

SENATE BILL No. 217

By Committee on Ways and Means

3-6

1 AN ACT concerning the Kansas department for aging and disability
2 services; updating certain statutory references and making technical
3 changes related thereto; amending K.S.A. 19-4016, 40-2,116, 40-12a01
4 and 74-3292 and K.S.A. 2016 Supp. 12-736, 21-5417, 21-6109, 22-
5 4612, 36-501, 39-1430, 39-1431, 39-1433, 39-1602, 39-1903, 40-
6 2,105, 40-2,105a, 40-3401, 40-3403, 59-2946, 59-29b46, 59-3077, 65-
7 1626, 65-1669, 65-2895, 65-4412, 65-4432, 65-4915, 65-4921, 65-
8 5601, 65-6805, 75-5923, 75-6102, 79-201b and 79-3606 and repealing
9 the existing sections.

10
11 *Be it enacted by the Legislature of the State of Kansas:*

12 Section 1. K.S.A. 2016 Supp. 12-736 is hereby amended to read as
13 follows: 12-736. (a) It is hereby declared to be the policy of the state of
14 Kansas that persons with a disability shall not be excluded from the
15 benefits of single family residential surroundings by any municipal zoning
16 ordinance, resolution or regulation.

17 (b) For the purpose of this act:

18 (1) "Group home" means any dwelling occupied by not more than 10
19 persons, including eight or fewer persons with a disability who need not be
20 related by blood or marriage and not to exceed two staff residents who
21 need not be related by blood or marriage to each other or to the residents
22 of the home, which dwelling is licensed by a regulatory agency of this
23 state;

24 (2) "municipality" means any township, city or county located in
25 Kansas;

26 (3) "disability" means, with respect to a person:

27 (A) A physical or mental impairment ~~which~~ *that* substantially limits
28 one or more of such person's major life activities;

29 (B) a record of having such an impairment; or

30 (C) being regarded as having such an impairment. Such term does not
31 include current, illegal use of or addiction to a controlled substance, as
32 defined in section 102 of the controlled substance act, (21 U.S.C. § 802);

33 (4) "licensed provider" means a person or agency who provides
34 mental health services and is licensed by:

35 (A) The Kansas department for aging and disability services pursuant
36 to K.S.A. ~~75-3307b~~ or 65-425 et seq. *or K.S.A. 2016 Supp. 39-2001 et*

1 *seq.*, and amendments thereto; or

2 (B) the behavioral sciences regulatory board pursuant to K.S.A. 75-
3 5346 et seq. or 74-5301 et seq., and amendments thereto; or

4 (C) the state board of healing arts pursuant to K.S.A. 65-2801 et seq.,
5 and amendments thereto.

6 (c) (1) No mentally ill person shall be eligible for placement in a
7 group home unless such person has been evaluated by a licensed provider
8 and such provider determines that the mentally ill person is not dangerous
9 to others and is suitable for group-home placement. A group home shall
10 not be a licensed provider for the purposes of evaluating or approving for
11 placement a mentally ill person in a group home.

12 (2) No person shall be eligible for placement in a group home if such
13 person is: (A) Assigned to a community corrections program or a diversion
14 program; (B) on parole from a correctional institution or on probation for a
15 felony offense; or (C) in a state mental institution following a finding of
16 mental disease or defect excluding criminal responsibility, pursuant to
17 K.S.A. 22-3220 and 22-3221, and amendments thereto.

18 (d) No person shall be placed in a group home under this act unless
19 such dwelling is licensed as a group home by the *Kansas* department for
20 aging and disability services or the department of health and environment.

21 (e) No municipality shall prohibit the location of a group home in any
22 zone or area where single family dwellings are permitted. Any zoning
23 ordinance, resolution or regulation ~~which~~ *that* prohibits the location of a
24 group home in such zone or area or ~~which~~ *that* subjects group homes to
25 regulations not applicable to other single family dwellings in the same
26 zone or area is invalid. Notwithstanding the provisions of this act, group
27 homes shall be subject to all other regulations applicable to other property
28 and buildings located in the zone or area that are imposed by any
29 municipality through zoning ordinance, resolution or regulation, its
30 building regulatory codes, subdivision regulations or other
31 nondiscriminatory regulations.

32 (f) No person or entity shall contract or enter into a contract,
33 restrictive covenant, equitable servitude or such similar restriction, ~~which~~
34 *that* would restrict group homes or their location in a manner inconsistent
35 with the provisions of subsection (e).

36 Sec. 2. K.S.A. 19-4016 is hereby amended to read as follows: 19-
37 4016. (a) The governing board of a community mental health center ~~which~~
38 *that* is organized pursuant to K.S.A. 19-4001 et seq., and amendments
39 thereto, and ~~which~~ *that* is licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-*
40 *2001 et seq.*, and amendments thereto, is hereby authorized to expend
41 funds of the community mental health center to provide loans or
42 scholarships to aid in financing the education of persons studying to
43 become licensed psychologists or licensed in one of the social work

1 specialties and who agree, upon completion of their education and
2 attainment of such licensure, to become members of the staff of the
3 community mental health center.

4 (b) Every agreement entered into under this section shall be in
5 writing; *and* shall specify the amount of financial assistance to be
6 provided, the terms of eligibility for such financial assistance, the length of
7 employment with the community mental health center required as a
8 condition to the receipt of such financial assistance, the circumstances
9 under which such employment obligation may be discharged or forgiven
10 and such other additional provisions as the parties to the agreement may
11 include as part of the agreement.

12 Sec. 3. K.S.A. 2016 Supp. 21-5417 is hereby amended to read as
13 follows: 21-5417. (a) Mistreatment of a dependent adult is knowingly
14 committing one or more of the following acts:

15 (1) Infliction of physical injury, unreasonable confinement or
16 unreasonable punishment upon a dependent adult;

17 (2) taking the personal property or financial resources of a dependent
18 adult for the benefit of the defendant or another person by taking control,
19 title, use or management of the personal property or financial resources of
20 a dependent adult through:

21 (A) Undue influence, coercion, harassment, duress, deception, false
22 representation, false pretense or without adequate consideration to such
23 dependent adult;

24 (B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et
25 seq., and amendments thereto; or

26 (C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et
27 seq., and amendments thereto; or

28 (3) omission or deprivation of treatment, goods or services that are
29 necessary to maintain physical or mental health of such dependent adult.

30 (b) Mistreatment of an elder person is knowingly committing one or
31 more of the following acts:

32 (1) Taking the personal property or financial resources of an elder
33 person for the benefit of the defendant or another person by taking control,
34 title, use or management of the personal property or financial resources of
35 an elder person through:

36 (A) Undue influence, coercion, harassment, duress, deception, false
37 representation, false pretense or without adequate consideration to such
38 elder person;

39 (B) a violation of the Kansas power of attorney act, K.S.A. 58-650 et
40 seq., and amendments thereto; or

41 (C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et
42 seq., and amendments thereto; or

43 (2) omission or deprivation of treatment, goods or services that are

1 necessary to maintain physical or mental health of such elder person.

2 (c) Mistreatment of a dependent adult as defined in:

3 (1) Subsection (a)(1) is a severity level 5, person felony;

4 (2) subsection (a)(2) if the aggregate amount of the value of the
5 personal property or financial resources is:

6 (A) \$1,000,000 or more is a severity level 2, person felony;

7 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
8 person felony;

9 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
10 person felony;

11 (D) at least \$25,000 but less than \$100,000 is a severity level 5,
12 person felony;

13 (E) at least \$1,000 but less than \$25,000 is a severity level 7, person
14 felony;

15 (F) less than \$1,000 is a class A person misdemeanor, except as
16 provided in subsection (c)(2)(G); and

17 (G) less than \$1,000 and committed by a person who has, within five
18 years immediately preceding commission of the crime, been convicted of
19 mistreatment of a dependent adult two or more times is a severity level 7,
20 person felony; and

21 (3) subsection (a)(3) is a severity level 8, person felony.

22 (d) Mistreatment of an elder person as defined in:

23 (1) Subsection (b)(1) if the aggregate amount of the value of the
24 personal property or financial resources is:

25 (A) \$1,000,000 or more is a severity level 2, person felony;

26 (B) at least \$250,000 but less than \$1,000,000 is a severity level 3,
27 person felony;

28 (C) at least \$100,000 but less than \$250,000 is a severity level 4,
29 person felony;

30 (D) at least \$25,000 but less than \$100,000 is a severity level 5,
31 person felony;

32 (E) at least \$5,000 but less than \$25,000 is a severity level 7, person
33 felony;

34 (F) less than \$5,000 is a class A person misdemeanor, except as
35 provided in subsection (d)(1)(G); and

36 (G) less than \$5,000 and committed by a person who has, within five
37 years immediately preceding commission of the crime, been convicted of
38 mistreatment of an elder person two or more times is a severity level 7,
39 person felony; and

40 (2) subsection (b)(2) is a severity level 8, person felony.

41 (e) It shall be an affirmative defense to any prosecution for
42 mistreatment of a dependent adult or mistreatment of an elder person as
43 described in subsections (a)(2) and (b)(1) that:

1 (1) The personal property or financial resources were given as a gift
2 consistent with a pattern of gift giving to the person that existed before the
3 dependent adult or elder person became vulnerable;

4 (2) the personal property or financial resources were given as a gift
5 consistent with a pattern of gift giving to a class of individuals that existed
6 before the dependent adult or elder person became vulnerable;

7 (3) the personal property or financial resources were conferred as a
8 gift by the dependent adult or elder person to the benefit of a person or
9 class of persons, and such gift was reasonable under the circumstances; or

10 (4) a court approved the transaction before the transaction occurred.

11 (f) No dependent adult or elder person is considered to be mistreated
12 under subsection (a)(1), (a)(3) or (b)(2) for the sole reason that such
13 dependent adult or elder person relies upon or is being furnished treatment
14 by spiritual means through prayer in lieu of medical treatment in
15 accordance with the tenets and practices of a recognized church or
16 religious denomination of which such dependent adult or elder person is a
17 member or adherent.

18 (g) As used in this section:

19 (1) "Adequate consideration" means the personal property or
20 financial resources were given to the person as payment for bona fide
21 goods or services provided by such person and the payment was at a rate
22 customary for similar goods or services in the community that the
23 dependent adult or elder person resided in at the time of the transaction.

24 (2) "Dependent adult" means an individual 18 years of age or older
25 who is unable to protect the individual's own interest. Such term shall
26 include, but is not limited to, any:

27 (A) Resident of an adult care home including, but not limited to,
28 those facilities defined by K.S.A. 39-923, and amendments thereto;

29 (B) adult cared for in a private residence;

30 (C) individual kept, cared for, treated, boarded, confined or otherwise
31 accommodated in a medical care facility;

32 (D) individual with intellectual disability or a developmental
33 disability receiving services through a community facility for people with
34 intellectual disability or residential facility licensed under K.S.A.—75-
35 ~~3307b~~ 2016 *Supp.* 39-2001 *et seq.*, and amendments thereto;

36 (E) individual with a developmental disability receiving services
37 provided by a community service provider as provided in the
38 developmental disability reform act; or

39 (F) individual kept, cared for, treated, boarded, confined or otherwise
40 accommodated in a state psychiatric hospital or state institution for people
41 with intellectual disability.

42 (3) "Elder person" means a person 70 years of age or older.

43 (h) An offender who violates the provisions of this section may also

1 be prosecuted for, convicted of, and punished for any other offense in
2 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated; or
3 K.S.A. 2016 Supp. 21-6418, and amendments thereto.

4 Sec. 4. K.S.A. 2016 Supp. 21-6109 is hereby amended to read as
5 follows: 21-6109. As used in K.S.A. 2016 Supp. 21-6109 through 21-6116,
6 and amendments thereto:

7 (a) "Access point" means the area within a ten foot radius outside of
8 any doorway, open window or air intake leading into a building or facility
9 that is not exempted pursuant to ~~subsection (d)~~ of K.S.A. 2016 Supp. 21-
10 6110(d), and amendments thereto.

11 (b) "Bar" means any indoor area that is operated and licensed for the
12 sale and service of alcoholic beverages, including alcoholic liquor as
13 defined in K.S.A. 41-102, and amendments thereto, or cereal malt
14 beverages as defined in K.S.A. 41-2701, and amendments thereto, for on-
15 premises consumption.

16 (c) "Employee" means any person who is employed by an employer
17 in consideration for direct or indirect monetary wages or profit; and any
18 person who volunteers their services for a nonprofit entity.

19 (d) "Employer" means any person, partnership, corporation,
20 association or organization, including municipal or nonprofit entities,
21 ~~which~~ that employs one or more individual persons.

22 (e) "Enclosed area" means all space between a floor and ceiling
23 ~~which~~ that is enclosed on all sides by solid walls, windows or doorways
24 ~~which~~ that extend from the floor to the ceiling, including all space therein
25 screened by partitions ~~which~~ that do not extend to the ceiling or are not
26 solid or similar structures. For purposes of this section, the following shall
27 not be considered an "enclosed area": (1) Rooms or areas, enclosed by
28 walls, windows or doorways, having neither a ceiling nor a roof and ~~which~~
29 that are completely open to the elements and weather at all times; and (2)
30 rooms or areas, enclosed by walls, fences, windows or doorways and a
31 roof or ceiling, having openings that are permanently open to the elements
32 and weather and ~~which~~ that comprise an area that is at least 30% of the
33 total perimeter wall area of such room or area.

34 (f) "Food service establishment" means any place in which food is
35 served or is prepared for sale or service on the premises. Such term shall
36 include, but not be limited to, fixed or mobile restaurants, coffee shops,
37 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
38 shops, soda fountains, taverns, private clubs, roadside kitchens,
39 commissaries and any other private, public or nonprofit organization or
40 institution routinely serving food and any other eating or drinking
41 establishment or operation where food is served or provided for the public
42 with or without charge.

43 (g) "Gaming floor" means the area of a lottery gaming facility or

1 racetrack gaming facility, as those terms are defined in K.S.A. 74-8702,
2 and amendments thereto, where patrons engage in Class III gaming. The
3 gaming floor shall not include any areas used for accounting, maintenance,
4 surveillance, security, administrative offices, storage, cash or cash
5 counting, records, food service, lodging or entertainment, except that the
6 gaming floor may include a bar where alcoholic beverages are served so
7 long as the bar is located entirely within the area where Class III gaming is
8 conducted.

9 (h) "Medical care facility" means a physician's office, general
10 hospital, special hospital, ambulatory surgery center or recuperation center,
11 as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric
12 hospital licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
13 amendments thereto.

14 (i) "Outdoor recreational facility" means a hunting, fishing, shooting
15 or golf club, business or enterprise operated primarily for the benefit of its
16 owners, members and their guests and not normally open to the general
17 public.

18 (j) "Place of employment" means any enclosed area under the control
19 of a public or private employer, including, but not limited to, work areas,
20 auditoriums, elevators, private offices, employee lounges and restrooms,
21 conference and meeting rooms, classrooms, employee cafeterias, stairwells
22 and hallways, that is used by employees during the course of employment.
23 For purposes of this section, a private residence shall not be considered a
24 "place of employment" unless such residence is used as a day care home,
25 as defined in K.S.A. 65-530, and amendments thereto.

26 (k) "Private club" means an outdoor recreational facility operated
27 primarily for the use of its owners, members and their guests that in its
28 ordinary course of business is not open to the general public for which use
29 of its facilities has substantial dues or membership fee requirements for its
30 members.

31 (l) "Public building" means any building owned or operated by: (1)
32 The state, including any branch, department, agency, bureau, commission,
33 authority or other instrumentality thereof; (2) any county, city, township,
34 other political subdivision, including any commission, authority, agency or
35 instrumentality thereof; or (3) any other separate corporate instrumentality
36 or unit of the state or any municipality.

37 (m) "Public meeting" means any meeting open to the public pursuant
38 to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of
39 this state.

40 (n) "Public place" means any enclosed areas open to the public or
41 used by the general public including, but not limited to: Banks, bars, food
42 service establishments, retail service establishments, retail stores, public
43 means of mass transportation, passenger elevators, health care institutions

1 or any other place where health care services are provided to the public,
2 medical care facilities, educational facilities, libraries, courtrooms, public
3 buildings, restrooms, grocery stores, school buses, museums, theaters,
4 auditoriums, arenas and recreational facilities. For purposes of this section,
5 a private residence shall not be considered a "public place" unless such
6 residence is used as a day care home, as defined in K.S.A. 65-530, and
7 amendments thereto.

8 (o) "Smoking" means possession of a lighted cigarette, cigar, pipe or
9 burning tobacco in any other form or device designed for the use of
10 tobacco.

11 (p) "Tobacco shop" means any indoor area operated primarily for the
12 retail sale of tobacco, tobacco products or smoking devices or accessories,
13 and ~~which~~ *that* derives not less than 65% of its gross receipts from the sale
14 of tobacco.

15 (q) "Substantial dues or membership fee requirements" means
16 initiation costs, dues or fees proportional to the cost of membership in
17 similarly-situated outdoor recreational facilities that are not considered
18 nominal and implemented to otherwise avoid or evade restrictions of a
19 statewide ban on smoking.

20 Sec. 5. K.S.A. 2016 Supp. 22-4612 is hereby amended to read as
21 follows: 22-4612. (a) Except as otherwise provided in this section, a
22 county, a city, a county or city law enforcement agency, a county
23 department of corrections or the Kansas highway patrol shall be liable to
24 pay a health care provider for health care services rendered to persons in
25 the custody of such agencies the lesser of the actual amount billed by such
26 health care provider or the medicaid rate. The provisions of this section
27 shall not apply if a person in the custody of a county or city law
28 enforcement agency, a county department of corrections or the Kansas
29 highway patrol is covered under a current individual or group accident and
30 health insurance policy, medical service plan contract, hospital service
31 corporation contract, hospital and medical service corporation contract,
32 fraternal benefit society or health maintenance organization contract.

33 (b) Nothing in this section shall prevent a county or city law
34 enforcement agency, a county department of corrections, the Kansas
35 highway patrol or such agencies' authorized vendors from entering into
36 agreements with health care providers for the provision of health care
37 services at terms, conditions and amounts ~~which~~ *that* are different than the
38 medicaid rate.

39 (c) It shall be the responsibility of the custodial county or city law
40 enforcement agency, county department of corrections or the Kansas
41 highway patrol or such agencies' agents, to determine, under agreement
42 with the secretary of health and environment, the amount payable for the
43 services provided and to communicate that determination along with the

1 remittance advice and payment for the services provided.

2 (d) Nothing in this section shall be construed to create a duty on the
3 part of a health care provider to render health care services to a person in
4 the custody of a county or city law enforcement agency, a county
5 department of corrections or the Kansas highway patrol.

6 (e) As used in this section:

7 (1) "County or city law enforcement agency" means a city police
8 department, a county sheriff's department, a county law enforcement
9 department as defined in K.S.A. 19-4401, and amendments thereto, or a
10 law enforcement agency established pursuant to the consolidated city-
11 county powers in K.S.A. 12-345, and amendments thereto.

12 (2) "Health care provider" means a person licensed to practice any
13 branch of the healing arts by the state board of healing arts, a person who
14 holds a temporary permit to practice any branch of the healing arts issued
15 by the state board of healing arts, a person engaged in a postgraduate
16 training program approved by the state board of healing arts, a licensed
17 physician assistant, a person licensed by the behavioral sciences regulatory
18 board, a medical care facility licensed by the department of health and
19 environment, a podiatrist licensed by the state board of healing arts, an
20 optometrist licensed by the board of examiners in optometry, a registered
21 nurse, and advanced nurse practitioner, a licensed professional nurse who
22 is authorized to practice as a registered nurse anesthetist, a licensed
23 practical nurse, a licensed physical therapist, a professional corporation
24 organized pursuant to the professional corporation law of Kansas by
25 persons who are authorized by such law to form such a corporation and
26 who are health care providers as defined by this subsection, a Kansas
27 limited liability company organized for the purpose of rendering
28 professional services by its members who are health care providers as
29 defined by this subsection and who are legally authorized to render the
30 professional services for which the limited liability company is organized,
31 a partnership of persons who are health care providers under this
32 subsection, a Kansas not-for-profit corporation organized for the purpose
33 of rendering professional services by persons who are health care
34 providers as defined by this subsection, a dentist certified by the state
35 board of healing arts to administer anesthetics under K.S.A. 65-2899, and
36 amendments thereto, a psychiatric hospital licensed under K.S.A.—75-
37 ~~3307b~~ 2016 Supp. 39-2001 et seq., and amendments thereto, a licensed
38 social worker or a mental health center or mental health clinic licensed by
39 the secretary for aging and disability services and any health care provider
40 licensed by the appropriate regulatory body in another state that has a
41 current approved provider agreement with the secretary of health and
42 environment.

43 (3) "Medicaid rate" means the terms, conditions and amounts a health

1 care provider would be paid for health care services rendered pursuant to a
2 contract or provider agreement with the secretary of health and
3 environment.

4 Sec. 6. K.S.A. 2016 Supp. 36-501 is hereby amended to read as
5 follows: 36-501. (a) K.S.A. 36-501 through 36-520, and amendments
6 thereto, shall be known and may be cited as the lodging inspection act.

7 (b) As used in the lodging inspection act, the following words and
8 phrases shall have the following meanings:

9 (1) "Hotel" means every building or other structure ~~which~~ *that* is
10 kept, used, maintained, advertised or held out to the public as a place
11 where sleeping accommodations are offered for pay primarily to transient
12 guests and in which four or more rooms are used for the accommodation
13 of such guests, regardless of whether such building or structure is
14 designated as a cabin camp, tourist cabin, motel or other type of lodging
15 unit.

16 (2) "Rooming house" means every building or other structure ~~which~~
17 *that* is kept, used, maintained, advertised or held out to the public to be a
18 place where sleeping accommodations are furnished for pay to transient or
19 permanent guests and in which eight or more guests may be
20 accommodated, but ~~which~~ *that* does not maintain common facilities for the
21 serving or preparation of food for such guests.

22 (3) "Boarding house" means every building or other structure ~~which~~
23 *that* is kept, maintained, advertised or held out to the public to be a place
24 where sleeping accommodations are furnished for pay to transient or
25 permanent guests and in which eight or more guests may be
26 accommodated, and ~~which~~ *that* maintains common facilities for the
27 serving or preparation of food for such guests. The term "boarding house"
28 shall not include facilities licensed under ~~paragraph (5) of subsection (a) of~~
29 *K.S.A. 2015 Supp. 75-3307b(a)(5), and amendments thereto prior to its*
30 *repeal, or facilities licensed by the Kansas department for aging and*
31 *disability services that are: (A) Facilities for developmentally disabled*
32 *persons receiving assistance through the department and that receive or*
33 *have received after June 30, 1967, any state or federal funds; or (B)*
34 *facilities where developmentally disabled persons who require supervision*
35 *or limited assistance with the taking of medication reside.*

36 (4) "Lodging establishment" means a hotel, rooming house, guest
37 house or boarding house.

38 (5) "Food" ~~has the same meaning~~ *means the same* as provided in
39 K.S.A. 65-656, and amendments thereto.

40 (6) "Guest house" means every building or other structure ~~which~~ *that*
41 is kept, used, maintained, advertised or held out to the public to be a place
42 where sleeping accommodations are furnished for pay to transient or
43 permanent guests. A guest house shall accommodate no more than seven

1 guests in no more than three rooms furnished with sleeping
2 accommodations, regardless of whether common facilities for the serving
3 or preparation of food are maintained.

4 (7) "Person" means an individual, partnership, corporation or other
5 association of persons.

6 (8) "Municipality" means any city or county of this state.

7 (9) "Secretary" means the secretary of agriculture and the secretary's
8 authorized representatives.

9 (10) "Department" means the Kansas department of agriculture.

10 Sec. 7. K.S.A. 2016 Supp. 39-1430 is hereby amended to read as
11 follows: 39-1430. As used in this act:

12 (a) "Adult" means an individual 18 years of age or older alleged to be
13 unable to protect their own interest and who is harmed or threatened with
14 harm, whether financial, mental or physical in nature, through action or
15 inaction by either another individual or through their own action or
16 inaction when: (1) Such person is residing in such person's own home, the
17 home of a family member or the home of a friend; (2) such person resides
18 in an adult family home as defined in K.S.A. 39-1501, and amendments
19 thereto; or (3) such person is receiving services through a provider of
20 community services and affiliates thereof operated or funded by the
21 Kansas department for children and families or the Kansas department for
22 aging and disability services or a residential facility licensed pursuant to
23 K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 et seq., and amendments thereto.
24 Such term shall not include persons to whom K.S.A. 39-1401 et seq., and
25 amendments thereto, apply.

26 (b) "Abuse" means any act or failure to act performed intentionally or
27 recklessly that causes or is likely to cause harm to an adult, including:

28 (1) Infliction of physical or mental injury;

29 (2) any sexual act with an adult when the adult does not consent or
30 when the other person knows or should know that the adult is incapable of
31 resisting or declining consent to the sexual act due to mental deficiency or
32 disease or due to fear of retribution or hardship;

33 (3) unreasonable use of a physical restraint, isolation or medication
34 that harms or is likely to harm an adult;

35 (4) unreasonable use of a physical or chemical restraint, medication
36 or isolation as punishment, for convenience, in conflict with a physician's
37 orders or as a substitute for treatment, except where such conduct or
38 physical restraint is in furtherance of the health and safety of the adult;

39 (5) a threat or menacing conduct directed toward an adult that results
40 or might reasonably be expected to result in fear or emotional or mental
41 distress to an adult;

42 (6) fiduciary abuse; or

43 (7) omission or deprivation by a caretaker or another person of goods

1 or services ~~which~~ *that* are necessary to avoid physical or mental harm or
2 illness.

3 (c) "Neglect" means the failure or omission by one's self, caretaker or
4 another person with a duty to supply or provide goods or services ~~which~~
5 *that* are reasonably necessary to ensure safety and well-being and to avoid
6 physical or mental harm or illness.

7 (d) "Exploitation" means misappropriation of an adult's property or
8 intentionally taking unfair advantage of an adult's physical or financial
9 resources for another individual's personal or financial advantage by the
10 use of undue influence, coercion, harassment, duress, deception, false
11 representation or false pretense by a caretaker or another person.

12 (e) "Fiduciary abuse" means a situation in which any person who is
13 the caretaker of, or who stands in a position of trust to, an adult, takes,
14 secretes, or appropriates their money or property, to any use or purpose not
15 in the due and lawful execution of such person's trust or benefit.

16 (f) "In need of protective services" means that an adult is unable to
17 provide for or obtain services ~~which~~ *that* are necessary to maintain
18 physical or mental health or both.

19 (g) "Services ~~which~~ *that* are necessary to maintain physical or mental
20 health or both" include, but are not limited to, the provision of medical
21 care for physical and mental health needs, the relocation of an adult to a
22 facility or institution able to offer such care, assistance in personal
23 hygiene, food, clothing, adequately heated and ventilated shelter,
24 protection from health and safety hazards, protection from maltreatment
25 the result of which includes, but is not limited to, malnutrition, deprivation
26 of necessities or physical punishment and transportation necessary to
27 secure any of the above stated needs, except that this term shall not include
28 taking such person into custody without consent except as provided in this
29 act.

30 (h) "Protective services" means services provided by the state or other
31 governmental agency or by private organizations or individuals ~~which~~ *that*
32 are necessary to prevent abuse, neglect or exploitation. Such protective
33 services shall include, but shall not be limited to, evaluation of the need for
34 services, assistance in obtaining appropriate social services; and assistance
35 in securing medical and legal services.

36 (i) "Caretaker" means a person who has assumed the responsibility,
37 whether legally or not, for an adult's care or financial management or both.

38 (j) "Secretary" means the secretary ~~for the Kansas department for~~
39 children and families.

40 (k) "Report" means a description or accounting of an incident or
41 incidents of abuse, neglect or exploitation under this act and for the
42 purposes of this act shall not include any written assessment or findings.

43 (l) "Law enforcement" means the public office ~~which~~ *that* is vested

1 by law with the duty to maintain public order, make arrests for crimes,
2 investigate criminal acts and file criminal charges, whether that duty
3 extends to all crimes or is limited to specific crimes.

4 (m) "Involved adult" means the adult who is the subject of a report of
5 abuse, neglect or exploitation under this act.

6 (n) "Legal representative," "financial institution" and "governmental
7 assistance provider"—~~shall have the meanings ascribed thereto~~ *mean the*
8 *same as defined* in K.S.A. 39-1401, and amendments thereto.

9 No person shall be considered to be abused, neglected or exploited or
10 in need of protective services for the sole reason that such person relies
11 upon spiritual means through prayer alone for treatment in accordance
12 with the tenets and practices of a recognized church or religious
13 denomination in lieu of medical treatment.

14 Sec. 8. K.S.A. 2016 Supp. 39-1431 is hereby amended to read as
15 follows: 39-1431. (a) Any person who is licensed to practice any branch of
16 the healing arts, a licensed psychologist, a licensed master level
17 psychologist, a licensed clinical psychotherapist, the chief administrative
18 officer of a medical care facility, a teacher, a licensed social worker, a
19 licensed professional nurse, a licensed practical nurse, a licensed dentist, a
20 licensed marriage and family therapist, a licensed clinical marriage and
21 family therapist, licensed professional counselor, licensed clinical
22 professional counselor, registered alcohol and drug abuse counselor, a law
23 enforcement officer, a case manager, a rehabilitation counselor, a bank
24 trust officer or any other officers of financial institutions, a legal
25 representative, a governmental assistance provider, an owner or operator of
26 a residential care facility, an independent living counselor and the chief
27 administrative officer of a licensed home health agency, the chief
28 administrative officer of an adult family home and the chief administrative
29 officer of a provider of community services and affiliates thereof operated
30 or funded by the Kansas department for aging and disability services or
31 licensed under K.S.A.—~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
32 amendments thereto, who has reasonable cause to believe that an adult is
33 being or has been abused, neglected or exploited or is in need of protective
34 services shall report, immediately from receipt of the information, such
35 information or cause a report of such information to be made in any
36 reasonable manner. An employee of a domestic violence center shall not
37 be required to report information or cause a report of information to be
38 made under this subsection. Other state agencies receiving reports that are
39 to be referred to the Kansas department for children and families and the
40 appropriate law enforcement agency, shall submit the report to the
41 department and agency within six hours, during normal work days, of
42 receiving the information. Reports shall be made to the Kansas department
43 for children and families during the normal working week days and hours

1 of operation. Reports shall be made to law enforcement agencies during
2 the time the Kansas department for children and families is not in
3 operation. Law enforcement shall submit the report and appropriate
4 information to the Kansas department for children and families on the first
5 working day that the Kansas department for children and families is in
6 operation after receipt of such information.

7 (b) The report made pursuant to subsection (a) shall contain the name
8 and address of the person making the report and of the caretaker caring for
9 the involved adult, the name and address of the involved adult, information
10 regarding the nature and extent of the abuse, neglect or exploitation, the
11 name of the next of kin of the involved adult, if known, and any other
12 information ~~which~~ *that* the person making the report believes might be
13 helpful in the investigation of the case and the protection of the involved
14 adult.

15 (c) Any other person, not listed in subsection (a), having reasonable
16 cause to suspect or believe that an adult is being or has been abused,
17 neglected or exploited or is in need of protective services may report such
18 information to the Kansas department for children and families. Reports
19 shall be made to law enforcement agencies during the time the Kansas
20 department for children and families is not in operation.

21 (d) A person making a report under subsection (a) shall not be
22 required to make a report under K.S.A. 39-1401 ~~to~~ *through* 39-1410,
23 ~~inclusive~~, and amendments thereto.

24 (e) Any person required to report information or cause a report of
25 information to be made under subsection (a) who knowingly fails to make
26 such report or cause such report not to be made shall be guilty of a class B
27 misdemeanor.

28 (f) Notice of the requirements of this act and the department to which
29 a report is to be made under this act shall be posted in a conspicuous
30 public place in every adult family home as defined in K.S.A. 39-1501, and
31 amendments thereto, and every provider of community services and
32 affiliates thereof operated or funded by the Kansas department for aging
33 and disability services or other facility licensed under K.S.A. ~~75-3307b~~
34 *2016 Supp. 39-2001 et seq.*, and amendments thereto, and other
35 institutions included in subsection (a).

