

As Amended by House Committee

Session of 2012

HOUSE BILL No. 2525

By Committee on Health and Human Services

1-25

1 AN ACT concerning the optometry law; amending K.S.A. 65-1509a, 65-
2 1514, 65-1517 and 65-7003 and K.S.A. 2011 Supp. 65-1501, 65-1501a,
3 65-1505, 65-1509, 65-1518, 65-4101, **74-1503** and 74-1505 and
4 repealing the existing sections.

5
6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. K.S.A. 2011 Supp. 65-1501 is hereby amended to read as
8 follows: 65-1501. (a) The practice of optometry means:

9 (1) The examination of the human eye and its adnexae and the
10 employment of objective or subjective means or methods (including the
11 administering, prescribing or dispensing, of topical pharmaceutical drugs)
12 for the purpose of diagnosing the refractive, muscular, or pathological
13 condition thereof;

14 (2) the prescribing, dispensing or adapting of lenses (including any
15 ophthalmic lenses which are classified as drugs by any law of the United
16 States or of this state), prisms, low vision rehabilitation services, orthoptic
17 exercises and visual training therapy for the relief of any insufficiencies or
18 abnormal conditions of the human eye and its adnexae; and

19 (3) ~~except as otherwise limited by this section,~~ the prescribing,
20 administering or dispensing of topical pharmaceutical drugs and oral drugs
21 for the examination, diagnosis and treatment of *ocular conditions* and any
22 insufficiencies or abnormal conditions of the human eye and its adnexae
23 *including adult open angle glaucoma*.

24 (b) The practice of optometry shall not include: (1) The management
25 and treatment of glaucoma, except as provided in subsection ~~(d)~~ (a); (2)
26 the performance of surgery, including the use of lasers for surgical
27 purposes, except that ~~therapeutic~~ licensees may remove ~~superficial non-~~
28 ~~perforating~~ foreign bodies from the cornea ~~and the~~, conjunctiva; ~~(3) the~~
29 ~~use of topical pharmaceutical drugs by a person licensed to practice~~
30 ~~optometry unless such person successfully meets the requirements of a~~
31 ~~diagnostic licensee or a therapeutic licensee; and (4) the prescribing,~~
32 ~~administering and dispensing of oral drugs for ocular conditions by a~~
33 ~~person licensed to practice optometry unless such person successfully~~
34 ~~meets the requirements of a therapeutic licensee, except that such~~
35 ~~therapeutic licensee may prescribe or administer oral steroids or oral~~
36 ~~antiglaucoma drugs for ocular conditions following consultation with an~~

1 ophthalmologist, which consultation shall be noted in writing in the
2 patient's file. No optometrist may prescribe or administer oral drugs to
3 persons less than six years of age or eyelids; remove eyelashes; scrape the
4 cornea for diagnostic tests, smears or cultures; dilate, probe, irrigate or
5 close by ~~punctal~~ **punctal** plug the tear drainage structures of the eye;
6 express conjunctival follicles or cysts; debridement of the corneal
7 epithelium and co-management of post-operative care; or (3) the
8 performance of procedures requiring anesthesia administered by injection
9 or general anesthesia.

10 (c) A ~~therapeutic~~ licensee ~~certified to treat adult open-angle glaucoma~~
11 ~~as provided herein~~ shall be held to a standard of care in the use of such
12 agents in diagnosis and treatment of *adult open - angle glaucoma*
13 commensurate to that of a person licensed to practice medicine and
14 surgery, who exercises that degree of skill and proficiency commonly
15 exercised by an ordinary, skillful, careful and prudent person licensed to
16 practice medicine and surgery.

17 (d) ~~An optometrist may prescribe, administer and dispense topical~~
18 ~~pharmaceutical drugs and oral drugs for the treatment of adult open-angle~~
19 ~~glaucoma only following glaucoma licensure as provided in subsection (1)~~
20 ~~of K.S.A. 65-1501a and amendments thereto. After the initial diagnosis of~~
21 ~~adult open-angle glaucoma, by an optometrist during the co-management~~
22 ~~period described in subsection (s) of K.S.A. 65-1501a and amendments~~
23 ~~thereto, the patient shall be notified that the diagnosis must be confirmed~~
24 ~~by an ophthalmologist and that any subsequent treatment requires a written~~
25 ~~co-management plan with an ophthalmologist of the patient's choice.~~

26 (e) Under the direction and supervision of a ~~therapeutic~~ licensee, a
27 licensed professional nurse, licensed practical nurse, licensed physical
28 therapist and licensed occupational therapist may assist in the provision of
29 low vision rehabilitation services in addition to such other services which
30 such licensed professional nurse, licensed practical nurse, licensed
31 physical therapist and licensed occupational therapist is authorized by law
32 to provide under subsection (d) of K.S.A. 65-1113, subsection (h) of
33 K.S.A. 65-1124, subsection (b) of K.S.A. 65-2901 and subsection (b) of
34 K.S.A. 65-5402, and amendments thereto.

35 Sec. 2. K.S.A. 2011 Supp. 65-1501a is hereby amended to read as
36 follows: 65-1501a. For the purposes of this act the following terms shall
37 have the meanings respectively ascribed to them unless the context
38 requires otherwise:

39 (a) "Board" means the board of examiners in optometry established
40 under K.S.A. 74-1501 and amendments thereto.

41 (b) "License" means a license to practice optometry granted under the
42 optometry law.

43 (c) "Licensee" means a person licensed under the optometry law to

1 practice optometry.

2 (d) "Adapt" means the determination, selection, fitting or use of
3 lenses, prisms, orthoptic exercises or visual training therapy for the aid of
4 any insufficiencies or abnormal conditions of the eyes after or by
5 examination or testing.

6 (e) "Lenses" means any type of ophthalmic lenses, which are lenses
7 prescribed or used for the aid of any insufficiencies or abnormal conditions
8 of the eyes.

