

SENATE BILL No. 413

By Committee on Public Health and Welfare

2-5

1 AN ACT concerning the Kansas dental board; relating to licensure of
2 dental therapists; amending K.S.A. 65-1421, 65-1441, 65-1449, 65-
3 1460, 65-1462, 74-1404 and 74-1406 and K.S.A. 2015 Supp. 65-1424,
4 65-1431, 65-1434, 65-1436, 65-1447, 65-1469, 65-4915, 65-4921, 65-
5 5912, 65-7304, 74-1405, 75-2935 and 75-6102 and repealing the
6 existing sections.

7
8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) No person shall practice as a dental therapist in
10 this state until such person has passed an examination by the Kansas dental
11 board under such rules and regulations as the board may adopt. The fee for
12 such examination shall be fixed by the board pursuant to K.S.A. 65-1447,
13 and amendments thereto. A license fee shall be paid to the board in the
14 amount fixed by the board pursuant to K.S.A. 65-1447, and amendments
15 thereto.

16 (b) The board shall authorize a person to practice as a dental therapist
17 if such person is qualified under this section, works under the direct or
18 general supervision of a Kansas licensed dentist pursuant to a written
19 supervising agreement, is licensed by the board and practices in
20 compliance with this section and rules and regulations adopted by the
21 board. Any supervising dentist of a dental therapist shall be either: (1)
22 Employed by an indigent health care clinic; or (2) enrolled as a medicaid
23 provider.

24 A supervising agreement entered into with a dental therapist must
25 include specific written protocols detailing the scope of practice that the
26 supervising dentist authorizes the dental therapist to perform and the
27 required level of supervision, and outlining a course of action when the
28 dental therapist encounters a patient who requires treatment that exceeds
29 the dental therapist's authorized scope of practice. The supervising dentist
30 must ensure that a dentist is available, in person or through distance
31 technology, to the dental therapist for timely consultation if needed.

32 (c) To be qualified to practice under this section, such person shall:

33 (1) (A) Be a graduate of a dental therapist education program
34 approved by the board. The board shall approve only those schools which
35 require the study of dental therapy and which the board determines have
36 standards of education not less than that required for accreditation by the

1 commission on dental accreditation of the American dental association or
2 its equivalent or, prior to such accreditation process for dental therapy
3 programs, is approved by a licensing entity of another state or federal
4 jurisdiction; and

5 (B) if the person's dental therapist training program did not include
6 training on any individual competency listed in section 3(c), and
7 amendments thereto, the person shall provide documentation to the board's
8 satisfaction that such person has successfully completed additional training
9 on that competency;

10 (2) pass a comprehensive, competency-based clinical examination
11 that is approved by the board and administered independently of an
12 institution which provides dental therapist education;

13 (3) have practiced under direct supervision of a supervising dentist
14 for at least 500 hours before practicing under general supervision; and

15 (4) obtain a policy of professional liability insurance and show proof
16 of such insurance as required by rules and regulations.

17 (d) Any person practicing as a dental therapist in violation of the
18 provisions of this act shall be guilty of a misdemeanor, and the board may
19 revoke or suspend such person's license therefor.

20 (e) This section shall be part of and supplemental to the dental
21 practices act.

22 (f) This section shall take effect on and after July 1, 2018.

23 New Sec. 2. (a) The Kansas dental board may suspend or revoke the
24 license of any dentist who shall direct any dental therapist operating under
25 such dentist's supervision to perform any operation other than that
26 permitted under the provisions of article 14 of chapter 65 of the Kansas
27 Statutes Annotated, and amendments thereto, and may suspend or revoke
28 the license of any dental therapist found guilty of performing any
29 operation other than those permitted under the provisions of article 14 of
30 chapter 65 of the Kansas Statutes Annotated, and amendments thereto. No
31 license of any dentist or dental therapist shall be suspended or revoked in
32 any administrative proceeding without first complying with the notice and
33 hearing requirements of the Kansas administrative procedure act.

34 (b) Except as otherwise provided in this section, the practice of dental
35 therapy shall be performed under the direct or general supervision of a
36 licensed dentist. As used in sections 1 through 4, and amendments thereto:

37 (1) "Direct supervision" means that the dentist in the dental office
38 personally diagnoses the condition to be treated, personally authorizes the
39 procedure and, before dismissal of the patient, evaluates the dental
40 therapist's performance; and (2) "general supervision" means the
41 supervision of tasks or procedures without the presence of the dentist in
42 the office or on the premises at the time the tasks or procedures are being
43 performed, and pursuant to a written supervising agreement, so long as

1 those tasks and procedures are within the scope of practice for a dental
2 therapist.

3 (c) A licensed dental therapist may perform dental services as
4 authorized under this section, including the following services under direct
5 or general supervision, unless restricted or prohibited in the supervising
6 agreement:

7 (1) Identification of oral and systemic conditions requiring evaluation
8 or treatment, or both, by dentists, physicians or other healthcare providers,
9 and manage referrals;

10 (2) comprehensive charting of the oral cavity;

11 (3) oral health instruction and disease prevention education, including
12 nutritional counseling and dietary analysis;

13 (4) exposure of radiographic images;

14 (5) dental prophylaxis including sub-gingival scaling or polishing
15 procedures, or both;

16 (6) application of topical preventive or prophylactic agents;

17 (7) pulp vitality testing;

18 (8) application of desensitizing medication or resin;

19 (9) fabrication of athletic mouthguards;

20 (10) placement of a temporary filling, including glass ionomer and
21 other palliative materials;

22 (11) fabrication of soft occlusal guards;

23 (12) tissue conditioning and soft reline;

24 (13) changing of periodontal dressings;

25 (14) tooth reimplantation and stabilization;

26 (15) administration of local anesthetic, if the dental therapist has
27 completed a course on local anesthesia as required in this act;

28 (16) administration of nitrous oxide, if the dental therapist has
29 completed a course on nitrous oxide as required in this act;

30 (17) diagnosis of dental decay and periodontal disease;

31 (18) the formulation of an individualized treatment plan limited to the
32 procedures in this section;

33 (19) extractions of primary teeth;

34 (20) nonsurgical extractions of periodontally diseased permanent
35 teeth with tooth mobility of +3 or +4. The dental therapist shall not extract
36 a tooth for any patient if the tooth is unerupted, impacted or needs to be
37 sectioned for removal;

38 (21) emergency palliative treatment of dental pain limited to the
39 procedures in this section;

40 (22) the placement and removal of space maintainers;

41 (23) preparation and placement of direct restoration in primary and
42 permanent teeth;

43 (24) fabrication and placement of single-tooth temporary crowns;

- 1 (25) preparation and placement of preformed crowns on primary
2 teeth;
- 3 (26) pulpotomies on primary teeth;
- 4 (27) indirect and direct pulp capping on permanent teeth;
- 5 (28) indirect pulp capping on primary teeth;
- 6 (29) suture removal;
- 7 (30) brush biopsies;
- 8 (31) minor adjustments and repairs on removable prostheses;
- 9 (32) re-cementing of permanent crowns; and
- 10 (33) prevention of, identification and management of dental and
11 medical emergencies.

12 (d) Any dental therapist is authorized to supervise any dental
13 hygienist or dental assistant unless restricted or prohibited in the
14 supervising agreement with the supervising dentist.

15 (e) Any dental therapist shall maintain current basic cardiac life
16 support certification from the American heart association, or an equivalent
17 certification approved by the Kansas dental board.

18 (f) This section shall be part of and supplemental to the dental
19 practices act.

20 (g) This section shall take effect on and after July 1, 2018.

21 New Sec. 3. (a) The Kansas dental board shall revoke or suspend the
22 license of any licensed dental therapist who is found guilty of using or
23 attempting to use in any manner whatsoever any prophylactic lists, call
24 lists, records, reprints or copies of same, or information gathered
25 therefrom, of the names of patients whom the dental therapist might have
26 served in the office of a prior employer, unless such names appear upon
27 the bona fide call or prophylactic list of the dental therapist's present
28 employer and were caused to so appear through the legitimate practice of
29 dentistry as provided for in this act.

30 (b) The board shall suspend or revoke the license of any licensed
31 dentist who is found guilty of aiding or abetting or encouraging a dental
32 therapist employed by such dentist to make use of a so-called prophylactic
33 call list, or the calling by telephone or by use of written letters transmitted
34 through the mails to solicit patronage from patients served in the office of
35 any dentist formerly employing such dental therapist.

36 (c) No order of suspension or revocation provided in this section shall
37 be made or entered except after notice and opportunity for hearing in
38 accordance with the provisions of the Kansas administrative procedure act.
39 Any final order of suspension or revocation of a license shall be
40 reviewable in accordance with the Kansas judicial review act.

41 (d) This section shall be part of and supplemental to the dental
42 practices act.

43 (e) This section shall take effect on and after July 1, 2018.

1 New Sec. 4. On or before July 1, 2018, the Kansas dental board shall
2 adopt rules and regulations as may be necessary to administer the
3 provisions of this act regarding the licensure of dental therapists. On or
4 before July 1, 2017, the board shall have such rules and regulations:
5 Proposed; submitted to the secretary of administration and to the attorney
6 general for approval as required by K.S.A. 77-420, and amendments
7 thereto; and notice of the proposed rules and regulations given and a
8 hearing held thereon in the manner provided by K.S.A. 77-421, and
9 amendments thereto.

10 Sec. 5. On and after July 1, 2018, K.S.A. 65-1421 is hereby amended
11 to read as follows: 65-1421. It shall be unlawful for any person to practice
12 dentistry, *dental therapy* or dental hygiene in the state of Kansas, except:

- 13 (a) Those who are now duly licensed dentists, pursuant to law;
14 (b) *those who are now duly licensed dental therapists, pursuant to*
15 *law;*
16 (c) those who are now duly licensed dental hygienists, pursuant to
17 law; *and*
18 ~~(e)~~ (d) those who may hereafter be duly licensed as dentists, *dental*
19 *therapists* or dental hygienists, pursuant to the provisions of this act.

