AN ACT concerning gender identity medical care; creating the crime of unlawful gender reassignment service and providing punishment therefor; providing grounds for unprofessional conduct for healing arts licensees; amending K.S.A. 65-2837 and repealing the existing section.

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

New Section 1. (a) Unlawful gender reassignment service is knowingly performing, or causing to be performed, any of the following upon a person under 21 years of age for the purpose of attempting to change or affirm the person's perception of the person's sex, if that perception is inconsistent with the person's sex:

(1) A surgery that sterilizes or is intended to result in sterilization, including, but not limited to, castration, vasectomy, hysterectomy, oophorectomy, orchiectomy and penectomy;

(2) a surgery that artificially constructs tissue with the appearance of genitalia, including, but not limited to, metoidioplasty, phalloplasty and vaginoplasty;

(3) a mastectomy;

(4) prescribing, dispensing, administering or otherwise supplying the following medications:

(A) Puberty-blocking medication to delay, hinder, stop or reverse normal puberty;

(B) supraphysiologic doses of testosterone to females; or

(C) supraphysiologic doses of estrogen to males; or

(5) removing any otherwise healthy or nondiseased body part or tissue.

(b) Unlawful gender reassignment service is a severity level 4, person felony.

(c) The provisions of this section shall not apply if the person was born with a medically verifiable disorder of sex development, including, but not limited to:

(1) A person with external biological sex characteristics that are irresolvably ambiguous, such as a person born having 46,XX chromosomes with virilization, 46,XY chromosomes with undervirilization or both ovarian and testicular tissue; or

(2) when a physician has otherwise diagnosed a disorder of sexual
development, in which the physician has determined through genetic or
biochemical testing that the person does not have the normal sex
chromosome structure, sex steroid hormone production or sex steroid
hormone action for a male or female of the person's age.

(d) As used in this section, "sex" means the biological state of being
female or male, based on the individual's sex organs, chromosomes and
endogenous hormone profiles.

(e) This section shall be known as the Kansas child mutilation
prevention act.

(f) This section shall be a part of and supplemental to the Kansas
criminal code.

Sec. 2. K.S.A. 65-2837 is hereby amended to read as follows: 65-
2837. As used in K.S.A. 65-2836, and amendments thereto, and in this
section:

(a) "Professional incompetency" means:

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

(2) Repeated instances involving failure to adhere to the applicable
standard of care to a degree that constitutes ordinary negligence, as
determined by the board.

(3) A pattern of practice or other behavior that demonstrates a
manifest incapacity or incompetence to practice the healing arts.

(b) "Unprofessional conduct" means:

(1) Solicitation of professional patronage through the use of
fraudulent or false advertisements, or profiting by the acts of those
representing themselves to be agents of the licensee.

(2) Representing to a patient that a manifestly incurable disease,
condition or injury can be permanently cured.

(3) Assisting in the care or treatment of a patient without the consent
of the patient, the attending physician or the patient's legal representatives.

(4) The use of any letters, words or terms as an affix, on
stationery, in advertisements or otherwise indicating that such person is
entitled to practice a branch of the healing arts for which such person is
not licensed.

(5) Performing, procuring or aiding and abetting in the performance
or procurement of a criminal abortion.

(6) Willful betrayal of confidential information.

(7) Advertising professional superiority or the performance of
professional services in a superior manner.

(8) Advertising to guarantee any professional service or to perform
any operation painlessly.

(9) Participating in any action as a staff member of a medical care
facility that is designed to exclude or that results in the exclusion of any
person licensed to practice medicine and surgery from the medical staff of
a nonprofit medical care facility licensed in this state because of the
branch of the healing arts practiced by such person or without just cause.
(10) Failure/Failing to effectuate the declaration of a qualified patient
as provided in K.S.A. 65-28,107(a), and amendments thereto.
(11) Prescribing, ordering, dispensing, administering, selling,
supplying or giving any amphetamines or sympathomimetic amines,
except as authorized by K.S.A. 65-2837a, and amendments thereto.
(12) Engaging in conduct likely to deceive, defraud or harm the
public.
(13) Making a false or misleading statement regarding the licensee's
skill or the efficacy or value of the drug, treatment or remedy prescribed
by the licensee or at the licensee's direction in the treatment of any disease
or other condition of the body or mind.
(14) Aiding or abetting the practice of the healing arts by an
unlicensed, incompetent or impaired person.
(15) Allowing another person or organization to use the licensee's
license to practice the healing arts.
(16) Commission of Committing any act of sexual abuse, misconduct
or other improper sexual contact that exploits the licensee-patient
relationship with a patient or a person responsible for health care decisions concerning such patient.
(17) The use of Using any false, fraudulent or deceptive statement in
any document connected with the practice of the healing arts, including the
intentional falsifying or fraudulent altering of a patient or medical care facility record.
(18) Obtaining any fee by fraud, deceit or misrepresentation.
(19) Directly or indirectly giving or receiving any fee, commission,
rebate or other compensation for professional services not actually and
personally rendered, other than through the legal functioning of lawful
professional partnerships, corporations, limited liability companies or
associations.
(20) Failure/Failing to transfer patient records to another licensee
when requested to do so by the subject patient or by such patient's legally
designated representative.
(21) Performing unnecessary tests, examinations or services that have
no legitimate medical purpose.
(22) Charging an excessive fee for services rendered.
(23) Prescribing, dispensing, administering or distributing a
prescription drug or substance, including a controlled substance, in an
improper or inappropriate manner, or for other than a valid medical
purpose, or not in the course of the licensee's professional practice.
(24) **Repeated failure** to practice healing arts with that level of care, skill and treatment that is recognized by a reasonably prudent similar practitioner as being acceptable under similar conditions and circumstances.

