

3
4 **SENATE BILL No. 610**

5
6 By Committee on Public Health and Welfare

7
8 2-15
9

10 AN ACT concerning naturopathy; providing for the licensure and regu-
11 lation of practitioners thereof; providing for administration by the
12 board of healing arts; amending K.S.A. 65-2872 *and K.S.A. 2001*
13 *Supp. 65-1626* and repealing the existing ~~section~~ *sections*; also re-
14 pealing K.S.A. 65-2872a.

15
16 *Be it enacted by the Legislature of the State of Kansas:*

17 New Section 1. Sections 1 to 17, inclusive, shall be known and may
18 be cited as the naturopathic doctor licensure act.

19 New Sec. 2. As used in sections 1 to 17, inclusive and amendments
20 thereto:

21 (a) "Naturopathic doctor" means a doctor of naturopathic medicine
22 who is authorized and licensed pursuant to this act.

23 (b) "Naturopathic medicine," or "naturopathy" means a system of
24 health care practiced by naturopathic doctors for the prevention, diag-
25 nosis and treatment of human health conditions, ~~injury and disease. Its~~
26 ~~purpose is to promote or restore health by the support and stimulation~~
27 ~~of the individual's inherent self-healing processes. This is accomplished~~
28 ~~through education of the patient by a naturopathic doctor and through~~
29 ~~the use of natural therapies and therapeutic substances~~ *injuries and dis-*
30 *eases, that uses education, natural medicines and therapies to sup-*
31 *port and stimulate the individual's intrinsic self-healing processes.*

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

33 (d) "Approved naturopathic medical college" means a college and
34 program granting the degree of doctor of naturopathy or naturopathic
35 medicine that has been approved by the board under this act and which
36 college and program requires at a minimum a four-year, full-time resident
37 program of academic and clinical study.

38 (e) "Homeopathic preparations" means substances and drugs pre-
39 pared according to the official homeopathic pharmacopoeia of the United
40 States, ~~which is the standard homeopathic text~~ recognized by the United
41 States food and drug administration.

42 (f) "Naturopathic acupuncture" means the insertion of fine metal
43 needles through the skin at specific points on or near the surface of the

1 body with or without the palpation of specific points on the body and
2 with or without the application of electric current or heat to the needles
3 or skin or both to treat human disease and impairment and to relieve
4 pain.

5 (g) “Minor office procedures” means care incidental to superficial
6 lacerations and abrasions, superficial lesions and the removal of foreign
7 bodies located in the superficial tissues, except eyes, and not involving
8 blood vessels, tendons, ligaments or nerves. “Minor office procedures”
9 ~~includes~~ **may include** use of antiseptics in connection with the methods,
10 but shall not include ~~the alteration or removal of tissue~~ **use of general**
11 **or spinal anesthesia**. Minor office procedures does not include ~~the use~~
12 ~~of anesthetics or surgery~~ **or removal of tissue**.

13 (h) “Naturopathic physical applications” means the therapeutic use
14 by naturopathic doctors of the actions or devices of electrical muscle
15 stimulation, galvanic, diathermy, ultrasound, ~~ultraviolet~~ **ultraviolet**
16 light, constitutional hydrotherapy, naturopathic manipulative therapy
17 and therapeutic exercise.

18 (i) “Topical drugs” means topical analgesics, antiseptics, scabicides,
19 antifungals and antibacterials.

20 (j) ~~“Legend drugs” means those for prescribing, administration and~~
21 ~~dispensing by naturopathic doctors, consistent with naturopathic philos-~~
22 ~~ophy, practice and education.~~

23 (j) **“Natural estrogens” and “natural progesterone” are those**
24 **hormones derived from plant substances found in nature that com-**
25 **prise the whole, or parts of plants, and constituents thereof, and**
26 **that have not had changes made in their molecular structure as**
27 **found in nature.**

28 New Sec. 3. (a) The board, as hereinafter provided, shall administer
29 the provisions of this act.

30 (b) The board shall ~~pass upon~~ **judge** the qualifications of all appli-
31 cants for examination and licensure, ~~provide for all examinations,~~ deter-
32 mine the applicants who successfully pass the examination, duly license
33 such applicants and adopt rules and regulations as may be necessary to
34 administer the provisions of this act.

35 (c) The board shall issue a license as a naturopathic doctor to an
36 individual who prior to the effective date of this act (1) graduated from
37 a school of naturopathy that required four years of attendance and was
38 at the time of such individual’s graduation accredited or a candidate for
39 accreditation by the council on naturopathic medical education and (2)
40 passed the naturopathic physician’s licensing examination covering ap-
41 propriate naturopathic subjects including basic and clinical sciences.

42 (d) The board shall keep a record of all proceedings under this act
43 and a roster of all individuals licensed under this act. Only an individual

1 may be licensed under this act.

2 New Sec. 4. (a) An applicant applying for licensure as a naturopathic
3 doctor shall file a written application on forms provided by the board,
4 showing to the satisfaction of the board that the applicant meets the
5 following requirements:

6 (1) Education: The applicant shall present evidence satisfactory to the
7 board of having successfully completed an educational program in natur-
8 opathy from an approved naturopathic medical college.

