

As Amended by Senate Committee

SENATE BILL No. 217

By Committee on Ways and Means

3-6

1 AN ACT concerning the Kansas department for aging and disability
 2 services; updating certain statutory references and making technical
 3 changes related thereto; amending K.S.A. 19-4016, 40-2, 116, 40-12a01
 4 and ~~74-3292~~ and K.S.A. ~~2016~~ Supp. 12-736, 21-5417, 21-6109, 22-
 5 4612, 36-501, 39-1430, 39-1431, 39-1433, 39-1602, 39-1903, 40-
 6 2, 105, 40-2, 105a, 40-3401, 40-3403, 59-2946, 59-29646, 59-3077, ~~65-~~
 7 ~~1626~~, ~~65-1669~~, ~~65-2895~~ 65-4412, 65-4432, 65-4915, 65-4921, 65-
 8 5601, 65-6805, 75-5923, 75-6102, 79-201b and 79-3606 and repealing
 9 the existing sections.
 10

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

11 Section 1. K.S.A. ~~2016~~ Supp. 12-736 is hereby amended to read as
 12 follows: 12-736. (a) It is hereby declared to be the policy of the state of
 13 Kansas that persons with a disability shall not be excluded from the
 14 benefits of single family residential surroundings by any municipal zoning
 15 ordinance, resolution or regulation.
 16

(b) For the purpose of this act:

17 (1) "Group home" means any dwelling occupied by not more than 10
 18 persons, including eight or fewer persons with a disability who need not be
 19 related by blood or marriage and not to exceed two staff residents who
 20 need not be related by blood or marriage to each other or to the residents
 21 of the home, which dwelling is licensed by a regulatory agency of this
 22 state;
 23

24 (2) "municipality" means any township, city or county located in
 25 Kansas;

(3) "disability" means, with respect to a person:

26 (A) A physical or mental impairment ~~which~~ that substantially limits
 27 one or more of such person's major life activities;

(B) a record of having such an impairment; or

28 (C) being regarded as having such an impairment. Such term does not
 29 include current, illegal use of or addiction to a controlled substance, as
 30 defined in section 102 of the controlled substance act, (21 U.S.C. § 802);

31 (4) "licensed provider" means a person or agency who provides
 32 mental health services and is licensed by:
 33

34 (A) The Kansas department for aging and disability services pursuant
 35 to K.S.A. ~~75-3307b~~ or 65-425 et seq. or K.S.A. ~~2016~~ Supp. 39-2001 et
 36

2017

2017

Note
 91 references to 2016 Supp.
 5 references to 2015 Supp.
 4 sections were corrected last session and are shown
 deleted
 2 sections were amended last session but not corrected and
 are shown deleted but reinserted as corrected.
 See Appendix A and B
 p. 27 Chip Wheeler's request for Kansas health care
 stabilization fund.

1 the Kansas department for aging and disability services and shall be a part
 2 thereof. The disability and behavioral health services section transferred to
 3 the Kansas department for aging and disability services by K.S.A. ~~2016~~ 2017
 4 Supp. 39-1901 through 39-1914, and amendments thereto, shall be
 5 administered by the secretary for aging and disability services.

6 The programs to be transferred by this section are:

7 (1) Mental health and substance abuse, serious emotionally disturbed,
 8 developmental disability, physical disability, traumatic brain injury,
 9 autism, technology assistance and money-follows-the-person Medicaid
 10 waivers and programs;

11 (2) Licensure and regulation of community mental health centers, as
 12 defined by K.S.A. ~~75-3307b~~ ~~2016~~ ~~Supp. 39-2002~~, and amendments
 13 thereto;

14 (3) regulation of community developmental disability organizations,
 15 ~~as defined by K.S.A. 75-3307b pursuant to K.S.A. 2016 Supp. 39-2001 et~~
 16 ~~seq., and amendments thereto;~~

17 (4) licensure of private psychiatric hospitals, ~~as defined by K.S.A. 75-~~
 18 ~~3307b pursuant to K.S.A. 2016 Supp. 39-2001 et seq., and amendments~~
 19 ~~thereto;~~

20 (5) licensure and regulation of facilities and providers of residential
 21 services, ~~as defined by K.S.A. 75-3307b pursuant to K.S.A. 2016 Supp.~~
 22 ~~39-2001 et seq., and amendments thereto;~~

23 (6) licensure and regulation of providers of addiction and prevention
 24 services, as defined by K.S.A. 75-5375 et seq., *and amendments thereto;*
 25 and

26 (7) any other programs and related grants administered by the
 27 disability and behavioral health services section of the Kansas department
 28 for children and families prior to the effective date of K.S.A. ~~2016~~ ~~Supp.~~
 29 ~~39-1901 through 39-1914, and amendments thereto.~~

30 (b) Except as otherwise provided by K.S.A. ~~2016~~ ~~Supp. 39-1901~~
 31 ~~through 39-1914, and amendments thereto, all powers, duties and~~
 32 ~~functions of the secretary for children and families pertaining to the~~
 33 ~~disability and behavioral health services section transferred by K.S.A.~~
 34 ~~2016 Supp. 39-1901 through 39-1914, and amendments thereto, including~~
 35 ~~that agency's designation as the Medicaid single state authority for~~
 36 ~~substance abuse and for mental health, are hereby transferred to and~~
 37 ~~imposed upon the secretary for aging and disability services.~~

38 (c) The Kansas department for aging and disability services shall be
 39 the successor in every way to the powers, duties and functions of the
 40 Kansas department for children and families pertaining to the disability
 41 and behavioral health services section transferred by K.S.A. ~~2016~~ ~~Supp.~~
 42 ~~39-1901 through 39-1914, and amendments thereto. Every act performed~~
 43 ~~in the exercise of such transferred powers, duties and functions by or under~~

2017

2017

2017

2017

2017

2017

2017

2017

1 thereto; adult care home, ~~which~~ *but such* term shall be limited to nursing
2 facility, assisted living facility and residential health care facility as such
3 terms are defined in K.S.A. 39-923, and amendments thereto; and kidney
4 disease treatment center, including centers not located in a medical care
5 facility.

6 (d) "Professional provider" means a provider, other than a contracting
7 facility, of services for which benefits are provided under contracts issued
8 by a service corporation.

9 (e) "Service corporation" means a nonprofit medical and hospital
10 service corporation organized under the provisions of K.S.A. 40-19c01 et
11 seq., and amendments thereto.

12 Sec. 15. K.S.A. 40-12a01 is hereby amended to read as follows: 40-
13 12a01. As used in this act: (a) "Health care provider" means any person
14 licensed to practice any branch of the healing arts by the state board of
15 healing arts or any hospital licensed under the provisions of K.S.A. 65-425
16 et seq., and amendments thereto, or a private psychiatric hospital
17 authorized under K.S.A. ~~75-397b~~ 201A Supp. 39-2007 et seq., and
18 amendments thereto;

19 (b) "Person" means an individual, corporation, partnership,
20 association, joint stock company, trust, unincorporated organization or any
21 similar entity;

22 (c) "Affiliate" means a person that directly or indirectly, through one
23 or more intermediaries, employs, controls or is controlled by, or is under
24 common control with a health care provider;

25 (d) "Commissioner" means the commissioner of insurance; and
26 (e) "association" means any organization whose income is exempt
27 from taxation pursuant to section 501(a) of the internal revenue code of
28 1986, and amendments thereto, as in effect on the effective date of this act,
29 due to such association's compliance with section 501(c)(6) of such code,
30 and amendments thereto, as in effect on the effective date of this act.

