

HOUSE BILL No. 2139

By Committee on Health and Human Services

1-24

1 AN ACT concerning the Kansas dental board; relating to licensure of
2 dental therapists; amending K.S.A. 65-1421, 65-1441, 65-1449, 65-
3 1460, 65-1462, 74-1404 and 74-1406 and K.S.A. 2016 Supp. 65-1424,
4 65-1431, 65-1434, 65-1436, 65-1447, 65-1469, 65-4915, 65-4921, 65-
5 5912, 65-7304, 74-1405, 75-2935 and 75-6102 and repealing the
6 existing sections.

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

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

16 (b) The board shall authorize a person to practice as a dental therapist
17 if such person is qualified under this section, works under the direct or
18 general supervision of a Kansas licensed dentist pursuant to a written
19 supervising agreement, is licensed by the board and practices in
20 compliance with this section and rules and regulations adopted by the
21 board. Any supervising dentist of a dental therapist shall be either: (1)
22 Employed by an indigent health care clinic; or (2) enrolled as a medicaid
23 provider.

24 A supervising agreement entered into with a dental therapist must
25 include specific written protocols detailing the scope of practice that the
26 supervising dentist authorizes the dental therapist to perform and the
27 required level of supervision, and outlining a course of action when the
28 dental therapist encounters a patient who requires treatment that exceeds
29 the dental therapist's authorized scope of practice. The supervising dentist
30 must ensure that a dentist is available, in person or through distance
31 technology, to the dental therapist for timely consultation if needed.

32 (c) To be qualified to practice under this section, such person shall be
33 a licensed dental hygienist who is also a graduate of a dental therapist
34 education program approved by the board.

35 (1) (A) The board shall approve only those schools which require the
36 study of dental therapy and which the board determines have standards of

1 education not less than that required for accreditation by the commission
2 on dental accreditation of the American dental association or its equivalent
3 or, prior to such accreditation process for dental therapy programs, is
4 approved by a licensing entity of another state or federal jurisdiction; and

5 (B) if the person's dental therapist training program did not include
6 training on any individual competency listed in section 3(c), and
7 amendments thereto, the person shall provide documentation to the board's
8 satisfaction that such person has successfully completed additional training
9 on that competency;

10 (2) pass a comprehensive, competency-based clinical examination
11 that is approved by the board and administered independently of an
12 institution which provides dental therapist education;

13 (3) have practiced under direct supervision of a supervising dentist
14 for at least 500 hours before practicing under general supervision; and

15 (4) obtain a policy of professional liability insurance and show proof
16 of such insurance as required by rules and regulations.

17 (d) Any person practicing as a dental therapist in violation of the
18 provisions of this act shall be guilty of a misdemeanor, and the board may
19 revoke or suspend such person's license therefor.

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

22 (f) This section shall take effect on and after July 1, 2019.

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

34 (b) Except as otherwise provided in this section, the practice of dental
35 therapy shall be performed under the direct or general supervision of a
36 licensed dentist. As used in sections 1 through 4, and amendments thereto:

37 (1) "Direct supervision" means that the dentist in the dental office
38 personally diagnoses the condition to be treated, personally authorizes the
39 procedure and, before dismissal of the patient, evaluates the dental
40 therapist's performance; and (2) "general supervision" means the
41 supervision of tasks or procedures without the presence of the dentist in
42 the office or on the premises at the time the tasks or procedures are being
43 performed, and pursuant to a written supervising agreement, so long as

1 those tasks and procedures are within the scope of practice for a dental
2 therapist.

3 (c) A licensed dental therapist may perform dental services as
4 authorized under this section, limited to the following services under direct
5 or general supervision, unless restricted or prohibited in the supervising
6 agreement:

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

10 (2) comprehensive charting of the oral cavity;

11 (3) oral health instruction and disease prevention education, including
12 nutritional counseling and dietary analysis;

13 (4) exposure of radiographic images;

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

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

17 (7) pulp vitality testing;

18 (8) application of desensitizing medication or resin;

19 (9) fabrication of athletic mouthguards;

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

22 (11) fabrication of soft occlusal guards;

23 (12) tissue conditioning and soft reline;

24 (13) changing of periodontal dressings;

25 (14) tooth reimplantation and stabilization;

26 (15) administration of local anesthetic, if the dental therapist has
27 completed a course on local anesthesia as required in this act;

28 (16) administration of nitrous oxide, if the dental therapist has
29 completed a course on nitrous oxide as required in this act;

30 (17) dispensing and administering by the oral or topical route, or
31 both, non-narcotic analgesics, anti-inflammatory and antibiotic
32 medications as prescribed by a licensed health care provider;

33 (18) diagnosis of dental decay and periodontal disease;

34 (19) the formulation of an individualized treatment plan limited to the
35 procedures in this section;

36 (20) extractions of primary teeth;

37 (21) nonsurgical extractions of periodontally diseased permanent
38 teeth with tooth mobility of +3 or +4. The dental therapist shall not extract
39 a tooth for any patient if the tooth is unerupted, impacted or needs to be
40 sectioned for removal;

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

43 (23) the placement and removal of space maintainers;

- 1 (24) preparation and placement of direct restoration in primary and
2 permanent teeth;
- 3 (25) fabrication and placement of single-tooth temporary crowns;
- 4 (26) preparation and placement of preformed crowns on primary
5 teeth;
- 6 (27) pulpotomies on primary teeth;
- 7 (28) indirect and direct pulp capping on permanent teeth;
- 8 (29) indirect pulp capping on primary teeth;
- 9 (30) suture removal;
- 10 (31) brush biopsies;
- 11 (32) minor adjustments and repairs on removable prostheses;
- 12 (33) re-cementing of permanent crowns; and
- 13 (34) prevention of, identification and management of dental and
14 medical emergencies.

15 (d) Any dental therapist is authorized to supervise any dental
16 hygienist or dental assistant unless restricted or prohibited in the
17 supervising agreement with the supervising dentist.

18 (e) 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 (f) This section shall be part of and supplemental to the dental
22 practices act.

23 (g) This section shall take effect on and after July 1, 2019.

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
28 therefrom, of the names of patients whom the dental therapist might have
29 served in the office of a prior employer, unless such names appear upon
30 the bona fide call or prophylactic list of the dental therapist's present
31 employer and were caused to so appear through the legitimate practice of
32 dentistry as provided for in this act.

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 the 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
43 reviewable 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, 2019.

4 New Sec. 4. On or before July 1, 2019, the Kansas dental board shall
5 adopt rules and regulations as may be necessary to administer the
6 provisions of this act regarding the licensure of dental therapists. On or
7 before July 1, 2019, the board shall have such rules and regulations:
8 Proposed; submitted to the secretary of administration and to the attorney
9 general for approval as required by K.S.A. 77-420, and amendments
10 thereto; and notice of the proposed rules and regulations given and a
11 hearing held thereon in the manner provided by K.S.A. 77-421, and
12 amendments thereto.

13 Sec. 5. On and after July 1, 2019, K.S.A. 65-1421 is hereby amended
14 to read as follows: 65-1421. It shall be unlawful for any person to practice
15 dentistry, *dental therapy* or dental hygiene in the state of Kansas, except:

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

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

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

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

23 Sec. 6. On and after July 1, 2019, K.S.A. 2016 Supp. 65-1424 is
24 hereby amended to read as follows: 65-1424. (a) As used in this act:

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

27 (2) "Dental franchisor" means any person or entity, pursuant to a
28 written agreement, who provides a licensed dentist any dental practice
29 management consulting services, which may include marketing or
30 advertising services, signage or branding consulting, or places in
31 possession of a licensed dentist such dental material or equipment as may
32 be necessary for the management of a dental office on the basis of a lease
33 or any other agreement for compensation. A person or entity is not a dental
34 franchisor if the agreement with the dentist:

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

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

40 (3) "Unlicensed proprietor" means any person or entity not authorized
41 to own or operate a dental practice that enters into an agreement with a
42 dentist, *dental therapist* or dental hygienist related to the practice of
43 dentistry, *dental therapy* or dental hygiene which:

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

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

6 A licensee of dentistry who enters into any arrangement with an
7 unlicensed proprietor may have such license limited, suspended or revoked
8 by the board.

