Approved: 3-31-99
Date

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE.

The meeting was called to order by Chairperson Sandy Praeger at 10:00 a.m. on March 23, 1999 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Emalene Correll, Legislative Research Department
Norman Furse, Revisor of Statutes
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Action on: HB 2168 - Advanced level nurse practitioner and mid-level practitioner

Staff briefed the Committee on amending **SB 193** into **HB 2168** and trailer sections, (Attachment 1) and a balloon of the bill showing amendments to the bill, (Attachment 2). Staff called the Committee's attention for necessary language change in Sec. 12 (b) to conform with language in Sec. 12 (a). During Committee discussion it was also suggested to change the enactment date to April 1, 2000.

Senator Hardenburger made a motion the Committee adopt the balloon of the bill and trailer sections amending **SB 193** into **HB 2168** with necessary language changes as noted by staff, and change the enactment date to April 1, 2000, seconded by Senator Salmans. The motion carried.

Senator Hardenburger made a motion the Committee recommend **HB 2168 as amended** favorably for passage, seconded by Senator Jones. The motion carried.

Action on: HB 2362 - Newborn infant hearing screening act

Lorne Phillips, Ph.D., KDHE, briefed the Committee on the Universal Newborn Hearing Screening Process flowchart (Attachment 3) and Certificate of Live Birth form(Attachment 4). Committee discussion related to the importance of screening information on the Birth Certificate form being filled in a timely manner, and an amendment was suggested to change language on page 1, lines 19 and 25 in the bill from "major hearing defects" to "significant hearing loss".

Senator Becker made a motion to strike the language, "major hearing defects" on page 1, lines 19 and 25 of the bill and insert "significant hearing loss", seconded by Senator Jones. The motion carried.

Senator Steineger offered an amendment that would insert the residential childhood lead poisoning prevention act into **HB 2362**. (Attachment 5)

After Committee discussion on lead poisoning prevention and enforcement of the act, Senator Jones made a motion to adopt the amendment that would insert the residential childhood lead poisoning prevention act into the bill, seconded by Senator Steineger. The motion carried. Senator Bleeker voted "No'.

Senator Hardenburger expressed concern with the confidentiality of medical information obtained on birth certificates and the issuance on such confidential information. Senator Becker made a motion that the Committee conceptually adopt confidentiality requirement to insure the confidentiality of any information under the bill, seconded by Senator Hardenburger. The motion carried.

Senator Steineger made a motion the Committee recommend **HB 2362 as amended** favorably for passage, seconded by Senator Jones. The motion carried

Adjournment
The meeting was adjourned at 11:00 a.m.
The next meeting is scheduled for March 24, 1999.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3-23-99

NAME	REPRESENTING
Barry Brooks	KDHE
Sue Bowden	KDHE
Carolyn Wyddenberg	Ks St Nurses Assn
Tim Wood	Via Christi Health System
David Cramker	Meade High USD 226
	" "
Clay Presley	" " " "
Jennifer Neil	" "
Eric DeLong	" "
Jennifer Williamson	USD 226
Josh Pratt	USD 226
Mark Knutson	KU - School of SW
Michelle Callahan	KU - School of SW
Kristen Marie Tate	" " " "
Kathy Tinney	Ks. Public Health Association
Stephen M. Lange	KDHE
Tom Bell	KHA
Rich Gattshall	Health Midwest
Don Rubin	

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE
GUEST LIST

DATE: 3/23/99

NAME	REPRESENTING
Janet Stubbs	KRCS
EDWARD ROWE	LEAGUE OF WOMEN VOTERS/KS
Don Jordan	SRS - MH+DD
Connie Hubbell	SRS - MH+DD
Tom Phillips	KDHE
(Bonnie Lauver)	KDHE
Stacy Soldan	Hein + Wiley Chtd.
LARRY FROELICH	Board of Pharmacy
KEITH R LADDIS	CHRISTIAN SCIENCE COMMITTEE ON PUBLICATION FOR KANSAS
Pat Johnson	Board of Nursing
Charles Benjamin	KNRC/KS Sierra Club

Amending SB 193 into HB 2168 and Trailer Sections

K.S.A. Section	Change to Section
21-4214. *Obtaining a prescription-only drug by fraudulent means.	Mid-level practitioner added to criminal code statute prohibiting fraudulently obtaining a prescription-only drug.
39-7,117. *SRS restrictive drug formulary.	MLP added with reference to prescribing prescription drugs.
40-2123. *Kansas health insurance association (uninsurable health insurance plan-risk pool).	Part of the plan includes coverage for drugs prescribed by practitioners. MLP added.
60-4403. *Prevention of assisted suicide act.	Provides the same protection to the MLP which is currently provided in the section for practitioners.
65-669. *Food, drug and cosmetic act. Subsections (q) and (r) limitations on dispensing certain drugs.	Current law dispensing allowed only on written or oral prescription of a practitioner licensed to administer the drugs. Change would allow for their dispensing on written or oral prescription of MLP. An oral prescription, whether by a practitioner or a MLP, would be reduced promptly to writing under the statute.
65-1627. Pharmacy act statute providing for disciplinary action against a licensee.	This section requires that prescriptions be filled in strict accordance with the directions of the practitioner. Change would add also the directions of a MLP. In addition, a pharmacist is prohibited from self-administering any controlled substance without a practitioner's prescription order. Change would add without a MLP's prescription order.
65-1643. Pharmacy act statute prohibiting certain conduct unless licensed, registered or holding a permit from the board of pharmacy.	Subsection (e) of this section prohibits persons from distributing samples of drugs unless the person has a permit from the board of pharmacy. The subsection does not regulate furnishing samples of drugs to licensed practitioners. MLP is added to licensed practitioner in this regard.

Senate Public Health and Welfare
Date: 3-23-99
Attachment No. 1

65-1660. *Pharmacy act section which provides certain exceptions from the pharmacy act for treatment of persons with kidney failure.	Certain dialysates, devices or drugs for treating chronic kidney failure prescribed by a physician are exempted from pharmacy act requirements. Prescribed by a MLP is added.
65-2837a. *Healing arts act section relating to treatment of obesity and certain other medical conditions.	Makes it unlawful for a person licensed to practice medicine and surgery to prescribe and order certain controlled substances for treating the medical conditions specified in the section, except as provided in the section. Adds MLP to the requirements of this section.
65-2896e. Physician's assistant authorizing statute which currently provides for the transmitting of prescription orders.	Amendment adds SB 193 language which authorizes physicians' assistants to prescribe drugs pursuant to the written protocol of the responsible physician. The written prescription order is to include the name, address and telephone number of the responsible physician.
65-4116. Controlled substances act section relating to registration to distribute or dispense controlled substances. Specifies persons not required to register to possess a controlled substance.	Persons may possess a controlled substance without registration if possessed pursuant to the lawful order of a practitioner. The section is amended to include in addition the lawful order of a MLP. Persons licensed by the board of healing arts are exempt from registration to possess a controlled substance. MLPs would be added to the list of exempted persons.
65-4123. Controlled substances act section relating to controlled substances which may be dispensed.	To dispense certain controlled substances the written prescription of a practitioner is required. This section is amended to include the written prescription of a MLP as well.
65-4134. Controlled substances act section which protects the identity of patients of practitioners.	Amendment adds MLP to this section which protects the identity of a practitioner's patient.
65-4202. Definition section of the mental health technology act. Scope of practice of mental health technology includes carrying out treatments and medications prescribed by a licensed physician.	Section is changed to also include in scope of practice of mental health technology the treatments and medications prescribed by a MLP.

79-3606. *Sales tax exemptions. This statute currently exempts all sales of drugs dispensed pursuant to a prescription order by a licensed practitioner.	Section amended to add sales of drugs dispensed pursuant to a prescription order by a MLP to the current exemption.

* Asterisk indicates sections not previously reviewed with the committee.

MLP means mid-level practitioner.

Note: Trailer sections relate to usage of "practitioner" or "physician" in connection with prescribing drugs and prescription orders.

Prepared by Norman J. Furse, Revisor of Statutes

Sec. 4. K.S.A. 21-4214 is hereby amended to read as follows: 21-4214. (a) Obtaining a prescription-only drug by fraudulent means is the:

(1) Making, altering or signing of a prescription order by a person other than a practitioner or a mid-level practitioner; or

(2) delivery of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner; or

(3) possession of a prescription order with intent to deliver it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner; or

(4) possession of a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner; or

(5) providing false information to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug.

(b) (1) Obtaining a prescription-only drug by fraudulent means is a class A nonperson misdemeanor for the first offense.

(2) Obtaining a prescription-only drug by fraudulent means is a severity level 9, nonperson felony for a second or subsequent offense.

(c) As used in this section:

(1) "Pharmacist," ~~"practitioner"~~ "practitioner," "mid-level practitioner" and "prescription-only drug" shall have the meanings ascribed thereto by K.S.A. 65-1626 and amendments thereto.

(2) "Prescription order" means a written, oral or telephonic order for a prescription-only drug to be filled by a pharmacist. "Prescription order" does not mean a drug dispensed pursuant to such an order.

(d) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under the uniform controlled substances act and to which the provisions of K.S.A. 65-4127a or 65-4127b, or K.S.A. 1995 Supp. 65-4160 through 65-4164 and amendments thereto, would be applicable.

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

Sec. 5. K.S.A. 39-7,117 is hereby amended to read as follows: 39-7,117. (a) A practitioner or a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto may prescribe prescription-only drugs in accordance with this section that, in the professional judgment of the practitioner or mid-level practitioner and within the lawful scope of the practitioner's or mid-level practitioner's practice, the practitioner or mid-level practitioner considers appropriate for the diagnosis and treatment of a patient. The department of social and rehabilitation services shall not maintain a

restrictive drug formulary under the medicaid program that restricts a physician's ability to treat a patient with a drug that has been approved and designated as safe and effective by the federal food and drug administration, except that the department may limit reimbursement for a prescription-only drug upon the recommendation of the drug utilization review committee and only upon a finding that the drug is unsafe or is being prescribed contrary to the federally approved guidelines. Drugs used for cosmetic purposes, fertility drugs, anorexic drugs, non-legend (over the counter) drugs, and drugs for which there is no federal financial participation shall be exempt from the provisions of this section, except that the department is authorized to include drugs from these categories for reimbursement based upon recommendations of the drug utilization review committee which may include prior authorization requirements to control use.

(b) Nothing in this section shall limit the authority of the department to reimburse for multisource prescription-only drugs in accordance with state and federal law, including state maximum allowable cost and federal upper limit requirements of the health care financing administration.

(c) The provisions of this section shall be effective on and after April 15, 1992, by further authorization by a concurrent resolution approved by a majority of all members elected (or appointed) and qualified of each house of the legislature and shall not be effective prior to that date.

Sec. 6. K.S.A. 1998 Supp. 40-2123 is hereby amended to read as follows: 40-2123. (a) The plan shall offer coverage to every eligible person pursuant to which such person's covered expenses shall be indemnified or reimbursed subject to the provisions of K.S.A. 40-2124 and amendments thereto.

(b) Except for those expenses set forth in subsection (c) of this section, expenses covered under the plan shall include expenses for:

(1) Services of persons licensed to practice medicine and surgery which are medically necessary for the diagnosis or treatment of injuries, illnesses or conditions;

(2) services of advanced registered nurse practitioners who hold a certificate of qualification from the board of nursing to practice in an expanded role or physicians assistants acting under the direction of a responsible physician when such services are provided at the direction of a person licensed to practice medicine and surgery and meet the requirements of paragraph (b)(1) above;

(3) services of licensed dentists when such procedures would otherwise be performed by persons licensed to practice medicine and surgery;

(4) emergency care, surgery and treatment of acute episodes of illness or disease as defined in the plan and provided in a general hospital or ambulatory surgical center as such terms are defined in K.S.A. 65-425, and amendments thereto;

(5) medically necessary diagnostic laboratory and x-ray

services;

(6) drugs and controlled substances prescribed by a practitioner, as defined in subsection (x) of K.S.A. 65-1626 and amendments thereto, or drugs and controlled substances prescribed by a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto. Coverage for outpatient prescriptions shall be subject to a mandatory 50% coinsurance provision, and coverage for prescriptions administered to inpatients shall be subject to a coinsurance provision as established in the plan; and

(7) subject to the approval of the commissioner, the board shall also review and recommend the inclusion of coverage for mental health services and such other primary and preventive health care services as the board determines would not materially impair affordability of the plan.

