

SENATE BILL No. 489

By Committee on Ways and Means

3-7

1 AN ACT concerning health and healthcare; relating to medical hemp
2 preparation treatments; establishing registration for patients ~~and~~
3 ~~establishments~~; protecting from arrest, prosecution or discrimination
4 for authorized use; **application of the health care provider insurance**
5 **availability act; certification required to recommend medical hemp**
6 **preparation treatments; certification requirements; amending K.S.A.**
7 **2015 Supp. 40-3403 and 65-2852 and repealing the existing sections.**
8

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

10 *New* Section 1. The provisions of sections 1 through ~~12~~ **II**, and
11 amendments thereto, shall be known and may be cited as Otis's law.

12 *New* Sec. 2. As used in this act, unless the context requires otherwise:

13 (a) "Cannabis" means all parts of all varieties of the plant cannabis
14 sativa L. ~~not exceeding 3% tetrahydrocannabinol by weight.~~

15 (b) "Cardholder" means a patient or a designated caregiver to whom
16 the department has issued a medical hemp preparation registration card or
17 who has documentation that is deemed to be a medical hemp preparation
18 registration card.

19 (c) "Designated caregiver" means a person who:

20 (1) Is either at least 21 years of age or a parent of a patient;

21 (2) has significant responsibility for managing the well-being of a
22 patient; and

23 (3) has been approved by the department to assist a patient in
24 obtaining medical hemp preparations.

25 (d) "Department" means the Kansas department of health and
26 environment.

27 (e) "Medical hemp preparation" means ~~cannabis plant material that is~~
28 ~~no more than 3% tetrahydrocannabinol by weight or an extract, mixture or~~
29 ~~preparation containing cannabis plant material that is no more than 3%~~
30 ~~tetrahydrocannabinol by weight:~~

31 *(1) For a patient 21 years of age or older, cannabis plant material*
32 *that is no more than 1% tetrahydrocannabinol by weight and no less*
33 *than 15% cannabidiol by weight or an extract, mixture or preparation*
34 *containing cannabis plant material that is no more than 1%*
35 *tetrahydrocannabinol by weight and no less than 15% cannabidiol by*
36 *weight; or*

1 ***(2) for a patient under 21 years of age, cannabis plant material that***
2 ***is no more than 0.3% tetrahydrocannabinol by weight and no less than***
3 ***15% cannabidiol by weight or an extract, mixture or preparation***
4 ***containing cannabis plant material that is no more than 0.3%***
5 ***tetrahydrocannabinol by weight and no less than 15% cannabidiol by***
6 ***weight.***

7 ~~(f) "Medical hemp preparation center agent" means an owner, officer,~~
8 ~~board member, employee, volunteer, contractor, property owner or~~
9 ~~landlord of a registered medical hemp preparation center.~~

10 ~~(g) "Medical hemp establishment" means a registered medical hemp~~
11 ~~preparation center or a registered medical hemp testing laboratory.~~

12 ~~(h) "Medical use" includes the acquisition, administration, delivery,~~
13 ~~possession, purchase, transfer, transportation or use of hemp preparations~~
14 ~~and paraphernalia relating to the administration of hemp preparations to~~
15 ~~treat or alleviate a patient cardholder's qualifying medical condition.~~

16 ~~(+)(g) "Parent" means a parent or legal guardian responsible for the~~
17 ~~medical care of a patient under the age of 18.~~

18 ~~(+)(h) "Patient" means an individual who has been diagnosed with a~~
19 ~~qualifying medical condition.~~

20 ~~(+)(i) "Physician" means a person who is licensed by the state board~~
21 ~~of healing arts to practice medicine and surgery, *who is certified by the*~~
22 ~~*board to issue a written certification for medical hemp preparations*~~
23 ~~*pursuant to section 12, and amendments thereto, and who is practicing*~~
24 ~~*in a healthcare facility licensed by the state of Kansas.*~~

25 ~~(+)(j) "Qualifying medical condition" means a condition causing~~
26 ~~seizures, including those characteristic of epilepsy, Alzheimer's disease,~~
27 ~~aneer, multiple sclerosis or post-traumatic stress disorder;~~

28 ***(1) For a patient 21 years of age or older, Alzheimer's disease,***
29 ***cancer, multiple sclerosis, post-traumatic stress disorder or a condition***
30 ***causing seizures, including those characteristic of epilepsy; or***

31 ***(2) for a patient under 21 years of age, a condition causing***
32 ***seizures, including those characteristic of epilepsy.***

33 ~~(m) "Registered medical hemp preparation center" means an entity~~
34 ~~registered pursuant to section 9, and amendments thereto, that acquires,~~
35 ~~possesses, cultivates, transports and manufactures cannabis, medical hemp~~
36 ~~preparations and related paraphernalia and transfers, transports, sells,~~
37 ~~supplies or dispenses medical hemp preparations, paraphernalia related to~~
38 ~~hemp preparations and related supplies and educational materials to~~
39 ~~cardholders, visiting cardholders and other registered medical hemp~~
40 ~~preparation centers.~~

41 ~~(n) "Registered testing laboratory" means an entity registered~~
42 ~~pursuant to section 9, and amendments thereto, to analyze the safety and~~
43 ~~potency of cannabis.~~

1 (⊕) **(k)** "Registration card" means a card issued by the department
2 pursuant to section 3, and amendments thereto.

3 ~~(p) "Testing laboratory agent" means an owner, officer, board~~
4 ~~member, employee, volunteer, contractor, property owner or landlord of a~~
5 ~~registered testing laboratory.~~

6 (⊕) **(l)** "Written certification" means a document signed and dated by
7 a physician stating that, in the physician's professional opinion, the patient
8 may receive therapeutic or palliative benefit from the use of medical hemp
9 preparations to treat or alleviate the patient's qualifying medical condition
10 or symptoms associated with such patient's qualifying medical condition.

11 (⊕) **(m)** "Visiting cardholder" means a person who:

12 (1) Has been diagnosed with a qualifying medical condition or is the
13 parent, child, sibling, spouse, domestic partner, grandparent, grandchild or
14 personal aide of an individual who has been diagnosed with a qualifying
15 medical condition;

16 (2) possesses a valid registration card, its equivalent or other
17 documentation that allows the person to possess medical hemp
18 preparations in another state or jurisdiction pursuant to the laws of the
19 other state or jurisdiction;

20 (3) is not a resident of Kansas or has been a resident of Kansas for
21 fewer than 30 days; and

22 (4) has submitted any required documentation to the department, if
23 the department has required registration.

24 **New** Sec. 3. (a) The department shall issue a medical hemp
25 preparation registration card to each patient applicant who is over the age
26 of 18 who:

27 (1) Provides the department with a written certification signed by a
28 physician that was issued within 90 days immediately preceding the date
29 of an application;

30 (2) pays the department a fee established pursuant to section 5, and
31 amendments thereto; and

32 (3) submits an application or renewal to the department on a form
33 created by the department that contains:

34 (A) The applicant's name and address;

35 (B) a copy of the applicant's valid photo identification; and

36 (C) any other information the department reasonably considers
37 necessary to implement the provisions of this subsection.

38 (b) The department shall issue a medical hemp preparation
39 registration card to each patient applicant who is under the age of 18
40 whose parent:

41 (1) Submits the information required of patients over the age of 18
42 under subsection (a); and

43 (2) agrees to serve as a designated caregiver for the patient.

1 (c) The department shall issue a medical hemp preparation
2 registration card to each designated caregiver applicant who:

3 (1) Is designated in a patient's application, provided that a patient
4 may designate only one caregiver at any given time unless the patient or
5 such patient's parent submits documentation demonstrating that a greater
6 number of designated caregivers are needed due to the patient's age or
7 medical condition; and

8 (2) submits an application to the department on a form created by the
9 department that contains:

10 (A) The designated caregiver applicant's name and address;

11 (B) the patient's name and address, if different than the designated
12 caregiver's address;

13 (C) a copy of the designated caregiver's valid photo identification;
14 and

15 (D) any other information the department reasonably considers
16 necessary to implement the provisions of this subsection.