31 ~~[Sec. 16. K.S.A. 2016 Supp. 40-3401 is hereby amended to read as
32 follows: 40-3401. As used in this act the following terms shall have the
33 meanings respectively ascribed to them herein:~~

34 (a) ~~"Applicant" means any health care provider;~~

35 (b) ~~"Basic coverage" means a policy of professional liability
36 insurance required to be maintained by each health care provider pursuant
37 to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.~~

38 (c) ~~"Commissioner" means the commissioner of insurance.~~

39 (d) ~~"Fiscal year" means the year commencing on the effective date of
40 this act and each year commencing on the first day of July thereafter.~~

41 (e) ~~"Fund" means the health care stabilization fund established
42 pursuant to K.S.A. 40-3403(e), and amendments thereto.~~

43 (f) ~~"Health care provider" means a person licensed to practice any~~

2017

1 ~~branch of the healing arts by the state board of healing arts, a person who~~
2 ~~holds a temporary permit to practice any branch of the healing arts issued~~
3 ~~by the state board of healing arts, a person engaged in a postgraduate~~
4 ~~training program approved by the state board of healing arts, a medical~~
5 ~~care facility licensed by the state of Kansas, a podiatrist licensed by the~~
6 ~~state board of healing arts, a health maintenance organization issued a~~
7 ~~certificate of authority by the commissioner, an optometrist licensed by the~~
8 ~~board of examiners in optometry, a pharmacist licensed by the state board~~
9 ~~of pharmacy, a licensed professional nurse who is authorized to practice as~~
10 ~~a registered nurse anesthetist, a licensed professional nurse who has been~~
11 ~~granted a temporary authorization to practice nurse anesthesia under~~
12 ~~K.S.A. 65-1153, and amendments thereto, a professional corporation~~
13 ~~organized pursuant to the professional corporation law of Kansas by~~
14 ~~persons who are authorized by such law to form such a corporation and~~
15 ~~who are health care providers as defined by this subsection, a Kansas~~
16 ~~limited liability company organized for the purpose of rendering~~
17 ~~professional services by its members who are health care providers as~~
18 ~~defined by this subsection and who are legally authorized to render the~~
19 ~~professional services for which the limited liability company is organized,~~
20 ~~a partnership of persons who are health care providers under this~~
21 ~~subsection, a Kansas not-for-profit corporation organized for the purpose~~
22 ~~of rendering professional services by persons who are health care~~
23 ~~providers as defined by this subsection, a nonprofit corporation organized~~
24 ~~to administer the graduate medical education programs of community~~
25 ~~hospitals or medical care facilities affiliated with the university of Kansas~~
26 ~~school of medicine, a dentist certified by the state board of healing arts to~~
27 ~~administer anesthetics under K.S.A. 65-2899, and amendments thereto, a~~
28 ~~psychiatric hospital licensed prior to January 1, 1988, and continuously~~
29 ~~thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its repeal, and~~
30 ~~K.S.A. 2016 Supp. 39-2001 et seq, and amendments thereto, or a mental~~
31 ~~health center or mental health clinic licensed by the state of Kansas. On~~
32 ~~and after January 1, 2015, "health care provider" also means a physician~~
33 ~~assistant licensed by the state board of healing arts, a licensed advanced~~
34 ~~practice registered nurse who is authorized by the state board of nursing to~~
35 ~~practice as an advanced practice registered nurse in the classification of a~~
36 ~~nurse-midwife, a licensed advanced practice registered nurse who has been~~
37 ~~granted a temporary authorization by the state board of nursing to practice~~
38 ~~as an advanced practice registered nurse in the classification of a nurse~~
39 ~~midwife, a nursing facility licensed by the state of Kansas, an assisted~~
40 ~~living facility licensed by the state of Kansas, or a residential health care~~
41 ~~facility licensed by the state of Kansas. "Health care provider" does not~~
42 ~~include: (1) Any state institution for people with intellectual disability; (2)~~
43 ~~any state psychiatric hospital; (3) any person holding an exempt license~~

7-5

1 issued by the state board of healing arts or the state board of nursing; (4)
2 any person holding a visiting clinical professor license from the state board
3 of healing arts; (5) any person holding an inactive license issued by the
4 state board of healing arts; (6) any person holding a federally active
5 license issued by the state board of healing arts; (7) an advanced practice
6 registered nurse who is authorized by the state board of nursing to practice
7 as an advanced practice registered nurse in the classification of nurse-
8 midwife or nurse anesthetist and who practices solely in the course of
9 employment or active duty in the United States government or any of its
10 departments, bureaus or agencies or who provides professional services as
11 a charitable health care provider as defined under K.S.A. 75-6102, and
12 amendments thereto; or (8) a physician assistant licensed by the state
13 board of healing arts who practices solely in the course of employment or
14 active duty in the United States government or any of its departments,
15 bureaus or agencies or who provides professional services as a charitable
16 health care provider as defined under K.S.A. 75-6102, and amendments
17 thereto.

18 (g) "inactive health care provider" means a person or other entity who
19 purchased basic coverage or qualified as a self-insurer or or subsequent to
20 the effective date of this act but who, at the time a claim is made for
21 personal injury or death arising out of the rendering of or the failure to
22 render professional services by such health care provider, does not have
23 basic coverage or self-insurance in effect solely because such person is no
24 longer engaged in rendering professional service as a health care provider.

25 (h) "insurer" means any corporation, association, reciprocal
26 exchange, inter-insurer and any other legal entity authorized to write
27 bodily injury or property damage liability insurance in this state, including
28 workers compensation and automobile liability insurance, pursuant to the
29 provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of
30 the Kansas Statutes Annotated, and amendments thereto.

31 (i) "Plan" means the operating and administrative rules and
32 procedures developed by insurers and rating organizations or the
33 commissioner to make professional liability insurance available to health
34 care providers.

35 (j) "Professional liability insurance" means insurance providing
36 coverage for legal liability arising out of the performance of professional
37 services rendered or which *shall* should have been rendered by a health care
38 provider.

39 (k) "Rating organization" means a corporation, an unincorporated
40 association, a partnership or an individual licensed pursuant to K.S.A. 40-
41 956, and amendments thereto, to make rates for professional liability
42 insurance.

43 (l) "Self-insurer" means a health care provider who qualifies as a self-

1 insurer pursuant to K.S.A. 40-3414, and amendments thereto.

2 ~~(m) "Medical care facility" means the same when used in the health~~
3 ~~care provider insurance availability act as the meaning ascribed to that~~
4 ~~term defined in K.S.A. 65-425, and amendments thereto, except that as~~
5 ~~used in the health care provider insurance availability act such term, as it~~
6 ~~relates to insurance coverage under the health care provider insurance~~
7 ~~availability act also includes any director, trustee, officer or administrator~~
8 ~~of a medical care facility.~~

9 (n) "Mental health center" means a mental health center licensed by
10 the state of Kansas under K.S.A. ~~75-3307b-2016 Supp-30-2001 et seq.~~
11 and amendments thereto, except that as used in the health care provider
12 insurance availability act such term, as it relates to insurance coverage
13 under the health care provider insurance availability act, also includes any
14 director, trustee, officer or administrator of a mental health center.

15 (o) "Mental health clinic" means a mental health clinic licensed by
16 the state of Kansas under K.S.A. ~~75-3307b-2016 Supp-30-2001 et seq.~~
17 and amendments thereto, except that as used in the health care provider
18 insurance availability act such term, as it relates to insurance coverage
19 under the health care provider insurance availability act, also includes any
20 director, trustee, officer or administrator of a mental health clinic.

21 (p) "State institution for people with intellectual disability" means
22 Winfield state hospital and training center, Parsons state hospital and
23 training center and the Kansas neurological institute.

24 (q) "State psychiatric hospital" means Larned state hospital,
25 Osawatomie state hospital and Rainbow mental health facility.

26 (r) "Person engaged in residency training" means:

27 (1) A person engaged in a postgraduate training program approved by
28 the state board of healing arts who is employed by and is studying at the
29 university of Kansas medical center only when such person is engaged in
30 medical activities which ~~that~~ do not include extracurricular, extra-
31 institutional medical service for which such person receives extra-
32 compensation and which ~~that~~ have not been approved by the dean of the
33 school of medicine and the executive vice-chancellor of the university of
34 Kansas medical center. Persons engaged in residency training shall be
35 considered resident health care providers for purposes of K.S.A. 40-3401-
36 et seq., and amendments thereto; and

37 (2) a person engaged in a postgraduate training program approved by
38 the state board of healing arts who is employed by a nonprofit corporation
39 organized to administer the graduate medical education programs of
40 community hospitals or medical care facilities affiliated with the university
41 of Kansas school of medicine or who is employed by an affiliate of the
42 university of Kansas school of medicine as defined in K.S.A. 76-367, and
43 amendments thereto, only when such person is engaged in medical

7-7

~~activities which that do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and which that have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice chancellor of the university of Kansas medical center;~~

~~(g) "Full-time physician faculty employed by the university of Kansas medical center" means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing health care;~~

~~(f) "Sexual act" or "sexual activity" means that sexual conduct which that constitutes a criminal or tortious act under the laws of the state of Kansas;~~

~~(t) "Board" means the board of governors created by K.S.A. 40-3403, and amendments thereto;~~

~~(v) "Board of directors" means the governing board created by K.S.A. 40-3413, and amendments thereto;~~