9 (2) Examination: The applicant shall pass an examination as provided
10 for in section 5 and amendments thereto.

11 (3) Fees: The applicants shall pay to the board all applicable fees
12 established under section 7 and amendments thereto.

13 (b) The board shall adopt rules and regulations establishing the cri-
14 teria for an educational program in naturopathy to obtain successful rec-
15 ognition by the board under paragraph (1) of subsection (a). The board
16 may send a questionnaire developed by the board to any school or other
17 entity conducting an educational program in naturopathy for which the
18 board does not have sufficient information to determine whether the
19 program should be recognized by the board and whether the program
20 meets the rules and regulations adopted under this section. The ques-
21 tionnaire providing the necessary information shall be completed and
22 returned to the board in order for the program to be considered for
23 recognition. The board may contract with investigative agencies, com-
24 missions or consultants to assist the board in obtaining information about
25 an educational program in naturopathy. In entering such contracts the
26 authority to recognize an educational program in naturopathy shall remain
27 solely with the board.

28 New Sec. 5. ~~(a)~~ Each applicant for licensure under this act shall be
29 examined by a written examination or examinations chosen by the board
30 to test the applicant's knowledge of the basic and clinical sciences relating
31 to naturopathy, and naturopathy theory and practice, including the ap-
32 plicant's professional skills and judgment in the utilization of naturopathic
33 techniques and methods, and such other subjects as the board may deem
34 useful to determine the applicant's fitness to practice naturopathy.

35 ~~(b) Applicants for licensure shall be examined at a time and place and
36 under such supervision as the board may determine. Examinations shall
37 be given at least twice each year at such places as the board may deter-
38 mine and the board shall give or cause to be given reasonable public
39 notice of such examinations at least 60 days prior to their administration.~~

40 ~~(c) Applicants may obtain their examination scores.~~

41 New Sec. 6. (a) The board may waive the examination, education or
42 experience requirements and grant licensure (1) to any applicant who
43 presents proof of current authorization to practice naturopathy in another

1 state, the District of Columbia or territory of the United States which
 2 requires standards for authorization to practice determined by the board
 3 to be equivalent to the requirements for licensure under this act and (2)
 4 to any applicant who presents proof that on the day preceding the effec-
 5 tive date of this act that the applicant was practicing under K.S.A. 65-
 6 2872a and amendments thereto.

7 (b) At the time of making an application under this section, the ap-
 8 plicant shall pay to the board the application fee as required under section
 9 7 and amendments thereto.

10 ~~(c) The board may issue a special permit to a student enrolled in an~~
 11 ~~approved school of naturopathy who applies for such special permit on a~~
 12 ~~form provided by the board and who pays to the board the special permit~~
 13 ~~fee as required under section 7 and amendments thereto. The special~~
 14 ~~permit shall authorize a student who is enrolled in an approved school of~~
 15 ~~naturopathy and who holds such special permit to practice naturopathy~~
 16 ~~under the supervision of a licensed naturopathic doctor. Such special~~
 17 ~~permit shall expire on the date that the student graduates from an ap-~~
 18 ~~proved school of naturopathy or otherwise ceases to be enrolled in an~~
 19 ~~approved school of naturopathy.~~

20 ~~(d)~~ (c) The board may issue a temporary license to an applicant for
 21 licensure as a naturopathic doctor who applies for temporary licensure
 22 on a form provided by the board, who meets the requirements for licen-
 23 sure ~~or who meets all of the requirements for licensure except exami-~~
 24 ~~nation~~ and who pays to the board the temporary license fee as required
 25 under section 7 and amendments thereto. Such temporary licensure shall
 26 expire one year from the date of issue or on the date that the board
 27 approves the application for licensure, whichever occurs first. No more
 28 than one such temporary license shall be permitted to any one person.

29 New Sec. 7. (a) The board shall charge and collect in advance fees
 30 provided for in this act as fixed by the board by rules and regulations,
 31 subject to the following limitations:

32 Application fee, not more than.....	\$300
33 Temporary license fee, not more than.....	\$60
34 Special permit fee, not more than	\$60
35 License renewal fee, not more than	\$500
36 License late renewal additional fee, not more than.....	\$500
37 License reinstatement fee, not more than.....	\$1,000
38 Certified copy of license, not more than.....	\$30
39 Written verification of license, not more than.....	\$25

40 (b) The board shall charge and collect in advance fees for any ex-
 41 amination administered by the board under the naturopathic doctor li-
 42 censure act as fixed by the board by rules and regulations in an amount
 43 equal to the cost to the board of the examination. If the examination is

1 not administered by the board, the board may require that fees paid for
2 any examination under the naturopathic doctor licensure act be paid di-
3 rectly to the examination service by the person taking the examination.

