Brief*

Sub. for SB 131 would permit the issuance of a sports waiver for certain health care professionals; amend a provision in the Pharmacy Act of the State of Kansas to add pharmacy technicians who meet age and supervision oversight parameters to the list of those authorized to administer vaccinations after successfully completing an appropriate course of study and training; and modify several requirements for some of the professions licensed by the Behavioral Science Regulatory Board (BSRB), add new temporary licensure categories, and establish requirements for an expedited application process.

Sports Waiver

The bill would authorize certain health care professionals licensed in a home state other than Kansas and traveling with a sports team to practice their profession within Kansas for a short period of time during certain sporting events under a sports waiver issued by the State Board of Healing Arts (Board). Health care services could be provided only on behalf of team members and coaching staff during sporting events pursuant to a contract with a sports team to provide such services, upon invitation by a national sports governing body to provide medical services at a national sports training center in Kansas, or at events or competitions sanctioned by a national sports governing body.

The bill would establish a process for sports waivers for health care professionals licensed by the Board, authorize the Board to issue such waivers, set limitations on the frequency and duration of the waivers, and address scope of practice requirements, compliance with Kansas rules and regulations, and reporting of any potential violation of the Healing Arts Act or other applicable practice act to the Board. Additionally, the bill would provide the Board with rules and regulations authority to implement the bill’s provisions, authorize the Board to establish procedures to allow sports waivers for other health care professions, and make the provisions of the bill part of and supplemental to the Healing Arts Act.

Sports Waiver Process and Requirements for Physicians

The bill would require the Board to issue a sports waiver to an out-of-state physician within 15 days from receipt of a complete application if the physician:

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● Submits a complete application;

● Holds an unrestricted license in another state and is not the subject of any investigation or disciplinary action;

● Has professional liability insurance coverage for the duration of the sporting event at the minimum required levels to practice in Kansas; and
  ○ Has entered into a written agreement with a sports team to provide medical care to team members and coaching staff traveling with the team for a specific sporting event in Kansas; or
  ○ Has been invited by a national sport governing body to provide medical services to team members and coaching staff at a national sports training center in Kansas or to provide medical services at an event or competition sanctioned by a national sport governing body.

**Health Care Provider Practice Requirements**

The bill would require any individual who has been issued a sports waiver by the Board to practice within the scope of practice as defined by Kansas law for their health care profession and would limit health care services to be provided only for team members and coaching staff as required by written agreement with a sports team or health care services required by a national sport governing body.

The bill would also require a health care provider issued a sports waiver by the Board to adhere to all the rules and regulations pertaining to the health care profession in Kansas and would consider the health care professional to be a licensee of the Board.

**Practice Restrictions**

The bill would prohibit a physician exempt from state licensure due to the issuance of a sports waiver from providing health care or consultation to any individual residing in Kansas, other than those specifically authorized under the bill to receive health care services. The bill would also prohibit the practice of an individual's health care profession at a licensed health care facility in this state.

**Sports Waiver Limitations**

The bill would specify that a sports waiver would be valid for the duration of a sporting event, not to exceed 30 days, and would limit an individual to no more than 5 sports waivers per calendar year, except during an extenuating, unforeseen circumstance as approved by the Board.

**Reporting Requirements**

The bill would require an individual under a sports waiver or an out-of-state sports team to report to the Board any potential violation of the Healing Arts Act or other applicable practice act, including but not limited to, unprofessional conduct or professional incompetence.
Sports Waiver Denial

The bill would authorize the Board to deny an application for a sports waiver if the individual did not meet the technical qualifications or if granting the sports waiver could endanger the health and safety of the public.

Sports Waiver Rules and Regulations

The bill would authorize the Board to adopt rules and regulations necessary to implement the provisions of the bill, including procedures for reporting potential medical violations.

Sports Waivers for Other Board Licensed Health Care Professionals

The bill would authorize the Board to adopt procedures to allow other health care professionals licensed and regulated by the Board to be issued a sports waiver to ensure patient safety.

Inclusion in Healing Arts Act

The bill would add provisions of the bill pertaining to sports waivers to the Healing Arts Act.

