

## HOUSE BILL No. 2384

By Committee on Health and Human Services

2-14

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AN ACT relating to physical therapy; providing for licensure of physical therapists; amending K.S.A. 7-121b, 40-2,111, 60-513d, 60-2609, 65-1501, 65-1902, 65-2891, 65-2901, 65-2903, 65-2904, 65-2905, 65-2906, 65-2909, 65-2910, 65-2911, 65-2912, 65-2913, 65-2914, 65-2916, 65-2918, 65-2919, 65-4915, 65-4921, 65-5418 and 65-5912 and K.S.A. 2002 Supp. 17-2707, 21-3721 and 40-3401 and repealing the existing sections; also repealing K.S.A. 65-2902, 65-2907, 65-2908 and 65-2915.

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

Section 1. K.S.A. 65-2901 is hereby amended to read as follows: 65-2901. ~~(a)~~ As used in ~~this act, the term~~ *article 29 of chapter 65 of the Kansas statutes annotated and acts amendatory of the provisions thereof or supplemental thereto:*

(a) ~~“Physical therapy” means a health specialty concerned with the evaluation, treatment or instruction of human beings to assess, prevent and alleviate physical disability and pain. This includes the administration and evaluation of tests and measurements of bodily functions and structures in aid of treatment, the planning, administration, evaluation and modifications of treatment and instruction, including the use of physical measures, activities and devices for prevention and therapeutic purposes, and the provision of consultative, educational and advisory services for the purpose of reducing the incidence and severity of physical disability and pain. The use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, and the practice of medicine and surgery are not authorized or included under the term “physical therapy” as used in this act the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist that is licensed pursuant to this act.~~

(b) ~~“Physical therapist” means a person who practices physical therapy as defined in this act and delegates selective forms of treatment to supportive personnel under the supervision of such person is licensed to practice physical therapy pursuant to this act. Any person who successfully meets the requirements of K.S.A. 65-2906 and amendments thereto shall be known and designated as a physical therapist and may designate~~

1 or describe oneself as a physical therapist, physiotherapist, registered li-  
2 censed physical therapist, P.T., Ph. T., M.P.T., D.P.T. or ~~R.P.T.~~ L.P.T.  
3 Physical therapists may evaluate patients without physician referral but  
4 may initiate treatment only after consultation with and approval by a phy-  
5 sician licensed to practice medicine and surgery, a licensed podiatrist or  
6 a licensed dentist in appropriately related cases.

7 (c) *“Practice of physical therapy” means examining, evaluating and*  
8 *testing individuals with mechanical, physiological and developmental im-*  
9 *pairments, functional limitations and disabilities or other health and*  
10 *movement-related conditions in order to determine a diagnosis for phys-*  
11 *ical therapy, prognosis, plan of therapeutic intervention and to assess the*  
12 *ongoing effects of physical therapy intervention. The “practice of physical*  
13 *therapy” also includes alleviating impairments, functional limitations and*  
14 *disabilities by designing, implementing and modifying therapeutic inter-*  
15 *ventions that may include, but are not limited to, therapeutic exercise;*  
16 *functional training in self-care and in home, community or work integra-*  
17 *tion or reintegration; manual therapy; therapeutic massage; prescription,*  
18 *application and, as appropriate, fabrication of assistive, adaptive, or-*  
19 *thotic, prosthetic, protective and supportive devices and equipment; air-*  
20 *way clearance techniques; integumentary protection and repair tech-*  
21 *niques; debridement and wound care; physical agents or modalities;*  
22 *mechanical and electrotherapeutic modalities; patient-related instruction;*  
23 *reducing the risk of injury, impairments, functional limitations and dis-*  
24 *ability, including the promotion and maintenance of fitness, health and*  
25 *quality of life in all age populations and engaging in administration, con-*  
26 *sultation, education and research. The “practice of physical therapy” does*  
27 *not include the use of roentgen rays and radium for diagnostic and ther-*  
28 *apeutic purposes, the use of electricity for surgical purposes, including*  
29 *cauterization, and the practice of medicine and surgery.*

30 (d) *“Physical therapist assistant” means a person who is certified*  
31 *pursuant to this act and who works under the direction of a physical*  
32 *therapist, and who assists in the application of physical therapy, and whose*  
33 *activities require an understanding of physical therapy, but do not require*  
34 *professional or advanced training in the anatomical, biological and phys-*  
35 *ical sciences involved in the practice of physical therapy the physical ther-*  
36 *apist in selected components of physical therapy intervention. Any person*  
37 *who successfully meets the requirements of K.S.A. 65-2906 and amend-*  
38 *ments thereto shall be known and designated as a physical therapist as-*  
39 *istant, and may designate or describe oneself as a physical therapist as-*  
40 *istant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst.*

41 (e) *“Board” means the state board of healing arts.*

42 (f) *“Council” means the physical therapy advisory council.*

43 Sec. 2. K.S.A. 65-2903 is hereby amended to read as follows: 65-

1 2903. There is hereby created a ~~state examining committee for~~ physical  
2 therapy *advisory council* to assist the ~~state board of healing arts~~ in carrying  
3 out the provisions of this law, ~~regarding the qualifications and examination~~  
4 ~~of physical therapists and physical therapist assistants~~. The ~~examining~~  
5 ~~committee council~~ shall consist of five members, citizens and residents  
6 of the state of Kansas, three of whom shall be physical therapists, one of  
7 whom shall be a physician licensed by the board to practice medicine and  
8 surgery and one of whom shall be a member of such board.

9 Sec. 3. K.S.A. 65-2904 is hereby amended to read as follows: 65-  
10 2904. The ~~state examining committee council~~ shall be appointed as fol-  
11 lows: The ~~state board of healing arts~~ shall appoint one physician licensed  
12 to practice medicine and surgery and one member of the ~~state board of~~  
13 ~~healing arts~~, and the governor shall appoint three physical therapists who  
14 are duly ~~registered~~ *licensed* physical therapists who have at least three  
15 years' experience in physical therapy immediately preceding the appoint-  
16 ment and are actively engaged, in this state, in physical therapy. The  
17 foregoing appointees shall constitute the ~~state examining committee for~~  
18 ~~physical therapy council~~. Except as otherwise provided in this section, the  
19 members appointed in accordance with this section shall be appointed  
20 for terms of four years and shall serve until their successors are appointed  
21 and qualify. ~~Of the first three physical therapist members appointed by~~  
22 ~~the governor on or after July 1, 1983, one shall be appointed for a term~~  
23 ~~of two years, one shall be appointed for a term of three years and one~~  
24 ~~shall be appointed for a term of four years, and these members shall serve~~  
25 ~~until a successor is appointed and qualified. Thereafter, physical therapist~~  
26 ~~members appointed by the governor shall be appointed for terms of four~~  
27 ~~years and shall serve until their successors are appointed and qualified.~~  
28 *Members serving on the examining committee for physical therapy on the*  
29 *effective date of this act shall be members of the council and shall serve*  
30 *on the council until the conclusion of the terms for which they were ap-*  
31 *pointed to the examining committee for physical therapy and until their*  
32 *successors are appointed and qualified.* Each member of the ~~committee~~  
33 ~~council~~ shall take an oath as required by law for state officers. No physical  
34 therapist member appointed by the governor ~~on or after July 1, 1983,~~  
35 shall be appointed for more than two successive four-year terms com-  
36 mencing on or after that date.

37 Sec. 4. K.S.A. 65-2905 is hereby amended to read as follows: 65-  
38 2905. (a) The ~~state examining committee for~~ physical therapy *advisory*  
39 *council* provided for in this act shall elect from their members a president  
40 and a vice-president, who shall serve for one year or until their successors  
41 are elected and qualified. The executive director of the ~~state board of~~  
42 ~~healing arts~~ shall act as secretary of the ~~examining committee council~~.

43 (b) The ~~state examining committee council~~ shall serve in an advisory

1 capacity to the ~~state board of healing arts~~ in matters pertaining to physical  
2 therapy. The ~~state board of healing arts~~ may adopt reasonable rules and  
3 regulations ~~relative to the qualification and examination of applicants~~ as  
4 may be found necessary for the performance of its duties. As to any mat-  
5 ters coming under its jurisdiction, the ~~state examining committee~~ *council*  
6 while in session may take testimony and any member may administer  
7 oaths in the taking of such testimony.

8 (c) A simple majority of the ~~committee~~ *council* shall constitute a quo-  
9 rum for the transaction of business. The secretary shall keep a record of  
10 all procedures of the ~~committee~~ *council*.

11 ~~(d) The examining committee shall meet at a city designated by the~~  
12 ~~examining committee and the board, and under the direction of the state~~  
13 ~~board of healing arts, there conduct the examination for the registration~~  
14 ~~of physical therapists and certification of physical therapist assistants, at~~  
15 ~~least once each year, and may hold other meetings and examinations at~~  
16 ~~such times and places as the examining committee and board may~~  
17 ~~determine.~~

18 ~~(e) (d)~~ The board may appoint and fix the compensation of such em-  
19 ployees as may be necessary to assist the ~~examining committee~~ *council*,  
20 and the board shall have the power to employ such expert assistance as  
21 it may deem necessary to carry out the purposes of this act. Members of  
22 the ~~state examining committee for physical therapy~~ *council* attending  
23 meetings of such ~~committee~~ *council*, or attending a subcommittee meet-  
24 ing thereof authorized by such ~~committee~~ *council*, shall be paid ~~compen-~~  
25 ~~sation, subsistence allowances, mileage and other expenses as amounts~~  
26 provided in *subsection (e) of K.S.A. 75-3223* and amendments thereto.