(c) Expenses not covered under the plan shall include expenses for:

(1) Illness or injury due to an act of war;

(2) services rendered prior to the effective date of coverage under this plan for the person on whose behalf the expense is incurred;

(3) services for which no charge would be made in the absence of insurance or for which the insured bears no legal obligation to pay;

(4) (A) services or charges incurred by the insured which are otherwise covered by:

(i) Medicare or state law or programs;

(ii) medical services provided for members of the United States armed forces and their dependents or for employees of such armed forces;

(iii) military service-connected disability benefits;

(iv) other benefit or entitlement programs provided for by the laws of the United States (except title XIX of the social security act of 1965);

(v) workers compensation or similar programs addressing injuries, diseases, or conditions incurred in the course of employment covered by such programs;

(vi) benefits payable without regard to fault pursuant to any motor vehicle or other liability insurance policy or equivalent self-insurance.

(B) This exclusion shall not apply to services or charges which exceed the benefits payable under the applicable programs listed above and which are otherwise eligible for payment under this section.

(5) Services the provision of which is not within the scope of the license or certificate of the institution or individual rendering such service;

(6) that part of any charge for services or articles rendered or prescribed which exceeds the rate established by K.S.A. 40-2131 and amendments thereto for such services;

(7) services or articles not medically necessary;

(8) care which is primarily custodial or domiciliary in

nature;

(9) cosmetic surgery unless provided as the result of an injury or medically necessary surgical procedure;

(10) eye surgery if corrective lenses would alleviate the problem;

(11) experimental services or supplies not generally recognized as the normal mode of treatment for the illness or injury involved;

(12) service of a blood donor and any fee for failure of the insured to replace the first three pints of blood provided in each calendar year; and

(13) personal supplies or services provided by a health care facility or any other nonmedical or nonprescribed supply or service.

(d) Except as expressly provided for in this act, no law requiring the coverage or the offer of coverage of a health care service or benefit shall apply to the plan.

(e) A plan may incorporate provisions that will direct covered persons to the most appropriate lowest cost health care provider available.

Sec. 7. K.S.A. 1998 Supp. 60-4403 is hereby amended to read as follows: 60-4403. (a) A licensed health care professional who administers, prescribes or dispenses medications or procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, does not violate K.S.A. 21-3406 and amendments thereto unless the

medications or procedures are knowingly administered, prescribed or dispensed with the intent to cause death. A mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto who prescribes medications or procedures to relieve another person's pain or discomfort, even if the medication or procedure may hasten or increase the risk of death, does not violate K.S.A. 21-3406 and amendments thereto unless the medications or procedures are knowingly prescribed with the intent to cause death.

(b) A licensed health care professional, family member or other legally authorized person who participates in the act of, or the decision making process which results in the withholding or withdrawal of a life-sustaining procedure does not violate K.S.A. 21-3406 and amendments thereto.

(c) Providing spiritual treatment through prayer alone, in lieu of medical treatment, does not violate K.S.A. 21-3406 and amendments thereto.

Sec. 8. K.S.A. 65-669 is hereby amended to read as follows: 65-669. A drug or device shall be deemed to be misbranded:

(a) If its labeling is false or misleading in any particular.

(b) If in package form unless it bears a label containing: (1) the name and place of business of the manufacturer, the packer or the distributor, except that in the case of a prescription drug it shall bear the name and place of business of the person responsible for the production of the finished dosage

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form of the drug, the packer and the distributor; except that nothing in clause (1) of this paragraph shall be construed to apply to wholesalers and the requirement of clause (1) shall be satisfied by stating such information on the label of the drug and filing a statement with such information with the secretary which shall be made available by the secretary on request to local, public and private health agencies, poison control centers, licentiates of the healing arts, the state board of pharmacy, consumers and others to promote the purposes of this act; in no event, however, shall the label contain less information than required under federal law; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count, except that under clause (2) of this paragraph reasonable variations shall be permitted and exemptions as to small packages shall be allowed, in accordance with regulations prescribed by the secretary, or issued under the federal act.

(c) If any word, statement, or other information required by or under authority of this act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

(d) If it is for use by man and contains any quantity of narcotic or hypnotic substance alpha-eucaine, barbituric acid,

beta-eucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marijuana, morphine, opium, paraldehyde, peyote, or sulphonmethane, or any chemical derivative of such substance, which derivative has been by the secretary after investigation, found to be, and by regulations under this act, or by regulations issued pursuant to 21 U.S.C. 352 (d), designated as, habit forming, unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "warning-may be habit forming."

(e) (1) If it is a drug, unless its label bears, to the exclusion of any other nonproprietary name (except the applicable systematic chemical name or the chemical formula), (i) the established name (as defined in subparagraph (2)) of the drug, if such there be; and (ii) in case it is fabricated from two or more ingredients, the established name of each active ingredient, including the kind and quantity of proportion of any alcohol, and also including, whether active or not, the established name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein. The requirements for stating the quantity of the active ingredients, other than the quantity of those specifically named in this paragraph, shall apply only to prescription drugs. To the

extent that compliance with the requirements of clause (ii) of this subparagraph is impracticable, exemptions shall be allowed under regulations promulgated by the secretary, or under the federal act.

(2) As used in this paragraph (e), the term "established name," with respect to a drug or ingredient thereof, means (A) the applicable official name designated pursuant to 21 U.S.C. 358, or (B) if there is no such name and such drug, or such ingredient, is an article recognized in an official compendium, then the official title thereof in such compendium or (C) if neither clause (A) nor clause (B) of this subparagraph applies, then the common or usual name, if any, of such drug or of such ingredient. Where clause (B) of this subparagraph applies to an article recognized in the United States pharmacopoeia and in the homeopathic pharmacopoeia under different official titles, the official title used in the United States pharmacopoeia shall apply unless it is labeled and offered for sale as a homeopathic drug, in which case the official title used in the homeopathic pharmacopoeia shall apply.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warning against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users. Where any requirement of clause (1) of this paragraph, as applied to any

drug or device, is not necessary for the protection of the public health, the secretary shall promulgate regulations exempting such drug or device from such requirements. Articles exempted under regulations issued under 21 U.S.C. 352 (f) may also be exempt.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein. The method of packing may be modified with the consent of the secretary, or if consent is obtained under the federal act. Whenever a drug is recognized in both the United States pharmacopoeia and the homeopathic pharmacopoeia of the United States, it shall be subject to the requirements of the United States pharmacopoeia with respect to the packaging and labeling unless it is labeled and offered for sale as a homeopathic drug, in which case it shall be subject to the provisions of the homeopathic pharmacopoeia of the United States, and not to those of the United States pharmacopoeia. In the event of inconsistency between the requirements of this paragraph and those of paragraph (e) as to the name by which the drug or its ingredients shall be designated, the requirements of paragraph (e) shall prevail.

(h) If it has been found by the secretary or under the federal act to be a drug liable to deterioration, unless it is packed in such form and manner, and its label bears a statement of such precautions, as the regulations adopted by the secretary require as necessary for the protection of public health. No such regulations shall be established for any drug recognized in an

official compendium until the secretary shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

(j) If it is dangerous to health when used in the dosage, or with the frequency of duration prescribed, recommended, or suggested in the labeling thereof.

(k) If it is, or purports to be, or is represented as a drug composed wholly or partly of insulin, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C. 356, and (2) such certificate or release is in effect with respect to such drug.

(l) If it is, or purports to be, or is represented as a drug composed wholly or partly of any kind of penicillin, streptomycin, chlortetracycline, chloramphenicol, bacitracin, or any other antibiotic drug, or any derivative thereof, unless (1) it is from a batch with respect to which a certificate or release has been issued pursuant to 21 U.S.C. 357, and (2) such certificate or release is in effect with respect to such drug. This paragraph shall not apply to any drug or class of drugs exempted by regulations promulgated under 21 U.S.C. 357 (c) or

(d). For the purpose of this subsection the term "antibiotic drug" means any drug intended for use by man containing any quantity of any chemical substance which is produced by a microorganism and which has the capacity to inhibit or destroy microorganisms in dilute solution (including the chemically synthesized equivalent of any such substance).

(m) If it is a color additive, the intended use of which in or on drugs is for the purpose of coloring only, unless its packaging and labeling are in conformity with such packaging and labeling requirements applicable to such color additive, prescribed under the provisions of K.S.A. 65-667 or of the federal act.

(n) In the case of any prescription drug distributed or offered for sale in this state, unless the manufacturer, packer, or distributor thereof includes in all advertisements and other descriptive printed matter issued or caused to be issued by the manufacturer, packer, or distributor with respect to that drug a true statement of (1) the established name, as defined in subsection (e) (2) of this section, (2) the formula showing quantitatively each ingredient of such drug to the extent required for labels under 21 U.S.C. 352 (e), and (3) such other information in brief summary relating to side effects, contraindications, and effectiveness as shall be required in regulations issued under the federal act.

(o) If a trademark, trade name or other identifying mark, imprint or device of another or any likeness of the foregoing has

been placed thereon or upon its container with intent to defraud.

(p) Drugs and devices which are, in accordance with the practice of the trade, to be processed, labeled or repacked in substantial quantities at establishments other than those where originally processed or packed shall be exempt from any labeling or packaging requirements of this act if such drugs and devices are being delivered, manufactured, processed, labeled, repacked or otherwise held in compliance with regulations issued by the secretary or under the federal act.

(q) A drug intended for use by man which (A) is a habit-forming drug to which K.S.A. 65-668 applies; or (B) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary to its use, is not safe for use except under the supervision of a practitioner licensed by law to administer such drug; or (C) is limited by an approved application under 21 U.S.C. 355 or K.S.A. 65-669a to use under the professional supervision of a practitioner licensed by law to administer such drug, shall be dispensed only (i) upon a written prescription of a practitioner licensed by law to administer such drug or upon the written prescription of a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto, or (ii) upon an oral prescription of such practitioner or mid-level practitioner which is reduced promptly to writing and filed by the pharmacist, or (iii) by refilling, any such written or oral prescription if such refilling is authorized by the prescriber either in the

original prescription or by oral order which is reduced promptly to writing and filed by the pharmacist. The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in a drug being misbranded while held for sale.

(r) Any drug dispensed by filling or refilling a written or oral prescription of a practitioner licensed by law to administer such drug or by filling or refilling a written or oral prescription of a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto shall be exempt from the requirements of this section, except subsections (a), (i) (2) and (3), (k), and (l), and the packaging requirements of subsections (g) and (h), if the drug bears a label containing the name and address of the dispenser, the serial number and date of the prescription or of its filling, the name of the prescriber and, if stated in the prescription, the name of the patient, and the directions for use and cautionary statements, if any, contained in such prescription. This exemption shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail, or to a drug dispensed in violation of paragraph (q) of this section.

(s) The secretary may, by regulation, remove drugs subject to subsection (d) of this section and K.S.A. 65-669a from the requirements of paragraph (q) of this section when such requirements are not necessary for the protection of the public health. Drugs removed from the prescription requirements of the

federal act by regulations issued thereunder may also, by regulations issued by the secretary, be removed from the requirements of paragraph (q) of this section.

(t) A drug which is subject to paragraph (q) of this section shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement "caution: federal law prohibits dispensing without prescription," or "caution: state law prohibits dispensing without prescription." A drug to which paragraph (q) of this section does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the caution statement quoted in the preceding sentence.

(u) Nothing in this section shall be construed to relieve any person from any requirement prescribed by or under authority of law with respect to drugs now included or which may hereafter be included within the classifications of narcotic drugs or marijuana as defined in the applicable federal and state laws relating to narcotic drugs and marijuana.

Sec. 9. K.S.A. 1998 Supp. 65-1627 is hereby amended to read as follows: 65-1627. (a) The board may revoke, suspend, place in a probationary status or deny a renewal of any license of any pharmacist upon a finding that:

(1) The license was obtained by fraudulent means;

(2) the licensee has been convicted of a felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;

(3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency;

(4) the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(5) the licensee has violated a provision of the federal or state food, drug and cosmetic act, the uniform controlled substances act of the state of Kansas, or any rule and regulation adopted under any such act;

(6) the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner or a mid-level practitioner;

(7) the licensee is found to be mentally or physically incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;

(9) the licensee has failed to comply with the requirements of the board relating to the continuing education of pharmacists;

(10) the licensee as a pharmacist in charge or consultant pharmacist under the provisions of subsection (c) or (d) of K.S.A. 65-1648 and amendments thereto has failed to comply with the requirements of subsection (c) or (d) of K.S.A. 65-1648 and amendments thereto;

(11) the licensee has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement;

(12) the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof; ~~or~~

(13) the licensee has self-administered any controlled substance without a practitioner's prescription order~~.~~ or a mid-level practitioner's prescription order; or

(14) the licensee has assisted suicide in violation of K.S.A. 21-3406 and amendments thereto as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406 and amendments thereto.