20 Sec. 6. On and after July 1, 2018, K.S.A. 2015 Supp. 65-1424 is
21 hereby amended to read as follows: 65-1424. (a) As used in this act:

22 (1) "Proprietor" means any person who employs dentists, *dental*
23 *therapists* or dental hygienists in the operation of a dental office.

24 (2) "Dental franchisor" means any person or entity, pursuant to a
25 written agreement, who provides a licensed dentist any dental practice
26 management consulting services, which may include marketing or
27 advertising services, signage or branding consulting, or places in
28 possession of a licensed dentist such dental material or equipment as may
29 be necessary for the management of a dental office on the basis of a lease
30 or any other agreement for compensation. A person or entity is not a dental
31 franchisor if the agreement with the dentist:

32 (A) Permits the person or entity to interfere with the professional
33 judgment of the dentist; or

34 (B) contains terms that would constitute a violation of the dental
35 practices act, rules and regulations adopted by the board, any orders and
36 directives issued by the board or any other applicable law.

37 (3) "Unlicensed proprietor" means any person or entity not authorized
38 to own or operate a dental practice that enters into an agreement with a
39 dentist, *dental therapist* or dental hygienist related to the practice of
40 dentistry, *dental therapy* or dental hygiene which:

41 (A) Permits the person or entity to interfere with the professional
42 judgment of the dentist; or

43 (B) contains terms that would constitute a violation of the dental

1 practices act, rules and regulations adopted by the board, any orders and
2 directives issued by the board or any other applicable law.

3 A licensee of dentistry who enters into any arrangement with an
4 unlicensed proprietor may have such license limited, suspended or revoked
5 by the board.

6 (b) The estate or agent for a deceased or substantially disabled dentist
7 may employ dentists, for a period of not more than 18 months following
8 the date of death or substantial disability of the dentist, to provide service
9 to patients until the practice can be sold or closed. Upon application
10 showing good cause, including, but not limited to, evidence of a good faith
11 effort to sell or close the dental practice, the Kansas dental board may
12 extend the time in six-month increments for a period of not more than one
13 additional year for which the practice can be sold or closed. The Kansas
14 dental board may adopt rules and regulations as necessary to carry out the
15 provisions of this section.

16 Sec. 7. On and after July 1, 2018, K.S.A. 2015 Supp. 65-1431 is
17 hereby amended to read as follows: 65-1431. (a) Each license to practice
18 as a dentist, *dental therapist* or dental hygienist issued by the board, shall
19 expire on December 1 of the year specified by the board for the expiration
20 of the license and shall be renewed on a biennial basis. Each application
21 for renewal shall be made on a form prescribed and furnished by the
22 board. Every licensed dentist, *dental therapist* or dental hygienist shall pay
23 to the board a renewal fee fixed by the board as provided in K.S.A. 65-
24 1447, and amendments thereto.

25 (b) To provide for a staggered system of biennial renewal of licenses,
26 the board may renew licenses for less than two years.

27 (c) On or before December 1 of the year in which the licensee's
28 license expires, the licensee shall transmit to the board a renewal
29 application, upon a form prescribed by the board, which shall include such
30 licensee's signature, post office address, the number of the license of such
31 licensee, whether such licensee has been engaged during the preceding
32 licensure period in active and continuous practice whether within or
33 without this state, and such other information as may be required by the
34 board, together with the biennial licensure fee for a *dentist*, *dental*
35 *therapist* or dental hygienist which is fixed by the board pursuant to
36 K.S.A. 65-1447, and amendments thereto.

37 (d) The board shall require every licensee to submit with the renewal
38 application evidence of satisfactory completion of a program of continuing
39 education required by the board. The board by duly adopted rules and
40 regulations shall establish the requirements for such program of continuing
41 education as soon as possible after the effective date of this act.

42 (e) Upon fixing the biennial license renewal fee, the board shall
43 immediately notify all licensees of the amount of the fee for the ensuing

1 licensure period. Upon receipt of such fee and upon receipt of evidence
2 that the licensee has satisfactorily completed a program of continuing
3 education required by the board, the licensee shall be issued a renewal
4 license authorizing the licensee to continue to practice in this state for a
5 period of no more than two years.

6 (f) (1) Any license granted under authority of this act shall
7 automatically be canceled if the holder thereof fails to apply for and obtain
8 renewal prior to March 1 of the year following the December in which a
9 renewal application is due.

10 (2) Any licensee whose license is required to be renewed for the next
11 biennial period may obtain renewal, prior to February 1, by submitting to
12 the board the required renewal application, payment of the biennial
13 renewal fee and proof that such licensee has satisfactorily completed a
14 program of continuing education required by the board. Any licensee
15 whose license is required to be renewed for the next biennial period may
16 obtain renewal, between February 1 and March 1, by submitting to the
17 board the required renewal application, payment of the biennial renewal
18 fee, payment of a penalty fee of not to exceed \$500 as fixed by rules and
19 regulations by the board and proof that such licensee has satisfactorily
20 completed a program of continuing education required by the board. The
21 penalty fee in effect immediately prior to the effective date of this act shall
22 continue in effect until rules and regulations establishing a penalty fee
23 under this section become effective.

24 (g) Upon failure of any licensee to pay the applicable renewal fee or
25 to present proof of satisfactory completion of the required program of
26 continuing education by February 1 of the year following the December in
27 which a renewal application is due, the board shall notify such licensee, in
28 writing, by mailing notice to such licensee's last registered address. Failure
29 to mail or receive such notice shall not affect the cancellation of the
30 license of such licensee.

31 (h) The board may waive the payment of biennial fees and the
32 continuing education requirements for the renewal of licenses without the
33 payment of any fee for a person who has held a Kansas license to practice
34 dentistry, *dental therapy* or dental hygiene if such licensee has retired from
35 such practice or has become temporarily or permanently disabled and such
36 licensee files with the board a certificate stating either of the following:

37 (1) A retiring licensee shall certify to the board that the licensee is not
38 engaged, except as provided in K.S.A. 65-1466, and amendments thereto,
39 in the provision of any dental service, the performance of any dental
40 operation or procedure or the delivery of any *dental therapy or* dental
41 hygiene service as defined by the statutes of the state of Kansas; or

42 (2) a disabled licensee shall certify to the board that such licensee is
43 no longer engaged in the provision of dental services, the performance of

1 any dental operation or the provision of any *dental therapy or* dental
2 hygiene services as defined by the statutes of the state of Kansas by reason
3 of any physical disability, whether permanent or temporary, and shall
4 describe the nature of such disability.

5 (i) The waiver of fees under subsection (h) shall continue so long as
6 the retirement or physical disability exists. Except as provided in K.S.A.
7 65-1466, and amendments thereto, in the event the licensee returns to the
8 practice for which such person is licensed, the requirement for payment of
9 fees and continuing education requirements shall be reimposed
10 commencing with and continuing after the date the licensee returns to such
11 active practice. Except as provided in K.S.A. 65-1466, and amendments
12 thereto, the performance of any dental service, including consulting
13 service, or the performance of any *dental therapy or* dental hygiene
14 service, including consulting service, shall be deemed the resumption of
15 such service, requiring payment of license fees.

16 (j) The Kansas dental board may adopt such rules and regulations
17 requiring the examination and providing means for examination of those
18 persons returning to active practice after a period of retirement or
19 disability as the board shall deem necessary and appropriate for the
20 protection of the people of the state of Kansas except that for an applicant
21 to practice *dental therapy or* dental hygiene who is returning to active
22 practice after a period of retirement or disability, the board shall authorize
23 as an alternative to the requirement for an examination that the applicant
24 successfully complete a refresher course as defined by the board in an
25 approved dental hygiene school *or dental therapy program*.

26 Sec. 8. On and after July 1, 2018, K.S.A. 2015 Supp. 65-1434 is
27 hereby amended to read as follows: 65-1434. (a) The board, without
28 examination, may issue a license as a dentist, *dental therapist* or dental
29 hygienist to an applicant holding a license in another state upon
30 compliance with the requirements of professional qualification and
31 experience set forth in subsection (b). The board shall prepare and adopt a
32 form of application to be submitted by an applicant for a license to be
33 issued under this section. On the receipt of any such application, the board
34 shall conduct such review, verification or other investigation of the
35 applicant and the professional qualifications, background, experience and
36 practice of the applicant as the board deems necessary to assure full
37 compliance with the requirements of this section. Any license so issued
38 may be revoked by the board upon evidence that an applicant has obtained
39 a license under this section through misrepresentation or omission of a
40 material fact in the application or other information submitted to the board.

41 (b) Each applicant for licensure under this section must evidence the
42 qualifications and meet the following requirements:

43 (1) Each applicant for licensure as a dentist under this section must

1 meet the requirements set forth in K.S.A. 65-1426, and amendments
2 thereto. *Each applicant for licensure as a dental therapist must meet all*
3 *applicable requirements set forth in section 1, and amendments thereto.*

4 Each applicant for licensure as a dental hygienist must meet any applicable
5 requirements set forth in K.S.A. 65-1455, and amendments thereto.

6 (2) Each applicant shall show evidence of having successfully
7 completed both a national board examination or an equivalent examination
8 accepted by the state in which the applicant has been previously licensed,
9 and a clinical examination, administered by any state or clinical dental
10 testing agency, of equivalent merit to the clinical examination accepted by
11 the board at the time such applicant completed such examinations.

12 (3) Each applicant for licensure as a dentist under this section shall
13 have held a license to practice dentistry in one or more other states of the
14 United States for the five-year period immediately preceding the date of
15 application and shall have engaged in the active practice of dentistry for at
16 least five years prior to the date of application. *Each applicant for*
17 *licensure as a dental therapist under this section shall have held a license*
18 *to practice dental therapy in another state of the United States for a three-*
19 *year period immediately preceding the date of application and shall have*
20 *engaged in the active practice of dental therapy for at least three years*
21 *prior to the date of application.* Each applicant for licensure as a dental
22 hygienist under this section shall have held a license to practice dental
23 hygiene in another state of the United States for the three-year period
24 immediately preceding the date of application and shall have engaged in
25 the active practice of dental hygiene for at least three years prior to the
26 date of application. Successive and continuous periods of active practice in
27 other states will comply with the active practice requirements of this
28 paragraph~~(3)~~. For the purpose of determining the period of practice,
29 periods of military service will be considered to the extent approved by the
30 Kansas dental board. Service as a full-time faculty member in a school of
31 dentistry will be considered the practice of dentistry to the extent service
32 involved full-time instruction in dentistry including clinical dentistry.
33 Service as a faculty member in a school of dental hygiene will be
34 considered the practice of dental hygiene to the extent such service
35 involved instruction in dental hygiene including clinical dental hygiene. To
36 be considered for the purposes of this statute, any such school of dentistry,
37 *dental therapy* or dental hygiene must be approved by the Kansas dental
38 board within the meaning of K.S.A. 65-1426, and amendments thereto.