(25) **Failure** to keep written medical records that accurately describe the services rendered to the patient, including patient histories, pertinent findings, examination results and test results.

(26) Delegating professional responsibilities to a person when the licensee knows or has reason to know that such person is not qualified by training, experience or licensure to perform them.

(27) Using experimental forms of therapy without proper informed patient consent, without conforming to generally accepted criteria or standard protocols, without keeping detailed legible records or without having periodic analysis of the study and results reviewed by a committee or peers.

(28) Prescribing, dispensing, administering or distributing an anabolic steroid or human growth hormone for other than a valid medical purpose. Bodybuilding, muscle enhancement or increasing muscle bulk or strength through the use of an anabolic steroid or human growth hormone by a person who is in good health is not a valid medical purpose.

(29) Referring a patient to a healthcare entity for services if the licensee has a significant investment interest in the healthcare entity, unless the licensee informs the patient in writing of such significant investment interest and that the patient may obtain such services elsewhere.

(30) Failing to properly supervise, direct or delegate acts that constitute the healing arts to persons who perform professional services pursuant to such licensee's direction, supervision, order, referral, delegation or practice protocols.

(31) Violating K.S.A. 65-6703, and amendments thereto.

(32) Charging, billing or otherwise soliciting payment from any patient, patient's representative or insurer for anatomic pathology services, if such services are not personally rendered by the licensee or under such licensee's direct supervision. As used in this subsection, "anatomic pathology services" means the gross or microscopic examination of histologic processing of human organ tissue or the examination of human cells from fluids, aspirates, washings, brushings or smears, including blood banking services, and subcellular or molecular pathology services, performed by or under the supervision of a person licensed to practice medicine and surgery or a clinical laboratory. Nothing in this subsection shall be construed to prohibit billing for anatomic pathology services by:

(A) A hospital;

(B) a clinical laboratory when samples are transferred between
clinical laboratories for the provision of anatomic pathology services; or
(C) a physician providing services to a patient pursuant to a medical
retainer agreement in compliance with K.S.A. 65-4978, and amendments
thereto, when the bill to the patient for such services:
(i) Identifies the laboratory or physician that performed the services;
(ii) discloses in writing to the patient the actual amount charged by
the physician or laboratory that performed the service; and
(iii) is consistent with rules and regulations adopted by the board for
appropriate billing standards applicable to such services when furnished
under these agreements.
(33) Engaging in conduct that violates patient trust and exploits the
licensee-patient relationship for personal gain.
(34) Obstructing a board investigation including, but not limited to,
engaging in one or more of the following acts:
(A) Falsifying or concealing a material fact;
(B) knowingly making or causing to be made any false or misleading
statement or writing; or
(C) other acts or conduct likely to deceive or defraud the board.
(35) Violating section 1, and amendments thereto.
(c) "False advertisement" means any advertisement that is false,
misleading or deceptive in a material respect. In determining whether any
advertisement is misleading, there shall be taken into account not only
representations made or suggested by statement, word, design, device,
sound or any combination thereof, but also the extent to which the
advertisement fails to reveal facts material in the light of such
representations made.
(d) "Advertisement" means all representations disseminated in any
manner or by any means for the purpose of inducing, or that are likely to
induce, directly or indirectly, the purchase of professional services.
(e) "Licensee" for purposes of this section and K.S.A. 65-2836, and
amendments thereto, means all persons issued a license, permit or special
permit pursuant to article 28 of chapter 65 of the Kansas Statutes
Annotated, and amendments thereto.
(f) "License" for purposes of this section and K.S.A. 65-2836, and
amendments thereto, means any license, permit or special permit granted
under article 28 of chapter 65 of the Kansas Statutes Annotated, and
amendments thereto.
(g) "Health care entity" means any corporation, firm,
partnership or other business entity that provides services for diagnosis or
treatment of human health conditions and that is owned separately from a
referring licensee's principle practice.
(h) "Significant investment interest" means ownership of at least 10%
of the value of the firm, partnership or other business entity that owns or
leases the health-care healthcare entity, or ownership of at least 10% of the
shares of stock of the corporation that owns or leases the health-care
healthcare entity.

Sec. 3. K.S.A. 65-2837 is hereby repealed.

Sec. 4. This act shall take effect and be in force from and after its
publication in the statute book.