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 1998 Supp. 60-4404 and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 1998 Supp. 60-4405 and amendments thereto.

(b) In determining whether or not the licensee has violated

subsection (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion of such violation has authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. To determine whether reasonable suspicion of such violation exists, the investigative information shall be presented to the board as a whole. Information submitted to the board as a whole and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of pharmacy with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice pharmacy and who shall accept the privilege to practice pharmacy in this state by so practicing or by the making and filing of a renewal application to practice pharmacy in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such

testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

(c) The board may suspend, revoke, place in a probationary status or deny a renewal of any retail dealer's permit issued by the board when information in possession of the board discloses that such operations for which the permit was issued are not being conducted according to law or the rules and regulations of the board.

(d) The board may revoke, suspend, place in a probationary status or deny a renewal of the registration of a pharmacy upon a finding that: (1) Such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith; (2) the owner or any pharmacist employed at such pharmacy is convicted, subsequent to such owner's acquisition of or such employee's employment at such pharmacy, of a violation of the pharmacy act or uniform controlled substances act of the state of Kansas, or the federal or state food, drug and cosmetic act; (3) the owner or any pharmacist employed by such pharmacy has fraudulently claimed money for pharmaceutical services; or (4) the registrant has had a registration revoked, suspended or limited, has been censured

or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

(e) A registration to manufacture or to distribute at wholesale a drug or a registration for the place of business where any such operation is conducted may be suspended, revoked, placed in a probationary status or the renewal of such registration may be denied by the board upon a finding that the registrant or the registrant's agent: (1) Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas; (2) has been convicted of a felony under any federal or state law relating to the manufacture or distribution of drugs; (3) has had any federal registration for the manufacture or distribution of drugs suspended or revoked; (4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of K.S.A. 65-1629 and amendments thereto; (5) has failed to keep, or has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas or by the board's rules and regulations; or (6) has violated the pharmacy act of the state of Kansas or rules and regulations adopted by the state board of pharmacy under the pharmacy act of the state of Kansas or has violated the uniform controlled

substances act or rules and regulations adopted by the state board of pharmacy under the uniform controlled substances act.

(f) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

Sec. 10. K.S.A. 1998 Supp. 65-1643 is hereby amended to read as follows: 65-1643. On and after the effective date of this act, it shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the pharmacist in charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued

to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to manufacture within this state any drugs except under the personal and immediate supervision of a pharmacist or such other person or persons as may be approved by the board after an investigation and a determination by the board that such person or persons is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety; and no person shall manufacture any such drugs without first obtaining a registration so to do from the board. Such registration shall be subject to such rules and regulations with respect to requirements, sanitation and equipment, as the board may from time to time adopt for the protection of public health and safety.

(c) For any person to distribute at wholesale any drugs without first obtaining a registration so to do from the board.

(d) For any person to sell or offer for sale at public auction or private sale in a place where public auctions are conducted, any drugs without first having obtained a registration from the board so to do, and it shall be necessary to obtain the permission of the board in every instance where any of the products covered by this section are to be sold or offered for sale.

(e) For any person to in any manner distribute or dispense samples of any drugs without first having obtained a permit from

the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection (f), for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a drug product the label of which is required to bear substantially the statement: "Caution: Federal law prohibits dispensing without

prescription"; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in subsection (u) of K.S.A. 65-1626 and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board.

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a and amendments thereto and any rules and regulations adopted pursuant thereto.

(i) For any person to be a pharmacy student without first obtaining a registration to do so from the board, in accordance with rules and regulations adopted by the board, and paying a pharmacy student registration fee of $25 to the board.

Sec. 11. K.S.A. 1998 Supp. 65-1660 is hereby amended to read as follows: 65-1660. (a) Except as otherwise provided in this section, the provisions of the pharmacy act of the state of Kansas shall not apply to dialysates, devices or drugs which are designated by the board for the purposes of this section relating to treatment of a person with chronic kidney failure receiving dialysis and which are prescribed or ordered by a physician <u>or a mid-level practitioner</u> for administration or delivery to a person with chronic kidney failure if:

(1) The wholesale distributor is registered with the board and lawfully holds the drug or device; and

(2) the wholesale distributor (A) delivers the drug or device to: (i) A person with chronic kidney failure for self-administration at the person's home or specified address; (ii) a physician for administration or delivery to a person with chronic kidney failure; or (iii) a medicare approved renal dialysis facility for administering or delivering to a person with chronic kidney failure; and (B) has sufficient and qualified supervision to adequately protect the public health.

(b) The wholesale distributor pursuant to subsection (a) shall be supervised by a pharmacist consultant pursuant to rules and regulations adopted by the board.

(c) The board shall adopt such rules or regulations as are necessary to effectuate the provisions of this section.

(d) As used in this section, "physician" means a person licensed to practice medicine and surgery; "mid-level practitioner" means mid-level practitioner as such term is defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto.

(e) This section shall be part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 12. K.S.A. 1998 Supp. 65-2837a is hereby amended to read as follows: 65-2837a. (a) It shall be unlawful for any person licensed to practice medicine and surgery to prescribe, order, dispense, administer, sell, supply or give or for a

mid-level practitioner as defined in subsection (ii) of 65-1626 and amendments thereto to prescribe, administer or give any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, except as provided in this section. Failure to comply with this section shall constitute unprofessional conduct under K.S.A. 65-2837 and amendments thereto.

(b) When any licensee or mid-level practitioner prescribes, orders, dispenses, administers, sells, supplies or gives any amphetamine or sympathomimetic amine designated in schedule II, III or IV under the uniform controlled substances act, the patient's medical record shall adequately document and the prescription order shall indicate in the licensee's or mid-level practitioner's own handwriting, the purpose for which the drug is being given. Such purpose shall be restricted to one or more of the following:

(1) The treatment of narcolepsy.

(2) The treatment of drug-induced brain dysfunction.

(3) The treatment of hyperkinesis.

(4) The differential diagnostic psychiatric evaluation of depression.

(5) The treatment of depression shown by adequate medical records and documentation to be unresponsive to other forms of treatment.

(6) The clinical investigation of the effects of such drugs or compounds, in which case, before the investigation is begun,

the licensee shall, in addition to other requirements of applicable laws, apply for and obtain approval of the investigation from the board of healing arts.

(7) The treatment of obesity with controlled substances, as may be defined by rules and regulations adopted by the board of healing arts.

(8) The treatment of any other disorder or disease for which such drugs or compounds have been found to be safe and effective by competent scientific research which findings have been generally accepted by the scientific community, in which case, the licensee before prescribing, ordering, dispensing, administering, selling, supplying or giving the drug or compound for a particular condition, or the licensee before authorizing a mid-level practitioner to prescribe the drug or compound for a particular condition, shall obtain a determination from the board of healing arts that the drug or compound can be used for that particular condition.

Sec. 13. K.S.A. 65-2896e is hereby amended to read as follows: 65-2896e. (a) A person whose name has been entered on the register of physicians' assistants may perform, only under the direction and supervision of a physician, acts which constitute the practice of medicine and surgery to the extent and in the manner authorized by the physician responsible for the physician's assistant and only to the extent such acts are consistent with rules and regulations adopted by the board which relate to acts performed by a physician's assistant under the

responsible physician's direction and supervision. A physician's assistant may ~~not~~ prescribe drugs ~~but may transmit a prescription order for drugs~~ pursuant to a written protocol as authorized by the responsible physician. Before a physician's assistant shall perform under the direction and supervision of a physician, such physician's assistant shall be identified to the patient and others involved in providing the patient services as a physician's assistant to the responsible physician. A physician's assistant may not perform any act or procedure performed in the practice of optometry except as provided in K.S.A. 65-1508 and 65-2887 and amendments thereto.

(b) The board shall adopt rules and regulations governing the ~~transmitting of prescription orders for~~ prescribing of drugs by physicians' assistants and the responsibilities of the responsible physician with respect thereto. Such rules and regulations shall establish such conditions and limitations as the board determines to be necessary to protect the public health and safety. In developing rules and regulations relating to the ~~transmitting of prescription orders for~~ prescribing of drugs by physicians' assistants, the board shall take into consideration the amount of training and capabilities of physicians' assistants, the different practice settings in which physicians' assistants and responsible physicians practice, the degree of direction and supervision to be provided by a responsible physician and the needs of the geographic area of the state in which the physician's assistant and the responsible physician

practice. In all cases in which a physician's assistant is authorized to ~~transmit prescription orders for~~ prescribe drugs by a responsible physician, a written protocol between the responsible physician and the physician's assistant containing the essential terms of such authorization shall be in effect. Any written prescription order shall include the name, address and telephone number of the responsible physician. In no case shall the scope of the authority of the physician's assistant to ~~transmit prescription orders for~~ prescribe drugs exceed the normal and customary practice of the responsible physician in the prescribing of drugs.

(c) The physician's assistant may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by the responsible physician. In order to prescribe controlled substances, the physician's assistant shall register with the federal drug enforcement administration.

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

Sec. 14. K.S.A. 65-4116 is hereby amended to read as follows: 65-4116. (a) Every person who manufactures, distributes or dispenses any controlled substance within this state or who proposes to engage in the manufacture, distribution or dispensing of any controlled substance within this state shall obtain annually a registration issued by the board in accordance with

the uniform controlled substances act and with rules and regulations adopted by the board.

(b) Persons registered by the board under this act to manufacture, distribute, dispense or conduct research with controlled substances may possess, manufacture, distribute, dispense or conduct research with those substances to the extent authorized by their registration and in conformity with the other provisions of this act.

(c) The following persons need not register and may lawfully possess controlled substances under this act, as specified in this subsection:

(1) An agent or employee of any registered manufacturer, distributor or dispenser of any controlled substance if the agent or employee is acting in the usual course of such agent or employee's business or employment;

(2) a common or contract carrier or warehouseman or an employee thereof whose possession of any controlled substance is in the usual course of business or employment;

(3) an ultimate user or a person in possession of any controlled substance pursuant to a lawful order of a practitioner or a mid-level practitioner or in lawful possession of a schedule V substance;

(4) persons licensed and registered by the board under the provisions of the acts contained in article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, to manufacture, dispense or distribute drugs are considered to be in

compliance with the registration provision of the uniform controlled substances act without additional proceedings before the board or the payment of additional fees, except that manufacturers and distributors shall complete and file the application form required under the uniform controlled substances act;

(5) any person licensed by the state board of healing arts;

(6) any person licensed by the state board of veterinary examiners;

(7) any person licensed by the Kansas dental board; ~~and~~

(8) a mid-level practitioner; and

~~(8)~~ (9) any person who is a member of the Native American Church, with respect to use or possession of peyote, whose use or possession of peyote is in, or for use in, bona fide religious ceremonies of the Native American Church, but nothing in this paragraph shall authorize the use or possession of peyote in any place used for the confinement or housing of persons arrested, charged or convicted of criminal offenses or in the state security hospital.

(d) The board may waive by rules and regulations the requirement for registration of certain manufacturers, distributors or dispensers if the board finds it consistent with the public health and safety, except that licensure of any person by the state board of healing arts, Kansas dental board or the state board of veterinary examiners shall constitute compliance with the registration requirements of the uniform controlled

substances act by such person for such person's place of professional practice. Evidence of abuse as determined by the board relating to a person licensed by the state board of healing arts shall be submitted to the state board of healing arts and the attorney general within 60 days. The state board of healing arts shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of healing arts to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a person licensed by the state board of veterinary examiners shall be submitted to the state board of veterinary examiners and the attorney general within 60 days. The state board of veterinary examiners shall, within 60 days, make findings of fact and take such action against such person as it deems necessary. All findings of fact and any action taken shall be reported by the state board of veterinary examiners to the board of pharmacy and the attorney general. Evidence of abuse as determined by the board relating to a dentist licensed by the Kansas dental board shall be submitted to the Kansas dental board and the attorney general within 60 days. The Kansas dental board shall, within 60 days, make findings of fact and take such action against such dentist as it deems necessary. All findings of fact and any action taken shall be reported by the Kansas dental board to the board of pharmacy and the attorney general.

(e) A separate annual registration is required at each place

of business or professional practice where the applicant manufactures, distributes or dispenses controlled substances.

(f) The board may inspect the establishment of a registrant or applicant for registration in accordance with the board's rules and regulations.

(g) (1) The registration of any person or location shall terminate when such person or authorized representative of a location dies, ceases legal existence, discontinues business or professional practice or changes the location as shown on the certificate of registration. Any registrant who ceases legal existence, discontinues business or professional practice, or changes location as shown on the certificate of registration, shall notify the board promptly of such fact and forthwith deliver the certificate of registration directly to the secretary or executive secretary of the board. In the event of a change in name or mailing address the person or authorized representative of the location shall notify the board promptly in advance of the effective date of this change by filing the change of name or mailing address with the board. This change shall be noted on the original application on file with the board.

