

1 *[As Amended by Senate Committee of the Whole]*

2
3 *As Amended by Senate Committee*

4
5 *As Amended by House Committee*

6 *Session of 2001*

7
8 **HOUSE BILL No. 2315**

9
10 By Committee on Health and Human Services

11
12 2-5

13
14 AN ACT concerning *[the state board of healing arts; enacting the*
15 *naturopathic doctor registration act; concerning the licensure of]*
16 *occupational therapists; ~~licensure thereof~~; amending K.S.A. 65-5402,*
17 *65-5405, 65-5406, 65-5407, 65-5410, 65-5412 and 65-5414 and K.S.A.*
18 *~~2000~~ 2001 Supp. 65-1501, 65-2891, 65-4915, 65-4921, 65-5408 and*
19 *65-5409 and repealing the existing sections[; also repealing K.S.A.*
20 *65-2872a].*

21
22 *Be it enacted by the Legislature of the State of Kansas:*

23 *[New Section 1. Sections 1 to 18, inclusive, shall be known and*
24 *may be cited as the naturopathic doctor registration act.*

25 *[New Sec. 2. As used in sections 1 to 18, inclusive and amend-*
26 *ments thereto:*

27 *[(a) "Naturopathic doctor" means a doctor of naturopathic*
28 *medicine who is authorized and registered pursuant to this act.*

29 *[(b) "Naturopathic medicine," or "naturopathy" means a sys-*
30 *tem of health care practiced by naturopathic doctors for the pre-*
31 *vention, diagnosis and treatment of human health conditions, in-*
32 *juries and diseases, that uses education, natural medicines and*
33 *therapies to support and stimulate the individual's intrinsic self-*
34 *healing processes, and includes prescribing, recommending or ad-*
35 *ministering: (1) Food, food extracts, vitamins, minerals, enzymes,*
36 *whole gland thyroid, botanicals, homeopathic preparations, non-*
37 *prescription drugs, plant substances that are not designated as pre-*
38 *scription drugs or controlled substances, topical drugs as defined*
39 *in subsection (i) of section 2, and amendments thereto; (2) health*
40 *care counseling, nutritional counseling and dietary therapy, natur-*
41 *opathic physical applications, barrier contraceptive devices; (3)*
42 *substances on the naturopathic formulary which are authorized for*
43 *intramuscular or intravenous administration pursuant to a written*

1 *protocol entered into with a physician who has entered into a writ-*
2 *ten protocol with a naturopathic doctor registered under this act;*
3 *(4) noninvasive physical examinations, venipuncture to obtain*
4 *blood for clinical laboratory tests and oroficial examinations, ex-*
5 *cluding endoscopies; (5) minor office procedures; and (6) naturo-*
6 *pathic acupuncture. A naturopathic doctor may not perform sur-*
7 *gery, obstetrics, administer ionizing radiation, or prescribe,*
8 *dispense or administer any controlled substances as defined in*
9 *K.S.A. 65-4101, and amendments thereto, or any prescription-only*
10 *drugs except those listed on the naturopathic formulary adopted by*
11 *the board pursuant to this act.*

12 *[(c) “Board” means the state board of healing arts.*

13 *[(d) “Approved naturopathic medical college” means a college*
14 *and program granting the degree of doctor of naturopathy or na-*
15 *turopathic medicine that has been approved by the board under*
16 *this act and which college and program requires at a minimum a*
17 *four-year, full-time resident program of academic and clinical*
18 *study.*

19 *[(e) “Homeopathic preparations” means substances and drugs*
20 *prepared according to the official homeopathic pharmacopoeia rec-*
21 *ognized by the United States food and drug administration.*

22 *[(f) “Naturopathic acupuncture” means the insertion of fine*
23 *metal needles through the skin at specific points on or near the*
24 *surface of the body with or without the palpation of specific points*
25 *on the body and with or without the application of electric current*
26 *or heat to the needles or skin or both to treat human disease and*
27 *impairment and to relieve pain.*

28 *[(g) “Minor office procedures” means care incidental to super-*
29 *ficial lacerations and abrasions, superficial lesions and the removal*
30 *of foreign bodies located in the superficial tissues, except eyes, and*
31 *not involving blood vessels, tendons, ligaments or nerves. “Minor*
32 *office procedures” includes use of antiseptics, but shall not include*
33 *the suturing, repairing, alteration or removal of tissue or the use of*
34 *general or spinal anesthesia. Minor office procedures does not in-*
35 *clude anesthetics or surgery.*

36 *[(h) “Naturopathic physical applications” means the therapeu-*
37 *tic use by naturopathic doctors of the actions or devices of electrical*
38 *muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet*
39 *light, constitutional hydrotheraphy, naturopathic musculoskeletal*
40 *technique and therapeutic exercise.*

41 *[(i) “Topical drugs” means topical analgesics, antiseptics, sca-*
42 *bicides, antifungals and antibacterials but does not include pre-*
43 *scription only drugs.*

1 **[(j) “Physician” means a person licensed to practice medicine**
2 **and surgery.**

3 **[(k) “Written protocol” means a formal written agreement be-**
4 **tween a naturopathic doctor registered under this act and a person**
5 **licensed to practice medicine and surgery. Any licensee of the board**
6 **entering into a written protocol with a registered naturopathic doc-**
7 **tor shall notify the board in writing of such relationship by provid-**
8 **ing such information as the board may require.**

9 **[New Sec. 3. (a) The board, as hereinafter provided, shall ad-**
10 **minister the provisions of this act.**

11 **[(b) The board shall judge the qualifications of all applicants**
12 **for examination and registration, determine the applicants who suc-**
13 **cessfully pass the examination, duly register such applicants and**
14 **adopt rules and regulations as may be necessary to administer the**
15 **provisions of this act.**

16 **[(c) The board shall issue a registration as a naturopathic doc-**
17 **tor to an individual who prior to the effective date of this act (1)**
18 **graduated from a school of naturopathy that required four years of**
19 **attendance and was at the time of such individual’s graduation ac-**
20 **credited or a candidate for accreditation by the board approved**
21 **accrediting body, (2) passed an examination approved by the board**
22 **covering appropriate naturopathic subjects including basic and**
23 **clinical sciences and (3) has not committed an act which would**
24 **subject such person to having a registration suspended or revoked**
25 **under section 8, and amendments thereto.**

26 **[(d) The board shall keep a record of all proceedings under this**
27 **act and a roster of all individuals registered under this act. Only**
28 **an individual may be registered under this act.**

29 **[New Sec. 4. (a) An applicant applying for registration as a na-**
30 **turopathic doctor shall file a written application on forms provided**
31 **by the board, showing to the satisfaction of the board that the ap-**
32 **plicant meets the following requirements:**

33 **[(1) Education: The applicant shall present evidence satisfac-**
34 **tory to the board of having successfully completed an educational**
35 **program in naturopathy from an approved naturopathic medical**
36 **college.**

