

HOUSE BILL No. 2182

AN ACT concerning health and health care; providers thereof; health safety requirements; amending K.S.A. 16-1602, 40-2250, 65-1113, 65-1114, 65-1118, 65-1120, as amended by section 236 of 2011 House Bill No. 2339, 65-1122, 65-1130, 65-1131, 65-1133, 65-1154, 65-1163, 65-1424, 65-1425, 65-6102, 65-6110, 65-6126, 65-6132, 65-6133, 74-32,131, 74-32,132, 74-32,133, 74-32,134, 74-32,135, 74-32,136, 74-32,137 and 74-32,138 and K.S.A. 2010 Supp. 8-1,125, 21-4010, 39-7,119, 40-2,111, 65-468, 65-1117, 65-1132, 65-1435, 65-1436, 65-1626, 65-1669, 65-1671, 65-2901, 65-2913, 65-2921, 65-4101, 65-5402, 65-6112, 65-6112, as amended by section 82 of this act, 65-6119, 65-6120, 65-6120, as amended by section 83 of this act, 65-6121, 65-6121, as amended by section 84 of this act, 65-6123, 65-6123, as amended by section 85 of this act, 65-6124, 65-6124, as amended by section 86 of this act, 65-6129, 65-6129c, 65-6135, 65-6144, 65-6144, as amended by section 91 of this act, 72-5213, 72-8252, 74-1106, 75-5664 and 75-5665 and section 2, section 3, section 4, section 7, section 8, section 9 and section 10 of chapter 45 of the 2010 Session Laws of Kansas and repealing the existing sections; also repealing K.S.A. 65-4970, 65-4972 and 65-4973 and K.S.A. 2010 Supp. 65-1626d and 65-4971.

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

New Section 1. (a) Sections 1 through 6, and amendments thereto, shall be known and may be cited as the pharmacy audit integrity act.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 2. (a) As used in this act, “pharmacy benefits manager” or “PBM” means a person, business or other entity that performs pharmacy benefits management. The term includes a person or entity acting for a PBM in contractual or employment relationship in the performance of pharmacy benefits management for a managed care company, not-for-profit hospital or medical service organization, insurance company, third-party payor or health program administered by the state board of pharmacy.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 3. (a) The entity conducting the audit shall follow the following procedures:

(1) An entity conducting an on-site audit must give the pharmacy at least seven days written notice before conducting an initial audit;

(2) an audit that involves clinical or professional judgment must be conducted by or in consultation with a licensed pharmacist;

(3) the period covered by the audit may not exceed two years from the date that the claim was submitted to or adjudicated by the entity;

(4) the pharmacy may request an extension not to exceed seven days from the date of an originally scheduled on-site audit;

(5) the pharmacy may use the records of a hospital, physician or other authorized practitioner to validate the pharmacy record;

(6) any legal prescription, in compliance with the requirements of the state board of pharmacy, may be used to validate claims in connection with prescriptions, refills or changes in prescriptions;

(7) each pharmacy shall be audited under the same standards and parameters as other similarly situated pharmacies; and

(8) the entity conducting the audit must establish a written appeals process.

(b) The entity conducting the audit shall also comply with the following requirements:

(1) A finding of overpayment or underpayment must be based on the actual overpayment or underpayment and not a projection based on the number of patients served having a similar diagnosis or on the number of similar orders or refills for similar drugs;

(2) the entity conducting the audit shall not use extrapolation in calculating the recoupments or penalties for audits, unless required by state or federal contracts;

(3) the auditing company or agent may not receive payment based on a percentage of the amount recovered, unless required by contracts; and

(4) interest may not accrue during the audit period.

(c) This section shall take effect on and after July 1, 2011.

New Sec. 4. (a) Any preliminary audit report must be delivered to the pharmacy within 60 days after the conclusion of the audit. Any pharmacy shall be allowed at least 30 days following receipt of the preliminary audit to provide documentation to address any discrepancy found in the audit. Any final audit report shall be delivered to the pharmacy within 120 days after receipt of the preliminary audit report or final appeal, whichever is later.

(b) Recoupment of any disputed funds or repayment of funds to the entity by the pharmacy, if permitted pursuant to contracts, shall occur, to the extent demonstrated or documented in the pharmacy audit findings, after

final internal disposition of the audit including the appeals process. If the identified discrepancy for an individual audit exceeds \$20,000, any future payments to the pharmacy may be withheld pending finalization of the audit. Unless otherwise required by the federal or state law, any audit information may not be shared. Auditors shall only have access to previous audit reports on a particular pharmacy conducted by that same entity.

(c) This section shall take effect on and after July 1, 2011.

New Sec. 5. (a) Any auditing entity, upon request of the plan sponsor, shall provide a copy of the final report, including the disclosure of any money recouped in the audit. The pharmacy may provide a copy of the report to the commissioner of insurance, provided such report shall not contain any personally identifiable health information in violation of the provisions of the health insurance portability and accountability act of 1996 (Pub. L. No. 104-191).

(b) This section shall take effect on and after July 1, 2011.

New Sec. 6. (a) This act shall apply to contracts between an auditing entity and a pharmacy entered into, extended or renewed on or after the effective date of this act. This act shall not apply to any audit, review or investigation that is initiated based upon suspected or alleged fraud, willful misrepresentation or abuse.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 7. (a) A resident of this state has the right to purchase health insurance or refuse to purchase health insurance. The government shall not interfere with a resident's right to purchase health insurance or with a resident's right to refuse to purchase health insurance.

(b) A resident of this state has the right to enter into a private contract with health care providers for lawful health care services. The government shall not interfere with a resident's right to purchase lawful health care services.

(c) A person or employer may pay directly for lawful health care services and shall not be required to pay penalties or fines for paying directly for lawful health care services. A health care provider may accept direct payment for lawful health care services and shall not be required to pay penalties or fines for accepting direct payment from a person or employer for lawful health care services.

(d) No state agency, board, commission or any other governmental entity shall require an agreement to participate in medicare, medicaid or any other insurance plan, health care system or health information technology or benefit exchange as a condition for original application or renewal of license, registration or certification for a health care provider.

(e) No state agency, board, commission or any other governmental entity shall prohibit participation in a health information organization for any health information technology or benefit exchange purposes by a health care provider based on whether such health care provider participates in medicare, medicaid or any other insurance plans or health care systems.

(f) The government shall not enact a law that would restrict these rights or that would impose a form of punishment for exercising these rights. No provision of this section shall render a resident of this state liable for any punishment, penalty, assessment, fee or fine as a result of such resident's failure to procure or obtain health insurance coverage or participate in any health care system or plan.

(g) As used in this section:

(1) "Direct payment or pay directly" means payment for lawful health care services without a public or private third party, not including an employer, paying for any portion of the service.

(2) "Health care provider" shall have the meaning provided in K.S.A. 40-3401, and amendments thereto.

(3) "Health care system" means any public or private entity whose function or purpose is the management of, processing of, enrollment of individuals for or payment for, in full or in part, health care services or health care data or health care information for its participants.

(4) "Lawful health care services" means any health-related service or treatment to the extent that the service or treatment is permitted or not prohibited by law or regulation that may be provided by persons or businesses otherwise permitted to offer such services.

(5) "Penalties or fines" means any civil or criminal penalty or fine, tax, salary or wage withholding or surcharge or any named fee with a similar

effect established by law or rule by a government established, created or controlled agency that is used to punish or discourage the exercise of rights protected under this section.

(h) This section shall be known and may be cited as the health care freedom act.

(i) This section shall take effect on and after July 1, 2011.

Sec. 8. On July 1, 2011, K.S.A. 2010 Supp. 65-1669 is hereby amended to read as follows: 65-1669. As used in the utilization of unused medications act:

(a) “Adult care home” has the same meaning as such term is defined in K.S.A. 39-923, and amendments thereto.

(b) “Community mental health center” has the same meaning as such term is defined in K.S.A. 75-3307c, and amendments thereto.

(c) “Donating entities” means adult care homes, mail service pharmacies and medical care facilities who elect to participate in the program.

(d) “Drug” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(e) “Federally qualified health center” means a center which meets the requirements for federal funding under 42 U.S.C. § ~~section~~ 1396d(1) of the public health service act, *and amendments thereto*, and which has been designated as a “federally qualified health center” by the federal government.

(f) “Indigent health care clinic” has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(g) “Mail service pharmacy” means a licensed Kansas pharmacy ~~located within the state~~ that ships, mails or delivers by any lawful means a lawfully dispensed medication in tamper-resistant packaging to residents of this state or another state.

(h) “Medical care facility” has the same meaning as such term is defined in K.S.A. 65-425, and amendments thereto.

(i) “Medically indigent” has the same meaning as such term is defined in K.S.A. 75-6102, and amendments thereto.

(j) “Medication” means a prescription drug or drug as defined by this section.

(k) “Mid-level practitioner” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(l) “Practitioner” has the same meaning as such term is defined in K.S.A. 65-1626, and amendments thereto.

(m) “Prescription drug” means a drug which may be dispensed only upon prescription of a practitioner or mid-level practitioner authorized by law and which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the federal food, drug and cosmetic act (52 Stat. 1040 (1938), 21 U.S.C.A., ~~section~~ § 301), *and amendments thereto*.

(n) “Qualifying center or clinic” means an indigent health care clinic, federally qualified health center or community mental health center.

Sec. 9. On July 1, 2011, K.S.A. 2010 Supp. 65-1671 is hereby amended to read as follows: 65-1671. The following criteria shall be used in accepting unused medications for use under the utilization of unused medications act:

(a) The medications shall have come from a controlled storage unit of a donating entity;

(b) only medications in their original or pharmacist sealed unit dose packaging or ~~hermetically sealed by the pharmacy~~ in tamper evident packaging, unit of use or sealed, unused injectables shall be accepted and dispensed pursuant to the utilization of unused medications act;

(c) expired medications shall not be accepted;

(d) a medication shall not be accepted or dispensed if the person accepting or dispensing the medication has reason to believe that the medication is adulterated;

(e) no controlled substances shall be accepted; and

(f) subject to the limitation specified in this section, unused medications dispensed for purposes of a medical assistance program or drug product donation program may be accepted and dispensed under the utilization of unused medications act.

Sec. 10. On July 1, 2011, section 2 of chapter 45 of the 2010 Session

Laws of Kansas is hereby amended to read as follows: Sec. 2. As used in the additions counselor licensure act:

(a) “Board” means the behavioral sciences regulatory board created under K.S.A. 74-7501, and amendments thereto.

(b) “Addiction counseling” means the utilization of special skills to assist persons with addictions, and to assist such persons’ families and friends to achieve resolution of addiction through the exploration of the disease and its ramifications, the examination of attitudes and feelings, the consideration of alternative solutions and decision making, as these relate specifically to addiction. Evaluation and assessment, treatment including treatment plan development, ~~case management~~, crisis intervention, referral, record keeping and clinical consultation specifically related to addiction are within the scope of addiction counseling. *Additionally*, at the clinical level of licensure, addiction counseling includes independent practice ~~limited and~~ to the diagnosis and treatment of substance use disorders.

(c) “Licensed addiction counselor” means a person who engages in the practice of addiction counseling limited to substance use disorders and who is licensed under this act, except that on and after July 1, 2011, such person shall engage in the practice of addiction counseling only in a state-licensed or certified alcohol and other drug treatment program *unless otherwise exempt for licensure under subsection (m) of K.S.A. 59-29b46, and amendments thereto.*

(d) “Licensed clinical addiction counselor” means a person who engages in the independent practice of addiction counseling ~~which practice and is limited~~ to the diagnosis and treatment of substance use disorders specified in the edition of the American psychiatric association’s diagnostic and statistical manual of mental disorders (DSM) designated by the board by rules and regulations and is licensed under this act.

Sec. 11. On July 1, 2011, section 3 of chapter 45 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 3. (a) On and after ~~August~~ *September* 1, 2011, no person shall engage in the practice of addiction counseling or represent that such person is a licensed addiction counselor or is an addiction counselor or a substance abuse counselor or an alcohol and drug counselor without having first obtained a license as an addiction counselor under the additions counselor licensure act.

(b) On and after ~~August~~ *September* 1, 2011, no person shall engage in the practice of addiction counseling as a clinical addiction counselor or represent that such person is a licensed clinical addiction counselor or is a clinical addiction counselor or a clinical substance abuse counselor or a clinical alcohol and drug counselor without having first obtained a license as a clinical addiction counselor under the addiction counselor licensure act.

(c) Violation of this section is a class B misdemeanor.

Sec. 12. On July 1, 2011, section 4 of chapter 45 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 4. (a) An applicant for licensure as an addiction counselor shall furnish evidence that the applicant:

(1) Has attained the age of 21;

(2)(A) has completed a baccalaureate degree from an addiction counseling program that is part of a college or university approved by the board; or

(B) has completed a baccalaureate degree from a college or university approved by the board in a related field that includes a minimum number of semester hours of coursework ~~supporting the diagnosis and treatment of~~ *on* substance use disorders as approved by the board; or

(C) completed a baccalaureate degree from a college or university approved by the board in a related field with additional work in addiction counseling from a college or university approved by the board, and such degree program and the additional work includes the course work requirements provided in paragraph (a)(2)(B) of this subsection; or

(D) is currently licensed in Kansas as a licensed psychologist, licensed master social worker, licensed professional counselor, licensed marriage and family therapist or licensed master’s level psychologist;

(3) has passed an examination approved by the board;

(4) has satisfied the board that the applicant is a person who merits the public trust; and

(5) each applicant has paid the application fee established by the board

under section 12 of chapter 45 of the 2010 Session Laws of Kansas, and amendments thereto.

(b)(1) Applications for licensure as a clinical addiction counselor shall be made to the board on a form and in the manner prescribed by the board. Each applicant shall furnish evidence satisfactory to the board that the applicant:

(A) Is licensed by the board as a licensed addiction counselor or meets all requirements for licensure as an addiction counselor; and

(i) has completed a master's degree from an addiction counseling program that is part of a college or university approved by the board; or

(ii) has completed a master's degree from a college or university approved by the board in a related field that includes a minimum number of semester hours of coursework supporting the diagnosis and treatment of substance use disorders as approved by the board; or

(iii) has completed a master's degree from a college or university approved by the board in a related field with additional work in addiction counseling from a college or university approved by the board and such degree program and the additional work includes the course work requirements provided in paragraph (b)(2)(B) of this subsection; ~~and~~ or

(iv) has completed a master's degree in a related field and is licensed by the board as a licensed addiction counselor; and

(B) has completed not less than two years of postgraduate supervised professional experience in accordance with a clinical supervision plan approved by the board of not less than 4,000 hours of supervised professional experience including at least 1,500 hours of direct client contact conducting substance abuse assessments and treatment with individuals, couples, families or groups and not less than 150 hours of clinical supervision, including not less than 50 hours of person-to-person individual supervision, integrating diagnosis and treatment of substance use disorders with use of the diagnostic and statistical manual of mental disorders of the American psychiatric association, except that ~~one-half~~ 1/2 of the requirement of this paragraph (B) may be waived for persons with a doctoral degree in addiction counseling or a related field acceptable to the board; and

(C) has passed an examination approved by the board; and

(D) has paid the application fee fixed under section 12 of chapter 45 of the 2010 Session Laws of Kansas, and amendments thereto.

(2) A person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the department of social and rehabilitation services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, ~~who has been actively engaged in the practice of addiction counseling in Kansas as a registered~~ *who was registered in Kansas as an alcohol and other drug counselor, an alcohol and drug credentialed counselor or a credentialed alcohol and other drug abuse counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed addiction counselor by providing demonstration acceptable to the board of competence to perform the duties of an addiction counselor.*

(3) Any person who was registered by the behavioral sciences regulatory board as an alcohol and other drug counselor or credentialed by the department of social and rehabilitation services as an alcohol and drug credentialed counselor or credentialed by the Kansas association of addiction professionals as an alcohol and other drug abuse counselor in Kansas at any time prior to the effective date of this act, and who is also licensed to practice medicine and surgery, and who ~~has been actively engaged in the practice of addiction counseling in Kansas as a registered or credentialed~~ *was registered or credentialed in Kansas as an alcohol and other drug counselor within three years prior to the effective date of this act and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a licensed clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to*

diagnose and treat substance use disorders 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.

(4) *Any person who was credentialed by the department of social and rehabilitation services as an alcohol and drug counselor and has been actively engaged in the practice, supervision or administration of addiction counseling in Kansas for not less than four years and holds a master's degree in a related field and whose last registration or credential in Kansas prior to the effective date of this act was not suspended or revoked, upon application to the board, payment of fees and completion of applicable continuing education requirements, shall be licensed as a clinical addiction counselor and may engage in the independent practice of addiction counseling and is authorized to diagnose and treat substance use disorders 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.*

(5) On and after July 1, 2011, a licensed addiction counselor ~~may~~ shall engage in the practice of addiction counseling ~~within~~ in only a state licensed or certified alcohol and other drug treatment program, *unless otherwise exempt from licensure under subsection (m) of K.S.A. 59-29b46, and amendments thereto.*

Sec. 13. On July, 1, 2011, section 7 of chapter 45 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 7. (a) The board may issue a license to an individual who is currently registered, certified or licensed to practice addiction counseling in another jurisdiction if the board determines that:

(1) The standards for registration, certification or licensure to practice addiction counseling in the other jurisdiction are substantially the equivalent of the requirements of the addictions counselor licensure act and rules and regulations of the board; ~~and~~ or

(2) the applicant demonstrates on forms provided by the board compliance with the following standards as adopted by the board:

(A) Continuous registration, certification or licensure to practice addiction counseling during the five years immediately preceding the application with at least the minimum professional experience as established by rules and regulations of the board;

(B) the absence of disciplinary actions of a serious nature brought by a registration, certification or licensing board or agency; and

(C) completion of a baccalaureate or master's degree in addiction counseling from a college or university approved by the board or completion of a baccalaureate or master's degree in a related field that includes all required addiction coursework.

(b) Applicants for licensure as a clinical addiction counselor shall additionally demonstrate competence to diagnose and treat substance abuse disorders through meeting the requirements of either paragraph (1) or (2) of subsection (a) and at least two of the following areas acceptable to the board:

(1) Either coursework as established by rules and regulations of the board or passing a national clinical examination approved by the board;

(2) three years of clinical practice with demonstrated experience supporting diagnosing or treating substance use disorders; or

(3) attestation from a professional licensed to diagnose and treat mental disorders, or substance use disorders, or both, in independent practice or licensed to practice medicine and surgery stating that the applicant is competent to diagnose and treat substance use disorders.

(c) An applicant for a license under this section shall pay an application fee established by the board under section 12 of chapter 45 of the 2010 Session Laws of Kansas, and amendments thereto.

Sec. 14. On July 1, 2011, section 8 of chapter 45 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 8. (a) An applicant who meets the requirements for licensure pursuant to this act, has paid the license fee provided for by section 12 of chapter 45 of the 2010 Session Laws of Kansas, and amendments thereto, and has otherwise complied with the provisions of this act shall be licensed by the board.

(b) Licenses issued pursuant to this act shall expire 24 months from the date of issuance unless revoked prior to that time. A license may be renewed upon application and payment of the fee provided for by section

12 of chapter 45 of the 2010 Session Laws of Kansas, and amendments thereto. The application for renewal shall be accompanied by evidence satisfactory to the board that the applicant has completed during the previous 24 months the continuing education required by rules and regulations of the board. As part of such continuing education, the *clinical addiction counselor* applicant shall complete not less than six continuing education hours relating to diagnosis and treatment of substance use disorders. ~~and Both the clinical addiction counselor applicant and the addiction counselor applicant shall complete~~ not less than three continuing education hours of professional ethics.

(c) A person whose license has been suspended or revoked may make written application to the board requesting reinstatement of the license upon termination of the period of suspension or revocation in a manner prescribed by the board, which application shall be accompanied by the fee provided for by section 12 of chapter 45 of the 2010 Session Laws of Kansas, and amendments thereto.

Sec. 15. On July 1, 2011, section 9 of chapter 45 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 9. The board may refuse to grant licensure to, or may suspend, revoke, condition, limit, qualify or restrict the licensure issued under this act of any individual who the board, after *the opportunity for* a hearing, determines:

(a) Is incompetent to practice addiction counseling, or is found to engage in the practice of addiction counseling in a manner harmful or dangerous to a client or to the public;

(b) is convicted by a court of competent jurisdiction of a felony, misdemeanor crimes against persons or substantiation of abuse against a child, adult or resident of a care facility, even if not practice related;

(c) has violated a provision of the addictions counselor licensure act or one or more of the rules and regulations of the board;

(d) has obtained or attempted to obtain a license or license renewal by bribery or fraudulent representation;

(e) has knowingly made a false statement on a form required by the board for license or license renewal;

(f) has failed to obtain continuing education credits required by rules and regulations of the board;

(g) has been found guilty of unprofessional conduct as defined by rules and regulations established by the board; or

(h) has had a registration, license or certificate as an addiction counselor revoked, suspended or limited, or has had other disciplinary action taken, or an application for registration, license or certificate denied, by the proper regulatory authority of another state, territory, District of Columbia or another country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof.

Sec. 16. On July 1, 2011, section 10 of chapter 45 of the 2010 Session Laws of Kansas is hereby amended to read as follows: Sec. 10. Nothing in the addictions counselor licensure act shall be construed:

(a) To prevent addiction counseling practice by students or interns or individuals preparing for the practice of addiction counseling to practice under qualified supervision of a professional, recognized and approved by the board, in an educational institution or agency so long as they are designated by titles such as “student,” “trainee,” “intern” or other titles clearly indicating training status;

(b) to authorize the practice of psychology, medicine and surgery, professional counseling, marriage and family therapy, master’s level psychology or social work *or other professions licensed by the behavioral sciences regulatory board*;

(c) to apply to the activities and services of a rabbi, priest, minister, clergy person or organized ministry of any religious denomination or sect, including a Christian-Science practitioner, unless such person or individual who is a part of the organized ministry is a licensed addiction counselor;

(d) to apply to the activities and services of qualified members of other professional groups including, but not limited to, attorneys, physicians, psychologists, ~~masters~~ *master’s* level psychologists, marriage and family therapists, professional counselors, *or other professions licensed by the behavioral sciences regulatory board*, registered nurses or social workers performing services consistent with the laws of this state, their training and

the code of ethics of their profession, so long as they do not represent themselves as being an addiction counselor; or

(e) to prevent qualified persons from doing work within the standards and ethics of their respective professions and callings provided they do not hold themselves out to the public by any title or description of services as being an addiction counselor.

New Sec. 17. (a) This section shall be known and may be cited as the school sports head injury prevention act.

(b) As used in this section:

(1) “School” means any public or accredited private high school, middle school or junior high school.

(2) “Health care provider” means a person licensed by the state board of healing arts to practice medicine and surgery.

(c) The state board of education, in cooperation with the Kansas state high school activities association, shall compile information on the nature and risk of concussion and head injury including the dangers and risks associated with the continuation of playing or practicing after a person suffers a concussion or head injury. Such information shall be provided to school districts for distribution to coaches, school athletes and the parents or guardians of school athletes.

(d) A school athlete may not participate in any sport competition or practice session unless such athlete and the athlete’s parent or guardian have signed, and returned to the school, a concussion and head injury information release form. A release form shall be signed and returned each school year that a student athlete participates in sport competitions or practice sessions.