27 Sec. 5. K.S.A. 65-2906 is hereby amended to read as follows: 65-  
28 2906. (a) ~~It shall be the duty of The state board of healing arts, with the~~  
29 ~~advice and assistance of the state examining committee, to council, shall~~  
30 ~~pass upon the qualifications of all applicants for examination and regis-~~  
31 ~~tration licensure or certification, provide for and conduct all examinations,~~  
32 ~~determine the applicants who successfully pass the examination, and duly~~  
33 ~~register license or certify such persons and adopt rules and regulations~~  
34 ~~for professional conduct of the registered or certified persons those ap-~~  
35 ~~plicants who meet the qualifications established by this act.~~

36 (b) An applicant applying for ~~registration licensure~~ as a physical ther-  
37 apist or for a certificate as a physical therapist assistant shall file a written  
38 application on forms provided by the ~~state board of healing arts~~, showing  
39 to the satisfaction of the board that the applicant meets the following  
40 requirements:

- 41 (1) The applicant is of legal age;
- 42 (2) the applicant has successfully completed the academic require-  
43 ments of an educational program in physical therapy approved by the

1 board which is appropriate for the certification or ~~registration~~ *licensure*  
2 of the applicant *or, if the applicant attended a program not approved by*  
3 *the board, the applicant shall present an evaluation by an entity approved*  
4 *by the board showing that applicant's educational program met the cri-*  
5 *teria a school must satisfy to be approved by the board;*

6 (3) the applicant has passed an examination required by the board  
7 which is appropriate for the certification or ~~registration~~ *licensure* of the  
8 applicant to test the applicant's knowledge of the basic and clinical sci-  
9 ences relating to physical therapy theory and practice; and

10 (4) the applicant has paid to the board all applicable fees established  
11 under K.S.A. 65-2911 and amendments thereto.

12 (c) The board shall adopt rules and regulations establishing the cri-  
13 teria which a school shall satisfy in order to be approved by the board for  
14 purposes of subsection (b). The board may send a questionnaire devel-  
15 oped by the board to any school for which the board does not have suf-  
16 ficient information to determine whether the school meets the require-  
17 ments of the board for approval and rules and regulations adopted under  
18 this section. The questionnaire providing the necessary information shall  
19 be completed and returned to the board in order for the school to be  
20 considered for approval. The board may contract with investigative agen-  
21 cies, commissions or consultants to assist the board in obtaining infor-  
22 mation about schools. In entering such contracts the authority to approve  
23 schools shall remain solely with the board.

24 ~~(d) All registrations or certificates issued prior to July 1, 1994, which~~  
25 ~~are in effect on the effective date of this act shall be and continue in full~~  
26 ~~force and effect and be eligible for renewal and reinstatement under~~  
27 ~~K.S.A. 65-2910 and amendments thereto.~~

28 Sec. 6. K.S.A. 65-2909 is hereby amended to read as follows: 65-  
29 2909. (a) The board may issue a ~~certificate of registration~~ *license* in phys-  
30 ical therapy without examination ~~therein~~ to an applicant who presents  
31 evidence satisfactory to the board of having passed the examination in  
32 physical therapy of the American registry of physical therapists, *approved*  
33 *by the board* or an examination before a ~~similar~~, lawfully authorized ex-  
34 amining board in physical therapy of another state, District of Columbia,  
35 territory or foreign country, if the standards for ~~registration~~ *licensure* in  
36 physical therapy in such other state, district, territory or foreign country  
37 are determined by the board to be as high as those of this state. At the  
38 time of making such application, the applicant shall pay to the board a  
39 fee as prescribed, no part of which shall be returned.

40 (b) The board may issue a certificate as a physical therapist assistant  
41 without examination therein to an applicant who presents evidence sat-  
42 isfactory to the board of having passed an examination as a physical ther-  
43 apist assistant ~~as approved by the state board of healing arts~~ or an ex-

1 amination before a ~~similar~~, lawfully authorized examining board in  
2 physical therapy of another state, District of Columbia, territory or foreign  
3 country, if the standards for certification in physical therapy in such other  
4 state, District of Columbia, territory or foreign country are determined  
5 by the board to be as high as those of this state. At the time of making  
6 such application, the applicant shall pay to the board a fee as prescribed,  
7 no part of which shall be returned.

8 (c) *The board may issue a temporary permit to an applicant for li-*  
9 *censure as a physical therapist or an applicant for certification as a phys-*  
10 *ical therapist assistant who applies for a temporary permit on a form*  
11 *provided by the board, who meets the requirements for licensure as a*  
12 *physical therapist or for certification as a physical therapist assistant or*  
13 *who meets all of the requirements for licensure or certification except*  
14 *examination and who pays to the board the temporary permit fee as re-*  
15 *quired under K.S.A. 65-2911 and amendments thereto. Such temporary*  
16 *permit shall expire one year from the date of issue or on the date that the*  
17 *board approves the application for licensure or certification, whichever*  
18 *occurs first. No more than one such temporary permit shall be granted to*  
19 *any one person.*

20 Sec. 7. K.S.A. 65-2910 is hereby amended to read as follows: 65-  
21 2910. (a) The ~~registration license~~ of every ~~registered licensed~~ physical  
22 therapist and the certification of every certified physical therapist assistant  
23 shall expire on the date established by rules and regulations of the ~~state~~  
24 ~~board of healing arts~~ which may provide renewal throughout the year on  
25 a continuing basis. In each case in which a ~~registration license~~ or certifi-  
26 cate is renewed for a period of time of less than one year, the board may  
27 prorate the amount of the fee established under K.S.A. 65-2911 and  
28 amendments thereto. The request for renewal shall be on a form provided  
29 by the board and shall be accompanied by the renewal fee established  
30 under ~~to~~ K.S.A. 65-2911 and amendments thereto which shall be paid  
31 not later than the expiration date of the ~~registration license~~ or certificate.

32 (b) The ~~state board of healing arts~~ shall require every ~~registered li-~~  
33 ~~icensed~~ physical therapist or certified physical therapist assistant as a con-  
34 dition of renewal to submit with the application for a renewal evidence  
35 of satisfactory completion of a program of continuing education required  
36 by the board. The board shall establish the requirements for each such  
37 program of continuing education by rules and regulations. In establishing  
38 such requirements the board shall consider any existing programs of con-  
39 tinuing education currently being offered to ~~registered licensed~~ physical  
40 therapists or certified physical therapist assistants.

41 (c) ~~The state board of healing arts prior to renewal of the registration~~  
42 ~~of a physical therapist, shall require the registrant, if in the active practice~~  
43 ~~of physical therapy within Kansas, to submit to the board evidence sat-~~

1 isfactory to the board that the registrant is maintaining a policy of pro-  
2 fessional liability insurance as required by K.S.A. 40-3402 and amend-  
3 ments thereto and has paid the annual premium surcharge as required  
4 by K.S.A. 40-3404 and amendments thereto.

5 —(d) (c) At least 30 days before the expiration of the ~~registration license~~  
6 of a physical therapist or the certificate of a physical therapist assistant,  
7 the ~~state board of healing arts~~ shall notify the ~~registrant licensee~~ or cer-  
8 tificate holder of the expiration by mail addressed to the ~~registrant's li-~~  
9 ~~icensee's~~ last mailing address as noted upon the office records. If the ~~reg-~~  
10 ~~istrant licensee~~ or certificate holder fails to pay the renewal fee by the  
11 date of expiration, the ~~registrant licensee~~ or certificate holder shall be  
12 given a second notice that the ~~registration license~~ or certificate has expired  
13 and the ~~registration license~~ or certificate may be renewed only if the  
14 renewal fee and the late renewal fee are received by the board within the  
15 thirty-day period following the date of expiration and that, if both fees  
16 are not received within the thirty-day period, the ~~registration license~~ or  
17 certificate shall be ~~considered to have lapsed~~ *canceled* for failure to renew  
18 and shall be reissued only after the physical therapist or physical therapist  
19 assistant has been reinstated under subsection (e).

20 (e) (d) Any ~~registrant licensee~~ or certificate holder who allows the  
21 ~~registration license~~ or certificate to ~~lapse~~ *be canceled* by failing to renew  
22 may be reinstated upon recommendation of the ~~state board of healing~~  
23 ~~arts and~~, upon payment of the ~~renewal fee and the~~ reinstatement fee and  
24 upon submitting evidence of satisfactory completion of any applicable  
25 reeducation and continuing education requirements established by the  
26 board. The board shall adopt rules and regulations establishing appro-  
27 priate reeducation and continuing education requirements for reinstate-  
28 ment of persons whose ~~registrations licenses~~ or certificates have ~~lapsed~~  
29 *been canceled* for failure to renew.

30 Sec. 8. K.S.A. 65-2911 is hereby amended to read as follows: 65-  
31 2911. (a) The ~~state board of healing arts~~ may adopt such rules and reg-  
32 ulations as necessary to carry out the purposes of this act. The executive  
33 director of the board shall keep a record of all proceedings under this act  
34 and a roster of all persons ~~registered~~ *licensed* or certified under the act.  
35 The roster shall show the name, address, date and number of the original  
36 ~~certificate of registration license~~ or certificate, and the renewal thereof.

37 (b) (1) *The board shall charge and collect in advance fees provided*  
38 *for in this act as fixed by the board by rules and regulations, subject to*  
39 *the following limitations:*

40	<i>Application fee, not more than .....</i>	<i>\$100</i>
41	<i>Temporary permit fee, not more than.....</i>	<i>40</i>
42	<i>Renewal fee, not more than.....</i>	<i>60</i>
43	<i>Late renewal fee, not more than.....</i>	<i>70</i>

1 Reinstatement fee, not more than ..... 80  
 2 Certified copy of license or certificate, not more than ..... 15  
 3 Written verification of license or certificate, not more than ..... 15  
 4 Duplicate license or certificate ..... 15  
 5 Temporary permit ..... 25

6 (2) The board shall charge and collect in advance fees for any ex-  
 7 amination administered by the board under article 29 of chapter 65 of  
 8 the Kansas statutes annotated and acts amendatory of the provisions  
 9 thereof or supplemental thereto as fixed by the board by rules and regu-  
 10 lations in an amount equal to the cost to the board of the examination. If  
 11 the examination is not administered by the board, the board may require  
 12 that fees paid for any examination under article 29 of chapter 65 of the  
 13 Kansas statutes annotated and acts amendatory of the provisions thereof  
 14 or supplemental thereto be paid directly to the examination service by the  
 15 person taking the examination.

