

HOUSE BILL No. 2412

By Committee on Federal and State Affairs

3-26

1 AN ACT concerning advanced practice registered nurses; board of
2 nursing; relating to the definition of practice; prescribing authority;
3 licensure requirements; rules and regulations; amending K.S.A. 65-
4 1130 and 65-4101, K.S.A. 2017 Supp. 65-1113, as amended by section
5 2 of chapter 42 of the 2018 Session Laws of Kansas, and K.S.A. 2018
6 Supp. 40-3401 and repealing the existing sections.

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

9 Section 1. K.S.A. 2017 Supp. 65-1113, as amended by section 2 of
10 chapter 42 of the 2018 Session Laws of Kansas, is hereby amended to read
11 as follows: 65-1113. When used in this act and the act of which this
12 section is amendatory:

13 (a) "Board" means the board of nursing.

14 (b) "Diagnosis" in the context of nursing practice, *for licensed*
15 *practical nurses and registered nurses*, means ~~that the~~ identification of and
16 discrimination between physical and psychosocial signs and symptoms
17 essential to effective execution and management of the ~~nursing regimen~~
18 ~~and shall be construed as distinct from a medical diagnosis nursing~~
19 *regimen. Advanced practice registered nurses are educated and trained in*
20 *using diagnoses and may develop primary and differential diagnoses*
21 *within the advanced practice registered nurse scope of practice.*

22 (c) "Treatment" means the selection and performance of those
23 therapeutic measures essential to effective ~~execution~~ *implementation* and
24 management of the ~~nursing regimen, and any prescribed medical regimen~~
25 *patient's healthcare, determined by the nurse's level of education.*

26 (d) *Practice of nursing.* (1) The practice of professional nursing as
27 performed by a registered professional nurse for compensation or
28 gratuitously, except as permitted by K.S.A. 65-1124, and amendments
29 thereto, means the process in which substantial specialized knowledge
30 derived from the biological, physical, and behavioral sciences is applied
31 to: the Care, diagnosis, treatment, counsel and health teaching of persons
32 who are experiencing changes in the normal health processes or who
33 require assistance in the maintenance of health or the prevention or
34 management of illness, injury or infirmity; administration, supervision or
35 teaching of the process as defined in this section; and the execution of the
36 ~~medical treatment~~ regimen as prescribed by a person licensed to practice

1 medicine and surgery ~~or~~, a person licensed to practice dentistry *or a*
2 *person licensed to practice advanced practice registered nursing.*

3 (2) The practice of nursing as a licensed practical nurse means the
4 performance for compensation or gratuitously, except as permitted by
5 K.S.A. 65-1124, and ~~any~~ amendments thereto, of tasks and responsibilities
6 defined in paragraph (1), which ~~tasks and responsibilities~~ are based on
7 acceptable educational preparation within the framework of supportive and
8 restorative care under the direction of a registered professional nurse, a
9 person licensed to practice medicine and surgery or a person licensed to
10 practice dentistry.

11 (3) *The practice of professional nursing as an advanced practice*
12 *registered nurse as defined in subsection (g) within the APRN role means,*
13 *in addition to the practice and responsibilities of professional nursing as*
14 *defined in paragraph (1): Conducting an advanced assessment; ordering*
15 *and interpreting diagnostic procedures; establishing primary and*
16 *differential diagnoses; prescribing, ordering, administering and furnishing*
17 *therapeutic measures as set forth by the board; delegating and assigning*
18 *therapeutic measures to assistive personnel; collaborating and consulting*
19 *with physicians and other healthcare providers; providing referrals to*
20 *healthcare providers, agencies and community resources; and other acts*
21 *that require education and training consistent with the professional*
22 *standards and commensurate with the APRN's education, certification,*
23 *demonstrated competencies and experience.*

24 (e) A "professional nurse" means a person who is licensed to practice
25 professional nursing as defined in subsection (d)(1).

26 (f) A "practical nurse" means a person who is licensed to practice
27 practical nursing as defined in subsection (d)(2).

