

As Amended by House Committee

As Amended by Senate Committee

Session of 2017

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, and 40-
4 12a01 and ~~74-3292~~ and K.S.A. ~~2016~~ 2017 Supp. 12-736, 21-5417, 21-
5 6109, 22-4612, 36-501, 39-1430, 39-1431, 39-1433, 39-1602, 39-1903,
6 40-2,105, 40-2,105a, 40-3401, 40-3403, 59-2946, 59-29b46, 59-3077,
7 ~~65-1626, 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~~ 2017 Supp. 12-736 is hereby amended to read
13 as 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:

1 (A) The Kansas department for aging and disability services pursuant
2 to K.S.A. ~~75-3307b~~ or 65-425 et seq. or K.S.A. ~~2016~~ **2017** *Supp. 39-2001*
3 *et seq.*, and amendments thereto; or

4 (B) the behavioral sciences regulatory board pursuant to K.S.A. 75-
5 5346 et seq. or 74-5301 et seq., and amendments thereto; or

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

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

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

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

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

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

38 Sec. 2. K.S.A. 19-4016 is hereby amended to read as follows: 19-
39 4016. (a) The governing board of a community mental health center ~~which~~
40 *that* is organized pursuant to K.S.A. 19-4001 et seq., and amendments
41 thereto, and ~~which that~~ is licensed under K.S.A. ~~75-3307b~~ ~~2016~~ **2017**
42 *Supp. 39-2001 et seq.*, and amendments thereto, is hereby authorized to
43 expend funds of the community mental health center to provide loans or

1 scholarships to aid in financing the education of persons studying to
2 become licensed psychologists or licensed in one of the social work
3 specialties and who agree, upon completion of their education and
4 attainment of such licensure, to become members of the staff of the
5 community mental health center.

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

14 Sec. 3. K.S.A. ~~2016~~ 2017 Supp. 21-5417 is hereby amended to read
15 as follows: 21-5417. (a) Mistreatment of a dependent adult is knowingly
16 committing one or more of the following acts:

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

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

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

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

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

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

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

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

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

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

43 (C) a violation of the Kansas uniform trust code, K.S.A. 58a-101 et

1 seq., and amendments thereto; or

2 (2) omission or deprivation of treatment, goods or services that are
3 necessary to maintain physical or mental health of such elder person.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

43 (e) It shall be an affirmative defense to any prosecution for

1 mistreatment of a dependent adult or mistreatment of an elder person as
2 described in subsections (a)(2) and (b)(1) that:

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

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

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

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

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

20 (g) As used in this section:

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

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

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

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

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

34 (D) individual with intellectual disability or a developmental
35 disability receiving services through a community facility for people with
36 intellectual disability or residential facility licensed under K.S.A.—75-
37 ~~3307b-2016~~ **2017** *Supp. 39-2001 et seq.*, and amendments thereto;

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

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

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

2 (h) An offender who violates the provisions of this section may also
3 be prosecuted for, convicted of, and punished for any other offense in
4 article 54, 55, 56 or 58 of chapter 21 of the Kansas Statutes Annotated; or
5 K.S.A. ~~2016~~ 2017 Supp. 21-6418, and amendments thereto.

6 Sec. 4. K.S.A. ~~2016~~ 2017 Supp. 21-6109 is hereby amended to read
7 as follows: 21-6109. As used in K.S.A. ~~2016~~ 2017 Supp. 21-6109 through
8 21-6116, and amendments thereto:

9 (a) "Access point" means the area within a ten foot radius outside of
10 any doorway, open window or air intake leading into a building or facility
11 that is not exempted pursuant to ~~subsection (d)~~ of K.S.A. ~~2016~~ 2017 Supp.
12 21-6110(d), and amendments thereto.

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

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

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

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

36 (f) "Food service establishment" means any place in which food is
37 served or is prepared for sale or service on the premises. Such term shall
38 include, but not be limited to, fixed or mobile restaurants, coffee shops,
39 cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich
40 shops, soda fountains, taverns, private clubs, roadside kitchens,
41 commissaries and any other private, public or nonprofit organization or
42 institution routinely serving food and any other eating or drinking
43 establishment or operation where food is served or provided for the public

1 with or without charge.

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

11 (h) "Medical care facility" means a physician's office, general
12 hospital, special hospital, ambulatory surgery center or recuperation center,
13 as defined by K.S.A. 65-425, and amendments thereto, and any psychiatric
14 hospital licensed under K.S.A. ~~75-3307b-2016~~ **2017 Supp. 39-2001 et seq.**,
15 and amendments thereto.

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

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

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

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

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

42 (n) "Public place" means any enclosed areas open to the public or
43 used by the general public including, but not limited to: Banks, bars, food

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

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

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

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

22 Sec. 5. K.S.A. ~~2016~~ 2017 Supp. 22-4612 is hereby amended to read
23 as follows: 22-4612. (a) Except as otherwise provided in this section, a
24 county, a city, a county or city law enforcement agency, a county
25 department of corrections or the Kansas highway patrol shall be liable to
26 pay a health care provider for health care services rendered to persons in
27 the custody of such agencies the lesser of the actual amount billed by such
28 health care provider or the medicaid rate. The provisions of this section
29 shall not apply if a person in the custody of a county or city law
30 enforcement agency, a county department of corrections or the Kansas
31 highway patrol is covered under a current individual or group accident and
32 health insurance policy, medical service plan contract, hospital service
33 corporation contract, hospital and medical service corporation contract,
34 fraternal benefit society or health maintenance organization contract.

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

41 (c) It shall be the responsibility of the custodial county or city law
42 enforcement agency, county department of corrections or the Kansas
43 highway patrol or such agencies' agents, to determine, under agreement

1 with the secretary of health and environment, the amount payable for the
2 services provided and to communicate that determination along with the
3 remittance advice and payment for the services provided.

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

8 (e) As used in this section:

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

14 (2) "Health care provider" means a person licensed to practice any
15 branch of the healing arts by the state board of healing arts, a person who
16 holds a temporary permit to practice any branch of the healing arts issued
17 by the state board of healing arts, a person engaged in a postgraduate
18 training program approved by the state board of healing arts, a licensed
19 physician assistant, a person licensed by the behavioral sciences regulatory
20 board, a medical care facility licensed by the department of health and
21 environment, a podiatrist licensed by the state board of healing arts, an
22 optometrist licensed by the board of examiners in optometry, a registered
23 nurse, and advanced nurse practitioner, a licensed professional nurse who
24 is authorized to practice as a registered nurse anesthetist, a licensed
25 practical nurse, a licensed physical therapist, a professional corporation
26 organized pursuant to the professional corporation law of Kansas by
27 persons who are authorized by such law to form such a corporation and
28 who are health care providers as defined by this subsection, a Kansas
29 limited liability company organized for the purpose of rendering
30 professional services by its members who are health care providers as
31 defined by this subsection and who are legally authorized to render the
32 professional services for which the limited liability company is organized,
33 a partnership of persons who are health care providers under this
34 subsection, a Kansas not-for-profit corporation organized for the purpose
35 of rendering professional services by persons who are health care
36 providers as defined by this subsection, a dentist certified by the state
37 board of healing arts to administer anesthetics under K.S.A. 65-2899, and
38 amendments thereto, a psychiatric hospital licensed under K.S.A. ~~75-~~
39 ~~3307b-2016~~ **2017 Supp. 39-2001 et seq.**, and amendments thereto, a
40 licensed social worker or a mental health center or mental health clinic
41 licensed by the secretary for aging and disability services and any health
42 care provider licensed by the appropriate regulatory body in another state
43 that has a current approved provider agreement with the secretary of health

1 and environment.

2 (3) "Medicaid rate" means the terms, conditions and amounts a health
3 care provider would be paid for health care services rendered pursuant to a
4 contract or provider agreement with the secretary of health and
5 environment.

6 Sec. 6. K.S.A. ~~2016~~ 2017 Supp. 36-501 is hereby amended to read as
7 follows: 36-501. (a) K.S.A. 36-501 through 36-520, and amendments
8 thereto, shall be known and may be cited as the lodging inspection act.

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

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

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

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

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

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

42 (6) "Guest house" means every building or other structure ~~which~~ *that*
43 is kept, used, maintained, advertised or held out to the public to be a place

1 where sleeping accommodations are furnished for pay to transient or
2 permanent guests. A guest house shall accommodate no more than seven
3 guests in no more than three rooms furnished with sleeping
4 accommodations, regardless of whether common facilities for the serving
5 or preparation of food are maintained.

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

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

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

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

12 Sec. 7. K.S.A. ~~2016~~ 2017 Supp. 39-1430 is hereby amended to read
13 as follows: 39-1430. As used in this act:

14 (a) "Adult" means an individual 18 years of age or older alleged to be
15 unable to protect their own interest and who is harmed or threatened with
16 harm, whether financial, mental or physical in nature, through action or
17 inaction by either another individual or through their own action or
18 inaction when: (1) Such person is residing in such person's own home, the
19 home of a family member or the home of a friend; (2) such person resides
20 in an adult family home as defined in K.S.A. 39-1501, and amendments
21 thereto; or (3) such person is receiving services through a provider of
22 community services and affiliates thereof operated or funded by the
23 Kansas department for children and families or the Kansas department for
24 aging and disability services or a residential facility licensed pursuant to
25 K.S.A. ~~75-3307b~~ ~~2016~~ 2017 Supp. 39-2001 *et seq.*, and amendments
26 thereto. Such term shall not include persons to whom K.S.A. 39-1401 *et*
27 *seq.*, and amendments thereto, apply.

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

30 (1) Infliction of physical or mental injury;

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

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

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

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

1 (6) fiduciary abuse; or

2 (7) omission or deprivation by a caretaker or another person of goods
3 or services ~~which~~ *that* are necessary to avoid physical or mental harm or
4 illness.

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

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

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

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

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

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

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

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

42 (k) "Report" means a description or accounting of an incident or
43 incidents of abuse, neglect or exploitation under this act and for the

1 purposes of this act shall not include any written assessment or findings.

2 (l) "Law enforcement" means the public office ~~which~~ *that* is vested
3 by law with the duty to maintain public order, make arrests for crimes,
4 investigate criminal acts and file criminal charges, whether that duty
5 extends to all crimes or is limited to specific crimes.

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

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

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

16 Sec. 8. K.S.A. ~~2016~~ **2017** Supp. 39-1431 is hereby amended to read
17 as follows: 39-1431. (a) Any person who is licensed to practice any branch
18 of the healing arts, a licensed psychologist, a licensed master level
19 psychologist, a licensed clinical psychotherapist, the chief administrative
20 officer of a medical care facility, a teacher, a licensed social worker, a
21 licensed professional nurse, a licensed practical nurse, a licensed dentist, a
22 licensed marriage and family therapist, a licensed clinical marriage and
23 family therapist, licensed professional counselor, licensed clinical
24 professional counselor, registered alcohol and drug abuse counselor, a law
25 enforcement officer, a case manager, a rehabilitation counselor, a bank
26 trust officer or any other officers of financial institutions, a legal
27 representative, a governmental assistance provider, an owner or operator of
28 a residential care facility, an independent living counselor and the chief
29 administrative officer of a licensed home health agency, the chief
30 administrative officer of an adult family home and the chief administrative
31 officer of a provider of community services and affiliates thereof operated
32 or funded by the Kansas department for aging and disability services or
33 licensed under K.S.A. ~~75-3307b-2016~~ **2017** Supp. 39-2001 *et seq.*, and
34 amendments thereto, who has reasonable cause to believe that an adult is
35 being or has been abused, neglected or exploited or is in need of protective
36 services shall report, immediately from receipt of the information, such
37 information or cause a report of such information to be made in any
38 reasonable manner. An employee of a domestic violence center shall not
39 be required to report information or cause a report of information to be
40 made under this subsection. Other state agencies receiving reports that are
41 to be referred to the Kansas department for children and families and the
42 appropriate law enforcement agency, shall submit the report to the
43 department and agency within six hours, during normal work days, of

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

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

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

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

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

30 (f) Notice of the requirements of this act and the department to which
31 a report is to be made under this act shall be posted in a conspicuous
32 public place in every adult family home as defined in K.S.A. 39-1501, and
33 amendments thereto, and every provider of community services and
34 affiliates thereof operated or funded by the Kansas department for aging
35 and disability services or other facility licensed under K.S.A. ~~75-3307b-~~
36 ~~2016~~ **2017** *Supp. 39-2001 et seq.*, and amendments thereto, and other
37 institutions included in subsection (a).

38 Sec. 9. K.S.A. ~~2016~~ **2017** *Supp. 39-1433* is hereby amended to read
39 as follows: 39-1433. (a) The Kansas department for children and families
40 upon receiving a report that an adult is being, or has been abused,
41 neglected, or exploited or is in need of protective services, shall:

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

1 agency;

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

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

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

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

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

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

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

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

43 (d) The Kansas department for children and families may inform the

1 chief administrative officer of community facilities licensed pursuant to
2 K.S.A. ~~75-3307b~~ ~~2016~~ **2017** *Supp. 39-2001 et seq.*, and amendments
3 thereto, of confirmed findings of resident abuse, neglect or exploitation.

4 Sec. 10. K.S.A. ~~2016~~ **2017** *Supp. 39-1602* is hereby amended to read
5 as follows: 39-1602. As used in K.S.A. 39-1601 through 39-1612, and
6 amendments thereto:

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

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

25 (c) "Mental health center" means any community mental health
26 center ~~organized pursuant to the provisions of K.S.A. 19-4001 to 19-4015,~~
27 ~~inclusive, and amendments thereto, or mental health clinic organized~~
28 ~~pursuant to the provisions of K.S.A. 65-211 to 65-215, inclusive, and~~
29 ~~amendments thereto, and licensed in accordance with the provisions of~~
30 ~~K.S.A. 75-3307b as defined in K.S.A. ~~2016~~ **2017** *Supp. 39-2002*, and~~
31 amendments thereto.

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

33 (e) "Department" means the Kansas department for aging and
34 disability services.

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

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

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

43 (2) the second phase covers the counties in the Topeka state hospital

1 catchment area and is to commence on July 1, 1992, and is to be
2 completed by June 30, 1996; and

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

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

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

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

35 (k) "Catchment area" means the Osawatomie state hospital catchment
36 area or the Larned state hospital catchment area.

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

43 Sec. 11. K.S.A. ~~2016~~ 2017 Supp. 39-1903 is hereby amended to read

1 as follows: 39-1903. (a) The disability and behavioral health services
2 section of the Kansas department for children and families is hereby
3 transferred to the Kansas department for aging and disability services and
4 shall be a part thereof. The disability and behavioral health services section
5 transferred to the Kansas department for aging and disability services by
6 K.S.A. ~~2016~~ **2017** Supp. 39-1901 through 39-1914, and amendments
7 thereto, shall be administered by the secretary for aging and disability
8 services.

9 The programs to be transferred by this section are:

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

14 (2) licensure and regulation of community mental health centers, as
15 defined by K.S.A. ~~75-3307b~~ ~~2016~~ **2017** Supp. 39-2002, and amendments
16 thereto;

17 (3) regulation of community developmental disability organizations,
18 ~~as defined by K.S.A. 75-3307b pursuant to K.S.A. ~~2016~~ **2017** Supp. 39-~~
19 ~~2001 et seq.~~, and amendments thereto;

20 (4) licensure of private psychiatric hospitals, ~~as defined by K.S.A. 75-~~
21 ~~3307b pursuant to K.S.A. ~~2016~~ **2017** Supp. 39-2001 et seq.~~, and
22 amendments thereto;

23 (5) licensure and regulation of facilities and providers of residential
24 services, ~~as defined by K.S.A. 75-3307b pursuant to K.S.A. ~~2016~~ **2017**~~
25 ~~Supp. 39-2001 et seq.~~, and amendments thereto;

26 (6) licensure and regulation of providers of addiction and prevention
27 services, as defined by K.S.A. 75-5375 et seq., *and amendments thereto*;
28 and

29 (7) any other programs and related grants administered by the
30 disability and behavioral health services section of the Kansas department
31 for children and families prior to the effective date of K.S.A. ~~2016~~ **2017**
32 Supp. 39-1901 through 39-1914, and amendments thereto.

33 (b) Except as otherwise provided by K.S.A. ~~2016~~ **2017** Supp. 39-
34 1901 through 39-1914, and amendments thereto, all powers, duties and
35 functions of the secretary for children and families pertaining to the
36 disability and behavioral health services section transferred by K.S.A.
37 ~~2016~~ **2017** Supp. 39-1901 through 39-1914, and amendments thereto,
38 including that agency's designation as the medicaid single state authority
39 for substance abuse and for mental health, are hereby transferred to and
40 imposed upon the secretary for aging and disability services.

41 (c) The Kansas department for aging and disability services shall be
42 the successor in every way to the powers, duties and functions of the
43 Kansas department for children and families pertaining to the disability

1 and behavioral health services section transferred by K.S.A. ~~2016~~ **2017**
2 Supp. 39-1901 through 39-1914, and amendments thereto. Every act
3 performed in the exercise of such transferred powers, duties and functions
4 by or under the authority of the Kansas department for aging and disability
5 services shall be deemed to have the same force and effect as if performed
6 by the Kansas department for children and families in which such powers,
7 duties and functions were vested prior to the effective date of K.S.A. ~~2016~~
8 **2017** Supp. 39-1901 through 39-1914, and amendments thereto.

