

**SENATE BILL No. 377**

By Committee on Public Health and Welfare

2-5

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1 AN ACT concerning health and healthcare; relating to the practice of  
2 pharmacy; authorizing pharmacists to administer a drug by injection  
3 pursuant to a prescription order; amending K.S.A. 2017 Supp. 65-1626  
4 and repealing the existing section.

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

7 New Section 1. (a) A licensed pharmacist may administer a drug by  
8 injection to a patient pursuant to a prescription order, unless the  
9 prescription order includes the words "not to be administered by a  
10 pharmacist," or words of like effect.

11 (b) This section shall be part of and supplemental to the pharmacy act  
12 of the state of Kansas.

13 Sec. 2. K.S.A. 2017 Supp. 65-1626 is hereby amended to read as  
14 follows: 65-1626. For the purposes of this act:

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

18 (1) A practitioner or pursuant to the lawful direction of a practitioner;

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

21 (3) a pharmacist as authorized in K.S.A. 65-1635a *or section 1*, and  
22 amendments thereto.

23 (b) "Agent" means an authorized person who acts on behalf of or at  
24 the direction of a manufacturer, repackager, wholesale distributor, third-  
25 party logistics provider or dispenser but does not include a common  
26 carrier, public warehouseman or employee of the carrier or warehouseman  
27 when acting in the usual and lawful course of the carrier's or  
28 warehouseman's business.

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

33 (d) "Automated dispensing system" means a robotic or mechanical  
34 system controlled by a computer that: (1) Performs operations or activities,  
35 other than compounding or administration, relative to the storage,  
36 packaging, labeling, dispensing or distribution of drugs; (2) collects,

1 controls and maintains all transaction information; and (3) operates in  
2 accordance with the board's rules and regulations.

3 (e) "Biological product" means the same as defined in 42 U.S.C. §  
4 262(i), as in effect on January 1, 2017.

5 (f) "Board" means the state board of pharmacy created by K.S.A. 74-  
6 1603, and amendments thereto.

7 (g) "Brand exchange," in the case of a drug prescribed, means the  
8 dispensing of a different drug product of the same dosage form and  
9 strength and of the same generic name as the brand name drug product  
10 prescribed, and in the case of a biological product prescribed, means the  
11 dispensing of an interchangeable biological product.

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

14 (i) "Co-licensed partner" means a person or pharmaceutical  
15 manufacturer that has entered into an agreement with another  
16 pharmaceutical manufacturer or an affiliate of the manufacturer to engage  
17 in a business activity or occupation related to the manufacture or  
18 distribution of a product.

19 (j) "Common carrier" means any person who undertakes, whether  
20 directly or by any other arrangement, to transport property, including  
21 drugs, for compensation.

22 (k) "Compounding" means the combining of components into a  
23 compounded preparation under either of the following conditions:

24 (1) As the result of a practitioner's prescription drug order or initiative  
25 based on the practitioner-patient-pharmacist relationship in the course of  
26 professional practice to meet the specialized medical need of an individual  
27 patient of the practitioner that cannot be filled by an FDA-approved drug;  
28 or

29 (2) for the purpose of, or incidental to, research, teaching or chemical  
30 analysis, and not for sale or dispensing.

31 Compounding includes the preparation of drugs or devices in  
32 anticipation of receiving prescription drug orders based on routine,  
33 regularly observed prescribing patterns.

34 Compounding does not include reconstituting any oral or topical drug  
35 according to the FDA-approved labeling for the drug or preparing any  
36 sterile or nonsterile preparation that is essentially a copy of a commercially  
37 available product.

38 (l) "DEA" means the U.S. department of justice, drug enforcement  
39 administration.

40 (m) "Deliver" or "delivery" means the actual, constructive or  
41 attempted transfer from one person to another of any drug whether or not  
42 an agency relationship exists.

43 (n) "Direct supervision" means the process by which the responsible

1 pharmacist shall observe and direct the activities of a pharmacy student or  
2 pharmacy technician to a sufficient degree to assure that all such activities  
3 are performed accurately, safely and without risk or harm to patients, and  
4 complete the final check before dispensing.

5 (o) "Dispense" or "dispensing" means to deliver prescription  
6 medication to the ultimate user or research subject by or pursuant to the  
7 lawful order of a practitioner or pursuant to the prescription of a mid-level  
8 practitioner.