36 Sec. 9. K.S.A. 2016 Supp. 39-1433 is hereby amended to read as
37 follows: 39-1433. (a) The Kansas department for children and families
38 upon receiving a report that an adult is being, or has been abused,
39 neglected, or exploited or is in need of protective services, shall:

40 (1) When a criminal act has occurred or has appeared to have
41 occurred, immediately notify, in writing, the appropriate law enforcement
42 agency;

43 (2) make a personal visit with the involved adult:

1 (A) Within 24 hours when the information from the reporter indicates
2 imminent danger to the health or welfare of the involved adult;

3 (B) within three working days for all reports of suspected abuse,
4 when the information from the reporter indicates no imminent danger;

5 (C) within five working days for all reports of neglect or exploitation
6 when the information from the reporter indicates no imminent danger.

7 (3) Complete, within 30 working days of receiving a report, a
8 thorough investigation and evaluation to determine the situation relative to
9 the condition of the involved adult and what action and services, if any, are
10 required. The evaluation shall include, but not be limited to, consultation
11 with those individuals having knowledge of the facts of the particular case.
12 If conducting the investigation within 30 working days would interfere
13 with an ongoing criminal investigation, the time period for the
14 investigation shall be extended, but the investigation and evaluation shall
15 be completed within 90 working days. If a finding is made prior to the
16 conclusion of the criminal investigation, the investigation and evaluation
17 may be reopened and a new finding made based on any additional
18 evidence provided as a result of the criminal investigation. If the alleged
19 perpetrator is licensed, registered or otherwise regulated by a state agency,
20 such state agency also shall be notified upon completion of the
21 investigation or sooner if such notification does not compromise the
22 investigation.

23 (4) Prepare, upon completion of the investigation of each case, a
24 written assessment ~~which~~ *that* shall include an analysis of whether there is
25 or has been abuse, neglect or exploitation, recommended action, a
26 determination of whether protective services are needed; and any follow-
27 up.

28 (b) The secretary for children and families shall forward any finding
29 of abuse, neglect or exploitation alleged to have been committed by a
30 provider of services licensed, registered or otherwise authorized to provide
31 services in this state to the appropriate state authority ~~which~~ *that* regulates
32 such provider. The appropriate state regulatory authority may consider the
33 finding in any disciplinary action taken with respect to the provider of
34 services under the jurisdiction of such authority.

35 (c) The Kansas department for children and families shall inform the
36 complainant, upon request of the complainant, that an investigation has
37 been made and if the allegations of abuse, neglect or exploitation have
38 been substantiated, that corrective measures will be taken, upon
39 completion of the investigation or sooner, if such measures do not
40 jeopardize the investigation.

41 (d) The Kansas department for children and families may inform the
42 chief administrative officer of community facilities licensed pursuant to
43 K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments thereto, of

1 confirmed findings of resident abuse, neglect or exploitation.

2 Sec. 10. K.S.A. 2016 Supp. 39-1602 is hereby amended to read as
3 follows: 39-1602. As used in K.S.A. 39-1601 through 39-1612, and
4 amendments thereto:

5 (a) "Targeted population" means the population group designated by
6 rules and regulations of the secretary as most in need of mental health
7 services ~~which~~ *that* are funded, in whole or in part, by state or other public
8 funding sources, ~~which and such~~ group shall include adults with severe
9 and persistent mental illness, severely emotionally disturbed children and
10 adolescents; and other individuals at risk of requiring institutional care.

11 (b) "Community based mental health services" includes, but is not
12 limited to, evaluation and diagnosis, case management services, mental
13 health inpatient and outpatient services, prescription and management of
14 psychotropic medication, prevention, education, consultation, treatment
15 and rehabilitation services, ~~twenty-four~~ 24-hour emergency services, and
16 any facilities required therefor, ~~which that~~ are provided within one or more
17 local communities in order to provide a continuum of care and support
18 services to enable mentally ill persons, including targeted population
19 members, to function outside of inpatient institutions to the extent of their
20 capabilities. Community based mental health services also include
21 assistance in securing employment services, housing services, medical and
22 dental care; and other support services.

23 (c) "Mental health center" means any community mental health
24 center ~~organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015,~~
25 ~~inclusive, and amendments thereto, or mental health clinic organized~~
26 ~~pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and~~
27 ~~amendments thereto, and licensed in accordance with the provisions of~~
28 ~~K.S.A. 75-3307b~~ *as defined in K.S.A. 2016 Supp. 39-2002*, and
29 amendments thereto.

30 (d) "Secretary" means the secretary for aging and disability services.

31 (e) "Department" means the Kansas department for aging and
32 disability services.

33 (f) "State psychiatric hospital" means Osawatomie state hospital,
34 Rainbow mental health facility or Larned state hospital.

35 (g) "Mental health reform phased program" means the program in
36 three phases for the implementation of mental health reform in Kansas as
37 follows:

38 (1) The first phase covers the counties in the Osawatomie state
39 hospital catchment area and is to commence on July 1, 1990, and is to be
40 completed by June 30, 1994;

41 (2) the second phase covers the counties in the Topeka state hospital
42 catchment area and is to commence on July 1, 1992, and is to be
43 completed by June 30, 1996; and

1 (3) the third phase covers the counties in the Larned state hospital
2 catchment area and is to commence on July 1, 1993, and is to be
3 completed by June 30, 1997.

4 (h) "Screening" means the process performed by a participating
5 community mental health center, pursuant to a contract entered into with
6 the secretary under K.S.A. 39-1610, and amendments thereto, to determine
7 whether a person, under either voluntary or involuntary procedures, can be
8 evaluated or treated, or can be both evaluated and treated, in the
9 community or should be referred to the appropriate state psychiatric
10 hospital for such treatment or evaluation or for both treatment and
11 evaluation.

12 (i) "Osawatomie state hospital catchment area" means, except as
13 otherwise defined by rules and regulations of the secretary adopted
14 pursuant to K.S.A. 39-1613, and amendments thereto, the area composed
15 of the following counties: Allen, Anderson, Atchison, Bourbon, Brown,
16 Butler, Chase, Chautauqua, Cherokee, Clay, Coffey, Cowley, Crawford,
17 Doniphan, Douglas, Elk, Franklin, Geary, Greenwood, Jackson, Jefferson,
18 Jewell, Johnson, Labette, Leavenworth, Linn, Lyon, Marshall, Miami,
19 Mitchell, Montgomery, Morris, Nemaha, Neosho, Osage, Pottawatomie,
20 Republic, Riley, Sedgwick, Shawnee, Wabaunsee, Washington, Wilson,
21 Woodson and Wyandotte.

22 (j) "Larned state hospital catchment area" means, except as otherwise
23 defined by rules and regulations of the secretary adopted pursuant to
24 K.S.A. 39-1613, and amendments thereto, the area composed of the
25 following counties: Barber, Barton, Cheyenne, Clark, Comanche, Decatur,
26 Dickinson, Edwards, Ellis, Ellsworth, Finney, Ford, Gove, Graham, Grant,
27 Gray, Greeley, Hamilton, Harper, Harvey, Haskell, Hodgeman, Kearny,
28 Kingman, Kiowa, Lane, Lincoln, Logan, Marion, McPherson, Meade,
29 Morton, Ness, Norton, Osborne, Pawnee, Phillips, Pratt, Rawlins, Reno,
30 Rice, Rooks, Rush, Russell, Saline, Scott, Seward, Sheridan, Sherman,
31 Smith, Stafford, Stanton, Stevens, Sumner, Thomas, Trego, Wallace and
32 Wichita.

33 (k) "Catchment area" means the Osawatomie state hospital catchment
34 area or the Larned state hospital catchment area.

35 (l) "Participating mental health center" means a mental health center
36 ~~which~~ *that* has entered into a contract with the secretary for aging and
37 disability services to provide screening, treatment and evaluation, court
38 ordered evaluation and other treatment services pursuant to the care and
39 treatment act for mentally ill persons, in keeping with the phased concept
40 of the mental health reform act.

41 Sec. 11. K.S.A. 2016 Supp. 39-1903 is hereby amended to read as
42 follows: 39-1903. (a) The disability and behavioral health services section
43 of the Kansas department for children and families is hereby transferred to

1 the Kansas department for aging and disability services and shall be a part
2 thereof. The disability and behavioral health services section transferred to
3 the Kansas department for aging and disability services by K.S.A. 2016
4 Supp. 39-1901 through 39-1914, and amendments thereto, shall be
5 administered by the secretary for aging and disability services.

6 The programs to be transferred by this section are:

7 (1) Mental health and substance abuse, serious emotionally disturbed,
8 developmental disability, physical disability, traumatic brain injury,
9 autism, technology assistance and money-follows-the-person medicaid
10 waivers and programs;

11 (2) licensure and regulation of community mental health centers, as
12 defined by K.S.A. ~~75-3307b~~ 2016 Supp. 39-2002, and amendments
13 thereto;

14 (3) regulation of community developmental disability organizations,
15 ~~as defined by K.S.A. 75-3307b~~ pursuant to K.S.A. 2016 Supp. 39-2001 et
16 seq., and amendments thereto;

17 (4) licensure of private psychiatric hospitals, ~~as defined by K.S.A. 75-~~
18 ~~3307b~~ pursuant to K.S.A. 2016 Supp. 39-2001 et seq., and amendments
19 thereto;

20 (5) licensure and regulation of facilities and providers of residential
21 services, ~~as defined by K.S.A. 75-3307b~~ pursuant to K.S.A. 2016 Supp.
22 39-2001 et seq., and amendments thereto;

23 (6) licensure and regulation of providers of addiction and prevention
24 services, as defined by K.S.A. 75-5375 et seq., and amendments thereto;
25 and

26 (7) any other programs and related grants administered by the
27 disability and behavioral health services section of the Kansas department
28 for children and families prior to the effective date of K.S.A. 2016 Supp.
29 39-1901 through 39-1914, and amendments thereto.

30 (b) Except as otherwise provided by K.S.A. 2016 Supp. 39-1901
31 through 39-1914, and amendments thereto, all powers, duties and
32 functions of the secretary for children and families pertaining to the
33 disability and behavioral health services section transferred by K.S.A.
34 2016 Supp. 39-1901 through 39-1914, and amendments thereto, including
35 that agency's designation as the medicaid single state authority for
36 substance abuse and for mental health, are hereby transferred to and
37 imposed upon the secretary for aging and disability services.

38 (c) The Kansas department for aging and disability services shall be
39 the successor in every way to the powers, duties and functions of the
40 Kansas department for children and families pertaining to the disability
41 and behavioral health services section transferred by K.S.A. 2016 Supp.
42 39-1901 through 39-1914, and amendments thereto. Every act performed
43 in the exercise of such transferred powers, duties and functions by or under

1 the authority of the Kansas department for aging and disability services
2 shall be deemed to have the same force and effect as if performed by the
3 Kansas department for children and families in which such powers, duties
4 and functions were vested prior to the effective date of K.S.A. 2016 Supp.
5 39-1901 through 39-1914, and amendments thereto.

6 Sec. 12. K.S.A. 2016 Supp. 40-2,105 is hereby amended to read as
7 follows: 40-2,105. (a) On or after the effective date of this act, every
8 insurer ~~which~~ *that* issues any individual policy of accident and sickness
9 insurance or group policy of accident and sickness insurance to a small
10 employer as defined in K.S.A. 40-2209d, and amendments thereto, ~~which~~
11 *that* provides medical, surgical or hospital expense coverage for other than
12 specific diseases or accidents only and ~~which~~ *that* provides for
13 reimbursement or indemnity for services rendered to a person covered by
14 such policy in a medical care facility, must provide for reimbursement or
15 indemnity under such individual policy or under such small employer
16 group policy, except as provided in subsection (d), ~~which~~ *that* shall be
17 limited to not less than 45 days per year for in-patient treatment of mental
18 illness in a medical care facility licensed under the provisions of K.S.A.
19 65-429, and amendments thereto, and not less than 30 days per year when
20 such person is confined for treatment of alcoholism, drug abuse or
21 substance use disorders in a treatment facility for alcoholics licensed under
22 the provisions of K.S.A. 65-4014, and amendments thereto, a treatment
23 facility for drug abusers licensed under the provisions of K.S.A. 65-4605,
24 and amendments thereto, a community mental health center or clinic
25 licensed under the provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et*
26 *seq.*, and amendments thereto, or a psychiatric hospital licensed under the
27 provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
28 amendments thereto. Such individual policy or such small employer group
29 policy shall also provide for reimbursement or indemnity, except as
30 provided in subsection (d), of the costs of treatment of such person for
31 mental illness, alcoholism, drug abuse and substance use disorders subject
32 to the same deductibles, copayments, coinsurance, out-of-pocket expenses
33 and treatment limitations as apply to other covered services, limited to not
34 less than \$15,000 in such person's lifetime, with no annual limits, in the
35 facilities enumerated when in-patient treatment is not necessary for the
36 treatment or by a physician licensed or psychologist licensed to practice
37 under the laws of the state of Kansas.

38 (b) For the purposes of this section "mental illness, alcoholism, drug
39 abuse or substance use" means disorders specified in the diagnostic and
40 statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of
41 the American psychiatric association.

42 (c) The provisions of this section shall be applicable to health
43 maintenance organizations organized under article 32 of chapter 40 of the

1 Kansas Statutes Annotated, *and amendments thereto.*

2 (d) There shall be no coverage under the provisions of this section for
3 any assessment against any person required by a diversion agreement or by
4 order of a court to attend an alcohol and drug safety action program
5 certified pursuant to K.S.A. 8-1008, and amendments thereto, or for
6 evaluations and diagnostic tests ordered or requested in connection with
7 criminal actions, divorce, child custody or child visitation proceedings.

8 (e) The provisions of this section shall not apply to any medicare
9 supplement policy of insurance, as defined by the commissioner of
10 insurance by rule and regulation.

11 (f) Treatment limitations include limits on the frequency of treatment,
12 number of visits, days of coverage or other similar limits on the scope or
13 duration of treatment.

14 (g) Utilization review for mental illness shall be consistent with
15 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments
16 thereto.

17 Sec. 13. K.S.A. 2016 Supp. 40-2,105a is hereby amended to read as
18 follows: 40-2,105a. (a) (1) Any group health insurance policy, medical
19 service plan, contract, hospital service corporation contract, hospital and
20 medical service corporation contract, fraternal benefit society or health
21 maintenance organization ~~which~~ *that* provides medical, surgical or hospital
22 expense coverage shall include; coverage for diagnosis and treatment of
23 mental illnesses and alcoholism, drug abuse or other substance use
24 disorders. Reimbursement or indemnity shall be provided for treatment in
25 a medical care facility licensed under the provisions of K.S.A. 65-429, and
26 amendments thereto, treatment facilities licensed under K.S.A. 65-4605,
27 and amendments thereto, a community mental health center or clinic
28 licensed under the provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et*
29 *seq.*, and amendments thereto, a psychiatric hospital licensed under the
30 provisions of K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
31 amendments thereto, or by a physician or psychologist licensed to practice
32 under the laws of the state of Kansas. Such coverage shall be subject to the
33 same deductibles, copayments, coinsurance, out-of-pocket expenses,
34 treatment limitations and other limitations as apply to other covered
35 services.

36 (2) The coverage shall include treatment for in-patient care and out-
37 patient care for mental illness, alcoholism, drug abuse or substance use
38 disorders.

39 (b) For the purposes of this section, "mental illness, alcoholism, drug
40 abuse or substance use" means any disorder as such terms are defined in
41 the diagnostic and statistical manual of mental disorders, fourth edition,
42 (DSM-IV, 1994) of the American psychiatric association.

43 (c) The provisions of this section shall be applicable to health

1 maintenance organizations organized under article 32 of chapter 40 of the
2 Kansas Statutes Annotated, *and amendments thereto*.

3 (d) The provisions of this section shall not apply to any small
4 employer group policy, as defined under K.S.A. 40-2209, and amendments
5 thereto, providing medical, surgical or hospital expense coverage or to any
6 medicare supplement policy of insurance, as defined by the commissioner
7 of insurance by rule and regulation.

8 (e) The provisions of this section shall be applicable to the Kansas
9 state employees health care benefits program and municipal funded pools.

10 (f) The provisions of this section shall not apply to any policy or
11 certificate—~~which~~ *that* provides coverage for any specified disease,
12 specified accident or accident only coverage, credit, dental, disability
13 income, hospital indemnity, long-term care insurance as defined by K.S.A.
14 40-2227, and amendments thereto, vision care or any other limited
15 supplemental benefit nor to any medicare supplement policy of insurance
16 as defined by the commissioner of insurance by rule and regulation, any
17 coverage issued as a supplement to liability insurance, workers
18 compensation or similar insurance, automobile medical-payment insurance
19 or any insurance under which benefits are payable with or without regard
20 to fault, whether written on a group, blanket or individual basis.

21 (g) Treatment limitations include limits on the frequency of
22 treatment, number of visits, days of coverage or other similar limits on the
23 scope or duration of treatment.

24 (h) There shall be no coverage under the provisions of this section for
25 any assessment against any person required by a diversion agreement or by
26 order of a court to attend an alcohol and drug safety action program
27 certified pursuant to K.S.A. 8-1008, and amendments thereto, or for
28 evaluations and diagnostic tests ordered or requested in connection with
29 criminal actions, divorce, child custody or child visitation proceedings.

30 (i) Utilization review for mental illness shall be consistent with
31 provisions in K.S.A. 40-22a01 through 40-22a12, and amendments
32 thereto.

33 Sec. 14. K.S.A. 40-2,116 is hereby amended to read as follows: 40-
34 2,116. As used in this act:

35 (a) "Contracting facility" means a health facility—~~which~~ *that* has
36 entered into a contract with a service corporation to provide services to
37 subscribers of the service corporation.

38 (b) "Contracting professional provider" means a professional provider
39 who has entered into a contract with a service corporation to provide
40 services to subscribers of the service corporation.

41 (c) "Health facility" means a medical care facility as defined in
42 K.S.A. 65-425, and amendments thereto; psychiatric hospital licensed
43 under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments

1 thereto; adult care home, ~~which~~ *but such* term shall be limited to nursing
2 facility, assisted living facility and residential health care facility as such
3 terms are defined in K.S.A. 39-923, and amendments thereto; and kidney
4 disease treatment center, including centers not located in a medical care
5 facility.

6 (d) "Professional provider" means a provider, other than a contracting
7 facility, of services for which benefits are provided under contracts issued
8 by a service corporation.

9 (e) "Service corporation" means a nonprofit medical and hospital
10 service corporation organized under the provisions of K.S.A. 40-19c01 et
11 seq., and amendments thereto.

12 Sec. 15. K.S.A. 40-12a01 is hereby amended to read as follows: 40-
13 12a01. As used in this act: (a) "Health care provider" means any person
14 licensed to practice any branch of the healing arts by the *state* board of
15 healing arts or any hospital licensed under the provisions of K.S.A. 65-425
16 et seq., and amendments thereto, or a private psychiatric hospital
17 authorized under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
18 amendments thereto;

19 (b) "person" means an individual, corporation, partnership,
20 association, joint stock company, trust, unincorporated organization or any
21 similar entity;

22 (c) "affiliate" means a person that directly or indirectly, through one
23 or more intermediaries, employs, controls or is controlled by, or is under
24 common control with a health care provider;

25 (d) "commissioner" means the commissioner of insurance; and

26 (e) "association" means any organization whose income is exempt
27 from taxation pursuant to section 501(a) of the internal revenue code of
28 1986, and amendments thereto, as in effect on the effective date of this act,
29 due to such association's compliance with section 501(c)(6) of such code,
30 and amendments thereto, as in effect on the effective date of this act.

31 Sec. 16. K.S.A. 2016 Supp. 40-3401 is hereby amended to read as
32 follows: 40-3401. As used in this act ~~the following terms shall have the~~
33 ~~meanings respectively ascribed to them herein.:~~

34 (a) "Applicant" means any health care provider.

35 (b) "Basic coverage" means a policy of professional liability
36 insurance required to be maintained by each health care provider pursuant
37 to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

38 (c) "Commissioner" means the commissioner of insurance.

39 (d) "Fiscal year" means the year commencing on the effective date of
40 this act and each year, commencing on the first day of July thereafter.

41 (e) "Fund" means the health care stabilization fund established
42 pursuant to K.S.A. 40-3403(a), and amendments thereto.

43 (f) "Health care provider" means a person licensed to practice any

1 branch of the healing arts by the state board of healing arts, a person who
2 holds a temporary permit to practice any branch of the healing arts issued
3 by the state board of healing arts, a person engaged in a postgraduate
4 training program approved by the state board of healing arts, a medical
5 care facility licensed by the state of Kansas, a podiatrist licensed by the
6 state board of healing arts, a health maintenance organization issued a
7 certificate of authority by the commissioner, an optometrist licensed by the
8 board of examiners in optometry, a pharmacist licensed by the state board
9 of pharmacy, a licensed professional nurse who is authorized to practice as
10 a registered nurse anesthetist, a licensed professional nurse who has been
11 granted a temporary authorization to practice nurse anesthesia under
12 K.S.A. 65-1153, and amendments thereto, a professional corporation
13 organized pursuant to the professional corporation law of Kansas by
14 persons who are authorized by such law to form such a corporation and
15 who are health care providers as defined by this subsection, a Kansas
16 limited liability company organized for the purpose of rendering
17 professional services by its members who are health care providers as
18 defined by this subsection and who are legally authorized to render the
19 professional services for which the limited liability company is organized,
20 a partnership of persons who are health care providers under this
21 subsection, a Kansas not-for-profit corporation organized for the purpose
22 of rendering professional services by persons who are health care
23 providers as defined by this subsection, a nonprofit corporation organized
24 to administer the graduate medical education programs of community
25 hospitals or medical care facilities affiliated with the university of Kansas
26 school of medicine, a dentist certified by the state board of healing arts to
27 administer anesthetics under K.S.A. 65-2899, and amendments thereto, a
28 psychiatric hospital licensed prior to January 1, 1988, and continuously
29 thereafter under K.S.A. 2015 *Supp.* 75-3307b, *prior to its repeal, and*
30 *K.S.A. 2016 Supp. 39-2001 et seq.*, and amendments thereto, or a mental
31 health center or mental health clinic licensed by the state of Kansas. On
32 and after January 1, 2015, "health care provider" also means a physician
33 assistant licensed by the state board of healing arts, a licensed advanced
34 practice registered nurse who is authorized by the ~~state~~ board of nursing to
35 practice as an advanced practice registered nurse in the classification of a
36 nurse-midwife, a licensed advanced practice registered nurse who has been
37 granted a temporary authorization by the ~~state~~ board of nursing to practice
38 as an advanced practice registered nurse in the classification of a nurse-
39 midwife, a nursing facility licensed by the state of Kansas, an assisted
40 living facility licensed by the state of Kansas or a residential health care
41 facility licensed by the state of Kansas. "Health care provider" does not
42 include: (1) Any state institution for people with intellectual disability; (2)
43 any state psychiatric hospital; (3) any person holding an exempt license

1 issued by the state board of healing arts or the ~~state~~ board of nursing; (4)
2 any person holding a visiting clinical professor license from the state board
3 of healing arts; (5) any person holding an inactive license issued by the
4 state board of healing arts; (6) any person holding a federally active
5 license issued by the state board of healing arts; (7) an advanced practice
6 registered nurse who is authorized by the ~~state~~ board of nursing to practice
7 as an advanced practice registered nurse in the classification of nurse-
8 midwife or nurse anesthetist and who practices solely in the course of
9 employment or active duty in the United States government or any of its
10 departments, bureaus or agencies or who provides professional services as
11 a charitable health care provider as defined under K.S.A. 75-6102, and
12 amendments thereto; or (8) a physician assistant licensed by the state
13 board of healing arts who practices solely in the course of employment or
14 active duty in the United States government or any of its departments,
15 bureaus or agencies or who provides professional services as a charitable
16 health care provider as defined under K.S.A. 75-6102, and amendments
17 thereto.

18 (g) "Inactive health care provider" means a person or other entity who
19 purchased basic coverage or qualified as a self-insurer on or subsequent to
20 the effective date of this act but who, at the time a claim is made for
21 personal injury or death arising out of the rendering of or the failure to
22 render professional services by such health care provider, does not have
23 basic coverage or self-insurance in effect solely because such person is no
24 longer engaged in rendering professional service as a health care provider.

25 (h) "Insurer" means any corporation, association, reciprocal
26 exchange, inter-insurer and any other legal entity authorized to write
27 bodily injury or property damage liability insurance in this state, including
28 workers compensation and automobile liability insurance, pursuant to the
29 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of
30 the Kansas Statutes Annotated, and amendments thereto.

31 (i) "Plan" means the operating and administrative rules and
32 procedures developed by insurers and rating organizations or the
33 commissioner to make professional liability insurance available to health
34 care providers.

35 (j) "Professional liability insurance" means insurance providing
36 coverage for legal liability arising out of the performance of professional
37 services rendered or ~~which~~ *that* should have been rendered by a health care
38 provider.

39 (k) "Rating organization" means a corporation, an unincorporated
40 association, a partnership or an individual licensed pursuant to K.S.A. 40-
41 956, and amendments thereto, to make rates for professional liability
42 insurance.

43 (l) "Self-insurer" means a health care provider who qualifies as a self-

1 insurer pursuant to K.S.A. 40-3414, and amendments thereto.

2 (m) "Medical care facility" means the same when used in the health
3 care provider insurance availability act as ~~the meaning ascribed to that~~
4 ~~term defined~~ in K.S.A. 65-425, and amendments thereto, except that as
5 used in the health care provider insurance availability act such term, as it
6 relates to insurance coverage under the health care provider insurance
7 availability act, also includes any director, trustee, officer or administrator
8 of a medical care facility.

9 (n) "Mental health center" means a mental health center licensed by
10 the state of Kansas under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*,
11 and amendments thereto, except that as used in the health care provider
12 insurance availability act such term, as it relates to insurance coverage
13 under the health care provider insurance availability act, also includes any
14 director, trustee, officer or administrator of a mental health center.

15 (o) "Mental health clinic" means a mental health clinic licensed by
16 the state of Kansas under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*,
17 and amendments thereto, except that as used in the health care provider
18 insurance availability act such term, as it relates to insurance coverage
19 under the health care provider insurance availability act, also includes any
20 director, trustee, officer or administrator of a mental health clinic.

21 (p) "State institution for people with intellectual disability" means
22 Winfield state hospital and training center, Parsons state hospital and
23 training center and the Kansas neurological institute.

24 (q) "State psychiatric hospital" means Larned state hospital,
25 Osawatomie state hospital and Rainbow mental health facility.

26 (r) "Person engaged in residency training" means:

27 (1) A person engaged in a postgraduate training program approved by
28 the state board of healing arts who is employed by and is studying at the
29 university of Kansas medical center only when such person is engaged in
30 medical activities ~~which~~ *that* do not include extracurricular, extra-
31 institutional medical service for which such person receives extra
32 compensation and ~~which~~ *that* have not been approved by the dean of the
33 school of medicine and the executive vice-chancellor of the university of
34 Kansas medical center. Persons engaged in residency training shall be
35 considered resident health care providers for purposes of K.S.A. 40-3401
36 et seq., and amendments thereto; and

37 (2) a person engaged in a postgraduate training program approved by
38 the state board of healing arts who is employed by a nonprofit corporation
39 organized to administer the graduate medical education programs of
40 community hospitals or medical care facilities affiliated with the university
41 of Kansas school of medicine or who is employed by an affiliate of the
42 university of Kansas school of medicine as defined in K.S.A. 76-367, and
43 amendments thereto, only when such person is engaged in medical

1 activities—~~which~~ *that* do not include extracurricular, extra-institutional
2 medical service for which such person receives extra compensation and
3 ~~which~~ *that* have not been approved by the chief operating officer of the
4 nonprofit corporation or the chief operating officer of the affiliate and the
5 executive vice-chancellor of the university of Kansas medical center.

6 (s) "Full-time physician faculty employed by the university of Kansas
7 medical center" means a person licensed to practice medicine and surgery
8 who holds a full-time appointment at the university of Kansas medical
9 center when such person is providing health care.

10 (t) "Sexual act" or "sexual activity" means ~~that~~ sexual conduct—~~which~~
11 *that* constitutes a criminal or tortious act under the laws of the state of
12 Kansas.

13 (u) "Board" means the board of governors created by K.S.A. 40-3403,
14 and amendments thereto.

15 (v) "Board of directors" means the governing board created by K.S.A.
16 40-3413, and amendments thereto.

17 (w) "Locum tenens contract" means a temporary agreement not
18 exceeding 182 days per calendar year that employs a health care provider
19 to actively render professional services in this state.

20 (x) "Professional services" means patient care or other services
21 authorized under the act governing licensure of a health care provider.

22 (y) "Health care facility" means a nursing facility, an assisted living
23 facility or a residential health care facility as all such terms are defined in
24 K.S.A. 39-923, and amendments thereto.

25 Sec. 17. K.S.A. 2016 Supp. 40-3403 is hereby amended to read as
26 follows: 40-3403. (a) For the purpose of paying damages for personal
27 injury or death arising out of the rendering of or the failure to render
28 professional services by a health care provider, self-insurer or inactive
29 health care provider subsequent to the time that such health care provider
30 or self-insurer has qualified for coverage under the provisions of this act,
31 there is hereby established the health care stabilization fund. The fund
32 shall be held in trust in the state treasury and accounted for separately from
33 other state funds. The board of governors shall administer the fund or
34 contract for the administration of the fund with an insurance company
35 authorized to do business in this state.

36 (b) (1) There is hereby created a board of governors—~~which~~ *that* shall
37 be composed of such members and shall have such powers, duties and
38 functions as are prescribed by this act. The board of governors shall:

39 (A) Administer the fund and exercise and perform other powers,
40 duties and functions required of the board under the health care provider
41 insurance availability act;

42 (B) provide advice, information and testimony to the appropriate
43 licensing or disciplinary authority regarding the qualifications of a health

1 care provider;

2 (C) prepare and publish, on or before October 1 of each year, a
3 summary of the fund's activity during the preceding fiscal year, including,
4 but not limited to, the amount collected from surcharges, the highest and
5 lowest surcharges assessed, the amount paid from the fund, the number of
6 judgments paid from the fund, the number of settlements paid from the
7 fund and the amount in the fund at the end of the fiscal year; and

8 (D) have the authority to grant temporary exemptions from the
9 provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to
10 health care providers who have exceptional circumstances and verify in
11 writing that the health care provider will not render professional services
12 in this state during the period of exemption. Whenever the board grants
13 such an exemption, the board shall notify the state agency—~~which~~ *that*
14 licenses the exempted health care provider.

15 (2) The board shall consist of 11 persons appointed by the
16 commissioner of insurance, as provided by this subsection—~~(b)~~ and as
17 follows:

18 (A) Three members who are licensed to practice medicine and
19 surgery in Kansas who are doctors of medicine and who are on a list of
20 nominees submitted to the commissioner by the Kansas medical society;

21 (B) three members who are representatives of Kansas hospitals and
22 who are on a list of nominees submitted to the commissioner by the
23 Kansas hospital association;

24 (C) two members who are licensed to practice medicine and surgery
25 in Kansas who are doctors of osteopathic medicine and who are on a list of
26 nominees submitted to the commissioner by the Kansas association of
27 osteopathic medicine;

28 (D) one member who is licensed to practice chiropractic in Kansas
29 and who is on a list of nominees submitted to the commissioner by the
30 Kansas chiropractic association;

31 (E) one member who is a licensed professional nurse authorized to
32 practice as a registered nurse anesthetist who is on a list of nominees
33 submitted to the commissioner by the Kansas association of nurse
34 anesthetists; *and*

35 (F) one member who is a representative of adult care homes who is
36 on a list of nominees submitted to the commissioner by statewide
37 associations comprised of members who represent adult care homes.