28 (g) "Advanced practice registered nurse" or "APRN" means a
29 professional nurse who holds a license from the board to ~~function~~ *practice*
30 *advanced practice registered nursing as defined in subsection (d)(3) as a*
31 *professional nurse in an advanced role, and this advanced role shall may be*
32 *further defined by rules and regulations consistent with the Kansas nurse*
33 *practice act adopted by the board in accordance with K.S.A. 65-1130, and*
34 *amendments thereto.*

35 (h) "Continuing nursing education" means learning experiences
36 intended to build upon the educational and experiential bases of the
37 registered professional and licensed practical nurse for the enhancement of
38 practice, education, administration, research or theory development to the
39 end of improving the health of the public.

40 (i) "Collaboration" means the process in which two or more
41 healthcare professionals work together to meet the healthcare needs of a
42 patient, as warranted by the patient.

43 (j) "Consultation" means the process in which an advanced practice

1 *registered nurse who maintains primary management responsibility for a*
2 *patient's care seeks advice or opinion of a physician or another member of*
3 *the healthcare team.*

4 Sec. 2. K.S.A. 65-1130 is hereby amended to read as follows: 65-
5 1130. (a) No professional nurse shall announce or represent to the public
6 that such person is an advanced practice registered nurse unless such
7 professional nurse has complied with requirements established by the
8 board and holds a valid license as an advanced practice registered nurse in
9 accordance with the provisions of this section.

10 (b) (1) The board shall establish standards and requirements for any
11 professional nurse who desires to obtain licensure as an advanced practice
12 registered nurse. Such standards and requirements shall include, but not be
13 limited to, standards and requirements relating to the education of
14 advanced practice registered nurses. The board may give such
15 examinations and secure such assistance as it deems necessary to
16 determine the qualifications of applicants.

17 (2) *On and after July 1, 2020, for an applicant, an initial advanced*
18 *practice registered nurse license shall have a current advanced practice*
19 *registered nurse certification in such applicant's specific role granted by a*
20 *national certifying organization recognized by the board whose*
21 *certification standards are approved by the board as equal to or greater*
22 *than the corresponding standards established by the board.*

23 (c) The board shall adopt rules and regulations *consistent with the*
24 *Kansas nurse practice act* applicable to advanced practice registered
25 nurses ~~which that~~:

26 (1) Establish roles and identify titles and abbreviations of advanced
27 practice registered nurses ~~which that~~ are consistent with nursing practice
28 specialties recognized by the nursing profession *including titles describing*
29 *the four APRN roles of certified registered nurse anesthetist, clinical nurse*
30 *specialist, certified nurse midwife and certified nurse practitioner.*

31 (2) Establish education and qualifications necessary for licensure for
32 each role of advanced practice registered nurse established by the board ~~at~~
33 ~~a level adequate to assure the competent performance by advanced~~
34 ~~practice registered nurses of functions and procedures which advanced~~
35 ~~practice registered nurses are authorized to perform. Advanced practice~~
36 ~~registered nursing is based on knowledge and skills acquired in. Education~~
37 *and qualifications for APRN licensure established by the board shall*
38 *include completion of basic nursing education, licensure as a registered*
39 *nurse and graduation from or completion of a master's or higher degree an*
40 *accredited graduate or post-graduate level APRN program in one of the*
41 *advanced practice registered nurse roles approved by the board of nursing.*

42 (3) Define the role of advanced practice registered nurses and
43 establish limitations and restrictions on such role *consistent with the*

1 *Kansas nurse practice act.* The board shall adopt a definition of the role
2 ~~under this paragraph which~~ *that* is consistent with the education and
3 qualifications required to obtain a license as an advanced practice
4 registered nurse, ~~which that~~ protects the public from persons performing
5 functions and procedures as advanced practice registered nurses for which
6 they lack adequate education and qualifications and ~~which that~~ authorizes
7 advanced practice registered nurses to perform acts generally recognized
8 by the profession of nursing as capable of being performed, in a manner
9 consistent with the public health and safety, by persons with postbasic
10 education in nursing. In defining such role the board shall consider:

11 (A) The education required for a licensure as an advanced practice
12 registered nurse;

13 (B) the type of nursing practice and preparation in specialized
14 advanced practice skills involved in each role of advanced practice
15 registered nurse established by the board;

16 (C) the scope and limitations of advanced practice nursing prescribed
17 by national advanced practice organizations. *Advanced practice nursing is*
18 *built on the practice of health promotion, health maintenance, illness*
19 *prevention, diagnosis, treatment and management of common health*
20 *problems and acute and chronic conditions; and*

21 (D) acts recognized by the nursing profession as appropriate to be
22 performed by persons with postbasic education in nursing.

