

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT and MR. SPEAKER: Your committee on conference on Senate amendments to **HB 2615** submits the following report:

The House accedes to all Senate amendments to the bill, and your committee on conference further agrees to amend the bill as printed with Senate Committee amendments, as follows:

On page 10, following line 38, by inserting:

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

On page 11, following line 29, by inserting:

"Sec. 5. K.S.A. 75-6115 is hereby amended to read as follows: 75-6115. (a) The Kansas tort claims act shall not be applicable to claims arising from the rendering of or failure to render professional services by a health care provider other than:

- (1) A charitable health care provider;
 - (2) a hospital owned by a municipality and the employees thereof;
 - (3) a local health department and the employees thereof;
 - (4) an indigent health care clinic and the employees thereof; ~~or~~
 - (5) a district coroner or deputy district coroner appointed pursuant to K.S.A. 22a-226,
and amendments thereto; ~~or~~
- (6) a community mental health center and the employees thereof.

(b) Claims for damages against a health care provider that is a governmental entity or an employee of a governmental entity other than those health care providers enumerated in subsection (a), arising out of the rendering of or failure to render professional services by such health care provider, may be recovered in the same manner as claims for damages against any other health care provider.

(c) As used in this section:

(1) "Indigent health care clinic" shall have the meaning ascribed to such term under K.S.A. 75-6102, and amendments thereto.

(2) "Charitable health care provider" shall have the meaning ascribed to such term under K.S.A. 75-6102, and amendments thereto.

(3) "Health care provider" shall have the meaning ascribed to such term under K.S.A. 40-3401, and amendments thereto.

(4) "Hospital" means a medical care facility as defined in K.S.A. 65-425, and amendments thereto, and includes within its meaning any clinic, school of nursing, long-term care facility, child-care facility and emergency medical or ambulance service operated in connection with the operation of the medical care facility.

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

New Sec. 6. Sections 6 through 29, and amendments thereto, shall be known and may be cited as the acupuncture practice act.

New Sec. 7. As used in the acupuncture practice act:

(a) "ACAOM" means the national accrediting agency recognized by the U.S.

department of education that provides accreditation for educational programs for acupuncture and oriental medicine. For purposes of the acupuncture practice act, the term ACAOM shall also include any entity deemed by the board to be the equivalent of ACAOM.

(b) "Act" means the acupuncture practice act.

(c) "Acupuncture" means the use of needles inserted into the human body by piercing of the skin and related modalities for the assessment, evaluation, prevention, treatment or correction of any abnormal physiology or pain by means of controlling and regulating the flow and balance of energy in the body and stimulating the body to restore itself to its proper functioning and state of health.

(d) "Board" means the state board of healing arts.

(e) "Council" means the acupuncture advisory council established by section 18, and amendments thereto.

(f) "Licensed acupuncturist" means any person licensed to practice acupuncture under the acupuncture practice act.

(g) "NCCAOM" means the national certification commission for acupuncture and oriental medicine. NCCAOM is a national organization that validates entry-level competency in the practice of acupuncture and oriental medicine through the administration of professional certification examinations. For purposes of the acupuncture practice act, the term NCCAOM shall also include any entity deemed by the board to be the equivalent of the NCCAOM.

(h) "Physician" means a person licensed to practice medicine and surgery or osteopathy in Kansas.

(i) "Practice of acupuncture" includes, but is not limited to:

- (1) Techniques sometimes called "dry needling," "trigger point therapy," "intramuscular therapy," "auricular detox treatment" and similar terms;
- (2) mechanical, thermal, pressure, suction, friction, electrical, magnetic, light, sound, vibration, manual and electromagnetic treatment;
- (3) the use, application or recommendation of therapeutic exercises, breathing techniques, meditation and dietary and nutritional counselings; and
- (4) the use and recommendation of herbal products and nutritional supplements, according to the acupuncturist's level of training and certification by the NCCAOM or its equivalent.

(j) "Practice of acupuncture" does not include:

- (1) Prescribing, dispensing or administering of any controlled substances as defined in K.S.A. 65-4101 et seq., and amendments thereto, or any prescription-only drugs;
- (2) the practice of medicine and surgery, including obstetrics and the use of lasers or ionizing radiation;
- (3) the practice of osteopathic medicine and surgery or osteopathic manipulative treatment;
- (4) the practice of chiropractic;
- (5) the practice of dentistry; or
- (6) the practice of podiatry.

New Sec. 8. (a) On and after July 1, 2017, except as otherwise provided in this act, no person shall practice acupuncture unless such person possesses a current and valid acupuncture license issued under this act.

(b) (1) No person shall depict oneself orally or in writing, expressly or by implication, as a holder of a license who does not hold a current license under this act.

(2) Only persons licensed under this act shall be entitled to use the title "licensed acupuncturist" or the designated letters "L.Ac."

(3) Nothing in this section shall be construed to prohibit an acupuncturist licensed under this act from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to denote any educational degrees, certifications or credentials which such licensed acupuncturist has earned.

(4) Violation of this section shall constitute a class B misdemeanor.

New Sec. 9. Needles used in the practice of acupuncture shall only be prepackaged, single-use and sterile. These needles shall only be used on an individual patient in a single treatment session.

New Sec. 10. (a) The following shall be exempt from the requirements for an acupuncture license pursuant to this act:

(1) Any person licensed in this state to practice medicine and surgery, osteopathy, dentistry or podiatry, a licensed chiropractor or a licensed naturopathic doctor, if the person confines the person's acts or practice to the scope of practice authorized by their health professional licensing laws and does not represent to the public that the person is licensed under this act;

(2) any herbalist or herbal retailer who does not hold oneself out to be a licensed acupuncturist;

(3) any health care provider in the United States armed forces, federal facilities and

other military service when acting in the line of duty in this state;

- (4) any student, trainee or visiting teacher of acupuncture, oriental medicine or herbology who is designated as a student, trainee or visiting teacher while participating in a course of study or training under the supervision of a licensed acupuncturist licensed under this act in a program that the council has approved. This includes continuing education programs and any acupuncture or herbology programs that are a recognized route by the NCCAOM, or its equivalent, to certification;
- (5) any person rendering assistance in the case of an emergency or disaster relief;
- (6) any person practicing self-care or any family member providing gratuitous care, so long as such person or family member does not represent or hold oneself out to the public to be an acupuncturist;
- (7) any person who massages, so long as such person does not practice acupuncture or hold oneself out to be a licensed acupuncturist;
- (8) any person whose professional services are performed pursuant to delegation by and under the supervision of a practitioner licensed under this act;
- (9) any team acupuncturist or herbology practitioner, who is traveling with and treating those associated with an out-of-state or national team that is temporarily in the state for training or competition purposes; and
- (10) any person licensed as a physical therapist when performing dry needling, trigger point therapy or services specifically authorized in accordance with the provisions of the physical therapy practice act.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 11. An applicant for licensure as an acupuncturist shall file an application, on forms provided by the board, showing to the satisfaction of the board that the applicant:

- (a) Is at least 21 years of age;
- (b) has successfully completed secondary schooling or its equivalent;
- (c) has satisfactorily completed a course of study involving acupuncture from an accredited school of acupuncture which the board shall determine to have educational standards substantially equivalent to the minimum educational standards for acupuncture colleges as established by the ACAOM or NCCAOM;
- (d) has satisfactorily passed a license examination approved by the board;
- (e) has the reasonable ability to communicate in English; and
- (f) has paid all fees required for licensure pursuant to section 16, and amendments thereto.

New Sec. 12. (a) The board, without examination, may issue a license to a person who has been in the active practice of acupuncture in some other state, territory, the District of Columbia or other country upon certification by the proper licensing authority of that state, territory, District of Columbia or other country certifying that the applicant is duly licensed, that the applicant's license has never been limited, suspended or revoked, that the licensee has never been censured or received other disciplinary actions and that, so far as the records of such authority are concerned, the applicant is entitled to such licensing authority's endorsement. The applicant shall also present proof satisfactory to the board:

- (1) That the state, territory, District of Columbia or country in which the applicant last practiced has and maintains standards at least equal to those maintained in Kansas;

(2) that the applicant's original license was based upon an examination at least equal in quality to the examination required in this state and that the passing grade required to obtain such original license was comparable to that required in this state;

(3) the date of the applicant's original license and all endorsed licenses and the date and place from which any license was attained;

(4) the applicant has been actively engaged in practice under such license or licenses since issued. The board may adopt rules and regulations establishing qualitative and quantitative practice activities which qualify as active practice;

(5) that the applicant has a reasonable ability to communicate in English; and

(6) that the applicant has paid all the application fees as prescribed by section 16, and amendments thereto.

(b) An applicant for a license by endorsement shall not be licensed unless, as determined by the board, the applicant's individual qualifications are substantially equivalent to the Kansas requirements for licensure under the acupuncture practice act.

New Sec. 13. The board shall waive the education and examination requirements for an applicant who submits an application on or before January 1, 2018, and who, on or before July 1, 2017:

(a) Is 21 years of age or older;

(b) has successfully completed secondary schooling or its equivalent;

(c) (1) (A) has completed a minimum of 1,350 hours of study, excluding online study in the field of acupuncture; and

(B) has been engaged in the practice of acupuncture with a minimum of 1,500 patient

visits during a period of at least three of the five years immediately preceding July 1, 2017, as evidenced by two affidavits from office partners, clinic supervisors or other individuals approved by the board, who have personal knowledge of the years of practice and number of patients visiting the applicant for acupuncture. The board may adopt rules and regulations for further verification of the applicant's practice of acupuncture; or

- (2) has satisfactorily passed a license examination approved by the board;
- (d) has a reasonable ability to communicate in English; and
- (e) has paid all fees required for licensure as prescribed by section 16, and amendments thereto.

New Sec. 14. (a) The license shall be canceled on March 31 of each year unless renewed in the manner prescribed by the board. In each case in which a license is renewed for a period of time of less than 12 months, the board may prorate the amount of the fee established under section 16, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the renewal date of the license.

- (b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensed acupuncturists shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance. The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

(d) At least 30 days before the renewal date of a licensee's license, the board shall notify the licensee of the renewal date by mail addressed to the licensee's last known mailing address. If the licensee fails to submit the renewal application and pay the renewal fee by the renewal date of the license, the licensee shall be given notice that the licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license, that the license will be deemed canceled if not renewed within 30 days following the renewal date, that upon receipt of the renewal application and renewal fee and an additional late fee established by rules and regulations not to exceed \$500 within the 30-day period, the license will not be canceled and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(e) Any license canceled for failure to renew may be reinstated within two years of cancellation upon recommendation of the board and upon payment of the renewal fees then due and upon proof of compliance with the continuing education requirements established by the board by rules and regulations. Any person who has not been in the active practice of acupuncture for which reinstatement is sought or who has not been engaged in a formal educational program during the two years preceding the application for reinstatement may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(f) There is hereby created a designation of an exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of acupuncture for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of acupuncture upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to section 16, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of acupuncture since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill.

and safety. Nothing in this subsection shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee established pursuant to section 16, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of acupuncture in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An inactive license shall not entitle the holder to practice acupuncture in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the acupuncture practice act, except as otherwise provided in this subsection. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by subsection (b). Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to section 16, and amendments thereto. For those licensees whose licenses have been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice acupuncture within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of acupuncture or engaged in a formal

education program since the license has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(h) This section shall take effect on and after July 1, 2017.

New Sec. 15. A person whose license has been revoked may apply for reinstatement after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by the fee established by the board in accordance with section 16, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement. If the board determines that a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

New Sec. 16. The board shall charge and collect in advance nonrefundable fees for acupuncturists as established by the board by rules and regulations, not to exceed:

Initial application for licensure.....	\$700
Annual renewal for active license - paper.....	\$300
Annual renewal for active license - online.....	\$250
Annual renewal for inactive license - paper.....	\$200
Annual renewal for inactive license - online.....	\$150

Annual renewal for exempt license - paper.....	\$200
Annual renewal for exempt license - online.....	\$150
Late renewal fee.....	\$100
Conversion from inactive to active license.....	\$300
Conversion from exempt to active license.....	\$300
Application for reinstatement of revoked license.....	\$1,000
Certified copy of license.....	\$25
Written verification of license.....	\$25

New Sec. 17. The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president.

New Sec. 18. (a) There is hereby established the acupuncture advisory council to assist the state board of healing arts in carrying out the provisions of this act. The council shall consist of five members, all citizens and residents of the state of Kansas, appointed as follows:

(1) The board shall appoint one member who is a physician licensed to practice medicine and surgery or osteopathy. The member appointed by the board shall serve at the pleasure of the board. The governor shall appoint three acupuncturists who have at least three

years' experience in acupuncture preceding appointment and are actively engaged, in this state, in the practice of acupuncture or the teaching of acupuncture. At least two of the governor's appointments shall be made from a list of four nominees submitted by the Kansas association of oriental medicine. The governor shall appoint one member from the public sector who is not engaged, directly or indirectly, in the provision of health services. Insofar as possible, persons appointed by the governor to the council shall be from different geographic areas.

(2) The members appointed by the governor shall be appointed for terms of four years and until a successor is appointed. If a vacancy occurs on the council, the appointing authority of the position which has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term.

(b) The council shall meet at least once each year at a time of its choosing at the board's main office and at such other times as may be necessary on the chairperson's call or on the request of a majority of the council's members.

(c) A majority of the council constitutes a quorum. No action may be taken by the council except by affirmative vote of the majority of the members present and voting.

(d) Members of the council attending meetings of the council, or a subcommittee of the council, shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto, from the healing arts fee fund.

New Sec. 19. The acupuncture advisory council shall advise the board regarding:

(a) Examination, licensing and other fees;

(b) rules and regulations to be adopted to carry out the provisions of this act;

(c) the number of yearly continuing education hours required to maintain active

licensure;

- (d) changes and new requirements taking place in the areas of acupuncture; and
- (e) such other duties and responsibilities as the board may assign.

New Sec. 20. The board shall promulgate all necessary rules and regulations which may be necessary to administer the provisions of this act and to supplement the provisions herein.

New Sec. 21. (a) A licensee's license may be revoked, suspended, limited or placed on probation, or the licensee may be publicly censured, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

- (1) The licensee has committed an act of unprofessional conduct as defined by rules and regulations adopted by the board;
- (2) the licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license;
- (3) the licensee has committed an act of professional incompetency as defined by rules and regulations adopted by the board;
- (4) the licensee has been convicted of a felony;
- (5) the licensee has violated any provision of the acupuncture practice act;
- (6) the licensee has violated any lawful order or rule and regulation of the board;
- (7) the licensee has been found to be mentally ill, disabled, not guilty by reason of insanity, not guilty because the licensee suffers from a mental disease or defect or incompetent to stand trial by a court of competent jurisdiction;
- (8) the licensee has failed to report to the board any adverse action taken against the

licensee by another state or licensing jurisdiction, a peer review body, a health care facility, a professional association or society, a governmental agency, a law enforcement agency or a court for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(9) the licensee has surrendered a license or authorization to practice as an acupuncturist in another state or jurisdiction, has agreed to a limitation or restriction of privileges at any medical care facility or has surrendered the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(10) the licensee has failed to report to the board the surrender of the licensee's license or authorization to practice as an acupuncturist in another state or jurisdiction or the surrender of the licensee's membership on any professional staff or in any professional association or society while under investigation for acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(11) the licensee has an adverse judgment, award or settlement rendered against the licensee resulting from a medical liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section;

(12) the licensee has failed to report to the board any adverse judgment, settlement or award against the licensee resulting from a medical malpractice liability claim related to acts or conduct similar to acts or conduct which would constitute grounds for disciplinary action under this section; or

(13) the licensee's ability to practice with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or use of alcohol, drugs or controlled substances. When reasonable suspicion of impairment exists, the board may take action in accordance with K.S.A. 65-2842, and amendments thereto. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding. This provision regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

(b) The denial, refusal to renew, suspension, limitation, probation or revocation of a license or other sanction may be ordered by the board upon a finding of a violation of the acupuncture practice act. All administrative proceedings conducted pursuant to this act shall be in accordance with the Kansas administrative procedure act and shall be reviewable in accordance with the Kansas judicial review act.

(c) This section shall take effect on and after July 1, 2017.

New Sec. 22. (a) The board shall have jurisdiction of proceedings to take disciplinary action against any licensee practicing under the acupuncture practice act. Any such action shall be taken in accordance with the Kansas administrative procedure act.

(b) Either before or after formal charges have been filed, the board and the licensee may enter into a stipulation which shall be binding upon the board and the licensee entering into such stipulation, and the board may enter its findings of fact and enforcement order based upon such stipulation without the necessity of filing any formal charges or holding hearings in the case. An enforcement order based upon a stipulation may order any disciplinary action against the

licensee entering into such stipulation.

(c) The board may temporarily suspend or temporarily limit the license of any licensee in accordance with the emergency adjudicative proceedings provisions under the Kansas administrative procedure act if the board determines that there is cause to believe that grounds exist for disciplinary action against the licensee and that the licensee's continuation of practice would constitute an imminent danger to public health and safety.

(d) Judicial review and civil enforcement of any agency action under this act shall be in accordance with the Kansas judicial review act.

New Sec. 23. The board or a committee of the board may implement non-disciplinary resolutions concerning a licensed acupuncturist consistent with the provisions of K.S.A. 65-2838a, and amendments thereto.

New Sec. 24. The state board of healing arts, in addition to any other penalty prescribed under the acupuncture practice act, may assess a civil fine, after proper notice and an opportunity to be heard, against a licensee for a violation of the acupuncture practice act in an amount not to exceed \$2,000 for a first violation, \$5,000 for a second violation and \$10,000 for a third violation and any subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4218, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund. Fines collected under this section shall be considered administrative fines pursuant to 11 U.S.C. § 523.

New Sec. 25. (a) Any complaint or report, record or other information relating to a complaint which is received, obtained or maintained by the board shall be confidential and shall

not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information, except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act.

(b) Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be re-disclosed by the receiving agency except as otherwise authorized by law.

(c) This section regarding confidentiality shall expire on July 1, 2022, unless the legislature reviews and reenacts such provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022.

New Sec. 26. (a) No person reporting to the state board of healing arts in good faith any information such person may have relating to alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against a person licensed,

registered or certified by the board shall be subject to a civil action for damages as a result of reporting such information.

(b) Any state, regional or local association composed of persons licensed to practice acupuncture and the individual members of any committee thereof, which in good faith investigates or communicates information pertaining to the alleged incidents of malpractice, or the qualifications, fitness or character of, or disciplinary action taken against any licensee, registrant or certificate holder to the state board of healing arts or to any committee or agent thereof, shall be immune from liability in any civil action that is based upon such investigation or transmittal of information if the investigation and communication was made in good faith and did not represent as true any matter not reasonably believed to be true.