39 (4) Each such applicant shall show evidence that the applicant has
40 fully complied with all continuing education requirements imposed by the
41 state or states in which the applicant has been licensed and has practiced
42 during the ~~five years~~ *applicable time period* immediately preceding the
43 date of the application. In the event the state or states in which the

1 applicant has been licensed and practiced has no such requirement, the
2 applicant shall provide such information concerning continuing education
3 received by the applicant during the ~~five-year~~ *applicable time* period
4 preceding application as may be required by the board. All applicants must
5 have completed continuing education sufficient to comply with that
6 continuing education required of Kansas licensees during the ~~twenty-four~~
7 *24-month* period prior to the date of the application for licensure unless the
8 Kansas dental board determines, for good cause shown, that the
9 requirement will work an undue hardship upon the applicant and the
10 requirement is not necessary for the protection of the people of Kansas
11 based upon the training and experience of the applicant.

12 (5) The applicant shall provide such other information concerning the
13 applicant and the dental education, qualification, experience and
14 professional conduct of the applicant as the board in its discretion deems
15 necessary to its determination to issue a license.

16 (6) Each applicant shall provide a certificate of the executive director
17 of the board or other agency governing licensure of dentists, *dental*
18 *therapists* or dental hygienists of the state in which the applicant has been
19 licensed and has practiced during the required period preceding the date of
20 the application. Such certificate shall state that: (A) The applicant is
21 licensed to practice dentistry, *dental therapy* or dental hygiene in the state;
22 (B) the license of the applicant has never been suspended or revoked; (C)
23 the applicant has never been the subject of any proceeding for suspension,
24 revocation or other disciplinary action initiated by the board of licensure of
25 any such state during the period the applicant has held a license to practice
26 dentistry, *dental therapy* or dental hygiene in such state; and (D) no
27 complaint has been filed against the applicant of such substance as, in the
28 judgment of the board of licensure of such state, has required the initiation
29 of proceedings against the applicant. In the event the applicant has
30 practiced dentistry, *dental therapy* or dental hygiene in more than one
31 other state in the United States, the applicant shall file a similar certificate
32 with respect to such period or periods during which the applicant has
33 practiced in each such state.

34 (c) The Kansas dental board may direct an applicant to appear before
35 the board at a date, time and place to be determined by the Kansas dental
36 board to answer questions and provide such information concerning the
37 qualifications, background, experience and practice of the applicant as the
38 Kansas dental board may deem necessary.

39 (d) The term "applicant" as used in this section shall apply to ~~both~~
40 applicants for licensure as a dentist, *applicants for licensure as a dental*
41 *therapist* and applicants for licensure as a dental hygienist unless the
42 context otherwise indicates.

43 Sec. 9. On and after July 1, 2018, K.S.A. 2015 Supp. 65-1436 is

1 hereby amended to read as follows: 65-1436. (a) The Kansas dental board
2 may refuse to issue the license under the dental practices act, or may take
3 any of the actions with respect to any dental, *dental therapy* or dental
4 hygiene license as set forth in subsection (b), whenever it is established,
5 after notice and opportunity for hearing in accordance with the provisions
6 of the Kansas administrative procedure act, that any applicant for a dental,
7 *dental therapy* or dental hygiene license or any licensed dentist, *dental*
8 *therapist* or dental hygienist practicing in the state of Kansas has:

9 (1) Committed fraud, deceit or misrepresentation in obtaining any
10 license, money or other thing of value;

11 (2) habitually used intoxicants or drugs which have rendered such
12 person unfit for the practice of dentistry, *dental therapy* or dental hygiene;

13 (3) been determined by the board to be professionally incompetent;

14 (4) committed gross, wanton or willful negligence in the practice of
15 dentistry, *dental therapy* or dental hygiene;

16 (5) employed, allowed or permitted any unlicensed person or persons
17 to perform any work in the licensee's office which constitutes the practice
18 of dentistry, *dental therapy* or dental hygiene under the provisions of the
19 dental practices act;

20 (6) willfully violated the laws of this state relating to the practice of
21 dentistry, *dental therapy* or dental hygiene or the rules and regulations of
22 the secretary of health and environment or of the board regarding
23 sanitation;

24 (7) engaged in the division of fees, or agreed to split or divide the fee
25 received for dental service with any person for bringing or referring a
26 patient without the knowledge of the patient or the patient's legal
27 representative, except:

28 (A) The division of fees between dentists practicing in a partnership
29 and sharing professional fees;

30 (B) the division of fees between one licensed dentist employing
31 another; or

32 (C) the division of fees between a licensed dentist and a dental
33 franchisor;

34 (8) committed complicity in association with or allowed the use of
35 the licensed dentist's name in conjunction with any person who is engaged
36 in the illegal practice of dentistry;

37 (9) been convicted of a felony or a misdemeanor involving moral
38 turpitude in any jurisdiction and the licensee fails to show that the licensee
39 has been sufficiently rehabilitated to warrant the public trust;

40 (10) prescribed, dispensed, administered or distributed a prescription
41 drug or substance, including a controlled substance, in an excessive,
42 improper or inappropriate manner or quantity outside the scope of practice
43 of dentistry or in a manner that impairs the health and safety of an

1 individual;

2 (11) prescribed, purchased, administered, sold or given away
3 prescription drugs, including a controlled substance, for other than legal
4 and legitimate purposes;

5 (12) violated or been convicted of any federal or state law regulating
6 possession, distribution or use of any controlled substance;

7 (13) failed to pay license fees;

8 (14) used the name "clinic," "institute" or other title that may suggest
9 a public or semipublic activity except that the name "clinic" may be used
10 as authorized in K.S.A. 65-1435, and amendments thereto;

11 (15) committed, after becoming a licensee, any conduct which is
12 detrimental to the public health, safety or welfare as defined by rules and
13 regulations of the board;

14 (16) engaged in a misleading, deceptive, untrue or fraudulent
15 misrepresentation in the practice of dentistry or on any document
16 connected with the practice of dentistry by knowingly submitting any
17 misleading, deceptive, untrue or fraudulent misrepresentation on a claim
18 form, bill or statement, including the systematic waiver of patient co-
19 payment or co-insurance;

20 (17) failed to keep adequate records;

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

28 (19) failed to furnish the board, or its investigators or representatives
29 any information legally requested by the board; or

30 (20) assisted suicide in violation of K.S.A. 21-3406, prior to its
31 repeal, or K.S.A. 2015 Supp. 21-5407, and amendments thereto, as
32 established by any of the following:

33 (A) A copy of the record of criminal conviction or plea of guilty for a
34 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2015
35 Supp. 21-5407, and amendments thereto;

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

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

41 (b) Whenever it is established, after notice and opportunity for
42 hearing in accordance with the provisions of the Kansas administrative
43 procedure act, that a licensee is in any of the circumstances or has

1 committed any of the acts described in subsection (a), the Kansas dental
2 board may take one or any combination of the following actions with
3 respect to the license of the licensee:

4 (1) Revoke the license;

5 (2) suspend the license for such period of time as may be determined
6 by the board;

7 (3) restrict the right of the licensee to practice by imposing limitations
8 upon dental, *dental therapy* or dental hygiene procedures which may be
9 performed, categories of dental disease which may be treated or types of
10 patients which may be treated by the dentist, *dental therapist* or dental
11 hygienist. Such restrictions shall continue for such period of time as may
12 be determined by the board, and the board may require the licensee to
13 provide additional evidence at hearing before lifting such restrictions; or

14 (4) grant a period of probation during which the imposition of one or
15 more of the actions described in subsections (b)(1) through (b)(3) will be
16 stayed subject to such conditions as may be imposed by the board
17 including a requirement that the dentist, *dental therapist* or dental
18 hygienist refrain from any course of conduct which may result in further
19 violation of the dental-~~practice~~ *practices* act or the dentist or dental
20 hygienist complete additional or remedial instruction. The violation of any
21 provision of the dental-~~practice~~ *practices* act or failure to meet any
22 condition imposed by the board as set forth in the order of the board will
23 result in immediate termination of the period of probation and imposition
24 of such other action as has been taken by the board.

25 (c) As used in this section, "professionally incompetent" means:

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

29 (2) repeated instances involving failure to adhere to the applicable
30 standard of dental, *dental therapy* or dental hygienist care to a degree
31 which constitutes ordinary negligence, as determined by the board; or

32 (3) a pattern of dental, *dental therapy* or dental hygienist practice or
33 other behavior which demonstrates a manifest incapacity or incompetence
34 to practice dentistry.

35 (d) In addition to or in lieu of one or more of the actions described in
36 subsections (b)(1) through (b)(4) or in ~~subsection (e)~~ of K.S.A. 65-
37 1444(c), and amendments thereto, the board may assess a fine not in
38 excess of \$10,000 against a licensee. All fines collected pursuant to this
39 subsection shall be remitted to the state treasurer in accordance with the
40 provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of
41 each such remittance, the state treasurer shall deposit the entire amount in
42 the state treasury and of the amount so remitted, an amount equal to the
43 board's actual costs related to fine assessment and enforcement under this

1 subsection, as certified by the president of the board to the state treasurer,
2 shall be credited to the dental board fee fund and the balance shall be
3 credited to the state general fund.

4 (e) The board, upon its own motion or upon the request of any
5 licensee who is a party to a licensure action, may require a physical or
6 mental examination, or both, of such licensee either prior to a hearing to be
7 held as a part of a licensure action or prior to the termination of any period
8 of suspension or the termination of any restrictions imposed upon the
9 licensee as provided in subsection (b).