16 (3) The fees fixed by the board by rules and regulations under article  
 17 29 of chapter 65 of the Kansas statutes annotated and acts amendatory  
 18 of the provisions thereof or supplemental thereto and in effect immediately  
 19 prior to the effective date of this act shall continue in effect until different  
 20 fees are fixed by the board by rules and regulations as provided under  
 21 this section.

22 ~~(b)~~ (c) The ~~state board of healing arts~~ shall remit all moneys received  
 23 by or for it from fees, charges or penalties to the state treasurer in ac-  
 24 cordance with the provisions of K.S.A. 75-4215, and amendments thereto.  
 25 Upon receipt of each such remittance, the state treasurer shall deposit  
 26 the entire amount in the state treasury. Twenty percent of such amount  
 27 shall be credited to the state general fund and the balance shall be cred-  
 28 ited to the healing arts fee fund. All expenditures from such fund shall  
 29 be made in accordance with appropriation acts upon warrants of the di-  
 30 rector of accounts and reports issued pursuant to vouchers approved by  
 31 the president of the board or by a person or persons designated by the  
 32 president of the board.

33 Sec. 9. K.S.A. 65-2912 is hereby amended to read as follows: 65-  
 34 2912. (a) The board may refuse to grant a ~~certificate of registration~~ license  
 35 to any physical therapist or a certificate to any physical therapist assistant,  
 36 or may suspend or revoke the ~~registration~~ license of any ~~registered li-~~  
 37 censed physical therapist or certificate of any certified physical therapist  
 38 assistant, or may limit the license of any licensed physical therapist or  
 39 certificate of any certified physical therapist assistant or may censure a  
 40 licensed physical therapist or certified physical therapist assistant for any  
 41 of the following grounds:

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



1 (2) conviction of a felony if the board determines, after investigation,  
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~~ *licensure* or certi-  
5 fication by 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 *as defined by rules and regulations*  
10 *adopted by the board*;

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

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

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

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

23 (b) All proceedings pursuant to ~~this section~~ *article 29 of chapter 65*  
24 *of the Kansas statutes annotated, and acts amendatory of the provisions*  
25 *thereof or supplemental thereto*, shall be conducted in accordance with  
26 the provisions of the Kansas administrative procedure act and shall be  
27 reviewable in accordance with the act for judicial review and civil enforce-  
28 ment of agency actions.

29 Sec. 10. K.S.A. 65-2913 is hereby amended to read as follows: 65-  
30 2913. (a) ~~Any person who, in any manner, represents oneself as a physical~~  
31 ~~therapist, or who uses in connection with such person's name the words~~  
32 ~~or letters physical therapist, physiotherapist, registered physical therapist,~~  
33 *It shall be unlawful for any person who is not licensed under this act as*  
34 *a physical therapist or whose license has been suspended or revoked: (1)*  
35 *In any manner to represent oneself as a physical therapist or to use in*  
36 *connection with such person's name the words physical therapist, phy-*  
37 *siotherapist or licensed physical therapist or use the abbreviations P.T.,*  
38 *Ph. T., M.P.T., D.P.T. or ~~R.P.T.~~ L.P.T., or any other letters, words, ab-*  
39 *brevisions or insignia, indicating or implying that such person is a phys-*  
40 *ical therapist, without a valid existing certificate of registration as a phys-*  
41 *ical therapist issued to such person under the provisions of this act, shall*  
42 *be guilty of a class B nonperson misdemeanor; or (2) to engage in the*  
43 *practice of physical therapy. A violation of this subsection shall constitute*

1 *a class B nonperson misdemeanor.*

2 (b) Any person who, in any manner, represents oneself as a physical  
3 therapist assistant, or who uses in connection with such person's name  
4 the words or letters physical therapist assistant, certified physical therapist  
5 assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, ab-  
6 breviations or insignia, indicating or implying that such person is a phys-  
7 ical therapist assistant, without a valid existing certificate as a physical  
8 therapist assistant issued to such person pursuant to the provisions of this  
9 act, shall be guilty of a class B nonperson misdemeanor.

10 (c) ~~Nothing in this act shall prohibit any person not holding oneself~~  
11 ~~out as a physical therapist or physical therapist assistant from carrying out~~  
12 ~~as an independent practitioner, without prescription or supervision, the~~  
13 ~~therapy or practice for which the person is qualified, and shall not prohibit~~  
14 ~~the person from using corrective therapy. Nothing in this act shall prohibit~~  
15 ~~any person who assists the physical therapist or physical therapist assistant~~  
16 ~~from being designated as a physical therapy aide. Nothing in this act is~~  
17 *intended to limit, preclude or otherwise interfere with the practices of*  
18 *other health care providers formally trained and licensed, registered, cre-*  
19 *dentialed or certified by appropriate agencies of the state of Kansas. The*  
20 *practice of physical therapy shall not be construed to include the following*  
21 *individuals so long as they do not hold themselves out in a manner pro-*  
22 *hibited under subsection (a) or (b) of this section:*

23 (1) *Persons rendering assistance in the case of an emergency;*

24 (2) *members of any church practicing their religious tenets;*

25 (3) *persons whose services are performed pursuant to the delegation*  
26 *of and under the supervision of a physical therapist who is licensed under*  
27 *this act;*

28 (4) *health care providers in the United States armed forces, public*  
29 *health services, federal facilities and coast guard or other military service*  
30 *when acting in the line of duty in this state;*

31 (5) *licensees under the healing arts act, and practicing their profes-*  
32 *sions, when licensed and practicing in accordance with the provisions of*  
33 *law or persons performing services pursuant to the delegation of a licensed*  
34 *physician under subsection (g) of K.S.A. 65-2872 and amendments*  
35 *thereto;*

36 (6) *dentists practicing their professions, when licensed and practicing*  
37 *in accordance with the provisions of law;*

38 (7) *nurses practicing their professions, when licensed and practicing*  
39 *in accordance with the provisions of law or persons performing services*  
40 *pursuant to the delegation of a licensed nurse under subsection (m) of*  
41 *K.S.A. 65-1124 and amendments thereto;*

42 (8) *health care providers who have been formally trained and are*  
43 *practicing in accordance with their training or have received specific*

1 *training in one or more functions included in this act pursuant to estab-*  
2 *lished educational protocols or both;*

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

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

7 (11) *optometrists practicing their profession when licensed and prac-*  
8 *ticing in accordance with the provisions of article 15 of chapter 65 of the*  
9 *Kansas Statutes Annotated and amendments thereto;*

10 (12) *podiatrists practicing their profession when licensed and prac-*  
11 *ticing in accordance with the provisions of article 20 of chapter 65 of the*  
12 *Kansas Statutes Annotated and amendments thereto;*

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

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

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

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

21 (17) *athletic trainers practicing their profession when registered and*  
22 *practicing in accordance with the athletic trainers registration act.*

23 (d) *Any patient monitoring, assessment or other procedures designed*  
24 *to evaluate the effectiveness of prescribed physical therapy must be per-*  
25 *formed by or pursuant to the delegation of a licensed physical therapist*  
26 *or other health care provider.*

27 (e) *Nothing in this act shall be construed to permit the practice of*  
28 *medicine and surgery. No statute granting authority to licensees of the*  
29 *state board of healing arts shall be construed to confer authority upon*  
30 *physical therapists to engage in any activity not conferred by this act.*

31 Sec. 11. K.S.A. 65-2914 is hereby amended to read as follows: 65-  
32 2914. (a) No person shall employ fraud or deception in applying for or  
33 securing a ~~certificate of registration~~ license as a physical therapist.

34 (b) A person ~~registered~~ licensed under this act as a physical therapist  
35 shall not treat ailments or other health conditions of human beings other  
36 than by physical therapy unless duly licensed or registered to provide such  
37 treatment under the laws of this state.

38 (c) A person certified under this act as a physical therapist assistant  
39 shall not treat ailments or other health conditions of human beings except  
40 under the direction of a physical therapist duly ~~registered~~ licensed under  
41 this act. The word "direction" as used in this subsection (c) shall mean  
42 that the physical therapist shall see all patients initially and evaluate them  
43 periodically except in those cases in a hospital setting when the physical

1 therapist is not immediately available, the physical therapist assistant may  
2 initiate patient care after telephone contact with the physical therapist for  
3 documented instruction. The physical therapist must then evaluate the  
4 patient and establish a plan of treatment as soon as possible with a min-  
5 imum weekly review.

6 (d) Any person violating the provisions of this section shall be guilty  
7 of a class B misdemeanor.

8 Sec. 12. K.S.A. 65-2916 is hereby amended to read as follows: 65-  
9 2916. (a) Any violation of the provisions of this act shall constitute a class  
10 B misdemeanor.

11 (b) *When it appears to the board that any person is violating any of*  
12 *the provisions of article 29 of chapter 65 of the Kansas statutes annotated*  
13 *and acts amendatory of the provisions thereof or supplemental thereto,*  
14 *the board may bring an action in a court of competent jurisdiction for an*  
15 *injunction against such violation without regard to whether proceedings*  
16 *have been or may be instituted before the board or whether criminal*  
17 *proceedings have been or may be instituted.*

18 (c) *The board, in addition to any other penalty prescribed under the*  
19 *provisions of article 29 of chapter 65 of the Kansas statutes annotated and*  
20 *acts amendatory of the provisions thereof or supplemental thereto, may*  
21 *assess a civil fine, after proper notice and an opportunity to be heard,*  
22 *against a licensee for a violation of the provisions of article 29 of chapter*  
23 *65 of the Kansas statutes annotated and acts amendatory of the provisions*  
24 *thereof or supplemental thereto in an amount not to exceed \$5,000 for the*  
25 *first violation, \$10,000 for the second violation and \$15,000 for the third*  
26 *violation and for each subsequent violation. All fines assessed and col-*  
27 *lected under this section shall be remitted to the state treasurer in ac-*  
28 *cordance with the provisions of K.S.A. 75-4215, and amendments thereto.*  
29 *Upon receipt of each such remittance, the state treasurer shall deposit the*  
30 *entire amount in the state treasury to the credit of the state general fund.*

31 Sec. 13. K.S.A. 65-2918 is hereby amended to read as follows: 65-  
32 2918. Physical therapists *and physical therapist assistants* practicing their  
33 profession, when ~~registered~~ *licensed or certified* and practicing under and  
34 in accordance with the provisions of article 29 of chapter 65 of the Kansas  
35 Statutes Annotated, and acts amendatory of the provisions thereof or sup-  
36 plemental thereto, shall not be construed to be practicing the healing arts  
37 or be subject to the healing arts act.