New Sec. 27. (a) The confidential relations and communications between a licensed acupuncturist and the acupuncturist's patient are placed on the same basis as those established between a physician and a physician's patient in K.S.A. 60-427, and amendments thereto.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 28. (a) When it appears that any person is violating any provision of this act, the board may bring an action in the name of the state in a court of competent jurisdiction for an injunction against such violation without regard as to whether proceedings have been or may be instituted before the board or whether criminal proceedings have been or may be instituted.

(b) This section shall take effect on and after July 1, 2017.

New Sec. 29. If any provision of the acupuncture practice act or application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the acupuncture practice act which can be given effect without the invalid

provision or application, and to this end the provisions of the acupuncture practice act are declared to be severable.

Sec. 30. K.S.A. 2015 Supp. 65-2872 is hereby amended to read as follows: 65-2872.

The practice of the healing arts shall not be construed to include the following persons:

- (a) Persons rendering gratuitous services in the case of an emergency.
- (b) Persons gratuitously administering ordinary household remedies.
- (c) The members of any church practicing their religious tenets provided they shall not be exempt from complying with all public health regulations of the state.
- (d) Students while in actual classroom attendance in an accredited healing arts school who after completing one year's study treat diseases under the supervision of a licensed instructor.
- (e) Students upon the completion of at least three years study in an accredited healing arts school and who, as a part of their academic requirements for a degree, serve a preceptorship not to exceed 180 days under the supervision of a licensed practitioner.
- (f) Persons who massage for the purpose of relaxation, muscle conditioning, or figure improvement, provided no drugs are used and such persons do not hold themselves out to be physicians or healers.
- (g) Persons whose professional services are performed under the supervision or by order of or referral from a practitioner who is licensed under this act.
- (h) Persons in the general fields of psychology, education and social work, dealing with the social, psychological and moral well-being of individuals or groups, or both, provided they do not use drugs and do not hold themselves out to be the physicians, surgeons, osteopathic

physicians or chiropractors.

(i) Practitioners of the healing arts in the United States army, navy, air force, public health service, and coast guard or other military service when acting in the line of duty in this state.

(j) Practitioners of the healing arts licensed in another state when and while incidentally called into this state in consultation with practitioners licensed in this state.

(k) Dentists practicing their professions, when licensed and practicing in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(l) Optometrists practicing their professions, when licensed and practicing under and in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(m) Nurses practicing their profession when licensed and practicing under and in accordance with the provisions of article 11 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(n) Podiatrists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

(o) Every act or practice falling in the field of the healing arts, not specifically excepted herein, shall constitute the practice thereof.

(p) Pharmacists practicing their profession, when licensed and practicing under and in accordance with the provisions of article 16 of chapter 65 of the Kansas Statutes Annotated, and

amendments thereto, and any interpretation thereof by the supreme court of this state.

(q) A dentist licensed in accordance with the provisions of article 14 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, who administers general and local anesthetics to facilitate medical procedures conducted by a person licensed to practice medicine and surgery if such dentist is certified by the board of healing arts under K.S.A. 65-2899, and amendments thereto, to administer such general and local anesthetics.

(r) Practitioners of the healing arts duly licensed under the laws of another state who do not open an office or maintain or appoint a place to regularly meet patients or to receive calls within this state, but who order services which are performed in this state in accordance with rules and regulations of the board. The board shall adopt rules and regulations identifying circumstances in which professional services may be performed in this state based upon an order by a practitioner of the healing arts licensed under the laws of another state.

(s) Acupuncturists, when licensed and practicing in accordance with sections 6 through 29, and amendments thereto, rules and regulations adopted thereto, and interpretations thereof by the supreme court of this state.

(t) Persons licensed by the state board of cosmetology practicing their professions, when licensed and practicing under and in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any interpretation thereof by the supreme court of this state.

New Sec. 31. (a) The board shall adopt rules and regulations establishing minimum education and training requirements for the practice of dry needling by a licensed physical therapist.

(b) This section shall be part of and supplemental to the physical therapy practice act.

Sec. 32. K.S.A. 2015 Supp. 65-2901 is hereby amended to read as follows: 65-2901. As used in ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act:

(a) "Physical therapy" means examining, evaluating and testing individuals with mechanical, anatomical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis solely for physical therapy, prognosis, plan of therapeutic intervention and to assess the ongoing effects of physical therapy intervention. Physical therapy also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in community or work integration or reintegration; manual therapy; dry needling; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; patient-related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. Physical therapy also includes the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist who is licensed pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~.

the physical therapy practice act. Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of any branch of the healing arts and the making of a medical diagnosis.

(b) "Physical therapist" means a person who is licensed to practice physical therapy pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist and may designate or describe oneself, as appropriate, as a physical therapist, physiotherapist, licensed physical therapist, doctor of physical therapy, abbreviations thereof, or words similar thereto or use of the designated letters P.T., Ph. T., M.P.T., D.P.T. or L.P.T. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(c) "Physical therapist assistant" means a person who is certified pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~, the physical therapy practice act and who works under the direction of a physical therapist, and who assists the physical therapist in selected components of physical therapy intervention. Any person who

successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, abbreviations thereof, or words similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(d) "Board" means the state board of healing arts.

(e) "Council" means the physical therapy advisory council.

(f) "Dry needling" means a skilled intervention using a thin filiform needle to penetrate into or through the skin and stimulate underlying myofascial trigger points or muscular or connective tissues for the management of neuromuscular pain or movement impairments.

(g) "Physician" means a person licensed to practice medicine and surgery.

(g) (h) "Recognized by the board" means an action taken by the board at an open meeting to recognize letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials, consistent with the provisions of this act, which a physical therapist may appropriately use to designate or describe oneself and which shall be published in the official minutes of the board.

Sec. 33. K.S.A. 2015 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a)

It shall be unlawful for any person who is not licensed under ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, the physical therapy practice act as a~~

physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist, licensed physical therapist or doctor of physical therapy or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, the physical therapy practice act~~ shall be guilty of a class B nonperson misdemeanor. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2015 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in

conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~ the physical therapy practice act shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b)-~~of this section~~:

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;
- (4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;
- (5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under ~~subsection (g) of K.S.A. 65-2872(g)~~, and amendments thereto;
- (6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;
- (7) nurses practicing their professions, when licensed and practicing in accordance with

the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under ~~subsection (m) of K.S.A. 65-1124(m)~~, and amendments thereto;

(8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;

(9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;

(10) self-care by a patient or gratuitous care by a friend or family member;

(11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(12) podiatrists practicing their profession when licensed and practicing in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(13) occupational therapists practicing their profession when licensed and practicing in accordance with the occupational therapy practice act and occupational therapy assistants practicing their profession when licensed and practicing in accordance with the occupational therapy practice act;

(14) respiratory therapists practicing their profession when licensed and practicing in accordance with the respiratory therapy practice act;

(15) physician assistants practicing their profession when licensed and practicing in accordance with the physician assistant licensure act;

(16) persons practicing corrective therapy in accordance with their training in corrective therapy;

(17) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;

(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto; ~~and~~

(22) naturopathic doctors practicing their profession when licensed and practicing in accordance with the naturopathic doctor licensure act; and

(23) acupuncturists practicing their profession when licensed and practicing in accordance with the acupuncture practice act.

(d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation

of a licensed physical therapist or other health care provider.

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery.

No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by ~~article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto~~ the physical therapy practice act.

New Sec. 34. (a) As part of an original application for or reinstatement of any license, registration, permit or certificate or in connection with any investigation of any holder of a license, registration, permit or certificate, the behavioral sciences regulatory board may require a person to be fingerprinted and submit to a state and national criminal history record check. The fingerprints shall be used to identify the person and to determine whether the person has a record of criminal history in this state or another jurisdiction. The behavioral sciences regulatory board is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The behavioral sciences regulatory board may use the information obtained from fingerprinting and the criminal history for purposes of verifying the identification of the person and in the official determination of the qualifications and fitness of the person to be issued or to maintain a license, registration, permit or certificate.

(b) Local and state law enforcement officers and agencies shall assist the behavioral sciences regulatory board in the taking and processing of fingerprints of applicants for and holders of any license, registration, permit or certificate and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country

to the behavioral sciences regulatory board.

(c) The behavioral sciences regulatory board may fix and collect a fee as may be required by the board in an amount equal to the cost of fingerprinting and the criminal history record check. Any moneys collected under this subsection shall be deposited in the state treasury and credited to the behavioral sciences regulatory board fee fund. The behavioral sciences regulatory board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the behavioral sciences regulatory board fee fund.

Sec. 35. K.S.A. 65-5806 is hereby amended to read as follows: 65-5806. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 65-5808, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 65-5808, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board. As part of such continuing education, a licensee shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written

application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 65-5808, and amendments thereto.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 36. K.S.A. 2015 Supp. 65-5807 is hereby amended to read as follows: 65-5807. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice professional counseling in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice professional counseling in the other jurisdiction are substantially equivalent to the requirements of this state; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~—Registration, certification or licensure to practice professional counseling ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) ~~a masters~~ master's degree in counseling from a regionally accredited university or college.

(b) Applicants for licensure as a clinical professional counselor shall additionally

demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either paragraph (1) or (2) of subsection (a)(1) or (a)(2) and at least two of the following areas acceptable to the board:

- (1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;
 - (2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or
 - (3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.
- (c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-5808, and amendments thereto, if required by the board.

Sec. 37. K.S.A. 65-5808 is hereby amended to read as follows: 65-5808. (a) The board shall may fix by rules and regulations the following fees, and any such fees shall be established by rules and regulations adopted by the board:

- (1) For application for licensure as a professional counselor, not more than \$100;
- (2) for an original license as a professional counselor, not more than \$175;
- (3) for ~~examination~~ a temporary license as a professional counselor, not more than \$175;
- (4) for ~~renewal of a license for licensure as a professional counselor~~, not more than \$150;
- (5) ~~for reinstatement of a license, not more than \$175;~~

(6) ~~for replacement of a license, not more than \$20;~~
(7) ~~for application for licensure as a clinical professional counselor, not more than \$175;~~

(6) for licensure as a clinical professional counselor, not more than \$175;
(8) (7) for renewal for licensure as a clinical professional counselor, not more than \$175;

~~(9) (8) for late renewal penalty, an amount equal to the fee for renewal of a license; and~~
~~(10) for exchange of a license in lieu of registration pursuant to subsection (b) of K.S.A. 65-5811 and amendments thereto, not to exceed \$150~~

(9) for reinstatement of a license, not more than \$175;
(10) for replacement of a license, not more than \$20; and
(11) for a wallet card license, not more than \$5.

(b) Fees paid to the board are not refundable.

Sec. 38. K.S.A. 2015 Supp. 65-5809 is hereby amended to read as follows: 65-5809. (a) The board may refuse to issue, ~~suspend, limit, refuse to renew, condition or revoke any license granted under the professional counselors licensure act for any of the following reasons:~~

~~(a) Use of drugs or alcohol, or both, to an extent that impairs the individual's ability to engage in the practice of professional counseling;~~
~~(b) the individual has been convicted of a felony and, after investigation, the board finds that the individual has not been sufficiently rehabilitated to merit the public trust;~~
~~(c) use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to the provisions of the professional counselors licensure act or in obtaining permission~~

~~to take any examination given or required pursuant to the provisions of the professional counselors licensure act;~~

~~(d) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;~~

~~(e) incompetence, misconduct, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a professional counselor or clinical professional counselor;~~

~~(f) violation of, or assisting or enabling any individual to violate, any provision of the professional counselors licensure act or any rule and regulation adopted under such act;~~

~~(g) impersonation of any individual holding a license or allowing any individual to use a license or diploma from any school of a person licensed under the professional counselors licensure act or a diploma from any school of an applicant for licensure under the professional counselors licensure act;~~

~~(h) revocation or suspension of a license or other authorization to practice counseling granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized by the professional counselors licensure act;~~

~~(i) the individual is mentally ill or physically disabled to an extent that impairs the individual's ability to engage in the practice of professional counseling;~~

~~(j) assisting or enabling any person to hold oneself out to the public or offer to hold oneself out to the public as a licensed professional counselor or a licensed clinical professional counselor who is not licensed under the provisions of the professional counselors licensure act;~~

~~(k) the issuance of the license was based upon a material mistake of fact;~~

- (l) violation of any professional trust or confidence;
- (m) use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed;
- (n) unprofessional conduct as defined by rules and regulations adopted by the board; or
- (o) the licensee renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for licensure:
 - (1) Is incompetent to practice professional counseling, which means:
 - (A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;
 - (B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or
 - (C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice professional counseling;
 - (2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;
 - (3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;
 - (4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or

licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the professional counselors licensure act or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations adopted by the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or

(10) has had a registration, license or certificate as a professional counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the professional counselors licensure act shall be conducted in accordance with the Kansas

administrative procedure act. Judicial review and civil enforcement of agency actions under the professional counselors licensure act shall be in accordance with the Kansas judicial review act.

New Sec. 39. On and after July 1, 2017, all licensees providing postgraduate clinical supervision for those working toward clinical licensure must be board-approved clinical supervisors.

(a) Applications for a board-approved clinical supervisor shall be made to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the fee fixed under K.S.A. 65-5808, and amendments thereto.

(b) Each applicant for board-approved clinical supervisor shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Is currently licensed as a clinical professional counselor and has practiced as a clinical professional counselor for two years beyond the supervisor's licensure date; or

(B) is a person who is licensed at the graduate level to practice in one of the behavioral sciences, and whose authorized scope of practice permits the independent practice of counseling, therapy, or psychotherapy and has practiced at least two years of clinical practice beyond the date of licensure at this level;

(2) does not have any disciplinary action that would prohibit providing clinical supervision; and

(3) (A) has completed the minimum number of semester hours of coursework related to the enhancement of supervision skills approved by the board; or

(B) has completed the minimum number of continuing education hours related to the enhancement of supervision skills approved by the board.

(c) Each board-approved clinical supervisor shall complete, as part of the continuing education required under K.S.A. 65-5806, and amendments thereto, at least three hours of continuing education related to the enhancement of supervisory skills, and at least one such hour must focus on ethics in supervision.

Sec. 40. K.S.A. 2015 Supp. 65-6309 is hereby amended to read as follows: 65-6309. (a) Except as provided in subsections (b) and (c), an applicant shall be exempted from the requirement for any examination provided for herein if:

(1) The applicant proves to the board that the applicant is licensed or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this act as determined by the board; and

(2) pursuant to the laws of any such state or territory, the applicant has taken and passed an examination similar to that for which exemption is sought, as determined by the board.

(b) The board may issue a license to an individual who is currently licensed to practice social work at the clinical level in another jurisdiction if the board determines that:

(1) The standards for licensure to practice social work at the clinical level in the other jurisdiction are substantially equivalent to the requirements of this state for licensure at the clinical level; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous Licensure to practice social work at the clinical level during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a licensing board or agency; and

(C) a ~~masters~~ master's or doctoral degree in social work from a regionally accredited university or college and from an accredited graduate social work program recognized and approved by the board pursuant to rules and regulations adopted by the board.

(c) Applicants for licensure as a clinical specialist social worker shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the following requirements:

(1) Passing a national clinical examination approved by the board or, in the absence of the national examination, continuous licensure to practice as a clinical social worker during the 10 years immediately preceding the application; and

(2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders.

(d) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-6314, and amendments thereto, if required by the board.

(e) Upon application, the board shall issue temporary licenses to persons who have submitted documentation and met all qualifications for licensure under provisions of this act, except passage of the required examination, and who have paid the required fee.

(f) ~~Such persons shall take the license examination within six months subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board.~~

(g)—Absent extenuating circumstances approved by the board, a temporary license

issued by the board shall expire upon the date the board issues or denies a license to practice social work or six months after the date of issuance of the temporary license. No temporary license will be renewed or issued again on any subsequent applications for the same license level. The preceding provisions in no way limit the number of times an applicant may take the examination.

~~(h)~~(g) No person may work under a temporary license except under the supervision of a licensed social worker.

~~(i)~~(h) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

~~(j)~~(i) Any individual employed by a hospital and working in the area of hospital social services to patients of such hospital on July 1, 1974, is exempt from the provisions of this act.

~~(k)~~ If an applicant is denied licensure, the board shall provide the applicant with a written explanation of the denial within 10 days after the decision of the board, excluding Saturdays, Sundays and legal holidays.

Sec. 41. K.S.A. 2015 Supp. 65-6311 is hereby amended to read as follows: 65-6311. (a) The board may ~~suspend, limit, revoke, condition or refuse to issue or renew a license of any~~ social worker upon proof that the social worker:

~~(1)~~ Has been convicted of a felony and, after investigation, the board finds that the licensee has not been sufficiently rehabilitated to merit the public trust;

- (2) has been found guilty of fraud or deceit in connection with services rendered as a social worker or in establishing needed qualifications under this act;
- (3) has knowingly aided or abetted a person, not a licensed social worker, in representing such person as a licensed social worker in this state;
- (4) has been found guilty of unprofessional conduct as defined by rules established by the board;
- (5) has been found to have engaged in diagnosis as authorized under K.S.A. 65-6319, and amendments thereto, even though not authorized to engage in such diagnosis under K.S.A. 65-6319, and amendments thereto;
- (6) has been found guilty of negligence or wrongful actions in the performance of duties; or
- (7) refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:
- (1) Is incompetent to practice social work, which means:
- (A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;
- (B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or
- (C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice social work;
- (2) has been convicted of a felony offense and has not demonstrated to the board's

satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the social workers licensure act or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations adopted by the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or

(10) has had a license, registration or certificate to practice social work revoked, suspended or limited, or has had other disciplinary action taken, or an application for a license, registration or certificate denied, by the proper licensing regulatory authority of another state,

territory, District of Columbia, or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) ~~Proceedings to consider the suspension, revocation or refusal to renew a license shall be conducted in accordance with the provisions of the Kansas administrative procedure act~~
For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the social workers licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the social workers licensure act shall be in accordance with the Kansas judicial review act.

Sec. 42. K.S.A. 2015 Supp. 65-6313 is hereby amended to read as follows: 65-6313. (a)
All licenses issued shall be effective upon the date issued and shall expire at the end of 24 months from the date of issuance.

(b) (1) Except as otherwise provided in K.S.A. 65-6311, and amendments thereto, a license may be renewed by the payment of the renewal fee set forth in K.S.A. 65-6314, and amendments thereto, and the execution and submission of a signed statement, on a form to be provided by the board, attesting that the applicant's license has been neither revoked nor currently suspended and that applicant has met the requirements for continuing education established by the board including not less than three continuing education hours of professional ethics.

(2) An applicant for renewal of a license as a master social worker or a specialist

clinical social worker, as part of such continuing education, shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders.

(3) ~~On and after January 1, 2011,~~ An applicant for first time licensure renewal as a baccalaureate social worker, master social worker or specialist clinical social worker, as part of such continuing education, shall complete not less than six hours of social worker safety awareness training. If the applicant for first time licensure renewal has already taken such training, as part of a previous level of social work licensure renewal, then the applicant is not required to complete an additional six hours of social worker safety training.

(c) The application for renewal shall be made on or before the date of the expiration of the license or on or before the date of the termination of the period of suspension.