4 New Sec. 8. (a) The board may deny, refuse to renew, suspend or
5 revoke a license where the licensee or applicant for licensure has been
6 guilty of unprofessional conduct which has endangered or is likely to
7 endanger the health, welfare or safety of the public. Unprofessional con-
8 duct includes:

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

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

13 (3) being convicted of a felony ~~if the acts for which such person was~~
14 ~~convicted are found by the board to have a direct bearing on whether~~
15 ~~such person should be entrusted to serve the public in the capacity of a~~
16 ~~naturopathic doctor;~~

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

18 (5) violating any provision of this act.

19 (b) Such denial, refusal to renew, suspension or revocation of a li-
20 cense may be ordered by the board after notice and hearing on the matter
21 in accordance with the provisions of the Kansas administrative procedure
22 act. Upon the end of the period of time established by the board for the
23 revocation of a license, application may be made to the board for rein-
24 statement. The board shall have discretion to accept or reject an appli-
25 cation for reinstatement and may hold a hearing to consider such rein-
26 statement. An application for reinstatement shall be accompanied by the
27 licensing reinstatement fee established under section 7 and amendments
28 thereto.

29 ~~New Sec. 9. Foreign trained naturopaths shall satisfy the examina-~~
30 ~~tion requirements of section 4 and amendments thereto. The board shall~~
31 ~~require foreign trained applicants to furnish proof of completion of ed-~~
32 ~~ucational requirements, substantially equal to those contained in section~~
33 ~~4 and amendments thereto prior to taking the examination.~~

34 New Sec. ~~10~~ 9. (a) Licenses issued under this act shall be effective
35 for a period of one year and shall expire at the end of such period of time
36 unless renewed in the manner prescribed by the board, upon the payment
37 of the license renewal fee established under section 7 and amendments
38 thereto. The board may establish additional requirements for license re-
39 newal which provide evidence of continued competency. The board shall
40 require completion of at least 25 hours of continuing education annually
41 for licensure renewal. The board may provide for the late renewal of a
42 license upon the payment of a late fee established under section 7 and
43 amendments thereto, but no such late renewal of a license may be granted

1 more than five years after its expiration.

2 (b) A person whose license is suspended shall not engage in any con-
3 duct or activity in violation of the order or judgment by which the license
4 was suspended. If a license revoked on disciplinary grounds is reinstated,
5 the licensee, as a condition of reinstatement, shall pay the license renewal
6 fee and any late fee that may be applicable.

7 New Sec. ~~10~~ **10**. The board shall remit all moneys received by or for
8 it from fees, charges or penalties to the state treasurer in accordance with
9 the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt
10 of each such remittance, the state treasurer shall deposit the entire
11 amount in the state treasury. Twenty percent of each such deposit shall
12 be credited to the state general fund and the balance shall be credited to
13 the healing arts fee fund. All expenditures from such fund shall be made
14 in accordance with appropriation acts upon warrants of the director of
15 accounts and reports issued pursuant to vouchers approved by the pres-
16 ident of the board or by a person designated by the president of the board.

17 New Sec. ~~11~~ **11**. (a) It shall be unlawful for any person who is not
18 licensed under this act as a naturopathic doctor or whose license has been
19 suspended or revoked to practice naturopathic medicine or to hold one-
20 self out to the public as a licensed naturopathic doctor, or use the abbrev-
21 iation of “N.D.” or the words “naturopathic doctor,” “doctor of natur-
22 opathy,” “doctor of naturopathic medicine,” “naturopath,” “naturopathic
23 medical doctor” or any other words, letters, abbreviations or insignia in-
24 dicating or implying that such person is a naturopathic doctor, or to prac-
25 tice the art and science of naturopathic medicine as herein defined. A
26 violation of this subsection (a) shall constitute a class B person misde-
27 meanor.

28 (b) Nothing in this act is intended to limit, preclude or otherwise
29 interfere with the practices of other health care providers formally trained
30 and licensed, registered, credentialed or certified by appropriate agencies
31 of the state of Kansas. The practice of naturopathic medicine shall not be
32 construed to include the following individuals:

33 (1) Persons rendering assistance in the case of an emergency.

34 (2) Members of any church practicing their religious tenets.

35 (3) Persons whose services are performed pursuant to the delegation
36 of and under the supervision of a naturopathic doctor who is licensed
37 under this act.

38 (4) Health care providers in the United States armed forces, public
39 health services, federal facilities and coast guard or other military service
40 when acting in the line of duty in this state.

41 (5) Licensees under the healing arts act, and practicing their profes-
42 sions, when licensed and practicing in accordance with the provisions of
43 law or persons performing services pursuant to the delegation of a li-

1 censed physician under subsection (g) of K.S.A. 65-2872 and amendments
2 thereto.

3 (6) Dentists practicing their professions, when licensed and practic-
4 ing in accordance with the provisions of law.

5 (7) Nurses practicing their professions, when licensed and practicing
6 in accordance with the provisions of law or persons performing services
7 pursuant to the delegation of a licensed nurse under subsection (m) of
8 K.S.A. 65-1124 and amendments thereto.

9 (8) Health care providers who have been formally trained and are
10 practicing in accordance with the training or have received specific train-
11 ing in one or more functions included in this act pursuant to established
12 educational protocols, or both.