38 (3) When a vacancy occurs in the membership of the board of
39 governors created by this act, the commissioner shall appoint a successor
40 of like qualifications from a list of three nominees submitted to the
41 commissioner by the professional society or association prescribed by this
42 section for the category of health care provider required for the vacant
43 position on the board of governors. All appointments made shall be for a

1 term of office of four years, but no member shall be appointed for more
2 than two successive four-year terms. Each member shall serve until a
3 successor is appointed and qualified. Whenever a vacancy occurs in the
4 membership of the board of governors created by this act for any reason
5 other than the expiration of a member's term of office, the commissioner
6 shall appoint a successor of like qualifications to fill the unexpired term. In
7 each case of a vacancy occurring in the membership of the board of
8 governors, the commissioner shall notify the professional society or
9 association—~~which~~ *that* represents the category of health care provider
10 required for the vacant position and request a list of three nominations of
11 health care providers from which to make the appointment.

12 (4) The board of governors shall organize in July of each year and
13 shall elect a chairperson and vice-chairperson from among its membership.
14 Meetings shall be called by the chairperson or by a written notice signed
15 by three members of the board.

16 (5) The board of governors, in addition to other duties imposed by
17 this act, shall study and evaluate the operation of the fund and make such
18 recommendations to the legislature as may be appropriate to ensure the
19 viability of the fund.

20 (6) (A) The board shall appoint an executive director who shall be in
21 the unclassified service under the Kansas civil service act and may employ
22 attorneys and other employees who shall also be in the unclassified service
23 under the Kansas civil service act. Such executive director, attorneys and
24 other employees shall receive compensation fixed by the board, in
25 accordance with appropriation acts of the legislature, not subject to
26 approval of the governor.

27 (B) The board may provide all office space, services, equipment,
28 materials and supplies, and all budgeting, personnel, purchasing and
29 related management functions required by the board in the exercise of the
30 powers, duties and functions imposed or authorized by the health care
31 provider insurance availability act or may enter into a contract with the
32 commissioner of insurance for the provision, by the commissioner, of all
33 or any part thereof.

34 (7) The commissioner shall:

35 (A) Provide technical and administrative assistance to the board of
36 governors with respect to administration of the fund upon request of the
37 board;

38 (B) provide such expertise as the board may reasonably request with
39 respect to evaluation of claims or potential claims.

40 (c) Except as otherwise provided by any other provision of this act,
41 the fund shall be liable to pay: (1) Any amount due from a judgment or
42 settlement—~~which~~ *that* is in excess of the basic coverage liability of all
43 liable resident health care providers or resident self-insurers for any

1 personal injury or death arising out of the rendering of or the failure to
2 render professional services within or without this state;

3 (2) subject to the provisions of subsections (f) and (m), any amount
4 due from a judgment or settlement—~~which~~ *that* is in excess of the basic
5 coverage liability of all liable nonresident health care providers or
6 nonresident self-insurers for any such injury or death arising out of the
7 rendering or the failure to render professional services within this state but
8 in no event shall the fund be obligated for claims against nonresident
9 health care providers or nonresident self-insurers who have not complied
10 with this act or for claims against nonresident health care providers or
11 nonresident self-insurers that arose outside of this state;

12 (3) subject to the provisions of subsections (f) and (m), any amount
13 due from a judgment or settlement against a resident inactive health care
14 provider for any such injury or death arising out of the rendering of or
15 failure to render professional services;

16 (4) subject to the provisions of subsections (f) and (m), any amount
17 due from a judgment or settlement against a nonresident inactive health
18 care provider for any injury or death arising out of the rendering or failure
19 to render professional services within this state, but in no event shall the
20 fund be obligated for claims against: (A) Nonresident inactive health care
21 providers who have not complied with this act; or (B) nonresident inactive
22 health care providers for claims that arose outside of this state, unless such
23 health care provider was a resident health care provider or resident self-
24 insurer at the time such act occurred;

25 (5) subject to ~~subsection (b)~~ of K.S.A. 40-3411(b), and amendments
26 thereto, reasonable and necessary expenses for attorney fees, depositions,
27 expert witnesses and other costs incurred in defending the fund against
28 claims, ~~which~~ *and such* expenditures shall not be subject to the provisions
29 of K.S.A. 75-3738 through 75-3744, and amendments thereto;

30 (6) any amounts expended for reinsurance obtained to protect the best
31 interests of the fund purchased by the board of governors, which purchase
32 shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and
33 amendments thereto, but shall not be subject to the provisions of K.S.A.
34 75-4101, and amendments thereto;

35 (7) reasonable and necessary actuarial expenses incurred in
36 administering the act, including expenses for any actuarial studies
37 contracted for by the legislative coordinating council, ~~which~~ *and such*
38 expenditures shall not be subject to the provisions of K.S.A. 75-3738
39 through 75-3744, and amendments thereto;

40 (8) periodically to the plan or plans, any amount due pursuant to
41 ~~subsection (a)(3)~~ of K.S.A. 40-3413(a)(3), and amendments thereto;

42 (9) reasonable and necessary expenses incurred by the board of
43 governors in the administration of the fund or in the performance of other

1 powers, duties or functions of the board under the health care provider
2 insurance availability act;

3 (10) surcharge refunds payable when the notice of cancellation
4 requirements of K.S.A. 40-3402, and amendments thereto, are met;

5 (11) subject to ~~subsection (b)~~ of K.S.A. 40-3411(b), and amendments
6 thereto, reasonable and necessary expenses for attorney fees and other
7 costs incurred in defending a person engaged or who was engaged in
8 residency training or the private practice corporations or foundations and
9 their full-time physician faculty employed by the university of Kansas
10 medical center or any nonprofit corporation organized to administer the
11 graduate medical education programs of community hospitals or medical
12 care facilities affiliated with the university of Kansas school of medicine
13 from claims for personal injury or death arising out of the rendering of or
14 the failure to render professional services by such health care provider;

15 (12) notwithstanding the provisions of subsection (m), any amount
16 due from a judgment or settlement for an injury or death arising out of the
17 rendering of or failure to render professional services by a person engaged
18 or who was engaged in residency training or the private practice
19 corporations or foundations and their full-time physician faculty employed
20 by the university of Kansas medical center or any nonprofit corporation
21 organized to administer the graduate medical education programs of
22 community hospitals or medical care facilities affiliated with the university
23 of Kansas school of medicine;

24 (13) subject to the provisions of K.S.A. 65-429, and amendments
25 thereto, reasonable and necessary expenses for the development and
26 promotion of risk management education programs and for the medical
27 care facility licensure and risk management survey functions carried out
28 under K.S.A. 65-429, and amendments thereto;

29 (14) notwithstanding the provisions of subsection (m), any amount,
30 but not less than the required basic coverage limits, owed pursuant to a
31 judgment or settlement for any injury or death arising out of the rendering
32 of or failure to render professional services by a person, other than a
33 person described in paragraph (12) ~~of this subsection (e)~~, who was
34 engaged in a postgraduate program of residency training approved by the
35 state board of healing arts but who, at the time the claim was made, was no
36 longer engaged in such residency program;

37 (15) subject to ~~subsection (b)~~ of K.S.A. 40-3411(b), and amendments
38 thereto, reasonable and necessary expenses for attorney fees and other
39 costs incurred in defending a person described in paragraph (14) ~~of this~~
40 ~~subsection (e)~~;

41 (16) expenses incurred by the commissioner in the performance of
42 duties and functions imposed upon the commissioner by the health care
43 provider insurance availability act, and expenses incurred by the

1 commissioner in the performance of duties and functions under contracts
2 entered into between the board and the commissioner as authorized by this
3 section; and

4 (17) periodically to the state general fund reimbursements of amounts
5 paid to members of the health care stabilization fund oversight committee
6 for compensation, travel expenses and subsistence expenses pursuant to
7 ~~subsection (e) of~~ K.S.A. 40-3403b(e), and amendments thereto.

8 (d) All amounts for which the fund is liable pursuant to subsection (c)
9 shall be paid promptly and in full except that, if the amount for which the
10 fund is liable is \$300,000 or more, it shall be paid; by installment
11 payments of \$300,000 or 10% of the amount of the judgment including
12 interest thereon, whichever is greater, per fiscal year, the first installment
13 to be paid within 60 days after the fund becomes liable and each
14 subsequent installment to be paid annually on the same date of the year the
15 first installment was paid, until the claim has been paid in full.

16 (e) In no event shall the fund be liable to pay in excess of \$3,000,000
17 pursuant to any one judgment or settlement against any one health care
18 provider relating to any injury or death arising out of the rendering of or
19 the failure to render professional services on and after July 1, 1984, and
20 before July 1, 1989, subject to an aggregate limitation for all judgments or
21 settlements arising from all claims made in any one fiscal year in the
22 amount of \$6,000,000 for each health care provider.

23 (f) In no event shall the fund be liable to pay in excess of the amounts
24 specified in the option selected by an active or inactive health care
25 provider pursuant to subsection (l) for judgments or settlements relating to
26 injury or death arising out of the rendering of or failure to render
27 professional services by such health care provider on or after July 1, 1989.

28 (g) A health care provider shall be deemed to have qualified for
29 coverage under the fund:

30 (1) On and after July 1, 1976, if basic coverage is then in effect;

31 (2) subsequent to July 1, 1976, at such time as basic coverage
32 becomes effective; or

33 (3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414, and
34 amendments thereto.

35 (h) A health care provider who is qualified for coverage under the
36 fund shall have no vicarious liability or responsibility for any injury or
37 death arising out of the rendering of or the failure to render professional
38 services inside or outside this state by any other health care provider who
39 is also qualified for coverage under the fund. The provisions of this
40 subsection shall apply to all claims filed on or after July 1, 1986.

41 (i) Notwithstanding the provisions of K.S.A. 40-3402, and
42 amendments thereto, if the board of governors determines due to the
43 number of claims filed against a health care provider or the outcome of

1 those claims that an individual health care provider presents a material risk
2 of significant future liability to the fund, the board of governors is
3 authorized by a vote of a majority of the members thereof, after notice and
4 an opportunity for hearing in accordance with the provisions of the Kansas
5 administrative procedure act, to terminate the liability of the fund for all
6 claims against the health care provider for damages for death or personal
7 injury arising out of the rendering of or the failure to render professional
8 services after the date of termination. The date of termination shall be 30
9 days after the date of the determination by the board of governors. The
10 board of governors, upon termination of the liability of the fund under this
11 subsection, shall notify the licensing or other disciplinary board having
12 jurisdiction over the health care provider involved of the name of the
13 health care provider and the reasons for the termination.

14 (j) (1) Subject to the provisions of paragraph (7) ~~of this subsection (j)~~,
15 upon the payment of moneys from the health care stabilization fund
16 pursuant to subsection (c)(11), the board of governors shall certify to the
17 secretary of administration the amount of such payment, and the secretary
18 of administration shall transfer an amount equal to the amount certified,
19 reduced by any amount transferred pursuant to paragraph (3) or (4) ~~of this~~
20 ~~subsection (j)~~, from the state general fund to the health care stabilization
21 fund.

22 (2) Subject to the provisions of paragraph (7) ~~of this subsection (j)~~,
23 upon the payment of moneys from the health care stabilization fund
24 pursuant to subsection (c)(12), the board of governors shall certify to the
25 secretary of administration the amount of such payment ~~which that~~ is
26 equal to the basic coverage liability of self-insurers, and the secretary of
27 administration shall transfer an amount equal to the amount certified,
28 reduced by any amount transferred pursuant to paragraph (3) or (4) ~~of this~~
29 ~~subsection (j)~~, from the state general fund to the health care stabilization
30 fund.

31 (3) The university of Kansas medical center private practice
32 foundation reserve fund is hereby established in the state treasury. If the
33 balance in such reserve fund is less than \$500,000 on July 1 of any year,
34 the private practice corporations or foundations referred to in ~~subsection~~
35 ~~(e)~~ of K.S.A. 40-3402(c), and amendments thereto, shall remit the amount
36 necessary to increase such balance to \$500,000 to the state treasurer for
37 credit to such reserve fund as soon after such July 1 date as is practicable.
38 Upon receipt of each such remittance, the state treasurer shall credit the
39 same to such reserve fund. When compliance with the foregoing
40 provisions of this paragraph have been achieved on or after July 1 of any
41 year in which the same are applicable, the state treasurer shall certify to
42 the board of governors that such reserve fund has been funded for the year
43 in the manner required by law. Moneys in such reserve fund may be

1 invested or reinvested in accordance with the provisions of K.S.A. 40-
2 3406, and amendments thereto, and any income or interest earned by such
3 investments shall be credited to such reserve fund. Upon payment of
4 moneys from the health care stabilization fund pursuant to subsection (c)
5 (11) or (c)(12) with respect to any private practice corporation or
6 foundation or any of its full-time physician faculty employed by the
7 university of Kansas, the secretary of administration shall transfer an
8 amount equal to the amount paid from the university of Kansas medical
9 center private practice foundation reserve fund to the health care
10 stabilization fund or, if the balance in such reserve fund is less than the
11 amount so paid, an amount equal to the balance in such reserve fund.

12 (4) The graduate medical education administration reserve fund is
13 hereby established in the state treasury. If the balance in such reserve fund
14 is less than \$40,000 on July 1 of any year, the nonprofit corporations
15 organized to administer the graduate medical education programs of
16 community hospitals or medical care facilities affiliated with the university
17 of Kansas school of medicine shall remit the amount necessary to increase
18 such balance to \$40,000 to the state treasurer for credit to such reserve
19 fund as soon after such July 1 date as is practicable. Upon receipt of each
20 such remittance, the state treasurer shall credit the same to such reserve
21 fund. When compliance with the foregoing provisions of this paragraph
22 have been achieved on or after July 1 of any year in which the same are
23 applicable, the state treasurer shall certify to the board of governors that
24 such reserve fund has been funded for the year in the manner required by
25 law. Moneys in such reserve fund may be invested or reinvested in
26 accordance with the provisions of K.S.A. 40-3406, and amendments
27 thereto, and any income or interest earned by such investments shall be
28 credited to such reserve fund. Upon payment of moneys from the health
29 care stabilization fund pursuant to subsection (c)(11) or (c)(12) with
30 respect to any nonprofit corporations organized to administer the graduate
31 medical education programs of community hospitals or medical care
32 facilities affiliated with the university of Kansas school of medicine the
33 secretary of administration shall transfer an amount equal to the amount
34 paid from the graduate medical education administration reserve fund to
35 the health care stabilization fund or, if the balance in such reserve fund is
36 less than the amount so paid, an amount equal to the balance in such
37 reserve fund.

38 (5) Upon payment of moneys from the health care stabilization fund
39 pursuant to subsection (c)(14) or (c)(15), the board of governors shall
40 certify to the secretary of administration the amount of such payment, and
41 the secretary of administration shall transfer an amount equal to the
42 amount certified from the state general fund to the health care stabilization
43 fund.

1 (6) Transfers from the state general fund to the health care
2 stabilization fund pursuant to *this* subsection~~(j)~~ shall not be subject to the
3 provisions of K.S.A. 75-3722, and amendments thereto.

4 (7) The funds required to be transferred from the state general fund to
5 the health care stabilization fund pursuant to paragraphs (1) and (2)~~of this~~
6 ~~subsection (j)~~ for the fiscal years ending June 30, 2010, June 30, 2011,
7 June 30, 2012, and June 30, 2013, shall not be transferred prior to July 1,
8 2013. The secretary of administration shall maintain a record of the
9 amounts certified by the board of governors pursuant to paragraphs (1) and
10 (2)~~of this subsection (j)~~ for the fiscal years ending June 30, 2010, June 30,
11 2011, June 30, 2012, and June 30, 2013. Beginning July 1, 2013, in
12 addition to any other transfers required pursuant to subsection (j), the state
13 general fund transfers~~which~~ *that* are deferred pursuant to this paragraph
14 shall be transferred from the state general fund to the health care
15 stabilization fund in the following manner: On July 1, 2013, and annually
16 thereafter through July 1, 2017, an amount equal to 20% of the total
17 amount of state general fund transfers deferred pursuant to this paragraph
18 for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012,
19 and June 30, 2013. The amounts deferred pursuant to this paragraph shall
20 not accrue interest thereon.

21 (k) Notwithstanding any other provision of the health care provider
22 insurance availability act, no psychiatric hospital licensed under K.S.A.
23 ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments thereto, shall be
24 assessed a premium surcharge or be entitled to coverage under the fund if
25 such hospital has not paid any premium surcharge pursuant to K.S.A. 40-
26 3404, and amendments thereto, prior to January 1, 1988.

27 (l) On or after July 1, 1989, every health care provider shall make an
28 election to be covered by one of the following options provided in this
29 subsection~~(l)~~~~which~~ *that* shall limit the liability of the fund with respect to
30 judgments or settlements relating to injury or death arising out of the
31 rendering of or failure to render professional services on or after July 1,
32 1989. Such election shall be made at the time the health care provider
33 renews the basic coverage in effect on July 1, 1989, or, if basic coverage is
34 not in effect, such election shall be made at the time such coverage is
35 acquired pursuant to K.S.A. 40-3402, and amendments thereto. Notice of
36 the election shall be provided by the insurer providing the basic coverage
37 in the manner and form prescribed by the board of governors and shall
38 continue to be effective from year to year unless modified by a subsequent
39 election made prior to the anniversary date of the policy. The health care
40 provider may at any subsequent election reduce the dollar amount of the
41 coverage for the next and subsequent fiscal years, but may not increase the
42 same, unless specifically authorized by the board of governors. Any
43 election of fund coverage limits, whenever made, shall be with respect to

1 judgments or settlements relating to injury or death arising out of the
2 rendering of or failure to render professional services on or after the
3 effective date of such election of fund coverage limits. Such election shall
4 be made for persons engaged in residency training and persons engaged in
5 other postgraduate training programs approved by the state board of
6 healing arts at medical care facilities or mental health centers in this state
7 by the agency or institution paying the surcharge levied under K.S.A. 40-
8 3404, and amendments thereto, for such persons. The election of fund
9 coverage limits for a nonprofit corporation organized to administer the
10 graduate medical education programs of community hospitals or medical
11 care facilities affiliated with the university of Kansas school of medicine
12 shall be deemed to be effective at the highest option. Such options shall be
13 as follows:

14 (1) *OPTION 1.* The fund shall not be liable to pay in excess of
15 \$100,000 pursuant to any one judgment or settlement for any party against
16 such health care provider, subject to an aggregate limitation for all
17 judgments or settlements arising from all claims made in the fiscal year in
18 an amount of \$300,000 for such provider.

19 (2) *OPTION 2.* The fund shall not be liable to pay in excess of
20 \$300,000 pursuant to any one judgment or settlement for any party against
21 such health care provider, subject to an aggregate limitation for all
22 judgments or settlements arising from all claims made in the fiscal year in
23 an amount of \$900,000 for such provider.

24 (3) *OPTION 3.* The fund shall not be liable to pay in excess of
25 \$800,000 pursuant to any one judgment or settlement for any party against
26 such health care provider, subject to an aggregate limitation for all
27 judgments or settlements arising from all claims made in the fiscal year in
28 an amount of \$2,400,000 for such health care provider.

29 (m) The fund shall not be liable for any amounts due from a judgment
30 or settlement against resident or nonresident inactive health care providers
31 who first qualify as an inactive health care provider on or after July 1,
32 1989, unless such health care provider has been in compliance with K.S.A.
33 40-3402, and amendments thereto, for a period of not less than five years.
34 If a health care provider has not been in compliance for five years, such
35 health care provider may make application and payment for the coverage
36 for the period while they are nonresident health care providers, nonresident
37 self-insurers or resident or nonresident inactive health care providers to the
38 fund. Such payment shall be made within 30 days after the health care
39 provider ceases being an active health care provider and shall be made in
40 an amount determined by the board of governors to be sufficient to fund
41 anticipated claims based upon reasonably prudent actuarial principles. The
42 provisions of this subsection shall not be applicable to any health care
43 provider ~~which~~ that becomes inactive through death or retirement, or

1 through disability or circumstances beyond such health care provider's
2 control, if such health care provider notifies the board of governors and
3 receives approval for an exemption from the provisions of this subsection.
4 Any period spent in a postgraduate program of residency training
5 approved by the state board of healing arts shall not be included in
6 computation of time spent in compliance with the provisions of K.S.A. 40-
7 3402, and amendments thereto. The provisions of this subsection shall
8 expire on July 1, 2014.

9 (n) In the event of a claim against a health care provider for personal
10 injury or death arising out of the rendering of or the failure to render
11 professional services by such health care provider, the liability of the fund
12 shall be limited to the amount of coverage selected by the health care
13 provider at the time of the incident giving rise to the claim.

14 (o) Notwithstanding anything in article 34 of chapter 40 of the
15 Kansas Statutes Annotated, and amendments thereto, to the contrary, the
16 fund shall in no event be liable for any claims against any health care
17 provider based upon or relating to the health care provider's sexual acts or
18 activity, but in such cases the fund may pay reasonable and necessary
19 expenses for attorney fees incurred in defending the fund against such
20 claim. The fund may recover all or a portion of such expenses for attorney
21 fees if an adverse judgment is returned against the health care provider for
22 damages resulting from the health care provider's sexual acts or activity.

23 Sec. 18. K.S.A. 2016 Supp. 59-2946 is hereby amended to read as
24 follows: 59-2946. When used in the care and treatment act for mentally ill
25 persons:

26 (a) "Discharge" means the final and complete release from treatment,
27 by either the head of a treatment facility acting pursuant to K.S.A. 59-
28 2950, and amendments thereto, or by an order of a court issued pursuant to
29 K.S.A. 59-2973, and amendments thereto.

30 (b) "Head of a treatment facility" means the administrative director of
31 a treatment facility or such person's designee.

32 (c) "Law enforcement officer" ~~shall have the meaning ascribed to it~~
33 ~~means the same as defined~~ in K.S.A. 22-2202, and amendments thereto.

34 (d) (1) "Mental health center" means any community mental health
35 center organized pursuant to the provisions of K.S.A. 19-4001 through 19-
36 4015, and amendments thereto, or mental health clinic organized pursuant
37 to the provisions of K.S.A. 65-211 through 65-215 as defined in K.S.A.
38 2016 Supp. 39-2002, and amendments thereto, or a mental health clinic
39 organized as a not-for-profit or a for-profit corporation pursuant to K.S.A.
40 17-1701 through 17-1775, and amendments thereto, or K.S.A. 17-6001
41 through 17-6010, and amendments thereto, and licensed in accordance
42 with the provisions of K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 et seq., and
43 amendments thereto.

1 (2) "Participating mental health center" means a mental health center
2 ~~which that~~ has entered into a contract with the secretary for aging and
3 disability services pursuant to the provisions of K.S.A. 39-1601 through
4 39-1612, and amendments thereto.

5 (e) "Mentally ill person" means any person who is suffering from a
6 mental disorder—~~which that~~ is manifested by a clinically significant
7 behavioral or psychological syndrome or pattern and associated with either
8 a painful symptom or an impairment in one or more important areas of
9 functioning, and involving substantial behavioral, psychological or
10 biological dysfunction, to the extent that the person is in need of treatment.

11 (f) (1) "Mentally ill person subject to involuntary commitment for
12 care and treatment" means a mentally ill person, as defined in subsection
13 (e), who also lacks capacity to make an informed decision concerning
14 treatment, is likely to cause harm to self or others, and whose diagnosis is
15 not solely one of the following mental disorders: Alcohol or chemical
16 substance abuse; antisocial personality disorder; intellectual disability;
17 organic personality syndrome; or an organic mental disorder.

18 (2) "Lacks capacity to make an informed decision concerning
19 treatment" means that the person, by reason of the person's mental
20 disorder, is unable, despite conscientious efforts at explanation, to
21 understand basically the nature and effects of hospitalization or treatment
22 or is unable to engage in a rational decision-making process regarding
23 hospitalization or treatment, as evidenced by an inability to weigh the
24 possible risks and benefits.

25 (3) "Likely to cause harm to self or others" means that the person, by
26 reason of the person's mental disorder: (A) Is likely, in the reasonably
27 foreseeable future, to cause substantial physical injury or physical abuse to
28 self or others or substantial damage to another's property, as evidenced by
29 behavior threatening, attempting or causing such injury, abuse or damage;
30 except that if the harm threatened, attempted or caused is only harm to the
31 property of another, the harm must be of such a value and extent that the
32 state's interest in protecting the property from such harm outweighs the
33 person's interest in personal liberty; or (B) is substantially unable, except
34 for reason of indigency, to provide for any of the person's basic needs,
35 such as food, clothing, shelter, health or safety, causing a substantial
36 deterioration of the person's ability to function on the person's own.

37 No person who is being treated by prayer in the practice of the religion
38 of any church—~~which that~~ teaches reliance on spiritual means alone through
39 prayer for healing shall be determined to be a mentally ill person subject to
40 involuntary commitment for care and treatment under this act unless
41 substantial evidence is produced upon which the district court finds that
42 the proposed patient is likely in the reasonably foreseeable future to cause
43 substantial physical injury or physical abuse to self or others or substantial

1 damage to another's property, as evidenced by behavior threatening,
2 attempting or causing such injury, abuse or damage; except that if the harm
3 threatened, attempted or caused is only harm to the property of another, the
4 harm must be of such a value and extent that the state's interest in
5 protecting the property from such harm outweighs the person's interest in
6 personal liberty.

7 (g) "Patient" means a person who is a voluntary patient, a proposed
8 patient or an involuntary patient.

9 (1) "Voluntary patient" means a person who is receiving treatment at
10 a treatment facility pursuant to K.S.A. 59-2949, and amendments thereto.

11 (2) "Proposed patient" means a person for whom a petition pursuant
12 to K.S.A. 59-2952 or 59-2957, and amendments thereto, has been filed.

13 (3) "Involuntary patient" means a person who is receiving treatment
14 under order of a court or a person admitted and detained by a treatment
15 facility pursuant to an application filed pursuant to ~~subsection (b) or (c)~~ of
16 K.S.A. 59-2954(b) or (c), and amendments thereto.

17 (h) "Physician" means a person licensed to practice medicine and
18 surgery as provided for in the Kansas healing arts act or a person who is
19 employed by a state psychiatric hospital or by an agency of the United
20 States and who is authorized by law to practice medicine and surgery
21 within that hospital or agency.

22 (i) "Psychologist" means a licensed psychologist, as defined by
23 K.S.A. 74-5302, and amendments thereto.

24 (j) "Qualified mental health professional" means a physician or
25 psychologist who is employed by a participating mental health center or
26 who is providing services as a physician or psychologist under a contract
27 with a participating mental health center, a licensed master's level
28 psychologist, a licensed clinical psychotherapist, a licensed marriage and
29 family therapist, a licensed clinical marriage and family therapist, a
30 licensed professional counselor, a licensed clinical professional counselor,
31 a licensed specialist social worker or a licensed master social worker or a
32 registered nurse who has a specialty in psychiatric nursing, who is
33 employed by a participating mental health center and who is acting under
34 the direction of a physician or psychologist who is employed by, or under
35 contract with, a participating mental health center.

36 (1) "Direction" means monitoring and oversight including regular,
37 periodic evaluation of services.

38 (2) "Licensed master social worker" means a person licensed as a
39 master social worker by the behavioral sciences regulatory board under
40 K.S.A. 65-6301 through 65-6318, and amendments thereto.

41 (3) "Licensed specialist social worker" means a person licensed in a
42 social work practice specialty by the behavioral sciences regulatory board
43 under K.S.A. 65-6301 through 65-6318, and amendments thereto.

1 (4) "Licensed master's level psychologist" means a person licensed as
2 a licensed master's level psychologist by the behavioral sciences
3 regulatory board under K.S.A. 74-5361 through 74-5373, and amendments
4 thereto.

5 (5) "Registered nurse" means a person licensed as a registered
6 professional nurse by the board of nursing under K.S.A. 65-1113 through
7 65-1164, and amendments thereto.

8 (k) "Secretary" means the secretary for aging and disability services.

9 (l) "State psychiatric hospital" means Larned state hospital,
10 Osawatomie state hospital or Rainbow mental health facility.

11 (m) "Treatment" means any service intended to promote the mental
12 health of the patient and rendered by a qualified professional, licensed or
13 certified by the state to provide such service as an independent practitioner
14 or under the supervision of such practitioner.

15 (n) "Treatment facility" means any mental health center or clinic,
16 psychiatric unit of a medical care facility, state psychiatric hospital,
17 psychologist, physician or other institution or person authorized or
18 licensed by law to provide either inpatient or outpatient treatment to any
19 patient.

20 (o) The terms defined in K.S.A. 59-3051, and amendments thereto,
21 shall have the meanings provided by that section.

22 Sec. 19. K.S.A. 2016 Supp. 59-29b46 is hereby amended to read as
23 follows: 59-29b46. When used in the care and treatment act for persons
24 with an alcohol or substance abuse problem:

25 (a) "Discharge" means the final and complete release from treatment,
26 by either the head of a treatment facility acting pursuant to K.S.A. 59-
27 29b50, and amendments thereto, or by an order of a court issued pursuant
28 to K.S.A. 59-29b73, and amendments thereto.

29 (b) "Head of a treatment facility" means the administrative director of
30 a treatment facility or such person's designee.

31 (c) "Law enforcement officer" means the same as defined in K.S.A.
32 22-2202, and amendments thereto.

33 (d) "Licensed addiction counselor" means a person who engages in
34 the practice of addiction counseling limited to substance use disorders and
35 who is licensed by the behavioral sciences regulatory board. Such person
36 shall engage in the practice of addiction counseling in a state-licensed or
37 certified alcohol and other drug treatment program or while completing a
38 Kansas domestic violence offender assessment for participants in a
39 certified batterer intervention program pursuant to K.S.A. 2016 Supp. 75-
40 7d01 through 75-7d13, and amendments thereto, unless otherwise exempt
41 from licensure under subsection (n).

42 (e) "Licensed clinical addiction counselor" means a person who
43 engages in the independent practice of addiction counseling and diagnosis

1 and treatment of substance use disorders specified in the edition of the
2 American psychiatric association's diagnostic and statistical manual of
3 mental disorders (DSM) designated by the board by rules and regulations
4 and is licensed by the behavioral sciences regulatory board.

5 (f) "Licensed master's addiction counselor" means a person who
6 engages in the practice of addiction counseling limited to substance use
7 disorders and who is licensed under this act. Such person may diagnose
8 substance use disorders only under the direction of a licensed clinical
9 addiction counselor, a licensed psychologist, a person licensed to practice
10 medicine and surgery or a person licensed to provide mental health
11 services as an independent practitioner and whose licensure allows for the
12 diagnosis and treatment of substance abuse disorders or mental disorders.

13 (g) "Other facility for care or treatment" means any mental health
14 clinic, medical care facility, nursing home, the detox units at either
15 Osawatomie state hospital or Larned state hospital, any physician or any
16 other institution or individual authorized or licensed by law to give care or
17 treatment to any person.

18 (h) "Patient" means a person who is a voluntary patient, a proposed
19 patient or an involuntary patient.

20 (1) "Voluntary patient" means a person who is receiving treatment at
21 a treatment facility pursuant to K.S.A. 59-29b49, and amendments thereto.

22 (2) "Proposed patient" means a person for whom a petition pursuant
23 to K.S.A. 59-29b52 or 59-29b57, and amendments thereto, has been filed.

24 (3) "Involuntary patient" means a person who is receiving treatment
25 under order of a court or a person admitted and detained by a treatment
26 facility pursuant to an application filed pursuant to K.S.A. 59-29b54(b) or
27 (c), and amendments thereto.

28 (i) "Person with an alcohol or substance abuse problem" means a
29 person who: (1) Lacks self-control as to the use of alcoholic beverages or
30 any substance as defined in subsection (m); or

31 (2) uses alcoholic beverages or any substance to the extent that the
32 person's health may be substantially impaired or endangered without
33 treatment.

34 (j) (1) "Person with an alcohol or substance abuse problem subject to
35 involuntary commitment for care and treatment" means a person with an
36 alcohol or substance abuse problem who also is incapacitated by alcohol or
37 any substance and is likely to cause harm to self or others.

38 (2) "Incapacitated by alcohol or any substance" means that the
39 person, as the result of the use of alcohol or any substance, has impaired
40 judgment resulting in the person:

41 (A) Being incapable of realizing and making a rational decision with
42 respect to the need for treatment; or

43 (B) lacking sufficient understanding or capability to make or

1 communicate responsible decisions concerning either the person's well-
2 being or estate.