38 Sec. 14. K.S.A. 65-2919 is hereby amended to read as follows: 65-  
39 2919. Any person holding a valid ~~certificate registration~~ *as a physical*  
40 ~~therapy assistant~~ *physical therapist* immediately prior to the effective date  
41 of this act which has been issued by the ~~state board of healing arts~~ shall  
42 be deemed to be a ~~certified licensed~~ *physical therapist assistant* for the  
43 purposes of this act and article 29 of chapter 65 of the Kansas Statutes

1 Annotated and acts amendatory of the provisions thereof ~~and~~ *or* supple-  
2 mental thereto and shall be subject to the provisions of this act and the  
3 provisions of such article and chapter of the Kansas Statutes Annotated  
4 *and acts amendatory of the provisions thereof or supplemental thereto.*

5 Sec. 15. K.S.A. 7-121b is hereby amended to read as follows: 7-121b.

6 (a) Subject to subsection (b) of K.S.A. 40-3411 and amendments thereto,  
7 whenever a civil action is commenced by filing a petition or whenever a  
8 pleading states a claim in a district court for damages for personal injuries  
9 or death arising out of the rendering of or the failure to render profes-  
10 sional services by any health care provider, compensation for reasonable  
11 attorney fees to be paid by each litigant in the action shall be approved  
12 by the judge after an evidentiary hearing and prior to final disposition of  
13 the case by the district court. Compensation for reasonable attorney fees  
14 for services performed in an appeal of a judgment in any such action to  
15 the court of appeals shall be approved after an evidentiary hearing by the  
16 chief judge or by the presiding judge of the panel hearing the case. Com-  
17 pensation for reasonable attorney fees for services performed in an appeal  
18 of a judgment in any such action to the supreme court shall be approved  
19 after an evidentiary hearing by the departmental justice for the depart-  
20 ment in which the appeal originated. In determining the reasonableness  
21 of such compensation, the judge or justice shall consider the following:

22 (1) The time and labor required, the novelty and difficulty of the  
23 questions involved and the skill requisite to perform the legal service  
24 properly.

25 (2) The likelihood, if apparent to the client, that the acceptance of  
26 the particular employment will preclude other employment by the attor-  
27 ney.

28 (3) The fee customarily charged in the locality for similar legal serv-  
29 ices.

30 (4) The amount involved and the results obtained.

31 (5) The time limitations imposed by the client or by the circum-  
32 stances.

33 (6) The nature and length of the professional relationship with the  
34 client.

35 (7) The experience, reputation and ability of the attorney or attorneys  
36 performing the services.

37 (8) Whether the fee is fixed or contingent.

38 (b) As used in this section:

39 (1) "Health care provider" means a person licensed to practice any  
40 branch of the healing arts, a person who holds a temporary permit to  
41 practice any branch of the healing arts, a person engaged in a postgrad-  
42 uate training program approved by the state board of healing arts, a li-  
43 censed medical care facility, a health maintenance organization, a licensed

1 dentist, a licensed professional nurse, a licensed practical nurse, a licensed  
2 optometrist, a licensed podiatrist, a licensed pharmacist, a professional  
3 corporation organized pursuant to the professional corporation law of  
4 Kansas by persons who are authorized by such law to form such a cor-  
5 poration and who are health care providers as defined by this subsection,  
6 a ~~registered~~ *licensed* physical therapist or an officer, employee or agent  
7 thereof acting in the course and scope of such person's employment or  
8 agency; and

9 (2) "professional services" means those services which require licen-  
10 sure, registration or certification by agencies of the state for the perform-  
11 ance thereof.

12 Sec. 16. K.S.A. 2002 Supp. 17-2707 is hereby amended to read as  
13 follows: 17-2707. As used in this act, unless the context clearly indicates  
14 that a different meaning is intended:

15 (a) "Professional corporation" means a corporation organized under  
16 this act.

17 (b) "Professional service" means the type of personal service ren-  
18 dered by a person duly licensed by this state as a member of any of the  
19 following professions, each paragraph constituting one type:

20 (1) A certified public accountant;

21 (2) an architect;

22 (3) an attorney-at-law;

23 (4) a chiropractor;

24 (5) a dentist;

25 (6) an engineer;

26 (7) an optometrist;

27 (8) an osteopathic physician or surgeon;

28 (9) a physician, surgeon or doctor of medicine;

29 (10) a veterinarian;

30 (11) a podiatrist;

31 (12) a pharmacist;

32 (13) a land surveyor;

33 (14) a licensed psychologist;

34 (15) a specialist in clinical social work;

35 (16) a ~~registered~~ *licensed* physical therapist;

36 (17) a landscape architect;

37 (18) a registered professional nurse;

38 (19) a real estate broker or salesperson;

39 (20) a clinical professional counselor;

40 (21) a geologist;

41 (22) a clinical psychotherapist; and

42 (23) a clinical marriage and family therapist.

43 (c) "Regulating board" means the court, board or state agency which

1 is charged with the licensing and regulation of the practice of the pro-  
2 fession which the professional corporation is organized to render.

3 (d) "Qualified person" means:

4 (1) Any natural person licensed to practice the same type of profes-  
5 sion which any professional corporation is authorized to practice;

6 (2) the trustee of a trust which is a qualified trust under subsection  
7 (a) of section 401 of the federal internal revenue code, as in effect on  
8 January 1, 2001, or of a contribution plan which is a qualified employee  
9 stock ownership plan under subsection (a) of section 409A of the federal  
10 internal revenue code, as in effect on January 1, 2001; or

11 (3) the trustee of a revocable living trust established by a natural  
12 person who is licensed to practice the type of profession which any pro-  
13 fessional corporation is authorized to practice, if the terms of such trust  
14 provide that such natural person is the principal beneficiary and sole  
15 trustee of such trust and such trust does not continue to hold title to  
16 professional corporation stock following such natural person's death for  
17 more than a reasonable period of time necessary to dispose of such stock.

18 Sec. 17. K.S.A. 2002 Supp. 21-3721 is hereby amended to read as  
19 follows: 21-3721. (a) Criminal trespass is:

20 (1) Entering or remaining upon or in any land, nonnavigable body of  
21 water, structure, vehicle, aircraft or watercraft other than railroad prop-  
22 erty as defined in K.S.A. 2002 Supp. 21-3761 and amendments thereto  
23 by a person who knows such person is not authorized or privileged to do  
24 so, and:

25 (A) Such person enters or remains therein in defiance of an order  
26 not to enter or to leave such premises or property personally communi-  
27 cated to such person by the owner thereof or other authorized person;  
28 or

29 (B) such premises or property are posted in a manner reasonably  
30 likely to come to the attention of intruders, or are locked or fenced or  
31 otherwise enclosed, or shut or secured against passage or entry; or

32 (C) such person enters or remains therein in defiance of a restraining  
33 order issued pursuant to K.S.A. 2002 Supp. 60-31a05, K.S.A. 2002 Supp.  
34 60-31a06, K.S.A. 60-1607, 60-3105, 60-3106 or 60-3107 or K.S.A. 38-  
35 1542, 38-1543 or 38-1563, and amendments thereto, and the restraining  
36 order has been personally served upon the person so restrained; or

37 (2) entering or remaining upon or in any public or private land or  
38 structure in a manner that interferes with access to or from any health  
39 care facility by a person who knows such person is not authorized or  
40 privileged to do so and such person enters or remains thereon or therein  
41 in defiance of an order not to enter or to leave such land or structure  
42 personally communicated to such person by the owner of the health care  
43 facility or other authorized person.

1 (b) As used in this section:

2 (1) "Health care facility" means any licensed medical care facility,  
3 certificated health maintenance organization, licensed mental health cen-  
4 ter, or mental health clinic, licensed psychiatric hospital or other facility  
5 or office where services of a health care provider are provided directly to  
6 patients.

7 (2) "Health care provider" means any person: (A) Licensed to prac-  
8 tice a branch of the healing arts; (B) licensed to practice psychology; (C)  
9 licensed to practice professional or practical nursing; (D) licensed to prac-  
10 tice dentistry; (E) licensed to practice optometry; (F) licensed to practice  
11 pharmacy; (G) ~~registered~~ *licensed* to practice podiatry; (H) licensed as a  
12 social worker; or (I) ~~registered~~ *licensed* to practice physical therapy.

13 (c) (1) Criminal trespass is a class B nonperson misdemeanor.

14 (2) Upon a conviction of a violation of subsection (a)(1)(C), a person  
15 shall be sentenced to not less than 48 consecutive hours of imprisonment  
16 which must be served either before or as a condition of any grant of  
17 probation or suspension, reduction of sentence or parole.

18 Sec. 18. K.S.A. 40-2,111 is hereby amended to read as follows: 40-  
19 2,111. As used in K.S.A. 40-2,111 through 40-2,113, and amendments  
20 thereto: (a) "Adverse underwriting decision" means: Any of the following  
21 actions with respect to insurance transactions involving insurance cover-  
22 age which is individually underwritten:

23 (1) A declination of insurance coverage;

24 (2) a termination of insurance coverage;

25 (3) an offer to insure at higher than standard rates, with respect to  
26 life, health or disability insurance coverage; or

27 (4) the charging of a higher rate on the basis of information which  
28 differs from that which the applicant or policyholder furnished, with re-  
29 spect to property or casualty insurance coverage.

30 (b) "Declination of insurance coverage" means a denial, in whole or  
31 in part, by an insurance company or agent of requested insurance cov-  
32 erage.

33 (c) "Health care institution" means any medical care facility, adult  
34 care home, drug abuse and alcoholic treatment facility, home-health  
35 agency certified for federal reimbursement, mental health center or men-  
36 tal health clinic licensed by the secretary of social and rehabilitation serv-  
37 ices, kidney disease treatment center, county, city-county or multicounty  
38 health departments and health-maintenance organization.