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

19 Sec. 7. On and after July 1, 2019, K.S.A. 2016 Supp. 65-1431 is
20 hereby amended to read as follows: 65-1431. (a) Each license to practice
21 as a dentist, *dental therapist* or dental hygienist issued by the board, shall
22 expire on December 1 of the year specified by the board for the expiration
23 of the license and shall be renewed on a biennial basis. Each application
24 for renewal shall be made on a form prescribed and furnished by the
25 board. Every licensed dentist, *dental therapist* or dental hygienist shall pay
26 to the board a renewal fee fixed by the board as provided in K.S.A. 65-
27 1447, and amendments thereto.

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

30 (c) On or before December 1 of the year in which the licensee's
31 license expires, the licensee shall transmit to the board a renewal
32 application, upon a form prescribed by the board, which shall include such
33 licensee's signature, post office address, the number of the license of such
34 licensee, whether such licensee has been engaged during the preceding
35 licensure period in active and continuous practice whether within or
36 without this state, and such other information as may be required by the
37 board, together with the biennial licensure fee for a *dentist, dental*
38 *therapist or* dental hygienist which is fixed by the board pursuant to
39 K.S.A. 65-1447, and amendments thereto.

40 (d) (1) The board shall require every licensee to submit with the
41 renewal application evidence of satisfactory completion of a program of
42 continuing education required by the board. The board by duly adopted
43 rules and regulations shall establish the requirements for such program of

1 continuing education as soon as possible after the effective date of this act.

2 (2) A dentist who is a charitable healthcare provider in Kansas who
3 has signed an agreement to provide gratuitous services pursuant to K.S.A.
4 75-6102 and 75-6120, and amendments thereto, may fulfill one hour of
5 continuing education credit by the performance of two hours of gratuitous
6 services to medically indigent persons up to a maximum of six continuing
7 education credits per licensure period.

8 (e) Upon fixing the biennial license renewal fee, the board shall
9 immediately notify all licensees of the amount of the fee for the ensuing
10 licensure period. Upon receipt of such fee and upon receipt of evidence
11 that the licensee has satisfactorily completed a program of continuing
12 education required by the board, the licensee shall be issued a renewal
13 license authorizing the licensee to continue to practice in this state for a
14 period of no more than two years.

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

19 (2) Any licensee whose license is required to be renewed for the next
20 biennial period may obtain renewal, prior to February 1, by submitting to
21 the board the required renewal application, payment of the biennial
22 renewal fee and proof that such licensee has satisfactorily completed a
23 program of continuing education required by the board. Any licensee
24 whose license is required to be renewed for the next biennial period may
25 obtain renewal, between February 1 and March 1, by submitting to the
26 board the required renewal application, payment of the biennial renewal
27 fee, payment of a penalty fee of not to exceed \$500 as fixed by rules and
28 regulations by the board and proof that such licensee has satisfactorily
29 completed a program of continuing education required by the board. The
30 penalty fee in effect immediately prior to the effective date of this act shall
31 continue in effect until rules and regulations establishing a penalty fee
32 under this section become effective.

33 (g) Upon failure of any licensee to pay the applicable renewal fee or
34 to present proof of satisfactory completion of the required program of
35 continuing education by February 1 of the year following the December in
36 which a renewal application is due, the board shall notify such licensee, in
37 writing, by mailing notice to such licensee's last registered address. Failure
38 to mail or receive such notice shall not affect the cancellation of the
39 license of such licensee.

40 (h) The board may waive the payment of biennial fees and the
41 continuing education requirements for the renewal of licenses without the
42 payment of any fee for a person who has held a Kansas license to practice
43 dentistry, *dental therapy* or dental hygiene if such licensee has retired from

1 such practice or has become temporarily or permanently disabled and such
2 licensee files with the board a certificate stating either of the following:

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

8 (2) a disabled licensee shall certify to the board that such licensee is
9 no longer engaged in the provision of dental services, the performance of
10 any *dental therapy or* dental operation or the provision of any dental
11 hygiene services as defined by the statutes of the state of Kansas by reason
12 of any physical disability, whether permanent or temporary, and shall
13 describe the nature of such disability.

14 (i) The waiver of fees under subsection (h) shall continue so long as
15 the retirement or physical disability exists. Except as provided in K.S.A.
16 65-1466, and amendments thereto, in the event the licensee returns to the
17 practice for which such person is licensed, the requirement for payment of
18 fees and continuing education requirements shall be reimposed
19 commencing with and continuing after the date the licensee returns to such
20 active practice. Except as provided in K.S.A. 65-1466, and amendments
21 thereto, the performance of any dental service, including consulting
22 service, or the performance of any *dental therapy or* dental hygiene
23 service, including consulting service, shall be deemed the resumption of
24 such service, requiring payment of license fees.

25 (j) The Kansas dental board may adopt such rules and regulations
26 requiring the examination and providing means for examination of those
27 persons returning to active practice after a period of retirement or
28 disability as the board shall deem necessary and appropriate for the
29 protection of the people of the state of Kansas except that for an applicant
30 to practice *dental therapy or* dental hygiene who is returning to active
31 practice after a period of retirement or disability, the board shall authorize
32 as an alternative to the requirement for an examination that the applicant
33 successfully complete a refresher course as defined by the board in an
34 approved dental hygiene school *or dental therapy program*.

35 Sec. 8. On and after July 1, 2019, K.S.A. 2016 Supp. 65-1434 is
36 hereby amended to read as follows: 65-1434. (a) The board, without
37 examination, may issue a license as a dentist, *dental therapist* or dental
38 hygienist to an applicant holding a license in another state upon
39 compliance with the requirements of professional qualification and
40 experience set forth in subsection (b). The board shall prepare and adopt a
41 form of application to be submitted by an applicant for a license to be
42 issued under this section. On the receipt of any such application, the board
43 shall conduct such review, verification or other investigation of the

1 applicant and the professional qualifications, background, experience and
2 practice of the applicant as the board deems necessary to assure full
3 compliance with the requirements of this section. Any license so issued
4 may be revoked by the board upon evidence that an applicant has obtained
5 a license under this section through misrepresentation or omission of a
6 material fact in the application or other information submitted to the board.

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

9 (1) Each applicant for licensure as a dentist under this section must
10 meet the requirements set forth in K.S.A. 65-1426, and amendments
11 thereto. *Each applicant for licensure as a dental therapist must meet all*
12 *applicable requirements set forth in section 1, and amendments thereto.*
13 Each applicant for licensure as a dental hygienist must meet any applicable
14 requirements set forth in K.S.A. 65-1455, and amendments thereto.

15 (2) Each applicant shall show evidence of having successfully
16 completed both a national board examination or an equivalent examination
17 accepted by the state in which the applicant has been previously licensed,
18 and a clinical examination, administered by any state or clinical dental
19 testing agency, of equivalent merit to the clinical examination accepted by
20 the board at the time such applicant completed such examinations.

21 (3) Each applicant for licensure as a dentist under this section shall
22 have held a license to practice dentistry in one or more other states of the
23 United States for the five-year period immediately preceding the date of
24 application and shall have engaged in the active practice of dentistry for at
25 least five years prior to the date of application. *Each applicant for*
26 *licensure as a dental therapist under this section shall have held a license*
27 *to practice dental therapy in another state of the United States for a three-*
28 *year period immediately preceding the date of application and shall have*
29 *engaged in the active practice of dental therapy for at least three years*
30 *prior to the date of application.* Each applicant for licensure as a dental
31 hygienist under this section shall have held a license to practice dental
32 hygiene in another state of the United States for the three-year period
33 immediately preceding the date of application and shall have engaged in
34 the active practice of dental hygiene for at least three years prior to the
35 date of application. Successive and continuous periods of active practice in
36 other states will comply with the active practice requirements of this
37 paragraph-(3). For the purpose of determining the period of practice,
38 periods of military service will be considered to the extent approved by the
39 Kansas dental board. Service as a full-time faculty member in a school of
40 dentistry will be considered the practice of dentistry to the extent service
41 involved full-time instruction in dentistry including clinical dentistry.
42 Service as a faculty member in a school of dental hygiene will be
43 considered the practice of dental hygiene to the extent such service

1 involved instruction in dental hygiene including clinical dental hygiene. To
2 be considered for the purposes of this statute, any such school of dentistry,
3 *dental therapy* or dental hygiene must be approved by the Kansas dental
4 board within the meaning of K.S.A. 65-1426, and amendments thereto.