3 (3) "Likely to cause harm to self or others" means that the person, by
4 reason of the person's use of alcohol or any substance: (A) Is likely, in the
5 reasonably foreseeable future, to cause substantial physical injury or
6 physical abuse to self or others or substantial damage to another's property,
7 as evidenced by behavior threatening, attempting or causing such injury,
8 abuse or damage; except that if the harm threatened, attempted or caused is
9 only harm to the property of another, the harm must be of such a value and
10 extent that the state's interest in protecting the property from such harm
11 outweighs the person's interest in personal liberty; or

12 (B) is substantially unable, except for reason of indigency, to provide
13 for any of the person's basic needs, such as food, clothing, shelter, health
14 or safety, causing a substantial deterioration of the person's ability to
15 function on the person's own.

16 (k) "Physician" means a person licensed to practice medicine and
17 surgery as provided for in the Kansas healing arts act or a person who is
18 employed by a state psychiatric hospital or by an agency of the United
19 States and who is authorized by law to practice medicine and surgery
20 within that hospital or agency.

21 (l) "Psychologist" means a licensed psychologist, as defined by
22 K.S.A. 74-5302, and amendments thereto.

23 (m) "Substance" means: (1) The same as the term "controlled
24 substance" as defined in K.S.A. 2016 Supp. 21-5701, and amendments
25 thereto; or

26 (2) fluorocarbons, toluene or volatile hydrocarbon solvents.

27 (n) "Treatment" means the broad range of emergency, outpatient,
28 intermediate and inpatient services and care, including diagnostic
29 evaluation, medical, psychiatric, psychological and social service care,
30 vocational rehabilitation and career counseling, which may be extended to
31 persons with an alcohol or substance abuse problem.

32 (o) (1) "Treatment facility" means a treatment program, public or
33 private treatment facility, or any facility of the United States government
34 available to treat a person for an alcohol or other substance abuse problem,
35 but such term ~~shall~~ does not include a licensed medical care facility, a
36 licensed adult care home, a facility licensed under K.S.A. 2015 Supp. 75-
37 3307b, *prior to its repeal or under K.S.A. 2016 Supp. 39-2001 et seq.*, and
38 amendments thereto, a community-based alcohol and drug safety action
39 program certified under K.S.A. 8-1008, and amendments thereto, and
40 performing only those functions for which the program is certified to
41 perform under K.S.A. 8-1008, and amendments thereto, or a professional
42 licensed by the behavioral sciences regulatory board to diagnose and treat
43 mental disorders at the independent level or a physician, who may treat in

1 the usual course of the behavioral sciences regulatory board licensee's or
2 physician's professional practice individuals incapacitated by alcohol or
3 other substances, but who are not primarily engaged in the usual course of
4 the individual's professional practice in treating such individuals, or any
5 state institution, even if detoxification services may have been obtained at
6 such institution.

7 (2) "Private treatment facility" means a private agency providing
8 facilities for the care and treatment or lodging of persons with either an
9 alcohol or other substance abuse problem and meeting the standards
10 prescribed in either K.S.A. 65-4013 or 65-4603, and amendments thereto,
11 and licensed under either K.S.A. 65-4014 or 65-4607, and amendments
12 thereto.

13 (3) "Public treatment facility" means a treatment facility owned and
14 operated by any political subdivision of the state of Kansas and licensed
15 under either K.S.A. 65-4014 or 65-4603, and amendments thereto, as an
16 appropriate place for the care and treatment or lodging of persons with an
17 alcohol or other substance abuse problem.

18 (p) The terms defined in K.S.A. 59-3051, and amendments thereto,
19 shall have the meanings provided by that section.

20 Sec. 20. K.S.A. 2016 Supp. 59-3077 is hereby amended to read as
21 follows: 59-3077. (a) At any time after the filing of the petition provided
22 for in K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments
23 thereto, any person may file in addition to that original petition, or as a
24 part thereof, or at any time after the appointment of a temporary guardian
25 as provided for in K.S.A. 59-3073, and amendments thereto, or a guardian
26 as provided for in K.S.A. 59-3067, and amendments thereto, the temporary
27 guardian or guardian may file; a verified petition requesting that the court
28 grant authority to the temporary guardian or guardian to admit the
29 proposed ward or ward to a treatment facility, as defined in subsection (h),
30 and to consent to the care and treatment of the proposed ward or ward
31 therein. The petition shall include:

32 (1) The petitioner's name and address, and if the petitioner is the
33 proposed ward's or ward's court appointed temporary guardian or guardian,
34 that fact;

35 (2) the proposed ward's or ward's name, age, date of birth, address of
36 permanent residence; and present address or whereabouts, if different from
37 the proposed ward's or ward's permanent residence;

38 (3) the name and address of the proposed ward's or ward's court
39 appointed temporary guardian or guardian, if different from the petitioner;

40 (4) the factual basis upon which the petitioner alleges the need for the
41 proposed ward or ward to be admitted to and treated at a treatment facility,
42 or for the proposed ward or ward to continue to be treated at the treatment
43 facility to which the proposed ward or ward has already been admitted, or

1 for the guardian to have continuing authority to admit the ward for care
2 and treatment at a treatment facility pursuant to K.S.A. 59-2949(b)(3) or
3 K.S.A. 59-29b49(b)(3), and amendments thereto;

4 (5) the names and addresses of witnesses by whom the truth of this
5 petition may be proved; and

6 (6) a request that the court find that the proposed ward or ward is in
7 need of being admitted to and treated at a treatment facility, and that the
8 court grant to the temporary guardian or guardian the authority to admit
9 the proposed ward or ward to a treatment facility and to consent to the care
10 and treatment of the proposed ward or ward therein.

11 (b) The petition may be accompanied by a report of an examination
12 and evaluation of the proposed ward or ward conducted by an
13 appropriately qualified professional, ~~which~~ *that* shows that the criteria set
14 out in K.S.A. 39-1803, ~~K.S.A. 59-2946(e), K.S.A. 59-29b46(i) or K.S.A.~~
15 ~~76-12b03~~, and amendments thereto, are met.

16 (c) Upon the filing of such a petition, the court shall issue the
17 following:

18 (1) An order fixing the date, time and place of a hearing on the
19 petition. Such hearing, in the court's discretion, may be conducted in a
20 courtroom, a treatment facility or at some other suitable place. The time
21 fixed in the order shall in no event be earlier than seven days or later than
22 21 days after the date of the filing of the petition. The court may
23 consolidate this hearing with the trial upon the original petition filed
24 pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and
25 amendments thereto, or with the trial provided for in the care and
26 treatment act for mentally ill persons or the care and treatment act for
27 persons with an alcohol or substance abuse problem, if the petition also
28 incorporates the allegations required by, and is filed in compliance with,
29 the provisions of either of those acts.

30 (2) An order requiring that the proposed ward or ward appear at the
31 time and place of the hearing on the petition unless the court makes a
32 finding prior to the hearing that the presence of the proposed ward or ward
33 will be injurious to the person's health or welfare, ~~or~~ that the proposed
34 ward's or ward's impairment is such that the person could not meaningfully
35 participate in the proceedings; or that the proposed ward or ward has filed
36 with the court a written waiver of such ward's right to appear in person. In
37 any such case, the court shall enter in the record of the proceedings the
38 facts upon which the court has found that the presence of the proposed
39 ward or ward at the hearing should be excused. Notwithstanding the
40 foregoing provisions of this subsection, if the proposed ward or ward files
41 with the court at least one day prior to the date of the hearing a written
42 notice stating the person's desire to be present at the hearing, the court
43 shall order that the person must be present at the hearing.

1 (3) An order appointing an attorney to represent the proposed ward or
2 ward. The court shall give preference, in the appointment of this attorney,
3 to any attorney who has represented the proposed ward or ward in other
4 matters, if the court has knowledge of that prior representation. The
5 proposed ward, or the ward with the consent of the ward's conservator, if
6 one has been appointed, shall have the right to engage an attorney of the
7 proposed ward's or ward's choice and, in such case, the attorney appointed
8 by the court shall be relieved of all duties by the court. Any appointment
9 made by the court shall terminate upon a final determination of the petition
10 and any appeal therefrom, unless the court continues the appointment by
11 further order.

12 (4) An order fixing the date, time and a place that is in the best
13 interest of the proposed ward or ward; at which the proposed ward or ward
14 shall have the opportunity to consult with such ward's attorney. This
15 consultation shall be scheduled to occur prior to the time at which the
16 examination and evaluation ordered pursuant to subsection (d)(1), if
17 ordered, is scheduled to occur.

18 (5) A notice similar to that provided for in K.S.A. 59-3066, and
19 amendments thereto.

20 (d) Upon the filing of such a petition, the court may issue the
21 following:

22 (1) An order for a psychological or other examination and evaluation
23 of the proposed ward or ward, as may be specified by the court. The court
24 may order the proposed ward or ward to submit to such an examination
25 and evaluation to be conducted through a general hospital, psychiatric
26 hospital, community mental health center; *or* community developmental
27 disability organization; or by a private physician, psychiatrist, psychologist
28 or other person appointed by the court who is qualified to examine and
29 evaluate the proposed ward or ward. The costs of this examination and
30 evaluation shall be assessed as provided for in K.S.A. 59-3094, and
31 amendments thereto.

32 (2) If the petition is accompanied by a report of an examination and
33 evaluation of the proposed ward or ward as provided for in subsection (b),
34 an order granting temporary authority to the temporary guardian or
35 guardian to admit the proposed ward or ward to a treatment facility and to
36 consent to the care and treatment of the proposed ward or ward therein.
37 Any such order shall expire immediately after the hearing upon the
38 petition, or as the court may otherwise specify, or upon the discharge of
39 the proposed ward or ward by the head of the treatment facility, if the
40 proposed ward or ward is discharged prior to the time at which the order
41 would otherwise expire.

42 (3) For good cause shown, an order of continuance of the hearing.

43 (4) For good cause shown, an order of advancement of the hearing.

1 (5) For good cause shown, an order changing the place of the hearing.

2 (e) The hearing on the petition shall be held at the time and place
3 specified in the court's order issued pursuant to subsection (c), unless an
4 order of advancement, continuance, or a change of place of the hearing has
5 been issued pursuant to subsection (d). The petitioner and the proposed
6 ward or ward shall each be afforded an opportunity to appear at the
7 hearing, to testify and to present and cross-examine witnesses. If the
8 hearing has been consolidated with a trial being held pursuant to either the
9 care and treatment act for mentally ill persons or the care and treatment act
10 for persons with an alcohol or substance abuse problem, persons not
11 necessary for the conduct of the proceedings may be excluded as provided
12 for in those acts. The hearing shall be conducted in as informal a manner
13 as may be consistent with orderly procedure. The court shall have the
14 authority to receive all relevant and material evidence which may be
15 offered, including the testimony or written report, findings or
16 recommendations of any professional or other person who has examined
17 or evaluated the proposed ward or ward pursuant to any order issued by
18 the court pursuant to subsection (d). Such evidence shall not be privileged
19 for the purpose of this hearing.

20 (f) Upon completion of the hearing, if the court finds by clear and
21 convincing evidence that the criteria set out in K.S.A. 39-1803, ~~K.S.A. 59-~~
22 ~~2946(e), K.S.A. 59-29b46(i) or K.S.A. 76-12b03~~, and amendments thereto,
23 are met, and after a careful consideration of reasonable alternatives to
24 admission of the proposed ward or ward to a treatment facility, the court
25 may enter an order granting such authority to the temporary guardian or
26 guardian as is appropriate, including continuing authority to the guardian
27 to readmit the ward to an appropriate treatment facility as may later
28 become necessary. Any such grant of continuing authority shall expire two
29 years after the date of final discharge of the ward from such a treatment
30 facility if the ward has not had to be readmitted to a treatment facility
31 during that two-year period of time. Thereafter, any such grant of
32 continuing authority may be renewed only after the filing of another
33 petition seeking authority in compliance with the provision of this section.

34 (g) Nothing herein shall be construed so as to prohibit the head of a
35 treatment facility from admitting a proposed ward or ward to that facility
36 as a voluntary patient if the head of the treatment facility is satisfied that
37 the proposed ward or ward at that time has the capacity to understand such
38 ward's illness and need for treatment, and to consent to such ward's
39 admission and treatment. Upon any such admission, the head of the
40 treatment facility shall give notice to the temporary guardian or guardian
41 as soon as possible of the ward's admission, and shall provide to the
42 temporary guardian or guardian copies of any consents the proposed ward
43 or ward has given. Thereafter, the temporary guardian or guardian shall

1 timely either seek to obtain proper authority pursuant to this section to
2 admit the proposed ward or ward to a treatment facility and to consent to
3 further care and treatment, or shall otherwise assume responsibility for the
4 care of the proposed ward or ward, consistent with the authority of the
5 temporary guardian or guardian, and may arrange for the discharge from
6 the facility of the proposed ward or ward, unless the head of the treatment
7 facility shall file a petition requesting the involuntary commitment of the
8 proposed ward or ward to that or some other facility.

9 (h) As used herein, "treatment facility" means the Kansas
10 neurological institute, Larned state hospital, Osawatomie state hospital,
11 Parsons state hospital and training center, the Rainbow mental health
12 facility, any intermediate care facility for people with intellectual
13 disability, any psychiatric hospital licensed pursuant to K.S.A. ~~75-3307b~~
14 *2016 Supp. 39-2001 et seq.*, and amendments thereto, and any other
15 facility for mentally ill persons or people with intellectual or
16 developmental disabilities licensed pursuant to K.S.A. ~~75-3307b~~ *2016*
17 *Supp. 39-2001 et seq.*, and amendments thereto, if the proposed ward or
18 ward is to be admitted as an inpatient or resident of that facility.

19 Sec. 21. K.S.A. 2016 Supp. 65-1626 is hereby amended to read as
20 follows: 65-1626. For the purposes of this act:

21 (a) "Administer" means the direct application of a drug, whether by
22 injection, inhalation, ingestion or any other means, to the body of a patient
23 or research subject by:

24 (1) A practitioner or pursuant to the lawful direction of a practitioner;

25 (2) the patient or research subject at the direction and in the presence
26 of the practitioner; or

27 (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments
28 thereto.

29 (b) "Agent" means an authorized person who acts on behalf of or at
30 the direction of a manufacturer, distributor or dispenser but shall not
31 include a common carrier, public warehouseman or employee of the carrier
32 or warehouseman when acting in the usual and lawful course of the
33 carrier's or warehouseman's business.

34 (c) "Application service provider" means an entity that sells
35 electronic prescription or pharmacy prescription applications as a hosted
36 service where the entity controls access to the application and maintains
37 the software and records on its server.

38 (d) "Authorized distributor of record" means a wholesale distributor
39 with whom a manufacturer has established an ongoing relationship to
40 distribute the manufacturer's prescription drug. An ongoing relationship is
41 deemed to exist between such wholesale distributor and a manufacturer
42 when the wholesale distributor, including any affiliated group of the
43 wholesale distributor, as defined in section 1504 of the internal revenue

1 code, complies with any one of the following: (1) The wholesale
2 distributor has a written agreement currently in effect with the
3 manufacturer evidencing such ongoing relationship; and (2) the wholesale
4 distributor is listed on the manufacturer's current list of authorized
5 distributors of record, ~~which~~ *that* is updated by the manufacturer on no less
6 than a monthly basis.

7 (e) "Board" means the state board of pharmacy created by K.S.A. 74-
8 1603, and amendments thereto.

9 (f) "Brand exchange" means the dispensing of a different drug
10 product of the same dosage form and strength and of the same generic
11 name as the brand name drug product prescribed.

12 (g) "Brand name" means the registered trademark name given to a
13 drug product by its manufacturer, labeler or distributor.

14 (h) "Chain pharmacy warehouse" means a permanent physical
15 location for drugs or devices, or both, that acts as a central warehouse and
16 performs intracompany sales or transfers of prescription drugs or devices
17 to chain pharmacies that have the same ownership or control. Chain
18 pharmacy warehouses must be registered as wholesale distributors.

19 (i) "Co-licensee" means a pharmaceutical manufacturer that has
20 entered into an agreement with another pharmaceutical manufacturer to
21 engage in a business activity or occupation related to the manufacture or
22 distribution of a prescription drug and the national drug code on the drug
23 product label shall be used to determine the identity of the drug
24 manufacturer.

25 (j) "DEA" means the U.S. department of justice, drug enforcement
26 administration.

27 (k) "Deliver" or "delivery" means the actual, constructive or
28 attempted transfer from one person to another of any drug whether or not
29 an agency relationship exists.

30 (l) "Direct supervision" means the process by which the responsible
31 pharmacist shall observe and direct the activities of a pharmacy student or
32 pharmacy technician to a sufficient degree to assure that all such activities
33 are performed accurately, safely and without risk or harm to patients, and
34 complete the final check before dispensing.

35 (m) "Dispense" means to deliver prescription medication to the
36 ultimate user or research subject by or pursuant to the lawful order of a
37 practitioner or pursuant to the prescription of a mid-level practitioner.

38 (n) "Dispenser" means a practitioner or pharmacist who dispenses
39 prescription medication, or a physician assistant who has authority to
40 dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b),
41 and amendments thereto.

42 (o) "Distribute" means to deliver, other than by administering or
43 dispensing, any drug.

1 (p) "Distributor" means a person who distributes a drug.

2 (q) "Drop shipment" means the sale; by a manufacturer, that
3 manufacturer's co-licensee, that manufacturer's third party logistics
4 provider; or that manufacturer's exclusive distributor, of the manufacturer's
5 prescription drug; to a wholesale distributor whereby the wholesale
6 distributor takes title but not possession of such prescription drug and the
7 wholesale distributor invoices the pharmacy, the chain pharmacy
8 warehouse; or other designated person authorized by law to dispense or
9 administer such prescription drug, and the pharmacy, the chain pharmacy
10 warehouse; or other designated person authorized by law to dispense or
11 administer such prescription drug receives delivery of the prescription
12 drug directly from the manufacturer, that manufacturer's co-licensee, that
13 manufacturer's third party logistics provider; or that manufacturer's
14 exclusive distributor, of such prescription drug. Drop shipment shall be
15 part of the "normal distribution channel."

16 (r) "Drug" means: (1) Articles recognized in the official United States
17 pharmacopoeia, or other such official compendiums of the United States,
18 or official national formulary, or any supplement of any of them; (2)
19 articles intended for use in the diagnosis, cure, mitigation, treatment or
20 prevention of disease in human or other animals; (3) articles, other than
21 food, intended to affect the structure or any function of the body of human
22 or other animals; and (4) articles intended for use as a component of any
23 articles specified in paragraph (1), (2) or (3); but does not include devices
24 or their components, parts or accessories, except that the term "drug" shall
25 not include amygdalin (laetrile) or any livestock remedy, if such livestock
26 remedy had been registered in accordance with the provisions of article 5
27 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

28 (s) "Durable medical equipment" means technologically sophisticated
29 medical devices that may be used in a residence, including the following:
30 (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory
31 disease management devices; (4) continuous positive airway pressure
32 (CPAP) devices; (5) electronic and computerized wheelchairs and seating
33 systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator
34 (TENS) units; (8) low air loss cutaneous pressure management devices; (9)
35 sequential compression devices; (10) feeding pumps; (11) home
36 phototherapy devices; (12) infusion delivery devices; (13) distribution of
37 medical gases to end users for human consumption; (14) hospital beds;
38 (15) nebulizers; or (16) other similar equipment determined by the board
39 in rules and regulations adopted by the board.

40 (t) "Electronic prescription" means an electronically prepared
41 prescription that is authorized and transmitted from the prescriber to the
42 pharmacy by means of electronic transmission.

43 (u) "Electronic prescription application" means software that is used

1 to create electronic prescriptions and that is intended to be installed on the
2 prescriber's computers and servers where access and records are controlled
3 by the prescriber.

4 (v) "Electronic signature" means a confidential personalized digital
5 key, code, number or other method for secure electronic data transmissions
6 which identifies a particular person as the source of the message,
7 authenticates the signatory of the message and indicates the person's
8 approval of the information contained in the transmission.

9 (w) "Electronic transmission" means the transmission of an electronic
10 prescription, formatted as an electronic data file, from a prescriber's
11 electronic prescription application to a pharmacy's computer, where the
12 data file is imported into the pharmacy prescription application.

13 (x) "Electronically prepared prescription" means a prescription that is
14 generated using an electronic prescription application.

15 (y) "Exclusive distributor" means any entity that: (1) Contracts with a
16 manufacturer to provide or coordinate warehousing, wholesale distribution
17 or other services on behalf of a manufacturer and who takes title to that
18 manufacturer's prescription drug, but who does not have general
19 responsibility to direct the sale or disposition of the manufacturer's
20 prescription drug; (2) is registered as a wholesale distributor under the
21 pharmacy act of the state of Kansas; and (3) to be considered part of the
22 normal distribution channel, must be an authorized distributor of record.

23 (z) "Facsimile transmission" or "fax transmission" means the
24 transmission of a digital image of a prescription from the prescriber or the
25 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
26 is not limited to, transmission of a written prescription between the
27 prescriber's fax machine and the pharmacy's fax machine; transmission of
28 an electronically prepared prescription from the prescriber's electronic
29 prescription application to the pharmacy's fax machine, computer or
30 printer; or transmission of an electronically prepared prescription from the
31 prescriber's fax machine to the pharmacy's fax machine, computer or
32 printer.

33 (aa) "Generic name" means the established chemical name or official
34 name of a drug or drug product.

35 (bb) (1) "Institutional drug room" means any location where
36 prescription-only drugs are stored and from which prescription-only drugs
37 are administered or dispensed and ~~which~~ *that* is maintained or operated for
38 the purpose of providing the drug needs of:

39 (A) Inmates of a jail or correctional institution or facility;

40 (B) residents of a juvenile detention facility, as defined by the revised
41 Kansas code for care of children and the revised Kansas juvenile justice
42 code;

43 (C) students of a public or private university or college, a community

- 1 college or any other institution of higher learning ~~which~~ *that* is located in
2 Kansas;
- 3 (D) employees of a business or other employer; or
4 (E) persons receiving inpatient hospice services.
- 5 (2) "Institutional drug room" does not include:
6 (A) Any registered pharmacy;
7 (B) any office of a practitioner; or
8 (C) a location where no prescription-only drugs are dispensed and no
9 prescription-only drugs other than individual prescriptions are stored or
10 administered.
- 11 (cc) "Intermediary" means any technology system that receives and
12 transmits an electronic prescription between the prescriber and the
13 pharmacy.
- 14 (dd) "Intracompany transaction" means any transaction or transfer
15 between any division, subsidiary, parent or affiliated or related company
16 under common ownership or control of a corporate entity, or any
17 transaction or transfer between co-licensees of a co-licensed product.
- 18 (ee) "Medical care facility" ~~shall have the meaning provided~~ *means*
19 *the same as defined* in K.S.A. 65-425, and amendments thereto, except
20 that the term shall also include facilities licensed under the provisions of
21 K.S.A. 2015 Supp. 75-3307b, *prior to its repeal, or the same facilities*
22 *licensed under K.S.A. 2016 Supp. 39-2001 et seq.*, and amendments
23 thereto, except community mental health centers and facilities for people
24 with intellectual disability.
- 25 (ff) "Manufacture" means the production, preparation, propagation,
26 compounding, conversion or processing of a drug either directly or
27 indirectly by extraction from substances of natural origin, independently
28 by means of chemical synthesis or by a combination of extraction and
29 chemical synthesis and includes any packaging or repackaging of the drug
30 or labeling or relabeling of its container, except that this term shall not
31 include the preparation or compounding of a drug by an individual for the
32 individual's own use or the preparation, compounding, packaging or
33 labeling of a drug by:
- 34 (1) A practitioner or a practitioner's authorized agent incident to such
35 practitioner's administering or dispensing of a drug in the course of the
36 practitioner's professional practice;
- 37 (2) a practitioner, by a practitioner's authorized agent or under a
38 practitioner's supervision for the purpose of, or as an incident to, research,
39 teaching or chemical analysis and not for sale; or
- 40 (3) a pharmacist or the pharmacist's authorized agent acting under the
41 direct supervision of the pharmacist for the purpose of, or incident to, the
42 dispensing of a drug by the pharmacist.
- 43 (gg) "Manufacturer" means a person licensed or approved by the

1 FDA to engage in the manufacture of drugs and devices.

2 (hh) "Mid-level practitioner" means a certified nurse-midwife
3 engaging in the independent practice of midwifery under the independent
4 practice of midwifery act, an advanced practice registered nurse issued a
5 license pursuant to K.S.A. 65-1131, and amendments thereto, who has
6 authority to prescribe drugs pursuant to a written protocol with a
7 responsible physician under K.S.A. 65-1130, and amendments thereto, or a
8 physician assistant licensed pursuant to the physician assistant licensure
9 act who has authority to prescribe drugs pursuant to a written agreement
10 with a supervising physician under K.S.A. 65-28a08, and amendments
11 thereto.

12 (ii) "Normal distribution channel" means a chain of custody for a
13 prescription-only drug that goes from a manufacturer of the prescription-
14 only drug, from that manufacturer to that manufacturer's co-licensed
15 partner, from that manufacturer to that manufacturer's third-party logistics
16 provider or from that manufacturer to that manufacturer's exclusive
17 distributor, directly or by drop shipment, to:

18 (1) A pharmacy to a patient or to other designated persons authorized
19 by law to dispense or administer such drug to a patient;

20 (2) a wholesale distributor to a pharmacy to a patient or other
21 designated persons authorized by law to dispense or administer such drug
22 to a patient;

23 (3) a wholesale distributor to a chain pharmacy warehouse to that
24 chain pharmacy warehouse's intracompany pharmacy to a patient or other
25 designated persons authorized by law to dispense or administer such drug
26 to a patient; or

27 (4) a chain pharmacy warehouse to the chain pharmacy warehouse's
28 intracompany pharmacy to a patient or other designated persons authorized
29 by law to dispense or administer such drug to a patient.

30 (jj) "Person" means individual, corporation, government,
31 governmental subdivision or agency, partnership, association or any other
32 legal entity.

33 (kk) "Pharmacist" means any natural person licensed under this act to
34 practice pharmacy.

35 (ll) "Pharmacist-in-charge" means the pharmacist who is responsible
36 to the board for a registered establishment's compliance with the laws and
37 regulations of this state pertaining to the practice of pharmacy,
38 manufacturing of drugs and the distribution of drugs. The pharmacist-in-
39 charge shall supervise such establishment on a full-time or a part-time
40 basis and perform such other duties relating to supervision of a registered
41 establishment as may be prescribed by the board by rules and regulations.
42 Nothing in this definition shall relieve other pharmacists or persons from
43 their responsibility to comply with state and federal laws and regulations.

1 (mm) "Pharmacist intern" means: (1) A student currently enrolled in
2 an accredited pharmacy program; (2) a graduate of an accredited pharmacy
3 program serving an internship; or (3) a graduate of a pharmacy program
4 located outside of the United States—~~which~~ *that* is not accredited and who
5 has successfully passed equivalency examinations approved by the board.

6 (nn) "Pharmacy," "drugstore" or "apothecary" means premises,
7 laboratory, area or other place: (1) Where drugs are offered for sale where
8 the profession of pharmacy is practiced and where prescriptions are
9 compounded and dispensed; or (2)—~~which~~ *that* has displayed upon it or
10 within it the words "pharmacist," "pharmaceutical chemist," "pharmacy,"
11 "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of
12 these words or combinations of these words or words of similar import
13 either in English or any sign containing any of these words; or (3) where
14 the characteristic symbols of pharmacy or the characteristic prescription
15 sign "Rx" may be exhibited. As used in this subsection, premises refers
16 only to the portion of any building or structure leased, used or controlled
17 by the licensee in the conduct of the business registered by the board at the
18 address for which the registration was issued.

19 (oo) "Pharmacy prescription application" means software that is used
20 to process prescription information, is installed on a pharmacy's computers
21 or servers, and is controlled by the pharmacy.

22 (pp) "Pharmacy technician" means an individual who, under the
23 direct supervision and control of a pharmacist, may perform packaging,
24 manipulative, repetitive or other nondiscretionary tasks related to the
25 processing of a prescription or medication order and who assists the
26 pharmacist in the performance of pharmacy related duties, but who does
27 not perform duties restricted to a pharmacist.

28 (qq) "Practitioner" means a person licensed to practice medicine and
29 surgery, dentist, podiatrist, veterinarian, optometrist or scientific
30 investigator or other person authorized by law to use a prescription-only
31 drug in teaching or chemical analysis or to conduct research with respect
32 to a prescription-only drug.

33 (rr) "Preceptor" means a licensed pharmacist who possesses at least
34 two years' experience as a pharmacist and who supervises students
35 obtaining the pharmaceutical experience required by law as a condition to
36 taking the examination for licensure as a pharmacist.

37 (ss) "Prescriber" means a practitioner or a mid-level practitioner.

38 (tt) "Prescription" or "prescription order" means: (1) An order to be
39 filled by a pharmacist for prescription medication issued and signed by a
40 prescriber in the authorized course of such prescriber's professional
41 practice; or (2) an order transmitted to a pharmacist through word of
42 mouth, note, telephone or other means of communication directed by such
43 prescriber, regardless of whether the communication is oral, electronic,

1 facsimile or in printed form.

2 (uu) "Prescription medication" means any drug, including label and
3 container according to context, which is dispensed pursuant to a
4 prescription order.

5 (vv) "Prescription-only drug" means any drug whether intended for
6 use by human or animal, required by federal or state law, including 21
7 U.S.C. § 353, to be dispensed only pursuant to a written or oral
8 prescription or order of a practitioner or is restricted to use by practitioners
9 only.

10 (ww) "Probation" means the practice or operation under a temporary
11 license, registration or permit or a conditional license, registration or
12 permit of a business or profession for which a license, registration or
13 permit is granted by the board under the provisions of the pharmacy act of
14 the state of Kansas requiring certain actions to be accomplished or certain
15 actions not to occur before a regular license, registration or permit is
16 issued.

17 (xx) "Professional incompetency" means:

18 (1) One or more instances involving failure to adhere to the
19 applicable standard of pharmaceutical care to a degree—~~which~~ *that*
20 constitutes gross negligence, as determined by the board;

21 (2) repeated instances involving failure to adhere to the applicable
22 standard of pharmaceutical care to a degree—~~which~~ *that* constitutes ordinary
23 negligence, as determined by the board; or

24 (3) a pattern of pharmacy practice or other behavior—~~which~~ *that*
25 demonstrates a manifest incapacity or incompetence to practice pharmacy.

26 (yy) "Readily retrievable" means that records kept by automatic data
27 processing applications or other electronic or mechanized record-keeping
28 systems can be separated out from all other records within a reasonable
29 time not to exceed 48 hours of a request from the board or other authorized
30 agent or that hard-copy records are kept on which certain items are
31 asterisked, redlined or in some other manner visually identifiable apart
32 from other items appearing on the records.

33 (zz) "Retail dealer" means a person selling at retail nonprescription
34 drugs—~~which~~ *that* are prepackaged, fully prepared by the manufacturer or
35 distributor for use by the consumer and labeled in accordance with the
36 requirements of the state and federal food, drug and cosmetic acts. Such
37 nonprescription drugs shall not include: (1) A controlled substance; (2) a
38 prescription-only drug; or (3) a drug intended for human use by
39 hypodermic injection.

40 (aaa) "Secretary" means the executive secretary of the board.

41 (bbb) "Third party logistics provider" means an entity that: (1)
42 Provides or coordinates warehousing, distribution or other services on
43 behalf of a manufacturer, but does not take title to the prescription drug or

1 have general responsibility to direct the prescription drug's sale or
2 disposition; (2) is registered as a wholesale distributor under the pharmacy
3 act of the state of Kansas; and (3) to be considered part of the normal
4 distribution channel, must also be an authorized distributor of record.