Pharmacy Act Amendments—Vaccine Administration

The bill would amend a provision in the Pharmacy Act of the State of Kansas to add pharmacy technicians, at least 18 years of age and under the direct supervision and control of a pharmacist, to the list of those authorized to administer vaccinations after successfully completing a course of study and training in vaccination storage, protocols, injection technique, emergency procedures, record keeping, and cardiopulmonary resuscitation (CPR).

The bill would require a pharmacist, pharmacy student, or pharmacy intern to be at least 18 years of age to administer a vaccine.

Pharmacy technicians would be added to pharmacists, pharmacy students, and pharmacy interns as:

- Authorized to administer:
  - The influenza vaccine to persons six years of age or older; and
  - Vaccines other than the influenza vaccine, to persons 12 years of age or older pursuant to a vaccination protocol;
- Required to record the immunization to the appropriate physician for the individual receiving the immunization; and
- Prohibited from delegating authority to administer a vaccination.
The bill would reduce the number of months of practice prior to being eligible for reciprocity of licenses, increase the number of months that a temporary license is valid, reduce continuing education hours for professionals who diagnose, clarify the education requirements for marriage and family therapists, and clarify the disciplinary procedure for behavior analysts.

The bill would also add provisions for some of the professions including adding a process and timeline for the BSRB to follow when processing applications; definitions for “extenuating circumstances” and “merits the public trust”; a process for licensees to request additional time to complete continuing education requirement due to extenuating circumstances; temporary licenses for social work graduates of education programs seeking accreditation; a temporary reinstatement license for expired licenses; a temporary student license for addiction counseling; and a temporary license for some licensees who are employed by community mental health centers.

The bill would add provisions that would not permit a person who practiced under a student temporary addiction counselor license to practice under a community-based license in any of these licenses: professional counselor, social work, marriage and family therapy, or psychology. Additionally, the bill would not permit a person who practiced under a community-based license to practice addiction counseling under a student temporary addiction counselor license.

The bill would not permit a licensee to be issued a community-based license if they had previously held a temporary license in the same profession.

The bill would also make technical amendments. [Note: The changes made by this bill apply to multiple licenses but the change to each license type utilizes the same language. When only one license or group was impacted, the specific group is identified.]

Application Processing

The bill would specify applicants are to be notified by the BSRB as to the sufficiency of their application within 15 days of receipt. If the application is incomplete, the BSRB will advise what is needed to make the application complete. The bill would require decisions on completed applications to be issued within 30 business days.

The bill would add a requirement that the BSRB must adopt an expedited application process and that an application must be reviewed and have a decision rendered within 15 business days. The fee for expedited applications would be established by the BSRB in an amount that could not exceed $100 and would not be charged to a military servicemember or military spouse. The bill would define “military servicemember” and “military spouse.”

Modifications to Existing Licensure Requirements

Reciprocity of licenses. The bill would reduce the number of months of registration, certification, or licensure in another jurisdiction with a similar scope of practice needed for a reciprocal license from 48 of the last 54 months to 12 months for a professional counselor, social worker, marriage and family therapist, addiction counselor, and psychologist licenses.
Temporary licenses. The bill would amend the length of time a temporary license would be valid to 24 months for the following licenses: professional counselor, bachelor’s social work, master’s social work, marriage and family therapy, addiction counselor, master’s addiction counselor, and student addiction counselor.

Reduction in continuing education hours for some licensees. The bill would reduce to not less than three hours per renewal period for diagnosis and treatment of mental disorders of continuing education for those professional counselors, master social workers, specialist clinical social workers, and marriage and family therapists who diagnose and treat mental disorders. These requirements would take effect on and after July 1, 2025.

Reduction in credit hours for specialist clinical social workers. The bill would reduce the number of credit hours that support diagnosis or treatment of mental disorders required for specialist clinical social workers from 15 hours to 3 hours and specify that such hours would be in the study of psychopathology. The bill would also add “diagnostic impression” as a type of supervised clinical experience that would satisfy the graduate clinical practicum requirement for specialist clinical social workers.

Marriage and family therapist education requirements. The bill would amend education requirements of a marriage and family therapist applicant to add that the applicant must complete an academically supervised practicum in the master’s degree program with at least 300 hours of direct client contact or a combined 300 hours of direct client contact and additional postgraduate supervised experience.