(d) If the application for renewal, including payment of the required renewal fee, is not made on or before the date of the expiration of the license, the license is void, and no license shall be reinstated except upon payment of the required renewal fee established under K.S.A. 65-6314, and amendments thereto, plus a penalty equal to the renewal fee, and proof satisfactory to the board of the completion of 40 hours of continuing education within two years prior to application for reinstatement. Upon receipt of such payment and proof, the board shall reinstate the license. A license shall be reinstated under this subsection, upon receipt of such payment and proof, at any time after the expiration of such license.

(e) In case of a lost or destroyed license, and upon satisfactory proof of the loss or destruction thereof, the board may issue a duplicate license and shall charge a fee as set forth in K.S.A. 65-6314, and amendments thereto, for such duplicate license.

(f) Within 30 days after any change of permanent address, a licensee shall notify the

board of such change.

Sec. 43. K.S.A. 65-6314 is hereby amended to read as follows: 65-6314. (a) The following fees ~~shall~~ may be established by the board ~~by rules and regulations~~ in accordance with the following limitations, and any such fees shall be established by rules and regulations adopted by the board:

- (1) Renewal or reinstatement fee for a license as a social work associate shall be not more than \$150.
- (2) Application, new license, reinstatement or renewal fee for a license as a baccalaureate social worker shall be not more than \$150.
- (3) Application, new license, reinstatement or renewal fee for a license as master social worker shall be not more than \$150.
- (4) Application, new license, reinstatement or renewal fee for a license in a social work specialty shall be not more than \$150.
- (5) ~~Examination fee for a license as a baccalaureate social worker, for a license as a master social worker or for a license in a social work specialty shall be not more than \$200. If an applicant fails an examination, such applicant may be admitted to subsequent examinations upon payment of an additional fee prescribed by the board of not more than \$200.~~
- (6)—Replacement fee for reissuance of a license certificate due to loss or name change shall be not more than \$20.
- (6) Replacement fee for reissuance of a wallet card shall be not more than \$5.
- (7) Temporary license fee for a baccalaureate social worker, master social worker or a social work specialty shall be not more than \$50.

(8) Application fee for approval as board-approved continuing education sponsors shall be as follows:

- (A) Initial application fee for one year provisionally approved providers shall be not more than \$125;
- (B) three-year renewal fees for approved providers shall be not more than \$350; and
- (C) application fees for single program providers shall be not more than \$50 for each separately offered continuing education activity for which prior approval is sought.

(b) Fees paid to the board are not refundable.

New Sec. 44. K.S.A. 65-6301 through 65-6320, and this section, and amendments thereto, shall be known and may be cited as the social workers licensure act.

Sec. 45. K.S.A. 2015 Supp. 65-6405 is hereby amended to read as follows: 65-6405. (a) A person who is waiting to take the examination required by the board may apply to the board for a temporary license to practice as a licensed marriage and family therapist by:

- (1) Paying an application fee ~~of no more than \$150, as established by the board under K.S.A. 65-6411, and amendments thereto;~~ and
 - (2) meeting the application requirements as stated in ~~subseetions (a)(1), (2) and (4)~~ of K.S.A. 65-6404(a)(1), (a)(2) and (a)(4), and amendments thereto.
- (b) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.
- (2) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies the person a license to

practice marriage and family therapy or 12 months after the date of issuance of the temporary license.

(3) ~~A temporary licensee shall take the license examination within six months subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board or if the temporary licensee does not take the license examination within six months subsequent to the date of issuance of the temporary license and no extenuating circumstances have been approved by the board, the temporary license will expire after the first six months.~~

(4)—No temporary license will be renewed or issued again on any subsequent application for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

(c) A person practicing marriage and family therapy with a temporary license may not use the title "licensed marriage and family therapist" or the initials "LMFT" independently. The word "licensed" may be used only when followed by the words "by temporary license" such as licensed marriage and family therapist by temporary license, or marriage and family therapist, temporarily licensed.

(d) No person may practice marriage and family therapy under a temporary license except under the supervision of a person licensed by the behavioral sciences regulatory board at the independent level.

(e) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its

issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

Sec. 46. K.S.A. 2015 Supp. 65-6406 is hereby amended to read as follows: 65-6406. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice marriage and family therapy in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice marriage and family therapy in the other jurisdiction are substantially the equivalent of the requirements of the marriage and family therapists licensure act and rules and regulations of the board;

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) Continuous Registration, certification or licensure to practice marriage and family therapy ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) completion of a ~~masters~~ master's degree in marriage and family therapy from a regionally accredited university.

(b) Applicants for licensure as a clinical marriage and family therapist shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either ~~paragraph (1) or (2)~~ of subsection (a)(1) or (a)(2) and at least two of the following areas acceptable to the board:

- (1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;
 - (2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or
 - (3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.
- (c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 65-6411, and amendments thereto, if required by the board.

Sec. 47. K.S.A. 65-6407 is hereby amended to read as follows: 65-6407. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 65-6411, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 65-6411, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board. As part of such continuing education, the applicant shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written

application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 65-6411, and amendments thereto.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 48. K.S.A. 65-6408 is hereby amended to read as follows: 65-6408. The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure of any individual who the board, after a hearing, determines issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:

(1) Is incompetent to practice marriage and family therapy, or is found to engage in the practice of marriage and family therapy in a manner harmful or dangerous to a client or to the public which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice marriage and family therapy;

(2) is has been convicted by a court of competent jurisdiction of a crime that the board determines is of a nature to render the convicted person unfit to practice marriage and family

therapy felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3)(5) has violated a provision of the marriage and family therapists licensure act or one or more of the rules and regulations of the board;

(4)(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(5)(7) has knowingly made a false statement on a form required by the board for license or license renewal;

(6)(8) has failed to obtain continuing education credits required by rules and regulations of the board;

(7)(9) has been found guilty of to have engaged in unprofessional conduct as defined by applicable rules and regulations established adopted by the board; or

(8)(10) has had a registration, license or certificate as a marriage and family therapist revoked, suspended or limited, or has had other disciplinary action taken, or an application for

registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the marriage and family therapists licensure act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the marriage and family therapists licensure act shall be in accordance with the Kansas judicial review act.

Sec. 49. K.S.A. 65-6411 is hereby amended to read as follows: 65-6411. (a) The board ~~shall may fix by rules and regulations and shall collect~~ the following fees, ~~and any such fees shall be established by rules and regulations adopted by the board:~~

- (1) For application for licensure ~~as a marriage and family therapist~~, not to exceed \$150;
- (2) for original licensure ~~as a marriage and family therapist~~, not to exceed \$175;
- (3) ~~for examination, not to exceed \$275;~~
- (4) ~~for renewal of a license for licensure as a marriage and family therapist, not to exceed \$175;~~
- (5) ~~for application for licensure as a clinical marriage and family therapist, not to exceed \$175;~~
- (5) for original licensure as a clinical marriage and family therapist, not to exceed \$175;

(6) for renewal for licensure as a clinical marriage and family therapist, not to exceed \$175;

(7) for reinstatement of a license, not to exceed \$175;

(8) for replacement of a license, not to exceed \$20; ~~and~~

(9) ~~for late charges, not to exceed \$5 for each 30 days of delay beyond the date the renewal application was to be made~~ penalty, an amount equal to the renewal of license; and

(10) for a wallet card license, not to exceed \$5.

(b) Fees paid to the board are not refundable.

New Sec. 50. On and after July 1, 2017, all licensees providing postgraduate clinical supervision for those working toward clinical licensure must be board-approved clinical supervisors.

(a) Applications for board-approved clinical supervisor shall be made to the board on a form and in the manner prescribed by the board. Each application shall be accompanied by the fee fixed under K.S.A. 65-6411, and amendments thereto.

(b) Each applicant for board-approved clinical supervisor shall furnish evidence satisfactory to the board that the applicant:

(1) (A) Is currently licensed as a clinical marriage and family therapist and has practiced as a clinical marriage and family therapist for two years beyond the supervisor's licensure date; or

(B) be a person who is licensed at the graduate level to practice in one of the behavioral sciences, and whose authorized scope of practice permits the diagnosis and treatment of mental

disorders and shall have at least two years of professional experience in the independent practice of clinical marriage and family therapy beyond the date of licensure at this level;

(2) does not have any disciplinary action that would prohibit providing clinical supervision; and

(3) (A) has completed the minimum number of semester hours of coursework related to the enhancement of supervision skills approved by the board; or

(B) has completed the minimum number of continuing education hours related to the enhancement of supervision skills approved by the board.

(c) Each board-approved clinical supervisor shall complete, as part of the continuing education required under K.S.A. 65-6407, and amendments thereto, at least three hours of continuing education related to the enhancement of supervisory skills, and at least one such hour must focus on ethics in supervision.

Sec. 51. K.S.A. 2015 Supp. 65-6607 is hereby amended to read as follows: 65-6607. K.S.A. 2015 Supp. 65-6607 through 65-6620, and amendments thereto, shall be known and may be cited as the ~~addictions~~ addiction counselor licensure act.

Sec. 52. K.S.A. 2015 Supp. 65-6608 is hereby amended to read as follows: 65-6608. As used in the ~~addictions~~ addiction counselor licensure act:

(a) "Board" means the behavioral sciences regulatory board created under K.S.A. 74-7501, and amendments thereto.

(b) "Addiction counseling" means the utilization of special skills to assist persons with addictions, and to assist such persons' families and friends to achieve resolution of addiction through the exploration of the disease and its ramifications, the examination of attitudes and

feelings, the consideration of alternative solutions and decision making, as these relate specifically to addiction. Evaluation and assessment, treatment including treatment plan development, crisis intervention, referral, record keeping and clinical consultation specifically related to addiction are within the scope of addiction counseling. Additionally, at the clinical level of licensure, addiction counseling includes independent practice and the diagnosis and treatment of substance use disorders.

(c) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or in completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto, unless otherwise exempt ~~for from~~ licensure under ~~subsection (m)~~ of K.S.A. 59-29b46(n), and amendments thereto.

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

(e) "Licensed clinical addiction counselor" means a person who engages in the independent practice of addiction counseling and diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association's diagnostic and

statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed under this act.

Sec. 53. K.S.A. 2015 Supp. 65-6609 is hereby amended to read as follows: 65-6609. (a) ~~On and after September 1, 2011,~~ No person shall engage in the practice of addiction counseling or represent that such person is a licensed addiction counselor or is an addiction counselor-~~or~~, a substance abuse counselor or an alcohol and drug counselor without having first obtained a license as an addiction counselor under the ~~addictions~~ addiction counselor licensure act.

(b) On and after September 1, 2016, no person shall engage in the practice of addiction counseling or represent that such person is a licensed master's addiction counselor, master's addiction counselor, master's substance abuse counselor or master's alcohol and drug counselor without having first obtained a license as a master's addiction counselor under the addiction counselor licensure act.

(c) On and after September 1, 2011, No person shall engage in the practice of addiction counseling as a clinical addiction counselor or represent that such person is a licensed clinical addiction counselor-~~or~~ ~~is~~, a clinical addiction counselor-~~or~~, a clinical substance abuse counselor or a clinical alcohol and drug counselor without having first obtained a license as a clinical addiction counselor under the addiction counselor licensure act.

~~(e)~~ (d) Violation of this section is a class B misdemeanor.

Sec. 54. K.S.A. 2015 Supp. 65-6610 is hereby amended to read as follows: 65-6610. (a) An applicant for licensure as an addiction counselor shall furnish evidence that the applicant:

- (1) Has attained the age of 21;~~and~~
- (2) (A) has completed at least a baccalaureate degree from an addiction counseling

program that is part of a college or university approved by the board; or

(B) has completed at least a baccalaureate degree from a college or university approved by the board ~~in a related field that includes, As part of, or in addition to, the baccalaureate degree coursework, such applicant shall also complete~~ a minimum number of semester hours of coursework on substance use disorders as approved by the board; or

(C) ~~has completed at least a baccalaureate degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board, and such degree program and the additional coursework includes a minimum number of semester hours of coursework on substance use disorders as approved by the board;~~ or

(D)—is currently licensed in Kansas as a licensed baccalaureate social worker and has completed a minimum number of semester hours of coursework on substance use disorders as approved by the board; ~~or and~~

(E) ~~is currently licensed in Kansas as a licensed master social worker, licensed professional counselor, licensed marriage and family therapist or licensed masters level psychologist;~~ and

(3) has passed an examination approved by the board; ~~and~~

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) ~~each applicant~~ has paid the application fee established by the board under K.S.A.

2015 Supp. 65-6618, and amendments thereto.

(b) Applications for licensure as a master's addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence

satisfactory to the board that the applicant:

(1) (A) Has attained the age of 21;

(B) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board;
(ii) has completed at least a master's degree from a college or university approved by the board. As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; or

(iii) is currently licensed in Kansas as a licensed master social worker, licensed professional counselor, licensed marriage and family therapist or licensed master's level psychologist; and

(C) has passed an examination approved by the board;

(D) has satisfied the board that the applicant is a person who merits the public trust; and

(E) has paid the application fee fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; or

(2) (A) has met the following requirements on or before July 1, 2016:

(i) Holds an active license by the board as an addiction counselor; and

(ii) has completed at least a master's degree in a related field from a college or university approved by the board; and

(B) has completed six hours of continuing education in the diagnosis and treatment of substance use disorders during the three years immediately preceding the application date.

(c) Applications for licensure as a clinical addiction counselor shall be made to the

board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

- (1) Has attained the age of 21; and
- (2) (A) (i) has completed at least a master's degree from an addiction counseling program that is part of a college or university approved by the board; and
 - (ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

by the board ~~in a related field that includes~~ As part of or in addition to the master's degree coursework, such applicant shall also complete a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(C) (i) ~~has completed a master's degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or~~

~~university approved by the board and such degree program and additional coursework includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and~~

~~(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or~~

~~(D) (i) has completed a master's degree in a related field from a college or university approved by the board and is licensed by the board as a licensed master's addiction counselor; and~~

(ii) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association; or has completed not less than ~~two years~~ one year of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 2,000 hours of supervised professional experience including at least 750 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 75 hours of clinical supervision, including not less than 25 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, and such person has a doctoral degree in addiction counseling or a related field as approved by the board; or

(E) is currently licensed in Kansas as a licensed psychologist, licensed specialist clinical social worker, licensed clinical professional counselor, licensed clinical psychotherapist or licensed clinical marriage and family therapist and provides to the board an attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders; and

- (3) has passed an examination approved by the board; and
- (4) has satisfied the board that the applicant is a person who merits the public trust; and
- (5) has paid the application fee fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

~~(e)~~ (d) Prior to July 1, 2017, a person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the Kansas department for aging and disability services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, who was registered in Kansas as an alcohol and other drug counselor, an alcohol and drug credentialed counselor or a credentialed alcohol and other drug abuse counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed addiction counselor by providing demonstration acceptable to the board of competence to perform the duties of an addiction counselor.

~~(d)~~ (e) Prior to July 1, 2017, any person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the department of social and rehabilitation services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, and who is also licensed to practice independently as a mental health practitioner or person licensed to practice medicine and

surgery, and who was registered or credentialed in Kansas as an alcohol and other drug counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

(e) (f) Prior to July 1, 2017, any person who was credentialed by the department of social and rehabilitation services as an alcohol and drug counselor and has been actively engaged in the practice, supervision or administration of addiction counseling in Kansas for not less than four years and holds a master's degree in a related field from a college or university approved by the board and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

(f) A licensed addiction counselor shall engage in the practice of addiction counseling only in a state licensed or certified alcohol and other drug treatment program, unless otherwise exempt from licensure under subsection (m) of K.S.A. 59-29b46, and amendments thereto.

Sec. 55. K.S.A. 2015 Supp. 65-6611 is hereby amended to read as follows: 65-6611. (a) A person who is waiting to take the examination for licensure as an addiction counselor may apply to the board for a temporary license to practice as a licensed addiction counselor by: (1) Paying an application fee for a temporary license fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; and (2) meeting the application requirements as stated in ~~subsections (a) (1), (2) and (4)~~ of K.S.A. 2015 Supp. 65-6610(a)(1), (a)(2) and (a)(4), and amendments thereto.

(b) A person who is waiting to take the examination for licensure as a master's addiction counselor may apply to the board for a temporary license to practice as a licensed master's addiction counselor by: (1) Paying an application fee for a temporary license fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto; and (2) meeting the application requirements as stated in K.S.A. 2015 Supp. 65-6610(b)(1), (b)(2) and (b)(4), and amendments thereto.

(c) (1) A temporary license may be issued by the board after the application has been reviewed and approved by the board and the applicant has paid the appropriate fee set by the board for issuance of new licenses.

(2) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies the person a license to practice addiction counseling or 12 months after the date of issuance of the temporary license.

(3) No temporary license will be renewed or issued again on any subsequent application for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

(e) ~~(d)~~ A person practicing addiction counseling with a temporary license may not use

the title "licensed addiction counselor" or "licensed master's addiction counselor" or use the initials "LAC" or "LMAC" independently. The word "licensed" may be used only when followed by the words "by temporary license" such as licensed addiction counselor by temporary license, or addiction counselor, temporarily licensed.

(d) (e) No person may practice addiction counseling under a temporary license except in a licensed or certified alcohol and other drug abuse program, under the direction of a person licensed by the behavioral sciences regulatory board at the clinical level or a person licensed to practice medicine and surgery.

(e) (f) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such license.

Sec. 56. K.S.A. 2015 Supp. 65-6612 is hereby amended to read as follows: 65-6612. (a) Upon written application and board approval, an individual who is licensed to engage in the independent clinical practice of addiction counseling at the clinical level in another jurisdiction and who is in good standing in that other jurisdiction may engage in the independent practice of clinical addiction counseling as provided by the ~~addictions~~ addiction counselor licensure act, in this state for not more than 15 days per year upon receipt of a temporary permit to practice issued by the board.

(b) Any clinical addiction counseling services rendered within any 24-hour period shall count as one entire day of clinical addiction counseling services.

(c) The temporary permit to practice shall be effective on the date of approval by the board and shall expire December 31 of that year. Upon written application and for good cause shown, the board may extend the temporary permit to practice no more than 15 additional days.

(d) The board shall charge a fee for a temporary permit to practice and a fee for an extension of a temporary permit to practice as fixed under K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(e) A person who holds a temporary permit to practice clinical addiction counseling in this state shall be deemed to have submitted to the jurisdiction of the board and shall be bound by the statutes and regulations that govern the practice of clinical addiction counseling in this state.

(f) In accordance with the Kansas administrative procedure act, the board may issue a cease and desist order or assess a fine of up to \$1,000 per day, or both, against a person licensed in another jurisdiction who engages in the independent practice of clinical addiction counseling in this state without complying with the provisions of this section.