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

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

25 (6) Each applicant shall provide a certificate of the executive director
26 of the board or other agency governing licensure of dentists, *dental*
27 *therapists* or dental hygienists of the state in which the applicant has been
28 licensed and has practiced during the required period preceding the date of
29 the application. Such certificate shall state that: (A) The applicant is
30 licensed to practice dentistry, *dental therapy* or dental hygiene in the state;
31 (B) the license of the applicant has never been suspended or revoked; (C)
32 the applicant has never been the subject of any proceeding for suspension,
33 revocation or other disciplinary action initiated by the board of licensure of
34 any such state during the period the applicant has held a license to practice
35 dentistry, *dental therapy* or dental hygiene in such state; and (D) no
36 complaint has been filed against the applicant of such substance as, in the
37 judgment of the board of licensure of such state, has required the initiation
38 of proceedings against the applicant. In the event the applicant has
39 practiced dentistry, *dental therapy* or dental hygiene in more than one
40 other state in the United States, the applicant shall file a similar certificate
41 with respect to such period or periods during which the applicant has
42 practiced in each such state.

43 (c) The Kansas dental board may direct an applicant to appear before

1 the board at a date, time and place to be determined by the Kansas dental
2 board to answer questions and provide such information concerning the
3 qualifications, background, experience and practice of the applicant as the
4 Kansas dental board may deem necessary.

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

9 Sec. 9. On and after July 1, 2019, K.S.A. 2016 Supp. 65-1436 is
10 hereby amended to read as follows: 65-1436. (a) The Kansas dental board
11 may refuse to issue the license under the dental practices act, or may take
12 any of the actions with respect to any dental, *dental therapy* or dental
13 hygiene license as set forth in subsection (b), whenever it is established,
14 after notice and opportunity for hearing in accordance with the provisions
15 of the Kansas administrative procedure act, that any applicant for a dental,
16 *dental therapy* or dental hygiene license or any licensed dentist, *dental*
17 *therapist* or dental hygienist practicing in the state of Kansas has:

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

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

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

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

25 (5) employed, allowed or permitted any unlicensed person or persons
26 to perform any work in the licensee's office which constitutes the practice
27 of dentistry, *dental therapy* or dental hygiene under the provisions of the
28 dental practices act;

29 (6) willfully violated the laws of this state relating to the practice of
30 dentistry, *dental therapy* or dental hygiene or the rules and regulations of
31 the secretary of health and environment or of the board regarding
32 sanitation;

33 (7) engaged in the division of fees, or agreed to split or divide the fee
34 received for dental service with any person for bringing or referring a
35 patient without the knowledge of the patient or the patient's legal
36 representative, except:

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

39 (B) the division of fees between one licensed dentist employing
40 another; or

41 (C) the division of fees between a licensed dentist and a dental
42 franchisor;

43 (8) committed complicity in association with or allowed the use of

1 the licensed dentist's name in conjunction with any person who is engaged
2 in the illegal practice of dentistry;

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

6 (10) prescribed, dispensed, administered or distributed a prescription
7 drug or substance, including a controlled substance, in an excessive,
8 improper or inappropriate manner or quantity outside the scope of practice
9 of dentistry or in a manner that impairs the health and safety of an
10 individual;

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

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

16 (13) failed to pay license fees;

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

20 (15) committed, after becoming a licensee, any conduct which is
21 detrimental to the public health, safety or welfare as defined by rules and
22 regulations of the board;

23 (16) engaged in a misleading, deceptive, untrue or fraudulent
24 misrepresentation in the practice of dentistry or on any document
25 connected with the practice of dentistry by knowingly submitting any
26 misleading, deceptive, untrue or fraudulent misrepresentation on a claim
27 form, bill or statement, including the systematic waiver of patient co-
28 payment or co-insurance;

29 (17) failed to keep adequate records;

30 (18) the licensee has had a license to practice dentistry revoked,
31 suspended or limited, has been censured or has had other disciplinary
32 action taken, has had an application for license denied, or voluntarily
33 surrendered the license after formal proceedings have been commenced by
34 the proper licensing authority or another state, territory or the District of
35 Columbia or other country, a certified copy of the record of the action of
36 the other jurisdiction being conclusive evidence thereof;

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

39 (20) assisted suicide in violation of K.S.A. 21-3406, prior to its
40 repeal, or K.S.A. 2016 Supp. 21-5407, and amendments thereto, as
41 established by any of the following:

42 (A) A copy of the record of criminal conviction or plea of guilty for a
43 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2016

1 Supp. 21-5407, and amendments thereto;

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

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

7 (b) Whenever it is established, after notice and opportunity for
8 hearing in accordance with the provisions of the Kansas administrative
9 procedure act, that a licensee is in any of the circumstances or has
10 committed any of the acts described in subsection (a), the Kansas dental
11 board may take one or any combination of the following actions with
12 respect to the license of the licensee:

13 (1) Revoke the license;

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

16 (3) restrict the right of the licensee to practice by imposing limitations
17 upon dental, *dental therapy* or dental hygiene procedures which may be
18 performed, categories of dental disease which may be treated or types of
19 patients which may be treated by the dentist, *dental therapist* or dental
20 hygienist. Such restrictions shall continue for such period of time as may
21 be determined by the board, and the board may require the licensee to
22 provide additional evidence at hearing before lifting such restrictions; or

23 (4) grant a period of probation during which the imposition of one or
24 more of the actions described in subsections (b)(1) through (b)(3) will be
25 stayed subject to such conditions as may be imposed by the board
26 including a requirement that the dentist, *dental therapist* or dental
27 hygienist refrain from any course of conduct which may result in further
28 violation of the dental-~~practice~~ *practices* act or the dentist or dental
29 hygienist complete additional or remedial instruction. The violation of any
30 provision of the dental-~~practice~~ *practices* act or failure to meet any
31 condition imposed by the board as set forth in the order of the board will
32 result in immediate termination of the period of probation and imposition
33 of such other action as has been taken by the board.

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

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

38 (2) repeated instances involving failure to adhere to the applicable
39 standard of dental, *dental therapy* or dental hygienist care to a degree
40 which constitutes ordinary negligence, as determined by the board; or

41 (3) a pattern of dental, *dental therapy* or dental hygienist practice or
42 other behavior which demonstrates a manifest incapacity or incompetence
43 to practice dentistry.

1 (d) In addition to or in lieu of one or more of the actions described in
 2 subsections (b)(1) through (b)(4) or in ~~subsection (e)~~ of K.S.A. 65-
 3 1444(c), and amendments thereto, the board may assess a fine not in
 4 excess of \$10,000 against a licensee. All fines collected pursuant to this
 5 subsection shall be remitted to the state treasurer in accordance with the
 6 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
 7 each such remittance, the state treasurer shall deposit the entire amount in
 8 the state treasury and of the amount so remitted, an amount equal to the
 9 board's actual costs related to fine assessment and enforcement under this
 10 subsection, as certified by the president of the board to the state treasurer,
 11 shall be credited to the dental board fee fund and the balance shall be
 12 credited to the state general fund.

13 (e) The board, upon its own motion or upon the request of any
 14 licensee who is a party to a licensure action, may require a physical or
 15 mental examination, or both, of such licensee either prior to a hearing to be
 16 held as a part of a licensure action or prior to the termination of any period
 17 of suspension or the termination of any restrictions imposed upon the
 18 licensee as provided in subsection (b).

19 Sec. 10. On and after July 1, 2019, K.S.A. 65-1441 is hereby
 20 amended to read as follows: 65-1441. Whoever sells or offers to sell a
 21 diploma conferring a dental degree, or a license granted pursuant to this
 22 act, or procures such diploma or license with intent that it be used as
 23 evidence of the right to practice dentistry, *dental therapy* or dental
 24 hygiene, as defined by law, by a person other than the one upon whom it
 25 was conferred, or to whom such license certificate or renewal certificate
 26 was granted, or with fraudulent intent alters such diploma or license
 27 certificate or renewal certificate, or uses or attempts to use it when it is so
 28 altered, shall be deemed guilty of a misdemeanor. The board may refuse to
 29 grant a license to practice dentistry, *dental therapy* or dental hygiene to
 30 any person found guilty of making a false statement, or cheating or of
 31 fraud or deception either in applying for a license or in taking any of the
 32 examinations provided for under the dental practices act.

33 Sec. 11. On and after July 1, 2019, K.S.A. 2016 Supp. 65-1447 is
 34 hereby amended to read as follows: 65-1447. (a) On or before October 1 of
 35 each year, the Kansas dental board shall determine the amount of funds
 36 which will be required during the ensuing fiscal year to properly
 37 administer the laws which the board is directed to enforce and administer
 38 and shall fix fees in accordance with this section in such reasonable sums
 39 as may be necessary for such purposes, within the limitations prescribed
 40 by subsection (b).