(2) No registration or any authority conferred thereby shall be assigned or otherwise transferred except upon such conditions as the board may specifically designate and then only pursuant to the written consent of the board.

Sec. 15. K.S.A. 65-4123 is hereby amended to read as follows: 65-4123. (a) Except as otherwise provided in K.S.A.

65-4117 and amendments thereto or in this subsection (a), no schedule I controlled substance may be dispensed. The board by rules and regulations may designate in accordance with the provisions of this subsection (a) a schedule I controlled substance as a schedule I designated prescription substance. A schedule I controlled substance designated as a schedule I designated prescription substance may be dispensed only upon the written prescription of a practitioner. Prior to designating a schedule I controlled substance as a schedule I designated prescription substance, the board shall find: (1) That the schedule I controlled substance has an accepted medical use in treatment in the United States; (2) that the public health will benefit by the designation of the substance as a schedule I designated prescription substance; and (3) that the substance may be sold lawfully under federal law pursuant to a prescription. No prescription for a schedule I designated prescription substance may be refilled.

(b) Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, no controlled substance in schedule II may be dispensed without the written prescription of a practitioner <u>or a mid-level practitioner</u>. In emergency situations, as defined by rules and regulations of the board, schedule II drugs may be dispensed upon oral prescription of a practitioner <u>or a mid-level practitioner</u> reduced promptly to writing and filed by the pharmacy. No prescription for a schedule II substance may be refilled.

(c) Except when dispensed by a practitioner, other than a pharmacy, to an ultimate user, a controlled substance included in schedule III or IV which is a prescription drug shall not be dispensed without a written or oral prescription of a practitioner or a mid-level practitioner. The prescription shall not be filled or refilled more than six months after the date thereof or be refilled more than five times.

(d) A controlled substance shall not be distributed or dispensed other than for a medical purpose. Prescriptions shall be retained in conformity with the requirements of K.S.A. 65-4121 and amendments thereto.

Sec. 16. K.S.A. 65-4134 is hereby amended to read as follows: 65-4134. A practitioner engaged in medical practice or research or a mid-level practitioner acting in the usual course of such mid-level practitioner's practice is not required or compelled to furnish the name or identity of a patient or research subject to the board, nor may ~~he~~ such practitioner or mid-level practitioner be compelled in any state or local civil, criminal, administrative, legislative or other proceedings to furnish the name or identity of an individual that the practitioner or mid-level practitioner is obligated to keep confidential.

Sec. 17. K.S.A. 65-4202 is hereby amended to read as follows: 65-4202. As used in this act: (a) "Board" means the state board of nursing.

(b) The "practice of mental health technology" means the

performance, under the direction of a physician licensed to practice medicine and surgery or registered professional nurse, of services in caring for and treatment of the mentally ill, emotionally disturbed, or mentally retarded for compensation or personal profit, which services:

(1) Involve responsible nursing and therapeutic procedures for mentally ill or mentally retarded patients requiring interpersonal and technical skills in the observations and recognition of symptoms and reactions of such patients, the accurate recording of such symptoms and reactions and the carrying out of treatments and medications as prescribed by a licensed physician or a mid-level practitioner as defined in subsection (ii) of K.S.A. 65-1626 and amendments thereto; and

(2) require an application of techniques and procedures that involve understanding of cause and effect and the safeguarding of life and health of the patient and others; and

(3) require the performance of duties that are necessary to facilitate rehabilitation of the patient or are necessary in the physical, therapeutic and psychiatric care of the patient and require close work with persons licensed to practice medicine and surgery, psychiatrists, psychologists, rehabilitation therapists, social workers, registered nurses, and other professional personnel.

(c) A "licensed mental health technician" means a person who lawfully practices mental health technology as defined in this act.

(d) An "approved course in mental health technology" means a program of training and study including a basic curriculum which shall be prescribed and approved by the board in accordance with the standards prescribed herein, the successful completion of which shall be required before licensure as a mental health technician, except as hereinafter provided.

Sec. 18. K.S.A. 1998 Supp. 79-3606 is hereby amended to read as follows: 79-3606. The following shall be exempt from the tax imposed by this act:

(a) All sales of motor-vehicle fuel or other articles upon which a sales or excise tax has been paid, not subject to refund, under the laws of this state except cigarettes as defined by K.S.A. 79-3301 and amendments thereto, cereal malt beverages and malt products as defined by K.S.A. 79-3817 and amendments thereto, including wort, liquid malt, malt syrup and malt extract, which is not subject to taxation under the provisions of K.S.A. 79-41a02 and amendments thereto, motor vehicles taxed pursuant to K.S.A. 79-5117, and amendments thereto, tires taxed pursuant to K.S.A. 1998 Supp. 65-3424d, and amendments thereto, and drycleaning and laundry services taxed pursuant to K.S.A. 1998 Supp. 65-34,150, and amendments thereto;

(b) all sales of tangible personal property or service, including the renting and leasing of tangible personal property, purchased directly by the state of Kansas, a political subdivision thereof, other than a school or educational institution, or purchased by a public or private nonprofit

hospital or public hospital authority or nonprofit blood, tissue or organ bank and used exclusively for state, political subdivision, hospital or public hospital authority or nonprofit blood, tissue or organ bank purposes, except when: (1) Such state, hospital or public hospital authority is engaged or proposes to engage in any business specifically taxable under the provisions of this act and such items of tangible personal property or service are used or proposed to be used in such business, or (2) such political subdivision is engaged or proposes to engage in the business of furnishing gas, water, electricity or heat to others and such items of personal property or service are used or proposed to be used in such business;

(c) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly by a public or private elementary or secondary school or public or private nonprofit educational institution and used primarily by such school or institution for nonsectarian programs and activities provided or sponsored by such school or institution or in the erection, repair or enlargement of buildings to be used for such purposes. The exemption herein provided shall not apply to erection, construction, repair, enlargement or equipment of buildings used primarily for human habitation;

(d) all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging,

furnishing or remodeling facilities for any public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or a public or private nonprofit educational institution, which would be exempt from taxation under the provisions of this act if purchased directly by such hospital or public hospital authority, school or educational institution; and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state, the total cost of which is paid from funds of such political subdivision and which would be exempt from taxation under the provisions of this act if purchased directly by such political subdivision. Nothing in this subsection or in the provisions of K.S.A. 12-3418 and amendments thereto, shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any political subdivision of the state. As used in this subsection, K.S.A. 12-3418 and 79-3640, and amendments thereto, "funds of a political subdivision" shall mean general tax revenues, the proceeds of any bonds and gifts or grants-in-aid. Gifts shall not mean funds used for the purpose of constructing, equipping, reconstructing, repairing, enlarging, furnishing or remodeling facilities which are to be leased to the donor. When any

political subdivision of the state, public or private nonprofit hospital or public hospital authority, public or private elementary or secondary school or public or private nonprofit educational institution shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the political subdivision, hospital or public hospital authority, school or educational institution concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are

found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the political subdivision, hospital or public hospital authority, school or educational institution concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(e) all sales of tangible personal property or services purchased by a contractor for the erection, repair or enlargement of buildings or other projects for the government of the United States, its agencies or instrumentalities, which would be exempt from taxation if purchased directly by the government of the United States, its agencies or instrumentalities. When the

government of the United States, its agencies or instrumentalities shall contract for the erection, repair, or enlargement of any building or other project, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the government of the United States, its agencies or instrumentalities concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. As an alternative to the foregoing procedure, any such contracting entity may apply to the secretary of revenue for agent status for the sole purpose of issuing and furnishing project exemption certificates to contractors pursuant to rules and regulations adopted by the secretary establishing conditions and standards for the granting and maintaining of such status. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the

sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto;

(f) tangible personal property purchased by a railroad or public utility for consumption or movement directly and immediately in interstate commerce;

(g) sales of aircraft including remanufactured and modified aircraft, sales of aircraft repair, modification and replacement parts and sales of services employed in the remanufacture, modification and repair of aircraft sold to persons using directly or through an authorized agent such aircraft and aircraft repair, modification and replacement parts as certified or licensed carriers of persons or property in interstate or foreign commerce under authority of the laws of the United States or any foreign government or sold to any foreign government or agency or instrumentality of such foreign government and all sales of aircraft, aircraft parts, replacement parts and services employed in the remanufacture, modification and repair of aircraft for use outside of the United States;

(h) all rentals of nonsectarian textbooks by public or private elementary or secondary schools;

(i) the lease or rental of all films, records, tapes, or any type of sound or picture transcriptions used by motion picture exhibitors;

(j) meals served without charge or food used in the

preparation of such meals to employees of any restaurant, eating house, dining car, hotel, drugstore or other place where meals or drinks are regularly sold to the public if such employees' duties are related to the furnishing or sale of such meals or drinks;

(k) any motor vehicle, semitrailer or pole trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto, or aircraft sold and delivered in this state to a bona fide resident of another state, which motor vehicle, semitrailer, pole trailer or aircraft is not to be registered or based in this state and which vehicle, semitrailer, pole trailer or aircraft will not remain in this state more than 10 days;

(l) all isolated or occasional sales of tangible personal property, services, substances or things, except isolated or occasional sale of motor vehicles specifically taxed under the provisions of subsection (o) of K.S.A. 79-3603 and amendments thereto;

(m) all sales of tangible personal property which become an ingredient or component part of tangible personal property or services produced, manufactured or compounded for ultimate sale at retail within or without the state of Kansas; and any such producer, manufacturer or compounder may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for use as an ingredient or component part of the property or services produced, manufactured or compounded;

(n) all sales of tangible personal property which is

consumed in the production, manufacture, processing, mining, drilling, refining or compounding of tangible personal property, the treating of by-products or wastes derived from any such production process, the providing of services or the irrigation of crops for ultimate sale at retail within or without the state of Kansas; and any purchaser of such property may obtain from the director of taxation and furnish to the supplier an exemption certificate number for tangible personal property for consumption in such production, manufacture, processing, mining, drilling, refining, compounding, treating, irrigation and in providing such services;

(o) all sales of animals, fowl and aquatic plants and animals, the primary purpose of which is use in agriculture or aquaculture, as defined in K.S.A. 47-1901, and amendments thereto, the production of food for human consumption, the production of animal, dairy, poultry or aquatic plant and animal products, fiber or fur, or the production of offspring for use for any such purpose or purposes;

(p) all sales of drugs, as defined by K.S.A. 65-1626 and amendments thereto, dispensed pursuant to a prescription order, as defined by K.S.A. 65-1626 and amendments thereto, by a licensed practitioner or a mid-level practitioner as defined by K.S.A. 65-1626 and amendments thereto;

(q) all sales of insulin dispensed by a person licensed by the state board of pharmacy to a person for treatment of diabetes at the direction of a person licensed to practice medicine by the

board of healing arts;

(r) all sales of prosthetic and orthopedic appliances prescribed in writing by a person licensed to practice the healing arts, dentistry or optometry. For the purposes of this subsection, the term prosthetic and orthopedic appliances means any apparatus, instrument, device, or equipment used to replace or substitute for any missing part of the body; used to alleviate the malfunction of any part of the body; or used to assist any disabled person in leading a normal life by facilitating such person's mobility; such term shall include accessories attached or to be attached to motor vehicles, but such term shall not include motor vehicles or personal property which when installed becomes a fixture to real property;

(s) all sales of tangible personal property or services purchased directly by a groundwater management district organized or operating under the authority of K.S.A. 82a-1020 et seq. and amendments thereto, which property or services are used in the operation or maintenance of the district;

(t) all sales of farm machinery and equipment or aquaculture machinery and equipment, repair and replacement parts therefor and services performed in the repair and maintenance of such machinery and equipment. For the purposes of this subsection the term "farm machinery and equipment or aquaculture machinery and equipment" shall include machinery and equipment used in the operation of Christmas tree farming but shall not include any passenger vehicle, truck, truck tractor, trailer, semitrailer or

pole trailer, other than a farm trailer, as such terms are defined by K.S.A. 8-126 and amendments thereto. Each purchaser of farm machinery and equipment or aquaculture machinery and equipment exempted herein must certify in writing on the copy of the invoice or sales ticket to be retained by the seller that the farm machinery and equipment or aquaculture machinery and equipment purchased will be used only in farming, ranching or aquaculture production. Farming or ranching shall include the operation of a feedlot and farm and ranch work for hire and the operation of a nursery;

(u) all leases or rentals of tangible personal property used as a dwelling if such tangible personal property is leased or rented for a period of more than 28 consecutive days;