(e) If a school athlete suffers, or is suspected of having suffered, a concussion or head injury during a sport competition or practice session, such school athlete immediately shall be removed from the sport competition or practice session.

(f) Any school athlete who has been removed from a sport competition or practice session shall not return to competition or practice until the athlete is evaluated by a health care provider and the health care provider provides such athlete a written clearance to return to play or practice. If the health care provider who provides the clearance to return to play or practice is not an employee of the school district, such health care provider shall not be liable for civil damages resulting from any act or omission in the rendering of such care, other than acts or omissions constituting gross negligence or willful or wanton misconduct.

(g) This section shall take effect on and after July 1, 2011.

New Sec. 18. (a) The Kansas state high school activities association and its member high schools, and administrators, principals, coaches, teachers and other affiliated with such association and member high schools, shall not adopt any rules and regulations or interpret any existing rule and regulation in any manner which would prohibit a student athlete from training with any Kansas state high school league-sponsored sport or competition while the student athlete is participating in nonschool swimming athletic training or diving athletic training, or both, during the high school sport season and throughout the year if:

(1) The nonschool swimming athletic training or diving athletic training, or both, is under the jurisdiction of and sanctioned by the national governing body of the sport, U.S.A. swimming, inc., or U.S.A. diving, inc. and is conducted in a manner which protects the health and safety of the student athlete; and

(2) the student athlete meets the reasonable and ordinary school-established requirements for participation in the student athlete’s high school swimming program or diving program, or both, including requirements designed to protect the health and safety of such student athlete.

(b) This section shall take effect on and after July 1, 2011.

Sec. 19. On July 1, 2011, K.S.A. 2010 Supp. 65-2901 is hereby amended to read as follows: 65-2901. As used in article 29 of chapter 65 of the Kansas Statutes Annotated, and ~~acts amendatory of the provisions thereof or supplemental amendments~~ *amendments* thereto:

(a) “Physical therapy” means examining, evaluating and testing individuals with mechanical, anatomical, physiological and developmental impairments, functional limitations and disabilities or other health and movement-related conditions in order to determine a diagnosis solely for physical therapy, prognosis, plan of therapeutic intervention and to assess the on-

going effects of physical therapy intervention. Physical therapy also includes alleviating impairments, functional limitations and disabilities by designing, implementing and modifying therapeutic interventions that may include, but are not limited to, therapeutic exercise; functional training in community or work integration or reintegration; manual therapy; therapeutic massage; prescription, application and, as appropriate, fabrication of assistive, adaptive, orthotic, prosthetic, protective and supportive devices and equipment; airway clearance techniques; integumentary protection and repair techniques; debridement and wound care; physical agents or modalities; mechanical and electrotherapeutic modalities; patient-related instruction; reducing the risk of injury, impairments, functional limitations and disability, including the promotion and maintenance of fitness, health and quality of life in all age populations and engaging in administration, consultation, education and research. Physical therapy also includes the care and services provided by a physical therapist or a physical therapist assistant under the direction and supervision of a physical therapist ~~who that~~ is licensed pursuant to *article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. this act.* Physical therapy does not include the use of roentgen rays and radium for diagnostic and therapeutic purposes, the use of electricity for surgical purposes, including cauterization, the practice of any branch of the healing arts and the making of a medical diagnosis.

(b) “Physical therapist” means a person who is licensed to practice physical therapy pursuant to *article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. this act.* Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist and may designate or describe oneself, *as appropriate*, as a physical therapist, physiotherapist, licensed physical therapist, *doctor of physical therapy, abbreviations thereof, or words similar thereto or use of the designated letters P.T., Ph.T., M.P.T., D.P.T. or L.P.T. Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2010 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term “Dr.” or “Doctor” in conjunction with such licensee’s professional practice, whether in any written or oral communication, shall identify oneself as a “physical therapist” or “doctor of physical therapy.”*

(c) “Physical therapist assistant” means a person who is certified pursuant to *article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, this act* and who works under the direction of a physical therapist, and who assists the physical therapist in selected components of physical therapy intervention. Any person who successfully meets the requirements of K.S.A. 65-2906, and amendments thereto, shall be known and designated as a physical therapist assistant, and may designate or describe oneself as a physical therapist assistant, certified physical therapist assistant, *abbreviations thereof, or words similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T. Asst. Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2010 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.*

(d) “Board” means the state board of healing arts.

(e) “Council” means the physical therapy advisory council.

(f) “Physician” means a person licensed to practice medicine and surgery.

(g) “Recognized by the board” means an action taken by the board at an open meeting to recognize letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials, consistent with the provisions of this act, which a physical therapist may appropriately use to designate or describe oneself and which shall be published in the official minutes of the board.

Sec. 20. On July 1, 2011, K.S.A. 2010 Supp. 65-2913 is hereby amended to read as follows: 65-2913. (a) It shall be unlawful for any person who is not licensed under ~~this~~ *article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, act* as a physical therapist or whose

license has been suspended or revoked in any manner to represent oneself as a physical therapist or to use in connection with such person's name the words physical therapist, physiotherapist, ~~or~~ licensed physical therapist *or doctor of physical therapy* or use the abbreviations P.T., Ph. T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist. A violation of this subsection shall constitute a class B nonperson misdemeanor. *Nothing in this section shall be construed to prohibit physical therapists licensed under K.S.A. 2010 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials recognized by the board which such licensee has earned. Each licensee when using the letters or term "Dr." or "Doctor" in conjunction with such licensee's professional practice, whether in any written or oral communication, shall identify oneself as a "physical therapist" or "doctor of physical therapy."*

(b) Any person who, in any manner, represents oneself as a physical therapist assistant, or who uses in connection with such person's name the words or letters physical therapist assistant, certified physical therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters, words, abbreviations or insignia, indicating or implying that such person is a physical therapist assistant, without a valid existing certificate as a physical therapist assistant issued to such person pursuant to *article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto* ~~the provisions of this act~~, shall be guilty of a class B nonperson misdemeanor. *Nothing in this section shall be construed to prohibit physical therapist assistants certified under K.S.A. 2010 Supp. 65-2906 and 65-2909, and amendments thereto, from listing or using in conjunction with their name any letters, words, abbreviations or other insignia to designate any educational degrees, certifications or credentials which such physical therapist assistant has earned.*

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

- (1) Persons rendering assistance in the case of an emergency;
- (2) members of any church practicing their religious tenets;
- (3) persons whose services are performed pursuant to the delegation of and under the supervision of a physical therapist who is licensed under this act;
- (4) health care providers in the United States armed forces, public health services, federal facilities and coast guard or other military service when acting in the line of duty in this state;
- (5) licensees under the healing arts act, and practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensee under subsection (g) of K.S.A. 65-2872, and amendments thereto;
- (6) dentists practicing their professions, when licensed and practicing in accordance with the provisions of law;
- (7) nurses practicing their professions, when licensed and practicing in accordance with the provisions of law or persons performing services pursuant to the delegation of a licensed nurse under subsection (m) of K.S.A. 65-1124, and amendments thereto;
- (8) health care providers who have been formally trained and are practicing in accordance with their training or have received specific training in one or more functions included in this act pursuant to established educational protocols or both;
- (9) students while in actual attendance in an accredited health care educational program and under the supervision of a qualified instructor;
- (10) self-care by a patient or gratuitous care by a friend or family member;
- (11) optometrists practicing their profession when licensed and practicing in accordance with the provisions of article 15 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;
- (12) podiatrists practicing their profession when licensed and practicing

in accordance with the provisions of article 20 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

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

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

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

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

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

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

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

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

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

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

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

(e) Nothing in this act shall be construed to permit the practice of medicine and surgery. No statute granting authority to licensees of the state board of healing arts shall be construed to confer authority upon physical therapists to engage in any activity not conferred by *article 29 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto. this act.*

New Sec. 21. (a) Section 21 through 34, and amendments thereto, shall be known and may be cited as the Kansas health information technology and exchange act.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 22. As used in the Kansas health information technology and exchange act:

(a) “Act” means the Kansas health information technology and exchange act.

(b) “Approved HIO” means a health information organization operating in the state which has been approved by the corporation.

(c) “Corporation” means the Kansas health information exchange, inc., created by executive order 10-06.

(d) “Covered entity” means a health care provider, a health care component of a hybrid entity, a health plan or a health care clearinghouse.

(e) “Designated record set” means designated record set as that term is defined by the HIPAA privacy rule.

(f) “Disclosure” means disclosure as that term is defined by the HIPAA privacy rule.

(g) “DPOA-HC” means the person to whom a durable power of attorney for health care decisions has been granted by an individual in accordance with K.S.A. 58-625 et seq., and amendments thereto.

(h) “Electronic protected health information” means electronic health information as that term is defined by the HIPAA privacy rule.

(i) “Health care” means health care as that term is defined by the HIPAA privacy rule.

(j) “Health care clearinghouse” means a health care clearinghouse, as that term is defined by the HIPAA privacy rule, doing business within the state.

(k) “Health care provider” means a health care provider, as that term

is defined by the HIPAA privacy rule, that furnishes health care to individuals in the state.

(l) “Health information” means health information as that term is defined by the HIPAA privacy rule.

(m) “Health information organization” means any entity operating in the state which:

(1) Maintains technical infrastructure for the electronic movement of health information among covered entities; and

(2) promulgates and enforces policies governing participation in such health information exchange.

(n) “Health information technology” means an information processing application using computer hardware and software for the storage, retrieval, use and disclosure of health information for communication, decision-making, quality, safety and efficiency of health care. “Health information technology” includes, but is not limited to: (1) An electronic health record; (2) a personal health record; (3) health information exchange; (4) electronic order entry; and (5) electronic decision support.

(o) “Health plan” means a health plan, as that term is defined by the HIPAA privacy rule, doing business within the state.

(p) “HIPAA privacy rule” means the privacy rule of the administrative simplification subtitle of the health insurance portability and accountability act of 1996 (Pub. L. No. 104-191) contained in 45 C.F.R. part 160 and 45 C.F.R. part 164, subparts A and E.

(q) “Hybrid entity” means hybrid entity as that term is defined by the HIPAA privacy rule.

(r) “Individual” means individual as that term is defined by the HIPAA privacy rule.

(s) “Individually identifiable health information” means individually identifiable health information as that term is defined by the HIPAA privacy rule.

(t) “Interoperability” means the capacity of two or more information systems to exchange information or data in an accurate, effective, secure and consistent manner.

(u) “Participation agreement” means a written agreement between a covered entity and an approved HIO concerning the covered entity’s participation in the approved HIO on terms consistent with section 32, and amendments thereto.

(v) “Personal representative” means the person who has the legal authority to act on behalf of an individual.

(w) “Protected health information” means protected health information as that term is defined by the HIPAA privacy rule.

(x) “Public health authority” means public health authority as that term is defined by the HIPAA privacy rule.

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

(z) “Standard authorization form” means the standard authorization form developed and promulgated by the secretary pursuant to section 26, and amendments thereto.

(aa) “State” means the state of Kansas.

(bb) “Use” means, with respect to individually identifiable health information, use as the term is defined by the HIPAA privacy rule.

This section shall take effect on and after July 1, 2011.

New Sec. 23. (a) It is the purpose of this act to harmonize state law with the HIPAA privacy rule with respect to individual access to protected health information, proper safeguarding of protected health information, and the use and disclosure of protected health information for purposes of facilitating the development and use of health information technology and health information exchange.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 24. (a) A covered entity shall provide an individual or such individual’s personal representative with access to the individual’s protected health information maintained by the covered entity in a designated record set in compliance with 45 C.F.R. 164.524.

(b) A covered entity shall implement and maintain appropriate administrative, technical and physical safeguards to protect the privacy of protected health information in a manner consistent with 45 C.F.R. 164.530(c).

(c) This section shall take effect on and after July 1, 2011.

New Sec. 25. (a) No covered entity shall use or disclose protected health information except as follows:

(1) Use and disclosure of protected health information consistent with an authorization that satisfies the requirements of 45 C.F.R. 164.508;

(2) use and disclosure of protected health information without an authorization as permitted under 45 C.F.R. 164.502, 164.506, 164.508, 164.510 and 164.512; or

(3) use and disclosure of protected health information as required under 45 C.F.R. 164.502.

(b) Notwithstanding the provisions of subsection (a), no covered entity shall disclose an individual's protected health information to a health information organization for any purpose without an authorization that satisfies the requirements of 45 C.F.R. 164.508, unless such covered entity:

(1) Is a party to a current participation agreement with an approved HIO at the time the disclosure is made;

(2) discloses the individual's protected health information to that approved HIO in a manner consistent with the approved HIO's established procedures;

(3) prior to the disclosure, has furnished to the individual, or such individual's personal representative, whose information is to be disclosed to the approved HIO, the notice required under section 32 of this act; and

(4) restricts disclosure to the approved HIO of any protected health information concerning the individual that is the subject of a written request delivered to the covered entity by the individual, or such individual's personal representative, for reasonable restrictions on disclosure of all or any specified categories of the individual's protected health information, as defined pursuant to section 32 of this act, following the covered entity's receipt of such written request.

(c) Notwithstanding the provisions of subsections (a) and (b), a covered entity that uses or discloses protected health information in compliance with this section shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

(d) This section shall take effect on and after July 1, 2011.

New Sec. 26. (a) No later than six months following the effective date of this act, the secretary shall develop and adopt by rules and regulations a standard authorization form for the use and disclosure of protected health information consistent with the requirements of 45 C.F.R. 164.508.

(b) Any person or entity in possession, custody or control of any protected health information which is the subject of a properly completed standard authorization form shall accept such form as valid authorization for the disclosure of such protected health information to the person or entity identified in such standard authorization form. Notwithstanding any other provisions, a person or entity is not precluded from accepting or relying upon any document which satisfies the requirements of 45 C.F.R. 164.508, as valid authorization for the use or disclosure of protected health information.

(c) No later than six months after the effective date of this act the secretary shall develop educational materials intended to increase awareness and promote a greater understanding of the standard authorization form created under this section, including the importance of ensuring that an individual's health information is readily available to health care providers at the point of care, in order to enable the best possible provision of health care services.

(d) This section shall take effect on and after July 1, 2011.

New Sec. 27. Notwithstanding any other provision of this act, a covered entity may condition the furnishing of copies of an individual's protected health information in paper or electronic form to the individual, the individual's personal representative, or any other person or entity authorized by law to obtain or reproduce such information, upon the payment of charges to be established and updated by the secretary, except no provider shall condition the furnishing of copies to another provider needed for that provider's treatment of an individual on payment of such fee. This section shall not apply to disclosures by a covered entity to an approved HIO, or by an approved HIO to a covered entity.

New Sec. 28. To the extent any provision of state law regarding the confidentiality, privacy, security or privileged status of any protected health

information conflicts with the provisions of this act, the provisions of this act shall control, except that: (a) Nothing in this act shall limit or restrict the effect and application of the peer review statute, K.S.A. 65-4915, and amendments thereto; the risk management statute, K.S.A. 65-4921, and amendments thereto; or any statutory health care provider-patient privilege; and (b) nothing in this act shall limit or restrict the ability of any state agency to require the disclosure of protected health information by any person or entity pursuant to law.

This section shall take effect on and after July 1, 2011.

New Sec. 29. (a) A health care provider may disclose protected health information without authorization to any state agency for any public health purpose that is required by law. Nothing in this act shall be construed to limit the use, transfer or disclosure of protected health information as required or permitted by any other provision of law.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 30. The corporation shall establish and revise, as appropriate, standards for approval and operation of statewide and regional health information organizations operating in the state as approved HIOs including, but not limited to, the following:

(a) Satisfaction of certification standards for health information exchanges promulgated by the federal government;

(b) adherence to nationally recognized standards for interoperability;

(c) adoption and adherence to rules promulgated by the corporation regarding access to and use and disclosure of protected health information maintained by or on an approved HIO;

(d) demonstration of adequate financial resources to sustain continued operations in compliance with the standards;

(e) participation in outreach activities for individuals and covered entities;

(f) conduct of operations in a transparent manner to promote consumer confidence;

(g) implementation of security breach notification procedures; and

(h) development of procedures for entering into and enforcing the terms of participation agreements with covered entities which satisfy the requirements established by the corporation pursuant to section 32 of this act.

This section shall take effect on and after July 1, 2011.

New Sec. 31. (a) The corporation shall establish and implement:

(1) A process by which a health information exchange may apply for and receive approval by the corporation by demonstrating compliance with the standards promulgated by the corporation pursuant to section 30 of this act;

(2) a process by which an approved HIO shall be re-approved on appropriate intervals by demonstrating continued compliance with the standards promulgated by the corporation pursuant to section 30 of this act; and

(3) a process for the investigation of reported concerns and complaints regarding an approved HIO and imposition of appropriate remedial and proactive measures to address any identified deficiencies.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 32. (a) The corporation shall establish requirements for participation agreements to include the following:

(1) Specification of procedures for the covered entity to disclose an individual's protected health information to the approved HIO;

(2) specification of procedures for the covered entity to access an individual's protected health information from the approved HIO;

(3) specification of the written notice to be provided by the covered entity to any individual, or such individual's personal representative, prior to the covered entity's disclosure of the individual's protected health information to the approved HIO. Such written notice, which may be incorporated into the covered entity's notice of privacy practices required under the HIPAA privacy rule, shall include the following that:

(A) The individual's protected health information will be disclosed to the approved HIO to facilitate the provision of health care to the individual;

(B) the approved HIO maintains appropriate safeguards to protect the privacy and security of protected health information;

(C) only authorized individuals may access protected health information from the approved HIO;

(D) the individual, or such individual's personal representative, has the

right to request in writing that the covered entity: (i) Not disclose any of the individual's protected health information to the approved HIO; or (ii) not disclose specified categories of the individual's protected health information to the approved HIO;

(E) such restrictions may result in a health care provider not having access to information necessary to provide appropriate care for the individual;

(F) the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, not to disclose any of the individual's protected health information to an approved HIO; and

(G) the covered entity is required to honor a written request delivered to the covered entity by an individual, or such individual's representative, for reasonable restrictions on the disclosure of specified categories of the individual's protected health information to an approved HIO.

(4) specification of documentation requirements to demonstrate delivery of such notice to an individual, or such individual's personal representative, by or on behalf of the covered entity prior to the covered entity's disclosure of the individual's protected health information to the approved HIO;

(5) standards for determining the reasonableness of an individual's written request, or the written request of such individual's personal representative, not to disclose specified categories of the individual's protected health information to the approved HIO based on the covered entity's technological capabilities; and

(6) specification of the purposes for which a covered entity may access protected health information through the approved HIO.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 33. (a) Any health information organization which is not an approved HIO shall not be eligible for any financial support from the state, or assistance or support from the state in securing any other source of funding.

(b) This section shall take effect on and after July 1, 2011.

New Sec. 34. (a) Notwithstanding any other provision of this act, no use or disclosure of protected health information maintained by or on an approved HIO shall be made except pursuant to rules adopted by the corporation consistent with this act. An approved HIO that uses or discloses protected health information in compliance with such rules shall be immune from any civil or criminal liability or any adverse administrative action arising out of or relating to such use or disclosure.

(b) This section shall take effect on and after July 1, 2011.

Sec. 35. On July 1, 2011, K.S.A. 16-1602 is hereby amended to read as follows: 16-1602. In this act:

(a) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction.

(b) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts or records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract or fulfilling an obligation required by the transaction.

(c) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result.

(d) "Contract" means the total legal obligation resulting from the parties' agreement as affected by this act and other applicable law.

(e) "Digital signature" means a type of electronic signature consisting of a transformation of an electronic message using an asymmetric crypto system such that a person having the initial message and the signer's public key can accurately determine whether:

(1) The transformation was created using the private key that corresponds to the signer's public key; and

(2) the initial message has not been altered since the transformation was made.

(f) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic or similar capabilities.

(g) “Electronic agent” means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual.

(h) “Electronic record” means a record created, generated, sent, communicated, received or stored by electronic means.

(i) “Electronic signature” means an electronic sound, symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.

(j) “Governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, institution or instrumentality of the federal government or of a state or of a county, municipality or other political subdivision of a state.

(k) “Information” means data, text, images, sounds, codes, computer programs, software, databases or the like.

(l) “Information processing system” means an electronic system for creating, generating, sending, receiving, storing, displaying or processing information.

(m) “Message” means a digital representation of information.

(n) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation or any other legal or commercial entity.

(o) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(p) “Registered certification authority” means a person providing certification of a digital signature who is, or is certified by, a member of the group of certification authorities approved by and registered with the secretary.

(q) “Secretary” means the Kansas secretary of state.

(r) “Security procedure” means a procedure employed for the purpose of verifying that an electronic signature, record or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, call-back or other acknowledgment procedures.

(s) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the United States.

~~(t) “Transaction” means an action or set of actions occurring between two or more persons relating to the conduct of business, insurance, health care, commercial or governmental affairs.~~

New Sec. 36. If any provision or clause of this act or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared to be severable.

Sec. 37. On July 1, 2011, K.S.A. 2010 Supp. 75-5664 is hereby amended to read as follows: 75-5664. (a) There is hereby established an advisory committee on trauma. The advisory committee on trauma shall be advisory to the secretary of health and environment and shall be within the division of health of the department of health and environment as a part thereof.

(b) On July 1, 2001, the advisory committee on trauma in existence immediately prior to July 1, 2001, is hereby abolished and a new advisory committee on trauma is created in accordance with this section. The terms of all members of the advisory committee on trauma in existence prior to July 1, 2001, are hereby terminated. On and after July 1, 2001, the advisory committee on trauma shall be composed of 24 members representing both rural and urban areas of the state appointed as follows:

(1) Two members shall be persons licensed to practice medicine and surgery appointed by the governor. At least 30 days prior to the expiration of terms described in this section, for each member to be appointed under this section, the Kansas medical society shall submit to the governor a list of three names of persons of recognized ability and qualification. The gov-

ernor shall consider such ~~lists~~ *list* of persons in making appointments to the board under this paragraph.

(2) One member shall be licensed to practice osteopathic medicine appointed by the governor. At least 30 days prior to the expiration of the term of the member appointed under this section, the Kansas association of osteopathic medicine shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(3) Three members shall be representatives of hospitals appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas hospital association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such ~~lists~~ *list* of persons in making appointments to the board under this paragraph.

(4) Two members shall be licensed professional nurses specializing in trauma care or emergency nursing appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas state nurses association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such ~~lists~~ *list* of persons in making appointments to the board under this paragraph.

(5) Two members shall be attendants as defined in K.S.A. 65-6112, and amendments thereto who are on the roster of an ambulance service permitted by the board of emergency medical services. At least 30 days prior to the expiration of one of these positions, the Kansas emergency medical services association shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board. For the other member appointed under this section, at least 30 days prior to the expiration of the term of such member, the Kansas emergency medical technician association shall submit a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(6) Two members shall be administrators of ambulance services, one rural and one urban, appointed by the governor. At least 30 days prior to the expiration of the terms of such members, the Kansas emergency medical services association and Kansas emergency medical technician association in consultation shall submit to the governor a list of four persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board under this paragraph.