13 (9) Students while in actual attendance in an approved naturopathic
14 medical college and under the supervision of a qualified instructor.

15 (10) Self-care by a patient or gratuitous care by a friend or family
16 member who does not represent or hold oneself out to the public to be
17 a naturopathic doctor or other term specified under subsection (a).

18 (11) The practice by a doctor of naturopathic medicine authorized to
19 practice naturopathy in another state, territory or the District of Columbia
20 when incidentally called into this state for consultation with a licensed
21 physician.

22 (c) No statute granting authority to licensees of the state board of
23 healing arts shall be construed to confer authority upon naturopathic doc-
24 tors to engage in any activity not conferred by this act.

25 New Sec. ~~13~~ **12.** (a) A naturopathic doctor may not:

26 (1) Prescribe, dispense or administer any prescription or controlled
27 drugs except for ~~whole gland thyroid, homeopathic preparations, the nat-~~
28 ~~ural therapeutic substances~~; drugs and therapies described in this act.

29 (2) administer ionizing radioactive substances for therapeutic pur-
30 poses;

31 (3) perform ~~surgical procedures~~ **surgery**;

32 (4) claim to practice any licensed health care profession or system of
33 treatment other than naturopathic medicine unless holding a separate
34 license in that profession;

35 (5) practice obstetrics;

36 (6) practice emergency medicine, except as a good samaritan ren-
37 dering gratuitous services in the case of emergency and except for the
38 care of minor injuries; or

39 (7) practice or claim to practice allopathic medicine and surgery, os-
40 teopathic medicine and surgery, dentistry, podiatry, optometry, chiro-
41 practic, physical therapy or any other system or method of treatment not
42 authorized in this act.

43 ~~(b) Naturopathic doctors may prescribe and administer for preven-~~

1 ~~tive and therapeutic purposes the following natural therapeutic sub-~~
2 ~~stances and therapies:~~

3 ~~—(1) Food, food extracts, vitamins, minerals, enzymes, whole gland thy-~~
4 ~~roid, botanical medicines, homeopathic preparations, natural hormones~~
5 ~~and legend substances approved by the board;~~

6 ~~—(2) topical drugs, health care counseling, nutritional counseling and~~
7 ~~dietary therapy, naturopathic physical applications, therapeutic devices~~
8 ~~and nonprescription drugs;~~

9 ~~—(3) intramuscularly or intravenously any vitamins, minerals, botani-~~
10 ~~cals, amino acids, D5W, saline solutions, isotonic solutions and glandulars;~~

11 ~~—(4) immunizations; or~~

12 ~~—(5) noncontrolled legend drugs to the extent authorized by the board.~~

13 ~~—(c) Naturopathic doctors may perform or order for diagnostic pur-~~
14 ~~poses a physical or oroficial examination, ultrasound, phlebotomy, pap~~
15 ~~smear, clinical laboratory test or examination, physiological function test~~
16 ~~and any other noninvasive diagnostic procedure commonly used by phy-~~
17 ~~sicians in general practice. Naturopathic doctors may perform minor of-~~
18 ~~fice procedures.~~

19 ***(b) Naturopathic doctors may prescribe, recommend or admin-***
20 ***ister for prevention and therapeutic purposes the following natural***
21 ***substances and therapies:***

22 ***(1) Food, food extracts, vitamins, minerals, enzymes, whole***
23 ***gland thyroid, botanicals, homeopathic preparations, nystatin, nat-***
24 ***ural estrogens and natural progesterone;***

25 ***(2) topical drugs as defined in subsection (i) of section 2 and***
26 ***amendments thereto, health care counseling, nutritional counseling***
27 ***and dietary therapy, naturopathic physical applications, therapeu-***
28 ***tic devices, barrier contraceptive devices and nonprescription***
29 ***drugs;***

30 ***(3) intramuscularly any vitamins, minerals, botanicals, amino***
31 ***acids, D5W, saline solutions, isotonic solutions and glandulars;***

32 ***(4) intravenously any vitamins, minerals, botanicals, amino ac-***
33 ***ids, D5W, saline solutions, isotonic solutions and glandulars, as long***
34 ***as the patient's physician of record is notified within 10 days of the***
35 ***treatment;***

36 ***(5) immunizations.***

37 ***(c) Naturopathic doctors may perform or order for diagnostic***
38 ***purposes noninvasive physical or oroficial examinations including***
39 ***phlebotomy, clinical laboratory tests, speculum examinations and***
40 ***physiological function tests excluding all endoscopies, physiological***
41 ***function tests or other tests requiring infusion, injection, inhalation,***
42 ***or ingestion of medications or other substances to perform such***
43 ***tests. A naturopathic doctor may order for diagnostic purposes ul-***

1 *trasound, x-ray and electrocardiogram tests but must refer to an*
2 *appropriate licensed health care professional for conducting and*
3 *interpreting the test results.*

4 (d) Naturopathic doctors have the same authority and responsibility
5 as persons licensed to practice medicine and surgery with regard to public
6 health laws, reportable diseases and conditions, communicable disease
7 control and prevention, recording of vital statistics, health and physical
8 examinations and local boards of health, except that the authority and
9 responsibility are limited to activities consistent with the scope of practice
10 described in this act.

