

HOUSE Substitute for SENATE BILL No. 83

AN ACT concerning the state board of healing arts; relating to naturopathic doctors; concerning physical therapists; amending K.S.A. 17-2707, 65-7201, 65-7202, 65-7203, 65-7204, 65-7205, 65-7206, 65-7207, 65-7211, 65-7212 and 65-7216 and K.S.A. 2009 Supp. 65-2910, 65-2911, 65-2913, 65-7208 and 65-7209 and repealing the existing sections.

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

Section 1. On and after January 1, 2011, K.S.A. 65-7201 is hereby amended to read as follows: 65-7201. ~~(a)~~ K.S.A. 65-7201 to 65-7218, inclusive, and amendments thereto shall be known and may be cited as the naturopathic doctor ~~registration~~ *licensure* act.

~~(b) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 2. On and after January 1, 2011, K.S.A. 65-7202 is hereby amended to read as follows: 65-7202. ~~(a)~~ As used in K.S.A. 65-7201 to 65-7218, inclusive, and amendments thereto:

~~(1)~~ (a) “Naturopathic doctor” means a doctor of naturopathic medicine who is authorized and ~~registered~~ *licensed* pursuant to this act.

~~(2)~~ (b) “Naturopathic medicine,” or “naturopathy” means a system of health care practiced by naturopathic doctors for the prevention, diagnosis and treatment of human health conditions, injuries and diseases, that uses education, natural medicines and therapies to support and stimulate the individual’s intrinsic self-healing processes, and includes prescribing, recommending or administering: ~~(A)~~ (1) Food, food extracts, vitamins, minerals, enzymes, whole gland thyroid, botanicals, homeopathic preparations, nonprescription drugs, plant substances that are not designated as prescription drugs or controlled substances, topical drugs as defined in subsection ~~(a)~~(9) (i) of this section, and amendments thereto; ~~(B)~~ (2) health care counseling, nutritional counseling and dietary therapy, naturopathic physical applications, barrier contraceptive devices; ~~(C)~~ (3) substances on the naturopathic formulary which are authorized for intramuscular or intravenous administration pursuant to a written protocol entered into with a physician who has entered into a written protocol with a naturopathic doctor ~~registered~~ *licensed* under this act; ~~(D)~~ (4) noninvasive physical examinations, venipuncture to obtain blood for clinical laboratory tests and orofacial examinations, excluding endoscopies; ~~(E)~~ (5) minor office procedures; and ~~(F)~~ (6) naturopathic acupuncture. A naturopathic doctor may not perform surgery, obstetrics, administer ionizing radiation, or prescribe, dispense or administer any controlled substances as defined in K.S.A. 65-4101, and amendments thereto, or any prescription-only drugs except those listed on the naturopathic formulary adopted by the board pursuant to this act.

~~(3)~~ (c) “Board” means the state board of healing arts.

~~(4)~~ (d) “Approved naturopathic medical college” means a college and program granting the degree of doctor of naturopathy or naturopathic medicine that has been approved by the board under this act and which college and program requires at a minimum a four-year, full-time resident program of academic and clinical study.

~~(5)~~ (e) “Homeopathic preparations” means substances and drugs prepared according to the official homeopathic pharmacopoeia recognized by the United States food and drug administration.

~~(6)~~ (f) “Naturopathic acupuncture” means the insertion of fine metal needles through the skin at specific points on or near the surface of the body with or without the palpation of specific points on the body and with or without the application of electric current or heat to the needles or skin or both to treat human disease and impairment and to relieve pain.

~~(7)~~ (g) “Minor office procedures” means care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues, except eyes, and not involving blood vessels, tendons, ligaments or nerves. “Minor office procedures” includes use of antiseptics, but shall not include the suturing, repairing, alteration or removal of tissue or the use of general or spinal anesthesia. Minor office procedures does not include anesthetics or surgery.

~~(8)~~ (h) “Naturopathic physical applications” means the therapeutic use by naturopathic doctors of the actions or devices of electrical muscle stimulation, galvanic, diathermy, ultrasound, ultraviolet light, constitutional hydrotherapy, naturopathic musculoskeletal technique and therapeutic exercise.

~~(9)~~ (i) “Topical drugs” means topical analgesics, antiseptics, scabici-

des, antifungals and antibacterials but does not include prescription only drugs.

