

Approved: 3-2-00
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 February 22, 2000 in Room 526-S of the Capitol.

All members were present except:

Committee staff present: Norman Furse, Revisor of Statutes
Lisa Montgomery, Revisor of Statutes
Hank Avila, Legislative Research Department
JoAnn Bunten, Committee Secretary

Conferees appearing before the committee:

Others attending: See attached list

Approval of Committee minutes

Senator Steineger made a motion to approve the Committee minutes of February 15, 16, 17 and 18, 2000, seconded by Senator Hardenburger. The motion carried.

Action on SB 598 - Ratio of pharmacists to pharmacy technicians

Staff briefed the Committee on a balloon of the bill showing proposed amendments agreed to by the Board of Pharmacy and the Kansas Retail Council, affiliate of KCCI. (Attachment 1) Senator Becker made a motion to adopt the amendments in the balloon of the bill, seconded by Senator Hardenburger. The motion carried.

Senator Steineger made a motion the Committee recommend SB 598 as amended favorably for passage, seconded by Senator Langworthy. The motion carried.

Action on SB 397 - Allowing licensed professional counselors to practice without direction if such counselor does not diagnose

Staff briefed the Committee on a balloon of the bill showing proposed amendments which was described as technical clean-up language defining terms used by the board under rules and regulations. (Attachment 2) Senator Jones made a motion to adopt the amendments shown in the balloon of the bill, seconded by Senator Langworthy. The motion carried.

Senator Jones made a motion that the Committee recommend SB 397 as amended favorably for passage, seconded by Senator Steineger. The motion carried.

Action on SB 372 - Aged persons; long-term care

Staff briefed the Committee on K.S.A. 75-5956 relating to long-term care services that **SB 372** would repeal. A member of the Committee expressed concern with repeal of the statute that referenced expedited service delivery/presumptive eligibility and access availability to the frail/elderly. The Chair called the Committee's attention to a letter from Connie Hubbell, Secretary of the Department on Aging, that answered questions relating to budget changes in the Department on Aging and repealing of services defined in the statute. (Attachment 3)

The Chair suggested the Secretary on Aging be invited to brief the Committee at a future date on the expedited service delivery program for the elderly in order to address some of the concerns expressed with **SB 372**.

Senator Becker made a motion the Committee recommend SB 372 favorably for passage, seconded by Senator Langworthy. The motion carried.

CONTINUATION SHEET

MINUTES OF THE SENATE COMMITTEE ON PUBLIC HEALTH AND WELFARE, Room 526-S, Statehouse, at 10:00 a.m. on February 22, 2000.

Action on SB 599 - Physician assistant licensure

Doug Smith, representing the Kansas Academy of Physician Assistants, and Mark Stafford, legal counsel for the Kansas Board of Healing Arts, briefed the Committee on a balloon of **SB 599** that would clarify and add technical language to the bill that would license physician assistants. (Attachment 4) Staff called the Committee's attention to the definition section of the Healing Arts Act (Attachment 5) and suggested rather than amending current statutes, current statutes be repealed and replaced by new sections in the bill. The Revisor noted that a **Substitute Bill for SB 599** would be in order. Senator Steineger made a motion to incorporate the amendments to create a Substitute bill for SB 599, and that the Committee recommend Sub SB 599 favorably for passage, seconded by Senator Hardenburger. The motion carried.

Hearing on SB 510 - Procedure for licensure under the dental practice act

The Chair briefed the Committee on an amendment to **SB 510** proposed by the Kansas Dental Board and the Kansas Dental Hygienists Association with some concerns expressed by KDHA. (Attachment 6) Senator Lee made a motion to adopt the amendments, seconded by Senator Jones. The motion carried.

Senator Jones made a motion the Committee recommend SB 510 as amended favorably for passage, seconded by Senator Steineger. The motion carried;

Adjournment

The meeting was adjourned at 11:00 a.m.

The next meeting is scheduled for March 2, 2000.

SENATE PUBLIC HEALTH AND WELFARE COMMITTEE GUEST LIST

DATE: 2-22-00

NAME	REPRESENTING
Kim Stabbe, RDH	JCDHA
Kathryn Gilkey	JCDHA
Megan Doerr	JCDHA
Sherry Craig	JCDHA
Lori Oden	JCDHA
Kate Doull	JCDHA
Noaly Olinsted	JCDHA
Sabrina Norton	JCDHA
Janice Northway	JCDHA
Kristi Sealer	JCDHA
Sonya Garst	JCDHA
Alison Heidebrecht	JCDHA
Barb Steele	JCDHA
Sheila Switzer	JCDHA
Laura Patterson	JCDHA
Heather Allen	JCDHA
Jennifer B. Hund	JCDHA
Dina Hahn	JCDHA
Jamil Green	JCDHA

SENATE BILL No. 598

By Committee on Public Health and Welfare

2-9

9 AN ACT relating to pharmacy technicians; amending K.S.A. 1999 Supp.
10 65-1642 and repealing the existing section.

11

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

13 Section 1. K.S.A. 1999 Supp. 65-1642 is hereby amended to read as
14 follows: 65-1642. (a) Each pharmacy shall be equipped with proper phar-
15 maceutical utensils, in order that prescriptions can be properly filled and
16 United States pharmacopoeia and national formulary preparations prop-
17 erly compounded, and with proper sanitary appliances which shall be kept
18 in a clean and orderly manner. The board shall prescribe the minimum
19 of such professional and technical equipment which a pharmacy shall at
20 all times possess.

21 (b) (1) Each pharmacy shall at all times maintain a list of the names
22 of pharmacy technicians employed by the pharmacy and shall post in a
23 conspicuous location in the prescription area of the pharmacy the name
24 of the pharmacy technician currently on duty at the pharmacy, if any. A
25 pharmacy technician shall work under the direct supervision and control
26 of a pharmacist. It shall be the responsibility of the pharmacist to deter-
27 mine that the pharmacy technician is in compliance with the applicable
28 rules and regulations of the board, and the pharmacist who supervises a
29 pharmacy technician shall be responsible for the acts and omissions of
30 the pharmacy technician in the performance of the pharmacy technician's
31 duties. The ratio of pharmacy technicians to pharmacists in the prescrip-
32 tion area of a pharmacy shall not exceed a two-to-one ratio *except that*
33 *the board may establish by rules and regulations a ratio greater than two*
34 *pharmacy technicians for each pharmacist in the prescription area of a*
35 *pharmacy.*

36 (2) The board shall adopt such rules and regulations as are necessary
37 to ensure that pharmacy technicians are adequately trained as to the nature
38 and scope of their lawful duties. ~~Pursuant to rules and regulations~~
39 ~~of the board, each pharmacy technician shall register with the board and~~
40 ~~the responsible pharmacist shall provide sufficient information to identify~~
41 ~~the registrant.~~ ✓

42 (c) Each pharmacy shall keep a suitable book or file which records
43 every prescription order filled at the pharmacy and a medication profile

At the time a pharmacy registers with the board:
(1) The pharmacist in charge shall provide to the board the name, address and date of birth of each pharmacy technician employed by the pharmacy; and
(2) a pharmacy which employs a pharmacy technician or technicians shall pay to the board a \$20 pharmacy technician register fee. The pharmacist in charge shall report to the board the name, address and date of birth of any newly hired pharmacy technician and the name of any pharmacy technician who has ceased to be employed by the pharmacy within 10 days of hiring a pharmacy technician or within 10 days of the cessation of employment of a pharmacy technician.

8b 598

\$20 annually per location, when the pharmacy registers - signed and attested to by the pharmacist in charge (PIC) information that includes the name, address & date of birth of the pharmacy tech. The PIC will report to the Bd of Pharmacy when the pharmacy gains or loses a tech

SB 397

The Committee on **Public Health and Welfare** recommends SB 397 be amended on page 2, in line 5, by striking "diagnosis" and inserting "diagnose"; also in line 5, after the period, by inserting: "As used in this subsection: (1) The term "diagnose and treat" shall be defined by the board by rules and regulations; and (2) the term "mental disorder" means a mental disorder specified in the edition of the diagnostic and statistical manual of mental disorders of the American psychiatric association designated by the board by rules and regulations."; and the bill be passed as amended.

STATE OF KANSAS



KANSAS DEPARTMENT ON AGING

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BILL GRAVES
Governor

Connie Hubbell
Secretary of Aging

February 17, 2000

The Honorable Sandy Praeger
Chair, Senate Public Health & Welfare Committee
Statehouse, Room 128-S
Topeka, KS 66612

Dear Senator Praeger:

Thank you for the opportunity to respond to several questions asked at the February 10, 2000 meeting of the Senate Public Health & Welfare Committee. We hope the following responses will provide sufficient information to answer the committee's questions.

Question: What are the budget changes for this and next fiscal years?

Response: The overall budget for the Department on Aging increased 6.3% from FY 1999 to FY 2000 and another 3.1% from FY 2000 to FY 2001. In the current year the net increase is due to an 8.8% increase in the HCBS/FE, Nursing Facilities, and TCM programs, balanced by a 15.6% reduction in all other expenditures.

- Salaries and Wages increased by 4.6% from FY 1999 to 2000, and by 2.5% from FY 2000 to FY 2001.
- Other operating expenditures are decreased by 62.8% from FY 1999 to FY 2000. This decrease will be met by decreasing funding for the Myers and Stauffer contract since those are the responsibility of KDHE, elimination of contingency funds for litigation of Medicaid rate setting lawsuits, and through the strict prioritization of travel and purchases. The other operating budget grows by 3.8 percent from FY 2000 to 2001, which should provide increased flexibility.
- The Environmental Modification Program is decreased by \$100,000 in FY 2000, and is eliminated in FY 2001. While I believe that this program provides an important service, I am having on-going discussions with the Department of

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Commerce and Housing to assess any flexibility in state Housing programs that could fill the role of the Environmental Modification program.

- The State General Fund portion of the budget is decreased by \$458,000 as a result of eliminating the Expedited Service Delivery (ESD) Program. This program was designed to provide services to seniors under presumptive eligibility. Due to the lack of industry use of the program, and therefore a lack of success, the Department recommended eliminating the program and shifting the funding into the Senior Care Act (SCA). Rather than providing an increase in the SCA program the \$458,000 was removed from the budget. Since service providers did not utilize the ESD program, its elimination will have no impact.
- The amount of State General Fund dollars contributed to Older Americans Act nutrition programs is decreased by \$450,000 in FY 2000 and that is carried through in the FY 2001 budget. It is important to note that the \$450,000 represents an amount in excess of that needed to match the Older Americans Act Federal dollars.

Question: In KSA 75-5956 "access available in a timely manner" is cited in addition to Expedited Service Delivery or Presumptive Eligibility. If K.S.A. 75-5956 is repealed, is the issue of "timely access" addressed elsewhere in regulation, statute, waiver, or policy?

Response: Yes, timely access is addressed in regulations other than K.S.A. 75-5956.

Federal Medicaid statute, 42 U.S.C. 1396a(a)(19), requires a State in its Medicaid State Plan to "provide such safeguards as may be necessary to assure that eligibility for care and services under the plan will be determined, and such care and services will be provided, in a manner consistent with simplicity of administration and the best interests of the recipients [.]" Federal Medicaid (HCFA) regulation requirements related to the statute are:

42 C.F.R. 435.911(a): The State Medicaid Agency must "establish time standards for determining eligibility and inform the applicant of with they are. These standards may not exceed - - -

"(1) Ninety days for applicants who apply for Medicaid on the basis of disability; and

"(2) Forty-five days for all other applicants."