41 (b) The board shall collect fees provided for in this act as follows:
 42 Examination fee for dental applicants—not more than.....\$200
 43 Subsequent examination fee for dental applicants—not more

1 than.....100

2 Examination fee for specialty qualifications—not more

3 than.....200

4 Credentials/qualifications fee—not more than.....300

5 Duplicate certificate fee—not more than.....25

6 Certificate fee, including certificate for credentials/qualifications,

7 for dentists, *dental therapists* and dental hygienists—not

8 more than.....25

9 Biennial license renewal fee for dentists—not more than.....325

10 Examination fee for dental hygienist applicants—not more

11 than.....100

12 Subsequent examination fee for dental hygienist applicants—not

13 more than.....100

14 Biennial license renewal fee for dental hygienists—not

15 more than.....160

16 *Biennial license renewal fee for dental therapists—not more than.....200*

17 *Examination fee for dental therapist applicants—not more than.....150*

18 *Subsequent examination fee for dental therapist applicants—not*

19 *more than.....100*

20 Reinstatement of a revoked license—not more than.....2,000

21 Processing fee for failure to notify of change of address—not

22 more than.....100

23 Registration fee to operate a mobile dental facility or portable

24 dental operation—not more than.....500

25 Biennial registration renewal fee for mobile dental facility or

26 portable dental operation—not more than.....350

27 Sedation permit—not more than.....200

28 (c) The amounts of fees in effect on the day preceding the effective

29 date of this act and the act of which this section is amendatory shall remain

30 in effect until fixed in different amounts by the board under this section.

31 The board may adopt rules and regulations for the proration of fees for a

32 license issued for a period of time less than the biennial licensure period.

33 Sec. 12. On and after July 1, 2019, K.S.A. 65-1449 is hereby

34 amended to read as follows: 65-1449. (a) Except as provided by subsection

35 (b), no action to revoke or suspend a license shall be taken until the

36 licensee has been furnished a statement in writing of the charges against

37 the licensee, together with a notice of the time and place of the hearing.

38 The statement of charges and notice shall be served upon the licensee in

39 accordance with the provisions of the Kansas administrative procedure act.

40 (b) If the board determines that there is probable cause to revoke or

41 suspend the license of a dentist, *dental therapist* or dental hygienist for any

42 reason that exists pursuant to K.S.A. 65-1436, and amendments thereto,

43 and if the licensee's continued practice would constitute an imminent

1 danger to public health and safety, the board may initiate administrative
2 proceedings for an emergency adjudication under the provisions of the
3 Kansas administrative procedure act.

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

10 Sec. 13. On and after July 1, 2019, K.S.A. 65-1460 is hereby
11 amended to read as follows: 65-1460. Any person who shall practice
12 dentistry, *dental therapy* or dental hygiene in this state within the meaning
13 of this act without having first obtained a license from the board, or who
14 violates any of the provisions of this act, the penalty for which is not
15 herein specifically provided, shall be deemed guilty of a misdemeanor.
16 Anyone convicted of a misdemeanor under this act shall be punished by a
17 fine of not more than ~~one thousand dollars~~ \$1,000, or by imprisonment in
18 the county jail for not more than twelve months, or by both such fine and
19 imprisonment, in the discretion of the court.

20 Sec. 14. On and after July 1, 2019, K.S.A. 65-1462 is hereby
21 amended to read as follows: 65-1462. (a) No person reporting to the
22 Kansas dental board under oath and in good faith any information such
23 person may have relating to alleged incidents of malpractice or the
24 qualifications, fitness or character of a person licensed to practice dentistry
25 shall be subject to a civil action for damages as a result of reporting such
26 information.

27 (b) Any state, regional or local association of licensed dentists, *dental*
28 *therapists* or licensed dental hygienists, and the individual members of any
29 committee thereof, which in good faith investigates or communicates
30 information pertaining to the alleged incidents of malpractice or the
31 qualifications, fitness or character of any licensee to the Kansas dental
32 board or to any committee or agent thereof, shall be immune from liability
33 in any civil action, that is based upon such investigation or transmittal of
34 information if the investigation and communication was made in good
35 faith and did not represent as true any matter not reasonably believed to be
36 true.

37 Sec. 15. On and after July 1, 2019, K.S.A. 2016 Supp. 65-1469 is
38 hereby amended to read as follows: 65-1469. As used in this section:

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

41 (1) Any self-contained facility in which dentistry will be practiced,
42 which may be moved, towed or transported from one location to another.

43 (2) Any nonfacility in which dental equipment, utilized in the practice

1 of dentistry, is transported to and utilized on a temporary basis at an out-
2 of-office location, including, but not limited to: (A) Other dentists' offices;
3 (B) patients' homes; (C) schools; (D) nursing homes; or (E) other
4 institutions.

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

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

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

13 (A) Complete an application in the form and manner required by the
14 board; and

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

17 (c) (1) The registration under this section shall be renewed on March
18 1 of even-numbered years in the form and manner provided by the board
19 by rules and regulations.

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

22 (d) The board shall adopt rules and regulations as necessary to carry
23 out the provisions of this act. The rules and regulations shall include, but
24 not be limited to, requirements relating to the official address and
25 telephone number of the mobile dental facility or portable dental
26 operation, the proper maintenance of dental records, procedures for
27 emergency follow-up care for patients, appropriate communications
28 facilities, appropriate authorizations for treatment by dental patients,
29 follow-up treatment and services, personnel and address changes, notice to
30 be provided on cessation of operation and such other matters as the board
31 deems necessary to protect the public health and welfare.

32 (e) The board may refuse to issue a registration under this section or
33 may revoke or suspend a registration upon a finding by the board that an
34 applicant or person registered under this section has failed to comply with
35 any provision of the section or any rules and regulations adopted pursuant
36 to this section. No order refusing to issue a registration or order of
37 suspension or revocation shall be made or entered except after notice and
38 opportunity for hearing in accordance with the provisions of the Kansas
39 administrative procedure act. Any final order of suspension or revocation
40 of a license shall be reviewable in accordance with the Kansas judicial
41 review act.

42 (f) (1) This section applies to each operator of a mobile dental facility
43 or portable dental operation that provides dental services except those

1 specifically exempted by ~~subsection~~ *paragraph* (2).

2 (2) This section shall not apply to:

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

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

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

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

13 (E) a dentist *or dental therapist* who is providing dental services as a
14 charitable health care provider under K.S.A. 75-6102, and amendments
15 thereto;

16 (F) a dental hygienist who is providing dental hygiene services as a
17 charitable health care provider under K.S.A. 75-6102, and amendments
18 thereto; and

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

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

22 Sec. 16. On and after July 1, 2019, K.S.A. 2016 Supp. 65-4915 is
23 hereby amended to read as follows: 65-4915. (a) As used in this section:

24 (1) "Health care provider" means: (A) Those persons and entities
25 defined as a health care provider under K.S.A. 40-3401, and amendments
26 thereto; and (B) a dentist licensed by the Kansas dental board, *a dental*
27 *therapist licensed by the Kansas dental board*, a dental hygienist licensed
28 by the Kansas dental board, a professional nurse licensed by the board of
29 nursing, a practical nurse licensed by the board of nursing, a mental health
30 technician licensed by the board of nursing, a physical therapist licensed
31 by the state board of healing arts, a physical therapist assistant certified by
32 the state board of healing arts, an occupational therapist licensed by the
33 state board of healing arts, an occupational therapy assistant licensed by
34 the state board of healing arts, a respiratory therapist licensed by the state
35 board of healing arts, a physician assistant licensed by the state board of
36 healing arts and attendants and ambulance services certified by the
37 emergency medical services board.

