

CHAPTER 117

HOUSE BILL No. 2813
(Amended by Chapter 180)

AN ACT concerning the state board of healing arts; concerning health care records; relating to the abandonment thereof; relating to the supervision of physician assistants; concerning certain actions by the board and licenses issued by the board; amending K.S.A. 39-1504, 65-468, 65-1728, 65-2005, 65-2012, 65-28,127, 65-28a03, 65-28a10, 65-5001, 65-5410, 65-5412, 65-5510, 65-5512, 65-6119, 65-6120, 65-6123, 65-6124, 65-7208, 65-7209, 65-7217 and 72-5213 and K.S.A. 2003 Supp. 65-2891, 65-2910, 65-2920 and 65-5912 and repealing the existing sections.

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

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

(1) "Health care provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a podiatrist licensed by the state board of healing arts, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are health care providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are health care providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are health care providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are health care providers as defined by this subsection.

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

(b) The board shall immediately petition the court for appointment of a custodian of a health care provider's health care records if the board is notified or has independent knowledge that a health care provider: (1) Has abandoned health care records, abandoned the health care provider's practice, had the health care provider's license suspended or revoked, had a license canceled or dissolved a business entity and the health care provider is unable or refuses to allow patients access to their health care records as authorized by law or (2) has died and the health care provider's patients are unable to access their health care records as authorized by law. The petition shall nominate a person or business entity who is capable and willing to serve as the custodian of health care records.

(c) Notice of hearing on the petition shall be served on the health care provider at the last known address and if the health care provider is a business entity, on the registered agent of such business entity. If the health care provider has died and an administrator of the estate has been appointed, notice shall be served on such administrator. Notice shall be served as in civil cases.

(d) At the hearing, if the court finds the health care records have been abandoned, the court shall appoint a person or business entity as the custodian of the health care records and responsible for the safe-keeping thereof, and shall order the delivery and possession of the health care records to the appointed custodian of health care records. The court may make all additional orders necessary to protect the health care provider's property interests in the records.

(e) The record's custodian:

(1) Shall be a fiduciary and act in the place of the health care provider to furnish to the patient or the patient's authorized representative copies of health care records, pursuant to K.S.A. 65-4970 through 65-4973, and amendments thereto, and shall be authorized to collect any fee for disclosure authorized by K.S.A. 65-4971, and amendments thereto;

(2) shall have exclusive possession of the health care records until further order of the court;

(3) may destroy the records in the ordinary course of business when the health care provider's duty to maintain such records has ceased;

(4) shall act in the place of the health care provider to maintain confidentiality of records and shall be liable if the custodian maliciously breaches the confidentiality;

(5) shall not guarantee or be liable for the accuracy or completeness of the health care records;

(6) shall not be liable in a civil action for damages or other relief arising from the performance of the responsibilities set forth in this sec-

tion except upon clear and convincing evidence that the custodian of records maliciously altered or destroyed health care records; and

(7) shall act as the health care provider for the purposes of physician-patient privilege, pursuant to K.S.A. 60-427, and amendments thereto, and shall assert any privilege acting as the physician.

(f) At any time after the appointment of a custodian, the health care provider, administrator of the health care provider's estate or board may petition the court to amend, modify or dissolve the order concerning the custodian of health care records. The court shall amend the order when it reasonably appears the health care provider or administrator of the health care provider's estate is prepared to assume the duties of the health care provider relating to the records.

(g) Nothing in this act shall prohibit the health care provider or the health care provider's authorized representative from gaining access and copying a record created by the health care provider.

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

Sec. 2. K.S.A. 39-1504 is hereby amended to read as follows: 39-1504. The secretary shall administer the adult family home registration program in accordance with the following requirements:

(a) (1) The home shall meet health standards and safety regulations of the community and the provisions of chapter 20 of the national fire protection association, life safety code, pamphlet no. 101, 1981 edition.

(2) The home shall have a written plan to get persons out of the home rapidly in case of fire, tornado or other emergency.

(3) No more than two clients shall be in residence at any one time.

(4) The home shall have adequate living and sleeping space for clients.

(5) Each room shall have an operable outside window.

(6) Electric fans shall be made available to reduce the temperature if there is no air conditioning. Rooms shall be heated, lighted, ventilated and available.

(7) Sleeping rooms shall have space for personal items.

(8) Each client shall have a bed which is clean and in good condition.

(9) Lavatory and toilet facilities shall be accessible, available and in working order.

(10) The kitchen shall be clean with appliances in good working order.

(b) (1) A healthy and safe environment shall be maintained for clients.

(2) There shall be a telephone in the home.

(3) The provider may assist a client with the taking of medications when the medication is in a labeled bottle which clearly shows a physician's orders and when the client requires assistance because of tremor, visual impairment, or similar reasons due to health conditions. The provider may assist or perform for the client such physical activities which do not require daily supervision such as assistance with eating, bathing and dressing, help with brace or walker and transferring from wheelchairs.

(4) There shall be no use of corporal punishment, restraints or punitive measures.

(5) The house shall be free from accumulated dirt, trash and vermin.

(6) Meals shall be planned and prepared for adequate nutrition, and for diets if directed by a physician.

(c) (1) The provider shall be at least 18 years of age and in good health at the time of initial application for registration. A written statement must be received from a physician, nurse practitioner, or ~~physician's~~ *physician* assistant stating that the applicant and the members of the applicant's household are free of any infectious or communicable disease or health condition and are physically and mentally healthy. Such statements shall be renewed every two years.

(2) The provider shall not be totally dependent on the income from the clients for support of the provider or the provider's family.

(3) A criminal conviction shall not necessarily exclude registration as an adult family home; but an investigation thereof will be made as part of the determination of the suitability of the home.

(4) The provider shall be responsible for supervision at all times and shall be in charge of the home and provision of care, or shall have a responsible person on call. Any such substitute responsible person shall

meet the same requirements as the provider.