~~(10)~~ (j) “Physician” means a person licensed to practice medicine and surgery.

~~(11)~~ (k) “Written protocol” means a formal written agreement between a naturopathic doctor ~~registered~~ *licensed* under this act and a person licensed to practice medicine and surgery. Any licensee of the board entering into a written protocol with a ~~registered~~ *licensed* naturopathic doctor shall notify the board in writing of such relationship by providing such information as the board may require.

~~(b) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 3. On and after January 1, 2011, K.S.A. 65-7203 is hereby amended to read as follows: 65-7203. (a) The board, as hereinafter provided, shall administer the provisions of this act.

(b) The board shall judge the qualifications of all applicants for examination and ~~registration licensure~~, determine the applicants who successfully pass the examination, duly ~~register~~ *license* such applicants and adopt rules and regulations as may be necessary to administer the provisions of this act.

(c) The board shall issue a ~~registration~~ *license* as a naturopathic doctor to an individual who prior to the effective date of this act (1) graduated from a school of naturopathy that required four years of attendance and was at the time of such individual’s graduation accredited or a candidate for accreditation by the board approved accrediting body, (2) passed an examination approved by the board covering appropriate naturopathic subjects including basic and clinical sciences and (3) has not committed an act which would subject such person to having a ~~registration~~ *license* suspended or revoked under K.S.A. 65-7208, and amendments thereto.

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

~~(e) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 4. On and after January 1, 2011, K.S.A. 65-7204 is hereby amended to read as follows: 65-7204. (a) An applicant applying for ~~registration licensure~~ as a naturopathic doctor shall file a written application on forms provided by the board, showing to the satisfaction of the board that the applicant meets the following requirements:

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

(2) Examination: The applicant shall pass an examination as provided for in K.S.A. 65-7205 and amendments thereto.

(3) Fees: The applicants shall pay to the board all applicable fees established under K.S.A. 65-7207 and amendments thereto.

(b) The board shall adopt rules and regulations establishing the criteria for an educational program in naturopathy to obtain successful recognition by the board under paragraph (1) of subsection (a). The board may send a questionnaire developed by the board to any school or other entity conducting an educational program in naturopathy for which the board does not have sufficient information to determine whether the program should be recognized by the board and whether the program meets the rules and regulations adopted under this section. The questionnaire providing the necessary information shall be completed and returned to the board in order for the program to be considered for recognition. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about an educational program in naturopathy. In entering such contracts the authority to recognize an educational program in naturopathy shall remain solely with the board.

~~(c) The provisions of this section shall take effect on and after January 1, 2003~~ *An individual holding a valid registration as a naturopathic doctor under the naturopathic doctor registration act on December 31, 2010, shall be deemed to be licensed as a naturopathic doctor under the naturopathic doctor license act, and such individual shall not be required to*

file an original application for licensure under the naturopathic doctor license act.

Sec. 5. On and after January 1, 2011, K.S.A. 65-7205 is hereby amended to read as follows: 65-7205. ~~(a)~~ Each applicant for ~~registration~~ *licensure* under this act shall be examined by a written examination or examinations chosen by the board to test the applicant's knowledge of the basic and clinical sciences relating to naturopathy, and naturopathy theory and practice, including the applicant's professional skills and judgment in the utilization of naturopathic techniques and methods, and such other subjects as the board may deem useful to determine the applicant's fitness to practice naturopathy.

~~(b) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 6. On and after January 1, 2011, K.S.A. 65-7206 is hereby amended to read as follows: 65-7206. (a) The board may waive the examination or education requirements, or both, and grant ~~registration~~ *licensure* (1) to any applicant who presents proof of current authorization to practice naturopathy in another state, the District of Columbia or territory of the United States which requires standards for authorization to practice determined by the board to be equivalent to the requirements for ~~registration~~ *licensure* under this act and (2) to any applicant who presents proof that on the day preceding the effective date of this act that the applicant was practicing under K.S.A. 65-2872a and amendments thereto.

(b) At the time of making an application under this section, the applicant shall pay to the board the application fee as required under K.S.A. 65-7207 and amendments thereto.