38 (2) "Health care provider group" means:

39 (A) A state or local association of health care providers or one or
40 more committees thereof;

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

43 (C) an organization of health care providers formed pursuant to state

- 1 or federal law and authorized to evaluate medical and health care services;
- 2 (D) a review committee operating pursuant to K.S.A. 65-2840c, and
3 amendments thereto;
- 4 (E) an organized medical staff of a licensed medical care facility as
5 defined by K.S.A. 65-425, and amendments thereto, an organized medical
6 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
7 amendments thereto, or an organized medical staff of a state psychiatric
8 hospital or state institution for people with intellectual disability, as
9 follows: Larned state hospital, Osawatimie state hospital, Rainbow mental
10 health facility, Kansas neurological institute and Parsons state hospital and
11 training center;
- 12 (F) a health care provider;
- 13 (G) a professional society of health care providers or one or more
14 committees thereof;
- 15 (H) a Kansas corporation whose stockholders or members are health
16 care providers or an association of health care providers, which
17 corporation evaluates medical and health care services;
- 18 (I) an insurance company, health maintenance organization or
19 administrator of a health benefits plan which engages in any of the
20 functions defined as peer review under this section; or
- 21 (J) the university of Kansas medical center.
- 22 (3) "Peer review" means any of the following functions:
- 23 (A) Evaluate and improve the quality of health care services rendered
24 by health care providers;
- 25 (B) determine that health services rendered were professionally
26 indicated or were performed in compliance with the applicable standard of
27 care;
- 28 (C) determine that the cost of health care rendered was considered
29 reasonable by the providers of professional health services in this area;
- 30 (D) evaluate the qualifications, competence and performance of the
31 providers of health care or to act upon matters relating to the discipline of
32 any individual provider of health care;
- 33 (E) reduce morbidity or mortality;
- 34 (F) establish and enforce guidelines designed to keep within
35 reasonable bounds the cost of health care;
- 36 (G) conduct of research;
- 37 (H) determine if a hospital's facilities are being properly utilized;
- 38 (I) supervise, discipline, admit, determine privileges or control
39 members of a hospital's medical staff;
- 40 (J) review the professional qualifications or activities of health care
41 providers;
- 42 (K) evaluate the quantity, quality and timeliness of health care
43 services rendered to patients in the facility;

1 (L) evaluate, review or improve methods, procedures or treatments
2 being utilized by the medical care facility or by health care providers in a
3 facility rendering health care.

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

5 (A) An individual employed, designated or appointed by, or a
6 committee of or employed, designated or appointed by, a health care
7 provider group and authorized to perform peer review; or

8 (B) a health care provider monitoring the delivery of health care at
9 correctional institutions under the jurisdiction of the secretary of
10 corrections.

11 (b) Except as provided by K.S.A. 60-437, and amendments thereto,
12 and by subsections (c) and (d), the reports, statements, memoranda,
13 proceedings, findings and other records submitted to or generated by peer
14 review committees or officers shall be privileged and shall not be subject
15 to discovery, subpoena or other means of legal compulsion for their release
16 to any person or entity or be admissible in evidence in any judicial or
17 administrative proceeding. Information contained in such records shall not
18 be discoverable or admissible at trial in the form of testimony by an
19 individual who participated in the peer review process. The peer review
20 officer or committee creating or initially receiving the record is the holder
21 of the privilege established by this section. This privilege may be claimed
22 by the legal entity creating the peer review committee or officer, or by the
23 commissioner of insurance for any records or proceedings of the board of
24 governors.

25 (c) Subsection (b) shall not apply to proceedings in which a health
26 care provider contests the revocation, denial, restriction or termination of
27 staff privileges or the license, registration, certification or other
28 authorization to practice of the health care provider. A licensing agency in
29 conducting a disciplinary proceeding in which admission of any peer
30 review committee report, record or testimony is proposed shall hold the
31 hearing in closed session when any such report, record or testimony is
32 disclosed. Unless otherwise provided by law, a licensing agency
33 conducting a disciplinary proceeding may close only that portion of the
34 hearing in which disclosure of a report or record privileged under this
35 section is proposed. In closing a portion of a hearing as provided by this
36 section, the presiding officer may exclude any person from the hearing
37 location except the licensee, the licensee's attorney, the agency's attorney,
38 the witness, the court reporter and appropriate staff support for either
39 counsel. The licensing agency shall make the portions of the agency record
40 in which such report or record is disclosed subject to a protective order
41 prohibiting further disclosure of such report or record. Such report or
42 record shall not be subject to discovery, subpoena or other means of legal
43 compulsion for their release to any person or entity. No person in

1 attendance at a closed portion of a disciplinary proceeding shall at a
2 subsequent civil, criminal or administrative hearing, be required to testify
3 regarding the existence or content of a report or record privileged under
4 this section which was disclosed in a closed portion of a hearing, nor shall
5 such testimony be admitted into evidence in any subsequent civil, criminal
6 or administrative hearing. A licensing agency conducting a disciplinary
7 proceeding may review peer review committee records, testimony or
8 reports but must prove its findings with independently obtained testimony
9 or records which shall be presented as part of the disciplinary proceeding
10 in open meeting of the licensing agency. Offering such testimony or
11 records in an open public hearing shall not be deemed a waiver of the peer
12 review privilege relating to any peer review committee testimony, records
13 or report.

14 (d) Nothing in this section shall limit the authority, which may
15 otherwise be provided by law, of the commissioner of insurance, the state
16 board of healing arts or other health care provider licensing or disciplinary
17 boards of this state to require a peer review committee or officer to report
18 to it any disciplinary action or recommendation of such committee or
19 officer; to transfer to it records of such committee's or officer's
20 proceedings or actions to restrict or revoke the license, registration,
21 certification or other authorization to practice of a health care provider; or
22 to terminate the liability of the fund for all claims against a specific health
23 care provider for damages for death or personal injury pursuant to
24 ~~subsection (i) of K.S.A. 40-3403(i)~~, and amendments thereto. Reports and
25 records so furnished shall not be subject to discovery, subpoena or other
26 means of legal compulsion for their release to any person or entity and
27 shall not be admissible in evidence in any judicial or administrative
28 proceeding other than a disciplinary proceeding by the state board of
29 healing arts or other health care provider licensing or disciplinary boards
30 of this state.

31 (e) A peer review committee or officer may report to and discuss its
32 activities, information and findings to other peer review committees or
33 officers or to a board of directors or an administrative officer of a health
34 care provider without waiver of the privilege provided by subsection (b)
35 and the records of all such committees or officers relating to such report
36 shall be privileged as provided by subsection (b).

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

41 Sec. 17. On and after July 1, 2019, K.S.A. 2016 Supp. 65-4921 is
42 hereby amended to read as follows: 65-4921. As used in K.S.A. 65-4921
43 through 65-4930, and amendments thereto:

1 (a) "Appropriate licensing agency" means the agency that issued the
2 license to the individual or health care provider who is the subject of a
3 report under this act.

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

5 (c) "Health care provider" means: (1) Those persons and entities
6 defined as a health care provider under K.S.A. 40-3401, and amendments
7 thereto; and (2) a dentist licensed by the Kansas dental board, *a dental*
8 *therapist licensed by the Kansas dental board*, a dental hygienist licensed
9 by the Kansas dental board, a professional nurse licensed by the board of
10 nursing, a practical nurse licensed by the board of nursing, a mental health
11 technician licensed by the board of nursing, a physical therapist licensed
12 by the state board of healing arts, a physical therapist assistant certified by
13 the state board of healing arts, an occupational therapist licensed by the
14 state board of healing arts, an occupational therapy assistant licensed by
15 the state board of healing arts and a respiratory therapist licensed by the
16 state board of healing arts.

17 (d) "License," "licensee" and "licensing" include comparable terms
18 which relate to regulation similar to licensure, such as registration.

19 (e) "Medical care facility" means: (1) A medical care facility licensed
20 under K.S.A. 65-425 et seq., and amendments thereto; (2) a private
21 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments
22 thereto; and (3) state psychiatric hospitals and state institutions for people
23 with intellectual disability, as follows: Larned state hospital, Osawatomie
24 state hospital, Rainbow mental health facility, Kansas neurological
25 institute and Parsons state hospital and training center.

26 (f) "Reportable incident" means an act by a health care provider
27 which: (1) Is or may be below the applicable standard of care and has a
28 reasonable probability of causing injury to a patient; or (2) may be grounds
29 for disciplinary action by the appropriate licensing agency.

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

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

34 Sec. 18. On and after July 1, 2019, K.S.A. 2016 Supp. 65-5912 is
35 hereby amended to read as follows: 65-5912. (a) Nothing in this act shall
36 be construed to require any insurer or other entity regulated under chapter
37 40 of the Kansas Statutes Annotated, *and amendments thereto*, or any
38 other law of this state to provide coverage for or indemnify for the services
39 provided by a person licensed under this act.