39 (d) "Health care provider" means any person licensed to practice any  
40 branch of the healing arts, licensed dentist, licensed professional nurse,  
41 licensed practical nurse, advanced registered nurse practitioner, licensed  
42 optometrist, ~~registered~~ *licensed* physical therapist, licensed social worker,  
43 licensed physician assistant, licensed podiatrist or licensed psychologist.



1 (e) “Institutional source” means any natural person, corporation, as-  
2 sociation, partnership or governmental or other legal entity that provides  
3 information about an individual to an agent or insurance company, other  
4 than:

- 5 (1) An agent;
- 6 (2) the individual who is the subject of the information; or
- 7 (3) a natural person acting in a personal capacity rather than a busi-  
8 ness or professional capacity.

9 (f) “Insurance transaction” means any transaction involving insur-  
10 ance, but not including group insurance coverage, primarily for personal,  
11 family or household needs rather than business or professional needs.

12 (g) “Medical-record information” means personal information which:  
13 (1) Relates to an individual’s physical or mental condition, medical  
14 history or medical treatment; and

15 (2) is obtained from a health care provider or health care institution,  
16 from the individual, or from the individual’s spouse, parent or legal guard-  
17 ian.

18 (h) “Termination of insurance coverage” or “termination of an insur-  
19 ance policy” means either a cancellation, nonrenewal or lapse of an insur-  
20 ance policy, in whole or in part, for any reason other than:

- 21 (1) The failure to pay a premium as required by the policy; or
- 22 (2) at the request or direction of the insured.

23 Sec. 19. K.S.A. 2002 Supp. 40-3401 is hereby amended to read as  
24 follows: 40-3401. As used in this act the following terms shall have the  
25 meanings respectively ascribed to them herein.

26 (a) “Applicant” means any health care provider.

27 (b) “Basic coverage” means a policy of professional liability insurance  
28 required to be maintained by each health care provider pursuant to the  
29 provisions of subsection (a) or (b) of K.S.A. 40-3402 and amendments  
30 thereto.

31 (c) “Commissioner” means the commissioner of insurance.

32 (d) “Fiscal year” means the year commencing on the effective date  
33 of this act and each year, commencing on the first day of that month,  
34 thereafter.

35 (e) “Fund” means the health care stabilization fund established pur-  
36 suant to subsection (a) of K.S.A. 40-3403 and amendments thereto.

37 (f) “Health care provider” means a person licensed to practice any  
38 branch of the healing arts by the state board of healing arts with the  
39 exception of physician assistants, a person who holds a temporary permit  
40 to practice any branch of the healing arts issued by the state board of  
41 healing arts, a person engaged in a postgraduate training program ap-  
42 proved by the state board of healing arts, a medical care facility licensed  
43 by the department of health and environment, a health maintenance or-

1 organization issued a certificate of authority by the commissioner of insur-  
2 ance, a podiatrist licensed by the state board of healing arts, an optom-  
3 etrist licensed by the board of examiners in optometry, a pharmacist  
4 licensed by the state board of pharmacy, a licensed professional nurse  
5 who is authorized to practice as a registered nurse anesthetist, a licensed  
6 professional nurse who has been granted a temporary authorization to  
7 practice nurse anesthesia under K.S.A. 65-1153 and amendments thereto,  
8 a professional corporation organized pursuant to the professional corpo-  
9 ration law of Kansas by persons who are authorized by such law to form  
10 such a corporation and who are health care providers as defined by this  
11 subsection, a Kansas limited liability company organized for the purpose  
12 of rendering professional services by its members who are health care  
13 providers as defined by this subsection and who are legally authorized to  
14 render the professional services for which the limited liability company  
15 is organized, a partnership of persons who are health care providers under  
16 this subsection, a Kansas not-for-profit corporation organized for the pur-  
17 pose of rendering professional services by persons who are health care  
18 providers as defined by this subsection, a nonprofit corporation organized  
19 to administer the graduate medical education programs of community  
20 hospitals or medical care facilities affiliated with the university of Kansas  
21 school of medicine, a dentist certified by the state board of healing arts  
22 to administer anesthetics under K.S.A. 65-2899 and amendments thereto,  
23 ~~a physical therapist registered by the state board of healing arts,~~ a psy-  
24 chiatric hospital licensed under K.S.A. 75-3307b and amendments  
25 thereto, or a mental health center or mental health clinic licensed by the  
26 secretary of social and rehabilitation services, except that health care pro-  
27 vider does not include (1) any state institution for the mentally retarded,  
28 (2) any state psychiatric hospital, (3) any person holding an exempt license  
29 issued by the state board of healing arts or (4) any person holding a visiting  
30 clinical professor license from the state board of healing arts.

31 (g) “Inactive health care provider” means a person or other entity  
32 who purchased basic coverage or qualified as a self-insurer on or subse-  
33 quent to the effective date of this act but who, at the time a claim is made  
34 for personal injury or death arising out of the rendering of or the failure  
35 to render professional services by such health care provider, does not  
36 have basic coverage or self-insurance in effect solely because such person  
37 is no longer engaged in rendering professional service as a health care  
38 provider.

39 (h) “Insurer” means any corporation, association, reciprocal  
40 exchange, inter-insurer and any other legal entity authorized to write bod-  
41 ily injury or property damage liability insurance in this state, including  
42 workers compensation and automobile liability insurance, pursuant to the  
43 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of

1 Kansas Statutes Annotated.

2 (i) “Plan” means the operating and administrative rules and proce-  
3 dures developed by insurers and rating organizations or the commissioner  
4 to make professional liability insurance available to health care providers.

5 (j) “Professional liability insurance” means insurance providing cov-  
6 erage for legal liability arising out of the performance of professional  
7 services rendered or which should have been rendered by a health care  
8 provider.

9 (k) “Rating organization” means a corporation, an unincorporated as-  
10 sociation, a partnership or an individual licensed pursuant to K.S.A. 40-  
11 956, and amendments thereto, to make rates for professional liability in-  
12 surance.

13 (l) “Self-insurer” means a health care provider who qualifies as a self-  
14 insurer pursuant to K.S.A. 40-3414 and amendments thereto.

15 (m) “Medical care facility” means the same when used in the health  
16 care provider insurance availability act as the meaning ascribed to that  
17 term in K.S.A. 65-425 and amendments thereto, except that as used in  
18 the health care provider insurance availability act such term, as it relates  
19 to insurance coverage under the health care provider insurance availa-  
20 bility act, also includes any director, trustee, officer or administrator of a  
21 medical care facility.

22 (n) “Mental health center” means a mental health center licensed by  
23 the secretary of social and rehabilitation services under K.S.A. 75-3307b  
24 and amendments thereto, except that as used in the health care provider  
25 insurance availability act such term, as it relates to insurance coverage  
26 under the health care provider insurance availability act, also includes any  
27 director, trustee, officer or administrator of a mental health center.

28 (o) “Mental health clinic” means a mental health clinic licensed by  
29 the secretary of social and rehabilitation services under K.S.A. 75-3307b  
30 and amendments thereto, except that as used in the health care provider  
31 insurance availability act such term, as it relates to insurance coverage  
32 under the health care provider insurance availability act, also includes any  
33 director, trustee, officer or administrator of a mental health clinic.

34 (p) “State institution for the mentally retarded” means Winfield state  
35 hospital and training center, Parsons state hospital and training center  
36 and the Kansas neurological institute.

37 (q) “State psychiatric hospital” means Larned state hospital, Osawa-  
38 tomie state hospital and Rainbow mental health facility.

39 (r) “Person engaged in residency training” means:

40 (1) A person engaged in a postgraduate training program approved  
41 by the state board of healing arts who is employed by and is studying at  
42 the university of Kansas medical center only when such person is engaged  
43 in medical activities which do not include extracurricular, extra-institu-

1 tional medical service for which such person receives extra compensation  
2 and which have not been approved by the dean of the school of medicine  
3 and the executive vice-chancellor of the university of Kansas medical center. Persons engaged in residency training shall be considered resident  
4 health care providers for purposes of K.S.A. 40-3401 *et seq.*, and amend-  
5 ments thereto; and  
6

7 (2) a person engaged in a postgraduate training program approved by  
8 the state board of healing arts who is employed by a nonprofit corporation  
9 organized to administer the graduate medical education programs of com-  
10 munity hospitals or medical care facilities affiliated with the university of  
11 Kansas school of medicine or who is employed by an affiliate of the uni-  
12 versity of Kansas school of medicine as defined in K.S.A. 76-367 and  
13 amendments thereto only when such person is engaged in medical activ-  
14 ities which do not include extracurricular, extra-institutional medical serv-  
15 ice for which such person receives extra compensation and which have  
16 not been approved by the chief operating officer of the nonprofit cor-  
17 poration or the chief operating officer of the affiliate and the executive  
18 vice-chancellor of the university of Kansas medical center.

19 (s) “Full-time physician faculty employed by the university of Kansas  
20 medical center” means a person licensed to practice medicine and surgery  
21 who holds a full-time appointment at the university of Kansas medical  
22 center when such person is providing health care.

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

25 Sec. 20. K.S.A. 60-513d is hereby amended to read as follows: 60-  
26 513d. As used in K.S.A. 60-513 and 60-513b, and amendments to such  
27 statutes, the term “health care provider” means a person licensed to prac-  
28 tice any branch of the healing arts, a person who holds a temporary permit  
29 to practice any branch of the healing arts, a person engaged in a post-  
30 graduate training program approved by the state board of healing arts, a  
31 licensed medical care facility, a health maintenance organization, a li-  
32 censed dentist, a licensed professional nurse, a licensed practical nurse,  
33 a licensed optometrist, a licensed podiatrist, a professional corporation  
34 organized pursuant to the professional corporation law of Kansas by per-  
35 sons who are authorized by such law to form such a corporation and who  
36 are health care providers as defined by this section, a licensed pharmacist  
37 or a ~~registered~~ *licensed* physical therapist.