9 Sec. 12. K.S.A. ~~2016~~ **2017** Supp. 40-2,105 is hereby amended to read
10 as follows: 40-2,105. (a) On or after the effective date of this act, every
11 insurer ~~which~~ *that* issues any individual policy of accident and sickness
12 insurance or group policy of accident and sickness insurance to a small
13 employer as defined in K.S.A. 40-2209d, and amendments thereto, ~~which~~
14 *that* provides medical, surgical or hospital expense coverage for other than
15 specific diseases or accidents only and ~~which~~ *that* provides for
16 reimbursement or indemnity for services rendered to a person covered by
17 such policy in a medical care facility, must provide for reimbursement or
18 indemnity under such individual policy or under such small employer
19 group policy, except as provided in subsection (d), ~~which~~ *that* shall be
20 limited to not less than 45 days per year for in-patient treatment of mental
21 illness in a medical care facility licensed under the provisions of K.S.A.
22 65-429, and amendments thereto, and not less than 30 days per year when
23 such person is confined for treatment of alcoholism, drug abuse or
24 substance use disorders in a treatment facility for alcoholics licensed under
25 the provisions of K.S.A. 65-4014, and amendments thereto, a treatment
26 facility for drug abusers licensed under the provisions of 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~~ **2017** Supp. 39-
29 *2001 et seq.*, and amendments thereto, or a psychiatric hospital licensed
30 under the provisions of K.S.A. ~~75-3307b-2016~~ **2017** Supp. 39-*2001 et seq.*,
31 and amendments thereto. Such individual policy or such small employer
32 group policy shall also provide for reimbursement or indemnity, except as
33 provided in subsection (d), of the costs of treatment of such person for
34 mental illness, alcoholism, drug abuse and substance use disorders subject
35 to the same deductibles, copayments, coinsurance, out-of-pocket expenses
36 and treatment limitations as apply to other covered services, limited to not
37 less than \$15,000 in such person's lifetime, with no annual limits, in the
38 facilities enumerated when in-patient treatment is not necessary for the
39 treatment or by a physician licensed or psychologist licensed to practice
40 under the laws of the state of Kansas.

41 (b) For the purposes of this section "mental illness, alcoholism, drug
42 abuse or substance use" means disorders specified in the diagnostic and
43 statistical manual of mental disorders, fourth edition, (DSM-IV, 1994) of

1 the American psychiatric association.

2 (c) The provisions of this section shall be applicable to health
3 maintenance organizations organized under article 32 of chapter 40 of the
4 Kansas Statutes Annotated, *and amendments thereto*.

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

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

14 (f) Treatment limitations include limits on the frequency of treatment,
15 number of visits, days of coverage or other similar limits on the scope or
16 duration of treatment.

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

20 Sec. 13. K.S.A. ~~2016~~ **2017** Supp. 40-2,105a is hereby amended to
21 read as follows: 40-2,105a. (a) (1) Any group health insurance policy,
22 medical service plan, contract, hospital service corporation contract,
23 hospital and medical service corporation contract, fraternal benefit society
24 or health maintenance organization ~~which~~ *that* provides medical, surgical
25 or hospital expense coverage shall include; coverage for diagnosis and
26 treatment of mental illnesses and alcoholism, drug abuse or other
27 substance use disorders. Reimbursement or indemnity shall be provided
28 for treatment in a medical care facility licensed under the provisions of
29 K.S.A. 65-429, and amendments thereto, treatment facilities licensed
30 under K.S.A. 65-4605, and amendments thereto, a community mental
31 health center or clinic licensed under the provisions of K.S.A. ~~75-3307b~~
32 ~~2016~~ **2017** Supp. 39-2001 *et seq.*, and amendments thereto, a psychiatric
33 hospital licensed under the provisions of K.S.A. ~~75-3307b~~ ~~2016~~ **2017**
34 Supp. 39-2001 *et seq.*, and amendments thereto, or by a physician or
35 psychologist licensed to practice under the laws of the state of Kansas.
36 Such coverage shall be subject to the same deductibles, copayments,
37 coinsurance, out-of-pocket expenses, treatment limitations and other
38 limitations as apply to other covered services.

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

42 (b) For the purposes of this section, "mental illness, alcoholism, drug
43 abuse or substance use" means any disorder as such terms are defined in

1 the diagnostic and statistical manual of mental disorders, fourth edition,
2 (DSM-IV, 1994) of the American psychiatric association.

3 (c) The provisions of this section shall be applicable to health
4 maintenance organizations organized under article 32 of chapter 40 of the
5 Kansas Statutes Annotated, *and amendments thereto*.

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

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

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

24 (g) Treatment limitations include limits on the frequency of
25 treatment, number of visits, days of coverage or other similar limits on the
26 scope or duration of treatment.

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

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

36 Sec. 14. K.S.A. 40-2,116 is hereby amended to read as follows: 40-
37 2,116. As used in this act:

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

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

1 (c) "Health facility" means a medical care facility as defined in
 2 K.S.A. 65-425, and amendments thereto; psychiatric hospital licensed
 3 under K.S.A. ~~75-3307b-2016~~ **2017 Supp. 39-2001 et seq.**, and amendments
 4 thereto; adult care home, ~~which~~ *but such* term shall be limited to nursing
 5 facility, assisted living facility and residential health care facility as such
 6 terms are defined in K.S.A. 39-923, and amendments thereto; and kidney
 7 disease treatment center, including centers not located in a medical care
 8 facility.

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

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

15 Sec. 15. K.S.A. 40-12a01 is hereby amended to read as follows: 40-
 16 12a01. As used in this act: (a) "Health care provider" means any person
 17 licensed to practice any branch of the healing arts by the *state* board of
 18 healing arts or any hospital licensed under the provisions of K.S.A. 65-425
 19 et seq., and amendments thereto, or a private psychiatric hospital
 20 authorized under K.S.A. ~~75-3307b-2016~~ **2017 Supp. 39-2001 et seq.**, and
 21 amendments thereto;

22 (b) "person" means an individual, corporation, partnership,
 23 association, joint stock company, trust, unincorporated organization or any
 24 similar entity;

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

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

29 (e) "association" means any organization whose income is exempt
 30 from taxation pursuant to section 501(a) of the internal revenue code of
 31 1986, and amendments thereto, as in effect on the effective date of this act,
 32 due to such association's compliance with section 501(c)(6) of such code,
 33 and amendments thereto, as in effect on the effective date of this act.

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

37 ~~(a) "Applicant" means any health care provider.~~

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

41 ~~(c) "Commissioner" means the commissioner of insurance.~~

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

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

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

1 ~~facility licensed by the state of Kansas. "Health care provider" does not~~
2 ~~include: (1) Any state institution for people with intellectual disability; (2)~~
3 ~~any state psychiatric hospital; (3) any person holding an exempt license~~
4 ~~issued by the state board of healing arts or the state board of nursing; (4)~~
5 ~~any person holding a visiting clinical professor license from the state board~~
6 ~~of healing arts; (5) any person holding an inactive license issued by the~~
7 ~~state board of healing arts; (6) any person holding a federally active~~
8 ~~license issued by the state board of healing arts; (7) an advanced practice~~
9 ~~registered nurse who is authorized by the state board of nursing to practice~~
10 ~~as an advanced practice registered nurse in the classification of nurse-~~
11 ~~midwife or nurse anesthetist and who practices solely in the course of~~
12 ~~employment or active duty in the United States government or any of its~~
13 ~~departments, bureaus or agencies or who provides professional services as~~
14 ~~a charitable health care provider as defined under K.S.A. 75-6102, and~~
15 ~~amendments thereto; or (8) a physician assistant licensed by the state~~
16 ~~board of healing arts who practices solely in the course of employment or~~
17 ~~active duty in the United States government or any of its departments,~~
18 ~~bureaus or agencies or who provides professional services as a charitable~~
19 ~~health care provider as defined under K.S.A. 75-6102, and amendments~~
20 ~~thereto.~~

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

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

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

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

42 ~~(k) "Rating organization" means a corporation, an unincorporated~~
43 ~~association, a partnership or an individual licensed pursuant to K.S.A. 40-~~

1 ~~956, and amendments thereto, to make rates for professional liability~~
2 ~~insurance.~~

3 ~~(l) "Self-insurer" means a health care provider who qualifies as a self-~~
4 ~~insurer pursuant to K.S.A. 40-3414, and amendments thereto.~~

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

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

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

24 ~~(p) "State institution for people with intellectual disability" means~~
25 ~~Winfield state hospital and training center, Parsons state hospital and~~
26 ~~training center and the Kansas neurological institute.~~

27 ~~(q) "State psychiatric hospital" means Larned state hospital,~~
28 ~~Osawatomic state hospital and Rainbow mental health facility.~~

29 ~~(r) "Person engaged in residency training" means:~~

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

40 ~~(2) a person engaged in a postgraduate training program approved by~~
41 ~~the state board of healing arts who is employed by a nonprofit corporation~~
42 ~~organized to administer the graduate medical education programs of~~
43 ~~community hospitals or medical care facilities affiliated with the university~~

~~1 of Kansas school of medicine or who is employed by an affiliate of the
2 university of Kansas school of medicine as defined in K.S.A. 76-367, and
3 amendments thereto, only when such person is engaged in medical
4 activities which *that* do not include extracurricular, extra-institutional
5 medical service for which such person receives extra compensation and
6 which *that* have not been approved by the chief operating officer of the
7 nonprofit corporation or the chief operating officer of the affiliate and the
8 executive vice chancellor of the university of Kansas medical center.~~

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

~~13 (t) "Sexual act" or "sexual activity" means that sexual conduct which
14 *that* constitutes a criminal or tortious act under the laws of the state of
15 Kansas.~~

~~16 (u) "Board" means the board of governors created by K.S.A. 40-3403,
17 and amendments thereto.~~

~~18 (v) "Board of directors" means the governing board created by K.S.A.
19 40-3413, and amendments thereto.~~

~~20 (w) "Locum tenens contract" means a temporary agreement not
21 exceeding 182 days per calendar year that employs a health care provider
22 to actively render professional services in this state.~~

~~23 (x) "Professional services" means patient care or other services
24 authorized under the act governing licensure of a health care provider.~~

~~25 (y) "Health care facility" means a nursing facility, an assisted living
26 facility or a residential health care facility as all such terms are defined in
27 K.S.A. 39-923, and amendments thereto.~~

**28 Sec. 16. K.S.A. 2017 Supp. 40-3401 is hereby amended to read as
29 follows: 40-3401. As used in this act the following terms shall have the
30 meanings respectively ascribed to them herein:**

31 (a) "Applicant" means any healthcare provider.

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

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

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

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

**42 (f) "Healthcare provider" means a person licensed to practice
43 any branch of the healing arts by the state board of healing arts, a**

1 person who holds a temporary permit to practice any branch of the
2 healing arts issued by the state board of healing arts, a person engaged
3 in a postgraduate training program approved by the state board of
4 healing arts, a medical care facility licensed by the state of Kansas, a
5 podiatrist licensed by the state board of healing arts, a health
6 maintenance organization issued a certificate of authority by the
7 commissioner, an optometrist licensed by the board of examiners in
8 optometry, a pharmacist licensed by the state board of pharmacy, a
9 licensed professional nurse who is authorized to practice as a
10 registered nurse anesthetist, a licensed professional nurse who has
11 been granted a temporary authorization to practice nurse anesthesia
12 under K.S.A. 65-1153, and amendments thereto, a professional
13 corporation organized pursuant to the professional corporation law of
14 Kansas by persons who are authorized by such law to form such a
15 corporation and who are healthcare providers as defined by this
16 subsection, a Kansas limited liability company organized for the
17 purpose of rendering professional services by its members who are
18 healthcare providers as defined by this subsection and who are legally
19 authorized to render the professional services for which the limited
20 liability company is organized, a partnership of persons who are
21 healthcare providers under this subsection, a Kansas not-for-profit
22 corporation organized for the purpose of rendering professional
23 services by persons who are healthcare providers as defined by this
24 subsection, a nonprofit corporation organized to administer the
25 graduate medical education programs of community hospitals or
26 medical care facilities affiliated with the university of Kansas school of
27 medicine, a dentist certified by the state board of healing arts to
28 administer anesthetics under K.S.A. 65-2899, and amendments
29 thereto, a psychiatric hospital licensed prior to January 1, 1988, and
30 continuously thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its
31 repeal, and K.S.A. 2017 Supp. 39-2001 et seq., and amendments thereto,
32 or a mental health center or mental health clinic licensed by the state
33 of Kansas. On and after January 1, 2015, "healthcare provider" also
34 means a physician assistant licensed by the state board of healing arts,
35 a licensed advanced practice registered nurse who is authorized by the
36 state board of nursing to practice as an advanced practice registered
37 nurse in the classification of a nurse-midwife, a licensed advanced
38 practice registered nurse who has been granted a temporary
39 authorization by the ~~state~~ board of nursing to practice as an advanced
40 practice registered nurse in the classification of a nurse-midwife, a
41 nursing facility licensed by the state of Kansas, an assisted living
42 facility licensed by the state of Kansas or a residential healthcare
43 facility licensed by the state of Kansas. "healthcare provider" does not

1 include: (1) Any state institution for people with intellectual disability;
2 (2) any state psychiatric hospital; (3) any person holding an exempt
3 license issued by the state board of healing arts or the ~~state~~ board of
4 nursing; (4) any person holding a visiting clinical professor license
5 from the state board of healing arts; (5) any person holding an
6 inactive license issued by the state board of healing arts; (6) any
7 person holding a federally active license issued by the state board of
8 healing arts; (7) an advanced practice registered nurse who is
9 authorized by the ~~state~~ board of nursing to practice as an advanced
10 practice registered nurse in the classification of nurse-midwife or
11 nurse anesthetist and who practices solely in the course of
12 employment or active duty in the United States government or any of
13 its departments, bureaus or agencies or who provides professional
14 services as a charitable healthcare provider as defined under K.S.A.
15 75-6102, and amendments thereto; or (8) a physician assistant licensed
16 by the state board of healing arts who practices solely in the course of
17 employment or active duty in the United States government or any of
18 its departments, bureaus or agencies or who provides professional
19 services as a charitable healthcare provider as defined under K.S.A.
20 75-6102, and amendments thereto.

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

29 (h) "Insurer" means any corporation, association, reciprocal
30 exchange, inter-insurer and any other legal entity authorized to write
31 bodily injury or property damage liability insurance in this state,
32 including workers compensation and automobile liability insurance,
33 pursuant to the provisions of the acts contained in article 9, 11, 12 or
34 16 of chapter 40 of the Kansas Statutes Annotated, and amendments
35 thereto.

36 (i) "Plan" means the operating and administrative rules and
37 procedures developed by insurers and rating organizations or the
38 commissioner to make professional liability insurance available to
39 healthcare providers.

40 (j) "Professional liability insurance" means insurance providing
41 coverage for legal liability arising out of the performance of
42 professional services rendered or ~~which~~ *that* should have been
43 rendered by a healthcare provider.

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

5 (l) "Self-insurer" means a healthcare provider who qualifies as a
6 self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

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

14 (n) "Mental health center" means a mental health center licensed
15 by the state of Kansas under K.S.A. ~~75-3307b~~ *2017 Supp. 39-2001 et*
16 *seq.*, and amendments thereto, except that as used in the healthcare
17 provider insurance availability act such term, as it relates to insurance
18 coverage under the healthcare provider insurance availability act, also
19 includes any director, trustee, officer or administrator of a mental
20 health center.

21 (o) "Mental health clinic" means a mental health clinic licensed
22 by the state of Kansas under K.S.A. ~~75-3307b~~ *2017 Supp. 39-2001 et*
23 *seq.*, and amendments thereto, except that as used in the healthcare
24 provider insurance availability act such term, as it relates to insurance
25 coverage under the healthcare provider insurance availability act, also
26 includes any director, trustee, officer or administrator of a mental
27 health clinic.

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

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

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

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

1 (2) a person engaged in a postgraduate training program
2 approved by the state board of healing arts who is employed by a
3 nonprofit corporation organized to administer the graduate medical
4 education programs of community hospitals or medical care facilities
5 affiliated with the university of Kansas school of medicine or who is
6 employed by an affiliate of the university of Kansas school of medicine
7 as defined in K.S.A. 76-367, and amendments thereto, only when such
8 person is engaged in medical activities—~~which~~ *that* do not include
9 extracurricular, extra-institutional medical service for which such
10 person receives extra compensation and—~~which~~ *that* have not been
11 approved by the chief operating officer of the nonprofit corporation or
12 the chief operating officer of the affiliate and the executive vice-
13 chancellor of the university of Kansas medical center.

14 (s) "Full-time physician faculty employed by the university of
15 Kansas medical center" means a person licensed to practice medicine
16 and surgery who holds a full-time appointment at the university of
17 Kansas medical center when such person is providing healthcare. A
18 person licensed to practice medicine and surgery who holds a full-time
19 appointment at the university of Kansas medical center may also be
20 employed part-time by the United States department of veterans
21 affairs if such employment is approved by the executive vice-
22 chancellor of the university of Kansas medical center.

23 (t) "Sexual act" or "sexual activity" means that sexual conduct
24 ~~which~~ *that* constitutes a criminal or tortious act under the laws of the
25 state of Kansas.

26 (u) "Board" means the board of governors created by K.S.A. 40-
27 3403, and amendments thereto.

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

30 (w) "Locum tenens contract" means a temporary agreement not
31 exceeding 182 days per calendar year that employs a healthcare
32 provider to actively render professional services in this state.

33 (x) "Professional services" means patient care or other services
34 authorized under the act governing licensure of a healthcare provider.

35 (y) "Healthcare facility" means a nursing facility, an assisted
36 living facility or a residential healthcare facility as all such terms are
37 defined in K.S.A. 39-923, and amendments thereto.

38 (z) "Charitable healthcare provider" means the same as defined
39 in K.S.A. 75-6102, and amendments thereto.

