

HOUSE BILL No. 2060

By Health Care Reform Legislative Oversight Committee

1-18

AN ACT concerning the determination of qualifications for certain individuals for licensure; factors in determining whether certain individuals have been sufficiently rehabilitated to warrant the public trust; amending K.S.A. 65-2912, 65-3508, 65-5410, 65-6604 and 74-5324 and K.S.A. 2000 Supp. 65-1120, 65-1436, 65-1517, 65-1627, 65-1751, 65-1908, 65-1947, 65-2006, 65-2836, 65-4209, 65-5510, 65-5809, 65-6129b, 65-6129c, 65-6133, 65-6311, 65-6408, 65-6508, 65-6911 and 74-5369 and repealing the existing sections.

Be it enacted by the Legislature of the State of Kansas:

New Section 1. (a) As used in this section:

(1) "Licensing agency" means an official, agency, board or other entity of the state which authorizes individuals to practice a profession in this state and issues a license, registration, certificate, permit or other authorization to an individual so authorized.

(2) "Licensee" means an individual who is or may be authorized to practice a profession in this state through a licensure process.

(3) "Licensure" means the authorization to practice a profession in this state and includes the terms license, registration, certification, permit or other term indicating an authorization to practice.

(4) "Applicant" means an individual who is applying for licensure.

(b) Where a statute requires a licensing agency to determine the qualifications of individuals for licensure and provides that for individuals convicted of certain crimes the licensing agency is to determine in accordance with this section whether the individual has been sufficiently rehabilitated to warrant the public trust, the licensing agency in making such determination shall consider the following factors:

(1) The present moral fitness of the licensee or applicant;

(2) the demonstrated consciousness of the wrongful conduct and disrepute which the conduct has brought the profession;

(3) the extent of the licensee's or applicant's rehabilitation;

(4) the nature and seriousness of the original misconduct;

(5) the conduct subsequent to discipline;

(6) the time elapsed since the original discipline;

(7) the licensee's or applicant's character, maturity and experience at

1 the time of the original conduct;

2 (8) the licensee's or applicant's present competence in the skills of
3 the profession; and

4 (9) such other factors as the licensing agency deems appropriate.

5 Sec. 2. K.S.A. 2000 Supp. 65-1120 is hereby amended to read as
6 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
7 deny, revoke, limit or suspend any license, certificate of qualification or
8 authorization to practice nursing as a registered professional nurse, as a
9 licensed practical nurse, as an advanced registered nurse practitioner or
10 as a registered nurse anesthetist that is issued by the board or applied for
11 under this act or may publicly or privately censure a licensee or holder
12 of a certificate of qualification or authorization, if the applicant, licensee
13 or holder of a certificate of qualification or authorization is found after
14 hearing:

15 (1) To be guilty of fraud or deceit in practicing nursing or in procuring
16 or attempting to procure a license to practice nursing;

17 (2) to have been guilty of a felony or to have been guilty of a mis-
18 demeanor involving an illegal drug offense unless the applicant or licensee
19 establishes sufficient rehabilitation to warrant the public trust, ~~except that~~
20 ~~notwithstanding K.S.A. 74-120 no license, certificate of qualification or~~
21 ~~authorization to practice nursing as a licensed professional nurse, as a~~
22 ~~licensed practical nurse, as an advanced registered nurse practitioner or~~
23 ~~registered nurse anesthetist shall be granted to a person with a felony~~
24 ~~conviction for a crime against persons as specified in article 34 of chapter~~
25 ~~21 of the Kansas Statutes Annotated and acts amendatory thereof or sup-~~
26 ~~plemental thereto in accordance with the provisions of section 1 and~~
27 ~~amendments thereto;~~

28 (3) to have committed an act of professional incompetency as defined
29 in subsection (e);

30 (4) to be unable to practice with skill and safety due to current abuse
31 of drugs or alcohol;

32 (5) to be a person who has been adjudged in need of a guardian or
33 conservator, or both, under the act for obtaining a guardian or conser-
34 vator, or both, and who has not been restored to capacity under that act;

35 (6) to be guilty of unprofessional conduct as defined by rules and
36 regulations of the board;

37 (7) to have willfully or repeatedly violated the provisions of the Kansas
38 nurse practice act or any rules and regulations adopted pursuant to that
39 act, including K.S.A. 65-1114 and 65-1122 and amendments thereto;

40 (8) to have a license to practice nursing as a registered nurse or as a
41 practical nurse denied, revoked, limited or suspended, or to be publicly
42 or privately censured, by a licensing authority of another state, agency of
43 the United States government, territory of the United States or country

1 or to have other disciplinary action taken against the applicant or licensee
2 by a licensing authority of another state, agency of the United States
3 government, territory of the United States or country. A certified copy of
4 the record or order of public or private censure, denial, suspension, lim-
5 itation, revocation or other disciplinary action of the licensing authority
6 of another state, agency of the United States government, territory of the
7 United States or country shall constitute prima facie evidence of such a
8 fact for purposes of this paragraph (8); or

9 (9) to have assisted suicide in violation of K.S.A. 21-3406 and amend-
10 ments thereto as established by any of the following:

11 (A) A copy of the record of criminal conviction or plea of guilty for a
12 felony in violation of K.S.A. 21-3406 and amendments thereto.

13 (B) A copy of the record of a judgment of contempt of court for
14 violating an injunction issued under K.S.A. 2000 Supp. 60-4404 and
15 amendments thereto.

16 (C) A copy of the record of a judgment assessing damages under
17 K.S.A. 2000 Supp. 60-4405 and amendments thereto.

18 (b) *Proceedings.* Upon filing of a sworn complaint with the board
19 charging a person with having been guilty of any of the unlawful practices
20 specified in subsection (a), two or more members of the board shall in-
21 vestigate the charges, or the board may designate and authorize an em-
22 ployee or employees of the board to conduct an investigation. After in-
23 vestigation, the board may institute charges. If an investigation, in the
24 opinion of the board, reveals reasonable grounds for believing the appli-
25 cant or licensee is guilty of the charges, the board shall fix a time and
26 place for proceedings, which shall be conducted in accordance with the
27 provisions of the Kansas administrative procedure act.

28 (c) *Witnesses.* No person shall be excused from testifying in any pro-
29 ceedings before the board under this act or in any civil proceedings under
30 this act before a court of competent jurisdiction on the ground that such
31 testimony may incriminate the person testifying, but such testimony shall
32 not be used against the person for the prosecution of any crime under
33 the laws of this state except the crime of perjury as defined in K.S.A. 21-
34 3805 and amendments thereto.

35 (d) *Costs.* If final agency action of the board in a proceeding under
36 this section is adverse to the applicant or licensee, the costs of the board's
37 proceedings shall be charged to the applicant or licensee as in ordinary
38 civil actions in the district court, but if the board is the unsuccessful party,
39 the costs shall be paid by the board. Witness fees and costs may be taxed
40 by the board according to the statutes relating to procedure in the district
41 court. All costs accrued by the board, when it is the successful party, and
42 which the attorney general certifies cannot be collected from the appli-
43 cant or licensee shall be paid from the board of nursing fee fund. All

1 moneys collected following board proceedings shall be credited in full to
2 the board of nursing fee fund.

3 (e) *Professional incompetency defined.* As used in this section, “pro-
4 fessional incompetency” means:

5 (1) One or more instances involving failure to adhere to the appli-
6 cable standard of care to a degree which constitutes gross negligence, as
7 determined by the board;

8 (2) repeated instances involving failure to adhere to the applicable
9 standard of care to a degree which constitutes ordinary negligence, as
10 determined by the board; or

11 (3) a pattern of practice or other behavior which demonstrates a man-
12 ifest incapacity or incompetence to practice nursing.

13 (f) *Criminal justice information.* The board upon request shall receive
14 from the Kansas bureau of investigation such criminal history record in-
15 formation relating to arrests and criminal convictions as necessary for the
16 purpose of determining initial and continuing qualifications of licensees
17 of and applicants for licensure by the board.

18 Sec. 3. K.S.A. 2000 Supp. 65-1436 is hereby amended to read as
19 follows: 65-1436. (a) The Kansas dental board may refuse to issue the
20 license provided for in this act, or may take any of the actions with respect
21 to any dental or dental hygiene license as set forth in subsection (b),
22 whenever it is established, after notice and opportunity for hearing in
23 accordance with the provisions of the Kansas administrative procedure
24 act, that any applicant for a dental or dental hygiene license or any li-
25 censed dentist or dental hygienist practicing in the state of Kansas has:

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

28 (2) habitually used intoxicants or drugs which have rendered such
29 person unfit for the practice of dentistry or dental hygiene;

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

31 (4) committed gross, wanton or willful negligence in the practice of
32 dentistry or dental hygiene;

33 (5) employed, allowed or permitted any unlicensed person or persons
34 to perform any work in the licensee’s office which constitutes the practice
35 of dentistry or dental hygiene under the provisions of this act;

36 (6) willfully violated the laws of this state relating to the practice of
37 dentistry or dental hygiene or the rules and regulations of the secretary
38 of health and environment or of the board regarding sanitation;

39 (7) engaged in the division of fees, or agreed to split or divide the fee
40 received for dental service with any person for bringing or referring a
41 patient without the knowledge of the patient or the patient’s legal rep-
42 resentative, except the division of fees between dentists practicing in a
43 partnership and sharing professional fees, or in case of one licensed den-

1 tist employing another;

2 (8) committed complicity in association with or allowed the use of
3 the licensed dentist's name in conjunction with any person who is engaged
4 in the illegal practice of dentistry;

5 (9) been convicted of a felony or a misdemeanor involving moral tur-
6 pitude in any jurisdiction and the licensee fails to show *in accordance*
7 *with the provisions of section 1 and amendments thereto* that the licensee
8 has been sufficiently rehabilitated to warrant the public trust;

9 (10) prescribed, dispensed, administered or distributed a prescription
10 drug or substance, including a controlled substance, in an excessive, im-
11 proper or inappropriate manner or quantity outside the scope of practice
12 of dentistry or in a manner that impairs the health and safety of an
13 individual;

14 (11) prescribed, purchased, administered, sold or given away pre-
15 scription drugs, including a controlled substance, for other than legal and
16 legitimate purposes;

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

19 (13) failed to pay license fees;

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

23 (15) committed, after becoming a licensee, any conduct which is det-
24 rimental to the public health, safety or welfare as defined by rules and
25 regulations of the board;

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

32 (17) failed to keep adequate records;

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

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

42 (20) assisted suicide in violation of K.S.A. 21-3406 and amendments
43 thereto as established by any of the following;

1 (A) A copy of the record of criminal conviction or plea of guilty for a
2 felony in violation of K.S.A. 21-3406 and amendments thereto.