38 Sec. 21. K.S.A. 60-2609 is hereby amended to read as follows: 60-  
39 2609. (a) Whenever judgment is entered on a claim in any action for  
40 recovery of damages for personal injury or death arising out of the ren-  
41 dering of or the failure to render professional services by any health care  
42 provider, the court may include in such judgment a requirement that the  
43 damages awarded be paid in whole or in part by installment or periodic

1 payments, and any installment or periodic payment upon becoming due  
2 and payable under the terms of any such judgment shall constitute a  
3 separate judgment upon which execution may issue. Any judgment or-  
4 dering any such payments shall specify the amount of each payment, the  
5 interval between payments and the number of payments to be paid under  
6 the judgment. For good cause shown, the court may modify such judg-  
7 ment with respect to the amount of such payments and the number of  
8 payments to be made or the interval between payments, but the total  
9 amount of damages awarded by such judgment shall not be subject to  
10 modification in any event.

11 (b) As used in this section, “health care provider” means a person  
12 licensed to practice any branch of the healing arts, a person who holds a  
13 temporary permit to practice any branch of the healing arts or a person  
14 engaged in a postgraduate training program approved by the state board  
15 of healing arts, a licensed medical care facility, a health maintenance  
16 organization, a licensed dentist, a licensed professional nurse, a licensed  
17 practical nurse, a licensed optometrist, a licensed podiatrist, a licensed  
18 pharmacist, a professional corporation organized pursuant to the profes-  
19 sional corporation law of Kansas by persons who are authorized by such  
20 law to form such a corporation and who are health care providers as  
21 defined by this subsection, a ~~registered~~ *licensed* physical therapist or an  
22 officer, employee or agent thereof acting in the course and scope of em-  
23 ployment or agency.

24 Sec. 22. K.S.A. 65-1501 is hereby amended to read as follows: 65-  
25 1501. (a) The practice of optometry means:

26 (1) The examination of the human eye and its adnexae and the em-  
27 ployment of objective or subjective means or methods (including the ad-  
28 ministering, prescribing or dispensing, of topical pharmaceutical drugs)  
29 for the purpose of diagnosing the refractive, muscular, or pathological  
30 condition thereof;

31 (2) the prescribing or adapting of lenses (including any ophthalmic  
32 lenses which are classified as drugs by any law of the United States or of  
33 this state), prisms, low vision rehabilitation services, orthoptic exercises  
34 and visual training therapy for the relief of any insufficiencies or abnormal  
35 conditions of the human eye and its adnexae; and

36 (3) except as otherwise limited by this section, the prescribing, ad-  
37 ministering or dispensing of topical pharmaceutical drugs and oral drugs  
38 for the examination, diagnosis and treatment of any insufficiencies or  
39 abnormal conditions of the human eye and its adnexae.

40 (b) The practice of optometry shall not include: (1) The management  
41 and treatment of glaucoma, except as provided in subsection (d); (2) the  
42 performance of surgery, including the use of lasers for surgical purposes,  
43 except that therapeutic licensees may remove superficial foreign bodies

1 from the cornea and the conjunctiva; (3) the use of topical pharmaceutical  
2 drugs by a person licensed to practice optometry unless such person suc-  
3 cessfully meets the requirements of a diagnostic licensee or a therapeutic  
4 licensee; and (4) the prescribing, administering and dispensing of oral  
5 drugs for ocular conditions by a person licensed to practice optometry  
6 unless such person successfully meets the requirements of a therapeutic  
7 licensee, except that such therapeutic licensee may prescribe or admin-  
8 ister oral steroids or oral antiglaucoma drugs for ocular conditions follow-  
9 ing consultation with an ophthalmologist, which consultation shall be  
10 noted in writing in the patient's file. No optometrist may prescribe or  
11 administer oral drugs to persons less than six years of age.

12 (c) A therapeutic licensee certified to treat adult open-angle glau-  
13 coma as provided herein shall be held to a standard of care in the use of  
14 such agents in diagnosis and treatment commensurate to that of a person  
15 licensed to practice medicine and surgery, who exercises that degree of  
16 skill and proficiency commonly exercised by an ordinary, skillful, careful  
17 and prudent person licensed to practice medicine and surgery.

18 (d) An optometrist may prescribe, administer and dispense topical  
19 pharmaceutical drugs and oral drugs for the treatment of adult open-  
20 angle glaucoma only following glaucoma licensure as provided in subsec-  
21 tion (l) of K.S.A. 65-1501a and amendments thereto. After the initial  
22 diagnosis of adult open-angle glaucoma, by an optometrist during the co-  
23 management period described in subsection (s) of K.S.A. 65-1501a and  
24 amendments thereto, the patient shall be notified that the diagnosis must  
25 be confirmed by an ophthalmologist and that any subsequent treatment  
26 requires a written co-management plan with an ophthalmologist of the  
27 patient's choice.

28 (e) Under the direction and supervision of a therapeutic licensee, a  
29 licensed professional nurse, licensed practical nurse, ~~registered~~ *licensed*  
30 physical therapist and licensed occupational therapist may assist in the  
31 provision of low vision rehabilitation services in addition to such other  
32 services which such licensed professional nurse, licensed practical nurse,  
33 ~~registered~~ *licensed* physical therapist and licensed occupational therapist  
34 is authorized by law to provide under subsection (d) of K.S.A. 65-1113,  
35 subsection (h) of K.S.A. 65-1124, subsection (b) of K.S.A. 65-2901 and  
36 subsection (b) of K.S.A. 65-5402, and amendments thereto.

37 Sec. 23. K.S.A. 65-1902 is hereby amended to read as follows: 65-  
38 1902. (a) Except as provided in subsection (b), no person shall:

39 (1) Engage in practice of cosmetology, esthetics, nail technology or  
40 electrology unless the person holds a valid license, issued by the board,  
41 to engage in that practice;

42 (2) conduct a school for teaching cosmetology unless the person holds  
43 a valid license, issued by the board, to conduct the school;

1 (3) teach cosmetology in a licensed school unless the person holds a  
2 valid cosmetology instructor's license issued by the board;

3 (4) conduct a school for teaching nail technology unless the person  
4 holds a valid license, issued by the board, to conduct the school;

5 (5) teach nail technology in a licensed school unless the person holds  
6 a valid cosmetology or manicuring instructor's license issued by the board;

7 (6) conduct a school for teaching electrology unless the person holds  
8 a valid license, issued by the board, to conduct the school;

9 (7) teach electrology in a licensed school or clinic unless the person  
10 holds a valid electrology instructor's license issued by the board;

11 (8) conduct a school for teaching esthetics unless the person holds a  
12 valid license, issued by the board, to conduct the school;

13 (9) teach esthetics in a licensed school unless the person holds a valid  
14 cosmetology or esthetics instructor's license issued by the board;

15 (10) own or operate a school, salon or clinic where cosmetology, es-  
16 thetics, nail technology or electrology is taught or practiced unless the  
17 person holds a valid school, salon or clinic license issued by the board; or

18 (11) teach or practice cosmetology, esthetics, nail technology or elec-  
19 trology in a school, salon or clinic unless the owner or operator of the  
20 school, salon or clinic holds a valid school, salon or clinic license issued  
21 by the board.

22 (b) The provisions of this act shall not apply to:

23 (1) Any person licensed as a barber or apprentice barber;

24 (2) any person licensed to practice medicine and surgery, chiroprac-  
25 tic, optometry, nursing or dentistry, while engaged in that practice;

26 (3) any person who is a ~~registered~~ *licensed* physical therapist or cer-  
27 tified physical therapist assistant while engaged in that practice; or

28 (4) any teacher while engaged in instructing elementary or secondary  
29 school students in the proper care of their own persons.

30 (c) A person holding a license as a cosmetology technician on the day  
31 immediately preceding the effective date of this act shall continue to be  
32 a licensed cosmetology technician and perform the functions of a cos-  
33 metology technician, as such term was defined immediately prior to the  
34 effective date of this act, and may renew such license subject to the pay-  
35 ment of fees and other conditions and limitations on the renewal of li-  
36 censes under article 19 of chapter 65 of the Kansas Statutes Annotated  
37 and acts amendatory of the provisions thereof.

38 (d) If the board determines that an individual has violated subsection  
39 (a), in addition to any other penalties imposed by law, the board, in ac-  
40 cordance with the Kansas administrative procedure act, may issue a cease  
41 and desist order against such individual or may assess such individual a  
42 fine of not to exceed \$1,500, or may issue such order and assess such fine.  
43 In determining the amount of fine to be assessed, the board may consider

1 the following factors: (1) Willfulness of the violation, (2) repetitions of  
2 the violation and (3) risk of harm to the public caused by the violation.

3 (e) A violation of subsection (a) of this section is a class C misde-  
4 meanor.

5 Sec. 24. K.S.A. 65-2891 is hereby amended to read as follows: 65-  
6 2891. (a) Any health care provider who in good faith renders emergency  
7 care or assistance at the scene of an emergency or accident including  
8 treatment of a minor without first obtaining the consent of the parent or  
9 guardian of such minor shall not be liable for any civil damages for acts  
10 or omissions other than damages occasioned by gross negligence or by  
11 willful or wanton acts or omissions by such person in rendering such  
12 emergency care.

13 (b) Any health care provider may render in good faith emergency  
14 care or assistance, without compensation, to any minor requiring such  
15 care or assistance as a result of having engaged in competitive sports,  
16 without first obtaining the consent of the parent or guardian of such  
17 minor. Such health care provider shall not be liable for any civil damages  
18 other than damages occasioned by gross negligence or by willful or wan-  
19 ton acts or omissions by such person in rendering such emergency care.

20 (c) Any health care provider may in good faith render emergency care  
21 or assistance during an emergency which occurs within a hospital or else-  
22 where, with or without compensation, until such time as the physician  
23 employed by the patient or by the patient's family or by guardian assumes  
24 responsibility for such patient's professional care. The health care pro-  
25 vider rendering such emergency care shall not be held liable for any civil  
26 damages other than damages occasioned by negligence.