37 **[(2) Examination: The applicant shall pass an examination as**
38 **provided for in section 5 and amendments thereto.**

39 **[(3) Fees: The applicants shall pay to the board all applicable**
40 **fees established under section 7 and amendments thereto.**

41 **[(b) The board shall adopt rules and regulations establishing**
42 **the criteria for an educational program in naturopathy to obtain**
43 **successful recognition by the board under paragraph (1) of subsec-**

1 *tion (a). The board may send a questionnaire developed by the*
2 *board to any school or other entity conducting an educational pro-*
3 *gram in naturopathy for which the board does not have sufficient*
4 *information to determine whether the program should be recog-*
5 *nized by the board and whether the program meets the rules and*
6 *regulations adopted under this section. The questionnaire providing*
7 *the necessary information shall be completed and returned to the*
8 *board in order for the program to be considered for recognition.*
9 *The board may contract with investigative agencies, commissions*
10 *or consultants to assist the board in obtaining information about*
11 *an educational program in naturopathy. In entering such contracts*
12 *the authority to recognize an educational program in naturopathy*
13 *shall remain solely with the board.*

14 *[New Sec. 5. Each applicant for registration under this act*
15 *shall be examined by a written examination or examinations chosen*
16 *by the board to test the applicant's knowledge of the basic and clin-*
17 *ical sciences relating to naturopathy, and naturopathy theory and*
18 *practice, including the applicant's professional skills and judgment*
19 *in the utilization of naturopathic techniques and methods, and such*
20 *other subjects as the board may deem useful to determine the ap-*
21 *plicant's fitness to practice naturopathy.*

22 *[New Sec. 6. (a) The board may waive the examination or ed-*
23 *ucation requirements, or both, and grant registration (1) to any*
24 *applicant who presents proof of current authorization to practice*
25 *naturopathy in another state, the District of Columbia or territory*
26 *of the United States which requires standards for authorization to*
27 *practice determined by the board to be equivalent to the require-*
28 *ments for registration under this act and (2) to any applicant who*
29 *presents proof that on the day preceding the effective date of this*
30 *act that the applicant was practicing under K.S.A. 65-2872a and*
31 *amendments thereto.*

32 *[(b) At the time of making an application under this section, the*
33 *applicant shall pay to the board the application fee as required*
34 *under section 7 and amendments thereto.*

35 *[(c) The board may issue a temporary registration to an appli-*
36 *cant for registration as a naturopathic doctor who applies for tem-*
37 *porary registration on a form provided by the board, who meets the*
38 *requirements for registration or who meets all the requirements for*
39 *registration except examination and who pays to the board the tem-*
40 *porary registration fee as required under section 7 and amendments*
41 *thereto. The person who holds a temporary registration shall prac-*
42 *tice only under the supervision of a registered naturopathic doctor.*
43 *Such temporary registration shall expire one year from the date of*

1 *issue or on the date that the board approves the application for*
 2 *registration, whichever occurs first. No more than one such tem-*
 3 *porary registration shall be permitted to any one person.*

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

7	<i>[Application fee, not more than.....</i>	<i>\$200</i>
8	<i>[Temporary registration fee, not more than.....</i>	<i>\$30</i>
9	<i>[Registration renewal fee, not more than.....</i>	<i>\$150</i>
10	<i>[Registration late renewal additional fee, not more than.....</i>	<i>\$250</i>
11	<i>[Registration reinstatement fee, not more than</i>	<i>\$250</i>
12	<i>[Certified copy of registration, not more than</i>	<i>\$30</i>
13	<i>[Written verification of registration, not more than</i>	<i>\$25</i>

14 *[(b) The board shall charge and collect in advance fees for any*
 15 *examination administered by the board under the naturopathic doc-*
 16 *tor registration act as fixed by the board by rules and regulations*
 17 *in an amount equal to the cost to the board of the examination. If*
 18 *the examination is not administered by the board, the board may*
 19 *require that fees paid for any examination under the naturopathic*
 20 *doctor registration act be paid directly to the examination service*
 21 *by the person taking the examination.*

22 *[New Sec. 8. (a) The board may deny, refuse to renew, suspend*
 23 *or revoke a registration where the registrant or applicant for reg-*
 24 *istration has been guilty of unprofessional conduct which has en-*
 25 *dangered or is likely to endanger the health, welfare or safety of the*
 26 *public. Unprofessional conduct includes:*

27 *[(1) Obtaining a registration by means of fraud, misrepresen-*
 28 *tation or concealment of material facts;*

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

31 *[(3) being convicted of a felony if the acts for which such person*
 32 *was convicted are found by the board to have a direct bearing on*
 33 *whether such person should be entrusted to serve the public in the*
 34 *capacity of a naturopathic doctor;*

35 *[(4) violating any lawful order or rule and regulation of the*
 36 *board; and*

37 *[(5) violating any provision of this act.*

38 *[(b) Such denial, refusal to renew, suspension or revocation of*
 39 *a registration may be ordered by the board after notice and hearing*
 40 *on the matter in accordance with the provisions of the Kansas ad-*
 41 *ministrative procedure act. Upon the end of the period of time es-*
 42 *tablished by the board for the revocation of a registration, appli-*
 43 *cation may be made to the board for reinstatement. The board shall*

1 *have discretion to accept or reject an application for reinstatement*
2 *and may hold a hearing to consider such reinstatement. An appli-*
3 *cation for reinstatement shall be accompanied by the registration*
4 *reinstatement fee established under section 7 and amendments*
5 *thereto.*

6 *[New Sec. 9. (a) Registrations issued under this act shall be ef-*
7 *fective for a period of one year and shall expire at the end of such*
8 *period of time unless renewed in the manner prescribed by the*
9 *board, upon the payment of the registration renewal fee established*
10 *under section 7 and amendments thereto. The board may establish*
11 *additional requirements for registration renewal which provide evi-*
12 *dence of continued competency. The board for registration renewal*
13 *shall require completion of at least 25 hours annually of continuing*
14 *education approved by the board. The board may provide for the*
15 *late renewal of a registration upon the payment of a late fee estab-*
16 *lished under section 7 and amendments thereto, but no such late*
17 *renewal of a registration may be granted more than five years after*
18 *its expiration.*

19 *[(b) A person whose registration is suspended shall not engage*
20 *in any conduct or activity in violation of the order or judgment by*
21 *which the registration was suspended. If a registration revoked on*
22 *disciplinary grounds is reinstated, the registrant, as a condition of*
23 *reinstatement, shall pay the registration renewal fee and any late*
24 *fee that may be applicable.*

25 *[New Sec. 10. The board shall remit all moneys received by or*
26 *for it from fees, charges or penalties to the state treasurer in ac-*
27 *cordance with the provisions of K.S.A. 75-4215, and amendments*
28 *thereto. Upon receipt of each such remittance, the state treasurer*
29 *shall deposit the entire amount in the state treasury. Twenty per-*
30 *cent of each such deposit shall be credited to the state general fund*
31 *and the balance shall be credited to the healing arts fee fund. All*
32 *expenditures from such fund shall be made in accordance with ap-*
33 *propriation acts upon warrants of the director of accounts and re-*
34 *ports issued pursuant to vouchers approved by the president of the*
35 *board or by a person designated by the president of the board.*

