

SENATE SUBSTITUTE FOR HOUSE BILL No. 2225

AN ACT concerning the healing arts; regarding licenses and medical retainer agreements; access to health care records; amending K.S.A. 65-2811a, 65-2852, as amended by section 21 of chapter 131 of the 2014 Session Laws of Kansas, 65-2857, as amended by section 22 of chapter 131 of the 2014 Session Laws of Kansas, 65-2860, as amended by section 24 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a02, as amended by section 42 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a08, as amended by section 47 of chapter 131 of the 2014 Session Laws of Kansas, 65-4941 and 65-4942 and K.S.A. 2013 Supp. 65-1626, as amended by section 4 of chapter 131 of the 2014 Session Laws of Kansas, 65-2809, as amended by section 7 of chapter 131 of the 2014 Session Laws of Kansas, 65-2836, as amended by section 10 of chapter 131 of the 2014 Session Laws of Kansas, 65-2895, as amended by section 36 of chapter 131 of the 2014 Session Laws of Kansas, 65-28,127, as amended by section 40 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a03, as amended by section 43 of chapter 131 of the 2014 Session Laws of Kansas, 65-4101, as amended by section 50 of chapter 131 of the 2014 Session Laws of Kansas and 72-8252, as amended by section 54 of chapter 131 of the 2014 Session Laws of Kansas and K.S.A. 2014 Supp. 65-6824 and repealing the existing sections.

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

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

(1) “Health care provider” means a person licensed under the healing arts act as specified by K.S.A. 65-2802(d), and amendments thereto. Health care provider includes an individual or other legal entity alone or with others professionally associated with the individual or other legal entity.

(2) “Medical retainer agreement” means a contract between a health care provider and an individual patient or patient’s legal representative in which the health care provider agrees to provide routine health care services to the individual patient for an agreed-upon fee and period of time.

(3) “Routine health care service” means only the following:

(A) Screening, assessment, diagnosis and treatment for the purpose of promotion of health or the detection and management of disease or injury;

(B) medical supplies and prescription drugs that are dispensed in a health care provider’s office or facility site;

(C) laboratory work including routine blood screening or routine pathology screening performed by a laboratory that meets either of the following requirements:

(i) Is associated with the health care provider that is a party to the medical retainer agreement; or

(ii) if not associated with the health care provider, has entered into an agreement with the health care provider that is a party to the medical retainer agreement to provide the laboratory work without charging a fee to the patient for the laboratory work.

(b) (1) A medical retainer agreement is not insurance and shall not be subject to any provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto. Entering into a medical retainer agreement is not the business of insurance and is not subject to any provisions of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(2) A health care provider or agent of a health care provider is not required to obtain a certificate of authority or license under chapter 40 of the Kansas Statutes Annotated, and amendments thereto, to market, sell or offer to sell a medical retainer agreement.

(3) To be considered a medical retainer agreement for the purposes of this section, the agreement must meet all of the following requirements:

(A) Be in writing;

(B) be signed by the health care provider or agent of the health care provider and the individual patient or such patient’s legal representative;

(C) allow either party to terminate the agreement on written notice to the other party;

(D) describe and quantify the specific routine health care services that are included in the agreement;

(E) specify the fee for the agreement;

(F) specify the period of time under the agreement;

(G) prominently state in writing that the agreement is not health insurance;

(H) prohibit the health care provider and the patient from billing an insurer or other third party payer for the services provided under the agreement; and

(I) prominently state in writing that the individual patient must pay the provider for all services not specified in the agreement and not otherwise covered by insurance.

(c) At the top of the first page of the medical retainer agreement, the language shall prominently state in writing, in boldface type in 10 point font or greater and in the following form with all words capitalized:

NOTICE: THIS MEDICAL RETAINER AGREEMENT DOES NOT CONSTITUTE INSURANCE, IS NOT A MEDICAL PLAN THAT PROVIDES HEALTH INSURANCE COVERAGE FOR PURPOSES OF THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT AND COVERS ONLY LIMITED, ROUTINE HEALTH CARE SERVICES AS DESIGNATED IN THIS AGREEMENT.

This notice shall be followed by a short, parallel line which shall be initialed by the patient or the patient's legal representative to indicate the patient or patient's legal representative has read the notice statement.

Sec. 2. On and after July 1, 2015, K.S.A. 2013 Supp. 65-1626, as amended by section 4 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-1626. For the purposes of this act:

(a) "Administer" means the direct application of a drug, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Authorized distributor of record" means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer's prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer's current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

(e) "Board" means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(f) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed.

(g) "Brand name" means the registered trademark name given to a drug product by its manufacturer, labeler or distributor.

(h) "Chain pharmacy warehouse" means a permanent physical location for drugs or devices, or both, that acts as a central warehouse and performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

(i) "Co-licensee" means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

(j) “DEA” means the U.S. department of justice, drug enforcement administration.

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

(l) “Direct supervision” means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

(m) “Dispense” means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

(n) “Dispenser” means a practitioner or pharmacist who dispenses prescription medication, or a physician assistant who has authority to dispense prescription-only drugs in accordance with ~~subsection (b) of~~ K.S.A. 65-28a08(b), and amendments thereto.

(o) “Distribute” means to deliver, other than by administering or dispensing, any drug.

(p) “Distributor” means a person who distributes a drug.

(q) “Drop shipment” means the sale, by a manufacturer, that manufacturer’s co-licensee, that manufacturer’s third party logistics provider, or that manufacturer’s exclusive distributor, of the manufacturer’s prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer’s co-licensee, that manufacturer’s third party logistics provider, or that manufacturer’s exclusive distributor, of such prescription drug. Drop shipment shall be part of the “normal distribution channel.”

(r) “Drug” means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in ~~clause~~ *paragraph* (1), (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term “drug” shall not include amygdalin (laetrile) or any livestock remedy, if such livestock remedy had been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

(s) “Durable medical equipment” means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; or (16) other similar equipment determined by the board in rules and regulations adopted by the board.

(t) “Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(u) “Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber’s computers and servers where access and records are controlled by the prescriber.

(v) “Electronic signature” means a confidential personalized digital key, code, number or other method for secure electronic data transmis-

sions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(w) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(x) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(y) "Exclusive distributor" means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must be an authorized distributor of record.

(z) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

(aa) "Generic name" means the established chemical name or official name of a drug or drug product.

(bb) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

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

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

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;

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

(E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

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

(cc) "Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(dd) "Intracompany transaction" means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

(ee) "Medical care facility" shall have the meaning provided in K.S.A. 65-425, and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b, and amendments thereto, except community mental health centers and facilities for people with intellectual disability.

(ff) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the

individual's own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice;

(2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(gg) "Manufacturer" means a person licensed or approved by the FDA to engage in the manufacture of drugs and devices.