Sec. 57. K.S.A. 2015 Supp. 65-6613 is hereby amended to read as follows: 65-6613. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice addiction counseling in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice addiction counseling in the other jurisdiction are substantially the equivalent of the requirements of the addictions addiction counselor licensure act and rules and regulations of the board; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~—Registration, certification or licensure to practice as an addiction

~~counseling during the five years counselor for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board; and~~

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) completion of ~~at least~~ a baccalaureate ~~or~~ master's degree ~~in addiction counseling from a college or university approved by the board or completion of a baccalaureate or master's degree in a related field that includes all required addiction coursework.~~

(b) The board may issue a license to an individual who is currently registered, certified or licensed to practice addiction counseling at the master's level in another jurisdiction if the board determines that:

(1) (A) The standards for registration, certification or licensure to practice addiction counseling at the master's level in the other jurisdiction are substantially the equivalent of the requirements of the addiction counselor licensure act and rules and regulations of the board; and

(B) completion of at least a master's degree from a college or university approved by the board; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) Registration, certification or licensure to practice addiction counseling at the master's level for at least 60 of the last 66 months immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration,

certification or licensing board or agency; and

(C) completion of at least a master's degree from a college or university approved by the board.

(c) The board may issue a license to an individual who is currently registered, certified or licensed to practice ~~clinical~~ addiction counseling at the clinical level in another jurisdiction if the board determines that:

(1) (A) The standards for registration, certification or licensure to practice ~~clinical~~ addiction counseling at the clinical level in the other jurisdiction are substantially the equivalent of the requirements of the ~~addictions~~ addiction counselor licensure act and rules and regulations of the board; ~~or~~ and

(B) the applicant demonstrates completion of at least a master's degree from a college or university approved by the board; or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice ~~clinical~~ addiction counseling ~~during the five years at the clinical level for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board; and

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C)~~(i)~~ completion of at least a master's degree ~~in clinical addiction counseling~~ from a college or university approved by the board; ~~or~~

(ii) completion of at least a master's degree from a college or university approved by the board in a related field that includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; or

(iii) completion of at least a master's degree from a college or university approved by the board in a related field with additional coursework in addiction counseling from a college or university approved by the board and such degree program and additional coursework includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; and

(D) at least two of the following areas acceptable to the board:

- (i) Either coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board; or
- (ii) three years of clinical practice with demonstrated experience supporting diagnosing or treating substance use disorders; or
- (iii) attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders.

(e) (d) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 2015 Supp. 65-6618, and amendments thereto, if required by the board.

Sec. 58. K.S.A. 2015 Supp. 65-6614 is hereby amended to read as follows: 65-6614. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto, and has otherwise

complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board, including not less than three hours in ethics. In addition, as part of such continuing education, the master's addiction counselor applicant and the clinical addiction counselor applicant shall complete not less than six continuing education hours relating to diagnosis and treatment of substance use disorders. ~~Both the clinical addiction counselor applicant and the addiction counselor applicant shall complete not less than three continuing education hours of professional ethics.~~

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by K.S.A. 2015 Supp. 65-6618, and amendments thereto.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 59. K.S.A. 2015 Supp. 65-6615 is hereby amended to read as follows: 65-6615. (a) The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure issued under this act of any individual who the board, after the opportunity for a hearing, determines:

(a) issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for license:

(1) Is incompetent to practice addiction counseling, or is found to engage in the practice of addiction counseling in a manner harmful or dangerous to a client or to the public which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice addiction counseling;

(b) (2) is has been convicted by a court of competent jurisdiction of a felony, misdemeanor crimes against persons or substantiation of abuse against a child, adult or resident of a care facility, even if not practice related offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or

licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(e) (5) has violated a provision of the ~~addictions~~ addiction counselor licensure act or one or more of the rules and regulations of the board;

(f) (6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(g) (7) has knowingly made a false statement on a form required by the board for license or license renewal;

(h) (8) has failed to obtain continuing education credits required by rules and regulations of the board;

(i) (9) has been found ~~guilty of~~ to have engaged in unprofessional conduct as defined by applicable rules and regulations ~~established~~ adopted by the board; or

(j) (10) has had a registration, license or certificate as an addiction counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the addiction counselor licensure act shall be conducted in accordance with the Kansas

administrative procedure act. Judicial review and civil enforcement of agency actions under the addiction counselor licensure act shall be in accordance with the Kansas judicial review act.

Sec. 60. K.S.A. 2015 Supp. 65-6616 is hereby amended to read as follows: 65-6616.

Nothing in the ~~addictions~~ addiction counselor licensure act shall be construed:

- (a) To prevent addiction counseling practice by students or interns or individuals preparing for the practice of addiction counseling to practice under qualified supervision of a professional, recognized and approved by the board, in an educational institution or agency so long as they are designated by titles such as "student," "trainee," "intern" or other titles clearly indicating training status;
- (b) to authorize the practice of psychology, medicine and surgery, professional counseling, marriage and family therapy, master's level psychology or social work or other professions licensed by the behavioral sciences regulatory board;
- (c) to apply to the activities and services of a rabbi, priest, minister, clergy person or organized ministry of any religious denomination or sect, including a Christian-Science practitioner, unless such person or individual who is a part of the organized ministry is a licensed addiction counselor;
- (d) to apply to the activities and services of qualified members of other professional groups including, but not limited to, attorneys, physicians, psychologists, master's level psychologists, marriage and family therapists, professional counselors, or other professions licensed by the behavioral sciences regulatory board, registered nurses or social workers performing services consistent with the laws of this state, their training and the code of ethics of their profession, so long as they do not represent themselves as being an addiction counselor; or

(e) to prevent qualified persons from doing work within the standards and ethics of their respective professions and callings provided they do not hold themselves out to the public by any title or description of services as being an addiction counselor.

Sec. 61. K.S.A. 2015 Supp. 65-6617 is hereby amended to read as follows: 65-6617. (a) A person licensed under the ~~addictions~~ addiction counselor licensure act and employees and professional associates of the person shall not be required to disclose any information that the person, employee or associate may have acquired in rendering addiction counseling services, unless:

- (1) Disclosure is required by other state laws;
 - (2) failure to disclose the information presents a clear and present danger to the health or safety of an individual;
 - (3) the person, employee or associate is a party defendant to a civil, criminal or disciplinary action arising from the therapy, in which case a waiver of the privilege accorded by this section is limited to that action;
 - (4) the client is a defendant in a criminal proceeding and the use of the privilege would violate the defendant's right to a compulsory process or the right to present testimony and witnesses in that person's behalf; or
 - (5) a client agrees to a waiver of the privilege accorded by this section, and in circumstances where more than one person in a family is receiving therapy, each such family member agrees to the waiver. Absent a waiver from each family member, an addiction counselor shall not disclose information received from a family member.
- (b) Nothing in this section or in this act shall be construed to prohibit any person

licensed under the ~~addictions~~ addiction counselor licensure act from testifying in court hearings concerning matters of adult abuse, adoption, child abuse, child neglect or other matters pertaining to the welfare of children or from seeking collaboration or consultation with professional colleagues or administrative superiors, or both, on behalf of a client. There is no privilege under this section for information which is required to be reported to a public official.

Sec. 62. K.S.A. 2015 Supp. 65-6618 is hereby amended to read as follows: 65-6618. (a) The board ~~shall~~ may fix by rules and regulations and shall collect the following fees, and any such fees shall be established by rules and regulations adopted by the board:

- (1) For application for licensure as an addiction counselor, not to exceed \$150;
- (2) for original licensure as an addiction counselor, not to exceed \$150;
- (3) for renewal ~~of a license~~ for licensure as an addiction counselor, not to exceed \$150;
- (4) for a temporary license ~~as an addiction counselor~~, not to exceed \$100;
- (5) for application for licensure as a master's addiction counselor, not to exceed \$150;
- (6) for original licensure as a master's addiction counselor, not to exceed \$150;
- (7) for renewal for licensure as a master's addiction counselor, not to exceed \$150;
- (8) for application for licensure as a clinical addiction counselor, not to exceed \$150;
- (6)~~(9)~~ for original licensure as a clinical addiction counselor, not to exceed \$150;
- (7)~~(10)~~ for renewal for licensure as a clinical addiction counselor, not to exceed \$150;
- (8)~~(11)~~ for a temporary permit to practice clinical addiction counseling, not to exceed \$200;
- (9)~~(12)~~ for extension of a temporary permit to practice clinical addiction counseling, not to exceed \$200;

- (10)(13) for reinstatement of a license, not to exceed \$150;
- (11)(14) for replacement of a license, not to exceed \$20; ~~and~~
- (12)(15) for late renewal penalty, an amount equal to the fee for renewal; ~~and~~
- (16) for a wallet license, not more than \$5.

(b) The board shall require that fees paid for any examination under the ~~addictions~~ addiction counselor licensure act be paid directly to the examination services by the person taking the examination.

(c) Fees paid to the board are not refundable.

Sec. 63. K.S.A. 2015 Supp. 65-6620 is hereby amended to read as follows: 65-6620. A licensee under the ~~addictions~~ addiction counselor licensure act, at the beginning of a client-therapist relationship, shall inform the client of the level of such licensee's training and the title or titles and license or licenses of such licensee. As a part of such obligation, such licensee shall disclose whether such licensee has a baccalaureate, master's degree or a doctoral degree. If such licensee has a doctoral degree, such licensee shall disclose whether or not such doctoral degree is a doctor of medicine degree or some other doctoral degree. If such licensee does not have a medical doctor's degree, such licensee shall disclose that the licensee is not authorized to practice medicine and surgery and is not authorized to prescribe drugs. As a part of such disclosure, such licensee shall advise the client that certain mental disorders can have medical or biological origins, and that the client should consult with a physician. Documentation of such disclosures to a client shall be made in the client's record.

Sec. 64. K.S.A. 2015 Supp. 74-5310 is hereby amended to read as follows: 74-5310. (a) The board shall issue a license as a psychologist to any person who pays an application fee

prescribed by the board, if required by the board, not in excess of \$225 and, if required by the board, an original license fee not in excess of \$150, which shall not be refunded, who either satisfies the board as to such person's training and experience after a thorough review of such person's credentials and who passes a satisfactory examination in psychology. Any person paying the fee must also submit evidence verified by oath and satisfactory to the board that such person:

- (1) Is at least 21 years of age;
- (2) is of good moral character;
- (3) has received the doctor's degree based on a program of studies in content primarily psychological from an educational institution having a graduate program with standards consistent with those of the state universities of Kansas, or the substantial equivalent of such program in both subject matter and extent of training; and
- (4) has had at least two years of supervised experience, a significant portion of which shall have been spent in rendering psychological services satisfying the board's approved standards for the psychological service concerned.

(b) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under item (3) of subsection (a)(3). The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of item (3) of subsection (a)(3) and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or

consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 65. K.S.A. 74-5311 is hereby amended to read as follows: 74-5311. ~~Examinations for applicants under this act shall be held by the board from time to time but not less than once each year.~~ The board shall adopt rules and regulations governing the subject, scope, and form of the examinations ~~for applicants under this act~~ or shall contract with a national testing service to provide an examination approved by the board. ~~The board shall prescribe an initial examination fee not to exceed \$350. If an applicant fails the first examination, such applicant may be admitted to any subsequent examination upon payment of an additional fee prescribed by the board not to exceed \$350.~~ The examination fees prescribed by the board under this section shall be fixed by ~~rules and regulations of the board.~~

Sec. 66. K.S.A. 2015 Supp. 74-5315 is hereby amended to read as follows: 74-5315. (a) The board may grant a license to any person who, at the time of application, is registered, certified or licensed as a psychologist at the doctoral level in another jurisdiction if the board determines that:

- (1) The requirements of such jurisdiction for such certification or licensure are substantially the equivalent of the requirements of this state; or
- (2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:
 - (A) ~~Continuous~~ Registration, certification or licensure as a psychologist at the doctoral level ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the

application with at least the minimum professional experience as established by rules and regulations of the board;

- (B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and
 - (C) a doctoral degree in psychology from a regionally accredited university or college.
- (b) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 74-5310, and amendments thereto, if required by the board.

Sec. 67. K.S.A. 2015 Supp. 74-5316 is hereby amended to read as follows: 74-5316. (a) Upon application, the board may issue temporary licenses to persons who have met all qualifications for licensure under provisions of the licensure of psychologists act of the state of Kansas, except passage of the required examination, pursuant to K.S.A. 74-5310, and amendments thereto, who must wait for completion of the next examination, who have paid the required application, examination and temporary license fees and who have submitted documentation as required by the board, under the following:

- (1) ~~The temporary licensee shall expire upon receipt and recording of the temporary licensee's second examination score by the board if such temporary licensee fails the examination after two attempts or upon the date the board issues or denies the temporary licensee a license to practice psychology if such temporary licensee passes the examination;~~
- (2)—Such temporary licensee shall take the next license examination subsequent to the date of issuance of the temporary license unless there are extenuating circumstances approved by the board;
- (3)~~(2)~~ the board shall adopt rules and regulations prescribing continuing education

requirements for temporary licensees, including, but not limited to, a requirement that temporary licensees shall complete a minimum of 25 contact hours of continuing education during the two-year period of temporary licensure, which shall include a minimum of three hours in psychology ethics;

(4) no person may work under a temporary license except under the supervision of a licensed psychologist as prescribed in rules and regulations adopted by the board; and

(5) the fee for such temporary license ~~shall~~ may be fixed ~~by~~ rules and regulations adopted by the board and shall not exceed \$200, and any such fee shall be established by rules and regulations adopted by the board.

(b) Upon application, the board may issue temporary licenses not to exceed two years to persons who have completed all requirements for a doctoral degree approved by the board but have not received such degree conferral or who have met all qualifications for licensure under provisions of such act, except completion of the postdoctoral supervised work experience pursuant to subsection (a)(4) of K.S.A. 74-5310(a)(4), and amendments thereto, who have paid the required application and temporary license fees and who have submitted documentation as required by the board, under the following:

(1) The temporary license shall expire at the end of the two-year period after issuance or if such temporary licensee is denied a license to practice psychology;

(2) the temporary license may be renewed for one additional two-year period after expiration;

(3) temporary licensees shall take the license examination pursuant to ~~subsection (a)(4) of~~ K.S.A. 74-5310(a)(4), and amendments thereto, subsequent to the date of issuance and prior to

expiration of the temporary license unless there are extenuating circumstances approved by the board;

(4) temporary licensees shall be working toward the completion of the postdoctoral supervised work experience prescribed in ~~subsection (a)(4) of K.S.A. 74-5310(a)(4)~~, and amendments thereto;

(5) the board shall adopt rules and regulations prescribing continuing education requirements for temporary licensees, including, but not limited to, a requirement that temporary licensees shall complete a minimum of 25 contact hours of continuing education during the two-year period of temporary licensure, which shall include a minimum of three hours in psychology ethics;

(6) no temporary licensee may work under a temporary license except under the supervision of a licensed psychologist as prescribed in rules and regulations adopted by the board; and

(7) the fee for a renewal of the temporary license ~~shall~~ may be fixed ~~by~~ by rules and regulations adopted by the board and shall not exceed \$200 per issuance, and any such fee shall be established by rules and regulations adopted by the board.

(c) A person practicing psychology with a temporary license may not use the title "licensed psychologist" or the initials "LP" independently. The word "licensed" may be used only when preceded by the word "temporary" such as temporary licensed psychologist, or the initials "TLP."

(d) This section shall be part of and supplemental to the provisions of article 53 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto.

(e) As used in this section, "temporary licensee" means any person practicing psychology with a temporary license pursuant to subsection (b) or (c) of this section.

Sec. 68. K.S.A. 74-5318 is hereby amended to read as follows: 74-5318. ~~On or before the first day of April of alternate years, the board shall mail to every psychologist licensed in Kansas an application blank for renewal, which shall contain space for insertion of information as required for the application blank under K.S.A. 74-5317 and amendments thereto, addressing the same to the post office address given at the last previous renewal. In addition, The (a) An~~ application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed, during the previous 24 months, the continuing education required by rules and regulations of the board. As part of such continuing education, a licensed psychologist shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(b) A licensee shall submit the application to the board with a renewal fee fixed by rules and regulations of the board not to exceed \$200. Upon receipt of such application and fee, the board shall issue a renewal license for the period commencing on the date on which the license is issued and expiring on June 30 of the next even-numbered year. Initial licenses shall be for the current biennium of registration.

(c) Applications for renewal of a license shall be made biennially on or before July 1 and, if not so made, an additional fee equal to the renewal fee shall be added to the regular renewal fee.

(d) Any psychologist who has failed to renew a license and continues to represent oneself as a psychologist after July 1 shall be in violation of the licensure of psychologists act of

the state of Kansas. The board may suspend or revoke such psychologist's license under the provisions of K.S.A. 74-5324, and amendments thereto.

(e) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 69. K.S.A. 2015 Supp. 74-5324 is hereby amended to read as follows: 74-5324. (a) The board may ~~suspend, limit, revoke, condition or refuse to issue or renew a license of any psychologist upon proof that the psychologist:~~ (a) Has been convicted of a felony involving moral turpitude; or (b) has been guilty of fraud or deceit in connection with services rendered as a psychologist or in establishing qualifications under this act; or (c) has aided or abetted a person, not a licensed psychologist, in representing such person as a psychologist in this state; or (d) has been guilty of unprofessional conduct as defined by rules and regulations established by the board; or (e) has been guilty of negligence or wrongful actions in the performance of duties; or (f) has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement or (g) refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for a license:

(1) Is incompetent to practice psychology, which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice psychology;

(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the licensure of psychologists act of the state of Kansas or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations of the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations adopted by the board; or

(10) has had a registration, license or certificate as a psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings and disciplinary actions regarding licensure under the licensure of psychologists act of the state of Kansas shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under the licensure of psychologists of the state of Kansas act shall be in accordance with the Kansas judicial review act.

Sec. 70. K.S.A. 74-5361 is hereby amended to read as follows: 74-5361. As used in this act:

(a) "Practice of psychology" shall have the meaning ascribed thereto in K.S.A. 74-5302 and amendments thereto.

(b) "Board" means the behavioral sciences regulatory board created by K.S.A. 74-7501 and amendments thereto.

(c) "Licensed masters master's level psychologist" means a person licensed by the board under the provisions of this act.

(d) "Licensed clinical psychotherapist" means a person licensed by the board under this

act who engages in the independent practice of ~~masters~~master's level psychology including the diagnosis and treatment of mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations.

(e) "~~Masters~~Master's level psychology" means the practice of psychology pursuant to the restrictions set out in K.S.A. 74-5362, and amendments thereto, and includes the diagnosis and treatment of mental disorders as authorized under K.S.A. 74-5361 et seq., and amendments thereto.

Sec. 71. K.S.A. 74-5362 is hereby amended to read as follows: 74-5362. (a) Any person who is licensed under the provisions of this act as a licensed ~~masters~~master's level psychologist shall have the right to practice psychology ~~only insofar as such practice is part of the duties of such person's paid position and is performed solely on behalf of the employer,~~ so long as such practice is under the direction of a licensed clinical psychotherapist, a licensed psychologist, a person licensed to practice medicine and surgery or a person licensed to provide mental health services as an independent practitioner and whose licensure allows for the diagnosis and treatment of mental disorders. When a client has symptoms of a mental disorder, ~~a licensed masters-level psychologist licensee under the licensure of master's level psychologists act~~ shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed ~~masters~~master's level psychologist may continue to evaluate and treat the client until such time that the medical consultation is

obtained or waived.