Behavior analyst licenses. The bill would amend behavior analyst requirements to create more uniformity with the other professions the BSRB licensees by adding language to authorize licensee reinstatements and modifying the disciplinary remedies.

Board membership. The bill would add licensed clinical psychotherapists and licensed master addiction counselors as possible members of the BSRB.

Definitions. The bill would add “extenuating circumstances” as a definition for licenses overseen by the BSRB including professional counselors, social workers, marriage and family therapists, addiction counselors, psychologists, and community-based licensees.

“Extenuating circumstances” would mean any condition or situation caused by events beyond an individual’s control that is sufficiently extreme in nature to result in the individual’s inability to comply with requirements or inadvisability of requiring the individual to comply with requirements.

Psychologists. The bill would replace “of good moral character” as a standard for psychologists to be issued a license with “merits the public trust,” which would mean that an applicant or licensee possesses the high standard of good moral character and fitness that is required to practice psychology as demonstrated by the following personal qualities:

- Good judgment;
- Integrity;
- Honesty;
- Fairness;
- Credibility;
- Reliability;
- Respect for others;
- Respect for the laws of this state and the nation;
- Self-discipline;
- Self-evaluation;
- Initiative; and
- Commitment to the psychology profession and its values and ethics.

**Extension of licensure.** The bill would provide for a current licensee experiencing extenuating circumstances to request an additional three months to complete continuing education requirements. The licensee would be required to:

- Provide reason for requesting additional time, showing extenuating circumstances for why the hours could not be completed during the licensing period; and
- Provide a plan outlining the manner in which the licensee intends to complete the remaining continuing education hours.

A licensee receiving additional time to complete continuing education hours would be required to renew the license prior to the license expiration date and report to the BSRB the number of continuing education hours completed on that date as well as notify the BSRB upon completing the remaining hours. The licensee would be subject to an audit by the BSRB of the total number of continuing education hours completed for the applicable licensing period.

A licensee would not be approved for additional time to complete continuing education requirements in consecutive license periods.

**Temporary reinstatement of expired license.** The bill would add a new provision that permits licensees with expired licenses to make application for a reinstatement of the license. The bill would reduce the fee charged to reinstate an expired license.

For those licensees with expired licenses of less than one year, evidence of the necessary continuing education and payment of fee would be sufficient. For those licensees with a license expired for longer than 12 months, a temporary license of six months may be issued to permit the applicant additional time to complete continuing education requirements. The temporary license based upon an expired license would not be extended or renewed.

**Licensure for social work graduates of programs undergoing the accreditation process.** The bill would permit the temporary licensure of social work candidates for 24 months who had completed their bachelor’s or master’s degrees through an education program that is in the process of seeking accreditation. These individuals would hold a temporary candidacy license until the degree program is granted accreditation. The 24-month period could be extended upon request by the licensee if the program remained in the accreditation process after the 24-month time frame expired.

Temporary licensees would be required to work under the supervision of a licensed social worker, but would not be required to complete continuing education requirements. Persons with such a license would be required to identify themselves as a temporary candidacy
baccalaureate or master social worker, specify that their licensing is “by temporary candidacy license,” and may not use the credentials “LBSW” or LMSW.”

The bill would provide that if the program is successful in the completion of the accreditation, a permanent license would be granted upon the payment of the appropriate fee to the BSRB. If the program is not successful in the accreditation process, the temporary license would be revoked immediately by the BRSB.

**Student temporary addiction counselor license.** The bill would add a new licensure for student temporary addiction counselors. This license would be available for students who have:

- Completed 60 credit hours of higher education in the area of addiction counseling or related field;
- Signed an attestation of intent to pursue licensure with a plan to complete the educational requirements within 48 months;
- Provided an education plan signed by the higher education institution official, including steps to obtain necessary coursework;
- Provided a signed attestation from a prospective employer who intends to offer employment upon obtaining the student temporary addiction counseling license;
- Submitted a supervision plan signed by an individual employed by the prospective employer who would be supervising the student licensee. Such plan would be required to include not less than four hours of supervision per month and not fewer than two supervision meetings per month, with a maximum of two hours per month being in group supervision;
- Satisfied the BSRB that the applicant is a person who merits the public trust;
- Reached at least 20 years of age; and
- Paid the required fee.