36 *[New Sec. 11. (a) It shall be unlawful for any person who is not*
37 *registered under this act as a naturopathic doctor or whose regis-*
38 *tration has been suspended or revoked to hold oneself out to the*
39 *public as a registered naturopathic doctor, or use the abbreviation*
40 *of "N.D." or the words "naturopathic doctor," "doctor of natur-*
41 *opathy," "doctor of naturopathic medicine," "naturopath," "natur-*
42 *opathic medical doctor" or any other words, letters, abbreviations*
43 *or insignia indicating or implying that such person is a naturopathic*

1 *doctor. A violation of this subsection (a) shall constitute a class B*
2 *person misdemeanor.*

3 *[(b) No statute granting authority to persons licensed or regis-*
4 *tered by the state board of healing arts shall be construed to confer*
5 *authority upon naturopathic doctors to engage in any activity not*
6 *conferred by this act.*

7 *[New Sec. 12. The board shall adopt a naturopathic formulary*
8 *which lists the drugs and substances which are approved for intra-*
9 *muscular or intravenous administration by a naturopathic doctor*
10 *pursuant to the order of a physician. The board shall appoint a*
11 *naturopathic formulary advisory committee which shall advise the*
12 *board and make recommendations on the list of substances which*
13 *may be included in the naturopathic formulary. The naturopathic*
14 *formulary advisory committee shall consist of a licensed pharma-*
15 *cist, a person knowledgeable in medicinal plant chemistry, two per-*
16 *sons licensed to practice medicine and surgery, and two naturo-*
17 *pathic doctors registered under this act.*

18 *[New Sec. 13. In order to practice naturopathic acupuncture,*
19 *a naturopathic doctor shall obtain a naturopathic acupuncture spe-*
20 *cialty certification from the board. The board may issue this spe-*
21 *cialty certification to a naturopathic doctor who has:*

22 *[(a) Submitted an application and paid certification fee to be*
23 *determined by the board;*

24 *[(b) completed basic oriental medicine philosophy from a col-*
25 *lege or university approved by the board and 500 hours of super-*
26 *vised clinical training under a trained naturopathic acupuncturist's*
27 *supervision.*

28 *[New Sec. 14. (a) There is established a naturopathic advisory*
29 *council to advise the board in carrying out the provisions of this*
30 *act. The council shall consist of five members, all citizens and res-*
31 *idents of the state of Kansas appointed as follows: Three members*
32 *shall be naturopathic doctors appointed by the state board of heal-*
33 *ing arts; one member shall be the president of the state board of*
34 *healing arts or a person designated by the president; and one mem-*
35 *ber appointed by the governor shall be from the public sector who*
36 *is not engaged, directly or indirectly, in the provision of health serv-*
37 *ices. Insofar as possible persons appointed to the council shall be*
38 *from different geographic areas. If a vacancy occurs on the council,*
39 *the appointing authority of the position which has become vacant*
40 *shall appoint a person of like qualifications to fill the vacant posi-*
41 *tion for the unexpired term, if any. The members of the council*
42 *appointed by the governor shall be appointed for terms of three*
43 *years and until a successor is appointed. The members appointed*

1 *by the state board of healing arts shall serve at the pleasure of the*
2 *state board of healing arts. If a member is designated by the pres-*
3 *ident of the state board of healing arts, the member shall serve at*
4 *the pleasure of the president.*

5 *[(b) Members of the council attending meetings of the council,*
6 *or attending a subcommittee meeting thereof authorized by the*
7 *council, shall be paid amounts provided in subsection (e) of K.S.A.*
8 *75-3223 and amendments thereto from the healing arts fee fund.*

9 *[New Sec. 15. When it appears to the board that any person is*
10 *violating any of the provisions of this act, the board may bring an*
11 *action in the name of the state of Kansas in a court of competent*
12 *jurisdiction for an injunction against such violation without regard*
13 *to whether proceedings have been or may be instituted before the*
14 *board or whether criminal proceedings have been or may be insti-*
15 *tuted.*

16 *[New Sec. 16. All state agency adjudicative proceedings under*
17 *the naturopathic doctor registration act shall be conducted in ac-*
18 *cordance with the provisions of the Kansas administrative proce-*
19 *dure act and shall be reviewable in accordance with the act for*
20 *judicial review and civil enforcement of agency actions.*

21 *[New Sec. 17. A policy of professional liability insurance ap-*
22 *proved by the commissioner of insurance and issued by an insurer*
23 *duly authorized to transact business in this state shall be main-*
24 *tained in effect by each naturopathic doctor as a condition to ren-*
25 *dering professional service as a naturopathic doctor in this state.*

26 *[New Sec. 18. The confidential relations and communications*
27 *between a naturopathic doctor and the naturopathic doctor's pa-*
28 *tient are placed on the same basis as provided by law as those be-*
29 *tween a physician and a physician's patient in K.S.A. 60-427, and*
30 *amendments thereto.]*

31 ~~Section 19.~~ *[Sec. 19.]* K.S.A. 65-5402 is hereby amended to read as
32 follows: 65-5402. As used in K.S.A. 65-5401 to 65-5417, inclusive, and
33 sections ~~19~~ [28] to ~~29~~ [30], inclusive, and amendments thereto:

34 (a) "Board" means the state board of healing arts.

35 (b) ~~"Occupational therapy" is a health care profession whose practi-~~
36 ~~tioners, other than occupational therapy practitioners working with the~~
37 ~~educationally handicapped in a school system, are employed under the~~
38 ~~supervision of a physician and whose practitioners provide therapy, re-~~
39 ~~habilitation, diagnostic evaluation, care and education of individuals who~~
40 ~~are limited by physical injury or illness, psychosocial dysfunction, devel-~~
41 ~~opmental or learning disabilities or the aging process in order to maximize~~
42 ~~independence, prevent disability and maintain health. Specific occupa-~~
43 ~~tional therapy services include:~~

1 —(1) ~~Administering and interpreting tests necessary for effective treat-~~
 2 ~~ment planning;~~

3 —(2) ~~developing self-care and daily living skills such as feeding, dress-~~
 4 ~~ing, hygiene and homemaking;~~

5 —(3) ~~designing, fabricating, applying or training, or any combination~~
 6 ~~thereof, in the use of selected orthotics, upper extremity prosthetics or~~
 7 ~~adaptive equipment;~~

8 —(4) ~~developing sensory integrative skills and functioning;~~

9 —(5) ~~using therapeutic activity and exercise to enhance functional or~~
 10 ~~motor performance, or both;~~