5 (ccc) "Unprofessional conduct" means:

- 6 (1) Fraud in securing a registration or permit;
- 7 (2) intentional adulteration or mislabeling of any drug, medicine,
8 chemical or poison;
- 9 (3) causing any drug, medicine, chemical or poison to be adulterated
10 or mislabeled, knowing the same to be adulterated or mislabeled;
- 11 (4) intentionally falsifying or altering records or prescriptions;
- 12 (5) unlawful possession of drugs and unlawful diversion of drugs to
13 others;
- 14 (6) willful betrayal of confidential information under K.S.A. 65-1654,
15 and amendments thereto;
- 16 (7) conduct likely to deceive, defraud or harm the public;
- 17 (8) making a false or misleading statement regarding the licensee's
18 professional practice or the efficacy or value of a drug;
- 19 (9) commission of any act of sexual abuse, misconduct or
20 exploitation related to the licensee's professional practice; or
- 21 (10) performing unnecessary tests, examinations or services which
22 have no legitimate pharmaceutical purpose.

23 (ddd) "Vaccination protocol" means a written protocol, agreed to by a
24 pharmacist and a person licensed to practice medicine and surgery by the
25 state board of healing arts,—~~which~~ *that* establishes procedures and
26 recordkeeping and reporting requirements for administering a vaccine by
27 the pharmacist for a period of time specified therein, not to exceed two
28 years.

29 (eee) "Valid prescription order" means a prescription that is issued for
30 a legitimate medical purpose by an individual prescriber licensed by law to
31 administer and prescribe drugs and acting in the usual course of such
32 prescriber's professional practice. A prescription issued solely on the basis
33 of an internet-based questionnaire or consultation without an appropriate
34 prescriber-patient relationship is not a valid prescription order.

35 (fff) "Veterinary medical teaching hospital pharmacy" means any
36 location where prescription-only drugs are stored as part of an accredited
37 college of veterinary medicine and from which prescription-only drugs are
38 distributed for use in treatment of or administration to a nonhuman.

39 (ggg) "Wholesale distributor" means any person engaged in
40 wholesale distribution of prescription drugs or devices in or into the state,
41 including, but not limited to, manufacturers, repackagers, own-label
42 distributors, private-label distributors, jobbers, brokers, warehouses,
43 including manufacturers' and distributors' warehouses, co-licensees,

1 exclusive distributors, third party logistics providers, chain pharmacy
2 warehouses that conduct wholesale distributions, and wholesale drug
3 warehouses, independent wholesale drug traders and retail pharmacies that
4 conduct wholesale distributions. Wholesale distributor shall not include
5 persons engaged in the sale of durable medical equipment to consumers or
6 patients.

7 (hhh) "Wholesale distribution" means the distribution of prescription
8 drugs or devices by wholesale distributors to persons other than consumers
9 or patients, and includes the transfer of prescription drugs by a pharmacy
10 to another pharmacy if the total number of units of transferred drugs
11 during a twelve-month period does not exceed 5% of the total number of
12 all units dispensed by the pharmacy during the immediately preceding
13 ~~twelve~~ 12-month period. Wholesale distribution does not include:

14 (1) The sale, purchase or trade of a prescription drug or device, an
15 offer to sell, purchase or trade a prescription drug or device or the
16 dispensing of a prescription drug or device pursuant to a prescription;

17 (2) the sale, purchase or trade of a prescription drug or device or an
18 offer to sell, purchase or trade a prescription drug or device for emergency
19 medical reasons;

20 (3) intracompany transactions, as defined in this section, unless in
21 violation of own use provisions;

22 (4) the sale, purchase or trade of a prescription drug or device or an
23 offer to sell, purchase or trade a prescription drug or device among
24 hospitals, chain pharmacy warehouses, pharmacies or other health care
25 entities that are under common control;

26 (5) the sale, purchase or trade of a prescription drug or device or the
27 offer to sell, purchase or trade a prescription drug or device by a charitable
28 organization described in 503(c)(3) of the internal revenue code of 1954 to
29 a nonprofit affiliate of the organization to the extent otherwise permitted
30 by law;

31 (6) the purchase or other acquisition by a hospital or other similar
32 health care entity that is a member of a group purchasing organization of a
33 prescription drug or device for its own use from the group purchasing
34 organization or from other hospitals or similar health care entities that are
35 members of these organizations;

36 (7) the transfer of prescription drugs or devices between pharmacies
37 pursuant to a centralized prescription processing agreement;

38 (8) the sale, purchase or trade of blood and blood components
39 intended for transfusion;

40 (9) the return of recalled, expired, damaged or otherwise non-salable
41 prescription drugs, when conducted by a hospital, health care entity,
42 pharmacy, chain pharmacy warehouse or charitable institution in
43 accordance with the board's rules and regulations;

1 (10) the sale, transfer, merger or consolidation of all or part of the
2 business of a retail pharmacy or pharmacies from or with another retail
3 pharmacy or pharmacies, whether accomplished as a purchase and sale of
4 stock or business assets, in accordance with the board's rules and
5 regulations;

6 (11) the distribution of drug samples by manufacturers' and
7 authorized distributors' representatives;

8 (12) the sale of minimal quantities of drugs by retail pharmacies to
9 licensed practitioners for office use; or

10 (13) the sale or transfer from a retail pharmacy or chain pharmacy
11 warehouse of expired, damaged, returned or recalled prescription drugs to
12 the original manufacturer, originating wholesale distributor or to a third
13 party returns processor in accordance with the board's rules and
14 regulations.

15 Sec. 22. K.S.A. 2016 Supp. 65-1669 is hereby amended to read as
16 follows: 65-1669. As used in the utilization of unused medications act:

17 (a) "Adult care home" ~~has the same meaning as such term is~~ *means*
18 *the same as* defined in K.S.A. 39-923, and amendments thereto.

19 (b) "Community mental health center" ~~has the same meaning as such~~
20 ~~term is~~ *means the same as* defined in K.S.A. ~~75-3307e~~ 2016 Supp. 39-
21 2002, and amendments thereto.

22 (c) "Donating entities" means adult care homes, mail service
23 pharmacies, institutional drug rooms and medical care facilities who elect
24 to participate in the program.

25 (d) "Drug" ~~has the same meaning as such term is~~ *means the same as*
26 defined in K.S.A. 65-1626, and amendments thereto.

27 (e) "Federally qualified health center" means a center ~~which that~~
28 meets the requirements for federal funding under 42 U.S.C. § 1396d(1) of
29 the public health service act, ~~and amendments thereto,~~ and ~~which that~~ has
30 been designated as a "federally qualified health center" by the federal
31 government.

32 (f) "Indigent health care clinic" ~~has the same meaning as such term is~~
33 *means the same as* defined in K.S.A. 75-6102, and amendments thereto.

34 (g) "Institutional drug room" ~~has the meaning as such term is~~ *means*
35 *the same as* defined in K.S.A. 65-1626(bb), and amendments thereto.

36 (h) "Mail service pharmacy" means a licensed Kansas pharmacy that
37 ships, mails or delivers by any lawful means a lawfully dispensed
38 medication in tamper-resistant packaging to residents of this state or
39 another state.

40 (i) "Medical care facility" ~~has the same meaning as such term is~~
41 *means the same as* defined in K.S.A. 65-425, and amendments thereto.

42 (j) "Medically indigent" ~~has the same meaning as such term is~~ *means*
43 *the same as* defined in K.S.A. 75-6102, and amendments thereto.

1 (k) "Medication" means a prescription drug or drug as defined by this
2 section.

3 (l) "Mid-level practitioner" ~~has the same meaning as such term is~~
4 *means the same as* defined in K.S.A. 65-1626, and amendments thereto.

5 (m) "Practitioner" ~~has the same meaning as such term is~~ *means the*
6 *same as* defined in K.S.A. 65-1626, and amendments thereto.

7 (n) "Prescription drug" means a drug ~~which~~ *that* may be dispensed
8 only upon prescription of a practitioner or mid-level practitioner
9 authorized by law and ~~which~~ *that* is approved for safety and effectiveness
10 as a prescription drug under section 505 or 507 of the federal food, drug
11 and cosmetic act, 52 Stat. 1040 (1938), 21 U.S.C.A. § 301.

12 (o) "Qualifying center or clinic" means an indigent health care clinic,
13 federally qualified health center or community mental health center.

14 (p) "Samples of medications or injectables" means a unit of drug that
15 is not intended to be sold and is intended to promote the sale of the drug.

16 Sec. 23. K.S.A. 2016 Supp. 65-2895 is hereby amended to read as
17 follows: 65-2895. (a) There is hereby created an institutional license ~~which~~
18 *that* may be issued by the board to a person who:

19 (1) Is a graduate of an accredited school of medicine or osteopathic
20 medicine or a school ~~which~~ *the whose* graduates have been licensed in
21 another state or states ~~which~~ *that* have standards similar to Kansas;

22 (2) has completed at least two years in a postgraduate training
23 program in the United States approved by the board; and

24 (3) who is employed as provided in this section.

25 (b) Subject to the restrictions of this section, the institutional license
26 shall confer upon the holder the right and privilege to practice medicine
27 and surgery and shall obligate the holder to comply with all requirements
28 of such license.

29 (c) The practice privileges of institutional license holders are
30 restricted and shall be valid only during the period in which:

31 (1) The holder is employed by any institution within the Kansas
32 department for aging and disability services, employed by any institution
33 within the department of corrections or employed pursuant to a contract
34 entered into by the Kansas department for aging and disability services or
35 the department of corrections with a third party, and only within the
36 institution to which the holder is assigned; and

37 (2) the holder has been employed for at least three years as described
38 in subsection (c)(1) and is employed to provide mental health services in
39 Kansas in the employ of a Kansas licensed community mental health
40 center, or one of its contracted affiliates, or a federal, state, county or
41 municipal agency, or other political subdivision, or a contractor of a
42 federal, state, county or municipal agency, or other political subdivision, or
43 a duly chartered educational institution, or a medical care facility licensed

1 under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric
2 hospital licensed under K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 et seq., and
3 amendments thereto, or a contractor of such educational institution,
4 medical care facility or psychiatric hospital, and whose practice, in any
5 such employment, is limited to providing mental health services, is a part
6 of the duties of such licensee's paid position and is performed solely on
7 behalf of the employer.

8 (d) An institutional license shall be canceled on the date established
9 by rules and regulations of the board ~~which~~ that may provide for renewal
10 throughout the year on a continuing basis. In each case in which an
11 institutional license is renewed for a period of time of more or less than 12
12 months, the board may prorate the amount of the fee established under
13 K.S.A. 65-2852, and amendments thereto. The request for renewal shall be
14 on a form provided by the board and shall be accompanied by the
15 prescribed fee, ~~which~~ that shall be paid not later than the renewal date of
16 the license. An institutional license may be renewed for an additional one-
17 year period if the applicant for renewal meets the requirements under
18 subsection (c), has submitted an application for renewal on a form
19 provided by the board, has paid the renewal fee established by rules and
20 regulations of the board of not to exceed \$500 and has submitted evidence
21 of satisfactory completion of a program of continuing education required
22 by the board. In addition, an applicant for renewal who is employed as
23 described in subsection (c)(1) shall submit with the application for renewal
24 a recommendation that the institutional license be renewed signed by the
25 superintendent of the institution to which the institutional license holder is
26 assigned.

27 (e) Nothing in this section shall prohibit any person who was issued
28 an institutional license prior to the effective date of this section from
29 having the institutional license reinstated by the board if the person meets
30 the requirements for an institutional license described in subsection (a).

31 (f) This section shall be a part of and supplemental to the Kansas
32 healing arts act.

33 Sec. 24. K.S.A. 2016 Supp. 65-4412 is hereby amended to read as
34 follows: 65-4412. (a) "Community facilities for people with intellectual
35 disability" means: (1) Any community facility for people with intellectual
36 disability organized pursuant to the provisions of K.S.A. 19-4001 ~~to~~
37 ~~through~~ 19-4015, ~~inclusive~~, and amendments thereto, and licensed in
38 accordance with the provisions of K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 et
39 seq., and amendments thereto; or (2) any intellectual disability governing
40 board ~~which~~ that contracts with a nonprofit corporation to provide services
41 for people with intellectual disability.

42 (b) "Secretary" means secretary for aging and disability services.

43 Sec. 25. K.S.A. 2016 Supp. 65-4432 is hereby amended to read as

1 follows: 65-4432. (a) "Mental health center" means any community mental
2 health center ~~organized pursuant to the provisions of K.S.A. 19-4001 to~~
3 ~~19-4015, inclusive as defined in K.S.A. 2016 Supp. 39-2002,~~ and
4 amendments thereto, or mental health clinics organized pursuant to the
5 provisions of K.S.A. 65-211 ~~to through 65-215, inclusive,~~ and
6 amendments thereto, and licensed in accordance with the provisions of
7 K.S.A. ~~75-3307b~~ 2016 Supp. 39-2001 *et seq.*, and amendments thereto.

8 (b) "Secretary" means the secretary for aging and disability services.

9 Sec. 26. K.S.A. 2016 Supp. 65-4915 is hereby amended to read as
10 follows: 65-4915. (a) As used in this section:

11 (1) "Health care provider" means: (A) Those persons and entities
12 defined as a health care provider under K.S.A. 40-3401, and amendments
13 thereto; and (B) a dentist licensed by the Kansas dental board, a dental
14 hygienist licensed by the Kansas dental board, a professional nurse
15 licensed by the board of nursing, a practical nurse licensed by the board of
16 nursing, a mental health technician licensed by the board of nursing, a
17 physical therapist licensed by the state board of healing arts, a physical
18 therapist assistant certified by the state board of healing arts, an
19 occupational therapist licensed by the state board of healing arts, an
20 occupational therapy assistant licensed by the state board of healing arts, a
21 respiratory therapist licensed by the state board of healing arts, a physician
22 assistant licensed by the state board of healing arts and attendants and
23 ambulance services certified by the emergency medical services board.

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

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

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

29 (C) an organization of health care providers formed pursuant to state
30 or federal law and authorized to evaluate medical and health care services;

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

33 (E) an organized medical staff of a licensed medical care facility as
34 defined by K.S.A. 65-425, and amendments thereto, an organized medical
35 staff of a private psychiatric hospital licensed under K.S.A. ~~75-3307b~~
36 2016 Supp. 39-2001 *et seq.*, and amendments thereto, or an organized
37 medical staff of a state psychiatric hospital or state institution for people
38 with intellectual disability, as follows: Larned state hospital, Osawatomie
39 state hospital, Rainbow mental health facility, Kansas neurological
40 institute and Parsons state hospital and training center;

41 (F) a health care provider;

42 (G) a professional society of health care providers or one or more
43 committees thereof;

- 1 (H) a Kansas corporation whose stockholders or members are health
2 care providers or an association of health care providers, which
3 corporation evaluates medical and health care services;
- 4 (I) an insurance company, health maintenance organization or
5 administrator of a health benefits plan which engages in any of the
6 functions defined as peer review under this section; or
- 7 (J) the university of Kansas medical center.
- 8 (3) "Peer review" means any of the following functions:
- 9 (A) Evaluate and improve the quality of health care services rendered
10 by health care providers;
- 11 (B) determine that health services rendered were professionally
12 indicated or were performed in compliance with the applicable standard of
13 care;
- 14 (C) determine that the cost of health care rendered was considered
15 reasonable by the providers of professional health services in this area;
- 16 (D) evaluate the qualifications, competence and performance of the
17 providers of health care or to act upon matters relating to the discipline of
18 any individual provider of health care;
- 19 (E) reduce morbidity or mortality;
- 20 (F) establish and enforce guidelines designed to keep within
21 reasonable bounds the cost of health care;
- 22 (G) conduct of research;
- 23 (H) determine if a hospital's facilities are being properly utilized;
- 24 (I) supervise, discipline, admit, determine privileges or control
25 members of a hospital's medical staff;
- 26 (J) review the professional qualifications or activities of health care
27 providers;
- 28 (K) evaluate the quantity, quality and timeliness of health care
29 services rendered to patients in the facility;
- 30 (L) evaluate, review or improve methods, procedures or treatments
31 being utilized by the medical care facility or by health care providers in a
32 facility rendering health care.
- 33 (4) "Peer review officer or committee" means:
- 34 (A) An individual employed, designated or appointed by, or a
35 committee of or employed, designated or appointed by, a health care
36 provider group and authorized to perform peer review; or
- 37 (B) a health care provider monitoring the delivery of health care at
38 correctional institutions under the jurisdiction of the secretary of
39 corrections.
- 40 (b) Except as provided by K.S.A. 60-437, and amendments thereto,
41 and by subsections (c) and (d), the reports, statements, memoranda,
42 proceedings, findings and other records submitted to or generated by peer
43 review committees or officers shall be privileged and shall not be subject

1 to discovery, subpoena or other means of legal compulsion for their release
2 to any person or entity or be admissible in evidence in any judicial or
3 administrative proceeding. Information contained in such records shall not
4 be discoverable or admissible at trial in the form of testimony by an
5 individual who participated in the peer review process. The peer review
6 officer or committee creating or initially receiving the record is the holder
7 of the privilege established by this section. This privilege may be claimed
8 by the legal entity creating the peer review committee or officer, or by the
9 commissioner of insurance for any records or proceedings of the board of
10 governors.

11 (c) Subsection (b) shall not apply to proceedings in which a health
12 care provider contests the revocation, denial, restriction or termination of
13 staff privileges or the license, registration, certification or other
14 authorization to practice of the health care provider. A licensing agency in
15 conducting a disciplinary proceeding in which admission of any peer
16 review committee report, record or testimony is proposed shall hold the
17 hearing in closed session when any such report, record or testimony is
18 disclosed. Unless otherwise provided by law, a licensing agency
19 conducting a disciplinary proceeding may close only that portion of the
20 hearing in which disclosure of a report or record privileged under this
21 section is proposed. In closing a portion of a hearing as provided by this
22 section, the presiding officer may exclude any person from the hearing
23 location except the licensee, the licensee's attorney, the agency's attorney,
24 the witness, the court reporter and appropriate staff support for either
25 counsel. The licensing agency shall make the portions of the agency record
26 in which such report or record is disclosed subject to a protective order
27 prohibiting further disclosure of such report or record. Such report or
28 record shall not be subject to discovery, subpoena or other means of legal
29 compulsion for their release to any person or entity. No person in
30 attendance at a closed portion of a disciplinary proceeding shall at a
31 subsequent civil, criminal or administrative hearing, be required to testify
32 regarding the existence or content of a report or record privileged under
33 this section—~~which~~ *that* was disclosed in a closed portion of a hearing, nor
34 shall such testimony be admitted into evidence in any subsequent civil,
35 criminal or administrative hearing. A licensing agency conducting a
36 disciplinary proceeding may review peer review committee records,
37 testimony or reports but must prove its findings with independently
38 obtained testimony or records—~~which~~ *that* shall be presented as part of the
39 disciplinary proceeding in open meeting of the licensing agency. Offering
40 such testimony or records in an open public hearing shall not be deemed a
41 waiver of the peer review privilege relating to any peer review committee
42 testimony, records or report.

43 (d) Nothing in this section shall limit the authority, ~~which~~ *that* may

1 otherwise be provided by law; of the commissioner of insurance, the state
2 board of healing arts or other health care provider licensing or disciplinary
3 boards of this state to require a peer review committee or officer to report
4 to it any disciplinary action or recommendation of such committee or
5 officer; to transfer to it records of such committee's or officer's
6 proceedings or actions to restrict or revoke the license, registration,
7 certification or other authorization to practice of a health care provider; or
8 to terminate the liability of the fund for all claims against a specific health
9 care provider for damages for death or personal injury pursuant to
10 ~~subsection (i) of K.S.A. 40-3403(i)~~, and amendments thereto. Reports and
11 records so furnished shall not be subject to discovery, subpoena or other
12 means of legal compulsion for their release to any person or entity and
13 shall not be admissible in evidence in any judicial or administrative
14 proceeding other than a disciplinary proceeding by the state board of
15 healing arts or other health care provider licensing or disciplinary boards
16 of this state.

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

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

27 Sec. 27. K.S.A. 2016 Supp. 65-4921 is hereby amended to read as
28 follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930, and
29 amendments thereto:

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

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

34 (c) "Health care provider" means: (1) Those persons and entities
35 defined as a health care provider under K.S.A. 40-3401, and amendments
36 thereto; and (2) a dentist licensed by the Kansas dental board, a dental
37 hygienist licensed by the Kansas dental board, a professional nurse
38 licensed by the board of nursing, a practical nurse licensed by the board of
39 nursing, a mental health technician licensed by the board of nursing, a
40 physical therapist licensed by the state board of healing arts, a physical
41 therapist assistant certified by the state board of healing arts, an
42 occupational therapist licensed by the state board of healing arts, an
43 occupational therapy assistant licensed by the state board of healing arts

1 and a respiratory therapist licensed by the state board of healing arts.

2 (d) "License," "licensee" and "licensing" include comparable terms
3 ~~which~~ *that* relate to regulation similar to licensure, such as registration.

4 (e) "Medical care facility" means: (1) A medical care facility licensed
5 under K.S.A. 65-425 et seq., and amendments thereto; (2) a private
6 psychiatric hospital licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001*
7 *et seq.*, and amendments thereto; and (3) state psychiatric hospitals and
8 state institutions for people with intellectual disability, as follows: Larned
9 state hospital, Osawatomie state hospital, Rainbow mental health facility,
10 Kansas neurological institute and Parsons state hospital and training
11 center.

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

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

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

20 Sec. 28. K.S.A. 2016 Supp. 65-5601 is hereby amended to read as
21 follows: 65-5601. As used in K.S.A. 65-5601—~~to~~ *through* 65-5605,—
22 ~~inclusive~~, and amendments thereto:

23 (a) "Patient" means a person who consults or is examined or
24 interviewed by treatment personnel.

25 (b) "Treatment personnel" means any employee of a treatment facility
26 who receives a confidential communication from a patient while engaged
27 in the diagnosis or treatment of a mental, alcoholic, drug dependency or
28 emotional condition, if such communication was not intended to be
29 disclosed to third persons.

30 (c) "Ancillary personnel" means any employee of a treatment facility
31 who is not included in the definition of treatment personnel.

32 (d) "Treatment facility" means a community mental health center,
33 community service provider, psychiatric hospital and state institution for
34 people with intellectual disability.

35 (e) "Head of the treatment facility" means the administrative director
36 of a treatment facility or the designee of the administrative director.

37 (f) "Community mental health center" means ~~a mental health clinic or~~
38 ~~community mental health center licensed under K.S.A. 75-3307b~~ *the same*
39 *as defined in K.S.A. 2016 Supp. 39-2002*, and amendments thereto.

40 (g) "Psychiatric hospital" means Larned state hospital, Osawatomie
41 state hospital, Rainbow mental health facility, Topeka state hospital and
42 hospitals licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
43 amendments thereto.

1 (h) "State institution for people with intellectual disability" means
2 Winfield state hospital and training center, Parsons state hospital and
3 training center and the Kansas neurological institute.

4 (i) "Community service provider" means: (1) A community facility
5 for people with intellectual disability organized pursuant to the provisions
6 of K.S.A. 19-4001 through 19-4015, and amendments thereto, and
7 licensed in accordance with the provisions of K.S.A. ~~75-3307b~~ 2016 *Supp.*
8 *39-2001 et seq.*, and amendments thereto; (2) community service provider
9 as provided in the developmental disabilities reform act; or (3) a nonprofit
10 corporation ~~which~~ *that* provides services for people with intellectual
11 disability pursuant to a contract with an intellectual disability governing
12 board.

13 Sec. 29. K.S.A. 2016 *Supp.* 65-6805 is hereby amended to read as
14 follows: 65-6805. Each medical care facility as defined by ~~subsection (h)~~
15 ~~of~~ K.S.A. 65-425(h), and amendments thereto; health care provider as
16 defined in K.S.A. 40-3401, and amendments thereto; providers of health
17 care as defined in ~~subsection (f)~~ of K.S.A. 65-5001(f), and amendments
18 thereto; health care personnel as defined in ~~subsection (e)~~ of K.S.A. 65-
19 5001(e), and amendments thereto; home health agency as defined ~~by~~
20 ~~subsection (b)~~ ~~of~~ *in* K.S.A. 65-5101(b), and amendments thereto;
21 psychiatric hospitals licensed under K.S.A. ~~75-3307b~~ 2016 *Supp.* 39-2001
22 *et seq.*, and amendments thereto; state institutions for people with
23 intellectual disability; community facilities for people with intellectual
24 disability as defined under K.S.A. 65-4412, and amendments thereto;
25 community mental health center as defined under K.S.A. 65-4432, and
26 amendments thereto; adult care homes as defined by K.S.A. 39-923, and
27 amendments thereto; laboratories described in K.S.A. 65-1,107, and
28 amendments thereto; pharmacies; board of nursing; Kansas dental board;
29 board of examiners in optometry; state board of pharmacy; state board of
30 healing arts and third-party payors, including, but not limited to, licensed
31 insurers, medical and hospital service corporations, health maintenance
32 organizations, fiscal intermediaries for government-funded programs and
33 self-funded employee health plans, shall file health care data with the
34 department of health and environment as prescribed by the secretary of
35 health and environment. The provisions of this section shall not apply to
36 any individual, facility or other entity under this section ~~which~~ *that* uses
37 spiritual means through prayer alone in accordance with the tenets and
38 practices of a recognized church or religious denomination for the
39 treatment or cure of disease.

40 Sec. 30. K.S.A. 74-3292 is hereby amended to read as follows: 74-
41 3292. As used in this act:

42 (a) "Committee" means the nursing service scholarship review
43 committee established under K.S.A. 74-3299, and amendments thereto.

1 (b) "Executive officer" means the chief executive officer of the state
2 board of regents appointed under K.S.A. 74-3203a, and amendments
3 thereto.

4 (c) "Rural area" means any county of this state other than Douglas,
5 Johnson, Sedgwick, Shawnee and Wyandotte counties.

6 (d) "School of nursing" means a school within the state of Kansas
7 ~~which~~ *that* is approved by the ~~state~~ board of nursing to grant an associate
8 degree or a baccalaureate degree in professional nursing or a certificate of
9 completion in practical nursing.

10 (e) "Sponsor" means any adult care home licensed under the adult
11 care home licensure act, any medical care facility licensed under K.S.A.
12 65-425 et seq., and amendments thereto, any psychiatric hospital licensed
13 under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments
14 thereto, any home health agency licensed under K.S.A. 65-5101 et seq.,
15 and amendments thereto, any local health department as defined in K.S.A.
16 65-241, and amendments thereto, and any state agency which employs
17 licensed practical nurses or licensed professional nurses.

18 Sec. 31. K.S.A. 2016 Supp. 75-5923 is hereby amended to read as
19 follows: 75-5923. (a) The secretary for aging and disability services shall
20 establish a telephone system to assist older Kansans, friends and relatives
21 of older Kansans and other persons in obtaining information about and
22 access to services available to both institutionalized and non-
23 institutionalized older Kansans. The telephone system shall be designed to
24 permit any person in the state to place a toll-free call into the system.

25 (b) The secretary for aging and disability services shall:

26 (1) Publicize the existence and purpose of the toll-free telephone
27 system established by this section and the telephone number of such
28 system;

29 (2) develop policies and procedures to document requests for
30 assistance and monitor follow-up on such requests;

31 (3) develop policies and procedures to maintain confidentiality of
32 requests for assistance;

33 (4) develop a program to train and coordinate the use of older
34 Kansans within the toll-free telephone system;

35 (5) provide as part of the toll-free telephone system a call-forward
36 system to assist in providing access to information; and

37 (6) develop a handbook of information to answer requests and for
38 further referral.

39 (c) Upon written notification by the secretary for aging and disability
40 services, every adult care home, as defined in ~~subsection (a)(1) of~~ K.S.A.
41 39-923(a)(1), and amendments thereto, title XX adult residential home
42 licensed under K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
43 amendments thereto, recuperation center, as defined in ~~subsection (g) of~~

1 K.S.A. 65-425(g), and amendments thereto, intermediate care facility, as
2 defined in section 1905(c) of the federal social security act, skilled nursing
3 facility, as defined in section 1861(j) of the federal social security act, and
4 any other institution or facility—~~which~~ *that* is licensed or certified by the
5 state, ~~which~~ *that* offers health, social or dietary care to elderly persons on a
6 regular basis; and ~~which~~ *that* is financed in whole or in part by funds from
7 the federal government, the state of Kansas, or any political subdivision
8 thereof, shall prominently display notice of the existence of the toll-free
9 telephone system established under this section and the telephone number
10 of such system.

11 Sec. 32. K.S.A. 2016 Supp. 75-6102 is hereby amended to read as
12 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
13 amendments thereto, unless the context clearly requires otherwise:

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

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

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

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

27 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
28 8818, and amendments thereto, regardless of whether the services of such
29 steward or racing judge are rendered pursuant to contract as an
30 independent contractor;

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

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

41 (E) a person who is an employee or volunteer of a nonprofit program,
42 other than a municipality, who has contracted with the commissioner of
43 juvenile justice or with another nonprofit program that has contracted with

1 the secretary of corrections to provide a juvenile justice program for
2 juvenile offenders in a judicial district provided that such employee or
3 volunteer does not otherwise have coverage for such acts and omissions
4 within the scope of their employment or volunteer activities through a
5 liability insurance contract of such nonprofit program;

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

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

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

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

16 (J) any member of a regional search and rescue team or regional
17 hazardous materials response team contracting with the state fire marshal
18 pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2016 Supp.
19 75-1518, and amendments thereto, in connection with authorized training
20 or upon activation for an emergency response; and

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

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

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

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

40 (1) The secretary of health and environment under K.S.A. 75-6120,
41 and amendments thereto, who, pursuant to such agreement, gratuitously
42 renders professional services to a person who has provided information
43 ~~which~~ *that* would reasonably lead the healthcare provider to make the

1 good faith assumption that such person meets the definition of medically
2 indigent person as defined by this section or to a person receiving medical
3 assistance from the programs operated by the department of health and
4 environment, and who is considered an employee of the state of Kansas
5 under K.S.A. 75-6120, and amendments thereto;

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

9 (3) a local health department or indigent healthcare clinic, ~~which that~~
10 renders professional services to medically indigent persons or persons
11 receiving medical assistance from the programs operated by the
12 department of health and environment gratuitously or for a fee paid by the
13 local health department or indigent healthcare clinic to such provider and
14 who is considered an employee of the state of Kansas under K.S.A. 75-
15 6120, and amendments thereto. Professional services rendered by a
16 provider under this paragraph shall be considered gratuitous
17 notwithstanding fees based on income eligibility guidelines charged by a
18 local health department or indigent healthcare clinic and notwithstanding
19 any fee paid by the local health department or indigent healthcare clinic to
20 a provider in accordance with this paragraph; or

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

37 (f) "Medically indigent person" means a person who lacks resources
38 to pay for medically necessary healthcare services and who meets the
39 eligibility criteria for qualification as a medically indigent person
40 established by the secretary of health and environment under K.S.A. 75-
41 6120, and amendments thereto.

42 (g) "Indigent healthcare clinic" means an outpatient medical care
43 clinic operated on a not-for-profit basis ~~which that~~ has a contractual

1 agreement in effect with the secretary of health and environment to
2 provide healthcare services to medically indigent persons.

3 (h) "~~Local health department~~" ~~shall have the meaning ascribed to~~
4 ~~such term under~~ *means the same as defined in K.S.A. 65-241, and*
5 *amendments thereto.*

6 (i) "Fire control, fire rescue or emergency medical services
7 equipment" means any vehicle, firefighting tool, protective clothing,
8 breathing apparatus and any other supplies, tools or equipment used in
9 firefighting or fire rescue or in the provision of emergency medical
10 services.