23 (4) *Require an advanced practice registered nurse to wear*
24 *identification that clearly identifies the nurse as such when providing*
25 *direct patient care, unless wearing identification creates a safety or health*
26 *risk to the nurse or patient.*

27 (d) (1) ~~An advanced practice registered nurse may prescribe drugs~~
28 ~~pursuant to a written protocol as authorized by a responsible physician.~~
29 ~~Each written protocol shall contain a precise and detailed medical plan of~~
30 ~~care for each classification of disease or injury for which the advanced~~
31 ~~practice registered nurse is authorized to prescribe and shall specify all~~
32 ~~drugs which may be prescribed by the advanced practice registered nurse.~~
33 ~~Any written, procure and administer prescription drugs and controlled~~
34 ~~substances in schedules II through V pursuant to applicable federal and~~
35 ~~state laws. An advanced practice registered nurse shall not prescribe any~~
36 ~~drug that is intended to cause an abortion.~~

37 (2) ~~A prescription order shall include the name, address and telephone~~
38 ~~number of the responsible physician. The advanced practice registered~~
39 ~~nurse. An advanced practice registered nurse may not dispense drugs, but~~
40 ~~may request, receive and sign for professional samples and may distribute~~
41 ~~professional samples to patients pursuant to a written protocol as~~
42 ~~authorized by a responsible physician.~~

43 (3) In order to prescribe controlled substances, the advanced practice

1 registered nurse shall:-(1)

2 (A) Register with the federal drug enforcement administration; and
3 (2)

4 (B) notify the board of the ~~name and address of the responsible~~
5 ~~physician or physicians. In no case shall the scope of authority of the~~
6 ~~advanced practice registered nurse exceed the normal and customary~~
7 ~~practice of the responsible physician~~ *federal drug enforcement*
8 *administration registration as prescribed by the rules and regulations of*
9 *the board. An advanced practice registered nurse shall comply with the*
10 *federal drug enforcement administration requirements related to*
11 *controlled substances.*

12 (4) An advanced practice registered nurse certified in the role of
13 registered nurse anesthetist while functioning as a registered nurse
14 anesthetist under K.S.A. 65-1151 through 65-1164, and amendments
15 thereto, shall be subject to the provisions of K.S.A. 65-1151 through 65-
16 1164, and amendments thereto, with respect to drugs and anesthetic agents
17 and shall not be subject to the provisions of this subsection. ~~For the~~
18 ~~purposes of this subsection, "responsible physician" means a person~~
19 ~~licensed to practice medicine and surgery in Kansas who has accepted~~
20 ~~responsibility for the protocol and the actions of the advanced practice~~
21 ~~registered nurse when prescribing drugs.~~

22 (5) *An advanced practice registered nurse shall maintain malpractice*
23 *insurance coverage in effect as a condition of rendering professional*
24 *service as an advanced practice registered nurse in this state and shall*
25 *provide proof of insurance at the time of licensure and renewal of license.*
26 *The requirements of this paragraph shall not apply to an advanced*
27 *practice registered nurse who: Practices solely in employment for which*
28 *the advanced practice registered nurse is covered under the federal tort*
29 *claims act or Kansas tort claims act; practices solely as a charitable*
30 *healthcare provider under K.S.A. 75-6102, and amendments thereto; or is*
31 *servng on active duty in the military service of the United States.*

32 (e) As used in this section, "drug" means those articles and substances
33 defined as drugs in K.S.A. 65-1626 and 65-4101, and amendments thereto.

34 (f) A person registered to practice as an advanced registered nurse
35 practitioner in the state of Kansas immediately prior to the effective date of
36 this act shall be deemed to be licensed to practice as an advanced practice
37 registered nurse under this act and such person shall not be required to file
38 an original application for licensure under this act. Any application for
39 registration filed ~~which~~ *that* has not been granted prior to the effective date
40 of this act shall be processed as an application for licensure under this act.

41 (g) An advanced practice registered nurse certified in the role of
42 certified nurse-midwife and engaging in the independent practice of
43 midwifery under the independent practice of midwifery act with respect to

1 prescribing drugs shall be subject to the provisions of the independent
2 practice of midwifery act and shall not be subject to the provisions of this
3 section.