(c) The board may issue a temporary ~~registration~~ *license* to an applicant for ~~registration~~ *licensure* as a naturopathic doctor who applies for temporary ~~registration~~ *licensure* on a form provided by the board, who meets the requirements for ~~registration~~ *licensure* or who meets all the requirements for ~~registration~~ *licensure* except examination and who pays to the board the temporary ~~registration~~ *license* fee as required under K.S.A. 65-7207 and amendments thereto. The person who holds a temporary ~~registration~~ *license* shall practice only under the supervision of a ~~registered~~ *licensed* naturopathic doctor. Such temporary ~~registration~~ *license* shall expire one year from the date of issue or on the date that the board approves the application for ~~registration~~ *licensure*, whichever occurs first. No more than one such temporary ~~registration~~ *license* shall be permitted to any one person.

~~(d) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 7. On and after January 1, 2011, K.S.A. 65-7207 is hereby amended to read as follows: 65-7207. (a) The board shall charge and collect in advance fees provided for in this act as fixed by the board by rules and regulations, subject to the following limitations:

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| Application fee, not more than..... | \$200 |
| Temporary registration <i>license</i> fee, not more than..... | \$30 |
| Registration <i>License</i> renewal fee, not more than..... | \$150 |
| Registration <i>License</i> late renewal additional fee, not more than..... | \$250 |
| Registration <i>License</i> reinstatement fee, not more than..... | \$250 |
| Certified copy of registration <i>license</i> , not more than..... | \$30 |
| Written verification of registration <i>license</i> , not more than..... | \$25 |

(b) The board shall charge and collect in advance fees for any examination administered by the board under the naturopathic doctor ~~reg-~~ *istration* *licensure* act as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under the naturopathic doctor ~~reg-~~ *istration* *licensure* act be paid directly to the examination service by the person taking the examination.

~~(c) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 8. On and after January 1, 2011, K.S.A. 2009 Supp. 65-7208 is hereby amended to read as follows: 65-7208. (a) The board may deny, refuse to renew, suspend, revoke or limit a ~~registration~~ *license* or the ~~registrant~~ *licensee* may be publicly or privately censured where the ~~reg-~~ *istrant* *licensee* or applicant for ~~registration~~ *licensure* has been guilty of

unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a ~~registration~~ *license* by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;
- (3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a naturopathic doctor;
- (4) violating any lawful order or rule and regulation of the board; and
- (5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension, revocation or limitation of a ~~registration~~ *license* or public or private censure of a ~~registrant~~ *licensee* may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a ~~registration~~ *license*, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a revoked ~~registration~~ *license* shall be accompanied by the ~~registration~~ *license* renewal fee and the ~~registration~~ *license* reinstatement fee established under K.S.A. 65-7207 and amendments thereto.

(c) The board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a ~~registrant~~ *licensee* for unprofessional conduct in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 9. On and after January 1, 2011, K.S.A. 2009 Supp. 65-7209 is hereby amended to read as follows: 65-7209. (a) ~~Registrations Licenses~~ issued under this act shall expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board. The request for renewal shall be accompanied by the ~~registration~~ *license* renewal fee established pursuant to K.S.A. 65-7207, and amendments thereto. The board may establish additional requirements for ~~registration~~ *license* renewal which provide evidence of continued competency. The board ~~for registration renewal~~ shall require *as a condition for renewal of a license* completion of at least 25 hours annually of continuing education approved by the board.

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

(c) Any ~~registration~~ *license* canceled for failure to renew as herein provided may be reinstated upon recommendation of the board and upon payment of the ~~registration~~ *license* 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 ~~registrations~~ *licenses* canceled for failure to renew.

(d) A person whose ~~registration~~ *license* is suspended shall not engage

in any conduct or activity in violation of the order or judgment by which the ~~registration~~ license was suspended.