9 (p) "Dispenser" means:

10 (1) A practitioner or pharmacist who dispenses prescription  
11 medication, or a physician assistant who has authority to dispense  
12 prescription-only drugs in accordance with K.S.A. 65-28a08(b), and  
13 amendments thereto; or

14 (2) a retail pharmacy, hospital pharmacy or group of pharmacies  
15 under common ownership and control that do not act as a wholesale  
16 distributor, or affiliated warehouses or distribution centers of such entities  
17 under common ownership and control that do not act as a wholesale  
18 distributor.

19 (q) "Distribute" or "distribution" means to deliver, offer to deliver,  
20 sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store  
21 or receive, other than by administering or dispensing, any product, but  
22 does not include dispensing a product pursuant to a prescription executed  
23 in accordance with 21 U.S.C. § 353 or the dispensing of a product  
24 approved under 21 U.S.C. § 360b.

25 (r) "Distributor" means a person or entity that distributes a drug.

26 (s) "Drop shipment" means the sale, by a manufacturer, repackager or  
27 exclusive distributor, of the manufacturer's prescription drug to a  
28 wholesale distributor whereby the wholesale distributor takes title but not  
29 possession of such prescription drug and the wholesale distributor invoices  
30 the dispenser, and the dispenser receives delivery of the prescription drug  
31 directly from the manufacturer, repackager, third-party logistics provider  
32 or exclusive distributor, of such prescription drug.

33 (t) "Drug" means: (1) Articles recognized in the official United States  
34 pharmacopeia, or other such official compendiums of the United States, or  
35 official national formulary, or any supplement to any of them; (2) articles  
36 intended for use in the diagnosis, cure, mitigation, treatment or prevention  
37 of disease in human or other animals; (3) articles, other than food,  
38 intended to affect the structure or any function of the body of human or  
39 other animals; and (4) articles intended for use as a component of any  
40 articles specified in paragraph (1), (2) or (3); but does not include devices  
41 or their components, parts or accessories, except that the term "drug" shall  
42 not include amygdalin (laetrile) or any livestock remedy, if such livestock  
43 remedy had been registered in accordance with the provisions of article 5

1 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

2 (u) "Durable medical equipment" means equipment that: (1) Provides  
3 therapeutic benefits or enables an individual to perform certain tasks that  
4 the individual is unable to otherwise undertake due to certain medical  
5 conditions or illnesses; (2) is primarily and customarily used to serve a  
6 medical purpose; (3) generally is not useful to a person in the absence of  
7 an illness or injury; (4) can withstand repeated use; (5) is appropriate for  
8 use in the home, long-term care facility or medical care facility, but may  
9 be transported to other locations to allow the individual to complete  
10 instrumental activities of daily living that are more complex tasks required  
11 for independent living; and (6) may include devices and medical supplies  
12 or other similar equipment determined by the board in rules and  
13 regulations adopted by the board.

14 (v) "Electronic prescription" means an electronically prepared  
15 prescription that is authorized and transmitted from the prescriber to the  
16 pharmacy by means of electronic transmission.

17 (w) "Electronic prescription application" means software that is used  
18 to create electronic prescriptions and that is intended to be installed on the  
19 prescriber's computers and servers where access and records are controlled  
20 by the prescriber.

21 (x) "Electronic signature" means a confidential personalized digital  
22 key, code, number or other method for secure electronic data transmissions  
23 that identifies a particular person as the source of the message,  
24 authenticates the signatory of the message and indicates the person's  
25 approval of the information contained in the transmission.

26 (y) "Electronic transmission" means the transmission of an electronic  
27 prescription, formatted as an electronic data file, from a prescriber's  
28 electronic prescription application to a pharmacy's computer, where the  
29 data file is imported into the pharmacy prescription application.

30 (z) "Electronically prepared prescription" means a prescription that is  
31 generated using an electronic prescription application.

32 (aa) "Exclusive distributor" means the wholesale distributor that  
33 directly purchased the product from the manufacturer and is the sole  
34 distributor of that manufacturer's product to a subsequent repackager,  
35 wholesale distributor or dispenser.

36 (bb) "FDA" means the U.S. department of health and human services,  
37 food and drug administration.