4 *(h) (1) The board shall adopt rules and regulations establishing a*
5 *program of transition to full practice as an advance practice registered*
6 *nurse. Any advanced practice registered nurse who has less than 4,000*
7 *hours of licensed active practice as an advanced practice registered nurse*
8 *under a collaborative relationship with a physician in accordance with*
9 *this subsection shall be required to undergo such transition program. Any*
10 *hours completed under a written protocol with a responsible physician*
11 *prior to the amendments made to this section by this act shall not count*
12 *towards the 4,000-hour requirement.*

13 *(2) A transition period advanced practice registered nurse shall not*
14 *prescribe, procure or administer prescription drugs, except as provided in*
15 *this paragraph. As part of the transition to full practice as an advance*
16 *practice registered nurse, an advanced practice registered nurse shall*
17 *complete 4,000 hours in accordance with paragraph (1) within a period of*
18 *three years while maintaining a collaborative relationship with a*
19 *physician or a full practice advanced practice registered nurse for the*
20 *prescription, procurement and administration of prescription drugs by the*
21 *transition period advanced practice registered nurse.*

22 *(3) A transition period advanced practice registered nurse may*
23 *engage in the practice of nursing as an advanced practice registered nurse*
24 *and may prescribe, procure and administer prescription drugs as part of*
25 *the collaborative relationship described in paragraph (2).*

26 *(4) The board shall specify the manner and form in which a*
27 *transition period advanced practice registered nurse may identify and*
28 *represent such credentials, professionally and to the public.*

29 *(5) A transition period advanced practice registered nurse shall*
30 *complete any documentation required by the board to demonstrate*
31 *completion of the transition program prior to becoming a full practice*
32 *advanced practice registered nurse. Upon successful completion of the*
33 *transition program, the board shall authorize the advanced practice*
34 *registered nurse to engage in the practice of advanced practice registered*
35 *nursing without the limitations imposed by this subsection and as*
36 *otherwise authorized by law.*

37 *(6) The board shall adopt rules and regulations as necessary to*
38 *implement and administer this subsection.*

39 *(7) As used in this subsection:*

40 *(A) "Full practice" means the full extent of practice authorized under*
41 *the Kansas nurse practice act, and rules and regulations adopted*
42 *thereunder, without a written protocol with a responsible physician or a*
43 *collaborative relationship with a physician.*

1 (B) "Physician" means a person licensed by the state board of
2 healing arts to practice medicine and surgery.

3 Sec. 3. K.S.A. 65-4101 is hereby amended to read as follows: 65-
4 4101. As used in this act: (a) "Administer" means the direct application of
5 a controlled substance, whether by injection, inhalation, ingestion or any
6 other means, to the body of a patient or research subject by:

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

9 (2) the patient or research subject at the direction and in the presence
10 of the practitioner.

11 (b) "Agent" means an authorized person who acts on behalf of or at
12 the direction of a manufacturer, distributor or dispenser. It does not include
13 a common carrier, public warehouseman or employee of the carrier or
14 warehouseman.

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

19 (d) "Board" means the state board of pharmacy.

20 (e) "Bureau" means the bureau of narcotics and dangerous drugs,
21 United States department of justice, or its successor agency.

22 (f) "Controlled substance" means any drug, substance or immediate
23 precursor included in any of the schedules designated in K.S.A. 65-4105,
24 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

25 (g) (1) "Controlled substance analog" means a substance that is
26 intended for human consumption, and at least one of the following:

27 (A) The chemical structure of the substance is substantially similar to
28 the chemical structure of a controlled substance listed in or added to the
29 schedules designated in K.S.A. 65-4105 or 65-4107, and amendments
30 thereto;

31 (B) the substance has a stimulant, depressant or hallucinogenic effect
32 on the central nervous system substantially similar to the stimulant,
33 depressant or hallucinogenic effect on the central nervous system of a
34 controlled substance included in the schedules designated in K.S.A. 65-
35 4105 or 65-4107, and amendments thereto; or

36 (C) with respect to a particular individual, such individual represents
37 or intends the substance to have a stimulant, depressant or hallucinogenic
38 effect on the central nervous system substantially similar to the stimulant,
39 depressant or hallucinogenic effect on the central nervous system of a
40 controlled substance included in the schedules designated in K.S.A. 65-
41 4105 or 65-4107, and amendments thereto.