(7) Six members shall be representatives of regional trauma councils, one per council, appointed by the governor. At least 30 days prior to the expiration of one of these positions, the relevant regional trauma council shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such ~~lists~~ *list* of persons in making these appointments to the board.

(8) The secretary of health and environment or the secretary's designee of an appropriately qualified person shall be an ex officio representative of the department of health and environment.

(9) The chairperson of the board of emergency medical services or the chairperson's designee shall be an ex officio member.

(10) Four legislators selected as follows shall be members: The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representatives, and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate shall be members.

(c) All members shall be residents of the state of Kansas. Particular attention shall be given so that rural and urban interests and geography are balanced in representation. Organizations that submit lists of names to be considered for appointment by the governor under this section shall insure that names of people who reside in both rural and urban areas of the state are among those submitted. At least one person from each congressional district shall be among the members. Of the members appointed under paragraphs (1) through (7) of subsection (b), six shall be appointed to initial terms of two years; six shall be appointed to initial terms of three years; and six shall be appointed to initial terms of four years. Thereafter members shall serve terms of four years and until a successor is appointed and qual-

ified. In the case of a vacancy in the membership of the advisory committee, the vacancy shall be filled for the unexpired term in like manner as that provided in subsection (b).

(d) The advisory committee shall meet quarterly and at the call of the chairperson or at the request of a majority of the members. At the first meeting of the advisory committee after July 1 each year, the members shall elect a chairperson and vice-chairperson who shall serve for terms of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. The chairperson and vice-chairperson serving on the effective date of this act shall be among the members appointed to the advisory committee under subsection (b) and shall continue to serve as chairperson and vice-chairperson of the advisory committee until the first meeting of the advisory committee after July 1, 2002.

(e) The advisory committee shall be advisory to the secretary of health and environment on all matters relating to the implementation and administration of this act.

(f) (1) *Any meeting of the advisory committee or any part of a meeting of the advisory committee during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. The advisory committee and officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.*

(2) *The advisory committee or an officer thereof may advise, report to and discuss activities, information and findings of the committee which relate to incidents of trauma injury or trauma care with the secretary of health and environment as provided in subsections (a) and (e) without waiver of the privilege provided by this subsection (f) and K.S.A. 65-4915, and amendments thereto, and the records and findings of such committee or officer which are privileged under this subsection (f) and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection (f) and K.S.A. 65-4915, and amendments thereto, prior to July 1, 2016.*

(3) *The provisions of this subsection (f) shall expire on July 1, 2016, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto.*

(g) Members of the advisory committee attending meetings of the advisory committee or attending a subcommittee of the advisory committee or other authorized meeting of the advisory committee shall not be paid compensation but shall be paid amounts provided in subsection (e) of K.S.A. 75-3223, and amendments thereto.

Sec. 38. On July 1, 2011, K.S.A. 2010 Supp. 75-5665 is hereby amended to read as follows: 75-5665. (a) The secretary of health and environment, after consultation with and consideration of recommendations from the advisory committee, shall:

(1) Develop rules and regulations necessary to carry out the provisions of this act, including fixing, charging and collecting fees from trauma facilities to recover all or part of the expenses incurred in the designation of trauma facilities pursuant to subsection (f) of this section;

(2) develop a statewide trauma system plan including the establishment of regional trauma councils, using the ~~1998~~ 2001 Kansas EMS-Trauma Systems Plan study as a guide and not more restrictive than state law. The secretary shall ensure that each council consist of at least six members. Members of the councils shall consist of persons chosen for their expertise in and commitment to emergency medical and trauma services. Such members shall be chosen from the region and include prehospital personnel, physicians, nurses and hospital personnel involved with the emergency medical and trauma services and a representative of a county health department. The plan should:

(A) Maximize local and regional control over decisions relating to trauma care;

(B) minimize bureaucracy;

(C) adequately protect the confidentiality of proprietary and personal health information;

(D) promote cost effectiveness;

(E) encourage participation by groups affected by the system;

~~(6)~~ (F) emphasize medical direction and involvement at all levels of the system;

~~(7)~~ (G) rely on accurate data as the basis for system planning and development; and

~~(8)~~ (H) facilitate education of health care providers in trauma care;

~~(e)~~ (3) plan, develop and administer a trauma registry to collect and analyze data on incidence, severity and causes of trauma and other pertinent information which may be used to support the secretary's decision-making and identify needs for improved trauma care;

~~(d)~~ (4) provide all technical assistance to the regional councils as necessary to implement the provisions of this act;

~~(e)~~ (5) collect data elements for the trauma registry that are consistent with the recommendations of the American college of surgeons committee on trauma and centers for disease control;

~~(f)~~ (6) designate trauma facilities by level of trauma care capabilities after considering the American college of surgeons committee on trauma standards and other states' standards except that trauma level designations shall not be based on criteria that place practice limitations on registered nurse anesthetists which are not required by state law;

~~(g)~~ (7) develop a phased-in implementation schedule for each component of the trauma system, including the trauma registry, which considers the additional burden placed on the emergency medical and trauma providers;

~~(h)~~ (8) develop standard reports to be utilized by the regional trauma councils and those who report data to the registry in performing their functions;

~~(i)~~ (9) assess the fiscal impact on all components of the trauma system, and thereafter recommend other funding sources for the trauma system and trauma registry;

~~(j)~~ (10) prepare and submit an annual budget in accordance with the provisions of this act. Such budget shall include costs for the provision of technical assistance to the regional trauma councils and the cost of developing and maintaining the trauma registry and analyzing and reporting on the data collected; and

~~(k)~~ (11) enter into contracts as deemed necessary to carry out the duties and functions of the secretary under this act.

(b) (1) Any meeting of a regional trauma council or any part of a meeting of such a council during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. A regional trauma council and the officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) A regional trauma council or an officer thereof may advise, report to and discuss activities, information and findings of the council which relate to incidents of trauma injury or trauma care with the secretary of health and environment and make reports as provided in this section without waiver of the privilege provided by this subsection (b) and K.S.A. 65-4915, and amendments thereto, and the records and findings of such council or officer which are privileged under this subsection (b) and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection (b) and K.S.A. 65-4915, and amendments thereto.

(3) The provisions of this subsection (b) shall expire on July 1, 2016, unless the legislature reviews and reenacts this provision pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2016.

Sec. 39. On January 1, 2012, K.S.A. 65-1113 is hereby amended to read as follows: 65-1113. When used in this act and the act of which this section is amendatory:

(a) "Board" means the board of nursing.

(b) "Diagnosis" in the context of nursing practice means that identification of and discrimination between physical and psychosocial signs and symptoms essential to effective execution and management of the nursing regimen and shall be construed as distinct from a medical diagnosis.

(c) "Treatment" means the selection and performance of those therapeutic measures essential to effective execution and management of the nursing regimen, and any prescribed medical regimen.

(d) *Practice of nursing.* (1) The practice of professional nursing as per-

formed by a registered professional nurse for compensation or gratuitously, except as permitted by K.S.A. 65-1124, and amendments thereto, means the process in which substantial specialized knowledge derived from the biological, physical, and behavioral sciences is applied to: the care, diagnosis, treatment, counsel and health teaching of persons who are experiencing changes in the normal health processes or who require assistance in the maintenance of health or the prevention or management of illness, injury or infirmity; administration, supervision or teaching of the process as defined in this section; and the execution of the medical regimen as prescribed by a person licensed to practice medicine and surgery or a person licensed to practice dentistry. (2) The practice of nursing as a licensed practical nurse means the performance for compensation or gratuitously, except as permitted by K.S.A. 65-1124, and any amendments thereto, of tasks and responsibilities defined in part (1) of this subsection (d) which tasks and responsibilities are based on acceptable educational preparation within the framework of supportive and restorative care under the direction of a registered professional nurse, a person licensed to practice medicine and surgery or a person licensed to practice dentistry.

(e) A “professional nurse” means a person who is licensed to practice professional nursing as defined in part (1) of subsection (d) of this section.

(f) A “practical nurse” means a person who is licensed to practice practical nursing as defined in part (2) of subsection (d) of this section.

(g) “Advanced *practice* registered nurse ~~practitioner~~” or “~~ARNP~~” “APRN” means a professional nurse who holds a ~~certificate of qualification~~ *license* from the board to function as a professional nurse in an ~~expanded~~ *advanced* role, and this ~~expanded~~ *advanced* role shall be defined by rules and regulations adopted by the board in accordance with K.S.A. 65-1130, *and amendments thereto*.

Sec. 40. On January 1, 2012, K.S.A. 65-1114 is hereby amended to read as follows: 65-1114. (a) It shall be unlawful for any person:

- (1) To practice or to offer to practice professional nursing in this state; ~~or~~
- (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a registered professional nurse; ~~or~~
- (3) to practice or offer to practice practical nursing in this state; or
- (4) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a licensed practical nurse, unless such person has been duly licensed under the provisions of this act.

(b) It shall be unlawful for any person:

- (1) To practice or offer to practice as an advanced *practice* registered nurse ~~practitioner~~ in this state; or
- (2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is an advanced *practice* registered nurse ~~practitioner~~, unless such person has been duly issued a ~~certificate of qualification~~ *license* as an advanced *practice* registered nurse ~~practitioner~~ under the Kansas nurse practice act.

Sec. 41. On January 1, 2012, K.S.A. 65-1118 is hereby amended to read as follows: 65-1118. (a) The board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:

Application for license—professional nurse	\$75
Application for license—practical nurse	50
Application for biennial renewal of license—professional nurse and practical nurse	60
Application for reinstatement of license	70
Application for reinstatement of licenses with temporary permit	100
Certified copy of license	25
Duplicate of license	25
Inactive license	20
Application for license certificate of qualification —advanced <i>practice</i> registered nurse practitioner	50
Application for license certificate of qualification with temporary permit—advanced <i>practice</i> registered nurse practitioner	100
Application for renewal of license certificate of qualification —advanced <i>practice</i> registered nurse practitioner	60

Application for reinstatement of license certificate of qualification —advanced <i>practice</i> registered nurse practitioner	75
Application for authorization—registered nurse anesthetist...	75
Application for authorization with temporary authorization—registered nurse anesthetist	110
Application for biennial renewal of authorization—registered nurse anesthetist	60
Application for reinstatement of authorization—registered nurse anesthetist	75
Application for reinstatement of authorization with temporary authorization—registered nurse anesthetist	100
Verification of license to another state	30
Application for exempt license—professional and practical nurse	50
Application for biennial renewal of exempt license—professional and practical nurse	50
Application for exempt license certificate —advanced <i>practice</i> registered nurse practitioner	50
Application for biennial renewal of exempt license certificate —advanced <i>practice</i> registered nurse practitioner	50

(b) The board may require that fees paid for any examination under the Kansas nurse practice act be paid directly to the examination service by the person taking the examination.

(c) The board shall accept for payment of fees under this section personal checks, certified checks, cashier’s checks, money orders or credit cards. The board may designate other methods of payment, but shall not refuse payment in the form of a personal check. The board may impose additional fees and recover any costs incurred by reason of payments made by personal checks with insufficient funds and payments made by credit cards.

Sec. 42. On January 1, 2012, K.S.A. 65-1120, as amended by section 236 of 2011 House Bill No. 2339, is hereby amended to read as follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke, limit or suspend any license; ~~certificate of qualification~~ or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced *practice* registered nurse practitioner or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a ~~certificate of qualification~~ *temporary permit* or authorization, if the applicant, licensee or holder of a ~~certificate of qualification~~ *temporary permit* or authorization is found after hearing:

- (1) To be guilty of fraud or deceit in practicing nursing or in procuring or attempting to procure a license to practice nursing;
- (2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120, and amendments thereto, no license; ~~certificate of qualification~~ or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced *practice* registered nurse practitioner or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or sections 36 through 64, 174, 210 or 211 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto;
- (3) to have committed an act of professional incompetency as defined in subsection (e);
- (4) to be unable to practice with skill and safety due to current abuse of drugs or alcohol;
- (5) to be a person who has been adjudged in need of a guardian or conservator, or both, under the act for obtaining a guardian or conservator, or both, and who has not been restored to capacity under that act;
- (6) to be guilty of unprofessional conduct as defined by rules and regulations of the board;
- (7) to have willfully or repeatedly violated the provisions of the Kansas nurse practice act or any rules and regulations adopted pursuant to that act, including K.S.A. 65-1114 and 65-1122, and amendments thereto;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8); or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406, prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

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

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

(b) *Proceedings.* Upon filing of a sworn complaint with the board charging a person with having been guilty of any of the unlawful practices specified in subsection (a), two or more members of the board shall investigate the charges, or the board may designate and authorize an employee or employees of the board to conduct an investigation. After investigation, the board may institute charges. If an investigation, in the opinion of the board, reveals reasonable grounds for believing the applicant or licensee is guilty of the charges, the board shall fix a time and place for proceedings, which shall be conducted in accordance with the provisions of the Kansas administrative procedure act.

(c) *Witnesses.* No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in section 128 of chapter 136 of the 2010 Session Laws of Kansas, and amendments thereto.

(d) *Costs.* If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

(e) *Professional incompetency defined.* As used in this section, "professional incompetency" means:

(1) One or more instances involving failure to adhere to the applicable standard of care to a degree which constitutes gross negligence, as determined by the board;

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

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

(f) *Criminal justice information.* The board upon request shall receive from the Kansas bureau of investigation such criminal history record information relating to arrests and criminal convictions as necessary for the purpose of determining initial and continuing qualifications of licensees of and applicants for licensure by the board.

Sec. 43. On January 1, 2012, K.S.A. 65-1122 is hereby amended to

read as follows: 65-1122. It is a violation of law for any person, firm, corporation or association to:

(a) Sell or fraudulently obtain or furnish any nursing diploma, license, or record ~~or certificate of qualification~~ or aid or abet therein;

(b) practice professional nursing, practical nursing or practice as an advanced *practice* registered nurse ~~practitioner~~, unless duly licensed ~~or certified~~ to do so;

(c) use in connection with such person's name any designation implying that such person is a licensed professional nurse, a licensed practical nurse or an advanced *practice* registered nurse ~~practitioner~~ unless duly licensed ~~or certified~~ so to practice under the provisions of the Kansas nurse practice act, and such license ~~or certificate~~ is then in full force;

(d) practice professional nursing, practical nursing or as an advanced *practice* registered nurse ~~practitioner~~ during the time a license ~~or certificate~~ issued under the provisions of the Kansas nurse practice act shall have expired or shall have been suspended or revoked;

(e) represent that a school for nursing is approved for educating either professional nurses or practical nurses, unless such school has been duly approved by the board and such approval is then in full force;

(f) violate any provisions of the Kansas nurse practice act or rules and regulations adopted pursuant to that act; or

(g) represent that a provider of continuing nursing education is approved by the board for educating either professional nurses or practical nurses, unless the provider of continuing nursing education has been approved by the board and the approval is in full force.

Any person who violates this section is guilty of a class B misdemeanor, except that, upon conviction of a second or subsequent violation of this section, such person is guilty of a class A misdemeanor.

Sec. 44. On January 1, 2012, K.S.A. 65-1130 is hereby amended to read as follows: 65-1130. (a) No professional nurse shall announce or represent to the public that such person is an advanced *practice* registered nurse ~~practitioner~~ unless such professional nurse has complied with requirements established by the board and holds a valid ~~certificate of qualification~~ *license* as an advanced *practice* registered nurse ~~practitioner~~ in accordance with the provisions of this section.

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

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

(1) Establish ~~categories~~ *roles and identify titles and abbreviations of* advanced *practice* registered ~~nurse practitioners~~ *nurses* which are consistent with nursing practice specialties recognized by the nursing profession.

(2) Establish education and qualifications necessary for ~~certification~~ *licensure* for each ~~category~~ *role* of advanced *practice* registered nurse ~~practitioner~~ established by the board at a level adequate to assure the competent performance by advanced *practice* registered ~~nurse practitioners~~ *nurses* of functions and procedures which advanced *practice* registered ~~nurse practitioners~~ *nurses* are authorized to perform. *Advanced practice registered nursing is based on knowledge and skills acquired in basic nursing education, licensure as a registered nurse and graduation from or completion of a master's or higher degree in one of the advanced practice registered nurse roles approved by the board of nursing.*

(3) Define the role of advanced *practice* registered ~~nurse practitioners~~ *nurses* and establish limitations and restrictions on such role. The board shall adopt a definition of the role under this subsection (c)(3) which is consistent with the education and qualifications required to obtain a ~~certificate of qualification~~ *license* as an advanced *practice* registered nurse ~~practitioner~~, which protects the public from persons performing functions and procedures as advanced *practice* registered ~~nurse practitioners~~ *nurses* for

which they lack adequate education and qualifications and which authorizes advanced *practice* registered nurse practitioners ~~nurses~~ to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such role the board shall consider: (A) The education required for a ~~certificate of qualification licensure~~ as an advanced *practice* registered nurse practitioner; (B) the type of nursing practice and preparation in specialized ~~practitioner~~ advanced *practice* skills involved in each ~~category~~ role of advanced *practice* registered nurse practitioner established by the board; (C) the scope and limitations of advanced practice of nursing specialties and limitations thereon prescribed by national advanced *practice* organizations which certify nursing specialties; and (D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education in nursing.

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

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

(f) A person registered to practice as an advanced registered nurse practitioner in the state of Kansas immediately prior to the effective date of this act shall be deemed to be licensed to practice as an advanced *practice* registered nurse 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 the effective date of this act shall be processed as an application for licensure under this act.

Sec. 45. On January 1, 2012, K.S.A. 65-1131 is hereby amended to read as follows: 65-1131. (a) (1) ~~Certification. Licensure.~~ Upon application to the board by any professional nurse in this state and upon satisfaction of the standards and requirements established by the board under K.S.A. 65-1130, and amendments thereto, the board may issue a ~~certificate of qualification~~ license to such applicant authorizing the applicant to perform the duties of an advanced *practice* registered nurse practitioner as defined by the board under K.S.A. 65-1130, and amendments thereto.

(2) The board may issue a ~~certificate~~ license to practice nursing as an advanced *practice* registered nurse practitioner to an applicant who has been duly licensed or certified as an advanced *practice* registered nurse practitioner under the laws of another state or territory if, in the opinion of the board, the applicant meets the *licensure* qualifications required of an advanced *practice* registered nurse practitioner in this state. Verification of the applicant’s licensure or certification status shall be required from the original state of licensure or certification.

(3) An application to the board for a ~~certificate of qualification, for a~~

~~certificate of qualification license, a license with temporary permit, for renewal of a certificate of qualification license and for reinstatement of a certificate of qualification license shall be upon such form and contain such information as the board may require and shall be accompanied by a fee, to be established by rules and regulations adopted by the board, to assist in defraying the expenses in connection with the issuance of certificates of qualification licenses as advanced practice registered nurses nurse practitioners, in an amount fixed by the board under K.S.A. 65-1118, and amendments thereto.~~

(4) An application for initial ~~certification licensure~~ or endorsement will be held awaiting completion of meeting qualifications for a time period specified in rules and regulations.

(5) The executive administrator of the board shall remit all moneys received pursuant to this section to the state treasurer as provided by K.S.A. 74-1108, and amendments thereto.

(b) The board may grant a one-time temporary permit to practice as an advanced *practice* registered nurse practitioner for a period of not more than 180 days pending completion of the application for a ~~certificate of qualification license.~~

(c) *Exempt certificate license.* The board may issue an exempt ~~certificate license~~ to any advanced *practice* registered nurse practitioner as defined in rules and regulations who makes written application for such ~~certificate license~~ on a form provided by the board, who remits a fee as established pursuant to K.S.A. 65-1118, and amendments thereto, and who is not regularly engaged in advanced *practice* registered nursing nurse practice in Kansas but volunteers advanced *practice* registered nursing services or is a charitable health care provider as defined by K.S.A. 75-6102, and amendments thereto. Each exempt advanced *practice* registered nurse practitioner shall be subject to all provisions of the nurse practice act. Each exempt license may be renewed biennially subject to the provisions of this section. To convert an exempt *license certificate* to an active *license certificate*, the exempt advanced *practice* registered nurse practitioner shall meet all the requirements of subsection (a) or K.S.A. 65-1132, and amendments thereto. The board shall have authority to write rules and regulations to carry out the provisions of this section.

Sec. 46. On January 1, 2012, K.S.A. 2010 Supp. 65-1132 is hereby amended to read as follows: 65-1132. (a) ~~(1) All certificates of qualification~~ *All licenses* issued under the provisions of this act, whether initial or renewal, shall expire every two years. The expiration date shall be established by rules and regulations of the board. The board shall send a notice for renewal of a ~~certificate of qualification license~~ to every advanced *practice* registered nurse practitioner at least 60 days prior to the expiration date of such person's license. Every person who desires to renew such ~~certificate of qualification license~~ shall file with the board, on or before the date of expiration of such ~~certificate of qualification license:~~

(1) A renewal application together with the prescribed biennial renewal fee;

(2) *evidence of completion of continuing education in the advanced practice registered nurse role, which has met the continuing education requirement for an advanced practice registered nurse as developed by the board or by a national organization whose certifying standards are approved by the board as equal to or greater than the corresponding standards established by the board. These continuing education credits approved by the board may be applied to satisfy the continuing education requirements established by the board for licensed professional nurses under K.S.A. 65-1117, and amendments thereto, if the board finds such continuing education credits are equivalent to those required by the board under K.S.A. 65-1117, and amendments thereto; and*

(3) *proof of evidence of current licensure as a professional nurse.*

Upon receipt of such application and payment of any applicable fee, and upon being satisfied that the applicant for renewal of a ~~certificate of qualification license~~ meets the requirements established by the board under K.S.A. 65-1130, and amendments thereto, in effect at the time of initial qualification of the applicant, the board shall verify the accuracy of the application and grant a renewal ~~certificate of qualification license.~~

(b) Any person who fails to secure a renewal ~~certificate of qualification license~~ prior to the expiration of the ~~certificate of qualification license~~ may

secure a reinstatement of such lapsed ~~certificate of qualification~~ *license* by making application therefor on a form provided by the board, upon furnishing proof that the applicant is competent and qualified to act as an advanced *practice* registered nurse ~~practitioner~~ and upon satisfying all of the requirements for reinstatement including payment to the board of a reinstatement fee as established by the board.

Sec. 47. On January 1, 2012, K.S.A. 65-1133 is hereby amended to read as follows: 65-1133. (a) An approved educational and training program for advanced *practice* registered ~~nurses~~ ~~nurse practitioners~~ is a program conducted in Kansas which has been approved by the board as meeting the standards and the rules and regulations of the board. An institution desiring to conduct an educational and training program for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ shall apply to the board for approval and submit satisfactory proof that it is prepared to and will maintain the standards and the required curriculum for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ as prescribed by this act and by the rules and regulations of the board. Applications shall be made in writing on forms supplied by the board and shall be submitted to the board together with the application fee fixed by the board. The approval of an educational program for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ shall not exceed 10 years after the granting of such approval by the board. An institution desiring to continue to conduct an approved educational program for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ shall apply to the board for the renewal of approval and submit satisfactory proof that it will maintain the standards and the required curriculum for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ as prescribed by this act and by the rules and regulations of the board. Applications for renewal of approval shall be made in writing on forms supplied by the board. Each program shall submit annually to the board an annual fee fixed by the board's rules and regulations to maintain the approved status.