9 (f) "Prescription" means a verbal ~~or~~, written *or electronic* order
10 *transmitted directly or by electronic means* from a licensee giving or
11 containing the name and address of the prescriber, the license registration
12 number of the licensee, the name and address of the patient, the
13 specifications and directions for lenses, prisms, orthoptic exercises, low
14 vision rehabilitation services or visual training therapy to be used for the
15 aid of any insufficiencies or abnormal conditions of the eyes, including
16 instructions necessary for the fabrication or use thereof and the date of
17 issue.

18 (g) "Prescription for topical pharmaceutical drugs or oral drugs"
19 means a verbal ~~or~~, written *or electronic* order *transmitted directly or by*
20 *electronic means* from a licensee ~~expressly certified to prescribe drugs~~
21 ~~under the optometry law and~~ giving or containing the name and address of
22 the prescriber, the license registration number of the licensee, the name
23 and address of the patient, the name and quantity of the drug prescribed,
24 directions for use, the number of refills permitted, the date of issue and
25 expiration date.

26 (h) "Topical pharmaceutical drugs" means drugs administered
27 topically and not by other means ~~for the examination, diagnosis and~~
28 ~~treatment of the human eye and its adnexae.~~

29 (i) "Dispense" means to deliver prescription-only medication or
30 ophthalmic lenses to the ultimate user pursuant to the lawful prescription
31 of a licensee and dispensing of prescription-only medication by a licensee
32 shall be limited to a twenty-four hour supply or minimal quantity
33 necessary until a prescription can be filled by a licensed pharmacist,
34 except that the twenty-four hour supply or minimal quantity shall not
35 apply to lenses described in subsection (a)(2) of K.S.A. 65-1501, and
36 amendments thereto.

37 (j) ~~"Diagnostic licensee" means a person licensed under the~~
38 ~~optometry law and certified by the board to administer or dispense topical~~
39 ~~pharmaceutical drugs for diagnostic purposes.~~

40 (k) ~~"Therapeutic licensee" means a person licensed under the~~
41 ~~optometry law and certified by the board to prescribe, administer or~~
42 ~~dispense topical pharmaceutical drugs for therapeutic purposes and oral~~
43 ~~drugs, following completion of a fifteen-hour course approved by the~~

1 board pertaining to the use of oral drugs in ocular therapeutics, except that
2 a person applying for therapeutic licensure who has graduated after
3 January 1, 1999, from a school or college of optometry approved by the
4 board shall not be required to take such course.

5 (l) ~~"Glaucoma licensee" means a person described in subsections (j)~~
6 ~~and (k) of this section who is also licensed under the optometry law to~~
7 ~~manage and treat adult open-angle glaucoma by nonsurgical means,~~
8 ~~including the prescribing, administering and dispensing of topical~~
9 ~~pharmaceutical drugs and oral drugs.~~

10 (m) "False advertisement" means any advertisement which is false,
11 misleading or deceptive in a material respect. In determining whether any
12 advertisement is misleading, there shall be taken into account not only
13 representations made or suggested by statement, word, design, device,
14 sound or any combination thereof, but also the extent to which the
15 advertisement fails to reveal facts material in the light of such
16 representations made.

17 (n) (k) "Advertisement" means all representations disseminated in any
18 manner or by any means, for the purpose of inducing, or which are likely
19 to induce, directly or indirectly, the purchase of professional services or
20 ophthalmic goods.

21 (o) (l) "Health care provider" shall have the meaning ascribed to that
22 term in subsection (f) of K.S.A. 40-3401, and amendments thereto.

23 (p) (m) "Medical facility" shall have the meaning ascribed to that
24 term in subsection (c) of K.S.A. 65-411, and amendments thereto.

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

27 (r) ~~"Co-management" means confirmation by an ophthalmologist of a~~
28 ~~licensee's diagnosis of adult open-angle glaucoma together with a written~~
29 ~~treatment plan which includes (1) all tests and examinations supporting the~~
30 ~~diagnosis, (2) a schedule of tests and examinations necessary to treat the~~
31 ~~patient's condition, (3) a medication plan, (4) a target intraocular pressure,~~
32 ~~(5) periodic review of the patient's progress and (6) criteria for referral of~~
33 ~~the patient to an ophthalmologist for additional treatment or surgical~~
34 ~~intervention, except that any co-management plan may be modified only~~
35 ~~with the consent of both the ophthalmologist and the optometrist and the~~
36 ~~modification noted in writing on the patient's record.~~

37 (s) ~~"Co-management period" means that period of time during which~~
38 ~~an optometrist co-manages patients either suspected of having or~~
39 ~~diagnosed as having adult open-angle glaucoma with an ophthalmologist.~~

40 (t) (o) "Ophthalmologist" means a person licensed to practice
41 medicine and surgery by the state board of healing arts who specializes in
42 the diagnosis and medical and surgical treatment of diseases and defects of
43 the human eye and related structures.

1 (†) (p) "Low vision rehabilitation services" means the evaluation,
2 diagnosis, management and care of the low vision patient including low
3 vision rehabilitation therapy, education and interdisciplinary consultation
4 under the direction and supervision of an ophthalmologist or optometrist.

5 (‡) (q) "Oral drugs" means oral antibacterial drugs, oral antiviral
6 drugs, oral antihistamines, oral analgesic drugs, oral steroids, oral
7 antiglaucoma drugs and other oral drugs with clinically accepted ocular
8 uses.

9 Sec. 3. K.S.A. 2011 Supp. 65-1505 is hereby amended to read as
10 follows: 65-1505. (a) Persons entitled to practice optometry in Kansas
11 shall be those persons licensed in accordance with the provisions of the
12 optometry law. A person shall be qualified to be licensed and to receive a
13 license as an optometrist: (1) Who is of good moral character; and in
14 determining the moral character of any such person, the board may take
15 into consideration any felony conviction of such person, but such
16 conviction shall not automatically operate as a bar to licensure; (2) who
17 has graduated from a school or college of optometry approved by the
18 board; and (3) who successfully meets and completes the requirements set
19 by the board and passes an examination given by the board. ~~All licenses~~
20 ~~issued on and after the effective date of this act, to persons not licensed in~~
21 ~~this state or in another state prior to July 1, 1996, shall be diagnostic,~~
22 ~~therapeutic and glaucoma licenses.~~