42 C.F.R. 435.930: The State Medicaid Agency must:

"(a) Furnish Medicaid promptly to recipients without any delay caused by the agency's administrative procedures;

"(b) Continue to furnish Medicaid regularly to all eligible individuals until they are found to be ineligible; and

"(c) Make arrangements to assist applicants and recipients to get emergency medical care whenever needed, 24 hours a day and 7 days a week."

42 C.F.R. 435.916(a): The State Medicaid Agency must redetermine a Medicaid recipient's eligibility whenever the recipient's "circumstances" change or at least every 12 months.

SRS, in the Kansas Medicaid State Plan, Section 2.1(a), states: "The Medicaid agency meets all requirements of 42 C.F.R. Part 435, Subpart J for processing applications, determining eligibility, and furnishing Medicaid."

NOTE: 42 C.F.R. Subpart 435.J. includes the three HCFA regulations cited above.]

If I can be of further assistance, please feel free to contact me at 296-5222. Thank you.

Sincerely,



Connie Hubbell
Secretary

cc: Mike Hammond
Sheli Sweeney

STATE OF KANSAS



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BILL GRAVES
Governor

Connie Hubbell
Secretary of Aging

February 10, 2000

RE: Older Americans Act (OAA) Nutrition Program Funding

Dear Constituent:

KDOA certainly recognizes the importance of and the role nutrition programs play in the network of senior services for Kansans.

It is important to recognize that funding levels have been fairly constant for this program during the past few years, even though fewer Kansans take advantage of this program today than in recent years past. For example, 41,937 customers were served in congregate settings in federal fiscal year 1995, compared to 30,716 in federal fiscal year 1999.

A funding adjustment of \$450,000 from the State General Fund (SGF) for the Older Americans Act nutrition program was necessary to address current fiscal challenges facing state government. KDOA implemented that adjustment recently for the FY 2000 budget. Conversely, the actual FFY 2000 funding approved by Congress for Older Americans Act programs was greater than KDOA or the AAAs anticipated. The adjustment still allows KDOA to meet their OAA match requirement to fully maximize federal funds.

It is important to note that based on estimates of meals provided and the non-state funding resources available to Area Agencies on Aging, they should still be able to serve the number of OAA meals planned for this fiscal year. KDOA and the AAAs, working together, have options available that could be exercised, to allow the planned number of meals to be served by the AAAs during this fiscal year.

Sincerely,

A handwritten signature in cursive script that reads "Connie Hubbell".

Connie Hubbell
Secretary

#3-4

SENATE BILL No. 599

By Committee on Public Health and Welfare

2-9

9 AN ACT providing for *licensure* of physician assistants; providing for the
10 regulation of the practice thereof; amending K.S.A. 40-2,111, 65-
11 2896a, 65-2896c, 65-2896d, 65-2896f, 65-2896g, 65-2897a, 65-2897b
12 and 75-6102 and K.S.A. 1999 Supp. 65-2896, 65-2896b, 65-2896e, 17-
13 2707, 38-135, 40-3401, 65-118, 65-4915, 65-6112, 65-6135 and 65-
14 6701 and repealing the existing sections; also repealing K.S.A. 65-
15 2896h.

16
17 *Be it enacted by the Legislature of the State of Kansas:*

18 Section 1. K.S.A. 1999 Supp. 65-2896 is hereby amended to read as
19 follows: 65-2896. (a) The state board of healing arts shall maintain [~~a reg-~~
20 ~~ister of~~] the names of ~~physicians'~~ *physician* assistants ~~registered licensed~~
21 in accordance with the provisions of K.S.A. 65-2896a and amendments
22 thereto.

23 (b) All ~~registrations licenses~~, except temporary ~~registration licenses~~,
24 shall expire on the date of expiration established by rules and regulations
25 of the state board of healing arts and may be renewed ~~annually upon~~
26 ~~request of the registrant~~ *as required by the board*. The request for re-
27 newal shall be on a form provided by the state board of healing arts and
28 shall be accompanied by the renewal fee established pursuant to this
29 section, which shall be paid not later than the expiration date of the ~~reg-~~
30 ~~istration license~~.

31 (c) At least 30 days before the expiration of the ~~registration license~~ of
32 a physician assistant, except a temporary ~~registration license~~, the state
33 board of healing arts shall notify the ~~registrant licensee~~ of the expiration
34 by mail addressed to the ~~registrant's licensee's~~ last place of residence as
35 noted upon the office records of the board. If the ~~registrant licensee~~ fails
36 to pay the renewal fee by the date of expiration of the ~~registration license~~,
37 the ~~registrant licensee~~ shall be given a second notice that the ~~registrant's~~
38 ~~registration licensee's~~ license has expired and the ~~registration license~~ may
39 be renewed only if the renewal fee and the late renewal fee are received
40 by the state board of healing arts within the 30-day period following the
41 date of expiration and that, if both fees are not received within the 30-
42 day period, the ~~registration license~~ shall be considered to have lapsed for
43 failure to renew and shall be reissued only after the physician assistant

[a record of

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1 has been reinstated under subsection (d).

2 (d) Any ~~registrant~~ licensee who allows the ~~registrant's registration li-~~
3 ~~icensee's license~~ to lapse by failing to renew as herein provided may be
4 reinstated upon recommendation of the state board of healing arts and
5 upon payment of the renewal fee and the reinstatement fee and upon
6 submitting evidence of satisfactory completion of any applicable contin-
7 uing education requirements established by the board. The board shall
8 adopt rules and regulations establishing appropriate continuing education
9 requirements for reinstatement of persons whose ~~registrations~~ licenses
10 have lapsed for failure to renew.

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

13 (1) For ~~registration licensure~~ as a physician assistant, the sum of not
14 more than \$200 [~~\$150~~]; \$200

15 (2) for temporary ~~registration~~ licensure as a physician assistant, the
16 sum of not more than \$30;

17 (3) for the renewal of ~~registration a license~~ as a physician assistant,
18 the sum of not more than \$150 [~~\$100~~]; \$150

19 (4) for the late renewal of ~~registration a license~~ as a physician assis-
20 tant, the sum of not more than \$250;

21 (5) for reinstatement of a physician assistant whose name has been
22 removed from the register license has been canceled, the sum of not more
23 than \$250;

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

26 (7) for a copy of the ~~registration licensure~~ certificate of a physician
27 assistant, the sum of not more than \$25; and.

28 ~~(8) for written verification of any registration, the sum of not more~~
29 ~~than \$25.~~

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

35 ~~(g) The state board of healing arts may adopt rules and regulations~~
36 ~~necessary to carry out the provisions of this act and the act of which this~~
37 ~~section is amendatory. The board shall promulgate all necessary rules and~~
38 ~~regulations, not inconsistent herewith, for carrying out the provisions of~~
39 ~~this act. It may also adopt rules and regulations supplementing any of the~~
40 ~~provisions herein contained but not inconsistent with this act.~~

41 Sec. 2. K.S.A. 65-2896a is hereby amended to read as follows: 65-
42 2896a. (a) No person's name person shall be entered on the register of
43 physicians' assistants licensed as a physician assistant by the state board

1 of healing arts unless such person has:

- 2 (1) Presented to the state board of healing arts proof of graduation
3 from an accredited high school or the equivalent thereof; and
4 (2) Presented to the state board of healing arts proof that the appli-
5 cant has successfully completed a course of education and training ap-
6 proved by the state board of healing arts for the education and training
7 of physicians' assistants or presented to the state board of healing arts
8 proof that the applicant has acquired experience while serving in the
9 armed forces of the United States which experience is equivalent to the
10 minimum experience requirements established by the state board of heal-
11 ing arts a physician assistant;
- 12 (3) (2) passed an examination approved by the state board of healing
13 arts covering subjects incident to the education and training of physicians'
14 assistants a physician assistant; and
15 (4) presented to the state board of healing arts a request signed by
16 the applicant's proposed responsible physician on a form provided by the
17 board which shall contain such information as required by rules and reg-
18 ulations adopted by the board
19 (3) submitted to the state board of healing arts any other information
20 the state board of healing arts deems necessary to evaluate the applicant's
21 qualifications.

22 (b) The board may refuse to enter license a person's name on the
23 register of physicians' assistants person as a physician assistant upon any
24 of the grounds for which the board may remove a person's name from
25 such register revoke such license.

26 (c) A physician's assistant shall at the time of initial registration and
27 any renewal thereof present to the state board of healing arts the name
28 and address of such person's responsible physician. Whenever a physi-
29 cian's assistant shall cease to be employed by the responsible physician,
30 such responsible physician shall notify the state board of healing arts of
31 such termination. Whenever a physician's assistant shall seek to obtain a
32 new responsible physician prior to the renewal of the physician's assis-
33 tant's annual registration, such proposed responsible physician shall notify
34 the state board of healing arts of such prospective employment and shall
35 provide a request as required by subsection (a)(4). All such notifications
36 shall be given to the state board of healing arts as soon as practicable but
37 not be less than 10 days prior to the prospective date of employment.

38 (d) (c) The state board of healing arts shall require every physician's
39 physician assistant to submit with the renewal application evidence of
40 satisfactory completion of a program of continuing education required by
41 the state board of healing arts. The state board of healing arts by duly
42 adopted rules and regulations shall establish the requirements for such
43 program of continuing education as soon as possible after the effective

1 date of this act. In establishing such requirements the state board of
 2 healing arts shall consider any existing programs of continuing education
 3 currently being offered to [~~physicians~~] physician assistants.

4 ~~(e) (d) [A person whose name has been entered on the register of~~
 5 ~~physicians' physician assistants prior to the effective date of this act shall~~
 6 ~~not be subject to the provisions of subsection (a), unless such person's~~
 7 ~~name has been removed from the register of physicians' assistants pur-~~
 8 ~~suant to the provisions of K.S.A. 65-2896b and amendments thereto.]~~

*A person registered to practice as a physician assistant on
 June 30, 2000, shall be deemed to be licensed to practice as a
 physician assistant under this act, and such person shall not be
 required to file an original application for licensure under this act.
 Any application for registration filed which has not been granted
 prior to July 1, 2000 shall be considered processed as
 an application for licensure under this act.*

9 Sec. 3. K.S.A. 1999 Supp. 65-2896b is hereby amended to read as
 10 follows: 65-2896b. ~~(a) The board of healing arts may remove a person's~~
 11 ~~name from the register of physicians' assistants for any of the following~~
 12 ~~reasons:~~

13 ~~(1) The person whose name is entered on the register of physicians'~~
 14 ~~assistants requests or consents to the removal thereof;~~

15 ~~(2) the board of healing arts determines that the person whose name~~
 16 ~~is entered on the register of physicians' assistants has not been employed~~
 17 ~~as a physician's assistant or as a teacher or instructor of persons being~~
 18 ~~educated and trained to become physicians' assistants in a course of ed-~~
 19 ~~ucation and training approved by the state board of healing arts under~~
 20 ~~K.S.A. 65-2896a and amendments thereto at some time during the five~~
 21 ~~years immediately preceding the date of such determination;~~

22 ~~(3) if the board determines, after notice and opportunity to be heard,~~
 23 ~~in accordance with the provisions of the Kansas administrative procedure~~
 24 ~~act, that a physician's assistant has violated any provision of K.S.A. 65-~~
 25 ~~2896 to 65-2897a, inclusive, and amendments thereto, or any rules and~~
 26 ~~regulations adopted pursuant thereto;~~

27 ~~(4) if the board determines, after notice and opportunity to be heard,~~
 28 ~~in accordance with the provisions of the Kansas administrative procedure~~
 29 ~~act, that the request by the proposed responsible physician pursuant to~~
 30 ~~subsection (a)(4) of K.S.A. 65-2896a and amendments thereto should not~~
 31 ~~be approved; or~~