10 Sec. 10. On and after July 1, 2018, K.S.A. 65-1441 is hereby
11 amended to read as follows: 65-1441. Whoever sells or offers to sell a
12 diploma conferring a dental degree, or a license granted pursuant to this
13 act, or procures such diploma or license with intent that it be used as
14 evidence of the right to practice dentistry, *dental therapy* or dental
15 hygiene, as defined by law, by a person other than the one upon whom it
16 was conferred, or to whom such license certificate or renewal certificate
17 was granted, or with fraudulent intent alters such diploma or license
18 certificate or renewal certificate, or uses or attempts to use it when it is so
19 altered, shall be deemed guilty of a misdemeanor. The board may refuse to
20 grant a license to practice dentistry, *dental therapy* or dental hygiene to
21 any person found guilty of making a false statement, or cheating or of
22 fraud or deception either in applying for a license or in taking any of the
23 examinations provided for under the dental practices act.

24 Sec. 11. On and after July 1, 2018, K.S.A. 2015 Supp. 65-1447 is
25 hereby amended to read as follows: 65-1447. (a) On or before October 1 of
26 each year, the Kansas dental board shall determine the amount of funds
27 which will be required during the ensuing fiscal year to properly
28 administer the laws which the board is directed to enforce and administer
29 and shall fix fees in accordance with this section in such reasonable sums
30 as may be necessary for such purposes, within the limitations prescribed
31 by subsection (b).

32 (b) The board shall collect fees provided for in this act as follows:

33 Examination fee for dental applicants—not more than.....	\$200
34 Subsequent examination fee for dental applicants—not more	
35 than.....	100
36 Examination fee for specialty qualifications—not more	
37 than.....	200
38 Credentials/qualifications fee—not more than.....	300
39 Duplicate certificate fee—not more than.....	25
40 Certificate fee, including certificate for credentials/qualifications,	
41 for dentists, <i>dental therapists</i> and dental hygienists—not	
42 more than.....	25
43 Biennial license renewal fee for dentists—not more than.....	325

1 Examination fee for dental hygienist applicants—not more
 2 than.....100
 3 Subsequent examination fee for dental hygienist applicants—not
 4 more than.....100
 5 Biennial license renewal fee for dental hygienists—not
 6 more than.....160
 7 *Biennial license renewal fee for dental therapists—not more than.....200*
 8 *Examination fee for dental therapist applicants—not more than.....150*
 9 *Subsequent examination fee for dental therapist applicants—not*
 10 *more than.....100*
 11 Reinstatement of a revoked license—not more than.....2,000
 12 Processing fee for failure to notify of change of address—not
 13 more than.....100
 14 Registration fee to operate a mobile dental facility or portable
 15 dental operation—not more than.....500
 16 Biennial registration renewal fee for mobile dental facility or
 17 portable dental operation—not more than.....350
 18 Sedation permit—not more than.....200

19 (c) The amounts of fees in effect on the day preceding the effective
 20 date of this act and the act of which this section is amendatory shall remain
 21 in effect until fixed in different amounts by the board under this section.
 22 The board may adopt rules and regulations for the proration of fees for a
 23 license issued for a period of time less than the biennial licensure period.

24 Sec. 12. On and after July 1, 2018, K.S.A. 65-1449 is hereby
 25 amended to read as follows: 65-1449. (a) Except as provided by subsection
 26 (b), no action to revoke or suspend a license shall be taken until the
 27 licensee has been furnished a statement in writing of the charges against
 28 the licensee, together with a notice of the time and place of the hearing.
 29 The statement of charges and notice shall be served upon the licensee in
 30 accordance with the provisions of the Kansas administrative procedure act.

31 (b) If the board determines that there is probable cause to revoke or
 32 suspend the license of a dentist, *dental therapist* or dental hygienist for any
 33 reason that exists pursuant to K.S.A. 65-1436, and amendments thereto,
 34 and if the licensee's continued practice would constitute an imminent
 35 danger to public health and safety, the board may initiate administrative
 36 proceedings for an emergency adjudication under the provisions of the
 37 Kansas administrative procedure act.

38 In no case shall a temporary suspension or temporary limitation of a
 39 license under this section be in effect for more than 90 days. At the end of
 40 such period of time, the licensee shall be reinstated to full licensure unless
 41 the board has revoked or suspended the license of the licensee after notice
 42 and hearing, provided in accordance with the provisions of the Kansas
 43 administrative procedure act.

1 Sec. 13. On and after July 1, 2018, K.S.A. 65-1460 is hereby
2 amended to read as follows: 65-1460. Any person who shall practice
3 dentistry, *dental therapy* or dental hygiene in this state within the meaning
4 of this act without having first obtained a license from the board, or who
5 violates any of the provisions of this act, the penalty for which is not
6 herein specifically provided, shall be deemed guilty of a misdemeanor.
7 Anyone convicted of a misdemeanor under this act shall be punished by a
8 fine of not more than ~~one thousand dollars~~ \$1,000, or by imprisonment in
9 the county jail for not more than twelve months, or by both such fine and
10 imprisonment, in the discretion of the court.

11 Sec. 14. On and after July 1, 2018, K.S.A. 65-1462 is hereby
12 amended to read as follows: 65-1462. (a) No person reporting to the
13 Kansas dental board under oath and in good faith any information such
14 person may have relating to alleged incidents of malpractice or the
15 qualifications, fitness or character of a person licensed to practice dentistry
16 shall be subject to a civil action for damages as a result of reporting such
17 information.

18 (b) Any state, regional or local association of licensed dentists, *dental*
19 *therapists* or licensed dental hygienists, and the individual members of any
20 committee thereof, which in good faith investigates or communicates
21 information pertaining to the alleged incidents of malpractice or the
22 qualifications, fitness or character of any licensee to the Kansas dental
23 board or to any committee or agent thereof, shall be immune from liability
24 in any civil action, that is based upon such investigation or transmittal of
25 information if the investigation and communication was made in good
26 faith and did not represent as true any matter not reasonably believed to be
27 true.

28 Sec. 15. On and after July 1, 2018, K.S.A. 2015 Supp. 65-1469 is
29 hereby amended to read as follows: 65-1469. As used in this section:

30 (a) "Mobile dental facility or portable dental operation" means either
31 of the following:

32 (1) Any self-contained facility in which dentistry will be practiced,
33 which may be moved, towed or transported from one location to another.

34 (2) Any nonfacility in which dental equipment, utilized in the practice
35 of dentistry, is transported to and utilized on a temporary basis at an out-
36 of-office location, including, but not limited to: (A) Other dentists' offices;
37 (B) patients' homes; (C) schools; (D) nursing homes; or (E) other
38 institutions.

39 (b) (1) No person shall operate a mobile dental facility or portable
40 dental operation in this state unless registered in accordance with this
41 section.

42 (2) In order to operate a mobile dental facility or portable dental
43 operation, the operator shall be a person or entity that is authorized to own

1 a dental practice under Kansas law and possess a current registration
2 issued by the board.

3 (3) To become registered, the operator shall:

4 (A) Complete an application in the form and manner required by the
5 board; and

6 (B) pay a registration fee in the amount established by the board
7 pursuant to K.S.A. 65-1447, and amendments thereto.

8 (c) (1) The registration under this section shall be renewed on March
9 1 of even-numbered years in the form and manner provided by the board
10 by rules and regulations.

11 (2) The registrant shall pay a registration renewal fee in the amount
12 fixed by the board under K.S.A. 65-1447, and amendments thereto.

13 (d) The board shall adopt rules and regulations as necessary to carry
14 out the provisions of this act. The rules and regulations shall include, but
15 not be limited to, requirements relating to the official address and
16 telephone number of the mobile dental facility or portable dental
17 operation, the proper maintenance of dental records, procedures for
18 emergency follow-up care for patients, appropriate communications
19 facilities, appropriate authorizations for treatment by dental patients,
20 follow-up treatment and services, personnel and address changes, notice to
21 be provided on cessation of operation and such other matters as the board
22 deems necessary to protect the public health and welfare.

23 (e) The board may refuse to issue a registration under this section or
24 may revoke or suspend a registration upon a finding by the board that an
25 applicant or person registered under this section has failed to comply with
26 any provision of the section or any rules and regulations adopted pursuant
27 to this section. No order refusing to issue a registration or order of
28 suspension or revocation shall be made or entered except after notice and
29 opportunity for hearing in accordance with the provisions of the Kansas
30 administrative procedure act. Any final order of suspension or revocation
31 of a license shall be reviewable in accordance with the Kansas judicial
32 review act.

33 (f) (1) This section applies to each operator of a mobile dental facility
34 or portable dental operation that provides dental services except those
35 specifically exempted by ~~subsection~~ *paragraph* (2).

36 (2) This section shall not apply to:

37 (A) Dentists providing dental services for federal, state and local
38 governmental agencies;

39 (B) dentists licensed to practice in Kansas providing emergency
40 treatment for their patients of record;

41 (C) dentists who are not employed by or independently contracting
42 with a mobile dental facility or portable dental operation who provide
43 nonemergency treatment for their patients of record outside the dentist's

1 physically stationary office fewer than 30 days per calendar year;

2 (D) dental hygienists who are providing dental hygiene services as
3 authorized by the Kansas dental act and the board's rules and regulations;

4 (E) a dentist *or dental therapist* who is providing dental services as a
5 charitable health care provider under K.S.A. 75-6102, and amendments
6 thereto;

7 (F) a dental hygienist who is providing dental hygiene services as a
8 charitable health care provider under K.S.A. 75-6102, and amendments
9 thereto; and

10 (G) a not-for-profit organization providing dental services.

11 (g) This section shall be part of and supplemental to the dental
12 practices act.