40 Sec. 17. K.S.A. ~~2016~~ 2017 Supp. 40-3403 is hereby amended to read
41 as follows: 40-3403. (a) For the purpose of paying damages for personal
42 injury or death arising out of the rendering of or the failure to render
43 professional services by a health care provider, self-insurer or inactive

1 health care provider subsequent to the time that such health care provider
2 or self-insurer has qualified for coverage under the provisions of this act,
3 there is hereby established the health care stabilization fund. The fund
4 shall be held in trust in the state treasury and accounted for separately from
5 other state funds. The board of governors shall administer the fund or
6 contract for the administration of the fund with an insurance company
7 authorized to do business in this state.

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

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

14 (B) provide advice, information and testimony to the appropriate
15 licensing or disciplinary authority regarding the qualifications of a health
16 care provider;

17 (C) prepare and publish ~~on or before October 1 of each year~~ **an**
18 **annual report for submission to the health care stabilization fund**
19 **oversight committee that includes** a summary of the fund's activity
20 during the preceding fiscal year, including, but not limited to, the amount
21 collected from surcharges, the highest and lowest surcharges assessed, the
22 amount paid from the fund, the number of judgments paid from the fund,
23 the number of settlements paid from the fund and the ~~amount in the~~ fund
24 **balance** at the end of the fiscal year; and

25 (D) have the authority to grant temporary exemptions from the
26 provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to
27 health care providers who have exceptional circumstances and verify in
28 writing that the health care provider will not render professional services
29 in this state during the period of exemption. Whenever the board grants
30 such an exemption, the board shall notify the state agency ~~which~~ *that*
31 licenses the exempted health care provider.

32 (2) The board shall consist of 11 persons appointed by the
33 commissioner of insurance, as provided by this subsection ~~(b)~~ and as
34 follows:

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

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

41 (C) two members who are licensed to practice medicine and surgery
42 in Kansas who are doctors of osteopathic medicine and who are on a list of
43 nominees submitted to the commissioner by the Kansas association of

1 osteopathic medicine;

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

5 (E) one member who is a licensed professional nurse authorized to
6 practice as a registered nurse anesthetist who is on a list of nominees
7 submitted to the commissioner by the Kansas association of nurse
8 anesthetists; *and*

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

12 (3) When a vacancy occurs in the membership of the board of
13 governors created by this act, the commissioner shall appoint a successor
14 of like qualifications from a list of three nominees submitted to the
15 commissioner by the professional society or association prescribed by this
16 section for the category of health care provider required for the vacant
17 position on the board of governors. All appointments made shall be for a
18 term of office of four years, but no member shall be appointed for more
19 than two successive four-year terms. Each member shall serve until a
20 successor is appointed and qualified. Whenever a vacancy occurs in the
21 membership of the board of governors created by this act for any reason
22 other than the expiration of a member's term of office, the commissioner
23 shall appoint a successor of like qualifications to fill the unexpired term. In
24 each case of a vacancy occurring in the membership of the board of
25 governors, the commissioner shall notify the professional society or
26 association—~~which~~ *that* represents the category of health care provider
27 required for the vacant position and request a list of three nominations of
28 health care providers from which to make the appointment.

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

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

37 (6) (A) The board shall appoint an executive director who shall be in
38 the unclassified service under the Kansas civil service act and may employ
39 attorneys and other employees who shall also be in the unclassified service
40 under the Kansas civil service act. Such executive director, attorneys and
41 other employees shall receive compensation fixed by the board, in
42 accordance with appropriation acts of the legislature, not subject to
43 approval of the governor.

1 (B) The board may provide all office space, services, equipment,
2 materials and supplies, and all budgeting, personnel, purchasing and
3 related management functions required by the board in the exercise of the
4 powers, duties and functions imposed or authorized by the health care
5 provider insurance availability act or may enter into a contract with the
6 commissioner of insurance for the provision, by the commissioner, of all
7 or any part thereof.

8 (7) The commissioner shall:

9 (A) Provide technical and administrative assistance to the board of
10 governors with respect to administration of the fund upon request of the
11 board;

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

14 (c) Except as otherwise provided by any other provision of this act,
15 the fund shall be liable to pay: (1) Any amount due from a judgment or
16 settlement ~~which~~ *that* is in excess of the basic coverage liability of all
17 liable resident health care providers or resident self-insurers for any
18 personal injury or death arising out of the rendering of or the failure to
19 render professional services within or without this state;

20 (2) subject to the provisions of subsections (f) and (m), any amount
21 due from a judgment or settlement ~~which~~ *that* is in excess of the basic
22 coverage liability of all liable nonresident health care providers or
23 nonresident self-insurers for any such injury or death arising out of the
24 rendering or the failure to render professional services within this state but
25 in no event shall the fund be obligated for claims against nonresident
26 health care providers or nonresident self-insurers who have not complied
27 with this act or for claims against nonresident health care providers or
28 nonresident self-insurers that arose outside of this state;

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

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

42 (5) subject to ~~subsection (b)~~ of K.S.A. 40-3411(b), and amendments
43 thereto, reasonable and necessary expenses for attorney fees, depositions,

1 expert witnesses and other costs incurred in defending the fund against
2 claims, ~~which~~ *and such* expenditures shall not be subject to the provisions
3 of K.S.A. 75-3738 through 75-3744, and amendments thereto;

4 (6) any amounts expended for reinsurance obtained to protect the best
5 interests of the fund purchased by the board of governors, which purchase
6 shall be subject to the provisions of K.S.A. 75-3738 through 75-3744, and
7 amendments thereto, but shall not be subject to the provisions of K.S.A.
8 75-4101, and amendments thereto;

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

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

16 (9) reasonable and necessary expenses incurred by the board of
17 governors in the administration of the fund or in the performance of other
18 powers, duties or functions of the board under the health care provider
19 insurance availability act;

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

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

32 (12) notwithstanding the provisions of subsection (m), any amount
33 due from a judgment or settlement for an injury or death arising out of the
34 rendering of or failure to render professional services by a person engaged
35 or who was engaged in residency training or the private practice
36 corporations or foundations and their full-time physician faculty employed
37 by the university of Kansas medical center or any nonprofit corporation
38 organized to administer the graduate medical education programs of
39 community hospitals or medical care facilities affiliated with the university
40 of Kansas school of medicine;

41 (13) subject to the provisions of K.S.A. 65-429, and amendments
42 thereto, reasonable and necessary expenses for the development and
43 promotion of risk management education programs and for the medical

1 care facility licensure and risk management survey functions carried out
2 under K.S.A. 65-429, and amendments thereto;

3 (14) notwithstanding the provisions of subsection (m), any amount,
4 but not less than the required basic coverage limits, owed pursuant to a
5 judgment or settlement for any injury or death arising out of the rendering
6 of or failure to render professional services by a person, other than a
7 person described in paragraph (12)—~~of this subsection (e)~~, who was
8 engaged in a postgraduate program of residency training approved by the
9 state board of healing arts but who, at the time the claim was made, was no
10 longer engaged in such residency program;

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

15 (16) expenses incurred by the commissioner in the performance of
16 duties and functions imposed upon the commissioner by the health care
17 provider insurance availability act, and expenses incurred by the
18 commissioner in the performance of duties and functions under contracts
19 entered into between the board and the commissioner as authorized by this
20 section; and

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

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

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

40 (f) In no event shall the fund be liable to pay in excess of the amounts
41 specified in the option selected by an active or inactive health care
42 provider pursuant to subsection (l) for judgments or settlements relating to
43 injury or death arising out of the rendering of or failure to render

1 professional services by such health care provider on or after July 1, 1989.

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

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

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

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

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

15 (i) Notwithstanding the provisions of K.S.A. 40-3402, and
16 amendments thereto, if the board of governors determines due to the
17 number of claims filed against a health care provider or the outcome of
18 those claims that an individual health care provider presents a material risk
19 of significant future liability to the fund, the board of governors is
20 authorized by a vote of a majority of the members thereof, after notice and
21 an opportunity for hearing in accordance with the provisions of the Kansas
22 administrative procedure act, to terminate the liability of the fund for all
23 claims against the health care provider for damages for death or personal
24 injury arising out of the rendering of or the failure to render professional
25 services after the date of termination. The date of termination shall be 30
26 days after the date of the determination by the board of governors. The
27 board of governors, upon termination of the liability of the fund under this
28 subsection, shall notify the licensing or other disciplinary board having
29 jurisdiction over the health care provider involved of the name of the
30 health care provider and the reasons for the termination.

31 (j) (1) Subject to the provisions of paragraph (7) ~~of this subsection (j)~~,
32 upon the payment of moneys from the health care stabilization fund
33 pursuant to subsection (c)(11), the board of governors shall certify to the
34 secretary of administration the amount of such payment, and the secretary
35 of administration shall transfer an amount equal to the amount certified,
36 reduced by any amount transferred pursuant to paragraph (3) or (4) ~~of this~~
37 ~~subsection (j)~~, from the state general fund to the health care stabilization
38 fund.

39 (2) Subject to the provisions of paragraph (7) ~~of this subsection (j)~~,
40 upon the payment of moneys from the health care stabilization fund
41 pursuant to subsection (c)(12), the board of governors shall certify to the
42 secretary of administration the amount of such payment ~~which that is~~
43 equal to the basic coverage liability of self-insurers, and the secretary of

1 administration shall transfer an amount equal to the amount certified,
2 reduced by any amount transferred pursuant to paragraph (3) or (4) of this
3 subsection (j), from the state general fund to the health care stabilization
4 fund.

5 (3) The university of Kansas medical center private practice
6 foundation reserve fund is hereby established in the state treasury. If the
7 balance in such reserve fund is less than \$500,000 on July 1 of any year,
8 the private practice corporations or foundations referred to in ~~subsection~~
9 ~~(e)~~ of K.S.A. 40-3402(c), and amendments thereto, shall remit the amount
10 necessary to increase such balance to \$500,000 to the state treasurer for
11 credit to such reserve fund as soon after such July 1 date as is practicable.
12 Upon receipt of each such remittance, the state treasurer shall credit the
13 same to such reserve fund. When compliance with the foregoing
14 provisions of this paragraph have been achieved on or after July 1 of any
15 year in which the same are applicable, the state treasurer shall certify to
16 the board of governors that such reserve fund has been funded for the year
17 in the manner required by law. Moneys in such reserve fund may be
18 invested or reinvested in accordance with the provisions of K.S.A. 40-
19 3406, and amendments thereto, and any income or interest earned by such
20 investments shall be credited to such reserve fund. Upon payment of
21 moneys from the health care stabilization fund pursuant to subsection (c)
22 (11) or (c)(12) with respect to any private practice corporation or
23 foundation or any of its full-time physician faculty employed by the
24 university of Kansas, the secretary of administration shall transfer an
25 amount equal to the amount paid from the university of Kansas medical
26 center private practice foundation reserve fund to the health care
27 stabilization fund or, if the balance in such reserve fund is less than the
28 amount so paid, an amount equal to the balance in such reserve fund.

29 (4) The graduate medical education administration reserve fund is
30 hereby established in the state treasury. If the balance in such reserve fund
31 is less than \$40,000 on July 1 of any year, the nonprofit corporations
32 organized to administer the graduate medical education programs of
33 community hospitals or medical care facilities affiliated with the university
34 of Kansas school of medicine shall remit the amount necessary to increase
35 such balance to \$40,000 to the state treasurer for credit to such reserve
36 fund as soon after such July 1 date as is practicable. Upon receipt of each
37 such remittance, the state treasurer shall credit the same to such reserve
38 fund. When compliance with the foregoing provisions of this paragraph
39 have been achieved on or after July 1 of any year in which the same are
40 applicable, the state treasurer shall certify to the board of governors that
41 such reserve fund has been funded for the year in the manner required by
42 law. Moneys in such reserve fund may be invested or reinvested in
43 accordance with the provisions of K.S.A. 40-3406, and amendments

1 thereto, and any income or interest earned by such investments shall be
2 credited to such reserve fund. Upon payment of moneys from the health
3 care stabilization fund pursuant to subsection (c)(11) or (c)(12) with
4 respect to any nonprofit corporations organized to administer the graduate
5 medical education programs of community hospitals or medical care
6 facilities affiliated with the university of Kansas school of medicine the
7 secretary of administration shall transfer an amount equal to the amount
8 paid from the graduate medical education administration reserve fund to
9 the health care stabilization fund or, if the balance in such reserve fund is
10 less than the amount so paid, an amount equal to the balance in such
11 reserve fund.

12 (5) Upon payment of moneys from the health care stabilization fund
13 pursuant to subsection (c)(14) or (c)(15), the board of governors shall
14 certify to the secretary of administration the amount of such payment, and
15 the secretary of administration shall transfer an amount equal to the
16 amount certified from the state general fund to the health care stabilization
17 fund.

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

21 (7) The funds required to be transferred from the state general fund to
22 the health care stabilization fund pursuant to paragraphs (1) and (2)-~~of this~~
23 ~~subsection (j)~~ for the fiscal years ending June 30, 2010, June 30, 2011,
24 June 30, 2012, and June 30, 2013, shall not be transferred prior to July 1,
25 2013. The secretary of administration shall maintain a record of the
26 amounts certified by the board of governors pursuant to paragraphs (1) and
27 (2)-~~of this subsection (j)~~ for the fiscal years ending June 30, 2010, June 30,
28 2011, June 30, 2012, and June 30, 2013. Beginning July 1, 2013, in
29 addition to any other transfers required pursuant to subsection (j), the state
30 general fund transfers-~~which~~ *that* are deferred pursuant to this paragraph
31 shall be transferred from the state general fund to the health care
32 stabilization fund in the following manner: On July 1, 2013, and annually
33 thereafter through July 1, 2017, an amount equal to 20% of the total
34 amount of state general fund transfers deferred pursuant to this paragraph
35 for the fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012,
36 and June 30, 2013. The amounts deferred pursuant to this paragraph shall
37 not accrue interest thereon.

38 (k) Notwithstanding any other provision of the health care provider
39 insurance availability act, no psychiatric hospital licensed under K.S.A.
40 ~~75-3307b-2016~~ **2017 Supp. 39-2001 et seq.**, and amendments thereto, shall
41 be assessed a premium surcharge or be entitled to coverage under the fund
42 if such hospital has not paid any premium surcharge pursuant to K.S.A.
43 40-3404, and amendments thereto, prior to January 1, 1988.

1 (1) On or after July 1, 1989, every health care provider shall make an
2 election to be covered by one of the following options provided in this
3 subsection ~~(1) which~~ that shall limit the liability of the fund with respect to
4 judgments or settlements relating to injury or death arising out of the
5 rendering of or failure to render professional services on or after July 1,
6 1989. Such election shall be made at the time the health care provider
7 renews the basic coverage in effect on July 1, 1989, or, if basic coverage is
8 not in effect, such election shall be made at the time such coverage is
9 acquired pursuant to K.S.A. 40-3402, and amendments thereto. Notice of
10 the election shall be provided by the insurer providing the basic coverage
11 in the manner and form prescribed by the board of governors and shall
12 continue to be effective from year to year unless modified by a subsequent
13 election made prior to the anniversary date of the policy. The health care
14 provider may at any subsequent election reduce the dollar amount of the
15 coverage for the next and subsequent fiscal years, but may not increase the
16 same, unless specifically authorized by the board of governors. Any
17 election of fund coverage limits, whenever made, shall be with respect to
18 judgments or settlements relating to injury or death arising out of the
19 rendering of or failure to render professional services on or after the
20 effective date of such election of fund coverage limits. Such election shall
21 be made for persons engaged in residency training and persons engaged in
22 other postgraduate training programs approved by the state board of
23 healing arts at medical care facilities or mental health centers in this state
24 by the agency or institution paying the surcharge levied under K.S.A. 40-
25 3404, and amendments thereto, for such persons. The election of fund
26 coverage limits for a nonprofit corporation organized to administer the
27 graduate medical education programs of community hospitals or medical
28 care facilities affiliated with the university of Kansas school of medicine
29 shall be deemed to be effective at the highest option. Such options shall be
30 as follows:

31 (1) *OPTION 1.* The fund shall not be liable to pay in excess of
32 \$100,000 pursuant to any one judgment or settlement for any party against
33 such health care provider, subject to an aggregate limitation for all
34 judgments or settlements arising from all claims made in the fiscal year in
35 an amount of \$300,000 for such provider.

36 (2) *OPTION 2.* The fund shall not be liable to pay in excess of
37 \$300,000 pursuant to any one judgment or settlement for any party against
38 such health care provider, subject to an aggregate limitation for all
39 judgments or settlements arising from all claims made in the fiscal year in
40 an amount of \$900,000 for such provider.

41 (3) *OPTION 3.* The fund shall not be liable to pay in excess of
42 \$800,000 pursuant to any one judgment or settlement for any party against
43 such health care provider, subject to an aggregate limitation for all

1 judgments or settlements arising from all claims made in the fiscal year in
2 an amount of \$2,400,000 for such health care provider.

3 (m) The fund shall not be liable for any amounts due from a judgment
4 or settlement against resident or nonresident inactive health care providers
5 who first qualify as an inactive health care provider on or after July 1,
6 1989, unless such health care provider has been in compliance with K.S.A.
7 40-3402, and amendments thereto, for a period of not less than five years.
8 If a health care provider has not been in compliance for five years, such
9 health care provider may make application and payment for the coverage
10 for the period while they are nonresident health care providers, nonresident
11 self-insurers or resident or nonresident inactive health care providers to the
12 fund. Such payment shall be made within 30 days after the health care
13 provider ceases being an active health care provider and shall be made in
14 an amount determined by the board of governors to be sufficient to fund
15 anticipated claims based upon reasonably prudent actuarial principles. The
16 provisions of this subsection shall not be applicable to any health care
17 provider ~~which~~ that becomes inactive through death or retirement, or
18 through disability or circumstances beyond such health care provider's
19 control, if such health care provider notifies the board of governors and
20 receives approval for an exemption from the provisions of this subsection.
21 Any period spent in a postgraduate program of residency training
22 approved by the state board of healing arts shall not be included in
23 computation of time spent in compliance with the provisions of K.S.A. 40-
24 3402, and amendments thereto. The provisions of this subsection shall
25 expire on July 1, 2014.

