in newly hired
27 positions, including any employee who is rehired into such position and
28 any current state employee who voluntarily transfers into, or is voluntarily
29 promoted or demoted into such position, on and after July 1, 2015, in any
30 state agency;

31 (y) one executive director, one general counsel and one director of
32 public affairs and consumer protection in the office of the state corporation
33 commission;

34 (z) specifically designated by law as being in the unclassified service;

35 (aa) any position that is classified as a position in the information
36 resource manager job class series, that is the chief position responsible for
37 all information resources management for a state agency, and that becomes
38 vacant on or after the effective date of this act. Nothing in this section shall
39 affect the classified status of any employee in the classified service who is
40 employed on the date immediately preceding the effective date of this act in
41 any position that is a classified position in the information resource
42 manager job class series and the unclassified status as prescribed by this
43 subsection shall apply only to a person appointed to any such position on or

1 after the effective date of this act that is the chief position responsible for
2 all information resources management for a state agency;

3 (bb) positions at state institutions of higher education that have been
4 converted to unclassified positions pursuant to K.S.A. 2018 Supp. 76-715a,
5 and amendments thereto; and

6 (cc) notwithstanding the provisions of K.S.A. 22-4524, 32-802, 44-
7 510g, 44-551, 44-552, 48-205, 48-919, 49-402e, 58-4105, 58-4503, 65-
8 2878, 65-6103, 73-1210a, 73-1234, 74-515b, 74-561, 74-569, 74-631, 74-
9 1106, 74-1704, 74-1806, 74-2435, 74-2614, 74-2702, 74-2906a, 74-5014,
10 74-5210, 74-6707, 74-6901, 74-6904, 74-7008, 74-7501, 74-8704, 74-
11 8805, 74-9804, 75-118, 75-1202d, 75-2537, 75-2944, 75-3148, 75-3702c,
12 75-4222, 75-5005, 75-5015, 75-5016, 75-5122, 75-5157, 75-5309, 75-
13 5310, 75-5378, 75-5610, 75-5702, 75-5708, 75-5733, 75-5910, 75-7028,
14 75-7054, 75-7304, 76-1002a, 76-1116, 76-12a04, 76-12a05, 76-12a08, 76-
15 12a16, 76-3202 and 82a-1205 and K.S.A. 2018 Supp. 39-1911, and
16 amendments thereto, any vacant position within the classified service may
17 be converted by the appointing authority to an unclassified position.

18 (2) The classified service comprises all positions now existing or
19 hereafter created ~~which~~ that are not included in the unclassified service.
20 Appointments in the classified service shall be made according to merit and
21 fitness from eligible pools ~~which~~ that so far as practicable shall be
22 competitive. No person shall be appointed, promoted, reduced or
23 discharged as an officer, clerk, employee or laborer in the classified service
24 in any manner or by any means other than those prescribed in the Kansas
25 civil service act and the rules adopted in accordance therewith.

26 (3) For positions involving unskilled, or semiskilled duties, the
27 secretary of administration, as provided by law, shall establish rules and
28 regulations concerning certifications, appointments, layoffs and
29 reemployment ~~which~~ that may be different from the rules and regulations
30 established concerning these processes for other positions in the classified
31 service.

32 (4) Officers authorized by law to make appointments to positions in
33 the unclassified service, and appointing officers of departments or
34 institutions whose employees are exempt from the provisions of the Kansas
35 civil service act because of the constitutional status of such departments or
36 institutions shall be permitted to make appointments from appropriate pools
37 of eligibles maintained by the division of personnel services.

38 (5) On and after the effective date of this act, any state agency that has
39 positions in the classified service within the Kansas civil service act to
40 satisfy any requirement of maintaining personnel standards on a merit basis
41 pursuant to federal law or the rules and regulations promulgated thereunder
42 by the federal government or any agency thereof, shall adopt a binding
43 statement of agency policy pursuant to K.S.A. 77-415, and amendments

1 thereto, to satisfy such requirements if the appointing authority has made
2 any such position unclassified.

3 Sec. 25. On and after July 1, 2021, K.S.A. 2018 Supp. 75-6102 is
4 hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101
5 through 75-6118, and amendments thereto, unless the context clearly
6 requires otherwise:

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

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

13 (c) "Governmental entity" means state or municipality.

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

20 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
21 8818, and amendments thereto, regardless of whether the services of such
22 steward or racing judge are rendered pursuant to contract as an independent
23 contractor;

24 (C) employees of the United States marshals service engaged in the
25 transportation of inmates on behalf of the secretary of corrections;

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

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

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

1 (G) an employee of an indigent healthcare clinic;

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

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

8 (J) any member of a regional search and rescue team or regional
9 hazardous materials response team contracting with the state fire marshal
10 pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2018 Supp.
11 75-1518, and amendments thereto, in connection with authorized training
12 or upon activation for an emergency response; and

13 (K) medical students enrolled at the university of Kansas medical
14 center who are in clinical training, on or after July 1, 2008, at the university
15 of Kansas medical center or at another healthcare institution.

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

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

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

32 (1) The secretary of health and environment under K.S.A. 75-6120,
33 and amendments thereto, who, pursuant to such agreement, gratuitously
34 renders professional services to a person who has provided information that
35 would reasonably lead the healthcare provider to make the good faith
36 assumption that such person meets the definition of medically indigent
37 person as defined by this section or to a person receiving medical assistance
38 from the programs operated by the department of health and environment,
39 and who is considered an employee of the state of Kansas under K.S.A. 75-
40 6120, and amendments thereto;

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

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

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

30 (f) "Medically indigent person" means a person who lacks resources to
31 pay for medically necessary healthcare services and who meets the
32 eligibility criteria for qualification as a medically indigent person
33 established by the secretary of health and environment under K.S.A. 75-
34 6120, and amendments thereto.

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

39 (h) "Local health department" means the same as defined in K.S.A.
40 65-241, and amendments thereto.

41 (i) "Fire control, fire rescue or emergency medical services
42 equipment" means any vehicle, firefighting tool, protective clothing,
43 breathing apparatus and any other supplies, tools or equipment used in

1 firefighting or fire rescue or in the provision of emergency medical
2 services.

3 (j) "Community mental health center" means the same as defined in
4 K.S.A. 2018 Supp. 39-2002, and amendments thereto.

5 Sec. 26. On and after July 1, 2021, K.S.A. 65-1421, 65-1424, 65-
6 1431, 65-1434, 65-1436, 65-1441, 65-1447, 65-1449, 65-1456, 65-1460,
7 65-1462, 65-1469, 65-4915, 65-4921, 65-5912, 65-7304, 74-1405 and 74-
8 1406 and K.S.A. 2018 Supp. 75-2935 and 75-6102 are hereby repealed.

9 Sec. 27. This act shall take effect and be in force from and after its
10 publication in the statute book.