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

- 1 (1) To any person licensed to practice the healing arts, a licensed
2 dentist, *a licensed dental therapist*, a licensed dental hygienist, a licensed
3 professional nurse, a licensed practical nurse, a licensed psychologist, a
4 licensed masters level psychologist, a licensed pharmacist or an employee
5 thereof, a physician assistant, a licensed professional counselor;
- 6 (2) to any unlicensed employee of a licensed adult care home or a
7 licensed medical care facility as long as such person is working under the
8 general direction of a licensee in the healing arts, nursing or a dietetic
9 services supervisor as defined in regulations adopted by the secretary of
10 health and environment or a consultant licensed under this act;
- 11 (3) to any dietetic technician or dietetic assistant;
- 12 (4) to any student enrolled in an approved academic program in
13 dietetics, home economics, nutrition, education or other like curriculum,
14 while engaged in such academic program;
- 15 (5) to prevent any person, including persons employed in health food
16 stores, from furnishing nutrition information as to the use of food, food
17 materials or dietary supplements, nor to prevent in any way the free
18 dissemination of information or of literature as long as no individual
19 engaged in such practices holds oneself out as being licensed under this
20 act;
- 21 (6) to prohibit any individual from marketing or distributing food
22 products, including dietary supplements, or to prevent any such person
23 from providing information to customers regarding the use of such
24 products;
- 25 (7) to prevent any employee of the state or a political subdivision who
26 is employed in nutrition-related programs from engaging in activities
27 included within the definition of dietetics practice as a part of such
28 person's employment;
- 29 (8) to any person who performs the activities and services of a
30 licensed dietitian or nutrition educator as an employee of the state or a
31 political subdivision, an elementary or secondary school, an educational
32 institution, a licensed institution, or a not-for-profit organization;
- 33 (9) to any person serving in the armed forces, the public health
34 service, the veterans administration or as an employee of the federal
35 government;
- 36 (10) to any person who has a degree in home economics insofar as
37 the activities of such person are within the scope of such person's
38 education and training;
- 39 (11) to any person who counsels or provides weight-control services
40 as a part of a franchised or recognized weight-control program or a
41 weight-control program that operates under the general direction of a
42 person licensed to practice the healing arts, nursing or a person licensed
43 under this act;

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

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

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

10 (15) to any person conducting a teaching clinical demonstration
11 which is carried out in an educational institution or an affiliated clinical
12 facility or health care agency;

13 (16) to any person conducting classes or disseminating information
14 relating to nonmedical nutrition; or

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

17 (c) Nothing in this act shall be construed to interfere with the
18 religious practices or observances of a bona fide religious organization,
19 nor to prevent any person from caring for the sick in accordance with
20 tenets and practices of any church or religious denomination which teaches
21 reliance upon spiritual means through prayer for healing.

22 Sec. 19. On and after July 1, 2019, K.S.A. 2016 Supp. 65-7304 is
23 hereby amended to read as follows: 65-7304. The following shall be
24 exempt from the requirement of a license pursuant to this act:

25 (a) A licensed practitioner;

26 (b) a person issued a postgraduate permit by the board or students
27 while in actual attendance in an accredited health care educational
28 program for radiologic technology and under the supervision of a qualified
29 instructor;

30 (c) health care providers in the United States armed forces, public
31 health services, federal facilities and other military service when acting in
32 the line of duty in this state;

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

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

40 (f) a licensed physician assistant, a licensed nurse or an unlicensed
41 person performing radiologic technology procedures who is: (1) Working
42 under the supervision of a licensed practitioner or a person designated by a
43 hospital licensed pursuant to K.S.A. 65-425 et seq., and amendments

1 thereto; and (2) who has been trained on the proper use of equipment for
2 the purpose of performing radiologic technology procedures consistent
3 with K.S.A. 65-2001 et seq.; or K.S.A. 65-2801 et seq., and amendments
4 thereto. The board shall adopt rules and regulations to assure that persons
5 exempted from licensure under this subsection receive continuing
6 education consistent with their practice authorized herein.

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

8 Sec. 20. On and after July 1, 2019, K.S.A. 74-1404 is hereby
9 amended to read as follows: 74-1404. (a) In order to accomplish the
10 purpose and to provide for the enforcement of this act, there is hereby
11 created the Kansas dental board. The board shall be vested with authority
12 to carry out the purposes and enforce the provisions of this act. The board
13 shall consist of the following: (1) Six licensed and qualified resident
14 dentists; (2) *two licensed and qualified resident dental therapists*; (3) two
15 licensed and qualified resident dental hygienists; and ~~(3) (4) one~~
16 representative of the general public. At least 30 days before the expiration
17 of any term, other than that of the member appointed from the general
18 public or a member who is a dental hygienist *or a dental therapist*, the
19 Kansas dental association or its successor shall submit to the governor a
20 list of three names of persons of recognized ability who have the
21 qualifications prescribed for the dentist board members. *At least 30 days*
22 *before the initial appointment and expiration of the term of a dental*
23 *therapist member of the board, the Kansas dental hygienists' association*
24 *shall submit to the governor a list of three names of persons of recognized*
25 *ability who have the qualifications prescribed for the dental therapist*
26 *members.* At least 30 days before the expiration of the term of ~~the~~ a dental
27 hygienist member of the board, the Kansas dental ~~hygiene~~ *hygienists'*
28 association shall submit to the governor a list of three names of persons of
29 recognized ability who have the qualifications prescribed for the dental
30 hygienist ~~member members.~~ ~~For the four new members to be appointed~~
31 ~~under this act, such names shall be submitted within 10 days after the~~
32 ~~effective date of this act.~~ The governor shall consider such list of persons
33 in making the appointment to the board.

34 (b) The members shall be appointed by the governor in the manner
35 hereinafter prescribed for terms of four years and until their successors are
36 appointed and qualified. Of the six licensed dentists on the board, one shall
37 be appointed from each congressional district and two shall be appointed
38 from the state at large. On and after the effective date of this act, no person
39 shall be appointed for more than two consecutive four-year terms. No
40 person in any way connected with a dental supply or dental laboratory
41 business shall be eligible for appointment to the board. No person shall be
42 eligible for appointment to the board who has been convicted of a
43 violation of any of the provisions of this or any other prior dental ~~practice~~

1 *practices* act or who has been convicted of a felony. A dentist who is an
2 officer of the Kansas dental association shall not be eligible for
3 appointment to the Kansas dental board. A dental hygienist *or a dental*
4 *therapist* who is an officer of the Kansas dental hygienists' association
5 shall not be eligible for appointment to the Kansas dental board. No
6 dentist, *dental therapist* or dental hygienist shall be appointed to the board
7 who has not been engaged in the active practice of dentistry, *dental*
8 *therapy* or dental hygiene in the state of Kansas for at least five years next
9 preceding appointment. Whenever a vacancy occurs it shall be filled by
10 appointment for the remainder of the unexpired term in the same manner
11 as an original appointment is made. *Upon expiration of terms of office of*
12 *members, successors shall be appointed for terms of four years in the*
13 *same manner as original appointments.*

14 ~~(e) Upon the effective date of this act, in order to expand the~~
15 ~~membership to the prescribed six dentists and two dental hygienists, the~~
16 ~~governor shall appoint three additional dentists and one additional~~
17 ~~hygienist to the board in the manner described in this section. Of the three~~
18 ~~new dental members, one shall serve until April 30, 2000, one shall serve~~
19 ~~until April 30, 2001 and one shall serve until April 30, 2002, as designated~~
20 ~~by the governor. Thereafter, all terms shall be four-year terms beginning~~
21 ~~May 1 of the appointment year and expiring April 30 four years later.~~
22 ~~When the terms of the existing dentist members which expire May 1,~~
23 ~~2000, and May 1, 2001 conclude, then successors shall be appointed for~~
24 ~~four year terms beginning May 1 and expiring April 30 four years later.~~
25 ~~The additional dental hygienist appointed upon the effective date of this~~
26 ~~act shall serve until April 30, 2002, and thereafter the successor shall serve~~
27 ~~a four-year term beginning May 1 and expiring April 30 four years later.~~
28 ~~Upon the expiration of terms of office of members, successors shall be~~
29 ~~appointed in the same manner as original appointments for terms of four~~
30 ~~years.~~

31 Sec. 21. On and after July 1, 2019, K.S.A. 2016 Supp. 74-1405 is
32 hereby amended to read as follows: 74-1405. (a) The board at its first
33 meeting day of each year shall elect from its members a president, vice-
34 president and secretary. The board shall have a common seal. The board
35 shall hold two regular meetings each year at times to be fixed by the board,
36 and special meetings at such other times as may be necessary.