42 (2) "Controlled substance analog" does not include:

43 (A) A controlled substance;

1 (B) a substance for which there is an approved new drug application;
2 or

3 (C) a substance with respect to which an exemption is in effect for
4 investigational use by a particular person under section 505 of the federal
5 food, drug and cosmetic act, 21 U.S.C. § 355, to the extent conduct with
6 respect to the substance is permitted by the exemption.

7 (h) "Counterfeit substance" means a controlled substance ~~which~~ *that*,
8 or the container or labeling of which, without authorization bears the
9 trademark, trade name or other identifying mark, imprint, number or
10 device or any likeness thereof of a manufacturer, distributor or dispenser
11 other than the person who in fact manufactured, distributed or dispensed
12 the substance.

13 (i) "Cultivate" means the planting or promotion of growth of five or
14 more plants ~~which~~ *that* contain or can produce controlled substances.

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

17 (k) "Deliver" or "delivery" means the actual, constructive or
18 attempted transfer from one person to another of a controlled substance,
19 whether or not there is an agency relationship.

20 (l) "Dispense" means to deliver a controlled substance to an ultimate
21 user or research subject by or pursuant to the lawful order of a practitioner,
22 including the packaging, labeling or compounding necessary to prepare the
23 substance for that delivery, or pursuant to the prescription of a mid-level
24 practitioner.

25 (m) "Dispenser" means a practitioner or pharmacist who dispenses, or
26 a physician assistant who has authority to dispense prescription-only drugs
27 in accordance with K.S.A. 65-28a08(b), and amendments thereto.

28 (n) "Distribute" means to deliver other than by administering or
29 dispensing a controlled substance.

30 (o) "Distributor" means a person who distributes.

31 (p) "Drug" means: (1) Substances recognized as drugs in the official
32 United States pharmacopeia, official homeopathic pharmacopoeia of the
33 United States or official national formulary or any supplement to any of
34 them; (2) substances intended for use in the diagnosis, cure, mitigation,
35 treatment or prevention of disease in human or animals; (3) substances
36 (other than food) intended to affect the structure or any function of the
37 body of human or animals; and (4) substances intended for use as a
38 component of any article specified in paragraph (1), (2) or (3). It does not
39 include devices or their components, parts or accessories.

40 (q) "Immediate precursor" means a substance ~~which~~ *that* the board
41 has found to be and by rule and regulation designates as being the
42 principal compound commonly used or produced primarily for use and
43 ~~which~~ *that* is an immediate chemical intermediary used or likely to be used

1 in the manufacture of a controlled substance, the control of which is
2 necessary to prevent, curtail or limit manufacture.

3 (r) "Electronic prescription" means an electronically prepared
4 prescription that is authorized and transmitted from the prescriber to the
5 pharmacy by means of electronic transmission.

6 (s) "Electronic prescription application" means software that is used
7 to create electronic prescriptions and that is intended to be installed on the
8 prescriber's computers and servers where access and records are controlled
9 by the prescriber.

10 (t) "Electronic signature" means a confidential personalized digital
11 key, code, number or other method for secure electronic data transmissions
12 ~~which~~ *that* identifies a particular person as the source of the message,
13 authenticates the signatory of the message and indicates the person's
14 approval of the information contained in the transmission.

15 (u) "Electronic transmission" means the transmission of an electronic
16 prescription, formatted as an electronic data file, from a prescriber's
17 electronic prescription application to a pharmacy's computer, where the
18 data file is imported into the pharmacy prescription application.

19 (v) "Electronically prepared prescription" means a prescription that is
20 generated using an electronic prescription application.

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

31 (x) "Intermediary" means any technology system that receives and
32 transmits an electronic prescription between the prescriber and the
33 pharmacy.

34 (y) "Isomer" means all enantiomers and diastereomers.

35 (z) "Manufacture" means the production, preparation, propagation,
36 compounding, conversion or processing of a controlled substance either
37 directly or indirectly or by extraction from substances of natural origin or
38 independently by means of chemical synthesis or by a combination of
39 extraction and chemical synthesis and includes any packaging or
40 repackaging of the substance or labeling or relabeling of its container,
41 except that this term does not include the preparation or compounding of a
42 controlled substance by an individual for the individual's own lawful use
43 or the preparation, compounding, packaging or labeling of a controlled

1 substance:

2 (1) By a practitioner or the practitioner's agent pursuant to a lawful
3 order of a practitioner as an incident to the practitioner's administering or
4 dispensing of a controlled substance in the course of the practitioner's
5 professional practice; or

6 (2) by a practitioner or by the practitioner's authorized agent under
7 such practitioner's supervision for the purpose of or as an incident to
8 research, teaching or chemical analysis or by a pharmacist or medical care
9 facility as an incident to dispensing of a controlled substance.