27 (d) Any provision herein contained notwithstanding, the ordinary  
28 standards of care and rules of negligence shall apply in those cases  
29 wherein emergency care and assistance is rendered in any physician's or  
30 dentist's office, clinic, emergency room or hospital with or without com-  
31 pensation.

32 (e) As used in this section the term "health care provider" means any  
33 person licensed to practice any branch of the healing arts, licensed dentist,  
34 licensed optometrist, licensed professional nurse, licensed practical nurse,  
35 licensed podiatrist, licensed pharmacist, ~~registered~~ *licensed* physical ther-  
36 apist, and any ~~physician's~~ *physician* assistant who has successfully com-  
37 pleted an American medical association approved training program and  
38 has successfully completed the national board examination for physicians'  
39 assistants of the American board of medical examiners, any registered  
40 athletic trainer, any licensed occupational therapist, any licensed respi-  
41 ratory therapist, any person who holds a valid attendant's certificate under  
42 K.S.A. 65-6129, and amendments thereto, any person who holds a valid  
43 certificate for the successful completion of a course in first aid offered or



1 approved by the American red cross, by the American heart association,  
2 by the mining enforcement and safety administration of the bureau of  
3 mines of the department of interior, by the national safety council or by  
4 any instructor-coordinator, as defined in K.S.A. 65-6112, and amend-  
5 ments thereto, and any person engaged in a postgraduate training pro-  
6 gram approved by the state board of healing arts.

7 Sec. 25. K.S.A. 65-4915 is hereby amended to read as follows: 65-  
8 4915. (a) As used in this section:

9 (1) "Health care provider" means: (A) Those persons and entities  
10 defined as a health care provider under K.S.A. 40-3401 and amendments  
11 thereto; and (B) a dentist licensed by the Kansas dental board, a dental  
12 hygienist licensed by the Kansas dental board, a professional nurse li-  
13 censed by the board of nursing, a practical nurse licensed by the board  
14 of nursing, a mental health technician licensed by the board of nursing,  
15 *a physical therapist licensed by the state board of healing arts*, a physical  
16 therapist assistant certified by the state board of healing arts, an occupa-  
17 tional therapist licensed by the state board of healing arts, an occupa-  
18 tional therapy assistant licensed by the state board of healing arts, a res-  
19 piratory therapist licensed by the state board of healing arts, a physician  
20 assistant licensed by the state board of healing arts and attendants and  
21 ambulance services certified by the emergency medical services board.

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

23 (A) A state or local association of health care providers or one or more  
24 committees thereof;

25 (B) the board of governors created under K.S.A. 40-3403 and amend-  
26 ments thereto;

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

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

31 (E) an organized medical staff of a licensed medical care facility as  
32 defined by K.S.A. 65-425 and amendments thereto, an organized medical  
33 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b and  
34 amendments thereto or an organized medical staff of a state psychiatric  
35 hospital or state institution for the mentally retarded, as follows: Larned  
36 state hospital, Osawatomie state hospital, Rainbow mental health facility,  
37 Kansas neurological institute and Parsons state hospital and training cen-  
38 ter;

39 (F) a health care provider;

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

42 (H) a Kansas corporation whose stockholders or members are health  
43 care providers or an association of health care providers, which corpora-

- 1 tion evaluates medical and health care services; or
- 2 (I) an insurance company, health maintenance organization or ad-
- 3 ministrator of a health benefits plan which engages in any of the functions
- 4 defined as peer review under this section.
- 5 (3) "Peer review" means any of the following functions:
- 6 (A) Evaluate and improve the quality of health care services rendered
- 7 by health care providers;
- 8 (B) determine that health services rendered were professionally in-
- 9 dicated or were performed in compliance with the applicable standard of
- 10 care;
- 11 (C) determine that the cost of health care rendered was considered
- 12 reasonable by the providers of professional health services in this area;
- 13 (D) evaluate the qualifications, competence and performance of the
- 14 providers of health care or to act upon matters relating to the discipline
- 15 of any individual provider of health care;
- 16 (E) reduce morbidity or mortality;
- 17 (F) establish and enforce guidelines designed to keep within reason-
- 18 able bounds the cost of health care;
- 19 (G) conduct of research;
- 20 (H) determine if a hospital's facilities are being properly utilized;
- 21 (I) supervise, discipline, admit, determine privileges or control mem-
- 22 bers of a hospital's medical staff;
- 23 (J) review the professional qualifications or activities of health care
- 24 providers;
- 25 (K) evaluate the quantity, quality and timeliness of health care serv-
- 26 ices rendered to patients in the facility;
- 27 (L) evaluate, review or improve methods, procedures or treatments
- 28 being utilized by the medical care facility or by health care providers in
- 29 a facility rendering health care.
- 30 (4) "Peer review officer or committee" means:
- 31 (A) An individual employed, designated or appointed by, or a com-
- 32 mittee of or employed, designated or appointed by, a health care provider
- 33 group and authorized to perform peer review; or
- 34 (B) a health care provider monitoring the delivery of health care at
- 35 correctional institutions under the jurisdiction of the secretary of correc-
- 36 tions.
- 37 (b) Except as provided by K.S.A. 60-437 and amendments thereto
- 38 and by subsections (c) and (d), the reports, statements, memoranda, pro-
- 39 ceedings, findings and other records submitted to or generated by peer
- 40 review committees or officers shall be privileged and shall not be subject
- 41 to discovery, subpoena or other means of legal compulsion for their re-
- 42 lease to any person or entity or be admissible in evidence in any judicial
- 43 or administrative proceeding. Information contained in such records shall

1 not be discoverable or admissible at trial in the form of testimony by an  
2 individual who participated in the peer review process. The peer review  
3 officer or committee creating or initially receiving the record is the holder  
4 of the privilege established by this section. This privilege may be claimed  
5 by the legal entity creating the peer review committee or officer, or by  
6 the commissioner of insurance for any records or proceedings of the  
7 board of governors.

8 (c) Subsection (b) shall not apply to proceedings in which a health  
9 care provider contests the revocation, denial, restriction or termination  
10 of staff privileges or the license, registration, certification or other au-  
11 thorization to practice of the health care provider. A licensing agency in  
12 conducting a disciplinary proceeding in which admission of any peer re-  
13 view committee report, record or testimony is proposed shall hold the  
14 hearing in closed session when any such report, record or testimony is  
15 disclosed. Unless otherwise provided by law, a licensing agency conduct-  
16 ing a disciplinary proceeding may close only that portion of the hearing  
17 in which disclosure of a report or record privileged under this section is  
18 proposed. In closing a portion of a hearing as provided by this section,  
19 the presiding officer may exclude any person from the hearing location  
20 except the licensee, the licensee's attorney, the agency's attorney, the  
21 witness, the court reporter and appropriate staff support for either coun-  
22 sel. The licensing agency shall make the portions of the agency record in  
23 which such report or record is disclosed subject to a protective order  
24 prohibiting further disclosure of such report or record. Such report or  
25 record shall not be subject to discovery, subpoena or other means of legal  
26 compulsion for their release to any person or entity. No person in at-  
27 tendance at a closed portion of a disciplinary proceeding shall at a sub-  
28 sequent civil, criminal or administrative hearing, be required to testify  
29 regarding the existence or content of a report or record privileged under  
30 this section which was disclosed in a closed portion of a hearing, nor shall  
31 such testimony be admitted into evidence in any subsequent civil, crim-  
32 inal or administrative hearing. A licensing agency conducting a discipli-  
33 nary proceeding may review peer review committee records, testimony  
34 or reports but must prove its findings with independently obtained tes-  
35 timony or records which shall be presented as part of the disciplinary  
36 proceeding in open meeting of the licensing agency. Offering such tes-  
37 timony or records in an open public hearing shall not be deemed a waiver  
38 of the peer review privilege relating to any peer review committee testi-  
39 mony, records or report.

40 (d) Nothing in this section shall limit the authority, which may oth-  
41 erwise be provided by law, of the commissioner of insurance, the state  
42 board of healing arts or other health care provider licensing or disciplinary  
43 boards of this state to require a peer review committee or officer to report

1 to it any disciplinary action or recommendation of such committee or  
2 officer; to transfer to it records of such committee's or officer's proceed-  
3 ings or actions to restrict or revoke the license, registration, certification  
4 or other authorization to practice of a health care provider; or to terminate  
5 the liability of the fund for all claims against a specific health care provider  
6 for damages for death or personal injury pursuant to subsection (i) of  
7 K.S.A. 40-3403 and amendments thereto. Reports and records so fur-  
8 nished shall not be subject to discovery, subpoena or other means of legal  
9 compulsion for their release to any person or entity and shall not be  
10 admissible in evidence in any judicial or administrative proceeding other  
11 than a disciplinary proceeding by the state board of healing arts or other  
12 health care provider licensing or disciplinary boards of this state.

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

19 (f) Nothing in this section shall be construed to prevent an insured  
20 from obtaining information pertaining to payment of benefits under a  
21 contract with an insurance company, a health maintenance organization  
22 or an administrator of a health benefits plan.

23 Sec. 26. K.S.A. 65-4921 is hereby amended to read as follows: 65-  
24 4921. As used in K.S.A. 65-4921 through 65-4930, and amendments  
25 thereto:

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

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

30 (c) "Health care provider" means: (1) Those persons and entities de-  
31 fined as a health care provider under K.S.A. 40-3401 and amendments  
32 thereto; and (2) a dentist licensed by the Kansas dental board, a dental  
33 hygienist licensed by the Kansas dental board, a professional nurse li-  
34 censed by the board of nursing, a practical nurse licensed by the board  
35 of nursing, a mental health technician licensed by the board of nursing,  
36 *a physical therapist licensed by the state board of healing arts*, a physical  
37 therapist assistant certified by the state board of healing arts, an occupa-  
38 tional therapist licensed by the state board of healing arts, an occupa-  
39 tional therapy assistant licensed by the state board of healing arts and a  
40 respiratory therapist licensed by the state board of healing arts.

41 (d) "License," "licensee" and "licensing" include comparable terms  
42 which relate to regulation similar to licensure, such as registration.