11 —(6) ~~developing prevocational/vocational work capacities and play/lei-~~
 12 ~~sure skills, and~~

13 —(7) ~~adapting environment for the disabled.~~

14 (b) *“Practice of occupational therapy” means the therapeutic use of*
 15 *purposeful and meaningful occupations (goal-directed activities) to eval-*
 16 *uate and treat referred, pursuant to the referral, supervision, order*
 17 *or direction of a physician, a licensed podiatrist, a licensed dentist*
 18 *or a licensed optometrist, individuals who have a disease or disorder,*
 19 *impairment, activity limitation or participation restriction that interferes*
 20 *with their ability to function independently in daily life roles and to pro-*
 21 *motote health and wellness. Occupational therapy intervention may include:*

22 (1) *Remediation or restoration of performance abilities that are lim-*
 23 *ited due to impairment in biological, physiological, psychological or neu-*
 24 *rological cognitive processes;*

25 (2) *adaptation of tasks, process, or the environment or the teaching*
 26 *of compensatory techniques in order to enhance performance;*

27 (3) *disability prevention methods and techniques that facilitate the*
 28 *development or safe application of performance skills; and*

29 (4) *health promotion strategies and practices that enhance perform-*
 30 *ance abilities.*

31 (c) *“Occupational therapy services” include, but are not limited to:*

32 (1) *Evaluating, developing, improving, sustaining, or restoring skills*
 33 *in activities of daily living (ADL), work or productive activities, including*
 34 *instrumental activities of daily living (IADL) and play and leisure activ-*
 35 *ities;*

36 (2) *evaluating, developing, remediating, or restoring sensorimotor,*
 37 *cognitive or psychosocial components of performance;*

38 (3) *designing, fabricating, applying, or training in the use of assistive*
 39 *technology or orthotic devices and training in the use of prosthetic devices;*

40 (4) *adapting environments and processes, including the application*
 41 *of ergonomic principles, to enhance performance and safety in daily life*
 42 *roles;*

43 (5) *applying physical agent modalities as an adjunct to or in prepa-*

1 *ration for engagement in occupations;*

2 (6) *evaluating and providing intervention in collaboration with the*
3 *client, family, caregiver or others;*

4 (7) *educating the client, family, caregiver or others in carrying out*
5 *appropriate nonskilled interventions; and*

6 (8) *consulting with groups, programs, organizations or communities*
7 *to provide population-based services.*

8 ~~(c)~~ (d) “Occupational therapist” means a person ~~registered~~ *licensed*
9 to practice occupational therapy as defined in this act.

10 ~~(d)~~ (e) “Occupational therapy assistant” means a person ~~registered~~
11 *licensed* to assist in the practice of occupational therapy under the su-
12 ~~pervision or with the consultation~~ of an occupational therapist.

13 ~~(e)~~ (f) “Person” means any individual, partnership, unincorporated
14 organization or corporation.

15 ~~(f)~~ “Physician” means a person licensed to practice medicine and sur-
16 ~~gery.~~

17 **(g) “Physician” means a person licensed to practice medicine**
18 **and surgery.**

19 ~~(g)~~ (h) “Occupational therapy aide,” “occupational therapy tech” or
20 “occupational therapy paraprofessional” means a person who provides
21 *supportive services to occupational therapists and occupational therapy*
22 *assistants in accordance with section 11 [29] and amendments thereto.*

23 Sec. ~~2~~ [20.] K.S.A. 65-5405 is hereby amended to read as follows:
24 65-5405. The board shall pass upon the qualifications of all applicants for
25 examination and ~~registration licensure, provide for and conduct all ex-~~
26 ~~aminations;~~ determine the applicants who successfully pass the exami-
27 nation, duly ~~register~~ *license* such applicants and adopt rules and regula-
28 tions as may be necessary to administer the provisions of this act. The
29 board shall keep a record of all proceedings under this act and a roster
30 of all individuals ~~registered~~ *licensed* under this act. Only an individual
31 may be ~~registered~~ *licensed* under this act.

32 Sec. ~~3~~ [21.] K.S.A. 65-5406 is hereby amended to read as follows:
33 65-5406. (a) An applicant applying for ~~registration licensure~~ as an occu-
34 ~~pational therapist or as an occupational therapy assistant shall file a writ-~~
35 ~~ten application on forms provided by the board, showing to the satisfac-~~
36 ~~tion of the board that the applicant meets the following requirements:~~

37 (1) Education: The applicant shall present evidence satisfactory to the
38 board of having successfully completed the academic requirements of an
39 educational program in occupational therapy recognized by the board.

40 (2) Experience: The applicant shall submit to the board evidence of
41 having successfully completed a period of supervised field work at a min-
42 imum recognized by the board.

43 (3) Examination: The applicant shall pass an examination as provided

1 for in K.S.A. 65-5407 and amendments thereto.

2 (4) Fees: The applicants shall pay to the board all applicable fees
3 established under K.S.A. 65-5409 and amendments thereto.

4 (b) The board shall adopt rules and regulations establishing the cri-
5 teria which an educational program in occupational therapy shall satisfy
6 to be recognized by the board under paragraph (1) of subsection (a). The
7 board may send a questionnaire developed by the board to any school or
8 other entity conducting an educational program in occupational therapy
9 for which the board does not have sufficient information to determine
10 whether the program should be recognized by the board and whether the
11 program meets the rules and regulations adopted under this section. The
12 questionnaire providing the necessary information shall be completed and
13 returned to the board in order for the program to be considered for
14 recognition. The board may contract with investigative agencies, com-
15 missions or consultants to assist the board in obtaining information about
16 an educational program in occupational therapy. In entering such con-
17 tracts the authority to recognize an educational program in occupational
18 therapy shall remain solely with the board.

19 Sec. ~~4~~ [22.] K.S.A. 65-5407 is hereby amended to read as follows:
20 65-5407. ~~(a)~~ Each applicant for ~~registration~~ *licensure* under this act shall
21 be examined by written examination required by the board to test the
22 applicant's knowledge of the basic and clinical sciences relating to occu-
23 pational therapy, and occupational therapy theory and practice, including
24 the applicant's professional skills and judgment in the utilization of oc-
25 cupational therapy techniques and methods, and such other subjects as
26 the board may deem useful to determine the applicant's fitness to prac-
27 tice. The board shall approve an examination for occupational therapy
28 assistants and establish standards for acceptable performance.

29 ~~(b)~~ Applicants for ~~registration~~ *licensure* shall be examined at a time
30 and place and under such supervision as the board may determine. Ex-
31 aminations shall be given at least twice each year at such places within
32 this state as the board may determine and the board shall give reasonable
33 public notice of such examinations at least 60 days prior to their admin-
34 istration.