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

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

40 Sec. 18. K.S.A. ~~2016~~ 2017 Supp. 59-2946 is hereby amended to read
41 as follows: 59-2946. When used in the care and treatment act for mentally
42 ill persons:

43 (a) "Discharge" means the final and complete release from treatment,

1 by either the head of a treatment facility acting pursuant to K.S.A. 59-
2 2950, and amendments thereto, or by an order of a court issued pursuant to
3 K.S.A. 59-2973, and amendments thereto.

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

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

8 (d) (1) "Mental health center" means any community mental health
9 center ~~organized pursuant to the provisions of K.S.A. 19-4001 through 19-~~
10 ~~4015, and amendments thereto, or mental health clinic organized pursuant~~
11 ~~to the provisions of K.S.A. 65-211 through 65-215 as defined in K.S.A.~~
12 ~~2016~~ **2017 Supp. 39-2002**, and amendments thereto, or a mental health
13 clinic organized as a not-for-profit or a for-profit corporation pursuant to
14 K.S.A. 17-1701 through 17-1775, and amendments thereto, or K.S.A. 17-
15 6001 through 17-6010, and amendments thereto, and licensed in
16 accordance with the provisions of K.S.A. ~~75-3307b-2016~~ **2017 Supp. 39-**
17 **2001 et seq.**, and amendments thereto.

18 (2) "Participating mental health center" means a mental health center
19 ~~which that~~ has entered into a contract with the secretary for aging and
20 disability services pursuant to the provisions of K.S.A. 39-1601 through
21 39-1612, and amendments thereto.

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

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

35 (2) "Lacks capacity to make an informed decision concerning
36 treatment" means that the person, by reason of the person's mental
37 disorder, is unable, despite conscientious efforts at explanation, to
38 understand basically the nature and effects of hospitalization or treatment
39 or is unable to engage in a rational decision-making process regarding
40 hospitalization or treatment, as evidenced by an inability to weigh the
41 possible risks and benefits.

42 (3) "Likely to cause harm to self or others" means that the person, by
43 reason of the person's mental disorder: (A) Is likely, in the reasonably

1 foreseeable future, to cause substantial physical injury or physical abuse to
2 self or others or substantial damage to another's property, as evidenced by
3 behavior threatening, attempting or causing such injury, abuse or damage;
4 except that if the harm threatened, attempted or caused is only harm to the
5 property of another, the harm must be of such a value and extent that the
6 state's interest in protecting the property from such harm outweighs the
7 person's interest in personal liberty; or (B) is substantially unable, except
8 for reason of indigency, to provide for any of the person's basic needs,
9 such as food, clothing, shelter, health or safety, causing a substantial
10 deterioration of the person's ability to function on the person's own.

11 No person who is being treated by prayer in the practice of the religion
12 of any church ~~which~~ *that* teaches reliance on spiritual means alone through
13 prayer for healing shall be determined to be a mentally ill person subject to
14 involuntary commitment for care and treatment under this act unless
15 substantial evidence is produced upon which the district court finds that
16 the proposed patient is likely in the reasonably foreseeable future to cause
17 substantial physical injury or physical abuse to self or others or substantial
18 damage to another's property, as evidenced by behavior threatening,
19 attempting or causing such injury, abuse or damage; except that if the harm
20 threatened, attempted or caused is only harm to the property of another, the
21 harm must be of such a value and extent that the state's interest in
22 protecting the property from such harm outweighs the person's interest in
23 personal liberty.

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

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

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

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

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

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

41 (j) "Qualified mental health professional" means a physician or
42 psychologist who is employed by a participating mental health center or
43 who is providing services as a physician or psychologist under a contract

1 with a participating mental health center, a licensed master's level
2 psychologist, a licensed clinical psychotherapist, a licensed marriage and
3 family therapist, a licensed clinical marriage and family therapist, a
4 licensed professional counselor, a licensed clinical professional counselor,
5 a licensed specialist social worker or a licensed master social worker or a
6 registered nurse who has a specialty in psychiatric nursing, who is
7 employed by a participating mental health center and who is acting under
8 the direction of a physician or psychologist who is employed by, or under
9 contract with, a participating mental health center.

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

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

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

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

22 (5) "Registered nurse" means a person licensed as a registered
23 professional nurse by the board of nursing under K.S.A. 65-1113 through
24 65-1164, and amendments thereto.

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

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

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

32 (n) "Treatment facility" means any mental health center or clinic,
33 psychiatric unit of a medical care facility, state psychiatric hospital,
34 psychologist, physician or other institution or person authorized or
35 licensed by law to provide either inpatient or outpatient treatment to any
36 patient.

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

39 Sec. 19. K.S.A. ~~2016~~ 2017 Supp. 59-29b46 is hereby amended to
40 read as follows: 59-29b46. When used in the care and treatment act for
41 persons with an alcohol or substance abuse problem:

42 (a) "Discharge" means the final and complete release from treatment,
43 by either the head of a treatment facility acting pursuant to K.S.A. 59-

1 29b50, and amendments thereto, or by an order of a court issued pursuant
2 to K.S.A. 59-29b73, and amendments thereto.

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

5 (c) "Law enforcement officer" means the same as defined in K.S.A.
6 22-2202, and amendments thereto.

7 (d) "Licensed addiction counselor" means a person who engages in
8 the practice of addiction counseling limited to substance use disorders and
9 who is licensed by the behavioral sciences regulatory board. Such person
10 shall engage in the practice of addiction counseling in a state-licensed or
11 certified alcohol and other drug treatment program or while completing a
12 Kansas domestic violence offender assessment for participants in a
13 certified batterer intervention program pursuant to K.S.A. ~~2016~~ 2017
14 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless
15 otherwise exempt from licensure under subsection (n).

16 (e) "Licensed clinical addiction counselor" means a person who
17 engages in the independent practice of addiction counseling and diagnosis
18 and treatment of substance use disorders specified in the edition of the
19 American psychiatric association's diagnostic and statistical manual of
20 mental disorders (DSM) designated by the board by rules and regulations
21 and is licensed by the behavioral sciences regulatory board.

22 (f) "Licensed master's addiction counselor" means a person who
23 engages in the practice of addiction counseling limited to substance use
24 disorders and who is licensed under this act. Such person may diagnose
25 substance use disorders only under the direction of a licensed clinical
26 addiction counselor, a licensed psychologist, a person licensed to practice
27 medicine and surgery or a person licensed to provide mental health
28 services as an independent practitioner and whose licensure allows for the
29 diagnosis and treatment of substance abuse disorders or mental disorders.

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

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

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

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

41 (3) "Involuntary patient" means a person who is receiving treatment
42 under order of a court or a person admitted and detained by a treatment
43 facility pursuant to an application filed pursuant to K.S.A. 59-29b54(b) or

1 (c), and amendments thereto.

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

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

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

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

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

17 (B) lacking sufficient understanding or capability to make or
18 communicate responsible decisions concerning either the person's well-
19 being or estate.

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

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

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

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

40 (m) "Substance" means: (1) The same as the term "controlled
41 substance" as defined in K.S.A. ~~2016~~ 2017 Supp. 21-5701, and
42 amendments thereto; or

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

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

6 (o) (1) "Treatment facility" means a treatment program, public or
7 private treatment facility, or any facility of the United States government
8 available to treat a person for an alcohol or other substance abuse problem,
9 but such term ~~shall~~ *does* not include a licensed medical care facility, a
10 licensed adult care home, a facility licensed under K.S.A. *2015 Supp.* 75-
11 3307b, *prior to its repeal or under K.S.A. ~~2016~~ 2017 Supp.* 39-2001 *et*
12 *seq.*, and amendments thereto, a community-based alcohol and drug safety
13 action program certified under K.S.A. 8-1008, and amendments thereto,
14 and performing only those functions for which the program is certified to
15 perform under K.S.A. 8-1008, and amendments thereto, or a professional
16 licensed by the behavioral sciences regulatory board to diagnose and treat
17 mental disorders at the independent level or a physician, who may treat in
18 the usual course of the behavioral sciences regulatory board licensee's or
19 physician's professional practice individuals incapacitated by alcohol or
20 other substances, but who are not primarily engaged in the usual course of
21 the individual's professional practice in treating such individuals, or any
22 state institution, even if detoxification services may have been obtained at
23 such institution.

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

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

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

37 Sec. 20. K.S.A. ~~2016~~ 2017 Supp. 59-3077 is hereby amended to read
38 as follows: 59-3077. (a) At any time after the filing of the petition
39 provided for in K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and
40 amendments thereto, any person may file in addition to that original
41 petition, or as a part thereof, or at any time after the appointment of a
42 temporary guardian as provided for in K.S.A. 59-3073, and amendments
43 thereto, or a guardian as provided for in K.S.A. 59-3067, and amendments

1 thereto, the temporary guardian or guardian may file; a verified petition
2 requesting that the court grant authority to the temporary guardian or
3 guardian to admit the proposed ward or ward to a treatment facility, as
4 defined in subsection (h), and to consent to the care and treatment of the
5 proposed ward or ward therein. The petition shall include:

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

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

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

14 (4) the factual basis upon which the petitioner alleges the need for the
15 proposed ward or ward to be admitted to and treated at a treatment facility,
16 or for the proposed ward or ward to continue to be treated at the treatment
17 facility to which the proposed ward or ward has already been admitted, or
18 for the guardian to have continuing authority to admit the ward for care
19 and treatment at a treatment facility pursuant to K.S.A. 59-2949(b)(3) or
20 K.S.A. 59-29b49(b)(3), and amendments thereto;

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

23 (6) a request that the court find that the proposed ward or ward is in
24 need of being admitted to and treated at a treatment facility, and that the
25 court grant to the temporary guardian or guardian the authority to admit
26 the proposed ward or ward to a treatment facility and to consent to the care
27 and treatment of the proposed ward or ward therein.

28 (b) The petition may be accompanied by a report of an examination
29 and evaluation of the proposed ward or ward conducted by an
30 appropriately qualified professional, ~~which~~ *that* shows that the criteria set
31 out in K.S.A. 39-1803, ~~K.S.A. 59-2946(e), K.S.A. 59-29b46(i) or K.S.A.~~
32 76-12b03, and amendments thereto, are met.

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

35 (1) An order fixing the date, time and place of a hearing on the
36 petition. Such hearing, in the court's discretion, may be conducted in a
37 courtroom, a treatment facility or at some other suitable place. The time
38 fixed in the order shall in no event be earlier than seven days or later than
39 21 days after the date of the filing of the petition. The court may
40 consolidate this hearing with the trial upon the original petition filed
41 pursuant to K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and
42 amendments thereto, or with the trial provided for in the care and
43 treatment act for mentally ill persons or the care and treatment act for

1 persons with an alcohol or substance abuse problem, if the petition also
2 incorporates the allegations required by, and is filed in compliance with,
3 the provisions of either of those acts.

4 (2) An order requiring that the proposed ward or ward appear at the
5 time and place of the hearing on the petition unless the court makes a
6 finding prior to the hearing that the presence of the proposed ward or ward
7 will be injurious to the person's health or welfare, ~~or~~ that the proposed
8 ward's or ward's impairment is such that the person could not meaningfully
9 participate in the proceedings; or that the proposed ward or ward has filed
10 with the court a written waiver of such ward's right to appear in person. In
11 any such case, the court shall enter in the record of the proceedings the
12 facts upon which the court has found that the presence of the proposed
13 ward or ward at the hearing should be excused. Notwithstanding the
14 foregoing provisions of this subsection, if the proposed ward or ward files
15 with the court at least one day prior to the date of the hearing a written
16 notice stating the person's desire to be present at the hearing, the court
17 shall order that the person must be present at the hearing.

18 (3) An order appointing an attorney to represent the proposed ward or
19 ward. The court shall give preference, in the appointment of this attorney,
20 to any attorney who has represented the proposed ward or ward in other
21 matters, if the court has knowledge of that prior representation. The
22 proposed ward, or the ward with the consent of the ward's conservator, if
23 one has been appointed, shall have the right to engage an attorney of the
24 proposed ward's or ward's choice and, in such case, the attorney appointed
25 by the court shall be relieved of all duties by the court. Any appointment
26 made by the court shall terminate upon a final determination of the petition
27 and any appeal therefrom, unless the court continues the appointment by
28 further order.

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

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

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

39 (1) An order for a psychological or other examination and evaluation
40 of the proposed ward or ward, as may be specified by the court. The court
41 may order the proposed ward or ward to submit to such an examination
42 and evaluation to be conducted through a general hospital, psychiatric
43 hospital, community mental health center; *or* community developmental

1 disability organization; or by a private physician, psychiatrist, psychologist
2 or other person appointed by the court who is qualified to examine and
3 evaluate the proposed ward or ward. The costs of this examination and
4 evaluation shall be assessed as provided for in K.S.A. 59-3094, and
5 amendments thereto.

6 (2) If the petition is accompanied by a report of an examination and
7 evaluation of the proposed ward or ward as provided for in subsection (b),
8 an order granting temporary authority to the temporary guardian or
9 guardian to admit the proposed ward or ward to a treatment facility and to
10 consent to the care and treatment of the proposed ward or ward therein.
11 Any such order shall expire immediately after the hearing upon the
12 petition, or as the court may otherwise specify, or upon the discharge of
13 the proposed ward or ward by the head of the treatment facility, if the
14 proposed ward or ward is discharged prior to the time at which the order
15 would otherwise expire.

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

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

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

19 (e) The hearing on the petition shall be held at the time and place
20 specified in the court's order issued pursuant to subsection (c), unless an
21 order of advancement, continuance; or a change of place of the hearing has
22 been issued pursuant to subsection (d). The petitioner and the proposed
23 ward or ward shall each be afforded an opportunity to appear at the
24 hearing, to testify and to present and cross-examine witnesses. If the
25 hearing has been consolidated with a trial being held pursuant to either the
26 care and treatment act for mentally ill persons or the care and treatment act
27 for persons with an alcohol or substance abuse problem, persons not
28 necessary for the conduct of the proceedings may be excluded as provided
29 for in those acts. The hearing shall be conducted in as informal a manner
30 as may be consistent with orderly procedure. The court shall have the
31 authority to receive all relevant and material evidence which may be
32 offered, including the testimony or written report, findings or
33 recommendations of any professional or other person who has examined
34 or evaluated the proposed ward or ward pursuant to any order issued by
35 the court pursuant to subsection (d). Such evidence shall not be privileged
36 for the purpose of this hearing.

37 (f) Upon completion of the hearing, if the court finds by clear and
38 convincing evidence that the criteria set out in K.S.A. 39-1803, ~~K.S.A. 59-~~
39 ~~2946(e), K.S.A. 59-29b46(i) or K.S.A. 76-12b03,~~ and amendments thereto,
40 are met, and after a careful consideration of reasonable alternatives to
41 admission of the proposed ward or ward to a treatment facility, the court
42 may enter an order granting such authority to the temporary guardian or
43 guardian as is appropriate, including continuing authority to the guardian

1 to readmit the ward to an appropriate treatment facility as may later
2 become necessary. Any such grant of continuing authority shall expire two
3 years after the date of final discharge of the ward from such a treatment
4 facility if the ward has not had to be readmitted to a treatment facility
5 during that two-year period of time. Thereafter, any such grant of
6 continuing authority may be renewed only after the filing of another
7 petition seeking authority in compliance with the provision of this section.

8 (g) Nothing herein shall be construed so as to prohibit the head of a
9 treatment facility from admitting a proposed ward or ward to that facility
10 as a voluntary patient if the head of the treatment facility is satisfied that
11 the proposed ward or ward at that time has the capacity to understand such
12 ward's illness and need for treatment, and to consent to such ward's
13 admission and treatment. Upon any such admission, the head of the
14 treatment facility shall give notice to the temporary guardian or guardian
15 as soon as possible of the ward's admission, and shall provide to the
16 temporary guardian or guardian copies of any consents the proposed ward
17 or ward has given. Thereafter, the temporary guardian or guardian shall
18 timely either seek to obtain proper authority pursuant to this section to
19 admit the proposed ward or ward to a treatment facility and to consent to
20 further care and treatment, or shall otherwise assume responsibility for the
21 care of the proposed ward or ward, consistent with the authority of the
22 temporary guardian or guardian, and may arrange for the discharge from
23 the facility of the proposed ward or ward, unless the head of the treatment
24 facility shall file a petition requesting the involuntary commitment of the
25 proposed ward or ward to that or some other facility.

26 (h) As used herein, "treatment facility" means the Kansas
27 neurological institute, Larned state hospital, Osawatometie state hospital,
28 Parsons state hospital and training center, the Rainbow mental health
29 facility, any intermediate care facility for people with intellectual
30 disability, any psychiatric hospital licensed pursuant to K.S.A. ~~75-3307b-~~
31 ~~2016~~ 2017 Supp. 39-2001 et seq., and amendments thereto, and any other
32 facility for mentally ill persons or people with intellectual or
33 developmental disabilities licensed pursuant to K.S.A. ~~75-3307b-~~
34 ~~2016~~ 2017 Supp. 39-2001 et seq., and amendments thereto, if the proposed ward
35 or ward is to be admitted as an inpatient or resident of that facility.