32 ~~(5) if the board determines, after notice and opportunity to be heard,~~
 33 ~~in accordance with the provisions of the Kansas administrative procedure~~
 34 ~~act, that a physician assistant has assisted suicide in violation of K.S.A.~~
 35 ~~21-3406 and amendments thereto as established by any of the following:~~

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

38 ~~(B) A copy of the record of a judgment of contempt of court for~~
 39 ~~violating an injunction issued under K.S.A. 1999 Supp. 60-4404 and~~
 40 ~~amendments thereto.~~

41 ~~(C) A copy of the record of a judgment assessing damages under~~
 42 ~~K.S.A. 1999 Supp. 60-4405 and amendments thereto. A licensee's license~~
 43 ~~may be revoked, suspended or limited, or the licensee may be publicly or~~

1 *privately censured, or an application for a license or for reinstatement of*
2 *a license may be denied upon a finding of the existence of any of the*
3 *following grounds:*

4 *(a) The applicant or licensee has committed fraud or misrepresenta-*
5 *tion in applying for or securing an original, renewal or reinstated license*
6 *including falsely certifying that no licensure, certification or registration*
7 *of the licensee as a physician assistant is under current discipline, revo-*
8 *cation, suspension or probation for cause resulting from the applicant's*
9 *practice as a physician assistant, unless the state board of healing arts*
10 *considers such condition and agrees to licensure;*

11 ~~*(b) The board of healing arts may remove a person's name from the*~~
12 ~~*register of physicians' assistants or may refuse to place a person's name*~~
13 ~~*on the register of physicians' assistants, if the board determines, after*~~
14 ~~*notice and opportunity for hearing in accordance with the provisions of*~~
15 ~~*the Kansas administrative procedure act, that a physician's assistant has*~~
16 ~~*exceeded or has acted outside the scope of authority given the physician's*~~
17 ~~*assistant by the responsible physician or by this act. the licensee has com-*~~
18 ~~*mitted an act of unprofessional or dishonorable conduct or professional*~~
19 ~~*incompetency;*~~

20 *(c) the licensee has been convicted of a felony or class A misdemeanor,*
21 *whether or not related to the provisions of this act;*

22 *(d) the licensee has used fraudulent or false advertisements;*

23 *(e) the licensee is addicted to or has distributed intoxicating liquors*
24 *or drugs for any other than lawful purposes;*

25 *(f) the licensee has willfully or repeatedly violated the provisions of*
26 *this act, the pharmacy act of the state of Kansas or the uniform controlled*
27 *substances act, or any rules and regulations adopted pursuant thereto, or*
28 *any rules and regulations of the secretary of health and environment*
29 *which are relevant to the provisions of this act;*

30 *(g) the licensee has exceeded the scope of their license granted by the*
31 *state board of healing arts;*

32 *(h) the licensee has engaged in the practice as a physician assistant*
33 *under a false or assumed name, or the impersonation of another practi-*
34 *tioner except that the provisions of this paragraph relating to an assumed*
35 *name shall not apply to licensees practicing under a professional corpo-*
36 *ration or other legal entity duly authorized to provide such professional*
37 *services in the state of Kansas;*

38 *(i) the licensee has had a license or authorization to practice as a*
39 *physician assistant revoked, suspended or limited, has been censured or*
40 *has had other disciplinary action taken, or an application for a license*
41 *denied, by the proper licensing authority of another state, territory, Dis-*
42 *trict of Columbia, or other country, a certified copy of the record of the*
43 *action of the other jurisdiction being conclusive evidence thereof;*

1 (j) the licensee has violated any lawful rule and regulation promul-
 2 gated by the board or violated any lawful order or directive of the board
 3 previously entered by the board;

4 (k) the licensee has cheated on or attempted to subvert the validity of
 5 the examination for a license;

6 (l) the licensee has ~~transmitted~~ a prescription order for, sold, admin- [prescribed or transmitted
 7 istered, distributed or given a controlled substance to any person for other
 8 than medically accepted or lawful purposes;

9 (m) the licensee has intentionally violated a federal law or regulation
 10 relating to controlled substances;

11 (n) the licensee has failed to furnish the board, or its investigators or
 12 representatives, any information legally requested by the board;

13 (o) sanctions or disciplinary actions have been taken against the li-
 14 censee by a peer review committee, health care facility, a governmental
 15 agency or department or a professional association or society for acts or
 16 conduct similar to acts or conduct which would constitute grounds for
 17 disciplinary action under this section;

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

24 (q) the licensee has surrendered a license or authorization to practice
 25 as a physician assistant in another state or jurisdiction, has surrendered
 26 the authority to utilize controlled substances issued by any state or federal
 27 agency, has agreed to a limitation to or restriction of privileges at any
 28 medical care facility or has surrendered the licensee's membership on any
 29 professional staff or in any professional association or society while under
 30 investigation for acts or conduct similar to acts or conduct which would
 31 constitute grounds for disciplinary action under this section;

32 (r) the licensee has failed to report to the board surrender of the
 33 licensee's license or authorization to practice as a physician assistant in
 34 another state or jurisdiction or surrender of the licensee's membership on
 35 any professional staff or in any professional association or society while
 36 under investigation for acts or conduct similar to acts or conduct which
 37 would constitute grounds for disciplinary action under this section;

38 (s) the licensee has an adverse judgment, award or settlement against
 39 the licensee resulting from a professional liability claim related to acts or
 40 ~~conduct similar to acts or~~ conduct which would constitute grounds for [delete
 41 disciplinary action under this section;

42 (t) the licensee has failed to report to the board any adverse judgment,
 43 settlement or award against the licensee resulting from a professional li-

1 ability claim related to acts or ~~conduct similar to acts or~~ conduct which [delete]

2 would constitute grounds for disciplinary action under this section;

3 (u) the licensee has knowingly submitted any misleading, deceptive,
4 untrue or fraudulent representation on a claim form, bill or statement.

5 Sec. 4. K.S.A. 65-2896c is hereby amended to read as follows: 65-
6 2896c. (a) It shall be unlawful for any person who is not licensed under
7 this act or whose license has been revoked or suspended to engage in the
8 practice as a physician assistant as defined by this act.

9 (b) No person shall use the title registered physician's assistant or
10 words of like effect or the abbreviation "R.P.A." any title, abbreviation,
11 letters, figures, sign, card or device to indicate that any person is a licensed
12 physician assistant, nor shall any person represent himself or herself one-
13 self to be a registered physician's licensed physician assistant unless such
14 person's name is entered on the register of the names of physicians' as-
15 sistants person has been duly licensed as a physician assistant in accord-
16 ance with the provisions of this act.

17 (c) The provisions of this act shall not be construed to include the
18 following persons:

19 (1) Persons rendering gratuitous services in the case of an emergency.
20 (2) Persons gratuitously administering ordinary household remedies.

21 (3) ~~The members of any church practicing their religious tenets pro-~~ Individuals practicing religious beliefs which provide for
22 ~~vided they shall not be exempt from complying with all public health~~ reliance on spiritual means alone for healing.
23 ~~regulations of the state.]~~

24 (4) Students while ~~in actual classroom attendance~~ in an approved [performing professional services
25 physician assistant education and training program who after completing
26 one year's study treat diseases under the supervision of an approved
27 instructor.

28 (5) Students upon the completion of ~~at least three years' study in~~ [delete
29 approved physician assistant education and training program and who,
30 as a part of their academic requirements for a degree, serve a preceptor-
31 ship not to exceed 90 days under the supervision of a licensed physician.

32 (6) Persons whose professional services are performed under the di-
33 rect and personal supervision or by order of ~~or referral from~~ [delete
34 who is licensed under the healing arts act.

35 (7) Persons in the general fields of psychology, education and social
36 work, dealing with the social, psychological and moral well-being of in-
37 dividuals or groups provided they do not use drugs and do not hold them-
38 selves out to be physicians, surgeons, osteopathic physicians or
39 chiropractors.

40 (8) Physician assistants in the United States army, navy, air force,
41 public health service, ~~and~~ coast guard ~~or other military service~~ [other military service and under other federal employment
37 acting in the line of duty in this state.

43 ~~[(9) Physician assistants licensed in another state when and while in~~ [delete

1 ~~identally called into this state in consultation with practitioners licensed~~
 2 ~~in this state, or residing on the border of a neighboring state, duly licensed~~
 3 ~~under the laws thereof to practice as a physician assistant, but who do~~
 4 ~~not open an office or maintain or appoint a place to regularly meet pa-~~
 5 ~~tients or to receive calls within this state.]~~ [delete

6 ~~[(10)] Dentists practicing their professions, when licensed and practic-~~ [(9)
 7 ~~ing in accordance with the provisions of article 14 of chapter 65 of the~~
 8 ~~Kansas Statutes Annotated, and amendments thereto, and any interpre-~~
 9 ~~tation thereof by the supreme court of this state.~~

10 ~~[(11)] Optometrists practicing their professions, when licensed and~~ [(10)
 11 ~~practicing under and in accordance with the provisions of article 15 of~~
 12 ~~chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~
 13 ~~and any interpretation thereof by the supreme court of this state.~~

14 ~~[(12)] Nurses practicing their profession when licensed and practicing~~ [(11)
 15 ~~under and in accordance with the provisions of article 11 of chapter 65~~
 16 ~~of the Kansas Statutes Annotated, and amendments thereto, and any in-~~
 17 ~~terpretation thereof by the supreme court of this state.~~

18 ~~[(13)] Podiatrists practicing their profession, when licensed and prac-~~ [(12)
 19 ~~ticing under and in accordance with the provisions of article 20 of chapter~~
 20 ~~65 of the Kansas Statutes Annotated, and amendments thereto, and any~~
 21 ~~interpretation thereof by the supreme court of this state.~~

22 ~~[(14)] Pharmacists practicing their profession, when licensed and prac-~~ [(13)
 23 ~~ticing under and in accordance with the provisions of article 16 of chapter~~
 24 ~~65 of the Kansas Statutes Annotated, and amendments thereto, and any~~
 25 ~~interpretation thereof by the supreme court of this state.~~

26 ~~[(15)] A dentist licensed in accordance with the provisions of article 14~~ [(14)
 27 ~~of chapter 65 of the Kansas Statutes Annotated, and amendments thereto,~~
 28 ~~who administers general and local anesthetics to facilitate medical pro-~~
 29 ~~cedures conducted by a person licensed to practice medicine and surgery~~
 30 ~~if such dentist is certified by the board of healing arts under K.S.A. 65-~~
 31 ~~2899, and amendments thereto, to administer such general and local~~
 32 ~~anesthetics.~~

33 (d) Any person violating the provisions of this section shall be guilty
 34 of a class [C] misdemeanor [B

35 Sec. 5. K.S.A. 65-2896d is hereby amended to read as follows: 65-
 36 2896d. (a) The state board of healing arts shall provide for the temporary
 37 ~~registration licensure~~ of any ~~physician's~~ physician assistant who has made
 38 proper application for ~~registration licensure~~, has the required qualifica-
 39 tions for ~~registration licensure~~, except for examination, and has paid the
 40 prescribed ~~registration license~~ fee. Such temporary ~~registration license~~
 41 shall authorize the person so ~~registered~~ licensed to provide patient serv-
 42 ices within the limits of the temporary ~~registration~~ until the date the
 43 results of the examination become available license. [Not more than one [delete

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1 such temporary registration shall be permitted to any one person without [delete
2 the majority approval of the members of the board.]