11 New Sec. ~~14~~ **13**. In order to practice naturopathic acupuncture, a
12 naturopathic doctor shall obtain a naturopathic acupuncture ~~specialty~~
13 **specialty** certification from the board. The board may issue this specialty
14 certification to a naturopathic doctor who has:

15 (a) Submitted an application and paid certification fee to be deter-
16 mined by the board;

17 (b) completed basic oriental medicine philosophy in a federally ac-
18 credited college or university approved by the board and 500 hours of
19 supervised clinical training under a trained naturopathic acupuncturist's
20 supervision.

21 New Sec. ~~15~~ **14**. (a) There is established a naturopathic advisory
22 council to advise the board in carrying out the provisions of this act. The
23 council shall consist of five members, all citizens and residents of the state
24 of Kansas appointed as follows: Three members shall be naturopathic
25 doctors appointed by the state board of healing arts; one member shall
26 be the president of the state board of healing arts or a person designated
27 by the president; and one member shall be from the public sector who
28 is not engaged, directly or indirectly, in the provision of health services
29 appointed by the governor. Insofar as possible persons appointed to the
30 council shall be from different geographic areas. If a vacancy occurs on
31 the council, the appointing authority of the position which has become
32 vacant shall appoint a person of like qualifications to fill the vacant posi-
33 tion for the unexpired term, if any. The members of the council appointed
34 by the governor shall be appointed for terms of three years and until a
35 successor is appointed. The members appointed by the state board of
36 healing arts shall serve at the pleasure of the state board of healing arts.
37 If a member is designated by the president of the state board of healing
38 arts, the member shall serve at the pleasure of the president.

39 (b) Members of the council attending meetings of the council, or
40 attending a subcommittee meeting thereof authorized by the council,
41 shall be paid amounts provided in subsection (e) of K.S.A. 75-3223 and
42 amendments thereto from the healing arts fee fund.

43 New Sec. ~~16~~ **15**. When it appears to the board that any person is

1 violating any of the provisions of this act, the board may bring an action
2 in a court of competent jurisdiction for an injunction against such violation
3 without regard to whether proceedings have been or may be instituted
4 before the board or whether criminal proceedings have been or may be
5 instituted.

6 New Sec. ~~17~~ **16**. All state agency adjudicative proceedings under the
7 naturopathic doctor licensure act shall be conducted in accordance with
8 the provisions of the Kansas administrative procedure act and shall be
9 reviewable in accordance with the act for judicial review and civil enforce-
10 ment of agency actions.

11 Sec. ~~18~~ **17**. K.S.A. 65-2872 is hereby amended to read as follows: 65-
12 2872. ***Every act or practice falling in the field of the healing arts,***
13 ***not specifically excepted herein, shall constitute the practice***
14 ***thereof.*** The practice of the healing arts shall not be construed to include
15 the following persons:

16 (a) Persons rendering gratuitous services in the case of an emergency.

17 (b) Persons gratuitously administering ordinary household remedies.

18 (c) The members of any church practicing their religious tenets pro-
19 vided they shall not be exempt from complying with all public health
20 regulations of the state.

21 (d) Students while in actual classroom attendance in an accredited
22 healing arts school who after completing one (1) year's study treat diseases
23 under the supervision of a licensed instructor.

24 (e) Students upon the completion of at least three (3) years study in
25 an accredited healing arts school and who, as a part of their academic
26 requirements for a degree, serve a preceptorship not to exceed ninety
27 (90) days under the supervision of a licensed practitioner.

28 (f) Persons who massage for the purpose of relaxation, muscle con-
29 ditioning, or figure improvement, provided no drugs are used and such
30 persons do not hold themselves out to be physicians or healers.

31 (g) Persons whose professional services are performed under the su-
32 pervision or by order of or referral from a practitioner who is licensed
33 under this act.

34 (h) Persons in the general fields of psychology, education and social
35 work, dealing with the social, psychological and moral well-being of in-
36 dividuals and/or groups provided they do not use drugs and do not hold
37 themselves out to be the physicians, surgeons, osteopathic physicians or
38 chiropractors.

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

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

1 licensed in this state, or residing on the border of a neighboring state,
2 duly licensed under the laws thereof to practice a branch of the healing
3 arts, but who do not open an office or maintain or appoint a place to
4 regularly meet patients or to receive calls within this state.

5 (k) Dentists practicing their professions, when licensed and practicing
6 in accordance with the provisions of article 14 of chapter 65 of the
7 Kansas Statutes Annotated, or amendments thereto, and any interpreta-
8 tion thereof by the supreme court of this state.

9 (l) Optometrists practicing their professions, when licensed and practicing
10 under and in accordance with the provisions of article 15 of chapter
11 65 of the Kansas Statutes Annotated, or amendments thereto, and any
12 interpretation thereof by the supreme court of this state.

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

17 (n) Podiatrists practicing their profession, when licensed and practicing
18 under and in accordance with the provisions of article 20 of chapter
19 65 of the Kansas Statutes Annotated, or amendments thereto, and any
20 interpretation thereof by the supreme court of this state.