11 (j) "~~Community mental health center~~" ~~means any community mental~~
12 ~~health center organized pursuant to K.S.A. 19-4001 through 19-4015, and~~
13 ~~amendments thereto, or a mental health clinic organized pursuant to~~
14 ~~K.S.A. 65-211 through 65-215, and amendments thereto, and licensed in~~
15 ~~accordance with K.S.A. 75-3307b~~ *the same as defined in K.S.A. 2016*
16 *Supp. 39-2002, and amendments thereto.*

17 Sec. 33. K.S.A. 2016 Supp. 79-201b is hereby amended to read as
18 follows: 79-201b. The following described property, to the extent herein
19 specified, shall be and is hereby exempt from all property or ad valorem
20 taxes levied under the laws of the state of Kansas:

21 *First.* All real property, and tangible personal property, actually and
22 regularly used exclusively for hospital purposes by a hospital as the same
23 is defined by K.S.A. 65-425, and amendments thereto, or a psychiatric
24 hospital as the same was defined by K.S.A. 59-2902, and amendments
25 thereto, as in effect on January 1, 1976, which hospital or psychiatric
26 hospital is operated by a corporation organized not for profit under the
27 laws of the state of Kansas or by a corporation organized not for profit
28 under the laws of another state and duly admitted to engage in business in
29 this state as a foreign, not-for-profit corporation, or a public hospital
30 authority; and all intangible property including moneys, notes and other
31 evidences of debt, and the income therefrom, belonging exclusively to
32 such a corporation and used exclusively for hospital, psychiatric hospital
33 or public hospital authority purposes. This exemption shall not be deemed
34 inapplicable to property which would otherwise be exempt pursuant to this
35 paragraph because any such hospital, psychiatric hospital or public
36 hospital authority: (a) Uses such property for a nonexempt purpose ~~which~~
37 *that* is minimal in scope and insubstantial in nature if such use is incidental
38 to the exempt purpose enumerated in this paragraph; or (b) is reimbursed
39 for the actual expense of using such property for the exempt purposes
40 enumerated in this paragraph or paragraph second of K.S.A. 79-201, and
41 amendments thereto; or (c) permits the use of such property for the exempt
42 purposes enumerated in this paragraph or paragraph second of K.S.A. 79-
43 201, and amendments thereto, by more than one agency or organization for

1 one or more of such purposes.

2 *Second.* All real property, and tangible personal property, actually and
3 regularly used exclusively for adult care home purposes by an adult care
4 home as the same is defined by K.S.A. 39-923, and amendments thereto,
5 ~~which~~ *that* is operated by a corporation organized not for profit under the
6 laws of the state of Kansas or by a corporation organized not for profit
7 under the laws of another state and duly admitted to engage in business in
8 this state as a foreign, not-for-profit corporation, charges to residents for
9 services of which produce an amount which in the aggregate is less than
10 the actual cost of operation of the home or the services of which are
11 provided to residents at the lowest feasible cost, taking into consideration
12 such items as reasonable depreciation, interest on indebtedness, acquisition
13 costs, interest and other expenses of financing acquisition costs, lease
14 expenses and costs of services provided by a parent corporation at its costs
15 and contributions to which are deductible under the Kansas income tax act;
16 and all intangible property including moneys, notes and other evidences of
17 debt, and the income therefrom, belonging exclusively to such corporation
18 and used exclusively for adult care home purposes. For purposes of this
19 paragraph and for all taxable years commencing after December 31, 1976,
20 an adult care home which uses its property in a manner which is consistent
21 with the federal internal revenue service ruling 72-124 issued pursuant to
22 section 501(c)(3) of the federal internal revenue code, shall be deemed to
23 be operating at the lowest feasible cost. The fact that real property or real
24 or tangible personal property may be leased from a not-for-profit
25 corporation, which is exempt from federal income taxation pursuant to
26 section 501(c)(3) of the internal revenue code of 1986, and amendments
27 thereto, and which is the parent corporation to the not-for-profit operator
28 of an adult care home, shall not be grounds to deny exemption or deny that
29 such property is actually and regularly used exclusively for adult care
30 home purposes by an adult care home, nor shall the terms of any such
31 lease be grounds for any such denial. For all taxable years commencing
32 after December 31, 1995, such property shall be deemed to be used
33 exclusively for adult care home purposes when used as a not-for-profit day
34 care center for children which is licensed pursuant to K.S.A. 65-501 et
35 seq., and amendments thereto.

36 *Third.* All real property, and tangible personal property, actually and
37 regularly used exclusively for private children's home purposes by a
38 private children's home as the same is defined by K.S.A. 75-3329, and
39 amendments thereto, ~~which~~ *that* is operated by a corporation organized not
40 for profit under the laws of the state of Kansas or by a corporation
41 organized not for profit under the laws of another state and duly admitted
42 to engage in business in this state as a foreign, not-for-profit corporation,
43 charges to residents for services of which produce an amount ~~which~~ *that* in

1 the aggregate is less than the actual cost of operation of the home or the
2 services of which are provided to residents at the lowest feasible cost,
3 taking into consideration such items as reasonable depreciation and
4 interest on indebtedness, and contributions to which are deductible under
5 the Kansas income tax act; and all intangible property including moneys,
6 notes and other evidences of debt, and the income therefrom, belonging
7 exclusively to such a corporation and used exclusively for children's home
8 purposes.

9 *Fourth.* All real property and tangible personal property, actually and
10 regularly used exclusively for: (a) Housing for elderly and handicapped
11 persons having a limited or lower income, or used exclusively for
12 cooperative housing for persons having a limited or low income, assistance
13 for the financing of which was received under 12 U.S.C.A. § 1701 et seq.,
14 or under 42 U.S.C.A. § 1437 et seq., ~~which that~~ is operated by a
15 corporation organized not for profit under the laws of the state of Kansas
16 or by a corporation organized not for profit under the laws of another state
17 and duly admitted to engage in business in this state as a foreign, not-for-
18 profit corporation; and (b) for all taxable years commencing after
19 December 31, 2006, temporary housing of 24 months or less for limited or
20 low income, single-parent families in need of financial assistance who are
21 enrolled in a program to receive life training skills, ~~which that~~ is operated
22 by a charitable or religious organization; and all intangible property
23 including moneys, notes and other evidences of debt, and the income
24 therefrom, belonging exclusively to such a corporation and used
25 exclusively for the purposes of such housing. For the purposes of this
26 subsection, cooperative housing means those not-for-profit cooperative
27 housing projects operating or established pursuant to sections 236 or
28 221(d)(3), or both, of the national housing act and which have been
29 approved as a cooperative housing project pursuant to applicable federal
30 housing administration and U.S. department of housing and urban
31 development statutes, and rules and regulations, during such time as the
32 use of such properties are: (1) Restricted pursuant to such act, or rules and
33 regulations thereof; or (2) subject to affordability financing standards
34 established pursuant to the national housing act during such time that such
35 not-for-profit corporation has adopted articles of incorporation or by-laws,
36 or both, requiring such corporation to continue to operate in compliance
37 with the United States department of housing and urban development
38 affordability income guidelines established pursuant to sections 236 or
39 221(d)(3) of the national housing act or rules and regulations thereof.

40 *Fifth.* All real property and tangible personal property, actually and
41 regularly used exclusively for housing for elderly persons, ~~which that~~ is
42 operated by a corporation organized not for profit under the laws of the
43 state of Kansas or by a corporation organized not for profit under the laws

1 of another state and duly admitted to engage in business in this state as a
2 foreign, not-for-profit corporation, in which charges to residents produce
3 an amount—~~which~~ *that* in the aggregate is less than the actual cost of
4 operation of the housing facility or the services of which are provided to
5 residents at the lowest feasible cost, taking into consideration such items
6 as reasonable depreciation and interest on indebtedness and contributions
7 to which are deductible under the Kansas income tax act; and all intangible
8 property including moneys, notes and other evidences of debt, and the
9 income therefrom, belonging exclusively to such corporation and used
10 exclusively for the purpose of such housing. For purposes of this
11 paragraph and for all taxable years commencing after December 31, 1976,
12 an adult care home which uses its property in a manner which is consistent
13 with the federal internal revenue service ruling 72-124 issued pursuant to
14 section 501(c)(3) of the federal internal revenue code, shall be deemed to
15 be operating at the lowest feasible cost. For all taxable years commencing
16 after December 31, 1995, such property shall be deemed to be used
17 exclusively for housing for elderly persons purposes when used as a not-
18 for-profit day care center for children—~~which~~ *that* is licensed pursuant to
19 K.S.A. 65-501 et seq., and amendments thereto.

20 *Sixth.* All real property and tangible personal property actually and
21 regularly used exclusively for the purpose of group housing of mentally ill
22 ~~or retarded and other handicapped persons which~~ *or individuals with*
23 *intellectual or other disabilities* that is operated by a corporation
24 organized not for profit under the laws of the state of Kansas or by a
25 corporation organized not for profit under the laws of another state and
26 duly admitted to engage in business in this state as a foreign, not-for-profit
27 corporation, in which charges to residents produce an amount—~~which~~ *that*
28 in the aggregate is less than the actual cost of operation of the housing
29 facility or the services of which are provided to residents at the lowest
30 feasible cost, taking into consideration such items as reasonable
31 depreciation and interest on indebtedness and contributions to which are
32 deductible under the Kansas income tax act, and—~~which~~ *that* is licensed as a
33 facility for the housing of mentally ill ~~or retarded and other handicapped~~
34 *persons or individuals with intellectual or other disabilities* under the
35 provisions of K.S.A.—~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and
36 amendments thereto, or as a rooming or boarding house used as a facility
37 for the housing of ~~mentally retarded and other handicapped persons which~~
38 *individuals with intellectual or other disabilities* that is licensed as a
39 lodging establishment under the provisions of K.S.A. 36-501 et seq., and
40 amendments thereto.

41 The provisions of this section, except as otherwise specifically
42 provided, shall apply to all taxable years commencing after December 31,
43 1998.

1 Sec. 34. K.S.A. 2016 Supp. 79-3606 is hereby amended to read as
2 follows: 79-3606. The following shall be exempt from the tax imposed by
3 this act:

4 (a) All sales of motor-vehicle fuel or other articles upon which a sales
5 or excise tax has been paid, not subject to refund, under the laws of this
6 state except cigarettes and electronic cigarettes as defined by K.S.A. 79-
7 3301, and amendments thereto, including consumable material for such
8 electronic cigarettes, cereal malt beverages and malt products as defined
9 by K.S.A. 79-3817, and amendments thereto, including wort, liquid malt,
10 malt syrup and malt extract, ~~which~~ *that* is not subject to taxation under the
11 provisions of K.S.A. 79-41a02, and amendments thereto, motor vehicles
12 taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed
13 pursuant to K.S.A. 65-3424d, and amendments thereto, drycleaning and
14 laundry services taxed pursuant to K.S.A. 65-34,150, and amendments
15 thereto, and gross receipts from regulated sports contests taxed pursuant to
16 the Kansas professional regulated sports act, and amendments thereto;

17 (b) all sales of tangible personal property or service, including the
18 renting and leasing of tangible personal property, purchased directly by the
19 state of Kansas, a political subdivision thereof, other than a school or
20 educational institution, or purchased by a public or private nonprofit
21 hospital or public hospital authority or nonprofit blood, tissue or organ
22 bank and used exclusively for state, political subdivision, hospital or
23 public hospital authority or nonprofit blood, tissue or organ bank purposes,
24 except when: (1) Such state, hospital or public hospital authority is
25 engaged or proposes to engage in any business specifically taxable under
26 the provisions of this act and such items of tangible personal property or
27 service are used or proposed to be used in such business; or (2) such
28 political subdivision is engaged or proposes to engage in the business of
29 furnishing gas, electricity or heat to others and such items of personal
30 property or service are used or proposed to be used in such business;

31 (c) all sales of tangible personal property or services, including the
32 renting and leasing of tangible personal property, purchased directly by a
33 public or private elementary or secondary school or public or private
34 nonprofit educational institution and used primarily by such school or
35 institution for nonsectarian programs and activities provided or sponsored
36 by such school or institution or in the erection, repair or enlargement of
37 buildings to be used for such purposes. The exemption herein provided
38 shall not apply to erection, construction, repair, enlargement or equipment
39 of buildings used primarily for human habitation;

40 (d) all sales of tangible personal property or services purchased by a
41 contractor for the purpose of constructing, equipping, reconstructing,
42 maintaining, repairing, enlarging, furnishing or remodeling facilities for
43 any public or private nonprofit hospital or public hospital authority, public

1 or private elementary or secondary school, a public or private nonprofit
2 educational institution, state correctional institution including a privately
3 constructed correctional institution contracted for state use and ownership,
4 ~~which that~~ would be exempt from taxation under the provisions of this act
5 if purchased directly by such hospital or public hospital authority, school,
6 educational institution or a state correctional institution; and all sales of
7 tangible personal property or services purchased by a contractor for the
8 purpose of constructing, equipping, reconstructing, maintaining, repairing,
9 enlarging, furnishing or remodeling facilities for any political subdivision
10 of the state or district described in subsection (s), the total cost of which is
11 paid from funds of such political subdivision or district and ~~which that~~
12 would be exempt from taxation under the provisions of this act if
13 purchased directly by such political subdivision or district. Nothing in this
14 subsection or in the provisions of K.S.A. 12-3418, and amendments
15 thereto, shall be deemed to exempt the purchase of any construction
16 machinery, equipment or tools used in the constructing, equipping,
17 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
18 facilities for any political subdivision of the state or any such district. As
19 used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments
20 thereto, "funds of a political subdivision" shall mean general tax revenues,
21 the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean
22 funds used for the purpose of constructing, equipping, reconstructing,
23 repairing, enlarging, furnishing or remodeling facilities ~~which that~~ are to
24 be leased to the donor. When any political subdivision of the state, district
25 described in subsection (s), public or private nonprofit hospital or public
26 hospital authority, public or private elementary or secondary school, public
27 or private nonprofit educational institution, state correctional institution
28 including a privately constructed correctional institution contracted for
29 state use and ownership shall contract for the purpose of constructing,
30 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
31 remodeling facilities, it shall obtain from the state and furnish to the
32 contractor an exemption certificate for the project involved, and the
33 contractor may purchase materials for incorporation in such project. The
34 contractor shall furnish the number of such certificate to all suppliers from
35 whom such purchases are made, and such suppliers shall execute invoices
36 covering the same bearing the number of such certificate. Upon
37 completion of the project the contractor shall furnish to the political
38 subdivision, district described in subsection (s), hospital or public hospital
39 authority, school, educational institution or department of corrections
40 concerned a sworn statement, on a form to be provided by the director of
41 taxation, that all purchases so made were entitled to exemption under this
42 subsection. As an alternative to the foregoing procedure, any such
43 contracting entity may apply to the secretary of revenue for agent status

1 for the sole purpose of issuing and furnishing project exemption
2 certificates to contractors pursuant to rules and regulations adopted by the
3 secretary establishing conditions and standards for the granting and
4 maintaining of such status. All invoices shall be held by the contractor for
5 a period of five years and shall be subject to audit by the director of
6 taxation. If any materials purchased under such a certificate are found not
7 to have been incorporated in the building or other project or not to have
8 been returned for credit or the sales or compensating tax otherwise
9 imposed upon such materials ~~which~~ that will not be so incorporated in the
10 building or other project reported and paid by such contractor to the
11 director of taxation not later than the 20th day of the month following the
12 close of the month in which it shall be determined that such materials will
13 not be used for the purpose for which such certificate was issued, the
14 political subdivision, district described in subsection (s), hospital or public
15 hospital authority, school, educational institution or the contractor
16 contracting with the department of corrections for a correctional institution
17 concerned shall be liable for tax on all materials purchased for the project,
18 and upon payment thereof it may recover the same from the contractor
19 together with reasonable attorney fees. Any contractor or any agent,
20 employee or subcontractor thereof, who shall use or otherwise dispose of
21 any materials purchased under such a certificate for any purpose other than
22 that for which such a certificate is issued without the payment of the sales
23 or compensating tax otherwise imposed upon such materials, shall be
24 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
25 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

26 (e) all sales of tangible personal property or services purchased by a
27 contractor for the erection, repair or enlargement of buildings or other
28 projects for the government of the United States, its agencies or
29 instrumentalities, ~~which~~ that would be exempt from taxation if purchased
30 directly by the government of the United States, its agencies or
31 instrumentalities. When the government of the United States, its agencies
32 or instrumentalities shall contract for the erection, repair, or enlargement
33 of any building or other project, it shall obtain from the state and furnish to
34 the contractor an exemption certificate for the project involved, and the
35 contractor may purchase materials for incorporation in such project. The
36 contractor shall furnish the number of such certificates to all suppliers
37 from whom such purchases are made, and such suppliers shall execute
38 invoices covering the same bearing the number of such certificate. Upon
39 completion of the project the contractor shall furnish to the government of
40 the United States, its agencies or instrumentalities concerned a sworn
41 statement, on a form to be provided by the director of taxation, that all
42 purchases so made were entitled to exemption under this subsection. As an
43 alternative to the foregoing procedure, any such contracting entity may

1 apply to the secretary of revenue for agent status for the sole purpose of
2 issuing and furnishing project exemption certificates to contractors
3 pursuant to rules and regulations adopted by the secretary establishing
4 conditions and standards for the granting and maintaining of such status.
5 All invoices shall be held by the contractor for a period of five years and
6 shall be subject to audit by the director of taxation. Any contractor or any
7 agent, employee or subcontractor thereof, who shall use or otherwise
8 dispose of any materials purchased under such a certificate for any purpose
9 other than that for which such a certificate is issued without the payment
10 of the sales or compensating tax otherwise imposed upon such materials,
11 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
12 subject to the penalties provided for in K.S.A. 79-3615(h), and
13 amendments thereto;

14 (f) tangible personal property purchased by a railroad or public utility
15 for consumption or movement directly and immediately in interstate
16 commerce;

17 (g) sales of aircraft including remanufactured and modified aircraft
18 sold to persons using directly or through an authorized agent such aircraft
19 as certified or licensed carriers of persons or property in interstate or
20 foreign commerce under authority of the laws of the United States or any
21 foreign government or sold to any foreign government or agency or
22 instrumentality of such foreign government and all sales of aircraft for use
23 outside of the United States and sales of aircraft repair, modification and
24 replacement parts and sales of services employed in the remanufacture,
25 modification and repair of aircraft;

26 (h) all rentals of nonsectarian textbooks by public or private
27 elementary or secondary schools;

28 (i) the lease or rental of all films, records, tapes, or any type of sound
29 or picture transcriptions used by motion picture exhibitors;

30 (j) meals served without charge or food used in the preparation of
31 such meals to employees of any restaurant, eating house, dining car, hotel,
32 drugstore or other place where meals or drinks are regularly sold to the
33 public if such employees' duties are related to the furnishing or sale of
34 such meals or drinks;

35 (k) any motor vehicle, semitrailer or pole trailer, as such terms are
36 defined by K.S.A. 8-126, and amendments thereto, or aircraft sold and
37 delivered in this state to a bona fide resident of another state, which motor
38 vehicle, semitrailer, pole trailer or aircraft is not to be registered or based
39 in this state and which vehicle, semitrailer, pole trailer or aircraft will not
40 remain in this state more than 10 days;

41 (l) all isolated or occasional sales of tangible personal property,
42 services, substances or things, except isolated or occasional sale of motor
43 vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and

1 amendments thereto;

2 (m) all sales of tangible personal property—~~which~~ *that* become an
3 ingredient or component part of tangible personal property or services
4 produced, manufactured or compounded for ultimate sale at retail within
5 or without the state of Kansas; and any such producer, manufacturer or
6 compounder may obtain from the director of taxation and furnish to the
7 supplier an exemption certificate number for tangible personal property for
8 use as an ingredient or component part of the property or services
9 produced, manufactured or compounded;

10 (n) all sales of tangible personal property—~~which~~ *that* is consumed in
11 the production, manufacture, processing, mining, drilling, refining or
12 compounding of tangible personal property, the treating of by-products or
13 wastes derived from any such production process, the providing of
14 services or the irrigation of crops for ultimate sale at retail within or
15 without the state of Kansas; and any purchaser of such property may
16 obtain from the director of taxation and furnish to the supplier an
17 exemption certificate number for tangible personal property for
18 consumption in such production, manufacture, processing, mining,
19 drilling, refining, compounding, treating, irrigation and in providing such
20 services;

21 (o) all sales of animals, fowl and aquatic plants and animals, the
22 primary purpose of which is use in agriculture or aquaculture, as defined in
23 K.S.A. 47-1901, and amendments thereto, the production of food for
24 human consumption, the production of animal, dairy, poultry or aquatic
25 plant and animal products, fiber or fur, or the production of offspring for
26 use for any such purpose or purposes;

27 (p) all sales of drugs dispensed pursuant to a prescription order by a
28 licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-
29 1626, and amendments thereto. As used in this subsection, "drug" means a
30 compound, substance or preparation and any component of a compound,
31 substance or preparation, other than food and food ingredients, dietary
32 supplements or alcoholic beverages, recognized in the official United
33 States ~~pharmacopoeia~~ *pharmacopeia*, official homeopathic pharmacopoeia
34 of the United States or official national formulary, and supplement to any
35 of them, intended for use in the diagnosis, cure, mitigation, treatment or
36 prevention of disease or intended to affect the structure or any function of
37 the body, except that for taxable years commencing after December 31,
38 2013, this subsection shall not apply to any sales of drugs used in the
39 performance or induction of an abortion, as defined in K.S.A. 65-6701,
40 and amendments thereto;

41 (q) all sales of insulin dispensed by a person licensed by the state
42 board of pharmacy to a person for treatment of diabetes at the direction of
43 a person licensed to practice medicine by the *state* board of healing arts;

1 (r) all sales of oxygen delivery equipment, kidney dialysis equipment,
2 enteral feeding systems, prosthetic devices and mobility enhancing
3 equipment prescribed in writing by a person licensed to practice the
4 healing arts, dentistry or optometry, and in addition to such sales, all sales
5 of hearing aids, as defined by K.S.A. 74-5807(c), and amendments thereto,
6 and repair and replacement parts therefor, including batteries, by a person
7 licensed in the practice of dispensing and fitting hearing aids pursuant to
8 the provisions of K.S.A. 74-5808, and amendments thereto. For the
9 purposes of this subsection: (1) "Mobility enhancing equipment" means
10 equipment including repair and replacement parts to same, but does not
11 include durable medical equipment, which is primarily and customarily
12 used to provide or increase the ability to move from one place to another
13 and which is appropriate for use either in a home or a motor vehicle; is not
14 generally used by persons with normal mobility; and does not include any
15 motor vehicle or equipment on a motor vehicle normally provided by a
16 motor vehicle manufacturer; and (2) "prosthetic device" means a
17 replacement, corrective or supportive device including repair and
18 replacement parts for same worn on or in the body to artificially replace a
19 missing portion of the body, prevent or correct physical deformity or
20 malfunction or support a weak or deformed portion of the body;

21 (s) except as provided in K.S.A. 2016 Supp. 82a-2101, and
22 amendments thereto, all sales of tangible personal property or services
23 purchased directly or indirectly by a groundwater management district
24 organized or operating under the authority of K.S.A. 82a-1020 et seq., and
25 amendments thereto, by a rural water district organized or operating under
26 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
27 supply district organized or operating under the authority of K.S.A. 19-
28 3501 et seq., 19-3522 et seq.; or 19-3545, and amendments thereto, which
29 property or services are used in the construction activities, operation or
30 maintenance of the district;

31 (t) all sales of farm machinery and equipment or aquaculture
32 machinery and equipment, repair and replacement parts therefor and
33 services performed in the repair and maintenance of such machinery and
34 equipment. For the purposes of this subsection the term "farm machinery
35 and equipment or aquaculture machinery and equipment" shall include a
36 work-site utility vehicle, as defined in K.S.A. 8-126, and amendments
37 thereto, and is equipped with a bed or cargo box for hauling materials, and
38 shall also include machinery and equipment used in the operation of
39 Christmas tree farming but shall not include any passenger vehicle, truck,
40 truck tractor, trailer, semitrailer or pole trailer, other than a farm trailer, as
41 such terms are defined by K.S.A. 8-126, and amendments thereto. "Farm
42 machinery and equipment" includes precision farming equipment that is
43 portable or is installed or purchased to be installed on farm machinery and

1 equipment. "Precision farming equipment" includes the following items
2 used only in computer-assisted farming, ranching or aquaculture
3 production operations: Soil testing sensors, yield monitors, computers,
4 monitors, software, global positioning and mapping systems, guiding
5 systems, modems, data communications equipment and any necessary
6 mounting hardware, wiring and antennas. Each purchaser of farm
7 machinery and equipment or aquaculture machinery and equipment
8 exempted herein must certify in writing on the copy of the invoice or sales
9 ticket to be retained by the seller that the farm machinery and equipment
10 or aquaculture machinery and equipment purchased will be used only in
11 farming, ranching or aquaculture production. Farming or ranching shall
12 include the operation of a feedlot and farm and ranch work for hire and the
13 operation of a nursery;

14 (u) all leases or rentals of tangible personal property used as a
15 dwelling if such tangible personal property is leased or rented for a period
16 of more than 28 consecutive days;

17 (v) all sales of tangible personal property to any contractor for use in
18 preparing meals for delivery to homebound elderly persons over 60 years
19 of age and to homebound disabled persons or to be served at a group-
20 sitting at a location outside of the home to otherwise homebound elderly
21 persons over 60 years of age and to otherwise homebound disabled
22 persons, as all or part of any food service project funded in whole or in
23 part by government or as part of a private nonprofit food service project
24 available to all such elderly or disabled persons residing within an area of
25 service designated by the private nonprofit organization, and all sales of
26 tangible personal property for use in preparing meals for consumption by
27 indigent or homeless individuals whether or not such meals are consumed
28 at a place designated for such purpose, and all sales of food products by or
29 on behalf of any such contractor or organization for any such purpose;

30 (w) all sales of natural gas, electricity, heat and water delivered
31 through mains, lines or pipes: (1) To residential premises for
32 noncommercial use by the occupant of such premises; (2) for agricultural
33 use and also, for such use, all sales of propane gas; (3) for use in the
34 severing of oil; and (4) to any property which is exempt from property
35 taxation pursuant to K.S.A. 79-201b, *Second* through *Sixth*. As used in this
36 paragraph, "severing" ~~shall have the meaning ascribed thereto by means~~
37 *the same as defined in* K.S.A. 79-4216(k), and amendments thereto. For all
38 sales of natural gas, electricity and heat delivered through mains, lines or
39 pipes pursuant to the provisions of subsection (w)(1) and (w)(2), the
40 provisions of this subsection shall expire on December 31, 2005;

41 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources
42 for the production of heat or lighting for noncommercial use of an
43 occupant of residential premises occurring prior to January 1, 2006;

1 (y) all sales of materials and services used in the repairing, servicing,
2 altering, maintaining, manufacturing, remanufacturing, or modification of
3 railroad rolling stock for use in interstate or foreign commerce under
4 authority of the laws of the United States;

5 (z) all sales of tangible personal property and services purchased
6 directly by a port authority or by a contractor therefor as provided by the
7 provisions of K.S.A. 12-3418, and amendments thereto;

8 (aa) all sales of materials and services applied to equipment ~~which~~
9 *that* is transported into the state from without the state for repair, service,
10 alteration, maintenance, remanufacture or modification and ~~which that~~ is
11 subsequently transported outside the state for use in the transmission of
12 liquids or natural gas by means of pipeline in interstate or foreign
13 commerce under authority of the laws of the United States;

14 (bb) all sales of used mobile homes or manufactured homes. As used
15 in this subsection: (1) "Mobile homes" and "manufactured homes" ~~shall~~
16 ~~have the meanings ascribed thereto by~~ *mean the same as defined in* K.S.A.
17 58-4202, and amendments thereto; and (2) "sales of used mobile homes or
18 manufactured homes" means sales other than the original retail sale
19 thereof;

20 (cc) all sales of tangible personal property or services purchased prior
21 to January 1, 2012, except as otherwise provided, for the purpose of and in
22 conjunction with constructing, reconstructing, enlarging or remodeling a
23 business or retail business ~~which that~~ meets the requirements established
24 in K.S.A. 74-50,115, and amendments thereto, and the sale and installation
25 of machinery and equipment purchased for installation at any such
26 business or retail business, and all sales of tangible personal property or
27 services purchased on or after January 1, 2012, for the purpose of and in
28 conjunction with constructing, reconstructing, enlarging or remodeling a
29 business ~~which that~~ meets the requirements established in K.S.A. 74-
30 50,115(e), and amendments thereto, and the sale and installation of
31 machinery and equipment purchased for installation at any such business.
32 When a person shall contract for the construction, reconstruction,
33 enlargement or remodeling of any such business or retail business, such
34 person shall obtain from the state and furnish to the contractor an
35 exemption certificate for the project involved, and the contractor may
36 purchase materials, machinery and equipment for incorporation in such
37 project. The contractor shall furnish the number of such certificates to all
38 suppliers from whom such purchases are made, and such suppliers shall
39 execute invoices covering the same bearing the number of such certificate.
40 Upon completion of the project the contractor shall furnish to the owner of
41 the business or retail business a sworn statement, on a form to be provided
42 by the director of taxation, that all purchases so made were entitled to
43 exemption under this subsection. All invoices shall be held by the

1 contractor for a period of five years and shall be subject to audit by the
2 director of taxation. Any contractor or any agent, employee or
3 subcontractor thereof, who shall use or otherwise dispose of any materials,
4 machinery or equipment purchased under such a certificate for any
5 purpose other than that for which such a certificate is issued without the
6 payment of the sales or compensating tax otherwise imposed thereon, shall
7 be guilty of a misdemeanor and, upon conviction therefor, shall be subject
8 to the penalties provided for in K.S.A. 79-3615(h), and amendments
9 thereto. As used in this subsection, "business" and "retail business" ~~have~~
10 ~~the meanings respectively ascribed thereto by~~ *mean the same as defined in*
11 K.S.A. 74-50,114, and amendments thereto. Project exemption certificates
12 that have been previously issued under this subsection by the department
13 of revenue pursuant to K.S.A. 74-50,115, and amendments thereto, but not
14 including K.S.A. 74-50,115(e), and amendments thereto, prior to January
15 1, 2012, and have not expired will be effective for the term of the project
16 or two years from the effective date of the certificate, whichever occurs
17 earlier. Project exemption certificates that are submitted to the department
18 of revenue prior to January 1, 2012, and are found to qualify will be issued
19 a project exemption certificate that will be effective for a two-year period
20 or for the term of the project, whichever occurs earlier;

21 (dd) all sales of tangible personal property purchased with food
22 stamps issued by the United States department of agriculture;

23 (ee) all sales of lottery tickets and shares made as part of a lottery
24 operated by the state of Kansas;

25 (ff) on and after July 1, 1988, all sales of new mobile homes or
26 manufactured homes to the extent of 40% of the gross receipts, determined
27 without regard to any trade-in allowance, received from such sale. As used
28 in this subsection, "mobile homes" and "manufactured homes" ~~shall have~~
29 ~~the meanings ascribed thereto by~~ *mean the same as defined in* K.S.A. 58-
30 4202, and amendments thereto;

31 (gg) all sales of tangible personal property purchased in accordance
32 with vouchers issued pursuant to the federal special supplemental food
33 program for women, infants and children;

34 (hh) all sales of medical supplies and equipment, including durable
35 medical equipment, purchased directly by a nonprofit skilled nursing home
36 or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923,
37 and amendments thereto, for the purpose of providing medical services to
38 residents thereof. This exemption shall not apply to tangible personal
39 property customarily used for human habitation purposes. As used in this
40 subsection, "durable medical equipment" means equipment including
41 repair and replacement parts for such equipment, ~~which~~ *that* can withstand
42 repeated use, is primarily and customarily used to serve a medical purpose,
43 generally is not useful to a person in the absence of illness or injury and is

1 not worn in or on the body, but does not include mobility enhancing
2 equipment as defined in subsection (r), oxygen delivery equipment, kidney
3 dialysis equipment or enteral feeding systems;

4 (ii) all sales of tangible personal property purchased directly by a
5 nonprofit organization for nonsectarian comprehensive multidiscipline
6 youth development programs and activities provided or sponsored by such
7 organization, and all sales of tangible personal property by or on behalf of
8 any such organization. This exemption shall not apply to tangible personal
9 property customarily used for human habitation purposes;

10 (jj) all sales of tangible personal property or services, including the
11 renting and leasing of tangible personal property, purchased directly on
12 behalf of a community-based facility for people with intellectual disability
13 or mental health center organized pursuant to K.S.A. 19-4001 et seq., and
14 amendments thereto, and licensed in accordance with the provisions of
15 K.S.A. ~~75-3307b~~ *2016 Supp. 39-2001 et seq.*, and amendments thereto,
16 and all sales of tangible personal property or services purchased by
17 contractors during the time period from July, 2003, through June, 2006, for
18 the purpose of constructing, equipping, maintaining or furnishing a new
19 facility for a community-based facility for people with intellectual
20 disability or mental health center located in Riverton, Cherokee County,
21 Kansas, ~~which~~ *that* would have been eligible for sales tax exemption
22 pursuant to this subsection if purchased directly by such facility or center.
23 This exemption shall not apply to tangible personal property customarily
24 used for human habitation purposes;

25 (kk) (1) (A) all sales of machinery and equipment ~~which that~~ are used
26 in this state as an integral or essential part of an integrated production
27 operation by a manufacturing or processing plant or facility;

28 (B) all sales of installation, repair and maintenance services
29 performed on such machinery and equipment; and

30 (C) all sales of repair and replacement parts and accessories
31 purchased for such machinery and equipment.