3 (b) A temporary license is valid (1) for one year from the date of
4 issuance or (2) until the state board of healing arts makes a final deter-
5 mination on the applicant's request for licensure. The state board of heal-
6 ing arts may extend a temporary license, upon a majority vote of the
7 members of the board, for a period not to exceed one year.

8 Sec. 6. K.S.A. 1999 Supp. 65-2896e is hereby amended to read as
9 follows: 65-2896e. (a) The practice of a physician assistant shall include
10 medical services within the education, training and experience of the phy-
11 sician assistant that are delegated by the responsible physician. Physician
12 assistants practice in a dependent role with a responsible physician, and
13 may perform those duties and responsibilities through delegated authority
14 or written protocol. Medical services rendered by physician assistants
15 ~~[may include but are not limited to: (1) Obtaining patient histories, per-~~
16 ~~forming physical examinations and health assessments; (2) ordering or~~
17 ~~performing diagnostic and therapeutic procedures, or both; (3) formulat-~~
18 ~~ing diagnosis; (4) developing and implementing a treatment plan; (5) mon-~~
19 ~~itoring the effectiveness of therapeutic interventions; (6) assisting in sur-~~
20 ~~gery; (7) offering counseling and education to meet the patient needs; and~~
21 ~~(8) making appropriate referrals. These activities]~~ may be performed in
22 any setting authorized by the responsible physician, including but not
23 limited to, clinics, hospitals, ambulatory surgical centers, patient homes,
24 nursing homes and other medical institutions.

25 ~~[(b) Physician assistants shall be considered the agents of their re-~~
26 ~~sponsible physicians in the performance of all practice-related activities,~~
27 ~~including but not limited to, the ordering of diagnostic, therapeutic and~~
28 ~~other medical services.]~~ [delete

29 ~~[(c)] A person whose name has been entered on the register of physi-~~
30 ~~icians' assistants licensed as a physician assistant may perform, only under~~ [(b)
31 the direction and supervision of a physician, acts which constitute the
32 practice of medicine and surgery to the extent and in the manner au-
33 thorized by the physician responsible for the ~~physieian's~~ physician assis-
34 tant and only to the extent such acts are consistent with rules and regu-
35 lations adopted by the board which relate to acts performed by a
36 ~~physieian's~~ physician assistant under the responsible physician's direction
37 and supervision. A ~~physieian's~~ physician assistant may prescribe drugs
38 pursuant to a written protocol as authorized by the responsible physician.

39 ~~[(d)] Before a ~~physieian's~~ physician assistant shall perform under the~~ [(c)
40 direction and supervision of a physician, such ~~physieian's~~ physician assis-
41 tant shall be identified to the patient and others involved in providing the
42 patient services as a ~~physieian's~~ physician assistant to the responsible phy-
43 sician. Physician assistants licensed under the provisions of this act shall

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1 *keep their license available for inspection at their primary place of busi-*
 2 *ness. A physician's physician assistant may not perform any act or pro-*
 3 *cedure performed in the practice of optometry except as provided in*
 4 *K.S.A. 65-1508 and 65-2887 and amendments thereto.*

5 ~~(b)~~ (e) The board shall adopt rules and regulations governing the pre-
 6 scribing of drugs by ~~physicians'~~ *physician* assistants and the responsibil-
 7 ities of the responsible physician with respect thereto. Such rules and
 8 regulations shall establish such conditions and limitations as the board
 9 determines to be necessary to protect the public health and safety. In
 10 developing rules and regulations relating to the prescribing of drugs by
 11 ~~physicians'~~ *physician* assistants, the board shall take into consideration
 12 the amount of training and capabilities of ~~physicians'~~ *physician* assistants,
 13 the different practice settings in which ~~physicians'~~ *physician* assistants
 14 and responsible physicians practice, the degree of direction and super-
 15 vision to be provided by a responsible physician and the needs of the
 16 geographic area of the state in which the physician's *physician* assistant
 17 and the responsible physician practice. In all cases in which a ~~physician's~~
 18 *physician* assistant is authorized to prescribe drugs by a responsible phy-
 19 sician, a written protocol between the responsible physician and the ~~phy-~~
 20 ~~sician's~~ *physician* assistant containing the essential terms of such author-
 21 ization shall be in effect. Any written prescription order shall include the
 22 name, address and telephone number of the responsible physician. In no
 23 case shall the scope of the authority of the ~~physician's~~ *physician* assistant
 24 to prescribe drugs exceed the normal and customary practice of the re-
 25 sponsible physician in the prescribing of drugs.

26 ~~(e)~~ (f) The physician's physician assistant may not dispense drugs, but
 27 may request, receive and sign for professional samples and may distribute
 28 professional samples to patients pursuant to a written protocol as author-
 29 ized by the responsible physician. In order to prescribe controlled sub-
 30 stances, the physician's physician assistant shall register with the federal
 31 drug enforcement administration.

32 ~~(d)~~ (g) As used in this section, "drug" means those articles and sub-
 33 stances defined as drugs in K.S.A. 65-1626 and 65-4101 and amendments
 34 thereto.

35 Sec. 7. K.S.A. 65-2896f is hereby amended to read as follows: 65-
 36 2896f. (a) If a responsible physician temporarily leaves ~~his or her~~ *such*
 37 *physician's* customary ~~[area]~~ of practice, the responsible physician shall, by
 38 prior arrangement, designate a physician who shall provide direction and
 39 supervision to the ~~physician's~~ *physician* assistant of such responsible
 40 physician.

[location]

41 (b) *Nothing in this act shall be construed to prohibit the rendering of*
 42 *services by a physician assistant in a setting geographically remote from*
 43 *the responsible physician[.]*

[as provided by rules and regulations of the Board.]

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1 (c) ~~[A physician assistant shall at the time of initial licensure and any~~
 2 ~~renewal thereof] present to the state board of healing arts the name and~~
 3 ~~address of such physician assistant's responsible physician or physicians.~~
 4 ~~Whenever a physician assistant obtains a new responsible physician or~~
 5 ~~physicians, such responsible physician or physicians shall notify the state~~
 6 ~~board of healing arts of such designation. [All such notifications shall be~~
 7 ~~given to the state board of healing arts as soon as practicable but not less~~
 8 ~~than 10 days prior to the prospective date of employment.]~~

Prior to performing the professional duties
 a physician assistant licensed under this act shall

delete

9 Sec. 8. K.S.A. 65-2896g is hereby amended to read as follows: 65-
 10 2896g. No responsible supervising physician shall have under his or her
 11 such physician's direction and supervision more than two (2) physicians'
 12 physician assistants. The limitation on the number of physician assistants
 13 in this section shall not apply to services performed in a medical care
 14 facility, as defined in K.S.A. 65-425 and amendments thereto.

15 Sec. 9. K.S.A. 65-2897a is hereby amended to read as follows: 65-
 16 2897a. (a) The following words and phrases when used in this act shall
 17 have the meanings respectively ascribed to them in this section:

18 (a) (1) "Direction and supervision" means the guidance, direction and
 19 coordination of activities of a physician's physician assistant by such per-
 20 son's physician assistant's responsible physician, whether written or ver-
 21 bal, whether immediate or by prior arrangement, in accordance with stan-
 22 dards established by the board by rules and regulations, which standards
 23 shall be designed to ensure adequate direction and supervision by the
 24 responsible physician of the physician's physician assistant. The term "di-
 25 rection and supervision" shall not be construed to mean that the imme-
 26 diate or physical presence of the responsible physician is required during
 27 the performance of the physician's physician assistant.

28 (b) (2) "Physician" means any person licensed by the state board of
 29 healing arts to practice medicine and surgery.

30 (c) ~~Physician's~~ (3) "Physician assistant" means a skilled person
 31 who is registered licensed in accordance with the provisions of K.S.A. 65-
 32 2896a and amendments thereto and who is qualified by academic training
 33 to provide patient services under the direction and supervision of a phy-
 34 sician who is responsible for the performance of that assistant.

35 (d) (4) "Responsible physician" means a physician who has accepted
 36 continuous and ultimate responsibility for the medical services rendered
 37 and actions of the physician's physician assistant while performing under
 38 the direction and supervision of the responsible physician.

39 [(5) "Scope of practice" means a physician assistant practicing medi-
 40 cine as delegated by a responsible physician.]

delete

41 [(6)] "Supervising physician" means a responsible physician or a phy-
 42 sician designated by the responsible physician to ensure direction and
 43 supervision of the physician assistant [in the responsible physician's ab-

(5)

delete

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1 ~~ee~~. A supervising physician shall be subject to the same requirements
2 imposed upon the responsible physician when the supervising physician
3 is acting as a responsible physician.

4 (b) As used in K.S.A. 65-2896b and amendments thereto and in this
5 section:

6 (1) "Professional incompetency" means:

7 (A) One or more instances involving failure to adhere to the appli-
8 cable standard of care to a degree which constitutes gross negligence, as
9 determined by the board.

10 (B) Repeated instances involving failure to adhere to the applicable
11 standard of care to a degree which constitutes ordinary negligence, as
12 determined by the board.

13 (C) A pattern of practice or other behavior which demonstrates a
14 manifest incapacity or incompetence to practice as a physician assistant.

15 (2) "Unprofessional conduct" means:

16 (A) Solicitation of professional patronage through the use of fraudu-
17 lent or false advertisements, or profiting by the acts of those representing
18 themselves to be agents of the licensee.

19 (B) Representing to a patient that a manifestly incurable disease, con-
20 dition or injury can be permanently cured.

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

24 (D) The use of any letters, words, or terms, as an affix, on stationary,
25 in advertisements, or otherwise indicating that such person is entitled to
26 practice any health care profession for which such person is not licensed.

27 (E) Willful betrayal of confidential information.

28 (F) Advertising professional superiority or the performance of pro-
29 fessional services in a superior manner.

30 ~~[(G)] Advertising to guarantee any professional service or to perform~~ delete
31 ~~any operation painlessly.~~

32 ~~[(H)] Writing a prescription order for, [dispensing, administering, sell-~~ (G) Writing a prescription order for, or
33 ~~ing, supplying or giving any amphetamines or sympathomimetic amines,~~ knowingly transmitting an order for,
34 ~~except as authorized by K.S.A. 65-2837a and amendments thereto.~~

35 ~~[(I)] -Conduct likely to deceive, defraud or harm the public.~~ (H)

36 ~~[(J)] Making a false or misleading statement regarding the licensee's~~ (I)
37 ~~skill or the efficacy or value of the drug, treatment or remedy [prescribed]~~ recommended
38 ~~by the licensee [or at the licensee's direction] in the treatment of any disease~~ delete
39 ~~or other condition of the body or mind.~~

40 ~~[(K)] Aiding or abetting the practice of the healing arts by an unli-~~ (J)
41 ~~censed, incompetent or impaired person.~~

42 ~~[(L)] Allowing another person or organization to use the licensee's li-~~ (K)
43 ~~cence to practice as a physician assistant.~~

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1 ~~[(M)] Commission of any act of sexual abuse, misconduct or exploita-~~ ~~_____~~ ~~[(L)]~~
2 ~~tion related to the licensee's professional practice.~~

3 ~~[(N)] The use of any false, fraudulent or deceptive statement in any~~ ~~_____~~ ~~[(M)]~~
4 ~~document connected with the practice as a physician assistant including~~
5 ~~the intentional falsifying or fraudulent altering of a patient or medical~~
6 ~~care facility record.~~

7 ~~[(O)] Obtaining any fee by fraud, deceit or misrepresentation.~~ ~~_____~~ ~~[(N)]~~