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

23 ~~(p)~~ Pharmacists practicing their profession, when licensed and practicing
24 under and in accordance with the provisions of article 16 of chapter
25 65 of the Kansas Statutes Annotated, or amendments thereto, and any
26 interpretation thereof by the supreme court of this state.

27 ~~(p)~~ (p) A dentist licensed in accordance with the provisions of article
28 14 of chapter 65 of the Kansas Statutes Annotated who administers general
29 and local anesthetics to facilitate medical procedures conducted by
30 a person licensed to practice medicine and surgery if such dentist is certified
31 by the board of healing arts under K.S.A. 65-2899 *and amendments*
32 *thereto* to administer such general and local anesthetics.

33 ~~(q)~~ (q) *A naturopathic doctor when licensed and practicing in ac-*
34 *cordance with the provisions of the naturopathic doctor licensing act.*

35 ***New Sec. 18. A policy of professional liability insurance ap-***
36 ***proved by the commissioner of insurance and issued by an insurer***
37 ***duly authorized to transact business in this state in which the limit***
38 ***of the insurer's liability is not less than \$200,000 per claim, subject***
39 ***to not less than a \$600,000 annual aggregate for all claims made***
40 ***during the policy period, shall be maintained in effect by each na-***
41 ***turopathic doctor as a condition to rendering professional service***
42 ***as a naturopath in this state.***

43 ***Sec. 19. K.S.A. 2001 Supp. 65-1626 is hereby amended to read***

1 *as follows: 65-1626. For the purposes of this act:*

2 *(a) “Administer” means the direct application of a drug,*
3 *whether by injection, inhalation, ingestion or any other means, to*
4 *the body of a patient or research subject by:*

5 *(1) A practitioner or pursuant to the lawful direction of a prac-*
6 *titioner;*

7 *(2) the patient or research subject at the direction and in the*
8 *presence of the practitioner; or*

9 *(3) a pharmacist as authorized in K.S.A. 2001 Supp. 65-1635a*
10 *and amendments thereto.*

11 *(b) “Agent” means an authorized person who acts on behalf of*
12 *or at the direction of a manufacturer, distributor or dispenser but*
13 *shall not include a common or contract carrier, public warehouse-*
14 *man or employee of the carrier or warehouseman when acting in*
15 *the usual and lawful course of the carrier’s or warehouseman’s busi-*
16 *ness.*

17 *(c) “Board” means the state board of pharmacy created by*
18 *K.S.A. 74-1603 and amendments thereto.*

19 *(d) “Brand exchange” means the dispensing of a different drug*
20 *product of the same dosage form and strength and of the same ge-*
21 *neric name than the brand name drug product prescribed.*

22 *(e) “Brand name” means the registered trademark name given*
23 *to a drug product by its manufacturer, labeler or distributor.*

24 *(f) “Deliver” or “delivery” means the actual, constructive or*
25 *attempted transfer from one person to another of any drug whether*
26 *or not an agency relationship exists.*

27 *(g) “Direct supervision” means the process by which the re-*
28 *sponsible pharmacist shall observe and direct the activities of a*
29 *pharmacy student or pharmacy technician to a sufficient degree to*
30 *assure that all such activities are performed accurately, safely and*
31 *without risk or harm to patients, and complete the final check before*
32 *dispensing.*

33 *(h) “Dispense” means to deliver prescription medication to the*
34 *ultimate user or research subject by or pursuant to the lawful order*
35 *of a practitioner or pursuant to the prescription of a mid-level prac-*
36 *titioner.*

37 *(i) “Dispenser” means a practitioner or pharmacist who dis-*
38 *pensates prescription medication.*

39 *(j) “Distribute” means to deliver, other than by administering*
40 *or dispensing, any drug.*

41 *(k) “Distributor” means a person who distributes a drug.*

42 *(l) “Drug” means: (1) Articles recognized in the official United*
43 *States pharmacopoeia, or other such official compendiums of the*

1 *United States, or official national formulary, or any supplement of*
2 *any of them; (2) articles intended for use in the diagnosis, cure,*
3 *mitigation, treatment or prevention of disease in man or other an-*
4 *imals; (3) articles, other than food, intended to affect the structure*
5 *or any function of the body of man or other animals; and (4) articles*
6 *intended for use as a component of any articles specified in clause*
7 *(1), (2) or (3) of this subsection; but does not include devices or*
8 *their components, parts or accessories, except that the term “drug”*
9 *shall not include amygdalin (laetrile) or any livestock remedy, as*
10 *defined in K.S.A. 47-501 and amendments thereto, if such livestock*
11 *remedy has been registered in accordance with the provisions of*
12 *article 5 of chapter 47 of the Kansas Statutes Annotated.*

13 (m) *“Electronic transmission” means transmission of informa-*
14 *tion in electronic form or the transmission of the exact visual image*
15 *of a document by way of electronic equipment.*

16 (n) *“Generic name” means the established chemical name or*
17 *official name of a drug or drug product.*