17 (d) The department shall, not later than 30 calendar days after the
18 date of the receipt of the completed application materials, approve the
19 application and issue to the applicant a registration card with a unique,
20 random identification number.

21 (e) Until the department issues, renews or denies a registration card, a
22 copy of the individual's application, a copy of the patient's written
23 certification and proof that the application was submitted to the
24 department shall be deemed a registration card.

25 (f) Until the department makes applications available, a valid, written
26 certification issued within the previous year shall be deemed a registration
27 card for a patient.

28 (g) Until the department makes applications available, the following
29 shall be deemed a designated caregiver registration card:

30 (1) A copy of a patient's valid written certification issued within the
31 previous year; and

32 (2) a signed affidavit attesting that the person has significant
33 responsibility for managing the well-being of the patient and that the
34 person has been chosen to assist a patient in obtaining medical hemp
35 preparations.

36 (h) Except as provided in this subsection, the expiration date of a
37 registration card shall be one year after the date of issuance. If a physician
38 states in the written certification that a patient would only benefit from
39 medical hemp preparations until a specified earlier date, then the
40 registration card shall expire on that date.

41 *New* Sec. 4. (a) The department shall maintain a confidential list of
42 all cardholders and each cardholder's address and registry identification
43 number. This confidential list shall not be combined or linked in any

1 manner with any other list or database, nor shall it be used for any purpose
2 not provided for in this act.

3 (b) The department shall treat written certifications, applications,
4 renewals, supporting information, the names of applicants, cardholders,
5 visiting cardholders and physicians and related records as protected health
6 information under the health insurance portability and accountability act of
7 1996 (public law 104-191), exempt from disclosure under the Kansas open
8 records act and not subject to disclosure to any individual or public or
9 private entity, except as provided in this section. The provisions of this
10 subsection providing confidentiality shall expire on July 1, 2021, unless
11 the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-
12 225, and amendments thereto, prior to July 1, 2021.

13 (c) Nothing in this section shall preclude the following:

14 (1) Authorized employees of the department accessing the
15 information to perform official duties pursuant to this act;

16 (2) department employees notifying state or local law enforcement
17 about falsified or fraudulent information submitted to the department or
18 about other apparent criminal violations of this act;

19 (3) department employees notifying the state board of healing arts if
20 the department has reasonable suspicion to believe that a physician has
21 violated the applicable standard of care or for other suspected violations of
22 this act by a physician;

23 (4) the department verifying registration cards pursuant to subsection
24 (d);

25 (5) at a cardholder's request, the department confirming such
26 cardholder's status as a cardholder to a third party, such as a landlord,
27 school, medical professional or court; and

28 (6) provided that no identifying information pertaining to
29 cardholders, visiting cardholders, or physicians is disclosed:

30 (A) The department releasing data that was voluntarily submitted by
31 cardholders and visiting cardholders on the effectiveness and any side
32 effects of medical hemp preparations to researchers at institutions of
33 higher education; and

34 (B) the department releasing information on the number of patients
35 and designated caregivers approved, the number of registry identification
36 cards revoked and aggregate information from voluntary reports on the
37 effectiveness of medical hemp preparations and any side effects patients
38 have experienced.

39 (d) Within 120 days of the effective date of this act, the department
40 shall establish a secure phone or web-based verification system. Such
41 verification system must allow law enforcement personnel, ~~medical hemp~~
42 ~~establishments and medical hemp establishment agents~~ to enter a registry
43 identification number and determine whether or not the number

1 corresponds with a current, valid registration card. The system may
2 disclose only whether the registration card is valid, the name of the
3 cardholder and whether the cardholder is a registered patient or a
4 designated caregiver. The department may also include visiting
5 cardholders in the database.

6 *New* Sec. 5. (a) Not later than 120 days after the effective date of this
7 act, the department shall adopt rules and regulations to establish:

8 (1) The form and content of registration and renewal applications
9 submitted under this act and registration cards; *and*

10 (2) ~~the number of testing laboratories that will be allowed in the state,~~
11 ~~which may not be fewer than two;~~

12 (3) ~~the number of medical hemp preparation centers that will be~~
13 ~~allowed in the state, which shall be no fewer than is reasonably necessary~~
14 ~~to ensure safe, steady access to hemp preparations to cardholders located~~
15 ~~throughout the state and no fewer than a total of three centers;~~

16 (4) ~~a system to numerically score competing medical hemp~~
17 ~~establishment applicants, which must include analysis of:~~

18 (A) ~~The suitability of the proposed location of a medical hemp~~
19 ~~preparation center and its accessibility to patients;~~

20 (B) ~~the character, veracity, background and relevant experience of~~
21 ~~principal officers and board members; and~~

22 (C) ~~the business plan proposed by the applicant, which in the case of~~
23 ~~medical hemp preparation centers shall include the ability to maintain an~~
24 ~~adequate supply of medical hemp preparations, plans to ensure safety and~~
25 ~~security of patrons and the community and procedures to be used to~~
26 ~~prevent theft or diversion;~~

27 (5) ~~requirements for medical hemp establishments to prevent~~
28 ~~diversion and theft and ensure safety, without imposing an undue burden~~
29 ~~or compromising the confidentiality of cardholders, including:~~

30 (A) ~~Oversight requirements;~~

31 (B) ~~recordkeeping requirements;~~

32 (C) ~~security requirements, including at a minimum, lighting, physical~~
33 ~~security, transportation, waste destruction, video and alarm;~~

34 (D) ~~health and safety requirements, including prohibiting the use of~~
35 ~~harmful pesticides; and~~

36 (E) ~~restrictions on advertising and signage;~~

37 (6) ~~minimum requirements and procedures for the safe and accurate~~
38 ~~packaging and labeling of medical hemp preparations including~~
39 ~~requirements to:~~

40 (A) ~~Disclose whether the medical hemp preparation is organic or non-~~
41 ~~organic;~~

42 (B) ~~specify the length of time it typically takes for a product to take~~
43 ~~effect;~~

1 ~~(C) print a nutritional fact panel on all edible and potable product~~
2 ~~containers, including a list of ingredients and possible allergens; and~~

3 ~~(D) include a unique serial number that will match the product with a~~
4 ~~medical hemp preparation center batch and lot number, so as to facilitate~~
5 ~~any warnings or recalls;~~

6 ~~(7) procedures for random sample testing to ensure that medical hemp~~
7 ~~preparations available to cardholders and visiting cardholders are~~
8 ~~accurately labeled for content and potency, in accordance with standards~~
9 ~~established by the department to ensure the health and safety of patient~~
10 ~~cardholders;~~

11 ~~(8) procedures for initiating mandatory and voluntary recalls of hemp~~
12 ~~preparations; and~~

13 ~~(9) procedures for suspending or terminating the registration~~
14 ~~certificates or registration cards of cardholders or medical hemp~~
15 ~~establishments that *who* commit multiple or serious violations of the~~
16 ~~provisions of this act or any rules and regulations adopted thereunder.~~

17 (b) The department may adopt rules and regulations to:

18 (1) Establish a presumptive maximum quantity of medical hemp
19 preparations that a cardholder or visiting cardholder may possess, provided
20 that:

21 (A) The amount should be ~~no less than a reasonable 60-day supply~~ *a*
22 *30-day supply with no refills*; and

23 (B) a patient may apply for a waiver if a physician provides a
24 substantial medical basis in a signed, written statement asserting that,
25 based on the patient's medical history, in the physician's professional
26 judgment, the amount established by the department is an insufficient
27 amount to properly alleviate the patient's qualifying medical condition or
28 symptoms associated with such medical condition; and

29 (2) require a visiting cardholder to submit a healthcare professional's
30 statement confirming that the patient has a qualifying medical condition
31 and documentation demonstrating that the visiting cardholder is authorized
32 to possess cannabis or medical hemp preparations in the state or
33 jurisdiction where such person resides. If the department requires visiting
34 cardholders to submit such documentation, the department shall issue
35 confirmation to the individual no later than seven calendar days after such
36 documentation is submitted.