(5) The provider is responsible for encouraging the client to seek and utilize available services when needed.

(6) The provider shall comply with the requirements of state and federal regulations concerning civil rights and section 504 of the federal rehabilitation act of 1973.

(7) The provider shall assure that clients have the privilege of privacy as well as the right to see relatives, friends and participate in regular community activities.

(8) The provider shall keep client information confidential. The use or disclosure of any information concerning a client for any purpose is prohibited except on written consent of the client or upon order of the court.

(9) The provider shall maintain contact with an assigned social worker and shall allow the secretary and authorized representatives of the secretary access to the home and grounds and to the records related to clients in residence.

(10) The provider shall inform the social worker immediately of any unscheduled client absence from the home.

(11) The provider is responsible for helping clients maintain their clothing.

(12) The provider shall furnish or help clients arrange for transportation.

(13) The provider shall help a client arrange for emergency and regular medical care when necessary.

(14) The provider shall submit any information relating to the operation of the adult family home which is required by the secretary.

Sec. 3. K.S.A. 65-468 is hereby amended to read as follows: 65-468. As used in K.S.A. 65-468 to 65-474, inclusive, and amendments thereto:

(a) "Health care provider" means any person licensed or otherwise authorized by law to provide health care services in this state or a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by law to form such corporation and who are health care providers as defined by this subsection, or an officer, employee or agent thereof, acting in the course and scope of employment or agency.

(b) "Member" means any hospital, emergency medical service, local health department, home health agency, adult care home, medical clinic, mental health center or clinic or nonemergency transportation system.

(c) "Mid-level practitioner" means a ~~physician's~~ *physician* assistant or advanced registered nurse practitioner who has entered into a written protocol with a rural health network physician.

(d) "Physician" means a person licensed to practice medicine and surgery.

(e) "Rural health network" means an alliance of members including at least one critical access hospital and at least one other hospital which has developed a comprehensive plan submitted to and approved by the secretary of health and environment regarding patient referral and transfer; the provision of emergency and nonemergency transportation among members; the development of a network-wide emergency services plan; and the development of a plan for sharing patient information and services between hospital members concerning medical staff credentialing, risk management, quality assurance and peer review.

(f) "Critical access hospital" means a member of a rural health network which makes available twenty-four hour emergency care services; provides not more than 15 acute care inpatient beds or in the case of a facility with an approved swing-bed agreement a combined total of extended care and acute care beds that does not exceed 25 beds (provided that the number of beds used at any time for acute care inpatient services does not exceed 15 beds); provides acute inpatient care for a period that does not exceed, on an annual average basis, 96 hours per patient; and provides nursing services under the direction of a licensed professional nurse and continuous licensed professional nursing services for not less than 24 hours of every day when any bed is occupied or the facility is open to provide services for patients unless an exemption is granted by the licensing agency pursuant to rules and regulations. The critical access hospital may provide any services otherwise required to be provided by a full-time, on-site dietician, pharmacist, laboratory technician, medical technologist and radiological technologist on a part-time, off-site basis

under written agreements or arrangements with one or more providers or suppliers recognized under medicare. The critical access hospital may provide inpatient services by a ~~physician's~~ *physician* assistant, nurse practitioner or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility.

(g) "Hospital" means a hospital other than a critical access hospital which has entered into a written agreement with at least one critical access hospital to form a rural health network and to provide medical or administrative supporting services within the limit of the hospital's capabilities.

Sec. 4. K.S.A. 65-1728 is hereby amended to read as follows: 65-1728. For the purpose of removing an eye or part thereof, any embalmer licensed in accordance with the provisions of article 17 of chapter 65 of the Kansas Statutes Annotated, and acts amendatory thereof, a licensed nurse, technician employed by a nationally certified eye bank, licensed optometrist, attendant as defined under K.S.A. 65-6112 and amendments thereto or ~~physician's~~ *physician* assistant, who has completed a course in eye enucleation at a school certified by the department of ophthalmology, college of medicine of the university of Kansas school of medicine, and holds a valid certificate of competence from such certified school, or a person licensed to practice medicine and surgery is hereby authorized to enucleate eyes from any body when the gift of such eye has been made in accordance with the terms of the Kansas anatomical gift act (K.S.A. 65-3209 *et seq.*). Persons certified in accordance with this section and persons licensed to practice medicine and surgery who perform the enucleation of eyes in accordance with the provisions of K.S.A. 65-3209 *et seq.* shall incur no liability, civil or criminal, for his acts in performance of enucleation of eyes.

Sec. 5. K.S.A. 2003 Supp. 65-2891 is hereby amended to read as follows: 65-2891. (a) Any health care provider who in good faith renders emergency care or assistance at the scene of an emergency or accident including treatment of a minor without first obtaining the consent of the parent or guardian of such minor shall not be liable for any civil damages for acts or omissions other than damages occasioned by gross negligence or by willful or wanton acts or omissions by such person in rendering such emergency care.

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

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

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

(e) As used in this section the term "health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed optometrist, licensed professional nurse, licensed practical nurse, licensed podiatrist, licensed pharmacist, licensed physical therapist, and any physician assistant who has successfully completed an American medical association approved training program and has successfully completed the national board examination for ~~physicians'~~ *physician* assistants of the American board of medical examiners, any registered athletic trainer, any licensed occupational therapist, any licensed respiratory therapist, any person who holds a valid attendant's certificate under K.S.A. 65-6129, and amendments thereto, any person who holds a valid certificate for the successful completion of a course in first aid offered or approved by the American red cross, by the American heart association, by the mining enforcement and safety administration of the bureau of mines of the

department of interior, by the national safety council or by any instructor-coordinator, as defined in K.S.A. 65-6112, and amendments thereto, and any person engaged in a postgraduate training program approved by the state board of healing arts.