~~(w) "Term tenures contract" means a temporary agreement not exceeding 182 days per calendar year that employs a health care provider to actively render professional services in this state;~~

~~(x) "Professional services" means patient care or other services authorized under the act governing licensure of a health care provider;~~

~~(y) "Health care facility" means a nursing facility, an assisted living facility or a residential health care facility as all such terms are defined in K.S.A. 39-923, and amendments thereto;~~

See Appendix A (attached)
2017

~~Sec. 17. K.S.A. 2019 Supp. 40-3403 is hereby amended to read as follows: 40-3403. (a) For the purpose of paying damages for personal injury or death arising out of the rendering of or the failure to render professional services by a health care provider, self-insurer or inactive health care provider subsequent to the time that such health care provider or self-insurer has qualified for coverage under the provisions of this act, there is hereby established the health care stabilization fund. The fund shall be held in trust in the state treasury and accounted for separately from other state funds. The board of governors shall administer the fund or contract for the administration of the fund with an insurance company authorized to do business in this state.~~

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

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

~~(B) provide advice, information and testimony to the appropriate licensing or disciplinary authority regarding the qualifications of a health~~

1 care provider;

2 (C) prepare and publish ~~on or before October 1 of each year~~ a
3 summary of the fund's activity during the preceding fiscal year, including,
4 but not limited to, the amount collected from surcharges, the highest and
5 lowest surcharges assessed, the amount paid from the fund, the number of
6 judgments paid from the fund, the number of settlements paid from the
7 fund and the ~~amount in the fund at the end of the fiscal year~~; and

an annual report for submission to the health care stabilization
fund oversight committee that includes
balance

8 (D) have the authority to grant temporary exemptions from the
9 provisions of K.S.A. 40-3402 and 40-3404, and amendments thereto, to
10 health care providers who have exceptional circumstances and verify in
11 writing that the health care provider will not render professional services
12 in this state during the period of exemption. Whenever the board grants
13 such an exemption, the board shall notify the state agency ~~which that~~
14 licenses the exempted health care provider.

15 (2) The board shall consist of 11 persons appointed by the
16 commissioner of insurance, as provided by this subsection ~~(b)~~ and as
17 follows:

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

21 (B) three members who are representatives of Kansas hospitals and
22 who are on a list of nominees submitted to the commissioner by the
23 Kansas hospital association;

24 (C) two members who are licensed to practice medicine and surgery
25 in Kansas who are doctors of osteopathic medicine and who are on a list of
26 nominees submitted to the commissioner by the Kansas association of
27 osteopathic medicine;

28 (D) one member who is licensed to practice chiropractic in Kansas
29 and who is on a list of nominees submitted to the commissioner by the
30 Kansas chiropractic association;

31 (E) one member who is a licensed professional nurse authorized to
32 practice as a registered nurse anesthetist who is on a list of nominees
33 submitted to the commissioner by the Kansas association of nurse
34 anesthetists; *and*

35 (F) one member who is a representative of adult care homes who is
36 on a list of nominees submitted to the commissioner by statewide
37 associations comprised of members who represent adult care homes.

38 (3) When a vacancy occurs in the membership of the board of
39 governors created by this act, the commissioner shall appoint a successor
40 of like qualifications from a list of three nominees submitted to the
41 commissioner by the professional society or association prescribed by this
42 section for the category of health care provider required for the vacant
43 position on the board of governors. All appointments made shall be for a

1 timely either seek to obtain proper authority pursuant to this section to
2 admit the proposed ward or ward to a treatment facility and to consent to
3 further care and treatment, or shall otherwise assume responsibility for the
4 care of the proposed ward or ward, consistent with the authority of the
5 temporary guardian or guardian, and may arrange for the discharge from
6 the facility of the proposed ward or ward, unless the head of the treatment
7 facility shall file a petition requesting the involuntary commitment of the
8 proposed ward or ward to that or some other facility.

9 (1) As used herein, "treatment facility" means the Kansas
10 neurological institute, Larned state hospital, Osawatomie state hospital,
11 Parsons state hospital and training center, the Rainbow mental health
12 facility, any intermediate care facility for people with intellectual
13 disability, any psychiatric hospital licensed pursuant to K.S.A. ~~75-3307b~~
14 ~~2014 Supp. 39-2001 et seq.~~, and amendments thereto, and any other
15 facility for mentally ill persons or people with intellectual or
16 developmental disabilities licensed pursuant to K.S.A. ~~75-3307b~~ 2017
17 ~~Supp. 39-2001 et seq.~~, and amendments thereto, if the proposed ward or
18 ward is to be admitted as an inpatient or resident of that facility.

19 ~~Sec. 21. K.S.A. 2016 Supp. 65-1626 is hereby amended to read as~~
20 ~~follows: 65-1626. For the purposes of this act:~~

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

24 (1) A practitioner or pursuant to the lawful direction of a practitioner;
25 (2) the patient or research subject at the direction and in the presence
26 of the practitioner; or

27 (3) a pharmacist as authorized in K.S.A. 65-1635a, and amendments
28 thereto.

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

34 (c) "Application service provider" means an entity that sells
35 electronic prescription or pharmacy prescription applications as a hosted
36 service where the entity controls access to the application and maintains
37 the software and records on its server.

38 (d) "Authorized distributor of record" means a wholesale distributor
39 with whom a manufacturer has established an ongoing relationship to
40 distribute the manufacturer's prescription drug. An ongoing relationship is
41 deemed to exist between such wholesale distributor and a manufacturer
42 when the wholesale distributor, including any affiliated group of the
43 wholesale distributor, as defined in section 1504 of the internal revenue

1 code, complies with any one of the following: (1) The wholesale
2 distributor has a written agreement currently in effect with the
3 manufacturer evidencing such ongoing relationship; and (2) the wholesale
4 distributor is listed on the manufacturer's current list of authorized
5 distributors of record which *that* is updated by the manufacturer on no less
6 than a monthly basis.

7 (e) "Board" means the state board of pharmacy created by K.S.A. 74-
8 1603, and amendments thereto.

9 (f) "Brand exchange" means the dispensing of a different drug
10 product of the same dosage form and strength and of the same generic
11 name as the brand name drug product prescribed.

12 (g) "Brand name" means the registered trademark name given to a
13 drug product by its manufacturer, labeler or distributor.

14 (h) "Chain pharmacy warehouse" means a permanent physical
15 location for drugs or devices, or both, that acts as a central warehouse and
16 performs intracompany sales or transfers of prescription drugs or devices
17 to chain pharmacies that have the same ownership or control. Chain
18 pharmacy warehouses must be registered as wholesale distributors.

19 (i) "Co-licensor" means a pharmaceutical manufacturer that has
20 entered into an agreement with another pharmaceutical manufacturer to
21 engage in a business activity or occupation related to the manufacture or
22 distribution of a prescription drug and the national drug code on the drug
23 product label shall be used to determine the identity of the drug
24 manufacturer.

25 (j) "DEA" means the U.S. department of justice, drug enforcement
26 administration.

27 (k) "Deliver" or "delivery" means the actual, constructive or
28 attempted transfer from one person to another of any drug whether or not
29 an agency relationship exists.

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

35 (m) "Dispense" means to deliver prescription medication to the
36 ultimate user or research subject by or pursuant to the lawful order of a
37 practitioner or pursuant to the prescription of a mid-level practitioner.

38 (n) "Dispenser" means a practitioner or pharmacist who dispenses
39 prescription medication or a physician assistant who has authority to
40 dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b),
41 and amendments thereto.

42 (o) "Distribute" means to deliver, other than by administering or
43 dispensing, any drug.