(hh) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs *prior to January 11, 2016*, pursuant to a written protocol *with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016, pursuant to a written agreement* with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(ii) "Normal distribution channel" means a chain of custody for a prescription-only drug that goes from a manufacturer of the prescription-only drug, from that manufacturer to that manufacturer's co-licensed partner, from that manufacturer to that manufacturer's third-party logistics provider, or from that manufacturer to that manufacturer's exclusive distributor, directly or by drop shipment, to:

(1) A pharmacy to a patient or to other designated persons authorized by law to dispense or administer such drug to a patient;

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse's intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

(jj) "Person" means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(kk) "Pharmacist" means any natural person licensed under this act to practice pharmacy.

(ll) "Pharmacist-in-charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(mm) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who has successfully passed equivalency examinations approved by the board.

(nn) "Pharmacy," "drugstore" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either

in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

(oo) “Pharmacy prescription application” means software that is used to process prescription information, is installed on a pharmacy’s computers or servers, and is controlled by the pharmacy.

(pp) “Pharmacy technician” means an individual who, under the direct supervision and control of a pharmacist, may perform packaging, manipulative, repetitive or other nondiscretionary tasks related to the processing of a prescription or medication order and who assists the pharmacist in the performance of pharmacy related duties, but who does not perform duties restricted to a pharmacist.

(qq) “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

(rr) “Preceptor” means a licensed pharmacist who possesses at least two years’ experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist.

(ss) “Prescriber” means a practitioner or a mid-level practitioner.

(tt) “Prescription” or “prescription order” means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber’s professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form.

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

(vv) “Prescription-only drug” means any drug whether intended for use by man or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(ww) “Probation” means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(xx) “Professional incompetency” means:

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

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

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

(yy) “Readily retrievable” means that records kept by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(zz) “Retail dealer” means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a

prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

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

(bbb) “Third party logistics provider” means an entity that: (1) Provides or coordinates warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug’s sale or disposition; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(ccc) “Unprofessional conduct” means:

- (1) Fraud in securing a registration or permit;
- (2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;
- (3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;
- (4) intentionally falsifying or altering records or prescriptions;
- (5) unlawful possession of drugs and unlawful diversion of drugs to others;
- (6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;
- (7) conduct likely to deceive, defraud or harm the public;
- (8) making a false or misleading statement regarding the licensee’s professional practice or the efficacy or value of a drug;
- (9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee’s professional practice; or
- (10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ddd) “Vaccination protocol” means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and record-keeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

(eee) “Valid prescription order” means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber’s professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

(fff) “Veterinary medical teaching hospital pharmacy” means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

(ggg) “Wholesale distributor” means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackagers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers’ and distributors’ warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

(hhh) “Wholesale distribution” means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include:

- (1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription;
- (2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons;

- (3) intracompany transactions, as defined in this section, unless in violation of own use provisions;
- (4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control;
- (5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;
- (6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations;
- (7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement;
- (8) the sale, purchase or trade of blood and blood components intended for transfusion;
- (9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations;
- (10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations;
- (11) the distribution of drug samples by manufacturers' and authorized distributors' representatives;
- (12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or
- (13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 3. On and after July 1, 2015, K.S.A. 2013 Supp. 65-2809, as amended by section 7 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2809. (a) The license shall ~~expire~~ *be canceled* on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the ~~expiration~~ *renewal* date of the license.

(b) There is hereby created a designation of an active license. The board is authorized to issue an active license to any licensee who make written application for such license on a form provided by the board and remits the fee for an active license established pursuant to K.S.A. 65-2852, and amendments thereto. The board shall require every active licensee to submit evidence of satisfactory completion of a program of continuing education required by the board. The requirements for continuing education for licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board.

(c) The board, prior to renewal of a license, shall require an active licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(d) At least 30 days before the ~~expiration~~ *renewal date* of a licensee's license, the board shall notify the licensee of the ~~expiration~~ *renewal date* by mail addressed to the licensee's last mailing address as noted upon the

office records. If the licensee fails to *submit the renewal application and pay the renewal fee by the date of the expiration renewal date* of the license, the licensee shall be given a second notice that the ~~licensee's license has expired~~ *licensee has failed to submit the renewal application and pay the renewal fee by the renewal date of the license*, that the license will be deemed canceled if not renewed within 30 days following the ~~date of expiration~~ *renewal date*, that upon receipt of the *renewal application and renewal fee* and an additional fee established by rules and regulations of the board not to exceed \$500 within the ~~thirty-day~~ *30-day* period the license will not be canceled and that, if both fees are not received within the ~~thirty-day~~ *30-day* period, the license shall be deemed canceled by operation of law and without further proceedings.

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

(f) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of the healing arts in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (f). The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees of each branch of the healing arts shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of the appropriate branch of the healing arts upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852, and amendments thereto. For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of the healing arts or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety. Nothing in this subsection (f) shall be construed to prohibit a person holding an exempt license from serving as a coroner or as a paid employee of: (1) A local health department as defined by K.S.A. 65-241, and amendments thereto; or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(g) There is hereby created a designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to K.S.A. 65-2852, and amendments thereto. The board may issue an inactive license only to a person who is not regularly engaged in the practice of the healing arts in Kansas, who does not hold oneself out to the public as being professionally engaged in such practice and who meets the definition of inactive health care provider as defined in K.S.A. 40-3401, and amend-

ments thereto. An inactive license shall not entitle the holder to practice the healing arts in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the healing arts act, except as otherwise provided in this subsection (g). The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2809, and amendments thereto. Each inactive licensee may apply for an active license upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2852, and amendments thereto. For those licensees whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice the healing arts within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of the healing arts or engaged in a formal education program since the licensee has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.

(h) (1) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the same fee required for a license established under K.S.A. 65-2852, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice the healing arts in Kansas and who practices that branch of the healing arts solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. A person issued a federally active license may engage in limited practice outside of the course of federal employment consistent with the scope of practice of exempt licensees under subsection (f), except that the scope of practice of a federally active licensee shall be limited to the following: (A) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions; (B) providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this ~~subpart~~ subsection (h)(1)(B) shall prohibit a person licensed to practice the healing arts issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and (C) rendering professional services as a charitable health care provider as defined in K.S.A. 75-6102, and amendments thereto.

(2) The provisions of subsections (a), (b), (d) and (e) of this section relating to continuing education, ~~expiration and cancellation~~, renewal and reinstatement of a license shall be applicable to a federally active license issued under this subsection.

(3) A person who practices under a federally active license shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

(j) (1) There is hereby created the designation of reentry *active* license. The board is authorized to issue a reentry *active* license to any licensee who makes written application for such license on a form provided by the board and remits the fee for a reentry *active* license. The board may issue a reentry *active* license with requirements as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety to a person who has not regularly engaged in the practice of the healing arts for at least two years, but who meets all the qualifications for licensure. The requirements for issuance, ~~renewal~~ *maintenance* and scope of practice for a reentry *active* license shall be established by rules and regulations adopted by the board.