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

36 Sec. ~~5~~ [23.] K.S.A. ~~2000~~ 2001 Supp. 65-5408 is hereby amended
37 to read as follows: 65-5408. ~~(a)~~ The board shall waive the examination,
38 education and experience requirements and grant registration to any per-
39 son who applies for registration on or before July 1, 1987, who pays the
40 application fee and who was certified prior to the effective date of this
41 act as an occupational therapist registered (O.T.R.) or a certified occu-
42 pational therapy assistant (C.O.T.A.) by the American occupational ther-
43 apy association (A.O.T.A.) or who has been employed as an occupational

1 therapist for the purpose of providing occupational therapy for at least
 2 two years within the three-year period immediately prior to the effective
 3 date of this act. (b) The board may waive the examination, education or
 4 experience requirements and grant ~~registration~~ licensure to any applicant
 5 who ~~shall present~~ presents proof of current licensure or registration as an
 6 occupational therapist or occupational therapy assistant in another state,
 7 the District of Columbia or territory of the United States which requires
 8 standards for licensure or registration determined by the board to be
 9 equivalent to or exceed the requirements for ~~registration~~ licensure under
 10 this act.

11 (e) (b) At the time of making an application under this section, the
 12 applicant shall pay to the board the application fee as required under
 13 K.S.A. 65-5409 and amendments thereto.

14 (d) (c) The board may issue a temporary ~~registration~~ license to an
 15 applicant for ~~registration~~ licensure as an occupational therapist or as an
 16 occupational therapy assistant who applies for temporary ~~registration~~ li-
 17 censure on a form provided by the board, who meets the requirements
 18 for ~~registration~~ licensure or who meets all the requirements for registra-
 19 tion licensure except examination and who pays to the board the tem-
 20 porary ~~registration~~ license fee as required under K.S.A. 65-5409 and
 21 amendments thereto. Such temporary ~~registration~~ license shall expire one
 22 year from the date of issue or on the date that the board approves the
 23 application for ~~registration~~ licensure, whichever occurs first. No more
 24 than one such temporary ~~registration~~ license shall be permitted to any
 25 one person.

26 Sec. ~~6~~ [24.] K.S.A. ~~2000~~ 2001 Supp. 65-5409 is hereby amended
 27 to read as follows: 65-5409. (a) The board shall charge and collect in
 28 advance fees provided for in this act as fixed by the board by rules and
 29 regulations, subject to the following limitations:

30 Application fee, not more than	\$80
31 Temporary registration fee, not more than	40
32 Registration renewal fee, not more than	80
33 Registration late renewal fee, not more than	80
34 Registration reinstatement fee, not more than	80
35 Certified copy of registration, not more than	40
36 Written verification of registration, not more than	25
37 Temporary license fee, not more than	40
38 License renewal fee, not more than	80
39 License late renewal fee, not more than	80
40 License reinstatement fee, not more than	80
41 Certified copy of license, not more than	40
42 Written verification of license, not more than	25

43 (b) The board shall charge and collect in advance fees for any ex-

1 amination administered by the board under the occupational therapy
2 practice act as fixed by the board by rules and regulations in an amount
3 equal to the cost to the board of the examination. If the examination is
4 not administered by the board, the board may require that fees paid for
5 any examination under the occupational therapy practice act be paid di-
6 rectly to the examination service by the person taking the examination.

7 Sec. ~~7~~ **[25.]** K.S.A. 65-5410 is hereby amended to read as follows:
8 65-5410. (a) The board may deny, refuse to renew, suspend or revoke a
9 ~~registration license~~ where the ~~registrant licensee~~ or applicant for ~~registra-~~
10 ~~tion licensure~~ has been guilty of unprofessional conduct which has en-
11 dangered or is likely to endanger the health, welfare or safety of the
12 public. Unprofessional conduct includes:

13 (1) Obtaining a ~~registration license~~ by means of fraud, misrepresen-
14 tation or concealment of material facts;

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

17 (3) being convicted of a felony if the acts for which such person was
18 convicted are found by the board to have a direct bearing on whether
19 such person should be entrusted to serve the public in the capacity of an
20 occupational therapist or occupational therapy assistant;

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

22 (5) violating any provision of this act.

23 (b) Such denial, refusal to renew, suspension or revocation of a ~~reg-~~
24 ~~istration license~~ may be ordered by the board after notice and hearing on
25 the matter in accordance with the provisions of the Kansas administrative
26 procedure act. Upon the end of the period of time established by the
27 board for the revocation of ~~registration a license~~, application may be made
28 to the board for reinstatement. The board shall have discretion to accept
29 or reject an application for reinstatement and may hold a hearing to con-
30 sider such reinstatement.

31 Sec. ~~8~~ **[26.]** K.S.A. 65-5412 is hereby amended to read as follows:
32 65-5412. (a) ~~Registrations Licenses~~ issued under this act shall be effective
33 for a period of one year and shall expire at the end of such period of time
34 unless renewed in the manner prescribed by the board, upon the payment
35 of the ~~registration license~~ renewal fee established under K.S.A. 65-5409
36 *and amendments thereto*. The board may establish additional require-
37 ments for *licensure or* registration renewal which provide evidence of
38 continued competency. The board may provide for the late *licensure or*
39 renewal of a *license or* registration upon the payment of a late fee estab-
40 lished under K.S.A. 65-5409 *and amendments thereto*, but no such late
41 renewal of a *license or* registration may be granted more than five years
42 after its expiration.

43 (b) A person whose *license or* registration is suspended shall not en-

1 gage in any conduct or activity in violation of the order or judgment by
2 which the *license or* registration was suspended. If a *license or* registration
3 revoked on disciplinary grounds is reinstated, the *licensee or* registrant,
4 as a condition of reinstatement, shall pay the renewal fee and any late fee
5 that may be applicable.

6 Sec. ~~9.~~ **[27.]** K.S.A. 65-5414 is hereby amended to read as follows:
7 65-5414. (a) ~~On and after July 1, 1987,~~ It shall be unlawful for any person
8 who is not ~~registered~~ *licensed* under this act as an occupational therapist
9 or an occupational therapy assistant or whose ~~registration~~ *license* has been
10 suspended or revoked to use, in connection with such person's name or
11 place of business, the words "occupational therapist," "~~registered~~ *licensed*
12 occupational therapist," "occupational therapist ~~registered~~ *licensed*," "oc-
13 cupational therapy assistant," "~~registered~~ *licensed* occupational therapy
14 assistant," or the letters, "O.T.," "~~R.O.T.~~ L.O.T.," "~~O.T.R.~~ O.T.L.,"
15 "O.T.A." or "~~R.O.T.A.~~ L.O.T.A." or any other words, letters, abbrevia-
16 tions or insignia indicating or implying that such person is an occupational
17 therapist or an occupational therapy assistant or who in any way, orally,
18 in writing, in print or by sign, directly or by implication, represents oneself
19 as an occupational therapist or an occupational therapy assistant.

20 (b) Any violation of this section shall constitute a class C misde-
21 meanor.