1 ~~(p) "Distributor" means a person who distributes a drug;~~
2 ~~(q) "Drop shipment" means the sale by a manufacturer, that~~
3 ~~manufacturer's co-licensee, that manufacturer's third party logistics~~
4 ~~provider or that manufacturer's exclusive distributor, of the manufacturer's~~
5 ~~prescription drug to a wholesale distributor whereby the wholesaler~~
6 ~~distributor takes title but not possession of such prescription drug and the~~
7 ~~wholesaler distributor invoices the pharmacy, the chain pharmacy~~
8 ~~warehouse, or other designated person authorized by law to dispense or~~
9 ~~administer such prescription drug, and the pharmacy, the chain pharmacy,~~
10 ~~warehouse, or other designated person authorized by law to dispense or~~
11 ~~administer such prescription drug, receives delivery of the prescription~~
12 ~~drug directly from the manufacturer, that manufacturer's co-licensee, that~~
13 ~~manufacturer's third party logistics provider, or that manufacturer's~~
14 ~~exclusive distributor, of such prescription drug. Drop shipment shall be~~
15 ~~part of the "normal distribution channel."~~

16 ~~(r) "Drug" means: (1) Articles recognized in the official United States~~
17 ~~pharmacopoeia, or other such official compendiums of the United States,~~
18 ~~or official national formula; or any supplement of any of them; (2)~~
19 ~~articles intended for use in the diagnosis, cure, mitigation, treatment, or~~
20 ~~prevention of disease in human or other animals; (3) articles, other than~~
21 ~~food, intended to affect the structure or any function of the body of human~~
22 ~~or other animals; and (4) articles intended for use as a component of any~~
23 ~~articles specified in paragraph (1), (2) or (3); but does not include devices~~
24 ~~or their components, parts or accessories, except that the term "drug" shall~~
25 ~~not include amygdalin (laetrile) or any livestock remedy, if such livestock~~
26 ~~remedy had been registered in accordance with the provisions of article 5-~~
27 ~~of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.~~

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

40 ~~(t) "Electronic prescription" means an electronically prepared~~
41 ~~prescription that is authorized and transmitted from the prescriber to the~~
42 ~~pharmacy by means of electronic transmission.~~

43 ~~(u) "Electronic prescription application" means software that is used~~

1 to create electronic prescriptions and that is intended to be installed on the
2 prescriber's computers and servers where access and records are controlled
3 by the prescriber.

4 (v) "Electronic signature" means a confidential personalized digital
5 key code, number or other method for secure electronic data transmissions
6 which identifies a particular person as the source of the message,
7 authenticates the signatory of the message and indicates the person's
8 approval of the information contained in the transmission.

9 (w) "Electronic transmission" means the transmission of an electronic
10 prescription formatted as an electronic data file, from a prescriber's
11 electronic prescription application to a pharmacy's computer, where the
12 data file is imported into the pharmacy prescription application.

13 (x) "Electronically prepared prescription" means a prescription that is
14 generated using an electronic prescription application.

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

23 (z) "Facsimile transmission" or "fax transmission" means the
24 transmission of a digital image of a prescription from the prescriber or the
25 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
26 is not limited to, transmission of a written prescription between the
27 prescriber's fax machine and the pharmacy's fax machine; transmission of
28 an electronically prepared prescription from the prescriber's electronic
29 prescription application to the pharmacy's fax machine, computer or
30 printer; or transmission of an electronically prepared prescription from the
31 prescriber's fax machine to the pharmacy's fax machine, computer or
32 printer.

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

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

39 (A) inmates of a jail or correctional institution or facility;

40 (B) residents of a juvenile detention facility, as defined by the revised
41 Kansas code for care of children and the revised Kansas juvenile justice
42 code;

43 (C) students of a public or private university or college, a community

1 college or any other institution of higher learning which *that is* located in
2 Kansas;

3 (D) ~~employees of a business or other employer; or~~

4 ~~(E) persons receiving inpatient hospice services.~~

5 ~~(2) "Institutional drug room" does not include:~~

6 ~~(A) Any registered pharmacy;~~

7 ~~(B) any office of a practitioner; or~~

8 ~~(C) a location where no prescription-only drugs are dispensed and no~~
9 ~~prescription-only drugs other than individual prescriptions are stored or~~
10 ~~administered.~~

11 ~~(cc) "Intermediary" means any technology system that receives and~~
12 ~~transmits an electronic prescription between the prescriber and the~~
13 ~~pharmacy.~~

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

18 ~~(ee) "Medical care facility" shall have the meaning provided means~~
19 ~~the same as defined in K.S.A. 65-425, and amendments thereto, except~~
20 ~~that the term shall also include facilities licensed under the provisions of~~
21 ~~K.S.A. 2015 Supp. 75-3307b prior to its repeal or the same facilities~~
22 ~~licensed under K.S.A. 2016 Supp. 39-2001 et seq. and amendments~~
23 ~~thereto, except community mental health centers and facilities for people~~
24 ~~with intellectual disability.~~

25 ~~(ff) "Manufacture" means the production, preparation, propagation,~~
26 ~~compounding, conversion or processing of a drug either directly or~~
27 ~~indirectly by extraction from substances of natural origin, independently~~
28 ~~by means of chemical synthesis or by a combination of extraction and~~
29 ~~chemical synthesis and includes any packaging or repackaging of the drug~~
30 ~~or labeling or relabeling of its container, except that this term shall not~~
31 ~~include the preparation or compounding of a drug by an individual for the~~
32 ~~individual's own use or the preparation, compounding, packaging or~~
33 ~~labeling of a drug by:~~

34 ~~(1) A practitioner or a practitioner's authorized agent incident to such~~
35 ~~practitioner's administering or dispensing of a drug in the course of the~~
36 ~~practitioner's professional practice;~~

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

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

43 ~~(gg) "Manufacturer" means a person licensed or approved by the~~

1 FDA to engage in the manufacture of drugs and devices.

2 ~~(hh) "Mid-level practitioner" means a certified nurse-midwife~~
3 ~~engaging in the independent practice of midwifery under the independent~~
4 ~~practice of midwifery act, an advanced practice registered nurse issued a~~
5 ~~license pursuant to K.S.A. 65-1131, and amendments thereto, who has~~
6 ~~authority to prescribe drugs pursuant to a written protocol with a~~
7 ~~responsible physician under K.S.A. 65-1130, and amendments thereto, or a~~
8 ~~physician assistant licensed pursuant to the physician assistant licensure~~
9 ~~act who has authority to prescribe drugs pursuant to a written agreement~~
10 ~~with a supervising physician under K.S.A. 65-2808, and amendments~~
11 ~~thereto.~~

12 ~~(ii) "Normal distribution channel" means a chain of custody for a~~
13 ~~prescription-only drug that goes from a manufacturer of the prescription-~~
14 ~~only drug from that manufacturer to that manufacturer's co-licensed~~
15 ~~partner, from that manufacturer to that manufacturer's third-party logistics~~
16 ~~provider or from that manufacturer to that manufacturer's exclusive~~
17 ~~distributor, directly or by drop shipment, to:~~

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

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

23 ~~(3) A wholesale distributor to a chain pharmacy warehouse to that~~
24 ~~chain pharmacy warehouse's intracompany pharmacy to a patient or other~~
25 ~~designated persons authorized by law to dispense or administer such drug~~
26 ~~to a patient; or~~

27 ~~(4) A chain pharmacy warehouse to the chain pharmacy warehouse's~~
28 ~~intracompany pharmacy to a patient or other designated persons authorized~~
29 ~~by law to dispense or administer such drug to a patient.~~

30 ~~(j) "Person" means individual, corporation, government,~~
31 ~~governmental subdivision or agency, partnership, association or any other~~
32 ~~legal entity.~~

33 ~~(kk) "Pharmacist" means any natural person licensed under this act to~~
34 ~~practice pharmacy.~~

35 ~~(ll) "Pharmacist-in-charge" means the pharmacist who is responsible~~
36 ~~to the board for a registered establishment's compliance with the laws and~~
37 ~~regulations of this state pertaining to the practice of pharmacy,~~
38 ~~manufacturing of drugs and the distribution of drugs. The pharmacist in-~~
39 ~~charge shall supervise such establishment on a full-time or a part-time~~
40 ~~basis and perform such other duties relating to supervision of a registered~~
41 ~~establishment as may be prescribed by the board by rules and regulations.~~
42 ~~Nothing in this definition shall relieve other pharmacists or persons from~~
43 ~~their responsibility to comply with state and federal laws and regulations.~~