13 Sec. 16. On and after July 1, 2018, K.S.A. 2015 Supp. 65-4915 is
14 hereby amended to read as follows: 65-4915. (a) As used in this section:

15 (1) "Health care provider" means: (A) Those persons and entities
16 defined as a health care provider under K.S.A. 40-3401, and amendments
17 thereto; and (B) a dentist licensed by the Kansas dental board, *a dental*
18 *therapist licensed by the Kansas dental board*, a dental hygienist licensed
19 by the Kansas dental board, a professional nurse licensed by the board of
20 nursing, a practical nurse licensed by the board of nursing, a mental health
21 technician licensed by the board of nursing, a physical therapist licensed
22 by the state board of healing arts, a physical therapist assistant certified by
23 the state board of healing arts, an occupational therapist licensed by the
24 state board of healing arts, an occupational therapy assistant licensed by
25 the state board of healing arts, a respiratory therapist licensed by the state
26 board of healing arts, a physician assistant licensed by the state board of
27 healing arts and attendants and ambulance services certified by the
28 emergency medical services board.

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

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

32 (B) the board of governors created under K.S.A. 40-3403, and
33 amendments thereto;

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

36 (D) a review committee operating pursuant to K.S.A. 65-2840c, and
37 amendments thereto;

38 (E) an organized medical staff of a licensed medical care facility as
39 defined by K.S.A. 65-425, and amendments thereto, an organized medical
40 staff of a private psychiatric hospital licensed under K.S.A. 75-3307b, and
41 amendments thereto, or an organized medical staff of a state psychiatric
42 hospital or state institution for people with intellectual disability, as
43 follows: Larned state hospital, Osawatomic state hospital, Rainbow mental

- 1 health facility, Kansas neurological institute and Parsons state hospital and
2 training center;
- 3 (F) a health care provider;
- 4 (G) a professional society of health care providers or one or more
5 committees thereof;
- 6 (H) a Kansas corporation whose stockholders or members are health
7 care providers or an association of health care providers, which
8 corporation evaluates medical and health care services;
- 9 (I) an insurance company, health maintenance organization or
10 administrator of a health benefits plan which engages in any of the
11 functions defined as peer review under this section; or
- 12 (J) the university of Kansas medical center.
- 13 (3) "Peer review" means any of the following functions:
- 14 (A) Evaluate and improve the quality of health care services rendered
15 by health care providers;
- 16 (B) determine that health services rendered were professionally
17 indicated or were performed in compliance with the applicable standard of
18 care;
- 19 (C) determine that the cost of health care rendered was considered
20 reasonable by the providers of professional health services in this area;
- 21 (D) evaluate the qualifications, competence and performance of the
22 providers of health care or to act upon matters relating to the discipline of
23 any individual provider of health care;
- 24 (E) reduce morbidity or mortality;
- 25 (F) establish and enforce guidelines designed to keep within
26 reasonable bounds the cost of health care;
- 27 (G) conduct of research;
- 28 (H) determine if a hospital's facilities are being properly utilized;
- 29 (I) supervise, discipline, admit, determine privileges or control
30 members of a hospital's medical staff;
- 31 (J) review the professional qualifications or activities of health care
32 providers;
- 33 (K) evaluate the quantity, quality and timeliness of health care
34 services rendered to patients in the facility;
- 35 (L) evaluate, review or improve methods, procedures or treatments
36 being utilized by the medical care facility or by health care providers in a
37 facility rendering health care.
- 38 (4) "Peer review officer or committee" means:
- 39 (A) An individual employed, designated or appointed by, or a
40 committee of or employed, designated or appointed by, a health care
41 provider group and authorized to perform peer review; or
- 42 (B) a health care provider monitoring the delivery of health care at
43 correctional institutions under the jurisdiction of the secretary of

1 corrections.

2 (b) Except as provided by K.S.A. 60-437, and amendments thereto,
3 and by subsections (c) and (d), the reports, statements, memoranda,
4 proceedings, findings and other records submitted to or generated by peer
5 review committees or officers shall be privileged and shall not be subject
6 to discovery, subpoena or other means of legal compulsion for their release
7 to any person or entity or be admissible in evidence in any judicial or
8 administrative proceeding. Information contained in such records shall not
9 be discoverable or admissible at trial in the form of testimony by an
10 individual who participated in the peer review process. The peer review
11 officer or committee creating or initially receiving the record is the holder
12 of the privilege established by this section. This privilege may be claimed
13 by the legal entity creating the peer review committee or officer, or by the
14 commissioner of insurance for any records or proceedings of the board of
15 governors.

16 (c) Subsection (b) shall not apply to proceedings in which a health
17 care provider contests the revocation, denial, restriction or termination of
18 staff privileges or the license, registration, certification or other
19 authorization to practice of the health care provider. A licensing agency in
20 conducting a disciplinary proceeding in which admission of any peer
21 review committee report, record or testimony is proposed shall hold the
22 hearing in closed session when any such report, record or testimony is
23 disclosed. Unless otherwise provided by law, a licensing agency
24 conducting a disciplinary proceeding may close only that portion of the
25 hearing in which disclosure of a report or record privileged under this
26 section is proposed. In closing a portion of a hearing as provided by this
27 section, the presiding officer may exclude any person from the hearing
28 location except the licensee, the licensee's attorney, the agency's attorney,
29 the witness, the court reporter and appropriate staff support for either
30 counsel. The licensing agency shall make the portions of the agency record
31 in which such report or record is disclosed subject to a protective order
32 prohibiting further disclosure of such report or record. Such report or
33 record shall not be subject to discovery, subpoena or other means of legal
34 compulsion for their release to any person or entity. No person in
35 attendance at a closed portion of a disciplinary proceeding shall at a
36 subsequent civil, criminal or administrative hearing, be required to testify
37 regarding the existence or content of a report or record privileged under
38 this section which was disclosed in a closed portion of a hearing, nor shall
39 such testimony be admitted into evidence in any subsequent civil, criminal
40 or administrative hearing. A licensing agency conducting a disciplinary
41 proceeding may review peer review committee records, testimony or
42 reports but must prove its findings with independently obtained testimony
43 or records which shall be presented as part of the disciplinary proceeding

1 in open meeting of the licensing agency. Offering such testimony or
2 records in an open public hearing shall not be deemed a waiver of the peer
3 review privilege relating to any peer review committee testimony, records
4 or report.

5 (d) Nothing in this section shall limit the authority, which may
6 otherwise be provided by law, of the commissioner of insurance, the state
7 board of healing arts or other health care provider licensing or disciplinary
8 boards of this state to require a peer review committee or officer to report
9 to it any disciplinary action or recommendation of such committee or
10 officer; to transfer to it records of such committee's or officer's
11 proceedings or actions to restrict or revoke the license, registration,
12 certification or other authorization to practice of a health care provider; or
13 to terminate the liability of the fund for all claims against a specific health
14 care provider for damages for death or personal injury pursuant to
15 ~~subsection (i) of K.S.A. 40-3403(i)~~, and amendments thereto. Reports and
16 records so furnished shall not be subject to discovery, subpoena or other
17 means of legal compulsion for their release to any person or entity and
18 shall not be admissible in evidence in any judicial or administrative
19 proceeding other than a disciplinary proceeding by the state board of
20 healing arts or other health care provider licensing or disciplinary boards
21 of this state.

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

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

32 Sec. 17. On and after July 1, 2018, K.S.A. 2015 Supp. 65-4921 is
33 hereby amended to read as follows: 65-4921. As used in K.S.A. 65-4921
34 through 65-4930, and amendments thereto:

35 (a) "Appropriate licensing agency" means the agency that issued the
36 license to the individual or health care provider who is the subject of a
37 report under this act.

38 (b) "Department" means the department of health and environment.

39 (c) "Health care provider" means: (1) Those persons and entities
40 defined as a health care provider under K.S.A. 40-3401, and amendments
41 thereto; and (2) a dentist licensed by the Kansas dental board, *a dental*
42 *therapist licensed by the Kansas dental board*, a dental hygienist licensed
43 by the Kansas dental board, a professional nurse licensed by the board of

1 nursing, a practical nurse licensed by the board of nursing, a mental health
2 technician licensed by the board of nursing, a physical therapist licensed
3 by the state board of healing arts, a physical therapist assistant certified by
4 the state board of healing arts, an occupational therapist licensed by the
5 state board of healing arts, an occupational therapy assistant licensed by
6 the state board of healing arts and a respiratory therapist licensed by the
7 state board of healing arts.

8 (d) "License," "licensee" and "licensing" include comparable terms
9 which relate to regulation similar to licensure, such as registration.

10 (e) "Medical care facility" means: (1) A medical care facility licensed
11 under K.S.A. 65-425 et seq., and amendments thereto; (2) a private
12 psychiatric hospital licensed under K.S.A. 75-3307b, and amendments
13 thereto; and (3) state psychiatric hospitals and state institutions for people
14 with intellectual disability, as follows: Larned state hospital, Osawatomie
15 state hospital, Rainbow mental health facility, Kansas neurological
16 institute and Parsons state hospital and training center.

17 (f) "Reportable incident" means an act by a health care provider
18 which: (1) Is or may be below the applicable standard of care and has a
19 reasonable probability of causing injury to a patient; or (2) may be grounds
20 for disciplinary action by the appropriate licensing agency.

21 (g) "Risk manager" means the individual designated by a medical
22 care facility to administer its internal risk management program and to
23 receive reports of reportable incidents within the facility.

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

25 Sec. 18. On and after July 1, 2018, K.S.A. 2015 Supp. 65-5912 is
26 hereby amended to read as follows: 65-5912. (a) Nothing in this act shall
27 be construed to require any insurer or other entity regulated under chapter
28 40 of the Kansas Statutes Annotated, *and amendments thereto*, or any
29 other law of this state to provide coverage for or indemnify for the services
30 provided by a person licensed under this act.