A student temporary addiction counselor license would be valid for 24 months and be eligible for renewal for an additional 24 month period upon the showing of evidence of the compliance with the educational plan. Any changes or updates to the original educational plan would require the signature of a representative of the higher education institution, evidence of supervisory logs signed by both student and supervisor, and payment of a required fee.

A student temporary addiction counselor license who had practiced under the license would not be able to practice with a community-based license in any of these licenses: professional counselor, social work, marriage and family therapy, or psychology. Additionally, the bill would not permit a person who practiced under a community-based license to practice addiction counseling under a student temporary addiction counselor license.

**Practice environments.** A holder of a student temporary addiction counselor license could only practice in one of the following named environments:

- A licensed or certified alcohol and other drug abuse program;
● A certified community behavioral health clinic; or

● A community mental health center.

Supervision. Supervision may be provided by one of the following types of practitioners who are licensed by the BSRB:

● Addiction counselors;
● Master’s addiction counselors;
● Clinical addiction counselors;
● Master’s social workers;
● Specialist clinical social workers;
● Professional counselors;
● Clinical professional counselors;
● Marriage and family therapists;
● Clinical marriage and family therapists;
● Master’s level psychologists;
● Clinical psychotherapists; or
● Psychologists.

Community-based Licensure

The bill would add a new community-based temporary license for professional counselors, social workers, marriage and family therapists, and psychologists who are employed by community mental health centers, federally qualified health centers, psychiatric residential treatment facilities, and private treatment facilities.

Under the bill, individuals would be able to apply to the BSRB for community-based licensure, and this license would be issued once the application was reviewed and approved and the applicant has paid the set fee.

Community-based licenses would expire upon issuance or denial of a general license or after 24 months. The license would not be eligible for renewal. The licensee would not be eligible to practice except under the supervision of a person licensed by the BSRB to practice at an independent level. The license would not be available to persons who had been issued a temporary license in the same profession.

A student temporary addiction counselor licensee who had practiced under the license would not be able to practice with a community-based license in any of these licenses: professional counselor, social work, marriage and family therapy, or psychology.

Additionally, the bill would not permit a person who practiced under a community-based license to practice addiction counseling under a student temporary addiction counselor license.

Fees. The bill would authorize the BSRB to set fees for community-based licenses. Fees for community-based professional counselor licenses, community-based social work licenses,
and community-based marriage and family therapist licenses, could be no more than $175. For community-based psychologist licenses, the fee could not exceed $225.

Conference Committee Action

The Conference Committee agreed to the provisions of Sub. for SB 131, as passed by the House, and agreed to further changes:

- Retain the provisions of HB 2263 (pharmacy technicians to administer certain vaccines);
- Remove the provisions of HB 2264 (No Patient Left Alone Act);
- Amend and add provisions of HB 2340 to expand community health licenses to federally qualified health centers, psychiatric residential treatment facilities, and private treatment facilities and to limit the availability of temporary community-based licenses to former temporary licensees in the same profession (BSRB licensing).

Background

SB 131 was introduced by Senators Pittman, Doll, and Erickson. The Senate Committee on Public Health and Welfare recommended its amendments to the bill, as introduced, be incorporated into a substitute bill. The House Committee on Health and Human Services amended the substitute bill. The House Committee of the Whole amended the bill to add HB 2263 as amended by the House Committee on Health and Human Services (Pharmacy Act amendments) and HB 2264 as amended by the House Committee on Health and Human Services (No Patient Left Alone Act).

Sub. for SB 131 (Sports Waiver)

Senate Committee on Public Health and Welfare

In the Senate Committee hearing on February 17, 2023, proponent testimony was provided by Senator Pittman who stated Kansas is one of four states without a sports waiver. He stated a sports waiver would permit sports teams to utilize team-affiliated health care professionals to provide health care services to the athletes when sports teams are in Kansas for sporting events, without requiring the health care professional to obtain a license to practice medicine for a short term.

Additional proponent testimony was provided by a representative of the Kansas Chiropractic Association, who requested an amendment to include all health care providers licensed by the Board, which would include doctors of chiropractic. Further proponent testimony was also heard from a representative of the Kansas Academy of Family Physicians who indicated that a sports waiver would reduce the administrative burden to find local health care professionals to assist during the sporting event. Written-only proponent testimony was provided by representatives of the American Medical Society for Sports Medicine.
Neutral testimony was provided by a representative of the Board who, in general, was in support of the bill but offered amendments for consideration. Written-only neutral testimony was provided by a representative of the Kansas Medical Society. No other testimony was provided.