23 (b) ~~All applicants for licensure or reciprocal licensure, except as~~
24 ~~provided in subsection (a) and (f), in addition to successfully completing~~
25 ~~all other requirements for licensure, shall take and successfully pass an~~
26 ~~examination required by the board before being certified by the board as a~~
27 ~~diagnostic and therapeutic licensee.~~

28 (c) ~~All persons before taking the examination required by the board to~~
29 ~~be certified as a diagnostic and therapeutic licensee shall submit evidence~~
30 ~~satisfactory to the board of having successfully completed a course~~
31 ~~approved by the board in didactic education and clinical training in the~~
32 ~~examination, diagnosis and treatment of conditions of the human eye and~~
33 ~~its adnexae, totaling at least 100 hours.~~

34 (d) All applicants for glaucoma licensure, in addition to successfully
35 completing all other requirements for licensure, shall submit evidence
36 satisfactory to the board of: ~~(1) professional liability insurance in an~~
37 ~~amount acceptable to the board, (2) completion of a course of instruction~~
38 ~~approved by the board after consultation with the interprofessional~~
39 ~~advisory committee which includes at least 24 hours of training in the~~
40 ~~treatment and co-management of adult open-angle glaucoma and (3) co-~~
41 ~~management for a period of at least 24 months and not less than 20~~
42 ~~diagnoses of suspected or confirmed glaucoma, except that the board may~~
43 ~~eliminate or shorten the co-management period, and eliminate or reduce~~

1 ~~the number of diagnoses of suspected or confirmed glaucoma for~~
 2 ~~applicants for glaucoma licensure who graduate from approved optometric~~
 3 ~~schools or colleges after July 1, 1998.~~

4 (e)(c) Any person applying for examination by the board shall fill out
 5 and swear to an application furnished by the board, accompanied by a fee
 6 fixed by the board by rules and regulations in an amount of not to exceed
 7 \$450, and file the same with the secretary of the board at least 30 days
 8 prior to the holding of the examination. At such examinations the board
 9 shall examine each applicant in subjects taught in schools or colleges of
 10 optometry approved by the board, as may be required by the board. If such
 11 person complies with the other qualifications for licensing and passes such
 12 examination, such person shall receive from the board, upon the payment
 13 of a fee fixed by the board by rules and regulations in an amount of not to
 14 exceed \$150, a license entitling such person to practice optometry. In the
 15 event of the failure on the part of the applicant to pass the first
 16 examination, such person may, with the consent of the board, within 18
 17 months, by filing an application accompanied by a fee fixed by the board
 18 by rules and regulations in an amount of not to exceed \$150, take a second
 19 examination; for the third and each subsequent examination a fee fixed by
 20 the board by rules and regulations in an amount of not to exceed \$150.
 21 Any examination fee and license fee fixed by the board under this
 22 subsection which is in effect on the day preceding the effective date of this
 23 act shall continue in effect until the board adopts rules and regulations
 24 under this subsection fixing a different fee therefor.

25 ~~(f)(d) Subject to the requirements of subsection (h), Any applicant for~~
 26 ~~reciprocal licensure may in the board's discretion be licensed and issued a~~
 27 ~~license without examination in the category of licensure under the~~
 28 ~~optometry law for which application is made if the applicant has been in~~
 29 ~~the active practice of optometry in another state for at least the three-year~~
 30 ~~period immediately preceding the application for reciprocal licensure and~~
 31 ~~the applicant:~~

32 (1) Presents a certified copy of a certificate of registration or license
 33 which has been issued to the applicant by another state where the
 34 requirements for licensure are deemed by the board to be equivalent to the
 35 requirements for licensure ~~in the category of licensure~~ under this act ~~for~~
 36 ~~which application is made~~, if such state accords a like privilege to holders
 37 of a license issued by the board;

38 (2) submits a sworn statement of the licensing authority of such other
 39 state that the applicant's license has never been limited, suspended or
 40 revoked and that the applicant has never been censured or had other
 41 disciplinary action taken; ~~and~~

42 (3) successfully passes an examination of Kansas law administered
 43 by the board and such clinical practice examination as the board deems

1 necessary; and

2 Subject to the requirements of subsection (h), if such applicant was first
3 licensed in another state prior to July 1, 1987, the applicant shall be
4 required to satisfy only the requirements of the category of licensure under
5 the optometry law for which application is made and which existed in this
6 state at the time of the applicant's licensure in such other state; or, if such
7 requirements did not exist in this state at the time of the applicant's
8 licensure in such other state, the applicant shall be required to satisfy only
9 the requirements of the category of licensure under the optometry law for
10 which application is made which originally were required for that category
11 of licensure. If such applicant was first licensed in another state on or after
12 July 1, 1987, the applicant shall apply to initially be issued a diagnostic
13 and therapeutic license and shall be required to satisfy all the requirements
14 of that category of licensure under this act. The fee for licensing such
15 applicants shall be fixed by the board by rules and regulations in an
16 amount of not to exceed \$450. The reciprocal license fee fixed by the
17 board under this subsection which is in effect on the day preceding the
18 effective date of this act shall continue in effect until the board adopts rules
19 and regulations under this subsection fixing a different fee therefor.

20 *(4) pays the reciprocal license fixed by the board by rules and*
21 *regulations in an amount of not to exceed \$450. The reciprocal license fee*
22 *fixed by the board under this subsection which is in effect on the day*
23 *preceding the effective date of this act shall continue in effect until the*
24 *board adopts rules and regulations under this subsection fixing a different*
25 *fee therefor.*

26 ~~(g)~~(e) The board shall adopt rules and regulations establishing the
27 criteria which a school or college of optometry shall satisfy in meeting the
28 requirement of approval by the board established under subsection (a). The
29 board may send a questionnaire developed by the board to any school or
30 college of optometry for which the board does not have sufficient
31 information to determine whether the school or college meets the
32 requirements for approval and rules and regulations adopted under this act.
33 The questionnaire providing the necessary information shall be completed
34 and returned to the board in order for the school or college to be
35 considered for approval. The board may contract with investigative
36 agencies, commissions or consultants to assist the board in obtaining
37 information about schools or colleges. In entering such contracts the
38 authority to approve schools or colleges shall remain solely with the board.