3 (B) A copy of the record of a judgment of contempt of court for
4 violating an injunction issued under K.S.A. 2000 Supp. 60-4404 and
5 amendments thereto.

6 (C) A copy of the record of a judgment assessing damages under
7 K.S.A. 2000 Supp. 60-4405 and amendments thereto.

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

14 (1) Revoke the license.

15 (2) Suspend the license for such period of time as may be determined
16 by the board.

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

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

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

36 (1) One or more instances involving failure to adhere to the appli-
37 cable standard of dental or dental hygienist care to a degree which con-
38 stitutes gross negligence, as determined by the board;

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

42 (3) a pattern of dental or dental hygienist practice or other behavior
43 which demonstrates a manifest incapacity or incompetence to practice

1 dentistry.

2 (d) In addition to or in lieu of one or more of the actions described
3 in subsections (b)(1) through (b)(4), the board may assess a fine not in
4 excess of \$10,000 against a licensee. All fines collected pursuant to this
5 subsection shall be remitted to the state treasurer. Of the amount so
6 remitted, an amount equal to the board's actual costs related to fine as-
7 sessment and enforcement under this subsection, as certified by the pres-
8 ident of the board to the state treasurer, shall be credited to the dental
9 board fee fund and the balance shall be credited to the state general fund.

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

16 Sec. 4. K.S.A. 2000 Supp. 65-1517 is hereby amended to read as
17 follows: 65-1517. A licensee's license may be revoked, suspended or lim-
18 ited, or the licensee may be publicly or privately censured, upon a finding
19 of the existence of any of the following grounds:

20 (a) The licensee has committed fraud or misrepresentation in apply-
21 ing for or securing an original or renewal license.

22 (b) The licensee has committed an act of unprofessional conduct or
23 professional incompetence.

24 (c) The licensee has been convicted of a felony, whether or not re-
25 lated to the practice of optometry *and the board determines in accordance*
26 *with the provisions of section 1 and amendments thereto that such licensee*
27 *has not been sufficiently rehabilitated to warrant the public trust.*

28 (d) The licensee has used fraudulent or false advertisements.

29 (e) The licensee has willfully or repeatedly violated the optometry
30 law, the pharmacy act of the state of Kansas or the uniform controlled
31 substances act, or any rules and regulations adopted pursuant thereto.

32 (f) The licensee has unlawfully performed practice acts of optometry
33 for which the licensee is not licensed to practice.

34 (g) The licensee has failed to pay annual renewal fees specified in
35 this act.

36 (h) The licensee has failed to comply with the annual continuing ed-
37 ucation requirements as required by this act and the board.

38 (i) The licensee has engaged in the practice of optometry under a
39 false or assumed name, or the impersonation of another practitioner. The
40 provisions of this subsection relating to an assumed name shall not apply
41 to licensees practicing under a professional corporation or other legal
42 entity duly authorized to provide such professional services in the state
43 of Kansas.

1 (j) The licensee has the inability to perform optometry practice acts
2 for which the licensee is licensed with reasonable skill and safety to pa-
3 tients by reason of illness, alcoholism, excessive use of drugs, controlled
4 substances, chemical or any other type of material or as a result of any
5 mental or physical condition. In determining whether or not such inability
6 exists, the board, upon probable cause, shall have authority to compel a
7 licensee to submit to mental or physical examination by such persons as
8 the board may designate. The licensee shall submit to the board a release
9 of information authorizing the board to obtain a report of such exami-
10 nation. A person affected by this subsection shall be offered, at reasonable
11 intervals an opportunity to demonstrate that such person can resume the
12 competent practice of optometry with reasonable skill and safety to pa-
13 tients. For the purpose of this subsection, every person licensed to prac-
14 tice optometry and who shall accept the privilege to practice optometry
15 in this state by so practicing or by the making and filing of an annual
16 renewal to practice optometry in this state shall be deemed to have con-
17 sented to submit to a mental and physical examination when directed in
18 writing by the board and further to have waived all objections to the
19 admissibility of the testimony or examination report of the person con-
20 ducting such examination at any proceeding or hearing before the board
21 on the grounds that such testimony or examination report constitutes a
22 privileged communication. In any proceeding by the board pursuant to
23 the provisions of this subsection, the record of such board proceedings
24 involving the mental and physical examination shall not be used in any
25 other administrative or judicial proceeding.

26 (k) The licensee has had a license to practice optometry revoked,
27 suspended or limited, has been censured or has had other disciplinary
28 action taken, or an application for a license denied, by the proper licensing
29 authority of another state, territory, District of Columbia, or other coun-
30 try, a certified copy of the record of the action of the other jurisdiction
31 being conclusive evidence thereof.

32 (l) The licensee has violated any lawful rules and regulations prom-
33 ulgated by the board or violated any lawful order or directive of the board
34 previously entered by the board.

35 (m) The licensee has cheated on or attempted to subvert the validity
36 of the examination for a license.

37 (n) The licensee has been found to be mentally ill, disabled, not guilty
38 by reason of insanity, not guilty because the licensee suffers from a mental
39 disease or defect or incompetent to stand trial by a court of competent
40 jurisdiction.

41 (o) The licensee has violated a federal law or regulation relating to
42 controlled substances.

43 (p) The licensee has failed to furnish the board, or its investigators

1 or representatives, any information legally requested by the board.

2 (q) Sanctions or disciplinary actions have been taken against the li-
3 censee by a peer review committee, health care facility or a professional
4 association or society for acts or conduct similar to acts or conduct which
5 would constitute grounds for disciplinary action under this section.

6 (r) The licensee has failed to report to the board any adverse action
7 taken against the licensee by another state or licensing jurisdiction, a peer
8 review body, a health care facility, a professional association or society, a
9 governmental agency, by a law enforcement agency or a court for acts or
10 conduct similar to acts or conduct which would constitute grounds for
11 disciplinary action under this section.

12 (s) The licensee has surrendered a license or authorization to practice
13 optometry in another state or jurisdiction or has surrendered the li-
14 censee's membership on any professional staff or in any professional as-
15 sociation or society while under investigation for acts or conduct similar
16 to acts or conduct which would constitute grounds for disciplinary action
17 under this section.

18 (t) The licensee has failed to report to the board surrender of the
19 licensee's license or authorization to practice optometry in another state
20 or jurisdiction or surrender of the licensee's membership on any profes-
21 sional staff or in any professional association or society while under in-
22 vestigation for acts or conduct which would constitute grounds for dis-
23 ciplinary action under this section.

24 (u) The licensee has an adverse judgment, award or settlement
25 against the licensee resulting from a medical liability claim related to acts
26 or conduct similar to acts or conduct which would constitute grounds for
27 disciplinary action under this section.

28 (v) The licensee has failed to report to the board any adverse judg-
29 ment, settlement or award against the licensee resulting from a malprac-
30 tice liability claim related to acts or conduct similar to acts or conduct
31 which would constitute grounds for disciplinary action under this section.

32 (w) The licensee has failed to maintain a policy of professional liability
33 insurance as required by K.S.A. 40-3402 or 40-3403a and amendments
34 thereto or pay the annual premium as required by K.S.A. 40-3404 and
35 amendments thereto.

36 (x) The licensee has knowingly submitted any misleading, deceptive,
37 false or fraudulent representation on a claim form bill or statement.

38 (y) The licensee has failed to provide to a patient the patient's written
39 prescription for lenses for eyeglasses subsequent to the completion of the
40 eye examination in accordance with applicable state or federal law.

41 Sec. 5. K.S.A. 2000 Supp. 65-1627 is hereby amended to read as
42 follows: 65-1627. (a) The board may revoke, suspend, place in a proba-
43 tionary status or deny a renewal of any license of any pharmacist upon a

1 finding that:

2 (1) The license was obtained by fraudulent means;

3 (2) the licensee has been convicted of a felony and the licensee fails
4 to show *in accordance with the provisions of section 1 and amendments*
5 *thereto* that the licensee has been sufficiently rehabilitated to warrant the
6 public trust;

7 (3) the licensee is found by the board to be guilty of unprofessional
8 conduct or professional incompetency;

9 (4) the licensee is addicted to the liquor or drug habit to such a degree
10 as to render the licensee unfit to practice the profession of pharmacy;

11 (5) the licensee has violated a provision of the federal or state food,
12 drug and cosmetic act, the uniform controlled substances act of the state
13 of Kansas, or any rule and regulation adopted under any such act;

14 (6) the licensee is found by the board to have filled a prescription not
15 in strict accordance with the directions of the practitioner or a mid-level
16 practitioner;

17 (7) the licensee is found to be mentally or physically incapacitated to
18 such a degree as to render the licensee unfit to practice the profession
19 of pharmacy;

20 (8) the licensee has violated any of the provisions of the pharmacy
21 act of the state of Kansas or any rule and regulation adopted by the board
22 pursuant to the provisions of such pharmacy act;

23 (9) the licensee has failed to comply with the requirements of the
24 board relating to the continuing education of pharmacists;

25 (10) the licensee as a pharmacist in charge or consultant pharmacist
26 under the provisions of subsection (c) or (d) of K.S.A. 65-1648 and
27 amendments thereto has failed to comply with the requirements of sub-
28 section (c) or (d) of K.S.A. 65-1648 and amendments thereto;

29 (11) the licensee has knowingly submitted a misleading, deceptive,
30 untrue or fraudulent misrepresentation on a claim form, bill or statement;

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

38 (13) the licensee has self-administered any controlled substance with-
39 out a practitioner's prescription order or a mid-level practitioner's pre-
40 scription order; or

41 (14) the licensee has assisted suicide in violation of K.S.A. 21-3406
42 and amendments thereto as established by any of the following:

43 (A) A copy of the record of criminal conviction or plea of guilty for a

1 felony in violation of K.S.A. 21-3406 and amendments thereto.

2 (B) A copy of the record of a judgment of contempt of court for
3 violating an injunction issued under K.S.A. 2000 Supp. 60-4404 and
4 amendments thereto.