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

38 ~~(a) "Administer" means the direct application of a drug, whether by~~
39 ~~injection, inhalation, ingestion or any other means, to the body of a patient~~
40 ~~or research subject by:~~

41 ~~(1) A practitioner or pursuant to the lawful direction of a practitioner;~~
42 ~~(2) the patient or research subject at the direction and in the presence~~
43 ~~of the practitioner; or~~

1 ~~(3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments~~
2 ~~thereto.~~

3 ~~(b) "Agent" means an authorized person who acts on behalf of or at~~
4 ~~the direction of a manufacturer, distributor or dispenser but shall not~~
5 ~~include a common carrier, public warehouseman or employee of the carrier~~
6 ~~or warehouseman when acting in the usual and lawful course of the~~
7 ~~carrier's or warehouseman's business.~~

8 ~~(c) "Application service provider" means an entity that sells~~
9 ~~electronic prescription or pharmacy prescription applications as a hosted~~
10 ~~service where the entity controls access to the application and maintains~~
11 ~~the software and records on its server.~~

12 ~~(d) "Authorized distributor of record" means a wholesale distributor~~
13 ~~with whom a manufacturer has established an ongoing relationship to~~
14 ~~distribute the manufacturer's prescription drug. An ongoing relationship is~~
15 ~~deemed to exist between such wholesale distributor and a manufacturer~~
16 ~~when the wholesale distributor, including any affiliated group of the~~
17 ~~wholesale distributor, as defined in section 1504 of the internal revenue~~
18 ~~code, complies with any one of the following: (1) The wholesale~~
19 ~~distributor has a written agreement currently in effect with the~~
20 ~~manufacturer evidencing such ongoing relationship; and (2) the wholesale~~
21 ~~distributor is listed on the manufacturer's current list of authorized~~
22 ~~distributors of record, which *that* is updated by the manufacturer on no less~~
23 ~~than a monthly basis.~~

24 ~~(e) "Board" means the state board of pharmacy created by K.S.A. 74-~~
25 ~~1603, and amendments thereto.~~

26 ~~(f) "Brand exchange" means the dispensing of a different drug~~
27 ~~product of the same dosage form and strength and of the same generic~~
28 ~~name as the brand name drug product prescribed.~~

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

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

36 ~~(i) "Co-licensee" means a pharmaceutical manufacturer that has~~
37 ~~entered into an agreement with another pharmaceutical manufacturer to~~
38 ~~engage in a business activity or occupation related to the manufacture or~~
39 ~~distribution of a prescription drug and the national drug code on the drug~~
40 ~~product label shall be used to determine the identity of the drug~~
41 ~~manufacturer.~~

42 ~~(j) "DEA" means the U.S. department of justice, drug enforcement~~
43 ~~administration.~~

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

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

9 ~~(m) "Dispense" means to deliver prescription medication to the~~
10 ~~ultimate user or research subject by or pursuant to the lawful order of a~~
11 ~~practitioner or pursuant to the prescription of a mid-level practitioner.~~

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

16 ~~(o) "Distribute" means to deliver, other than by administering or~~
17 ~~dispensing, any drug.~~

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

19 ~~(q) "Drop shipment" means the sale, by a manufacturer, that~~
20 ~~manufacturer's co-licensee, that manufacturer's third party logistics~~
21 ~~provider, or that manufacturer's exclusive distributor, of the manufacturer's~~
22 ~~prescription drug, to a wholesale distributor whereby the wholesale~~
23 ~~distributor takes title but not possession of such prescription drug and the~~
24 ~~wholesale distributor invoices the pharmacy, the chain pharmacy~~
25 ~~warehouse, or other designated person authorized by law to dispense or~~
26 ~~administer such prescription drug, and the pharmacy, the chain pharmacy~~
27 ~~warehouse, or other designated person authorized by law to dispense or~~
28 ~~administer such prescription drug receives delivery of the prescription~~
29 ~~drug directly from the manufacturer, that manufacturer's co-licensee, that~~
30 ~~manufacturer's third party logistics provider, or that manufacturer's~~
31 ~~exclusive distributor, of such prescription drug. Drop shipment shall be~~
32 ~~part of the "normal distribution channel."~~

33 ~~(r) "Drug" means: (1) Articles recognized in the official United States~~
34 ~~pharmacopoeia, or other such official compendiums of the United States,~~
35 ~~or official national formulary, or any supplement of any of them; (2)~~
36 ~~articles intended for use in the diagnosis, cure, mitigation, treatment or~~
37 ~~prevention of disease in human or other animals; (3) articles, other than~~
38 ~~food, intended to affect the structure or any function of the body of human~~
39 ~~or other animals; and (4) articles intended for use as a component of any~~
40 ~~articles specified in paragraph (1), (2) or (3); but does not include devices~~
41 ~~or their components, parts or accessories, except that the term "drug" shall~~
42 ~~not include amygdalin (laetrile) or any livestock remedy, if such livestock~~
43 ~~remedy had been registered in accordance with the provisions of article 5~~

1 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal:

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

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

17 (u) "Electronic prescription application" means software that is used
18 to create electronic prescriptions and that is intended to be installed on the
19 prescriber's computers and servers where access and records are controlled
20 by the prescriber.

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

26 (w) "Electronic transmission" means the transmission of an electronic
27 prescription, formatted as an electronic data file, from a prescriber's
28 electronic prescription application to a pharmacy's computer, where the
29 data file is imported into the pharmacy prescription application.

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

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

40 (z) "Facsimile transmission" or "fax transmission" means the
41 transmission of a digital image of a prescription from the prescriber or the
42 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
43 is not limited to, transmission of a written prescription between the

1 ~~prescriber's fax machine and the pharmacy's fax machine; transmission of~~
2 ~~an electronically prepared prescription from the prescriber's electronic~~
3 ~~prescription application to the pharmacy's fax machine, computer or~~
4 ~~printer; or transmission of an electronically prepared prescription from the~~
5 ~~prescriber's fax machine to the pharmacy's fax machine, computer or~~
6 ~~printer.~~

7 (aa) ~~"Generic name" means the established chemical name or official~~
8 ~~name of a drug or drug product.~~

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

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

14 (B) ~~residents of a juvenile detention facility, as defined by the revised~~
15 ~~Kansas code for care of children and the revised Kansas juvenile justice~~
16 ~~code;~~

17 (C) ~~students of a public or private university or college, a community~~
18 ~~college or any other institution of higher learning which *that* is located in~~
19 ~~Kansas;~~

20 (D) ~~employees of a business or other employer; or~~

21 (E) ~~persons receiving inpatient hospice services.~~

22 (2) ~~"Institutional drug room" does not include:~~

23 (A) ~~Any registered pharmacy;~~

24 (B) ~~any office of a practitioner; or~~

25 (C) ~~a location where no prescription-only drugs are dispensed and no~~
26 ~~prescription-only drugs other than individual prescriptions are stored or~~
27 ~~administered.~~

28 (cc) ~~"Intermediary" means any technology system that receives and~~
29 ~~transmits an electronic prescription between the prescriber and the~~
30 ~~pharmacy.~~

31 (dd) ~~"Intracompany transaction" means any transaction or transfer~~
32 ~~between any division, subsidiary, parent or affiliated or related company~~
33 ~~under common ownership or control of a corporate entity, or any~~
34 ~~transaction or transfer between co-licensees of a co-licensed product.~~

35 (ee) ~~"Medical care facility" shall have the meaning provided *means:*~~
36 ~~*the same as defined* in K.S.A. 65-425, and amendments thereto, except~~
37 ~~that the term shall also include facilities licensed under the provisions of~~
38 ~~K.S.A. 2015 Supp. 75-3307b, prior to its repeal, or the same facilities:~~
39 ~~licensed under K.S.A. 2016 Supp. 39-2001 et seq., and amendments~~
40 ~~thereto, except community mental health centers and facilities for people~~
41 ~~with intellectual disability.~~

42 (ff) ~~"Manufacture" means the production, preparation, propagation,~~
43 ~~compounding, conversion or processing of a drug either directly or~~

~~1 indirectly by extraction from substances of natural origin, independently
2 by means of chemical synthesis or by a combination of extraction and
3 chemical synthesis and includes any packaging or repackaging of the drug
4 or labeling or relabeling of its container, except that this term shall not
5 include the preparation or compounding of a drug by an individual for the
6 individual's own use or the preparation, compounding, packaging or
7 labeling of a drug by:~~

~~8 (1) A practitioner or a practitioner's authorized agent incident to such
9 practitioner's administering or dispensing of a drug in the course of the
10 practitioner's professional practice;~~

~~11 (2) a practitioner, by a practitioner's authorized agent or under a
12 practitioner's supervision for the purpose of, or as an incident to, research,
13 teaching or chemical analysis and not for sale; or~~

~~14 (3) a pharmacist or the pharmacist's authorized agent acting under the
15 direct supervision of the pharmacist for the purpose of, or incident to, the
16 dispensing of a drug by the pharmacist.~~

~~17 (gg) "Manufacturer" means a person licensed or approved by the
18 FDA to engage in the manufacture of drugs and devices.~~

~~19 (hh) "Mid-level practitioner" means a certified nurse-midwife
20 engaging in the independent practice of midwifery under the independent
21 practice of midwifery act, an advanced practice registered nurse issued a
22 license pursuant to K.S.A. 65-1131, and amendments thereto, who has
23 authority to prescribe drugs pursuant to a written protocol with a
24 responsible physician under K.S.A. 65-1130, and amendments thereto, or a
25 physician assistant licensed pursuant to the physician assistant licensure
26 act who has authority to prescribe drugs pursuant to a written agreement
27 with a supervising physician under K.S.A. 65-28a08, and amendments
28 thereto.~~

~~29 (ii) "Normal distribution channel" means a chain of custody for a
30 prescription-only drug that goes from a manufacturer of the prescription-
31 only drug, from that manufacturer to that manufacturer's co-licensed
32 partner, from that manufacturer to that manufacturer's third-party logistics
33 provider or from that manufacturer to that manufacturer's exclusive
34 distributor, directly or by drop shipment, to:~~

~~35 (1) A pharmacy to a patient or to other designated persons authorized
36 by law to dispense or administer such drug to a patient;~~

~~37 (2) a wholesale distributor to a pharmacy to a patient or other
38 designated persons authorized by law to dispense or administer such drug
39 to a patient;~~

~~40 (3) a wholesale distributor to a chain pharmacy warehouse to that
41 chain pharmacy warehouse's intracompany pharmacy to a patient or other
42 designated persons authorized by law to dispense or administer such drug
43 to a patient; or~~

1 ~~(4) a chain pharmacy warehouse to the chain pharmacy warehouse's~~
2 ~~intracompany pharmacy to a patient or other designated persons authorized~~
3 ~~by law to dispense or administer such drug to a patient.~~

4 ~~(jj) "Person" means individual, corporation, government,~~
5 ~~governmental subdivision or agency, partnership, association or any other~~
6 ~~legal entity.~~

7 ~~(kk) "Pharmacist" means any natural person licensed under this act to~~
8 ~~practice pharmacy.~~

9 ~~(ll) "Pharmacist-in-charge" means the pharmacist who is responsible~~
10 ~~to the board for a registered establishment's compliance with the laws and~~
11 ~~regulations of this state pertaining to the practice of pharmacy,~~
12 ~~manufacturing of drugs and the distribution of drugs. The pharmacist in-~~
13 ~~charge shall supervise such establishment on a full-time or a part-time~~
14 ~~basis and perform such other duties relating to supervision of a registered~~
15 ~~establishment as may be prescribed by the board by rules and regulations.~~
16 ~~Nothing in this definition shall relieve other pharmacists or persons from~~
17 ~~their responsibility to comply with state and federal laws and regulations.~~

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

23 ~~(nn) "Pharmacy," "drugstore" or "apothecary" means premises,~~
24 ~~laboratory, area or other place: (1) Where drugs are offered for sale where~~
25 ~~the profession of pharmacy is practiced and where prescriptions are~~
26 ~~compounded and dispensed; or (2) which that has displayed upon it or~~
27 ~~within it the words "pharmacist," "pharmaceutical chemist," "pharmacy,"~~
28 ~~"apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of~~
29 ~~these words or combinations of these words or words of similar import~~
30 ~~either in English or any sign containing any of these words; or (3) where~~
31 ~~the characteristic symbols of pharmacy or the characteristic prescription~~
32 ~~sign "Rx" may be exhibited. As used in this subsection, premises refers~~
33 ~~only to the portion of any building or structure leased, used or controlled~~
34 ~~by the licensee in the conduct of the business registered by the board at the~~
35 ~~address for which the registration was issued.~~

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

39 ~~(pp) "Pharmacy technician" means an individual who, under the~~
40 ~~direct supervision and control of a pharmacist, may perform packaging,~~
41 ~~manipulative, repetitive or other nondiscretionary tasks related to the~~
42 ~~processing of a prescription or medication order and who assists the~~
43 ~~pharmacist in the performance of pharmacy related duties, but who does~~

1 ~~not perform duties restricted to a pharmacist.~~

2 ~~(qq) "Practitioner" means a person licensed to practice medicine and~~
3 ~~surgery, dentist, podiatrist, veterinarian, optometrist or scientific~~
4 ~~investigator or other person authorized by law to use a prescription-only~~
5 ~~drug in teaching or chemical analysis or to conduct research with respect~~
6 ~~to a prescription-only drug.~~

7 ~~(rr) "Preceptor" means a licensed pharmacist who possesses at least~~
8 ~~two years' experience as a pharmacist and who supervises students~~
9 ~~obtaining the pharmaceutical experience required by law as a condition to~~
10 ~~taking the examination for licensure as a pharmacist.~~

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

12 ~~(tt) "Prescription" or "prescription order" means: (1) An order to be~~
13 ~~filled by a pharmacist for prescription medication issued and signed by a~~
14 ~~prescriber in the authorized course of such prescriber's professional~~
15 ~~practice; or (2) an order transmitted to a pharmacist through word of~~
16 ~~mouth, note, telephone or other means of communication directed by such~~
17 ~~prescriber, regardless of whether the communication is oral, electronic,~~
18 ~~facsimile or in printed form.~~

19 ~~(uu) "Prescription medication" means any drug, including label and~~
20 ~~container according to context, which is dispensed pursuant to a~~
21 ~~prescription order.~~

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

27 ~~(ww) "Probation" means the practice or operation under a temporary~~
28 ~~license, registration or permit or a conditional license, registration or~~
29 ~~permit of a business or profession for which a license, registration or~~
30 ~~permit is granted by the board under the provisions of the pharmacy act of~~
31 ~~the state of Kansas requiring certain actions to be accomplished or certain~~
32 ~~actions not to occur before a regular license, registration or permit is~~
33 ~~issued.~~

34 ~~(xx) "Professional incompetency" means:~~

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

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

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

43 ~~(yy) "Readily retrievable" means that records kept by automatic data~~

1 ~~processing applications or other electronic or mechanized record-keeping~~
2 ~~systems can be separated out from all other records within a reasonable~~
3 ~~time not to exceed 48 hours of a request from the board or other authorized~~
4 ~~agent or that hard-copy records are kept on which certain items are~~
5 ~~asterisked, redlined or in some other manner visually identifiable apart~~
6 ~~from other items appearing on the records.~~

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

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

15 ~~(bbb) "Third party logistics provider" means an entity that: (1)~~
16 ~~Provides or coordinates warehousing, distribution or other services on~~
17 ~~behalf of a manufacturer, but does not take title to the prescription drug or~~
18 ~~have general responsibility to direct the prescription drug's sale or~~
19 ~~disposition; (2) is registered as a wholesale distributor under the pharmacy~~
20 ~~act of the state of Kansas; and (3) to be considered part of the normal~~
21 ~~distribution channel, must also be an authorized distributor of record.~~

22 ~~(ccc) "Unprofessional conduct" means:~~

23 ~~(1) Fraud in securing a registration or permit;~~

24 ~~(2) intentional adulteration or mislabeling of any drug, medicine,~~
25 ~~chemical or poison;~~

26 ~~(3) causing any drug, medicine, chemical or poison to be adulterated~~
27 ~~or mislabeled, knowing the same to be adulterated or mislabeled;~~

28 ~~(4) intentionally falsifying or altering records or prescriptions;~~

29 ~~(5) unlawful possession of drugs and unlawful diversion of drugs to~~
30 ~~others;~~

31 ~~(6) willful betrayal of confidential information under K.S.A. 65-1654,~~
32 ~~and amendments thereto;~~

33 ~~(7) conduct likely to deceive, defraud or harm the public;~~

34 ~~(8) making a false or misleading statement regarding the licensee's~~
35 ~~professional practice or the efficacy or value of a drug;~~

36 ~~(9) commission of any act of sexual abuse, misconduct or~~
37 ~~exploitation related to the licensee's professional practice; or~~

38 ~~(10) performing unnecessary tests, examinations or services which~~
39 ~~have no legitimate pharmaceutical purpose.~~

40 ~~(ddd) "Vaccination protocol" means a written protocol, agreed to by a~~
41 ~~pharmacist and a person licensed to practice medicine and surgery by the~~
42 ~~state board of healing arts, which *that* establishes procedures and~~
43 ~~recordkeeping and reporting requirements for administering a vaccine by~~

1 ~~the pharmacist for a period of time specified therein, not to exceed two~~
2 ~~years.~~

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

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

13 ~~(ggg) "Wholesale distributor" means any person engaged in~~
14 ~~wholesale distribution of prescription drugs or devices in or into the state,~~
15 ~~including, but not limited to, manufacturers, repackagers, own-label~~
16 ~~distributors, private-label distributors, jobbers, brokers, warehouses,~~
17 ~~including manufacturers' and distributors' warehouses, co-licensees,~~
18 ~~exclusive distributors, third party logistics providers, chain pharmacy~~
19 ~~warehouses that conduct wholesale distributions, and wholesale drug~~
20 ~~warehouses, independent wholesale drug traders and retail pharmacies that~~
21 ~~conduct wholesale distributions. Wholesale distributor shall not include~~
22 ~~persons engaged in the sale of durable medical equipment to consumers or~~
23 ~~patients.~~