(b) A program to qualify as an approved educational program for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ must be conducted in the state of Kansas, and the school conducting the program must apply to the board and submit evidence that: (1) It is prepared to carry out the curriculum prescribed by rules and regulations of the board; and (2) it is prepared to meet such other standards as shall be established by law and the rules and regulations of the board.

(c) The board shall prepare and maintain a list of programs which qualify as approved educational programs for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ whose graduates, if they have the other necessary qualifications provided in this act, shall be eligible to apply for ~~certificates of qualification~~ *licensure* as advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~. A survey of the institution or school applying for approval of an educational program for advanced *practice* registered ~~nurse practitioners~~ ~~nurses~~ shall be made by an authorized employee of the board or members of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements as prescribed by the board in its rules and regulations for approval are met, it shall so approve the program. The board shall resurvey approved programs on a periodic basis as determined by rules and regulations. If the board determines that any approved program is not maintaining the standards required by this act and by rules and regulations prescribed by the board, notice thereof in writing, specifying the failures of such program, shall be given. A program which fails to correct such conditions to the satisfaction of the board within a reasonable time shall be removed from the list of approved programs until such time as the program shall comply with such standards. All approved programs shall maintain accurate and current records showing in full the theoretical and practical courses given to each student.

(d) The board may accept nationally accredited ~~advance~~ *advanced practice* registered nurse ~~practitioner~~ programs as defined ~~in rule and regulation~~ *by rules regulations adopted by the board in accordance with K.S.A. 65-1130, and amendments thereto:*

(1) Advanced *practice* registered nurse ~~practitioner~~ programs which have received accreditation from a board recognized national nursing accreditation agency shall file evidence of initial accreditation with the board, and thereafter shall file all reports from the accreditation agency and any notice of any change in school accreditation status.

(2) Advanced *practice* registered nurse ~~practitioner~~ programs holding approval based upon national accreditation are also responsible for complying with all other requirements as determined by rules and regulations of the board.

(3) The board may grant approval to an advanced *practice* registered nurse ~~practitioner~~ program with national accreditation for a continuing period not to exceed 10 years.

Sec. 48. On January 1, 2012, K.S.A. 65-1154 is hereby amended to read as follows: 65-1154. Upon application to the board by any licensed professional nurse in this state and upon satisfaction of the standards and requirements established under this act and K.S.A. 65-1130, and amendments thereto, the board shall grant an authorization to the applicant to perform the duties of a registered nurse anesthetist and be ~~certified~~ *licensed* as an advanced *practice* registered nurse ~~practitioner~~. An application to the board for an authorization, for an authorization with temporary authorization, for biennial renewal of authorization, for reinstatement of authorization and for reinstatement of authorization with temporary authorization shall be upon such form and contain such information as the board may require and shall be accompanied by a fee to assist in defraying the expenses in connection with the administration of the provisions of this act. The fee shall be fixed by rules and regulations adopted by the board in an amount fixed by the board under K.S.A. 65-1118, and amendments thereto. There shall be no fee assessed for the initial, renewal or reinstatement of the advanced *practice* registered nurse ~~practitioner~~ ~~certificate~~ *license* as long as the registered nurse anesthetist maintains authorization. The executive administrator of the board shall remit all moneys received to the state treasurer as provided by K.S.A. 74-1108, and amendments thereto.

Sec. 49. On January 1, 2012, K.S.A. 65-1163 is hereby amended to read as follows: 65-1163. Nothing in this act shall:

(a) Prohibit administration of a drug by a duly licensed professional nurse, licensed practical nurse or other duly authorized person for the alleviation of pain, including administration of local anesthetics;

(b) apply to the practice of anesthesia by a person licensed to practice medicine and surgery, a licensed dentist or a licensed podiatrist;

(c) prohibit the practice of nurse anesthesia by students enrolled in approved courses of study in the administration of anesthesia or analgesic as a part of such course of study;

(d) apply to the administration of a pudendal block by a person who holds a valid ~~certificate of qualification~~ *license* as an advanced *practice* registered nurse ~~practitioner~~ in the ~~category~~ *role* of nurse-midwife;

(e) apply to the administration by a licensed professional nurse of an anesthetic, other than general anesthesia, for a dental operation under the direct supervision of a licensed dentist or for a dental operation under the direct supervision of a person licensed to practice medicine and surgery;

(f) prohibit the practice by any registered nurse anesthetist who is employed by the United States government or in any bureau, division or agency thereof, while in the discharge of official duties; or

(g) prohibit a registered professional nurse from administering general anesthetic agents to a patient on ventilator maintenance in critical care units when under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry.

Sec. 50. On January 1, 2012, K.S.A. 2010 Supp. 8-1,125 is hereby amended to read as follows: 8-1,125. (a) Any Kansas resident who submits satisfactory proof to the director of vehicles, on a form provided by the director, that such person is a person with a disability or is responsible for the transportation of a person with a disability shall be issued a special license plate or a permanent placard for any motor vehicle owned by such person or shall be issued a temporary placard. Satisfactory proof of disability, condition or impairment shall include a statement from a person licensed to practice the healing arts in any state, a licensed optometrist, an advanced *practice* registered nurse ~~practitioner~~ ~~registered~~ *licensed* under K.S.A. 65-1131, and amendments thereto, a licensed physician assistant or a Christian Science practitioner listed in The Christian Science Journal certifying that such person is a person with a disability. The placard shall be suspended immediately below the rear view mirror of any motor vehicle used for the transportation of a person with a disability so as to be maximally visible from outside the vehicle. In addition to the special license

plate or permanent placard, the director of vehicles shall issue to the person with a disability an individual identification card which must be carried by the person with a disability when the motor vehicle being operated by or used for the transportation of such person is parked in accordance with the provisions of K.S.A. 8-1,126, and amendments thereto. In addition to the temporary placard, a person issued such temporary placard shall carry the state or county receipt showing the name of the person who is issued such temporary placard. A person submitting satisfactory proof that such person's disability, condition or impairment is permanent in nature, and upon such person's request and payment of the fees prescribed in subsection (b), shall be issued a permanent placard or a permanent placard and a special license plate and an individual identification card. Upon proper request, one additional permanent placard shall be issued to the applicant who has not requested and received a special license plate. Upon proper request, one additional temporary placard shall be issued to the applicant certified as temporarily disabled. Temporary placards shall have an expiration date of not longer than six months from the date of issuance. The special license plates and placards shall display the international symbol of access to the physically disabled.

(b) Special license plates issued pursuant to this section shall be issued for the same period of time as other license plates are issued or for the remainder of such period if an existing license plate is to be exchanged for the special license plate. There shall be no fee for such special license plates in addition to the regular registration fee. No person shall be issued more than one special license plate, except that agencies or businesses which provide transportation for persons with a disability as a service, may obtain additional special license plates for vehicles which are utilized in the provision of that service. Special license plates may be personalized license plates subject to the provisions of K.S.A. 8-132, and amendments thereto, including the payment of the additional fee.

(c) Except as otherwise provided in this section, placards and individual identification cards issued pursuant to this section shall be issued for such period of time as the person to whom issued continues to be a person with a disability or a person responsible for the transportation of a person with a disability, except that the secretary of revenue shall make a determination of continued eligibility for a special license plate or placard at least every three years from the original date of issuance of such license plate and placard.

(d) ~~On and after July 1, 1992,~~ The color of the permanent placard shall be white on a blue background and the temporary placard shall be white on a red background.

(e) In addition to such other information contained on *individual* identification cards, cards ~~issued or reissued on and after July 1, 2000,~~ shall have the date of birth and the sex of the person to whom the card is issued.

(f) Permanent placards and individual identification cards shall be returned to the department of revenue upon the death of the person with a disability. Temporary placards shall be returned to the department of revenue upon the expiration of the placard or upon the death of the person with a disability. Special license plates shall be returned to the county treasurer to be exchanged for another license plate upon the death of the person with a disability. The individual identification cards issued with the special license plates shall be returned to the department of revenue upon the death of the person with a disability.

(g) Violation of subsection (f) is an unclassified misdemeanor punishable by a fine of not more than \$50.

Sec. 51. On January 1, 2012, K.S.A. 2010 Supp. 39-7,119 is hereby amended to read as follows: 39-7,119. (a) There is hereby created the medicaid drug utilization review board which shall be responsible for the implementation of retrospective and prospective drug utilization programs under the Kansas medicaid program.

(b) Except as provided in subsection (i), the board shall consist of at least seven members appointed as follows:

(1) Two licensed physicians actively engaged in the practice of medicine, nominated by the Kansas medical society and appointed by the Kansas health policy authority from a list of four nominees;

(2) one licensed physician actively engaged in the practice of osteopathic medicine, nominated by the Kansas association of osteopathic med-

icine and appointed by the Kansas health policy authority from a list of four nominees;

(3) two licensed pharmacists actively engaged in the practice of pharmacy, nominated by the Kansas pharmacy association and appointed by the Kansas health policy authority from a list of four nominees;

(4) one person licensed as a pharmacist and actively engaged in academic pharmacy, appointed by the Kansas health policy authority from a list of four nominees provided by the university of Kansas;

(5) one licensed professional nurse actively engaged in long-term care nursing, nominated by the Kansas state nurses association and appointed by the Kansas health policy authority from a list of four nominees.

(c) The Kansas health policy authority may add two additional members so long as no class of professional representatives exceeds 51% of the membership.

(d) The physician and pharmacist members shall have expertise in the clinically appropriate prescribing and dispensing of outpatient drugs.

(e) The appointments to the board shall be for terms of three years. In making the appointments, the Kansas health policy authority shall provide for geographic balance in the representation on the board to the extent possible. Subject to the provisions of subsection (i), members may be reappointed.

(f) The board shall elect a chairperson from among board members who shall serve a one-year term. The chairperson may serve consecutive terms.

(g) The board, in accordance with K.S.A. 75-4319, and amendments thereto, may recess for a closed or executive meeting when it is considering matters relating to identifiable patients or providers.

(h) All actions of the medicaid drug utilization review board shall be upon the affirmative vote of five members of the board and the vote of each member present when action was taken shall be recorded by roll call vote.

(i) Upon the expiration of the term of office of any member of the medicaid drug utilization review board on or after the effective date of this act and in any case of a vacancy existing in the membership position of any member of the medicaid drug utilization review board on or after the effective date of this act, a successor shall be appointed by the Kansas health policy authority so that as the terms of members expire, or vacancies occur, members are appointed and the composition of the board is changed in accordance with the following and such appointment shall be made by the Kansas health policy authority in the following order of priority:

(1) One member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a hospital and who is nominated by the Kansas hospital association and appointed by the Kansas health policy authority from a list of two or more nominees;

(2) one member shall be a licensed pharmacist who is actively performing or who has experience performing medicaid pharmacy services for a licensed adult care home and who is nominated by the state board of pharmacy and appointed by the Kansas health policy authority from a list of two or more nominees;

(3) one member shall be a licensed physician who is actively engaged in the general practice of allopathic medicine and who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the Kansas health policy authority from a list of two or more nominees;

(4) one member shall be a licensed physician who is actively engaged in mental health practice providing care and treatment to persons with mental illness, who has practice experience with the state medicaid plan and who is nominated by the Kansas psychiatric society and appointed by the Kansas health policy authority from a list of two or more nominees;

(5) one member shall be a licensed physician who is the medical director of a nursing facility, who has practice experience with the state medicaid plan and who is nominated by the Kansas medical society and appointed by the Kansas health policy authority from a list of two or more nominees;

(6) one member shall be a licensed physician who is actively engaged in the general practice of osteopathic medicine, who has practice experience with the state medicaid plan and who is nominated by the Kansas association of osteopathic medicine and who is appointed by the Kansas health policy authority from a list of two or more nominees;

(7) one member shall be a licensed pharmacist who is actively engaged in retail pharmacy, who has practice experience with the state medicaid plan and who is nominated by the state board of pharmacy and appointed by the Kansas health policy authority from a list of two or more nominees;

(8) one member shall be a licensed pharmacist who is actively engaged in or who has experience in research pharmacy and who is nominated jointly by the Kansas task force for the pharmaceutical research and manufacturers association and the university of Kansas and appointed by the Kansas health policy authority from a list of two or more jointly nominated persons; and

(9) one member shall be a licensed advanced *practice* registered nurse ~~practitioner~~ or physician assistant actively engaged in the practice of providing the health care and treatment services such person is licensed to perform, who has practice experience with the state medicaid plan and who is nominated jointly by the Kansas state nurses' association and the Kansas academy of physician assistants and appointed by the Kansas health policy authority from a list of two or more jointly nominated persons.

Sec. 52. On January 1, 2012, K.S.A. 2010 Supp. 40-2,111 is hereby amended to read as follows: 40-2,111. As used in K.S.A. 40-2,111 through 40-2,113, and amendments thereto: (a) "Adverse underwriting decision" means: Any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

- (1) A declination of insurance coverage;
- (2) a termination of insurance coverage;
- (3) an offer to insure at higher than standard rates, with respect to life, health or disability insurance coverage; or
- (4) the charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished, with respect to property or casualty insurance coverage.

(b) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance company or agent of requested insurance coverage.

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

(d) "Health care provider" means any person licensed to practice any branch of the healing arts, licensed dentist, licensed professional nurse, licensed practical nurse, *licensed advanced practice* registered nurse ~~practitioner~~, licensed optometrist, licensed physical therapist, licensed social worker, licensed physician assistant, licensed podiatrist or licensed psychologist.

(e) "Institutional source" means any natural person, corporation, association, partnership or governmental or other legal entity that provides information about an individual to an agent or insurance company, other than:

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

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

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

(1) Relates to an individual's physical or mental condition, medical history or medical treatment; and

(2) is obtained from a health care provider or health care institution, from the individual, or from the individual's spouse, parent or legal guardian.

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

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

Sec. 53. On January 1, 2012, K.S.A. 40-2250 is hereby amended to read as follows: 40-2250. ~~(a)~~ Notwithstanding any provision of an individual or group policy or contract for health and accident insurance delivered

within the state, whenever such policy or contract shall provide for reimbursement for any services within the lawful scope of practice of ~~an~~ *a licensed advanced practice* registered nurse ~~practitioner~~ within the state of Kansas, the insured, or any other person covered by the policy or contract, shall be allowed and entitled to reimbursement for such service irrespective of whether it was provided or performed by a duly licensed physician or ~~an~~ *a licensed advanced practice* registered nurse. ~~practitioner~~.

~~(b) Notwithstanding the provisions of subsection (a), reimbursement shall be mandated with respect to services performed by an advanced registered nurse practitioner in Douglas, Johnson, Leavenworth, Sedgwick, Shawnee or Wyandotte counties.~~

~~(c) The provisions of subsection (b) shall expire on July 1, 1998.~~

Sec. 54. On January 1, 2012, K.S.A. 2010 Supp. 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 assistant or advanced *practice* 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 25 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; 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 assistant, *advanced practice registered* nurse ~~practitioner~~ or a clinical nurse specialist subject to the oversight of a physician who need not be present in the facility. In addition to the facility’s 25 acute beds or swing beds, or both, the critical access hospital may have a psychiatric unit or a rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither unit will count toward the 25-bed limit, nor will these units be subject to the average 96-hour length of stay restriction.

(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. 55. On January 1, 2012, K.S.A. 2010 Supp. 65-1626 is hereby amended to read as follows: 65-1626. For the purposes of this act:

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

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments thereto.

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

(c) “Authorized distributor of record” means a wholesale distributor with whom a manufacturer has established an ongoing relationship to distribute the manufacturer’s prescription drug. An ongoing relationship is deemed to exist between such wholesale distributor and a manufacturer when the wholesale distributor, including any affiliated group of the wholesale distributor, as defined in section 1504 of the internal revenue code, complies with any one of the following: (1) The wholesale distributor has a written agreement currently in effect with the manufacturer evidencing such ongoing relationship; and (2) the wholesale distributor is listed on the manufacturer’s current list of authorized distributors of record, which is updated by the manufacturer on no less than a monthly basis.

(d) “Board” means the state board of pharmacy created by K.S.A. 74-1603, and amendments thereto.

(e) “Brand exchange” means the dispensing of a different drug product of the same dosage form and strength and of the same generic name ~~than~~ as the brand name drug product prescribed.

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

(g) “Chain pharmacy warehouse” means a permanent physical location for drugs or devices, or both, that ~~act~~ acts as a central warehouse and ~~perform~~ performs intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

(h) “Co-licensee” means a pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a prescription drug and the national drug code on the drug product label shall be used to determine the identity of the drug manufacturer.

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

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

(k) “Dispense” means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner.

(l) “Dispenser” means a practitioner or pharmacist who dispenses prescription medication.

(m) “Distribute” means to deliver, other than by administering or dispensing, any drug.

(n) “Distributor” means a person who distributes a drug.

(o) “Drop shipment” means the sale, by a manufacturer, that manufacturer’s co-licensee, that manufacturer’s third party logistics provider, or that manufacturer’s exclusive distributor, of the manufacturer’s prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated per-

son authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the "normal distribution channel."

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

(q) "Durable medical equipment" means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; (16) other similar equipment determined by the board in rules and regulations adopted by the board.

(r) "Exclusive distributor" means any entity that: (1) Contracts with a manufacturer to provide or coordinate warehousing, wholesale distribution or other services on behalf of a manufacturer and who takes title to that manufacturer's prescription drug, but who does not have general responsibility to direct the sale or disposition of the manufacturer's prescription drug; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must be an authorized distributor of record.

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

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

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

- (A) Inmates of a jail or correctional institution or facility;
 - (B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;
 - (C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;
 - (D) employees of a business or other employer; or
 - (E) persons receiving inpatient hospice services.
- (2) "Institutional drug room" does not include:
- (A) Any registered pharmacy;
 - (B) any office of a practitioner; or
 - (C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(v) "Intracompany transaction" means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

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

ments thereto, except community mental health centers and facilities for the mentally retarded.

(x) “Manufacture” means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual’s own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner’s authorized agent incident to such practitioner’s administering or dispensing of a drug in the course of the practitioner’s professional practice;

(2) a practitioner, by a practitioner’s authorized agent or under a practitioner’s supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist’s authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(y) “Manufacturer” means a person licensed or approved by the FDA to engage in the manufacture of drugs and devices.

(z) “Normal distribution channel” means a chain of custody for a prescription-only drug that goes from a manufacturer of the prescription-only drug, from that manufacturer to that manufacturer’s co-licensed partner, from that manufacturer to that manufacturer’s third-party logistics provider, or from that manufacturer to that manufacturer’s exclusive distributor, directly or by drop shipment, to:

(1) A pharmacy to a patient or to other designated persons authorized by law to dispense or administer such drug to a patient;

(2) a wholesale distributor to a pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient;

(3) a wholesale distributor to a chain pharmacy warehouse to that chain pharmacy warehouse’s intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient; or

(4) a chain pharmacy warehouse to the chain pharmacy warehouse’s intracompany pharmacy to a patient or other designated persons authorized by law to dispense or administer such drug to a patient.

(aa) “Person” means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

(bb) “Pharmacist” means any natural person licensed under this act to practice pharmacy.

(cc) “Pharmacist in charge” means the pharmacist who is responsible to the board for a registered establishment’s compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

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

(ee) “Pharmacy student” means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.

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

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

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

(ii) “Prescription” means, according to the context, either a prescription order or a prescription medication.

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

(kk) “Prescription-only drug” means any drug whether intended for use by man or animal, required by federal or state law (including 21 ~~United States Code section 353~~ U.S.C. § 353, as amended), to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

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

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

(nn) “Professional incompetency” means:

(1) One or more instances involving failure to adhere to the applicable standard of pharmaceutical care to a degree which constitutes gross negligence, as determined by the board;

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

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

(oo) “Retail dealer” means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

(pp) “Secretary” means the executive secretary of the board.

(qq) “Third party logistics provider” means an entity that: (1) Provides or coordinates warehousing, distribution or other services on behalf of a manufacturer, but does not take title to the prescription drug or have general responsibility to direct the prescription drug’s sale or disposition; (2) is registered as a wholesale distributor under the pharmacy act of the state of Kansas; and (3) to be considered part of the normal distribution channel, must also be an authorized distributor of record.

(rr) “Unprofessional conduct” means:

(1) Fraud in securing a registration or permit;

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

- (3) causing any drug, medicine, chemical or poison to be adulterated or mislabeled, knowing the same to be adulterated or mislabeled;
- (4) intentionally falsifying or altering records or prescriptions;
- (5) unlawful possession of drugs and unlawful diversion of drugs to others;
- (6) willful betrayal of confidential information under K.S.A. 65-1654, and amendments thereto;
- (7) conduct likely to deceive, defraud or harm the public;
- (8) making a false or misleading statement regarding the licensee's professional practice or the efficacy or value of a drug;
- (9) commission of any act of sexual abuse, misconduct or exploitation related to the licensee's professional practice; or
- (10) performing unnecessary tests, examinations or services which have no legitimate pharmaceutical purpose.

(ss) "Mid-level practitioner" means an advanced *practice* registered nurse ~~practitioner~~ issued a ~~certificate of qualification~~ *license* pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

(tt) "Vaccination protocol" means a written protocol, agreed to by a pharmacist and a person licensed to practice medicine and surgery by the state board of healing arts, which establishes procedures and recordkeeping and reporting requirements for administering a vaccine by the pharmacist for a period of time specified therein, not to exceed two years.

(uu) "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a nonhuman.

(vv) "Wholesale distributor" means any person engaged in wholesale distribution of prescription drugs or devices in or into the state, including, but not limited to, manufacturers, repackagers, own-label distributors, private-label distributors, jobbers, brokers, warehouses, including manufacturers' and distributors' warehouses, co-licensees, exclusive distributors, third party logistics providers, chain pharmacy warehouses that conduct wholesale distributions, and wholesale drug warehouses, independent wholesale drug traders and retail pharmacies that conduct wholesale distributions. Wholesale distributor shall not include persons engaged in the sale of durable medical equipment to consumers or patients.

(ww) "Wholesale distribution" means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include: (1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription; (2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons; (3) intracompany transactions, as defined in this section, unless in violation of own use provisions; (4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control; (5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503(c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law; (6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations; (7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement; (8) the sale, purchase or trade of blood and blood

components intended for transfusion; (9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations; (10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations; (11) the distribution of drug samples by manufacturers' and authorized distributors' representatives; (12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or (13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 56. On and after January 1, 2012, K.S.A. 2010 Supp. 65-2921 is hereby amended to read as follows: 65-2921. (a) Except as otherwise provided in subsection (b), (c) or (d), a physical therapist may evaluate patients without physician referral but may initiate treatment only after approval by a licensed physician, a licensed podiatrist, a licensed physician assistant or ~~an~~ *a licensed advanced practice registered nurse practitioner* working pursuant to the order or direction of a licensed physician, a licensed chiropractor, a licensed dentist or licensed optometrist in appropriately related cases. Physical therapists may initiate physical therapy treatment with the approval of a practitioner of the healing arts duly licensed under the laws of another state and may provide such treatment based upon an order by such practitioner in any setting in which physical therapists would be authorized to provide such treatment with the approval of a physician licensed by the board, notwithstanding any provisions of the Kansas healing arts act or any rules and regulations adopted by the board thereunder.