(b) A licensed-masters master's level psychologist may use the title licensed-masters master's level psychologist and the abbreviation LMLP but may not use the title licensed psychologist or psychologist. A licensed clinical psychotherapist may use the title licensed clinical psychotherapist and the abbreviation LCP but may not use the title licensed psychologist or psychologist.

Sec. 72. K.S.A. 74-5363 is hereby amended to read as follows: 74-5363. (a) Any person who desires to be licensed under this act shall apply to the board in writing, on forms prepared and furnished by the board. Each application shall contain appropriate documentation of the particular qualifications required by the board and shall be accompanied by the required fee.

(b) The board shall license as a licensed-masters master's level psychologist any applicant for licensure who pays the fee prescribed by the board under K.S.A. 74-5365, and amendments thereto, which shall not be refunded, who has satisfied the board as to such applicant's training and who complies with the provisions of this subsection-(b). An applicant for licensure also shall submit evidence-verified under oath and satisfactory to the board that such applicant:

- (1) Is at least 21 years of age;
- (2) has satisfied the board that the applicant is a person who merits public trust;
- (3) has received at least 60 graduate hours including a master's degree in psychology based on a program of studies in psychology from an educational institution having a graduate program in psychology consistent with state universities of Kansas; or until July 1, 2003, has received at least a master's degree in psychology and during such master's or post-master's

coursework completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology; or has passed comprehensive examinations or equivalent final examinations in a doctoral program in psychology and during such graduate program completed a minimum of 12 semester hours or its equivalent in psychological foundation courses such as, but not limited to, philosophy of psychology, psychology of perception, learning theory, history of psychology, motivation, and statistics and 24 semester hours or its equivalent in professional core courses such as, but not limited to, two courses in psychological testing, psychopathology, two courses in psychotherapy, personality theories, developmental psychology, research methods, social psychology;

(4) has completed 750 clock hours of academically supervised practicum in the master's degree program or 1,500 clock hours of postgraduate supervised work experience;

(5) has passed an examination approved by the board with a minimum score set by the board by rules and regulations ~~at 10 percentage points below the score set by the board for licensed psychologists.~~

(c) (1) Applications for licensure as a clinical psychotherapist shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed ~~masters~~ master's level psychologist or meets

all requirements for licensure as a ~~masters~~ master's level psychologist;

(B) has completed 15 credit hours as part of or in addition to the requirements under subsection (b) supporting diagnosis or treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, through identifiable study of ~~the following content areas~~: Psychopathology, diagnostic assessment, interdisciplinary referral and collaboration, treatment approaches and professional ethics;

(C) has completed a graduate level supervised clinical practicum of supervised professional experience including psychotherapy and assessment with individuals, couples, families or groups, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual, with not less than 350 hours of direct client contact or additional postgraduate supervised experience as determined by the board;

(D) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting psychotherapy and assessments with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of mental disorders with use of the American psychiatric association's diagnostic and statistical manual;

(E) for persons earning a degree under subsection (b) prior to July 1, 2003, in lieu of the education requirements under ~~parts~~ subparagraphs (B) and (C)~~of this subsection~~, has completed the education requirements for licensure as a licensed ~~masters~~ master's level psychologist in

effect on the day immediately preceding the effective date of this act;

- (F) for persons who apply for and are eligible for a temporary ~~permit~~ license to practice as a licensed ~~masters~~ master's level psychologist on the day immediately preceding the effective date of this act, in lieu of the education and training requirements under ~~parts~~ subparagraphs (B), (C) and (D)~~of this subsection~~, has completed the education and training requirements for licensure as a ~~masters~~ master's level psychologist in effect on the day immediately preceding the effective date of this act;
- (G) has passed an examination approved by the board with the same minimum passing score as that set by the board for licensed psychologists; and
- (H) has paid the application fee, if required by the board.

(2) A person who was licensed or registered as a ~~masters~~ master's level psychologist in Kansas at any time prior to the effective date of this act, who has been actively engaged in the practice of ~~masters~~ master's level psychology as a registered or licensed ~~masters~~ master's level psychologist within five years prior to the effective date of this act and whose last license or registration in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical psychotherapist by providing demonstration of competence to diagnose and treat mental disorders through at least two of the following areas acceptable to the board:

- (A) Either: (i) Graduate coursework; or (ii) passing a national, clinical examination;
- (B) either: (i) Three years of clinical practice in a community mental health center, its contracted affiliate or a state mental hospital; or (ii) three years of clinical practice in other

settings with demonstrated experience in diagnosing or treating mental disorders; or

(C) attestation from one professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery that the applicant is competent to diagnose and treat mental disorders.

(3) A licensed clinical psychotherapist may engage in the independent practice of ~~masters master's~~ level psychology and is authorized to diagnose and treat mental disorders specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations. When a client has symptoms of a mental disorder, a licensed clinical psychotherapist shall consult with the client's primary care physician or psychiatrist to determine if there may be a medical condition or medication that may be causing or contributing to the client's symptoms of a mental disorder. A client may request in writing that such consultation be waived and such request shall be made a part of the client's record. A licensed clinical psychotherapist may continue to evaluate and treat the client until such time that the medical consultation is obtained or waived.

(d) The board shall adopt rules and regulations establishing the criteria which an educational institution shall satisfy in meeting the requirements established under ~~item (3) of subsection (b)(3)~~. The board may send a questionnaire developed by the board to any educational institution for which the board does not have sufficient information to determine whether the educational institution meets the requirements of ~~item (3) of subsection (b)(3)~~ and rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the educational institution to be considered for approval. The board may contract with investigative agencies, commissions or

consultants to assist the board in obtaining information about educational institutions. In entering such contracts the authority to approve educational institutions shall remain solely with the board.

Sec. 73. K.S.A. 74-5365 is hereby amended to read as follows: 74-5365. (a) The application, issuance of a new license and renewal fee for licensure under this act shall following fees may be fixed by the board by rules and regulations in an amount not to exceed \$200. for licensure under the licensure of master's level psychologists act: For application, issuance of a new license and renewal of a license, an amount not to exceed \$200; for replacement of a license, an amount not to exceed \$20; and for a wallet card license, an amount not to exceed \$. Any such fees required by the board shall be established by rules and regulations adopted by the board.

(b) Fees paid to the board are not refundable.

(c) The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed, during the previous 24 months, the continuing education required by rules and regulations of the board. As part of such continuing education, a licensed masters master's level psychologist and a licensed clinical psychotherapist shall complete not less than six continuing education hours relating to diagnosis and treatment of mental disorders and not less than three continuing education hours of professional ethics.

(d) Within 30 days after any change of permanent address, a licensee shall notify the board of such change.

Sec. 74. K.S.A. 2015 Supp. 74-5367 is hereby amended to read as follows: 74-5367. (a) The board may issue a temporary license to practice as a licensed-masters master's level

psychologist to any person who pays a fee prescribed by the board under this section, which shall not be refunded, and who meets all the requirements for licensure under K.S.A. 74-5361 et seq., and amendments thereto, as a licensed-masters master's level psychologist except the requirement of postgraduate supervised work experience or passing the licensing examination, or both.

(b)-(1) Absent extenuating circumstances approved by the board, a temporary license issued by the board shall expire upon the date the board issues or denies a license to practice masters master's level psychology or 24 months after the date of issuance of the temporary license. No temporary license issued by the board will be renewed or issued again on any subsequent applications for the same license level. The preceding provision in no way limits the number of times an applicant may take the examination.

(2) A temporary licensee shall take the examination within the first 12 months subsequent to the issuance of the temporary license unless there are extenuating circumstances approved by the board or if the temporary licensee does not take the examination within the first 12 months subsequent to the issuance of the temporary license and no extenuating circumstances have been approved by the board, the temporary license will expire after the first 12 months.

(c) The board shall may fix by rules and regulations a fee for the application of the temporary license. The application fee shall not exceed \$100. Any such fee shall be established by rules and regulations adopted by the board.

(d) A person practicing masters master's level psychology with a temporary license may not use the title "licensed-masters master's level psychologist" or the initials "LMLP" independently. The word "licensed" may be used only when followed by the words "by

temporary license" such as licensed-masters master's level psychologist by temporary license, or masters master's level psychologist licensed by temporary license.

(e) No person may work under a temporary license except under the supervision of a person licensed to practice psychology or-masters master's level psychology in Kansas.

(f) The application for a temporary license may be denied or a temporary license which has been issued may be suspended or revoked on the same grounds as provided for suspension or revocation of a license under K.S.A. 74-5369, and amendments thereto.

(g) Nothing in this section shall affect any temporary license to practice issued under this section prior to the effective date of this act and in effect on the effective date of this act. Such temporary license shall be subject to the provisions of this section in effect at the time of its issuance and shall continue to be effective until the date of expiration of the license as provided under this section at the time of issuance of such temporary license.

Sec. 75. K.S.A. 2015 Supp. 74-5369 is hereby amended to read as follows: 74-5369. An application for licensure under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, may be denied or a license granted under this act may be suspended, limited, revoked, have a condition placed on it or not renewed by the board upon proof that the applicant or licensee:

- (a) Has been convicted of a felony involving moral turpitude;
- (b) has been found guilty of fraud or deceit in connection with the rendering of professional services or in establishing such person's qualifications under this act;
- (c) has aided or abetted a person not licensed as a psychologist, licensed under this act or an uncertified assistant, to hold oneself out as a psychologist in this state;
- (d) has been guilty of unprofessional conduct as defined by rules and regulations of the

board;

(e) has been guilty of neglect or wrongful duties in the performance of duties; or
(f) (a) The board may refuse to issue, renew or reinstate a license, may condition, limit, revoke or suspend a license, may publicly or privately censure a licensee or may impose a fine not to exceed \$1,000 per violation upon a finding that a licensee or an applicant for licensure:

(1) Is incompetent to practice psychology, which means:

(A) One or more instances involving failure to adhere to the applicable standard of care to a degree that constitutes gross negligence, as determined by the board;

(B) repeated instances involving failure to adhere to the applicable standard of care to a degree that constitutes ordinary negligence, as determined by the board; or

(C) a pattern of practice or other behavior that demonstrates a manifest incapacity or incompetence to practice master's level psychology;

(2) has been convicted of a felony offense and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(3) has been convicted of a misdemeanor against persons and has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(4) is currently listed on a child abuse registry or an adult protective services registry as the result of a substantiated finding of abuse or neglect by any state agency, agency of another state or the United States, territory of the United States or another country and the applicant or licensee has not demonstrated to the board's satisfaction that such person has been sufficiently rehabilitated to merit the public trust;

(5) has violated a provision of the licensure of master's level psychologists act or one or more rules and regulations of the board;

(6) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(7) has knowingly made a false statement on a form required by the board for a license or license renewal;

(8) has failed to obtain continuing education credits as required by rules and regulations adopted by the board;

(9) has been found to have engaged in unprofessional conduct as defined by applicable rules and regulations of the board; or

(10) has had a registration, license or certificate as a masters master's level psychologist revoked, suspended or limited, or has had other disciplinary action taken, or an application for a registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(b) For issuance of a new license or reinstatement of a revoked or suspended license for a licensee or applicant for licensure with a felony conviction, the board may only issue or reinstate such license by a $\frac{2}{3}$ majority vote.

(c) Administrative proceedings under K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto, and disciplinary actions regarding licensure under the licensure of master's level psychologists act shall be conducted in accordance with the Kansas administrative procedure act. Judicial review and civil enforcement of agency actions under K.S.A. 74-5361 to

~~74-5371, inclusive, and amendments thereto, the licensure of master's level psychologists act~~
shall be in accordance with the Kansas judicial review act.

Sec. 76. K.S.A. 74-5370 is hereby amended to read as follows: 74-5370. The board may adopt rules and regulations to administer the provisions of ~~K.S.A. 74-5361 to 74-5371, inclusive, and amendments thereto~~ the licensure of master's level psychologists act.

Sec. 77. K.S.A. 2015 Supp. 74-5375 is hereby amended to read as follows: 74-5375. (a) The behavioral sciences regulatory board may issue a license to an individual who is currently registered, certified or licensed to practice psychology at the ~~masters~~ master's level in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice psychology at the ~~masters~~ master's level in the other jurisdiction are substantially equivalent to the requirements of this state; or

(2) the applicant demonstrates, on forms provided by the board, compliance with the following standards adopted by the board:

(A) ~~Continuous~~ Registration, certification or licensure to practice psychology at the ~~masters~~ master's level ~~during the five years for at least 60 of the last 66 months~~ immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) a ~~masters~~ master's degree in psychology from a regionally accredited university or college.

(b) Applicants for licensure as a clinical psychotherapist shall additionally demonstrate competence to diagnose and treat mental disorders through meeting the requirements of either paragraph (1) or (2) of subsection (a)(1) or (a)(2) and at least two of the following areas acceptable to the board:

- (1) Either graduate coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;
- (2) three years of clinical practice with demonstrated experience in diagnosing or treating mental disorders; or
- (3) attestation from a professional licensed to diagnose and treat mental disorders in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat mental disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under K.S.A. 74-5365, and amendments thereto, if required by the board.

Sec. 78. K.S.A. 2015 Supp. 74-5376 is hereby amended to read as follows: 74-5376. K.S.A. 74-5361 through ~~74-5375~~ 74-5374 and K.S.A. 2015 Supp. ~~74-5375~~, and amendments thereto, shall be known and may be cited as the licensure of ~~masters~~ master's level psychologists act.

Sec. 79. K.S.A. 2015 Supp. 74-7507 is hereby amended to read as follows: 74-7507. (a) The behavioral sciences regulatory board shall have the following powers, duties and functions:

(1) Recommend to the appropriate district or county attorneys prosecution for violations of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A.~~

~~74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addictions addiction counselor licensure act;~~

(2) compile and publish annually a list of the names and addresses of all persons who are licensed under this act, are licensed under the licensure of psychologists act of the state of Kansas, ~~are licensed under the professional counselors licensure act, are licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, are licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, are licensed under the marriage and family therapists licensure act or are licensed under the addictions addiction counselor licensure act;~~

(3) prescribe the form and contents of examinations required under this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addictions addiction counselor licensure act;~~

(4) enter into contracts necessary to administer this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015~~

~~Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act or the addictions addiction counselor licensure act;~~

- (5) adopt an official seal;
- (6) adopt and enforce rules and regulations for professional conduct of persons licensed under the licensure of psychologists act of the state of Kansas, ~~licensed under~~ the professional counselors licensure act, ~~licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, licensed under~~ the marriage and family therapists licensure act or ~~licensed under the addictions addiction~~ counselor licensure act;
- (7) adopt and enforce rules and regulations establishing requirements for the continuing education of persons licensed under the licensure of psychologists act of the state of Kansas, ~~licensed under~~ the professional counselors licensure act, ~~licensed under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, licensed under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, licensed under~~ the marriage and family therapists licensure act or ~~licensed under the addictions addiction~~ counselor licensure act;
- (8) adopt rules and regulations establishing classes of social work specialties which will be recognized for licensure under K.S.A. 65-6301 to 65-6318, inclusive, and amendments thereto;

(9) adopt rules and regulations establishing procedures for examination of candidates for licensure under the licensure of psychologists act of the state of Kansas,~~for licensure under the professional counselors licensure act, for licensure under K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, for licensure under K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, for licensure under the marriage and family therapists licensure act, for licensure under the addictions addiction counselor licensure act and for issuance of such certificates and such licenses;~~

(10) adopt rules and regulations as may be necessary for the administration of this act, the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, ~~K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto the social workers licensure act, the licensure of master's level psychologists act, the applied behavior analysis licensure act, the marriage and family therapists licensure act and the addictions addiction counselor licensure act and to carry out the purposes thereof;~~

(11) appoint an executive director and other employees as provided in K.S.A. 74-7501, and amendments thereto; and

(12) exercise such other powers and perform such other functions and duties as may be prescribed by law.

(b) ~~The behavioral sciences regulatory board, in addition to any other penalty, may assess an administrative penalty, after notice and an opportunity to be heard, against a licensee or~~

~~registrant for a violation of any of the provisions of the licensure of psychologists act of the state of Kansas, the professional counselors licensure act, K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto, the marriage and family therapists licensure act or the addictions counselor licensure act in an amount not to exceed \$1,000. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.~~

(e) If an order of the behavioral sciences regulatory board is adverse to a licensee or registrant of the board, the actual costs shall be charged to such person as in ordinary civil actions in the district court ~~in an amount not to exceed \$200~~. The board shall pay any additional costs and, if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed in accordance with statutes governing taxation of witness fees and costs in the district court.

Sec. 80. K.S.A. 2015 Supp. 74-7508 is hereby amended to read as follows: 74-7508. (a) In connection with any investigation, based upon a written complaint or other reasonably reliable written information, by the behavioral sciences regulatory board, the board or its duly authorized agents or employees shall at all reasonable times have access to, for the purpose of examination, and the right to copy any document, report, record or other physical evidence of any person being investigated, or any document, report, record or other evidence maintained by and in possession of any clinic or office of a practitioner of the behavioral sciences, or other public or private agency if such document, report, record or other physical evidence relates to practices

which may be grounds for disciplinary action.

(b) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to administer oaths and take testimony. For the purpose of all investigations and proceedings conducted by the behavioral sciences regulatory board:

(1) The board may issue subpoenas compelling the attendance and testimony of witnesses or the production for examination or copying of documents, reports, records or any other physical evidence if such documents, reports, records or other physical evidence relates to practices which may be grounds for disciplinary action. Within five days after the service of the subpoena on any person requiring the production of any documents, reports, records or other physical evidence in the person's possession or under the person's control, such person may petition the board to revoke, limit or modify the subpoena. The board shall revoke, limit or modify such subpoena if in its opinion the documents, reports, records or other physical evidence required does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the proceeding or investigation, or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced. Any member of the board, or any agent designated by the board, may administer oaths or affirmations, examine witnesses and receive such documents, reports, records or other physical evidence.

(2) The district court, upon application by the board or by the person subpoenaed, shall have jurisdiction to issue an order:

(A) Requiring such person to appear before the board or the board's duly authorized agent to produce documents, reports, records or other physical evidence relating to the matter

under investigation; or

(B) revoking, limiting or modifying the subpoena if in the court's opinion the evidence demanded does not relate to practices which may be grounds for disciplinary action, is not relevant to the allegation which is the subject matter of the hearing or investigation or does not describe with sufficient particularity the documents, reports, records or other physical evidence which is required to be produced.

(3) (A) If the board determines that an individual has practiced without a valid license a profession regulated by the board for which the practitioners of the profession are required by law to be licensed in order to practice the profession, in addition to any other penalties imposed by law, the board, in accordance with the Kansas administrative procedure act, may issue a cease and desist order against such individual.