10 (aa) "Marijuana" means all parts of all varieties of the plant Cannabis
11 whether growing or not, the seeds thereof, the resin extracted from any
12 part of the plant and every compound, manufacture, salt, derivative,
13 mixture or preparation of the plant, its seeds or resin. It does not include:
14 (1) The mature stalks of the plant, fiber produced from the stalks, oil or
15 cake made from the seeds of the plant, any other compound, manufacture,
16 salt, derivative, mixture or preparation of the mature stalks, except the
17 resin extracted therefrom, fiber, oil or cake or the sterilized seed of the
18 plant ~~which~~ that is incapable of germination; (2) any substance listed in
19 schedules II through V of the uniform controlled substances act; or (3)
20 cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-
21 cyclohexen-1-yl]-5-pentyl-1,3-benzenediol).

22 (bb) "Medical care facility" shall have the meaning ascribed to that
23 term in K.S.A. 65-425, and amendments thereto.

24 (cc) "Mid-level practitioner" means a certified nurse-midwife
25 engaging in the independent practice of midwifery under the independent
26 practice of midwifery act, an advanced practice registered nurse issued a
27 license pursuant to K.S.A. 65-1131, and amendments thereto, who has
28 authority to prescribe drugs pursuant to ~~a written protocol with a~~
29 ~~responsible physician under~~ K.S.A. 65-1130, and amendments thereto, or a
30 physician assistant licensed under the physician assistant licensure act who
31 has authority to prescribe drugs pursuant to a written agreement with a
32 supervising physician under K.S.A. 65-28a08, and amendments thereto.

33 (dd) "Narcotic drug" means any of the following whether produced
34 directly or indirectly by extraction from substances of vegetable origin or
35 independently by means of chemical synthesis or by a combination of
36 extraction and chemical synthesis:

37 (1) Opium and opiate and any salt, compound, derivative or
38 preparation of opium or opiate;

39 (2) any salt, compound, isomer, derivative or preparation thereof
40 ~~which~~ that is chemically equivalent or identical with any of the substances
41 referred to in paragraph (1) but not including the isoquinoline alkaloids of
42 opium;

43 (3) opium poppy and poppy straw; *or*

1 (4) coca leaves and any salt, compound, derivative or preparation of
2 coca leaves, and any salt, compound, isomer, derivative or preparation
3 thereof ~~which~~ that is chemically equivalent or identical with any of these
4 substances, but not including decocainized coca leaves or extractions of
5 coca leaves ~~which~~ that do not contain cocaine or ecgonine.

6 (ee) "Opiate" means any substance having an addiction-forming or
7 addiction-sustaining liability similar to morphine or being capable of
8 conversion into a drug having addiction-forming or addiction-sustaining
9 liability. It does not include, unless specifically designated as controlled
10 under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer
11 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does
12 include its racemic and levorotatory forms.

13 (ff) "Opium poppy" means the plant of the species *Papaver*
14 *somniferum* L. except its seeds.

15 (gg) "Person" means an individual, corporation, government, or
16 governmental subdivision or agency, business trust, estate, trust,
17 partnership or association or any other legal entity.

18 (hh) "Pharmacist" means any natural person licensed under K.S.A.
19 65-1625 et seq., and amendments thereto, to practice pharmacy.

20 (ii) "Pharmacist intern" means: (1) A student currently enrolled in an
21 accredited pharmacy program; (2) a graduate of an accredited pharmacy
22 program serving such person's internship; or (3) a graduate of a pharmacy
23 program located outside of the United States ~~which~~ that is not accredited,
24 and who had successfully passed equivalency examinations approved by
25 the board.

26 (jj) "Pharmacy prescription application" means software that is used
27 to process prescription information, is installed on a pharmacy's computers
28 and servers, and is controlled by the pharmacy.

29 (kk) "Poppy straw" means all parts, except the seeds, of the opium
30 poppy, after mowing.