5 (C) A copy of the record of a judgment assessing damages under
6 K.S.A. 2000 Supp. 60-4405 and amendments thereto; or

7 (15) the licensee has failed to furnish the board, its investigators or
8 its representatives any information legally requested by the board.

9 (b) In determining whether or not the licensee has violated subsec-
10 tion (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion
11 of such violation has authority to compel a licensee to submit to mental
12 or physical examination or drug screen, or any combination thereof, by
13 such persons as the board may designate. To determine whether reason-
14 able suspicion of such violation exists, the investigative information shall
15 be presented to the board as a whole. Information submitted to the board
16 as a whole and all reports, findings and other records shall be confidential
17 and not subject to discovery by or release to any person or entity. The
18 licensee shall submit to the board a release of information authorizing
19 the board to obtain a report of such examination or drug screen, or both.
20 A person affected by this subsection shall be offered, at reasonable in-
21 tervals, an opportunity to demonstrate that such person can resume the
22 competent practice of pharmacy with reasonable skill and safety to pa-
23 tients. For the purpose of this subsection, every person licensed to prac-
24 tice pharmacy and who shall accept the privilege to practice pharmacy in
25 this state by so practicing or by the making and filing of a renewal appli-
26 cation to practice pharmacy in this state shall be deemed to have con-
27 sented to submit to a mental or physical examination or a drug screen, or
28 any combination thereof, when directed in writing by the board and fur-
29 ther to have waived all objections to the admissibility of the testimony,
30 drug screen or examination report of the person conducting such exam-
31 ination or drug screen, or both, at any proceeding or hearing before the
32 board on the ground that such testimony or examination or drug screen
33 report constitutes a privileged communication. In any proceeding by the
34 board pursuant to the provisions of this subsection, the record of such
35 board proceedings involving the mental and physical examination or drug
36 screen, or any combination thereof, shall not be used in any other ad-
37 ministrative or judicial proceeding.

38 (c) The board may temporarily suspend or temporarily limit the li-
39 cense of any licensee in accordance with the emergency adjudicative pro-
40 ceedings under the Kansas administrative procedure act if the board de-
41 termines that there is cause to believe that grounds exist for disciplinary
42 action under subsection (a) against the licensee and that the licensee's
43 continuation in practice would constitute an imminent danger to the pub-

1 lic health and safety.

2 (d) The board may suspend, revoke, place in a probationary status or
3 deny a renewal of any retail dealer's permit issued by the board when
4 information in possession of the board discloses that such operations for
5 which the permit was issued are not being conducted according to law or
6 the rules and regulations of the board.

7 (e) The board may revoke, suspend, place in a probationary status or
8 deny a renewal of the registration of a pharmacy upon a finding that: (1)
9 Such pharmacy has been operated in such manner that violations of the
10 provisions of the pharmacy act of the state of Kansas or of the rules and
11 regulations of the board have occurred in connection therewith; (2) the
12 owner or any pharmacist employed at such pharmacy is convicted, sub-
13 sequent to such owner's acquisition of or such employee's employment
14 at such pharmacy, of a violation of the pharmacy act or uniform controlled
15 substances act of the state of Kansas, or the federal or state food, drug
16 and cosmetic act; (3) the owner or any pharmacist employed by such
17 pharmacy has fraudulently claimed money for pharmaceutical services;
18 or (4) the registrant has had a registration revoked, suspended or limited,
19 has been censured or has had other disciplinary action taken, or an ap-
20 plication for registration denied, by the proper registering authority of
21 another state, territory, District of Columbia or other country, a certified
22 copy of the record of the action of the other jurisdiction being conclusive
23 evidence thereof.

24 (f) A registration to manufacture or to distribute at wholesale a drug
25 or a registration for the place of business where any such operation is
26 conducted may be suspended, revoked, placed in a probationary status
27 or the renewal of such registration may be denied by the board upon a
28 finding that the registrant or the registrant's agent: (1) Has materially
29 falsified any application filed pursuant to or required by the pharmacy
30 act of the state of Kansas; (2) has been convicted of a felony under any
31 federal or state law relating to the manufacture or distribution of drugs;
32 (3) has had any federal registration for the manufacture or distribution of
33 drugs suspended or revoked; (4) has refused to permit the board or its
34 duly authorized agents to inspect the registrant's establishment in ac-
35 cordance with the provisions of K.S.A. 65-1629 and amendments thereto;
36 (5) has failed to keep, or has failed to file with the board or has falsified
37 records required to be kept or filed by the provisions of the pharmacy
38 act of the state of Kansas or by the board's rules and regulations; or (6)
39 has violated the pharmacy act of the state of Kansas or rules and regu-
40 lations adopted by the state board of pharmacy under the pharmacy act
41 of the state of Kansas or has violated the uniform controlled substances
42 act or rules and regulations adopted by the state board of pharmacy under
43 the uniform controlled substances act.

1 (g) Orders under this section, and proceedings thereon, shall be sub-
2 ject to the provisions of the Kansas administrative procedure act.

3 Sec. 6. K.S.A. 2000 Supp. 65-1751 is hereby amended to read as
4 follows: 65-1751. (a) The state board of mortuary arts may refuse to issue
5 or renew a license, may revoke or suspend a license or may publicly or
6 privately censure a licensee, upon a finding that a licensee or an applicant
7 for a license:

8 (1) Has made any misleading, deceptive, untrue or fraudulent state-
9 ments in applying for or securing an original or renewal license;

10 (2) has committed an act of unprofessional or dishonorable conduct
11 or professional incompetency;

12 (3) has been convicted of a felony, and the licensee or applicant for
13 a license is unable to demonstrate to the board's satisfaction *in accordance*
14 *with the provisions of section 1 and amendments thereto* that such person
15 has been sufficiently rehabilitated to warrant the public trust, or has been
16 convicted of any offense involving moral turpitude;

17 (4) has violated any law, ordinance or rule and regulation affecting
18 the handling, custody, care or transportation of dead human bodies;

19 (5) is rendered unfit to practice embalming or funeral directing by
20 reason of illness, alcohol, chemicals or other types of substances, or as a
21 result of any mental or physical condition when certified by a physician
22 as to unfitness;

23 (6) has failed or refused to properly protect or guard against conta-
24 gious, communicable or infectious disease, or the spreading thereof;

25 (7) has refused to surrender a dead human body upon the request of
26 the next of kin, or legal representative, if there is no next of kin, or person
27 entitled to the custody and control of the body if there is no next of kin
28 available and no legal representative qualified to act;

29 (8) or the agent, employee or representative thereof, has advertised,
30 solicited or sold merchandise or services in a manner which is fraudulent,
31 deceptive or misleading in form or content;

32 (9) or the agent, employee or representative thereof, has engaged in
33 the uninvited, in-person solicitation of an actual or potential customer,
34 who, because of the customer's particular circumstances, was vulnerable
35 to undue influence, intimidation, coercion or overreaching or has violated
36 a provision of K.S.A. 65-1752 and amendments thereto;

37 (10) or the agent, employee or representative thereof, has knowingly
38 engaged in at-need solicitation;

39 (11) has used or employed, directly or indirectly, any agent, repre-
40 sentative or person, for the purpose of contacting public officials or agents
41 of institutions by whose influence dead human bodies may be turned over
42 to a particular licensee or funeral establishment;

43 (12) has aided or abetted an unlicensed person to practice any activity

1 for which a license is required under article 17 of chapter 65 of the Kansas
2 Statutes Annotated and acts amendatory of the provisions thereof or sup-
3 plemental thereto;

4 (13) has had a license to practice embalming or funeral directing re-
5 voked or suspended, has been censured or has had other disciplinary
6 action taken against oneself or has had an application for a license denied
7 by the proper licensing authority of another state, territory, District of
8 Columbia or other country, a certified copy of the record of the action
9 of the other jurisdiction being conclusive evidence thereof;

10 (14) has cheated on or attempted to subvert the validity of the ex-
11 amination for a license;

12 (15) has been found to be mentally ill, mentally disabled, not guilty
13 by reason of insanity, not guilty because the licensee suffers from a mental
14 disease or defect or incompetent to stand trial by a court of competent
15 jurisdiction;

16 (16) has failed to furnish the board, or its investigators or represen-
17 tatives, any information legally requested by the board;

18 (17) has failed to report to the board any adverse action taken against
19 the licensee by another state or licensing jurisdiction, a professional as-
20 sociation or society, a governmental agency, by a law enforcement agency
21 or a court for acts or conduct similar to acts or conduct which would
22 constitute grounds for disciplinary action under this section;

23 (18) has an adverse judgment, award or settlement against the li-
24 censee resulting from the practice of funeral directing or embalming
25 which related to acts or conduct similar to acts or conduct which would
26 constitute grounds for disciplinary action under this section or has failed
27 to report such matter to the board;

28 (19) has knowingly submitted any misleading, deceptive, untrue or
29 fraudulent representation on a claim form, bill or statement;

30 (20) has violated any lawful rules and regulations promulgated by the
31 board or any state or federal law related to the practice of funeral di-
32 recting, embalming or funeral establishments; or

33 (21) has failed to pay any fee required under this act.

34 (b) The board may adopt rules and regulations defining, construing
35 and interpreting the above grounds for licensure action. All administrative
36 proceedings taken by the board pursuant to this section shall be con-
37 ducted in accordance with the provisions of the Kansas administrative
38 procedure act.

39 (c) As used in this section:

40 (1) "License" means an embalmer's license, funeral director's license,
41 assistant funeral director's license, funeral establishment license or
42 branch establishment license.

43 (2) "At-need solicitation" means any uninvited contact for the pur-

1 pose of the sale, or attempted sale, of funeral services or merchandise to
2 the family or next of kin of a person after the person's death, or where
3 death is imminent.