Sec. 6. K.S.A. 65-28,127 is hereby amended to read as follows: 65-28,127. (a) Every responsible licensee who directs, supervises, orders, refers, accepts responsibility for, enters into practice protocols with, or who delegates acts which constitute the practice of the healing arts to other persons shall:

(1) Be actively engaged in the practice of the healing arts in Kansas;

(2) review and keep current any required practice protocols between the responsible licensee and such persons, as may be determined by the board;

(3) direct, supervise, order, refer, enter into a practice protocol with, or delegate to such persons only those acts and functions which the responsible licensee knows or has reason to believe such person is competent and authorized by law to perform;

(4) direct, supervise, order, refer, enter into a practice protocol with, or delegate to other persons only those acts and functions which are within the normal and customary specialty, competence and lawful practice of the responsible licensee;

(5) provide for a qualified, substitute licensee who accepts responsibility for the direction, supervision, delegation and practice protocols with such persons when the responsible licensee is temporarily absent;

(6) *comply with all rules and regulations of the board establishing limits and conditions on the delegation and supervision of services constituting the practice of medicine and surgery.*

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

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

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

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

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

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

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

Sec. 7. K.S.A. 65-28a10 is hereby amended to read as follows: 65-28a10. ~~No responsible physician shall have under such physician's direction and supervision more than two physician assistants.~~ *The board shall limit the number of physician assistants a responsible physician may supervise at any one time to the equivalent of two full-time physician assistants as approved in each case by the board. Any limitation on the number of physician assistants in this section shall not apply to services performed in a medical care facility, as defined in K.S.A. 65-425 and amendments thereto.*

Sec. 8. K.S.A. 65-5001 is hereby amended to read as follows: 65-5001. As used in this act unless the context requires otherwise, the following words and phrases shall have the meanings respectively ascribed to them herein:

(a) "Credentialing" or "credentialed" means the formal recognition of professional or technical competence through the process of registra-

tion, licensure or other statutory regulation.

(b) "Certification" means the process by which a nongovernmental agency or association or the federal government grants recognition to an individual who has met certain predetermined qualifications specified by the nongovernmental agency or association or the federal government.

(c) "Registration" means the process by which the state identifies and lists on an official roster those persons who meet predetermined qualifications and who will be the only persons permitted to use a designated title.

(d) "Licensure" means a method of regulation by which the state grants permission to persons who meet predetermined qualifications to engage in an occupation or profession, and that to engage in such occupation or profession without a license is unlawful.

(e) "Health care personnel" means those persons whose principal functions, customarily performed for remuneration, are to render services, directly or indirectly, to individuals for the purpose of:

- (1) Preventing physical, mental or emotional illness;
- (2) detecting, diagnosing and treating illness;
- (3) facilitating recovery from illness; or
- (4) providing rehabilitative or continuing care following illness; and who are qualified by training, education or experience to do so.

(f) "Provider of health care" means an individual:

(1) Who is a direct provider of health care (including but not limited to a person licensed to practice medicine and surgery, licensed dentist, registered professional nurse, licensed practical nurse, licensed podiatrist, or ~~physician's~~ *physician's* physician assistant) in that the individual's primary current activity is the provision of health care to individuals or the administration of facilities or institutions (including medical care facilities, long-term care facilities, outpatient facilities, and health maintenance organizations) in which such care is provided and, when required by state law, the individual has received professional training in the provision of such care or in such administration and is licensed or certified for such provision or administration;

(2) who holds a fiduciary position with, or has a fiduciary interest in, any entity described in subsection (f)(3)(B) or subsection (f)(3)(D) other than an entity described in either such subsection which is also an entity described in section 501(c)(3) of the internal revenue code of 1954, as amended and supplemented, and which does not have as its primary purpose the delivery of health care, the conduct of research, the conduct of instruction for health professionals or the production of drugs or articles described in subsection (f)(3)(C);

(3) who receives, either directly or through a spouse, more than 1/5 of such person's gross annual income from any one or combination of the following:

(A) Fees or other compensation for research into or instruction in the provision of health care;

(B) entities engaged in the provision of health care or in such research or instruction;

(C) producing or supplying drugs or other articles for individuals or entities for use in the provision of or in research into or instruction in the provision of health care; or

(D) entities engaged in producing drugs or such other articles;

(4) who is a member of the immediate family of an individual described in subsection (f)(1), (f)(2) or (f)(3); or

(5) who is engaged in issuing any policy or contract of individual or group health insurance or hospital or medical service benefits. An individual shall not be considered a provider of health care solely because the individual is a member of the governing board of an entity described in subsection (f)(3)(B) or subsection (f)(3)(D).

(g) "Consumer of health care" means an individual who is not a provider of health care.

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

Sec. 9. K.S.A. 2003 Supp. 65-5912 is hereby amended to read as follows: 65-5912. (a) Nothing in this act shall be construed to require any insurer or other entity regulated under chapter 40 of the Kansas Statutes Annotated or any other law of this state to provide coverage for or indemnify for the services provided by a person licensed under this act.

(b) So long as the following persons do not hold themselves out to the public to be dietitians or licensed dietitians or use these titles in

combination with other titles or use the abbreviation L.D., or any combination thereof, nothing in this act shall be construed to apply:

(1) To any person licensed to practice the healing arts, a licensed dentist, a licensed dental hygienist, a licensed professional nurse, a licensed practical nurse, a licensed psychologist, a licensed masters level psychologist, a licensed pharmacist or an employee thereof, a ~~physician's~~ *physician's* assistant, a licensed professional counselor;

(2) to any unlicensed employee of a licensed adult care home or a licensed medical care facility as long as such person is working under the general direction of a licensee in the healing arts, nursing or a dietetic services supervisor as defined in regulations adopted by the secretary of health and environment or a consultant licensed under this act;

(3) to any dietetic technician or dietetic assistant;

(4) to any student enrolled in an approved academic program in dietetics, home economics, nutrition, education or other like curriculum, while engaged in such academic program;