31 (ll) "Practitioner" means a person licensed to practice medicine and
32 surgery, dentist, podiatrist, veterinarian, optometrist, or scientific
33 investigator or other person authorized by law to use a controlled
34 substance in teaching or chemical analysis or to conduct research with
35 respect to a controlled substance.

36 (mm) "Prescriber" means a practitioner or a mid-level practitioner.

37 (nn) "Production" includes the manufacture, planting, cultivation,
38 growing or harvesting of a controlled substance.

39 (oo) "Readily retrievable" means that records kept by automatic data
40 processing applications or other electronic or mechanized recordkeeping
41 systems can be separated out from all other records within a reasonable
42 time not to exceed 48 hours of a request from the board or other authorized
43 agent or that hard-copy records are kept on which certain items are

1 asterisked, redlined or in some other manner visually identifiable apart
2 from other items appearing on the records.

3 (pp) "Ultimate user" means a person who lawfully possesses a
4 controlled substance for such person's own use or for the use of a member
5 of such person's household or for administering to an animal owned by
6 such person or by a member of such person's household.

7 Sec. 4. K.S.A. 2018 Supp. 40-3401 is hereby amended to read as
8 follows: 40-3401. As used in this act:

9 (a) "Applicant" means any healthcare provider.

10 (b) "Basic coverage" means a policy of professional liability
11 insurance required to be maintained by each healthcare provider pursuant
12 to the provisions of K.S.A. 40-3402(a) or (b), and amendments thereto.

13 (c) "Commissioner" means the commissioner of insurance.

14 (d) "Fiscal year" means the year commencing on the effective date of
15 this act and each year, commencing on the first day of July thereafter.

16 (e) "Fund" means the healthcare stabilization fund established
17 pursuant to K.S.A. 40-3403(a), and amendments thereto.

18 (f) (1) "Healthcare provider" means a person licensed to practice any
19 branch of the healing arts by the state board of healing arts, a person who
20 holds a temporary permit to practice any branch of the healing arts issued
21 by the state board of healing arts, a person engaged in a postgraduate
22 training program approved by the state board of healing arts, a medical
23 care facility licensed by the state of Kansas, a podiatrist licensed by the
24 state board of healing arts, a health maintenance organization issued a
25 certificate of authority by the commissioner, an optometrist licensed by the
26 board of examiners in optometry, a pharmacist licensed by the state board
27 of pharmacy, a licensed professional nurse who is authorized to practice as
28 a registered nurse anesthetist, a licensed professional nurse who has been
29 granted a temporary authorization to practice nurse anesthesia under
30 K.S.A. 65-1153, and amendments thereto, a professional corporation
31 organized pursuant to the professional corporation law of Kansas by
32 persons who are authorized by such law to form such a corporation and
33 who are healthcare providers as defined by this subsection, a Kansas
34 limited liability company organized for the purpose of rendering
35 professional services by its members who are healthcare providers as
36 defined by this subsection and who are legally authorized to render the
37 professional services for which the limited liability company is organized,
38 a partnership of persons who are healthcare providers under this
39 subsection, a Kansas not-for-profit corporation organized for the purpose
40 of rendering professional services by persons who are healthcare providers
41 as defined by this subsection, a nonprofit corporation organized to
42 administer the graduate medical education programs of community
43 hospitals or medical care facilities affiliated with the university of Kansas

1 school of medicine, a dentist certified by the state board of healing arts to
 2 administer anesthetics under K.S.A. 65-2899, and amendments thereto, a
 3 psychiatric hospital licensed prior to January 1, 1988, and continuously
 4 thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its repeal, and
 5 K.S.A. 2018 Supp. 39-2001 et seq., and amendments thereto, ~~or~~ a mental
 6 health center or mental health clinic licensed by the state of Kansas. ~~On~~
 7 ~~and after January 1, 2015, "healthcare provider" also means~~, a physician
 8 assistant licensed by the state board of healing arts, a licensed advanced
 9 practice registered nurse who is authorized by the board of nursing to
 10 practice as an advanced practice registered nurse in the classification of a
 11 nurse-midwife, a licensed advanced practice registered nurse who has been
 12 granted a temporary authorization by the board of nursing to practice as an
 13 advanced practice registered nurse in the classification of a nurse-midwife,
 14 a nursing facility licensed by the state of Kansas, an assisted living facility
 15 licensed by the state of Kansas ~~or~~, a residential healthcare facility licensed
 16 by the state of Kansas *or an advanced practice registered nurse licensed*
 17 *by the board of nursing.*