(2) *The provisions of subsections (a), (b) and (d) of this section relating to continuing education, cancellation and renewal of a license shall be applicable to a reentry active license issued under this subsection.*

Sec. 4. On and after July 1, 2015, K.S.A. 65-2811a is hereby amended to read as follows: 65-2811a. (a) The state board of healing arts may issue

a special permit to practice ~~the appropriate branch of the healing arts~~ *medicine and surgery*, under the supervision of a person licensed to practice ~~such branch of the healing arts~~ *medicine and surgery*, to any person who has completed undergraduate training ~~in a branch of the healing arts~~ *at the university of Kansas school of medicine* and who has not engaged in a full-time approved postgraduate training program.

(b) Such special permit shall be issued only to a person who: (1) Has made proper application for such special permit upon forms approved by the state board of healing arts;

(2) meets all qualifications of licensure except examinations and postgraduate training, as required by the Kansas healing arts act;

(3) ~~is not yet but will be engaged in~~ *has not yet commenced* a full-time, approved postgraduate training program in Kansas;

(4) has obtained the sponsorship of a person licensed to practice ~~the branch of the healing arts in which the applicant is training;~~ *medicine and surgery* which sponsor practices in an area of Kansas which is determined under K.S.A. 76-375, and amendments thereto, to be medically underserved; and

(5) has paid the prescribed fees as established by the state board of healing arts for the application for and granting of such special permit.

(c) The special permit, when issued, shall authorize the person to whom the special permit is issued to practice ~~the branch of the healing arts in which such person is training~~ *medicine and surgery* under the supervision of the person licensed to practice ~~that branch of the healing arts~~ *medicine and surgery* who has agreed to sponsor *and accept responsibility for the services rendered by* such special permit holder. *A special permit holder may prescribe drugs, but may not prescribe controlled substances.* The special permit shall not authorize the person holding the special permit to engage in the private practice of ~~the healing arts~~ *medicine and surgery*. The holder of a special permit under this section shall not charge patients a fee for services rendered but may be compensated directly by the person under whose supervision and sponsorship the permit holder is practicing. *A special permit holder shall clearly identify oneself to patients as a physician in training and may use the term "doctor" or "Dr."* The special permit shall expire on the day the person holding the special permit becomes engaged in a full-time, approved postgraduate training program or one year from its date of issuance, whichever occurs first. *In no event may a special permit be renewed more than once.*

(d) *For the purposes of this section, "supervision" means that the supervising licensee is physically present within the healthcare facility or other site of patient care and is immediately available to the special permit holder.*

(e) *A person who practices under a special permit issued herein shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.*

(f) *A person who practices under a special permit issued herein shall be subject to all provisions of the healing arts act, except as otherwise provided in this section.*

(g) *The board may adopt all necessary rules and regulations, not inconsistent herewith, for carrying out the provisions of this section.*

(h) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 5. On and after July 1, 2015, K.S.A. 2013 Supp. 65-2836, as amended by section 10 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2836. A licensee's license may be revoked, suspended or limited, or the licensee may be publicly ~~or~~ *privately* censured or placed under probationary conditions, or an application for a license or for reinstatement of a license may be denied upon a finding of the existence of any of the following grounds:

(a) The licensee has committed fraud or misrepresentation in applying for or securing an original, renewal or reinstated license.

(b) The licensee has committed an act of unprofessional or dishonorable conduct or professional incompetency, except that the board may take appropriate disciplinary action or enter into a non-disciplinary resolution when a licensee has engaged in any conduct or professional practice on a single occasion that, if continued, would reasonably be expected

to constitute an inability to practice the healing arts with reasonable skill and safety to patients or unprofessional conduct as defined in K.S.A. 65-2837, and amendments thereto.

(c) The licensee has been convicted of a felony or class A misdemeanor, or substantially similar offense in another jurisdiction, whether or not related to the practice of the healing arts. The licensee has been convicted in a special or general court-martial, whether or not related to the practice of the healing arts. The board shall revoke a licensee's license following conviction of a felony or substantially similar offense in another jurisdiction, or following conviction in a general court-martial occurring after July 1, 2000, unless a 2/3 majority of the board members present and voting determine by clear and convincing evidence that such licensee will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust. In the case of a person who has been convicted of a felony or convicted in a general court-martial and who applies for an original license or to reinstate a canceled license, the application for a license shall be denied unless a 2/3 majority of the board members present and voting on such application determine by clear and convincing evidence that such person will not pose a threat to the public in such person's capacity as a licensee and that such person has been sufficiently rehabilitated to warrant the public trust.

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

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

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

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

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

(i) The licensee's ability to practice the healing arts with reasonable skill and safety to patients is impaired by reason of physical or mental illness, or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery by or release to any person or entity outside of a board proceeding.

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

(k) The licensee has violated any lawful rule and regulation promulgated by the board or violated any lawful order or directive of the board previously entered by the board.

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

(m) The licensee, if licensed to practice medicine and surgery, has failed to inform in writing a patient suffering from any form of abnormality of the breast tissue for which surgery is a recommended form of treatment, of alternative methods of treatment recognized by licensees of the same profession in the same or similar communities as being acceptable under like conditions and circumstances.

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

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

(p) The licensee has prescribed, sold, administered, distributed or given a controlled substance to any person for other than medically accepted or lawful purposes.

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

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

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

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

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

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

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

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

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

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

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

(bb) The licensee as the supervising physician for a physician assistant has failed to adequately direct and supervise the physician assistant in accordance with the physician assistant licensure act or rules and regulations adopted under such act.

(cc) The licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. ~~2013~~ 2014 Supp. 21-5407, and amendments thereto, as established by any of the following:

~~(A)~~(1) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. ~~2013~~ 2014 Supp. 21-5407, and amendments thereto.

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

~~(C)~~(3) A copy of the record of a judgment assessing damages under K.S.A. 60-4405, and amendments thereto.

(dd) The licensee has given a worthless check or stopped payment on a debit or credit card for fees or moneys legally due to the board.

(ee) The licensee has knowingly or negligently abandoned medical records.