4 Sec. 7. K.S.A. 2000 Supp. 65-1908 is hereby amended to read as
5 follows: 65-1908. (a) The state board of cosmetology may revoke any
6 license provided for by this act, may censure, limit or condition any license
7 or may refuse to issue, renew or suspend any license or assess a fine, not
8 to exceed \$1,000 per violation, for any of the following reasons:

9 (1) Failure to comply with the sanitary requirements prescribed by
10 the secretary of health and environment pursuant to K.S.A. 65-1,148 and
11 amendments thereto;

12 (2) failure to comply with any provision of this act, with the rules and
13 regulations of the board of cosmetology or with any order issued by the
14 board;

15 (3) has become a danger to the public by reason of alcohol or drug
16 abuse;

17 (4) conviction of a felony unless the applicant or licensee is able to
18 demonstrate to the board's satisfaction *in accordance with the provisions*
19 *of section 1 and amendments thereto* that such person has been suffi-
20 ciently rehabilitated to warrant the public trust;

21 (5) the obtaining of, or the attempt to obtain, a license by fraudulent
22 misrepresentation or bribery;

23 (6) advertising by means of false or knowingly deceptive matter or
24 statement;

25 (7) failure to display the annual license or inspection report as pro-
26 vided for in this act; or

27 (8) being found guilty of gross negligence or unprofessional conduct
28 as defined by rules and regulations of the board.

29 (b) The board may order the remedying of any violations of rules and
30 regulations of the board or any provision of this act, and the board may
31 issue a cease and desist order upon board determination that the holder
32 of a license has violated any order of the board, any rules and regulations
33 of the board or any provision of this act.

34 (c) Inspectors employed by the board shall have such powers as the
35 board may prescribe by rules and regulations to make inspections, inves-
36 tigations, and inquiries, except that a permanent order for closing any
37 establishment licensed by the board shall be issued only by the board.

38 (d) All proceedings under this section shall be conducted in accord-
39 ance with the provisions of the Kansas administrative procedure act.

40 Sec. 8. K.S.A. 2000 Supp. 65-1947 is hereby amended to read as
41 follows: 65-1947. The board may revoke, suspend, refuse to issue a license
42 or renewal or place on probation any licensee upon proof that a person
43 or licensee:

- 1 (a) Has been convicted of a violation under K.S.A. 2000 Supp. 65-
2 1942 *and amendments thereto*;
- 3 (b) has been convicted in this or any other state of a crime related to
4 the practice of tattooing or body piercing *and the board determines in*
5 *accordance with the provisions of section 1 and amendments thereto that*
6 *such person or licensee has not been sufficiently rehabilitated to warrant*
7 *the public trust*;
- 8 (c) has knowingly misrepresented, misstated or failed to disclose per-
9 sonal qualifications or other information necessary to practice tattooing
10 or body piercing in any communication to the board or the department;
- 11 (d) has used, caused or promoted the use of any advertising matter,
12 promotional literature, warranty, label, insignia or any other representa-
13 tion, however disseminated or published, that is false, misleading or
14 deceptive;
- 15 (e) has knowingly deceived the public by acting in a manner as to
16 mislead clients as to the person's professional status;
- 17 (f) has employed directly or indirectly any suspended or unlicensed
18 person to perform any tattooing or body piercing covered by this act;
- 19 (g) has permitted another person to use the license;
- 20 (h) has practiced tattooing or body piercing under a false, misleading
21 or deceptive name;
- 22 (i) has failed, if a licensed permanent color technician and tattoo artist
23 or if licensed to perform body piercing, to maintain a business address
24 and telephone number at which the licensee may be reached during busi-
25 ness hours;
- 26 (j) has failed, if a nonpracticing permanent color technician and tattoo
27 artist or a person licensed to perform body piercing, to provide the board
28 with a home address and telephone number;
- 29 (k) has failed to properly and reasonably accept responsibility for the
30 actions of employees;
- 31 (l) has practiced tattooing or body piercing with a mental or physical
32 illness that affects ability to perform or endangers the public;
- 33 (m) has demonstrated gross incompetence in performing tattooing or
34 body piercing; or
- 35 (n) has violated any of the provisions of this act or rules and regula-
36 tions adopted by the board pursuant to this act.
- 37 Sec. 9. K.S.A. 2000 Supp. 65-2006 is hereby amended to read as
38 follows: 65-2006. (a) The board, upon hearing, may revoke, suspend or
39 limit any license or permit to practice podiatry, may deny issuance or
40 renewal of any such license or permit, or may publicly or privately censure
41 a licensee or permittee, if the person holding or applying for such license
42 or permit is found by the board to:
- 43 (1) Have committed fraud in securing the license or permit;

- 1 (2) have engaged in unprofessional or dishonorable conduct or pro-
2 fessional incompetency;
- 3 (3) have been convicted of a felony if the board determines, after
4 investigation, *in accordance with the provisions of section 1 and amend-*
5 *ments thereto* that such person has not been sufficiently rehabilitated to
6 warrant the public trust;
- 7 (4) have used untruthful or improbable statements or flamboyant,
8 exaggerated or extravagant claims in advertisements concerning the li-
9 censee's or permit holder's professional excellence or abilities;
- 10 (5) be addicted to or have distributed intoxicating liquors or drugs
11 for any other than lawful purposes;
- 12 (6) have willfully or repeatedly violated the podiatry act, the phar-
13 macy act or the uniform controlled substances act, or any rules and reg-
14 ulations adopted thereunder, or any rules and regulations of the secretary
15 of health and environment which are relevant to the practice of podiatry;
- 16 (7) have unlawfully invaded the field of practice of any branch of the
17 healing arts;
- 18 (8) have failed to submit proof of completion of a continuing edu-
19 cation course required pursuant to the podiatry act;
- 20 (9) have engaged in the practice of podiatry under a false or assumed
21 name or impersonated another podiatrist, but practice by a licensee or
22 permit holder under a professional corporation or other legal entity duly
23 authorized to provide podiatry services in the state shall not be considered
24 to be practice under an assumed name;
- 25 (10) be unable to practice podiatry with reasonable skill and safety to
26 patients by reason of any mental or physical condition, illness, alcoholism
27 or excessive use of drugs, controlled substances or chemical or any other
28 type of material;
- 29 (11) have had the person's license or permit to practice podiatry re-
30 voked, suspended or limited, or have had other disciplinary actions taken
31 or an application for a license or permit denied, by the proper licensing
32 authority of any state, territory or country or the District of Columbia;
- 33 (12) have violated any rules and regulations of the board or any lawful
34 order or directive of the board;
- 35 (13) have knowingly submitted a misleading, deceptive, untrue or
36 fraudulent misrepresentation on a claim form, bill or statement; or
- 37 (14) have assisted suicide in violation of K.S.A. 21-3406 and amend-
38 ments thereto as established by any of the following:
 - 39 (A) A copy of the record of criminal conviction or plea of guilty for a
40 felony in violation of K.S.A. 21-3406 and amendments thereto.
 - 41 (B) A copy of the record of a judgment of contempt of court for
42 violating an injunction issued under K.S.A. 2000 Supp. 60-4404 and
43 amendments thereto.

1 (C) A copy of the record of a judgment assessing damages under
2 K.S.A. 2000 Supp. 60-4405 and amendments thereto.

3 (b) In determining whether or not a licensee or permit holder is un-
4 able to practice podiatry with reasonable skill and safety to patients as
5 provided in subsection (a)(10), the board, upon probable cause, shall have
6 authority to compel a licensee or permit holder to submit to mental or
7 physical examination by such persons as the board may designate. Failure
8 of a licensee or permit holder to submit to such examination when di-
9 rected shall constitute an admission of the allegations against the licensee
10 or permit holder, unless the failure was due to circumstances beyond the
11 licensee's or permit holder's control. A person affected by this subsection
12 shall be offered, at reasonable intervals, an opportunity to demonstrate
13 that such person can resume the competent practice of podiatry with
14 reasonable skill and safety to patients. Each licensee or permit holder
15 accepting the privilege to practice podiatry in this state, by practicing
16 podiatry in this state or by making and filing an application for a license
17 or permit, or renewal of a license or permit, to practice podiatry in this
18 state, shall be deemed to have consented to submit to a mental or physical
19 examination when directed in writing by the board pursuant to this sub-
20 section and to have waived all objections to the admissibility of the tes-
21 timony or examination report of the person conducting such examination
22 at any proceeding or hearing before the board on the ground that such
23 testimony or examination report constitutes a privileged communication.
24 The record of any board proceedings involving a mental or physical ex-
25 amination pursuant to this subsection shall not be used in any other ad-
26 ministrative or judicial proceeding.

27 Whenever the board directs that a licensee or permit holder submit to
28 an examination pursuant to this subsection, the time from the date of the
29 board's directive until the submission to the board of the report of the
30 examination shall not be included in the computation of the time limit
31 for hearing prescribed by the Kansas administrative procedure act.

32 (c) As used in this section, "professional incompetency" and "unpro-
33 fessional conduct" shall have the meanings ascribed thereto by K.S.A. 65-
34 2837 and amendments thereto.

35 (d) The procedure for revocation, suspension, limitation, temporary
36 suspension, temporary limitation, or for denial of issuance or renewal
37 pursuant to this section, of any license or permit to practice podiatry shall
38 be in accordance with the provisions of the Kansas administrative pro-
39 cedure act.

40 Sec. 10. K.S.A. 2000 Supp. 65-2836 is hereby amended to read as
41 follows: 65-2836. A licensee's license may be revoked, suspended or lim-
42 ited, or the licensee may be publicly or privately censured, or an appli-
43 cation for a license or for reinstatement of a license may be denied upon

1 a finding of the existence of any of the following grounds:

2 (a) The licensee has committed fraud or misrepresentation in apply-
3 ing for or securing an original, renewal or reinstated license.

4 (b) The licensee has committed an act of unprofessional or dishon-
5 orable conduct or professional incompetency.

6 (c) The licensee has been convicted of a felony or class A misde-
7 meanor, whether or not related to the practice of the healing arts. ~~The~~
8 ~~board shall revoke a licensee's license following conviction of a felony~~
9 ~~occurring after July 1, 2000, unless a 2/3 majority of the board members~~
10 ~~present and voting determine by clear and convincing evidence that such~~
11 ~~licensee will not pose a threat to the public in such person's capacity as~~
12 ~~a licensee and that such person has been sufficiently rehabilitated to war-~~
13 ~~rant the public trust. In the case of a person who has been convicted of~~
14 ~~a felony and who applies for an original license or to reinstate a canceled~~
15 ~~license, the application for a license shall be denied unless a 2/3 majority~~
16 ~~of the board members present and voting on such application determine~~
17 ~~by clear and convincing evidence that such person will not pose a threat~~
18 ~~to the public in such person's capacity as a licensee and that such person~~
19 ~~has, and the board determines in accordance with the provisions of section~~
20 ~~1 and amendments thereto that the licensee has not been sufficiently re-~~
21 ~~habilitated to warrant the public trust.~~

22 (d) The licensee has used fraudulent or false advertisements.