38 (cc) "Facsimile transmission" or "fax transmission" means the  
39 transmission of a digital image of a prescription from the prescriber or the  
40 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but  
41 is not limited to, transmission of a written prescription between the  
42 prescriber's fax machine and the pharmacy's fax machine; transmission of  
43 an electronically prepared prescription from the prescriber's electronic

- 1 prescription application to the pharmacy's fax machine, computer or  
2 printer; or transmission of an electronically prepared prescription from the  
3 prescriber's fax machine to the pharmacy's fax machine, computer or  
4 printer.
- 5 (dd) "Generic name" means the established chemical name or official  
6 name of a drug or drug product.
- 7 (ee) "Healthcare entity" means any person that provides diagnostic,  
8 medical, surgical or dental treatment or rehabilitative care but does not  
9 include any retail pharmacy or wholesale distributor.
- 10 (ff) (1) "Institutional drug room" means any location where  
11 prescription-only drugs are stored and from which prescription-only drugs  
12 are administered or dispensed and that is maintained or operated for the  
13 purpose of providing the drug needs of:
- 14 (A) Inmates of a jail or correctional institution or facility;  
15 (B) residents of a juvenile detention facility, as defined by the revised  
16 Kansas code for care of children and the revised Kansas juvenile justice  
17 code;
- 18 (C) students of a public or private university or college, a community  
19 college or any other institution of higher learning that is located in Kansas;  
20 (D) employees of a business or other employer; or  
21 (E) persons receiving inpatient hospice services.
- 22 (2) "Institutional drug room" does not include:
- 23 (A) Any registered pharmacy;  
24 (B) any office of a practitioner; or  
25 (C) a location where no prescription-only drugs are dispensed and no  
26 prescription-only drugs other than individual prescriptions are stored or  
27 administered.
- 28 (gg) "Interchangeable biological product" means a biological product  
29 that the FDA has:
- 30 (1) Licensed and determined meets the standards for  
31 "interchangeability" as defined in 42 U.S.C. § 262(k), as in effect on  
32 January 1, 2017; or  
33 (2) determined to be therapeutically equivalent as set forth in the  
34 latest edition or supplement to the FDA's approved drug products with  
35 therapeutic equivalence evaluations.
- 36 (hh) "Intermediary" means any technology system that receives and  
37 transmits an electronic prescription between the prescriber and the  
38 pharmacy.
- 39 (ii) "Intracompany transaction" means any transaction or transfer  
40 between any division, subsidiary, parent or affiliated or related company  
41 under common ownership or control of a corporate entity, or any  
42 transaction or transfer between co-licensed partners.
- 43 (jj) "Label" means a display of written, printed or graphic matter

1 upon the immediate container of any drug.

2 (kk) "Labeling" means the process of preparing and affixing a label to  
3 any drug container, exclusive of the labeling by a manufacturer, packer or  
4 distributor of a non-prescription drug or commercially packaged legend  
5 drug.

6 (ll) "Long-term care facility" means "nursing facility," as defined in  
7 K.S.A. 39-923, and amendments thereto.

8 (mm) "Medical care facility" means the same as defined in K.S.A.  
9 65-425, and amendments thereto, except that the term also includes  
10 facilities licensed under the provisions of K.S.A. 2017 Supp. 39-2001 et  
11 seq., and amendments thereto, except community mental health centers  
12 and facilities for people with intellectual disability.

13 (nn) "Manufacture" means the production, preparation, propagation,  
14 compounding, conversion or processing of a drug either directly or  
15 indirectly by extraction from substances of natural origin, independently  
16 by means of chemical or biological synthesis or by a combination of  
17 extraction and chemical or biological synthesis or the packaging or  
18 repackaging of the drug or labeling or relabeling of its container, except  
19 that this term does not include the preparation or compounding of a drug  
20 by an individual for the individual's own use or the preparation,  
21 compounding, packaging or labeling of a drug by:

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

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

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

31 (oo) "Manufacturer" means:

32 (1) A person that holds an application approved under section 505 of  
33 the federal food, drug and cosmetic act or a license issued under section  
34 351 of the federal public health service act for such drug or, if such drug is  
35 not the subject of an approved application or license, the person who  
36 manufactured the drug;

37 (2) a co-licensed partner of the person described in paragraph (1) that  
38 obtains the drug directly from a person described in paragraph (1) or (3);  
39 or

40 (3) an affiliate of a person described in paragraph (1) or (2) that  
41 receives the product directly from a person described in paragraph (1) or  
42 (2).