Sec. 6. On and after July 1, 2015, K.S.A. 65-2852, as amended by section 21 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2852. The following fees shall be established by the board by rules and regulations and collected by the board:

- (a) For a license, issued upon the basis of an examination, in a sum of not more than \$300;
- (b) for a license, issued without examination and by endorsement, in a sum of not more than \$300;
- (c) for a license, issued upon a certificate from the national boards, in a sum of not more than \$300;
- (d) for the renewal of a license, the sum of not more than \$500;
- (e) for a temporary permit, in a sum of not more than \$60;
- (f) for an institutional license, in a sum of not more than \$300;
- (g) for a visiting professor temporary license, in a sum of not more than \$50;
- (h) for a certified statement from the board that a licensee is licensed in this state, the sum of not more than \$30;
- (i) for any copy of any license issued by the board, the sum of not more than \$30;
- (j) for any examination given by the board, a sum in an amount equal to the cost to the board of the examination;
- (k) for application for and issuance of a special permit under K.S.A. 65-2811a, and amendments thereto, the sum of not more than \$60;
- (l) for an exempt or inactive license or renewal of an exempt or inactive license, the sum of not more than \$150;
- (m) for conversion of an exempt or inactive license to a license to practice the healing arts, the sum of not more than \$300;
- (n) for reinstatement of a revoked license, in a sum of not more than \$1,000;
- (o) *for reinstatement of a canceled license, in a sum of not more than \$500;*
- (p) for a visiting clinical professor license, or renewal of a visiting clinical professor license, in a sum of not more than \$300;
- ~~(p)~~(q) for a postgraduate permit in a sum of not more than \$60;
- ~~(q)~~(r) for a limited permit or renewal of a limited permit, the sum of not more than \$60; ~~and~~
- ~~(r)~~(s) for a written verification of any license or permit, the sum of not more than \$25;
- (t) *for a reentry active license or renewal of a reentry active license, the sum of not more than \$500; and*
- (u) *for a resident active license, the sum of not more than \$500.*

Sec. 7. On and after July 1, 2015, K.S.A. 2013 Supp. 65-2895, as amended by section 36 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2895. (a) There is hereby created an institutional license which may be issued by the board to a person who:

- (1) Is a graduate of an accredited school of medicine or osteopathic medicine or a school which the graduates have been licensed in another state or states which have standards similar to Kansas;
 - (2) has completed at least two years in a postgraduate training program in the United States approved by the board; and
 - (3) who is employed as provided in this section.
- (b) Subject to the restrictions of this section, the institutional license shall confer upon the holder the right and privilege to practice medicine and surgery and shall obligate the holder to comply with all requirements of such license.
- (c) The practice privileges of institutional license holders are restricted and shall be valid only during the period in which:
- (1) The holder is employed by any institution within the Kansas department for aging and disability services, employed by any institution within the department of corrections or employed pursuant to a contract entered into by the Kansas department for aging and disability services or the department of corrections with a third party, and only within the institution to which the holder is assigned; and
 - (2) the holder has been employed for at least three years as described in subsection (c)(1) and is employed to provide mental health services in Kansas in the employ of a Kansas licensed community mental health center, or one of its contracted affiliates, or a federal, state, county or

municipal agency, or other political subdivision, or a contractor of a federal, state, county or municipal agency, or other political subdivision, or a duly chartered educational institution, or a medical care facility licensed under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric hospital licensed under K.S.A. 75-3307b, and amendments thereto, or a contractor of such educational institution, medical care facility or psychiatric hospital, and whose practice, in any such employment, is limited to providing mental health services, is a part of the duties of such licensee's paid position and is performed solely on behalf of the employer.

(d) An institutional license shall ~~expire~~ *be canceled* on the date established by rules and regulations of the board which may provide for renewal throughout the year on a continuing basis. In each case in which an institutional license is renewed for a period of time of more or less than 12 months, the board may prorate the amount of the fee established under K.S.A. 65-2852, and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the prescribed fee, which shall be paid not later than the ~~expiration~~ *renewal* date of the license. An institutional license may be renewed for an additional one-year period if the applicant for renewal meets the requirements under subsection (c), has submitted an application for renewal on a form provided by the board, has paid the renewal fee established by rules and regulations of the board of not to exceed \$500 and has submitted evidence of satisfactory completion of a program of continuing education required by the board. In addition, an applicant for renewal who is employed as described in subsection (c)(1) shall submit with the application for renewal a recommendation that the institutional license be renewed signed by the superintendent of the institution to which the institutional license holder is assigned.

(e) Nothing in this section shall prohibit any person who was issued an institutional license prior to the effective date of this section from having the institutional license reinstated by the board if the person meets the requirements for an institutional license described in subsection (a).

(f) This section shall be a part of and supplemental to the Kansas healing arts act.

Sec. 8. On and after July 1, 2015, K.S.A. 2013 Supp. 65-28,127, as amended by section 40 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28,127. (a) Every supervising or responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into written agreements or practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

- (1) Be actively engaged in the practice of the healing arts in Kansas;
- (2) review and keep current any required written agreements or practice protocols between the supervising or responsible licensee and such persons, as may be determined by the board;
- (3) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to such persons only those acts and functions which the supervising or responsible licensee knows or has reason to believe can be competently performed by such person and is not in violation of any other statute or regulation;
- (4) direct, supervise, order, refer, enter into a written agreement or practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the supervising or responsible licensee;
- (5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and written agreements or practice protocols with such persons when the supervising or responsible licensee is temporarily absent; and
- (6) comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(b) "Responsible licensee" means a person licensed by the state board of healing arts to practice medicine and surgery or chiropractic who has accepted responsibility for the actions of persons who perform acts pursuant to written agreements or practice protocols with, or at the order of, or referral, direction, supervision or delegation from such responsible licensee.

(c) Except as otherwise provided by rules and regulations of the board implementing this section, the physician assistant licensure act shall govern the direction and supervision of physician assistants by persons licensed by the state board of healing arts to practice medicine and surgery.

(d) Nothing in subsection (a)(4) shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing anesthesia care by a registered nurse anesthetist pursuant to K.S.A. 65-1158, and amendments thereto.

(e) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from ordering, authorizing or directing physical therapy services pursuant to K.S.A. 65-2901 et seq., and amendments thereto.

(f) Nothing in this section shall be construed to prohibit a person licensed to practice medicine and surgery from entering into a co-management relationship with an optometrist pursuant to K.S.A. 65-1501 et seq., and amendments thereto.

(g) The board may adopt rules and regulations establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.

(h) As used in this section, “supervising physician” ~~means a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the supervising physician shall have the meaning ascribed thereto in K.S.A. 65-28a02, and amendments thereto.~~

(i) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 9. On and after July 1, 2015, K.S.A. 65-28a02, as amended by section 42 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28a02. (a) The following words and phrases when used in the physician assistant licensure act shall have the meanings respectively ascribed to them in this section:

(1) “Board” means the state board of healing arts.

(2) “Direction and supervision” means the guidance, direction and coordination of activities of a physician assistant by such physician assistant’s supervising physician, whether written or verbal, whether immediate or by prior arrangement, in accordance with standards established by the board by rules and regulations, which standards shall be designed to ensure adequate direction and supervision by the supervising physician of the physician assistant. The term “direction and supervision” shall not be construed to mean that the immediate or physical presence of the supervising physician is required during the performance of the physician assistant.

(3) “Physician” means any person licensed by the state board of healing arts to practice medicine and surgery.