31 (b) So long as the following persons do not hold themselves out to the
32 public to be dietitians or licensed dietitians or use these titles in
33 combination with other titles or use the abbreviation L.D., or any
34 combination thereof, nothing in this act shall be construed to apply:

35 (1) To any person licensed to practice the healing arts, a licensed
36 dentist, *a licensed dental therapist*, a licensed dental hygienist, a licensed
37 professional nurse, a licensed practical nurse, a licensed psychologist, a
38 licensed masters level psychologist, a licensed pharmacist or an employee
39 thereof, a physician assistant, a licensed professional counselor;

40 (2) to any unlicensed employee of a licensed adult care home or a
41 licensed medical care facility as long as such person is working under the
42 general direction of a licensee in the healing arts, nursing or a dietetic
43 services supervisor as defined in regulations adopted by the secretary of

- 1 health and environment or a consultant licensed under this act;
- 2 (3) to any dietetic technician or dietetic assistant;
- 3 (4) to any student enrolled in an approved academic program in
4 dietetics, home economics, nutrition, education or other like curriculum,
5 while engaged in such academic program;
- 6 (5) to prevent any person, including persons employed in health food
7 stores, from furnishing nutrition information as to the use of food, food
8 materials or dietary supplements, nor to prevent in any way the free
9 dissemination of information or of literature as long as no individual
10 engaged in such practices holds oneself out as being licensed under this
11 act;
- 12 (6) to prohibit any individual from marketing or distributing food
13 products, including dietary supplements, or to prevent any such person
14 from providing information to customers regarding the use of such
15 products;
- 16 (7) to prevent any employee of the state or a political subdivision who
17 is employed in nutrition-related programs from engaging in activities
18 included within the definition of dietetics practice as a part of such
19 person's employment;
- 20 (8) to any person who performs the activities and services of a
21 licensed dietitian or nutrition educator as an employee of the state or a
22 political subdivision, an elementary or secondary school, an educational
23 institution, a licensed institution, or a not-for-profit organization;
- 24 (9) to any person serving in the armed forces, the public health
25 service, the veterans administration or as an employee of the federal
26 government;
- 27 (10) to any person who has a degree in home economics insofar as
28 the activities of such person are within the scope of such person's
29 education and training;
- 30 (11) to any person who counsels or provides weight-control services
31 as a part of a franchised or recognized weight-control program or a
32 weight-control program that operates under the general direction of a
33 person licensed to practice the healing arts, nursing or a person licensed
34 under this act;
- 35 (12) to any person who is acting as a representative of a trade
36 association and who engages in one or more activities included within the
37 practice of dietetics as a representative of such association;
- 38 (13) to a licensed physical therapist who makes a dietetic or
39 nutritional assessment or gives dietetic or nutritional advice in the normal
40 practice of such person's profession or as otherwise authorized by law;
- 41 (14) to a dietitian licensed, registered or otherwise authorized to
42 practice dietetics in another state who is providing consultation in this
43 state;

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

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

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

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

13 Sec. 19. On and after July 1, 2018, K.S.A. 2015 Supp. 65-7304 is
14 hereby amended to read as follows: 65-7304. The following shall be
15 exempt from the requirement of a license pursuant to this act:

16 (a) A licensed practitioner;

17 (b) a person issued a postgraduate permit by the board or students
18 while in actual attendance in an accredited health care educational
19 program for radiologic technology and under the supervision of a qualified
20 instructor;

21 (c) health care providers in the United States armed forces, public
22 health services, federal facilities and other military service when acting in
23 the line of duty in this state;

24 (d) persons rendering assistance in the case of an emergency;

25 (e) a licensed dental hygienist, *a licensed dental therapist* or an
26 unlicensed person working under the supervision of a licensed dentist who
27 has been trained by a licensed dentist on the proper use of dental
28 radiographic equipment for the purpose of providing medical imaging for
29 dental diagnostic purposes consistent with K.S.A. 65-1422 et seq., and
30 amendments thereto; and

31 (f) a licensed physician assistant, a licensed nurse or an unlicensed
32 person performing radiologic technology procedures who is: (1) Working
33 under the supervision of a licensed practitioner or a person designated by a
34 hospital licensed pursuant to K.S.A. 65-425 et seq., and amendments
35 thereto; and (2) who has been trained on the proper use of equipment for
36 the purpose of performing radiologic technology procedures consistent
37 with K.S.A. 65-2001 et seq.; or K.S.A. 65-2801 et seq., and amendments
38 thereto. The board shall adopt rules and regulations to assure that persons
39 exempted from licensure under this subsection receive continuing
40 education consistent with their practice authorized herein.

41 ~~(g) This section shall take effect on and after July 1, 2005.~~

42 Sec. 20. K.S.A. 74-1404 is hereby amended to read as follows: 74-
43 1404. (a) In order to accomplish the purpose and to provide for the

1 enforcement of this act, there is hereby created the Kansas dental board.
2 The board shall be vested with authority to carry out the purposes and
3 enforce the provisions of this act. The board shall consist of the following:
4 (1) Six licensed and qualified resident dentists; (2) *two licensed and*
5 *qualified resident dental therapists*; (3) two licensed and qualified resident
6 dental hygienists; and ~~(3)~~ (4) one representative of the general public. At
7 least 30 days before the expiration of any term, other than that of the
8 member appointed from the general public or a member who is a dental
9 hygienist *or a dental therapist*, the Kansas dental association or its
10 successor shall submit to the governor a list of three names of persons of
11 recognized ability who have the qualifications prescribed for the dentist
12 board members. *At least 30 days before the initial appointment and*
13 *expiration of the term of a dental therapist member of the board, the*
14 *Kansas dental hygienists' association shall submit to the governor a list of*
15 *three names of persons of recognized ability who have the qualifications*
16 *prescribed for the dental therapist members.* At least 30 days before the
17 expiration of the term of ~~the~~ a dental hygienist member of the board, the
18 Kansas dental ~~hygiene~~ *hygienists'* association shall submit to the governor
19 a list of three names of persons of recognized ability who have the
20 qualifications prescribed for the dental hygienist ~~member~~ *members.* ~~For~~
21 ~~the four new members to be appointed under this act, such names shall be~~
22 ~~submitted within 10 days after the effective date of this act. The governor~~
23 ~~shall consider such list of persons in making the appointment to the board.~~

24 (b) The members shall be appointed by the governor in the manner
25 hereinafter prescribed for terms of four years and until their successors are
26 appointed and qualified. Of the six licensed dentists on the board, one shall
27 be appointed from each congressional district and two shall be appointed
28 from the state at large. On and after the effective date of this act, no person
29 shall be appointed for more than two consecutive four-year terms. No
30 person in any way connected with a dental supply or dental laboratory
31 business shall be eligible for appointment to the board. No person shall be
32 eligible for appointment to the board who has been convicted of a
33 violation of any of the provisions of this or any other prior dental ~~practice~~
34 *practices* act or who has been convicted of a felony. A dentist who is an
35 officer of the Kansas dental association shall not be eligible for
36 appointment to the Kansas dental board. A dental hygienist *or a dental*
37 *therapist* who is an officer of the Kansas dental hygienists' association
38 shall not be eligible for appointment to the Kansas dental board. No
39 dentist, *dental therapist* or dental hygienist shall be appointed to the board
40 who has not been engaged in the active practice of dentistry, *dental*
41 *therapy* or dental hygiene in the state of Kansas for at least five years next
42 preceding appointment. Whenever a vacancy occurs it shall be filled by
43 appointment for the remainder of the unexpired term in the same manner

1 as an original appointment is made. *Upon expiration of terms of office of*
2 *members, successors shall be appointed for terms of four years in the*
3 *same manner as original appointments.*

4 ~~(c) Upon the effective date of this act, in order to expand the~~
5 ~~membership to the prescribed six dentists and two dental hygienists, the~~
6 ~~governor shall appoint three additional dentists and one additional~~
7 ~~hygienist to the board in the manner described in this section. Of the three~~
8 ~~new dental members, one shall serve until April 30, 2000, one shall serve~~
9 ~~until April 30, 2001 and one shall serve until April 30, 2002, as designated~~
10 ~~by the governor. Thereafter, all terms shall be four-year terms beginning~~
11 ~~May 1 of the appointment year and expiring April 30 four years later.~~
12 ~~When the terms of the existing dentist members which expire May 1,~~
13 ~~2000, and May 1, 2001 conclude, then successors shall be appointed for~~
14 ~~four year terms beginning May 1 and expiring April 30 four years later.~~
15 ~~The additional dental hygienist appointed upon the effective date of this~~
16 ~~act shall serve until April 30, 2002, and thereafter the successor shall serve~~
17 ~~a four-year term beginning May 1 and expiring April 30 four years later.~~
18 ~~Upon the expiration of terms of office of members, successors shall be~~
19 ~~appointed in the same manner as original appointments for terms of four~~
20 ~~years~~ *Upon the licensure of 100 dental therapists by the Kansas dental*
21 *board, in order to expand the membership of the board to include the*
22 *prescribed two dental therapist members, the governor shall appoint two*
23 *dental therapist members in the manner described in this section. Of the*
24 *two new dental therapist members, one shall serve a two-year term*
25 *beginning May 1 following the licensure of 100 dental therapists by the*
26 *board, and thereafter the successor shall serve a four-year term, and one*
27 *shall serve a four-year term beginning May 1 following the licensure of*
28 *100 dental therapists by the board, and thereafter the successor shall*
29 *serve a four-year term. Prior to the appointment of two dental therapists*
30 *to the board, the governor shall appoint an individual involved in the*
31 *education, employment or establishment of dental therapists in Kansas to*
32 *the board who shall serve as a nonvoting member. Such nonvoting*
33 *member, and thereafter any successors, shall serve a four-year term, but*
34 *the nonvoting member's term shall expire upon the appointment of two*
35 *dental therapists to the board and thereafter no successor shall be*
36 *appointed.*

37 Sec. 21. On and after July 1, 2018, K.S.A. 2015 Supp. 74-1405 is
38 hereby amended to read as follows: 74-1405. (a) The board at its first
39 meeting day of each year shall elect from its members a president, vice-
40 president and secretary. The board shall have a common seal. The board
41 shall hold two regular meetings each year at times to be fixed by the board,
42 and special meetings at such other times as may be necessary.

43 (b) Members of the Kansas dental board attending meetings of such

1 board, or attending a subcommittee meeting thereof authorized by such
2 board, or conducting examinations for dental, *dental therapist* or dental
3 hygienists licenses or conducting inspections of dental laboratories
4 required by K.S.A. 65-1438, and amendments thereto, shall be paid
5 compensation, subsistence allowances, mileage and other expenses as
6 provided in K.S.A. 75-3223, and amendments thereto. Members of the
7 board conducting examinations for dental, *dental therapist* or dental
8 hygienists licenses may receive amounts for compensation, subsistence
9 allowances, mileage or other expenses from a nonstate agency for
10 conducting such examinations but no member receiving any such amounts
11 shall be paid any compensation, subsistence allowances, mileage or other
12 expenses under this section for conducting such examinations.

