

SENATE BILL No. 274

By Committee on Assessment and Taxation

2-23

1 AN ACT concerning health and healthcare; relating to the practice of
2 naturopathy; licensure and regulation of naturopathic doctors;
3 broadening the scope of practice of naturopathic doctors; amending
4 K.S.A. 65-7201, 65-7207, 65-7208, 65-7209 and 65-7214 and K.S.A.
5 2020 Supp. 65-1626, 65-4101 and 65-7202 and repealing the existing
6 sections; also repealing K.S.A. 65-7212.

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

9 New Section 1. (a) A naturopathic doctor may:

10 (1) Order and perform physical examinations, orifical examinations,
11 excluding endoscopies, and laboratory examinations for diagnostic
12 purposes, including, but not limited to, phlebotomy, clinical laboratory
13 tests, speculum examinations and physiological function tests;

14 (2) order diagnostic imaging studies, including, but not limited to, x-
15 ray, ultrasound, mammogram, bone densitometry, computed tomography,
16 magnetic resonance imaging and electrocardiograms, but a naturopathic
17 doctor shall refer patients to an appropriately licensed and qualified
18 healthcare professional to conduct diagnostic imaging studies and interpret
19 the results;

20 (3) prescribe, recommend or administer: (A) Food, food extracts,
21 nutraceuticals, vitamins, minerals, amino acids, enzymes, whole gland
22 thyroid, botanicals, homeopathic preparations, plant substances, dietary
23 supplements and nonprescription drugs; (B) human cellular and tissue-
24 based products that are not regulated as drugs; (C) healthcare and
25 nutritional counseling, including fertility counseling; (D) dietary therapy,
26 naturopathic physical applications, barrier contraceptive devices and
27 intrauterine insemination; (E) substances authorized for intradermal,
28 subcutaneous, intramuscular, intravenous, ligamentous, tendinous,
29 periarticular or intra-articular administration, including proliferative
30 therapy; (F) biofeedback and neurofeedback therapies; and (G) durable
31 medical equipment and devices;

32 (4) prescribe, administer or dispense: (A) Prescription-only drugs as
33 defined in K.S.A. 65-1626, and amendments thereto; and (B) testosterone,
34 as designated in K.S.A. 65-4109(f)(62);

35 (5) perform minor office procedures and naturopathic acupuncture;

36 (6) provide naturopathic care to a pregnant patient;

1 (7) utilize routes of administration that include oral, nasal, topical,
2 auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous,
3 intramuscular, ligamentous, tendinous, periarticular, intra-articular and
4 intravenous; and

5 (8) utilize non-diagnostic ultrasound in the performance of services.

6 (b) A naturopathic doctor shall not:

7 (1) Perform surgery;

8 (2) perform labor, delivery or any procedure involving the
9 reproductive organs of a pregnant patient;

10 (3) administer ionizing radiation for therapeutic purposes;

11 (4) use general or spinal anesthetics;

12 (5) administer, conduct or interpret the results of diagnostic imaging
13 studies except as authorized by this act;

14 (6) claim to practice any licensed healthcare profession or system
15 other than naturopathic medicine, unless holding a separate license in that
16 profession;

17 (7) perform procedures involving the termination of a pregnancy; or

18 (8) prescribe, administer or dispense any controlled substances not
19 authorized by this act.

20 New Sec. 2. A naturopathic doctor who prescribes pursuant to section
21 1(a)(3) and (a)(4), and amendments thereto, shall:

22 (a) Record each prescription order in writing, which may include an
23 electronically recorded and transmitted communication. The order shall
24 include the name, address and telephone number of the naturopathic
25 doctor;

26 (b) prescribe only when the naturopathic doctor has adequate
27 education, training and experience to safely manage the medical regimen;
28 and

29 (c) register with the United States drug enforcement administration in
30 order to prescribe controlled substances authorized by this act.

31 New Sec. 3. (a) The practice of naturopathy shall not include the
32 following:

33 (1) Persons whose professional services are performed under the
34 supervision or by order of or referral from a naturopathic doctor licensed
35 under the naturopathic doctor licensure act;

36 (2) persons licensed to engage in the practice of naturopathic
37 medicine in another state, territory or the District of Columbia when called
38 into this state in consultation with naturopathic doctors licensed in this
39 state; and

40 (3) practitioners of the healing arts licensed under the healing arts act
41 and practicing their professions or persons performing services pursuant to
42 the delegation of a licensee under K.S.A. 65-2872(g), and amendments
43 thereto.

1 (b) Nothing in this act shall be construed to restrict any person
2 licensed or regulated by the state of Kansas from engaging in the
3 profession or practice for which they are licensed or regulated.

4 New Sec. 4. (a) Every naturopathic doctor shall maintain a record for
5 each patient for whom a professional service is rendered, including:
6 Documentation of dates of professional services, pertinent and significant
7 information regarding the patient's condition, examinations and testing, all
8 findings and results, diagnosis and treatment performed or recommended,
9 patient progress and all patient records received from other providers.

10 (b) Every naturopathic doctor shall maintain a patient's record for a
11 minimum of 10 years from the date the licensee provided the professional
12 service recorded.