8 ~~[(P)] Directly or indirectly giving or receiving any fee, commission,~~ ~~_____~~ ~~[(O)]~~
9 ~~rebate or other compensation for professional services not actually and~~
10 ~~personally rendered, other than through the legal functioning of lawful~~ ~~_____~~ ~~professional corporation, association or limited liability company~~
11 ~~professional partnerships, ~~[(corporations or associations.)]~~~~

12 ~~[(Q)] Performing unnecessary tests, examinations or services which~~ ~~_____~~ ~~[(P)]~~
13 ~~have no legitimate medical purpose.~~

14 ~~[(R)] Charging an excessive fee for services rendered.~~ ~~_____~~ ~~[(Q)]~~

15 ~~[(S)] Writing or transmitting a prescription order for, dispensing, ad-~~ ~~_____~~ ~~[(R)]~~
16 ~~ministering, distributing a prescription drug or substance, including a~~
17 ~~controlled substance, in an excessive, improper or inappropriate manner~~
18 ~~or quantity or not in the course of the licensee's professional practice.~~

19 ~~[(T)] Repeated failure to practice as a physician assistant with that level~~ ~~_____~~ ~~delete~~
20 ~~of care, skill and treatment which is recognized by a reasonably prudent~~
21 ~~similar practitioner as being acceptable under similar conditions and~~
22 ~~circumstances.]~~

23 ~~[(U)] Failure to keep written medical records which accurately describe~~ ~~_____~~ ~~[(S)]~~
24 ~~the services rendered to the patient, including patient histories, pertinent~~
25 ~~findings, examination results and test results.~~

26 ~~[(V)] Delegating professional responsibilities to a person when the li-~~ ~~_____~~ ~~[(T)]~~
27 ~~censee knows or has reason to know that such person is not qualified by~~
28 ~~training, experience or licensure to perform them.~~

29 ~~[(W)] Using experimental forms of therapy without proper informed~~ ~~_____~~ ~~[(U)]~~
30 ~~patient consent, without conforming to generally accepted criteria or stan-~~
31 ~~dard protocols, without keeping detailed legible records or without having~~
32 ~~periodic analysis of the study and results reviewed by a committee or~~
33 ~~peers.~~

34 ~~[(X)] Writing or transmitting a prescription order for, dispensing, ad-~~ ~~_____~~ ~~[(V)]~~
35 ~~ministering or distributing an anabolic steroid or human growth hormone~~
36 ~~for other than a valid medical purpose. Bodybuilding, muscle enhance-~~
37 ~~ment or increasing muscle bulk or strength through the use of an anabolic~~
38 ~~steroid or human growth hormone by a person who is in good health is~~
39 ~~not a valid medical purpose.~~

40 (3) "False advertisement" means any advertisement which is false,
41 misleading or deceptive in a material respect. In determining whether any
42 advertisement is misleading, there shall be taken into account not only
43 representations made or suggested by statement, word, design, device,

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1 sound or any combination thereof, but also the extent to which the ad-
2 vertisement fails to reveal facts material in the light of such representa-
3 tions made.

4 (4) "Advertisement" means all representations disseminated in any
5 manner or by any means, for the purpose of inducing, or which are likely
6 to induce, directly or indirectly, the purchase of professional services.

7 (5) "Licensee" for purposes of this act, shall mean all persons issued
8 a license, or temporary license pursuant to this act.

9 (6) "License" for purposes of this act, shall mean any license, or tem-
10 porary license granted by this act.

11 Sec. 10. K.S.A. 65-2897b is hereby amended to read as follows: 65-
12 2897b. (a) There is established a ~~physician's~~ physician assistant council
13 to advise the board in carrying out the provisions of K.S.A. 65-2896 to
14 65-2897a, inclusive, and amendments thereto. The council shall consist
15 of five members, all citizens and residents of the state of Kansas appointed
16 as follows: One member shall be a physician appointed by the state board
17 of healing arts who is a responsible physician for a ~~physician's~~ physician
18 assistant; one member shall be the president of the state board of healing
19 arts or a person designated by the president; and three members shall be
20 ~~physician's~~ licensed physician assistants appointed by the governor. The
21 governor, insofar as possible, shall appoint persons from different geo-
22 graphical areas and persons who represent various types of practice set-
23 tings. If a vacancy occurs on the council, the appointing authority of the
24 position which has become vacant shall appoint a person of like qualifi-
25 cations to fill the vacant position for the unexpired term, if any. The
26 Kansas academy of ~~physicians'~~ physician assistants shall recommend the
27 names of ~~physicians'~~ licensed physician assistants to the governor in a
28 number equal to at least twice the positions or vacancies to be filled, and
29 the governor may appoint members to fill the positions or vacancies from
30 the submitted list. Members of the council appointed by the governor on
31 and after the effective date of this act shall be appointed for terms of
32 three years and until their successors are appointed and qualified except
33 that of the members first appointed by the governor on or after the ef-
34 fective date of this act one shall be appointed for a term of one year, one
35 shall be appointed for a term of two years and one shall be appointed for
36 a term of three years, as designated by the governor. The member ap-
37 pointed by the state board of healing arts shall serve at the pleasure of
38 the state board of healing arts. A member designated by the president of
39 the state board of healing arts shall serve at the pleasure of the president.

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

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1 Sec. 11. K.S.A. 1999 Supp. 17-2707 is hereby amended to read as
2 follows: 17-2707. As used in this act, unless the context clearly indicates
3 that a different meaning is intended, the following words mean:

4 (a) "Professional corporation," a corporation organized under this act.

5 (b) "Professional service," the type of personal service rendered by a
6 person duly licensed by this state as a member of any of the following
7 professions, each paragraph constituting one type:

8 (1) A certified public accountant;

9 (2) An architect;

10 (3) An attorney-at-law;

11 (4) A chiropractor;

12 (5) A dentist;

13 (6) An engineer;

14 (7) An optometrist;

15 (8) An osteopathic physician or surgeon;

16 (9) A physician, surgeon or doctor of medicine;

17 (10) A veterinarian;

18 (11) A podiatrist;

19 (12) A pharmacist;

20 (13) A land surveyor;

21 (14) A licensed psychologist;

22 (15) A specialist in clinical social work;

23 (16) A registered physical therapist;

24 (17) A landscape architect;

25 (18) A registered professional nurse;

26 (19) A real estate broker or salesperson.;

27 (20) *A licensed physician assistant.*

28 (c) "Regulating board," the board or state agency which is charged
29 with the licensing and regulation of the practice of the profession which
30 the professional corporation is organized to render.

31 (d) "Qualified person":

32 (1) Any natural person licensed to practice the same type of profes-
33 sion which any professional corporation is authorized to practice;

34 (2) the trustee of a trust which is a qualified trust under subsection
35 (a) of section 401 of the internal revenue code of 1954, as amended, or
36 of a contribution plan which is a qualified employee stock ownership plan
37 under subsection (a) of section 409A of the internal revenue code of 1954,
38 as amended; or

39 (3) the trustee of a revocable living trust established by a natural
40 person who is licensed to practice the type of profession which any pro-
41 fessional corporation is authorized to practice, if the terms of such trust
42 provide that such natural person is the principal beneficiary and sole
43 trustee of such trust and such trust does not continue to hold title to

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1 professional corporation stock following such natural person's death for
2 more than a reasonable period of time necessary to dispose of such stock.

3 Sec. 12. K.S.A. 1999 Supp. 38-135 is hereby amended to read as
4 follows: 38-135. As used in this act:

5 (a) "Health care provider" means a person licensed to practice med-
6 icine and surgery by the state board of healing arts, a person who holds
7 a temporary permit to practice medicine and surgery issued by the state
8 board of healing arts, a person engaged in a postgraduate training pro-
9 gram in medicine and surgery approved by the state board of healing arts,
10 a medical care facility licensed by the department of health and environ-
11 ment, a health maintenance organization issued a certificate of authority
12 by the commissioner of insurance, a licensed professional nurse, a li-
13 censed practical nurse, a ~~registered physician's~~ *licensed physician* assis-
14 tant, a professional corporation organized pursuant to the professional
15 corporation law of Kansas by persons who are authorized by such law to
16 form such a corporation and who are health care providers as defined by
17 this subsection, a Kansas limited liability company organized for the pur-
18 pose of rendering professional services by its members who are health
19 care providers as defined by this subsection and who are legally author-
20 ized to render the professional services for which the limited liability
21 company is organized, a partnership of persons who are health care pro-
22 viders as defined by this subsection or a Kansas not-for-profit corporation
23 organized for the purpose of rendering professional services by persons
24 who are health care providers as defined by this subsection.

25 (b) "Parent" means:

26 (1) A minor's parent by birth or adoption;

27 (2) a minor's legal guardian; or

28 (3) any person who under court order is authorized to give consent
29 for a minor.

30 Sec. 13. K.S.A. 1999 Supp. 40-3401 is hereby amended to read as
31 follows: 40-3401. As used in this act the following terms shall have the
32 meanings respectively ascribed to them herein.

33 (a) "Applicant" means any health care provider.

34 (b) "Basic coverage" means a policy of professional liability insurance
35 required to be maintained by each health care provider pursuant to the
36 provisions of subsection (a) or (b) of K.S.A. 40-3402 and amendments
37 thereto.

38 (c) "Commissioner" means the commissioner of insurance.

39 (d) "Fiscal year" means the year commencing on the effective date
40 of this act and each year, commencing on the first day of that month,
41 thereafter.

42 (e) "Fund" means the health care stabilization fund established pur-
43 suant to subsection (a) of K.S.A. 40-3403 and amendments thereto.

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1 (f) "Health care provider" means a person licensed to practice any
2 branch of the healing arts by the state board of healing arts *with the*
3 *exception of physician assistants*, a person who holds a temporary permit
4 to practice any branch of the healing arts issued by the state board of
5 healing arts, a person engaged in a postgraduate training program ap-
6 proved by the state board of healing arts, a medical care facility licensed
7 by the department of health and environment, a health maintenance or-
8 ganization issued a certificate of authority by the commissioner of insur-
9 ance, a podiatrist licensed by the state board of healing arts, an optom-
10 etrist licensed by the board of examiners in optometry, a pharmacist
11 licensed by the state board of pharmacy, a licensed professional nurse
12 who is authorized to practice as a registered nurse anesthetist, a licensed
13 professional nurse who has been granted a temporary authorization to
14 practice nurse anesthesia under K.S.A. 65-1153 and amendments thereto,
15 a professional corporation organized pursuant to the professional corpo-
16 ration law of Kansas by persons who are authorized by such law to form
17 such a corporation and who are health care providers as defined by this
18 subsection, a Kansas limited liability company organized for the purpose
19 of rendering professional services by its members who are health care
20 providers as defined by this subsection and who are legally authorized to
21 render the professional services for which the limited liability company
22 is organized, a partnership of persons who are health care providers under
23 this subsection, a Kansas not-for-profit corporation organized for the pur-
24 pose of rendering professional services by persons who are health care
25 providers as defined by this subsection, a dentist certified by the state
26 board of healing arts to administer anesthetics under K.S.A. 65-2899 and
27 amendments thereto, a physical therapist registered by the state board of
28 healing arts, a psychiatric hospital licensed under K.S.A. 75-3307b and
29 amendments thereto, or a mental health center or mental health clinic
30 licensed by the secretary of social and rehabilitation services, except that
31 health care provider does not include (1) any state institution for the
32 mentally retarded, (2) any state psychiatric hospital, (3) any person hold-
33 ing an exempt license issued by the state board of healing arts or (4) any
34 person holding a visiting clinical professor license from the state board of
35 healing arts.