(B) Whenever in the judgment of the behavioral sciences regulatory board any person has engaged, or is about to engage, in any acts or practices which constitute, or will constitute, a violation of K.S.A. 65-6301 to 65-6320, inclusive, and amendments thereto, 74-5361 to 74-5374, inclusive, and K.S.A. 2015 Supp. 74-5375, and amendments thereto, the licensure of psychologists act, the marriage and family therapists licensure act or the alcohol and other drug abuse counselor registration act, or any valid rule or regulation of the board, the board may make application to any court of competent jurisdiction for an order enjoining such acts or practices, and upon a showing by the board that such person has engaged, or is about to engage in any such acts or practices, an injunction, restraining order, or such other order as may be appropriate shall be granted by such court without bond.

(c) Any complaint or report, record or other information relating to a complaint which

is received, obtained or maintained by the behavioral sciences regulatory board shall be confidential and shall not be disclosed by the board or its employees in a manner which identifies or enables identification of the person who is the subject or source of the information except the information may be disclosed:

- (1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;
 - (2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or
 - (3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct which would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be redislosed by the receiving agency except as otherwise authorized by law.
- (d) Nothing in this section or any other provision of law making communications between a practitioner of one of the behavioral sciences and the practitioner's client or patient a privileged or confidential communication shall apply to investigations or proceedings conducted pursuant to this section. The behavioral sciences regulatory board and its employees, agents and representatives shall keep in confidence the content and the names of any clients or patients whose records are reviewed during the course of investigations and proceedings pursuant to this

section.

(e) In all matters pending before the behavioral sciences regulatory board, the board shall have the power to revoke the license or registration of any licensee or registrant who voluntarily surrenders such person's license or registration pending investigation of misconduct or while charges of misconduct against the licensee are pending or anticipated.

(f) In all matters pending before the behavioral sciences regulatory board, the board shall have the option to censure the licensee or registrant in lieu of other disciplinary action.

Sec. 81. K.S.A. 2015 Supp. 59-29b46 is hereby amended to read as follows: 59-29b46. When used in the care and treatment act for persons with an alcohol or substance abuse problem:

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

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

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

(d) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto.

unless otherwise exempt from licensure under subsection (n).

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

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

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

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

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

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

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

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

(2) uses alcoholic beverages or any substance as defined in subsection (k) to the extent that the person's health may be substantially impaired or endangered without treatment.

(g) (j) (1) "Person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment" means a person with an alcohol or substance abuse problem; as defined in subsection (f), who also is incapacitated by alcohol or any substance and is likely to cause harm to self or others.

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

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

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

(3) "Likely to cause harm to self or others" means that the person, by reason of the person's use of alcohol or any substance: (A) Is likely, in the reasonably foreseeable future, to cause substantial physical injury or physical abuse to self or others or substantial damage to

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

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

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

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

~~(j)~~—"State certified alcohol and drug abuse counselor" means a person approved by the secretary for aging and disability services to perform assessments using the American Society of Addiction Medicine criteria and employed at a state funded and designated assessment center.

~~(k)~~(m) "Substance" means: (1) The same as the term "controlled substance" as defined in K.S.A. 2015 Supp. 21-5701, and amendments thereto; or

(2) fluorocarbons, toluene or volatile hydrocarbon solvents.

~~(l)~~(n) "Treatment" means the broad range of emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social service care, vocational rehabilitation and career counseling, which may be extended

to persons with an alcohol or substance abuse problem.

(m)(o) (1) "Treatment facility" means a treatment program, public or private treatment facility, or any facility of the United States government available to treat a person for an alcohol or other substance abuse problem, but such term shall not include a licensed medical care facility, a licensed adult care home, a facility licensed under K.S.A. 75-3307b, and amendments thereto, a community-based alcohol and drug safety action program certified under K.S.A. 8-1008, and amendments thereto, and performing only those functions for which the program is certified to perform under K.S.A. 8-1008, and amendments thereto, or a professional licensed by the behavioral sciences regulatory board to diagnose and treat mental disorders at the independent level or a physician, who may treat in the usual course of the behavioral sciences regulatory board licensee's or physician's professional practice individuals incapacitated by alcohol or other substances, but who are not primarily engaged in the usual course of the individual's professional practice in treating such individuals, or any state institution, even if detoxification services may have been obtained at such institution.

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

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

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

Sec. 82. K.S.A. 59-29b54 is hereby amended to read as follows: 59-29b54. (a) A treatment facility may admit and detain any person for emergency observation and treatment upon an ex parte emergency custody order issued by a district court pursuant to K.S.A. 59-29b58, and amendments thereto.

(b) A treatment facility or the detox unit at Osawatomie state hospital or at Larned state hospital may admit and detain any person presented for emergency observation and treatment upon written application of a law enforcement officer having custody of that person pursuant to K.S.A. 59-29b53, and amendments thereto. The application shall state:

- (1) The name and address of the person sought to be admitted, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the officer's belief that the person is or may be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment and is likely to cause harm to self or others if not immediately detained;
- (4) the factual circumstances in support of that belief and the factual circumstances under which the person was taken into custody including any known pending criminal charges; and
- (5) the fact that the law enforcement officer will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, by the close of business of the first day thereafter that the district court is open for the transaction of business, or that the officer has been informed by a parent, legal guardian or other person, whose name shall be stated in the application will file the

petition provided for in K.S.A. 59-29b57, and amendments thereto, within that time.

(c) A treatment facility may admit and detain any person presented for emergency observation and treatment upon the written application of any individual. The application shall state:

- (1) The name and address of the person sought to be admitted, if known;
- (2) the name and address of the person's spouse or nearest relative, if known;
- (3) the applicant's belief that the person may be a person with an alcohol or substance abuse problem subject to involuntary commitment and is likely to cause harm to self or others if not immediately detained;
- (4) the factual circumstances in support of that belief;
- (5) any pending criminal charges, if known;
- (6) the fact that the applicant will file the petition provided for in K.S.A. 59-29b57, and amendments thereto, by the close of business of the first day thereafter that the district court is open for the transaction of business; and
- (7) the application shall also be accompanied by a statement in writing of a physician, psychologist or ~~state certified alcohol and drug abuse licensed addiction~~ counselor finding that the person is likely to be a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act.

(d) Any treatment facility or personnel thereof, who in good faith renders treatment in accordance with law to any person admitted pursuant to subsection (b) or (c), shall not be liable in a civil or criminal action based upon a claim that the treatment was rendered without legal consent.

Sec. 83. K.S.A. 59-29b61 is hereby amended to read as follows: 59-29b61. (a) The order for an evaluation required by ~~subsection (a)(5)~~ of K.S.A. 59-29b60~~(a)(5)~~, and amendments thereto, shall be served in the manner provided for in ~~a subsections (e) and (d) of K.S.A. 59-29b63(c) and (d)~~, and amendments thereto. It shall order the proposed patient to submit to an evaluation to be conducted by a physician, psychologist or ~~state certified alcohol and drug abuse licensed addiction~~ counselor and to undergo such other medical examinations or evaluations as may be designated by the court in the order, except that any proposed patient who is not subject to a temporary custody order issued pursuant to K.S.A. 59-29b59, and amendments thereto, and who requests a hearing pursuant to K.S.A. 59-29b62, and amendments thereto, need not submit to such evaluations or examinations until that hearing has been held and the court finds that there is probable cause to believe that the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act. The evaluation may be conducted at a treatment facility, the home of the proposed patient or any other suitable place that the court determines is not likely to have a harmful effect on the welfare of the proposed patient.

(b) At the time designated by the court in the order, but in no event later than three days prior to the date of the trial provided for in K.S.A. 59-29b65, and amendments thereto, the examiner shall submit to the court a report, in writing, of the evaluation which report also shall be made available to counsel for the parties at least three days prior to the trial. The report also shall be made available to the proposed patient and to whomever the patient directs, unless for good cause recited in the order, the court orders otherwise. Such report shall state that the examiner has made an examination of the proposed patient and shall state the opinion of the

examiner on the issue of whether or not the proposed patient is a person with an alcohol or substance abuse problem subject to involuntary commitment for care and treatment under this act and the examiner's opinion as to the least restrictive treatment alternative which will protect the proposed patient and others and allow for the improvement of the proposed patient if treatment is ordered.

Sec. 84. K.S.A. 2015 Supp. 59-3077 is hereby amended to read as follows: 59-3077. (a) At any time after the filing of the petition provided for in K.S.A. 59-3058, 59-3059, 59-3060 or 59-3061, and amendments thereto, any person may file in addition to that original petition, or as a part thereof, or at any time after the appointment of a temporary guardian as provided for in K.S.A. 59-3073, and amendments thereto, or a guardian as provided for in K.S.A. 59-3067, and amendments thereto, the temporary guardian or guardian may file, a verified petition requesting that the court grant authority to the temporary guardian or guardian to admit the proposed ward or ward to a treatment facility, as defined in subsection (h), and to consent to the care and treatment of the proposed ward or ward therein. The petition shall include:

- (1) The petitioner's name and address, and if the petitioner is the proposed ward's or ward's court appointed temporary guardian or guardian, that fact;
- (2) the proposed ward's or ward's name, age, date of birth, address of permanent residence, and present address or whereabouts, if different from the proposed ward's or ward's permanent residence;
- (3) the name and address of the proposed ward's or ward's court appointed temporary guardian or guardian, if different from the petitioner;
- (4) the factual basis upon which the petitioner alleges the need for the proposed ward or

ward to be admitted to and treated at a treatment facility, or for the proposed ward or ward to continue to be treated at the treatment facility to which the proposed ward or ward has already been admitted, or for the guardian to have continuing authority to admit the ward for care and treatment at a treatment facility pursuant to ~~subsection (b)(3) of K.S.A. 59-2949~~,(b)(3) or ~~subsection (b)(3) of K.S.A. 59-29b49~~(b)(3), and amendments thereto;

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

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

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

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

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

mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, if the petition also incorporates the allegations required by, and is filed in compliance with, the provisions of either of those acts.

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

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

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

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

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

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

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

expire.

- (3) For good cause shown, an order of continuance of the hearing.
- (4) For good cause shown, an order of advancement of the hearing.
- (5) For good cause shown, an order changing the place of the hearing.
- (e) The hearing on the petition shall be held at the time and place specified in the court's order issued pursuant to subsection (c), unless an order of advancement, continuance, or a change of place of the hearing has been issued pursuant to subsection (d). The petitioner and the proposed ward or ward shall each be afforded an opportunity to appear at the hearing, to testify and to present and cross-examine witnesses. If the hearing has been consolidated with a trial being held pursuant to either the care and treatment act for mentally ill persons or the care and treatment act for persons with an alcohol or substance abuse problem, persons not necessary for the conduct of the proceedings may be excluded as provided for in those acts. The hearing shall be conducted in as informal a manner as may be consistent with orderly procedure. The court shall have the authority to receive all relevant and material evidence which may be offered, including the testimony or written report, findings or recommendations of any professional or other person who has examined or evaluated the proposed ward or ward pursuant to any order issued by the court pursuant to subsection (d). Such evidence shall not be privileged for the purpose of this hearing.
- (f) Upon completion of the hearing, if the court finds by clear and convincing evidence that the criteria set out in K.S.A. 39-1803, ~~subsection (e) of K.S.A. 59-2946(e), subsection (f) of K.S.A. 59-29b46(i)~~ or K.S.A. 76-12b03, and amendments thereto, are met, and after a careful consideration of reasonable alternatives to admission of the proposed ward or ward to a treatment

facility, the court may enter an order granting such authority to the temporary guardian or guardian as is appropriate, including continuing authority to the guardian to readmit the ward to an appropriate treatment facility as may later become necessary. Any such grant of continuing authority shall expire two years after the date of final discharge of the ward from such a treatment facility if the ward has not had to be readmitted to a treatment facility during that two-year period of time. Thereafter, any such grant of continuing authority may be renewed only after the filing of another petition seeking authority in compliance with the provision of this section.

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

(h) As used herein, "treatment facility" means the Kansas neurological institute, Larned

state hospital, Osawatomie state hospital, Parsons state hospital and training center, the rainbow mental health facility, any intermediate care facility for people with intellectual disability, any psychiatric hospital licensed pursuant to K.S.A. 75-3307b, and amendments thereto, and any other facility for mentally ill persons or people with intellectual or developmental disabilities licensed pursuant to K.S.A. 75-3307b, and amendments thereto, if the proposed ward or ward is to be admitted as an inpatient or resident of that facility.

Sec. 85. K.S.A. 65-4016 is hereby amended to read as follows: 65-4016. The secretary shall adopt rules and regulations with respect to treatment facilities to be licensed and designed to further the accomplishment of the purposes of this law in promoting a safe and adequate treatment program for individuals in treatment facilities in the interest of public health, safety and welfare ~~including, but not limited to, minimum qualifications for employees of licensed or certified programs which are less than the qualifications required for a registered alcohol and other drug abuse counselor.~~ Boards of trustees or directors of institutions licensed under this act shall have the right to select the professional staff members of such institutions and to select and employ interns, nurses and other personnel.

Sec. 86. K.S.A. 2015 Supp. 65-4024a is hereby amended to read as follows: 65-4024a.
As used in this act:

- (a) "Act" means the alcohol or other drug addiction treatment act.
- (b) "Alcohol or other drug addiction" means a pattern of substance use, leading to significant impairment or distress, manifested by three or more of the following occurring at any time in the same 12-month period:
 - (1) Tolerance, defined as: (A) A need for markedly increased amounts of the substance

to achieve intoxication or desired effect; or (B) a markedly diminished effect with continued use of the same amount of substance;

(2) withdrawal, as manifested by either of the following: (A) The characteristic withdrawal syndrome for the substance; or (B) the same or a closely related substance is taken to relieve or avoid withdrawal symptoms;

(3) the substance is often taken in larger amounts or over a longer period than was intended;

(4) there is a persistent desire or unsuccessful efforts to cut down or control substance use;

(5) a great deal of time is spent in activities necessary to obtain the substance, use the substance or recover from its effects;

(6) important social, occupational or recreational activities are given up or reduced because of substance use;

(7) the substance use is continued despite knowledge of having a persistent or recurrent physical or psychological problem that is likely to have been caused or exacerbated by the substance.

(c) "Care or treatment" means such necessary services as are in the best interests of the physical and mental health of the patient.

(d) "Committee" means the Kansas citizens committee on alcohol and other drug abuse.

(e) "~~Counselor~~" means an individual whose education, experience and training has been evaluated and approved by the Kansas department for aging and disability services to provide the scope of practice afforded to an alcohol and drug credentialed counselor or counselor assistant.

~~working in a licensed, certified alcohol and drug treatment program.~~

(f) "Department" means the Kansas department for aging and disability services.

(g) ~~(f)~~ "Designated state funded assessment center" or "assessment center" means a treatment facility designated by the secretary.

~~(h)~~ ~~(g)~~ "Discharge" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(i)~~ ~~(h)~~ "Government unit" means any county, municipality or other political subdivision of the state; or any department, division, board or other agency of any of the foregoing.

~~(j)~~ ~~(i)~~ "Head of the treatment facility" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(k)~~ ~~(j)~~ "Incapacitated by alcohol" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

~~(l)~~ ~~(k)~~ "Intoxicated individual" means an individual who is under the influence of alcohol or drugs or both.

~~(m)~~ ~~(l)~~ "Law enforcement officer" ~~shall have the meaning ascribed to it~~ means the same as defined in K.S.A. 59-29b46, and amendments thereto.

(m) "Licensed addiction counselor" means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed by the behavioral sciences regulatory board. Such person shall engage in the practice of addiction counseling in a state-licensed or certified alcohol and other drug treatment program or while completing a Kansas domestic violence offender assessment for participants in a certified batterer intervention program pursuant to K.S.A. 2015 Supp. 75-7d01 through 75-7d13, and amendments thereto.

unless otherwise exempt from licensure under K.S.A. 59-29b46(n), and amendments thereto.

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

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

(p) "Patient" shall have the meaning ascribed to it means the same as defined in K.S.A. 59-29b46, and amendments thereto.

(q) "Private treatment facility" shall have the meaning ascribed to it means the same as defined in K.S.A. 59-29b46, and amendments thereto.

(r) "Public treatment facility" shall have the meaning ascribed to it means the same as defined in K.S.A. 59-29b46, and amendments thereto.

(s) "Treatment" shall have the meaning ascribed to it means the same as defined in K.S.A. 59-29b46, and amendments thereto.

(t) "Treatment facility" shall have the meaning ascribed to it means the same as defined in K.S.A. 59-29b46, and amendments thereto.

(s)(u) "Secretary" means the secretary for aging and disability services.

New Sec. 87. This act shall be known and may be cited as the interstate medical licensure compact.

**INTERSTATE MEDICAL LICENSURE COMPACT
SECTION 1
PURPOSE**

In order to strengthen access to health care, and in recognition of the advances in the delivery of health care, the member states of the interstate medical licensure compact have allied in common purpose to develop a comprehensive process that complements the existing licensing and regulatory authority of state medical boards, provides a streamlined process that allows physicians to become licensed in multiple states, thereby enhancing the portability of a medical license and ensuring the safety of patients. The compact creates another pathway for licensure and does not otherwise change a state's existing medical practice act. The compact also adopts the prevailing standard for licensure and affirms that the practice of medicine occurs where the patient is located at the time of the physician-patient encounter, and therefore, requires the physician to be under the jurisdiction of the state medical board where the patient is located. State medical boards that participate in the compact retain the jurisdiction to impose an adverse action against a license to practice medicine in that state issued to a physician through the procedures in the compact.

**SECTION 2
DEFINITIONS**

In this compact:

- (a) "Bylaws" means those bylaws established by the interstate commission pursuant to

section 11 for its governance, or for directing and controlling its actions and conduct.

(b) "Commissioner" means the voting representative appointed by each member board pursuant to section 11.

(c) "Conviction" means a finding by a court that an individual is guilty of a criminal offense through adjudication, or entry of a plea of guilt or no contest to the charge by the offender. Evidence of an entry of a conviction of a criminal offense by the court shall be considered final for purposes of disciplinary action by a member board.

(d) "Expedited license" means a full and unrestricted medical license granted by a member state to an eligible physician through the process set forth in the compact.

(e) "Interstate commission" means the interstate commission created pursuant to section 11.

(f) "License" means authorization by a state for a physician to engage in the practice of medicine, which would be unlawful without the authorization.

(g) "Medical practice act" means laws and regulations governing the practice of allopathic and osteopathic medicine within a member state.

(h) "Member board" means a state agency in a member state that acts in the sovereign interests of the state by protecting the public through licensure, regulation and education of physicians as directed by the state government.

(i) "Member state" means a state that has enacted the compact.

(j) "Practice of medicine" means the clinical prevention, diagnosis or treatment of human disease, injury or condition requiring a physician to obtain and maintain a license in compliance with the medical practice act of a member state.