(b) Physical therapists may evaluate and treat a patient for no more than 30 consecutive calendar days without a referral under the following conditions: (1) The patient has previously been referred to a physical therapist for physical therapy services by a person authorized by this section to approve treatment; (2) the patient's referral for physical therapy was made within one year from the date a physical therapist implements a program of physical therapy treatment without a referral; (3) the physical therapy being provided to the patient without referral is for the same injury, disease or condition as indicated in the referral for such previous injury, disease or condition; and (4) the physical therapist transmits to the physician or other practitioner identified by the patient a copy of the initial evaluation no later than five business days after treatment commences. *Treatment of such patient* for more than 30 consecutive calendar days ~~of such patient~~ shall only be upon the approval of a person authorized by this section to approve treatment.

(c) Physical therapists may provide, without a referral, services which do not constitute treatment for a specific condition, disease or injury to: (1) Employees solely for the purpose of education and instruction related to workplace injury prevention; or (2) the public for the purpose of fitness, health promotion and education.

(d) Physical therapists may provide services without a referral to special education students who need physical therapy services to fulfill the provisions of their individualized education plan (IEP) or individualized family service plan (IFSP).

Sec. 57. On January 1, 2012, K.S.A. 2010 Supp. 65-4101 is hereby amended to read as follows: 65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: (1) A practitioner or pursuant to the lawful direction of a practitioner; or

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

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

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

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

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

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

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

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

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

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

(k) “Distributor” means a person who distributes.

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

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

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

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

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

(p) “Narcotic drug” means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a combination of ex-

traction and chemical synthesis: (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

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

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

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

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

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

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

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

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

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

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

(y) “Isomer” means all enantiomers and diastereomers.

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

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

(bb) (1) “Controlled substance analog” means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto;

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

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

(2) “Controlled substance analog” does not include:

(A) A controlled substance;

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

or

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

(cc) “Mid-level practitioner” means an advanced *practice* registered nurse practitioner issued a ~~certificate of qualification~~ *license* pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

Sec. 58. On January 1, 2012, K.S.A. 2010 Supp. 65-5402 is hereby amended to read as follows: 65-5402. As used in K.S.A. 65-5401 to 65-5417, inclusive, and K.S.A. 65-5418 to 65-5420, inclusive, and amendments thereto:

(a) “Board” means the state board of healing arts.

(b) “Practice of occupational therapy” means the therapeutic use of purposeful and meaningful occupations (goal-directed activities) to evaluate and treat, pursuant to the referral, supervision, order or direction of a physician, a licensed podiatrist, a licensed dentist, a licensed physician assistant, or ~~an~~ *a licensed advanced practice* registered nurse practitioner working pursuant to the order or direction of a person licensed to practice medicine and surgery, a licensed chiropractor, or a licensed optometrist, individuals who have a disease or disorder, impairment, activity limitation or participation restriction that interferes with their ability to function independently in daily life roles and to promote health and wellness. Occupational therapy intervention may include:

(1) Remediation or restoration of performance abilities that are limited due to impairment in biological, physiological, psychological or neurological cognitive processes;

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

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

(4) health promotion strategies and practices that enhance performance abilities.

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

(1) Evaluating, developing, improving, sustaining, or restoring skills in activities of daily living (ADL), work or productive activities, including instrumental activities of daily living (IADL) and play and leisure activities;

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

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

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

(5) applying physical agent modalities as an adjunct to or in preparation for engagement in occupations;

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

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

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

(d) “Occupational therapist” means a person licensed to practice occupational therapy as defined in this act.

(e) “Occupational therapy assistant” means a person licensed to assist in the practice of occupational therapy under the supervision of an occupational therapist.

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

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

(h) “Occupational therapy aide,” “occupational therapy tech” or “occupational therapy paraprofessional” means a person who provides supportive services to occupational therapists and occupational therapy assistants in accordance with K.S.A. 65-5419, and amendments thereto.

Sec. 59. On January 1, 2012, K.S.A. 2010 Supp. 65-6112, as amended by section 82 of this act, is hereby amended to read as follows: 65-6112. As used in this act:

- (a) “Administrator” means the executive director of the emergency medical services board.
- (b) “Advanced emergency medical technician” means a person who holds an advanced emergency medical technician certificate issued pursuant to this act.
- (c) “Advanced *practice* registered nurse ~~practitioner~~” means an advanced *practice* registered nurse ~~practitioner~~ as defined in K.S.A. 65-1113, and amendments thereto.
- (d) “Ambulance” means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared, staffed and equipped for use in transporting and providing emergency care for individuals who are ill or injured.
- (e) “Ambulance service” means any organization operated for the purpose of transporting sick or injured persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency or medical care in transit.
- (f) “Attendant” means a first responder, an emergency medical responder, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, mobile intensive care technician or paramedic certified pursuant to this act.
- (g) “Board” means the emergency medical services board established pursuant to K.S.A. 65-6102, and amendments thereto.
- (h) “Emergency medical service” means the effective and coordinated delivery of such care as may be required by an emergency which includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced *practice* registered nurse ~~practitioner~~, professional nurse, a licensed physician assistant or attendant.
- (i) “Emergency medical technician” means a person who holds an emergency medical technician certificate issued pursuant to this act.
- (j) “Emergency medical technician-defibrillator” means a person who holds an emergency medical technician-defibrillator certificate issued pursuant to this act.
- (k) “Emergency medical technician-intermediate” means a person who holds an emergency medical technician-intermediate certificate issued pursuant to this act.
- (l) “Emergency medical technician-intermediate/defibrillator” means a person who holds both an emergency medical technician-intermediate and emergency medical technician-defibrillator certificate issued pursuant to this act.
- (m) “Emergency medical responder” means a person who holds an emergency medical responder certificate issued pursuant to this act.
- (n) “First responder” means a person who holds a first responder certificate issued pursuant to this act.
- (o) “Hospital” means a hospital as defined by K.S.A. 65-425, and amendments thereto.
- (p) “Instructor-coordinator” means a person who is certified under this act to teach initial certification and continuing education classes.
- (q) “Medical director” means a physician.
- (r) “Medical protocols” mean written guidelines which authorize attendants to perform certain medical procedures prior to contacting a physician, physician assistant authorized by a physician, advanced *practice* registered nurse ~~practitioner~~ authorized by a physician or professional nurse authorized by a physician. The medical protocols shall be approved by a county medical society or the medical staff of a hospital to which the ambulance service primarily transports patients, or if neither of the above are able or available to approve the medical protocols, then the medical protocols shall be submitted to the medical advisory council for approval.
- (s) “Mobile intensive care technician” means a person who holds a mobile intensive care technician certificate issued pursuant to this act.
- (t) “Municipality” means any city, county, township, fire district or ambulance service district.
- (u) “Nonemergency transportation” means the care and transport of a sick or injured person under a foreseen combination of circumstances calling for continuing care of such person. As used in this subsection, transportation includes performance of the authorized level of services of the

attendant whether within or outside the vehicle as part of such transportation services.

(v) “Operator” means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

(w) “Paramedic” means a person who holds a paramedic certificate issued pursuant to this act.

(x) “Person” means an individual, a partnership, an association, a joint-stock company or a corporation.

(y) “Physician” means a person licensed by the state board of healing arts to practice medicine and surgery.

(z) “Physician assistant” means a person who is licensed under the physician assistant licensure act and who is acting under the direction of a responsible physician.

(aa) “Professional nurse” means a licensed professional nurse as defined by K.S.A. 65-1113, and amendments thereto.

(bb) “Provider of training” means a corporation, partnership, accredited postsecondary education institution, ambulance service, fire department, hospital or municipality that conducts training programs that include, but are not limited to, initial courses of instruction and continuing education for attendants, instructor-coordinators or training officers.

(cc) “Responsible physician” means responsible physician as such term is defined under K.S.A. 65-28a02, and amendments thereto.

(dd) “Training officer” means a person who is certified pursuant to this act to teach, *coordinate or both*, initial courses of instruction for first responders or emergency medical responders and continuing education as prescribed by the board.

Sec. 60. On January 1, 2012, K.S.A. 2010 Supp. 65-6119 is hereby amended to read as follows: 65-6119. (a) Notwithstanding any other provision of law, mobile intensive care technicians may:

(1) Perform all the authorized activities identified in K.S.A. 65-6120, 65-6121, 65-6123, 65-6144, and amendments thereto;

(2) when voice contact or a telemetered electrocardiogram is monitored by a physician, physician assistant where authorized by a physician, an advanced *practice* registered nurse ~~practitioner~~ 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 (a)(2);

(3) perform, during an emergency, those activities specified in subsection (a)(2) before contacting a person identified in subsection (a)(2) when specifically authorized to perform such activities by medical protocols; and

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

(b) An individual who holds a valid certificate as a mobile intensive care technician once meeting the continuing education requirements prescribed by the rules and regulations of the board, upon application for renewal, shall be deemed to hold a certificate as a paramedic under this act, and such individual shall not be required to file an original application as a paramedic for certification under this act.

(c) “Renewal” as used in subsection (b), refers to the first opportunity that a mobile intensive care technician has to apply for renewal of a certificate following the effective date of this act.

(d) Upon transition notwithstanding any other provision of law, a paramedic may:

(1) Perform all the authorized activities identified in K.S.A. 65-6120, 65-6121, 65-6144, and amendments thereto;

(2) when voice contact or a telemetered electrocardiogram is monitored by a physician, physician assistant where authorized by a physician or an advanced *practice* registered nurse ~~practitioner~~ 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 (d)(2);

(3) perform, during an emergency, those activities specified in subsection (d)(2) before contacting a person identified in subsection (d)(2) when specifically authorized to perform such activities by medical protocols; and

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

Sec. 61. On January 1, 2012, K.S.A. 2010 Supp. 65-6120, as amended by section 83 of this act, is hereby amended to read as follows: 65-6120. (a) Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate may:

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

(2) when approved by medical protocols or where voice contact by radio or telephone is monitored by a physician, physician assistant where authorized by a physician, advanced *practice* registered nurse ~~practitioner~~ 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;

(3) perform, during an emergency, those activities specified in subsection (a)(2) before contacting the persons identified in subsection (a)(2) when specifically authorized to perform such activities by medical protocols; or

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

(b) An individual who holds a valid certificate as an emergency medical technician-intermediate once successfully completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an advanced emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an advanced emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of the successful completion of a transition course and such individual shall not be required to file an original application for certification as an advanced emergency medical technician under this act.

(c) “Renewal” as used in subsection (b), refers to the first or second opportunity after December 31, 2011, that an emergency medical technician-intermediate has to apply for renewal of a certificate.

(d) Emergency medical technician-intermediates who fail to meet the transition requirements as specified may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations of the board. Upon completion, such emergency medical technician-intermediate may apply to transition to become an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an emergency medical technician-intermediate certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.

(e) Failure to successfully complete either an advanced emergency medical technician transition course, an emergency medical technician transition course or emergency medical responder transition course will result in loss of certification.

(f) Upon transition, notwithstanding any other provision of law to the contrary, an advanced emergency medical technician may:

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

(2) perform any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, as specifically identified in rules and regulations, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order

when direct communication is maintained by radio, telephone or video conference with a physician, physician assistant where authorized by a physician, an advanced *practice* registered nurse ~~practitioner~~ where authorized by a physician, or licensed professional nurse where authorized by a physician upon order of such a person: (A) Continuous positive airway pressure devices; (B) advanced airway management; (C) referral of patient of alternate medical care site based on assessment; (D) transportation of a patient with a capped arterial line; (E) veni-puncture for obtaining blood sample; (F) initiation and maintenance of intravenous infusion or saline lock; (G) initiation of intraosseous infusion; (H) nebulized therapy; (I) manual defibrillation and cardioversion; (J) cardiac monitoring; (K) electrocardiogram interpretation; (L) administration of generic or trade name medications by one or more of the following methods: (i) Aerosolization; (ii) nebulization; (iii) intravenous; (iv) intranasal; (v) rectal; (vi) subcutaneous; (vii) intraosseous; (viii) intramuscular; or (ix) sublingual.

(g) An individual who holds a valid certificate as both an emergency medical technician-intermediate and as an emergency medical technician-defibrillator once successfully completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to an advanced emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an advanced emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course, and such individual shall not be required to file an original application for certification as an advanced emergency medical technician under this act.

(h) “Renewal” as used in subsection (g), refers to the first or second opportunity after December 31, 2011, that an emergency medical technician-intermediate and emergency medical technician-defibrillator has to apply for renewal of a certificate.

(i) An individual who holds both an emergency medical technician-intermediate certificate and an emergency medical technician-defibrillator certificate, who fails to meet the transition requirements as specified may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, and provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of successful completion of a transition course as determined by rules and regulations of the board. Upon completion, such individual may apply to transition to become an emergency medical technician or emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an emergency medical technician-intermediate certificate and an emergency medical technician-defibrillator certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.

(j) Failure to successfully complete either the advanced emergency medical technician transition requirements, an emergency medical technician transition course or the emergency medical responder transition course will result in loss of certification.

Sec. 62. On January 1, 2012, K.S.A. 2010 Supp. 65-6121, as amended by section 84 of this act, is hereby amended to read as follows: 65-6121.

(a) Notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any of the following activities:

- (1) Patient assessment and vital signs;
- (2) airway maintenance including the use of:
 - (A) Oropharyngeal and nasopharyngeal airways;
 - (B) esophageal obturator airways with or without gastric suction device;
 - (C) multi-lumen airway; and
 - (D) oxygen demand valves.
- (3) Oxygen therapy;
- (4) oropharyngeal suctioning;
- (5) cardiopulmonary resuscitation procedures;

- (6) control accessible bleeding;
 - (7) apply pneumatic anti-shock garment;
 - (8) manage outpatient medical emergencies;
 - (9) extricate patients and utilize lifting and moving techniques;
 - (10) manage musculoskeletal and soft tissue injuries including dressing and bandaging wounds or the splinting of fractures, dislocations, sprains or strains;
 - (11) use of backboards to immobilize the spine;
 - (12) administer activated charcoal and glucose;
 - (13) monitor intravenous line delivering intravenous fluids during interfacility transport with the following restrictions:
 - (A) The physician approves the transfer by an emergency medical technician;
 - (B) no medications or nutrients have been added to the intravenous fluids; and
 - (C) the emergency medical technician may monitor, maintain and shut off the flow of intravenous fluid;
 - (14) use automated external defibrillators;
 - (15) administer epinephrine auto-injectors provided that:
 - (A) The emergency medical technician successfully completes a course of instruction approved by the board in the administration of epinephrine;
 - (B) the emergency medical technician serves with an ambulance service or a first response organization that provides emergency medical services; and
 - (C) the emergency medical technician is acting pursuant to medical protocols;
 - (16) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols; or
 - (17) when authorized by medical protocol, assist the patient in the administration of the following medications which have been prescribed for that patient: Auto-injection epinephrine, sublingual nitroglycerin and inhalers for asthma and emphysema.
- (b) An individual who holds a valid certificate as an emergency medical technician at the current basic level once successfully completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course, and such individual shall not be required to file an original application for certification as an emergency medical technician.
- (c) “Renewal” as used in subsection (b), refers to the first opportunity after December 31, 2011, that an emergency medical technician has to apply for renewal of a certificate following the effective date of this act.
- (d) Emergency medical technicians who fail to meet the transition requirements as specified may successfully complete the board prescribed emergency medical responder transition course, provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations of the board. Alternatively, upon application for renewal of an emergency medical technician certificate, the applicant shall be deemed to hold a certificate as an emergency medical responder under this act, and such individual shall not be required to file an original application for certification as an emergency medical responder.
- (e) Failure to successfully complete either an emergency medical technician transition course or emergency medical responder transition course will result in loss of certification.
- (f) Upon transition, notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any activities identified in K.S.A. 65-6144, and amendments thereto, and any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order when direct communication is maintained by radio, telephone or video conference is mon-

itored by a physician, physician assistant when authorized by a physician, an advanced *practice* registered nurse ~~practitioner~~ when authorized by a physician or a licensed professional nurse when authorized by a physician, upon order of such person:

- (1) Airway maintenance including use of:
 - (A) Single lumen airways as approved by the board;
 - (B) multilumen airways;
 - (C) ventilator devices;
 - (D) forceps removal of airway obstruction;
 - (E) CO2 monitoring;
 - (F) airway suctioning;
- (2) apply pneumatic anti-shock garment;
- (3) assist with childbirth;
- (4) monitoring urinary catheter;
- (5) capillary blood sampling;
- (6) cardiac monitoring;
- (7) administration of patient assisted medications as approved by the board;
- (8) administration of medications as approved by the board by appropriate routes; and
- (9) monitor, maintain or discontinue flow of IV line if a physician approves transfer by an emergency medical technician.

Sec. 63. On January 1, 2012, K.S.A. 2010 Supp. 65-6123, as amended by section 85 of this act, is hereby amended to read as follows: 65-6123.

(a) Notwithstanding any other provision of law to the contrary, an emergency medical technician-defibrillator may:

- (1) Perform any of the activities identified in K.S.A. 65-6121, and amendments thereto;
- (2) when approved by medical protocols or where voice contact by radio or telephone is monitored by a physician, physician assistant where authorized by a physician, advanced *practice* registered nurse ~~practitioner~~ 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;

(3) 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

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

(b) An individual who holds a valid certificate as an emergency medical technician-defibrillator once successfully completing an emergency medical technician-intermediate, initial course of instruction and the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an advanced emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an advanced emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course, and such individual shall not be required to file an original application for certification as an advanced emergency medical technician.

(c) “Renewal” as used in subsection (b), refers to the second opportunity after December 31, 2011, that an attendant has to apply for renewal of a certificate.

(d) Emergency medical technician-defibrillator attendants who fail to meet the transition requirements as specified may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, provide validation of cognitive and psychomotor competency provided such individual has completed all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations of the board. Upon completion, such emergency medical technician-defibrillator may apply to transition to become an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an

emergency medical technician-defibrillator certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.

(e) Failure to complete either the advanced emergency medical technician transition requirements, an emergency medical technician transition course or an emergency medical responder transition course will result in loss of certification.

Sec. 64. On January 1, 2012, K.S.A. 2010 Supp. 65-6124, as amended by section 86 of this act, is hereby amended to read as follows: 65-6124.

(a) No physician, physician assistant, advanced *practice* registered nurse ~~practitioner~~ or licensed professional nurse, who gives emergency instructions to an attendant as defined by K.S.A. 65-6112, and amendments thereto, 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 attendant as defined by K.S.A. 65-6112, and amendments thereto, who renders emergency care during an emergency pursuant to instructions given by a physician, the responsible physician for a physician assistant, advanced *practice* registered nurse ~~practitioner~~ 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 attendant as defined by K.S.A. 65-6112, and amendments thereto.

(c) 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.

(d) 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. 65. On January 1, 2012, K.S.A. 2010 Supp. 65-6129c is hereby amended to read as follows: 65-6129c.

(a) Application for a training officer's certificate shall be made to the emergency medical services board upon forms provided by the administrator. The board may grant a training officer's certificate to an applicant who: (1) Is an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, mobile intensive care technician, advanced emergency medical technician, paramedic, physician, physician assistant, advanced *practice* registered nurse ~~practitioner~~ or professional nurse; (2) successfully completes an initial course of training approved by the board; (3) passes an examination prescribed by the board; (4) is appointed by a provider of training approved by the board; and (5) has paid a fee established by the board.

(b) A training officer's certificate shall expire on the expiration date of the attendant's certificate if the training officer is an attendant or on the expiration date of the physician's, physician assistant's, advanced *practice* registered nurse ~~practitioner's~~ *nurse's* or professional nurse's license if the training officer is a physician, physician assistant, advanced *practice* registered nurse ~~practitioner~~ or professional nurse. A training officer's certificate may be renewed for the same period as the attendant's certificate or the physician's, physician assistant's, advanced *practice* registered nurse ~~practitioner's~~ *nurse's* or professional nurse's license upon payment of a fee as prescribed by rules and regulations and upon presentation of satisfactory proof that the training officer has successfully completed continuing education prescribed by the board and is certified as an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, mobile-intensive care technician, advanced emergency medical technician, paramedic, physician, physician assistant, advanced *practice* registered nurse ~~practitioner~~ or professional nurse. The board may prorate to the nearest whole month the fee fixed under this subsection as necessary to implement the provisions of this subsection.

(c) A training officer's certificate may be denied, revoked, limited, modified or suspended by the board or the board may refuse to renew such certificate if such individual:

- (1) Fails to maintain certification or licensure as an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, mobile intensive care technician, advanced emergency medical technician, paramedic, physician, physician assistant, advanced *practice* registered nurse ~~practitioner~~ or professional nurse;
- (2) fails to maintain support of appointment by a provider of training;
- (3) fails to successfully complete continuing education;
- (4) has made intentional misrepresentations in obtaining a certificate or renewing a certificate;
- (5) has demonstrated incompetence or engaged in unprofessional conduct as defined by rules and regulations adopted by the board;
- (6) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations promulgated by the board; or
- (7) has been convicted of any state or federal crime that is related substantially to the qualifications, functions and duties of a training officer or any crime punishable as a felony under any state or federal statute and the board determines that such individual has not been sufficiently rehabilitated to warrant public trust. A conviction means a plea of guilty, a plea of nolo contendere or a verdict of guilty. The board may take disciplinary action pursuant to this section when the time for appeal has elapsed, or after the judgment of conviction is affirmed on appeal or when an order granting probation is made suspending the imposition of sentence.

(d) The board may revoke, limit, modify or suspend a certificate or the board may refuse to renew such certificate in accordance with the provisions of the Kansas administrative procedure act.

(e) If a person who previously was certified as a training officer applies for a training officer's certificate within two years of the date of its expiration, the board may grant a certificate without the person completing an initial course of training or taking an examination if the person complies with the other provisions of subsection (a) and completes continuing education requirements.

Sec. 66. On January 1, 2012, K.S.A. 2010 Supp. 65-6135 is hereby amended to read as follows: 65-6135. (a) All ambulance services providing emergency care as defined by the rules and regulations adopted by the board shall offer service 24 hours per day every day of the year.

(b) Whenever an operator is required to have a permit, at least one person on each vehicle providing emergency medical service shall be an attendant certified as an emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, a mobile intensive care technician, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, a paramedic, a physician, a licensed physician assistant, ~~an~~ a *licensed* advanced *practice* registered nurse ~~practitioner~~ or a professional nurse.

Sec. 67. On January 1, 2012, K.S.A. 2010 Supp. 65-6144, as amended by section 91 of this act, is hereby amended to read as follows: 65-6144. (a) A first responder may perform any of the following activities:

- (1) Initial scene management including, but not limited to, gaining access to the individual in need of emergency care, extricating, lifting and moving the individual;
- (2) cardiopulmonary resuscitation and airway management;
- (3) control of bleeding;
- (4) extremity splinting excluding traction splinting;
- (5) stabilization of the condition of the individual in need of emergency care;
- (6) oxygen therapy;
- (7) use of oropharyngeal airways;
- (8) use of bag valve masks;
- (9) use automated external defibrillators; and
- (10) other techniques of preliminary care a first responder is trained to provide as approved by the board.