Sec. 10. On and after January 1, 2011, K.S.A. 65-7211 is hereby amended to read as follows: 65-7211. (a) ~~On and after January 1, 2003, and prior to July 1, 2004, it shall be unlawful for any person who is not registered under this act as a naturopathic doctor or whose registration has been suspended or revoked to hold oneself out to the public as a registered naturopathic doctor, or use the abbreviation of "N.D." or the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," "naturopathic medical doctor" or any other words, letters, abbreviations or insignia indicating or implying that such person is a naturopathic doctor. A violation of this subsection (a) shall constitute a class B person misdemeanor. A person licensed under this act as a naturopathic doctor shall: (1) Use the letters "N.D.", when using the letters or term "Dr." or "Doctor" to identify themselves to patients or the public; and (2) be authorized to use the words "naturopathic doctor", "doctor of naturopathy", "doctor of naturopathic medicine", or "naturopath", to indicate that such person is a naturopathic doctor licensed under this act. A person licensed under this act may not advertise, hold themselves out to the public, refer to themselves or use the terms "naturopathic physician", "physician" or "naturopathic medical doctor" in conjunction with such licensee's name. A violation of this subsection (a) shall constitute a class B misdemeanor.~~

(b) ~~On and after July 1, 2004,~~ It shall be unlawful for any person who is not ~~registered~~ licensed under this act as a naturopathic doctor or whose ~~registration~~ license has been suspended or revoked to hold oneself out to the public in any manner as a ~~registered~~ licensed naturopathic doctor, or use the abbreviation of "N.D." or the words "naturopathic doctor," "doctor of naturopathy," "doctor of naturopathic medicine," "naturopath," "naturopathic medical doctor" or any other words, letters, abbreviations or insignia indicating or implying that such person is a naturopathic doctor. A violation of this subsection (b) shall constitute a class B person misdemeanor.

(c) No statute granting authority to persons licensed or registered by the state board of healing arts shall be construed to confer authority upon naturopathic doctors to engage in any activity not conferred by this act.

~~(d) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 11. On and after January 1, 2011, K.S.A. 65-7212 is hereby amended to read as follows: 65-7212. ~~(a)~~ The board shall adopt a naturopathic formulary which lists the drugs and substances which are approved for intramuscular or intravenous administration by a naturopathic doctor pursuant to the order of a physician. The board shall appoint a naturopathic formulary advisory committee which shall advise the board and make recommendations on the list of substances which may be included in the naturopathic formulary. The naturopathic formulary advisory committee shall consist of a licensed pharmacist, a person knowledgeable in medicinal plant chemistry, two persons licensed to practice medicine and surgery, and two naturopathic doctors ~~registered~~ licensed under this act.

~~(b) The provisions of this section shall take effect on and after January 1, 2003.~~

Sec. 12. On and after January 1, 2011, K.S.A. 65-7216 is hereby amended to read as follows: 65-7216. ~~(a)~~ All state agency adjudicative proceedings under the naturopathic doctor ~~registration~~ licensure act shall be conducted in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions.

~~(b) The provisions of this section shall take effect on and after January 1, 2003.~~

New Sec. 13. On and after January 1, 2011, nothing in the naturopathic doctor licensure act or in the provisions of K.S.A. 40-2,100 through 40-2,105, and amendments thereto, or K.S.A. 2009 Supp. 40-2,105a through 40-2,105d, and amendments thereto, shall be construed to require that any individual, group or blanket policy of accident and sickness, medical or surgical expense insurance coverage or any provision of a policy, contract, plan or agreement for medical service issued on or after the effective date of this act, reimburse or indemnify a person licensed under

the naturopathic doctor licensure act for services provided as a naturopathic doctor.

Sec. 14. On and after January 1, 2011, K.S.A. 17-2707 is hereby amended to read as follows: 17-2707. As used in this act, unless the context clearly indicates that a different meaning is intended:

(a) “Professional corporation” means a corporation organized under this act.

(b) “Professional service” means the type of personal service rendered by a person duly licensed, registered or certified by this state as a member of any of the following professions, each paragraph constituting one type:

- (1) A certified public accountant;
- (2) an architect;
- (3) an attorney-at-law;
- (4) a chiropractor;
- (5) a dentist;
- (6) an engineer;
- (7) an optometrist;
- (8) an osteopathic physician or surgeon;
- (9) a physician, surgeon or doctor of medicine;
- (10) a veterinarian;
- (11) a podiatrist;
- (12) a pharmacist;
- (13) a land surveyor;
- (14) a licensed psychologist;
- (15) a specialist in clinical social work;
- (16) a licensed physical therapist;
- (17) a landscape architect;
- (18) a registered professional nurse;
- (19) a real estate broker or salesperson;
- (20) a clinical professional counselor;
- (21) a geologist;
- (22) a clinical psychotherapist;
- (23) a clinical marriage and family therapist;
- (24) a licensed physician assistant;
- (25) a licensed occupational therapist;
- (26) a licensed audiologist; ~~and~~
- (27) a licensed speech-pathologist; *and*
- (28) *a licensed naturopathic doctor.*

(c) “Regulating board” means the court, board or state agency which is charged with the licensing, registering or certifying and regulation of the practice of the profession which the professional corporation is organized to render.