1 (mm) "Pharmacist intern" means: (1) A student currently enrolled in
2 an accredited pharmacy program; (2) a graduate of an accredited pharmacy
3 program serving an internship; or (3) a graduate of a pharmacy program
4 located outside of the United States which *that* is not accredited and who
5 has successfully passed equivalency examinations approved by the board.
6 (nn) "Pharmacy," "drugstore," or "apothecary" means premises,
7 laboratory area or other place: (1) Where drugs are offered for sale where
8 the profession of pharmacy is practiced and where prescriptions are
9 compounded and dispensed; or (2) which *that* has displayed upon it or
10 within it the words "pharmacist," "pharmaceutical chemist," "pharmacy,"
11 "apothecary," "drugstore," "druggist," "drugs," "drug sundries" or any of
12 these words or combinations of these words or words of similar import,
13 either in English or any sign containing any of these words; or (3) where
14 the characteristic symbols of pharmacy or the characteristic prescription
15 sign "Rx" may be exhibited. As used in this subsection, premises refers
16 only to the portion of any building or structure leased, used or controlled
17 by the licensee in the conduct of the business registered by the board at the
18 address for which the registration was issued.
19 (oo) "Pharmacy prescription application" means software that is used
20 to process prescription information, is installed on a pharmacy's computers
21 or servers, and is controlled by the pharmacy.
22 (pp) "Pharmacy technician" means an individual who, under the
23 direct supervision and control of a pharmacist, may perform packaging,
24 manipulative, repetitive or other nondiscretionary tasks related to the
25 processing of a prescription or medication order and who assists the
26 pharmacist in the performance of pharmacy-related duties but who does
27 not perform duties restricted to a pharmacist.
28 (qq) "Practitioner" means a person licensed to practice medicine and
29 surgery, dentist, podiatrist, veterinarian, optometrist or scientific
30 investigator or other person authorized by law to use a prescription-only
31 drug in teaching or chemical analysis or to conduct research with respect
32 to a prescription-only drug.
33 (rr) "Preceptor" means a licensed pharmacist who possesses at least
34 two years' experience as a pharmacist and who supervises students
35 obtaining the pharmaceutical experience required by law as a condition to
36 taking the examination for licensure as a pharmacist.
37 (ss) "Prescriber" means a practitioner or a mid-level practitioner;
38 (tt) "Prescription" or "prescription order" means: (1) An order to be
39 filled by a pharmacist for prescription medication issued and signed by a
40 prescriber in the authorized course of such prescriber's professional
41 practice; or (2) an order transmitted to a pharmacist through word of
42 mouth, note, telephone or other means of communication directed by such
43 prescriber, regardless of whether the communication is oral, electronic,

7-15

1 ~~facsimile or in-printed form.~~

2 ~~(uu) "Prescription medication" means any drug, including label and~~
3 ~~container, according to context, which is dispensed pursuant to a~~
4 ~~prescription order.~~

5 ~~(vv) "Prescription-only drug" means any drug whether intended for~~
6 ~~use by human or animal, required by federal or state law, including 21~~
7 ~~U.S.C. § 353, to be dispensed only pursuant to a written or oral~~
8 ~~prescription or order of a practitioner or is restricted to use by practitioners~~
9 ~~only.~~

10 ~~(ww) "Probation" means the practice or operation under a temporary~~
11 ~~license, registration or permit or a conditional license, registration or~~
12 ~~permit of a business or profession for which a license, registration or~~
13 ~~permit is granted by the board under the provisions of the pharmacy act of~~
14 ~~the state of Kansas requiring certain actions to be accomplished or certain~~
15 ~~actions not to occur before a regular license, registration or permit is~~
16 ~~issued.~~

17 ~~(xx) "Professional incompetency" means:~~

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

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

24 ~~(3) a pattern of pharmacy practice or other behavior which that~~
25 ~~demonstrates a manifest incapacity or incompetence to practice pharmacy;~~

26 ~~(yy) "Readily retrievable" means that records kept by automatic data-~~
27 ~~processing applications or other electronic or mechanized record-keeping~~
28 ~~systems can be separated out from all other records within a reasonable~~
29 ~~time not to exceed 48 hours of a request from the board or other authorized~~
30 ~~agent or that hard-copy records are kept on which certain items are~~
31 ~~asterisked, relined or in some other manner visually identifiable apart~~
32 ~~from other items appearing on the records.~~

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

40 ~~(aaa) "Secretary" means the executive secretary of the board.~~

41 ~~(bbb) "Third party logistics provider" means an entity that: (1)~~
42 ~~Provides or coordinates warehousing, distribution or other services on~~
43 ~~behalf of a manufacturer, but does not take title to the prescription drug or~~

1 have general responsibility to direct the prescription drug's sale or
2 disposition; (2) is registered as a wholesale distributor under the pharmacy
3 act of the state of Kansas; and (3) to be considered part of the normal
4 distribution channel, must also be an authorized distributor of record.
5 (ccc) "Unprofessional conduct" means:
6 (1) fraud in securing a registration or permit;
7 (2) intentional adulteration or mislabeling of any drug, medicine,
8 chemical or poison;
9 (3) causing any drug, medicine, chemical or poison to be adulterated
10 or mislabeled, knowing the same to be adulterated or mislabeled;
11 (4) intentionally falsifying or altering records or prescriptions;
12 (5) unlawful possession of drugs and unlawful diversion of drugs to
13 others;
14 (6) willful betrayal of confidential information under K.S.A. 65-1654,
15 and amendments thereto;
16 (7) conduct likely to deceive, defraud or harm the public;
17 (8) making a false or misleading statement regarding the licensee's
18 professional practice or the efficacy or value of a drug;
19 (9) commission of any act of sexual abuse, misconduct or
20 exploitation related to the licensee's professional practice; or
21 (10) performing unnecessary tests, examinations or services which
22 have no legitimate pharmaceutical purpose.
23 (ddd) "Vaccination protocol" means a written protocol agreed to by a
24 pharmacist and a person licensed to practice medicine and surgery by the
25 state board of healing arts, which that establishes procedures and
26 recordkeeping and reporting requirements for administering a vaccine by
27 the pharmacist for a period of time specified therein, not to exceed two
28 years.
29 (eee) "Valid prescription order" means a prescription that is issued for
30 a legitimate medical purpose by an individual prescriber licensed by law to
31 administer and prescribe drugs and acting in the usual course of such
32 prescriber's professional practice. A prescription issued solely on the basis
33 of an internet-based questionnaire or consultation without an appropriate
34 prescriber-patient relationship is not a valid prescription order.
35 (fff) "Veterinary medical teaching hospital pharmacy" means any
36 location where veterinary medicine and drugs are stored as part of an accredited
37 college of veterinary medicine and from which prescription-only drugs are
38 distributed for use in treatment of or administration to a nonhuman.
39 (ggg) "Wholesale distributor" means any person engaged in
40 wholesale distribution of prescription drugs or devices in or into the state,
41 including but not limited to, manufacturers, repackagers, own-label
42 distributors, private-label distributors, jobbers, brokers, warehouses,
43 including manufacturers' and distributors' warehouses, co-licensees,

1 exclusive distributors, third party logistics providers, chain pharmacy
2 warehouses that conduct wholesale distributions, and wholesale drug
3 warehouses, independent wholesale drug traders and retail pharmacies that
4 conduct wholesale distributions. Wholesale distributor shall not include
5 persons engaged in the sale of durable medical equipment to consumers or
6 patients.

7 (hh) "Wholesale distribution" means the distribution of prescription
8 drugs or devices by wholesale distributors to persons other than consumers
9 or patients, and includes the transfer of prescription drugs by a pharmacy
10 to another pharmacy if the total number of units of transferred drugs
11 during a twelve-month period does not exceed 5% of the total number of
12 all units dispensed by the pharmacy during the immediately preceding
13 twelve 12-month period. Wholesale distribution does not include:

14 (1) The sale, purchase or trade of a prescription drug or device, an
15 offer to sell, purchase or trade a prescription drug or device, or the
16 dispensing of a prescription drug or device pursuant to a prescription;

17 (2) The sale, purchase or trade of a prescription drug or device or an
18 offer to sell, purchase or trade a prescription drug or device for emergency-
19 medical reasons;

20 (3) Intra-company transactions, as defined in this section, unless in
21 violation of own use provisions;

22 (4) The sale, purchase or trade of a prescription drug or device or an
23 offer to sell, purchase or trade a prescription drug or device among
24 hospitals, chain pharmacy warehouses, pharmacies or other health care
25 entities that are under common control;

26 (5) The sale, purchase or trade of a prescription drug or device or the
27 offer to sell, purchase or trade a prescription drug or device by a charitable
28 organization described in 503(c)(3) of the internal revenue code of 1954 to
29 a nonprofit affiliate of the organization to the extent otherwise permitted
30 by law;

31 (6) The purchase or other acquisition by a hospital or other similar
32 health care entity that is a member of a group purchasing organization of a
33 prescription drug or device for its own use from the group purchasing
34 organization or from other hospitals or similar health care entities that are
35 members of these organizations;

36 (7) The transfer of prescription drugs or devices between pharmacies
37 pursuant to a centralized prescription processing agreement;

38 (8) The sale, purchase or trade of blood and blood components
39 intended for transfusion;