(4) “Physician assistant” means a person who is licensed in accordance with the provisions of K.S.A. 65-28a04, and amendments thereto, and who provides patient services under the direction and supervision of a supervising physician.

(5) “Supervising physician” means *prior to January 11, 2016, a responsible physician and on and after January 11, 2016, a physician who has accepted responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the supervising physician.*

(6) “*Responsible physician*” means *a physician who has accepted continuous and ultimate responsibility for the medical services rendered and actions of the physician assistant while performing under the direction and supervision of the responsible physician.*

(7) “Licensee,” for purposes of the physician assistant licensure act, means all persons issued a license or temporary license pursuant to the physician assistant licensure act.

~~(7)~~(8) “License,” for purposes of the physician assistant licensure act, means any license or temporary license granted by the physician assistant licensure act.

(9) “*Agreement*” means, *prior to January 11, 2016, protocol and on and after January 11, 2016, agreement.*

(b) *Prior to January 11, 2016, wherever the term “supervising phy-*

sician” in connection with the term “physician assistant,” or words of like effect, appears in any statute, contract or other document, it shall mean responsible physician as defined in subsection (a)(6). On and after January 11, 2016, such term shall mean supervising physician as defined in subsection (a)(5).

Sec. 10. On and after July 1, 2015, K.S.A. 2013 Supp. 65-28a03, as amended by section 43 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28a03. (a) There is hereby created a designation of active license. The board is authorized to issue an active license to a physician assistant who makes written application for such license on a form provided by the board and remits the fee for an active license established pursuant to subsection ~~(f)~~ (h). As a condition of engaging in active practice as a physician assistant, each licensed physician assistant shall file a request to engage in active practice signed by the physician assistant and the physician who will be responsible for the physician assistant. The request shall contain such information as required by rules and regulations adopted by the board. The board shall maintain a list of the names of physician assistants who may engage in active practice in this state.

(b) All licenses, except temporary licenses, shall ~~expire~~ *be canceled* on the date of ~~expiration~~ *cancellation* established by rules and regulations of the board and may be renewed as required by the board. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established pursuant to this section, which shall be paid not later than the ~~expiration~~ *renewal* date of the license. The board, prior to renewal of an active license, shall require the licensee to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto.

(c) At least 30 days before the ~~expiration~~ *renewal date* of the license of a physician assistant, except a temporary license, the board shall notify the licensee of the ~~expiration~~ *renewal date* by mail addressed to the licensee’s last mailing address as noted upon the office records of the board. If the licensee fails to *submit the renewal application and* pay the renewal fee by the ~~date of expiration~~ *renewal date* of the license, the licensee shall be given a second notice that the ~~licensee’s license has expired~~ *licensee has failed to pay the renewal fee by the renewal date of the license* and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the 30-day period following the ~~date of expiration~~ *renewal date* and that, if both fees are not received within the 30-day period, the license shall be deemed canceled by operation of law without further proceedings for failure to renew and shall be reissued only after the license has been reinstated under subsection (d).

(d) Any license canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of licenses canceled for failure to renew.

(e) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to subsection ~~(f)~~ (h) of this section. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physician assistant and who does not engage in active practice as a physician assistant in the state of Kansas. An inactive license shall not entitle the holder to engage in active practice. The provisions of subsections (c) and (d) of this section relating to ~~expiration~~ *cancellation*, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by presenting a request required by subsection (a) and submit to the board evidence satisfactory to the board that such licensee is maintaining a policy of professional liability insurance as required by

K.S.A. 40-3402, and amendments thereto, and has paid the premium surcharges as required by K.S.A. 40-3404, and amendments thereto. The request shall contain such information as required by rules and regulations adopted by the board. The request shall be accompanied by the fee established pursuant to subsection ~~(f)~~ (h).

(f) (1) *There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensed physician assistant who makes written application for such license on a form provided by the board and remits the same fee required for a federally active license established under subsection (h). The board may issue a federally active license only to a person who meets all of the requirements for a license to practice as a physician assistant in Kansas and who practices as a physician assistant solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. A person issued a federally active license may engage in limited practice outside of the course of federal employment consistent with the scope of practice of exempt licensees under subsection (g), except that the scope of practice of a federally active licensee shall be limited to the following: (A) Performing administrative functions, including peer review, disability determinations, utilization review and expert opinions; (B) providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this subsection (f)(1)(B) shall prohibit a physician assistant issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and (C) rendering professional services as a charitable health care provider as defined in K.S.A. 75-6102, and amendments thereto.*

(2) *The provisions of subsections (c) and (d) of this section relating to continuing education, cancellation, renewal and reinstatement of a license shall be applicable to a federally active license issued under this subsection.*

(3) *A person who practices under a federally active license shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.*

(g) (1) *There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensed physician assistant who makes written application for such license on a form provided by the board and remits the fee for an exempt license established under subsection (h). The board may issue an exempt license to a person who is not regularly engaged in physician assistant practice in Kansas and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges of a physician assistant for which such license is issued. Each exempt license may be renewed subject to the provisions of this section. Each exempt licensee shall be subject to all provisions of the physician assistant licensure act, except as otherwise provided in this subsection (g). The holder of an exempt license may be required to submit evidence of satisfactory completion of a program of continuing education required by this section. The requirements for continuing education for exempt licensees under this section shall be established by rules and regulations adopted by the board. Each exempt licensee may apply for an active license to regularly engage in the practice of a physician assistant upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the active license fee established pursuant to subsection (h).*

(2) *For the licensee whose license has been exempt for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for exempt licensees to become licensed to regularly practice as a physician assistant within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice as a physician assistant or engaged in a formal educational program since the license has been exempt may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.*

(3) *Nothing in this subsection (g) shall be construed to prohibit a person holding an exempt license from serving as a paid employee of: (A) A local health department as defined by K.S.A. 65-241, and amendments*

thereto; or (B) an indigent health care clinic as defined by K.S.A. 75-6102, and amendments thereto.

(h) The following fees shall be fixed by rules and regulations adopted by the state board of healing arts and shall be collected by the board:

(1) For an active license as a physician assistant, the sum of not more than \$200;

(2) for any license by endorsement as a physician assistant, the sum of not more than \$200;

(3) for temporary licensure as a physician assistant, the sum of not more than \$30;

(4) for the renewal of an active license to practice as a physician assistant, the sum of not more than \$150;

(5) for renewal of an inactive license, the sum of not more than \$150;

(6) for the late renewal of any license as a physician assistant, the sum of not more than \$250;

(7) for reinstatement of a license canceled for failure to renew, the sum of not more than \$250;

(8) for a certified statement from the board that a physician assistant is licensed in this state, the sum of not more than \$30;

(9) *for a federally active license, the sum of not more than \$200;*

(10) *for the exempt license, the sum of not more than \$150;*

(11) for a copy of the licensure certificate of a physician assistant, the sum of not more than \$25; and

~~(10)~~(12) for conversion of an inactive license to an active license to actively practice as a physician assistant, the sum of not more than \$150.