24 ~~(hhh) "Wholesale distribution" means the distribution of prescription~~
25 ~~drugs or devices by wholesale distributors to persons other than consumers~~
26 ~~or patients, and includes the transfer of prescription drugs by a pharmacy~~
27 ~~to another pharmacy if the total number of units of transferred drugs~~
28 ~~during a twelve-month period does not exceed 5% of the total number of~~
29 ~~all units dispensed by the pharmacy during the immediately preceding~~
30 ~~twelve /2-month period. Wholesale distribution does not include:~~

31 ~~(1) The sale, purchase or trade of a prescription drug or device, an~~
32 ~~offer to sell, purchase or trade a prescription drug or device or the~~
33 ~~dispensing of a prescription drug or device pursuant to a prescription;~~

34 ~~(2) the sale, purchase or trade of a prescription drug or device or an~~
35 ~~offer to sell, purchase or trade a prescription drug or device for emergency~~
36 ~~medical reasons;~~

37 ~~(3) intracompany transactions, as defined in this section, unless in~~
38 ~~violation of own use provisions;~~

39 ~~(4) the sale, purchase or trade of a prescription drug or device or an~~
40 ~~offer to sell, purchase or trade a prescription drug or device among~~
41 ~~hospitals, chain pharmacy warehouses, pharmacies or other health care~~
42 ~~entities that are under common control;~~

43 ~~(5) the sale, purchase or trade of a prescription drug or device or the~~

1 ~~offer to sell, purchase or trade a prescription drug or device by a charitable~~
2 ~~organization described in 503(c)(3) of the internal revenue code of 1954 to~~
3 ~~a nonprofit affiliate of the organization to the extent otherwise permitted~~
4 ~~by law;~~

5 ~~(6) the purchase or other acquisition by a hospital or other similar~~
6 ~~health care entity that is a member of a group purchasing organization of a~~
7 ~~prescription drug or device for its own use from the group purchasing~~
8 ~~organization or from other hospitals or similar health care entities that are~~
9 ~~members of these organizations;~~

10 ~~(7) the transfer of prescription drugs or devices between pharmacies~~
11 ~~pursuant to a centralized prescription processing agreement;~~

12 ~~(8) the sale, purchase or trade of blood and blood components~~
13 ~~intended for transfusion;~~

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

18 ~~(10) the sale, transfer, merger or consolidation of all or part of the~~
19 ~~business of a retail pharmacy or pharmacies from or with another retail~~
20 ~~pharmacy or pharmacies, whether accomplished as a purchase and sale of~~
21 ~~stock or business assets, in accordance with the board's rules and~~
22 ~~regulations;~~

23 ~~(11) the distribution of drug samples by manufacturers' and~~
24 ~~authorized distributors' representatives;~~

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

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

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

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

36 ~~(b) "Community mental health center" has the same meaning as such~~
37 ~~term is *means the same as* defined in K.S.A. 75-3307c *2016 Supp. 39-*~~
38 ~~*2002*, and amendments thereto.~~

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

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

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

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

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

10 ~~(h) "Mail service pharmacy" means a licensed Kansas pharmacy that~~
11 ~~ships, mails or delivers by any lawful means a lawfully dispensed~~
12 ~~medication in tamper-resistant packaging to residents of this state or~~
13 ~~another state.~~

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

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

18 ~~(k) "Medication" means a prescription drug or drug as defined by this~~
19 ~~section.~~

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

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

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

29 ~~(o) "Qualifying center or clinic" means an indigent health care clinic,~~
30 ~~federally qualified health center or community mental health center.~~

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

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

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

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

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

42 ~~(b) Subject to the restrictions of this section, the institutional license~~
43 ~~shall confer upon the holder the right and privilege to practice medicine.~~

1 ~~and surgery and shall obligate the holder to comply with all requirements~~
2 ~~of such license.~~

3 ~~(e) The practice privileges of institutional license holders are~~
4 ~~restricted and shall be valid only during the period in which:~~

5 ~~(1) The holder is employed by any institution within the Kansas~~
6 ~~department for aging and disability services, employed by any institution~~
7 ~~within the department of corrections or employed pursuant to a contract~~
8 ~~entered into by the Kansas department for aging and disability services or~~
9 ~~the department of corrections with a third party, and only within the~~
10 ~~institution to which the holder is assigned; and~~

11 ~~(2) the holder has been employed for at least three years as described~~
12 ~~in subsection (c)(1) and is employed to provide mental health services in~~
13 ~~Kansas in the employ of a Kansas licensed community mental health~~
14 ~~center, or one of its contracted affiliates, or a federal, state, county or~~
15 ~~municipal agency, or other political subdivision, or a contractor of a~~
16 ~~federal, state, county or municipal agency, or other political subdivision, or~~
17 ~~a duly chartered educational institution, or a medical care facility licensed~~
18 ~~under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric~~
19 ~~hospital licensed under K.S.A. 75-3307b 2016 Supp. 39-2001 et seq., and~~
20 ~~amendments thereto, or a contractor of such educational institution,~~
21 ~~medical care facility or psychiatric hospital, and whose practice, in any~~
22 ~~such employment, is limited to providing mental health services, is a part~~
23 ~~of the duties of such licensee's paid position and is performed solely on~~
24 ~~behalf of the employer.~~

25 ~~(d) An institutional license shall be canceled on the date established~~
26 ~~by rules and regulations of the board which *that* may provide for renewal~~
27 ~~throughout the year on a continuing basis. In each case in which an~~
28 ~~institutional license is renewed for a period of time of more or less than 12~~
29 ~~months, the board may prorate the amount of the fee established under~~
30 ~~K.S.A. 65-2852, and amendments thereto. The request for renewal shall be~~
31 ~~on a form provided by the board and shall be accompanied by the~~
32 ~~prescribed fee, which *that* shall be paid not later than the renewal date of~~
33 ~~the license. An institutional license may be renewed for an additional one-~~
34 ~~year period if the applicant for renewal meets the requirements under~~
35 ~~subsection (c), has submitted an application for renewal on a form~~
36 ~~provided by the board, has paid the renewal fee established by rules and~~
37 ~~regulations of the board of not to exceed \$500 and has submitted evidence~~
38 ~~of satisfactory completion of a program of continuing education required~~
39 ~~by the board. In addition, an applicant for renewal who is employed as~~
40 ~~described in subsection (c)(1) shall submit with the application for renewal~~
41 ~~a recommendation that the institutional license be renewed signed by the~~
42 ~~superintendent of the institution to which the institutional license holder is~~
43 ~~assigned.~~

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

5 ~~(f) This section shall be a part of and supplemental to the Kansas~~
 6 ~~healing arts act.~~

7 ~~Sec. 24. 21.~~ K.S.A. ~~2016~~ 2017 Supp. 65-4412 is hereby amended to
 8 read as follows: 65-4412. (a) "Community facilities for people with
 9 intellectual disability" means: (1) Any community facility for people with
 10 intellectual disability organized pursuant to the provisions of K.S.A. 19-
 11 4001 ~~to through~~ 19-4015, ~~inclusive~~, and amendments thereto, and licensed
 12 in accordance with the provisions of K.S.A. ~~75-3307b~~ ~~2016~~ 2017 Supp.
 13 ~~39-2001 et seq.~~, and amendments thereto; or (2) any intellectual disability
 14 governing board ~~which that~~ contracts with a nonprofit corporation to
 15 provide services for people with intellectual disability.

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

17 ~~Sec. 25. 22.~~ K.S.A. ~~2016~~ 2017 Supp. 65-4432 is hereby amended to
 18 read as follows: 65-4432. (a) "Mental health center" means any
 19 community mental health center ~~organized pursuant to the provisions of~~
 20 ~~K.S.A. 19-4001 to 19-4015, inclusive as defined in K.S.A. 2016~~ 2017
 21 ~~Supp. 39-2002,~~ and amendments thereto, or mental health clinics
 22 organized pursuant to the provisions of K.S.A. 65-211 ~~to through~~ 65-215;
 23 ~~inclusive~~, and amendments thereto, and licensed in accordance with the
 24 provisions of K.S.A. ~~75-3307b~~ ~~2016~~ 2017 Supp. 39-2001 *et seq.*, and
 25 amendments thereto.

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

27 ~~Sec. 26. 23.~~ K.S.A. ~~2016~~ 2017 Supp. 65-4915 is hereby amended to
 28 read as follows: 65-4915. (a) As used in this section:

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

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

43 (A) A state or local association of health care providers or one or

1 more committees thereof;

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

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

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

8 (E) an organized medical staff of a licensed medical care facility as
9 defined by K.S.A. 65-425, and amendments thereto, an organized medical
10 staff of a private psychiatric hospital licensed under K.S.A. ~~75-3307b-~~
11 ~~2016~~ **2017** *Supp. 39-2001 et seq.*, and amendments thereto, or an
12 organized medical staff of a state psychiatric hospital or state institution
13 for people with intellectual disability, as follows: Larned state hospital,
14 Osawatomie state hospital, Rainbow mental health facility, Kansas
15 neurological institute and Parsons state hospital and training center;

16 (F) a health care provider;

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

19 (H) a Kansas corporation whose stockholders or members are health
20 care providers or an association of health care providers, which
21 corporation evaluates medical and health care services;

22 (I) an insurance company, health maintenance organization or
23 administrator of a health benefits plan which engages in any of the
24 functions defined as peer review under this section; or

25 (J) the university of Kansas medical center.

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

27 (A) Evaluate and improve the quality of health care services rendered
28 by health care providers;

29 (B) determine that health services rendered were professionally
30 indicated or were performed in compliance with the applicable standard of
31 care;

32 (C) determine that the cost of health care rendered was considered
33 reasonable by the providers of professional health services in this area;

34 (D) evaluate the qualifications, competence and performance of the
35 providers of health care or to act upon matters relating to the discipline of
36 any individual provider of health care;

37 (E) reduce morbidity or mortality;

38 (F) establish and enforce guidelines designed to keep within
39 reasonable bounds the cost of health care;

40 (G) conduct of research;

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

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

1 (J) review the professional qualifications or activities of health care
2 providers;

3 (K) evaluate the quantity, quality and timeliness of health care
4 services rendered to patients in the facility;

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

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

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

12 (B) a health care provider monitoring the delivery of health care at
13 correctional institutions under the jurisdiction of the secretary of
14 corrections.

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

29 (c) Subsection (b) shall not apply to proceedings in which a health
30 care provider contests the revocation, denial, restriction or termination of
31 staff privileges or the license, registration, certification or other
32 authorization to practice of the health care provider. A licensing agency in
33 conducting a disciplinary proceeding in which admission of any peer
34 review committee report, record or testimony is proposed shall hold the
35 hearing in closed session when any such report, record or testimony is
36 disclosed. Unless otherwise provided by law, a licensing agency
37 conducting a disciplinary proceeding may close only that portion of the
38 hearing in which disclosure of a report or record privileged under this
39 section is proposed. In closing a portion of a hearing as provided by this
40 section, the presiding officer may exclude any person from the hearing
41 location except the licensee, the licensee's attorney, the agency's attorney,
42 the witness, the court reporter and appropriate staff support for either
43 counsel. The licensing agency shall make the portions of the agency record

1 in which such report or record is disclosed subject to a protective order
2 prohibiting further disclosure of such report or record. Such report or
3 record shall not be subject to discovery, subpoena or other means of legal
4 compulsion for their release to any person or entity. No person in
5 attendance at a closed portion of a disciplinary proceeding shall at a
6 subsequent civil, criminal or administrative hearing, be required to testify
7 regarding the existence or content of a report or record privileged under
8 this section ~~which~~ *that* was disclosed in a closed portion of a hearing, nor
9 shall such testimony be admitted into evidence in any subsequent civil,
10 criminal or administrative hearing. A licensing agency conducting a
11 disciplinary proceeding may review peer review committee records,
12 testimony or reports but must prove its findings with independently
13 obtained testimony or records ~~which~~ *that* shall be presented as part of the
14 disciplinary proceeding in open meeting of the licensing agency. Offering
15 such testimony or records in an open public hearing shall not be deemed a
16 waiver of the peer review privilege relating to any peer review committee
17 testimony, records or report.

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

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

41 (f) Nothing in this section shall be construed to prevent an insured
42 from obtaining information pertaining to payment of benefits under a
43 contract with an insurance company, a health maintenance organization or

1 an administrator of a health benefits plan.

2 Sec. ~~27~~ **24**. K.S.A. ~~2016~~ **2017** Supp. 65-4921 is hereby amended to
3 read as follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930, and
4 amendments thereto:

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

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

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

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

22 (e) "Medical care facility" means: (1) A medical care facility licensed
23 under K.S.A. 65-425 et seq., and amendments thereto; (2) a private
24 psychiatric hospital licensed under K.S.A. ~~75-3307b~~ **2016** **2017** Supp. 39-
25 *2001 et seq.*, and amendments thereto; and (3) state psychiatric hospitals
26 and state institutions for people with intellectual disability, as follows:
27 Larned state hospital, Osawatomie state hospital, Rainbow mental health
28 facility, Kansas neurological institute and Parsons state hospital and
29 training center.

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

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

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

38 Sec. ~~28~~ **25**. K.S.A. ~~2016~~ **2017** Supp. 65-5601 is hereby amended to
39 read as follows: 65-5601. As used in K.S.A. 65-5601 ~~to~~ *through* 65-5605-
40 ~~inclusive~~, and amendments thereto:

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

43 (b) "Treatment personnel" means any employee of a treatment facility

1 who receives a confidential communication from a patient while engaged
2 in the diagnosis or treatment of a mental, alcoholic, drug dependency or
3 emotional condition, if such communication was not intended to be
4 disclosed to third persons.

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

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

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

12 (f) "Community mental health center" means ~~a mental health clinic or~~
13 ~~community mental health center licensed under K.S.A. 75-3307b~~ *the same*
14 *as defined in K.S.A. ~~2016~~ 2017 Supp. 39-2002*, and amendments thereto.

15 (g) "Psychiatric hospital" means Larned state hospital, Osawatomie
16 state hospital, Rainbow mental health facility, Topeka state hospital and
17 hospitals licensed under K.S.A. ~~75-3307b~~ *2016 2017 Supp. 39-2001 et*
18 *seq.*, and amendments thereto.

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

22 (i) "Community service provider" means: (1) A community facility
23 for people with intellectual disability organized pursuant to the provisions
24 of K.S.A. 19-4001 through 19-4015, and amendments thereto, and
25 licensed in accordance with the provisions of K.S.A. ~~75-3307b~~ *2016 2017*
26 *Supp. 39-2001 et seq.*, and amendments thereto; (2) community service
27 provider as provided in the developmental disabilities reform act; or (3) a
28 nonprofit corporation ~~which~~ *that* provides services for people with
29 intellectual disability pursuant to a contract with an intellectual disability
30 governing board.

31 ~~Sec. 29. K.S.A. 2016 Supp. 65-6805 is hereby amended to read as~~
32 ~~follows: 65-6805. Each medical care facility as defined by subsection (h)~~
33 ~~of K.S.A. 65-425(h), and amendments thereto; health care provider as~~
34 ~~defined in K.S.A. 40-3401, and amendments thereto; providers of health~~
35 ~~care as defined in subsection (f) of K.S.A. 65-5001(f), and amendments~~
36 ~~thereto; health care personnel as defined in subsection (e) of K.S.A. 65-~~
37 ~~5001(e), and amendments thereto; home health agency as defined by~~
38 ~~subsection (b) of in K.S.A. 65-5101(b), and amendments thereto;~~
39 ~~psychiatric hospitals licensed under K.S.A. 75-3307b 2016 Supp. 39-2001~~
40 ~~et seq., and amendments thereto; state institutions for people with~~
41 ~~intellectual disability; community facilities for people with intellectual~~
42 ~~disability as defined under K.S.A. 65-4412, and amendments thereto;~~
43 ~~community mental health center as defined under K.S.A. 65-4432, and~~

1 ~~amendments thereto; adult care homes as defined by K.S.A. 39-923, and~~
2 ~~amendments thereto; laboratories described in K.S.A. 65-1,107, and~~
3 ~~amendments thereto; pharmacies; board of nursing; Kansas dental board;~~
4 ~~board of examiners in optometry; state board of pharmacy; state board of~~
5 ~~healing arts and third-party payors, including, but not limited to, licensed~~
6 ~~insurers, medical and hospital service corporations, health maintenance~~
7 ~~organizations, fiscal intermediaries for government-funded programs and~~
8 ~~self-funded employee health plans, shall file health care data with the~~
9 ~~department of health and environment as prescribed by the secretary of~~
10 ~~health and environment. The provisions of this section shall not apply to~~
11 ~~any individual, facility or other entity under this section which *that* uses~~
12 ~~spiritual means through prayer alone in accordance with the tenets and~~
13 ~~practices of a recognized church or religious denomination for the~~
14 ~~treatment or cure of disease.~~

15 ~~Sec. 30. K.S.A. 74-3292 is hereby amended to read as follows: 74-~~
16 ~~3292. As used in this act:~~

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

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

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

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

28 ~~(e) "Sponsor" means any adult care home licensed under the adult~~
29 ~~care home licensure act, any medical care facility licensed under K.S.A.~~
30 ~~65-425 et seq., and amendments thereto, any psychiatric hospital licensed~~
31 ~~under K.S.A. 75-3307b 2016 Supp. 39-2001 et seq., and amendments~~
32 ~~thereto, any home health agency licensed under K.S.A. 65-5101 et seq.,~~
33 ~~and amendments thereto, any local health department as defined in K.S.A.~~
34 ~~65-241, and amendments thereto, and any state agency which employs~~
35 ~~licensed practical nurses or licensed professional nurses.~~

36 ~~Sec. 26. K.S.A. 2017 Supp. 65-6805 is hereby amended to read as~~
37 ~~follows: 65-6805. Each medical care facility as defined by K.S.A. 65-~~
38 ~~425, and amendments thereto; health care provider as defined in~~
39 ~~K.S.A. 40-3401, and amendments thereto; providers of health care as~~
40 ~~defined in K.S.A. 65-5001, and amendments thereto; health care~~
41 ~~personnel as defined in K.S.A. 65-5001, and amendments thereto;~~
42 ~~home health agency as defined by K.S.A. 65-5101, and amendments~~
43 ~~thereto; psychiatric hospitals licensed under K.S.A. 75-3307b 2017~~

1 *Supp. 39-2001 et seq.*, and amendments thereto; state institutions for
 2 people with intellectual disability; community facilities for people with
 3 intellectual disability as defined under K.S.A. 65-4412, and
 4 amendments thereto; community mental health center as defined
 5 under K.S.A. 65-4432, and amendments thereto; adult care homes as
 6 defined by K.S.A. 39-923, and amendments thereto; laboratories
 7 described in K.S.A. 65-1,107, and amendments thereto; pharmacies;
 8 board of nursing; Kansas dental board; board of examiners in
 9 optometry; state board of pharmacy; state board of healing arts and
 10 third-party payors, including, but not limited to, licensed insurers,
 11 medical and hospital service corporations, health maintenance
 12 organizations, fiscal intermediaries for government-funded programs
 13 and self-funded employee health plans, shall file health care data with
 14 the department of health and environment as prescribed by the
 15 secretary of health and environment. The provisions of this section
 16 shall not apply to any individual, facility or other entity under this
 17 section ~~which~~ *that* uses spiritual means through prayer alone in
 18 accordance with the tenets and practices of a recognized church or
 19 religious denomination for the treatment or cure of disease.