43 (pp) "Mid-level practitioner" means a certified nurse-midwife

1 engaging in the independent practice of midwifery under the independent  
2 practice of midwifery act, an advanced practice registered nurse issued a  
3 license pursuant to K.S.A. 65-1131, and amendments thereto, who has  
4 authority to prescribe drugs pursuant to a written protocol with a  
5 responsible physician under K.S.A. 65-1130, and amendments thereto, or a  
6 physician assistant licensed pursuant to the physician assistant licensure  
7 act who has authority to prescribe drugs pursuant to a written agreement  
8 with a supervising physician under K.S.A. 65-28a08, and amendments  
9 thereto.

10 (qq) "Nonresident pharmacy" means a pharmacy located outside of  
11 Kansas.

12 (rr) "Outsourcing facility" or "virtual outsourcing facility" means a  
13 facility at one geographic location or address that is engaged in the  
14 compounding of sterile drugs and has registered with the FDA as an  
15 outsourcing facility pursuant to 21 U.S.C. § 353b.

16 (ss) "Person" means individual, corporation, government,  
17 governmental subdivision or agency, partnership, association or any other  
18 legal entity.

19 (tt) "Pharmacist" means any natural person licensed under this act to  
20 practice pharmacy.

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

30 (vv) "Pharmacist intern" means: (1) A student currently enrolled in an  
31 accredited pharmacy program; (2) a graduate of an accredited pharmacy  
32 program serving an internship; or (3) a graduate of a pharmacy program  
33 located outside of the United States that is not accredited and who has  
34 successfully passed equivalency examinations approved by the board.

35 (ww) "Pharmacy," "drugstore" or "apothecary" means premises,  
36 laboratory, area or other place: (1) Where drugs are offered for sale where  
37 the profession of pharmacy is practiced and where prescriptions are  
38 compounded and dispensed; (2) that has displayed upon it or within it the  
39 words "pharmacist," "pharmaceutical chemist," "pharmacy," "apothecary,"  
40 "drugstore," "druggist," "drugs," "drug sundries" or any of these words or  
41 combinations of these words or words of similar import either in English  
42 or any sign containing any of these words; or (3) where the characteristic  
43 symbols of pharmacy or the characteristic prescription sign "Rx" may be

1 exhibited. As used in this subsection, premises refers only to the portion of  
2 any building or structure leased, used or controlled by the licensee in the  
3 conduct of the business registered by the board at the address for which the  
4 registration was issued.

5 (xx) "Pharmacy prescription application" means software that is used  
6 to process prescription information, is installed on a pharmacy's computers  
7 or servers and is controlled by the pharmacy.

8 (yy) "Pharmacy technician" means an individual who, under the  
9 direct supervision and control of a pharmacist, may perform packaging,  
10 manipulative, repetitive or other nondiscretionary tasks related to the  
11 processing of a prescription or medication order and who assists the  
12 pharmacist in the performance of pharmacy-related duties, but who does  
13 not perform duties restricted to a pharmacist.

14 (zz) "Practitioner" means a person licensed to practice medicine and  
15 surgery, dentist, podiatrist, veterinarian, optometrist or scientific  
16 investigator or other person authorized by law to use a prescription-only  
17 drug in teaching or chemical analysis or to conduct research with respect  
18 to a prescription-only drug.

19 (aaa) "Preceptor" means a licensed pharmacist who possesses at least  
20 two years' experience as a pharmacist and who supervises students  
21 obtaining the pharmaceutical experience required by law as a condition to  
22 taking the examination for licensure as a pharmacist.

23 (bbb) "Prescriber" means a practitioner or a mid-level practitioner.

24 (ccc) "Prescription" or "prescription order" means: (1) An order to be  
25 filled by a pharmacist for prescription medication issued and signed by a  
26 prescriber in the authorized course of such prescriber's professional  
27 practice; or (2) an order transmitted to a pharmacist through word of  
28 mouth, note, telephone or other means of communication directed by such  
29 prescriber, regardless of whether the communication is oral, electronic,  
30 facsimile or in printed form.