~~(g)~~(i) The board shall remit all moneys received by or for the board under the provisions of this act to the state treasurer and such money shall be deposited in the state treasury, credited to the state general fund and the healing arts fee fund and expended all in accordance with K.S.A. 65-2855, and amendments thereto.

~~(h)~~(j) The board may promulgate all necessary rules and regulations for carrying out the provisions of this act.

Sec. 11. On and after July 1, 2015, K.S.A. 65-28a08, as amended by section 47 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-28a08. (a) The practice of a physician assistant shall include medical services within the education, training and experience of the physician assistant that are delegated by the supervising physician. Physician assistants practice in a dependent role with a supervising physician, and may perform those duties and responsibilities through delegated authority or written agreement. Medical services rendered by physician assistants may be performed in any setting authorized by the supervising physician, including, but not limited to, clinics, hospitals, ambulatory surgical centers, patient homes, nursing homes and other medical institutions.

(b) (1) A person licensed as a physician assistant may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician assistant and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician assistant under the supervising physician's direction and supervision. A physician assistant may prescribe drugs pursuant to a written agreement as authorized by the supervising physician.

(2) *On and after January 11, 2016*, a physician assistant, when authorized by a supervising physician, may dispense prescription-only drugs:

(A) In accordance with rules and regulations adopted by the board governing prescription-only drugs;

(B) when dispensing such prescription-only drugs is in the best interests of the patient and pharmacy services are not readily available; and

(C) if such prescription-only drugs do not exceed the quantity necessary for a 72-hour supply.

(c) Before a physician assistant shall perform under the direction and supervision of a supervising physician, such physician assistant shall be identified to the patient and others involved in providing the patient services as a physician assistant to the supervising physician. Physician assistants licensed under the provisions of this act shall keep such person's license available for inspection at their primary place of business. A phy-

sician assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887, and amendments thereto.

(d) (1) The board shall adopt rules and regulations *to be effective January 11, 2016*, governing the practice of physician assistants, including the delegation, direction and supervision responsibilities of a supervising physician. Such rules and regulations shall establish conditions and limitations as the board determines to be necessary to protect the public health and safety, and may include a limit upon the number of physician assistants that a supervising physician is able to safely and properly supervise. In developing rules and regulations relating to the practice of physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and supervising physicians practice, the needs of the geographic area of the state in which the physician assistant and the supervising physician practice and the differing degrees of direction and supervision by a supervising physician appropriate for such settings and areas.

(2) The board shall adopt rules and regulations governing the prescribing of drugs by physician assistants and the responsibilities of the supervising physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the prescribing of drugs by physician assistants, the board shall take into consideration the amount of training and capabilities of physician assistants, the different practice settings in which physician assistants and supervising physicians practice, the degree of direction and supervision to be provided by a supervising physician and the needs of the geographic area of the state in which the supervising physician's physician assistant and the supervising physician practice. In all cases in which a physician assistant is authorized to prescribe drugs by a supervising physician, a written agreement between the supervising physician and the physician assistant containing the essential terms of such authorization shall be in effect. Any written prescription order shall include the name, address and telephone number of the supervising physician. In no case shall the scope of the authority of the physician assistant to prescribe drugs exceed the normal and customary practice of the supervising physician in the prescribing of drugs.

(e) The physician assistant may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written agreement as authorized by the supervising physician. In order to prescribe or dispense controlled substances, the physician assistant shall register with the federal drug enforcement administration.

(f) As used in this section, "drug" means those articles and substances defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

(g) *Prior to January 11, 2016, the board shall limit the number of physician assistants a responsible physician may supervise at any one time to the equivalent of two full-time physician assistants as approved in each case by the board. Any limitation on the number of physician assistants in this subsection shall not apply to services performed in a medical care facility, as defined in K.S.A. 65-425, and amendments thereto. The provisions of this subsection shall expire on January 11, 2016.*

Sec. 12. On and after July 1, 2015, K.S.A. 65-2857, as amended by section 22 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2857. An action in injunction or quo warranto may be brought and maintained in the name of the state of Kansas to enjoin or oust from the unlawful practice of any profession regulated by the board or any profession defined by the practice acts administered by the board *a person practicing such profession* without being duly licensed therefor.

Sec. 13. On and after July 1, 2015, K.S.A. 65-2860, as amended by section 24 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-2860. Any person who ~~shall present~~ *presents* to the board a diploma or certificate of which such person is not the rightful owner for the purpose of procuring a license, or who ~~shall~~ *impersonate* ~~impersonate~~ *impersonates* anyone to whom a license, registration, permit

or certificate has been issued by the board. ~~Violation of this section is guilty of an unclassified nonperson felony.~~ In addition, violation of this section may render the violator liable for a civil penalty, as well as reasonable costs of investigation and prosecution, unless otherwise specified.

Sec. 14. On and after July 1, 2015, K.S.A. 2013 Supp. 65-4101, as amended by section 50 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 65-4101. As used in this act: (a) “Administer” means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by:

(1) A practitioner or pursuant to the lawful direction of a practitioner; or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) “Agent” means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.

(c) “Application service provider” means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) “Board” means the state board of pharmacy.

(e) “Bureau” means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(f) “Controlled substance” means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

(g) (1) “Controlled substance analog” means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto; or

(C) with respect to a particular individual, which such individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with respect to the substance is permitted by the exemption.

(h) “Counterfeit substance” means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(i) “Cultivate” means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(j) “DEA” means the U.S. department of justice, drug enforcement administration.

(k) “Deliver” or “delivery” means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(l) “Dispense” means to deliver a controlled substance to an ultimate

user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

(m) “Dispenser” means a practitioner or pharmacist who dispenses, or a physician assistant who has authority to dispense prescription-only drugs in accordance with ~~subsection (b) of~~ K.S.A. 65-28a08(b), and amendments thereto.

(n) “Distribute” means to deliver other than by administering or dispensing a controlled substance.

(o) “Distributor” means a person who distributes.

(p) “Drug” means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in ~~clause~~ *paragraph* (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

(q) “Immediate precursor” means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(r) “Electronic prescription” means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(s) “Electronic prescription application” means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber’s computers and servers where access and records are controlled by the prescriber.

(t) “Electronic signature” means a confidential personalized digital key, code, number or other method for secure electronic data transmissions which identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person’s approval of the information contained in the transmission.

(u) “Electronic transmission” means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber’s electronic prescription application to a pharmacy’s computer, where the data file is imported into the pharmacy prescription application.

(v) “Electronically prepared prescription” means a prescription that is generated using an electronic prescription application.