(5) to prevent any person, including persons employed in health food stores, from furnishing nutrition information as to the use of food, food materials or dietary supplements, nor to prevent in any way the free dissemination of information or of literature as long as no individual engaged in such practices holds oneself out as being licensed under this act;

(6) to prohibit any individual from marketing or distributing food products, including dietary supplements, or to prevent any such person from providing information to customers regarding the use of such products;

(7) to prevent any employee of the state or a political subdivision who is employed in nutrition-related programs from engaging in activities included within the definition of dietetics practice as a part of such person's employment;

(8) to any person who performs the activities and services of a licensed dietitian or nutrition educator as an employee of the state or a political subdivision, an elementary or secondary school, an educational institution, a licensed institution, or a not-for-profit organization;

(9) to any person serving in the armed forces, the public health service, the veterans administration or as an employee of the federal government;

(10) to any person who has a degree in home economics insofar as the activities of such person are within the scope of such person's education and training;

(11) to any person who counsels or provides weight-control services as a part of a franchised or recognized weight-control program or a weight-control program that operates under the general direction of a person licensed to practice the healing arts, nursing or a person licensed under this act;

(12) to any person who is acting as a representative of a trade association and who engages in one or more activities included within the practice of dietetics as a representative of such association;

(13) to a licensed physical therapist who makes a dietetic or nutritional assessment or gives dietetic or nutritional advice in the normal practice of such person's profession or as otherwise authorized by law;

(14) to a dietitian licensed, registered or otherwise authorized to practice dietetics in another state who is providing consultation in this state;

(15) to any person conducting a teaching clinical demonstration which is carried out in an educational institution or an affiliated clinical facility or health care agency;

(16) to any person conducting classes or disseminating information relating to nonmedical nutrition; or

(17) to any person permitted to practice under K.S.A. 65-2872a and amendments thereto.

(c) Nothing in this act shall be construed to interfere with the religious practices or observances of a bona fide religious organization, nor to prevent any person from caring for the sick in accordance with tenets and practices of any church or religious denomination which teaches reliance upon spiritual means through prayer for healing.

Sec. 10. K.S.A. 65-6119 is hereby amended to read as follows: 65-6119. Notwithstanding any other provision of law, mobile intensive care technicians may:

(a) Perform all the authorized activities identified in K.S.A. 65-6121,

and amendments thereto;

(b) perform cardiopulmonary resuscitation and defibrillation;

(c) when voice contact or a telemetered electrocardiogram is monitored by a physician, ~~physician's~~ *physician* assistant where authorized by a physician or licensed professional nurse where authorized by a physician and direct communication is maintained, and upon order of such person may administer such medications or procedures as may be deemed necessary by a person identified in subsection (c);

(d) perform, during an emergency, those activities specified in subsection (c) before contacting a person identified in subsection (c) when specifically authorized to perform such activities by medical protocols; and

(e) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 11. K.S.A. 65-6120 is hereby amended to read as follows: 65-6120. Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate may:

(a) Perform any of the activities identified by K.S.A. 65-6121, and amendments thereto;

(b) when approved by medical protocols and where voice contact by radio or telephone is monitored by a physician, ~~physician's~~ *physician* assistant where authorized by a physician or licensed professional nurse where authorized by a physician, and direct communication is maintained, upon order of such person, may perform veni-puncture for the purpose of blood sampling collection and initiation and maintenance of intravenous infusion of saline solutions, dextrose and water solutions or ringers lactate IV solutions, endotracheal intubation and administration of nebulized albuterol;

(c) perform, during an emergency, those activities specified in subsection (b) before contacting the persons identified in subsection (b) when specifically authorized to perform such activities by medical protocols; or

(d) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 12. K.S.A. 65-6123 is hereby amended to read as follows: 65-6123. Notwithstanding any other provision of law to the contrary, an emergency medical technician-defibrillator may:

(a) Perform any of the activities identified in K.S.A. 65-6121, and amendments thereto;

(b) when approved by medical protocols and where voice contact by radio or telephone is monitored by a physician, ~~physician's~~ *physician* assistant where authorized by a physician or licensed professional nurse where authorized by a physician, and direct communication is maintained, upon order of such person, may perform electrocardiographic monitoring and defibrillation;

(c) perform, during an emergency, those activities specified in subsection (b) before contacting the persons identified in subsection (b) when specifically authorized to perform such activities by medical protocols; or

(d) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols.

Sec. 13. K.S.A. 65-6124 is hereby amended to read as follows: 65-6124. (a) No physician, ~~physician's~~ *physician* assistant or licensed professional nurse, who gives emergency instructions to a mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate during an emergency, shall be liable for any civil damages as a result of issuing the instructions, except such damages which may result from gross negligence in giving such instructions.

(b) No mobile intensive care technician, emergency medical technician-defibrillator or emergency medical technician-intermediate who renders emergency care during an emergency pursuant to instructions given by a physician, the responsible physician for a ~~physician's~~ *physician* assistant or licensed professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of such mobile intensive care technician, emergency medical

technician-defibrillator or emergency medical technician-intermediate rendering such emergency care.

(c) No first responder who renders emergency care during an emergency shall be liable for civil damages as a result of rendering such emergency care, except for such damages which may result from gross negligence or from willful or wanton acts or omissions on the part of the first responder rendering such emergency care.

(d) No person certified as an instructor-coordinator and no training officer shall be liable for any civil damages which may result from such instructor-coordinator's or training officer's course of instruction, except such damages which may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor-coordinator or training officer.

(e) No medical adviser who reviews, approves and monitors the activities of attendants shall be liable for any civil damages as a result of such review, approval or monitoring, except such damages which may result from gross negligence in such review, approval or monitoring.