36 (g) "Inactive health care provider" means a person or other entity
37 who purchased basic coverage or qualified as a self-insurer on or subse-
38 quent to the effective date of this act but who, at the time a claim is made
39 for personal injury or death arising out of the rendering of or the failure
40 to render professional services by such health care provider, does not
41 have basic coverage or self-insurance in effect solely because such person
42 is no longer engaged in rendering professional service as a health care
43 provider.

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1 (h) "Insurer" means any corporation, association, reciprocal
2 exchange, inter-insurer and any other legal entity authorized to write bod-
3 ily injury or property damage liability insurance in this state, including
4 workers compensation and automobile liability insurance, pursuant to the
5 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of
6 Kansas Statutes Annotated.

7 (i) "Plan" means the operating and administrative rules and proce-
8 dures developed by insurers and rating organizations or the commissioner
9 to make professional liability insurance available to health care providers.

10 (j) "Professional liability insurance" means insurance providing cov-
11 erage for legal liability arising out of the performance of professional
12 services rendered or which should have been rendered by a health care
13 provider.

14 (k) "Rating organization" means a corporation, an unincorporated as-
15 sociation, a partnership or an individual licensed pursuant to K.S.A. 40-
16 930 or 40-1114, or both, and amendments thereto, to make rates for
17 professional liability insurance.

18 (l) "Self-insurer" means a health care provider who qualifies as a self-
19 insurer pursuant to K.S.A. 40-3414 and amendments thereto.

20 (m) "Medical care facility" means the same when used in the health
21 care provider insurance availability act as the meaning ascribed to that
22 term in K.S.A. 65-425 and amendments thereto, except that as used in
23 the health care provider insurance availability act such term, as it relates
24 to insurance coverage under the health care provider insurance availa-
25 bility act, also includes any director, trustee, officer or administrator of a
26 medical care facility.

27 (n) "Mental health center" means a mental health center licensed by
28 the secretary of social and rehabilitation services under K.S.A. 75-3307b
29 and amendments thereto, except that as used in the health care provider
30 insurance availability act such term, as it relates to insurance coverage
31 under the health care provider insurance availability act, also includes any
32 director, trustee, officer or administrator of a mental health center.

33 (o) "Mental health clinic" means a mental health clinic licensed by
34 the secretary of social and rehabilitation services under K.S.A. 75-3307b
35 and amendments thereto, except that as used in the health care provider
36 insurance availability act such term, as it relates to insurance coverage
37 under the health care provider insurance availability act, also includes any
38 director, trustee, officer or administrator of a mental health clinic.

39 (p) "State institution for the mentally retarded" means Winfield state
40 hospital and training center, Parsons state hospital and training center
41 and the Kansas neurological institute.

42 (q) "State psychiatric hospital" means Larned state hospital, Osawa-
43 tomie state hospital, Rainbow mental health facility and Topeka state

1 hospital.

2 (r) "Person engaged in residency training" means:

3 (1) A person engaged in a postgraduate training program approved
4 by the state board of healing arts who is employed by and is studying at
5 the university of Kansas medical center only when such person is engaged
6 in medical activities which do not include extracurricular, extra-institu-
7 tional medical service for which such person receives extra compensation
8 and which have not been approved by the dean of the school of medicine
9 and the executive vice-chancellor of the university of Kansas medical cen-
10 ter. Persons engaged in residency training shall be considered resident
11 health care providers for purposes of K.S.A. 40-3401 et seq., and amend-
12 ments thereto; and

13 (2) a person engaged in a postgraduate training program approved by
14 the state board of healing arts who is employed by a nonprofit corporation
15 organized to administer the graduate medical education programs of com-
16 munity hospitals or medical care facilities affiliated with the university of
17 Kansas school of medicine or who is employed by an affiliate of the uni-
18 versity of Kansas school of medicine as defined in K.S.A. 76-367 and
19 amendments thereto only when such person is engaged in medical activ-
20 ities which do not include extracurricular, extra-institutional medical serv-
21 ice for which such person receives extra compensation and which have
22 not been approved by the chief operating officer of the nonprofit cor-
23 poration or the chief operating officer of the affiliate and the executive
24 vice-chancellor of the university of Kansas medical center.

25 (s) "Full-time physician faculty employed by the university of Kansas
26 medical center" means a person licensed to practice medicine and surgery
27 who holds a full-time appointment at the university of Kansas medical
28 center when such person is providing health care.

29 (t) "Sexual act" or "sexual activity" means that sexual conduct which
30 constitutes a criminal or tortious act under the laws of the state of Kansas.

31 Sec. 14. K.S.A. 40-2,111 is hereby amended to read as follows: 40-
32 2,111. As used in K.S.A. 40-2,111 through 40-2,113, and amendments
33 thereto: (a) "Adverse underwriting decision" means: Any of the following
34 actions with respect to insurance transactions involving insurance cover-
35 age which is individually underwritten:

36 (1) A declination of insurance coverage;

37 (2) a termination of insurance coverage;

38 (3) an offer to insure at higher than standard rates, with respect to
39 life, health or disability insurance coverage; or

40 (4) the charging of a higher rate on the basis of information which
41 differs from that which the applicant or policyholder furnished, with re-
42 spect to property or casualty insurance coverage.

43 (b) "Declination of insurance coverage" means a denial, in whole or

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1 in part, by an insurance company or agent of requested insurance
2 coverage.

3 (c) "Health care institution" means any medical care facility, adult
4 care home, drug abuse and alcoholic treatment facility, home-health
5 agency certified for federal reimbursement, mental health center or men-
6 tal health clinic licensed by the secretary of social and rehabilitation serv-
7 ices, kidney disease treatment center, county, city-county or multicounty
8 health departments and health-maintenance organization.

9 (d) "Health care provider" means any person licensed to practice any
10 branch of the healing arts, licensed dentist, licensed professional nurse,
11 licensed practical nurse, advanced registered nurse practitioner, licensed
12 optometrist, registered physical therapist, licensed social worker, regis-
13 ~~tered physicians'~~ *licensed physician* assistant, licensed podiatrist or li-
14 censed psychologist.

15 (e) "Institutional source" means any natural person, corporation, as-
16 sociation, partnership or governmental or other legal entity that provides
17 information about an individual to an agent or insurance company, other
18 than:

- 19 (1) An agent;
- 20 (2) the individual who is the subject of the information; or
- 21 (3) a natural person acting in a personal capacity rather than a busi-
22 ness or professional capacity.

23 (f) "Insurance transaction" means any transaction involving insur-
24 ance, but not including group insurance coverage, primarily for personal,
25 family or household needs rather than business or professional needs.

26 (g) "Medical-record information" means personal information which:

- 27 (1) Relates to an individual's physical or mental condition, medical
28 history or medical treatment; and
- 29 (2) is obtained from a health care provider or health care institution,
30 from the individual, or from the individual's spouse, parent or legal
31 guardian.

32 (h) "Termination of insurance coverage" or "termination of an insur-
33 ance policy" means either a cancellation, nonrenewal or lapse of an in-
34 surance policy, in whole or in part, for any reason other than:

- 35 (1) The failure to pay a premium as required by the policy ; or
- 36 (2) at the request or direction of the insured.

37 Sec. 15. K.S.A. 1999 Supp. 65-118 is hereby amended to read as
38 follows: 65-118. (a) Whenever any person licensed to practice the healing
39 arts or engaged in a postgraduate training program approved by the state
40 board of healing arts, licensed dentist, ~~physician's assistant whose name~~
41 ~~has been entered on the register of physicians' assistants by the state~~
42 ~~board of healing arts, [licensed professional nurse, licensed practical nurse,~~
43 ~~administrator of a hospital, licensed adult care home administrator, li-~~ *[licensed professional nurse, licensed practical nurse*

administrator of a hospital, licensed adult care home-administrator

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1 *icensed physician assistant*, licensed social worker, teacher or school ad-
2 ministrator knows or has information indicating that a person is suffering
3 from or has died from a reportable infectious or contagious disease as
4 defined in rules and regulations, such knowledge or information shall be
5 reported immediately to the county or joint board of health or the local
6 health officer, together with the name and address of the person who has
7 or is suspected of having the infectious or contagious disease, or the name
8 and former address of the deceased individual who had or was suspected
9 of having such a disease. In the case of a licensed hospital or adult care
10 home, the administrator may designate an individual to receive and make
11 such reports. The secretary of health and environment shall, through rules
12 and regulations, make provision for the consolidation of reports required
13 to be made under this section when the person required to make the
14 report is working in a licensed hospital or adult care home. Laboratories
15 certified under the federal clinical laboratories improvement act pursuant
16 to 42 code of federal regulations, 493 shall report the results of micro-
17 biologic cultures, examinations, immunologic essays for the presence of
18 antigens and antibodies and any other laboratory tests which are indicative
19 of the presence of a reportable infectious or contagious disease to the
20 department of health and environment. The director of the division of
21 health may use information from death certificates for disease investiga-
22 tion purposes.

23 (b) Any person who is an individual member of a class of persons
24 designated under subsection (a) of this section and who reports the in-
25 formation required to be reported under such subsection in good faith
26 and without malice to a county or joint board of health, a local health
27 officer or the department of health and environment shall have immunity
28 from any liability, civil or criminal, that might otherwise be incurred or
29 imposed in an action resulting from such report. Any such person shall
30 have the same immunity with respect to participation in any judicial pro-
31 ceeding resulting from such report.

32 (c) Information required to be reported under subsection (a) of this
33 section shall be confidential and shall not be disclosed or made public,
34 upon subpoena or otherwise, beyond the requirements of subsection (a)
35 of this section or subsection (a) of K.S.A. 65-119, except such information
36 may be disclosed: (1) If no person can be identified in the information to
37 be disclosed and the disclosure is for statistical purposes;

38 (2) if all persons who are identifiable in the information to be dis-
39 closed consent in writing to its disclosure;

40 (3) if the disclosure is necessary, and only to the extent necessary, to
41 protect the public health;

42 (4) if a medical emergency exists and the disclosure is to medical
43 personnel qualified to treat infectious or contagious diseases. Any infor-

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1 mation disclosed pursuant to this paragraph shall be disclosed only to the
2 extent necessary to protect the health or life of a named party; or

3 (5) if the information to be disclosed is required in a court proceeding
4 involving child abuse and the information is disclosed in camera.

5 Sec. 16. K.S.A. 1999 Supp. 65-4915 is hereby amended to read as
6 follows: 65-4915. (a) As used in this section:

7 (1) "Health care provider" means: (A) Those persons and entities
8 defined as a health care provider under K.S.A. 40-3401 and amendments
9 thereto; and (B) a dentist licensed by the Kansas dental board, a dental
10 hygienist licensed by the Kansas dental board, a professional nurse li-
11 censed by the board of nursing, a practical nurse licensed by the board
12 of nursing, a mental health technician licensed by the board of nursing,
13 a physical therapist assistant certified by the state board of healing arts,
14 an occupational therapist registered by the state board of healing arts, an
15 occupational therapy assistant registered by the state board of healing
16 arts, a respiratory therapist licensed by the state board of healing arts, a
17 ~~physician's~~ *physician* assistant registered licensed by the state board of
18 healing arts and attendants and ambulance services certified by the emer-
19 gency medical services board.