23 (e) The licensee is addicted to or has distributed intoxicating liquors
24 or drugs for any other than lawful purposes.

25 (f) The licensee has willfully or repeatedly violated this act, the phar-
26 macy act of the state of Kansas or the uniform controlled substances act,
27 or any rules and regulations adopted pursuant thereto, or any rules and
28 regulations of the secretary of health and environment which are relevant
29 to the practice of the healing arts.

30 (g) The licensee has unlawfully invaded the field of practice of any
31 branch of the healing arts in which the licensee is not licensed to practice.

32 (h) The licensee has engaged in the practice of the healing arts under
33 a false or assumed name, or the impersonation of another practitioner.
34 The provisions of this subsection relating to an assumed name shall not
35 apply to licensees practicing under a professional corporation or other
36 legal entity duly authorized to provide such professional services in the
37 state of Kansas.

38 (i) The licensee has the inability to practice the healing arts with rea-
39 sonable skill and safety to patients by reason of physical or mental illness,
40 or condition or use of alcohol, drugs or controlled substances. In deter-
41 mining whether or not such inability exists, the board, upon reasonable
42 suspicion of such inability, shall have authority to compel a licensee to
43 submit to mental or physical examination or drug screen, or any combi-

1 nation thereof, by such persons as the board may designate either in the
2 course of an investigation or a disciplinary proceeding. To determine
3 whether reasonable suspicion of such inability exists, the investigative
4 information shall be presented to the board as a whole, to a review com-
5 mittee of professional peers of the licensee established pursuant to K.S.A.
6 65-2840c and amendments thereto or to a committee consisting of the
7 officers of the board elected pursuant to K.S.A. 65-2818 and amendments
8 thereto and the executive director appointed pursuant to K.S.A. 65-2878
9 and amendments thereto or to a presiding officer authorized pursuant to
10 K.S.A. 77-514 and amendments thereto. The determination shall be made
11 by a majority vote of the entity which reviewed the investigative infor-
12 mation. Information submitted to the board as a whole or a review com-
13 mittee of peers or a committee of the officers and executive director of
14 the board and all reports, findings and other records shall be confidential
15 and not subject to discovery by or release to any person or entity. The
16 licensee shall submit to the board a release of information authorizing
17 the board to obtain a report of such examination or drug screen, or both.
18 A person affected by this subsection shall be offered, at reasonable in-
19 tervals, an opportunity to demonstrate that such person can resume the
20 competent practice of the healing arts with reasonable skill and safety to
21 patients. For the purpose of this subsection, every person licensed to
22 practice the healing arts and who shall accept the privilege to practice
23 the healing arts in this state by so practicing or by the making and filing
24 of a renewal to practice the healing arts in this state shall be deemed to
25 have consented to submit to a mental or physical examination or a drug
26 screen, or any combination thereof, when directed in writing by the board
27 and further to have waived all objections to the admissibility of the tes-
28 timony, drug screen or examination report of the person conducting such
29 examination or drug screen, or both, at any proceeding or hearing before
30 the board on the ground that such testimony or examination or drug
31 screen report constitutes a privileged communication. In any proceeding
32 by the board pursuant to the provisions of this subsection, the record of
33 such board proceedings involving the mental and physical examination or
34 drug screen, or any combination thereof, shall not be used in any other
35 administrative or judicial proceeding.

36 (j) The licensee has had a license to practice the healing arts revoked,
37 suspended or limited, has been censured or has had other disciplinary
38 action taken, or an application for a license denied, by the proper licensing
39 authority of another state, territory, District of Columbia, or other coun-
40 try, a certified copy of the record of the action of the other jurisdiction
41 being conclusive evidence thereof.

42 (k) The licensee has violated any lawful rule and regulation promul-
43 gated by the board or violated any lawful order or directive of the board

1 previously entered by the board.

2 (l) The licensee has failed to report or reveal the knowledge required
3 to be reported or revealed under K.S.A. 65-28,122 and amendments
4 thereto.

5 (m) The licensee, if licensed to practice medicine and surgery, has
6 failed to inform in writing a patient suffering from any form of abnor-
7 mality of the breast tissue for which surgery is a recommended form of
8 treatment, of alternative methods of treatment recognized by licensees
9 of the same profession in the same or similar communities as being ac-
10 ceptable under like conditions and circumstances.

11 (n) The licensee has cheated on or attempted to subvert the validity
12 of the examination for a license.

13 (o) The licensee has been found to be mentally ill, disabled, not guilty
14 by reason of insanity, not guilty because the licensee suffers from a mental
15 disease or defect or incompetent to stand trial by a court of competent
16 jurisdiction.

17 (p) The licensee has prescribed, sold, administered, distributed or
18 given a controlled substance to any person for other than medically ac-
19 cepted or lawful purposes.

20 (q) The licensee has violated a federal law or regulation relating to
21 controlled substances.

22 (r) The licensee has failed to furnish the board, or its investigators or
23 representatives, any information legally requested by the board.

24 (s) Sanctions or disciplinary actions have been taken against the li-
25 censee by a peer review committee, health care facility, a governmental
26 agency or department or a professional association or society for acts or
27 conduct similar to acts or conduct which would constitute grounds for
28 disciplinary action under this section.

29 (t) The licensee has failed to report to the board any adverse action
30 taken against the licensee by another state or licensing jurisdiction, a peer
31 review body, a health care facility, a professional association or society, a
32 governmental agency, by a law enforcement agency or a court for acts or
33 conduct similar to acts or conduct which would constitute grounds for
34 disciplinary action under this section.

35 (u) The licensee has surrendered a license or authorization to practice
36 the healing arts in another state or jurisdiction, has surrendered the au-
37 thority to utilize controlled substances issued by any state or federal
38 agency, has agreed to a limitation to or restriction of privileges at any
39 medical care facility or has surrendered the licensee's membership on any
40 professional staff or in any professional association or society while under
41 investigation for acts or conduct similar to acts or conduct which would
42 constitute grounds for disciplinary action under this section.

43 (v) The licensee has failed to report to the board surrender of the

1 licensee's license or authorization to practice the healing arts in another
2 state or jurisdiction or surrender of the licensee's membership on any
3 professional staff or in any professional association or society while under
4 investigation for acts or conduct similar to acts or conduct which would
5 constitute grounds for disciplinary action under this section.

6 (w) The licensee has an adverse judgment, award or settlement
7 against the licensee resulting from a medical liability claim related to acts
8 or conduct similar to acts or conduct which would constitute grounds for
9 disciplinary action under this section.

10 (x) The licensee has failed to report to the board any adverse judg-
11 ment, settlement or award against the licensee resulting from a medical
12 malpractice liability claim related to acts or conduct similar to acts or
13 conduct which would constitute grounds for disciplinary action under this
14 section.

15 (y) The licensee has failed to maintain a policy of professional liability
16 insurance as required by K.S.A. 40-3402 or 40-3403a and amendments
17 thereto.

18 (z) The licensee has failed to pay the premium surcharges as required
19 by K.S.A. 40-3404 and amendments thereto.

20 (aa) The licensee has knowingly submitted any misleading, deceptive,
21 untrue or fraudulent representation on a claim form, bill or statement.

22 (bb) The licensee as the responsible physician for a physician's assis-
23 tant has failed to adequately direct and supervise the physician's assistant
24 in accordance with K.S.A. 65-2896 to 65-2897a, inclusive, and amend-
25 ments thereto, or rules and regulations adopted under such statutes.

26 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406
27 as established by any of the following:

28 (A) A copy of the record of criminal conviction or plea of guilty for a
29 felony in violation of K.S.A. 21-3406 and amendments thereto.

30 (B) A copy of the record of a judgment of contempt of court for
31 violating an injunction issued under K.S.A. 2000 Supp. 60-4404 and
32 amendments thereto.

33 (C) A copy of the record of a judgment assessing damages under
34 K.S.A. 2000 Supp. 60-4405 and amendments thereto.

35 Sec. 11. K.S.A. 65-2912 is hereby amended to read as follows: 65-
36 2912. (a) The board may refuse to grant a certificate of registration to
37 any physical therapist or a certificate to any physical therapist assistant,
38 or may suspend or revoke the registration of any registered physical ther-
39 apist or certificate of any certified physical therapist assistant for any of
40 the following grounds:

41 (1) Addiction to or distribution of intoxicating liquors or drugs for
42 other than lawful purposes;

43 (2) conviction of a felony if the board determines, after investigation,

1 *in accordance with the provisions of section 1 and amendments thereto*
2 that the physical therapist or physical therapist assistant has not been
3 sufficiently rehabilitated to warrant the public trust;

4 (3) obtaining or attempting to obtain registration or certification by
5 fraud or deception;

6 (4) finding by a court of competent jurisdiction that the physical ther-
7 apist or physical therapist assistant is a disabled person and has not there-
8 after been restored to legal capacity;

9 (5) unprofessional conduct;

10 (6) the treatment or attempt to treat ailments or other health con-
11 ditions of human beings other than by physical therapy and as authorized
12 by this act;

13 (7) failure to refer patients to other health care providers if symptoms
14 are present for which physical therapy treatment is inadvisable or if symp-
15 toms indicate conditions for which treatment is outside the scope of
16 knowledge of the registered physical therapist;

17 (8) initiating treatment without prior consultation and approval by a
18 physician licensed to practice medicine and surgery, by a licensed podi-
19 atrist or by a licensed dentist; and

20 (9) knowingly submitting any misleading, deceptive, untrue or fraud-
21 ulent misrepresentation on a claim form, bill or statement.

22 (b) All proceedings pursuant to this section shall be conducted in
23 accordance with the provisions of the Kansas administrative procedure
24 act and shall be reviewable in accordance with the act for judicial review
25 and civil enforcement of agency actions.