(b) An individual who holds a valid certificate as a first responder, once completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an emergency medical

responder. Alternatively, upon application for renewal of such certificate, such individual shall be deemed to hold a certificate as an emergency medical responder under this act, provided such individual has completed all continuing education hour requirements inclusive of a transition course and such individual shall not be required to file an original application for certification as an emergency medical responder.

(c) “Renewal” as used in subsection (b), refers to the first opportunity after December 31, 2011, that an attendant has to apply for renewal of a certificate.

(d) First responder attendants who fail to meet the transition requirements as specified will forfeit their certification.

(e) Upon transition, notwithstanding any other provision of law to the contrary, an emergency medical responder may perform any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order when direct communication is maintained by radio, telephone or video conference is monitored by a physician, physician assistant when authorized by a physician, an advanced *practice* registered nurse ~~practitioner~~ when authorized by a physician or a licensed professional nurse when authorized by a physician, upon order of such person: (1) Emergency vehicle operations; (2) initial scene management; (3) patient assessment and stabilization; (4) cardiopulmonary resuscitation and airway management; (5) control of bleeding; (6) extremity splinting; (7) spinal immobilization; (8) oxygen therapy; (9) use of bag-valve-mask; (10) use of automated external defibrillator; (11) nebulizer therapy; (12) intramuscular injections with auto-injector; (13) administration of oral glucose; (14) administration of aspirin; (15) recognize and comply with advanced directives; (16) insertion and maintenance of oral and nasal pharyngeal airways; (17) use of blood glucose monitoring; and (18) other techniques and devices of preliminary care an emergency medical responder is trained to provide as approved by the board.

Sec. 68. On January 1, 2012, K.S.A. 2010 Supp. 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 licensed as a 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 *license* ~~certificate of qualification~~ to practice as an advanced *practice* 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 licensed as a 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~~ *license* to practice as an advanced *practice* 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 employ-

ees 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 licensed as a 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~~ *license* to practice as an advanced *practice* 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 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. 69. On January 1, 2012, K.S.A. 2010 Supp. 72-8252 is hereby amended to read as follows: 72-8252. (a) As used in this section:

(1) “Medication” means a medicine prescribed by a health care provider for the treatment of anaphylaxis or asthma including, but not limited to, any medicine defined in section 201 of the federal food, drug and cosmetic act, inhaled bronchodilators and auto-injectible epinephrine.

(2) “Health care provider” means: (A) A physician licensed to practice medicine and surgery; (B) an advanced *practice* registered nurse ~~practitioner~~ issued a ~~certificate of qualification~~ *license* pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs as provided by K.S.A. 65-1130, and amendments thereto; or (C) a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

(3) “School” means any public or accredited nonpublic school.

(4) “Self-administration” means a student’s discretionary use of such student’s medication pursuant to a prescription or written direction from a health care provider.

(b) Each school district shall adopt a policy authorizing the self-administration of medication by students enrolled in kindergarten or any of the grades 1 through 12. A student shall meet all requirements of a policy adopted pursuant to this subsection. Such policy shall include:

(1) A requirement of a written statement from the student’s health care provider stating the name and purpose of the medication; the prescribed dosage; the time the medication is to be regularly administered, and any additional special circumstances under which the medication is to be administered; and the length of time for which the medication is prescribed;

(2) a requirement that the student has demonstrated to the health care provider or such provider’s designee and the school nurse or such nurse’s designee the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed. If there is no school nurse, the school shall designate a person for the purposes of this subsection;

(3) a requirement that the health care provider has prepared a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours;

(4) a requirement that the student’s parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan prepared as required by paragraph (3) and documents related to liability;

(5) a requirement that all teachers responsible for the student’s supervision shall be notified that permission to carry medications and self-medicate has been granted; and

(6) any other requirement imposed by the school district pursuant to this section and subsection (e) of K.S.A. 72-8205, and amendments thereto.

(c) A school district shall require annual renewal of parental authorization for the self-administration of medication.

(d) A school district, and its officers, employees and agents, which authorizes the self-administration of medication in compliance with the provisions of this section shall not be held liable in any action for damage, injury or death resulting directly or indirectly from the self-administration of medication.

(e) A school district shall provide written notification to the parent or guardian of a student that the school district and its officers, employees and agents are not liable for damage, injury or death resulting directly or indirectly from the self-administration of medication. The parent or guardian of the student shall sign a statement acknowledging that the school district and its officers, employees or agents incur no liability for damage, injury or death resulting directly or indirectly from the self-administration of medication and agreeing to release, indemnify and hold the school and its officers, employees and agents, harmless from and against any claims relating to the self-administration of such medication.

(f) A school district shall require that any back-up medication provided by the student's parent or guardian be kept at the student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

(g) A school district shall require that information described in paragraphs (3) and (4) of subsection (b) be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

(h) An authorization granted pursuant to subsection (b) shall allow a student to possess and use such student's medication at any place where a student is subject to the jurisdiction or supervision of the school district or its officers, employees or agents.

(i) A board of education may adopt a policy pursuant to subsection (e) of K.S.A. 72-8205, and amendments thereto, which:

(1) Imposes requirements relating to the self-administration of medication which are in addition to those required by this section; and

(2) establishes a procedure for, and the conditions under which, the authorization for the self-administration of medication may be revoked.

Sec. 70. On January 1, 2012, K.S.A. 2010 Supp. 74-1106 is hereby amended to read as follows: 74-1106. (a) *Appointment, term of office.* (1) The governor shall appoint a board consisting of 11 members of which six shall be registered professional nurses, two shall be licensed practical nurses and three shall be members of the general public, which shall constitute a board of nursing, with the duties, power and authority set forth in this act.

(2) Upon the expiration of the term of any registered professional nurse, the Kansas state nurses association shall submit to the governor a list of registered professional nurses containing names of not less than three times the number of persons to be appointed, and appointments shall be made after consideration of such list for terms of four years and until a successor is appointed and qualified.

(3) On the effective date of this act, the Kansas federation of licensed practical nurses shall submit to the governor a list of licensed practical nurses containing names of not less than three times the number of persons to be appointed, and appointments shall be made after consideration of such list, ~~with the first appointment being for a term of four years and the second appointment being for a term of two years. Upon the expiration of the term of any licensed practical nurse, a successor of like qualifications shall be appointed in the same manner as the original appointment for a term of four years and until a successor is appointed and qualified.~~

(4) Each member of the general public shall be appointed for a term of four years and successors shall be appointed for a like term.

(5) Whenever a vacancy occurs on the board of nursing, it shall be filled by appointment for the remainder of the unexpired term in the same manner as the preceding appointment. No person shall serve more than two consecutive terms as a member of the board of nursing and appointment for the remainder of an unexpired term shall constitute a full term of service on such board. ~~With the expiration of terms for the registered professional nurse from education and one public member in July, 2003, the next appointments for those two positions will be for only one year. Thereafter the two positions shall be appointed for terms of four years.~~

(b) *Qualifications of members.* Each member of the board shall be a citizen of the United States and a resident of the state of Kansas. Registered

professional nurse members shall possess a license to practice as a professional nurse in this state with at least five years' experience in nursing as such and shall be actively engaged in professional nursing in Kansas at the time of appointment and reappointment. The licensed practical nurse members shall be licensed to practice practical nursing in the state with at least five years' experience in practical nursing and shall be actively engaged in practical nursing in Kansas at the time of appointment and reappointment. The governor shall appoint successors so that the registered professional nurse membership of the board shall consist of at least two members who are engaged in nursing service, at least two members who are engaged in nursing education and at least one member who is engaged in practice as an advanced *practice* registered nurse ~~practitioner~~ or a registered nurse anesthetist. The consumer members shall represent the interests of the general public. At least one consumer member shall not have been involved in providing health care. Each member of the board shall take and subscribe the oath prescribed by law for state officers, which oath shall be filed with the secretary of state.

(c) *Duties and powers.* (1) The board shall meet annually at Topeka during the month of September and shall elect from its members a president, vice-president and secretary, each of whom shall hold their respective offices for one year. The board shall employ an executive administrator, who shall be a registered professional nurse, who shall not be a member of the board and who shall be in the unclassified service under the Kansas civil service act, and shall employ such other employees, who shall be in the classified service under the Kansas civil service act as necessary to carry on the work of the board. As necessary, the board shall be represented by an attorney appointed by the attorney general as provided by law, whose compensation shall be determined and paid by the board with the approval of the governor. The board may hold such other meetings during the year as may be deemed necessary to transact its business.

(2) The board shall adopt rules and regulations consistent with this act necessary to carry into effect the provisions thereof, and such rules and regulations may be published and copies thereof furnished to any person upon application.

(3) The board shall prescribe curricula and standards for professional and practical nursing programs and mental health technician programs, and provide for surveys of such schools and courses at such times as it may deem necessary. It shall accredit such schools and approve courses as meet the requirements of the appropriate act and rules and regulations of the board.

(4) The board shall examine, license and renew licenses of duly qualified applicants and conduct hearings upon charges for limitation, suspension or revocation of a license or approval of professional and practical nursing and mental health technician programs and may limit, deny, suspend or revoke for proper legal cause, licenses or approval of professional and practical nursing and mental health technician programs, as hereinafter provided. Examination for applicants for registration shall be given at least twice each year and as many other times as deemed necessary by the board. The board shall promote improved means of nursing education and standards of nursing care through institutes, conferences and other means.

(5) The board shall have a seal of which the executive administrator shall be the custodian. The president and the secretary shall have the power and authority to administer oaths in transacting business of the board, and the secretary shall keep a record of all proceedings of the board and a register of professional and practical nurses and mental health technicians licensed and showing the certificates of registration or licenses granted or revoked, which register shall be open at all times to public inspection.

(6) The board may enter into contracts as may be necessary to carry out its duties.

(7) The board is hereby authorized to apply for and to accept grants and may accept donations, bequests or gifts. The board shall remit all moneys received by it under this paragraph (7) 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 grants and gifts fund which is hereby created. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts

and reports issued pursuant to vouchers approved by the president of the board or a person designated by the president.

(8) A majority of the board of nursing including two professional nurse members shall constitute a quorum for the transaction of business.

(d) *Subpoenas.* In all investigations and proceedings, the board shall have the power to issue subpoenas and compel the attendance of witnesses and the production of all relevant and necessary papers, books, records, documentary evidence and materials. Any person failing or refusing to appear or testify regarding any matter about which such person may be lawfully questioned or to produce any books, papers, records, documentary evidence or relevant materials in the matter, after having been required by order of the board or by a subpoena of the board to do so, upon application by the board to any district judge in the state, may be ordered by such judge to comply therewith. Upon failure to comply with the order of the district judge, the court may compel obedience by attachment for contempt as in the case of disobedience of a similar order or subpoena issued by the court. A subpoena may be served upon any person named therein anywhere within the state with the same fees and mileage by an officer authorized to serve subpoenas in civil actions in the same procedure as is prescribed by the code of civil procedure for subpoenas issued out of the district courts of this state.

(e) *Compensation and expenses.* Members of the board of nursing attending meetings of such board, or attending a subcommittee meeting thereof authorized by such board, shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto. No member of the board of nursing shall be paid an amount as provided in K.S.A. 75-3223, and amendments thereto, if such member receives an amount from another governmental or private entity for the purpose for which such amount is payable under K.S.A. 75-3223, and amendments thereto.

Sec. 71. On January 1, 2012, K.S.A. 74-32,131 is hereby amended to read as follows: 74-32,131. This act shall be known and may be cited as the advanced *practice* registered nurse ~~practitioner~~ service scholarship program.

Sec. 72. On January 1, 2012, K.S.A. 74-32,132 is hereby amended to read as follows: 74-32,132. As used in this act:

(a) “Committee” means the nursing service scholarship review committee established under K.S.A. 74-3299, and amendments thereto.

(b) “Executive officer” means the chief executive officer of the state board of regents appointed under K.S.A. 74-3203a, and amendments thereto.

(c) “Educational and training program for advanced *practice* registered ~~nurse practitioners nurses~~” means a post-basic nursing education program a graduate of which meets the education requirements of the board of nursing for a ~~certificate of qualification~~ *licensure* as an advanced *practice* registered nurse ~~practitioner~~.

(d) “Medically underserved area” means a practice location designated medically underserved by the secretary of health and environment.

(e) “Rural area” means any county of this state other than Douglas, Johnson, Sedgwick, Shawnee and Wyandotte counties.

Sec. 73. On January 1, 2012, K.S.A. 74-32,133 is hereby amended to read as follows: 74-32,133. (a) There is hereby established the advanced *practice* registered nurse ~~practitioner~~ service scholarship program. Within the limits of appropriations therefor, a scholarship may be awarded under the program to any qualified student enrolled in or admitted to an educational and training program for advanced *practice* registered ~~nurse practitioners nurses~~. The number of scholarships awarded under the program in any year shall not exceed 12.

(b) The determination of the individuals qualified for scholarships shall be made by the executive officer after seeking advice from the committee. Scholarships shall be awarded on a priority basis to qualified applicants in the advanced *practice* registered nurse ~~practitioner categories~~ *roles* of nurse clinician or *advanced practice registered nurse practitioner* or clinical specialist who have the greatest financial need for such scholarships and who are residents of this state. To the extent practicable and consistent with the other provisions of this section, consideration shall be given to minority applicants.

(c) Scholarships awarded under the program shall be awarded for the length of the course of instruction required for graduation as an advanced *practice* registered nurse ~~practitioner~~ unless terminated before expiration of such period of time. Such scholarships shall provide (1) to a student enrolled in or admitted to an educational and training program for advanced *practice* registered ~~nurse practitioners~~ *nurses* operated by a state educational institution the payment of an amount not to exceed 70% of the cost of attendance for a year, and (2) to a student enrolled in or admitted to an educational and training program for advanced *practice* registered ~~nurse practitioners~~ *nurses* operated by an independent institution of higher education the payment of an amount not to exceed 70% of the average amount of the cost of attendance for a year in educational and training programs for advanced *practice* registered ~~nurse practitioners~~ *nurses* operated by the state educational institutions. The amount of each scholarship shall be established annually by the executive officer and shall be financed by the state of Kansas.

Sec. 74. On January 1, 2012, K.S.A. 74-32,134 is hereby amended to read as follows: 74-32,134. (a) An applicant for a scholarship under the advanced *practice* registered nurse ~~practitioner~~ service scholarship program shall provide to the executive officer, on forms supplied by the executive officer, the following information:

- (1) The name and address of the applicant;
- (2) the name and address of the educational and training program for advanced *practice* registered ~~nurse practitioners~~ *nurses* in which the applicant is enrolled or to which the applicant has been admitted; and
- (3) any additional information which may be required by the executive officer.

(b) As a condition to awarding a scholarship under this act, the executive officer and the applicant for a scholarship shall enter into an agreement which shall require that the scholarship recipient:

- (1) Engage as a full-time student in and complete the required course of instruction leading to the ~~certificate of qualification~~ *licensure* as an advanced *practice* registered nurse ~~practitioner~~;
- (2) within six months after graduation from the educational and training program for advanced *practice* registered ~~nurse practitioners~~ *nurses*, commence full-time practice as an advanced *practice* registered nurse ~~practitioner~~, or commence the equivalent to full-time practice, or commence part-time practice as an advanced *practice* registered nurse ~~practitioner~~, in a rural area or a medically underserved area, continue such practice for the total amount of time required under the agreement, and comply with such other terms and conditions as may be specified by the agreement;
- (3) commence full-time practice, or the equivalent to full-time practice, as an advanced *practice* registered nurse ~~practitioner~~ in a rural area or medically underserved area and continue such full-time practice, or the equivalent to full-time practice, in a rural area or medically underserved area for the total amount of time required under the agreement, which shall be for a period of not less than the length of the course of instruction for which the scholarship assistance was provided, or commence part-time practice in a rural area or medically underserved area and continue such part-time practice in a rural area or medically underserved area for the total amount of time required under the agreement, which shall be for a period of time that is equivalent to full time, as determined by the state board of regents, multiplied by the length of the course of instruction for which the scholarship assistance was provided;
- (4) maintain records and make reports to the executive officer as may be required by the executive officer to document the satisfaction of the obligation under this act; and
- (5) upon failure to satisfy an agreement to engage in full-time practice as an advanced *practice* registered nurse ~~practitioner~~, or the equivalent to full-time practice, or in part-time practice, in a rural area or medically underserved area for the required period of time under any such agreement, repay to the state amounts as provided in K.S.A. 74-32,135, and amendments thereto.

Sec. 75. On January 1, 2012, K.S.A. 74-32,135 is hereby amended to read as follows: 74-32,135. (a) Except as provided in K.S.A. 74-32,136, and amendments thereto, upon the failure of any person to satisfy the obligation under any agreement entered into pursuant to this act, such person shall pay to the executive officer an amount equal to the total amount of

money received by such person pursuant to such agreement which is financed by the state of Kansas plus accrued interest at a rate which is equivalent to the interest rate applicable to loans made under the federal PLUS program at the time such person first entered into an agreement plus five percentage points. Installment payments of such amounts may be made in accordance with rules and regulations of the state board of regents, except that such installment payments shall commence six months after the date of the action or circumstances that cause the failure of the person to satisfy the obligations of such agreements, as determined by the executive officer based upon the circumstances of each individual case. Amounts paid under this section to the executive officer shall be deposited in the advanced *practice* registered nurse ~~practitioner~~ service scholarship program fund in accordance with K.S.A. 74-32,138, and amendments thereto.

(b) The state board of regents is authorized to turn any repayment account arising under the advanced *practice* registered nurse ~~practitioner~~ service scholarship program over to a designated loan servicer or collection agency, the state not being involved other than to receive payments from the loan servicer or collection agency at the interest rate prescribed under this section.

Sec. 76. On January 1, 2012, K.S.A. 74-32,136 is hereby amended to read as follows: 74-32,136. (a) An obligation under any agreement entered into under the advanced *practice* registered nurse ~~practitioner~~ service scholarship program shall be postponed: (1) During any required period of active military service; (2) during any period of service in the peace corps; (3) during any period of service as a part of volunteers in service to America (VISTA); (4) during any period of service commitment to the United States public health service; (5) during any period of religious missionary work conducted by an organization exempt from tax under section 501(c)(3) of the federal internal revenue code as in effect on December 31, 2000; (6) during any period of time the person obligated is unable because of temporary medical disability to practice as an advanced *practice* registered nurse ~~practitioner~~; (7) during any period of time the person obligated is enrolled and actively engaged on a full-time basis in a course of study leading to a graduate degree in a field for which such person was awarded a scholarship under this act which degree is higher than that formerly attained; (8) during any period of time the person obligated is on job-protected leave under the federal family and medical leave act of 1993; or (9) during any period of time the state board of regents determines that the person obligated is unable because of special circumstances to practice as an advanced *practice* registered nurse ~~practitioner~~. Except for clauses (6), (8) and (9), an obligation under any agreement entered into as provided in the advanced *practice* registered nurse ~~practitioner~~ service scholarship program shall not be postponed more than five years from the time the obligation was to have been commenced under any such agreement. An obligation under any agreement as provided in the advanced *practice* registered nurse ~~practitioner~~ service scholarship program shall be postponed under clause (6) during the period of time the medical disability exists. An obligation to engage in practice as an advanced *practice* registered nurse ~~practitioner~~ in accordance with an agreement under the advanced *practice* registered nurse ~~practitioner~~ service scholarship program shall be postponed under clause (8) during the period of time the person obligated remains on FMLA leave. An obligation to engage in practice as an advanced *practice* registered nurse ~~practitioner~~ in accordance with an agreement under the advanced *practice* registered nurse ~~practitioner~~ service scholarship program shall be postponed under clause (9) during the period of time the state board of regents determines that the special circumstances exist. The state board of regents shall adopt rules and regulations prescribing criteria or guidelines for determination of the existence of special circumstances causing an inability to practice as an advanced *practice* registered nurse ~~practitioner~~, and shall determine the documentation required to prove the existence of such circumstances.

(b) An obligation under any agreement entered into in accordance with the advanced *practice* registered nurse ~~practitioner~~ service scholarship program shall be satisfied: (1) If the obligation has been completed in accordance with the agreement; (2) if the person obligated dies; (3) if, because of permanent physical disability, the person obligated is unable to satisfy the obligation; (4) if the person obligated fails to satisfy the requirements for

completion of the educational and training program after making the best effort possible to do so; or (5) if the person obligated is unable to obtain employment as an advanced *practice* registered nurse ~~practitioner~~ and continue in such employment after making the best effort possible to do so.

Sec. 77. On January 1, 2012, K.S.A. 74-32,137 is hereby amended to read as follows: 74-32,137. The state board of regents, after consultation with the committee, may adopt rules and regulations establishing minimum terms, conditions and obligations which shall be incorporated into the provisions of any agreement under the advanced *practice* registered nurse ~~practitioner~~ service scholarship program. The terms, conditions and obligations shall be consistent with the provisions of law relating to the advanced *practice* registered nurse ~~practitioner~~ service scholarship program. The terms, conditions and obligations so established shall include, but not be limited to, the terms of eligibility for financial assistance under the advanced *practice* registered nurse ~~practitioner~~ service scholarship program, the amount of financial assistance to be offered, the length of practice in a rural area or medically underserved area required as a condition to the receipt of such financial assistance to be offered, the amount of money required to be repaid because of failure to satisfy the obligations under an agreement and the method of repayment and such other additional provisions as may be necessary to carry out the provisions of the advanced *practice* registered nurse ~~practitioner~~ service scholarship program. The state board of regents, after consultation with the committee, shall adopt rules and regulations establishing criteria for evaluating the financial need of applicants for scholarships and may adopt such other rules and regulations as may be necessary to administer the advanced *practice* registered nurse ~~practitioner~~ service scholarship program.

Sec. 78. On January 1, 2012, K.S.A. 74-32,138 is hereby amended to read as follows: 74-32,138. There is hereby created in the state treasury the advanced *practice* registered nurse ~~practitioner~~ service scholarship program fund. The executive officer shall remit all moneys received under this act 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 advanced *practice* registered nurse ~~practitioner~~ service scholarship program fund. All expenditures from the advanced *practice* registered nurse ~~practitioner~~ service scholarship program fund shall be for scholarships awarded under this act and shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the executive officer or by a person designated by the executive officer.

Sec. 79. K.S.A. 2010 Supp. 65-1117 is hereby amended to read as follows: 65-1117. (a) All licenses issued under the provisions of this act, whether initial or renewal, shall expire every two years. The expiration date shall be established by the rules and regulations of the board. The board shall send a notice for renewal of license to every registered professional nurse and licensed practical nurse at least 60 days prior to the expiration date of such person's license. Every person so licensed who desires to renew such license shall file with the board, on or before the date of expiration of such license, a renewal application together with the prescribed biennial renewal fee. Every licensee who is no longer engaged in the active practice of nursing may so state by affidavit and submit such affidavit with the renewal application. An inactive license may be requested along with payment of a fee which shall be fixed by rules and regulations of the board. Except for the first renewal for a license that expires within 30 months following licensure examination or for renewal of a license that expires within the first nine months following licensure by reinstatement or endorsement, every licensee with an active nursing license shall submit with the renewal application evidence of satisfactory completion of a program of continuing nursing education required by the board. The board by duly adopted rules and regulations shall establish the requirements for such program of continuing nursing education. Continuing nursing education means learning experiences intended to build upon the educational and experiential bases of the registered professional and licensed practical nurse for the enhancement of practice, education, administration, research or theory development to the end of improving the health of the public. Upon receipt of such application, payment of fee, upon receipt of the evidence of satis-

factory completion of the required program of continuing nursing education and upon being satisfied that the applicant meets the requirements set forth in K.S.A. 65-1115 or 65-1116 and amendments thereto in effect at the time of initial licensure of the applicant, the board shall verify the accuracy of the application and grant a renewal license.