(w) “Facsimile transmission” or “fax transmission” means the transmission of a digital image of a prescription from the prescriber or the prescriber’s agent to the pharmacy. “Facsimile transmission” includes, but is not limited to, transmission of a written prescription between the prescriber’s fax machine and the pharmacy’s fax machine; transmission of an electronically prepared prescription from the prescriber’s electronic prescription application to the pharmacy’s fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber’s fax machine to the pharmacy’s fax machine, computer or printer.

(x) “Intermediary” means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.

(y) “Isomer” means all enantiomers and diastereomers.

(z) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual’s own lawful use

or the preparation, compounding, packaging or labeling of a controlled substance:

(1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(aa) "Marijuana" means all parts of all varieties of the plant *Cannabis* whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(bb) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425, and amendments thereto.

(cc) "Mid-level practitioner" means an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs *prior to January 11, 2016*, pursuant to a written protocol *with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016, pursuant to a written agreement* with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(dd) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis:

(1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in ~~clause~~ *paragraph* (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(ee) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(ff) "Opium poppy" means the plant of the species *Papaver somniferum* L. except its seeds.

(gg) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(hh) "Pharmacist" means any natural person licensed under K.S.A. 65-1625 et seq., *and amendments thereto*, to practice pharmacy.

(ii) "Pharmacist intern" means: (1) A student currently enrolled in an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving such person's internship; or (3) a graduate of a pharmacy program located outside of the United States which is not accredited and who had successfully passed equivalency examinations approved by the board.

(jj) "Pharmacy prescription application" means software that is used

to process prescription information, is installed on a pharmacy's computers and servers, and is controlled by the pharmacy.

(kk) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(ll) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(mm) "Prescriber" means a practitioner or a mid-level practitioner.

(nn) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(oo) "Readily retrievable" means that records kept by automatic data processing applications or other electronic or mechanized recordkeeping systems can be separated out from all other records within a reasonable time not to exceed 48 hours of a request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

(pp) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

Sec. 15. On and after July 1, 2015, K.S.A. 65-4941 is hereby amended to read as follows: 65-4941. As used in this act:

(a) "Cardiopulmonary resuscitation" means chest compressions, assisted ventilations, intubation, defibrillation, administration of cardiotoxic medications or other medical procedure which is intended to restart breathing or heart functioning;

(b) "do not resuscitate" directive or "DNR directive" means a witnessed document in writing, voluntarily executed by the declarant in accordance with the requirements of this act;

(c) "do not resuscitate order" or "DNR order" means instruction by the physician or *physician assistant* who is responsible for the care of the patient while admitted to a medical care facility licensed pursuant to K.S.A. 65-429, and amendments thereto, or an adult care home licensed pursuant to K.S.A. 39-928, and amendments thereto;

(d) "health care provider" means a health care provider as that term is defined by K.S.A. 65-4915, and amendments thereto;

(e) "DNR identifier" means a medallion or bracelet designed to be worn by a patient which has been inscribed to identify the patient and contains the letters "DNR" or the statement "do not resuscitate" when such DNR identifier is distributed by an entity certified by the emergency medical services board;

(f) "physician" means a person licensed to practice medicine and surgery by the state board of healing arts; ~~and~~

(g) "*physician assistant*" means a person licensed by the state board of healing arts to practice as a *physician assistant*; and

(h) "declarant" means any person who has executed a "do not resuscitate" directive in accordance with the provisions of this act.

New Sec. 16. (a) There is hereby created a resident active license, which may be issued by the board to a person who:

(1) Makes written application for such license on a form provided by the board and remits the fee for a resident active license established by the board by rules and regulations;

(2) has successfully completed at least one year of approved postgraduate training;

(3) is engaged in a full-time, approved postgraduate training program; and

(4) has passed the examinations for licensure required under K.S.A. 65-2873, and amendments thereto.

(b) The requirements for issuance, maintenance and renewal of a resident active license shall be established by rules and regulations adopted by the board. A resident active license shall entitle the holder to all privileges attendant to the branch of the healing arts for which such license is used.

(c) This section shall be part of and supplemental to the Kansas healing arts act.

Sec. 17. On and after July 1, 2015, K.S.A. 65-4942 is hereby amended to read as follows: 65-4942. A “do not resuscitate” directive shall be in substantially the following form:

PRE-HOSPITAL DNR REQUEST FORM
An advanced request to Limit the Scope of
Emergency Medical Care

I, _____, request limited emergency care as herein described.
(Name)

I understand DNR means that if my heart stops beating or if I stop breathing, no medical procedure to restart breathing or heart functioning will be instituted.

I understand this decision will not prevent me from obtaining other emergency medical care by pre-hospital care providers or medical care directed by a physician prior to my death.

I understand I may revoke this directive at any time.

I give permission for this information to be given to the pre-hospital care providers, doctors, nurses or other health care personnel as necessary to implement this directive.

I hereby agree to the “Do Not Resuscitate” (DNR) directive.

Signature	Date
Witness	Date

I AFFIRM THIS DIRECTIVE IS THE EXPRESSED WISH OF THE PATIENT, IS MEDICALLY APPROPRIATE, AND IS DOCUMENTED IN THE PATIENT’S PERMANENT MEDICAL RECORD.

In the event of an acute cardiac or respiratory arrest, no cardiopulmonary resuscitation will be initiated.

Attending Physician’s or <i>Physician Assistant’s</i> Signature*	Date
Address	Facility or Agency Name

*Signature of physician or *physician assistant* not required if the above-named is a member of a church or religion which, in lieu of medical care and treatment, provides treatment by spiritual means through prayer alone and care consistent therewith in accordance with the tenets and practices of such church or religion.

REVOCATION PROVISION
I hereby revoke the above declaration.

Signature	Date
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Sec. 18. On and after July 1, 2015, K.S.A. 2014 Supp. 65-6824 is hereby amended to read as follows: 65-6824. (a) A covered entity shall provide an individual or such individual’s personal representative with access to the individual’s protected health information maintained, collected, used or disseminated by or for the covered entity in compliance with 45 C.F.R. § 164.524, *except that a covered entity which is defined as a health care provider under section 20, and amendments thereto, shall furnish copies of health care records to a patient, a patient’s authorized representative or any other person or entity authorized by law to obtain or reproduce such records in accordance with the provisions of section 20, and amendments thereto.*

(b) A covered entity shall implement and maintain appropriate administrative, technical and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. § 164.530(c).

Sec. 19. On and after July 1, 2015, K.S.A. 2013 Supp. 72-8252, as amended by section 54 of chapter 131 of the 2014 Session Laws of Kansas, is hereby amended to read as follows: 72-8252. (a) As used in this section:

(1) “Medication” means a medicine prescribed by a health care provider for the treatment of anaphylaxis or asthma including, but not limited

to, any medicine defined in section 201 of the federal food, drug and cosmetic act, inhaled bronchodilators and auto-injectible epinephrine.