26 Sec. 12. K.S.A. 65-3508 is hereby amended to read as follows: 65-
27 3508. The license of an adult care home administrator or the temporary
28 license of an adult care home administrator may be revoked or suspended
29 or the adult care home administrator or a person holding a temporary
30 license as an adult care home administrator may be reprimanded, cen-
31 sured or otherwise disciplined by the board, after notice and a hearing
32 conducted by the board in accordance with the provisions of the Kansas
33 administrative procedure act, if the adult care home administrator or per-
34 son holding a temporary license as an adult care home administrator has:

35 (a) Failed to comply with the provisions of K.S.A. 65-3505 and
36 amendments thereto and continued to act as an adult care home
37 administrator;

38 (b) substantially failed to conform to the requirements of the stan-
39 dards adopted under K.S.A. 65-3503 and amendments thereto;

40 (c) willfully or repeatedly violated any of the provisions of the law or
41 rules and regulations of the licensing agency under the provisions of ar-
42 ticle 9 of chapter 39 of the Kansas Statutes Annotated;

43 (d) been convicted of a crime found by the board to have a direct

1 bearing on whether such person should be entrusted to serve the public
2 in the capacity of an adult care home administrator *and the board deter-*
3 *mines in accordance with the provisions of section 1 and amendments*
4 *thereto that the adult care home administrator or person holding a tem-*
5 *porary license as an adult care home administrator has not been suffi-*
6 *ciently rehabilitated to warrant the public trust;*

7 (e) failed to assure that nutrition, medications and treatments of res-
8 idents, including the use of restraints, are in accordance with acceptable
9 medical practices;

10 (f) been convicted of the violation of any state or federal drug or
11 narcotic law or any provision of the state or federal controlled substances
12 act or habitually overindulged in alcohol or habitually misused controlled
13 substances;

14 (g) been involved in aiding, abetting, sanctioning or condoning any
15 violation of the law or rules and regulations under article 9 of chapter 39
16 of the Kansas Statutes Annotated; or

17 (h) engaged in the practice of adult care home administration in vi-
18 olation of subsection (b) of K.S.A. 65-3504 and amendments thereto.

19 Sec. 13. K.S.A. 2000 Supp. 65-4209 is hereby amended to read as
20 follows: 65-4209. (a) The board may deny, revoke, limit or suspend any
21 license to practice as a mental health technician issued or applied for in
22 accordance with the provisions of this act, may publicly or privately cen-
23 sure a licensee or may otherwise discipline a licensee upon proof that the
24 licensee:

25 (1) Is guilty of fraud or deceit in procuring or attempting to procure
26 a license to practice mental health technology;

27 (2) is unable to practice with reasonable skill and safety due to current
28 abuse of drugs or alcohol;

29 (3) to be a person who has been adjudged in need of a guardian or
30 conservator, or both, under the act for obtaining a guardian or conser-
31 vator, or both, and who has not been restored to capacity under that act;

32 (4) is incompetent or grossly negligent in carrying out the functions
33 of a mental health technician;

34 (5) has committed unprofessional conduct as defined by rules and
35 regulations of the board;

36 (6) has been convicted of a felony or has been convicted of a mis-
37 demeanor involving an illegal drug offense, unless the applicant or li-
38 censee establishes sufficient rehabilitation to warrant the public trust;
39 ~~except that notwithstanding K.S.A. 74-120 no license, certificate of qual-~~
40 ~~ification or authorization to practice as a licensed mental health technician~~
41 ~~shall be granted to a person with a felony conviction for a crime against~~
42 ~~persons as specified in article 34 of chapter 21 of the Kansas Statutes~~
43 ~~Annotated and acts amendatory thereof or supplemental thereto in ac-~~

1 *cordance with the provisions of section 1 and amendments thereto;*

2 (7) has committed an act of professional incompetency as defined in
3 subsection (e);

4 (8) to have willfully or repeatedly violated the provisions of the mental
5 health technician's licensure act or rules and regulations adopted under
6 that act and amendments thereto; or

7 (9) to have a license to practice mental health technology denied,
8 revoked, limited or suspended, or to be publicly or privately censured,
9 by a licensing authority of another state, agency of the United States
10 government, territory of the United States or country or to have other
11 disciplinary action taken against the applicant or licensee by a licensing
12 authority of another state, agency of the United States government, ter-
13 ritory of the United States or country. A certified copy of the record or
14 order of public or private censure, denial, suspension, limitation, revo-
15 cation or other disciplinary action of the licensing authority of another
16 state, agency of the United States government, territory of the United
17 States or country shall constitute prima facie evidence of such a fact for
18 purposes of this paragraph (9).

19 (b) Upon filing a sworn complaint with the board charging a person
20 with having been guilty of any of the unlawful practices specified in sub-
21 section (a), two or more members of the board shall investigate the
22 charges, or the board may designate and authorize an employee or em-
23 ployees of the board to conduct an investigation. After investigation, the
24 board may institute charges. If an investigation, in the opinion of the
25 board, reveals reasonable grounds to believe the applicant or licensee is
26 guilty of the charges, the board shall fix a time and place for proceedings,
27 which shall be conducted in accordance with the Kansas administrative
28 procedure act.

29 (c) No person shall be excused from testifying in any proceedings
30 before the board under the mental health technician's licensure act or in
31 any civil proceedings under such act before a court of competent juris-
32 diction on the ground that the testimony may incriminate the person
33 testifying, but such testimony shall not be used against the person for the
34 prosecution of any crime under the laws of this state except the crime of
35 perjury as defined in K.S.A. 21-3805 and amendments thereto.

36 (d) If final agency action of the board in a proceeding under this
37 section is adverse to the applicant or licensee, the costs of the board's
38 proceedings shall be charged to the applicant or licensee as in ordinary
39 civil actions in the district court, but if the board is the unsuccessful party,
40 the costs shall be paid by the board. Witness fees and costs may be taxed
41 by the board according to the statutes relating to procedure in the district
42 court. All costs accrued by the board, when it is the successful party, and
43 which the attorney general certifies cannot be collected from the appli-

1 cant or licensee shall be paid from the board of nursing fee fund. All
2 moneys collected following board proceedings shall be credited in full to
3 the board of nursing fee fund.

4 (e) As used in this section, "professional incompetency" means:

5 (1) One or more instances involving failure to adhere to the appli-
6 cable standard of care to a degree which constitutes gross negligence, as
7 determined by the board;

8 (2) repeated instances involving failure to adhere to the applicable
9 standard of care to a degree which constitutes ordinary negligence, as
10 determined by the board; or

11 (3) a pattern of practice or other behavior which demonstrates a man-
12 ifest incapacity or incompetence to practice mental health technology.

13 (f) The board upon request shall receive from the Kansas bureau of
14 investigation such criminal history record information relating to criminal
15 convictions as necessary for the purpose of determining initial and con-
16 tinuing qualifications of licensees of and applicants for licensure by the
17 board.

18 (g) All proceedings under this section shall be conducted in accord-
19 ance with the provisions of the Kansas administrative procedure act.

20 Sec. 14. K.S.A. 65-5410 is hereby amended to read as follows: 65-
21 5410. (a) The board may deny, refuse to renew, suspend or revoke a
22 registration where the registrant or applicant for registration has been
23 guilty of unprofessional conduct which has endangered or is likely to
24 endanger the health, welfare or safety of the public. Unprofessional con-
25 duct includes:

26 (1) Obtaining a registration by means of fraud, misrepresentation or
27 concealment of material facts;

28 (2) being guilty of unprofessional conduct as defined by rules and
29 regulations adopted by the board;

30 (3) being convicted of a felony if the acts for which such person was
31 convicted are found by the board to have a direct bearing on whether
32 such person should be entrusted to serve the public in the capacity of an
33 occupational therapist or occupational therapy assistant *and the board*
34 *determines in accordance with the provisions of section 1 and amend-*
35 *ments thereto that the registrant or applicant has not been sufficiently*
36 *rehabilitated to warrant the public trust;*

37 (4) violating any lawful order or rule and regulation of the board; and

38 (5) violating any provision of this act.

39 (b) Such denial, refusal to renew, suspension or revocation of a reg-
40 istration may be ordered by the board after notice and hearing on the
41 matter in accordance with the provisions of the Kansas administrative
42 procedure act. Upon the end of the period of time established by the
43 board for the revocation of registration, application may be made to the

1 board for reinstatement. The board shall have discretion to accept or
2 reject an application for reinstatement and may hold a hearing to consider
3 such reinstatement.

4 Sec. 15. K.S.A. 2000 Supp. 65-5510 is hereby amended to read as
5 follows: 65-5510. (a) The board may deny, refuse to renew, suspend or
6 revoke a license where the licensee or applicant for licensure has been
7 guilty of unprofessional conduct which has endangered or is likely to
8 endanger the health, welfare or safety of the public. Unprofessional con-
9 duct includes:

10 (1) Obtaining a license by means of fraud, misrepresentation or con-
11 cealment of material facts;

12 (2) being guilty of unprofessional conduct as defined by rules and
13 regulations adopted by the board;

14 (3) being convicted of a felony if the acts for which such person was
15 convicted are found by the board to have a direct bearing on whether
16 such person should be entrusted to serve the public in the capacity of a
17 respiratory therapist *and the board determines in accordance with the*
18 *provisions of section 1 and amendments thereto that the licensee or ap-*
19 *plicant has not been sufficiently rehabilitated to warrant the public trust;*

20 (4) violating any lawful order or rule and regulation of the board; and

21 (5) violating any provision of this act.

22 (b) Such denial, refusal to renew, suspension or revocation of a li-
23 cense may be ordered by the board after notice and hearing on the matter
24 in accordance with the provisions of the Kansas administrative procedure
25 act. Upon the end of the period of time established by the board for the
26 revocation of a license, application may be made to the board for rein-
27 statement. The board shall have discretion to accept or reject an appli-
28 cation for reinstatement and may hold a hearing to consider such rein-
29 statement. An application for reinstatement shall be accompanied by the
30 licensing reinstatement fee established under K.S.A. 65-5509 and amend-
31 ments thereto.