(b) Any person who fails to secure a renewal license within the time specified herein may secure a reinstatement of such lapsed license by making verified application therefor on a form provided by the board, by rules and regulations, and upon furnishing proof that the applicant is competent and qualified to act as a registered professional nurse or licensed practical nurse and by satisfying all of the requirements for reinstatement including payment to the board of a reinstatement fee as established by the board. A reinstatement application for licensure will be held awaiting completion of such documentation as may be required, but such application shall not be held for a period of time in excess of that specified in rules and regulations.

(c) *Any person whose license as a registered professional nurse has lapsed for a period of more than 13 years beyond its expiration date and who has been employed for at least 10 of the last 13 years in an allied health profession which employment required substantially comparable patient care to that of care provided by a registered professional nurse may apply for reinstatement as a registered professional nurse and shall not be required to complete a refresher course as established by the board, but shall be reinstated as a registered professional nurse by the board upon application to the board for reinstatement of such license on a form provided by the board, upon presentation to the board of an affidavit from such person detailing such person's work history, upon determination by the board that the work history with regard to patient care is substantially comparable to patient care provided by a registered professional nurse, upon determination by the board that such person is otherwise qualified to be licensed as a registered professional nurse and upon paying to the board the reinstatement fee established by the board. This subsection shall expire on January 1, 2012.*

(d) (1) Each licensee shall notify the board in writing of (A) a change in name or address within 30 days of the change or (B) a conviction of any felony or misdemeanor, that is specified in rules and regulations adopted by the board, within 30 days from the date the conviction becomes final.

(2) As used in this subsection, "conviction" means a final conviction without regard to whether the sentence was suspended or probation granted after such conviction. Also, for the purposes of this subsection, a forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. Failure to so notify the board shall not constitute a defense in an action relating to failure to renew a license, nor shall it constitute a defense in any other proceeding.

Sec. 80. On July 1, 2011, K.S.A. 65-6102 is hereby amended to read as follows: 65-6102. (a) There is hereby established the emergency medical services board. The office of the emergency medical services board shall be located in the city of Topeka, Kansas.

(b) The emergency medical services board shall be composed of ~~13~~ 15 members to be appointed as follows:

(1) ~~Nine~~ Eleven members shall be appointed by the governor. Of such members:

(A) ~~One~~ Three shall be ~~a member of the Kansas medical society~~ physicians who ~~is~~ are actively involved in emergency medical services;

(B) two shall be county commissioners of counties making a levy for ambulance service, at least one of whom shall be from a county having a population of less than 15,000;

(C) one shall be an instructor-coordinator;

(D) one shall be a hospital administrator actively involved in emergency medical services;

(E) one shall be a member of a firefighting unit which provides emergency medical service; and

(F) three shall be attendants who are actively involved in emergency medical service. At least two classifications of attendants shall be represented. At least one of such members shall be from a volunteer emergency medical service; and

(2) four members shall be appointed as follows:

(A) One shall be a member of the Kansas senate to be appointed by the president of the senate;

(B) one shall be a member of the Kansas senate to be appointed by the minority leader of the senate;

(C) one shall be a member of the Kansas house of representatives to be appointed by the speaker of the house of representatives; and

(D) one shall be a member of the Kansas house of representatives to be appointed by the minority leader of the house of representatives.

All members of the board shall be residents of the state of Kansas. Appointments to the board shall be made with due consideration that representation of the various geographical areas of the state is ensured. The governor may remove any member of the board upon recommendation of the board. Any person appointed to a position on the board shall forfeit such position upon vacating the office or position which qualified such person to be appointed as a member of the board.

(c) ~~Of the members first appointed to the board, four shall be appointed for terms of one year, three for terms of two years, three for terms of three years and three for terms of four years. Of the two additional physician members appointed by the governor on and after July 1, 2011, one shall be appointed for a term of three years and one shall be appointed for a term of four years.~~ Thereafter, members shall be appointed for terms of four years and until their successors are appointed and qualified. In the case of a vacancy in the membership of the board, the vacancy shall be filled for the unexpired term.

(d) The board shall meet at least six times annually and at least once each quarter and at the call of the chairperson or at the request of the administrator of the emergency medical services board or of any six members of the board. At the first meeting of the board after January 1 each year, the members shall elect a chairperson and a vice-chairperson who shall serve for a term of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson. If a vacancy occurs in the office of the chairperson or vice-chairperson, the board shall fill such vacancy by election of one of its members to serve the unexpired term of such office. Members of the board attending meetings of the board or attending a subcommittee meeting thereof authorized by the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223, and amendments thereto.

(e) Except as otherwise provided by law, all vouchers for expenditures and all payrolls of the emergency medical services board shall be approved by the emergency medical services board or a person designated by the board.

Sec. 81. On July 1, 2011, K.S.A. 65-6110 is hereby amended to read as follows: 65-6110. (a) The board shall adopt any rules and regulations necessary for the regulation of ambulance services. Such rules and regulations shall include: (1) A classification of the different types of ambulance services; (2) requirements as to equipment necessary for ambulances and rescue vehicles; (3) qualifications and training of attendants, instructor-coordinators and training officers; (4) requirements *and fees* for the licensure, *temporary licensure*, and renewal of licensure for ambulances and rescue vehicles; (5) records and equipment to be maintained by operators, instructor-coordinators, training officers, providers of training and attendants; ~~and~~ (6) *requirements for a quality assurance and improvement program for ambulance services; and* (7) such other matters as the board deems necessary to implement and administer the provisions of this act.

(b) The provisions of this act shall not apply to rescue vehicles operated by a fire department.

(c) *Nothing in this act or in the provisions of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, shall authorize the board to specify the individuals who may or may not ride on a helicopter while used as an ambulance.*

Sec. 82. On July 1, 2011, K.S.A. 2010 Supp. 65-6112 is hereby amended to read as follows: 65-6112. As used in this act:

(a) “Administrator” means the executive director of the emergency medical services board.

(b) “Advanced emergency medical technician” means a person who holds an advanced emergency medical technician certificate issued pursuant to this act.

(c) “Advanced registered nurse practitioner” means an advanced registered nurse practitioner as defined in K.S.A. 65-1113, and amendments thereto.

(d) “Ambulance” means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared, staffed and equipped for use in transporting and providing emergency care for individuals who are ill or injured.

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

(f) “Attendant” means a first responder, an emergency medical responder, emergency medical technician, emergency medical technician-intermediate, emergency medical technician-defibrillator, emergency medical technician-intermediate/defibrillator, advanced emergency medical technician, mobile intensive care technician or paramedic certified pursuant to this act.

(g) “Board” means the emergency medical services board established pursuant to K.S.A. 65-6102, and amendments thereto.

(h) “Emergency medical service” means the effective and coordinated delivery of such care as may be required by an emergency which includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced registered nurse practitioner, professional nurse, a licensed physician assistant or attendant.

(i) “Emergency medical technician” means a person who holds an emergency medical technician certificate issued pursuant to this act.

(j) “Emergency medical technician-defibrillator” means a person who holds an emergency medical technician-defibrillator certificate issued pursuant to this act.

(k) “Emergency medical technician-intermediate” means a person who holds an emergency medical technician-intermediate certificate issued pursuant to this act.

(l) “Emergency medical technician-intermediate/defibrillator” means a person who holds both an emergency medical technician-intermediate and emergency medical technician defibrillator certificate issued pursuant to this act.

(m) “Emergency medical responder” means a person who holds an emergency medical responder certificate issued pursuant to this act.

(n) “First responder” means a person who holds a first responder certificate issued pursuant to this act.

(o) “Hospital” means a hospital as defined by K.S.A. 65-425, and amendments thereto.

(p) “Instructor-coordinator” means a person who is certified under this act to teach initial ~~courses of certification of instruction~~ *certification* and continuing education classes.

(q) “Medical ~~adviser~~ *director*” means a physician.

(r) “Medical protocols” mean written guidelines which authorize attendants to perform certain medical procedures prior to contacting a physician, physician assistant authorized by a physician, advanced registered nurse practitioner authorized by a physician or professional nurse authorized by a physician. The medical protocols shall be approved by a county medical society or the medical staff of a hospital to which the ambulance service primarily transports patients, or if neither of the above are able or available to approve the medical protocols, then the medical protocols shall be submitted to the medical advisory council for approval.

(s) “Mobile intensive care technician” means a person who holds a mobile intensive care technician certificate issued pursuant to this act.

(t) “Municipality” means any city, county, township, fire district or ambulance service district.

(u) “Nonemergency transportation” means the care and transport of a sick or injured person under a foreseen combination of circumstances calling for continuing care of such person. As used in this subsection, transportation includes performance of the authorized level of services of the attendant whether within or outside the vehicle as part of such transportation services.

(v) “Operator” means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

(w) “Paramedic” means a person who holds a paramedic certificate issued pursuant to this act.

(x) “Person” means an individual, a partnership, an association, a joint-stock company or a corporation.

(y) “Physician” means a person licensed by the state board of healing arts to practice medicine and surgery.

(z) “Physician assistant” means a person who is licensed under the physician assistant licensure act and who is acting under the direction of a responsible physician.

(aa) “Professional nurse” means a licensed professional nurse as defined by K.S.A. 65-1113, and amendments thereto.

(bb) “Provider of training” means a corporation, partnership, accredited postsecondary education institution, ambulance service, fire department, hospital or municipality that conducts training programs that include, but are not limited to, initial courses of instruction and continuing education for attendants, instructor-coordinators or training officers.

(cc) “Responsible physician” means responsible physician as such term is defined under K.S.A. 65-28a02, and amendments thereto.

(dd) “Training officer” means a person who is certified pursuant to this act to teach, *coordinate or both*, initial courses of instruction for first responders or emergency medical responders and continuing education as prescribed by the board.

Sec. 83. On July 1, 2011, K.S.A. 2010 Supp. 65-6120 is hereby amended to read as follows: 65-6120. (a) Notwithstanding any other provision of law to the contrary, an emergency medical technician-intermediate may:

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

(2) when approved by medical protocols ~~and~~ *or* where voice contact by radio or telephone is monitored by a physician, physician assistant where authorized by a physician, advanced registered nurse practitioner 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;

(3) perform, during an emergency, those activities specified in subsection (a)(2) before contacting the persons identified in subsection (a)(2) when specifically authorized to perform such activities by medical protocols; or

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

(b) An individual who holds a valid certificate as an emergency medical technician-intermediate once *successfully* completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, *may apply to transition to become an advanced emergency medical technician. Alternatively*, upon application for renewal, *such individual* shall be deemed to hold a certificate as an advanced emergency medical technician under this act, *provided such individual has completed all continuing education hour requirements inclusive of the successful completion of a transition course* and such individual shall not be required to file an original application for certification as an advanced emergency medical technician under this act.

(c) “Renewal” as used in subsection (b), refers to the *first or second opportunity after December 31, 2011*, that an emergency medical technician-intermediate has to apply for renewal of a certificate ~~following the effective date of this act~~.

(d) Emergency medical technician-intermediates who fail to meet the transition requirements as specified ~~will be required, at a minimum, to gain the continuing education applicable to emergency medical technician as defined by rules and regulations of the board. Failure to do so will result in loss of certification.~~ *may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations*

of the board. Upon completion, such emergency medical technician-intermediate may apply to transition to become an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an emergency medical technician-intermediate certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.

(e) Failure to successfully complete either an advanced emergency medical technician transition course, an emergency medical technician transition course or emergency medical responder transition course will result in loss of certification.

(f) Upon transition, notwithstanding any other provision of law to the contrary, an advanced emergency medical technician may:

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

(2) perform any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, as specifically identified in rules and regulations, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, or upon order when direct communication is maintained by radio, telephone or video conference with a physician, physician assistant where authorized by a physician, an advanced registered nurse practitioner where authorized by a physician, or licensed professional nurse where authorized by a physician upon order of such a person: (A) Continuous positive airway pressure devices; (B) advanced airway management; (C) referral of patient of alternate medical care site based on assessment; (D) transportation of a patient with a capped arterial line; (E) venipuncture for obtaining blood sample; (F) initiation and maintenance of intravenous infusion or saline lock; (G) initiation of intraosseous infusion; (H) nebulized therapy; (I) manual defibrillation and cardioversion; (J) cardiac monitoring; (K) medication administration via electrocardiogram interpretation; (L) administration of generic or trade name medications by one or more of the following methods: (i) Aerosolization; (ii) nebulization; (iii) intravenous; (iv) intranasal; (v) rectal; (vi) subcutaneous; (vii) intraosseous; (viii) intramuscular; or (ix) sublingual.

(g) An individual who holds a valid certificate as both an emergency medical technician-intermediate and as an emergency medical technician-defibrillator once successfully completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to an advanced emergency medical technician. Alternatively, upon application for renewal, such individual shall be deemed to hold a certificate as an advanced emergency medical technician under this act, provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course, and such individual shall not be required to file an original application for certification as an advanced emergency medical technician under this act.

(h) “Renewal” as used in subsection (g), refers to the first or second opportunity after December 31, 2011, that an emergency medical technician-intermediate and emergency medical technician-defibrillator has to apply for renewal of a certificate following the effective date of this act.

~~(i) Emergency medical technician-intermediate and emergency medical technician-defibrillator who fail to meet the transition requirements as specified will be required, at a minimum, to gain the continuing education applicable to emergency medical technician as defined by rules and regulations of the board. Failure to do so will result in loss of certification. An individual who holds both an emergency medical technician-intermediate certificate and an emergency medical technician-defibrillator certificate, who fails to meet the transition requirements as specified may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, and provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of successful completion of a transition course as determined by rules and regulations of the board. Upon completion,~~

such individual may apply to transition to become an emergency medical technician or emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an emergency medical technician-intermediate certificate and an emergency medical technician-defibrillator certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.

(j) Failure to successfully complete either the advanced emergency medical technician transition requirements, an emergency medical technician transition course or the emergency medical responder transition course will result in loss of certification.

Sec. 84. On July 1, 2011, K.S.A. 2010 Supp. 65-6121 is hereby amended to read as follows: 65-6121. (a) Notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any of the following activities:

- (1) Patient assessment and vital signs;
- (2) airway maintenance including the use of:
 - (A) Oropharyngeal and nasopharyngeal airways;
 - (B) esophageal obturator airways with or without gastric suction device;
 - (C) multi-lumen airway; and
 - (D) oxygen demand valves.
- (3) Oxygen therapy;
- (4) oropharyngeal suctioning;
- (5) cardiopulmonary resuscitation procedures;
- (6) control accessible bleeding;
- (7) apply pneumatic anti-shock garment;
- (8) manage outpatient medical emergencies;
- (9) extricate patients and utilize lifting and moving techniques;
- (10) manage musculoskeletal and soft tissue injuries including dressing and bandaging wounds or the splinting of fractures, dislocations, sprains or strains;
- (11) use of backboards to immobilize the spine;
- (12) administer activated charcoal and glucose;
- (13) monitor ~~peripheral~~ intravenous line delivering intravenous fluids during interfacility transport with the following restrictions:
 - (A) The physician approves the transfer by an emergency medical technician;
 - (B) no medications or nutrients have been added to the intravenous fluids; and
 - (C) the emergency medical technician may monitor, maintain and shut off the flow of intravenous fluid;
- (14) use automated external defibrillators;
- (15) administer epinephrine auto-injectors provided that:
 - (A) The emergency medical technician successfully completes a course of instruction approved by the board in the administration of epinephrine; ~~and~~
 - (B) the emergency medical technician serves with an ambulance service or a first response organization that provides emergency medical services; and
 - (C) the emergency medical technician is acting pursuant to medical protocols;
- (16) perform, during nonemergency transportation, those activities specified in this section when specifically authorized to perform such activities by medical protocols; or
- (17) when authorized by medical protocol, assist the patient in the administration of the following medications which have been prescribed for that patient: Auto-injection epinephrine, sublingual nitroglycerin and inhalers for asthma and emphysema.

(b) An individual who holds a valid certificate as an emergency medical technician at the current basic level once *successfully* completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, *may apply to transition to become an emergency medical technician. Alternatively,*

upon application for renewal, *such individual* shall be deemed to hold a certificate as an emergency medical technician under this act, *provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course*, and such individual shall not be required to file an original application for certification as an emergency medical technician ~~under this act~~.

(c) “Renewal” as used in subsection (b); refers to the first opportunity *after December 31, 2011*, that an emergency medical technician has to apply for renewal of a certificate ~~following the effective date of this act~~.

(d) Emergency medical technicians who fail to meet the transition requirements as specified ~~will be required, at a minimum, to gain the continuing education applicable to emergency medical responder as defined by rules and regulations of the board. Failure to do so will result in loss of certification.~~ *may successfully complete the board prescribed emergency medical responder transition course, provide validation of cognitive and psychomotor competency and all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations of the board. Alternatively, upon application for renewal of an emergency medical technician certificate, the applicant shall be deemed to hold a certificate as an emergency medical responder under this act, and such individual shall not be required to file an original application for certification as an emergency medical responder.*

(e) *Failure to successfully complete either an emergency medical technician transition course or emergency medical responder transition course will result in loss of certification.*

~~(e)~~ (f) Upon transition, notwithstanding any other provision of law to the contrary, an emergency medical technician may perform any activities identified in K.S.A. 65-6144, and amendments thereto, and any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, *or* upon order when direct communication is maintained by radio, telephone or video conference is monitored by a physician, physician assistant when authorized by a physician, an advanced registered nurse practitioner when authorized by a physician or a licensed professional nurse when authorized by a physician, upon order of such person:

- (1) Airway maintenance including use of:
 - (A) Single lumen airways as approved by the board;
 - (B) multilumen airways;
 - (C) ventilator devices;
 - (D) forceps removal of airway obstruction;
 - (E) CO2 monitoring;
 - (F) airway suctioning;
- (2) apply pneumatic anti-shock garment;
- (3) assist with childbirth;
- (4) monitoring urinary catheter;
- (5) capillary blood sampling;
- (6) cardiac monitoring;
- (7) administration of patient assisted medications as approved by the board;
- (8) administration of medications as approved by the board by appropriate routes; and
- (9) monitor, maintain or discontinue flow of IV line if a physician approves transfer by an emergency medical technician.

Sec. 85. On July 1, 2011, K.S.A. 2010 Supp. 65-6123 is hereby amended to read as follows: 65-6123. (a) Notwithstanding any other provision of law to the contrary, an emergency medical technician-defibrillator may:

- (1) Perform any of the activities identified in K.S.A. 65-6121, and amendments thereto;
- (2) when approved by medical protocols ~~and~~ *or* where voice contact by radio or telephone is monitored by a physician, physician assistant where authorized by a physician, advanced registered nurse practitioner 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;

(3) 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

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

(b) An individual who holds a valid certificate as an emergency medical technician-defibrillator once *successfully completing an emergency medical technician-intermediate, initial course of instruction and the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, may apply to transition to become an advanced emergency medical technician. Alternatively,* upon application for renewal, *such individual* shall be deemed to hold a certificate as an advanced emergency medical technician under this act, *provided such individual has completed all continuing education hour requirements inclusive of successful completion of a transition course, and such individual shall not be required to file an original application for certification as an advanced emergency medical technician under this act.*

(c) “Renewal” as used in subsection (b), refers to the second opportunity *after December 31, 2011, that an attendant has to apply for renewal of a certificate following the effective date of this act.*

(d) ~~EMT-D~~ *Emergency medical technician-defibrillator* attendants who fail to meet the transition requirements as specified ~~will be required, at a minimum, to gain the continuing education applicable to emergency medical technician as defined by rules and regulations of the board. Failure to do so will result in loss of certification.~~ *may complete either the board prescribed emergency medical technician transition course or emergency medical responder transition course, provide validation of cognitive and psychomotor competency provided such individual has completed all continuing education hour requirements inclusive of the successful completion of a transition course as determined by rules and regulations of the board. Upon completion, such emergency medical technician-defibrillator may apply to transition to become an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Alternatively, upon application for renewal of an emergency medical technician-defibrillator certificate, the applicant shall be renewed as an emergency medical technician or an emergency medical responder, depending on the transition course that was successfully completed. Such individual shall not be required to file an original application for certification as an emergency medical technician or emergency medical responder.*

(e) *Failure to complete either the advanced emergency medical technician transition requirements, an emergency medical technician transition course or an emergency medical responder transition course will result in loss of certification.*

Sec. 86. On July 1, 2011, K.S.A. 2010 Supp. 65-6124 is hereby amended to read as follows: 65-6124. (a) No physician, physician assistant, advanced registered nurse practitioner or licensed professional nurse, who gives emergency instructions to an attendant as defined by K.S.A. 65-6112, and amendments thereto, 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 attendant as defined by K.S.A. 65-6112, and amendments thereto, who renders emergency care during an emergency pursuant to instructions given by a physician, the responsible physician for a physician assistant, advanced registered nurse practitioner 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 attendant as defined by K.S.A. 65-6112, and amendments thereto.

(c) 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.

(d) No medical ~~adviser~~ *director* 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. 87. On July 1, 2011, K.S.A. 65-6126 is hereby amended to read as follows: 65-6126. Each emergency medical service shall have a medical ~~adviser~~ *director* appointed by the operator of the service to review; *and implement medical protocols*, approve and monitor the activities *and education* of the attendants. The board may approve an alternative procedure for medical oversight if no medical ~~adviser~~ *director* is available.

Sec. 88. On July 1, 2011, K.S.A. 2010 Supp. 65-6129 is hereby amended to read as follows: 65-6129. (a) Application for an attendant's certificate shall be made to the board. The board shall not grant an attendant's certificate unless the applicant meets the following requirements:

(1) (A) Has successfully completed coursework required by the rules and regulations adopted by the board; or

(B) has successfully completed coursework in another jurisdiction that is substantially equivalent to that required by the rules and regulations adopted by the board; ~~and~~

(2) (A) has passed the examination required by the rules and regulations adopted by the board; or

(B) has passed the certification or licensing examination in another jurisdiction that has been approved by the board; *and*

(3) *has paid an application fee required by the rules and regulations adopted by the board.*

(b) (1) The board shall not grant a temporary attendant's certificate unless the applicant meets the following requirements:

(A) If the applicant is certified or licensed as an attendant in another jurisdiction, but the applicant's coursework is determined not to be substantially equivalent to that required by the board, such temporary certificate shall be valid for one year from the date of issuance or until the applicant has completed the required coursework, whichever occurs first; or

(B) if the applicant has completed the required coursework, has taken the required examination, but has not received the results of the examination, such temporary certificate shall be valid for 120 days from the date of the examination.

(2) An applicant who has been granted a temporary certificate shall be under the direct supervision of a physician, a physician's assistant, a professional nurse or an attendant holding a certificate at the same level or higher than that of the applicant.