31 (ddd) "Prescription medication" means any drug, including label and  
32 container according to context, that is dispensed pursuant to a prescription  
33 order.

34 (eee) "Prescription-only drug" means any drug whether intended for  
35 use by human or animal, required by federal or state law, including 21  
36 U.S.C. § 353, to be dispensed only pursuant to a written or oral  
37 prescription or order of a practitioner or is restricted to use by practitioners  
38 only.

39 (fff) "Probation" means the practice or operation under a temporary  
40 license, registration or permit or a conditional license, registration or  
41 permit of a business or profession for which a license, registration or  
42 permit is granted by the board under the provisions of the pharmacy act of  
43 the state of Kansas requiring certain actions to be accomplished or certain



1 actions not to occur before a regular license, registration or permit is  
2 issued.

3 (ggg) "Product" means the same as defined by part H of the federal  
4 drug supply chain security act, 21 U.S.C. § 351 et seq. and 21 U.S.C. §  
5 360eee.

6 (hhh) "Professional incompetency" means:

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

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

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

15 (iii) "Readily retrievable" means that records kept by automatic data  
16 processing applications or other electronic or mechanized record-keeping  
17 systems can be separated out from all other records within a reasonable  
18 time not to exceed 48 hours of a request from the board or other authorized  
19 agent or that hard-copy records are kept on which certain items are  
20 asterisked, redlined or in some other manner visually identifiable apart  
21 from other items appearing on the records.

22 (jjj) "Repackage" means changing the container, wrapper, quantity or  
23 label of a drug to further the distribution of the drug.

24 (lll) "Repackager" means a person who owns or operates a facility  
25 that repackages.

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

33 (nnn) "Return" means providing product to the authorized immediate  
34 trading partner from whom such product was purchased or received, or to  
35 a returns processor or reverse logistics provider for handling of such  
36 product.

37 (ooo) "Returns processor" or "reverse logistics provider" means a  
38 person who owns or operates an establishment that disposes of or  
39 otherwise processes saleable or nonsaleable products received from an  
40 authorized trading partner such that the product may be processed for  
41 credit to the purchaser, manufacturer or seller or disposed of for no further  
42 distribution.

43 (ppp) "Secretary" means the executive secretary of the board.

1 (qqq) "Third-party logistics provider" means an entity that provides  
2 or coordinates warehousing or other logistic services of a product in  
3 interstate commerce on behalf of a manufacturer, wholesale distributor or  
4 dispenser, but does not take ownership of the product or have  
5 responsibility to direct the sale or disposition of the product.

6 (rrr) "Trading partner" means:

7 (1) A manufacturer, repackager, wholesale distributor or dispenser  
8 from whom a manufacturer, repackager, wholesale distributor or dispenser  
9 accepts direct ownership of a product or to whom a manufacturer,  
10 repackager, wholesale distributor or dispenser transfers direct ownership of  
11 a product; or

12 (2) a third-party logistics provider from whom a manufacturer,  
13 repackager, wholesale distributor or dispenser accepts direct possession of  
14 a product or to whom a manufacturer, repackager, wholesale distributor or  
15 dispenser transfers direct possession of a product.

16 (sss) "Transaction" means the transfer of product between persons in  
17 which a change of ownership occurs.

18 (ttt) "Unprofessional conduct" means:

19 (1) Fraud in securing a registration or permit;

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

22 (3) causing any drug, medicine, chemical or poison to be adulterated  
23 or mislabeled, knowing the same to be adulterated or mislabeled;

24 (4) intentionally falsifying or altering records or prescriptions;

25 (5) unlawful possession of drugs and unlawful diversion of drugs to  
26 others;

27 (6) willful betrayal of confidential information under K.S.A. 65-1654,  
28 and amendments thereto;

29 (7) conduct likely to deceive, defraud or harm the public;

30 (8) making a false or misleading statement regarding the licensee's  
31 professional practice or the efficacy or value of a drug;

32 (9) commission of any act of sexual abuse, misconduct or  
33 exploitation related to the licensee's professional practice; or

34 (10) performing unnecessary tests, examinations or services that have  
35 no legitimate pharmaceutical purpose.