32 Sec. 16. K.S.A. 2000 Supp. 65-5809 is hereby amended to read as
33 follows: 65-5809. The board may refuse to issue, suspend, limit, refuse to
34 renew or revoke any license granted under the professional counselors
35 licensure act for any of the following reasons:

36 (a) Use of drugs or alcohol, or both, to an extent that impairs the
37 individual's ability to engage in the practice of professional counseling;

38 (b) the individual has been convicted of a felony and, after investi-
39 gation, the board finds *in accordance with the provisions of section 1 and*
40 *amendments thereto* that the individual has not been sufficiently rehabil-
41 itated to merit the public trust;

42 (c) use of fraud, deception, misrepresentation or bribery in securing
43 any license issued pursuant to the provisions of the professional counsel-

1 ors licensure act or in obtaining permission to take any examination given
2 or required pursuant to the provisions of the professional counselors li-
3 censure act;

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

6 (e) incompetence, misconduct, fraud, misrepresentation or dishon-
7 esty in the performance of the functions or duties of a professional coun-
8 selor or clinical professional counselor;

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

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

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

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

24 (j) assisting or enabling any person to hold oneself out to the public
25 or offer to hold oneself out to the public as a licensed professional coun-
26 selor or a licensed clinical professional counselor who is not licensed un-
27 der the provisions of the professional counselors licensure act;

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

30 (l) violation of any professional trust or confidence;

31 (m) use of any advertisement or solicitation which is false, misleading
32 or deceptive to the general public or persons to whom the advertisement
33 or solicitation is primarily directed;

34 (n) unprofessional conduct as defined by rules and regulations
35 adopted by the board; or

36 (o) the licensee has had a registration, license or certificate as a pro-
37 fessional counselor revoked, suspended or limited, or has had other dis-
38 ciplinary action taken, or an application for a registration, license or cer-
39 tificate denied, by the proper regulatory authority of another state,
40 territory, District of Columbia, or other country, a certified copy of the
41 record of the action of the other jurisdiction being conclusive evidence
42 thereof.

43 Sec. 17. K.S.A. 2000 Supp. 65-6129b is hereby amended to read as

1 follows: 65-6129b. (a) Application for an instructor-coordinator's certifi-
2 cate shall be made to the board upon forms provided by the administrator.
3 The board may grant an instructor-coordinator's certificate to an atten-
4 dant who: (1) Has served as an attendant in the emergency medical serv-
5 ices field during the preceding 12 months prior to applying for such cer-
6 tificate; (2) has made application within one year after successfully
7 completing the training, approved by the board, in instructing and coor-
8 dinating attendant training programs; (3) has passed an examination pre-
9 scribed by the board; and (4) has paid a fee as prescribed by rules and
10 regulations of the board.

11 (b) The board may grant an instructor-coordinator's certificate to a
12 physician or a professional nurse who: (1) Has made application within
13 one year after successfully completing the training, approved by the
14 board, in instructing and coordinating attendant training programs; (2)
15 has passed an examination prescribed by the board; and (3) has paid a
16 fee as prescribed by rules and regulations of the board.

17 (c) An instructor-coordinator's certificate shall expire on the expira-
18 tion date of the attendant's certificate if the instructor-coordinator is an
19 attendant or on the expiration date of the physician's or professional
20 nurse's license if the instructor is a physician or professional nurse. An
21 instructor-coordinator's certificate may be renewed for the same period
22 as the attendant's certificate or the physician's or professional nurse's
23 license upon payment of a fee as prescribed by rule and regulation of the
24 board and upon presentation of satisfactory proof that the instructor-
25 coordinator has successfully completed continuing education as pre-
26 scribed by the board. The board may prorate to the nearest whole month
27 the fee fixed under this subsection as necessary to implement the provi-
28 sions of this subsection.

29 (d) An instructor-coordinator's certificate may be denied, revoked,
30 limited, modified or suspended by the board or the board may refuse to
31 renew such certificate if such individual:

32 (1) Does not hold an attendant's certificate or a physician's or pro-
33 fessional nurse's license;

34 (2) has made misrepresentations intentionally in obtaining a certifi-
35 cate or renewing a certificate;

36 (3) has demonstrated incompetence or engaged in unprofessional
37 conduct as defined by rules and regulations adopted by the board;

38 (4) has violated or aided and abetted in the violation of any provision
39 of this act or rules and regulations adopted by the board; or

40 (5) has been convicted of any state or federal crime that is related
41 substantially to the qualifications, functions and duties of an instructor-
42 coordinator or any crime punishable as a felony under any state or federal
43 statute, and the board determines *in accordance with the provisions of*

1 *section 1 and amendments thereto* that such individual has not been suf-
2 ficiently rehabilitated to warrant the public trust. A conviction means a
3 plea of guilty, a plea of nolo contendere or a verdict of guilty. The board
4 may take disciplinary action pursuant to this section when the time for
5 appeal has elapsed, or after the judgment of conviction is affirmed on
6 appeal or when an order granting probation is made suspending the im-
7 position of sentence.

8 (e) The board may limit, modify, revoke or suspend a certificate or
9 the board may refuse to renew such certificate in accordance with the
10 provisions of the Kansas administrative procedure act.

11 (f) At least once each month, all fees received pursuant to this section
12 shall be remitted to the state treasurer. Upon receipt of each such re-
13 mittance, the state treasurer shall deposit the entire amount thereof in
14 the state treasury to the credit of the state general fund.

15 (g) If a person who was previously certified as an instructor-coordi-
16 nator applies for an instructor-coordinator certificate within two years of
17 the date of its expiration, the board may grant a certificate without the
18 person completing the training or passing an examination if the person
19 complies with the other provisions of subsection (a) or (b) and completes
20 continuing education requirements prescribed by the board.

21 Sec. 18. K.S.A. 2000 Supp. 65-6129c is hereby amended to read as
22 follows: 65-6129c. (a) Application for a training officer's certificate shall
23 be made to the emergency medical services board upon forms provided
24 by the administrator. The board may grant a training officer's certificate
25 to an applicant who: (1) Is an emergency medical technician, emergency
26 medical technician-intermediate, emergency medical technician-defibril-
27 lator, mobile intensive care technician, physician or professional nurse;
28 (2) successfully completes an initial course of training approved by the
29 board; (3) passes an examination prescribed by the board; (4) is appointed
30 by a provider of training approved by the board; and (5) has paid a fee
31 established by the board.

32 (b) A training officer's certificate shall expire on the expiration date
33 of the attendant's certificate if the training officer is an attendant or on
34 the expiration date of the physician's or professional nurse's license if the
35 training officer is a physician or professional nurse. A training officer's
36 certificate may be renewed for the same period as the attendant's certifi-
37 cate or the physician's or professional nurse's license upon payment of a
38 fee as prescribed by rules and regulations and upon presentation of sat-
39 isfactory proof that the training officer has successfully completed con-
40 tinuing education prescribed by the board and is certified as an emer-
41 gency medical technician, emergency medical technician-intermediate,
42 emergency medical technician-defibrillator, mobile-intensive care tech-
43 nician, physician or professional nurse. The board may prorate to the

1 nearest whole month the fee fixed under this subsection as necessary to
2 implement the provisions of this subsection.

3 (c) A training officer's certificate may be denied, revoked, limited,
4 modified or suspended by the board or the board may refuse to renew
5 such certificate if such individual:

6 (1) Fails to maintain certification or licensure as an emergency med-
7 ical technician, emergency medical technician-intermediate, emergency
8 medical technician-defibrillator, mobile intensive care technician, physi-
9 cian or professional nurse;

10 (2) fails to maintain support of appointment by a provider of training;

11 (3) fails to successfully complete continuing education;

12 (4) has made intentional misrepresentations in obtaining a certificate
13 or renewing a certificate;

14 (5) has demonstrated incompetence or engaged in unprofessional
15 conduct as defined by rules and regulations adopted by the board;

16 (6) has violated or aided and abetted in the violation of any provision
17 of this act or the rules and regulations promulgated by the board; or

18 (7) has been convicted of any state or federal crime that is related
19 substantially to the qualifications, functions and duties of a training officer
20 or any crime punishable as a felony under any state or federal statute and
21 the board determines *in accordance with the provisions of section 1 and*
22 *amendments thereto* that such individual has not been sufficiently reha-
23 bilitated to warrant public trust. A conviction means a plea of guilty, a
24 plea of nolo contendere or a verdict of guilty. The board may take disci-
25 plinary action pursuant to this section when the time for appeal has
26 elapsed, or after the judgment of conviction is affirmed on appeal or when
27 an order granting probation is made suspending the imposition of
28 sentence.

29 (d) The board may revoke, limit, modify or suspend a certificate or
30 the board may refuse to renew such certificate in accordance with the
31 provisions of the Kansas administrative procedure act.

32 (e) If a person who previously was certified as a training officer ap-
33 plies for a training officer's certificate within two years of the date of its
34 expiration, the board may grant a certificate without the person com-
35 pleting an initial course of training or taking an examination if the person
36 complies with the other provisions of subsection (a) and completes con-
37 tinuing education requirements.

38 Sec. 19. K.S.A. 2000 Supp. 65-6133 is hereby amended to read as
39 follows: 65-6133. (a) An attendant's or instructor-coordinator's certificate
40 may be denied, revoked, limited, modified or suspended by the board or
41 the board may refuse to renew such certificate upon proof that such
42 individual:

43 (1) Has made intentional misrepresentations in obtaining a certificate

1 or renewing a certificate;

2 (2) has performed or attempted to perform activities not authorized
3 by statute at the level of certification held by the individual;

4 (3) has demonstrated incompetence as defined by rules and regula-
5 tions adopted by the board or has provided inadequate patient care as
6 determined by the board;

7 (4) has violated or aided and abetted in the violation of any provision
8 of this act or the rules and regulations promulgated thereunder;

9 (5) has been convicted of a felony and, after investigation by the
10 board, it is determined *in accordance with the provisions of section 1 and*
11 *amendments thereto* that such person has not been sufficiently rehabili-
12 tated to warrant the public trust;

13 (6) has demonstrated an inability to perform authorized activities with
14 reasonable skill and safety by reason of illness, alcoholism, excessive use
15 of drugs, controlled substances or any physical or mental condition; or

16 (7) has engaged in unprofessional conduct, as defined by rules and
17 regulations adopted by the board.

18 (b) The board may limit, modify, revoke or suspend an attendant's or
19 instructor-coordinator's certificate or the board may refuse to renew such
20 certificate in accordance with the provisions of the Kansas administrative
21 procedure act.