18 (o) (1) *“Institutional drug room” means any location where*
19 *prescription-only drugs are stored and from which prescription-*
20 *only drugs are administered or dispensed and which is maintained*
21 *or operated for the purpose of providing the drug needs of:*

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

23 (B) *residents of a juvenile detention facility, as defined by the*
24 *Kansas code for care of children and the Kansas juvenile justice*
25 *code;*

26 (C) *students of a public or private university or college, a com-*
27 *munity college or any other institution of higher learning which is*
28 *located in Kansas;*

29 (D) *employees of a business or other employer; or*

30 (E) *persons receiving inpatient hospice services.*

31 (2) *“Institutional drug room” does not include:*

32 (A) *Any registered pharmacy;*

33 (B) *any office of a practitioner; or*

34 (C) *a location where no prescription-only drugs are dispensed*
35 *and no prescription-only drugs other than individual prescriptions*
36 *are stored or administered.*

37 (p) *“Medical care facility” shall have the meaning provided in*
38 *K.S.A. 65-425 and amendments thereto, except that the term shall*
39 *also include facilities licensed under the provisions of K.S.A. 75-*
40 *3307b and amendments thereto except community mental health*
41 *centers and facilities for the mentally retarded.*

42 (q) *“Manufacture” means the production, preparation, propa-*
43 *gation, compounding, conversion or processing of a drug either di-*

1 *rectly or indirectly by extraction from substances of natural origin,*
2 *independently by means of chemical synthesis or by a combination*
3 *of extraction and chemical synthesis and includes any packaging or*
4 *repackaging of the drug or labeling or relabeling of its container,*
5 *except that this term shall not include the preparation or compound-*
6 *ing of a drug by an individual for the individual's own use or the*
7 *preparation, compounding, packaging or labeling of a drug by: (1)*
8 *A practitioner or a practitioner's authorized agent incident to such*
9 *practitioner's administering or dispensing of a drug in the course*
10 *of the practitioner's professional practice; (2) a practitioner, by a*
11 *practitioner's authorized agent or under a practitioner's supervi-*
12 *sion for the purpose of, or as an incident to, research, teaching or*
13 *chemical analysis and not for sale; or (3) a pharmacist or the phar-*
14 *macist's authorized agent acting under the direct supervision of the*
15 *pharmacist for the purpose of, or incident to, the dispensing of a*
16 *drug by the pharmacist.*

17 (r) *"Person" means individual, corporation, government, gov-*
18 *ernmental subdivision or agency, partnership, association or any*
19 *other legal entity.*

20 (s) *"Pharmacist" means any natural person licensed under this*
21 *act to practice pharmacy.*

22 (t) *"Pharmacist in charge" means the pharmacist who is re-*
23 *sponsible to the board for a registered establishment's compliance*
24 *with the laws and regulations of this state pertaining to the practice*
25 *of pharmacy, manufacturing of drugs and the distribution of drugs.*
26 *The pharmacist in charge shall supervise such establishment on a*
27 *full-time or a part-time basis and perform such other duties relating*
28 *to supervision of a registered establishment as may be prescribed*
29 *by the board by rules and regulations. Nothing in this definition*
30 *shall relieve other pharmacists or persons from their responsibility*
31 *to comply with state and federal laws and regulations.*

32 (u) *"Pharmacy," "drug store" or "apothecary" means premises,*
33 *laboratory, area or other place: (1) Where drugs are offered for sale*
34 *where the profession of pharmacy is practiced and where prescrip-*
35 *tions are compounded and dispensed; or (2) which has displayed*
36 *upon it or within it the words "pharmacist," "pharmaceutical chem-*
37 *ist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs,"*
38 *"drug sundries" or any of these words or combinations of these*
39 *words or words of similar import either in English or any sign con-*
40 *taining any of these words; or (3) where the characteristic symbols*
41 *of pharmacy or the characteristic prescription sign "Rx" may be*
42 *exhibited. As used in this subsection, premises refers only to the*
43 *portion of any building or structure leased, used or controlled by*

1 *the licensee in the conduct of the business registered by the board*
2 *at the address for which the registration was issued.*

3 (v) *“Pharmacy student” means an individual, registered with*
4 *the board of pharmacy, enrolled in an accredited school of phar-*
5 *macy.*

6 (w) *“Pharmacy technician” means an individual who, under the*
7 *direct supervision and control of a pharmacist, may perform pack-*
8 *aging, manipulative, repetitive or other nondiscretionary tasks re-*
9 *lated to the processing of a prescription or medication order and*
10 *who assists the pharmacist in the performance of pharmacy related*
11 *duties, but who does not perform duties restricted to a pharmacist.*

12 (x) *“Practitioner” means a person licensed to practice medicine*
13 *and surgery, dentist, podiatrist, veterinarian, optometrist licensed*
14 *under the optometry law as a therapeutic licensee or diagnostic and*
15 *therapeutic licensee, a naturopathic doctor licensed under the naturo-*
16 *pathic doctor licensure act or scientific investigator or other person*
17 *authorized by law to use a prescription-only drug in teaching or*
18 *chemical analysis or to conduct research with respect to a prescrip-*
19 *tion-only drug.*