22 New Sec. ~~10.~~ **[28.]** (a) Nothing in the occupational therapy practice
23 act is intended to limit, preclude or otherwise interfere with the practices
24 of other health care providers formally trained and licensed, registered,
25 credentialed or certified by appropriate agencies of the state of Kansas.

26 (b) The practice of occupational therapy shall not be construed to
27 include the following ~~individuals~~:

- 28 (1) Persons rendering assistance in the case of an emergency;
- 29 (2) members of any church practicing their religious tenets;
- 30 (3) persons whose services are performed pursuant to the delegation
31 of and under the supervision of an occupational therapist who is licensed
32 under this act;
- 33 (4) any person employed as an occupational therapist or occupational
34 therapy assistant by the government of the United States or any agency
35 thereof, if such person practices occupational therapy solely under the
36 direction or control of the organization by which such person is employed;
- 37 (5) licensees under the healing arts act when licensed and practicing
38 in accordance with the provisions of law or persons performing services
39 pursuant to a delegation authorized under subsection (g) of K.S.A. 65-
40 2872 and amendments thereto;
- 41 (6) dentists practicing their professions, when licensed and practicing
42 in accordance with the provisions of law;
- 43 (7) nurses practicing their professions, when licensed and practicing

1 in accordance with the provisions of law or persons performing services
2 pursuant to the delegation of a licensed nurse under subsection (m) of
3 K.S.A. 65-1124 and amendments thereto;

4 (8) health care providers who have been formally trained and are
5 practicing in accordance with the training or have received specific train-
6 ing in one or more functions included in the occupational therapy practice
7 act pursuant to established educational protocols, or both;

8 (9) any person pursuing a supervised course of study leading to a
9 degree or certificate in occupational therapy at an accredited or approved
10 educational program, if the person is designated by the title which clearly
11 indicates such person's status as a student or trainee;

12 (10) any person fulfilling the supervised fieldwork experience
13 requirements as part of the experience necessary to meet the requirement
14 of the occupational therapy practice act;

15 (11) self-care by a patient or gratuitous care by a friend or family
16 member who does not represent or hold oneself out to the public to be
17 an occupational therapist or an occupational therapy assistant;

18 (12) optometrists practicing their profession when licensed and prac-
19 ticing in accordance with the provisions of article 15 of chapter 65 of the
20 Kansas Statutes Annotated and amendments thereto;

21 (13) podiatrists practicing their profession when licensed and prac-
22 ticing in accordance with the provisions of article 15 of chapter 65 of the
23 Kansas Statutes Annotated and amendments thereto;

24 (14) physical therapists practicing their profession when registered
25 and practicing in accordance with K.S.A. 65-2901 *et seq.* and amendments
26 thereto;

27 (15) ~~physicians' registered~~ **physician** assistants practicing their profession when
28 ~~registered~~ **licensed** and practicing in accordance with the physician as-
29 sistant licensure act;

30 (16) athletic trainers practicing their profession when registered and
31 practicing in accordance with the athletic trainers registration act;

32 (17) **manufacturers of prosthetic devices;**

33 (18) any person performing occupational therapy services, if these serv-
34 ices are performed for no more than 45 days in a calendar year in asso-
35 ciation with an occupational therapist licensed under the occupational
36 therapy practice act so long as (A) the person is registered or licensed
37 under the laws of another state which has licensure requirements at least
38 as stringent as the licensure requirements of this act, or (B) the person
39 meets the requirements for certification as an occupational therapist reg-
40 istered (OTR) or a certified occupational therapy assistant (COTA) es-
41 tablished by the national board for certification in occupational therapy
42 (NBCOT).

43 ~~(b)~~ (c) Any patient monitoring, assessment or other procedures de-

1 signed to evaluate the effectiveness of prescribed occupational therapy
2 must be performed by or pursuant to the delegation of a licensed occu-
3 pational therapist or other health care provider.

4 ~~(e)~~ **(d) Education related therapy services provided by an occu-**
5 **ptional therapist to school systems or consultation regarding**
6 **prevention, ergonomics and wellness within the occupational ther-**
7 **apy scope of practice shall not require a referral, supervision, or-**
8 **der or direction of a physician, a licensed podiatrist, a licensed**
9 **dentist or a licensed optometrist. However, when in the course of**
10 **providing such services an occupational therapist reasonably be-**
11 **lieves that ~~the client~~ *an individual* may have an underlying injury,**
12 **illness, disease, disorder or impairment, the occupational therapist**
13 **shall refer the ~~client~~ *individual* to a physician, a licensed podiatrist,**
14 **a licensed dentist or a licensed optometrist, as appropriate.**

15 ~~(e)~~ ~~(d)~~ **(e)** Nothing in the occupational therapy practice act shall be
16 construed to permit the practice of medicine and surgery. No statute
17 granting authority to licensees of the state board of healing arts shall be
18 construed to confer authority upon occupational therapists to engage in
19 any activity not conferred by the occupational therapy practice act.

20 ~~(d)~~ ~~(e)~~ **(f)** This section shall be part of and supplemental to the oc-
21 cupational therapy practice act.

22 New Sec. ~~11~~ **[29.]** (a) An occupational therapy aide, occupational
23 therapy tech or occupational therapy paraprofessional shall function un-
24 der the guidance and responsibility of the licensed occupational therapist
25 and may be supervised by the occupational therapist or an occupational
26 therapy assistant for specifically selected routine tasks for which the oc-
27 cupational therapy aide, occupational therapy tech or occupational ther-
28 apy paraprofessional has been trained and has demonstrated competence.
29 The occupational therapy aide, occupational therapy tech or occupational
30 therapy paraprofessional shall comply with supervision requirements de-
31 veloped by the board by rules and regulations which are consistent with
32 prevailing professional standards.

33 (b) This section shall be part of and supplemental to the occupational
34 therapy practice act.

35 New Sec. ~~12~~ **[30.]** (a) Any person holding a valid registration as an
36 occupational therapist immediately prior to the effective date of this act
37 which has been issued by the state board of healing arts shall be deemed
38 to be a licensed occupational therapist and shall be subject to the provi-
39 sions of article 54 of chapter 65 of the Kansas Statutes Annotated.

40 (b) Any person holding a valid registration as an occupational therapy
41 assistant immediately prior to the effective date of this act which has been
42 issued by the state board of healing arts shall be deemed to be a licensed
43 occupational ~~therapist~~ **therapy assistant** and shall be subject to the pro-

1 visions of article 54 of chapter 65 of the Kansas Statutes Annotated.

2 (c) This section shall be part of and supplemental to the occupational
3 therapy practice act.