20 ~~Sec. 31. 27.~~ K.S.A. ~~2016~~ 2017 Supp. 75-5923 is hereby amended to
 21 read as follows: 75-5923. (a) The secretary for aging and disability
 22 services shall establish a telephone system to assist older Kansans, friends
 23 and relatives of older Kansans and other persons in obtaining information
 24 about and access to services available to both institutionalized and non-
 25 institutionalized older Kansans. The telephone system shall be designed to
 26 permit any person in the state to place a toll-free call into the system.

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

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

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

33 (3) develop policies and procedures to maintain confidentiality of
 34 requests for assistance;

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

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

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

41 (c) Upon written notification by the secretary for aging and disability
 42 services, every adult care home, as defined in ~~subsection (a)(1) of~~ K.S.A.
 43 39-923(a)(1), and amendments thereto, title XX adult residential home

1 licensed under K.S.A. ~~75-3307b-2016~~ **2017 Supp. 39-2001 et seq.**, and
2 amendments thereto, recuperation center, as defined in ~~subsection (g) of~~
3 K.S.A. 65-425(g), and amendments thereto, intermediate care facility, as
4 defined in section 1905(c) of the federal social security act, skilled nursing
5 facility, as defined in section 1861(j) of the federal social security act, and
6 any other institution or facility ~~which~~ *that* is licensed or certified by the
7 state, ~~which~~ *that* offers health, social or dietary care to elderly persons on a
8 regular basis; and ~~which~~ *that* is financed in whole or in part by funds from
9 the federal government, the state of Kansas, or any political subdivision
10 thereof, shall prominently display notice of the existence of the toll-free
11 telephone system established under this section and the telephone number
12 of such system.

13 ~~Sec. 32.~~ **28.** K.S.A. ~~2016~~ **2017 Supp. 75-6102** is hereby amended to
14 read as follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
15 amendments thereto, unless the context clearly requires otherwise:

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

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

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

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

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

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

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

43 (E) a person who is an employee or volunteer of a nonprofit program,

1 other than a municipality, who has contracted with the commissioner of
2 juvenile justice or with another nonprofit program that has contracted with
3 the secretary of corrections to provide a juvenile justice program for
4 juvenile offenders in a judicial district provided that such employee or
5 volunteer does not otherwise have coverage for such acts and omissions
6 within the scope of their employment or volunteer activities through a
7 liability insurance contract of such nonprofit program;

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

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

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

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

18 (J) any member of a regional search and rescue team or regional
19 hazardous materials response team contracting with the state fire marshal
20 pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. ~~2016~~ 2017
21 Supp. 75-1518, and amendments thereto, in connection with authorized
22 training or upon activation for an emergency response; and

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

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

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

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

42 (1) The secretary of health and environment under K.S.A. 75-6120,
43 and amendments thereto, who, pursuant to such agreement, gratuitously

1 renders professional services to a person who has provided information
2 ~~which~~ *that* would reasonably lead the healthcare provider to make the
3 good faith assumption that such person meets the definition of medically
4 indigent person as defined by this section or to a person receiving medical
5 assistance from the programs operated by the department of health and
6 environment, and who is considered an employee of the state of Kansas
7 under K.S.A. 75-6120, and amendments thereto;

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

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

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

39 (f) "Medically indigent person" means a person who lacks resources
40 to pay for medically necessary healthcare services and who meets the
41 eligibility criteria for qualification as a medically indigent person
42 established by the secretary of health and environment under K.S.A. 75-
43 6120, and amendments thereto.

1 (g) "Indigent healthcare clinic" means an outpatient medical care
2 clinic operated on a not-for-profit basis ~~which~~ *that* has a contractual
3 agreement in effect with the secretary of health and environment to
4 provide healthcare services to medically indigent persons.

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

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

13 (j) "Community mental health center" means ~~any community mental~~
14 ~~health center organized pursuant to K.S.A. 19-4001 through 19-4015, and~~
15 ~~amendments thereto, or a mental health clinic organized pursuant to~~
16 ~~K.S.A. 65-211 through 65-215, and amendments thereto, and licensed in~~
17 ~~accordance with K.S.A. 75-3307b~~ *the same as defined in K.S.A. 2016 2017*
18 *Supp. 39-2002*, and amendments thereto.

19 ~~Sec. 33. 29.~~ K.S.A. ~~2016~~ 2017 Supp. 79-201b is hereby amended to
20 read as follows: 79-201b. The following described property, to the extent
21 herein specified, shall be and is hereby exempt from all property or ad
22 valorem taxes levied under the laws of the state of Kansas:

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

1 purposes enumerated in this paragraph or paragraph second of K.S.A. 79-
2 201, and amendments thereto, by more than one agency or organization for
3 one or more of such purposes.

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

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

1 to engage in business in this state as a foreign, not-for-profit corporation,
2 charges to residents for services of which produce an amount ~~which~~ *that* in
3 the aggregate is less than the actual cost of operation of the home or the
4 services of which are provided to residents at the lowest feasible cost,
5 taking into consideration such items as reasonable depreciation and
6 interest on indebtedness, and contributions to which are deductible under
7 the Kansas income tax act; and all intangible property including moneys,
8 notes and other evidences of debt, and the income therefrom, belonging
9 exclusively to such a corporation and used exclusively for children's home
10 purposes.

11 *Fourth.* All real property and tangible personal property, actually and
12 regularly used exclusively for: (a) Housing for elderly and handicapped
13 persons having a limited or lower income, or used exclusively for
14 cooperative housing for persons having a limited or low income, assistance
15 for the financing of which was received under 12 U.S.C.A. § 1701 et seq.,
16 or under 42 U.S.C.A. § 1437 et seq., ~~which~~ *that* is operated by a
17 corporation organized not for profit under the laws of the state of Kansas
18 or by a corporation organized not for profit under the laws of another state
19 and duly admitted to engage in business in this state as a foreign, not-for-
20 profit corporation; and (b) for all taxable years commencing after
21 December 31, 2006, temporary housing of 24 months or less for limited or
22 low income, single-parent families in need of financial assistance who are
23 enrolled in a program to receive life training skills, ~~which~~ *that* is operated
24 by a charitable or religious organization; and all intangible property
25 including moneys, notes and other evidences of debt, and the income
26 therefrom, belonging exclusively to such a corporation and used
27 exclusively for the purposes of such housing. For the purposes of this
28 subsection, cooperative housing means those not-for-profit cooperative
29 housing projects operating or established pursuant to sections 236 or
30 221(d)(3), or both, of the national housing act and which have been
31 approved as a cooperative housing project pursuant to applicable federal
32 housing administration and U.S. department of housing and urban
33 development statutes, and rules and regulations, during such time as the
34 use of such properties are: (1) Restricted pursuant to such act, or rules and
35 regulations thereof; or (2) subject to affordability financing standards
36 established pursuant to the national housing act during such time that such
37 not-for-profit corporation has adopted articles of incorporation or by-laws,
38 or both, requiring such corporation to continue to operate in compliance
39 with the United States department of housing and urban development
40 affordability income guidelines established pursuant to sections 236 or
41 221(d)(3) of the national housing act or rules and regulations thereof.

42 *Fifth.* All real property and tangible personal property, actually and
43 regularly used exclusively for housing for elderly persons, ~~which~~ *that* is

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

22 *Sixth.* All real property and tangible personal property actually and
23 regularly used exclusively for the purpose of group housing of mentally ill
24 ~~or retarded and other handicapped persons~~ *which or individuals with*
25 *intellectual or other disabilities* *that* is operated by a corporation
26 organized not for profit under the laws of the state of Kansas or by a
27 corporation organized not for profit under the laws of another state and
28 duly admitted to engage in business in this state as a foreign, not-for-profit
29 corporation, in which charges to residents produce an amount ~~which~~ *that*
30 in the aggregate is less than the actual cost of operation of the housing
31 facility or the services of which are provided to residents at the lowest
32 feasible cost, taking into consideration such items as reasonable
33 depreciation and interest on indebtedness and contributions to which are
34 deductible under the Kansas income tax act, and ~~which~~ *that* is licensed as a
35 facility for the housing of mentally ill ~~or retarded and other handicapped~~
36 *persons or individuals with intellectual or other disabilities* under the
37 provisions of K.S.A. ~~75-3307b-2016~~ 2017 *Supp. 39-2001 et seq.*, and
38 amendments thereto, or as a rooming or boarding house used as a facility
39 for the housing of ~~mentally retarded and other handicapped persons~~ *which*
40 *individuals with intellectual or other disabilities* *that* is licensed as a
41 lodging establishment under the provisions of K.S.A. 36-501 et seq., and
42 amendments thereto.

43 The provisions of this section, except as otherwise specifically

1 provided, shall apply to all taxable years commencing after December 31,
2 1998.

3 ~~Sec. 34.~~ **30.** K.S.A. ~~2016~~ **2017** Supp. 79-3606 is hereby amended to
4 read as follows: 79-3606. The following shall be exempt from the tax
5 imposed by this act:

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

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

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

42 (d) all sales of tangible personal property or services purchased by a
43 contractor for the purpose of constructing, equipping, reconstructing,

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

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

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

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

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

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

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

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

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

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

43 (l) all isolated or occasional sales of tangible personal property,

1 services, substances or things, except isolated or occasional sale of motor
2 vehicles specifically taxed under the provisions of K.S.A. 79-3603(o), and
3 amendments thereto;

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

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

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

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

43 (q) all sales of insulin dispensed by a person licensed by the state

1 board of pharmacy to a person for treatment of diabetes at the direction of
2 a person licensed to practice medicine by the *state* board of healing arts;

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

23 (s) except as provided in K.S.A. ~~2016~~ **2017** Supp. 82a-2101, and
24 amendments thereto, all sales of tangible personal property or services
25 purchased directly or indirectly by a groundwater management district
26 organized or operating under the authority of K.S.A. 82a-1020 et seq., and
27 amendments thereto, by a rural water district organized or operating under
28 the authority of K.S.A. 82a-612, and amendments thereto, or by a water
29 supply district organized or operating under the authority of K.S.A. 19-
30 3501 et seq., 19-3522 et seq.; or 19-3545, and amendments thereto, which
31 property or services are used in the construction activities, operation or
32 maintenance of the district;

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

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

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

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

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

43 (x) all sales of propane gas, LP-gas, coal, wood and other fuel sources

1 for the production of heat or lighting for noncommercial use of an
2 occupant of residential premises occurring prior to January 1, 2006;

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

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

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

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

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

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

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

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

27 (ff) on and after July 1, 1988, all sales of new mobile homes or
28 manufactured homes to the extent of 40% of the gross receipts, determined
29 without regard to any trade-in allowance, received from such sale. As used
30 in this subsection, "mobile homes" and "manufactured homes"~~shall have~~
31 ~~the meanings ascribed thereto by~~ *mean the same as defined in* K.S.A. 58-
32 4202, and amendments thereto;

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

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

1 repeated use, is primarily and customarily used to serve a medical purpose,
2 generally is not useful to a person in the absence of illness or injury and is
3 not worn in or on the body, but does not include mobility enhancing
4 equipment as defined in subsection (r), oxygen delivery equipment, kidney
5 dialysis equipment or enteral feeding systems;

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

12 (jj) all sales of tangible personal property or services, including the
13 renting and leasing of tangible personal property, purchased directly on
14 behalf of a community-based facility for people with intellectual disability
15 or mental health center organized pursuant to K.S.A. 19-4001 et seq., and
16 amendments thereto, and licensed in accordance with the provisions of
17 ~~K.S.A. 75-3307b-2016~~ **2017 Supp. 39-2001 et seq.**, and amendments
18 thereto, and all sales of tangible personal property or services purchased
19 by contractors during the time period from July, 2003, through June, 2006,
20 for the purpose of constructing, equipping, maintaining or furnishing a
21 new facility for a community-based facility for people with intellectual
22 disability or mental health center located in Riverton, Cherokee County,
23 Kansas, ~~which~~ *that* would have been eligible for sales tax exemption
24 pursuant to this subsection if purchased directly by such facility or center.
25 This exemption shall not apply to tangible personal property customarily
26 used for human habitation purposes;

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

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

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

34 (2) For purposes of this subsection:

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

1 control operations, if any;

2 (B) "production line" means the assemblage of machinery and
3 equipment at a manufacturing or processing plant or facility where the
4 actual transformation or processing of tangible personal property occurs;

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

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

1 prepare food products in the regular course of their retail trade, grocery
2 stores, meat lockers and meat markets that butcher or dress livestock or
3 poultry in the regular course of their retail trade, contractors who alter,
4 service, repair or improve real property, and retail businesses that clean,
5 service or refurbish and repair tangible personal property for its owner;

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

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

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

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

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

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

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

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

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

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

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

41 (I) to transmit or transport electricity, coke, gas, water, steam or
42 similar substances used in production operations from the point of
43 generation, if produced by the manufacturer or processor at the plant site,

1 to that manufacturer's production operation; or, if purchased or delivered
2 from off-site, from the point where the substance enters the site of the
3 plant or facility to that manufacturer's production operations;

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

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

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

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

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

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

41 (A) Machinery and equipment used for nonproduction purposes,
42 including, but not limited to, machinery and equipment used for plant
43 security, fire prevention, first aid, accounting, administration, record

1 keeping, advertising, marketing, sales or other related activities, plant
2 cleaning, plant communications; and employee work scheduling;

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

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

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

14 (E) furniture and other furnishings;

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

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

21 (H) machinery and equipment used for general plant heating, cooling
22 and lighting;

23 (I) motor vehicles that are registered for operation on public
24 highways; or

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

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

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

38 (II) all sales of educational materials purchased for distribution to the
39 public at no charge by a nonprofit corporation organized for the purpose of
40 encouraging, fostering and conducting programs for the improvement of
41 public health, except that for taxable years commencing after December
42 31, 2013, this subsection shall not apply to any sales of such materials
43 purchased by a nonprofit corporation which performs any abortion, as

1 defined in K.S.A. 65-6701, and amendments thereto;

2 (mm) all sales of seeds and tree seedlings; fertilizers, insecticides,
3 herbicides, germicides, pesticides and fungicides; and services, purchased
4 and used for the purpose of producing plants in order to prevent soil
5 erosion on land devoted to agricultural use;

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

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

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

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

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

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

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

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

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

1 or on behalf of any such organization for any such purpose:

- 2 (1) The American heart association, Kansas affiliate, inc. for the
3 purposes of providing education, training, certification in emergency
4 cardiac care, research and other related services to reduce disability and
5 death from cardiovascular diseases and stroke;
- 6 (2) the Kansas alliance for the mentally ill, inc. for the purpose of
7 advocacy for persons with mental illness and to education, research and
8 support for their families;
- 9 (3) the Kansas mental illness awareness council for the purposes of
10 advocacy for persons who are mentally ill and for education, research and
11 support for them and their families;
- 12 (4) the American diabetes association Kansas affiliate, inc. for the
13 purpose of eliminating diabetes through medical research, public education
14 focusing on disease prevention and education, patient education including
15 information on coping with diabetes, and professional education and
16 training;
- 17 (5) the American lung association of Kansas, inc. for the purpose of
18 eliminating all lung diseases through medical research, public education
19 including information on coping with lung diseases, professional education
20 and training related to lung disease and other related services to reduce the
21 incidence of disability and death due to lung disease;
- 22 (6) the Kansas chapters of the Alzheimer's disease and related
23 disorders association, inc. for the purpose of providing assistance and
24 support to persons in Kansas with Alzheimer's disease, and their families
25 and caregivers;
- 26 (7) the Kansas chapters of the Parkinson's disease association for the
27 purpose of eliminating Parkinson's disease through medical research and
28 public and professional education related to such disease;
- 29 (8) the national kidney foundation of Kansas and western Missouri
30 for the purpose of eliminating kidney disease through medical research
31 and public and private education related to such disease;
- 32 (9) the heartstrings community foundation for the purpose of
33 providing training, employment and activities for adults with
34 developmental disabilities;
- 35 (10) the cystic fibrosis foundation, heart of America chapter, for the
36 purposes of assuring the development of the means to cure and control
37 cystic fibrosis and improving the quality of life for those with the disease;
- 38 (11) the spina bifida association of Kansas for the purpose of
39 providing financial, educational and practical aid to families and
40 individuals with spina bifida. Such aid includes, but is not limited to,
41 funding for medical devices, counseling and medical educational
42 opportunities;
- 43 (12) the CHWC, Inc., for the purpose of rebuilding urban core