13 (c) The official office of the board shall be in Topeka. Meetings shall
14 be held in Topeka or at such other places as the board shall determine to be
15 most appropriate. Service of process may be had upon the board by
16 delivery of process to the secretary of state who shall mail the same by
17 registered or certified mail to the executive director of the board.

18 (d) The board may appoint an executive director who shall be in the
19 unclassified service of the Kansas civil service act. The executive director
20 shall receive an annual salary fixed by the board and approved by the
21 governor. The executive director shall be the legal custodian of all
22 property, money, minutes, records, and proceedings and seal of the board.

23 (e) The board in its discretion may affiliate as an active member with
24 the national association of dental examiners and any organization of one or
25 more state boards for the purpose of conducting a standard examination of
26 candidates for licensure as dentists, *dental therapists* or dental hygienists
27 and pay regular dues to such association or organization, and may send
28 members of the board to the meetings of the national association and the
29 meetings of any organization of state boards of dental examiners organized
30 for the purpose of conducting a standard examination of candidates for
31 licensure as dentists, *dental therapists* and dental hygienists.

32 (f) The executive director shall remit all moneys received by or for
33 such executive director from fees, charges or penalties to the state treasurer
34 in accordance with the provisions of K.S.A. 75-4215, and amendments
35 thereto. Upon receipt of each such remittance, the state treasurer shall
36 deposit the entire amount in the state treasury. Ten percent of each such
37 deposit shall be credited to the state general fund and the balance shall be
38 credited to the dental board fee fund. All expenditures from such fund shall
39 be made in accordance with appropriation acts upon warrants of the
40 director of accounts and reports issued pursuant to vouchers approved by
41 the president of the board or by a person or persons designated by the
42 president.

43 Sec. 22. On and after July 1, 2018, K.S.A. 74-1406 is hereby

1 amended to read as follows: 74-1406. The board shall exercise, subject to
2 the provisions of this act, the following powers and duties:

3 (a) Adopt such rules for its governance as it may deem proper.

4 (b) Adopt rules and regulations for qualification and licensing of
5 *dental therapists and dental hygienists*.

6 (c) Adopt rules and regulations regarding sanitation.

7 (d) Conduct examinations to ascertain the qualification and fitness of
8 applicants for licenses as dentists or certificates as specialists in dentistry.

9 (e) Pass upon the qualifications of applicants for reciprocal licenses.

10 (f) Prescribe rules and regulations for examination of candidates.

11 (g) Formulate rules and regulations by which dental schools and
12 colleges shall be approved.

13 (h) Grant licenses, issue license certificates as specialists in dentistry
14 and issue renewal licenses and certificates as specialists in dentistry in
15 conformity with this act to such applicants and dentists as have been found
16 qualified.

17 (i) Conduct hearings or proceedings to revoke or suspend and to
18 revoke or suspend a license, certificate or renewal license or certificate
19 granted under the authority of this act or previous acts.

20 (j) Employ such persons as it may deem necessary to assist in
21 carrying out the duties of the board in the administration and enforcement
22 of this act, and to provide offices, furniture, fixtures, supplies, printing or
23 secretarial service, and may expend such funds as may be deemed
24 necessary therefor, and may appoint an attorney to advise and assist in the
25 carrying out and enforcing of the provisions of this act.

26 (k) Investigate violations of the act that may come to the knowledge
27 of the board, and institute or cause to be instituted before the board or in a
28 proper court appropriate proceedings in connection therewith.

29 (l) Adopt rules and regulations to carry out and make effective the
30 provisions of this act and modify or repeal such rules and regulations
31 whenever in the discretion of the board it is deemed necessary.

32 Sec. 23. On and after July 1, 2018, K.S.A. 2015 Supp. 75-2935 is
33 hereby amended to read as follows: 75-2935. The civil service of the state
34 of Kansas is hereby divided into the unclassified and the classified
35 services.

36 (1) The unclassified service comprises positions held by state officers
37 or employees who are:

38 (a) Chosen by election or appointment to fill an elective office;

39 (b) members of boards and commissions, heads of departments
40 required by law to be appointed by the governor or by other elective
41 officers, and the executive or administrative heads of offices, departments,
42 divisions and institutions specifically established by law;

43 (c) except as otherwise provided under this section, one personal

1 secretary to each elective officer of this state, and in addition thereto, 10
2 deputies, clerks or employees designated by such elective officer;

3 (d) all employees in the office of the governor;

4 (e) officers and employees of the senate and house of representatives
5 of the legislature and of the legislative coordinating council and all officers
6 and employees of the office of revisor of statutes, of the legislative
7 research department, of the division of legislative administrative services,
8 of the division of post audit and the legislative counsel;

9 (f) chancellor, president, deans, administrative officers, student health
10 service physicians, pharmacists, teaching and research personnel, health
11 care employees and student employees in the institutions under the state
12 board of regents, the executive officer of the board of regents and the
13 executive officer's employees other than clerical employees, and, at the
14 discretion of the state board of regents, directors or administrative officers
15 of departments and divisions of the institution and county extension
16 agents, except that this ~~subsection (1)(f)~~ *paragraph* shall not be construed
17 to include the custodial, clerical or maintenance employees, or any
18 employees performing duties in connection with the business operations of
19 any such institution, except administrative officers and directors; as used
20 in this ~~subsection (1)(f)~~ *paragraph*, "health care employees" means
21 employees of the university of Kansas medical center who provide health
22 care services at the university of Kansas medical center and who are
23 medical technicians or technologists or respiratory therapists, who are
24 licensed professional nurses or licensed practical nurses, or who are in job
25 classes which are designated for this purpose by the chancellor of the
26 university of Kansas upon a finding by the chancellor that such
27 designation is required for the university of Kansas medical center to
28 recruit or retain personnel for positions in the designated job classes; and
29 employees of any institution under the state board of regents who are
30 medical technologists;

31 (g) operations, maintenance and security personnel employed to
32 implement agreements entered into by the adjutant general and the federal
33 national guard bureau, and officers and enlisted persons in the national
34 guard and the naval militia;

35 (h) persons engaged in public work for the state but employed by
36 contractors when the performance of such contract is authorized by the
37 legislature or other competent authority;

38 (i) persons temporarily employed or designated by the legislature or
39 by a legislative committee or commission or other competent authority to
40 make or conduct a special inquiry, investigation, examination or
41 installation;

42 (j) officers and employees in the office of the attorney general and
43 special counsel to state departments appointed by the attorney general,

1 except that officers and employees of the division of the Kansas bureau of
2 investigation shall be in the classified or unclassified service as provided
3 in K.S.A. 75-711, and amendments thereto;

4 (k) all employees of courts;

5 (l) client, patient and inmate help in any state facility or institution;

6 (m) all attorneys for boards, commissions and departments;

7 (n) the secretary and assistant secretary of the Kansas state historical
8 society;

9 (o) physician specialists, dentists, *dental therapists*, dental hygienists,
10 pharmacists, medical technologists and long term care workers employed
11 by the Kansas department for aging and disability services;

12 (p) physician specialists, dentists and medical technologists employed
13 by any board, commission or department or by any institution under the
14 jurisdiction thereof;

15 (q) student employees enrolled in public institutions of higher
16 learning;

17 (r) administrative officers, directors and teaching personnel of the
18 state board of education and the state department of education and of any
19 institution under the supervision and control of the state board of
20 education, except that this ~~subsection (1)(r)~~ *paragraph* shall not be
21 construed to include the custodial, clerical or maintenance employees, or
22 any employees performing duties in connection with the business
23 operations of any such institution, except administrative officers and
24 directors;

25 (s) all officers and employees in the office of the secretary of state;

26 (t) one personal secretary and one special assistant to the following:
27 The secretary of administration, the secretary for aging and disability
28 services, the secretary of agriculture, the secretary of commerce, the
29 secretary of corrections, the secretary of health and environment, the
30 superintendent of the Kansas highway patrol, the secretary of labor, the
31 secretary of revenue, the secretary for children and families, the secretary
32 of transportation, the secretary of wildlife, parks and tourism and the
33 commissioner of juvenile justice;

34 (u) one personal secretary and one special assistant to the chancellor
35 and presidents of institutions under the state board of regents;

36 (v) one personal secretary and one special assistant to the executive
37 vice chancellor of the university of Kansas medical center;

38 (w) one public information officer and one chief attorney for the
39 following: The department of administration, the Kansas department for
40 aging and disability services, the department of agriculture, the department
41 of commerce, the department of corrections, the department of health and
42 environment, the department of labor, the department of revenue, the
43 Kansas department for children and families, the department of

1 transportation, the Kansas department of wildlife, parks and tourism and
2 the commissioner of juvenile justice;

3 (x) if designated by the appointing authority, persons in newly hired
4 positions, including any employee who is rehired into such position and
5 any current state employee who voluntarily transfers into, or is voluntarily
6 promoted or demoted into such position, on and after July 1, 2015, in any
7 state agency;

8 (y) one executive director, one general counsel and one director of
9 public affairs and consumer protection in the office of the state corporation
10 commission;

11 (z) specifically designated by law as being in the unclassified service;

12 (aa) any position that is classified as a position in the information
13 resource manager job class series, that is the chief position responsible for
14 all information resources management for a state agency, and that becomes
15 vacant on or after the effective date of this act. Nothing in this section shall
16 affect the classified status of any employee in the classified service who is
17 employed on the date immediately preceding the effective date of this act
18 in any position that is a classified position in the information resource
19 manager job class series and the unclassified status as prescribed by this
20 subsection shall apply only to a person appointed to any such position on
21 or after the effective date of this act that is the chief position responsible
22 for all information resources management for a state agency;

23 (bb) positions at state institutions of higher education that have been
24 converted to unclassified positions pursuant to K.S.A. 2015 Supp. 76-
25 715a, and amendments thereto; and

26 (cc) notwithstanding the provisions of K.S.A. 22-4524, 32-802, 44-
27 510g, 44-551, 44-552, 48-205, 48-919, 49-402e, 58-4105, 58-4503, 65-
28 2878, 65-6103, 73-1210a, 73-1234, 74-506d, 74-515b, 74-561, 74-569,
29 74-631, 74-1106, 74-1704, 74-1806, 74-2435, 74-2614, 74-2702, 74-
30 2906a, 74-5014, 74-5210, 74-6707, 74-6901, 74-6904, 74-7008, 74-7501,
31 74-8704, 74-8805, 74-9804, 75-118, 75-1202d, 75-2537, 75-2944, 75-
32 3148, 75-3702c, 75-4222, 75-5005, 75-5015, 75-5016, 75-5122, 75-5157,
33 75-5309, 75-5310, 75-5378, 75-5610, 75-5702, 75-5708, 75-5733, 75-
34 5910, 75-7028, 75-7054, 75-7304, 76-1002a, 76-1116, 76-12a04, 76-
35 12a05, 76-12a08, 76-12a16, 76-3202 and 82a-1205 and K.S.A. 2015 Supp.
36 39-1911, and amendments thereto, any vacant position within the
37 classified service may be converted by the appointing authority to an
38 unclassified position.