39 ~~(h) To be entitled to practice optometry in Kansas after May 31, 2008,~~
40 ~~an optometrist must have met the requirements of and become a~~
41 ~~therapeutic licensee. To be entitled to practice optometry in Kansas after~~
42 ~~May 31, 2010, an optometrist must have met: (1) The requirements of and~~
43 ~~become a therapeutic licensee and (2) the requirements of and become a~~

1 ~~glaucoma licensee.~~

2 (f) (1) *The board may require an applicant for licensure or a*
3 *licensee in connection with an investigation of the licensee to be*
4 *fingerprinted and submit to a state and national criminal history record*
5 *check. The fingerprints shall be used to identify the licensee or applicant*
6 *for licensure and to determine whether the licensee or applicant for*
7 *licensure has a record of criminal arrests and convictions in this state or*
8 *other jurisdictions. The board is authorized to submit the fingerprints to*
9 *the Kansas bureau of investigation, the federal bureau of investigation or*
10 *any other law enforcement or criminal justice agency for a state and*
11 *national criminal history record check. The board may use the information*
12 *obtained through the criminal history record check for the purposes of*
13 *verifying the identification of the licensee or applicant for licensure and in*
14 *the official character and fitness determination of the licensee or applicant*
15 *for licensure to practice optometry in this state.*

16 (2) *Local and state law enforcement officers and agencies shall assist*
17 *the board in taking and processing fingerprints of licensees and applicants*
18 *for licensure and shall release to the board all records of adult*
19 *convictions, arrests and nonconvictions in this state and all records of*
20 *adult convictions, arrests and nonconvictions of any other state or*
21 *country. The board may enter into agreements with the Kansas bureau of*
22 *investigation, the federal bureau of investigation or any other law*
23 *enforcement or criminal justice agency as necessary to carry out the*
24 *duties of the board under this act.*

25 (3) *The fingerprints and all information obtained from the criminal*
26 *history record check shall be confidential and shall not be disclosed*
27 *except to members of the board and agents and employees of the board as*
28 *necessary to verify the identification of any licensee or applicant for*
29 *licensure and in the official character and fitness determination of the*
30 *licensee or applicant for licensure to practice optometry in this state. Any*
31 *other disclosure of such confidential information shall constitute a class A*
32 *misdemeanor and shall constitute grounds for removal from office,*
33 *termination of employment or denial, revocation or suspension of any*
34 *license issued under this act.*

35 (4) (A) *The board shall fix a fee for fingerprinting applicants or*
36 *licensees in an amount necessary to reimburse the board for the cost of the*
37 *fingerprinting. Fees collected under this subsection shall be deposited in*
38 *the criminal history and fingerprinting fund.*

39 (B) *There is hereby created in the state treasury the criminal history*
40 *and fingerprinting fund. All moneys credited to the fund shall be used to*
41 *pay all costs and fees associated with processing of fingerprints and*
42 *criminal history checks for the board of examiners in optometry. The fund*
43 *shall be administered by the board. All expenditures from the fund shall be*

1 *made in accordance with appropriation acts upon warrants of the director*
2 *of accounts and reports issued pursuant to vouchers approved by the*
3 *president of the board or a person designated by the president.*

4 Sec. 4. K.S.A. 2011 Supp. 65-1509 is hereby amended to read as
5 follows: 65-1509. (a) Before engaging in the practice of optometry in this
6 state, it shall be the duty of each licensed optometrist to notify the board in
7 writing of the address of the office or offices where such licensee is to
8 engage or intends to engage in the practice of optometry and of any
9 changes in the licensee's location of practice. Any notice required to be
10 given by the board to any licensed optometrist may be given by mailing to
11 such address through the United States mail, postpaid, *or by electronic*
12 *means to such electronic mail or facsimile address provided by the*
13 *licensed optometrist to the board for such purpose.*

14 (b) Any license to practice optometry issued by the board shall expire
15 on May 31 of the year specified by the board for the expiration of the
16 license and shall be renewed on a biennial basis in accordance with this
17 section. The request for renewal shall be on a form provided by the board
18 and shall be accompanied by the prescribed fee, which shall be paid no
19 later than the expiration date of the license.

20 (c) ~~Commencing with the renewal of licenses that expire on May 31,~~
21 ~~2004,~~ Each license shall be renewed on a biennial basis. To provide for a
22 system of biennial renewal of licenses, the board may provide by rules and
23 regulations that licenses issued or renewed may expire less than two years
24 from the date of issuance or renewal and for the proration of fees
25 accordingly. On or before May 1 each year, the board shall determine the
26 amount that may be necessary for the next ensuing fiscal year to carry out
27 and enforce the provisions of the optometry law, and shall fix by rules and
28 regulations the renewal fee and the fees provided for in K.S.A. 65-1505,
29 and amendments thereto, in such amounts as may be necessary for that
30 purpose. The biennial renewal fee shall not exceed \$800. Upon fixing such
31 fees, the board shall immediately notify all licensees of the amount of such
32 fees for the ensuing biennial renewal period. In every renewal year
33 hereafter, every licensed optometrist shall pay to the board of examiners a
34 fee for a renewal of such license for each biennial renewal period. The
35 license renewal fee fixed by the board under this subsection which is in
36 effect on the day preceding the effective date of this act shall continue in
37 effect until the board adopts rules and regulations under this subsection
38 fixing a different fee therefor.

39 (d) The payment of the renewal fee by the person who is a holder of a
40 license as an optometrist but who has not complied with the continuing
41 education requirements fixed by the board, if no grounds exist for denying
42 the renewal of the license other than that the person has not complied with
43 the continuing education requirements fixed by the board, shall entitle the

1 person to inactive status licensure by the board. No person holding an
 2 inactive status license from the board shall engage in the practice of
 3 optometry in this state. A person holding an inactive status license from the
 4 board shall be entitled to cancellation of the inactive status license and to
 5 renewal of licensure as an optometrist upon furnishing satisfactory
 6 evidence to the board that such person has obtained the equivalent of all
 7 missed continuing education requirements to date, and payment of an
 8 additional fee fixed by the board through rule and regulation in an amount
 9 not to exceed \$450.