37 (b) Members of the Kansas dental board attending meetings of such
38 board, or attending a subcommittee meeting thereof authorized by such
39 board, or conducting examinations for dental, *dental therapist* or dental
40 hygienists licenses or conducting inspections of dental laboratories
41 required by K.S.A. 65-1438, and amendments thereto, shall be paid
42 compensation, subsistence allowances, mileage and other expenses as
43 provided in K.S.A. 75-3223, and amendments thereto. Members of the

1 board conducting examinations for dental, *dental therapist* or dental
2 hygienists licenses may receive amounts for compensation, subsistence
3 allowances, mileage or other expenses from a nonstate agency for
4 conducting such examinations but no member receiving any such amounts
5 shall be paid any compensation, subsistence allowances, mileage or other
6 expenses under this section for conducting such examinations.

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

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

17 (e) The board in its discretion may affiliate as an active member with
18 the national association of dental examiners and any organization of one or
19 more state boards for the purpose of conducting a standard examination of
20 candidates for licensure as dentists, *dental therapists* or dental hygienists
21 and pay regular dues to such association or organization, and may send
22 members of the board to the meetings of the national association and the
23 meetings of any organization of state boards of dental examiners organized
24 for the purpose of conducting a standard examination of candidates for
25 licensure as dentists, *dental therapists* and dental hygienists.

26 (f) The executive director shall remit all moneys received by or for
27 such executive director from fees, charges or penalties to the state treasurer
28 in accordance with the provisions of K.S.A. 75-4215, and amendments
29 thereto. Upon receipt of each such remittance, the state treasurer shall
30 deposit the entire amount in the state treasury. Ten percent of each such
31 deposit shall be credited to the state general fund and the balance shall be
32 credited to the dental board fee fund. All expenditures from such fund shall
33 be made in accordance with appropriation acts upon warrants of the
34 director of accounts and reports issued pursuant to vouchers approved by
35 the president of the board or by a person or persons designated by the
36 president.

37 Sec. 22. On and after July 1, 2019, K.S.A. 74-1406 is hereby
38 amended to read as follows: 74-1406. The board shall exercise, subject to
39 the provisions of this act, the following powers and duties:

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

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

43 (c) Adopt rules and regulations regarding sanitation.

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

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

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

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

7 (h) Grant licenses, issue license certificates as specialists in dentistry
8 and issue renewal licenses and certificates as specialists in dentistry in
9 conformity with this act to such applicants and dentists as have been found
10 qualified.

11 (i) Conduct hearings or proceedings to revoke or suspend and to
12 revoke or suspend a license, certificate or renewal license or certificate
13 granted under the authority of this act or previous acts.

14 (j) Employ such persons as it may deem necessary to assist in
15 carrying out the duties of the board in the administration and enforcement
16 of this act, and to provide offices, furniture, fixtures, supplies, printing or
17 secretarial service, and may expend such funds as may be deemed
18 necessary therefor, and may appoint an attorney to advise and assist in the
19 carrying out and enforcing of the provisions of this act.

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

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

26 Sec. 23. On and after July 1, 2019, K.S.A. 2016 Supp. 75-2935 is
27 hereby amended to read as follows: 75-2935. The civil service of the state
28 of Kansas is hereby divided into the unclassified and the classified
29 services.

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

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

33 (b) members of boards and commissions, heads of departments
34 required by law to be appointed by the governor or by other elective
35 officers, and the executive or administrative heads of offices, departments,
36 divisions and institutions specifically established by law;

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

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

41 (e) officers and employees of the senate and house of representatives
42 of the legislature and of the legislative coordinating council and all officers
43 and employees of the office of revisor of statutes, of the legislative

1 research department, of the division of legislative administrative services,
2 of the division of post audit and the legislative counsel;

3 (f) chancellor, president, deans, administrative officers, student health
4 service physicians, pharmacists, teaching and research personnel, health
5 care employees and student employees in the institutions under the state
6 board of regents, the executive officer of the board of regents and the
7 executive officer's employees other than clerical employees, and, at the
8 discretion of the state board of regents, directors or administrative officers
9 of departments and divisions of the institution and county extension
10 agents, except that this ~~subsection (1)(f) paragraph~~ shall not be construed
11 to include the custodial, clerical or maintenance employees, or any
12 employees performing duties in connection with the business operations of
13 any such institution, except administrative officers and directors; as used
14 in this ~~subsection (1)(f) paragraph~~, "health care employees" means
15 employees of the university of Kansas medical center who provide health
16 care services at the university of Kansas medical center and who are
17 medical technicians or technologists or respiratory therapists, who are
18 licensed professional nurses or licensed practical nurses, or who are in job
19 classes which are designated for this purpose by the chancellor of the
20 university of Kansas upon a finding by the chancellor that such
21 designation is required for the university of Kansas medical center to
22 recruit or retain personnel for positions in the designated job classes; and
23 employees of any institution under the state board of regents who are
24 medical technologists;

25 (g) operations, maintenance and security personnel employed to
26 implement agreements entered into by the adjutant general and the federal
27 national guard bureau, and officers and enlisted persons in the national
28 guard and the naval militia;

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

32 (i) persons temporarily employed or designated by the legislature or
33 by a legislative committee or commission or other competent authority to
34 make or conduct a special inquiry, investigation, examination or
35 installation;

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

41 (k) all employees of courts;

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

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

- 1 (n) the secretary and assistant secretary of the Kansas state historical
2 society;
- 3 (o) physician specialists, dentists, *dental therapists*, dental hygienists,
4 pharmacists, medical technologists and long term care workers employed
5 by the Kansas department for aging and disability services;
- 6 (p) physician specialists, dentists and medical technologists employed
7 by any board, commission or department or by any institution under the
8 jurisdiction thereof;
- 9 (q) student employees enrolled in public institutions of higher
10 learning;
- 11 (r) administrative officers, directors and teaching personnel of the
12 state board of education and the state department of education and of any
13 institution under the supervision and control of the state board of
14 education, except that this ~~subsection (1)(r)~~ *paragraph* shall not be
15 construed to include the custodial, clerical or maintenance employees, or
16 any employees performing duties in connection with the business
17 operations of any such institution, except administrative officers and
18 directors;
- 19 (s) all officers and employees in the office of the secretary of state;
- 20 (t) one personal secretary and one special assistant to the following:
21 The secretary of administration, the secretary for aging and disability
22 services, the secretary of agriculture, the secretary of commerce, the
23 secretary of corrections, the secretary of health and environment, the
24 superintendent of the Kansas highway patrol, the secretary of labor, the
25 secretary of revenue, the secretary for children and families, the secretary
26 of transportation, the secretary of wildlife, parks and tourism and the
27 commissioner of juvenile justice;
- 28 (u) one personal secretary and one special assistant to the chancellor
29 and presidents of institutions under the state board of regents;
- 30 (v) one personal secretary and one special assistant to the executive
31 vice chancellor of the university of Kansas medical center;
- 32 (w) one public information officer and one chief attorney for the
33 following: The department of administration, the Kansas department for
34 aging and disability services, the department of agriculture, the department
35 of commerce, the department of corrections, the department of health and
36 environment, the department of labor, the department of revenue, the
37 Kansas department for children and families, the department of
38 transportation, the Kansas department of wildlife, parks and tourism and
39 the commissioner of juvenile justice;
- 40 (x) if designated by the appointing authority, persons in newly hired
41 positions, including any employee who is rehired into such position and
42 any current state employee who voluntarily transfers into, or is voluntarily
43 promoted or demoted into such position, on and after July 1, 2015, in any

1 state agency;

2 (y) one executive director, one general counsel and one director of
3 public affairs and consumer protection in the office of the state corporation
4 commission;

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

6 (aa) any position that is classified as a position in the information
7 resource manager job class series, that is the chief position responsible for
8 all information resources management for a state agency, and that becomes
9 vacant on or after the effective date of this act. Nothing in this section shall
10 affect the classified status of any employee in the classified service who is
11 employed on the date immediately preceding the effective date of this act
12 in any position that is a classified position in the information resource
13 manager job class series and the unclassified status as prescribed by this
14 subsection shall apply only to a person appointed to any such position on
15 or after the effective date of this act that is the chief position responsible
16 for all information resources management for a state agency;

17 (bb) positions at state institutions of higher education that have been
18 converted to unclassified positions pursuant to K.S.A. 2016 Supp. 76-
19 715a, and amendments thereto; and

20 (cc) notwithstanding the provisions of K.S.A. 22-4524, 32-802, 44-
21 510g, 44-551, 44-552, 48-205, 48-919, 49-402e, 58-4105, 58-4503, 65-
22 2878, 65-6103, 73-1210a, 73-1234, 74-515b, 74-561, 74-569, 74-631, 74-
23 1106, 74-1704, 74-1806, 74-2435, 74-2614, 74-2702, 74-2906a, 74-5014,
24 74-5210, 74-6707, 74-6901, 74-6904, 74-7008, 74-7501, 74-8704, 74-
25 8805, 74-9804, 75-118, 75-1202d, 75-2537, 75-2944, 75-3148, 75-3702c,
26 75-4222, 75-5005, 75-5015, 75-5016, 75-5122, 75-5157, 75-5309, 75-
27 5310, 75-5378, 75-5610, 75-5702, 75-5708, 75-5733, 75-5910, 75-7028,
28 75-7054, 75-7304, 76-1002a, 76-1116, 76-12a04, 76-12a05, 76-12a08, 76-
29 12a16, 76-3202 and 82a-1205 and K.S.A. 2016 Supp. 39-1911, and
30 amendments thereto, any vacant position within the classified service may
31 be converted by the appointing authority to an unclassified position.