Sec. 14. K.S.A. 72-5213 is hereby amended to read as follows: 72-5213. (a) Every board of education shall require all employees of the school district, who come in regular contact with the pupils of the school district, to submit a certification of health on a form prescribed by the secretary of health and environment and signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is ~~registered~~ *licensed* as a ~~physician's~~ *physician* assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery. The certification shall include a statement that there is no evidence of physical condition that would conflict with the health, safety, or welfare of the pupils; and that freedom from tuberculosis has been established by chest x-ray or negative tuberculin skin test. If at any time there is reasonable cause to believe that any such employee of the school district is suffering from an illness detrimental to the health of the pupils, the school board may require a new certification of health.

(b) Upon presentation of a signed statement by the employee of a school district, to whom the provisions of subsection (a) apply, that the employee is an adherent of a religious denomination whose religious teachings are opposed to physical examinations, the employee shall be permitted to submit, as an alternative to the certification of health required under subsection (a), certification signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is ~~registered~~ *licensed* as a ~~physician's~~ *physician* assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery that freedom of the employee from tuberculosis has been established.

(c) Every board of education may require persons, other than employees of the school district, to submit to the same certification of health requirements as are imposed upon employees of the school district under the provisions of subsection (a) if such persons perform or provide services to or for a school district which require such persons to come in regular contact with the pupils of the school district. No such person shall be required to submit a certification of health if the person presents a signed statement that the person is an adherent of a religious denomination whose religious teachings are opposed to physical examinations. Such persons shall be permitted to submit, as an alternative to a certification of health, certification signed by a person licensed to practice medicine and surgery under the laws of any state, or by a person who is ~~registered~~ *licensed* as a ~~physician's~~ *physician* assistant under the laws of this state when such person is working at the direction of or in collaboration with a person licensed to practice medicine and surgery, or by a person holding a certificate of qualification to practice as an advanced registered nurse practitioner under the laws of this state when such per-

son is working at the direction of or in collaboration with a person licensed to practice medicine and surgery that freedom of such persons from tuberculosis has been established.

(d) The expense of obtaining certifications of health and certifications of freedom from tuberculosis may be borne by the board of education.

Sec. 15. K.S.A. 65-2005 is hereby amended to read as follows: 65-2005. (a) A licensee shall be designated a licensed podiatrist and shall not use any title or abbreviations without the designation licensed podiatrist, practice limited to the foot, and shall not mislead the public as to such licensee's limited professional qualifications to treat human ailments. Whenever a registered podiatrist, or words of like effect, is referred to or designated by any statute, contract or other document, such reference or designation shall be deemed to refer to or designate a licensed podiatrist.

(b) The license of each licensed podiatrist shall expire on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license is renewed for a period of time of less than one year, the board may prorate the amount of the fee established under K.S.A. 65-2012 and amendments thereto. The request for renewal shall be on a form provided by the board and shall be accompanied by the renewal fee established under K.S.A. 65-2012 and amendments thereto which shall be paid not later than the expiration date of the license. At least 30 days before the expiration of a licensee's license, the board shall notify the licensee of the expiration by mail addressed to the licensee's last mailing address as noted upon the office records. If a licensee fails to pay the renewal fee by the date of expiration, the licensee shall be given a second notice that the licensee's license has expired and the license may be renewed only if the renewal fee and the late renewal fee are received by the board within the thirty-day period following the date of expiration and that, if both fees are not received within the thirty-day period, such licensee's license shall be canceled *by operation of law and without further proceedings* for failure to renew and shall be reissued only after the licensee has been reinstated under subsection (c).

(c) Any licensee who allows the licensee's license to be canceled by failing to renew may be reinstated upon recommendation of the board and upon payment of the renewal fee and the reinstatement fee established pursuant to K.S.A. 65-2012 and amendments thereto and upon submitting evidence of satisfactory completion of the applicable reeducation and continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate reeducation and continuing education requirements for reinstatement of persons whose licenses have been canceled for failure to renew.

(d) The board, prior to renewal of a license, shall require the licensee, if in the active practice of podiatry within Kansas, to submit to the board evidence satisfactory to the board that the licensee is maintaining a policy of professional liability insurance as required by K.S.A. 40-3402 and amendments thereto and has paid the annual premium surcharge as required by K.S.A. 40-3404 and amendments thereto.

(e) The board may issue a temporary permit to practice podiatry in this state to any person making application for ~~such temporary permit upon a form provided by the board~~ a license to practice podiatry who meets the ~~requirements prescribed by the board~~ required qualifications for a license and who pays to the board the temporary permit fee established pursuant to K.S.A. 65-2012 and amendments thereto. A temporary permit shall authorize the permittee to practice within the limits of the permit until the license is issued or denied to the permittee by the board; ~~except that where a graduate podiatrist is working under the supervision of a licensed podiatrist in a training program approved by the board, the temporary permit issued to such graduate podiatrist shall be valid for the period of such training program.~~

(f) *The board may issue a postgraduate permit to practice podiatry to any person engaged in a full-time, approved postgraduate study program; has made application for such postgraduate permit upon a form provided by the board; meets all the qualifications for a license, except the examination required under K.S.A. 65-2004, and amendments thereto; and has paid the fee established pursuant to K.S.A. 65-2012, and amendments thereto. The postgraduate permit shall authorize the person receiving the permit to practice podiatry in the postgraduate study program, but shall not authorize practice outside of the postgraduate study pro-*

gram. The postgraduate permit shall be canceled if the permittee ceases to be engaged in the postgraduate study program.

(g) The board may issue, upon payment to the board of the temporary license fee established pursuant to K.S.A. 65-2012 and amendments thereto, a temporary license to a practitioner of another state or country who is appearing as a clinician at meetings, seminars or training programs approved by the board, if the practitioner holds a current license, registration or certificate as a podiatrist from another state or country and the sole purpose of such appearance is for promoting professional education.