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

41 (vvv) "Valid prescription order" means a prescription that is issued  
42 for a legitimate medical purpose by an individual prescriber licensed by  
43 law to administer and prescribe drugs and acting in the usual course of

1 such prescriber's professional practice. A prescription issued solely on the  
2 basis of an internet-based questionnaire or consultation without an  
3 appropriate prescriber-patient relationship is not a valid prescription order.

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

8 (xxx) "Wholesale distributor" means any person engaged in  
9 wholesale distribution of prescription drugs, other than a manufacturer, co-  
10 licensed partner, third-party logistics provider or repackager.

11 (yyy) "Wholesale distribution" means the distribution or receipt of  
12 prescription drugs to or by persons other than consumers or patients, in  
13 which a change of ownership occurs. Wholesale distribution does not  
14 include:

15 (1) The dispensing of a prescription drug pursuant to a prescription;

16 (2) the distribution of a prescription drug or an offer to distribute a  
17 prescription drug for emergency medical reasons, including a public health  
18 emergency declaration pursuant to section 319 of the public health service  
19 act, except that, for purposes of this paragraph, a drug shortage not caused  
20 by a public health emergency shall not constitute an emergency medical  
21 reason;

22 (3) intracompany distribution of any drug between members of an  
23 affiliate or within a manufacturer;

24 (4) the distribution of a prescription drug or an offer to distribute a  
25 prescription drug among hospitals or other healthcare entities under  
26 common control;

27 (5) the distribution of a prescription drug or the offer to distribute a  
28 prescription drug by a charitable organization described in 503(c)(3) of the  
29 internal revenue code of 1954 to a nonprofit affiliate of the organization to  
30 the extent otherwise permitted by law;

31 (6) the purchase or other acquisition by a dispenser, hospital or other  
32 healthcare entity for use by such dispenser, hospital or other healthcare  
33 entity;

34 (7) the distribution of a drug by the manufacturer of such drug;

35 (8) the receipt or transfer of a drug by an authorized third-party  
36 logistics provider, provided that such third-party logistics provider does  
37 not take ownership of the drug;

38 (9) the transport of a drug by a common carrier, provided that the  
39 common carrier does not take ownership of the drug;

40 (10) the distribution of a drug or an offer to distribute a drug by an  
41 authorized repackager that has taken ownership or possession of the drug  
42 and repacks it in accordance with section 582(e) of the federal food, drug  
43 and cosmetic act;

- 1 (11) saleable drug returns when conducted by a dispenser;
- 2 (12) the distribution of minimal quantities of drugs by licensed retail  
3 pharmacies to licensed practitioners for office use;
- 4 (13) the distribution of a collection of finished medical devices,  
5 including a product or biological product in accordance with 21 U.S.C. §  
6 353(e)(4)(M);
- 7 (14) the distribution of an intravenous drug that, by its formulation, is  
8 intended for the replenishment of fluids and electrolytes, including  
9 sodium, chloride and potassium, or calories, including dextrose and amino  
10 acids;
- 11 (15) the distribution of an intravenous drug used to maintain the  
12 equilibrium of water and minerals in the body, such as dialysis solutions;
- 13 (16) the distribution of a drug that is intended for irrigation, or sterile  
14 water, whether intended for such purposes or for injection;
- 15 (17) the distribution of medical gas;
- 16 (18) facilitating the distribution of a product by providing solely  
17 administrative services, including processing of orders and payments;
- 18 (19) the transfer of a product by a hospital or other healthcare entity,  
19 or by a wholesale distributor or manufacturer operating under the direction  
20 of a hospital or other healthcare entity, to a repackager described in section  
21 581(16)(B) and registered under section 510 of the food, drug and  
22 cosmetic act for the purpose of repackaging the drug for use by that  
23 hospital or other healthcare entity, or other healthcare entities under  
24 common control, if ownership of the drug remains with the hospital or  
25 other healthcare entity at all times; or
- 26 (20) the sale or transfer from a retail pharmacy of expired, damaged,  
27 returned or recalled prescription drugs to the original manufacturer,  
28 originating wholesale distributor or to a third-party returns processor in  
29 accordance with the board's rules and regulations.

30 Sec. 3. K.S.A. 2017 Supp. 65-1626 is hereby repealed.

31 Sec. 4. This act shall take effect and be in force from and after its  
32 publication in the statute book.