40 (9) The return of recalled, expired, damaged or otherwise non-salable
41 prescription drugs, when conducted by a hospital, health care entity,
42 pharmacy, chain pharmacy warehouse or charitable institution in
43 accordance with the board's rules and regulations;

1 ~~(10) the sale, transfer, merger or consolidation of all or part of the~~
2 ~~business of a retail pharmacy or pharmacies from or with another retail~~
3 ~~pharmacy or pharmacies, whether accomplished as a purchase and sale of~~
4 ~~stock or business assets, in accordance with the board's rules and~~
5 ~~regulations;~~
6 ~~(11) the distribution of drug samples by manufacturers' and~~
7 ~~authorized distributors' representatives;~~
8 ~~(12) the sale of minimal quantities of drugs by retail pharmacies to~~
9 ~~licensed practitioners for office use; or~~
10 ~~(13) the sale or transfer from a retail pharmacy or chain pharmacy~~
11 ~~warehouse of expired, damaged, returned or recalled prescription drugs to~~
12 ~~the original manufacturer, originating wholesale distributor or to a third~~
13 ~~party, returns processor in accordance with the board's rules and~~
14 ~~regulations.~~
15 ~~Sec. 22, K.S.A. 2016 Supp. 65-1669 is hereby amended to read as~~
16 ~~follows: 65-1669. As used in the utilization of unused medications: act~~
17 ~~(a) "Adult care home" has the same meaning as such term is means~~
18 ~~the same as defined in K.S.A. 39-923, and amendments thereto.~~
19 ~~(b) "Community mental health center" has the same meaning as such~~
20 ~~term is means the same as defined in K.S.A. 75-307e-2016 Supp. 30-~~
21 ~~2002, and amendments thereto.~~
22 ~~(c) "Donating entities" means adult care homes, mail service~~
23 ~~pharmacies, institutional drug rooms and medical care facilities who elect~~
24 ~~to participate in the program.~~
25 ~~(d) "Drug" has the same meaning as such term is means the same as~~
26 ~~defined in K.S.A. 65-1626, and amendments thereto.~~
27 ~~(e) "Federally-qualified health center" means a center which that~~
28 ~~meets the requirements for federal funding under 42 U.S.C. § 1396d(1) of~~
29 ~~the public health service act and amendments thereto, and which that has~~
30 ~~been designated as a "federally-qualified health center" by the federal~~
31 ~~government.~~
32 ~~(f) "Indigent health care clinic" has the same meaning as such term is~~
33 ~~means the same as defined in K.S.A. 75-6102, and amendments thereto.~~
34 ~~(g) "Institutional drug room" has the meaning as such term is means~~
35 ~~the same as defined in K.S.A. 65-1626(b), and amendments thereto.~~
36 ~~(h) "Mail service pharmacy" means a licensed Kansas pharmacy that~~
37 ~~ships, mails or delivers by any lawful means a lawfully dispensed~~
38 ~~medication in tamper-resistant packaging to residents of this state or~~
39 ~~another state.~~
40 ~~(i) "Medical care facility" has the same meaning as such term is~~
41 ~~means the same as defined in K.S.A. 65-425, and amendments thereto.~~
42 ~~(j) "Medically indigent" has the same meaning as such term is means~~
43 ~~the same as defined in K.S.A. 75-6102, and amendments thereto.~~

1 ~~(4) "Medication" means a prescription drug or drug as defined by this~~
2 ~~section.~~

3 ~~(1) "Mid-level practitioner" has the same meaning as such term is~~
4 ~~mean the same as defined in K.S.A. 65-1626, and amendments thereto.~~

5 ~~(m) "Practitioner" has the same meaning as such term is means the~~
6 ~~same as defined in K.S.A. 65-1626, and amendments thereto.~~

7 ~~(n) "Prescription drug" means a drug which that may be dispensed~~
8 ~~only upon prescription of a practitioner or mid-level practitioner~~
9 ~~authorized by law and which that is approved for safety and effectiveness~~
10 ~~as a prescription drug under section 505 or 507 of the federal food, drug~~
11 ~~and cosmetic act, 52 Stat. 1040 (1938), 21 U.S.C.A. § 301,~~

12 ~~(o) "Qualifying health center or clinic" means an indigent health care clinic,~~
13 ~~federally qualified health center or community mental health center;~~

14 ~~(p) "Samples of medications or injectables" means a unit of drug that~~
15 ~~is not intended to be sold and is intended to promote the sale of the drug.~~

16 ~~Sec. 23. K.S.A. 2016 Supp. 65-2895 is hereby amended to read as~~
17 ~~follows: 65-2895-(a) There is hereby created an institutional license which~~
18 ~~that may be issued by the board to a person who:~~

19 ~~(1) Is a graduate of an accredited school of medicine or osteopathic~~
20 ~~medicine or a school which the whose graduates have been licensed in~~
21 ~~another state or states which that have standards similar to Kansas;~~

22 ~~(2) Has completed at least two years in a postgraduate training~~
23 ~~program in the United States approved by the board; and~~

24 ~~(3) Who is employed as provided in this section.~~

25 ~~(b) Subject to the restrictions of this section, the institutional license~~
26 ~~shall confer upon the holder the right and privilege to practice medicine~~
27 ~~and surgery and shall obligate the holder to comply with all requirements~~
28 ~~of such license.~~

29 ~~(c) The practice privileges of institutional license holders are~~
30 ~~restricted and shall be valid only during the period in which:~~

31 ~~(1) The holder is employed by any institution within the Kansas~~
32 ~~department for aging and disability services; employed by any institution~~
33 ~~within the department of corrections or employed pursuant to a contract~~
34 ~~entered into by the Kansas department for aging and disability services or~~
35 ~~the department of corrections with a third party; and only within the~~
36 ~~institution to which the holder is assigned; and~~

37 ~~(2) The holder has been employed for at least three years as described~~
38 ~~in subsection (c)(1) and is employed to provide mental health services in~~
39 ~~Kansas in the employ of a Kansas licensed community mental health~~
40 ~~center; or one of its contracted affiliates; or a federal, state, county, or~~
41 ~~municipal agency; or other political subdivision; or a contractor of a~~
42 ~~federal, state, county or municipal agency; or other political subdivision; or~~
43 ~~a duly chartered educational institution; or a medical care facility; licensed~~

61-2

1 under K.S.A. 65-425 et seq., and amendments thereto, in a psychiatric
 2 hospital licensed under K.S.A. 75-3307b-2016 Supp. 39-2001 et seq., and
 3 amendments thereto, or a contractor of such educational institution,
 4 medical care facility or psychiatric hospital, and whose practice, in any
 5 such employment is limited to providing mental health services, is a part
 6 of the duties of such licensee's paid position and is performed solely on
 7 behalf of the employer.

8 (d) An institutional license shall be canceled on the date established
 9 by rules and regulations of the board which that may provide for renewal
 10 throughout the year on a continuing basis. In each case in which an
 11 institutional license is renewed for a period of time of more or less than 12
 12 months, the board may prorate the amount of the fee established under
 13 K.S.A. 65-2852, and amendments thereto. The request for renewal shall be
 14 on a form provided by the board and shall be accompanied by the
 15 prescribed fee which that shall be paid not later than the renewal date of
 16 the license. An institutional license may be renewed for an additional one-
 17 year period if the applicant for renewal meets the requirements under
 18 subsection (c), has submitted an application for renewal on a form
 19 provided by the board, has paid the renewal fee established by rules and
 20 regulations of the board of not to exceed \$500 and has submitted evidence
 21 of satisfactory completion of a program of continuing education required
 22 by the board. In addition, an applicant for renewal who is employed as
 23 described in subsection (c)(1) shall submit with the application for renewal
 24 a recommendation that the institutional license be renewed signed by the
 25 superintendent of the institution to which the institutional license holder is
 26 assigned.

27 (e) Nothing in this section shall prohibit any person who was issued
 28 an institutional license prior to the effective date of this section from
 29 having the institutional license reinstated by the board if the person meets
 30 the requirements for an institutional license described in subsection (a).

31 (f) This section shall be a part of and supplemental to the Kansas
 32 healing arts act.

33 Sec. 24. K.S.A. [2016] Supp. 65-4412 is hereby amended to read as
 34 follows: 65-4412. (a) "Community facilities for people with intellectual
 35 disability" means: (1) Any community facility for people with intellectual
 36 disability organized pursuant to the provisions of K.S.A. 19-4001 to
 37 through 19-4015, inclusive, and amendments thereto, and licensed in
 38 accordance with the provisions of K.S.A. 75-3307b [2016] Supp. 39-2001 et
 39 seq., and amendments thereto; or (2) any intellectual disability governing
 40 board which that contracts with a nonprofit corporation to provide services
 41 for people with intellectual disability.