32 (2) For purposes of this subsection:

33 (A) "Integrated production operation" means an integrated series of
34 operations engaged in at a manufacturing or processing plant or facility to
35 process, transform or convert tangible personal property by physical,
36 chemical or other means into a different form, composition or character
37 from that in which it originally existed. Integrated production operations
38 shall include: (i) Production line operations, including packaging
39 operations; (ii) preproduction operations to handle, store and treat raw
40 materials; (iii) post production handling, storage, warehousing and
41 distribution operations; and (iv) waste, pollution and environmental
42 control operations, if any;

43 (B) "production line" means the assemblage of machinery and

1 equipment at a manufacturing or processing plant or facility where the
2 actual transformation or processing of tangible personal property occurs;

3 (C) "manufacturing or processing plant or facility" means a single,
4 fixed location owned or controlled by a manufacturing or processing
5 business that consists of one or more structures or buildings in a
6 contiguous area where integrated production operations are conducted to
7 manufacture or process tangible personal property to be ultimately sold at
8 retail. Such term shall not include any facility primarily operated for the
9 purpose of conveying or assisting in the conveyance of natural gas,
10 electricity, oil or water. A business may operate one or more manufacturing
11 or processing plants or facilities at different locations to manufacture or
12 process a single product of tangible personal property to be ultimately sold
13 at retail;

14 (D) "manufacturing or processing business" means a business that
15 utilizes an integrated production operation to manufacture, process,
16 fabricate, finish; or assemble items for wholesale and retail distribution as
17 part of what is commonly regarded by the general public as an industrial
18 manufacturing or processing operation or an agricultural commodity
19 processing operation. (i) Industrial manufacturing or processing operations
20 include, by way of illustration but not of limitation, the fabrication of
21 automobiles, airplanes, machinery or transportation equipment, the
22 fabrication of metal, plastic, wood; or paper products, electricity power
23 generation, water treatment, petroleum refining, chemical production,
24 wholesale bottling, newspaper printing, ready mixed concrete production,
25 and the remanufacturing of used parts for wholesale or retail sale. Such
26 processing operations shall include operations at an oil well, gas well,
27 mine or other excavation site where the oil, gas, minerals, coal, clay, stone,
28 sand or gravel that has been extracted from the earth is cleaned, separated,
29 crushed, ground, milled, screened, washed; or otherwise treated or
30 prepared before its transmission to a refinery or before any other wholesale
31 or retail distribution. (ii) Agricultural commodity processing operations
32 include, by way of illustration but not of limitation, meat packing, poultry
33 slaughtering and dressing, processing and packaging farm and dairy
34 products in sealed containers for wholesale and retail distribution, feed
35 grinding, grain milling, frozen food processing, and grain handling,
36 cleaning, blending, fumigation, drying and aeration operations engaged in
37 by grain elevators or other grain storage facilities. (iii) Manufacturing or
38 processing businesses do not include, by way of illustration but not of
39 limitation, nonindustrial businesses whose operations are primarily retail
40 and that produce or process tangible personal property as an incidental part
41 of conducting the retail business, such as retailers who bake, cook or
42 prepare food products in the regular course of their retail trade, grocery
43 stores, meat lockers and meat markets that butcher or dress livestock or

1 poultry in the regular course of their retail trade, contractors who alter,
2 service, repair or improve real property, and retail businesses that clean,
3 service or refurbish and repair tangible personal property for its owner;

4 (E) "repair and replacement parts and accessories" means all parts
5 and accessories for exempt machinery and equipment, including, but not
6 limited to, dies, jigs, molds, patterns and safety devices that are attached to
7 exempt machinery or that are otherwise used in production, and parts and
8 accessories that require periodic replacement such as belts, drill bits,
9 grinding wheels, grinding balls, cutting bars, saws, refractory brick and
10 other refractory items for exempt kiln equipment used in production
11 operations;

12 (F) "primary" or "primarily" mean more than 50% of the time.

13 (3) For purposes of this subsection, machinery and equipment shall
14 be deemed to be used as an integral or essential part of an integrated
15 production operation when used:

16 (A) To receive, transport, convey, handle, treat or store raw materials
17 in preparation of its placement on the production line;

18 (B) to transport, convey, handle or store the property undergoing
19 manufacturing or processing at any point from the beginning of the
20 production line through any warehousing or distribution operation of the
21 final product that occurs at the plant or facility;

22 (C) to act upon, effect, promote or otherwise facilitate a physical
23 change to the property undergoing manufacturing or processing;

24 (D) to guide, control or direct the movement of property undergoing
25 manufacturing or processing;

26 (E) to test or measure raw materials, the property undergoing
27 manufacturing or processing or the finished product, as a necessary part of
28 the manufacturer's integrated production operations;

29 (F) to plan, manage, control or record the receipt and flow of
30 inventories of raw materials, consumables and component parts, the flow
31 of the property undergoing manufacturing or processing and the
32 management of inventories of the finished product;

33 (G) to produce energy for, lubricate, control the operating of or
34 otherwise enable the functioning of other production machinery and
35 equipment and the continuation of production operations;

36 (H) to package the property being manufactured or processed in a
37 container or wrapping in which such property is normally sold or
38 transported;

39 (I) to transmit or transport electricity, coke, gas, water, steam or
40 similar substances used in production operations from the point of
41 generation, if produced by the manufacturer or processor at the plant site,
42 to that manufacturer's production operation; or, if purchased or delivered
43 from off-site, from the point where the substance enters the site of the

1 plant or facility to that manufacturer's production operations;

2 (J) to cool, heat, filter, refine or otherwise treat water, steam, acid, oil,
3 solvents or other substances that are used in production operations;

4 (K) to provide and control an environment required to maintain
5 certain levels of air quality, humidity or temperature in special and limited
6 areas of the plant or facility, where such regulation of temperature or
7 humidity is part of and essential to the production process;

8 (L) to treat, transport or store waste or other byproducts of production
9 operations at the plant or facility; or

10 (M) to control pollution at the plant or facility where the pollution is
11 produced by the manufacturing or processing operation.

12 (4) The following machinery, equipment and materials shall be
13 deemed to be exempt even though it may not otherwise qualify as
14 machinery and equipment used as an integral or essential part of an
15 integrated production operation: (A) Computers and related peripheral
16 equipment that are utilized by a manufacturing or processing business for
17 engineering of the finished product or for research and development or
18 product design; (B) machinery and equipment that is utilized by a
19 manufacturing or processing business to manufacture or rebuild tangible
20 personal property that is used in manufacturing or processing operations,
21 including tools, dies, molds, forms and other parts of qualifying machinery
22 and equipment; (C) portable plants for aggregate concrete, bulk cement
23 and asphalt including cement mixing drums to be attached to a motor
24 vehicle; (D) industrial fixtures, devices, support facilities and special
25 foundations necessary for manufacturing and production operations, and
26 materials and other tangible personal property sold for the purpose of
27 fabricating such fixtures, devices, facilities and foundations. An exemption
28 certificate for such purchases shall be signed by the manufacturer or
29 processor. If the fabricator purchases such material, the fabricator shall
30 also sign the exemption certificate; (E) a manufacturing or processing
31 business' laboratory equipment that is not located at the plant or facility,
32 but that would otherwise qualify for exemption under subsection (3)(E);
33 (F) all machinery and equipment used in surface mining activities as
34 described in K.S.A. 49-601 et seq., and amendments thereto, beginning
35 from the time a reclamation plan is filed to the acceptance of the
36 completed final site reclamation.

37 (5) "Machinery and equipment used as an integral or essential part of
38 an integrated production operation" shall not include:

39 (A) Machinery and equipment used for nonproduction purposes,
40 including, but not limited to, machinery and equipment used for plant
41 security, fire prevention, first aid, accounting, administration, record
42 keeping, advertising, marketing, sales or other related activities, plant
43 cleaning, plant communications; and employee work scheduling;

1 (B) machinery, equipment and tools used primarily in maintaining
2 and repairing any type of machinery and equipment or the building and
3 plant;

4 (C) transportation, transmission and distribution equipment not
5 primarily used in a production, warehousing or material handling
6 operation at the plant or facility, including the means of conveyance of
7 natural gas, electricity, oil or water, and equipment related thereto, located
8 outside the plant or facility;

9 (D) office machines and equipment including computers and related
10 peripheral equipment not used directly and primarily to control or measure
11 the manufacturing process;

12 (E) furniture and other furnishings;

13 (F) buildings, other than exempt machinery and equipment that is
14 permanently affixed to or becomes a physical part of the building, and any
15 other part of real estate that is not otherwise exempt;

16 (G) building fixtures that are not integral to the manufacturing
17 operation, such as utility systems for heating, ventilation, air conditioning,
18 communications, plumbing or electrical;

19 (H) machinery and equipment used for general plant heating, cooling
20 and lighting;

21 (I) motor vehicles that are registered for operation on public
22 highways; or

23 (J) employee apparel, except safety and protective apparel that is
24 purchased by an employer and furnished gratuitously to employees who
25 are involved in production or research activities.

26 (6) Subsections (3) and (5) shall not be construed as exclusive listings
27 of the machinery and equipment that qualify or do not qualify as an
28 integral or essential part of an integrated production operation. When
29 machinery or equipment is used as an integral or essential part of
30 production operations part of the time and for nonproduction purposes at
31 other times, the primary use of the machinery or equipment shall
32 determine whether or not such machinery or equipment qualifies for
33 exemption.

34 (7) The secretary of revenue shall adopt rules and regulations
35 necessary to administer the provisions of this subsection;

36 (ll) all sales of educational materials purchased for distribution to the
37 public at no charge by a nonprofit corporation organized for the purpose of
38 encouraging, fostering and conducting programs for the improvement of
39 public health, except that for taxable years commencing after December
40 31, 2013, this subsection shall not apply to any sales of such materials
41 purchased by a nonprofit corporation which performs any abortion, as
42 defined in K.S.A. 65-6701, and amendments thereto;

43 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,

1 herbicides, germicides, pesticides and fungicides; and services, purchased
2 and used for the purpose of producing plants in order to prevent soil
3 erosion on land devoted to agricultural use;

4 (nn) except as otherwise provided in this act, all sales of services
5 rendered by an advertising agency or licensed broadcast station or any
6 member, agent or employee thereof;

7 (oo) all sales of tangible personal property purchased by a community
8 action group or agency for the exclusive purpose of repairing or
9 weatherizing housing occupied by low-income individuals;

10 (pp) all sales of drill bits and explosives actually utilized in the
11 exploration and production of oil or gas;

12 (qq) all sales of tangible personal property and services purchased by
13 a nonprofit museum or historical society or any combination thereof,
14 including a nonprofit organization ~~which~~ that is organized for the purpose
15 of stimulating public interest in the exploration of space by providing
16 educational information, exhibits and experiences, ~~which~~ that is exempt
17 from federal income taxation pursuant to section 501(c)(3) of the federal
18 internal revenue code of 1986;

19 (rr) all sales of tangible personal property ~~which~~ that will admit the
20 purchaser thereof to any annual event sponsored by a nonprofit
21 organization ~~which~~ that is exempt from federal income taxation pursuant
22 to section 501(c)(3) of the federal internal revenue code of 1986, except
23 that for taxable years commencing after December 31, 2013, this
24 subsection shall not apply to any sales of such tangible personal property
25 purchased by a nonprofit organization which performs any abortion, as
26 defined in K.S.A. 65-6701, and amendments thereto;

27 (ss) all sales of tangible personal property and services purchased by
28 a public broadcasting station licensed by the federal communications
29 commission as a noncommercial educational television or radio station;

30 (tt) all sales of tangible personal property and services purchased by
31 or on behalf of a not-for-profit corporation ~~which~~ that is exempt from
32 federal income taxation pursuant to section 501(c)(3) of the federal
33 internal revenue code of 1986, for the sole purpose of constructing a
34 Kansas Korean War memorial;

35 (uu) all sales of tangible personal property and services purchased by
36 or on behalf of any rural volunteer fire-fighting organization for use
37 exclusively in the performance of its duties and functions;

38 (vv) all sales of tangible personal property purchased by any of the
39 following organizations ~~which~~ that are exempt from federal income
40 taxation pursuant to section 501(c)(3) of the federal internal revenue code
41 of 1986, for the following purposes, and all sales of any such property by
42 or on behalf of any such organization for any such purpose:

43 (1) The American heart association, Kansas affiliate, inc. for the

1 purposes of providing education, training, certification in emergency
2 cardiac care, research and other related services to reduce disability and
3 death from cardiovascular diseases and stroke;

4 (2) the Kansas alliance for the mentally ill, inc. for the purpose of
5 advocacy for persons with mental illness and to education, research and
6 support for their families;

7 (3) the Kansas mental illness awareness council for the purposes of
8 advocacy for persons who are mentally ill and for education, research and
9 support for them and their families;

10 (4) the American diabetes association Kansas affiliate, inc. for the
11 purpose of eliminating diabetes through medical research, public education
12 focusing on disease prevention and education, patient education including
13 information on coping with diabetes, and professional education and
14 training;

15 (5) the American lung association of Kansas, inc. for the purpose of
16 eliminating all lung diseases through medical research, public education
17 including information on coping with lung diseases, professional education
18 and training related to lung disease and other related services to reduce the
19 incidence of disability and death due to lung disease;

20 (6) the Kansas chapters of the Alzheimer's disease and related
21 disorders association, inc. for the purpose of providing assistance and
22 support to persons in Kansas with Alzheimer's disease, and their families
23 and caregivers;

24 (7) the Kansas chapters of the Parkinson's disease association for the
25 purpose of eliminating Parkinson's disease through medical research and
26 public and professional education related to such disease;

27 (8) the national kidney foundation of Kansas and western Missouri
28 for the purpose of eliminating kidney disease through medical research
29 and public and private education related to such disease;

30 (9) the heartstrings community foundation for the purpose of
31 providing training, employment and activities for adults with
32 developmental disabilities;

33 (10) the cystic fibrosis foundation, heart of America chapter, for the
34 purposes of assuring the development of the means to cure and control
35 cystic fibrosis and improving the quality of life for those with the disease;

36 (11) the spina bifida association of Kansas for the purpose of
37 providing financial, educational and practical aid to families and
38 individuals with spina bifida. Such aid includes, but is not limited to,
39 funding for medical devices, counseling and medical educational
40 opportunities;

41 (12) the CHWC, Inc., for the purpose of rebuilding urban core
42 neighborhoods through the construction of new homes, acquiring and
43 renovating existing homes and other related activities, and promoting

1 economic development in such neighborhoods;

2 (13) the cross-lines cooperative council for the purpose of providing
3 social services to low income individuals and families;

4 (14) the dreams work, inc., for the purpose of providing young adult
5 day services to individuals with developmental disabilities and assisting
6 families in avoiding institutional or nursing home care for a
7 developmentally disabled member of their family;

8 (15) the KSDS, Inc., for the purpose of promoting the independence
9 and inclusion of people with disabilities as fully participating and
10 contributing members of their communities and society through the
11 training and providing of guide and service dogs to people with
12 disabilities, and providing disability education and awareness to the
13 general public;

14 (16) the lyme association of greater Kansas City, Inc., for the purpose
15 of providing support to persons with lyme disease and public education
16 relating to the prevention, treatment and cure of lyme disease;

17 (17) the dream factory, inc., for the purpose of granting the dreams of
18 children with critical and chronic illnesses;

19 (18) the Ottawa Suzuki strings, inc., for the purpose of providing
20 students and families with education and resources necessary to enable
21 each child to develop fine character and musical ability to the fullest
22 potential;

23 (19) the international association of lions clubs for the purpose of
24 creating and fostering a spirit of understanding among all people for
25 humanitarian needs by providing voluntary services through community
26 involvement and international cooperation;

27 (20) the Johnson county young matrons, inc., for the purpose of
28 promoting a positive future for members of the community through
29 volunteerism, financial support and education through the efforts of an all
30 volunteer organization;

31 (21) the American cancer society, inc., for the purpose of eliminating
32 cancer as a major health problem by preventing cancer, saving lives and
33 diminishing suffering from cancer, through research, education, advocacy
34 and service;

35 (22) the community services of Shawnee, inc., for the purpose of
36 providing food and clothing to those in need;

37 (23) the angel babies association, for the purpose of providing
38 assistance, support and items of necessity to teenage mothers and their
39 babies; and

40 (24) the Kansas fairgrounds foundation for the purpose of the
41 preservation, renovation and beautification of the Kansas state fairgrounds;

42 (ww) all sales of tangible personal property purchased by the habitat
43 for humanity for the exclusive use of being incorporated within a housing

1 project constructed by such organization;

2 (xx) all sales of tangible personal property and services purchased by
3 a nonprofit zoo—~~which~~ *that* is exempt from federal income taxation
4 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
5 or on behalf of such zoo by an entity itself exempt from federal income
6 taxation pursuant to section 501(c)(3) of the federal internal revenue code
7 of 1986 contracted with to operate such zoo and all sales of tangible
8 personal property or services purchased by a contractor for the purpose of
9 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
10 furnishing or remodeling facilities for any nonprofit zoo—~~which~~ *that* would
11 be exempt from taxation under the provisions of this section if purchased
12 directly by such nonprofit zoo or the entity operating such zoo. Nothing in
13 this subsection shall be deemed to exempt the purchase of any construction
14 machinery, equipment or tools used in the constructing, equipping,
15 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
16 facilities for any nonprofit zoo. When any nonprofit zoo shall contract for
17 the purpose of constructing, equipping, reconstructing, maintaining,
18 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
19 from the state and furnish to the contractor an exemption certificate for the
20 project involved, and the contractor may purchase materials for
21 incorporation in such project. The contractor shall furnish the number of
22 such certificate to all suppliers from whom such purchases are made, and
23 such suppliers shall execute invoices covering the same bearing the
24 number of such certificate. Upon completion of the project the contractor
25 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
26 to be provided by the director of taxation, that all purchases so made were
27 entitled to exemption under this subsection. All invoices shall be held by
28 the contractor for a period of five years and shall be subject to audit by the
29 director of taxation. If any materials purchased under such a certificate are
30 found not to have been incorporated in the building or other project or not
31 to have been returned for credit or the sales or compensating tax otherwise
32 imposed upon such materials—~~which~~ *that* will not be so incorporated in the
33 building or other project reported and paid by such contractor to the
34 director of taxation not later than the 20th day of the month following the
35 close of the month in which it shall be determined that such materials will
36 not be used for the purpose for which such certificate was issued, the
37 nonprofit zoo concerned shall be liable for tax on all materials purchased
38 for the project, and upon payment thereof it may recover the same from
39 the contractor together with reasonable attorney fees. Any contractor or
40 any agent, employee or subcontractor thereof, who shall use or otherwise
41 dispose of any materials purchased under such a certificate for any purpose
42 other than that for which such a certificate is issued without the payment
43 of the sales or compensating tax otherwise imposed upon such materials,

1 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
2 subject to the penalties provided for in K.S.A. 79-3615(h), and
3 amendments thereto;

4 (yy) all sales of tangible personal property and services purchased by
5 a parent-teacher association or organization, and all sales of tangible
6 personal property by or on behalf of such association or organization;

7 (zz) all sales of machinery and equipment purchased by over-the-air,
8 free access radio or television station ~~which~~ *that* is used directly and
9 primarily for the purpose of producing a broadcast signal or is such that
10 the failure of the machinery or equipment to operate would cause
11 broadcasting to cease. For purposes of this subsection, machinery and
12 equipment shall include, but not be limited to, that required by rules and
13 regulations of the federal communications commission, and all sales of
14 electricity which are essential or necessary for the purpose of producing a
15 broadcast signal or is such that the failure of the electricity would cause
16 broadcasting to cease;

17 (aaa) all sales of tangible personal property and services purchased by
18 a religious organization ~~which~~ *that* is exempt from federal income taxation
19 pursuant to section 501(c)(3) of the federal internal revenue code, and used
20 exclusively for religious purposes, and all sales of tangible personal
21 property or services purchased by a contractor for the purpose of
22 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
23 furnishing or remodeling facilities for any such organization ~~which~~ *that*
24 would be exempt from taxation under the provisions of this section if
25 purchased directly by such organization. Nothing in this subsection shall
26 be deemed to exempt the purchase of any construction machinery,
27 equipment or tools used in the constructing, equipping, reconstructing,
28 maintaining, repairing, enlarging, furnishing or remodeling facilities for
29 any such organization. When any such organization shall contract for the
30 purpose of constructing, equipping, reconstructing, maintaining, repairing,
31 enlarging, furnishing or remodeling facilities, it shall obtain from the state
32 and furnish to the contractor an exemption certificate for the project
33 involved, and the contractor may purchase materials for incorporation in
34 such project. The contractor shall furnish the number of such certificate to
35 all suppliers from whom such purchases are made, and such suppliers shall
36 execute invoices covering the same bearing the number of such certificate.
37 Upon completion of the project the contractor shall furnish to such
38 organization concerned a sworn statement, on a form to be provided by the
39 director of taxation, that all purchases so made were entitled to exemption
40 under this subsection. All invoices shall be held by the contractor for a
41 period of five years and shall be subject to audit by the director of taxation.
42 If any materials purchased under such a certificate are found not to have
43 been incorporated in the building or other project or not to have been

1 returned for credit or the sales or compensating tax otherwise imposed
2 upon such materials—~~which~~ *that* will not be so incorporated in the building
3 or other project reported and paid by such contractor to the director of
4 taxation not later than the 20th day of the month following the close of the
5 month in which it shall be determined that such materials will not be used
6 for the purpose for which such certificate was issued, such organization
7 concerned shall be liable for tax on all materials purchased for the project,
8 and upon payment thereof it may recover the same from the contractor
9 together with reasonable attorney fees. Any contractor or any agent,
10 employee or subcontractor thereof, who shall use or otherwise dispose of
11 any materials purchased under such a certificate for any purpose other than
12 that for which such a certificate is issued without the payment of the sales
13 or compensating tax otherwise imposed upon such materials, shall be
14 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
15 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto.
16 Sales tax paid on and after July 1, 1998, but prior to the effective date of
17 this act upon the gross receipts received from any sale exempted by the
18 amendatory provisions of this subsection shall be refunded. Each claim for
19 a sales tax refund shall be verified and submitted to the director of taxation
20 upon forms furnished by the director and shall be accompanied by any
21 additional documentation required by the director. The director shall
22 review each claim and shall refund that amount of sales tax paid as
23 determined under the provisions of this subsection. All refunds shall be
24 paid from the sales tax refund fund upon warrants of the director of
25 accounts and reports pursuant to vouchers approved by the director or the
26 director's designee;

27 (bbb) all sales of food for human consumption by an organization
28 ~~which~~ *that* is exempt from federal income taxation pursuant to section
29 501(c)(3) of the federal internal revenue code of 1986, pursuant to a food
30 distribution program—~~which~~ *that* offers such food at a price below cost in
31 exchange for the performance of community service by the purchaser
32 thereof;

33 (ccc) on and after July 1, 1999, all sales of tangible personal property
34 and services purchased by a primary care clinic or health center the
35 primary purpose of which is to provide services to medically underserved
36 individuals and families, and—~~which~~ *that* is exempt from federal income
37 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
38 and all sales of tangible personal property or services purchased by a
39 contractor for the purpose of constructing, equipping, reconstructing,
40 maintaining, repairing, enlarging, furnishing or remodeling facilities for
41 any such clinic or center—~~which~~ *that* would be exempt from taxation under
42 the provisions of this section if purchased directly by such clinic or center,
43 except that for taxable years commencing after December 31, 2013, this

1 subsection shall not apply to any sales of such tangible personal property
2 and services purchased by a primary care clinic or health center which
3 performs any abortion, as defined in K.S.A. 65-6701, and amendments
4 thereto. Nothing in this subsection shall be deemed to exempt the purchase
5 of any construction machinery, equipment or tools used in the
6 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
7 furnishing or remodeling facilities for any such clinic or center. When any
8 such clinic or center shall contract for the purpose of constructing,
9 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
10 remodeling facilities, it shall obtain from the state and furnish to the
11 contractor an exemption certificate for the project involved, and the
12 contractor may purchase materials for incorporation in such project. The
13 contractor shall furnish the number of such certificate to all suppliers from
14 whom such purchases are made, and such suppliers shall execute invoices
15 covering the same bearing the number of such certificate. Upon
16 completion of the project the contractor shall furnish to such clinic or
17 center concerned a sworn statement, on a form to be provided by the
18 director of taxation, that all purchases so made were entitled to exemption
19 under this subsection. All invoices shall be held by the contractor for a
20 period of five years and shall be subject to audit by the director of taxation.
21 If any materials purchased under such a certificate are found not to have
22 been incorporated in the building or other project or not to have been
23 returned for credit or the sales or compensating tax otherwise imposed
24 upon such materials ~~which~~ that will not be so incorporated in the building
25 or other project reported and paid by such contractor to the director of
26 taxation not later than the 20th day of the month following the close of the
27 month in which it shall be determined that such materials will not be used
28 for the purpose for which such certificate was issued, such clinic or center
29 concerned shall be liable for tax on all materials purchased for the project,
30 and upon payment thereof it may recover the same from the contractor
31 together with reasonable attorney fees. Any contractor or any agent,
32 employee or subcontractor thereof, who shall use or otherwise dispose of
33 any materials purchased under such a certificate for any purpose other than
34 that for which such a certificate is issued without the payment of the sales
35 or compensating tax otherwise imposed upon such materials, shall be
36 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
37 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

38 (ddd) on and after January 1, 1999, and before January 1, 2000, all
39 sales of materials and services purchased by any class II or III railroad as
40 classified by the federal surface transportation board for the construction,
41 renovation, repair or replacement of class II or III railroad track and
42 facilities used directly in interstate commerce. In the event any such track
43 or facility for which materials and services were purchased sales tax

1 exempt is not operational for five years succeeding the allowance of such
2 exemption, the total amount of sales tax—~~which that~~ would have been
3 payable except for the operation of this subsection shall be recouped in
4 accordance with rules and regulations adopted for such purpose by the
5 secretary of revenue;

6 (eee) on and after January 1, 1999, and before January 1, 2001, all
7 sales of materials and services purchased for the original construction,
8 reconstruction, repair or replacement of grain storage facilities, including
9 railroad sidings providing access thereto;

10 (fff) all sales of material handling equipment, racking systems and
11 other related machinery and equipment that is used for the handling,
12 movement or storage of tangible personal property in a warehouse or
13 distribution facility in this state; all sales of installation, repair and
14 maintenance services performed on such machinery and equipment; and
15 all sales of repair and replacement parts for such machinery and
16 equipment. For purposes of this subsection, a warehouse or distribution
17 facility means a single, fixed location that consists of buildings or
18 structures in a contiguous area where storage or distribution operations are
19 conducted that are separate and apart from the business' retail operations,
20 if any, and ~~which that~~ do not otherwise qualify for exemption as occurring
21 at a manufacturing or processing plant or facility. Material handling and
22 storage equipment shall include aeration, dust control, cleaning, handling
23 and other such equipment that is used in a public grain warehouse or other
24 commercial grain storage facility, whether used for grain handling, grain
25 storage, grain refining or processing, or other grain treatment operation;

26 (ggg) all sales of tangible personal property and services purchased
27 by or on behalf of the Kansas academy of science, which is exempt from
28 federal income taxation pursuant to section 501(c)(3) of the federal
29 internal revenue code of 1986, and used solely by such academy for the
30 preparation, publication and dissemination of education materials;

31 (hhh) all sales of tangible personal property and services purchased
32 by or on behalf of all domestic violence shelters that are member agencies
33 of the Kansas coalition against sexual and domestic violence;

34 (iii) all sales of personal property and services purchased by an
35 organization—~~which that~~ is exempt from federal income taxation pursuant
36 to section 501(c)(3) of the federal internal revenue code of 1986, and
37 ~~which~~ such personal property and services are used by any such
38 organization in the collection, storage and distribution of food products to
39 nonprofit organizations—~~which that~~ distribute such food products to persons
40 pursuant to a food distribution program on a charitable basis without fee or
41 charge, and all sales of tangible personal property or services purchased by
42 a contractor for the purpose of constructing, equipping, reconstructing,
43 maintaining, repairing, enlarging, furnishing or remodeling facilities used

1 for the collection and storage of such food products for any such
2 organization which is exempt from federal income taxation pursuant to
3 section 501(c)(3) of the federal internal revenue code of 1986, ~~which that~~
4 would be exempt from taxation under the provisions of this section if
5 purchased directly by such organization. Nothing in this subsection shall
6 be deemed to exempt the purchase of any construction machinery,
7 equipment or tools used in the constructing, equipping, reconstructing,
8 maintaining, repairing, enlarging, furnishing or remodeling facilities for
9 any such organization. When any such organization shall contract for the
10 purpose of constructing, equipping, reconstructing, maintaining, repairing,
11 enlarging, furnishing or remodeling facilities, it shall obtain from the state
12 and furnish to the contractor an exemption certificate for the project
13 involved, and the contractor may purchase materials for incorporation in
14 such project. The contractor shall furnish the number of such certificate to
15 all suppliers from whom such purchases are made, and such suppliers shall
16 execute invoices covering the same bearing the number of such certificate.
17 Upon completion of the project the contractor shall furnish to such
18 organization concerned a sworn statement, on a form to be provided by the
19 director of taxation, that all purchases so made were entitled to exemption
20 under this subsection. All invoices shall be held by the contractor for a
21 period of five years and shall be subject to audit by the director of taxation.
22 If any materials purchased under such a certificate are found not to have
23 been incorporated in such facilities or not to have been returned for credit
24 or the sales or compensating tax otherwise imposed upon such materials
25 ~~which that~~ will not be so incorporated in such facilities reported and paid
26 by such contractor to the director of taxation not later than the 20th day of
27 the month following the close of the month in which it shall be determined
28 that such materials will not be used for the purpose for which such
29 certificate was issued, such organization concerned shall be liable for tax
30 on all materials purchased for the project, and upon payment thereof it
31 may recover the same from the contractor together with reasonable
32 attorney fees. Any contractor or any agent, employee or subcontractor
33 thereof, who shall use or otherwise dispose of any materials purchased
34 under such a certificate for any purpose other than that for which such a
35 certificate is issued without the payment of the sales or compensating tax
36 otherwise imposed upon such materials, shall be guilty of a misdemeanor
37 and, upon conviction therefor, shall be subject to the penalties provided for
38 in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after
39 July 1, 2005, but prior to the effective date of this act upon the gross
40 receipts received from any sale exempted by the amendatory provisions of
41 this subsection shall be refunded. Each claim for a sales tax refund shall be
42 verified and submitted to the director of taxation upon forms furnished by
43 the director and shall be accompanied by any additional documentation

1 required by the director. The director shall review each claim and shall
2 refund that amount of sales tax paid as determined under the provisions of
3 this subsection. All refunds shall be paid from the sales tax refund fund
4 upon warrants of the director of accounts and reports pursuant to vouchers
5 approved by the director or the director's designee;