37 *New* Sec. 6. The department shall adopt rules and regulations to
38 establish fees for applications; *and* registration cards ~~and medical hemp~~
39 ~~establishment registration certificates~~ subject to the following
40 requirements:

41 (a) Fees established under this section shall be no greater than the
42 amount reasonably necessary to cover the cost the department incurs to
43 implement the provisions of this act. Fees established for registration cards

1 or visiting cardholder documentation shall be no greater than the amount
2 reasonably necessary to cover the cost of processing registration cards.

3 (b) Any fee structure established by the department must incorporate
4 a sliding scale for cardholders who receive medicaid, supplemental
5 security income or social security disability insurance benefits.

6 (c) The department shall collect fees for the following, not to exceed:

7 Medical hemp preparation center registration-	
8 certificate application.....\$5,000
9 Medical hemp preparation center registration-	
10 certificate.....\$20,000
11 Testing laboratory registration certificate.....\$2,000
12 Individual medical hemp preparation	
13 registration card.....\$75
14 Visiting cardholder documentation.....\$80

15 *New* Sec. 7. (a) A cardholder or visiting cardholder shall not be
16 subject to arrest, prosecution under state or municipal law or denial of any
17 right or privilege, including, but not limited to, civil penalty or disciplinary
18 action by a court or occupational or professional licensing board or bureau,
19 for the medical use of hemp preparations pursuant to this act.

20 (b) No person may be subject to arrest, prosecution under state or
21 municipal law or denial of any right or privilege, including, but not limited
22 to, civil penalty or disciplinary action by a court or occupational or
23 professional licensing board or bureau, for:

24 (1) ~~Selling medical hemp paraphernalia to a registered medical hemp~~
25 ~~establishment, a cardholder or a visiting cardholder;~~

26 (2) ~~Being in the presence or vicinity of the use of medical hemp~~
27 ~~preparations as allowed by this act; or~~

28 (3) (2) ~~assisting a patient with a registration card in the act of using or~~
29 ~~administering hemp.~~

30 (c) ~~A hemp preparation center or hemp preparation center agent shall~~
31 ~~not be subject to prosecution under state or municipal law, search or~~
32 ~~inspection, except by the department pursuant to section 11, and~~
33 ~~amendments thereto, seizure or penalty in any manner or be denied any~~
34 ~~right or privilege, including, but not limited to, civil penalty or disciplinary~~
35 ~~action by a court or business licensing board or entity, for acting pursuant~~
36 ~~to this act and department rules and regulations to:~~

37 (1) ~~Sell cannabis seeds to similar entities that are registered to~~
38 ~~dispense cannabis for medical use in other jurisdictions;~~

39 (2) ~~acquire, cultivate, grow, harvest, manufacture, plant, possess,~~
40 ~~prepare, propagate, transport or store cannabis, hemp paraphernalia and~~
41 ~~medical hemp preparations;~~

42 (3) ~~deliver, dispense, supply, sell, transfer or transport medical hemp~~
43 ~~preparations, paraphernalia for use with medical hemp preparations or~~

1 related supplies and educational materials to cardholders and visiting
2 cardholders;

3 ~~(4) deliver, dispense, transfer, transport, sell or supply cannabis seeds,~~
4 ~~cannabis seedlings, cannabis plants, cannabis, medical hemp preparations~~
5 ~~or related supplies and educational materials to other medical hemp~~
6 ~~preparation centers; or~~

7 ~~(5) deliver, transfer or transport cannabis or medical hemp~~
8 ~~preparations to registered testing laboratories.~~

9 ~~(d) A registered testing laboratory and testing laboratory agent acting~~
10 ~~on behalf of a testing laboratory shall not be subject to prosecution under~~
11 ~~state or municipal law, search, except by the department pursuant to~~
12 ~~section 11, and amendments thereto, seizure or penalty in any manner, or~~
13 ~~be denied any right or privilege, including, but not limited to, civil penalty~~
14 ~~or disciplinary action by a court or business licensing board or entity,~~
15 ~~solely for acting in accordance with this act and department rules and~~
16 ~~regulations to provide the following services:~~

17 ~~(1) Acquiring, possessing, storing, analyzing, testing or transporting~~
18 ~~cannabis obtained from medical hemp preparation centers and medical~~
19 ~~hemp preparations obtained from cardholders, visiting cardholders or~~
20 ~~hemp preparation centers;~~

21 ~~(2) possessing, storing or transporting hemp paraphernalia;~~

22 ~~(3) returning medical hemp preparations to cardholders or medical~~
23 ~~hemp preparation centers; or~~

24 ~~(4) receiving compensation for actions allowed under this section.~~

25 ~~(e) Mere possession of, or application for, a registration card or~~
26 ~~medical hemp establishment registration shall not constitute probable~~
27 ~~cause or reasonable suspicion, nor shall it be used to support the search of~~
28 ~~the person, property or home of the person possessing or applying for the~~
29 ~~registration card. The possession of, or application for, a registration card~~
30 ~~or registration certificate shall not preclude the existence of probable cause~~
31 ~~if probable cause exists on other grounds.~~

32 ~~(f) (d) For the purposes of state law, the use of medical hemp~~
33 ~~preparations by a cardholder or visiting cardholder and activities that a~~
34 ~~registered medical hemp establishment is registered to engage in shall be~~
35 ~~considered lawful, as long as they are undertaken in accordance with this~~
36 ~~act.~~

37 *New* Sec. 8. (a) For the purposes of medical care, including organ and
38 tissue transplants, a patient's use of medical hemp preparations in
39 accordance with this act is the equivalent of the authorized use of any
40 other medication in accordance with a prescription issued by a physician
41 and does not constitute the use of an illicit substance or otherwise
42 disqualify a patient cardholder from needed medical care.

43 (b) A person otherwise entitled to custody of or visitation or parenting

1 time with a minor shall not be denied such a right, and there shall be no
2 presumption of neglect or child endangerment, for conduct allowed by this
3 act unless the person's actions in relation to medical hemp preparations
4 were such that they created an unreasonable danger to the safety of the
5 minor as established by clear and convincing evidence.

6 *New* Sec. 9. (a) This act does not authorize any person to engage in,
7 and does not prevent the imposition of any civil, criminal or other
8 penalties for engaging in the following conduct:

9 (1) Undertaking any task under the influence of medical hemp
10 preparations when doing so would constitute negligence or professional
11 malpractice; or

12 (2) operating, navigating or being in actual physical control of any
13 motor vehicle, aircraft or motorboat while impaired by medical hemp
14 preparations.

15 (b) Nothing in this act requires a government medical assistance
16 program or private insurer to reimburse a person for costs associated with
17 the use of medical hemp preparations.