39 (2) The classified service comprises all positions now existing or
40 hereafter created which are not included in the unclassified service.
41 Appointments in the classified service shall be made according to merit
42 and fitness from eligible pools which so far as practicable shall be
43 competitive. No person shall be appointed, promoted, reduced or

1 discharged as an officer, clerk, employee or laborer in the classified
2 service in any manner or by any means other than those prescribed in the
3 Kansas civil service act and the rules adopted in accordance therewith.

4 (3) For positions involving unskilled, or semiskilled duties, the
5 secretary of administration, as provided by law, shall establish rules and
6 regulations concerning certifications, appointments, layoffs and
7 reemployment which may be different from the rules and regulations
8 established concerning these processes for other positions in the classified
9 service.

10 (4) Officers authorized by law to make appointments to positions in
11 the unclassified service, and appointing officers of departments or
12 institutions whose employees are exempt from the provisions of the
13 Kansas civil service act because of the constitutional status of such
14 departments or institutions shall be permitted to make appointments from
15 appropriate pools of eligibles maintained by the division of personnel
16 services.

17 (5) On and after the effective date of this act, any state agency that
18 has positions in the classified service within the Kansas civil service act to
19 satisfy any requirement of maintaining personnel standards on a merit
20 basis pursuant to federal law or the rules and regulations promulgated
21 thereunder by the federal government or any agency thereof, shall adopt a
22 binding statement of agency policy pursuant to K.S.A. 77-415, and
23 amendments thereto, to satisfy such requirements if the appointing
24 authority has made any such position unclassified.

25 Sec. 24. On and after July 1, 2018, K.S.A. 2015 Supp. 75-6102 is
26 hereby amended to read as follows: 75-6102. As used in K.S.A. 75-6101
27 through 75-6118, and amendments thereto, unless the context clearly
28 requires otherwise:

29 (a) "State" means the state of Kansas and any department or branch of
30 state government, or any agency, authority, institution or other
31 instrumentality thereof.

32 (b) "Municipality" means any county, township, city, school district
33 or other political or taxing subdivision of the state, or any agency,
34 authority, institution or other instrumentality thereof.

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

36 (d) (1) "Employee" means: (A) Any officer, employee, servant or
37 member of a board, commission, committee, division, department, branch
38 or council of a governmental entity, including elected or appointed
39 officials and persons acting on behalf or in service of a governmental
40 entity in any official capacity, whether with or without compensation and a
41 charitable health care provider;

42 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
43 8818, and amendments thereto, regardless of whether the services of such

1 steward or racing judge are rendered pursuant to contract as an
2 independent contractor;

3 (C) employees of the United States marshal's service engaged in the
4 transportation of inmates on behalf of the secretary of corrections;

5 (D) a person who is an employee of a nonprofit independent
6 contractor, other than a municipality, under contract to provide educational
7 or vocational training to inmates in the custody of the secretary of
8 corrections and who is engaged in providing such service in an institution
9 under the control of the secretary of corrections provided that such
10 employee does not otherwise have coverage for such acts and omissions
11 within the scope of their employment through a liability insurance contract
12 of such independent contractor;

13 (E) a person who is an employee or volunteer of a nonprofit program,
14 other than a municipality, who has contracted with the commissioner of
15 juvenile justice or with another nonprofit program that has contracted with
16 the secretary of corrections to provide a juvenile justice program for
17 juvenile offenders in a judicial district provided that such employee or
18 volunteer does not otherwise have coverage for such acts and omissions
19 within the scope of their employment or volunteer activities through a
20 liability insurance contract of such nonprofit program;

21 (F) a person who contracts with the Kansas guardianship program to
22 provide services as a court-appointed guardian or conservator;

23 (G) an employee of an indigent health care clinic;

24 (H) former employees for acts and omissions within the scope of their
25 employment during their former employment with the governmental
26 entity;

27 (I) any member of a regional medical emergency response team,
28 created under the provisions of K.S.A. 48-928, and amendments thereto, in
29 connection with authorized training or upon activation for an emergency
30 response;

31 (J) any member of a regional search and rescue team or regional
32 hazardous materials response team contracting with the state fire marshal
33 pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2015 Supp.
34 75-1518, and amendments thereto, in connection with authorized training
35 or upon activation for an emergency response; and

36 (K) medical students enrolled at the university of Kansas medical
37 center who are in clinical training, on or after July 1, 2008, at the
38 university of Kansas medical center or at another health care institution.

39 (2) "Employee" does not include: (A) An individual or entity for
40 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

41 (B) any independent contractor under contract with a governmental
42 entity except those contractors specifically listed in paragraph (1) of this
43 subsection.

1 (e) "Charitable health care provider" means a person licensed by the
2 state board of healing arts as an exempt licensee or a federally active
3 licensee, a person issued a limited permit by the state board of healing arts,
4 a physician assistant licensed by the state board of healing arts, a mental
5 health practitioner licensed by the behavioral sciences regulatory board, an
6 ultrasound technologist currently registered in any area of sonography
7 credentialed through the American registry of radiology technologists, the
8 American registry for diagnostic medical sonography or cardiovascular
9 credentialing international and working under the supervision of a person
10 licensed to practice medicine and surgery, or a health care provider as the
11 term "health care provider" is defined under K.S.A. 65-4921, and
12 amendments thereto, who has entered into an agreement with:

13 (1) The secretary of health and environment under K.S.A. 75-6120,
14 and amendments thereto, who, pursuant to such agreement, gratuitously
15 renders professional services to a person who has provided information
16 which would reasonably lead the health care provider to make the good
17 faith assumption that such person meets the definition of medically
18 indigent person as defined by this section or to a person receiving medical
19 assistance from the programs operated by the department of health and
20 environment, and who is considered an employee of the state of Kansas
21 under K.S.A. 75-6120, and amendments thereto;

22 (2) the secretary of health and environment and who, pursuant to such
23 agreement, gratuitously renders professional services in conducting
24 children's immunization programs administered by the secretary;

25 (3) a local health department or indigent health care clinic, which
26 renders professional services to medically indigent persons or persons
27 receiving medical assistance from the programs operated by the
28 department of health and environment gratuitously or for a fee paid by the
29 local health department or indigent health care clinic to such provider and
30 who is considered an employee of the state of Kansas under K.S.A. 75-
31 6120, and amendments thereto. Professional services rendered by a
32 provider under this paragraph (3) shall be considered gratuitous
33 notwithstanding fees based on income eligibility guidelines charged by a
34 local health department or indigent health care clinic and notwithstanding
35 any fee paid by the local health department or indigent health care clinic to
36 a provider in accordance with this paragraph (3); or

37 (4) the secretary of health and environment to provide dentistry
38 services defined by K.S.A. 65-1422 et seq., and amendments thereto,
39 *dental therapy services defined by section 3, and amendments thereto*, or
40 dental hygienist services defined by K.S.A. 65-1456, and amendments
41 thereto, that are targeted, but are not limited to, medically indigent
42 persons, and are provided on a gratuitous basis: (A) At a location
43 sponsored by a not-for-profit organization that is not the dentist or dental

1 hygienist office location; (B) at the office location of a dentist or dental
2 hygienist provided the care be delivered as part of a program organized by
3 a not-for-profit organization and approved by the secretary of health and
4 environment; or (C) as part of a charitable program organized by the
5 dentist that has been approved by the secretary of health and environment
6 upon a showing that the dentist seeks to treat medically indigent patients
7 on a gratuitous basis, except that such dentistry services and dental
8 hygienist services shall not include "oral and maxillofacial surgery" as
9 defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result
10 in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

11 (f) "Medically indigent person" means a person who lacks resources
12 to pay for medically necessary health care services and who meets the
13 eligibility criteria for qualification as a medically indigent person
14 established by the secretary of health and environment under K.S.A. 75-
15 6120, and amendments thereto.

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

20 (h) "Local health department" shall have the meaning ascribed to
21 such term under K.S.A. 65-241, and amendments thereto.

22 (i) "Fire control, fire rescue or emergency medical services
23 equipment" means any vehicle, firefighting tool, protective clothing,
24 breathing apparatus and any other supplies, tools or equipment used in
25 firefighting or fire rescue or in the provision of emergency medical
26 services.

27 Sec. 25. K.S.A. 74-1404 is hereby repealed.

28 Sec. 26. On and after July 1, 2018, K.S.A. 65-1421, 65-1441, 65-
29 1449, 65-1460, 65-1462, and 74-1406 and K.S.A. 2015 Supp. 65-1424,
30 65-1431, 65-1434, 65-1436, 65-1447, 65-1469, 65-4915, 65-4921, 65-
31 5912, 65-7304, 74-1405, 75-2935 and 75-6102 are hereby repealed.

32 Sec. 27. This act shall take effect and be in force from and after its
33 publication in the statute book.