(h) There is hereby created a designation of exempt license. The board is authorized to issue an exempt license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an exempt license established under K.S.A. 65-2012 and amendments thereto. The board may issue an exempt license only to a person who has previously been issued a license to practice podiatry within Kansas, who is no longer regularly engaged in such practice and who does not hold oneself out to the public as being professionally engaged in such practice. An exempt license shall entitle the holder to all privileges attendant to the practice of podiatry. Each exempt license may be renewed annually subject to the other provisions of this section and other sections of the podiatry act. Each exempt licensee shall be subject to all provisions of the podiatry act, except as otherwise provided. The holder of an exempt license shall not be required to submit evidence of satisfactory completion of a program of continuing education required under the podiatry act. Each exempt licensee may apply for a license to regularly engage in the practice of podiatry upon filing a written application with the board and submitting evidence of satisfactory completion of the applicable and continuing education requirements established by the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established under K.S.A. 65-2012 and amendments thereto. The board shall adopt rules and regulations establishing appropriate and continuing education requirements for exempt licensees to become licensed to regularly practice podiatry within Kansas.

(i) *There is hereby created a designation of inactive license. The board is authorized to issue an inactive license to any licensee who makes written application for such license on a form provided by the board and remits the fee for an inactive license established pursuant to K.S.A. 65-2012, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice podiatry in Kansas, who is not regularly engaged in the practice of podiatry in Kansas, who does not hold oneself out to the public as being professionally engaged in such practice and who meets the definition of inactive health care provider as defined in K.S.A. 40-3401, and amendments thereto. An inactive license shall not entitle the holder to practice podiatry in this state. Each inactive license may be renewed subject to the provisions of this section. Each inactive licensee shall be subject to all provisions of the podiatry act, except as otherwise provided in this subsection. The holder of an inactive license shall not be required to submit evidence of satisfactory completion of a program of continuing education required by K.S.A. 65-2010, and amendments thereto. Each inactive licensee may apply for a license to regularly engage in the practice of podiatry upon filing a written application with the board. The request shall be on a form provided by the board and shall be accompanied by the license fee established pursuant to K.S.A. 65-2012, and amendments thereto. For those licensees whose license has been inactive for less than two years, the board shall adopt rules and regulations establishing appropriate continuing education requirements for inactive licensees to become licensed to regularly practice podiatry within Kansas. Any licensee whose license has been inactive for more than two years and who has not been in the active practice of podiatry or engaged in a formal education program since the licensee has been inactive may be required to complete such additional testing, training or education as the board may deem necessary to establish the licensee's present ability to practice with reasonable skill and safety.*

(j) *There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes written application for such license on a form provided by the board and remits the same fee required for a license established under*

K.S.A. 65-2012, and amendments thereto. The board may issue a federally active license only to a person who meets all the requirements for a license to practice podiatry in Kansas and who practices podiatry solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who, in addition to such employment or assignment, provides professional services as a charitable health care provider as defined under K.S.A. 75-6102, and amendments thereto. The provisions of subsections (b) and (c) of this section relating to expiration, renewal and reinstatement of a license and K.S.A. 65-2010, and amendments thereto, relating to continuing education shall be applicable to a federally active license issued under this subsection. A person who practices under a federally active license shall not be deemed to be rendering professional service as a health care provider in this state for purposes of K.S.A. 40-3402, and amendments thereto.

~~(h)~~ (k) Each license or permit granted under this act shall be conspicuously displayed at the office or other place of practice of the licensee or permittee.

(l) A person whose license has been revoked may apply for reinstatement of the license after the expiration of three years from the effective date of the revocation. Application for reinstatement shall be on a form provided by the board and shall be accompanied by a reinstatement of a revoked license fee established by the board under K.S.A. 65-2012, and amendments thereto. The burden of proof by clear and convincing evidence shall be on the applicant to show sufficient rehabilitation to justify reinstatement of the license. If the board determines a license should not be reinstated, the person shall not be eligible to reapply for reinstatement for three years from the effective date of the denial. All proceedings conducted on an application for reinstatement shall be in accordance with the provisions of the Kansas administrative procedure act and shall be reviewable in accordance with the act for judicial review and civil enforcement of agency actions. The board, on its own motion, may stay the effectiveness of an order of revocation of license.

Sec. 16. K.S.A. 65-2012 is hereby amended to read as follows: 65-2012. The following fees shall be established by rules and regulations adopted by the board and shall be collected by the board:

(a) For a license to practice podiatry or an inactive license or federally active license, issued on the basis of an examination, an amount of not more than \$300;

(b) for a license to practice podiatry or an inactive license or federally active license, issued without examination and by endorsement, an amount of not more than \$300;

~~(c) for a license to practice podiatry, issued upon request of an exempt licensee, an amount of not more than \$300;~~

~~(d) for an exempt license or renewal of an exempt license, an amount of not more than \$300;~~

~~(e) (c) for the annual renewal of a license to practice podiatry or an inactive license or federally active license, an amount of not more than \$300 \$500;~~

(d) for the renewal of an exempt license, an amount of not more than \$150;

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

(f) for late renewal of any license, an amount of not more than ~~\$200~~ \$500;

(g) for reinstatement of a licensee whose license lapsed canceled for failure to renew, an amount of not more than ~~\$200~~ \$300;

(h) for a temporary permit, an amount of not more than \$60;

(i) for a temporary license, an amount of not more than \$50;

(j) for any examination given by the board, an amount equal to the cost to the board of the examination and its administration;

(k) for a certified statement from the board that a licensee is licensed to practice podiatry in this state, an amount of not more than \$30;

(l) for any copy of any license issued by the board, an amount of not more than \$30; ~~and~~

(m) for written verification of any license issued by the board, in an amount of not more than \$25-;

(n) for conversion of an exempt or inactive license to a license to practice podiatry, an amount of not more than \$300;

(o) for reinstatement of a revoked license, an amount of not more than

\$1,000; and

(p) for a postgraduate permit, an amount of not more than \$60.