18 ~~Sec. 10.—(a) Any person who operates a medical hemp establishment~~
19 ~~must first submit an application form to the department and receive~~
20 ~~approval. Each application must be for a single type of medical hemp~~
21 ~~establishment.~~

22 ~~(b) No later than 120 days after the effective date of this act, the~~
23 ~~department shall begin accepting applications for hemp preparation centers~~
24 ~~and testing laboratories.~~

25 ~~(c) Except as otherwise provided in this act, not later than 90 calendar~~
26 ~~days after receiving an application to operate a medical hemp~~
27 ~~establishment, the department shall register the medical hemp~~
28 ~~establishment and issue a registration certificate and a random~~
29 ~~identification number if:~~

30 ~~(1) The person or persons who wish to operate the proposed medical~~
31 ~~hemp establishment have submitted to the department all of the following:~~

32 ~~(A) The application fee, as established by the department; and~~

33 ~~(B) an application, which must include:~~

34 ~~(i) The legal name of the proposed medical hemp establishment; and~~

35 ~~(ii) the physical address where the proposed medical hemp~~
36 ~~establishment will be located and the physical address of any co-owned~~
37 ~~additional or otherwise associated medical hemp establishment, so long as~~
38 ~~the location of the proposed medical hemp establishment is not within~~
39 ~~1,000 feet of a public or private school that provides formal education~~
40 ~~traditionally associated with preschool or kindergarten through grade 12,~~
41 ~~which existed on the date on which the application for the proposed~~
42 ~~medical hemp establishment was submitted to the department;~~

43 ~~(C) evidence that the applicant controls not less than \$250,000 in~~

1 liquid assets;

2 ~~(D) evidence that the applicant owns the property on which the~~
3 ~~proposed medical hemp establishment will be located or has the written~~
4 ~~permission of the property owner to operate the proposed medical hemp~~
5 ~~establishment on that property;~~

6 ~~(E) the name, address and date of birth of each person who is~~
7 ~~proposed to be an owner, officer or board member of the proposed medical~~
8 ~~hemp establishment;~~

9 ~~(F) operating procedures consistent with rules and regulations of the~~
10 ~~department for oversight of the proposed medical hemp establishment,~~
11 ~~including procedures to ensure the use of adequate security measures;~~

12 ~~(G) if the city, town or, in the case of a location in an unincorporated~~
13 ~~area, county in which the proposed medical hemp establishment will be~~
14 ~~located has enacted zoning restrictions or licensing requirements, proof of~~
15 ~~licensure with the applicable local governmental authority or an~~
16 ~~affirmation signed by the applicant that the proposed medical hemp~~
17 ~~establishment will be in compliance with those restrictions and satisfies all~~
18 ~~applicable zoning requirements; and~~

19 ~~(H) such other information as the department may reasonably require~~
20 ~~by rules and regulations;~~

21 ~~(2) none of the persons who are proposed to be owners, officers or~~
22 ~~board members of the proposed medical hemp establishment have served~~
23 ~~as an owner, officer or board member for a medical hemp establishment~~
24 ~~that has had its medical hemp establishment registration certificate~~
25 ~~revoked; and~~

26 ~~(3) none of the persons who are proposed to be owners, officers or~~
27 ~~board members of the proposed medical hemp establishment are under 21~~
28 ~~years of age.~~

29 ~~(b) When more qualifying applications are submitted for proposed~~
30 ~~hemp preparation centers or testing laboratories than the department will~~
31 ~~approve, the department shall use an impartial and numerically scored~~
32 ~~merit-based selection process to determine which application or~~
33 ~~applications to approve. The department may approve the highest scoring~~
34 ~~application or applications in specific geographic regions of the state. The~~
35 ~~department may conduct a background check of the principal officers and~~
36 ~~board members of any prospective hemp preparation center to carry out~~
37 ~~the provisions of this subsection.~~

38 ~~(c) Except as otherwise provided in this act, if an application for~~
39 ~~registration as a medical hemp establishment satisfies the requirements of~~
40 ~~this section and the establishment is not disqualified from being registered~~
41 ~~as a medical hemp establishment pursuant to this act or other applicable~~
42 ~~law, the department shall issue to the establishment a medical hemp~~
43 ~~establishment registration certificate. A medical hemp establishment~~

1 registration certificate expires two years after the date of issuance and may
2 be renewed upon:

3 (1) ~~Submission of a renewal application; and~~

4 (2) ~~payment of the renewal fee established by the department.~~

5 ~~Sec. 11. (a) Medical hemp establishments are subject to reasonable~~
6 ~~inspection by the department.~~

7 (b) ~~A medical hemp establishment may not employ or accept as a~~
8 ~~volunteer any person who is under 21 years of age.~~

9 (c) ~~The operating documents of a medical hemp establishment must~~
10 ~~include procedures for the oversight of the medical hemp establishment~~
11 ~~and procedures to ensure accurate recordkeeping.~~

12 (d) ~~A medical hemp establishment shall implement appropriate~~
13 ~~security measures designed to deter and prevent:~~

14 (1) ~~The theft of cannabis and hemp preparations; and~~

15 (2) ~~unauthorized entrance into areas containing cannabis or hemp~~
16 ~~preparations.~~

17 (e) ~~Before hemp preparations may be dispensed to a cardholder or~~
18 ~~visiting cardholder, a hemp preparation center agent must:~~

19 (1) ~~Make a diligent effort to verify that the registration card or other~~
20 ~~documentation presented to the hemp preparation center is valid; and~~

21 (2) ~~make a diligent effort to verify that the person presenting the card~~
22 ~~is the person identified on the registration card presented to the hemp~~
23 ~~preparation center agent.~~

24 (f) ~~A hemp preparation center must dispense hemp preparations in a~~
25 ~~sealed container with a label that conforms to department regulations and~~
26 ~~that indicates the hemp preparation's ingredients and its percentages of~~
27 ~~tetrahydrocannabinol and cannabidiol by weight.~~

28 (g) ~~Hemp preparation centers shall collect and submit to the~~
29 ~~department data on strains used, methods of delivery, any side effects~~
30 ~~experienced and the therapeutic effectiveness of hemp preparations for~~
31 ~~each patient who is willing to provide the information. Such data~~
32 ~~collection shall be done under the patient's registry identification number~~
33 ~~to protect the patient's confidentiality.~~

34 *New Sec. 10. (a) Any patient who is a cardholder pursuant to this*
35 *act shall obtain or receive medical hemp preparations only from a*
36 *facility or organization located and operating outside the state of Kansas*
37 *that is verified and approved by the secretary of health and environment.*
38 *Possession of medical hemp preparations obtained in violation of this*
39 *subsection shall constitute the unlawful possession of a controlled*
40 *substance as defined by K.S.A. 2015 Supp. 21-5706(b)(7), and*
41 *amendments thereto, and be subject to the penalties prescribed therein.*

42 (b) *The secretary of health and environment shall adopt rules and*
43 *regulations regarding the verification and approval of dispensing*

1 *facilities or organizations located and operating outside the state of*
2 *Kansas from which patient cardholders may obtain or receive medical*
3 *hemp preparations. Such rules and regulations shall include, at a*
4 *minimum, requirements that the dispensing facility or organization has*
5 *procedures to:*

- 6 (1) *Maintain accurate recordkeeping;*
- 7 (2) *verify a patient cardholder's documentation purporting to allow*
8 *such cardholder to obtain or possess medical hemp preparations;*
- 9 (3) *package and label accurately any medical hemp preparations*
10 *dispensed by the organization or facility, including sealing the*
11 *preparations in a child-resistant package and indicating the*
12 *preparation's ingredients and percentages of tetrahydrocannabinol and*
13 *cannabidiol by weight;*
- 14 (4) *test samples of medical hemp preparations randomly to verify*
15 *accuracy of labelling for contents and potency; and*
- 16 (5) *initiate and facilitate mandatory and voluntary recalls of*
17 *medical hemp preparations.*

18 *New Sec. ~~12~~ 11.* If any provision of this act or the application thereof
19 to any person or circumstance is held invalid, such invalidity shall not
20 affect the application of any other provision of this act that can be given
21 full effect without the invalid provision or application.