20 (2) "Health care provider group" means:

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

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

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

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

29 (E) an organized medical staff of a licensed medical care facility as
30 defined by K.S.A. 65-425 and amendments thereto, an organized medical
31 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b and
32 amendments thereto or an organized medical staff of a state psychiatric
33 hospital or state institution for the mentally retarded, as follows: Larned
34 state hospital, Osawatomie state hospital, Rainbow mental health facility,
35 Kansas neurological institute and Parsons state hospital and training
36 center;

37 (F) a health care provider;

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

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

43 (I) an insurance company, health maintenance organization or ad-

1 administrator of a health benefits plan which engages in any of the functions
2 defined as peer review under this section.

3 (3) "Peer review" means any of the following functions:

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

6 (B) determine that health services rendered were professionally in-
7 dicated or were performed in compliance with the applicable standard of
8 care;

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

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

14 (E) reduce morbidity or mortality;

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

17 (G) conduct of research;

18 (H) determine if a hospital's facilities are being properly utilized;

19 (I) supervise, discipline, admit, determine privileges or control mem-
20 bers of a hospital's medical staff;

21 (J) review the professional qualifications or activities of health care
22 providers;

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

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

28 (4) "Peer review officer or committee" means:

29 (A) An individual employed, designated or appointed by, or a com-
30 mittee of or employed, designated or appointed by, a health care provider
31 group and authorized to perform peer review; or

32 (B) a health care provider monitoring the delivery of health care at
33 correctional institutions under the jurisdiction of the secretary of
34 corrections.

35 (b) Except as provided by K.S.A. 60-437 and amendments thereto
36 and by subsections (c) and (d), the reports, statements, memoranda, pro-
37 ceedings, findings and other records submitted to or generated by peer
38 review committees or officers shall be privileged and shall not be subject
39 to discovery, subpoena or other means of legal compulsion for their re-
40 lease to any person or entity or be admissible in evidence in any judicial
41 or administrative proceeding. Information contained in such records shall
42 not be discoverable or admissible at trial in the form of testimony by an
43 individual who participated in the peer review process. The peer review

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1 officer or committee creating or initially receiving the record is the holder
2 of the privilege established by this section. This privilege may be claimed
3 by the legal entity creating the peer review committee or officer, or by
4 the commissioner of insurance for any records or proceedings of the
5 board of governors.

6 (c) Subsection (b) shall not apply to proceedings in which a health
7 care provider contests the revocation, denial, restriction or termination
8 of staff privileges or the license, registration, certification or other au-
9 thorization to practice of the health care provider. A licensing agency in
10 conducting a disciplinary proceeding in which admission of any peer re-
11 view committee report, record or testimony is proposed shall hold the
12 hearing in closed session when any such report, record or testimony is
13 disclosed. Unless otherwise provided by law, a licensing agency conduct-
14 ing a disciplinary proceeding may close only that portion of the hearing
15 in which disclosure of a report or record privileged under this section is
16 proposed. In closing a portion of a hearing as provided by this section,
17 the presiding officer may exclude any person from the hearing location
18 except the licensee, the licensee's attorney, the agency's attorney, the
19 witness, the court reporter and appropriate staff support for either coun-
20 sel. The licensing agency shall make the portions of the agency record in
21 which such report or record is disclosed subject to a protective order
22 prohibiting further disclosure of such report or record. Such report or
23 record shall not be subject to discovery, subpoena or other means of legal
24 compulsion for their release to any person or entity. No person in at-
25 tendance at a closed portion of a disciplinary proceeding shall at a sub-
26 sequent civil, criminal or administrative hearing, be required to testify
27 regarding the existence or content of a report or record privileged under
28 this section which was disclosed in a closed portion of a hearing, nor shall
29 such testimony be admitted into evidence in any subsequent civil, crim-
30 inal or administrative hearing. A licensing agency conducting a discipli-
31 nary proceeding may review peer review committee records, testimony
32 or reports but must prove its findings with independently obtained tes-
33 timony or records which shall be presented as part of the disciplinary
34 proceeding in open meeting of the licensing agency. Offering such tes-
35 timony or records in an open public hearing shall not be deemed a waiver
36 of the peer review privilege relating to any peer review committee testi-
37 mony, records or report.

38 (d) Nothing in this section shall limit the authority, which may oth-
39 erwise be provided by law, of the commissioner of insurance, the state
40 board of healing arts or other health care provider licensing or disciplinary
41 boards of this state to require a peer review committee or officer to report
42 to it any disciplinary action or recommendation of such committee or
43 officer; to transfer to it records of such committee's or officer's proceed-

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1 ings or actions to restrict or revoke the license, registration, certification
2 or other authorization to practice of a health care provider; or to terminate
3 the liability of the fund for all claims against a specific health care provider
4 for damages for death or personal injury pursuant to subsection (i) of
5 K.S.A. 40-3403 and amendments thereto. Reports and records so fur-
6 nished shall not be subject to discovery, subpoena or other means of legal
7 compulsion for their release to any person or entity and shall not be
8 admissible in evidence in any judicial or administrative proceeding other
9 than a disciplinary proceeding by the state board of healing arts or other
10 health care provider licensing or disciplinary boards of this state.

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

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

21 Sec. 17. K.S.A. 1999 Supp. 65-6112 is hereby amended to read as
22 follows: 65-6112. As used in this act:

23 (a) "Administrator" means the administrator of the emergency med-
24 ical services board.

25 (b) "Ambulance" means any privately or publicly owned motor ve-
26 hicle, airplane or helicopter designed, constructed, prepared and
27 equipped for use in transporting and providing emergency care for in-
28 dividuals who are ill or injured.

29 (c) "Ambulance service" means any organization operated for the
30 purpose of transporting sick or injured persons to or from a place where
31 medical care is furnished, whether or not such persons may be in need
32 of emergency or medical care in transit.

33 (d) "Attendant" means a first responder, emergency medical tech-
34 nician, emergency medical technician-intermediate, emergency medical
35 technician-defibrillator or a mobile intensive care technician certified
36 pursuant to this act.

37 (e) "Board" means the emergency medical services board established
38 pursuant to K.S.A. 65-6102, and amendments thereto.

39 (f) "Emergency medical service" means the effective and coordinated
40 delivery of such care as may be required by an emergency which includes
41 the care and transportation of individuals by ambulance services and the
42 performance of authorized emergency care by a physician, professional
43 nurse, ~~physician's~~ a licensed physician assistant or attendant.

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- 1 (g) "Emergency medical technician" means a person who holds an
2 emergency medical technician certificate issued pursuant to this act.
- 3 (h) "Emergency medical technician-defibrillator" means a person
4 who holds an emergency medical technician defibrillator certificate issued
5 pursuant to this act.
- 6 (i) "Emergency medical technician-intermediate" means a person
7 who holds an emergency medical technician intermediate certificate is-
8 sued pursuant to this act.
- 9 (j) "First responder" means a person who holds a first responder cer-
10 tificate issued pursuant to this act.
- 11 (k) "Hospital" means a hospital as defined by K.S.A. 65-425, and
12 amendments thereto.
- 13 (l) "Instructor-coordinator" means a person who is certified under
14 this act to teach initial courses of certification of instruction and contin-
15 uing education classes.
- 16 (m) "Medical adviser" means a physician.
- 17 (n) "Medical protocols" mean written guidelines which authorize at-
18 tendants to perform certain medical procedures prior to contacting a phy-
19 sician, or professional nurse authorized by a physician. These protocols
20 shall be developed and approved by a county medical society or, if there
21 is no county medical society, the medical staff of a hospital to which the
22 ambulance service primarily transports patients.
- 23 (o) "Mobile intensive care technician" means a person who holds a
24 mobile intensive care technician certificate issued pursuant to this act.
- 25 (p) "Municipality" means any city, county, township, fire district or
26 ambulance service district.
- 27 (q) "Nonemergency transportation" means the care and transport of
28 a sick or injured person under a foreseen combination of circumstances
29 calling for continuing care of such person. As used in this subsection,
30 transportation includes performance of the authorized level of services of
31 the attendant whether within or outside the vehicle as part of such trans-
32 portation services.
- 33 (r) "Operator" means a person or municipality who has a permit to
34 operate an ambulance service in the state of Kansas.
- 35 (s) "Person" means an individual, a partnership, an association, a
36 joint-stock company or a corporation.
- 37 (t) "Physician" means a person licensed by the state board of healing
38 arts to practice medicine and surgery.
- 39 (u) ~~Physician's~~ "Physician assistant" means a person who is registered
40 licensed in accordance with the provisions of K.S.A. 65-2896a, and
41 amendments thereto and who is acting under the direction of a respon-
42 sible physician.
- 43 (v) "Professional nurse" means a licensed professional nurse as de-

1 fined by K.S.A. 65-1113, and amendments thereto.

2 (w) "Provider of training" means a corporation, partnership, accredited
3 ited postsecondary education institution, ambulance service, fire department,
4 hospital or municipality that conducts training programs that include, but are not limited to,
5 initial courses of instruction and continuing education for attendants, instructor-coordinators
6 or training officers.

7 (x) "Responsible physician" means responsible physician as such term
8 is defined under K.S.A. 65-2897a and amendments thereto.

9 (y) "Training officer" means a person who is certified pursuant to this
10 act to teach initial courses of instruction for first responders and continuing
11 education as prescribed by the board.

12 Sec. 18. K.S.A. 1999 Supp. 65-6135 is hereby amended to read as
13 follows: 65-6135. (a) All ambulance services providing emergency care as
14 defined by the rules and regulations adopted by the board shall offer
15 service 24 hours per day every day of the year.

16 (b) Whenever an operator is required to have a permit, at least one
17 person on each vehicle providing emergency medical service shall be an
18 attendant certified as an emergency medical technician, emergency medical
19 technician-intermediate, emergency medical technician-defibrillator,
20 a mobile intensive care technician, a physician, a ~~registered physician's~~
21 *licensed physician* assistant or a professional nurse.

22 Sec. 19. K.S.A. 1999 Supp. 65-6701 is hereby amended to read as
23 follows: 65-6701. As used in this act:

24 (a) "Abortion" means the use of any means to intentionally terminate
25 a pregnancy except for the purpose of causing a live birth. Abortion does
26 not include: (1) The use of any drug or device that inhibits or prevents
27 ovulation, fertilization or the implantation of an embryo; or (2) disposition
28 of the product of in vitro fertilization prior to implantation.

29 (b) "Counselor" means a person who is: (1) Licensed to practice medicine
30 and surgery; (2) licensed to practice psychology; (3) licensed to practice
31 professional or practical nursing; (4) registered to practice professional
32 counseling; (5) licensed as a social worker; (6) the holder of a
33 master's or doctor's degree from an accredited graduate school of social
34 work; (7) registered to practice marriage and family therapy; (8) a ~~registered~~
35 *licensed physician's licensed physician* assistant; or (9) a currently ordained
36 member of the clergy or religious authority of any religious denomination
37 or society. Counselor does not include the physician who performs or
38 induces the abortion or a physician or other person who assists in performing
39 or inducing the abortion.

40 (c) "Department" means the department of health and environment.

41 (d) "Gestational age" means the time that has elapsed since the first
42 day of the woman's last menstrual period.

43 (e) "Medical emergency" means that condition which, on the basis

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1 of the physician's good faith clinical judgment, so complicates the medical
2 condition of a pregnant woman as to necessitate the immediate abortion
3 of her pregnancy to avert her death or for which a delay will create serious
4 risk of substantial and irreversible impairment of a major bodily function.

5 (f) "Minor" means a person less than 18 years of age.

6 (g) "Physician" means a person licensed to practice medicine and
7 surgery in this state.

8 (h) "Pregnant" or "pregnancy" means that female reproductive con-
9 dition of having a fetus in the mother's body.

10 (i) "Qualified person" means an agent of the physician who is a psy-
11 chologist, licensed social worker, registered professional counselor, reg-
12 istered nurse or physician.