10 (e) At least 30 days before the expiration of the licensee's license, the
 11 board shall notify each licensee of the expiration ~~by mail addressed to the~~
 12 ~~licensee's last known address as provided in subsection (a) of this section.~~
 13 If the licensee fails to pay the ~~annual~~ *biennial* fee or show proof of
 14 compliance with the continuing education requirements by the date of the
 15 expiration of the license, the *board shall provide such* licensee ~~shall be~~
 16 ~~mailed as provided in subsection (a) of this section~~ a second notice that the
 17 licensee's license has expired, that the board shall suspend action for 30
 18 days following the date of expiration, that upon receipt of the ~~annual~~
 19 *biennial* fee together with an additional fee not to exceed \$500, within the
 20 thirty-day period, no order of cancellation will be entered and that, if both
 21 fees are not received within the thirty-day period, the license shall be
 22 canceled.

23 (f) ~~To have a license to practice optometry in Kansas renewed after~~
 24 ~~May 31, 2008, an optometrist must have met the requirements of and~~
 25 ~~become a therapeutic licensee. To have a license to practice optometry in~~
 26 ~~Kansas renewed after May 31, 2010, an optometrist must have met: (1)~~
 27 ~~The requirements of and become a therapeutic licensee and (2) the~~
 28 ~~requirements of and become a glaucoma licensee.~~

29 (g) Any licensee who allows the licensee's license to lapse or be
 30 canceled by failing to renew as herein provided, may be reinstated by the
 31 board upon payment of the renewal fees then due and upon proof of
 32 compliance with the continuing education requirements established by the
 33 board. As an additional requirement of reinstatement, in cases in which the
 34 board deems it appropriate, the licensee may be required to successfully
 35 pass the examination given by the board to applicants for licensure or such
 36 other competency examination as the board may choose.

37 Sec. 5. K.S.A. 65-1509a is hereby amended to read as follows: 65-
 38 1509a. In addition to the payment of the license renewal fee, each licensee;
 39 ~~other than one who has graduated from an optometry school within 12~~
 40 ~~months of the date of the application for renewal,~~ applying for license
 41 renewal shall furnish to the secretary of the board satisfactory evidence of
 42 successfully completing a minimum of 24 hours of continuing education
 43 ~~programs annually,~~ five hours of which shall relate to ocular

1 pharmacology, therapeutics or related topics of study, approved by the
2 board in the year just preceding such application for the renewal of the
3 license. The board, in its discretion, may increase the required hours of
4 continuing education by rules and regulations adopted by the board. On or
5 before April 1 of each year, the secretary of the board shall send a written
6 notice of continuing education requirements to this effect to every person
7 holding a valid license to practice optometry within the state *as provided*
8 *in subsection (a) of K.S.A. 65-1509, and amendments thereto.* ~~Such notice~~
9 ~~shall be directed to the last known address of such licensee.~~

10 Sec. 6. K.S.A. 65-1514 is hereby amended to read as follows: 65-
11 1514. The provisions of K.S.A. 65-1501a, ~~65-1504a~~, 65-1504b, 65-1509a
12 and 65-1516 to ~~65-1525~~ 65-1526, inclusive, and amendments thereto, are a
13 part of and supplemental to the optometry law.

14 Sec. 7. K.S.A. 65-1517 is hereby amended to read as follows: 65-
15 1517. A licensee's license may be revoked, suspended or limited, or the
16 licensee may be publicly or privately censured, upon a finding of the
17 existence of any of the following grounds:

18 (a) The licensee has committed fraud or misrepresentation in
19 applying for or securing an original or renewal license.

20 (b) The licensee has committed an act of unprofessional conduct or
21 professional incompetence.

22 (c) The licensee has been convicted of a felony, whether or not
23 related to the practice of optometry.

24 (d) The licensee has used fraudulent or false advertisements.

25 (e) The licensee has willfully or repeatedly violated the optometry
26 law, the pharmacy act of the state of Kansas or the uniform controlled
27 substances act, or any rules and regulations adopted pursuant thereto.

28 (f) The licensee has ~~unlawfully performed practice acts of optometry~~
29 ~~for which the licensee is not licensed to practice~~ *violated an order of the*
30 *board.*

31 (g) The licensee has failed to pay ~~annual~~ renewal fees specified in this
32 act.

33 (h) The licensee has failed to comply with the annual continuing
34 education requirements as required by this act and the board.

35 (i) The licensee has engaged in the practice of optometry under a
36 false or assumed name, or the impersonation of another practitioner. The
37 provisions of this subsection relating to an assumed name shall not apply
38 to licensees practicing under a professional corporation or other legal
39 entity duly authorized to provide such professional services in the state of
40 Kansas.

41 (j) The licensee has the inability to perform optometry practice acts
42 ~~for which the licensee is licensed~~ with reasonable skill and safety to
43 patients by reason of illness, alcoholism, excessive use of drugs, controlled

1 substances, chemical or any other type of material or as a result of any
2 mental or physical condition. In determining whether or not such inability
3 exists, the board, upon probable cause, shall have authority to compel a
4 licensee to submit to mental or physical examination by such persons as
5 the board may designate. The licensee shall submit to the board a release
6 of information authorizing the board to obtain a report of such
7 examination. A person affected by this subsection shall be offered, at
8 reasonable intervals an opportunity to demonstrate that such person can
9 resume the competent practice of optometry with reasonable skill and
10 safety to patients. For the purpose of this subsection, every person
11 licensed to practice optometry and who shall accept the privilege to
12 practice optometry in this state by so practicing or by the making and
13 filing of an annual renewal to practice optometry in this state shall be
14 deemed to have consented to submit to a mental and physical examination
15 when directed in writing by the board and further to have waived all
16 objections to the admissibility of the testimony or examination report of
17 the person conducting such examination at any proceeding or hearing
18 before the board on the grounds that such testimony or examination report
19 constitutes a privileged communication. In any proceeding by the board
20 pursuant to the provisions of this subsection, the record of such board
21 proceedings involving the mental and physical examination shall not be
22 used in any other administrative or judicial proceeding.