4 Sec. ~~13~~ **[31.]** K.S.A. ~~2000~~ **2001** Supp. 65-1501 is hereby amended
5 to read as follows: 65-1501. (a) The practice of optometry means:

6 (1) The examination of the human eye and its adnexae and the em-
7 ployment of objective or subjective means or methods (including the ad-
8 ministering, prescribing or dispensing, of topical pharmaceutical drugs)
9 for the purpose of diagnosing the refractive, muscular, or pathological
10 condition thereof;

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

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

20 (b) The practice of optometry shall not include: (1) The management
21 and treatment of glaucoma, except as provided in subsection (d); (2) the
22 performance of surgery, including the use of lasers for surgical purposes,
23 except that therapeutic licensees may remove superficial foreign bodies
24 from the cornea and the conjunctiva; (3) the use of topical pharmaceutical
25 drugs by a person licensed to practice optometry unless such person suc-
26 cessfully meets the requirements of a diagnostic licensee or a therapeutic
27 licensee; and (4) the prescribing, administering and dispensing of oral
28 drugs for ocular conditions by a person licensed to practice optometry
29 unless such person successfully meets the requirements of a therapeutic
30 licensee, except that such therapeutic licensee may prescribe or admin-
31 ister oral steroids or oral antiglaucoma drugs for ocular conditions follow-
32 ing consultation with an ophthalmologist, which consultation shall be
33 noted in writing in the patient's file. No optometrist may prescribe or
34 administer oral drugs to persons less than six years of age.

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

41 (d) An optometrist may prescribe, administer and dispense topical
42 pharmaceutical drugs and oral drugs for the treatment of adult open-
43 angle glaucoma only following glaucoma licensure as provided in subsec-

1 tion (l) of K.S.A. 65-1501a and amendments thereto. After the initial
2 diagnosis of adult open-angle glaucoma, by an optometrist during the co-
3 management period described in subsection (s) of K.S.A. 65-1501a and
4 amendments thereto, the patient shall be notified that the diagnosis must
5 be confirmed by an ophthalmologist and that any subsequent treatment
6 requires a written co-management plan with an ophthalmologist of the
7 patient's choice.

8 (e) Under the direction and supervision of a therapeutic licensee, a
9 licensed professional nurse, licensed practical nurse, registered physical
10 therapist and ~~registered~~ *licensed* occupational therapist may assist in the
11 provision of low vision rehabilitation services in addition to such other
12 services which such licensed professional nurse, licensed practical nurse,
13 registered physical therapist and ~~registered~~ *licensed* occupational thera-
14 pist is authorized by law to provide under subsection (d) of K.S.A. 65-
15 1113, subsection (h) of K.S.A. 65-1124, subsection (b) of K.S.A. 65-2901
16 and subsection (b) of K.S.A. 65-5402, and amendments thereto.

17 Sec. ~~14~~ [32.] K.S.A. ~~2000~~ 2001 Supp. 65-2891 is hereby amended
18 to read as follows: 65-2891. (a) Any health care provider who in good faith
19 renders emergency care or assistance at the scene of an emergency or
20 accident including treatment of a minor without first obtaining the con-
21 sent of the parent or guardian of such minor shall not be liable for any
22 civil damages for acts or omissions other than damages occasioned by
23 gross negligence or by willful or wanton acts or omissions by such person
24 in rendering such emergency care.

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

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

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

1 (e) As used in this section the term “health care provider” means any
 2 person licensed to practice any branch of the healing arts, licensed dentist,
 3 licensed optometrist, licensed professional nurse, licensed practical nurse,
 4 licensed podiatrist, licensed pharmacist, registered physical therapist, and
 5 any physician’s assistant who has successfully completed an American
 6 medical association approved training program and has successfully com-
 7 pleted the national board examination for physicians’ assistants of the
 8 American board of medical examiners, any registered athletic trainer, any
 9 ~~registered~~ *licensed* occupational therapist, any licensed respiratory ther-
 10 apist, any person who holds a valid attendant’s certificate under K.S.A.
 11 65-6129, and amendments thereto, any person who holds a valid certifi-
 12 cate for the successful completion of a course in first aid offered or ap-
 13 proved by the American red cross, by the American heart association, by
 14 the mining enforcement and safety administration of the bureau of mines
 15 of the department of interior, by the national safety council or by any
 16 instructor-coordinator, as defined in K.S.A. 65-6112, and amendments
 17 thereto, and any person engaged in a postgraduate training program ap-
 18 proved by the state board of healing arts.

19 Sec. ~~15.~~ **[33.]** K.S.A. ~~2000~~ **2001** Supp. 65-4915 is hereby amended
 20 to read as follows: 65-4915. (a) As used in this section:

21 (1) “Health care provider” means: (A) Those persons and entities
 22 defined as a health care provider under K.S.A. 40-3401 and amendments
 23 thereto; and (B) a dentist licensed by the Kansas dental board, a dental
 24 hygienist licensed by the Kansas dental board, a professional nurse li-
 25 censed by the board of nursing, a practical nurse licensed by the board
 26 of nursing, a mental health technician licensed by the board of nursing,
 27 a physical therapist assistant certified by the state board of healing arts,
 28 an occupational therapist ~~registered~~ *licensed* by the state board of healing
 29 arts, an occupational therapy assistant ~~registered~~ *licensed* by the state
 30 board of healing arts, a respiratory therapist licensed by the state board
 31 of healing arts, a physician assistant licensed by the state board of healing
 32 arts and attendants and ambulance services certified by the emergency
 33 medical services board.

34 (2) “Health care provider group” means:

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

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

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

41 (D) a review committee operating pursuant to K.S.A. ~~65-2840b~~
 42 ~~through 65-2840d~~, 65-2840c and amendments thereto;

43 (E) an organized medical staff of a licensed medical care facility as

1 defined by K.S.A. 65-425 and amendments thereto, an organized medical
2 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b and
3 amendments thereto or an organized medical staff of a state psychiatric
4 hospital or state institution for the mentally retarded, as follows: Larned
5 state hospital, Osawatomie state hospital, Rainbow mental health facility,
6 Kansas neurological institute and Parsons state hospital and training cen-
7 ter;

8 (F) a health care provider;

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

11 (H) a Kansas corporation whose stockholders or members are health
12 care providers or an association of health care providers, which corpora-
13 tion evaluates medical and health care services; or

14 (I) an insurance company, health maintenance organization or ad-
15 ministrator of a health benefits plan which engages in any of the functions
16 defined as peer review under this section.

17 (3) “Peer review” means any of the following functions:

18 (A) Evaluate and improve the quality of health care services rendered
19 by health care providers;

20 (B) determine that health services rendered were professionally in-
21 dicated or were performed in compliance with the applicable standard of
22 care;

23 (C) determine that the cost of health care rendered was considered
24 reasonable by the providers of professional health services in this area;

25 (D) evaluate the qualifications, competence and performance of the
26 providers of health care or to act upon matters relating to the discipline
27 of any individual provider of health care;

28 (E) reduce morbidity or mortality;

29 (F) establish and enforce guidelines designed to keep within reason-
30 able bounds the cost of health care;

31 (G) conduct of research;

32 (H) determine if a hospital’s facilities are being properly utilized;

33 (I) supervise, discipline, admit, determine privileges or control mem-
34 bers of a hospital’s medical staff;

35 (J) review the professional qualifications or activities of health care
36 providers;

37 (K) evaluate the quantity, quality and timeliness of health care serv-
38 ices rendered to patients in the facility;

39 (L) evaluate, review or improve methods, procedures or treatments
40 being utilized by the medical care facility or by health care providers in
41 a facility rendering health care.