Sec. 17. K.S.A. 65-28a03 is hereby amended to read as follows: 65-28a03. (a) ~~The state board of healing arts shall maintain a registry of the names of physician assistants who may engage in active practice. No person's name shall be entered on the registry of physician assistants unless such person has:~~

~~—(1) Presented to the state board of healing arts proof of current licensure;~~

~~—(2) presented to the board a request signed by the applicant's proposed responsible physician on a form provided by the board which shall contain such information as required by rules and regulations adopted by the board.~~

~~—(b) A person's name may be removed from the registry of physician assistants who may engage in private practice if:~~

~~—(1) The person whose name is entered on the registry as a licensed physician assistant requests or consents to the removal thereof;~~

~~—(2) the state board of healing arts determines that the person whose name is entered on the registry as a licensed physician assistant has not been employed as a physician assistant or as a teacher or instructor of persons being educated and trained to become a physician assistant in a course of education and training approved by the state board of healing arts under this act and amendments thereto at sometime during the five years immediately preceding the date of such determination.~~

~~—(3) the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that a physician assistant has violated any provision of this act and amendments thereto, or any rules and regulations adopted pursuant thereto; or~~

~~—(4) the board determines, after notice and opportunity to be heard, in accordance with the provisions of the Kansas administrative procedure act, that the request by the proposed responsible physician pursuant to this act and amendments thereto should not be approved.~~

~~—(c) The state board of healing arts may remove a person's name from the registry as a licensed physician assistant or may refuse to place a person's name on the registry as a licensed physician assistant if the board determines, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a physician assistant has exceeded or has acted outside the scope of authority given the physician assistant by the responsible physician or by this act. As a condition of engaging in active practice as a physician assistant, each licensed physician assistant shall file a request to engage in active practice signed by the physician assistant and the physician who will be responsible for the physician assistant. The request shall contain such information as required by rules and regulations adopted by the board. The board shall maintain a list of the names of physician assistants who may engage in active practice in this state.~~

~~(b)~~ All licenses, except temporary licenses, shall expire on the date of expiration established by rules and regulations of the state board of healing arts and may be renewed as required by the board. The request for renewal shall be on a form provided by the state board of healing arts and shall be accompanied by the renewal fee established pursuant to this section, which shall be paid not later than the expiration date of the license.

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

~~(d)~~ Any licensee who allows the licensee's license to lapse by failing

canceled for failure to renew as herein provided may be reinstated upon recommendation of the state board of healing arts and upon payment of the renewal fee and the reinstatement fee and upon submitting evidence of satisfactory completion of any applicable continuing education requirements established by the board. The board shall adopt rules and regulations establishing appropriate continuing education requirements for reinstatement of persons whose licenses have lapsed canceled for failure to renew.

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

(f) There is hereby created a designation of federally active license. The board is authorized to issue a federally active license to any licensee who makes a written application for such license on a form provided by the board and remits the same fee required for a license established under subsection (g). The board may issue a federally active license only to a person who meets all the requirements for a license to practice as a physician assistant and who practices as a physician assistant solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies. The provisions of subsections (c) and (d) relating to expiration, renewal and reinstatement of a license shall be applicable to a federally active license issued under this subsection. Each federally active licensee may apply to engage in active practice by presenting a request required by subsection (a) of this section.

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

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

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

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

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

~~(4)~~ *(5) for the late renewal of a any license as a physician assistant, the sum of not more than \$250;*

~~(5)~~ *(6) for reinstatement of a physician assistant whose license has been canceled for failure to renew, the sum of not more than \$250;*

~~(6)~~ *(7) for a certified statement from the board that a physician assistant is licensed in this state, the sum of not more than \$30; and*

~~(7)~~ *(8) for a copy of the licensure certificate of a physician assistant, the sum of not more than \$25; and*

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

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

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

Sec. 18. K.S.A. 2003 Supp. 65-2910 is hereby amended to read as follows: 65-2910. (a) The license of every licensed physical therapist and the certification of every certified physical therapist assistant shall expire on the date established by rules and regulations of the board which may provide renewal throughout the year on a continuing basis. In each case in which a license or certificate is renewed for a period of time of less than one year, the board may prorate the amount of the fee established

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

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

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

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

(e) *There is hereby created the designation of inactive license. The board is authorized to issue an inactive license to any physical therapist who makes written application for a license as a physical therapist on a form provided by the board and remits the fee established pursuant to K.S.A. 2003 Supp. 65-2911, and amendments thereto. The board may issue an inactive license only to a person who meets all the requirements for a license to practice as a physical therapist and who does not actively practice as a physical therapist in this state. An inactive license shall not entitle the holder to render professional services as a physical therapist. The provisions of subsections (c) and (d) relating to expiration, renewal and reinstatement of a license shall be applicable to an inactive license issued under this subsection. Each inactive licensee may apply to engage in active practice by providing to the board proof that a policy of professional liability insurance will be maintained in compliance with K.S.A. 2003 Supp. 65-2920, and amendments thereto, and rules and regulations adopted by the board.*

Sec. 19. K.S.A. 65-5410 is hereby amended to read as follows: 65-5410. (a) The board may deny, refuse to renew, suspend ~~or~~, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

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

tation of a license or public or private censure of a licensee may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. *An application for reinstatement of a revoked license shall be accompanied by the license renewal fee and the license reinstatement fee established under K.S.A. 65-5409, and amendments thereto.*

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

Sec. 20. K.S.A. 65-5412 is hereby amended to read as follows: 65-5412. (a) Licenses issued under this act shall be effective for a period of one year and shall expire at the end of such period of time expire on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board, upon the payment of the license renewal fee established under K.S.A. 65-5409 and amendments thereto. *The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5409, and amendments thereto.* The board may establish additional requirements for licensure or registration renewal which provide evidence of continued competency. *The board may provide for the late licensure or renewal of a license or registration upon the payment of a late fee established under K.S.A. 65-5409 and amendments thereto, but no such late renewal of a license or registration may be granted more than five years after its expiration.*