22 *New Sec. 12. (a) There is hereby established the designation of*
23 *medical hemp preparation certification. The board is authorized to issue*
24 *a medical hemp preparation certification to any person who holds an*
25 *active license to practice medicine and surgery issued by the board and*
26 *who makes written application for such certification on a form provided*
27 *by the board and remits the fee established by K.S.A. 65-2852, and*
28 *amendments thereto. The board shall require every holder of a medical*
29 *hemp preparation certification, in writing, to acknowledge and agree to*
30 *abide by the guidelines set forth in the Kansas board of healing arts*
31 *policy statement regarding experimental treatments.*

32 (b) *The medical hemp preparation certification shall be canceled*
33 *on the date established by rules and regulations of the board which may*
34 *provide renewal throughout the year on a continuing basis. Any*
35 *certification issued under this section shall expire no later than one year*
36 *after the date of issuance.*

37 (c) *The provisions of K.S.A. 65-2809, and amendments thereto,*
38 *providing for notice of cancellation, cancellation, renewal and*
39 *reinstatement of a license shall apply to any medical hemp preparation*
40 *certification issued under this section.*

41 (d) *The board shall adopt rules and regulations as may be*
42 *necessary to administer the provisions of this section.*

43 (e) *This section shall be part of and supplemental to the Kansas*

1 *healing arts act.*

2 *Sec. 13. K.S.A. 2015 Supp. 40-3403 is hereby amended to read as*
3 *follows: 40-3403. (a) For the purpose of paying damages for personal*
4 *injury or death arising out of the rendering of or the failure to render*
5 *professional services by a health care provider, self-insurer or inactive*
6 *health care provider subsequent to the time that such health care*
7 *provider or self-insurer has qualified for coverage under the provisions*
8 *of this act, there is hereby established the health care stabilization fund.*
9 *The fund shall be held in trust in the state treasury and accounted for*
10 *separately from other state funds. The board of governors shall*
11 *administer the fund or contract for the administration of the fund with*
12 *an insurance company authorized to do business in this state.*

13 *(b) (1) There is hereby created a board of governors which shall be*
14 *composed of such members and shall have such powers, duties and*
15 *functions as are prescribed by this act. The board of governors shall:*

16 *(A) Administer the fund and exercise and perform other powers,*
17 *duties and functions required of the board under the health care*
18 *provider insurance availability act;*

19 *(B) provide advice, information and testimony to the appropriate*
20 *licensing or disciplinary authority regarding the qualifications of a*
21 *health care provider;*

22 *(C) prepare and publish, on or before October 1 of each year, a*
23 *summary of the fund's activity during the preceding fiscal year,*
24 *including, but not limited to, the amount collected from surcharges, the*
25 *highest and lowest surcharges assessed, the amount paid from the fund,*
26 *the number of judgments paid from the fund, the number of settlements*
27 *paid from the fund and the amount in the fund at the end of the fiscal*
28 *year; and*

29 *(D) have the authority to grant temporary exemptions from the*
30 *provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to*
31 *health care providers who have exceptional circumstances and verify in*
32 *writing that the health care provider will not render professional services*
33 *in this state during the period of exemption. Whenever the board grants*
34 *such an exemption, the board shall notify the state agency which*
35 *licenses the exempted health care provider.*

36 *(2) The board shall consist of 11 persons appointed by the*
37 *commissioner of insurance, as provided by this subsection~~(b)~~ and as*
38 *follows:*

39 *(A) Three members who are licensed to practice medicine and*
40 *surgery in Kansas who are doctors of medicine and who are on a list of*
41 *nominees submitted to the commissioner by the Kansas medical society;*

42 *(B) three members who are representatives of Kansas hospitals and*
43 *who are on a list of nominees submitted to the commissioner by the*

1 *Kansas hospital association;*

2 *(C) two members who are licensed to practice medicine and surgery*
3 *in Kansas who are doctors of osteopathic medicine and who are on a list*
4 *of nominees submitted to the commissioner by the Kansas association of*
5 *osteopathic medicine;*

6 *(D) one member who is licensed to practice chiropractic in Kansas*
7 *and who is on a list of nominees submitted to the commissioner by the*
8 *Kansas chiropractic association;*

9 *(E) one member who is a licensed professional nurse authorized to*
10 *practice as a registered nurse anesthetist who is on a list of nominees*
11 *submitted to the commissioner by the Kansas association of nurse*
12 *anesthetists.*

13 *(F) one member who is a representative of adult care homes who is*
14 *on a list of nominees submitted to the commissioner by statewide*
15 *associations comprised of members who represent adult care homes.*

16 *(3) When a vacancy occurs in the membership of the board of*
17 *governors created by this act, the commissioner shall appoint a*
18 *successor of like qualifications from a list of three nominees submitted*
19 *to the commissioner by the professional society or association prescribed*
20 *by this section for the category of health care provider required for the*
21 *vacant position on the board of governors. All appointments made shall*
22 *be for a term of office of four years, but no member shall be appointed*
23 *for more than two successive four-year terms. Each member shall serve*
24 *until a successor is appointed and qualified. Whenever a vacancy occurs*
25 *in the membership of the board of governors created by this act for any*
26 *reason other than the expiration of a member's term of office, the*
27 *commissioner shall appoint a successor of like qualifications to fill the*
28 *unexpired term. In each case of a vacancy occurring in the membership*
29 *of the board of governors, the commissioner shall notify the professional*
30 *society or association which represents the category of health care*
31 *provider required for the vacant position and request a list of three*
32 *nominations of health care providers from which to make the*
33 *appointment.*

34 *(4) The board of governors shall organize in July of each year and*
35 *shall elect a chairperson and vice-chairperson from among its*
36 *membership. Meetings shall be called by the chairperson or by a written*
37 *notice signed by three members of the board.*

38 *(5) The board of governors, in addition to other duties imposed by*
39 *this act, shall study and evaluate the operation of the fund and make*
40 *such recommendations to the legislature as may be appropriate to*
41 *ensure the viability of the fund.*

42 *(6) (A) The board shall appoint an executive director who shall be*
43 *in the unclassified service under the Kansas civil service act and may*

1 *employ attorneys and other employees who shall also be in the*
2 *unclassified service under the Kansas civil service act. Such executive*
3 *director, attorneys and other employees shall receive compensation fixed*
4 *by the board, in accordance with appropriation acts of the legislature,*
5 *not subject to approval of the governor.*

6 *(B) The board may provide all office space, services, equipment,*
7 *materials and supplies, and all budgeting, personnel, purchasing and*
8 *related management functions required by the board in the exercise of*
9 *the powers, duties and functions imposed or authorized by the health*
10 *care provider insurance availability act or may enter into a contract with*
11 *the commissioner of insurance for the provision, by the commissioner, of*
12 *all or any part thereof.*

13 *(7) The commissioner shall:*

14 *(A) Provide technical and administrative assistance to the board of*
15 *governors with respect to administration of the fund upon request of the*
16 *board;*

17 *(B) provide such expertise as the board may reasonably request*
18 *with respect to evaluation of claims or potential claims.*

19 *(c) Except as otherwise provided by any other provision of this act,*
20 *the fund shall be liable to pay:*

21 *(1) Any amount due from a judgment or settlement which is in excess*
22 *of the basic coverage liability of all liable resident health care providers*
23 *or resident self-insurers for any personal injury or death arising out of*
24 *the rendering of or the failure to render professional services within or*
25 *without this state;*

26 *(2) subject to the provisions of subsections (f) and (m), any amount*
27 *due from a judgment or settlement which is in excess of the basic*
28 *coverage liability of all liable nonresident health care providers or*
29 *nonresident self-insurers for any such injury or death arising out of the*
30 *rendering or the failure to render professional services within this state*
31 *but in no event shall the fund be obligated for claims against*
32 *nonresident health care providers or nonresident self-insurers who have*
33 *not complied with this act or for claims against nonresident health care*
34 *providers or nonresident self-insurers that arose outside of this state;*

35 *(3) subject to the provisions of subsections (f) and (m), any amount*
36 *due from a judgment or settlement against a resident inactive health*
37 *care provider for any such injury or death arising out of the rendering*
38 *of or failure to render professional services;*

39 *(4) subject to the provisions of subsections (f) and (m), any amount*
40 *due from a judgment or settlement against a nonresident inactive health*
41 *care provider for any injury or death arising out of the rendering or*
42 *failure to render professional services within this state, but in no event*
43 *shall the fund be obligated for claims against: (A) Nonresident inactive*

