

SENATE BILL No. 381

By Committee on Public Health and Welfare

1-24

1 AN ACT concerning health and healthcare; related to prescription
2 medications; authorizing the prescribing and dispensing of drugs for
3 off-label use to prevent and treat COVID-19 infections.
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5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. (a) (1) Notwithstanding any other provision of law to the
7 contrary, a prescriber may prescribe, and a pharmacist shall dispense, in
8 accordance with a prescription drug order, a prescription drug approved by
9 the United States food and drug administration, including, but not limited to
10 to, hydroxychloroquine sulfate and ivermectin, for an off-label use to
11 prevent or treat COVID-19 infection in a patient. The provisions in this
12 paragraph shall not apply to any controlled substances described in K.S.A.
13 21-5705, and amendments thereto.

14 (2) A prescriber may prescribe and a pharmacist shall dispense a
15 prescription drug pursuant to this subsection even if the patient has not
16 been exposed to or tested positive for COVID-19.

17 (b) (1) Notwithstanding any other provision of law to the contrary, a
18 prescriber or pharmacist shall be immune from civil liability for damages,
19 administrative fines or penalties for acts, omissions, healthcare decisions
20 or the rendering of or the failure to render healthcare services if such
21 prescriber or pharmacist is acting pursuant to this section. Any action
22 taken by a prescriber or pharmacist pursuant to this subsection shall not be
23 considered unprofessional conduct.

24 (2) (A) A recommendation, prescription, use or opinion of a
25 prescriber or pharmacist related to a treatment for COVID-19, including a
26 treatment that is not recommended or regulated by the licensing board, the
27 department of health and environment or the federal food and drug
28 administration, shall not be considered unprofessional conduct. The
29 provisions of this paragraph shall apply retroactively to any disciplinary
30 action accruing on or after March 12, 2020.

31 (B) The licensing boards for prescribers and pharmacists shall
32 independently review all disciplinary action for acts accruing from the
33 period of March 12, 2020, through the effective date of this section. If
34 disciplinary action was taken based on conduct described in this
35 paragraph, in whole or in part, the board shall reconsider such action and
36 rescind any such disciplinary action prohibited by this paragraph.

1 (c) As used in this section:

2 (1) "COVID-19" means the disease caused by the novel coronavirus
3 identified as SARS-CoV-2.

4 (2) "Disciplinary action" means a licensing board's revocation,
5 limitation, suspension or denial of license, a licensee being publicly
6 censured or placed under probationary conditions or any other discipline
7 issued by a licensing board for unprofessional conduct.

8 (3) "Off-label use" means prescribing prescription drugs for
9 treatments other than those stated in the labeling approved by the federal
10 food and drug administration.

11 (4) "Pharmacist" means any person licensed by the state board of
12 pharmacy to practice pharmacy.

13 (5) "Prescriber" means a person licensed by the state board of healing
14 arts to practice medicine and surgery in this state or a "mid-level
15 practitioner" as defined in K.S.A. 65-1626, and amendments thereto.

16 (6) "Unprofessional conduct" means "professional incompetency" as
17 defined in K.S.A. 65-1120, 65-1626 or 65-2837, and amendments thereto,
18 and "unprofessional conduct" as defined in K.S.A. 65-1626 or 65-2837,
19 and amendments thereto.

20 Sec. 2. This act shall take effect and be in force from and after its
21 publication in the Kansas register.