22 Sec. 20. K.S.A. 2000 Supp. 65-6311 is hereby amended to read as
23 follows: 65-6311. (a) The board may suspend, limit, revoke or refuse to
24 issue or renew a license of any social worker upon proof that the social
25 worker:

26 (1) Has been convicted of a felony and, after investigation, the board
27 finds *in accordance with the provisions of section 1 and amendments*
28 *thereto* that the licensee has not been sufficiently rehabilitated to merit
29 the public trust;

30 (2) has been found guilty of fraud or deceit in connection with serv-
31 ices rendered as a social worker or in establishing needed qualifications
32 under this act;

33 (3) has knowingly aided or abetted a person, not a licensed social
34 worker, in representing such person as a licensed social worker in this
35 state;

36 (4) has been found guilty of unprofessional conduct as defined by
37 rules established by the board;

38 (5) has been found to have engaged in diagnosis as authorized under
39 K.S.A. 2000 Supp. 65-6319 and amendments thereto, even though not
40 authorized to engage in such diagnosis under K.S.A. 2000 Supp. 65-6319
41 and amendments thereto;

42 (6) has been found guilty of negligence or wrongful actions in the
43 performance of duties; or

1 (7) has had a license to practice social work revoked, suspended or
2 limited, or has had other disciplinary action taken, or an application for
3 a license denied, by the proper licensing authority of another state, ter-
4 ritory, District of Columbia, or other country, a certified copy of the
5 record of the action of the other jurisdiction being conclusive evidence
6 thereof.

7 (b) Proceedings to consider the suspension, revocation or refusal to
8 renew a license shall be conducted in accordance with the provisions of
9 the Kansas administrative procedure act.

10 Sec. 21. K.S.A. 2000 Supp. 65-6408 is hereby amended to read as
11 follows: 65-6408. The board may refuse to grant licensure to, or may
12 suspend, revoke, condition, limit, qualify or restrict the licensure of any
13 individual who the board, after a hearing, determines:

14 (1) Is incompetent to practice marriage and family therapy, or is
15 found to engage in the practice of marriage and family therapy in a man-
16 ner harmful or dangerous to a client or to the public;

17 (2) is convicted by a court of competent jurisdiction of a crime that
18 the board determines is of a nature to render the convicted person unfit
19 to practice marriage and family therapy *and the board determines in ac-*
20 *cordance with the provisions of section 1 and amendments thereto that*
21 *the individual has not been sufficiently rehabilitated to warrant the public*
22 *trust;*

23 (3) has violated a provision of the marriage and family therapists li-
24 censure act or one or more of the rules and regulations of the board;

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

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

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

31 (7) has been found guilty of unprofessional conduct as defined by
32 rules and regulations established by the board; or

33 (8) has had a registration, license or certificate as a marriage and
34 family therapist revoked, suspended or limited, or has had other discipli-
35 nary action taken, or an application for registration, license or certificate
36 denied, by the proper regulatory authority of another state, territory, Dis-
37 trict of Columbia or another country, a certified copy of the record of the
38 action of the other jurisdiction being conclusive evidence thereof.

39 Sec. 22. K.S.A. 2000 Supp. 65-6508 is hereby amended to read as
40 follows: 65-6508. The secretary shall deny, revoke, suspend or limit the
41 license provided for in this act for any of the following reasons:

42 (a) Making a false statement on an application for a license, or any
43 other document required by the secretary;

1 (b) engaging or attempting to engage, or representing oneself as so
2 entitled, to perform procedures not authorized in the license;

3 (c) demonstrating incompetence or making consistent negligent er-
4 rors in tests or procedures;

5 (d) engaging in dishonorable, unethical or unprofessional conduct, as
6 defined by rules and regulations;

7 (e) providing professional services while mentally incompetent, un-
8 der the influence of alcohol or narcotic or controlled substance that is in
9 excess of therapeutic amounts or without valid medical indication;

10 (f) violating or aiding and abetting in a violation of any provisions of
11 this act or any of the rules or regulations adopted under this act; or

12 (g) having been convicted of a crime found by the secretary to have
13 a direct bearing on whether one should be entrusted to serve the public
14 in the capacity of a speech-language pathologist or audiologist *and the*
15 *secretary determines in accordance with the provisions of section 1 and*
16 *amendments thereto that the applicant or licensee has not been sufficiently*
17 *rehabilitated to warrant the public trust.*

18 Sec. 23. K.S.A. 65-6604 is hereby amended to read as follows: 65-
19 6604. (a) The board may deny, refuse to renew, suspend, limit or revoke
20 any registration pursuant to this act if the registrant or applicant:

21 (1) Has obtained or attempted to obtain registration by means of
22 fraud, misrepresentation or concealment of material facts;

23 (2) has been convicted of a crime found by the board to have a direct
24 bearing on whether the registrant or applicant can be entrusted to serve
25 the public in the position of alcohol and other drug abuse counselor *and*
26 *the board determines in accordance with section 1 and amendments*
27 *thereto that the registrant or applicant has not been sufficiently rehabil-*
28 *itated to warrant the public trust;*

29 (3) has used any advertisement or solicitation which is false, mislead-
30 ing or deceptive to the general public or persons to whom the advertise-
31 ment or solicitation is primarily directed; or

32 (4) has violated any lawful order or rule and regulation of the board.

33 (b) Suspension, limitation, revocation or refusal to issue or renew
34 registration pursuant to this section shall be in accordance with the Kansas
35 administrative procedure act.

36 Sec. 24. K.S.A. 2000 Supp. 65-6911 is hereby amended to read as
37 follows: 65-6911. (a) The board may deny, suspend, limit, refuse to renew,
38 place on probation, reprimand or revoke any registration granted under
39 the athletic trainers registration act or take other disciplinary action as
40 the board may deem proper for any of the following reasons:

41 (1) Use of drugs or alcohol, or both, to an extent that impairs the
42 individual's ability to engage in athletic training;

43 (2) the individual has been convicted of a felony and, after investi-

1 gation, the board finds *in accordance with the provisions of section 1 and*
2 *amendments thereto* that the individual has not been sufficiently rehabil-
3 itated to merit the public trust;

4 (3) use of fraud, deception, misrepresentation or bribery in securing
5 any registration issued pursuant to the provisions of the athletic trainers
6 registration act or in obtaining permission to take any examination given
7 or required pursuant to the provisions of the athletic trainers registration
8 act;

9 (4) obtaining or attempting to obtain any fee, charge, tuition or other
10 compensation by fraud, deception or misrepresentation;

11 (5) incompetence, misconduct, fraud, misrepresentation or dishon-
12 esty in the performance of the functions or duties of an athletic trainer;

13 (6) violation of, or assisting or enabling any individual to violate, any
14 provision of this act or any rule and regulation adopted under such act;

15 (7) impersonation of any individual holding a registration under the
16 athletic trainers registration act;

17 (8) negligent or intentional violation of the provisions of this act or
18 the rules and regulations adopted under this act;

19 (9) violation of any professional trust or confidence;

20 (10) the individual has committed unprofessional conduct as defined
21 by rules and regulations adopted by the board.

22 (b) Any action authorized by this section shall be taken in accordance
23 with the Kansas administrative procedure act.

24 Sec. 25. K.S.A. 74-5324 is hereby amended to read as follows: 74-
25 5324. The board may suspend, limit, revoke or refuse to issue or renew
26 a license of any psychologist upon proof that the psychologist: (a) Has
27 been convicted of a felony involving moral turpitude *and upon determi-*
28 *nation by the board in accordance with the provisions of section 1 and*
29 *amendments thereto that the psychologist has not been sufficiently re-*
30 *habilitated to warrant the public trust*; or (b) has been guilty of fraud or
31 deceit in connection with services rendered as a psychologist or in estab-
32 lishing qualifications under this act; or (c) has aided or abetted a person,
33 not a licensed psychologist, in representing such person as a psychologist
34 in this state; or (d) has been guilty of unprofessional conduct as defined
35 by rules and regulations established by the board; or (e) has been guilty
36 of negligence or wrongful actions in the performance of duties; or (f) has
37 knowingly submitted a misleading, deceptive, untrue or fraudulent mis-
38 representation on a claim form, bill or statement or (g) has had a regis-
39 tration, license or certificate as a psychologist revoked, suspended or lim-
40 ited, or has had other disciplinary action taken, or an application for
41 registration, license or certificate denied, by the proper regulatory au-
42 thority of another state, territory, District of Columbia or another country,
43 a certified copy of the record of the action of the other jurisdiction being

1 conclusive evidence thereof.

2 Sec. 26. K.S.A. 2000 Supp. 74-5369 is hereby amended to read as
3 follows: 74-5369. An application for licensure under K.S.A. 74-5361 to
4 74-5371, inclusive, and amendments thereto, may be denied or a license
5 granted under this act may be suspended, limited, revoked or not re-
6 newed by the board upon proof that the applicant or licensee:

7 (a) Has been convicted of a felony involving moral turpitude *and*
8 *upon determination by the board in accordance with the provisions of*
9 *section 1 and amendments thereto that the applicant or licensee has not*
10 *been sufficiently rehabilitated to warrant the public trust;*

11 (b) has been found guilty of fraud or deceit in connection with the
12 rendering of professional services or in establishing such person's quali-
13 fications under this act;

14 (c) has aided or abetted a person not licensed as a psychologist, li-
15 censed under this act or an uncertified assistant, to hold oneself out as a
16 psychologist in this state;

17 (d) has been guilty of unprofessional conduct as defined by rules and
18 regulations of the board;

19 (e) has been guilty of neglect or wrongful duties in the performance
20 of duties; or

21 (f) has had a registration, license or certificate as a masters level psy-
22 chologist revoked, suspended or limited, or has had other disciplinary
23 action taken, or an application for a registration, license or certificate
24 denied, by the proper regulatory authority of another state, territory, Dis-
25 trict of Columbia or another country, a certified copy of the record of the
26 action of the other jurisdiction being conclusive evidence thereof.

27 Administrative proceedings under K.S.A. 74-5361 to 74-5371, inclu-
28 sive, and amendments thereto shall be conducted in accordance with the
29 Kansas administrative procedure act. Judicial review and civil enforce-
30 ment of agency actions under K.S.A. 74-5361 to 74-5371, inclusive, and
31 amendments thereto shall be in accordance with the act for judicial review
32 and civil enforcement of agency actions.

33 Sec. 27. K.S.A. 65-2912, 65-3508, 65-5410, 65-6604 and 74-5324
34 and K.S.A. 2000 Supp. 65-1120, 65-1436, 65-1517, 65-1627, 65-1751, 65-
35 1908, 65-1947, 65-2006, 65-2836, 65-4209, 65-5510, 65-5809, 65-6129b,
36 65-6129c, 65-6133, 65-6311, 65-6408, 65-6508, 65-6911 and 74-5369 are
37 hereby repealed.

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

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