1 *health care providers who have not complied with this act; or (B)*
2 *nonresident inactive health care providers for claims that arose outside*
3 *of this state, unless such health care provider was a resident health care*
4 *provider or resident self-insurer at the time such act occurred;*

5 *(5) subject to ~~subsection (b) of K.S.A. 40-3411(b)~~, and amendments*
6 *thereto, reasonable and necessary expenses for attorney fees,*
7 *depositions, expert witnesses and other costs incurred in defending the*
8 *fund against claims, which expenditures shall not be subject to the*
9 *provisions of K.S.A. 75-3738 through 75-3744, and amendments thereto;*

10 *(6) any amounts expended for reinsurance obtained to protect the*
11 *best interests of the fund purchased by the board of governors, which*
12 *purchase shall be subject to the provisions of K.S.A. 75-3738 through*
13 *75-3744, and amendments thereto, but shall not be subject to the*
14 *provisions of K.S.A. 75-4101, and amendments thereto;*

15 *(7) reasonable and necessary actuarial expenses incurred in*
16 *administering the act, including expenses for any actuarial studies*
17 *contracted for by the legislative coordinating council, which*
18 *expenditures shall not be subject to the provisions of K.S.A. 75-3738*
19 *through 75-3744, and amendments thereto;*

20 *(8) periodically to the plan or plans, any amount due pursuant to*
21 *~~subsection (a)(3) of K.S.A. 40-3413(a)(3)~~, and amendments thereto;*

22 *(9) reasonable and necessary expenses incurred by the board of*
23 *governors in the administration of the fund or in the performance of*
24 *other powers, duties or functions of the board under the health care*
25 *provider insurance availability act;*

26 *(10) surcharge refunds payable when the notice of cancellation*
27 *requirements of K.S.A. 40-3402, and amendments thereto, are met;*

28 *(11) subject to ~~subsection (b) of K.S.A. 40-3411(b)~~, and amendments*
29 *thereto, reasonable and necessary expenses for attorney fees and other*
30 *costs incurred in defending a person engaged or who was engaged in*
31 *residency training or the private practice corporations or foundations*
32 *and their full-time physician faculty employed by the university of*
33 *Kansas medical center or any nonprofit corporation organized to*
34 *administer the graduate medical education programs of community*
35 *hospitals or medical care facilities affiliated with the university of*
36 *Kansas school of medicine from claims for personal injury or death*
37 *arising out of the rendering of or the failure to render professional*
38 *services by such health care provider;*

39 *(12) notwithstanding the provisions of subsection (m), any amount*
40 *due from a judgment or settlement for an injury or death arising out of*
41 *the rendering of or failure to render professional services by a person*
42 *engaged or who was engaged in residency training or the private*
43 *practice corporations or foundations and their full-time physician*

1 *faculty employed by the university of Kansas medical center or any*
2 *nonprofit corporation organized to administer the graduate medical*
3 *education programs of community hospitals or medical care facilities*
4 *affiliated with the university of Kansas school of medicine;*

5 *(13) subject to the provisions of K.S.A. 65-429, and amendments*
6 *thereto, reasonable and necessary expenses for the development and*
7 *promotion of risk management education programs and for the medical*
8 *care facility licensure and risk management survey functions carried out*
9 *under K.S.A. 65-429, and amendments thereto;*

10 *(14) notwithstanding the provisions of subsection (m), any amount,*
11 *but not less than the required basic coverage limits, owed pursuant to a*
12 *judgment or settlement for any injury or death arising out of the*
13 *rendering of or failure to render professional services by a person, other*
14 *than a person described in ~~paragraph (12) of this subsection (c)(12), who~~*
15 *was engaged in a postgraduate program of residency training approved*
16 *by the state board of healing arts but who, at the time the claim was*
17 *made, was no longer engaged in such residency program;*

18 *(15) ~~subject to subsection (b) of K.S.A. 40-3411(b), and amendments~~*
19 *thereto, reasonable and necessary expenses for attorney fees and other*
20 *costs incurred in defending a person described in ~~paragraph (14) of this~~*
21 *subsection (c)(14);*

22 *(16) expenses incurred by the commissioner in the performance of*
23 *duties and functions imposed upon the commissioner by the health care*
24 *provider insurance availability act, and expenses incurred by the*
25 *commissioner in the performance of duties and functions under*
26 *contracts entered into between the board and the commissioner as*
27 *authorized by this section; and*

28 *(17) periodically to the state general fund reimbursements of*
29 *amounts paid to members of the health care stabilization fund oversight*
30 *committee for compensation, travel expenses and subsistence expenses*
31 *pursuant to ~~subsection (e) of K.S.A. 40-3403b(e), and amendments~~*
32 *thereto.*

33 *(d) All amounts for which the fund is liable pursuant to subsection*
34 *(c) shall be paid promptly and in full except that, if the amount for*
35 *which the fund is liable is \$300,000 or more, it shall be paid, by*
36 *installment payments of \$300,000 or 10% of the amount of the judgment*
37 *including interest thereon, whichever is greater, per fiscal year, the first*
38 *installment to be paid within 60 days after the fund becomes liable and*
39 *each subsequent installment to be paid annually on the same date of the*
40 *year the first installment was paid, until the claim has been paid in full.*

41 *(e) In no event shall the fund be liable to pay in excess of*
42 *\$3,000,000 pursuant to any one judgment or settlement against any one*
43 *health care provider relating to any injury or death arising out of the*

1 *rendering of or the failure to render professional services on and after*
2 *July 1, 1984, and before July 1, 1989, subject to an aggregate limitation*
3 *for all judgments or settlements arising from all claims made in any one*
4 *fiscal year in the amount of \$6,000,000 for each health care provider.*

5 *(f) In no event shall the fund be liable to pay in excess of the*
6 *amounts specified in the option selected by an active or inactive health*
7 *care provider pursuant to subsection (l) for judgments or settlements*
8 *relating to injury or death arising out of the rendering of or failure to*
9 *render professional services by such health care provider on or after*
10 *July 1, 1989.*

11 *(g) A health care provider shall be deemed to have qualified for*
12 *coverage under the fund:*

13 *(1) On and after July 1, 1976, if basic coverage is then in effect;*

14 *(2) subsequent to July 1, 1976, at such time as basic coverage*
15 *becomes effective; or*

16 *(3) upon qualifying as a self-insurer pursuant to K.S.A. 40-3414,*
17 *and amendments thereto.*

18 *(h) A health care provider who is qualified for coverage under the*
19 *fund shall have no vicarious liability or responsibility for any injury or*
20 *death arising out of the rendering of or the failure to render*
21 *professional services inside or outside this state by any other health care*
22 *provider who is also qualified for coverage under the fund. The*
23 *provisions of this subsection shall apply to all claims filed on or after*
24 *July 1, 1986.*

25 *(i) Notwithstanding the provisions of K.S.A. 40-3402, and*
26 *amendments thereto, if the board of governors determines due to the*
27 *number of claims filed against a health care provider or the outcome of*
28 *those claims that an individual health care provider presents a material*
29 *risk of significant future liability to the fund, the board of governors is*
30 *authorized by a vote of a majority of the members thereof, after notice*
31 *and an opportunity for hearing in accordance with the provisions of the*
32 *Kansas administrative procedure act, to terminate the liability of the*
33 *fund for all claims against the health care provider for damages for*
34 *death or personal injury arising out of the rendering of or the failure to*
35 *render professional services after the date of termination. The date of*
36 *termination shall be 30 days after the date of the determination by the*
37 *board of governors. The board of governors, upon termination of the*
38 *liability of the fund under this subsection, shall notify the licensing or*
39 *other disciplinary board having jurisdiction over the health care*
40 *provider involved of the name of the health care provider and the*
41 *reasons for the termination.*

42 *(j) (1) Subject to the provisions of ~~paragraph (7) of this subsection~~*
43 *(j)(7), upon the payment of moneys from the health care stabilization*