(v) all sales of food products to any contractor for use in preparing meals for delivery to homebound elderly persons over 60 years of age and to homebound disabled persons or to be served at a group-sitting at a location outside of the home to otherwise homebound elderly persons over 60 years of age and to otherwise homebound disabled persons, as all or part of any food service project funded in whole or in part by government or as part of a private nonprofit food service project available to all such elderly or disabled persons residing within an area of service designated by the private nonprofit organization, and all sales of food products for use in preparing meals for consumption by indigent or homeless individuals whether or not such meals are consumed at a place designated for such purpose;

(w) all sales of natural gas, electricity, heat and water delivered through mains, lines or pipes: (1) To residential premises for noncommercial use by the occupant of such premises; (2) for agricultural use and also, for such use, all sales of propane gas; (3) for use in the severing of oil; and (4) to any property which is exempt from property taxation pursuant to K.S.A. 79-201b Second through Sixth. As used in this paragraph, "severing" shall have the meaning ascribed thereto by subsection (k) of K.S.A. 79-4216, and amendments thereto;

(x) all sales of propane gas, LP-gas, coal, wood and other fuel sources for the production of heat or lighting for noncommercial use of an occupant of residential premises;

(y) all sales of materials and services used in the repairing, servicing, altering, maintaining, manufacturing, remanufacturing, or modification of railroad rolling stock for use in interstate or foreign commerce under authority of the laws of the United States;

(z) all sales of tangible personal property and services purchased directly by a port authority or by a contractor therefor as provided by the provisions of K.S.A. 12-3418 and amendments thereto;

(aa) all sales of materials and services applied to equipment which is transported into the state from without the state for repair, service, alteration, maintenance, remanufacture or modification and which is subsequently transported outside the state for use in the transmission of liquids or natural gas by

means of pipeline in interstate or foreign commerce under authority of the laws of the United States;

(bb) all sales of used mobile homes or manufactured homes. As used in this subsection: (1) "Mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto; and (2) "sales of used mobile homes or manufactured homes" means sales other than the original retail sale thereof;

(cc) all sales of tangible personal property or services purchased for the purpose of and in conjunction with constructing, reconstructing, enlarging or remodeling a business or retail business which meets the requirements established in K.S.A. 74-50,115 and amendments thereto, and the sale and installation of machinery and equipment purchased for installation at any such business or retail business. When a person shall contract for the construction, reconstruction, enlargement or remodeling of any such business or retail business, such person shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials, machinery and equipment for incorporation in such project. The contractor shall furnish the number of such certificates to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the owner of the business or retail business a sworn

statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials, machinery or equipment purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed thereon, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615 and amendments thereto. As used in this subsection, "business" and "retail business" have the meanings respectively ascribed thereto by K.S.A. 74-50,114 and amendments thereto;

(dd) all sales of tangible personal property purchased with food stamps issued by the United States department of agriculture;

(ee) all sales of lottery tickets and shares made as part of a lottery operated by the state of Kansas;

(ff) on and after July 1, 1988, all sales of new mobile homes or manufactured homes to the extent of 40% of the gross receipts, determined without regard to any trade-in allowance, received from such sale. As used in this subsection, "mobile homes" and "manufactured homes" shall have the meanings ascribed thereto by K.S.A. 58-4202 and amendments thereto;

(gg) all sales of tangible personal property purchased in accordance with vouchers issued pursuant to the federal special supplemental food program for women, infants and children;

(hh) all sales of medical supplies and equipment purchased directly by a nonprofit skilled nursing home or nonprofit intermediate nursing care home, as defined by K.S.A. 39-923, and amendments thereto, for the purpose of providing medical services to residents thereof. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(ii) all sales of tangible personal property purchased directly by a nonprofit organization for nonsectarian comprehensive multidiscipline youth development programs and activities provided or sponsored by such organization, and all sales of tangible personal property by or on behalf of any such organization. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(jj) all sales of tangible personal property or services, including the renting and leasing of tangible personal property, purchased directly on behalf of a community-based mental retardation facility or mental health center organized pursuant to K.S.A. 19-4001 et seq., and amendments thereto, and licensed in accordance with the provisions of K.S.A. 75-3307b and amendments thereto. This exemption shall not apply to tangible personal property customarily used for human habitation purposes;

(kk) on and after January 1, 1989, all sales of machinery and equipment used directly and primarily for the purposes of

manufacturing, assembling, processing, finishing, storing, warehousing or distributing articles of tangible personal property in this state intended for resale by a manufacturing or processing plant or facility or a storage, warehousing or distribution facility, and all sales of repair and replacement parts and accessories purchased for such machinery and equipment:

(1) For purposes of this subsection, machinery and equipment shall be deemed to be used directly and primarily in the manufacture, assemblage, processing, finishing, storing, warehousing or distributing of tangible personal property where such machinery and equipment is used during a manufacturing, assembling, processing or finishing, storing, warehousing or distributing operation:

(A) To effect a direct and immediate physical change upon the tangible personal property;

(B) to guide or measure a direct and immediate physical change upon such property where such function is an integral and essential part of tuning, verifying or aligning the component parts of such property;

(C) to test or measure such property where such function is an integral part of the production flow or function;

(D) to transport, convey or handle such property during the manufacturing, processing, storing, warehousing or distribution operation at the plant or facility; or

(E) to place such property in the container, package or wrapping in which such property is normally sold or transported.

(2) For purposes of this subsection "machinery and equipment used directly and primarily" shall include, but not be limited to:

(A) Mechanical machines or components thereof contributing to a manufacturing, assembling or finishing process;

(B) molds and dies that determine the physical characteristics of the finished product or its packaging material;

(C) testing equipment to determine the quality of the finished product;

(D) computers and related peripheral equipment that directly control or measure the manufacturing process or which are utilized for engineering of the finished product; and

(E) computers and related peripheral equipment utilized for research and development and product design.

(3) "Machinery and equipment used directly and primarily" shall not include:

(A) Hand tools;

(B) machinery, equipment and tools used in maintaining and repairing any type of machinery and equipment;

(C) transportation equipment not used in the manufacturing, assembling, processing, furnishing, storing, warehousing or distributing process at the plant or facility;

(D) office machines and equipment including computers and related peripheral equipment not directly and primarily used in controlling or measuring the manufacturing process;

(E) furniture and buildings; and

(F) machinery and equipment used in administrative, accounting, sales or other such activities of the business;

(4) for purposes of this subsection, "repair and replacement parts and accessories" means all parts and accessories for exempt machinery and equipment, including but not limited to dies, jigs, molds, and patterns which are attached to exempt machinery or which are otherwise used in production, short-lived replaceable parts that can be readily detached from exempt machinery or equipment, such as belts, drill bits, grinding wheels, cutting bars and saws, and other replacement parts for production equipment, including refractory brick and other refractory items for kiln equipment used in production operations;

(ll) all sales of educational materials purchased for distribution to the public at no charge by a nonprofit corporation organized for the purpose of encouraging, fostering and conducting programs for the improvement of public health;

(mm) all sales of seeds and tree seedlings; fertilizers, insecticides, herbicides, germicides, pesticides and fungicides; and services, purchased and used for the purpose of producing plants in order to prevent soil erosion on land devoted to agricultural use;

(nn) except as otherwise provided in this act, all sales of services rendered by an advertising agency or licensed broadcast station or any member, agent or employee thereof;

(oo) all sales of tangible personal property purchased by a

community action group or agency for the exclusive purpose of repairing or weatherizing housing occupied by low income individuals;

(pp) all sales of drill bits and explosives actually utilized in the exploration and production of oil or gas;

(qq) all sales of tangible personal property and services purchased by a nonprofit museum or historical society or any combination thereof, including a nonprofit organization which is organized for the purpose of stimulating public interest in the exploration of space by providing educational information, exhibits and experiences, which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(rr) all sales of tangible personal property which will admit the purchaser thereof to any annual event sponsored by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(ss) all sales of tangible personal property and services purchased by a public broadcasting station licensed by the federal communications commission as a noncommercial educational television or radio station;

(tt) all sales of tangible personal property and services purchased by or on behalf of a not-for-profit corporation which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, for the

sole purpose of constructing a Kansas Korean War memorial;

(uu) all sales of tangible personal property and services purchased by or on behalf of any rural volunteer fire-fighting organization for use exclusively in the performance of its duties and functions;

(vv) all sales of tangible personal property purchased by any of the following organizations which are exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, for the following purposes, and all sales of any such property by or on behalf of any such organization for any such purpose:

(1) The American Heart Association, Kansas Affiliate, Inc. for the purposes of providing education, training, certification in emergency cardiac care, research and other related services to reduce disability and death from cardiovascular diseases and stroke;

(2) the Kansas Alliance for the Mentally Ill, Inc. for the purpose of advocacy for persons with mental illness and to education, research and support for their families;

(3) the Kansas Mental Illness Awareness Council for the purposes of advocacy for persons who are mentally ill and to education, research and support for them and their families;

(4) the American Diabetes Association Kansas Affiliate, Inc. for the purpose of eliminating diabetes through medical research, public education focusing on disease prevention and education, patient education including information on coping with diabetes,

and professional education and training;

(5) the American Lung Association of Kansas, Inc. for the purpose of eliminating all lung diseases through medical research, public education including information on coping with lung diseases, professional education and training related to lung disease and other related services to reduce the incidence of disability and death due to lung disease;

(6) the Kansas chapters of the Alzheimer's Disease and Related Disorders Association, Inc. for the purpose of providing assistance and support to persons in Kansas with Alzheimer's disease, and their families and caregivers; and

(ww) all sales of tangible personal property purchased by the Habitat for Humanity for the exclusive use of being incorporated within a housing project constructed by such organization.

(xx) all sales of tangible personal property and services purchased by a nonprofit zoo which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986, or on behalf of such zoo by an entity itself exempt from federal income taxation pursuant to section 50 [501] (c)(3) of the federal internal revenue code of 1986 contracted with to operate such zoo and all sales of tangible personal property or services purchased by a contractor for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo which would be exempt from taxation under the

provisions of this section if purchased directly by such nonprofit zoo or the entity operating such zoo. Nothing in this subsection shall be deemed to exempt the purchase of any construction machinery, equipment or tools used in the constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities for any nonprofit zoo. When any nonprofit zoo shall contract for the purpose of constructing, equipping, reconstructing, maintaining, repairing, enlarging, furnishing or remodeling facilities, it shall obtain from the state and furnish to the contractor an exemption certificate for the project involved, and the contractor may purchase materials for incorporation in such project. The contractor shall furnish the number of such certificate to all suppliers from whom such purchases are made, and such suppliers shall execute invoices covering the same bearing the number of such certificate. Upon completion of the project the contractor shall furnish to the nonprofit zoo concerned a sworn statement, on a form to be provided by the director of taxation, that all purchases so made were entitled to exemption under this subsection. All invoices shall be held by the contractor for a period of five years and shall be subject to audit by the director of taxation. If any materials purchased under such a certificate are found not to have been incorporated in the building or other project or not to have been returned for credit or the sales or compensating tax otherwise imposed upon such materials which will not be so incorporated in the building or

other project reported and paid by such contractor to the director of taxation not later than the 20th day of the month following the close of the month in which it shall be determined that such materials will not be used for the purpose for which such certificate was issued, the nonprofit zoo concerned shall be liable for tax on all materials purchased for the project, and upon payment thereof it may recover the same from the contractor together with reasonable attorney fees. Any contractor or any agent, employee or subcontractor thereof, who shall use or otherwise dispose of any materials purchased under such a certificate for any purpose other than that for which such a certificate is issued without the payment of the sales or compensating tax otherwise imposed upon such materials, shall be guilty of a misdemeanor and, upon conviction therefor, shall be subject to the penalties provided for in subsection (g) of K.S.A. 79-3615, and amendments thereto;

(yy) all sales of tangible personal property and services purchased by a parent-teacher association or organization, and all sales of tangible personal property by or on behalf of such association or organization;

(zz) all sales of machinery and equipment purchased by over-the-air, free access radio or television station which is used directly and primarily for the purpose of producing a broadcast signal or is such that the failure of the machinery or equipment to operate would cause broadcasting to cease. For purposes of this subsection, machinery and equipment shall

include, but not be limited to, that required by rules and regulations of the federal communications commission, and all sales of electricity which are essential or necessary for the purpose of producing a broadcast signal or is such that the failure of the electricity would cause broadcasting to cease;

(aaa) all sales of tangible personal property and services purchased by a religious organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code, and used exclusively for religious purposes; and

(bbb) all sales of food for human consumption by an organization which is exempt from federal income taxation pursuant to section 501 (c)(3) of the federal internal revenue code of 1986, pursuant to a food distribution program which offers such food at a price below cost in exchange for the performance of community service by the purchaser thereof.