6 (jjj) all sales of dietary supplements dispensed pursuant to a
7 prescription order by a licensed practitioner or a mid-level practitioner as
8 defined by K.S.A. 65-1626, and amendments thereto. As used in this
9 subsection, "dietary supplement" means any product, other than tobacco,
10 intended to supplement the diet that: (1) Contains one or more of the
11 following dietary ingredients: A vitamin, a mineral, an herb or other
12 botanical, an amino acid, a dietary substance for use by humans to
13 supplement the diet by increasing the total dietary intake or a concentrate,
14 metabolite, constituent, extract or combination of any such ingredient; (2)
15 is intended for ingestion in tablet, capsule, powder, softgel, gelcap or
16 liquid form, or if not intended for ingestion, in such a form, is not
17 represented as conventional food and is not represented for use as a sole
18 item of a meal or of the diet; and (3) is required to be labeled as a dietary
19 supplement, identifiable by the supplemental facts box found on the label
20 and as required pursuant to 21 C.F.R. § 101.36;

21 (lll) all sales of tangible personal property and services purchased by
22 special olympics Kansas, inc. for the purpose of providing year-round
23 sports training and athletic competition in a variety of olympic-type sports
24 for individuals with intellectual disabilities by giving them continuing
25 opportunities to develop physical fitness, demonstrate courage, experience
26 joy and participate in a sharing of gifts, skills and friendship with their
27 families, other special olympics athletes and the community, and activities
28 provided or sponsored by such organization, and all sales of tangible
29 personal property by or on behalf of any such organization;

30 (mmm) all sales of tangible personal property purchased by or on
31 behalf of the Marillac center, inc., which is exempt from federal income
32 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
33 for the purpose of providing psycho-social-biological and special
34 education services to children, and all sales of any such property by or on
35 behalf of such organization for such purpose;

36 (nnn) all sales of tangible personal property and services purchased
37 by the west Sedgwick county-sunrise rotary club and sunrise charitable
38 fund for the purpose of constructing a boundless playground which is an
39 integrated, barrier free and developmentally advantageous play
40 environment for children of all abilities and disabilities;

41 (ooo) all sales of tangible personal property by or on behalf of a
42 public library serving the general public and supported in whole or in part
43 with tax money or a not-for-profit organization whose purpose is to raise

1 funds for or provide services or other benefits to any such public library;

2 (ppp) all sales of tangible personal property and services purchased
3 by or on behalf of a homeless shelter ~~which~~ that is exempt from federal
4 income taxation pursuant to section 501(c)(3) of the federal income tax
5 code of 1986, and used by any such homeless shelter to provide
6 emergency and transitional housing for individuals and families
7 experiencing homelessness, and all sales of any such property by or on
8 behalf of any such homeless shelter for any such purpose;

9 (qqq) all sales of tangible personal property and services purchased
10 by TLC for children and families, inc., hereinafter referred to as TLC,
11 which is exempt from federal income taxation pursuant to section 501(c)
12 (3) of the federal internal revenue code of 1986, and ~~which~~ such property
13 and services are used for the purpose of providing emergency shelter and
14 treatment for abused and neglected children as well as meeting additional
15 critical needs for children, juveniles and family, and all sales of any such
16 property by or on behalf of TLC for any such purpose; and all sales of
17 tangible personal property or services purchased by a contractor for the
18 purpose of constructing, maintaining, repairing, enlarging, furnishing or
19 remodeling facilities for the operation of services for TLC for any such
20 purpose ~~which~~ that would be exempt from taxation under the provisions of
21 this section if purchased directly by TLC. Nothing in this subsection shall
22 be deemed to exempt the purchase of any construction machinery,
23 equipment or tools used in the constructing, maintaining, repairing,
24 enlarging, furnishing or remodeling such facilities for TLC. When TLC
25 contracts for the purpose of constructing, maintaining, repairing, enlarging,
26 furnishing or remodeling such facilities, it shall obtain from the state and
27 furnish to the contractor an exemption certificate for the project involved,
28 and the contractor may purchase materials for incorporation in such
29 project. The contractor shall furnish the number of such certificate to all
30 suppliers from whom such purchases are made, and such suppliers shall
31 execute invoices covering the same bearing the number of such certificate.
32 Upon completion of the project the contractor shall furnish to TLC a sworn
33 statement, on a form to be provided by the director of taxation, that all
34 purchases so made were entitled to exemption under this subsection. All
35 invoices shall be held by the contractor for a period of five years and shall
36 be subject to audit by the director of taxation. If any materials purchased
37 under such a certificate are found not to have been incorporated in the
38 building or other project or not to have been returned for credit or the sales
39 or compensating tax otherwise imposed upon such materials ~~which~~ that
40 will not be so incorporated in the building or other project reported and
41 paid by such contractor to the director of taxation not later than the 20th
42 day of the month following the close of the month in which it shall be
43 determined that such materials will not be used for the purpose for which

1 such certificate was issued, TLC shall be liable for tax on all materials
2 purchased for the project, and upon payment thereof it may recover the
3 same from the contractor together with reasonable attorney fees. Any
4 contractor or any agent, employee or subcontractor thereof, who shall use
5 or otherwise dispose of any materials purchased under such a certificate
6 for any purpose other than that for which such a certificate is issued
7 without the payment of the sales or compensating tax otherwise imposed
8 upon such materials, shall be guilty of a misdemeanor and, upon
9 conviction therefor, shall be subject to the penalties provided for in K.S.A.
10 79-3615(h), and amendments thereto;

11 (rrr) all sales of tangible personal property and services purchased by
12 any county law library maintained pursuant to law and sales of tangible
13 personal property and services purchased by an organization ~~which~~ *that*
14 would have been exempt from taxation under the provisions of this
15 subsection if purchased directly by the county law library for the purpose
16 of providing legal resources to attorneys, judges, students and the general
17 public, and all sales of any such property by or on behalf of any such
18 county law library;

19 (sss) all sales of tangible personal property and services purchased by
20 catholic charities or youthville, hereinafter referred to as charitable family
21 providers, which is exempt from federal income taxation pursuant to
22 section 501(c)(3) of the federal internal revenue code of 1986, and which
23 such property and services are used for the purpose of providing
24 emergency shelter and treatment for abused and neglected children as well
25 as meeting additional critical needs for children, juveniles and family, and
26 all sales of any such property by or on behalf of charitable family
27 providers for any such purpose; and all sales of tangible personal property
28 or services purchased by a contractor for the purpose of constructing,
29 maintaining, repairing, enlarging, furnishing or remodeling facilities for
30 the operation of services for charitable family providers for any such
31 purpose which would be exempt from taxation under the provisions of this
32 section if purchased directly by charitable family providers. Nothing in
33 this subsection shall be deemed to exempt the purchase of any construction
34 machinery, equipment or tools used in the constructing, maintaining,
35 repairing, enlarging, furnishing or remodeling such facilities for charitable
36 family providers. When charitable family providers contracts for the
37 purpose of constructing, maintaining, repairing, enlarging, furnishing or
38 remodeling such facilities, it shall obtain from the state and furnish to the
39 contractor an exemption certificate for the project involved, and the
40 contractor may purchase materials for incorporation in such project. The
41 contractor shall furnish the number of such certificate to all suppliers from
42 whom such purchases are made, and such suppliers shall execute invoices
43 covering the same bearing the number of such certificate. Upon

1 completion of the project the contractor shall furnish to charitable family
2 providers a sworn statement, on a form to be provided by the director of
3 taxation, that all purchases so made were entitled to exemption under this
4 subsection. All invoices shall be held by the contractor for a period of five
5 years and shall be subject to audit by the director of taxation. If any
6 materials purchased under such a certificate are found not to have been
7 incorporated in the building or other project or not to have been returned
8 for credit or the sales or compensating tax otherwise imposed upon such
9 materials—~~which~~ *that* will not be so incorporated in the building or other
10 project reported and paid by such contractor to the director of taxation not
11 later than the 20th day of the month following the close of the month in
12 which it shall be determined that such materials will not be used for the
13 purpose for which such certificate was issued, charitable family providers
14 shall be liable for tax on all materials purchased for the project, and upon
15 payment thereof it may recover the same from the contractor together with
16 reasonable attorney fees. Any contractor or any agent, employee or
17 subcontractor thereof, who shall use or otherwise dispose of any materials
18 purchased under such a certificate for any purpose other than that for
19 which such a certificate is issued without the payment of the sales or
20 compensating tax otherwise imposed upon such materials, shall be guilty
21 of a misdemeanor and, upon conviction therefor, shall be subject to the
22 penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

23 (ttt) all sales of tangible personal property or services purchased by a
24 contractor for a project for the purpose of restoring, constructing,
25 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
26 remodeling a home or facility owned by a nonprofit museum—~~which~~ *that*
27 has been granted an exemption pursuant to subsection (qq), which such
28 home or facility is located in a city—~~which~~ *that* has been designated as a
29 qualified hometown pursuant to the provisions of K.S.A. 75-5071 et seq.,
30 and amendments thereto, and which such project is related to the purposes
31 of K.S.A. 75-5071 et seq., and amendments thereto, and—~~which~~ *that* would
32 be exempt from taxation under the provisions of this section if purchased
33 directly by such nonprofit museum. Nothing in this subsection shall be
34 deemed to exempt the purchase of any construction machinery, equipment
35 or tools used in the restoring, constructing, equipping, reconstructing,
36 maintaining, repairing, enlarging, furnishing or remodeling a home or
37 facility for any such nonprofit museum. When any such nonprofit museum
38 shall contract for the purpose of restoring, constructing, equipping,
39 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
40 a home or facility, it shall obtain from the state and furnish to the
41 contractor an exemption certificate for the project involved, and the
42 contractor may purchase materials for incorporation in such project. The
43 contractor shall furnish the number of such certificates to all suppliers

1 from whom such purchases are made, and such suppliers shall execute
2 invoices covering the same bearing the number of such certificate. Upon
3 completion of the project, the contractor shall furnish to such nonprofit
4 museum a sworn statement on a form to be provided by the director of
5 taxation that all purchases so made were entitled to exemption under this
6 subsection. All invoices shall be held by the contractor for a period of five
7 years and shall be subject to audit by the director of taxation. If any
8 materials purchased under such a certificate are found not to have been
9 incorporated in the building or other project or not to have been returned
10 for credit or the sales or compensating tax otherwise imposed upon such
11 materials—~~which~~ *that* will not be so incorporated in a home or facility or
12 other project reported and paid by such contractor to the director of
13 taxation not later than the 20th day of the month following the close of the
14 month in which it shall be determined that such materials will not be used
15 for the purpose for which such certificate was issued, such nonprofit
16 museum shall be liable for tax on all materials purchased for the project,
17 and upon payment thereof it may recover the same from the contractor
18 together with reasonable attorney fees. Any contractor or any agent,
19 employee or subcontractor thereof, who shall use or otherwise dispose of
20 any materials purchased under such a certificate for any purpose other than
21 that for which such a certificate is issued without the payment of the sales
22 or compensating tax otherwise imposed upon such materials, shall be
23 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
24 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

25 (uuu) all sales of tangible personal property and services purchased
26 by Kansas children's service league, hereinafter referred to as KCSL,
27 which is exempt from federal income taxation pursuant to section 501(c)
28 (3) of the federal internal revenue code of 1986, and which such property
29 and services are used for the purpose of providing for the prevention and
30 treatment of child abuse and maltreatment as well as meeting additional
31 critical needs for children, juveniles and family, and all sales of any such
32 property by or on behalf of KCSL for any such purpose; and all sales of
33 tangible personal property or services purchased by a contractor for the
34 purpose of constructing, maintaining, repairing, enlarging, furnishing or
35 remodeling facilities for the operation of services for KCSL for any such
36 purpose—~~which~~ *that* would be exempt from taxation under the provisions of
37 this section if purchased directly by KCSL. Nothing in this subsection
38 shall be deemed to exempt the purchase of any construction machinery,
39 equipment or tools used in the constructing, maintaining, repairing,
40 enlarging, furnishing or remodeling such facilities for KCSL. When KCSL
41 contracts for the purpose of constructing, maintaining, repairing, enlarging,
42 furnishing or remodeling such facilities, it shall obtain from the state and
43 furnish to the contractor an exemption certificate for the project involved,

1 and the contractor may purchase materials for incorporation in such
2 project. The contractor shall furnish the number of such certificate to all
3 suppliers from whom such purchases are made, and such suppliers shall
4 execute invoices covering the same bearing the number of such certificate.
5 Upon completion of the project the contractor shall furnish to KCSL a
6 sworn statement, on a form to be provided by the director of taxation, that
7 all purchases so made were entitled to exemption under this subsection.
8 All invoices shall be held by the contractor for a period of five years and
9 shall be subject to audit by the director of taxation. If any materials
10 purchased under such a certificate are found not to have been incorporated
11 in the building or other project or not to have been returned for credit or
12 the sales or compensating tax otherwise imposed upon such materials
13 ~~which~~ *that* will not be so incorporated in the building or other project
14 reported and paid by such contractor to the director of taxation not later
15 than the 20th day of the month following the close of the month in which it
16 shall be determined that such materials will not be used for the purpose for
17 which such certificate was issued, KCSL shall be liable for tax on all
18 materials purchased for the project, and upon payment thereof it may
19 recover the same from the contractor together with reasonable attorney
20 fees. Any contractor or any agent, employee or subcontractor thereof, who
21 shall use or otherwise dispose of any materials purchased under such a
22 certificate for any purpose other than that for which such a certificate is
23 issued without the payment of the sales or compensating tax otherwise
24 imposed upon such materials, shall be guilty of a misdemeanor and, upon
25 conviction therefor, shall be subject to the penalties provided for in K.S.A.
26 79-3615(h), and amendments thereto;

27 (vvv) all sales of tangible personal property or services, including the
28 renting and leasing of tangible personal property or services, purchased by
29 jazz in the woods, inc., a Kansas corporation—~~which~~ *that* is exempt from
30 federal income taxation pursuant to section 501(c)(3) of the federal
31 internal revenue code, for the purpose of providing jazz in the woods, an
32 event benefiting children-in-need and other nonprofit charities assisting
33 such children, and all sales of any such property by or on behalf of such
34 organization for such purpose;

35 (www) all sales of tangible personal property purchased by or on
36 behalf of the Frontenac education foundation, which is exempt from
37 federal income taxation pursuant to section 501(c)(3) of the federal
38 internal revenue code, for the purpose of providing education support for
39 students, and all sales of any such property by or on behalf of such
40 organization for such purpose;

41 (xxx) all sales of personal property and services purchased by the
42 booth theatre foundation, inc., an organization, which is exempt from
43 federal income taxation pursuant to section 501(c)(3) of the federal

1 internal revenue code of 1986, and which such personal property and
2 services are used by any such organization in the constructing, equipping,
3 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
4 of the booth theatre, and all sales of tangible personal property or services
5 purchased by a contractor for the purpose of constructing, equipping,
6 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
7 the booth theatre for such organization, ~~which~~ *that* would be exempt from
8 taxation under the provisions of this section if purchased directly by such
9 organization. Nothing in this subsection shall be deemed to exempt the
10 purchase of any construction machinery, equipment or tools used in the
11 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
12 furnishing or remodeling facilities for any such organization. When any
13 such organization shall contract for the purpose of constructing, equipping,
14 reconstructing, maintaining, repairing, enlarging, furnishing or remodeling
15 facilities, it shall obtain from the state and furnish to the contractor an
16 exemption certificate for the project involved, and the contractor may
17 purchase materials for incorporation in such project. The contractor shall
18 furnish the number of such certificate to all suppliers from whom such
19 purchases are made, and such suppliers shall execute invoices covering the
20 same bearing the number of such certificate. Upon completion of the
21 project the contractor shall furnish to such organization concerned a sworn
22 statement, on a form to be provided by the director of taxation, that all
23 purchases so made were entitled to exemption under this subsection. All
24 invoices shall be held by the contractor for a period of five years and shall
25 be subject to audit by the director of taxation. If any materials purchased
26 under such a certificate are found not to have been incorporated in such
27 facilities or not to have been returned for credit or the sales or
28 compensating tax otherwise imposed upon such materials ~~which~~ *that* will
29 not be so incorporated in such facilities reported and paid by such
30 contractor to the director of taxation not later than the 20th day of the
31 month following the close of the month in which it shall be determined
32 that such materials will not be used for the purpose for which such
33 certificate was issued, such organization concerned shall be liable for tax
34 on all materials purchased for the project, and upon payment thereof it
35 may recover the same from the contractor together with reasonable
36 attorney fees. Any contractor or any agent, employee or subcontractor
37 thereof, who shall use or otherwise dispose of any materials purchased
38 under such a certificate for any purpose other than that for which such a
39 certificate is issued without the payment of the sales or compensating tax
40 otherwise imposed upon such materials, shall be guilty of a misdemeanor
41 and, upon conviction therefor, shall be subject to the penalties provided for
42 in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after
43 January 1, 2007, but prior to the effective date of this act upon the gross

1 receipts received from any sale which would have been exempted by the
2 provisions of this subsection had such sale occurred after the effective date
3 of this act shall be refunded. Each claim for a sales tax refund shall be
4 verified and submitted to the director of taxation upon forms furnished by
5 the director and shall be accompanied by any additional documentation
6 required by the director. The director shall review each claim and shall
7 refund that amount of sales tax paid as determined under the provisions of
8 this subsection. All refunds shall be paid from the sales tax refund fund
9 upon warrants of the director of accounts and reports pursuant to vouchers
10 approved by the director or the director's designee;

11 (yyy) all sales of tangible personal property and services purchased
12 by TLC charities foundation, inc., hereinafter referred to as TLC charities,
13 which is exempt from federal income taxation pursuant to section 501(c)
14 (3) of the federal internal revenue code of 1986, and which such property
15 and services are used for the purpose of encouraging private philanthropy
16 to further the vision, values, and goals of TLC for children and families,
17 inc.; and all sales of such property and services by or on behalf of TLC
18 charities for any such purpose and all sales of tangible personal property or
19 services purchased by a contractor for the purpose of constructing,
20 maintaining, repairing, enlarging, furnishing or remodeling facilities for
21 the operation of services for TLC charities for any such purpose ~~which~~
22 *that* would be exempt from taxation under the provisions of this section if
23 purchased directly by TLC charities. Nothing in this subsection shall be
24 deemed to exempt the purchase of any construction machinery, equipment
25 or tools used in the constructing, maintaining, repairing, enlarging,
26 furnishing or remodeling such facilities for TLC charities. When TLC
27 charities contracts for the purpose of constructing, maintaining, repairing,
28 enlarging, furnishing or remodeling such facilities, it shall obtain from the
29 state and furnish to the contractor an exemption certificate for the project
30 involved, and the contractor may purchase materials for incorporation in
31 such project. The contractor shall furnish the number of such certificate to
32 all suppliers from whom such purchases are made, and such suppliers shall
33 execute invoices covering the same bearing the number of such certificate.
34 Upon completion of the project the contractor shall furnish to TLC
35 charities a sworn statement, on a form to be provided by the director of
36 taxation, that all purchases so made were entitled to exemption under this
37 subsection. All invoices shall be held by the contractor for a period of five
38 years and shall be subject to audit by the director of taxation. If any
39 materials purchased under such a certificate are found not to have been
40 incorporated in the building or other project or not to have been returned
41 for credit or the sales or compensating tax otherwise imposed upon such
42 materials ~~which~~ *that* will not be incorporated into the building or other
43 project reported and paid by such contractor to the director of taxation not

1 later than the 20th day of the month following the close of the month in
2 which it shall be determined that such materials will not be used for the
3 purpose for which such certificate was issued, TLC charities shall be liable
4 for tax on all materials purchased for the project, and upon payment
5 thereof it may recover the same from the contractor together with
6 reasonable attorney fees. Any contractor or any agent, employee or
7 subcontractor thereof, who shall use or otherwise dispose of any materials
8 purchased under such a certificate for any purpose other than that for
9 which such a certificate is issued without the payment of the sales or
10 compensating tax otherwise imposed upon such materials, shall be guilty
11 of a misdemeanor and, upon conviction therefor, shall be subject to the
12 penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

13 (zzz) all sales of tangible personal property purchased by the rotary
14 club of shawnee foundation, which is exempt from federal income taxation
15 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
16 as amended, used for the purpose of providing contributions to community
17 service organizations and scholarships;

18 (aaaa) all sales of personal property and services purchased by or on
19 behalf of victory in the valley, inc., which is exempt from federal income
20 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
21 for the purpose of providing a cancer support group and services for
22 persons with cancer, and all sales of any such property by or on behalf of
23 any such organization for any such purpose;

24 (bbbb) all sales of entry or participation fees, charges or tickets by
25 Guadalupe health foundation, which is exempt from federal income
26 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
27 for such organization's annual fundraising event which purpose is to
28 provide health care services for uninsured workers;

29 (cccc) all sales of tangible personal property or services purchased by
30 or on behalf of wayside waifs, inc., which is exempt from federal income
31 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
32 for the purpose of providing such organization's annual fundraiser, an
33 event whose purpose is to support the care of homeless and abandoned
34 animals, animal adoption efforts, education programs for children and
35 efforts to reduce animal over-population and animal welfare services, and
36 all sales of any such property, including entry or participation fees or
37 charges, by or on behalf of such organization for such purpose;

38 (dddd) all sales of tangible personal property or services purchased
39 by or on behalf of goodwill industries or Easter seals of Kansas, inc., both
40 of which are exempt from federal income taxation pursuant to section
41 501(c)(3) of the federal internal revenue code, for the purpose of providing
42 education, training and employment opportunities for people with
43 disabilities and other barriers to employment;

1 (eeee) all sales of tangible personal property or services purchased by
2 or on behalf of all American beef battalion, inc., which is exempt from
3 federal income taxation pursuant to section 501(c)(3) of the federal
4 internal revenue code, for the purpose of educating, promoting and
5 participating as a contact group through the beef cattle industry in order to
6 carry out such projects that provide support and morale to members of the
7 United States armed forces and military services;

8 (ffff) all sales of tangible personal property and services purchased by
9 sheltered living, inc., which is exempt from federal income taxation
10 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
11 and which such property and services are used for the purpose of
12 providing residential and day services for people with developmental
13 disabilities or intellectual disability, or both, and all sales of any such
14 property by or on behalf of sheltered living, inc., for any such purpose; and
15 all sales of tangible personal property or services purchased by a
16 contractor for the purpose of rehabilitating, constructing, maintaining,
17 repairing, enlarging, furnishing or remodeling homes and facilities for
18 sheltered living, inc., for any such purpose—~~which~~ *that* would be exempt
19 from taxation under the provisions of this section if purchased directly by
20 sheltered living, inc. Nothing in this subsection shall be deemed to exempt
21 the purchase of any construction machinery, equipment or tools used in the
22 constructing, maintaining, repairing, enlarging, furnishing or remodeling
23 such homes and facilities for sheltered living, inc. When sheltered living,
24 inc., contracts for the purpose of rehabilitating, constructing, maintaining,
25 repairing, enlarging, furnishing or remodeling such homes and facilities, it
26 shall obtain from the state and furnish to the contractor an exemption
27 certificate for the project involved, and the contractor may purchase
28 materials for incorporation in such project. The contractor shall furnish the
29 number of such certificate to all suppliers from whom such purchases are
30 made, and such suppliers shall execute invoices covering the same bearing
31 the number of such certificate. Upon completion of the project the
32 contractor shall furnish to sheltered living, inc., a sworn statement, on a
33 form to be provided by the director of taxation, that all purchases so made
34 were entitled to exemption under this subsection. All invoices shall be held
35 by the contractor for a period of five years and shall be subject to audit by
36 the director of taxation. If any materials purchased under such a certificate
37 are found not to have been incorporated in the building or other project or
38 not to have been returned for credit or the sales or compensating tax
39 otherwise imposed upon such materials—~~which~~ *that* will not be so
40 incorporated in the building or other project reported and paid by such
41 contractor to the director of taxation not later than the 20th day of the
42 month following the close of the month in which it shall be determined
43 that such materials will not be used for the purpose for which such

1 certificate was issued, sheltered living, inc., shall be liable for tax on all
2 materials purchased for the project, and upon payment thereof it may
3 recover the same from the contractor together with reasonable attorney
4 fees. Any contractor or any agent, employee or subcontractor thereof, who
5 shall use or otherwise dispose of any materials purchased under such a
6 certificate for any purpose other than that for which such a certificate is
7 issued without the payment of the sales or compensating tax otherwise
8 imposed upon such materials, shall be guilty of a misdemeanor and, upon
9 conviction therefor, shall be subject to the penalties provided for in K.S.A.
10 79-3615(h), and amendments thereto;

11 (gggg) all sales of game birds for which the primary purpose is use in
12 hunting;

13 (hhhh) all sales of tangible personal property or services purchased
14 on or after July 1, 2014, for the purpose of and in conjunction with
15 constructing, reconstructing, enlarging or remodeling a business identified
16 under the North American industry classification system (NAICS)
17 subsectors 1123, 1124, 112112, 112120 or 112210, and the sale and
18 installation of machinery and equipment purchased for installation at any
19 such business. The exemption provided in this subsection shall not apply
20 to projects that have actual total costs less than \$50,000. When a person
21 contracts for the construction, reconstruction, enlargement or remodeling
22 of any such business, such person shall obtain from the state and furnish to
23 the contractor an exemption certificate for the project involved, and the
24 contractor may purchase materials, machinery and equipment for
25 incorporation in such project. The contractor shall furnish the number of
26 such certificates to all suppliers from whom such purchases are made, and
27 such suppliers shall execute invoices covering the same bearing the
28 number of such certificate. Upon completion of the project, the contractor
29 shall furnish to the owner of the business a sworn statement, on a form to
30 be provided by the director of taxation, that all purchases so made were
31 entitled to exemption under this subsection. All invoices shall be held by
32 the contractor for a period of five years and shall be subject to audit by the
33 director of taxation. Any contractor or any agent, employee or
34 subcontractor of the contractor, who shall use or otherwise dispose of any
35 materials, machinery or equipment purchased under such a certificate for
36 any purpose other than that for which such a certificate is issued without
37 the payment of the sales or compensating tax otherwise imposed thereon,
38 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
39 subject to the penalties provided for in K.S.A. 79-3615(h), and
40 amendments thereto;

41 (iiii) all sales of tangible personal property or services purchased by a
42 contractor for the purpose of constructing, maintaining, repairing,
43 enlarging, furnishing or remodeling facilities for the operation of services

1 for Wichita children's home for any such purpose—~~which~~ *that* would be
2 exempt from taxation under the provisions of this section if purchased
3 directly by Wichita children's home. Nothing in this subsection shall be
4 deemed to exempt the purchase of any construction machinery, equipment
5 or tools used in the constructing, maintaining, repairing, enlarging,
6 furnishing or remodeling such facilities for Wichita children's home. When
7 Wichita children's home contracts for the purpose of constructing,
8 maintaining, repairing, enlarging, furnishing or remodeling such facilities,
9 it shall obtain from the state and furnish to the contractor an exemption
10 certificate for the project involved, and the contractor may purchase
11 materials for incorporation in such project. The contractor shall furnish the
12 number of such certificate to all suppliers from whom such purchases are
13 made, and such suppliers shall execute invoices covering the same bearing
14 the number of such certificate. Upon completion of the project, the
15 contractor shall furnish to Wichita children's home a sworn statement, on a
16 form to be provided by the director of taxation, that all purchases so made
17 were entitled to exemption under this subsection. All invoices shall be held
18 by the contractor for a period of five years and shall be subject to audit by
19 the director of taxation. If any materials purchased under such a certificate
20 are found not to have been incorporated in the building or other project or
21 not to have been returned for credit or the sales or compensating tax
22 otherwise imposed upon such materials—~~which~~ *that* will not be so
23 incorporated in the building or other project reported and paid by such
24 contractor to the director of taxation not later than the 20th day of the
25 month following the close of the month in which it shall be determined
26 that such materials will not be used for the purpose for which such
27 certificate was issued, Wichita children's home shall be liable for the tax
28 on all materials purchased for the project, and upon payment, it may
29 recover the same from the contractor together with reasonable attorney
30 fees. Any contractor or any agent, employee or subcontractor, who shall
31 use or otherwise dispose of any materials purchased under such a
32 certificate for any purpose other than that for which such a certificate is
33 issued without the payment of the sales or compensating tax otherwise
34 imposed upon such materials, shall be guilty of a misdemeanor and, upon
35 conviction, shall be subject to the penalties provided for in K.S.A. 79-
36 3615(h), and amendments thereto;

37 (jjjj) all sales of tangible personal property or services purchased by
38 or on behalf of the beacon, inc.,—~~which~~ *that* is exempt from federal income
39 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
40 for the purpose of providing those desiring help with food, shelter, clothing
41 and other necessities of life during times of special need;

42 (kkkk) all sales of tangible personal property and services purchased
43 by or on behalf of reaching out from within, inc., which is exempt from

1 federal income taxation pursuant to section 501(c)(3) of the federal
2 internal revenue code, for the purpose of sponsoring self-help programs for
3 incarcerated persons that will enable such incarcerated persons to become
4 role models for non-violence while in correctional facilities and productive
5 family members and citizens upon return to the community; and

6 (III) all sales of tangible personal property and services purchased by
7 Gove county healthcare endowment foundation, inc., which is exempt
8 from federal income taxation pursuant to section 501(c)(3) of the federal
9 internal revenue code of 1986, and which such property and services are
10 used for the purpose of constructing and equipping an airport in Quinter,
11 Kansas, and all sales of tangible personal property or services purchased
12 by a contractor for the purpose of constructing and equipping an airport in
13 Quinter, Kansas, for such organization, ~~which~~ *that* would be exempt from
14 taxation under the provisions of this section if purchased directly by such
15 organization. Nothing in this subsection shall be deemed to exempt the
16 purchase of any construction machinery, equipment or tools used in the
17 constructing or equipping of facilities for such organization. When such
18 organization shall contract for the purpose of constructing or equipping an
19 airport in Quinter, Kansas, it shall obtain from the state and furnish to the
20 contractor an exemption certificate for the project involved, and the
21 contractor may purchase materials for incorporation in such project. The
22 contractor shall furnish the number of such certificate to all suppliers from
23 whom such purchases are made, and such suppliers shall execute invoices
24 covering the same bearing the number of such certificate. Upon
25 completion of the project, the contractor shall furnish to such organization
26 concerned a sworn statement, on a form to be provided by the director of
27 taxation, that all purchases so made were entitled to exemption under this
28 subsection. All invoices shall be held by the contractor for a period of five
29 years and shall be subject to audit by the director of taxation. If any
30 materials purchased under such a certificate are found not to have been
31 incorporated in such facilities or not to have been returned for credit or the
32 sales or compensating tax otherwise imposed upon such materials ~~which~~
33 *that* will not be so incorporated in such facilities reported and paid by such
34 contractor to the director of taxation no later than the 20th day of the month
35 following the close of the month in which it shall be determined that such
36 materials will not be used for the purpose for which such certificate was
37 issued, such organization concerned shall be liable for tax on all materials
38 purchased for the project, and upon payment thereof it may recover the
39 same from the contractor together with reasonable attorney fees. Any
40 contractor or any agent, employee or subcontractor thereof, who purchased
41 under such a certificate for any purpose other than that for which such a
42 certificate is issued without the payment of the sales or compensating tax
43 otherwise imposed upon such materials, shall be guilty of a misdemeanor

1 and, upon conviction therefor, shall be subject to the penalties provided for
2 in K.S.A. 79-3615(h), and amendments thereto. The provisions of this
3 subsection shall expire and have no effect on and after July 1, 2019.

4 Sec. 35. K.S.A. 19-4016, 40-2,116, 40-12a01 and 74-3292 and
5 K.S.A. 2016 Supp. 12-736, 21-5417, 21-6109, 22-4612, 36-501, 39-1430,
6 39-1431, 39-1433, 39-1602, 39-1903, 40-2,105, 40-2,105a, 40-3401, 40-
7 3403, 59-2946, 59-29b46, 59-3077, 65-1626, 65-1669, 65-2895, 65-4412,
8 65-4432, 65-4915, 65-4921, 65-5601, 65-6805, 75-5923, 75-6102, 79-
9 201b and 79-3606 are hereby repealed.

10 Sec. 36. This act shall take effect and be in force from and after its
11 publication in the statute book.