32 (2) The classified service comprises all positions now existing or
33 hereafter created which are not included in the unclassified service.
34 Appointments in the classified service shall be made according to merit
35 and fitness from eligible pools which so far as practicable shall be
36 competitive. No person shall be appointed, promoted, reduced or
37 discharged as an officer, clerk, employee or laborer in the classified
38 service in any manner or by any means other than those prescribed in the
39 Kansas civil service act and the rules adopted in accordance therewith.

40 (3) For positions involving unskilled, or semiskilled duties, the
41 secretary of administration, as provided by law, shall establish rules and
42 regulations concerning certifications, appointments, layoffs and
43 reemployment which may be different from the rules and regulations

1 established concerning these processes for other positions in the classified
2 service.

3 (4) Officers authorized by law to make appointments to positions in
4 the unclassified service, and appointing officers of departments or
5 institutions whose employees are exempt from the provisions of the
6 Kansas civil service act because of the constitutional status of such
7 departments or institutions shall be permitted to make appointments from
8 appropriate pools of eligibles maintained by the division of personnel
9 services.

10 (5) On and after the effective date of this act, any state agency that
11 has positions in the classified service within the Kansas civil service act to
12 satisfy any requirement of maintaining personnel standards on a merit
13 basis pursuant to federal law or the rules and regulations promulgated
14 thereunder by the federal government or any agency thereof, shall adopt a
15 binding statement of agency policy pursuant to K.S.A. 77-415, and
16 amendments thereto, to satisfy such requirements if the appointing
17 authority has made any such position unclassified.

18 Sec. 24. On and after July 1, 2019, K.S.A. 2016 Supp. 75-6102 is
19 hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101
20 through 75-6118, and amendments thereto, unless the context clearly
21 requires otherwise:

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

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

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

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

35 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
36 8818, and amendments thereto, regardless of whether the services of such
37 steward or racing judge are rendered pursuant to contract as an
38 independent contractor;

39 (C) employees of the United States marshal's service engaged in the
40 transportation of inmates on behalf of the secretary of corrections;

41 (D) a person who is an employee of a nonprofit independent
42 contractor, other than a municipality, under contract to provide educational
43 or vocational training to inmates in the custody of the secretary of

1 corrections and who is engaged in providing such service in an institution
2 under the control of the secretary of corrections provided that such
3 employee does not otherwise have coverage for such acts and omissions
4 within the scope of their employment through a liability insurance contract
5 of such independent contractor;

6 (E) a person who is an employee or volunteer of a nonprofit program,
7 other than a municipality, who has contracted with the commissioner of
8 juvenile justice or with another nonprofit program that has contracted with
9 the secretary of corrections to provide a juvenile justice program for
10 juvenile offenders in a judicial district provided that such employee or
11 volunteer does not otherwise have coverage for such acts and omissions
12 within the scope of their employment or volunteer activities through a
13 liability insurance contract of such nonprofit program;

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

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

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

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

24 (J) any member of a regional search and rescue team or regional
25 hazardous materials response team contracting with the state fire marshal
26 pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2016 Supp.
27 75-1518, and amendments thereto, in connection with authorized training
28 or upon activation for an emergency response; and

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

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

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

36 (e) "Charitable healthcare provider" means a person licensed by the
37 state board of healing arts as an exempt licensee or a federally active
38 licensee, a person issued a limited permit by the state board of healing arts,
39 a physician assistant licensed by the state board of healing arts, a mental
40 health practitioner licensed by the behavioral sciences regulatory board, an
41 ultrasound technologist currently registered in any area of sonography
42 credentialed through the American registry of radiology technologists, the
43 American registry for diagnostic medical sonography or cardiovascular

1 credentialing international and working under the supervision of a person
2 licensed to practice medicine and surgery, or a healthcare provider as the
3 term "healthcare provider" is defined under K.S.A. 65-4921, and
4 amendments thereto, who has entered into an agreement with:

5 (1) The secretary of health and environment under K.S.A. 75-6120,
6 and amendments thereto, who, pursuant to such agreement, gratuitously
7 renders professional services to a person who has provided information
8 which would reasonably lead the healthcare provider to make the good
9 faith assumption that such person meets the definition of medically
10 indigent person as defined by this section or to a person receiving medical
11 assistance from the programs operated by the department of health and
12 environment, and who is considered an employee of the state of Kansas
13 under K.S.A. 75-6120, and amendments thereto;

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

17 (3) a local health department or indigent healthcare clinic, which
18 renders professional services to medically indigent persons or persons
19 receiving medical assistance from the programs operated by the
20 department of health and environment gratuitously or for a fee paid by the
21 local health department or indigent healthcare clinic to such provider and
22 who is considered an employee of the state of Kansas under K.S.A. 75-
23 6120, and amendments thereto. Professional services rendered by a
24 provider under this paragraph shall be considered gratuitous
25 notwithstanding fees based on income eligibility guidelines charged by a
26 local health department or indigent healthcare clinic and notwithstanding
27 any fee paid by the local health department or indigent healthcare clinic to
28 a provider in accordance with this paragraph; or

29 (4) the secretary of health and environment to provide dentistry
30 services defined by K.S.A. 65-1422 et seq., and amendments thereto,
31 *dental therapy services defined by section 3, and amendments thereto*, or
32 dental hygienist services defined by K.S.A. 65-1456, and amendments
33 thereto, that are targeted, but are not limited to, medically indigent
34 persons, and are provided on a gratuitous basis: (A) At a location
35 sponsored by a not-for-profit organization that is not the dentist or dental
36 hygienist office location; (B) at the office location of a dentist or dental
37 hygienist provided the care be delivered as part of a program organized by
38 a not-for-profit organization and approved by the secretary of health and
39 environment; or (C) as part of a charitable program organized by the
40 dentist that has been approved by the secretary of health and environment
41 upon a showing that the dentist seeks to treat medically indigent patients
42 on a gratuitous basis, except that such dentistry services and dental
43 hygienist services shall not include "oral and maxillofacial surgery" as

1 defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result
2 in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

3 (f) "Medically indigent person" means a person who lacks resources
4 to pay for medically necessary healthcare services and who meets the
5 eligibility criteria for qualification as a medically indigent person
6 established by the secretary of health and environment under K.S.A. 75-
7 6120, and amendments thereto.

8 (g) "Indigent healthcare clinic" means an outpatient medical care
9 clinic operated on a not-for-profit basis which has a contractual agreement
10 in effect with the secretary of health and environment to provide
11 healthcare services to medically indigent persons.

12 (h) "Local health department" shall have the meaning ascribed to
13 such term under K.S.A. 65-241, and amendments thereto.

14 (i) "Fire control, fire rescue or emergency medical services
15 equipment" means any vehicle, firefighting tool, protective clothing,
16 breathing apparatus and any other supplies, tools or equipment used in
17 firefighting or fire rescue or in the provision of emergency medical
18 services.

19 (j) "Community mental health center" means any community mental
20 health center organized pursuant to K.S.A. 19-4001 through 19-4015, and
21 amendments thereto, or a mental health clinic organized pursuant to
22 K.S.A. 65-211 through 65-215, and amendments thereto, and licensed in
23 accordance with K.S.A. 75-3307b, and amendments thereto.

24 Sec. 25. On and after July 1, 2019, K.S.A. 65-1421, 65-1441, 65-
25 1449, 65-1460, 65-1462, 74-1404 and 74-1406 and K.S.A. 2016 Supp. 65-
26 1424, 65-1431, 65-1434, 65-1436, 65-1447, 65-1469, 65-4915, 65-4921,
27 65-5912, 65-7304, 74-1405, 75-2935 and 75-6102 are hereby repealed.

28 Sec. 26. This act shall take effect and be in force from and after its
29 publication in the statute book.