23 (k) The licensee has had a license to practice optometry revoked,
24 suspended or limited, has been censured or has had other disciplinary
25 action taken, or an application for a license denied, by the proper licensing
26 authority of another state, territory, District of Columbia, or other country,
27 a certified copy of the record of the action of the other jurisdiction being
28 conclusive evidence thereof.

29 (l) The licensee has violated any lawful rules and regulations
30 promulgated by the board or violated any lawful order or directive of the
31 board previously entered by the board.

32 (m) The licensee has cheated on or attempted to subvert the validity
33 of the examination for a license.

34 (n) The licensee has been found to be mentally ill, disabled, not guilty
35 by reason of insanity, not guilty because the licensee suffers from a mental
36 disease or defect or incompetent to stand trial by a court of competent
37 jurisdiction.

38 (o) The licensee has violated a federal law or regulation relating to
39 controlled substances.

40 (p) The licensee has failed to furnish the board, or its investigators or
41 representatives, any information legally requested by the board.

42 (q) Sanctions or disciplinary actions have been taken against the
43 licensee by a peer review committee, health care facility or a professional

1 association or society for acts or conduct similar to acts or conduct which
2 would constitute grounds for disciplinary action under this section.

3 (r) The licensee has failed to report to the board any adverse action
4 taken against the licensee by another state or licensing jurisdiction, a peer
5 review body, a health care facility, a professional association or society, a
6 governmental agency, by a law enforcement agency or a court for acts or
7 conduct similar to acts or conduct which would constitute grounds for
8 disciplinary action under this section.

9 (s) The licensee has surrendered a license or authorization to practice
10 optometry in another state or jurisdiction or has surrendered the licensee's
11 membership on any professional staff or in any professional association or
12 society while under investigation for acts or conduct similar to acts or
13 conduct which would constitute grounds for disciplinary action under this
14 section.

15 (t) The licensee has failed to report to the board surrender of the
16 licensee's license or authorization to practice optometry in another state or
17 jurisdiction or surrender of the licensee's membership on any professional
18 staff or in any professional association or society while under investigation
19 for acts or conduct which would constitute grounds for disciplinary action
20 under this section.

21 (u) The licensee has an adverse judgment, award or settlement against
22 the licensee resulting from a medical liability claim related to acts or
23 conduct similar to acts or conduct which would constitute grounds for
24 disciplinary action under this section.

25 (v) The licensee has failed to report to the board any adverse
26 judgment, settlement or award against the licensee resulting from a
27 malpractice liability claim related to acts or conduct similar to acts or
28 conduct which would constitute grounds for disciplinary action under this
29 section.

30 (w) The licensee has failed to maintain a policy of professional
31 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
32 amendments thereto, or pay the annual premium as required by K.S.A. 40-
33 3404, and amendments thereto.

34 (x) The licensee has knowingly submitted any misleading, deceptive,
35 false or fraudulent representation on a claim form bill or statement.

36 (y) The licensee has failed to provide to a patient the patient's written
37 prescription for lenses for eyeglasses subsequent to the completion of the
38 eye examination in accordance with applicable state or federal law.

39 Sec. 8. K.S.A. 2011 Supp. 65-1518 is hereby amended to read as
40 follows: 65-1518. (a) All administrative proceedings provided for by
41 article 15 of chapter 65 of the Kansas Statutes Annotated and affecting any
42 licensee licensed under that article shall be conducted in accordance with
43 the provisions of the Kansas administrative procedure act.

1 (b) Judicial review and civil enforcement of any agency action under
 2 article 15 of chapter 65 of the Kansas Statutes Annotated shall be in
 3 accordance with the Kansas judicial review act.

4 (c) If any order of the board in any administrative proceedings
 5 provided for by article 15 of chapter 65 of the Kansas Statutes Annotated
 6 is adverse to the licensee the costs ~~shall be charged to the licensee as in~~
 7 ~~ordinary civil actions in the district court. Witness fees and costs may be~~
 8 ~~taxed in accordance with the statutes governing taxation of witness fees~~
 9 ~~and costs in the district court~~*incurred by the board in conducting any*
 10 *proceeding under the Kansas administrative procedure act may be*
 11 *assessed against the parties to the proceeding in such proportion as the*
 12 *board may determine upon consideration of all relevant circumstances,*
 13 *including the nature of the proceeding and the level of participation by the*
 14 *parties. If the board is the unsuccessful party, the costs shall be paid from*
 15 *the optometry fee fund. For purposes of this subsection, costs incurred*
 16 *shall mean the presiding officer fees and expenses, costs of making any*
 17 *transcripts, witness fees and expenses, mileage, travel allowances and*
 18 *subsistence expenses of board employees and fees and expenses of agents*
 19 *of the board who provide services pursuant to K.S.A. 74-1504, and*
 20 *amendments thereto. Costs incurred shall not include presiding officer fees*
 21 *and expenses or costs of making and preparing the record unless the*
 22 *board has designated or retained the services of independent contractors*
 23 *to perform such functions. The board shall make any assessment of costs*
 24 *incurred as part of the final order rendered in the proceeding. Such order*
 25 *shall include findings and conclusions in support of the assessment of*
 26 *costs.*

27 Sec. 9. K.S.A. 2011 Supp. 74-1505 is hereby amended to read as
 28 follows: 74-1505. (a) ~~No later than 30 days following the effective date of~~
 29 ~~this act,~~ The board shall appoint a seven-member committee to be known
 30 as the interprofessional advisory committee which, ~~subject to approval of~~
 31 ~~the board,~~ shall have general responsibility for the establishment, review
 32 and monitoring of the procedures for co-management by optometrists and
 33 ophthalmologists of adult open-angle glaucoma*as requested by the board,*
 34 *shall make recommendations on clinical or practice related issues,*
 35 *including procedure coding matters and appropriate treatments for ocular*
 36 *diseases and conditions.*

37 (b) The interprofessional advisory committee shall consist of one
 38 member of the board appointed by the board who shall serve as a
 39 nonvoting chair, together with three optometrists licensed to practice
 40 optometry in this state chosen by the board from those nominated by the
 41 Kansas optometric association and three ophthalmologists licensed to
 42 practice in this state chosen by the board from those nominated by the
 43 Kansas medical society and the Kansas association of osteopathic

1 medicine. The Kansas optometric association and Kansas medical society
2 shall submit six nominees to the board. The Kansas association of
3 osteopathic medicine shall submit two nominees to the board. Persons
4 appointed to the committee shall serve terms of three years and without
5 compensation. All expenses of the committee shall be paid by the board.