Sec. 19. K.S.A. 21-4214, 39-7,117, 65-669, 65-1130, 65-2896e, 65-4116, 65-4123 and 65-4134, 65-4202 and K.S.A. 1998 Supp. 40-2123, 60-4403, 65-1626, 65-1627, 65-1643, 65-1660, 65-2837a, 65-4101 and 79-3606 are hereby repealed.

As Amended by House Committee

Session of 1999

HOUSE BILL No. 2168

By Committee on Health and Human Services

1-28

AN ACT [concerning health care providers; relating] to advanced registered nurse practitioners [and midlevel practitioners]; amending K.S.A. 65-1130 and [K.S.A. 1998 Supp. 65-1626 and 65-410] and repealing the existing sections.

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

Section 1. K.S.A. 65-1130 is hereby amended to read as follows: 65-1130. (a) No professional nurse shall announce or represent to the public that such person is an advanced registered nurse practitioner unless such professional nurse has complied with requirements established by the board and holds a valid certificate of qualification as an advanced registered nurse practitioner in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain a certificate of qualification as an advanced registered nurse practitioner. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education ~~and training~~ of advanced registered nurse practitioners. The board may require that some, but not all, types of advanced registered nurse practitioners hold an academic degree beyond the minimum educational requirement for qualifying for a license to practice as a professional nurse. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants.

(c) The board shall adopt rules and regulations applicable to advanced registered nurse practitioners which:

(1) Establish categories of advanced registered nurse practitioners which are consistent with nursing practice specialties recognized by the nursing profession.

(2) Establish education~~, training~~ and qualifications necessary for certification for each category of advanced registered nurse practitioner established by the board at a level adequate to assure the competent performance by advanced registered nurse practitioners of functions and procedures which advanced registered nurse practitioners are authorized to perform.

authorizing physicians' assistants and

to prescribe drugs

Adjusting the amending clauses as needed.

; also repealing K.S.A. 1998 Supp. 65-1627i

Senate Public Health & Welfare
Date: 3-23-99
Attachment No. 2

(3) Define the ~~expanded~~ role of advanced registered nurse practitioners and establish limitations and restrictions on such ~~expanded~~ role. The board shall adopt a definition of ~~expanded~~ *the* role under this subsection (c)(3) which is consistent with the education~~,~~ ~~training~~ and qualifications required to obtain a certificate of qualification as an advanced registered nurse practitioner, which protects the public from persons performing functions and procedures as advanced registered nurse practitioners for which they lack adequate education~~,~~ ~~training~~ and qualifications and which authorizes advanced registered nurse practitioners to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such ~~expanded~~ role the board shall consider: (A) The ~~training~~ ~~and~~ education required for a certificate of qualification as an advanced registered nurse practitioner; (B) the type of nursing practice and preparation in specialized practitioner skills involved in each category of advanced registered nurse practitioner established by the board; (C) the scope of practice of nursing specialties and limitations thereon prescribed by national organizations which certify nursing specialties; and (D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education ~~and~~ ~~training~~ in nursing.

(d) An advanced registered nurse practitioner may ~~not~~ prescribe drugs ~~but may transmit prescription orders~~ pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced registered nurse practitioner is authorized to ~~transmit prescription orders~~ *prescribe* and shall specify all drugs which may be ~~transmitted~~ *prescribed* by the advanced registered nurse practitioner. **Any written prescription order shall include the name, address and telephone number of the responsible physician.** *The advanced registered nurse practitioner may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients* **pursuant to a written protocol as authorized by a responsible physician**. *In order to prescribe controlled substances, the advanced registered nurse practitioner shall (1) register with the federal drug enforcement administration; and (2) notify the board of the name and address of the responsible physician or physicians.* In no case shall the scope of authority of the advanced registered nurse practitioner exceed the normal and customary practice of the responsible physician. An advanced registered nurse practitioner certified in the category of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151 to 65-

1164, inclusive, and amendments thereto, with respect to ~~medications~~ *drugs* and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery *in Kansas* who has accepted responsibility for the protocol and the actions of the advanced registered nurse practitioner ~~involving the transmitting of prescription orders~~ *when prescribing drugs*.

(e) As used in this section, "drug" means those articles and substances defined as drugs in K.S.A. 1998 Supp. 65-1626 and 65-4101 and amendments thereto.

Sec. 2. K.S.A. 1998 Supp. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

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

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

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

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

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

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

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

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

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

(h) "Dispense" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner.

(i) "Dispenser" means a practitioner or pharmacist who dispenses or pursuant to the prescription of a mid-level practitioner

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prescription medication.

(j) "Distribute" means to deliver, other than by administering or dispensing, any drug.

(k) "Distributor" means a person who distributes a drug.

(l) "Drug" means: (1) Articles recognized in the official United States pharmacopoeia, or other such official compendiums of the United States, or official national formulary, or any supplement of any of them; (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; (3) articles, other than food, intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any articles specified in clause (1), (2) or (3) of this subsection; but does not include devices or their components, parts or accessories, except that the term "drug" shall not include amygdalin (laetrile) or any livestock remedy, as defined in K.S.A. 47-501 and amendments thereto, if such livestock remedy has been registered in accordance with the provisions of article 5 of chapter 47 of the Kansas Statutes Annotated.

(m) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

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

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

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

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

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

(D) employees of a business or other employer.

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

(A) Any registered pharmacy;

(B) any office of a practitioner; or

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

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

the mentally retarded.

(q) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by: (1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice; (2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or (3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

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

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

(t) "Pharmacist in charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

(u) "Pharmacy," "drug store" or "apothecary" means premises, laboratory, area or other place: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; or (2) which has displayed upon it or within it the words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of these words or combinations of these words or words of similar import either in English or any sign containing any of these words; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign "Rx" may be exhibited. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the

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address for which the registration was issued.

(v) "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.

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

(x) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

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

(z) "Prescription" means, according to the context, either a prescription order or a prescription medication.

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

(bb) "Prescription-only drug" means any drug required by the federal or state food, drug and cosmetic act to bear on its label the legend "Caution: Federal law prohibits dispensing without prescription."

(cc) "Prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner **or a mid-level practitioner** in the authorized course of professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner;

or mid-level practitioner

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

(ee) "Professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross

2-5

negligence, as determined by the board;

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

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

(ff) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a drug the label of which is required to bear substantially the statement "Caution: Federal law prohibits dispensing without prescription"; or (3) a drug intended for human use by hypodermic injection.

(gg) "Secretary" means the executive secretary of the board.

(hh) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

(2) intentional adulteration or mislabeling of any drug, medicine, chemical or poison;

(3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;

(4) intentionally falsifying or altering records or prescriptions;

(5) unlawful possession of drugs and unlawful diversion of drugs to others;

(6) willful betrayal of confidential information under K.S.A. 65-1654 and amendments thereto;

(7) conduct likely to deceive, defraud or harm the public;

(8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;

(9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or

(10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ii) "~~Midlevel~~ **Mid-level** *practitioner" means ~~a practitioner other than those defined in K.S.A. 1998 Supp. 65-1626 and 65-4101, and amendments thereto,~~* **an advanced registered nurse practitioner issued a certificate of qualification pursuant to K.S.A. 65-1131 and amendments thereto** *who has authority to prescribe drugs pursuant to written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto.*

Sec. 3. K.S.A. 1998 Supp. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalati

a

or a physician's assistant registered pursuant to K.S.A. 65-2896a and amendments thereto who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-2896e and amendments thereto

ingestion or any other means, to the body of a patient or research subject by: (1) A practitioner or pursuant to the lawful direction of a practitioner; or

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

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

(c) "Board" means the state board of pharmacy.

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

(e) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments to these sections.

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

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

(h) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery.

(i) "Dispenser" means a practitioner or pharmacist who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

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

, or pursuant to the prescription of a mid-level practitioner

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

(n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a controlled substance: (1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

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

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

(p) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis: (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

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

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation

thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

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

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

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

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

(u) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

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

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

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

(y) "Isomer" means all enantiomers and diastereomers.

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

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

(bb) (1) "Controlled substance analog" means a substance the chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto; and:

(A) Which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled

2-10

ostance included in the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto; or

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

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

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

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

(D) any substance to the extent not intended for human consumption before an exemption takes effect with respect to the substance.

(cc) "~~Midlevel~~ **Mid-level** *practitioner" means ~~a practitioner other than those defined in 1998 Supp. 65-1626 and 65-4101,~~* **an advanced registered nurse practitioner issued a certificate of qualification pursuant to K.S.A. 65-1131** *and amendments thereto, who has authority to prescribe drugs pursuant to written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto.*

~~Sec. 4. K.S.A. 65-1130 and K.S.A. 1998 Supp. 65-1626 and 65-4101 are hereby repealed.~~

Sec. 5. This act shall take effect and be in force from and after its publication in the statute book.

a

or a physician's assistant registered pursuant to K.S.A. 65-2896a and amendments thereto who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-2896e and amendments thereto

adjust as needed for additional sections attached.

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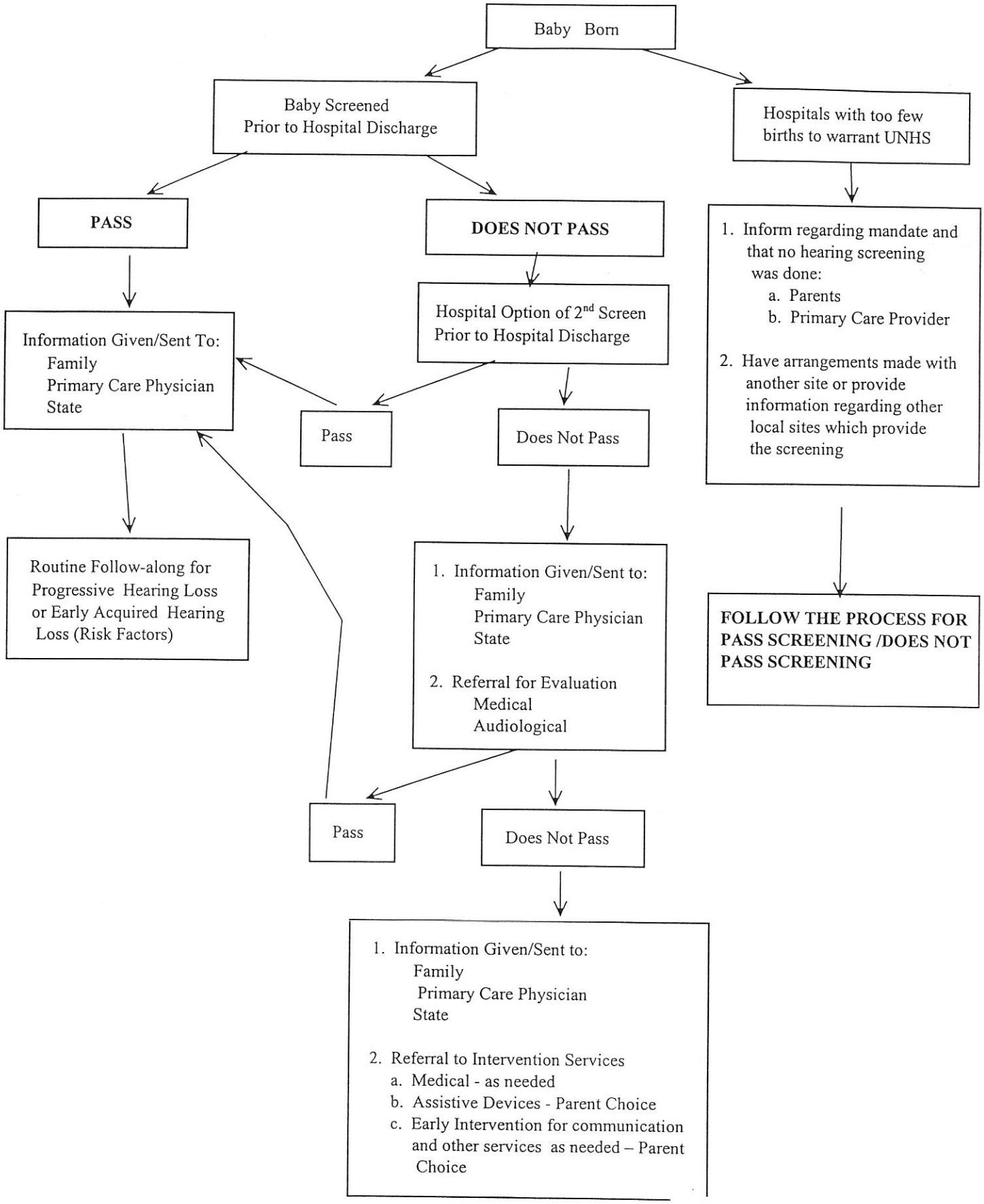
UNIVERSAL NEWBORN HEARING SCREENING (UNHS)
– PROCESS --