42 (b) "Secretary" means secretary for aging and disability services.

43 Sec. 25. K.S.A. [2016] Supp. 65-4432 is hereby amended to read as

2017

2017

2017

1 (h) "State institution for people with intellectual disability" means
2 Winfield state hospital and training center, Parsons state hospital and
3 training center and the Kansas neurological institute.

4 (i) "Community service provider" means: (1) A community facility
5 for people with intellectual disability organized pursuant to the provisions
6 of K.S.A. 19-4001 through 19-4015, and amendments thereto, and
7 licensed in accordance with the provisions of K.S.A. 75-3397b 2016 Supp.
8 39-2001 *et seq.*, and amendments thereto; (2) community service provider
9 as provided in the developmental disabilities reform act; or (3) a nonprofit
10 corporation ~~which~~ *that* provides services for people with intellectual
11 disability pursuant to a contract with an intellectual disability governing
12 board.

13 ~~[Sec. 29. K.S.A. 2016 Supp. 65-6805 is hereby amended to read as~~
14 ~~follows: 65-6805. Each medical care facility as defined by ~~subsection (b)~~~~
15 ~~of K.S.A. 65-425(f), and amendments thereto; health care provider as~~
16 ~~defined in K.S.A. 40-3401, and amendments thereto; providers of health~~
17 ~~care as defined in ~~subsection (f)~~ of K.S.A. 65-5001(f), and amendments~~
18 ~~thereto; health care personnel as defined in ~~subsection (e)~~ of K.S.A. 65-~~
19 ~~5001(f), and amendments thereto; home health agency as defined by~~
20 ~~~~subsection (b)~~ of in K.S.A. 65-5101(b), and amendments thereto;~~
21 ~~psychiatric hospitals licensed under K.S.A. 75-3397b 2016 Supp. 39-2001~~
22 ~~*et seq.*, and amendments thereto; state institutions for people with~~
23 ~~intellectual disability; community facilities for people with intellectual~~
24 ~~disability as defined under K.S.A. 65-4412, and amendments thereto;~~
25 ~~community mental health center as defined under K.S.A. 65-1432, and~~
26 ~~amendments thereto; adult care homes as defined by K.S.A. 39-923, and~~
27 ~~amendments thereto; laboratories described in K.S.A. 65-1,107, and~~
28 ~~amendments thereto; pharmacies; board of nursing; Kansas dental board;~~
29 ~~board of examiners in optometry; state board of pharmacy; state board of~~
30 ~~healing arts and third-party payors, including, but not limited to, licensed~~
31 ~~insurers, medical and hospital service corporations, health maintenance~~
32 ~~organizations, fiscal intermediaries for government-funded programs and~~
33 ~~self-funded employee health plans, shall file health care data with the~~
34 ~~department of health and environment as prescribed by the secretary of~~
35 ~~health and environment. The provisions of this section shall not apply to~~
36 ~~any individual, facility or other entity under this section which *that* uses~~
37 ~~spiritual means through prayer alone in accordance with the tenets and~~
38 ~~practices of a recognized church or religious denomination for the~~
39 ~~treatment or cure of disease.~~

40 ~~Sec. 30. K.S.A. 74-3292 is hereby amended to read as follows: 74-~~
41 ~~3292. As used in this act:~~

42 (a) "Committee" means the nursing service scholarship review
43 committee established under K.S.A. 74-3290, and amendments thereto.

1 (b) ~~"Executive officer" means the chief executive officer of the state~~
2 ~~board of regents appointed under K.S.A. 74-3203a, and amendments~~
3 ~~thereo.~~

4 (c) ~~"Rural area" means any county of this state other than Douglas,~~
5 ~~Johnson, Sedgwick, Shawnee and Wyandotte counties.~~

6 (d) ~~"School of nursing" means a school within the state of Kansas~~
7 ~~which that is approved by the state board of nursing to grant an associate~~
8 ~~degree or a baccalaureate degree in professional nursing or a certificate of~~
9 ~~completion in practical nursing.~~

10 (e) ~~"Sponsor" means any adult care home licensed under the adult~~
11 ~~care home licensure act, any medical care facility licensed under K.S.A.~~
12 ~~65-425 et seq., and amendments thereto, any psychiatric hospital licensed~~
13 ~~under K.S.A. 75-3307b-2016 Supp. 39-2001 et seq., and amendments~~
14 ~~thereto, any home health agency licensed under K.S.A. 65-5101 et seq.,~~
15 ~~and amendments thereto, any local health department as defined in K.S.A.~~
16 ~~65-241, and amendments thereto, and any state agency which employs~~
17 ~~licensed practical nurses or licensed professional nurses.~~

See Appendix B (attached)

18 Sec. 31. K.S.A. [2017] Supp. 75-5923 is hereby amended to read as
19 follows: 75-5923. (a) The secretary for aging and disability services shall
20 establish a telephone system to assist older Kansans, friends and relatives
21 of older Kansans and other persons in obtaining information about and
22 access to services available to both institutionalized and non-
23 institutionalized older Kansans. The telephone system shall be designed to
24 permit any person in the state to place a toll-free call into the system.

And by renumbering sections accordingly

25 (b) The secretary for aging and disability services shall:

26 (1) Publicize the existence and purpose of the toll-free telephone
27 system established by this section and the telephone number of such
28 system;

29 (2) develop policies and procedures to document requests for
30 assistance and monitor follow-up on such requests;

31 (3) develop policies and procedures to maintain confidentiality of
32 requests for assistance;

33 (4) develop a program to train and coordinate the use of older
34 Kansans within the toll-free telephone system;

35 (5) provide as part of the toll-free telephone system a call-forward
36 system to assist in providing access to information; and

37 (6) develop a handbook of information to answer requests and for
38 further referral.

39 (c) Upon written notification by the secretary for aging and disability
40 services, every adult care home, as defined in ~~subsection (a)(1)~~ of K.S.A.
41 39-923(a)(1), and amendments thereto, title XX adult residential home
42 licensed under K.S.A. 75-3307b [2017] Supp. 39-2001 et seq., and
43 amendments thereto, recuperation center, as defined in ~~subsection (g)~~ of

2017

1 and, upon conviction therefor, shall be subject to the penalties provided for
2 in K.S.A. 79-3615(l), and amendments thereto. The provisions of this
3 subsection shall expire and have no effect on and after July 1, 2019.

4 Sec. 35. K.S.A. 19-4016, 40-2,116, ~~40-12a01 and 74-3292~~ and

5 K.S.A. ~~4017~~ Supp. 12-736, 21-5417, 21-6109, 22-4612, 36-501, 39-1430,

6 39-1431, 39-1433, 39-1602, 39-1903, 40-2,105, 40-2,105a, 40-3401, 40-

7 3403, 59-2946, 59-29b46, 59-3077, ~~65-1626, 65-1669, 65-2895~~ 65-4412,

8 65-4432, 65-4915, 65-4921, 65-5601, 65-6805, 75-5923, 75-6102, 79-

9 201b and 79-3606 are hereby repealed.