6 ~~(c) The committee shall submit recommendations to the board on the~~
7 ~~following:~~

8 ~~(1) An ongoing quality assessment program including the monitoring~~
9 ~~and review of co-management of patients pursuant to subsection (d) of~~
10 ~~K.S.A. 65-1505 and amendments thereto;~~

11 ~~(2) requirements for the education and clinical training necessary for~~
12 ~~glaucoma licensure, which shall be submitted to the board within 90 days~~
13 ~~following appointment;~~

14 ~~(3) criteria for evaluating the training or experience acquired in other~~
15 ~~states by applicants for glaucoma licensure;~~

16 ~~(4) requirements for annual reporting during a glaucoma licensee's~~
17 ~~co-management period to the committee and the board which shall be~~
18 ~~submitted to the board within 90 days following appointment;~~

19 ~~(5) the classes and mix of patients either suspected of having or~~
20 ~~diagnosed as having adult open-angle glaucoma who may be included in~~
21 ~~the number of co-management cases required by subsection (d) of K.S.A.~~
22 ~~65-1505 and amendments thereto, which shall be submitted to the board~~
23 ~~within 90 days following appointment; and~~

24 ~~(6) requirements for annual continuing education by glaucoma~~
25 ~~licensees.~~

26 ~~(d) After considering the recommendations of the committee pursuant~~
27 ~~to subparagraph (c), the board shall proceed to adopt procedures to~~
28 ~~confirm that each applicant has completed the requirements for glaucoma~~
29 ~~licensure.~~

30 ~~(e) The interprofessional advisory committee shall also review the~~
31 ~~educational and clinical prerequisites of optometrists to use oral~~
32 ~~pharmaceutical drugs and identify those classes of oral pharmaceutical~~
33 ~~drugs which are effective treatments for ocular diseases and conditions.~~

34 ~~(f) The interprofessional advisory committee shall review the~~
35 ~~advisability of expanding the scope of practice of optometrists to prescribe~~
36 ~~certain oral drugs for ocular conditions for children under six years of age.~~

37 ~~(g) The interprofessional advisory committee shall review new~~
38 ~~classes of drugs with ocular uses and advise the Kansas state board of~~
39 ~~examiners in optometry about such drugs.~~

40 ~~(h) This section shall be part of and supplemental to the optometry~~
41 ~~law.~~

42 Sec. 10. K.S.A. 2011 Supp. 65-4101 is hereby amended to read as
43 follows: 65-4101. As used in this act: (a) "Administer" means the direct

1 application of a controlled substance, whether by injection, inhalation,
2 ingestion or any other means, to the body of a patient or research subject
3 by: (1) A practitioner or pursuant to the lawful direction of a practitioner;
4 or

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

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

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

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

14 (e) "Controlled substance" means any drug, substance or immediate
15 precursor included in any of the schedules designated in K.S.A. 65-4105,
16 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

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

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

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

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

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

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

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

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

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

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

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

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

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

42 (3) opium poppy and poppy straw;

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

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

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

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

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

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

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

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

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

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

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

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

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

38 (bb) (1) "Controlled substance analog" means a substance that is
39 intended for human consumption, and:

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

1 (B) which has a stimulant, depressant or hallucinogenic effect on the
2 central nervous system substantially similar to the stimulant, depressant or
3 hallucinogenic effect on the central nervous system of a controlled
4 substance included in the schedules designated in K.S.A. 65-4105 or 65-
5 4107, and amendments thereto; or

6 (C) with respect to a particular individual, which the individual
7 represents or intends to have a stimulant, depressant or hallucinogenic
8 effect on the central nervous system substantially similar to the stimulant,
9 depressant or hallucinogenic effect on the central nervous system of a
10 controlled substance included in the schedules designated in K.S.A. 65-
11 4105 or 65-4107, and amendments thereto.

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

13 (A) A controlled substance;

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

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

20 (cc) "Mid-level practitioner" means an advanced practice registered
21 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
22 thereto, who has authority to prescribe drugs pursuant to a written protocol
23 with a responsible physician under K.S.A. 65-1130, and amendments
24 thereto, or a physician assistant licensed under the physician assistant
25 licensure act who has authority to prescribe drugs pursuant to a written
26 protocol with a responsible physician under K.S.A. 65-28a08, and
27 amendments thereto.

28 Sec. 11. K.S.A. 65-7003 is hereby amended to read as follows: 65-
29 7003. As used in K.S.A. 65-7001 through 65-7015, and amendments
30 thereto:

31 (a) "Act" means the Kansas chemical control act;

32 (b) "administer" means the application of a regulated chemical
33 whether by injection, inhalation, ingestion or any other means, directly
34 into the body of a patient or research subject, such administration to be
35 conducted by: (1) A practitioner, or in the practitioner's presence, by such
36 practitioner's authorized agent; or

37 (2) the patient or research subject at the direction and in the presence
38 of the practitioner;

39 (c) "agent or representative" means a person who is authorized to
40 receive, possess, manufacture or distribute or in any other manner control
41 or has access to a regulated chemical on behalf of another person;

42 (d) "bureau" means the Kansas bureau of investigation;

43 (e) "department" means the Kansas department of health and

1 environment;

2 (f) "director" means the director of the Kansas bureau of
3 investigation;

4 (g) "dispense" means to deliver a regulated chemical to an ultimate
5 user, patient or research subject by, or pursuant to the lawful order of, a
6 practitioner, including the prescribing, administering, packaging, labeling
7 or compounding necessary to prepare the regulated chemical for that
8 delivery;

9 (h) "distribute" means to deliver other than by administering or
10 dispensing a regulated chemical;