(d) “Qualified person” means:

(1) Any natural person licensed, registered or certified to practice the same type of profession which any professional corporation is authorized to practice;

(2) the trustee of a trust which is a qualified trust under subsection (a) of section 401 of the federal internal revenue code, as in effect on January 1, 2004, or of a contribution plan which is a qualified employee stock ownership plan under subsection (a) of section 409A of the federal internal revenue code, as in effect on January 1, 2004; or

(3) the trustee of a revocable living trust established by a natural person who is licensed, registered or certified to practice the type of profession which any professional corporation is authorized to practice, if the terms of such trust provide that such natural person is the principal beneficiary and sole trustee of such trust and such trust does not continue to hold title to professional corporation stock following such natural person’s death for more than a reasonable period of time necessary to dispose of such stock.

Sec. 15. K.S.A. 2009 Supp. 65-2910 is hereby amended to read as follows: 65-2910. (a) The license of every licensed physical therapist and the certification of every certified physical therapist assistant shall expire 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 or certificate is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2911 and amendments thereto. The request for renewal

shall be on a form provided by the board and shall be accompanied by the renewal fee established under K.S.A. 65-2911 and amendments thereto which shall be paid not later than the expiration date of the license or certificate.

(b) The board shall require every licensed physical therapist or certified physical therapist assistant as a condition of renewal to submit with the application for a renewal evidence of satisfactory completion of a program of continuing education required by the board. The board shall establish the requirements for each such program of continuing education by rules and regulations. In establishing such requirements the board shall consider any existing programs of continuing education currently being offered to licensed physical therapists or certified physical therapist assistants.

(c) At least 30 days before the expiration of the license of a physical therapist or the certificate of a physical therapist assistant, the board shall notify the licensee or certificate holder of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If the licensee or certificate holder fails to pay the renewal fee by the date of expiration, the licensee or certificate holder shall be given a second notice that the license or certificate has expired and the license or certificate may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, the license or certificate shall be canceled for failure to renew and shall be reissued only after the physical therapist or physical therapist assistant has been reinstated under subsection (d).

(d) Any licensee or certificate holder who allows the license or certificate to be canceled by failing to renew may be reinstated upon recommendation of the board, upon payment of the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses or certificates have been canceled for failure to renew.

(e) (1) There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any physical therapist who makes written application for a license as a physical therapist on a form provided by the board and remits the fee established pursuant to K.S.A. 65-2911, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physical therapist and who does not actively practice as a physical therapist in this state. An inactive license shall not entitle the holder to render professional services as a physical therapist. The provisions of subsections (c) and (d) relating to expiration, 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 providing to the board proof that a policy of professional liability insurance will be maintained in compliance with K.S.A. 2009 Supp. 65-2920, and amendments thereto, and rules and regulations adopted by the board.

(2) *For the licensee whose license has been inactive 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 physical therapy within Kansas. Any licensee whose license has been inactive for more than two years 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) (1) *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. 65-2911, and amendments thereto. The board may issue an exempt license to a person who is not regularly engaged in the practice of physical therapy 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 practice of physical therapy*

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 physical therapy act, except as otherwise provided in this subsection. The holder of an exempt license shall be required to submit evidence of satisfactory completion of a program of continuing education required by this section. Each exempt licensee may apply for a license to regularly engage in the practice of physical therapy 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. 65-2911, and amendments thereto.

(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 physical therapy within Kansas. Any licensee whose license has been exempt for more than two years and who has not been in the active practice of physical therapy 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 shall be construed to prohibit a person holding an exempt license from serving as a paid employee or unpaid volunteer 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.

(4) A person who practices under an exempt license shall not be deemed to be rendering professional service as a physical therapist in this state for the purposes of K.S.A. 2009 Supp. 65-2920, and amendments thereto.