10 Sec. 36. This act shall take effect and be in force from and after its
11 publication in the statute book.

and 40-12a01
2017

(attachment page 1)

Sec. 16, K.S.A. 2017 Supp. 40-3401 is hereby amended to read as follows: 40-3401. As used in this act, the following terms shall have the meanings respectively ascribed to them hereinafter:

- (a) "Applicant" means any healthcare provider.
- (b) "Basic coverage" means a policy of professional liability insurance required to be maintained by each healthcare provider pursuant to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.
- (c) "Commissioner" means the commissioner of insurance.
- (d) "Fiscal year" means the year commencing on the effective date of this act and each year, commencing on the first day of July thereafter.
- (e) "Fund" means the healthcare stabilization fund established pursuant to K.S.A. 40-3403(a), and amendments thereto.
- (f) "Healthcare provider" means a person licensed to practice any branch of the healing arts by the state board of healing arts, a person who holds a temporary permit to practice any branch of the healing arts issued by the state board of healing arts, a person engaged in a postgraduate training program approved by the board of healing arts, a medical care facility licensed by the state of Kansas, a podiatrist licensed by the state board of healing arts, a health maintenance organization issued a certificate of authority by the commissioner, an optometrist licensed by the board of examiners in optometry, a pharmacist licensed by the state board of pharmacy, a licensed professional nurse who is authorized to practice as a registered nurse anesthetist, a licensed professional nurse who has been granted a temporary authorization to practice nurse anesthesia under K.S.A. 65-1153, and amendments thereto, a professional corporation organized pursuant to the professional corporation law of Kansas by persons who are authorized by such law to form such a corporation and who are healthcare providers as defined by this subsection, a Kansas limited liability company organized for the purpose of rendering professional services by its members who are healthcare providers as defined by this subsection and who are legally authorized to render the professional services for which the limited liability company is organized, a partnership of persons who are healthcare providers under this subsection, a Kansas not-for-profit corporation organized for the purpose of rendering professional services by persons who are healthcare providers as defined by this subsection, a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine, a dentist certified by the state board of healing arts to administer anesthetics under K.S.A. 65-2899, and amendments thereto, a psychiatric hospital licensed prior to January 1, 1988, and continuously thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its repeal, and K.S.A. 2017 Supp. 39-2001 et seq., and amendments thereto, or a mental health center or mental health clinic licensed by the state of Kansas. On and after January 1, 2015, "healthcare provider" also means a physician assistant licensed by the state board of healing arts, a licensed advanced practice registered nurse who is authorized by the state board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a licensed advanced practice registered nurse who has been granted a temporary authorization by the state board of nursing to practice as an advanced practice registered nurse in the classification of a nurse-midwife, a nursing facility licensed by the state of Kansas, an assisted living facility licensed by the state of Kansas or a residential healthcare facility licensed by the state of Kansas. "healthcare provider" does not include: (1) Any state institution for people with intellectual disability; (2) any state psychiatric hospital; (3) any person holding an exempt license issued by the state board of healing arts or the state board of nursing; (4) any person holding a visiting clinical professor license from the state board of healing arts; (5) any person holding an inactive license issued by the state board of healing arts; (6) any person holding a federally active license issued by the state board of healing arts; (7) an advanced practice registered nurse who is authorized by the state board of nursing to practice as an advanced practice registered nurse in the classification of nurse-midwife or nurse anesthetist and who practices solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who provides professional services as a charitable healthcare provider as defined under K.S.A. 75-6102, and amendments thereto; or (8) a physician assistant licensed by the state board of healing arts who practices solely in the course of employment or active duty in the United States government or any of its departments, bureaus or agencies or who provides professional services as a charitable healthcare provider as defined under K.S.A. 75-6102, and amendments thereto.

(g) "Inactive healthcare provider" means a person or other entity who purchased basic coverage or qualified as a self-insurer on or subsequent to the effective date of this act but who, at the time a claim is made for personal injury or death arising out of the rendering of or the failure to render professional services by such healthcare provider, does not have basic coverage or self-insurance in effect solely because such person is no longer engaged in rendering professional service as a healthcare provider.

(h) "Insurer" means any corporation, association, reciprocal exchange, inter-insurer and any other legal entity authorized to write bodily injury or property damage liability insurance in this state, including workers compensation and automobile liability insurance, pursuant to the provisions of the acts contained in article 9, 11, 12 or 16 of chapter 40 of the Kansas Statutes Annotated, and amendments thereto.

(i) "Plan" means the operating and administrative rules and procedures developed by insurers and rating organizations or the commissioner to make professional liability insurance available to healthcare providers.

(j) "Professional liability insurance" means insurance providing coverage for legal liability arising out of the performance of professional services rendered or which that should have been rendered by a healthcare provider.

(k) "Rating organization" means a corporation, an unincorporated association, a partnership or an individual licensed pursuant to K.S.A. 40-956, and amendments thereto, to make rates for professional liability insurance.

(l) "Self-insurer" means a healthcare provider who qualifies as a self-insurer pursuant to K.S.A. 40-3414, and amendments thereto.

(m) "Medical care facility" means the same when used in the healthcare provider insurance availability act as the meaning ascribed to that term defined in K.S.A. 65-425, and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a medical care facility.

(n) "Mental health center" means a mental health center licensed by the state of Kansas under K.S.A. [75-3307h] 2017 Supp. 39-2001 et seq., and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health center.

(o) "Mental health clinic" means a mental health clinic licensed by the state of Kansas under K.S.A. [75-3307h] 2017 Supp. 39-2001 et seq., and amendments thereto, except that as used in the healthcare provider insurance availability act such term, as it relates to insurance coverage under the healthcare provider insurance availability act, also includes any director, trustee, officer or administrator of a mental health clinic.

(p) "State institution for people with intellectual disability" means Winfield state hospital and training center, Parsons state hospital and training center and the Kansas neurological institute.

(q) "State psychiatric hospital" means Larned state hospital, Osawatomie state hospital and Rainbow mental health facility.

(r) "Person engaged in residency training" means:

(1) A person engaged in a postgraduate training program approved by the state board of healing arts who is employed by and is studying at the university of Kansas medical center only when such person is engaged in medical activities [which] that do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and [which] that have not been approved by the dean of the school of medicine and the executive vice-chancellor of the university of Kansas medical center. Persons engaged in residency training shall be considered resident healthcare providers for purposes of K.S.A. 40-3401 et seq., and amendments thereto; and

(2) a person engaged in a postgraduate training program approved by the state board of healing arts who is employed by a nonprofit corporation organized to administer the graduate medical education programs of community hospitals or medical care facilities affiliated with the university of Kansas school of medicine or who is employed by an affiliate of the university of Kansas school of medicine as defined in K.S.A. 76-367, and amendments thereto, only when such person is engaged in medical activities [which] that do not include extracurricular, extra-institutional medical service for which such person receives extra compensation and [which] that have not been approved by the chief operating officer of the nonprofit corporation or the chief operating officer of the affiliate and the executive vice-chancellor of the university of Kansas medical center.

(s) "Full-time physician faculty employed by the university of Kansas medical center" means a person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center when such person is providing healthcare. A person licensed to practice medicine and surgery who holds a full-time appointment at the university of Kansas medical center may also be employed part-time by the United States department of veterans affairs if such employment is approved by the executive vice-chancellor of the university of Kansas medical center.

(attachment page 3)

- (t) "Sexual act" or "sexual activity" means [that] sexual conduct [which] that constitutes a criminal or tortious act under the laws of the state of Kansas.
- (u) "Board" means the board of governors created by K.S.A. 40-3403, and amendments thereto.
- (v) "Board of directors" means the governing board created by K.S.A. 40-3413, and amendments thereto.
- (w) "Locum tenens contract" means a temporary agreement not exceeding 182 days per calendar year that employs a healthcare provider to actively render professional services in this state.
- (x) "Professional services" means patient care or other services authorized under the act governing licensure of a healthcare provider.
- (y) "Healthcare facility" means a nursing facility, an assisted living facility or a residential healthcare facility as all such terms are defined in K.S.A. 39-923, and amendments thereto.
- (z) "Charitable healthcare provider" means the same as defined in K.S.A. 75-6102, and amendments thereto.

Appendix B

(attachment page 1)

Sec. 29. K.S.A. 2017 Supp. 65-6805 is hereby amended to read as follows: 65-6805. Each medical care facility as defined by K.S.A. 65-425, and amendments thereto; health care provider as defined in K.S.A. 40-3401, and amendments thereto; providers of health care as defined in K.S.A. 65-5001, and amendments thereto; health care personnel as defined in K.S.A. 65-5001, and amendments thereto; home health agency as defined by K.S.A. 65-5101, and amendments thereto; psychiatric hospitals licensed under K.S.A. 75-3307b 2017 Supp. 39-2001 et seq, and amendments thereto; state institutions for people with intellectual disability; community facilities for people with intellectual disability as defined under K.S.A. 65-4412, and amendments thereto; community mental health center as defined under K.S.A. 65-4432, and amendments thereto; adult care homes as defined by K.S.A. 39-923, and amendments thereto; laboratories described in K.S.A. 65-1,107, and amendments thereto; pharmacies; board of nursing; Kansas dental board; board of examiners in optometry; state board of pharmacy; state board of healing arts and third-party payors, including, but not limited to, licensed insurers, medical and hospital service corporations, health maintenance organizations, fiscal intermediaries for government-funded programs and self-funded employee health plans, shall file health care data with the department of health and environment as prescribed by the secretary of health and environment. The provisions of this section shall not apply to any individual, facility or other entity under this section which that uses spiritual means through prayer alone in accordance with the tenets and practices of a recognized church or religious denomination for the treatment or cure of disease.