Senate Public Health & Welfare
Date: 3-23-99
Attachment No. 3

Kansas Department of Health and Environment
Office of Vital Statistics

CERTIFICATE OF LIVE BIRTH

115—

STATE FILE NUMBER

PERI... BLACK INK FOR INSTRUCTIONS SEE HANDBOOK

CHILD

1. CHILD'S NAME — FIRST — MIDDLE — LAST
2. DATE OF BIRTH *(Month, Day, Year)*
3. TIME OF BIRTH
4. SEX
5. CITY, TOWN, OR LOCATION OF BIRTH
6. COUNTY OF BIRTH
7. PLACE OF BIRTH: ☐ Hospital ☐ Freestanding Birthing Center ☐ Residence ☐ Clinic/Doctor's Office ☐ Other *(Specify)* _____
8. FACILITY NAME (If not institution, give street and number)

CERTIFIER ATTENDANT

9. I certify that the stated information concerning this child is true to the best of my knowledge and belief. Signature X _____
10. DATE SIGNED *(Month, Day, Year)*
11. ATTENDANT'S NAME AND TITLE *(Type)* Name _____ ☐ M.D. ☐ D.O. ☐ C.N.M. ☐ Other Midwife ☐ Other *(Specify)* _____
12. CERTIFIER'S TITLE ☐ M.D. ☐ D.O. ☐ Hosp. Adm. ☐ C.N.M. ☐ Other Midwife ☐ Other *(Specify)* _____
13. ATTENDANT'S MAILING ADDRESS *(Street and Number or Rural Route, City or Town, State, Zip Code)*

DEATH UNDER ONE YEAR OF AGE Enter State File Number of death certificate for this child

MOTHER

14. MOTHER'S PRESENT NAME *(First, Middle, Last)*
15. MAIDEN SURNAME
16. DATE OF BIRTH *(Month, Day, Year)*
17. STATE OF BIRTH *(If not in U.S.A., name country)*
18. PRESENT RESIDENCE—STATE
19. COUNTY
20. CITY, TOWN, OR LOCATION
21. STREET AND NUMBER OF PRESENT RESIDENCE
22. INSIDE CITY LIMITS? ☐ YES ☐ NO
23. MOTHER'S MAILING ADDRESS *(If same as residence, enter Zip Code only)*

FATHER

24. FATHER'S NAME *(First, Middle, Last)*
25. DATE OF BIRTH *(Month, Day, Year)*
26. STATE OF BIRTH *(If not in U.S.A., name country)*

PARENT

27. PARENTS REQUEST SOCIAL SECURITY NO. ISSUANCE? ☐ YES ☐ NO
28. IMMUNIZATION REGISTRY I wish to enroll my child in the Immunization Registry. ☐ YES ☐ NO

SAMPLE

29. I certify that the personal information provided on this certificate is correct to the best of my knowledge and belief. *Signature of Parent (or Other Informant)* ▶
30. DATE SIGNED

CONFIDENTIAL INFORMATION FOR INTERNAL USE ONLY

SS#

31. MOTHER'S SOCIAL SECURITY NUMBER
32. FATHER'S SOCIAL SECURITY NUMBER
33. MOTHER MARRIED? (At birth, conception or any time between) ☐ YES ☐ NO

	34. ANCESTRY—*Cuban, Mexican, Puerto Rican, Vietnamese, Hmong, etc. (Specify)*	35. RACE—*Nat. Amer., Black, White, etc. (Specify)*	36. EDUCATION *(Specify only highest grade completed)* Elementary/Secondary (0-12)	36. EDUCATION College (1-4 or 5 +)	37. OCCUPATION AND BUSINESS/INDUSTRY Occupation	37. OCCUPATION AND BUSINESS/INDUSTRY Business/Industry (Do not give name of company)
MOTHER	34a.	35a.	36a.		37a. (Most recent)	37c.
FATHER	34b.	35b.	36b.		37b. (Usual)	37d.

MULTIPLE BIRTHS Enter State File Number for Mate(s) LIVE BIRTH(S)

FETAL DEATH(S)

38. PREGNANCY HISTORY (Complete each section)

LIVE BIRTHS (Do not include this child)		OTHER TERMINATIONS (Spontaneous and Induced)	
38a. Now living	38b. Now dead	38d. Before 20 weeks	38e. 20 weeks & over
Number ____ ☐ None	Number ____ ☐ None	Number ____ ☐ None	Number ____ ☐ None
38c. DATE OF LAST LIVE BIRTH *(Month, Year)*		38f. DATE OF LAST OTHER TERMINATION *(as indicated in d or e above) (Month, Year)*	

39. DATE LAST NORMAL MENSES BEGAN *(Month, Day, Year)*
40. CLINICAL ESTIMATE OF GESTATION *(Weeks)*
41. MONTH PREGNANCY PRENATAL CARE BEGAN—First, Second, Third, etc. *(Specify)*
42. PRENATAL VISITS—Total Number *(If none, so state)*
43. PLURALITY—Single, Twin, Triplet, etc. *(Specify)*
44. IF NOT SINGLE BIRTH—Born First, Second, Third, etc. *(Specify)*
45. BIRTH WEIGHT (Grams)
46. FOR VITAL STATISTICS USE ONLY

(Please use X to mark boxes. Mark all that apply.)

PRENATAL

47. Nutrition of Mother
1. Height _____
2. Prepregnancy weight _____
3. Total pregnancy weight gain _____

48. Medical Risk Factors
1. ☐ None
2. ☐ Uterine bleeding
3. ☐ Incompetent cervix
4. ☐ Isoimmunization *
5. ☐ Hydramnios/ Oligohydramnios *
6. ☐ Eclampsia
7. ☐ Pre-eclampsia (PIH) *
8. ☐ Previous preterm or SGA infant *
9. ☐ Previous infant, > 4000 grams
10. ☐ Hepatitis B/HBsAg
11. ☐ Genital herpes
12. ☐ AIDS or HIV antibody
13. ☐ Other STD *
14. ☐ Anemia (Hct. < 30/Hgb. < 10)
15. ☐ Hemoglobinopathy
16. ☐ Cardiac disease
17. ☐ Diabetes
18. ☐ Hypertension, chronic
19. ☐ Acute/chronic lung dis.
20. ☐ Renal disease
21. ☐ Underweight (< 10%)
22. ☐ Obesity (> 20%)
23. ☐ Tobacco use— No. of cig. per day _____
24. ☐ Alcohol use—No. of drinks per wk. _____
25. ☐ Other *

* Specify

49. Prenatal Procedures
1. ☐ None
2. ☐ Diabetes screening
3. ☐ Alpha-fetoprotein (serum)
4. ☐ Ultrasound
5. ☐ Chorionic villus sampling
6. ☐ Amniocentesis
7. ☐ Tocolysis
8. ☐ Other *

* Specify

LABOR-DELIVERY/NEWBORN

50. Conditions of Labor and Delivery
1. ☐ Normal
2. ☐ Placenta previa
3. ☐ Placenta abruptio
4. ☐ Other intrapartum hemorrhage
5. ☐ PROM (> 12 hrs.)
6. ☐ Induction of labor
7. ☐ Stimulation of labor
8. ☐ Dysfunctional labor
9. ☐ Precipitous labor (< 3 hrs.)
10. ☐ Prolonged labor (> 20 hrs.)
11. ☐ Cephalopelvic disproportion
12. ☐ Electronic fetal monitoring
13. ☐ Fetal distress
14. ☐ Febrile (> 100° F./38° C.)
15. ☐ Meconium, moderate/ heavy
16. ☐ Breech presentation
17. ☐ Seizures during labor
18. ☐ Cord prolapse
19. ☐ Anesthetic complications
20. ☐ Placenta/Cord normal
21. ☐ Placenta/Cord abnormal
22. ☐ Other *

* Specify

51. Method of Delivery
1. ☐ Spontaneous vertex
2. ☐ VBAC
3. ☐ C-Sec.—Prim.
4. ☐ C-Sec.—Repeat
5. ☐ C-Sec.—Elect.
6. ☐ C-Sec.—Unsched.
7. ☐ C-Sec.—Emerg.
8. ☐ Vaginal breech
9. ☐ Forceps
10. ☐ Vacuum
11. ☐ Other *

* Specify

52. Conditions of Newborn
1. ☐ Normal
2. ☐ Asst. ventilation < 30 min.
3. ☐ Asst. ventilation ≥ 30 min.
4. ☐ Resuscitation
5. ☐ Meconium aspir. synd.
6. ☐ Hyaline membrane dis./RDS
7. ☐ Seizures
8. ☐ Birth injury *
9. ☐ Anemia (Hct. <39/Hg
10. ☐ Other *

* Specify

53. Vaccines Administered to Newborn
1. ☐ Hepatitis B
2. ☐ Other *

*Specify

54. Apgar Score

	1 Min.	5 Min.	10 Min.
Apgar Score			

55. Congenital Anomalies of Infant
1. ☐ None
2. ☐ Spina bifida/Meningocele
3. ☐ Anencephalus
4. ☐ Hydrocephalus
5. ☐ Microcephalus
6. ☐ Other CNS anomalies *
7. ☐ PDA
8. ☐ Heart malformations, except PDA
9. ☐ Other circulatory/respiratory anomalies *
10. ☐ Rectal atresia/stenosis
11. ☐ Tracheo-esophageal fistula/Esophageal atresia
12. ☐ Omphalocele/Gastroschisis
13. ☐ Other gastrointestinal anomalies *
14. ☐ Malformed genitalia
15. ☐ Renal agenesis
16. ☐ Other urogenital anomalies *
17. ☐ Cleft lip/palate
18. ☐ Polydactyly/Syndactyly/Adactyly
19. ☐ Club foot
20. ☐ Diaphragmatic hernia
21. ☐ Other musculoskeletal/integumental anomalies *
22. ☐ Down's syndrome
23. ☐ Other chromosomal anomalies *

Form VS-239
Rev. 6/94

THIS IS NOT A PART OF THE CERTIFICATE OF LIVE BIRTH

Test required by K.S.A. 65-153F, 153G

Serological Test Made: ___ 1st ___ 2nd ___ 3rd (Trimester) ___ At Delivery ___ Not Performed

If no test made state reason: _____

Test required by K.S.A. 65-1

Infant Neonatal Screening sp

If no specimen taken state reason: _____

Senate Public Health and Welfare
Date: 3-23-99
Attachment No. 4

PROPOSED AMENDMENT TO HB 2362

On page 1, in line 14, by striking "act" and inserting "section"; after line 34, by inserting the following:

"Sec. 2. Sections 2 to 16, inclusive, of this act shall be known and may be cited as the residential childhood lead poisoning prevention act.

Sec. 3. Definitions. As used in the residential childhood lead poisoning prevention act:

(a) "Abatement" means any measure or set of measures designed to permanently eliminate lead-based paint hazards as defined in the federal program.

(b) "Accredited training program" means a training program that has been accredited by the federal program or the secretary to present training courses to individuals engaged in lead-based paint activities.

(c) "Business entity" means a company, partnership, corporation, sole proprietorship, association, or other business concern.

(d) "Certificate" means an authorization issued by the secretary permitting an individual to engage in lead-based paint activities.

(e) "Federal program" means subpart L, lead-based paint activities of 40 CFR part 745, as in effect on the effective date of this act.

(f) "Lead-based paint" means paint or other surface coatings that contain lead equal to or in excess of one milligram per

Senate Public Health and Welfare
Date: 3-23-98
Attachment No. 5

square centimeter or more than 0.5% by weight.

(g) "Lead-based paint activities" means the inspection, assessment and abatement of lead-based paint, including the disposal of waste generated therefrom.

(h) "License" means an authorization issued by the secretary permitting a business entity to engage in lead-based paint activities.

(i) "Public agency" means any state agency or political or taxing subdivision of the state and those federal departments, agencies or instrumentalities thereof which are not subject to preemption.

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

(k) "Residential dwelling" means a detached single family dwelling or a single family dwelling unit in a structure that contains more than one separate residential dwelling unit used as a place of residence for habitation by an individual or the individual's immediate family, or both.

(l) "Habitation" means a place of abode or residence constructed before 1978 where individuals eat, sleep and reside.

(m) "Immediate family" means spouse, parent, stepparent, child, stepchild or sibling.