(k) "Physician" means any person who:

- (1) Is a graduate of a medical school accredited by the liaison committee on medical education, the commission on osteopathic college accreditation or a medical school listed in the international medical education directory or its equivalent;
- (2) passed each component of the United States medical licensing examination (USMLE) or the comprehensive osteopathic medical licensing examination (COMLEX-USA) within three attempts, or any of its predecessor examinations accepted by a state medical board as an equivalent examination for licensure purposes;
- (3) successfully completed graduate medical education approved by the accreditation council for graduate medical education or the American osteopathic association;
- (4) holds specialty certification or a time-unlimited specialty certificate recognized by the American board of medical specialties or the American osteopathic association's bureau of osteopathic specialists;
- (5) possesses a full and unrestricted license to engage in the practice of medicine issued by a member board;
- (6) has never been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;
- (7) has never held a license authorizing the practice of medicine subjected to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license;
- (8) has never had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration; and

(9) is not under active investigation by a licensing agency or law enforcement authority in any state, federal or foreign jurisdiction.

(l) "Offense" means a felony, gross misdemeanor or crime of moral turpitude.

(m) "Rule" means a written statement by the interstate commission promulgated pursuant to section 12 of the compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural or practice requirement of the interstate commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal or suspension of an existing rule.

(n) "State" means any state, commonwealth, district or territory of the United States.

(o) "State of principal license" means a member state where a physician holds a license to practice medicine and which has been designated as such by the physician for purposes of registration and participation in the compact.

SECTION 3 ELIGIBILITY

(a) A physician must meet the eligibility requirements as defined in section 2(k) to receive an expedited license under the terms and provisions of the compact.

(b) A physician who does not meet the requirements of section 2(k) may obtain a license to practice medicine in a member state if the individual complies with all laws and requirements, other than the compact, relating to the issuance of a license to practice medicine in that state.

SECTION 4 DESIGNATION OF STATE OF PRINCIPAL LICENSE

(a) A physician shall designate a member state as the state of principal license for

purposes of registration for expedited licensure through the compact if the physician possesses a full and unrestricted license to practice medicine in that state, and the state is:

- (1) The state of primary residence for the physician;
- (2) the state where at least 25% of the practice of medicine occurs;
- (3) the location of the physician's employer; or
- (4) if no state qualifies under subsection (a)(1), subsection (a)(2) or subsection (a)(3),

the state designated as state of residence for purpose of federal income tax.

(b) A physician may redesignate a member state as state of principal license at any time, as long as the state meets the requirements in subsection (a).

(c) The interstate commission is authorized to develop rules to facilitate redesignation of another member state as the state of principal license.

SECTION 5 APPLICATION AND ISSUANCE OF EXPEDITED LICENSURE

(a) A physician seeking licensure through the compact shall file an application for an expedited license with the member board of the state selected by the physician as the state of principal license.

(b) Upon receipt of an application for an expedited license, the member board within the state selected as the state of principal license shall evaluate whether the physician is eligible for expedited licensure and issue a letter of qualification, verifying or denying the physician's eligibility, to the interstate commission.

(1) Static qualifications, which include verification of medical education, graduate medical education, results of any medical or licensing examination and other qualifications as

determined by the interstate commission through rule, shall not be subject to additional primary source verification where already primary source verified by the state of principal license.

(2) The member board within the state selected as the state of principal license shall, in the course of verifying eligibility, perform a criminal background check of an applicant, including the use of the results of fingerprint or other biometric data checks compliant with the requirements of the federal bureau of investigation, with the exception of federal employees who have suitability determination in accordance with 5 C.F.R. § 731.202.

(3) Appeal on the determination of eligibility shall be made to the member state where the application was filed and shall be subject to the law of that state.

(c) Upon verification in subsection (b), physicians eligible for an expedited license shall complete the registration process established by the interstate commission to receive a license in a member state selected pursuant to subsection (a), including the payment of any applicable fees.

(d) After receiving verification of eligibility under subsection (b) and any fees under subsection (c), a member board shall issue an expedited license to the physician. This license shall authorize the physician to practice medicine in the issuing state consistent with the medical practice act and all applicable laws and regulations of the issuing member board and member state.

(e) An expedited license shall be valid for a period consistent with the licensure period in the member state and in the same manner as required for other physicians holding a full and unrestricted license within the member state.

(f) An expedited license obtained through the compact shall be terminated if a physician fails to maintain a license in the state of principal licensure for a non-disciplinary reason, without

redesignation of a new state of principal licensure.

(g) The interstate commission is authorized to develop rules regarding the application process, including payment of any applicable fees, and the issuance of an expedited license.

SECTION 6 FEES FOR EXPEDITED LICENSURE

(a) A member state issuing an expedited license authorizing the practice of medicine in that state may impose a fee for a license issued or renewed through the compact.

(b) The interstate commission is authorized to develop rules regarding fees for expedited licenses.

SECTION 7 RENEWAL AND CONTINUED PARTICIPATION

(a) A physician seeking to renew an expedited license granted in a member state shall complete a renewal process with the interstate commission if the physician:

- (1) Maintains a full and unrestricted license in a state of principal license;
 - (2) has not been convicted, received adjudication, deferred adjudication, community supervision or deferred disposition for any offense by a court of appropriate jurisdiction;
 - (3) has not had a license authorizing the practice of medicine subject to discipline by a licensing agency in any state, federal or foreign jurisdiction, excluding any action related to non-payment of fees related to a license; and
 - (4) has not had a controlled substance license or permit suspended or revoked by a state or the United States drug enforcement administration.
- (b) Physicians shall comply with all continuing professional development or continuing medical education requirements for renewal of a license issued by a member state.

(c) The interstate commission shall collect any renewal fees charged for the renewal of a license and distribute the fees to the applicable member board.

(d) Upon receipt of any renewal fees collected in subsection (c), a member board shall renew the physician's license.

(e) Physician information collected by the interstate commission during the renewal process will be distributed to all member boards.

(f) The interstate commission is authorized to develop rules to address renewal of licenses obtained through the compact.

SECTION 8 COORDINATED INFORMATION SYSTEM

(a) The interstate commission shall establish a database of all physicians licensed, or who have applied for licensure, under section 5.

(b) Notwithstanding any other provision of law, member boards shall report to the interstate commission any public action or complaints against a licensed physician who has applied or received an expedited license through the compact.

(c) Member boards shall report disciplinary or investigatory information determined as necessary and proper by rule of the interstate commission.

(d) Member boards may report any non-public complaint, disciplinary or investigatory information not required by subsection (c) to the interstate commission.

(e) Member boards shall share complaint or disciplinary information about a physician upon request of another member board.

(f) All information provided to the interstate commission or distributed by member

boards shall be confidential, filed under seal, and used only for investigatory or disciplinary matters.

(g) The interstate commission is authorized to develop rules for mandated or discretionary sharing of information by member boards.

SECTION 9 JOINT INVESTIGATIONS

- (a) Licensure and disciplinary records of physicians are deemed investigative.
- (b) In addition to the authority granted to a member board by its respective medical practice act or other applicable state law, a member board may participate with other member boards in joint investigations of physicians licensed by the member boards.
- (c) A subpoena issued by a member state shall be enforceable in other member states.
- (d) Member boards may share any investigative, litigation or compliance materials in furtherance of any joint or individual investigation initiated under the compact.
- (e) Any member state may investigate actual or alleged violations of the statutes authorizing the practice of medicine in any other member state in which a physician holds a license to practice medicine.

SECTION 10 DISCIPLINARY ACTIONS

- (a) Any disciplinary action taken by any member board against a physician licensed through the compact shall be deemed unprofessional conduct, which may be subject to discipline by other member boards, in addition to any violation of the medical practice act or regulations in that state.
- (b) If a license granted to a physician by the member board in the state of principal

license is revoked, surrendered or relinquished in lieu of discipline, or suspended, then all licenses issued to the physician by member boards shall automatically be placed, without further action necessary by any member board, on the same status. If the member board in the state of principal license subsequently reinstates the physician's license, a license issued to the physician by any other member board shall remain encumbered until that respective member board takes action to reinstate the license in a manner consistent with the medical practice act of that state.

(c) If disciplinary action is taken against a physician by a member board not in the state of principal license, any other member board may deem the action conclusive as to matter of law and fact decided, and:

(1) Impose the same or lesser sanctions against the physician so long as such sanctions are consistent with the medical practice act of that state; or

(2) pursue separate disciplinary action against the physician under its respective medical practice act, regardless of the action taken in other member states.

(d) If a license granted to a physician by a member board is revoked, surrendered or relinquished in lieu of discipline, or suspended, then any license issued to the physician by any other member board shall be suspended, automatically and immediately without further action necessary by the other member boards, for 90 days upon entry of the order by the disciplining board, to permit the member boards to investigate the basis for the action under the medical practice act of that state. A member board may terminate the automatic suspension of the license it issued prior to the completion of the 90-day suspension period in a manner consistent with the medical practice act of that state.

SECTION 11

INTERSTATE MEDICAL LICENSURE
COMPACT COMMISSION

(a) The member states hereby create the interstate medical licensure compact commission.

(b) The purpose of the interstate commission is the administration of the interstate medical licensure compact, which is a discretionary state function.

(c) The interstate commission shall be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth in the compact, and such additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of the compact.

(d) The interstate commission shall consist of two voting representatives appointed by each member state who shall serve as commissioners. In states where allopathic and osteopathic physicians are regulated by separate member boards, or if the licensing and disciplinary authority is split between multiple member boards within a member state, the member state shall appoint one representative from each member board. A commissioner shall be:

(1) An allopathic or osteopathic physician appointed to a member board;

(2) an executive director, executive secretary or similar executive of a member board;

or

(3) a member of the public appointed to a member board.

(e) The interstate commission shall meet at least once each calendar year. A portion of this meeting shall be a business meeting to address such matters as may properly come before the commission, including the election of officers. The chairperson may call additional meetings and

shall call for a meeting upon the request of a majority of the member states.

(f) The bylaws may provide for meetings of the interstate commission to be conducted by telecommunication or electronic communication.

(g) Each commissioner participating at a meeting of the interstate commission is entitled to one vote. A majority of commissioners shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the interstate commission. A commissioner shall not delegate a vote to another commissioner. In the absence of its commissioner, a member state may delegate voting authority for a specified meeting to another person from that state who shall meet the requirements of subsection (d).

(h) The interstate commission shall provide public notice of all meetings and all meetings shall be open to the public. The interstate commission may close a meeting, in full or in portion, where it determines by a two-thirds vote of the commissioners present that an open meeting would be likely to:

(1) Relate solely to the internal personnel practices and procedures of the interstate commission;

(2) discuss matters specifically exempted from disclosure by federal statute;

(3) discuss trade secrets, commercial or financial information that is privileged or confidential;

(4) involve accusing a person of a crime, or formally censuring a person;

(5) discuss information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(6) discuss investigative records compiled for law enforcement purposes; or

- (7) specifically relate to the participation in a civil action or other legal proceeding.
 - (i) The interstate commission shall keep minutes which shall fully describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, including record of any roll call votes.
 - (j) The interstate commission shall make its information and official records, to the extent not otherwise designated in the compact or by its rules, available to the public for inspection.
 - (k) The interstate commission shall establish an executive committee, which shall include officers, members, and others as determined by the bylaws. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rulemaking, during periods when the interstate commission is not in session. When acting on behalf of the interstate commission, the executive committee shall oversee the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as necessary.
- (l) The interstate commission may establish other committees for governance and administration of the compact.

SECTION 12
POWERS AND DUTIES OF
THE INTERSTATE COMMISSION

The interstate commission shall have the duty and power to:

- (a) Oversee and maintain the administration of the compact;
- (b) promulgate rules which shall be binding to the extent and in the manner provided for in the compact;

- (c) issue, upon the request of a member state or member board, advisory opinions concerning the meaning or interpretation of the compact, its bylaws, rules and actions;
- (d) enforce compliance with compact provisions, the rules promulgated by the interstate commission and the bylaws, using all necessary and proper means, including, but not limited to, the use of judicial process;
- (e) establish and appoint committees including, but not limited to, an executive committee as required by section 11, which shall have the power to act on behalf of the interstate commission in carrying out its powers and duties;
- (f) pay, or provide for the payment of the expenses related to the establishment, organization and ongoing activities of the interstate commission;
- (g) establish and maintain one or more offices;
- (h) borrow, accept, hire or contract for services of personnel;
- (i) purchase and maintain insurance and bonds;
- (j) employ an executive director who shall have such powers to employ, select or appoint employees, agents or consultants, and to determine their qualifications, define their duties and fix their compensation;
- (k) establish personnel policies and programs relating to conflicts of interest, rates of compensation and qualifications of personnel;
- (l) accept donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of it in a manner consistent with the conflict of interest policies established by the interstate commission;
- (m) lease, purchase, accept contributions or donations of, or otherwise to own, hold,

improve or use, any property, real, personal or mixed;

- (n) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed;
- (o) establish a budget and make expenditures;
- (p) adopt a seal and bylaws governing the management and operation of the interstate commission;
- (q) report annually to the legislatures and governors of the member states concerning the activities of the interstate commission during the preceding year. Such reports shall also include reports of financial audits and any recommendations that may have been adopted by the interstate commission;
- (r) coordinate education, training and public awareness regarding the compact, its implementation and its operation;
- (s) maintain records in accordance with the bylaws;
- (t) seek and obtain trademarks, copyrights and patents; and
- (u) perform such functions as may be necessary or appropriate to achieve the purposes of the compact.

SECTION 13 FINANCE POWERS

(a) The interstate commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the interstate commission and its staff. The total assessment must be sufficient to cover the annual budget approved each year for which revenue is not provided by other sources. The aggregate annual assessment amount

shall be allocated upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

(b) The interstate commission shall not incur obligations of any kind prior to securing the funds adequate to meet the same.

(c) The interstate commission shall not pledge the credit of any of the member states, except by, and with the authority of, the member state.

(d) The interstate commission shall be subject to a yearly financial audit conducted by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the interstate commission.

**SECTION 14
ORGANIZATION AND OPERATION OF
THE INTERSTATE COMMISSION**

(a) The interstate commission shall, by a majority of commissioners present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact within 12 months of the first interstate commission meeting.

(b) The interstate commission shall elect or appoint annually from among its commissioners a chairperson, a vice-chairperson and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson, or in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the interstate commission.

(c) Officers selected in subsection (b) shall serve without remuneration from the interstate commission.

(d) The officers and employees of the interstate commission shall be immune from suit

and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of, or relating to, an actual or alleged act, error or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of interstate commission employment, duties or responsibilities; provided that such person shall not be protected from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(1) The liability of the executive director and employees of the interstate commission or representatives of the interstate commission, acting within the scope of such person's employment or duties for acts, errors or omissions occurring within such person's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees and agents. The interstate commission is considered to be an instrumentality of the states for the purposes of any such action. Nothing in this subsection shall be construed to protect such person from suit or liability for damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of such person.

(2) The interstate commission shall defend the executive director, its employees, and subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by an interstate commission representative, shall defend such interstate commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities,

provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such person.

(3) To the extent not covered by the state involved, member state or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment, including attorney fees and costs, obtained against such persons arising out of an actual or alleged act, error or omission that occurred within the scope of interstate commission employment, duties or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties or responsibilities, provided that the actual or alleged act, error or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

SECTION 15
RULEMAKING FUNCTIONS OF
THE INTERSTATE COMMISSION

(a) The interstate commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of the compact. Notwithstanding the foregoing, in the event the interstate commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of the compact, or the powers granted hereunder, then such an action by the interstate commission shall be invalid and have no force or effect.

(b) Rules deemed appropriate for the operations of the interstate commission shall be made pursuant to a rulemaking process that substantially conforms to the "model state administrative procedure act" of 2010, and subsequent amendments thereto.

(c) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review of the rule in the United States district court for the District of Columbia or the

federal district where the interstate commission has its principal offices, provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the authority granted to the interstate commission.

**SECTION 16
OVERSIGHT OF INTERSTATE COMPACT**

(a) The executive, legislative and judicial branches of state government in each member state shall enforce the compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. The provisions of the compact and the rules promulgated hereunder shall have standing as statutory law, but shall not override existing state authority to regulate the practice of medicine.

(b) All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of the compact, which may affect the powers, responsibilities or actions of the interstate commission.

(c) The interstate commission shall be entitled to receive all service of process in any such proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission shall render a judgment or order void as to the interstate commission, the compact or promulgated rules.

**SECTION 17
ENFORCEMENT OF INTERSTATE COMPACT**

(a) The interstate commission, in the reasonable exercise of its discretion, shall enforce

the provisions and rules of the compact.

(b) The interstate commission may, by majority vote of the commissioners, initiate legal action in the United States district court for the District of Columbia, or, at the discretion of the interstate commission, in the federal district where the interstate commission has its principal offices, to enforce compliance with the provisions of the compact, and its promulgated rules and bylaws, against a member state in default. The relief sought may include both injunctive relief and damages. In the event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

(c) The remedies herein shall not be the exclusive remedies of the interstate commission. The interstate commission may avail itself of any other remedies available under state law or the regulation of a profession.

SECTION 18 DEFAULT PROCEDURES

(a) The grounds for default include, but are not limited to, failure of a member state to perform such obligations or responsibilities imposed upon it by the compact, or the rules and bylaws of the interstate commission promulgated under the compact.

(b) If the interstate commission determines that a member state has defaulted in the performance of its obligations or responsibilities under the compact, or the bylaws or promulgated rules, the interstate commission shall:

(1) provide written notice to the defaulting state and other member states, of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the defaulting state must cure its

default; and

- (2) provide remedial training and specific technical assistance regarding the default.
- (c) If the defaulting state fails to cure the default, the defaulting state shall be terminated from the compact upon an affirmative vote of a majority of the commissioners and all rights, privileges and benefits conferred by the compact shall terminate on the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
- (d) Termination of membership in the compact shall be imposed only after all other means of securing compliance have been exhausted. Notice of intent to terminate shall be given by the interstate commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each of the member states.
- (e) The interstate commission shall establish rules and procedures to address licenses and physicians that are materially impacted by the termination of a member state, or the withdrawal of a member state.
- (f) The member state, which has been terminated is responsible for all dues, obligations, and liabilities incurred through the effective date of termination including obligations, the performance of which extends beyond the effective date of termination.
- (g) The interstate commission shall not bear any costs relating to any state that has been found to be in default or which has been terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the defaulting state.
- (h) The defaulting state may appeal the action of the interstate commission by petitioning the United States district court for the District of Columbia or the federal district

where the interstate commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney fees.

**SECTION 19
DISPUTE RESOLUTION**

- (a) The interstate commission shall attempt, upon the request of a member state, to resolve disputes which are subject to the compact and which may arise among member states or member boards.
- (b) The interstate commission shall promulgate rules providing for both mediation and binding dispute resolution as appropriate.