20 (y) *“Preceptor” means a licensed pharmacist who possesses at*
21 *least two years’ experience as a pharmacist and who supervises stu-*
22 *dents obtaining the pharmaceutical experience required by law as*
23 *a condition to taking the examination for licensure as a pharmacist.*

24 (z) *“Prescription” means, according to the context, either a pre-*
25 *scription order or a prescription medication.*

26 (aa) *“Prescription medication” means any drug, including label*
27 *and container according to context, which is dispensed pursuant to*
28 *a prescription order.*

29 (bb) *“Prescription-only drug” means any drug whether in-*
30 *tended for use by man or animal, required by federal or state law*
31 *(including 21 United States Code section 353, as amended) to be*
32 *dispensed only pursuant to a written or oral prescription or order*
33 *of a practitioner or is restricted to use by practitioners only.*

34 (cc) *“Prescription order” means: (1) An order to be filled by a*
35 *pharmacist for prescription medication issued and signed by a prac-*
36 *titioner or a mid-level practitioner in the authorized course of pro-*
37 *fessional practice; or (2) an order transmitted to a pharmacist*
38 *through word of mouth, note, telephone or other means of com-*
39 *munication directed by such practitioner or mid-level practitioner.*

40 (dd) *“Probation” means the practice or operation under a tem-*
41 *porary license, registration or permit or a conditional license, reg-*
42 *istration or permit of a business or profession for which a license,*
43 *registration or permit is granted by the board under the provisions*

1 *of the pharmacy act of the state of Kansas requiring certain actions*
2 *to be accomplished or certain actions not to occur before a regular*
3 *license, registration or permit is issued.*

4 (ee) “Professional incompetency” means:

5 (1) *One or more instances involving failure to adhere to the ap-*
6 *licable standard of pharmaceutical care to a degree which consti-*
7 *tutes gross negligence, as determined by the board;*

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

11 (3) *a pattern of pharmacy practice or other behavior which*
12 *demonstrates a manifest incapacity or incompetence to practice*
13 *pharmacy.*

14 (ff) “Retail dealer” means a person selling at retail nonpres-
15 *cription drugs which are prepackaged, fully prepared by the man-*
16 *ufacturer or distributor for use by the consumer and labeled in*
17 *accordance with the requirements of the state and federal food, drug*
18 *and cosmetic acts. Such nonprescription drugs shall not include: (1)*
19 *A controlled substance; (2) a prescription-only drug; or (3) a drug*
20 *intended for human use by hypodermic injection.*

21 (gg) “Secretary” means the executive secretary of the board.

22 (hh) “Unprofessional conduct” means:

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

24 (2) *intentional adulteration or mislabeling of any drug, medi-*
25 *cine, chemical or poison;*

26 (3) *causing any drug, medicine, chemical or poison to be adul-*
27 *terated or mislabeled, knowing the same to be adulterated or mis-*
28 *labeled;*

29 (4) *intentionally falsifying or altering records or prescriptions;*

30 (5) *unlawful possession of drugs and unlawful diversion of*
31 *drugs to others;*

32 (6) *willful betrayal of confidential information under K.S.A. 65-*
33 *1654 and amendments thereto;*

34 (7) *conduct likely to deceive, defraud or harm the public;*

35 (8) *making a false or misleading statement regarding the li-*
36 *censee’s professional practice or the efficacy or value of a drug;*

37 (9) *commission of any act of sexual abuse, misconduct or ex-*
38 *ploitation related to the licensee’s professional practice; or*

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

41 (ii) “Mid-level practitioner” means an advanced registered
42 *nurse practitioner issued a certificate of qualification pursuant to*
43 *K.S.A. 65-1131 and amendments thereto who has authority to pre-*

1 *scribe drugs pursuant to a written protocol with a responsible phy-*
2 *sician under K.S.A. 65-1130 and amendments thereto or a physician*
3 *assistant licensed pursuant to the physician assistant licensure act*
4 *who has authority to prescribe drugs pursuant to a written protocol*
5 *with a responsible physician under K.S.A. 2001 Supp. 65-28a08 and*
6 *amendments thereto.*

7 (jj) “Vaccination protocol” means a written protocol, agreed to
8 by a pharmacist and a person licensed to practice medicine and
9 surgery by the state board of healing arts, which establishes pro-
10 cedures and recordkeeping and reporting requirements for admin-
11 istering a vaccine by the pharmacist for a period of time specified
12 therein, not to exceed two years.

13 (kk) “Veterinary medical teaching hospital pharmacy” means
14 any location where prescription-only drugs are stored as part of an
15 accredited college of veterinary medicine and from which prescrip-
16 tion-only drugs are distributed for use in treatment of or adminis-
17 tration to a non-human.

18 Sec. ~~19~~ 20. K.S.A. 65-2872 and 65-2872a and K.S.A. 2001 Supp.
19 65-1626 are hereby repealed.

20 Sec. ~~20~~ 21. This act shall take effect and be in force from and after
21 January 1, 2003, and its publication in the statute book.

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