1 *fund pursuant to subsection (c)(11), the board of governors shall certify*
2 *to the secretary of administration the amount of such payment, and the*
3 *secretary of administration shall transfer an amount equal to the*
4 *amount certified, reduced by any amount transferred pursuant to*
5 ~~*paragraph (3) or (4) of this subsection (j)(3) or (4), from the state general*~~
6 ~~*fund to the health care stabilization fund.*~~

7 ~~*(2) Subject to the provisions of paragraph (7) of this subsection (j)*~~
8 ~~*(7), upon the payment of moneys from the health care stabilization fund*~~
9 ~~*pursuant to subsection (c)(12), the board of governors shall certify to the*~~
10 ~~*secretary of administration the amount of such payment which is equal*~~
11 ~~*to the basic coverage liability of self-insurers, and the secretary of*~~
12 ~~*administration shall transfer an amount equal to the amount certified,*~~
13 ~~*reduced by any amount transferred pursuant to paragraph (3) or (4) of*~~
14 ~~*this subsection (j)(3) or (4), from the state general fund to the health*~~
15 ~~*care stabilization fund.*~~

16 *(3) The university of Kansas medical center private practice*
17 *foundation reserve fund is hereby established in the state treasury. If the*
18 *balance in such reserve fund is less than \$500,000 on July 1 of any year,*
19 *the private practice corporations or foundations referred to in*
20 ~~*subsection (e) of K.S.A. 40-3402(c), and amendments thereto, shall remit the*~~
21 ~~*amount necessary to increase such balance to \$500,000 to the state*~~
22 ~~*treasurer for credit to such reserve fund as soon after such July 1 date*~~
23 ~~*as is practicable. Upon receipt of each such remittance, the state*~~
24 ~~*treasurer shall credit the same to such reserve fund. When compliance*~~
25 ~~*with the foregoing provisions of this paragraph have been achieved on*~~
26 ~~*or after July 1 of any year in which the same are applicable, the state*~~
27 ~~*treasurer shall certify to the board of governors that such reserve fund*~~
28 ~~*has been funded for the year in the manner required by law. Moneys in*~~
29 ~~*such reserve fund may be invested or reinvested in accordance with the*~~
30 ~~*provisions of K.S.A. 40-3406, and amendments thereto, and any income*~~
31 ~~*or interest earned by such investments shall be credited to such reserve*~~
32 ~~*fund. Upon payment of moneys from the health care stabilization fund*~~
33 ~~*pursuant to subsection (c)(11) or (c)(12) with respect to any private*~~
34 ~~*practice corporation or foundation or any of its full-time physician*~~
35 ~~*faculty employed by the university of Kansas, the secretary of*~~
36 ~~*administration shall transfer an amount equal to the amount paid from*~~
37 ~~*the university of Kansas medical center private practice foundation*~~
38 ~~*reserve fund to the health care stabilization fund or, if the balance in*~~
39 ~~*such reserve fund is less than the amount so paid, an amount equal to*~~
40 ~~*the balance in such reserve fund.*~~

41 *(4) The graduate medical education administration reserve fund is*
42 *hereby established in the state treasury. If the balance in such reserve*
43 *fund is less than \$40,000 on July 1 of any year, the nonprofit*

1 *corporations organized to administer the graduate medical education*
2 *programs of community hospitals or medical care facilities affiliated*
3 *with the university of Kansas school of medicine shall remit the amount*
4 *necessary to increase such balance to \$40,000 to the state treasurer for*
5 *credit to such reserve fund as soon after such July 1 date as is*
6 *practicable. Upon receipt of each such remittance, the state treasurer*
7 *shall credit the same to such reserve fund. When compliance with the*
8 *foregoing provisions of this paragraph have been achieved on or after*
9 *July 1 of any year in which the same are applicable, the state treasurer*
10 *shall certify to the board of governors that such reserve fund has been*
11 *funded for the year in the manner required by law. Moneys in such*
12 *reserve fund may be invested or reinvested in accordance with the*
13 *provisions of K.S.A. 40-3406, and amendments thereto, and any income*
14 *or interest earned by such investments shall be credited to such reserve*
15 *fund. Upon payment of moneys from the health care stabilization fund*
16 *pursuant to subsection (c)(11) or (c)(12) with respect to any nonprofit*
17 *corporations organized to administer the graduate medical education*
18 *programs of community hospitals or medical care facilities affiliated*
19 *with the university of Kansas school of medicine the secretary of*
20 *administration shall transfer an amount equal to the amount paid from*
21 *the graduate medical education administration reserve fund to the*
22 *health care stabilization fund or, if the balance in such reserve fund is*
23 *less than the amount so paid, an amount equal to the balance in such*
24 *reserve fund.*

25 (5) *Upon payment of moneys from the health care stabilization*
26 *fund pursuant to subsection (c)(14) or (c)(15), the board of governors*
27 *shall certify to the secretary of administration the amount of such*
28 *payment, and the secretary of administration shall transfer an amount*
29 *equal to the amount certified from the state general fund to the health*
30 *care stabilization fund.*

31 (6) *Transfers from the state general fund to the health care*
32 *stabilization fund pursuant to subsection (j) shall not be subject to the*
33 *provisions of K.S.A. 75-3722, and amendments thereto.*

34 (7) *The funds required to be transferred from the state general fund*
35 *to the health care stabilization fund pursuant to paragraphs (1) and (2) of*
36 *this subsection (j)(1) and (2) for the fiscal years ending June 30, 2010,*
37 *June 30, 2011, June 30, 2012, and June 30, 2013, shall not be*
38 *transferred prior to July 1, 2013. The secretary of administration shall*
39 *maintain a record of the amounts certified by the board of governors*
40 *pursuant to paragraphs (1) and (2) of this subsection (j)(1) and (2) for the*
41 *fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and*
42 *June 30, 2013. Beginning July 1, 2013, in addition to any other*
43 *transfers required pursuant to subsection (j), the state general fund*

1 *transfers which are deferred pursuant to this paragraph shall be*
2 *transferred from the state general fund to the health care stabilization*
3 *fund in the following manner: On July 1, 2013, and annually thereafter*
4 *through July 1, 2017, an amount equal to 20% of the total amount of*
5 *state general fund transfers deferred pursuant to this paragraph for the*
6 *fiscal years ending June 30, 2010, June 30, 2011, June 30, 2012, and*
7 *June 30, 2013. The amounts deferred pursuant to this paragraph shall*
8 *not accrue interest thereon.*

9 *(k) Notwithstanding any other provision of the health care provider*
10 *insurance availability act, no psychiatric hospital licensed under K.S.A.*
11 *75-3307b, and amendments thereto, shall be assessed a premium*
12 *surcharge or be entitled to coverage under the fund if such hospital has*
13 *not paid any premium surcharge pursuant to K.S.A. 40-3404, and*
14 *amendments thereto, prior to January 1, 1988.*

15 *(l) On or after July 1, 1989, every health care provider shall make*
16 *an election to be covered by one of the following options provided in this*
17 *subsection—(†) which shall limit the liability of the fund with respect to*
18 *judgments or settlements relating to injury or death arising out of the*
19 *rendering of or failure to render professional services on or after July 1,*
20 *1989. Such election shall be made at the time the health care provider*
21 *renews the basic coverage in effect on July 1, 1989, or, if basic coverage is*
22 *not in effect, such election shall be made at the time such coverage is*
23 *acquired pursuant to K.S.A. 40-3402, and amendments thereto. Notice of*
24 *the election shall be provided by the insurer providing the basic coverage*
25 *in the manner and form prescribed by the board of governors and shall*
26 *continue to be effective from year to year unless modified by a*
27 *subsequent election made prior to the anniversary date of the policy. The*
28 *health care provider may at any subsequent election reduce the dollar*
29 *amount of the coverage for the next and subsequent fiscal years, but*
30 *may not increase the same, unless specifically authorized by the board of*
31 *governors. Any election of fund coverage limits, whenever made, shall*
32 *be with respect to judgments or settlements relating to injury or death*
33 *arising out of the rendering of or failure to render professional services*
34 *on or after the effective date of such election of fund coverage limits.*
35 *Such election shall be made for persons engaged in residency training*
36 *and persons engaged in other postgraduate training programs approved*
37 *by the state board of healing arts at medical care facilities or mental*
38 *health centers in this state by the agency or institution paying the*
39 *surcharge levied under K.S.A. 40-3404, and amendments thereto, for*
40 *such persons. The election of fund coverage limits for a nonprofit*
41 *corporation organized to administer the graduate medical education*
42 *programs of community hospitals or medical care facilities affiliated*
43 *with the university of Kansas school of medicine shall be deemed to be*