The Senate Committee recommended a substitute bill incorporating the following amendments:

- Provide a process for the Board to issue a sports waiver to an out-of-state physician;
- Address scope of practice requirements;
- Require a physician to have a written agreement with a sports team to provide health care services for team members and coaching staff;
- Require any person practicing on a sports waiver to adhere to all the rules and regulations pertaining to the health care profession in Kansas and the health care professional be considered a licensee of the Board;
- Establish limits on the duration and frequency of a sports waiver and provide for an exception;
- Require any individual practicing under a sports waiver or an out-of-state sports team to report to the Board any potential violation of the Healing Arts Act or other applicable practice act, including but not limited to unprofessional conduct or professional incompetence;
- Authorize the Board to deny an application for a sports waiver under certain conditions; and
- Authorize the Board to adopt procedures to allow other health care professionals licensed and regulated by the Board to be issued a sports waiver to ensure patient safety.

[Note: The Conference Committee retained the amendments.]

House Committee on Health and Human Services

In the House Committee hearing on March 13, 2023, proponent testimony was provided by Senator Pittman. Additional proponent testimony was provided by a representative of the Board, who was generally in favor of the waiver but offered two amendments for consideration. Further proponent testimony was also provided from representatives of the American Medical Society for Sports Medicine and Kansas Academy of Family Physicians. Written-only proponent testimony was provided by a representative of the Kansas Chiropractic Association. No other testimony was provided.

The House Committee amended the bill as follows:

- To replace the word “physician” with “any individual” in provisions limiting the practice of sports waiver participants in Kansas, to reflect that a sports waiver may be issued to more types of health care providers; and
• To delete provisions stating the Board may enter into agreements with medical and osteopathic licensing boards.

[Note: The Conference Committee retained the amendments.]

*House Committee of the Whole*

The House Committee of the Whole amended the bill to:

• Insert the contents pertaining to vaccine administration (HB 2263, as recommended by the House Committee on Health and Human Services) [Note: The Conference Committee retained the amendment.]; and

• Insert the contents pertaining to the No Patient Left Behind Act (HB 2264, as recommended by the House Committee on Health and Human Services). [Note: The Conference Committee did not retain the amendment.]

*HB 2263 (Pharmacy Act Amendments—Vaccine Administration)*

*House Committee on Health and Human Services*

In the House Committee hearing on February 6, 2023, a representative of the Kansas Pharmacists Association provided proponent testimony, stating that the bill would allow pharmacy technicians to continue to administer vaccinations after completing training as had been permitted under the federal Public Readiness and Emergency Preparedness Act (PREP Act) after it expires in October 2024. The representative noted that an amendment was requested to clarify that pharmacy technicians needed to be 18 years of age or older to administer vaccinations.

Additional proponent testimony was heard from a pharmacy technician and a pharmacist who stated the number of vaccines they had been able to administer in their communities due to the PREP Act and how adding pharmacy technicians would continue to benefit their communities. Written-only proponent testimony was submitted by a representative of the Kansas Board of Pharmacy.

Neutral testimony was offered by a representative of Kansas Medical Society who also expressed support for specifying an age requirement.

The House Committee amended the bill to add “18 years of age or older” as a requirement for those permitted to administer vaccinations. [Note: This amendment was retained by the Conference Committee.]

*HB 2340 (Behavioral Sciences Regulatory Board)*

The bill was introduced by the House Committee on Health and Human Services at the request of Representative Clifford on behalf of the BSRB.
In the House Committee hearing on February 13, 2023, proponent testimony was provided by a representative of the BSRB, who stated the objective of the bill was to assist in the public protection mission of the agency and address other issues, including workforce concerns. Representatives from the Association of Community Mental Health Centers of Kansas; the Children’s Alliance of Kansas; the Kansas Suicide Prevention Headquarters; the National Association of Social Workers – Kansas Chapter; the University of Saint Mary; and a private citizen also provided proponent testimony primarily in support of the changes but offered amendments for consideration.