42 (4) “Peer review officer or committee” means:

43 (A) An individual employed, designated or appointed by, or a com-

1 mittee of or employed, designated or appointed by, a health care provider
2 group and authorized to perform peer review; or

3 (B) a health care provider monitoring the delivery of health care at
4 correctional institutions under the jurisdiction of the secretary of correc-
5 tions.

6 (b) Except as provided by K.S.A. 60-437 and amendments thereto
7 and by subsections (c) and (d), the reports, statements, memoranda, pro-
8 ceedings, findings and other records submitted to or generated by peer
9 review committees or officers shall be privileged and shall not be subject
10 to discovery, subpoena or other means of legal compulsion for their re-
11 lease to any person or entity or be admissible in evidence in any judicial
12 or administrative proceeding. Information contained in such records shall
13 not be discoverable or admissible at trial in the form of testimony by an
14 individual who participated in the peer review process. The peer review
15 officer or committee creating or initially receiving the record is the holder
16 of the privilege established by this section. This privilege may be claimed
17 by the legal entity creating the peer review committee or officer, or by
18 the commissioner of insurance for any records or proceedings of the
19 board of governors.

20 (c) Subsection (b) shall not apply to proceedings in which a health
21 care provider contests the revocation, denial, restriction or termination
22 of staff privileges or the license, registration, certification or other au-
23 thorization to practice of the health care provider. A licensing agency in
24 conducting a disciplinary proceeding in which admission of any peer re-
25 view committee report, record or testimony is proposed shall hold the
26 hearing in closed session when any such report, record or testimony is
27 disclosed. Unless otherwise provided by law, a licensing agency conduct-
28 ing a disciplinary proceeding may close only that portion of the hearing
29 in which disclosure of a report or record privileged under this section is
30 proposed. In closing a portion of a hearing as provided by this section,
31 the presiding officer may exclude any person from the hearing location
32 except the licensee, the licensee's attorney, the agency's attorney, the
33 witness, the court reporter and appropriate staff support for either coun-
34 sel. The licensing agency shall make the portions of the agency record in
35 which such report or record is disclosed subject to a protective order
36 prohibiting further disclosure of such report or record. Such report or
37 record shall not be subject to discovery, subpoena or other means of legal
38 compulsion for their release to any person or entity. No person in at-
39 tendance at a closed portion of a disciplinary proceeding shall at a sub-
40 sequent civil, criminal or administrative hearing, be required to testify
41 regarding the existence or content of a report or record privileged under
42 this section which was disclosed in a closed portion of a hearing, nor shall
43 such testimony be admitted into evidence in any subsequent civil, crim-

1 inal or administrative hearing. A licensing agency conducting a discipli-
2 nary proceeding may review peer review committee records, testimony
3 or reports but must prove its findings with independently obtained tes-
4 timony or records which shall be presented as part of the disciplinary
5 proceeding in open meeting of the licensing agency. Offering such tes-
6 timony or records in an open public hearing shall not be deemed a waiver
7 of the peer review privilege relating to any peer review committee testi-
8 mony, records or report.

9 (d) Nothing in this section shall limit the authority, which may oth-
10 erwise be provided by law, of the commissioner of insurance, the state
11 board of healing arts or other health care provider licensing or disciplinary
12 boards of this state to require a peer review committee or officer to report
13 to it any disciplinary action or recommendation of such committee or
14 officer; to transfer to it records of such committee's or officer's proceed-
15 ings or actions to restrict or revoke the license, registration, certification
16 or other authorization to practice of a health care provider; or to terminate
17 the liability of the fund for all claims against a specific health care provider
18 for damages for death or personal injury pursuant to subsection (i) of
19 K.S.A. 40-3403 and amendments thereto. Reports and records so fur-
20 nished shall not be subject to discovery, subpoena or other means of legal
21 compulsion for their release to any person or entity and shall not be
22 admissible in evidence in any judicial or administrative proceeding other
23 than a disciplinary proceeding by the state board of healing arts or other
24 health care provider licensing or disciplinary boards of this state.

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

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

35 Sec. ~~16~~ **[34.]** K.S.A. ~~2000~~ **2001** Supp. 65-4921 is hereby amended
36 to read as follows: 65-4921. As used in K.S.A. 65-4921 through 65-4930,
37 and amendments thereto:

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

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

42 (c) "Health care provider" means: (1) Those persons and entities de-
43 fined as a health care provider under K.S.A. 40-3401 and amendments

1 thereto; and (2) a dentist licensed by the Kansas dental board, a dental
2 hygienist licensed by the Kansas dental board, a professional nurse li-
3 censed by the board of nursing, a practical nurse licensed by the board
4 of nursing, a mental health technician licensed by the board of nursing,
5 a physical therapist assistant certified by the state board of healing arts,
6 an occupational therapist ~~registered~~ *licensed* by the state board of healing
7 arts, an occupational therapy assistant ~~registered~~ *licensed* by the state
8 board of healing arts and a respiratory therapist licensed by the state
9 board of healing arts.

10 (d) “License,” “licensee” and “licensing” include comparable terms
11 which relate to regulation similar to licensure, such as registration.

12 (e) “Medical care facility” means: (1) A medical care facility licensed
13 under K.S.A. 65-425 et seq. and amendments thereto; (2) a private psy-
14 chiatric hospital licensed under K.S.A. 75-3307b and amendments
15 thereto; and (3) state psychiatric hospitals and state institutions for the
16 mentally retarded, as follows: Larned state hospital, Osawatomie state
17 hospital, Rainbow mental health facility, Kansas neurological institute and
18 Parsons state hospital and training center.

19 (f) “Reportable incident” means an act by a health care provider
20 which: (1) Is or may be below the applicable standard of care and has a
21 reasonable probability of causing injury to a patient; or (2) may be grounds
22 for disciplinary action by the appropriate licensing agency.

23 (g) “Risk manager” means the individual designated by a medical care
24 facility to administer its internal risk management program and to receive
25 reports of reportable incidents within the facility.

26 (h) “Secretary” means the secretary of health and environment.

27 Sec. ~~17.~~ **[35.]** K.S.A. ~~[65-2872a,]~~ 65-5402, 65-5405, 65-5406, 65-
28 5407, 65-5410, 65-5412 and 65-5414 and K.S.A. ~~2000~~ **2001** Supp. 65-
29 1501, 65-2891, 65-5408, 65-5409, 65-4915 and 65-4921 are hereby re-
30 pealed.

31 Sec. ~~18.~~ **[36.]** This act shall take effect and be in force from and
32 after ~~January 1, 2002~~ **April 1, 2003**, and its publication in the statute
33 book.

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