1 *effective at the highest option. Such options shall be as follows:*

2 *(1) OPTION 1. The fund shall not be liable to pay in excess of*
3 *\$100,000 pursuant to any one judgment or settlement for any party*
4 *against such health care provider, subject to an aggregate limitation for*
5 *all judgments or settlements arising from all claims made in the fiscal*
6 *year in an amount of \$300,000 for such provider.*

7 *(2) OPTION 2. The fund shall not be liable to pay in excess of*
8 *\$300,000 pursuant to any one judgment or settlement for any party*
9 *against such health care provider, subject to an aggregate limitation for*
10 *all judgments or settlements arising from all claims made in the fiscal*
11 *year in an amount of \$900,000 for such provider.*

12 *(3) OPTION 3. The fund shall not be liable to pay in excess of*
13 *\$800,000 pursuant to any one judgment or settlement for any party*
14 *against such health care provider, subject to an aggregate limitation for*
15 *all judgments or settlements arising from all claims made in the fiscal*
16 *year in an amount of \$2,400,000 for such health care provider.*

17 *(m) The fund shall not be liable for any amounts due from a*
18 *judgment or settlement against resident or nonresident inactive health*
19 *care providers who first qualify as an inactive health care provider on or*
20 *after July 1, 1989, unless such health care provider has been in*
21 *compliance with K.S.A. 40-3402, and amendments thereto, for a period*
22 *of not less than five years. If a health care provider has not been in*
23 *compliance for five years, such health care provider may make*
24 *application and payment for the coverage for the period while they are*
25 *nonresident health care providers, nonresident self-insurers or resident*
26 *or nonresident inactive health care providers to the fund. Such payment*
27 *shall be made within 30 days after the health care provider ceases being*
28 *an active health care provider and shall be made in an amount*
29 *determined by the board of governors to be sufficient to fund anticipated*
30 *claims based upon reasonably prudent actuarial principles. The*
31 *provisions of this subsection shall not be applicable to any health care*
32 *provider which becomes inactive through death or retirement, or*
33 *through disability or circumstances beyond such health care provider's*
34 *control, if such health care provider notifies the board of governors and*
35 *receives approval for an exemption from the provisions of this*
36 *subsection. Any period spent in a postgraduate program of residency*
37 *training approved by the state board of healing arts shall not be included*
38 *in computation of time spent in compliance with the provisions of K.S.A.*
39 *40-3402, and amendments thereto. The provisions of this subsection*
40 *shall expire on July 1, 2014.*

41 *(n) In the event of a claim against a health care provider for*
42 *personal injury or death arising out of the rendering of or the failure to*
43 *render professional services by such health care provider, the liability of*

1 *the fund shall be limited to the amount of coverage selected by the*
2 *health care provider at the time of the incident giving rise to the claim.*

3 *(o) Notwithstanding anything in article 34 of chapter 40 of the*
4 *Kansas Statutes Annotated, and amendments thereto, to the contrary, the*
5 *fund shall in no event be liable for any claims against any health care*
6 *provider based upon or relating to the health care provider's sexual acts*
7 *or activity, but in such cases the fund may pay reasonable and necessary*
8 *expenses for attorney fees incurred in defending the fund against such*
9 *claim. The fund may recover all or a portion of such expenses for*
10 *attorney fees if an adverse judgment is returned against the health care*
11 *provider for damages resulting from the health care provider's sexual*
12 *acts or activity.*

13 *(p) Notwithstanding any provision in article 34 of chapter 40 of the*
14 *Kansas Statutes Annotated, and amendments thereto, to the contrary, the*
15 *fund shall in no event be liable for any claims against any healthcare*
16 *provider based upon or relating to the healthcare provider issuing a*
17 *written certification for a medical hemp preparation pursuant to Otis's*
18 *law, but in such cases the fund may pay reasonable and necessary*
19 *expenses for attorney fees incurred in defending the fund against such*
20 *claim. The fund may recover all or a portion of such expenses for attorney*
21 *fees if an adverse judgment is returned against the healthcare provider for*
22 *damages resulting from the healthcare provider issuing a written*
23 *certification for a medical hemp preparation pursuant to Otis's law.*

24 ***Sec. 14. K.S.A. 2015 Supp. 65-2852 is hereby amended to read as***
25 ***follows: 65-2852. The following fees shall be established by the board by***
26 ***rules and regulations and collected by the board:***

27 *(a) For a license, issued upon the basis of an examination, in a sum*
28 *of not more than \$300;*

29 *(b) for a license, issued without examination and by endorsement,*
30 *in a sum of not more than \$300;*

31 *(c) for a license, issued upon a certificate from the national boards,*
32 *in a sum of not more than \$300;*

33 *(d) for the renewal of a license, the sum of not more than \$500;*

34 *(e) for a temporary permit, in a sum of not more than \$60;*

35 *(f) for an institutional license, in a sum of not more than \$300;*

36 *(g) for a visiting professor temporary license, in a sum of not more*
37 *than \$50;*

38 *(h) for a certified statement from the board that a licensee is*
39 *licensed in this state, the sum of not more than \$30;*

40 *(i) for any copy of any license issued by the board, the sum of not*
41 *more than \$30;*

42 *(j) for any examination given by the board, a sum in an amount*
43 *equal to the cost to the board of the examination;*

1 ***(k) for application for and issuance of a special permit under***
2 ***K.S.A. 65-2811a, and amendments thereto, the sum of not more than***
3 ***\$60;***

4 ***(l) for an exempt or inactive license or renewal of an exempt or***
5 ***inactive license, the sum of not more than \$150;***

6 ***(m) for conversion of an exempt or inactive license to a license to***
7 ***practice the healing arts, the sum of not more than \$300;***

8 ***(n) for reinstatement of a revoked license, in a sum of not more***
9 ***than \$1,000;***

10 ***(o) for reinstatement of a canceled license, in a sum of not more***
11 ***than \$500;***

12 ***(p) for a visiting clinical professor license, or renewal of a visiting***
13 ***clinical professor license, in a sum of not more than \$300;***

14 ***(q) for a postgraduate permit in a sum of not more than \$60;***

15 ***(r) for a limited permit or renewal of a limited permit, the sum of***
16 ***not more than \$60;***

17 ***(s) for a written verification of any license or permit, the sum of not***
18 ***more than \$25;***

19 ***(t) for a reentry active license or renewal of a reentry active license,***
20 ***the sum of not more than \$500; and***

21 ***(u) for a resident active license, the sum of not more than \$500; and***

22 ***(v) for a medical hemp preparation certification issued under section***
23 ***12, and amendments thereto, the sum of not more than \$2,000 annually.***
24 ***The board shall review annually the costs associated with issuing such***
25 ***certifications and adjust the fee to cover the costs of administering the***
26 ***certification program, not to exceed \$2,000 annually.***

27 ***Sec. 15. K.S.A. 2015 Supp. 40-3403 and 65-2852 are hereby***
28 ***repealed.***

29 ~~Sec. 13.~~ ***16.*** This act shall take effect and be in force from and after
30 its publication in the statute book.