Written-only proponent testimony was submitted by a licensed clinical social worker and representatives of Fresenius Medical Care; a member of the BSRB; and the U.S. Department of Defense State Liaison Office.

A representative of Midland Care Connection provided opponent testimony, stating the bill would require a different amount of time for reciprocity for one license of social workers and the added requirements regarding supervision would negatively impact the process.

The House Committee amended the bill to:

- Reduce the number of continuing education hours in diagnosis and treatment from six to three for those licensees who diagnose and treat mental disorders;
- Remove a provision that would have required not less than three hours of continuing education be completed per renewal period on cultural diversity topics;
- Reduce the credit hours in diagnosis and treatment required for a specialist clinical social worker to three hours in psychopathology;
- Add diagnostic impressions as type of professional experience for a practicum for specialist clinical social workers;
- Add a new section that provides a timeline for processing applications by the BSRB and provisions for an expedited application process;
- Remove a provision that would have added a licensed behavioral analyst as an additional member of the BSRB;
- Remove a section in the bill as introduced that would have required that postgraduate clinical supervisors be approved by the BSRB;
- Amend the reciprocity for bachelor’s level social workers who hold a license in another jurisdiction with a similar scope of practice to 12 months; and
- Add a new license category that establishes a community-based license for professional counselors, social workers, marriage and family therapists, and psychologists. The licensee would be eligible for a 24-month license to practice professional counseling while employed by a community mental health center.

[Note: The Conference Committee retained the amendments.]
House Committee of the Whole

The House Committee of the Whole adopted a technical amendment to correctly incorporate amendments made by the House Committee on Health and Human Services. [Note: The Conference Committee retained the amendment.]

Senate Committee of Public Health and Welfare

In the Senate Committee hearing on March 20, 2023, proponent testimony was provided by Representative Susan Ruiz and representatives of Association of Community Mental Health Centers of Kansas, Inc., BSRB, Kansas Chapter of the National Association of Social Workers, Kansas Suicide Prevention HQ, and three social workers.

Written-only proponent testimony was provided by representatives of Born to Blossom, LLC, Children’s Alliance of Kansas, Council of Autism Service Providers, Fresenius Medical Care, High Plains Mental Health Center, Integrated Behavioral Tech, Inc., Stiehl Behavioral Consulting, LLC, University of St. Mary, and a social worker.

Written-only opponent testimony was provided by a private citizen.

Neutral testimony was provided by representatives of Behavioral Health Association of Kansas and Community Health Center of Southeast Kansas.

The Senate Committee amended the bill by adding that no person may practice with a community-based license in professional counseling, social work, marriage and family therapy, or psychology if such person has practiced under a student temporary addiction counseling license. Additionally, the Senate Committee amended the bill to disallow a person who practiced under a community-based license to practice addiction counseling under a student temporary addiction counselor license. [Note: The Conference Committee retained the amendments.]

Fiscal Information

Sub. for SB 131 (Sports Waiver)

According to the fiscal note prepared by the Division of the Budget on SB 131, as introduced, the Board indicates enactment of the bill would not generate any additional revenue for the agency. The bill could result in an increase of complaints, but the agency would not have jurisdiction to investigate providers licensed in another state if they are not also licensed in Kansas. The agency notes that the home state of licensure would likely not initiate an investigation as the practice is determined by where the patient is located, so the bill could leave patients unprotected.

HB 2263 (Pharmacy Act Amendments—Vaccine Administration)

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas Board of Pharmacy states the bill would expand state authority to match current federal authority, which has been in place for two and half years. The Board of
Pharmacy anticipates enactment of the bill would have no fiscal effect on the State Board of Pharmacy.

**HB 2340 (Behavioral Sciences Regulatory Board)**

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the BSRB estimates the enactment of the bill would increase fee revenue to the Behavioral Sciences Regulatory Board Fee Fund by $9,178, of which $918 would be remitted to the State General Fund. The BSRB estimates the bill would also increase annual expenditures by $4,000 for the new member’s payments and mileage reimbursements. In addition, the BSRB indicates the bill would increase time spent by staff processing applications for licensure, but the increase could be absorbed within existing resources.

Any fiscal effect associated with enactment of the above bills is not reflected in *The FY 2024 Governor’s Budget Report*.