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

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

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

Sec. 21. K.S.A. 65-5510 is hereby amended to read as follows: 65-5510. (a) The board may deny, refuse to renew, suspend or, revoke or limit a license or the licensee may be publicly or privately censured where the licensee or applicant for licensure has been guilty of unprofessional conduct which has endangered or is likely to endanger the health, welfare or safety of the public. Unprofessional conduct includes:

- (1) Obtaining a license by means of fraud, misrepresentation or concealment of material facts;
- (2) being guilty of unprofessional conduct as defined by rules and regulations adopted by the board;

(3) being convicted of a felony if the acts for which such person was convicted are found by the board to have a direct bearing on whether such person should be entrusted to serve the public in the capacity of a respiratory therapist;

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

(5) violating any provision of this act.

(b) Such denial, refusal to renew, suspension ~~or~~, revocation or *limitation* of a license or *public or private censure of a licensee* may be ordered by the board after notice and hearing on the matter in accordance with the provisions of the Kansas administrative procedure act. Upon the end of the period of time established by the board for the revocation of a license, application may be made to the board for reinstatement. The board shall have discretion to accept or reject an application for reinstatement and may hold a hearing to consider such reinstatement. An application for reinstatement of a *revoked license* shall be accompanied by the ~~licensing~~ *license renewal fee and the license reinstatement fee* established under K.S.A. 65-5509 and amendments thereto.

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

Sec. 22. K.S.A. 65-5512 is hereby amended to read as follows: 65-5512. (a) Licenses issued under this act shall ~~be effective for a period of one year and shall expire at the end of such period of time on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board, upon the payment of the license renewal fee established under K.S.A. 65-5509 and amendments thereto. The request for renewal shall be accompanied by the license renewal fee established pursuant to K.S.A. 65-5509, and amendments thereto.~~ The board may establish additional requirements for license renewal which provide evidence of continued competency. ~~The board may provide for the late renewal of a license upon the payment of a late fee established under K.S.A. 65-5509 and amendments thereto, but no such late renewal of a license may be granted more than five years after its expiration.~~

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

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

~~(b)~~ (d) A person whose license is suspended shall not engage in any conduct or activity in violation of the order or judgment by which the license was suspended. ~~If a license revoked on disciplinary grounds is reinstated, the licensee, as a condition of reinstatement, shall pay the license renewal fee and any late fee that may be applicable.~~

Sec. 23. K.S.A. 65-7208 is hereby amended to read as follows: 65-7208. (a) The board may deny, refuse to renew, suspend ~~or~~, revoke or *limit* a registration or *the registrant may be publicly or privately censured* where the registrant or applicant for registration has been guilty of unprofessional conduct which has endangered or is likely to endanger the

health, welfare or safety of the public. Unprofessional conduct includes:

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

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

(c) ~~The provisions of this section shall take effect on and after January 1, 2003~~ board, in addition to any other penalty prescribed in subsection (a), may assess a civil fine, after proper notice and an opportunity to be heard, against a registrant for unprofessional conduct in an amount not to exceed \$5,000 for the first violation, \$10,000 for the second violation and \$15,000 for the third violation and for each subsequent violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the state general fund.

Sec. 24. K.S.A. 65-7209 is hereby amended to read as follows: 65-7209. (a) Registrations issued under this act shall ~~be effective for a period of one year and shall expire at the end of such period of time on the date of expiration established by rules and regulations of the board unless renewed in the manner prescribed by the board, upon the payment of the registration renewal fee established under K.S.A. 65-7207 and amendments thereto.~~ The request for renewal shall be accompanied by the registration renewal fee established pursuant to K.S.A. 65-7207, and amendments thereto. The board may establish additional requirements for registration renewal which provide evidence of continued competency. The board for registration renewal shall require completion of at least 25 hours annually of continuing education approved by the board. ~~The board may provide for the late renewal of a registration upon the payment of a late fee established under K.S.A. 65-7207 and amendments thereto, but no such late renewal of a registration may be granted more than five years after its expiration.~~

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

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

~~(b)~~ (d) A person whose registration is suspended shall not engage in

any conduct or activity in violation of the order or judgment by which the registration was suspended. ~~If a registration revoked on disciplinary grounds is reinstated, the registrant, as a condition of reinstatement, shall pay the registration renewal fee and any late fee that may be applicable.~~

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

Sec. 25. K.S.A. 2003 Supp. 65-2920 is hereby amended to read as follows: 65-2920. ~~A policy of Professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state~~ *coverage* shall be maintained in effect by each licensed physical therapist actively practicing in this state as a condition to rendering professional services as a physical therapist in this state. The ~~state board of healing arts~~ shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.

Sec. 26. K.S.A. 65-7217 is hereby amended to read as follows: 65-7217. ~~(a) A policy of Professional liability insurance approved by the commissioner of insurance and issued by an insurer duly authorized to transact business in this state~~ *coverage* shall be maintained in effect by each naturopathic doctor as a condition to rendering professional service as a naturopathic doctor in this state. *The board shall fix by rules and regulations the minimum level of coverage for such professional liability insurance.*

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

Sec. 27. K.S.A. 39-1504, 65-468, 65-1728, 65-2005, 65-2012, 65-28,127, 65-28a03, 65-28a10, 65-5001, 65-5410, 65-5412, 65-5510, 65-5512, 65-6119, 65-6120, 65-6123, 65-6124, 65-7208, 65-7209, 65-7217 and 72-5213 and K.S.A. 2003 Supp. 65-2891, 65-2910, 65-2920 and 65-5912 are hereby repealed.

Sec. 28. This act shall take effect and be in force from and after its publication in the statute book.

Approved April 21, 2004.