(c) The board shall not grant an initial emergency medical technician-intermediate certificate, advanced emergency medical technician certificate, mobile intensive care technician certificate or paramedic certificate as a result of successful course completion in the state of Kansas, unless the applicant for such an initial certificate is certified as an emergency medical technician.

(d) An attendant's certificate shall expire on the date prescribed by the board. An attendant's certificate may be renewed for a period of two years upon payment of a fee as prescribed by rule and regulation of the board and upon presentation of satisfactory proof that the attendant has successfully completed continuing education as prescribed by the board.

(e) All fees received pursuant to the provisions of 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 emergency medical services operating fund established by K.S.A. 65-6151, and amendments thereto.

(f) If a person who was previously certified as an attendant applies for an attendant's certificate after the certificate's expiration, the board may grant a certificate without the person completing an initial course of instruction or passing a certification examination if the person has completed education requirements and has paid a fee as specified in rules and regulations adopted by the board.

(g) The board shall adopt, through rules and regulations, a formal list of graduated sanctions for violations of article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, which shall specify the number and severity of violations for the imposition of each level of sanction.

Sec. 89. On July 1, 2011, K.S.A. 65-6132 is hereby amended to read as follows: 65-6132. (a) An operator's permit may be denied, revoked, limited, modified or suspended by the board upon proof that such operator or any agent or employee thereof:

(1) Has been guilty of misrepresentation in obtaining the permit or in the operation of the ambulance service;

(2) has engaged or attempted to engage in, or represented themselves as entitled to perform, any ambulance service not authorized in the permit;

(3) has demonstrated incompetence as defined by rules and regulations adopted by the board or has shown themselves otherwise unable to provide adequate ambulance service;

(4) has failed to keep and maintain the records required by the provisions of this act, or the rules and regulations ~~promulgated thereunder~~ *adopted by the board*, or has failed to make reports when and as required;

(5) has knowingly operated faulty or unsafe equipment; ~~or~~

(6) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations ~~promulgated thereunder~~ *adopted by the board; or*

(7) *has engaged in unprofessional conduct as defined by rules and regulations adopted by the board.*

(b) The board shall not limit, modify, revoke or suspend any operator's permit pursuant to this section without first conducting a hearing in accordance with the provisions of the administrative procedure act.

Sec. 90. On July 1, 2011, K.S.A. 65-6133 is hereby amended to read as follows: 65-6133. (a) An attendant's, ~~or~~ instructor-coordinator's *or training officer's* certificate may be denied, revoked, limited, modified or suspended by the board or the board may refuse to renew such certificate upon proof that such individual:

(1) Has made intentional misrepresentations in obtaining a certificate or renewing a certificate;

(2) has performed or attempted to perform activities not authorized by statute at the level of certification held by the individual;

(3) has demonstrated incompetence as defined by rules and regulations adopted by the board or has provided inadequate patient care as determined by the board;

(4) has violated or aided and abetted in the violation of any provision of this act or the rules and regulations ~~promulgated thereunder~~ *adopted by the board;*

(5) has been convicted of a felony and, after investigation by the board, it is determined that such person has not been sufficiently rehabilitated to warrant the public trust;

(6) has demonstrated an inability to perform authorized activities with reasonable skill and safety by reason of illness, alcoholism, excessive use of drugs, controlled substances or any physical or mental condition; ~~or~~

(7) has engaged in unprofessional conduct, as defined by rules and regulations adopted by the board; *or*

(8) *has had a certificate, license or permit to practice emergency medical services as an attendant denied, revoked, limited or suspended or has been publicly or privately censured, by a licensing or other regulatory authority of another state, agency of the United States government, territory of the United States or other country or has had other disciplinary action taken against the applicant or holder of a permit, license or certificate by a licensing or other regulatory authority of another state, agency of the United States government, territory of the United States or other country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing or other regulatory authority of another state, agency of the United States government, territory of the United States or other country shall constitute prima facie evidence of such a fact for purposes of this paragraph.*

(b) The board may limit, modify, revoke or suspend an attendant's or instructor-coordinator's certificate or the board may refuse to renew such certificate in accordance with the provisions of the Kansas administrative procedure act.

Sec. 91. On July 1, 2011, K.S.A. 2010 Supp. 65-6144 is hereby amended to read as follows: 65-6144. (a) A first responder may perform any of the following activities:

- (1) Initial scene management including, but not limited to, gaining access to the individual in need of emergency care, extricating, lifting and moving the individual;
- (2) cardiopulmonary resuscitation and airway management;
- (3) control of bleeding;
- (4) extremity splinting excluding traction splinting;
- (5) stabilization of the condition of the individual in need of emergency care;
- (6) oxygen therapy;
- (7) use of oropharyngeal airways;
- (8) use of bag valve masks;
- (9) use automated external defibrillators; and
- (10) other techniques of preliminary care a first responder is trained to provide as approved by the board.

(b) An individual who holds a valid certificate as a first responder, once completing the board prescribed transition course, and validation of cognitive and psychomotor competency as determined by rules and regulations of the board, *may apply to transition to become an emergency medical responder. Alternatively, upon application for renewal of such certificate, such individual shall be deemed to hold a certificate as an emergency medical responder under this act, provided such individual has completed all continuing education hour requirements inclusive of a transition course and such individual shall not be required to file an original application for certification as an emergency medical responder under this act.*

(c) “Renewal” as used in subsection (b), refers to the first opportunity after December 31, 2011, that an attendant has to apply for renewal of a certificate ~~following the effective date of this act.~~

(d) First responder attendants who fail to meet the transition requirements as specified will forfeit their certification.

(e) Upon transition, notwithstanding any other provision of law to the contrary, an emergency medical responder may perform any of the following interventions, by use of the devices, medications and equipment, or any combination thereof, after successfully completing an approved course of instruction, local specialized device training and competency validation and when authorized by medical protocols, *or upon order when direct communication is maintained by radio, telephone or video conference is monitored by a physician, physician assistant when authorized by a physician, an advanced registered nurse practitioner when authorized by a physician or a licensed professional nurse when authorized by a physician, upon order of such person:* (1) Emergency vehicle operations; (2) initial scene management; (3) patient assessment and stabilization; (4) cardiopulmonary resuscitation and airway management; (5) control of bleeding; (6) extremity splinting; (7) spinal immobilization; (8) oxygen therapy; (9) use of bag-valve-mask; (10) use of automated external defibrillator; (11) nebulizer therapy; (12) intramuscular injections with auto-injector; (13) administration of oral glucose; (14) administration of aspirin; (15) recognize and comply with advanced directives; (16) insertion and maintenance of oral and nasal pharyngeal airways; (17) use of blood glucose monitoring; and (18) other techniques and devices of preliminary care an emergency medical responder is trained to provide as approved by the board.

Sec. 92. K.S.A. 65-1424 is hereby amended to read as follows: 65-1424. (a) ~~The term “proprietor” as used in this act includes~~ *As used in this act:* (1) “Proprietor” means any person who:

~~(a)~~ employs dentists or dental hygienists in the operation of a dental office. ~~or~~

(2) “Dental franchisor” means any person or entity, pursuant to a written agreement, who provides a licensed dentist any dental practice management consulting services, which may include marketing or advertising services, signage or branding consulting, or places in possession of a licensed dentist such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation. A person or entity is not a dental franchisor if the agreement with the dentist:

(A) *Permits the person or entity to interfere with the professional judgment of the dentist; or*

(B) *contains terms that would constitute a violation of the dental prac-*

tices act, rules and regulations adopted by the board, any orders and directives issued by the board or any other applicable law.

~~(b) places in possession of a dentist or dental hygienists or other agent such dental material or equipment as may be necessary for the management of a dental office on the basis of a lease or any other agreement for compensation for the use of such material, equipment or offices; or~~

~~(c) retains the ownership or control of dental equipment or material or office and makes the same available in any manner for the use by dentists or dental hygienists or other agents except that nothing in this subsection (c) shall apply to bona fide sales of dental equipment or material secured by a chattel mortgage or retain title agreement.~~

(3) “Unlicensed proprietor” means any person or entity not authorized to own or operate a dental practice that enters into an agreement with a dentist or dental hygienist related to the practice of dentistry or dental hygiene which:

(A) Permits the person or entity to interfere with the professional judgment of the dentist; or

(B) contains terms that would constitute a violation of the dental practices act, rules and regulations adopted by the board, any orders and directives issued by the board or any other applicable law.

A licensee of dentistry who enters into ~~any of the above described arrangements~~ any arrangement with an unlicensed proprietor may have such license limited, suspended or revoked by the board.

(b) The estate or agent for a deceased or substantially disabled dentist may employ dentists, for a period of not more than one year, to provide service to patients until the practice can be sold.

Sec. 93. K.S.A. 65-1425 is hereby amended to read as follows: 65-1425. Except as provided in K.S.A. 17-2706 et seq., and amendments thereto, no corporation shall practice, offer, or undertake to practice or hold itself out as practicing dentistry. Every person practicing dentistry as an employee of another shall cause his name to be conspicuously displayed and kept in a conspicuous place at the entrance of the place where such practice is conducted: ~~Provided, however, That nothing herein contained.~~ Nothing in this section shall prohibit a licensed dentist from practicing dentistry as the agent or employee of another licensed dentist in this state, or from practicing dentistry as the agent or employee of any state hospital or state institution where his such dentist's only remuneration is from the state, or from any corporation which provides dental service for its employees at no profit to the corporation. Nothing in this section shall prohibit a licensed dentist from practicing dentistry as an employee of a general hospital defined in K.S.A. 65-425, and amendments thereto, in a county with population of less than 50,000.

Sec. 94. K.S.A. 2010 Supp. 65-1435 is hereby amended to read as follows: 65-1435. (a) Except as otherwise provided in this section, it shall be unlawful for any person or persons to practice or offer to practice dentistry under any name except such person's own name, which shall be the name used on the license granted to such person as a dentist as provided in the dental practices ~~this~~ act.

(b) A licensed dentist may use the name of any association, corporation, clinic, trade name or business name in connection with the practice of dentistry, as defined in the dental practices ~~this~~ act, except that such name may not misrepresent the dentist to the public as determined by the Kansas dental board.

(c) Nothing herein contained shall be construed to prevent two or more licensed dentists:

(1) From associating together for the practice of dentistry, each in such person's own proper name; or

(2) from associating together for the practice of dentistry, each as owners, in a professional corporation, organized pursuant to the professional corporation law of Kansas, or, each as owners, in a limited liability company organized pursuant to the Kansas revised limited liability company act, and using a name that may or may not contain the proper name of any such person or persons *except that such name may not misrepresent the dentist to the public if such name has been approved by the board* and from employing nonowning licensees; or

(3) from associating together with persons licensed to practice medicine and surgery in a clinic or professional association under a name that may

or may not contain the proper name of any such person or persons and may contain the word “clinic.”

(d) It shall be unlawful, and a licensee may have a license suspended or revoked, for any licensee to conduct a dental office in the name of the licensee, or to advertise the licensee’s name in connection with any dental office or offices, or to associate together for the practice of dentistry with other licensed dentists in a professional corporation or limited liability company, under a name that may or may not contain the proper name of any such person or persons or to associate together with persons licensed to practice medicine and surgery in a clinic or professional association under a name that may or may not contain the proper name of any such person or persons and may contain the word “clinic,” unless such licensee is personally present in the office operating as a dentist or personally overseeing such operations as are performed in the office or each of the offices during a majority of the time the office or each of the offices is being operated.

~~(e) Nothing in this section shall be construed to permit the franchise practice of dentistry.~~

~~(f)~~ (e) The violation of any of the provisions of this section by any dentist shall subject such dentist to suspension or revocation of a license.

~~(g)~~ (f) Notwithstanding the provisions of ~~subsection (d) and (e)~~, a licensee shall be permitted to own two dental offices in addition to the licensee’s primary office location under the following conditions:

(1) The licensee’s secondary dental office is located within a 125 mile radius of the licensee’s primary office; and

(2) the licensee’s secondary dental office is located in a county with a population of less than 10,000 according to the 2000 United States census.

Sec. 95. K.S.A. 2010 Supp. 65-1436 is hereby amended to read as follows: 65-1436. (a) The Kansas dental board may refuse to issue the license *under the dental practices* ~~provided for in this act~~, or may take any of the actions with respect to any dental or dental hygiene license as set forth in subsection (b), whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that any applicant for a dental or dental hygiene license or any licensed dentist or dental hygienist practicing in the state of Kansas has:

(1) Committed fraud, deceit or misrepresentation in obtaining any license, money or other thing of value;

(2) habitually used intoxicants or drugs which have rendered such person unfit for the practice of dentistry or dental hygiene;

(3) been determined by the board to be professionally incompetent;

(4) committed gross, wanton or willful negligence in the practice of dentistry or dental hygiene;

(5) employed, allowed or permitted any unlicensed person or persons to perform any work in the licensee’s office which constitutes the practice of dentistry or dental hygiene under the provisions of *the dental practices* ~~this act~~;

(6) willfully violated the laws of this state relating to the practice of dentistry or dental hygiene or the rules and regulations of the secretary of health and environment or of the board regarding sanitation;

(7) engaged in the division of fees, or agreed to split or divide the fee received for dental service with any person for bringing or referring a patient without the knowledge of the patient or the patient’s legal representative, except:

(A) The division of fees between dentists practicing in a partnership and sharing professional fees;

~~(B) the division of fees between, or in case of one licensed dentist employing another; or~~

~~(C) the division of fees between a licensed dentist and a proprietor as defined in K.S.A. 65-1424, and amendments thereto dental franchisor;~~

(8) committed complicity in association with or allowed the use of the licensed dentist’s name in conjunction with any person who is engaged in the illegal practice of dentistry;

(9) been convicted of a felony or a misdemeanor involving moral turpitude in any jurisdiction and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;

(10) prescribed, dispensed, administered or distributed a prescription

drug or substance, including a controlled substance, in an excessive, improper or inappropriate manner or quantity outside the scope of practice of dentistry or in a manner that impairs the health and safety of an individual;

(11) prescribed, purchased, administered, sold or given away prescription drugs, including a controlled substance, for other than legal and legitimate purposes;

(12) violated or been convicted of any federal or state law regulating possession, distribution or use of any controlled substance;

(13) failed to pay license fees;

(14) used the name “clinic,” “institute” or other title that may suggest a public or semipublic activity except that the name “clinic” may be used as authorized in K.S.A. 65-1435, and amendments thereto;

(15) committed, after becoming a licensee, any conduct which is detrimental to the public health, safety or welfare as defined by rules and regulations of the board;

(16) engaged in a misleading, deceptive, untrue or fraudulent misrepresentation in the practice of dentistry or on any document connected with the practice of dentistry by knowingly submitting any misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement, including the systematic waiver of patient co-payment or co-insurance;

(17) failed to keep adequate records;

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

(19) failed to furnish the board, or its investigators or representatives any information legally requested by the board; or

(20) assisted suicide in violation of *K.S.A. 21-3406, prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas* ~~K.S.A. 21-3406~~, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of *K.S.A. 21-3406, prior to its repeal, or section 42 of chapter 136 of the 2010 Session Laws of Kansas* ~~K.S.A. 21-3406~~, and amendments thereto;:-

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

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

(b) Whenever it is established, after notice and opportunity for hearing in accordance with the provisions of the Kansas administrative procedure act, that a licensee is in any of the circumstances or has committed any of the acts described in subsection (a), the Kansas dental board may take one or any combination of the following actions with respect to the license of the licensee:

(1) Revoke the license;:-

(2) suspend the license for such period of time as may be determined by the board;:-

(3) restrict the right of the licensee to practice by imposing limitations upon dental or dental hygiene procedures which may be performed, categories of dental disease which may be treated or types of patients which may be treated by the dentist or dental hygienist. Such restrictions shall continue for such period of time as may be determined by the board, and the board may require the licensee to provide additional evidence at hearing before lifting such restrictions; or:-

(4) grant a period of probation during which the imposition of one or more of the actions described in subsections (b)(1) through (b)(3) will be stayed subject to such conditions as may be imposed by the board including a requirement that the dentist or dental hygienist refrain from any course of conduct which may result in further violation of the dental practice act or the dentist or dental hygienist complete additional or remedial instruction. The violation of any provision of the dental practice act or failure to meet any condition imposed by the board as set forth in the order of the

board will result in immediate termination of the period of probation and imposition of such other action as has been taken by the board.

(c) As used in this section, “professionally incompetent” means:

(1) One or more instances involving failure to adhere to the applicable standard of dental or dental hygienist care to a degree which constitutes gross negligence, as determined by the board;

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

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

(d) In addition to or in lieu of one or more of the actions described in subsections (b)(1) through (b)(4) or in subsection (c) of K.S.A. 65-1444, and amendments thereto, the board may assess a fine not in excess of \$10,000 against a licensee. All fines collected pursuant to this subsection 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 and of the amount so remitted, an amount equal to the board’s actual costs related to fine assessment and enforcement under this subsection, as certified by the president of the board to the state treasurer, shall be credited to the dental board fee fund and the balance shall be credited to the state general fund.

(e) The board, upon its own motion or upon the request of any licensee who is a party to a licensure action, may require a physical or mental examination, or both, of such licensee either prior to a hearing to be held as a part of a licensure action or prior to the termination of any period of suspension or the termination of any restrictions imposed upon the licensee as provided in subsection (b).

New Sec. 96. (a) Any person who is not licensed as a dentist under the dental practices act, or any entity that is not a professional corporation or limited liability company composed of dentists which enter into an agreement with a dentist to provide dental office administrative services shall register with the Kansas dental board.

(b) (1) The registration shall include the company name, contact information and responsible person of such person or entity along with the address and licensed dentist practice owner names for which administrative services are being provided.

(2) Any person or entity registered under this section shall provide updated information to the Kansas dental board within 30 days of any changes to the information provided in paragraph (1). Any person or entity required to register pursuant to this section shall have 30 days from the execution of any contract or agreement with a dentist or professional corporation or limited liability company to complete the registration.

(c) Any such person or entity required to register pursuant to this section operating under a contract or agreement executed prior to the effective date of this section shall be subject to the provisions of this section and shall have 30 days from the effective date of this section to complete the registration. A copy of all contracts or agreements providing for dental office administrative services shall be maintained by the registered dental office administrative services company and shall be subject to inspection during regular business hours at any time by the Kansas dental board.

New Sec. 97. (a) As used in this section, “licensed dentist” means a dentist licensed under the dental practices act.

(b) No person who is a licensed dentist or any entity that is not a professional corporation or limited liability company owned by a licensed dentist shall enter into or continue to maintain a contract or agreement with a licensed dentist in which such contract or agreement allows or provides for the following functions to be controlled by any person or entity other than a licensed dentist pursuant to this section:

- (1) Providing dental treatment to patients;
- (2) the decision to accept individual patients for treatment;
- (3) the direction or delegation of all professional dental services;
- (4) the ownership of dental charts or patient records;
- (5) except as provided in subsection (d), the ownership of dental equipment or dental materials; and

(6) the supervision of clinical dental staff.

(c) It shall not be a violation of this section for a person or entity to act on behalf of a licensed dentist to perform or arrange for others to perform office administrative services including, but not limited to:

- (1) Purchasing, billing or tax preparation;
- (2) compliance or quality assurance programs;
- (3) legal advice or representation; and
- (4) payroll, advertising, training, recruiting, recordkeeping, programming or other similar functions under the direction or with the consent or approval of a licensed dentist or professional corporation or limited liability company owned by a licensed dentist.

(d) Nothing in this section shall prohibit a licensed dentist, professional corporation or limited liability company owned by a licensed dentist from entering into real estate lease, equipment lease or lease purchase agreement or bona fide sale of dental equipment or material secured by a chattel mortgage or retain title agreements with equipment manufacturers, landlords, lending institutions, leasing companies, dental franchisors or persons or entities providing dental office administrative services or similar commercial financing transactions.

(e) No contract or provision in any such agreement shall require either party to indemnify the other party for negligence, intentional acts or omissions that constitute a violation of K.S.A. 65-1422 et seq., and amendments thereto.

Sec. 98. K.S.A. 2010 Supp. 21-4010 is hereby amended to read as follows: 21-4010. (a) No person shall smoke in an enclosed area or at a public meeting including, but not limited to:

- (1) Public places;
- (2) taxicabs and limousines;
- (3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
- (4) restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;
- (5) access points of all buildings and facilities not exempted pursuant to subsection (d); and
- (6) any place of employment.

(b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

(c) Notwithstanding any other provision of this section, K.S.A. 21-4011 or 21-4012, and amendments thereto, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.

(d) The provisions of this section shall not apply to:

- (1) The outdoor areas of any building or facility beyond the access points of such building or facility;
- (2) private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;
- (3) a hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;
- (4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;
- (5) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;

(6) that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;

(7) tobacco shops;

(8) a class A or class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises; ~~and~~

(9) a private club in designated areas where minors are prohibited; *and*

(10) *any benefit cigar dinner or other cigar dinner of a substantially similar nature that:*

(A) Is conducted specifically and exclusively for charitable purposes by a nonprofit organization which is exempt from federal income taxation pursuant to section 501(c)(3) of the federal internal revenue code of 1986;

(B) is conducted no more than once per calendar year by such organization; and

(C) has been held during each of the previous three years prior to January 1, 2011.

Sec. 99. K.S.A 65-1424 and 65-1425 and K.S.A. 2010 Supp. 21-4010, 65-1117, 65-1435 and 65-1436 are hereby repealed.

Sec. 100. On July 1, 2011, K.S.A. 16-1602, 65-4970, 65-4972, 65-4973, 65-6102, 65-6110, 65-6126, 65-6132 and 65-6133 and K.S.A. 2010 Supp. 65-1669, 65-1671, 65-2901, 65-2913, 65-4971, 65-6112, 65-6120, 65-6121, 65-6123, 65-6124, 65-6129, 65-6144, 75-5664, 75-5665 and section 2, section 3, section 4, section 7, section 8, section 9 and section 10 of chapter 45 of the 2010 Session Laws of Kansas are hereby repealed.

Sec. 101. On January 1, 2012, K.S.A 40-2250, 65-1113, 65-1114, 65-1118, 65-1120, as amended by section 236 of 2011 House Bill No. 2339, 65-1122, 65-1130, 65-1131, 65-1133, 65-1154, 65-1163, 74-32,131, 74-32,132, 74-32,133, 74-32,134, 74-32,135, 74-32,136, 74-32,137 and 74-32,138 and K.S.A. 2010 Supp. 8-1,125, 39-7,119, 40-2,111, 65-468, 65-1132, 65-1626, 65-1626d, 65-2921, 65-4101, 65-5402, 65-6112, as amended by section 82 of this act, 65-6119, 65-6120, as amended by section 83 of this act, 65-6121, as amended by section 84 of this act, 65-6123, as amended by section 85 of this act, 65-6124, as amended by section 86 of this act, 65-6129c, 65-6135, 65-6144, as amended by section 91 of this act, 72-5213, 72-8252 and 74-1106 are hereby repealed.

Sec. 102. This act shall take effect and be in force from and after its publication in the Kansas register.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

HOUSE adopted
Conference Committee Report _____

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE
as amended _____

SENATE adopted
Conference Committee Report _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.