13 (j) "Unemancipated minor" means any minor who has never been:
14 (1) Married; or (2) freed, by court order or otherwise, from the care,
15 custody and control of the minor's parents.

16 (k) "Viable" means that stage of gestation when, in the best medical
17 judgment of the attending physician, the fetus is capable of sustained
18 survival outside the uterus without the application of extraordinary med-
19 ical means.

20 Sec. 20. K.S.A. 75-6102 is hereby amended to read as follows: 75-
21 6102. As used in K.S.A. 75-6101 through 75-6118, and amendments
22 thereto, unless the context clearly requires otherwise:

23 (a) "State" means the state of Kansas and any department or branch
24 of state government, or any agency, authority, institution or other instru-
25 mentality thereof.

26 (b) "Municipality" means any county, township, city, school district
27 or other political or taxing subdivision of the state, or any agency, au-
28 thority, institution or other instrumentality thereof.

29 (c) "Governmental entity" means state or municipality.

30 (d) "Employee" means any officer, employee, servant or member of
31 a board, commission, committee, division, department, branch or council
32 of a governmental entity, including elected or appointed officials and
33 persons acting on behalf or in service of a governmental entity in any
34 official capacity, whether with or without compensation and a charitable
35 health care provider. Employee includes any steward or racing judge ap-
36 pointed pursuant to K.S.A. 74-8818, and amendments thereto, regardless
37 of whether the services of such steward or racing judge are rendered
38 pursuant to contract as an independent contractor, but does not otherwise
39 include any independent contractor under contract with a governmental
40 entity except (1) employees of the United States marshal's service en-
41 gaged in the transportation of inmates on behalf of the secretary of cor-
42 rections, (2) a person who is an employee of a nonprofit independent
43 contractor, other than a municipality, under contract to provide educa-

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1 tional or vocational training to inmates in the custody of the secretary of
2 corrections and who is engaged in providing such service in an institution
3 under the control of the secretary of corrections provided that such em-
4 ployee does not otherwise have coverage for such acts and omissions
5 within the scope of their employment through a liability insurance con-
6 tract of such independent contractor; and (3) a person who is an employee
7 of a nonprofit program, other than a municipality, who has contracted
8 with the commissioner of juvenile justice or with another nonprofit pro-
9 gram that has contracted with the commissioner of juvenile justice to
10 provide a juvenile justice program for juvenile offenders in a judicial dis-
11 trict provided that such employee does not otherwise have coverage for
12 such acts and omissions within the scope of their employment through a
13 liability insurance contract of such nonprofit program. "Employee" also
14 includes an employee of an indigent health care clinic. "Employee" also
15 includes former employees for acts and omissions within the scope of
16 their employment during their former employment with the govern-
17 mental entity.

18 (e) "Community service work" means public or community service
19 performed by a person (1) as a result of a contract of diversion entered
20 into by such person as authorized by law, (2) pursuant to the assignment
21 of such person by a court to a community corrections program, (3) as a
22 result of suspension of sentence or as a condition of probation pursuant
23 to court order, (4) in lieu of a fine imposed by court order or (5) as a
24 condition of placement ordered by a court pursuant to K.S.A. 38-1663,
25 and amendments thereto.

26 (f) "Charitable health care provider" means a person licensed by the
27 state board of healing arts as an exempt licensee or a federally active
28 licensee, a person issued a limited permit by the state board of healing
29 arts, a ~~physician's~~ *physician* assistant registered *licensed* by the state board
30 of healing arts or a health care provider as the term "health care provider"
31 is defined under K.S.A. 65-4921, and amendments thereto, who has en-
32 tered into an agreement with:

33 (1) The secretary of health and environment under K.S.A. 75-6120,
34 and amendments thereto, who, pursuant to such agreement, gratuitously
35 renders professional services to a person who has provided information
36 which would reasonably lead the health care provider to make the good
37 faith assumption that such person meets the definition of medically in-
38 digent person as defined by this section or to a person receiving medical
39 assistance from the programs operated by the department of social and
40 rehabilitation services, and who is considered an employee of the state of
41 Kansas under K.S.A. 75-6120, and amendments thereto;

42 (2) the secretary of health and environment and who, pursuant to
43 such agreement, gratuitously renders professional services in conducting

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1 children's immunization programs administered by the secretary; or
2 (3) a local health department or indigent health care clinic, which
3 renders professional services to medically indigent persons or persons
4 receiving medical assistance from the programs operated by the depart-
5 ment of social and rehabilitation services gratuitously or for a fee paid by
6 the local health department or indigent health care clinic to such provider
7 and who is considered an employee of the state of Kansas under K.S.A.
8 75-6120 and amendments thereto. Professional services rendered by a
9 provider under this paragraph (3) shall be considered gratuitous notwith-
10 standing fees based on income eligibility guidelines charged by a local
11 health department or indigent health care clinic and notwithstanding any
12 fee paid by the local health department or indigent health care clinic to
13 a provider in accordance with this paragraph (3).

14 (g) "Medically indigent person" means a person who lacks resources
15 to pay for medically necessary health care services and who meets the
16 eligibility criteria for qualification as a medically indigent person estab-
17 lished by the secretary of health and environment under K.S.A. 75-6120,
18 and amendments thereto.

19 (h) "Indigent health care clinic" means an outpatient medical care
20 clinic operated on a not-for-profit basis which has a contractual agreement
21 in effect with the secretary of health and environment to provide health
22 care services to medically indigent persons.

23 (i) "Local health department" shall have the meaning ascribed to such
24 term under K.S.A. 65-241 and amendments thereto.

25 Sec. 21. K.S.A. 40-2,111, 65-2896a, 65-2896c, 65-2896d, 65-2896f,
26 65-2896g, 65-2896h, 65-2897a, 65-2897b and 75-6102 and K.S.A. 1999
27 Supp. 65-2896, 65-2896b, 65-2896e, 17-2707, 38-135, 40-3401, 65-118,
28 65-4915, 65-6112, 65-6135 and 65-6701 are hereby repealed.

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

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Insert New Section-

17-2710. Same; purposes and powers. A professional corporation may be organized only for the purpose of rendering one type of professional service and service ancillary thereto and shall not engage in any other business, except that a single professional corporation may be organized to and render professional services under any two or more of the types set forth in items (2), (6), (13) and (17) or under any two or more of the types set forth in items (4), (5), (7), (8), (9), (11), (12), (14), (15), (16) ~~or~~ (18) or (20) of subsection (b) of K.S.A. *1999 supp.* 17-2707, but shall be deemed to have the following purposes, whether or not authorized by its article of incorporation:

(a) To purchase, receive, lease, or otherwise acquire, own, hold, improve, use and otherwise deal in and with, real or personal property, or any interest therein, wherever situated;

(b) to purchase, receive, or otherwise acquire, own, hold, vote, use, employ, sell, mortgage, lend, pledge, or otherwise dispose of, and otherwise use and deal in and with, shares of other interests in, or obligations of, other domestic or foreign corporations, associations, partnerships or individuals, insurance or annuities in any form, or direct or indirect obligations of the United States or of any other government, state, territory, governmental district or municipality or of any instrumentality thereof;

(c) to pay pensions and establish pension plans, profit-sharing plans, stock bonus plans, stock option plans and other incentive plans for any or all of its directors, officers and employees;

(d) to do all things necessary or incidental to the practice of the profession which the professional corporation is authorized to practice.

Kansas Statutes

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65-2802

Chapter 65.--PUBLIC HEALTH Article 28.--HEALING ARTS

65-2802. Definitions. For the purpose of this act the following definitions shall apply:

(a) The healing arts include any system, treatment, operation, diagnosis, prescription, or practice for the ascertainment, cure, relief, palliation, adjustment, or correction of any human disease, ailment, deformity, or injury, and includes specifically but not by way of limitation the practice of medicine and surgery; the practice of osteopathic medicine and surgery; and the practice of chiropractic.

(b) "Board" shall mean the state board of healing arts.

(c) "License" shall mean a license to practice the healing arts granted under this act.

(d) "Licensed" or "licensee" shall mean a person licensed under this act to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.

(e) Wherever the masculine gender is used it shall be construed to include the feminine, and the singular number shall include the plural when consistent with the intent of this act.

History: L. 1957, ch. 343, § 2; L. 1976, ch. 273, § 1; Feb. 13.

KANSAS DENTAL ASSOCIATION
PROPOSED AMENDMENT TO SB 510

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1 any nature in connection with a dental operation; or
2 ~~(5) (E)~~ a prophylaxis, except that individuals who are not licensed but
3 who are operating under the direct supervision of a dentist may ~~(A) (i)~~
4 coronal polish teeth as defined by rules and regulations of the board and
5 ~~(B) (ii)~~ coronal scale teeth above the gum line as long as such procedure
6 is not performed on a patient who has undergone local or general anes-
7 thesia at the time of the procedure, is undertaken by a nonlicensed person
8 who has successfully completed necessary training for performing such
9 dental procedure in a course of study approved by the board, which
10 course of study is consistent with American dental association accredita-
11 tion standards and includes but is not limited to adequate instruction on
12 scaling the teeth and recognition of periodontal disease, is undertaken by
13 a person who has met the experience requirements for performing such
14 procedures as established by the board and such procedure is performed
15 prior to July 1, 2001. The provisions of this part ~~(B) (ii)~~ of subsection
16 ~~(h)(5) (8)(E)~~ shall expire on July 1, 2001-;

17 ~~(9) the practice of dentistry, dental hygiene or dental assisting by~~ → → → → →
18 ~~dental students, dental hygiene students and dental assisting students of~~
19 ~~a dental or hygiene school approved by the board or a dental assisting~~
20 ~~course approved by the board, when acting under the supervision of a~~
21 ~~licensed dentist or a licensed dental hygienist acting as an instructor or~~
22 ~~evaluator-;~~

23 ~~(10) the actions of persons while they are taking examinations for~~
24 ~~licensure administered or approved by the board; or~~

25 ~~(11) the actions of persons while administering examinations ap-~~
26 ~~proved by the board.~~

27 ~~(j) (b)~~ As used in this section:

28 (1) "Removal of or addition to the hard or soft tissue of the oral
29 cavity" means: (A) A surgical or cutting procedure on hard or soft tissues;
30 (B) the grafting of hard or soft tissues; (C) the final placement or intraoral
31 adjustment of a fixed crown or fixed bridge; and (D) root planing or the
32 smoothing of roughened root surfaces.

33 (2) "Diagnosis of or prescription for treatment for disease, pain, de-
34 formity, deficiency, injury or physical condition of the human teeth or
35 jaws or adjacent structure" means: (A) A comprehensive examination; (B)
36 diagnosis and treatment planning; and (C) the prescription of a drug,
37 medication or work authorization.

38 (3) "Correction of malformation of teeth or the jaws" means surgery,
39 cutting or any other irreversible procedure.

40 (4) "General or local anesthesia of any nature in connection with a
41 dental operation" means any general anaesthetic and any local anaesthetic
42 whether block or infiltration but shall not include the administration and
43 monitoring of the analgesic use of nitrous oxide or oxygen, or both.

The practice of dentistry by a dental student, the practice of dental hygiene by a dental hygiene student or the performance of duties permitted under this chapter to unlicensed persons by a dental assisting student, provided that:
a) the procedures are performed as part of the educational program of dental, dental hygiene, or dental assisting that has been approved by the board and in a facility operated or overseen by the approved program, and;
b) the student is under the supervision of a dentist or dental hygienist, licensed in the state of Kansas, serving as a faculty member of the program.