(2) “Health care provider” means: (A) A physician licensed to practice medicine and surgery; (B) an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs as provided by K.S.A. 65-1130, and amendments thereto; or (C) a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs *prior to January 11, 2016*, pursuant to a written protocol *with a responsible physician under K.S.A. 65-28a08, and amendments thereto, and on and after January 11, 2016*, pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

(3) “School” means any public or accredited nonpublic school.

(4) “Self-administration” means a student’s discretionary use of such student’s medication pursuant to a prescription or written direction from a health care provider.

(b) Each school district shall adopt a policy authorizing the self-administration of medication by students enrolled in kindergarten or any of the grades ~~one~~ through 12. A student shall meet all requirements of a policy adopted pursuant to this subsection. Such policy shall include:

(1) A requirement of a written statement from the student’s health care provider stating the name and purpose of the medication; the prescribed dosage; the time the medication is to be regularly administered, and any additional special circumstances under which the medication is to be administered; and the length of time for which the medication is prescribed;

(2) a requirement that the student has demonstrated to the health care provider or such provider’s designee and the school nurse or such nurse’s designee the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed. If there is no school nurse, the school shall designate a person for the purposes of this subsection;

(3) a requirement that the health care provider has prepared a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours;

(4) a requirement that the student’s parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan prepared as required by paragraph (3) and documents related to liability;

(5) a requirement that all teachers responsible for the student’s supervision shall be notified that permission to carry medications and self-medicate has been granted; and

(6) any other requirement imposed by the school district pursuant to this section and ~~subsection (e) of~~ K.S.A. 72-8205(e), and amendments thereto.

(c) A school district shall require annual renewal of parental authorization for the self-administration of medication.

(d) A school district, and its officers, employees and agents, which authorizes the self-administration of medication in compliance with the provisions of this section shall not be held liable in any action for damage, injury or death resulting directly or indirectly from the self-administration of medication.

(e) A school district shall provide written notification to the parent or guardian of a student that the school district and its officers, employees and agents are not liable for damage, injury or death resulting directly or indirectly from the self-administration of medication. The parent or guardian of the student shall sign a statement acknowledging that the school district and its officers, employees or agents incur no liability for damage, injury or death resulting directly or indirectly from the self-administration of medication and agreeing to release, indemnify and hold the school and its officers, employees and agents, harmless from and against any claims relating to the self-administration of such medication.

(f) A school district shall require that any back-up medication provided by the student’s parent or guardian be kept at the student’s school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

(g) A school district shall require that information described in ~~paragraphs (3) and (4) of~~ subsection (b)(3) and (4) be kept on file at the

student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

(h) An authorization granted pursuant to subsection (b) shall allow a student to possess and use such student's medication at any place where a student is subject to the jurisdiction or supervision of the school district or its officers, employees or agents.

(i) A board of education may adopt a policy pursuant to ~~subsection (e)~~ of K.S.A. 72-8205(e), and amendments thereto, which:

(1) Imposes requirements relating to the self-administration of medication which are in addition to those required by this section; and

(2) establishes a procedure for, and the conditions under which, the authorization for the self-administration of medication may be revoked.

New Sec. 20. (a) As used in this section: (1) "Health care provider" means any person licensed by the state board of healing arts.

(2) "Authorized representative" means the person designated in writing by the patient to obtain the health care records of the patient or the person otherwise authorized by law to obtain the health care records of the patient.

(3) "Authorization" means a written or printed document signed by a patient or a patient's authorized representative containing: (A) A description of the health care records a health care provider is authorized to produce; (B) the patient's name, address and date of birth; (C) a designation of the person or entity authorized to obtain copies of the health care records; (D) a date or event upon which the force of the authorization shall expire which shall not exceed one year; (E) if signed by a patient's authorized representative, the authorized representative's name, address, telephone number and relationship or capacity to the patient; and (F) a statement setting forth the right of the person signing the authorization to revoke it in writing.

(b) Subject to K.S.A. 2014 Supp. 65-6824, and amendments thereto, except as otherwise provided herein, copies of health care records shall be furnished to a patient, a patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, within 30 days of the receipt of the authorization, or the health care provider shall notify the patient or the patient's authorized representative of the reasons why copies are not available. A health care provider may withhold copies of health care records if the health care provider reasonably believes that providing copies of the requested records will cause substantial harm to the patient or another person. Health care providers may condition the furnishing of the patient's health care records to the patient, the patient's authorized representative or any other person or entity authorized by law to obtain or reproduce such records, upon the payment of charges not to exceed those established and updated not less than every two years by rules and regulations adopted by the state board of healing arts. In establishing such charges, the board shall consider changes in the all-items consumer price index published by the United States department of labor. Providers may charge for the reasonable cost of all duplications of health care record information which cannot be routinely duplicated on a standard photocopy machine.

(c) Any health care provider, patient, authorized representative or any other entity authorized by law to obtain or reproduce such records may bring a claim or action to enforce the provisions of this section. The petition shall include an averment that the party bringing the action has in good faith conferred or attempted to confer with the other party concerning the matter in dispute without court action. Upon a showing that the failure to comply with this section was without just cause or excuse, the court shall award the costs of the action and order the records produced without cost or expense to the prevailing party.

(d) Nothing in this section shall be construed to prohibit the state board of healing arts from adopting and enforcing rules and regulations not inconsistent with this section that require licensees of the board to furnish health care records to patients or to their authorized representative. To the extent that the board determines that an administrative disciplinary remedy is appropriate for violation of such rules and regulations, that remedy is separate from and in addition to the provisions of this section.

Sec. 21. On July 1, 2015, K.S.A. 65-2811a, 65-2852, as amended by

section 21 of chapter 131 of the 2014 Session Laws of Kansas, 65-2857, as amended by section 22 of chapter 131 of the 2014 Session Laws of Kansas, 65-2860, as amended by section 24 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a02, as amended by section 42 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a08, as amended by section 47 of chapter 131 of the 2014 Session Laws of Kansas, 65-4941 and 65-4942 and K.S.A. 2013 Supp. 65-1626, as amended by section 4 of chapter 131 of the 2014 Session Laws of Kansas, 65-2809, as amended by section 7 of chapter 131 of the 2014 Session Laws of Kansas, 65-2836, as amended by section 10 of chapter 131 of the 2014 Session Laws of Kansas, 65-2895, as amended by section 36 of chapter 131 of the 2014 Session Laws of Kansas, 65-28,127, as amended by section 40 of chapter 131 of the 2014 Session Laws of Kansas, 65-28a03, as amended by section 43 of chapter 131 of the 2014 Session Laws of Kansas, 65-4101, as amended by section 50 of chapter 131 of the 2014 Session Laws of Kansas and 72-8252, as amended by section 54 of chapter 131 of the 2014 Session Laws of Kansas and K.S.A. 2014 Supp. 65-6824 are hereby repealed.

Sec. 22. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and was adopted by that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.