18 (2) "Healthcare provider" does not include: ~~(1)~~(A) Any state
 19 institution for people with intellectual disability; ~~(2)~~(B) any state
 20 psychiatric hospital; ~~(3)~~(C) any person holding an exempt license issued
 21 by the state board of healing arts or the board of nursing; ~~(4)~~(D) any
 22 person holding a visiting clinical professor license from the state board of
 23 healing arts; ~~(5)~~(E) any person holding an inactive license issued by the
 24 state board of healing arts; ~~(6)~~(F) any person holding a federally active
 25 license issued by the state board of healing arts; ~~(7)~~(G) an advanced
 26 practice registered nurse who is authorized by the board of nursing to
 27 practice as an advanced practice registered nurse in the classification of
 28 nurse-midwife or nurse anesthetist and who practices solely in the course
 29 of employment or active duty in the United States government or any of its
 30 departments, bureaus or agencies or who provides professional services as
 31 a charitable healthcare provider as defined under K.S.A. 75-6102, and
 32 amendments thereto; ~~or~~ ~~(8)~~ (H) a physician assistant licensed by the state
 33 board of healing arts who practices solely in the course of employment or
 34 active duty in the United States government or any of its departments,
 35 bureaus or agencies or who provides professional services as a charitable
 36 healthcare provider as defined under K.S.A. 75-6102, and amendments
 37 thereto; *or (I) an advanced practice registered nurse: (i) Holding an*
 38 *inactive license issued by the board of nursing; (ii) practicing solely in*
 39 *employment for which the advanced practice registered nurse is covered*
 40 *under the federal tort claims act or the Kansas tort claims act; (iii)*
 41 *practicing solely as a charitable healthcare provider in accordance with*
 42 *K.S.A. 75-6102, and amendments thereto; or (iv) practicing solely while*
 43 *servicing on active duty in the military service of the United States.*

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

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

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

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

22 (k) "Rating organization" means a corporation, an unincorporated
23 association, a partnership or an individual licensed pursuant to K.S.A. 40-
24 956, and amendments thereto, to make rates for professional liability
25 insurance.

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

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

34 (n) "Mental health center" means a mental health center licensed by
35 the state of Kansas under K.S.A. 2018 Supp. 39-2001 et seq., and
36 amendments thereto, except that as used in the healthcare provider
37 insurance availability act such term, as it relates to insurance coverage
38 under the healthcare provider insurance availability act, also includes any
39 director, trustee, officer or administrator of a mental health center.

40 (o) "Mental health clinic" means a mental health clinic licensed by
41 the state of Kansas under K.S.A. 2018 Supp. 39-2001 et seq., and
42 amendments thereto, except that as used in the healthcare provider
43 insurance availability act such term, as it relates to insurance coverage

1 under the healthcare provider insurance availability act, also includes any
2 director, trustee, officer or administrator of a mental health clinic.

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

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

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

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

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

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

40 (t) "Sexual act" or "sexual activity" means that sexual conduct that
41 constitutes a criminal or tortious act under the laws of the state of Kansas.

42 (u) "Board" means the board of governors created by K.S.A. 40-3403,
43 and amendments thereto.

1 (v) "Board of directors" means the governing board created by K.S.A.
2 40-3413, and amendments thereto.

3 (w) "Locum tenens contract" means a temporary agreement not
4 exceeding 182 days per calendar year that employs a healthcare provider
5 to actively render professional services in this state.

6 (x) "Professional services" means patient care or other services
7 authorized under the act governing licensure of a healthcare provider.

8 (y) "Healthcare facility" means a nursing facility, an assisted living
9 facility or a residential healthcare facility as all such terms are defined in
10 K.S.A. 39-923, and amendments thereto.

11 (z) "Charitable healthcare provider" means the same as defined in
12 K.S.A. 75-6102, and amendments thereto.

13 Sec. 5. K.S.A. 65-1130 and 65-4101, K.S.A. 2017 Supp. 65-1113, as
14 amended by section 2 of chapter 42 of the 2018 Session Laws of Kansas,
15 and K.S.A. 2018 Supp. 40-3401 are hereby repealed.

16 Sec. 6. This act shall take effect and be in force from and after July 1,
17 2020, and its publication in the statute book.