Sec. 4. The secretary shall administer the provisions of the residential childhood lead poisoning prevention act. In administering the provisions of the residential childhood lead poisoning prevention act, the secretary shall be authorized to:

(a) Develop and implement a childhood lead poisoning prevention program as necessary to protect the health of the children of Kansas, which may include provisions to:

(1) Investigate the extent of childhood lead poisoning in Kansas;

(2) develop a data management system designed to collect and analyze information on childhood lead poisoning;

(3) develop and conduct programs to educate health care providers regarding the magnitude and severity of and the necessary responses to lead poisoning in Kansas;

(4) issue recommendations for the methods and intervals for blood lead screening and testing of children, taking into account recommendations by the United States centers for disease control and prevention, except that no child shall be screened or tested if the child's parent or guardian objects in writing on the ground that such screening or testing is contrary to the parent's or guardian's religious beliefs and practices;

(5) develop and issue health advisories urging health care providers to conduct blood lead screening of children;

(6) encourage health care providers to ensure that parents and guardians of children are advised of the availability and advisability of screening and testing for lead poisoning;

(7) develop a program to assist local health departments in identification and follow-up of cases of elevated blood lead levels in children and other high-risk individuals; and

(8) in consultation with appropriate federal, state and

local agencies, develop a comprehensive public education program regarding environmental lead exposures and lead poisoning by:

(A) Identifying appropriate target groups that are in a position to prevent lead poisoning or reduce the number of children who are exposed to lead;

(B) assessing the information needed for each of the target groups and determine the best means of educating the members of each target groups; and

(C) disseminating the information to the target groups in an effective manner.

(b) adopt rules and regulations necessary for the administration of the residential childhood lead poisoning prevention act including, but not limited to, licensure of business entities and public agencies, certification of individuals, accreditation of training programs, on-site inspections and requirements, notification and record keeping, procedures and work practice standards relating to lead-based paint activities as are necessary to protect the public health and safety;

(c) adopt by rules and regulations a reasonable schedule of fees for the issuance and renewal of certificates and licenses, training program accreditations and on-site inspections. The fees shall be periodically increased or decreased consistent with the need to cover the direct and indirect costs to administer the program. At no time shall such fees exceed those charged by the United States environmental protection agency for the same or

similar regulatory programs. The fees shall be based upon the amount of revenue determined by the secretary to be required for proper administration of the provisions of the residential childhood lead poisoning prevention act. State and local health department personnel certifying for the purpose of environmental investigation of lead poisoned children shall be exempted from licensure fees;

(d) conduct on-site inspections of procedures being utilized by a licensee during an actual abatement project and conduct inspection of the records pertaining to the residential childhood lead poisoning prevention act;

(e) adopt rules and regulations regarding the distribution of lead hazard information to owners and occupants of housing prior to conducting renovation activities in housing;

(f) develop rules and regulations to control and disposition and reuse of architectural debris that contains lead-based paint.

Sec. 5. (a) A business entity or public agency shall not engage in a lead-based paint activity unless the business entity or public agency holds a license issued by the secretary for that purpose.

(b) Except as otherwise provided in the residential childhood lead poisoning prevention act, no individual shall engage in lead-based paint activities unless the individual holds a certificate issued by the secretary for that purpose. In order to qualify for a certificate, an individual must have successfully completed an accredited training program and pass a

third party exam as required by the secretary. Any individual who owns and resides in a residential dwelling may perform lead-based paint activities within such residential dwelling even though such individual does not hold a certificate for that purpose under the residential childhood lead poisoning prevention act. All work performed by such individual owner of a residential dwelling must be performed in accordance with state and federal guidelines or statutes, or both.

(c) Any business or public agency that owns or leases a nonresidential dwelling may perform lead-based paint activities within such facility even though such business or public agency does not hold a certificate for that purpose under the residential childhood lead poisoning prevention act. All work performed by a business or public agency on such facility must be performed in accordance with state and federal guidelines or statutes, or both.

Sec. 6. In order to qualify for a license, a business entity or public agency shall:

(a) Ensure that each employee or agent of the business entity or public agency who will engage in a lead-based paint activity is certified;

(b) demonstrate to the satisfaction of the secretary that the business entity or public agency is capable of complying with all requirements, procedures and standards of the United States environmental protection agency, the United States occupational safety and health administration and the secretary, as

applicable, to lead-based paint activities;

(c) comply with all rules and regulations adopted by the secretary under the residential childhood lead poisoning prevention act; and

(d) allow representatives of the secretary, after identification, to enter and inspect any habitation or property on which a habitation is situated at any reasonable time with consent of the owner or under search warrant for the purpose of inspecting lead-based paint activities as required in order to implement provisions of the residential childhood lead poisoning prevention act.

Sec. 7. The secretary shall remit all moneys received from the fees established pursuant to the residential childhood lead poisoning prevention act to the state treasurer at least monthly. Upon receipt of each remittance, the state treasurer shall deposit the entire amount thereof in the lead-based paint hazard fee fund established in section 8 and amendments thereto.

Sec. 8. (a) There is established in the state treasury the lead-based paint hazard fee fund. Revenue from the following sources shall be deposited in the state treasury and credited to the fund:

(1) Fees collected under the residential childhood lead poisoning prevention act for licensure and certification to engage in lead-based paint activities, accreditation of training programs and fees for evaluation of abatement projects;

(2) any moneys recovered by the state under the residential

childhood lead poisoning prevention act, including administrative expenses, civil penalties and moneys paid under any agreement, stipulation or settlement;

(3) any moneys collected or received from public or private grants and from gifts and donations; and

(4) interest attributable to investment of moneys in the fund.

(b) Moneys deposited in the fund shall be expended only for the purpose of administering the residential childhood lead poisoning prevention act and for no other governmental purposes.

(c) On or before the 10th day of each month, the director of accounts and reports shall transfer from the state general fund to the lead-based paint hazard fee fund interest earnings based on:

(1) The average daily balance of moneys in the lead-based paint hazard fee fund for the preceding month; and

(2) the net earnings rate of the pooled money investment portfolio for the preceding month.

(d) All expenditures from the 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 secretary for the purposes set forth in this section.

Sec. 9. (a) The secretary may refuse to issue a license or may suspend or revoke any license issued under the residential childhood lead poisoning prevention act if the secretary finds, after notice and hearing conducted in accordance with the

provisions of the Kansas administrative procedure act, that the applicant or licensee has:

(1) Fraudulently or deceptively obtained or attempted to obtain a license;

(2) failed at any time to meet the qualifications for a license or to comply with any rules and regulations adopted by the secretary under the residential childhood lead poisoning prevention act;

(3) failed at any time to meet any applicable federal or state standard for lead-based paint activities; or

(4) employed or permitted an uncertified individual to work on a lead-based paint activity.

(b) The secretary may refuse to issue a certificate or may suspend or revoke any certificate issued under the residential childhood lead poisoning prevention act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for certificate or certificate holder has:

(1) Fraudulently or deceptively obtained or attempted to obtain a certificate; or

(2) failed at any time to meet qualifications for a certificate or to comply with any provision or requirement of the residential childhood lead poisoning prevention act or any rules and regulations adopted by the secretary under the residential childhood lead poisoning prevention act.

(c) The secretary may deny, suspend or revoke any

accreditation of a training program under the residential childhood lead poisoning prevention act if the secretary finds, after notice and hearing conducted in accordance with the provisions of the Kansas administrative procedure act, that the applicant for training program accreditation or training provider has:

(1) Fraudulently or deceptively obtained or attempted to obtain accreditation of a training program;

(2) failed at any time to meet the qualifications to obtain accreditation of a training program or to comply with any rules and regulations adopted by the secretary under the residential childhood lead poisoning prevention act;

(3) failed to maintain or provide information on training programs; or

(4) falsified information, accreditation or approval records, instructor qualification information or other accreditation or approval information required to be submitted by the secretary.

(d) Any individual, business entity or accredited training program aggrieved by a decision or order of the secretary may appeal the order or decision in accordance with the provisions of the act for judicial review and civil enforcement of agency actions.

(e) (1) If the secretary finds that the public health or safety is endangered by the continuation of an abatement project, the secretary may temporarily suspend, without notice or hearing

in accordance with the emergency adjudication procedures of the provisions of the Kansas administrative procedure act, the license of the business entity or public agency or the certificate of any person engaging in such abatement project.

(2) In no case shall a temporary suspension of a license or certificate under this section be in effect for a period of time in excess of 90 days. At the end of such period of time, the license or certificate shall be reinstated unless the secretary has suspended or revoked the license or certificate, after notice and hearing in accordance with the provisions of the residential childhood lead poisoning prevention act, or the license has expired as otherwise provided under the residential childhood lead poisoning prevention act.

Sec. 10. Whenever an authorized agency of the secretary finds that any individual, business entity, accredited program or public agency is not in compliance with the residential childhood lead poisoning prevention act or any rules and regulations adopted under the residential childhood lead poisoning prevention act, it shall be the duty of such agent to notify the individual, business entity, accredited program or public agency in writing of such changes or alterations as the agency shall deem necessary in order to comply with the requirements of the residential childhood lead poisoning prevention act and any rules and regulations adopted under the residential childhood lead poisoning prevention act, and the agency shall file a copy of such notice with the secretary. It shall thereupon be the duty of

the individual, business entity, accredited program or public agency to make such changes or alterations as are contained in the written notice within five days from the receipt of such notice.

Sec. 11. Any individual, business entity, public agency or accredited training program which knowingly violates any provision of the residential childhood lead poisoning prevention act or any rules and regulations adopted under the residential childhood lead poisoning prevention act is guilty:

(a) For a first offense, of a class C misdemeanor; and

(b) for a second offense or subsequent offense, of a class B misdemeanor.

Sec. 12. (a) Any individual, business entity, accredited training program or public agency who violates any provision of the residential childhood lead poisoning prevention act or any rules and regulations adopted under the residential childhood lead poisoning prevention act, in addition to any other penalty or litigation provided by law, may incur a civil penalty imposed under subsection (b) in a maximum amount not to exceed $1,000 for the first violation, $5,000 for each subsequent violation and, in the case of a continuing violation, every day such previously notified violation continues shall be deemed a separate violation.

(b) The secretary, upon finding that any individual, business entity, accredited training program or public agency has violated any provision of the residential childhood lead

poisoning prevention act or any rules and regulations adopted under the residential childhood lead poisoning prevention act, may impose a civil penalty within the limits provided in this section upon such individual, business entity, accredited training program or public agency which civil penalty shall be in an amount to constitute an actual and substantial economic deterrent to the violation for which the civil penalty is assessed.

(c) The secretary, upon finding that an individual, business entity, accredited training program or public agency has violated any provision of the residential childhood lead poisoning prevention act or rules and regulations adopted under the residential childhood lead poisoning prevention act, may issue an order finding such individual, business entity, accredited training program or public agency in violation of the residential childhood lead poisoning prevention act and directing the individual, business entity, accredited training program or public agency to take such action as necessary to correct the violation.

(d) No civil penalty shall be imposed under this section except upon the written order of the secretary after notification and hearing, if a hearing is requested, in accordance with the provisions of the Kansas administrative procedure act.

(e) Any individual, business entity, accredited training program or public agency aggrieved by an order of the secretary made under this section may appeal such order to the district

court in the manner provided by the act for judicial review and civil enforcement of agency actions.

(f) Any penalty recovered pursuant to the provisions of this section shall be remitted to the state treasurer and deposited in the lead-based paint hazard fee fund.

(g) The secretary shall use penalties recovered pursuant to the provisions of this section to establish a grant program for communities to conduct activities designed to reduce or eliminate exposure of children to residential lead-based paint hazards.

Sec. 13. Notwithstanding any other remedy and in addition to any other remedy, the secretary may maintain, in the manner provided by the act for judicial review and civil enforcement of agency actions, an action in the name of the state of Kansas for injunction or other process against any business entity or individual to restrain or prevent any violation of the provisions of the residential childhood lead poisoning prevention act or of any rules and regulations adopted under the residential childhood lead poisoning prevention act.

Sec. 14. Licensure, certification or training program accreditation for a business entity, public agency or individual who engages in lead-based paint activities shall not be required until such time as the secretary adopts rules and regulations to implement the provisions of the residential childhood lead poisoning prevention act.

Sec. 15. The audit privilege recognized in K.S.A. 1998 Supp. 60-332 through 60-339 does not pertain to the residential

childhood lead poisoning prevention act.

Sec. 16. On July 1, 2004, the provisions of sections 2 to 16, inclusive, of this act are hereby repealed.";

And by renumbering any existing section accordingly;

In the title, in line 9, after "ACT" by inserting "concerning the secretary of health and environment; concerning infants and children;"; also in line 9, before "repealing" by inserting "enacting the residential childhood lead poisoning prevention act;";