1 neighborhoods through the construction of new homes, acquiring and
2 renovating existing homes and other related activities, and promoting
3 economic development in such neighborhoods;

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

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

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

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

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

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

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

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

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

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

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

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

1 (ww) all sales of tangible personal property purchased by the habitat
2 for humanity for the exclusive use of being incorporated within a housing
3 project constructed by such organization;

4 (xx) all sales of tangible personal property and services purchased by
5 a nonprofit zoo—~~which~~ *that* is exempt from federal income taxation
6 pursuant to section 501(c)(3) of the federal internal revenue code of 1986,
7 or on behalf of such zoo by an entity itself exempt from federal income
8 taxation pursuant to section 501(c)(3) of the federal internal revenue code
9 of 1986 contracted with to operate such zoo and all sales of tangible
10 personal property or services purchased by a contractor for the purpose of
11 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
12 furnishing or remodeling facilities for any nonprofit zoo—~~which~~ *that* would
13 be exempt from taxation under the provisions of this section if purchased
14 directly by such nonprofit zoo or the entity operating such zoo. Nothing in
15 this subsection 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 nonprofit zoo. When any nonprofit zoo shall contract for
19 the purpose of constructing, equipping, reconstructing, maintaining,
20 repairing, enlarging, furnishing or remodeling facilities, it shall obtain
21 from the state and furnish to the contractor an exemption certificate for the
22 project involved, and the contractor may purchase materials for
23 incorporation in such project. The contractor shall furnish the number of
24 such certificate to all suppliers from whom such purchases are made, and
25 such suppliers shall execute invoices covering the same bearing the
26 number of such certificate. Upon completion of the project the contractor
27 shall furnish to the nonprofit zoo concerned a sworn statement, on a form
28 to be provided by the director of taxation, that all purchases so made were
29 entitled to exemption under this subsection. All invoices shall be held by
30 the contractor for a period of five years and shall be subject to audit by the
31 director of taxation. If any materials purchased under such a certificate are
32 found not to have been incorporated in the building or other project or not
33 to have been returned for credit or the sales or compensating tax otherwise
34 imposed upon such materials—~~which~~ *that* will not be so incorporated in the
35 building or other project reported and paid by such contractor to the
36 director of taxation not later than the 20th day of the month following the
37 close of the month in which it shall be determined that such materials will
38 not be used for the purpose for which such certificate was issued, the
39 nonprofit zoo concerned shall be liable for tax on all materials purchased
40 for the project, and upon payment thereof it may recover the same from
41 the contractor together with reasonable attorney fees. Any contractor or
42 any agent, employee or subcontractor thereof, who shall use or otherwise
43 dispose of any materials purchased under such a certificate for any purpose

1 other than that for which such a certificate is issued without the payment
2 of the sales or compensating tax otherwise imposed upon such materials,
3 shall be guilty of a misdemeanor and, upon conviction therefor, shall be
4 subject to the penalties provided for in K.S.A. 79-3615(h), and
5 amendments thereto;

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

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

19 (aaa) all sales of tangible personal property and services purchased by
20 a religious organization ~~which~~ *that* is exempt from federal income taxation
21 pursuant to section 501(c)(3) of the federal internal revenue code, and used
22 exclusively for religious purposes, and all sales of tangible personal
23 property or services purchased by a contractor for the purpose of
24 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
25 furnishing or remodeling facilities for any such organization ~~which~~ *that*
26 would be exempt from taxation under the provisions of this section if
27 purchased directly by such organization. Nothing in this subsection shall
28 be deemed to exempt the purchase of any construction machinery,
29 equipment or tools used in the constructing, equipping, reconstructing,
30 maintaining, repairing, enlarging, furnishing or remodeling facilities for
31 any such organization. When any such organization shall contract for the
32 purpose of constructing, equipping, reconstructing, maintaining, repairing,
33 enlarging, furnishing or remodeling facilities, it shall obtain from the state
34 and furnish to the contractor an exemption certificate for the project
35 involved, and the contractor may purchase materials for incorporation in
36 such project. The contractor shall furnish the number of such certificate to
37 all suppliers from whom such purchases are made, and such suppliers shall
38 execute invoices covering the same bearing the number of such certificate.
39 Upon completion of the project the contractor shall furnish to such
40 organization concerned a sworn statement, on a form to be provided by the
41 director of taxation, that all purchases so made were entitled to exemption
42 under this subsection. All invoices shall be held by the contractor for a
43 period of five years and shall be subject to audit by the director of taxation.

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

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

35 (ccc) on and after July 1, 1999, all sales of tangible personal property
36 and services purchased by a primary care clinic or health center the
37 primary purpose of which is to provide services to medically underserved
38 individuals and families, and—~~which~~ *that* is exempt from federal income
39 taxation pursuant to section 501(c)(3) of the federal internal revenue code,
40 and 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 such clinic or center—~~which~~ *that* would be exempt from taxation under

1 the provisions of this section if purchased directly by such clinic or center,
2 except that for taxable years commencing after December 31, 2013, this
3 subsection shall not apply to any sales of such tangible personal property
4 and services purchased by a primary care clinic or health center which
5 performs any abortion, as defined in K.S.A. 65-6701, and amendments
6 thereto. Nothing in this subsection shall be deemed to exempt the purchase
7 of any construction machinery, equipment or tools used in the
8 constructing, equipping, reconstructing, maintaining, repairing, enlarging,
9 furnishing or remodeling facilities for any such clinic or center. When any
10 such clinic or center shall contract for the purpose of constructing,
11 equipping, reconstructing, maintaining, repairing, enlarging, furnishing or
12 remodeling facilities, it shall obtain from the state and furnish to the
13 contractor an exemption certificate for the project involved, and the
14 contractor may purchase materials for incorporation in such project. The
15 contractor shall furnish the number of such certificate to all suppliers from
16 whom such purchases are made, and such suppliers shall execute invoices
17 covering the same bearing the number of such certificate. Upon
18 completion of the project the contractor shall furnish to such clinic or
19 center concerned a sworn statement, on a form to be provided by the
20 director of taxation, that all purchases so made were entitled to exemption
21 under this subsection. All invoices shall be held by the contractor for a
22 period of five years and shall be subject to audit by the director of taxation.
23 If any materials purchased under such a certificate are found not to have
24 been incorporated in the building or other project or not to have been
25 returned for credit or the sales or compensating tax otherwise imposed
26 upon such materials ~~which~~ that will not be so incorporated in the building
27 or other project reported and paid by such contractor to the director of
28 taxation not later than the 20th day of the month following the close of the
29 month in which it shall be determined that such materials will not be used
30 for the purpose for which such certificate was issued, such clinic or center
31 concerned shall be liable for tax on all materials purchased for the project,
32 and upon payment thereof it may recover the same from the contractor
33 together with reasonable attorney fees. Any contractor or any agent,
34 employee or subcontractor thereof, who shall use or otherwise dispose of
35 any materials purchased under such a certificate for any purpose other than
36 that for which such a certificate is issued without the payment of the sales
37 or compensating tax otherwise imposed upon such materials, shall be
38 guilty of a misdemeanor and, upon conviction therefor, shall be subject to
39 the penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

40 (ddd) on and after January 1, 1999, and before January 1, 2000, all
41 sales of materials and services purchased by any class II or III railroad as
42 classified by the federal surface transportation board for the construction,
43 renovation, repair or replacement of class II or III railroad track and

1 facilities used directly in interstate commerce. In the event any such track
2 or facility for which materials and services were purchased sales tax
3 exempt is not operational for five years succeeding the allowance of such
4 exemption, the total amount of sales tax—~~which~~ *that* would have been
5 payable except for the operation of this subsection shall be recouped in
6 accordance with rules and regulations adopted for such purpose by the
7 secretary of revenue;

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

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

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

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

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

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

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

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

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

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

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

43 (ooo) all sales of tangible personal property by or on behalf of a

1 public library serving the general public and supported in whole or in part
2 with tax money or a not-for-profit organization whose purpose is to raise
3 funds for or provide services or other benefits to any such public library;

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

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

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

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

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

1 whom such purchases are made, and such suppliers shall execute invoices
2 covering the same bearing the number of such certificate. Upon
3 completion of the project the contractor shall furnish to charitable family
4 providers 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 the building or other
12 project reported and paid by such contractor to the director of taxation not
13 later than the 20th day of the month following the close of the month in
14 which it shall be determined that such materials will not be used for the
15 purpose for which such certificate was issued, charitable family providers
16 shall be liable for tax on all materials purchased for the project, and upon
17 payment thereof it may recover the same from the contractor together with
18 reasonable attorney fees. Any contractor or any agent, employee or
19 subcontractor thereof, who shall use or otherwise dispose of any materials
20 purchased under such a certificate for any purpose other than that for
21 which such a certificate is issued without the payment of the sales or
22 compensating tax otherwise imposed upon such materials, shall be guilty
23 of a misdemeanor and, upon conviction therefor, shall be subject to the
24 penalties provided for in K.S.A. 79-3615(h), and amendments thereto;

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

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

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

1 furnishing or remodeling such facilities, it shall obtain from the state and
2 furnish to the contractor an exemption certificate for the project involved,
3 and the contractor may purchase materials for incorporation in such
4 project. The contractor shall furnish the number of such certificate to all
5 suppliers from whom such purchases are made, and such suppliers shall
6 execute invoices covering the same bearing the number of such certificate.
7 Upon completion of the project the contractor shall furnish to KCSL a
8 sworn statement, on a form to be provided by the director of taxation, that
9 all purchases so made were entitled to exemption under this subsection.
10 All invoices shall be held by the contractor for a period of five years and
11 shall be subject to audit by the director of taxation. If any materials
12 purchased under such a certificate are found not to have been incorporated
13 in the building or other project or not to have been returned for credit or
14 the sales or compensating tax otherwise imposed upon such materials
15 ~~which~~ *that* will not be so incorporated in the building or other project
16 reported and paid by such contractor to the director of taxation not later
17 than the 20th day of the month following the close of the month in which it
18 shall be determined that such materials will not be used for the purpose for
19 which such certificate was issued, KCSL shall be liable for tax on all
20 materials purchased for the project, and upon payment thereof it may
21 recover the same from the contractor together with reasonable attorney
22 fees. Any contractor or any agent, employee or subcontractor thereof, who
23 shall use or otherwise dispose of any materials purchased under such a
24 certificate for any purpose other than that for which such a certificate is
25 issued without the payment of the sales or compensating tax otherwise
26 imposed upon such materials, shall be guilty of a misdemeanor and, upon
27 conviction therefor, shall be subject to the penalties provided for in K.S.A.
28 79-3615(h), and amendments thereto;

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

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

43 (xxx) all sales of personal property and services purchased by the

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

1 in K.S.A. 79-3615(h), and amendments thereto. Sales tax paid on and after
2 January 1, 2007, but prior to the effective date of this act upon the gross
3 receipts received from any sale which would have been exempted by the
4 provisions of this subsection had such sale occurred after the effective date
5 of this act shall be refunded. Each claim for a sales tax refund shall be
6 verified and submitted to the director of taxation upon forms furnished by
7 the director and shall be accompanied by any additional documentation
8 required by the director. The director shall review each claim and shall
9 refund that amount of sales tax paid as determined under the provisions of
10 this subsection. All refunds shall be paid from the sales tax refund fund
11 upon warrants of the director of accounts and reports pursuant to vouchers
12 approved by the director or the director's designee;

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

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

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

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

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

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

40 (dddd) all sales of tangible personal property or services purchased
41 by or on behalf of goodwill industries or Easter seals of Kansas, inc., both
42 of which are exempt from federal income taxation pursuant to section
43 501(c)(3) of the federal internal revenue code, for the purpose of providing

1 education, training and employment opportunities for people with
2 disabilities and other barriers to employment;

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

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

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

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

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

43 (iiii) all sales of tangible personal property or services purchased by a

1 contractor for the purpose of constructing, maintaining, repairing,
2 enlarging, furnishing or remodeling facilities for the operation of services
3 for Wichita children's home for any such purpose—~~which~~ *that* would be
4 exempt from taxation under the provisions of this section if purchased
5 directly by Wichita children's home. Nothing in this subsection shall be
6 deemed to exempt the purchase of any construction machinery, equipment
7 or tools used in the constructing, maintaining, repairing, enlarging,
8 furnishing or remodeling such facilities for Wichita children's home. When
9 Wichita children's home contracts for the purpose of constructing,
10 maintaining, repairing, enlarging, furnishing or remodeling such facilities,
11 it shall obtain from the state and furnish to the contractor an exemption
12 certificate for the project involved, and the contractor may purchase
13 materials for incorporation in such project. The contractor shall furnish the
14 number of such certificate to all suppliers from whom such purchases are
15 made, and such suppliers shall execute invoices covering the same bearing
16 the number of such certificate. Upon completion of the project, the
17 contractor shall furnish to Wichita children's home a sworn statement, on a
18 form to be provided by the director of taxation, that all purchases so made
19 were entitled to exemption under this subsection. All invoices shall be held
20 by the contractor for a period of five years and shall be subject to audit by
21 the director of taxation. If any materials purchased under such a certificate
22 are found not to have been incorporated in the building or other project or
23 not to have been returned for credit or the sales or compensating tax
24 otherwise imposed upon such materials—~~which~~ *that* will not be so
25 incorporated in the building or other project reported and paid by such
26 contractor to the director of taxation not later than the 20th day of the
27 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, Wichita children's home shall be liable for the tax
30 on all materials purchased for the project, and upon payment, it may
31 recover the same from the contractor together with reasonable attorney
32 fees. Any contractor or any agent, employee or subcontractor, who shall
33 use or otherwise dispose of any materials purchased under such a
34 certificate for any purpose other than that for which such a certificate is
35 issued without the payment of the sales or compensating tax otherwise
36 imposed upon such materials, shall be guilty of a misdemeanor and, upon
37 conviction, shall be subject to the penalties provided for in K.S.A. 79-
38 3615(h), and amendments thereto;

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

1 (kkkk) all sales of tangible personal property and services purchased
2 by or on behalf of reaching out from within, 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 sponsoring self-help programs for
5 incarcerated persons that will enable such incarcerated persons to become
6 role models for non-violence while in correctional facilities and productive
7 family members and citizens upon return to the community; and

8 (llll) all sales of tangible personal property and services purchased by
9 Gove county healthcare endowment foundation, inc., which is exempt
10 from federal income taxation pursuant to section 501(c)(3) of the federal
11 internal revenue code of 1986, and which such property and services are
12 used for the purpose of constructing and equipping an airport in Quinter,
13 Kansas, and all sales of tangible personal property or services purchased
14 by a contractor for the purpose of constructing and equipping an airport in
15 Quinter, Kansas, for such organization, ~~which~~ *that* would be exempt from
16 taxation under the provisions of this section if purchased directly by such
17 organization. Nothing in this subsection shall be deemed to exempt the
18 purchase of any construction machinery, equipment or tools used in the
19 constructing or equipping of facilities for such organization. When such
20 organization shall contract for the purpose of constructing or equipping an
21 airport in Quinter, Kansas, it shall obtain from the state and furnish to the
22 contractor an exemption certificate for the project involved, and the
23 contractor may purchase materials for incorporation in such project. The
24 contractor shall furnish the number of such certificate to all suppliers from
25 whom such purchases are made, and such suppliers shall execute invoices
26 covering the same bearing the number of such certificate. Upon
27 completion of the project, the contractor shall furnish to such organization
28 concerned a sworn statement, on a form to be provided by the director of
29 taxation, that all purchases so made were entitled to exemption under this
30 subsection. All invoices shall be held by the contractor for a period of five
31 years and shall be subject to audit by the director of taxation. If any
32 materials purchased under such a certificate are found not to have been
33 incorporated in such facilities or not to have been returned for credit or the
34 sales or compensating tax otherwise imposed upon such materials ~~which~~
35 *that* will not be so incorporated in such facilities reported and paid by such
36 contractor to the director of taxation no later than the 20th day of the month
37 following the close of the month in which it shall be determined that such
38 materials will not be used for the purpose for which such certificate was
39 issued, such organization concerned shall be liable for tax on all materials
40 purchased for the project, and upon payment thereof it may recover the
41 same from the contractor together with reasonable attorney fees. Any
42 contractor or any agent, employee or subcontractor thereof, who purchased
43 under such a certificate for any purpose other than that for which such a

1 certificate is issued without the payment of the sales or compensating tax
2 otherwise imposed upon such materials, shall be guilty of a misdemeanor
3 and, upon conviction therefor, shall be subject to the penalties provided for
4 in K.S.A. 79-3615(h), and amendments thereto. The provisions of this
5 subsection shall expire and have no effect on and after July 1, 2019.

6 ~~Sec. 35.~~ **31.** K.S.A. 19-4016, 40-2,116, **and** 40-12a01 and ~~74-3292~~
7 ~~and~~ K.S.A. ~~2016~~ **2017** Supp. 12-736, 21-5417, 21-6109, 22-4612, 36-501,
8 39-1430, 39-1431, 39-1433, 39-1602, 39-1903, 40-2,105, 40-2,105a, 40-
9 3401, 40-3403, 59-2946, 59-29b46, 59-3077, ~~65-1626, 65-1669, 65-2895,~~
10 65-4412, 65-4432, 65-4915, 65-4921, 65-5601, 65-6805, 75-5923, 75-
11 6102, 79-201b and 79-3606 are hereby repealed.

12 ~~Sec. 36.~~ **32.** This act shall take effect and be in force from and after
13 its publication in the statute book.