(g) (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. 65-2911, 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 physical therapy in Kansas and who practices that branch of physical therapy 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 licenses under subsection (f), except that the scope of practice of a federally active licensee shall be limited to providing direct patient care services gratuitously or providing supervision, direction or consultation for no compensation except that nothing in this subsection (g)(1) shall prohibit a person licensed to practice physical therapy issued a federally active license from receiving payment for subsistence allowances or actual and necessary expenses incurred in providing such services; and 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), and (d) of this section relating to continuing education, expiration and renewal 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 physical therapist in this state for the purposes of K.S.A. 2009 Supp. 65-2920, and amendments thereto.

Sec. 16. K.S.A. 2009 Supp. 65-2911 is hereby amended to read as follows: 65-2911. (a) The board may adopt such rules and regulations as necessary to carry out the purposes of this act. The executive director of the board shall keep a record of all proceedings under this act and a roster of all persons licensed or certified under the act. The roster shall show the name, address, date and number of the original license or certificate, and the renewal thereof.

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

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| Application based upon certificate of prior examination, not more than | \$80 |
| Application based on examination, not more than | 100 |
| <i>Exempt license fee, not more than</i> | 80 |
| Annual renewal fee, not more than | 70 |
| <i>Exempt license renewal fee, not more than</i> | 70 |
| Late renewal fee, not more than | 75 |
| Reinstatement fee, not more than | 80 |
| Certified copy of license or certificate, not more than | 15 |
| Duplicate certificate | 15 |
| Temporary permit | 25 |
| <i>Written verification of license</i> | 25 |

(2) The board shall charge and collect in advance fees for any examination administered by the board under article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto as fixed by the board by rules and regulations in an amount equal to the cost to the board of the examination. If the examination is not administered by the board, the board may require that fees paid for any examination under article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory of the provisions thereof or supplemental thereto be paid directly to the examination service by the person taking the examination.

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

(c) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury. Twenty percent of such amount shall be credited to the state general fund and the balance shall be credited to the healing arts fee fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the president of the board or by a person or persons designated by the president of the board.

Sec. 17. On and after January 1, 2011, K.S.A. 2009 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) It shall be unlawful for any person who is not licensed under this act as a physical therapist or whose license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist or licensed physical therapist or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor.

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

(c) Nothing in this act is intended to limit, preclude or otherwise interfere with the practices of other health care providers formally trained and practicing their profession. The provisions of article 29 of chapter 65 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto shall not apply to the following individuals so long as they do not hold themselves out in a manner prohibited under subsection (a) or (b) of this section:

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;
- (4) health care providers in the United States armed forces, public

health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;

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

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

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

(8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;

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

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

(11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

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

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

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

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

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

(17) athletic trainers practicing their profession when licensed and practicing in accordance with the athletic trainers licensure act;

(18) persons who massage for the purpose of relaxation, muscle conditioning or figure improvement, so long as no drugs are used and such persons do not hold themselves out to be physicians or healers;

(19) barbers practicing their profession when licensed and practicing in accordance with the provisions of article 18 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(20) cosmetologists practicing their profession when licensed and practicing in accordance with the provisions of article 19 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(21) attendants practicing their profession when certified and practicing in accordance with the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated and amendments thereto;

(22) naturopathic doctors practicing their profession when ~~registered~~ *licensed* and practicing in accordance with the naturopathic doctor ~~registration~~ *licensure* act.

(d) Any patient monitoring, assessment or other procedures designed to evaluate the effectiveness of prescribed physical therapy must be performed by or pursuant to the delegation of a licensed physical therapist or other health care provider.

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

Sec. 18. K.S.A. 2009 Supp. 65-2910 and 65-2911 are hereby repealed.

Sec. 19. On and after January 1, 2011, K.S.A. 17-2707, 65-7201, 65-7202, 65-7203, 65-7204, 65-7205, 65-7206, 65-7207, 65-7211, 65-7212

and 65-7216 and K.S.A. 2009 Supp. 65-2913, 65-7208 and 65-7209 are hereby repealed.

Sec. 20. 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 SENATE, and passed that body

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

Passed the HOUSE
as amended _____

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

APPROVED _____

Governor.