**SECTION 20
MEMBER STATES, EFFECTIVE
DATE AND AMENDMENT**

- (a) Any state is eligible to become a member state of the compact.
- (b) The compact shall become effective and binding upon legislative enactment of the compact into law by no less than seven states. Thereafter, it shall become effective and binding on a state upon enactment of the compact into law by that state.
- (c) The governors of non-member states, or their designees, shall be invited to participate in the activities of the interstate commission on a non-voting basis prior to adoption of the compact by all states.
- (d) The interstate commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the interstate commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

SECTION 21
WITHDRAWAL

(a) Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute which enacted the compact into law.

(b) Withdrawal from the compact shall be by the enactment of a statute repealing the same, but shall not take effect until one year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member state.

(c) The withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the introduction of legislation repealing the compact in the withdrawing state.

(d) The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt of notice provided under subsection (c).

(e) The withdrawing state is responsible for all dues, obligations and liabilities incurred through the effective date of withdrawal, including obligations, the performance of which extend beyond the effective date of withdrawal.

(f) Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the interstate commission.

(g) The interstate commission is authorized to develop rules to address the impact of the withdrawal of a member state on licenses granted in other member states to physicians who

designated the withdrawing member state as the state of principal license.

**SECTION 22
DISSOLUTION**

- (a) The compact shall dissolve effective upon the date of the withdrawal or default of the member state, which reduces the membership in the compact to one member state.
- (b) Upon the dissolution of the compact, the compact becomes null and void and shall be of no further force or effect, and the business and affairs of the interstate commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

**SECTION 23
SEVERABILITY AND CONSTRUCTION**

- (a) The provisions of the compact shall be severable, and if any phrase, clause, sentence or provision is deemed unenforceable, the remaining provisions of the compact shall be enforceable.
- (b) The provisions of the compact shall be liberally construed to effectuate its purposes.
- (c) Nothing in the compact shall be construed to prohibit the applicability of other interstate compacts to which the states are members.

**SECTION 24
BINDING EFFECT OF COMPACT
AND OTHER LAWS**

- (a) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with the compact.
- (b) All laws in a member state in conflict with the compact are superseded to the extent of the conflict.
- (c) All lawful actions of the interstate commission, including all rules and bylaws

promulgated by the commission, are binding upon the member states.

- (d) All agreements between the interstate commission and the member states are binding in accordance with their terms.
- (e) In the event any provision of the compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

New Sec. 88. The provisions of sections 88 through 96, and amendments thereto, shall be known and may be cited as the independent practice of midwifery act.

New Sec. 89. As used in the independent practice of midwifery act:

- (a) "Board" means the state board of healing arts.
- (b) "Certified nurse-midwife" means an individual who:
 - (1) Is educated in the two disciplines of nursing and midwifery;
 - (2) is currently certified by a certifying board approved by the state board of nursing; and
 - (3) is currently licensed under the Kansas nurse practice act.
- (c) "Independent practice of midwifery" means the provision of clinical services by a certified nurse-midwife without the requirement of a collaborative practice agreement with a person licensed to practice medicine and surgery when such clinical services are limited to those associated with a normal, uncomplicated pregnancy and delivery, including:
 - (1) The prescription of drugs and diagnostic tests;
 - (2) the performance of episiotomy or repair of a minor vaginal laceration;
 - (3) the initial care of the normal newborn; and

(4) family planning services, including treatment or referral of male partners for sexually-transmitted infections.

(d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 90. (a) In order to obtain authorization to engage in the independent practice of midwifery, a certified nurse-midwife must meet the following requirements:

- (1) Be licensed to practice professional nursing under the Kansas nurse practice act;
 - (2) have successfully completed a course of study in nurse-midwifery in a school of nurse-midwifery approved by the board;
 - (3) have successfully completed a national certification approved by the board;
 - (4) have successfully completed a refresher course as defined by rules and regulations of the board, if the individual has not been in active midwifery practice for five years immediately preceding the application;
 - (5) be authorized to perform the duties of a certified nurse-midwife by the state board of nursing;
 - (6) be licensed as an advanced practice registered nurse by the state board of nursing; and
 - (7) have paid all fees for licensure prescribed in section 92, and amendments thereto.
- (b) Upon application to the board by any certified nurse-midwife and upon satisfaction of the standards and requirements established under this act, the board shall grant an authorization to the applicant to engage in the independent practice of midwifery.
- (c) A person whose licensure has been revoked may make written application to the board requesting reinstatement of the license in a manner prescribed by the board, which

application shall be accompanied by the fee prescribed in section 92, and amendments thereto.

- (d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 91. (a) Licenses issued under this act shall expire on the date of expiration established by rules and regulations of the board, unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the fee prescribed in section 92, and amendments thereto.

(b) At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration, by mail, addressed to the licensee's last known mailing address. If the licensee fails to submit an application for renewal on a form provided by the board, or fails to pay the renewal fee by the date of expiration, the board shall give a second notice to the licensee that the license has expired and the license may be renewed only if the application for renewal, the renewal fee, and the late renewal fee are received by the board within the 30-day period following the date of expiration and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law and without further proceedings.

(c) The board may require any licensee, as a condition of renewal, to submit with the application of renewal evidence of satisfactory completion of a program of continuing education as required by rules and regulations of the board.

- (d) The provisions of this section shall become effective on January 1, 2017.

New Sec. 92. (a) The board shall charge and collect, in advance, fees for certified nurse-midwives, as established by the board, not to exceed:

Application for license.....	\$100
License renewal.....	\$100

Late license renewal.....	\$100
License reinstatement fee.....	\$100
Revoked license fee.....	\$100
Certified copy of license.....	\$50
Verified copy of license.....	\$25

(b) The board shall remit all moneys received by or for the board from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Ten percent of each such amount shall be credited to the state general fund, and the balance shall be credited to the healing arts fee fund. All expenditures from the healing arts fee fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or persons designated by the president.

(c) The provisions of this section shall become effective on January 1, 2017.

New Sec. 93. (a) It shall be unlawful for a person to engage in the independent practice of midwifery without a collaborative practice agreement with a person licensed to practice medicine and surgery, unless such certified nurse-midwife holds a license from the state board of nursing and the board.

(b) The provisions of this section shall become effective on January 1, 2017.

New Sec. 94. (a) The board, in consultation with the state board of nursing, shall adopt rules and regulations pertaining to certified nurse-midwives engaging in the independent practice of midwifery and governing the ordering of tests, diagnostic services and prescribing of drugs

and referral or transfer to physicians in the event of complications or emergencies. Such rules and regulations shall not be adopted until the state board of nursing and the board have consulted and concurred on the content of each rule and regulation. Such rules and regulations shall be adopted no later than January 1, 2017.

(b) A certified nurse midwife engaging in the independent practice of midwifery shall be subject to the provisions of the independent practice of midwifery act with respect to the ordering of tests, diagnostic services and prescribing of drugs, and shall not be subject to the provisions of K.S.A. 65-1130, and amendments thereto.

(c) The standards of care for certified nurse-midwives in the ordering of tests, diagnostic services and the prescribing of drugs shall be those standards which protect patients and shall be standards comparable to persons licensed to practice medicine and surgery providing the same services.

(d) The board is hereby authorized to solely adopt those rules and regulations necessary to administer the administrative provisions of this act.

New Sec. 95. (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent practice of midwifery;

(2) to have been found guilty of a felony or to have been found guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2015 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;

(5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;

(6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;

(7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice

act or any rules and regulations adopted pursuant to that act;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country, or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute *prima facie* evidence of such a fact for purposes of this paragraph; or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2015 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2015 Supp. 21-5407, and amendments thereto;

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

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

(b) No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall

not be used against the person for the prosecution of any crime under the laws of this state, except the crime of perjury as defined in K.S.A. 2015 Supp. 21-5903, and amendments thereto.

(c) As used in this section, "professional incompetency" means:

- (1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;
- (2) repeated instances involving failure to adhere to the applicable standard of care to a degree which constitutes ordinary negligence, as determined by the board; or
- (3) a pattern of practice or other behavior which demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

(d) The board, upon request, shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions, as necessary, for the purpose of determining initial and continuing qualifications of licensees and applicants for licensure by the board.

(e) The provisions of this section shall become effective on January 1, 2017.

New Sec. 96. (a) There is hereby established a nurse-midwives council to advise the board in carrying out the provisions of this act. The council shall consist of seven members, all residents of the state of Kansas appointed as follows: Two members shall be licensees of the board, appointed by the board, who are licensed to practice medicine and surgery and whose specialty and customary practice includes obstetrics; one member shall be the president of the board or a board member designated by the president; and four members shall be licensed certified nurse-midwives appointed by the board of nursing.

(b) If a vacancy occurs on the council, the appointing authority of the position which

has become vacant shall appoint a person of like qualifications to fill the vacant position for the unexpired term, if any.

Sec. 97. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1130 is hereby amended to read as follows: (a) No professional nurse shall announce or represent to the public that such person is an advanced practice registered nurse unless such professional nurse has complied with requirements established by the board and holds a valid license as an advanced practice registered nurse in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain licensure as an advanced practice registered nurse. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education of advanced practice registered nurses. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(c) The board shall adopt rules and regulations applicable to advanced practice registered nurses which:

(1) Establish roles and identify titles and abbreviations of advanced practice registered nurses which are consistent with nursing practice specialties recognized by the nursing profession.

(2) Establish education and qualifications necessary for licensure for each role of advanced practice registered nurse established by the board at a level adequate to assure the competent performance by advanced practice registered nurses of functions and procedures which advanced practice registered nurses are authorized to perform. Advanced practice registered nursing is based on knowledge and skills acquired in basic nursing education,

licensure as a registered nurse and graduation from or completion of a master's or higher degree in one of the advanced practice registered nurse roles approved by the board of nursing.

(3) Define the role of advanced practice registered nurses and establish limitations and restrictions on such role. The board shall adopt a definition of the role under this ~~subsection (e)~~ ~~(3)~~ paragraph which is consistent with the education and qualifications required to obtain a license as an advanced practice registered nurse, which protects the public from persons performing functions and procedures as advanced practice registered nurses for which they lack adequate education and qualifications and which authorizes advanced practice registered nurses to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such role the board shall consider: (A) The education required for a licensure as an advanced practice registered nurse; (B) the type of nursing practice and preparation in specialized advanced practice skills involved in each role of advanced practice registered nurse established by the board; (C) the scope and limitations of advanced practice nursing prescribed by national advanced practice organizations; and (D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education in nursing.

(d) An advanced practice registered nurse may prescribe drugs pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced practice registered nurse is authorized to prescribe and shall specify all drugs which may be prescribed by the advanced practice registered nurse. Any written prescription order shall include the name, address and telephone number of the responsible physician. The advanced

practice registered nurse may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by a responsible physician. In order to prescribe controlled substances, the advanced practice registered nurse shall (1) register with the federal drug enforcement administration; and (2) notify the board of the name and address of the responsible physician or physicians. In no case shall the scope of authority of the advanced practice registered nurse exceed the normal and customary practice of the responsible physician. An advanced practice registered nurse certified in the role of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151—~~to~~ through 65-1164,—~~inclusive~~, and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151—~~to~~ through 65-1164, ~~inclusive~~, and amendments thereto, with respect to drugs and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery in Kansas who has accepted responsibility for the protocol and the actions of the advanced practice registered nurse when prescribing drugs.

(e) As used in this section, "drug" means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

(f) A person registered to practice as an advanced registered nurse practitioner in the state of Kansas immediately prior to the effective date of this act shall be deemed to be licensed to practice as an advanced practice registered nurse under this act and such person shall not be required to file an original application for licensure under this act. Any application for registration filed which has not been granted prior to the effective date of this act shall be

processed as an application for licensure under this act.

(g) An advanced practice registered nurse certified in the role of certified nurse-midwife and engaging in the independent practice of midwifery under the independent practice of midwifery act with respect to prescribing drugs shall be subject to the provisions of the independent practice of midwifery act and shall not be subject to the provisions of this section.

Sec. 98. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

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

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

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

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

(d) "Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's

prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

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

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

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

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

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

- (j) "DEA" means the U.S. department of justice, drug enforcement administration.
- (k) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of any drug whether or not an agency relationship exists.
- (l) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.
- (m) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.
- (n) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication, or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto.
- (o) "Distribute" means to deliver, other than by administering or dispensing, any drug.
- (p) "Distributor" means a person who distributes a drug.
- (q) "Drop shipment" means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of the manufacturer's prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug

receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the "normal distribution channel."

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

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

(16) other similar equipment determined by the board in rules and regulations adopted by the board.

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

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

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

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

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

(y) "Exclusive distributor" means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to

be considered part of the normal distribution channel, must be an authorized distributor of record.

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

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

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

- (A) Inmates of a jail or correctional institution or facility;
 - (B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;
 - (C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;
 - (D) employees of a business or other employer; or
 - (E) persons receiving inpatient hospice services.
- (2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

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

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

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

(ee) "Medical care facility" shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by:

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

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

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

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

(hh) "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs ~~prior to January 11, 2016~~, pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016, pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

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

(1) A pharmacy to a patient or to other designated persons authorized by law to

dispense or administer such drug to a patient;

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

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

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

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

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

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

(mm) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or

(3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.

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

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

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

(qq) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to

use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

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

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

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

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

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

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

(xx) "Professional incompetency" means:

- (1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;
- (2) repeated instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes ordinary negligence, as determined by the board; or
- (3) a pattern of pharmacy practice or other behavior which demonstrates a manifest incapacity or incompetence to practice pharmacy.

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

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

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

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

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

(ccc) "Unprofessional conduct" means:

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

(ddd) "Vaccination protocol" means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which

establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

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

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

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

(hhh) "Wholesale distribution" means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of

transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period.

Wholesale distribution does not include:

- (1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription;
- (2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons;
- (3) intracompany transactions, as defined in this section, unless in violation of own use provisions;
- (4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control;
- (5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c) (3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;
- (6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations;
- (7) the transfer of prescription drugs or devices between pharmacies pursuant to a

centralized prescription processing agreement;

- (8) the sale, purchase or trade of blood and blood components intended for transfusion;
- (9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations;
- (10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations;
- (11) the distribution of drug samples by manufacturers' and authorized distributors' representatives;
- (12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or
- (13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 99. On and after January 1, 2017, K.S.A. 2015 Supp. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

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

- (2) the patient or research subject at the direction and in the presence of the practitioner.
- (b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.
- (c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.
- (d) "Board" means the state board of pharmacy.
- (e) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.
- (f) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.
- (g) (1) "Controlled substance analog" means a substance that is intended for human consumption, and:
- (A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;
- (B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

(h) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(i) "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

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

(k) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(l) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or

compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

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

(n) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(o) "Distributor" means a person who distributes.

(p) "Drug" means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease ~~in man~~ human or animals; (3) substances (other than food) intended to affect the structure or any function of the body of ~~man~~ human or animals; and (4) substances intended for use as a component of any article specified in paragraph (1), (2) or (3) ~~of this subsection~~. It does not include devices or their components, parts or accessories.

(q) "Immediate precursor" means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) "Electronic prescription" means an electronically prepared prescription that is

authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

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

(t) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

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

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

(w) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(x) "Intermediary" means any technology system that receives and transmits an

electronic prescription between the prescriber and the pharmacy.

- (y) "Isomer" means all enantiomers and diastereomers.
- (z) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:
 - (1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or
 - (2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.
- (aa) "Marijuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(bb) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

(cc) "Mid-level practitioner" means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs ~~prior to January 11, 2016, pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016,~~ pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(dd) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

- (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;
- (2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in paragraph (1) but not including the isoquinoline alkaloids of opium;
- (3) opium poppy and poppy straw;
- (4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or

identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(ff) "Opium poppy" means the plant of the species Papaver somniferum l. except its seeds.

(gg) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) "Pharmacist" means any natural person licensed under K.S.A. 65-1625 et seq., and amendments thereto, to practice pharmacy.

(ii) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person's internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) "Pharmacy prescription application" means software that is used to process prescription information, is installed on a pharmacy's computers and servers, and is controlled by

the pharmacy.

(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ll) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

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

(nn) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

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

(pp) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.";

Also on page 11, in line 30, after the first "K.S.A." by inserting "59-29b54, 59-29b61, 65-4016, 65-5806, 65-5808, 65-6314, 65-6407, 65-6408, 65-6411, 74-5311, 74-5318, 74-5319, 74-5320, 74-5321, 74-5325, 74-5326, 74-5327, 74-5328, 74-5332, 74-5333, 74-5334, 74-5336, 74-

5338, 74-5361, 74-5362, 74-5363, 74-5365, 74-5370, 75-6115 and"; also in line 30, after "Supp." by inserting "59-29b46, 59-3077,"; in line 31, before "and" by inserting ", 65-2872, 65-2901, 65-2913, 65-4024a, 65-5807, 65-5809, 65-5815, 65-6309, 65-6311, 65-6313, 65-6405, 65-6406, 65-6412, 65-6607, 65-6608, 65-6609, 65-6610, 65-6611, 65-6612, 65-6613, 65-6614, 65-6615, 65-6616, 65-6617, 65-6618, 65-6619, 65-6620, 74-5310, 74-5315, 74-5316, 74-5324, 74-5337, 74-5367, 74-5369, 74-5375, 74-5376, 74-7507, 74-7508";

Also on page 11, following line 31, by inserting:

"Sec. 101. On and after January 1, 2017, K.S.A. 2015 Supp. 65-1130, 65-1626 and 65-4101 are hereby repealed.";

And by renumbering sections accordingly;

On page 1, in the title, by striking all in lines 1 through 4 and inserting:

"AN ACT concerning healthcare providers; relating to powers, duties and functions thereof; licensure requirements; regulation; acupuncturists; certified nurse-midwives; physical therapists; professions regulated by the behavioral science regulatory board; amending K.S.A. 59-29b54, 59-29b61, 65-4016, 65-5806, 65-5808, 65-6314, 65-6407, 65-6408, 65-6411, 74-5311, 74-5318, 74-5361, 74-5362, 74-5363, 74-5365, 74-5370, 75-6115 and 75-6120 and K.S.A. 2015 Supp. 59-29b46, 59-3077, 65-1130, 65-1431, 65-1626, 65-2809, 65-2872, 65-2901, 65-2913, 65-4024a, 65-4101, 65-5807, 65-5809, 65-6309, 65-6311, 65-6313, 65-6405, 65-6406, 65-6607, 65-6608, 65-6609, 65-6610, 65-6611, 65-6612, 65-6613, 65-6614, 65-6615, 65-6616, 65-6617, 65-6618, 65-6620, 74-5310, 74-5315, 74-5316, 74-5324, 74-5367, 74-5369, 74-5375, 74-5376, 74-7507, 74-7508 and 75-6102 and repealing the existing sections; also repealing K.S.A. 74-5319, 74-5320, 74-5321, 74-5325, 74-5326, 74-5327, 74-5328, 74-5332, 74-5333, 74-5334,

74-5336 and 74-5338 and K.S.A. 2015 Supp. 65-5815, 65-6412, 65-6619 and 74-5337.";

And your committee on conference recommends the adoption of this report.

Conferees on part of Senate

Conferees on part of House