11 (i) "manufacture" means to produce, prepare, propagate, compound,
12 convert or process a regulated chemical directly or indirectly, by extraction
13 from substances of natural origin, chemical synthesis or a combination of
14 extraction and chemical synthesis, and includes packaging or repackaging
15 of the substance or labeling or relabeling of its container. The term
16 excludes the preparation, compounding, packaging, repackaging, labeling
17 or relabeling of a regulated chemical:

18 (1) By a practitioner as an incident to the practitioner's administering
19 or dispensing of a regulated chemical in the course of the practitioner's
20 professional practice; or

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

24 (j) "person" means individual, corporation, business trust, estate,
25 trust, partnership, association, joint venture, government, governmental
26 subdivision or agency, or any other legal or commercial entity;

27 (k) "practitioner" means a person licensed to practice medicine and
28 surgery, pharmacist, dentist, podiatrist, veterinarian, optometrist ~~licensed~~
29 ~~under the optometry laws as a therapeutic licensee or diagnostic and~~
30 ~~therapeutic licensee~~, or scientific investigator or other person authorized
31 by law to use a controlled substance in teaching or chemical analysis or to
32 conduct research with respect to a controlled substance;

33 (l) "regulated chemical" means a chemical that is used directly or
34 indirectly to manufacture a controlled substance or other regulated
35 chemical, or is used as a controlled substance analog, in violation of the
36 state controlled substances act or this act. The fact that a chemical may be
37 used for a purpose other than the manufacturing of a controlled substance
38 or regulated chemical does not exempt it from the provisions of this act.
39 Regulated chemical includes:

40 (1) Acetic anhydride (CAS No. 108-24-7);

41 (2) benzaldehyde (CAS No. 100-52-7);

42 (3) benzyl chloride (CAS No. 100-44-7);

43 (4) benzyl cyanide (CAS No. 140-29-4);

- 1 (5) diethylamine and its salts (CAS No. 109-89-7);
- 2 (6) ephedrine, its salts, optical isomers and salts of optical isomers
- 3 (CAS No. 299-42-3), except products containing ephedra or ma huang,
- 4 which do not contain any chemically synthesized ephedrine alkaloids, and
- 5 are lawfully marketed as dietary supplements under federal law;
- 6 (7) hydriodic acid (CAS No. 10034-85-2);
- 7 (8) iodine (CAS No. 7553-56-2);
- 8 (9) lithium (CAS No. 7439-93-2);
- 9 (10) methylamine and its salts (CAS No. 74-89-5);
- 10 (11) nitroethane (CAS No. 79-24-3);
- 11 (12) chloroephedrine, its salts, optical isomers, and salts of optical
- 12 isomers (CAS No. 30572-91-9);
- 13 (13) phenylacetic acid, its esters and salts (CAS No. 103-82-2);
- 14 (14) phenylpropanolamine, its salts, optical isomers, and salts of
- 15 optical isomers (CAS No. 14838-15-4);
- 16 (15) piperidine and its salts (CAS No. 110-89-4);
- 17 (16) pseudoephedrine, its salts, optical isomers, and salts of optical
- 18 isomers (CAS No. 90-82-4);
- 19 (17) red phosphorous (CAS No. 7723-14-0);
- 20 (18) sodium (CAS No. 7440-23-5); and
- 21 (19) thionylchloride (CAS No. 7719-09-7);
- 22 (20) gamma butyrolactone (GBL), including butyrolactone;
- 23 butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-
- 24 2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-
- 25 butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid
- 26 lactone and 4-hydroxybutanoic acid lactone; CAS No. 96-48-0; and
- 27 (21) 1,4 butanediol, including butanediol; butane-1,4-diol; 1,4-
- 28 butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene
- 29 glycol; tetramethylene glycol; tetramethylene 1,4-diol; CAS No. 110-63-4;
- 30 (m) "regulated chemical distributor" means any person subject to the
- 31 provisions of the Kansas chemical control act who manufactures or
- 32 distributes a regulated chemical;
- 33 (n) "regulated chemical retailer" means any person who sells
- 34 regulated chemicals directly to the public;
- 35 (o) "regulated chemical transaction" means the manufacture of a
- 36 regulated chemical or the distribution, sale, exchange or other transfer of a
- 37 regulated chemical within or into the state or from this state into another
- 38 state; and
- 39 (p) "secretary" means the secretary of health and environment.

40 **Sec. 12. K.S.A. 2011 Supp. 74-1503 is hereby amended to read as**
41 **follows: 74-1503. (a) At the regular meeting of the board in April of**
42 **every year it shall elect from its own membership a president, a vice-**
43 **president and a secretary-treasurer. Members of the board of**

1 examiners in optometry attending meetings of such board, or
2 attending a subcommittee meeting thereof authorized by such board,
3 shall be paid compensation, subsistence allowances, mileage and other
4 expenses as provided in K.S.A. 75-3223, and amendments thereto. The
5 board may appoint a secretary-treasurer who shall be in the
6 unclassified service of the Kansas civil service act. The secretary-
7 treasurer shall receive an annual salary which shall be fixed by the
8 board and approved by the state finance council.

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

20 (c) *There is hereby created in the state treasury the optometry*
21 *litigation fund. All moneys credited to the fund shall be used to pay all*
22 *costs and fees associated with litigation expenses of the board of*
23 *examiners in optometry. The unencumbered balance in such fund shall not*
24 *exceed \$400,000. The fund shall be administered by the board. All*
25 *expenditures from the fund shall be made in accordance with*
26 *appropriation acts upon warrants of the director of accounts and reports*
27 *issued pursuant to vouchers approved by the president of the board or a*
28 *person designated by the president.*

29 ~~Sec. 12.~~ **13.** K.S.A. 65-1509a, 65-1514, 65-1517 and 65-7003 and
30 K.S.A. 2011 Supp. 65-1501, 65-1501a, 65-1505, 65-1509, 65-1518, 65-
31 4101, **74-1503** and 74-1505 are hereby repealed.

32 ~~Sec. 13.~~ **14.** This act shall take effect and be in force from and after
33 its publication in the statute book.

34