43 (e) "Medical care facility" means: (1) A medical care facility licensed

1 under K.S.A. 65-425 et seq. and amendments thereto; (2) a private psy-  
2 chiatric hospital licensed under K.S.A. 75-3307b and amendments  
3 thereto; and (3) state psychiatric hospitals and state institutions for the  
4 mentally retarded, as follows: Larned state hospital, Osawatomie state  
5 hospital, Rainbow mental health facility, Kansas neurological institute and  
6 Parsons state hospital and training center.

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

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

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

15 Sec. 27. K.S.A. 65-5418 is hereby amended to read as follows: 65-  
16 5418. (a) Nothing in the occupational therapy practice act is intended to  
17 limit, preclude or otherwise interfere with the practices of other health  
18 care providers formally trained and licensed, registered, credentialed or  
19 certified by appropriate agencies of the state of Kansas.

20 (b) The practice of occupational therapy shall not be construed to  
21 include the following:

22 (1) Persons rendering assistance in the case of an emergency;

23 (2) members of any church practicing their religious tenets;

24 (3) persons whose services are performed pursuant to the delegation  
25 of and under the supervision of an occupational therapist who is licensed  
26 under this act;

27 (4) any person employed as an occupational therapist or occupational  
28 therapy assistant by the government of the United States or any agency  
29 thereof, if such person practices occupational therapy solely under the  
30 direction or control of the organization by which such person is employed;

31 (5) licensees under the healing arts act when licensed and practicing  
32 in accordance with the provisions of law or persons performing services  
33 pursuant to a delegation authorized under subsection (g) of K.S.A. 65-  
34 2872 and amendments thereto;

35 (6) dentists practicing their professions, when licensed and practicing  
36 in accordance with the provisions of law;

37 (7) nurses practicing their professions, when licensed and practicing  
38 in accordance with the provisions of law or persons performing services  
39 pursuant to the delegation of a licensed nurse under subsection (m) of  
40 K.S.A. 65-1124 and amendments thereto;

41 (8) health care providers who have been formally trained and are  
42 practicing in accordance with the training or have received specific train-  
43 ing in one or more functions included in the occupational therapy practice

- 1 act pursuant to established educational protocols, or both;
- 2 (9) any person pursuing a supervised course of study leading to a  
3 degree or certificate in occupational therapy at an accredited or approved  
4 educational program, if the person is designated by the title which clearly  
5 indicates such person's status as a student or trainee;
- 6 (10) any person fulfilling the supervised fieldwork experience  
7 requirements as part of the experience necessary to meet the requirement  
8 of the occupational therapy practice act;
- 9 (11) self-care by a patient or gratuitous care by a friend or family  
10 member who does not represent or hold oneself out to the public to be  
11 an occupational therapist or an occupational therapy assistant;
- 12 (12) optometrists practicing their profession when licensed and prac-  
13 ticing in accordance with the provisions of article 15 of chapter 65 of the  
14 Kansas Statutes Annotated and amendments thereto;
- 15 (13) podiatrists practicing their profession when licensed and prac-  
16 ticing in accordance with the provisions of article 15 of chapter 65 of the  
17 Kansas Statutes Annotated and amendments thereto;
- 18 (14) physical therapists practicing their profession when ~~registered~~  
19 *licensed* and practicing in accordance with K.S.A. 65-2901 *et seq.* and  
20 amendments thereto;
- 21 (15) physician assistants practicing their profession when licensed and  
22 practicing in accordance with the physician assistant licensure act;
- 23 (16) athletic trainers practicing their profession when registered and  
24 practicing in accordance with the athletic trainers registration act;
- 25 (17) manufacturers of prosthetic devices;
- 26 (18) any person performing occupational therapy services, if these  
27 services are performed for no more than 45 days in a calendar year in  
28 association with an occupational therapist licensed under the occupational  
29 therapy practice act so long as (A) the person is registered or licensed  
30 under the laws of another state which has licensure requirements at least  
31 as stringent as the licensure requirements of this act, or (B) the person  
32 meets the requirements for certification as an occupational therapist reg-  
33 istered (OTR) or a certified occupational therapy assistant (COTA) es-  
34 tablished by the national board for certification in occupational therapy  
35 (NBCOT).
- 36 (c) Any patient monitoring, assessment or other procedures designed  
37 to evaluate the effectiveness of prescribed occupational therapy must be  
38 performed by or pursuant to the delegation of a licensed occupational  
39 therapist or other health care provider.
- 40 (d) Education related therapy services provided by an occupational  
41 therapist to school systems or consultation regarding prevention, ergon-  
42 omics and wellness within the occupational therapy scope of practice shall  
43 not require a referral, supervision, order or direction of a physician, a

1 licensed podiatrist, a licensed dentist or a licensed optometrist. However,  
2 when in the course of providing such services an occupational therapist  
3 reasonably believes that an individual may have an underlying injury, ill-  
4 ness, disease, disorder or impairment, the occupational therapist shall  
5 refer the individual to a physician, a licensed podiatrist, a licensed dentist  
6 or a licensed optometrist, as appropriate.

7 (e) Nothing in the occupational therapy practice act shall be con-  
8 strued to permit the practice of medicine and surgery. No statute granting  
9 authority to licensees of the state board of healing arts shall be construed  
10 to confer authority upon occupational therapists to engage in any activity  
11 not conferred by the occupational therapy practice act.

12 (f) This section shall be part of and supplemental to the occupational  
13 therapy practice act.

14 (g) The provisions of this section shall take effect on and after April  
15 1, 2003.

16 Sec. 28. K.S.A. 65-5912 is hereby amended to read as follows: 65-  
17 5912. (a) Nothing in this act shall be construed to require any insurer or  
18 other entity regulated under chapter 40 of the Kansas Statutes Annotated  
19 or any other law of this state to provide coverage for or indemnify for the  
20 services provided by a person licensed under this act.

21 (b) So long as the following persons do not hold themselves out to  
22 the public to be dietitians or licensed dietitians or use these titles in  
23 combination with other titles or use the abbreviation L.D., or any com-  
24 bination thereof, nothing in this act shall be construed to apply:

25 (1) To any person licensed to practice the healing arts, a licensed  
26 dentist, a licensed dental hygienist, a licensed professional nurse, a li-  
27 censed practical nurse, a licensed psychologist, a licensed masters level  
28 psychologist, a licensed pharmacist or an employee thereof, a physician's  
29 assistant, a licensed professional counselor;

30 (2) to any unlicensed employee of a licensed adult care home or a  
31 licensed medical care facility as long as such person is working under the  
32 general direction of a licensee in the healing arts, nursing or a dietetic  
33 services supervisor as defined in regulations adopted by the secretary of  
34 health and environment or a consultant licensed under this act;

35 (3) to any dietetic technician or dietetic assistant;

36 (4) to any student enrolled in an approved academic program in di-  
37 etetics, home economics, nutrition, education or other like curriculum,  
38 while engaged in such academic program;

39 (5) to prevent any person, including persons employed in health food  
40 stores, from furnishing nutrition information as to the use of food, food  
41 materials or dietary supplements, nor to prevent in any way the free dis-  
42 semination of information or of literature as long as no individual engaged  
43 in such practices holds oneself out as being licensed under this act;

1 (6) to prohibit any individual from marketing or distributing food  
2 products, including dietary supplements, or to prevent any such person  
3 from providing information to customers regarding the use of such prod-  
4 ucts;

5 (7) to prevent any employee of the state or a political subdivision who  
6 is employed in nutrition-related programs from engaging in activities in-  
7 cluded within the definition of dietetics practice as a part of such person's  
8 employment;

9 (8) to any person who performs the activities and services of a li-  
10 censed dietitian or nutrition educator as an employee of the state or a  
11 political subdivision, an elementary or secondary school, an educational  
12 institution, a licensed institution, or a not-for-profit organization;

13 (9) to any person serving in the armed forces, the public health serv-  
14 ice, the veterans administration or as an employee of the federal govern-  
15 ment;

16 (10) to any person who has a degree in home economics insofar as  
17 the activities of such person are within the scope of such person's edu-  
18 cation and training;

19 (11) to any person who counsels or provides weight-control services  
20 as a part of a franchised or recognized weight-control program or a  
21 weight-control program that operates under the general direction of a  
22 person licensed to practice the healing arts, nursing or a person licensed  
23 under this act;

24 (12) to any person who is acting as a representative of a trade asso-  
25 ciation and who engages in one or more activities included within the  
26 practice of dietetics as a representative of such association;

27 (13) to a ~~registered~~ *licensed* physical therapist who makes a dietetic  
28 or nutritional assessment or gives dietetic or nutritional advice in the  
29 normal practice of such person's profession or as otherwise authorized by  
30 law;

31 (14) to a dietitian licensed, registered or otherwise authorized to  
32 practice dietetics in another state who is providing consultation in this  
33 state;

34 (15) to any person conducting a teaching clinical demonstration  
35 which is carried out in an educational institution or an affiliated clinical  
36 facility or health care agency;

37 (16) to any person conducting classes or disseminating information  
38 relating to nonmedical nutrition; or

39 (17) to any person permitted to practice under K.S.A. 65-2872a and  
40 amendments thereto.

41 (c) Nothing in this act shall be construed to interfere with the relig-  
42 ious practices or observances of a bona fide religious organization, nor to  
43 prevent any person from caring for the sick in accordance with tenets and



1 practices of any church or religious denomination which teaches reliance  
2 upon spiritual means through prayer for healing.

3 Sec. 29. K.S.A. 7-121b, 40-2,111, 60-513d, 60-2609, 65-1501, 65-  
4 1902, 65-2891, 65-2901, 65-2902, 65-2903, 65-2904, 65-2905, 65-2906,  
5 65-2907, 65-2908, 65-2909, 65-2910, 65-2911, 65-2912, 65-2913, 65-  
6 2914, 65-2915, 65-2916, 65-2918, 65-2919, 65-4915, 65-4921, 65-5418  
7 and 65-5912 and K.S.A. 2002 Supp. 17-2707, 21-3721 and 40-3401 are  
8 hereby repealed.

9 Sec. 30. This act shall take effect and be in force from and after April  
10 1, 2004, and its publication in the statute book.

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