13 New Sec. 5. If any provision of the naturopathic doctor licensure act
14 or application thereof to any person or circumstance is held invalid, such
15 invalidity shall not affect other provisions or applications that can be given
16 effect without the invalid provision or application, and to this end, the
17 provisions of the naturopathic doctor licensure act are declared to be
18 severable.

19 Sec. 6. K.S.A. 2020 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 or K.S.A. 2020
28 Supp. 65-16,129, and amendments thereto.

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

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

39 (d) "Automated dispensing system" means a robotic or mechanical
40 system controlled by a computer that: (1) Performs operations or activities,
41 other than compounding or administration, relative to the storage,
42 packaging, labeling, dispensing or distribution of drugs; (2) collects,
43 controls and maintains all transaction information; and (3) operates in

1 accordance with the board's rules and regulations.

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

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

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

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

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

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

21 (k)(1) "Compounding" means the combining of components into a
22 compounded preparation under either of the following conditions:

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

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

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

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

37 (l) "DEA" means the ~~U.S.~~ *United States* department of justice, drug
38 enforcement administration.

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

42 (n) "Direct supervision" means the process by which the responsible
43 pharmacist shall observe and direct the activities of a pharmacy student or

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

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

8 (p) "Dispenser" means:

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

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

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

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

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

32 (t) "Drug" means: (1) Articles recognized in the official United States
33 pharmacopeia, or other such official compendiums of the United States, or
34 official national formulary, or any supplement to any of them; (2) articles
35 intended for use in the diagnosis, cure, mitigation, treatment or prevention
36 of disease in human or other animals; (3) articles, other than food,
37 intended to affect the structure or any function of the body of human or
38 other animals; and (4) articles intended for use as a component of any
39 articles specified in paragraph (1), (2) or (3); but does not include devices
40 or their components, parts or accessories, except that the term "drug" shall
41 not include amygdalin (laetrile) or any livestock remedy, if such livestock
42 remedy had been registered in accordance with the provisions of article 5
43 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

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

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

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

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

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

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

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

35 (bb) "FDA" means the ~~U.S.~~ *United States* department of health and
36 human services, food and drug administration.

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

1 printer; or transmission of an electronically prepared prescription from the
2 prescriber's fax machine to the pharmacy's fax machine, computer or
3 printer.

4 (dd) "Generic name" means the established chemical name or official
5 name of a drug or drug product.

6 (ee) "Health care entity" means any person that provides diagnostic,
7 medical, surgical or dental treatment or rehabilitative care but does not
8 include any retail pharmacy or wholesale distributor.

9 (ff) (1) "Institutional drug room" means any location where
10 prescription-only drugs are stored and from which prescription-only drugs
11 are administered or dispensed and that is maintained or operated for the
12 purpose of providing the drug needs of:

13 (A) Inmates of a jail or correctional institution or facility;

14 (B) residents of a *juvenile correctional facility or juvenile detention*
15 *facility, as defined by the revised Kansas code for care of children and the*
16 *revised Kansas juvenile justice code in K.S.A. 2020 Supp. 38-2302, and*
17 *amendments thereto;*

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. 2020 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) "Medication order" means an order by a prescriber for a

1 registered patient of a Kansas licensed medical care facility.

2 (qq) "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. 65-28a08, and amendments
11 thereto.

12 (rr) "Nonresident pharmacy" means a pharmacy located outside of
13 Kansas.

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

18 (tt) "Person" means individual, corporation, government,
19 governmental subdivision or agency, partnership, association or any other
20 legal entity.

21 (uu) "Pharmacist" means any natural person licensed under this act to
22 practice pharmacy.

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

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

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

1 or any sign containing any of these words; or (3) where the characteristic
2 symbols of pharmacy or the characteristic prescription sign "Rx" may be
3 exhibited. As used in this subsection, premises refers only to the portion of
4 any building or structure leased, used or controlled by the licensee in the
5 conduct of the business registered by the board at the address for which the
6 registration was issued.

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

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

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

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

25 (ccc) "Prescriber" means a practitioner or a mid-level practitioner.

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

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

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

41 (ggg) "Probation" means the practice or operation under a temporary
42 license, registration or permit or a conditional license, registration or
43 permit of a business or profession for which a license, registration or

1 permit is granted by the board under the provisions of the pharmacy act of
2 the state of Kansas requiring certain actions to be accomplished or certain
3 actions not to occur before a regular license, registration or permit is
4 issued.

5 (hhh) "Product" means the same as defined by part H of the federal
6 drug supply chain security act, 21 U.S.C. § 351 et seq. and 21 U.S.C. §
7 360eee.

8 (iii) "Professional incompetency" means:

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

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

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

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

24 (lll) "Repackage" means changing the container, wrapper, quantity or
25 label of a drug to further the distribution of the drug.

26 (mmm) "Repackager" means a person who owns or operates a facility
27 that repackages.

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

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

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

1 distribution.

2 (qqq) "Secretary" means the executive secretary of the board.

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

8 (sss) "Trading partner" means:

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

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

18 (ttt) "Transaction" means the transfer of product between persons in
19 which a change of ownership occurs.

20 (uuu) "Unprofessional conduct" means:

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

22 (2) intentional adulteration or mislabeling of any drug, medicine,
23 chemical or poison;

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

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

27 (5) unlawful possession of drugs and unlawful diversion of drugs to
28 others;

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

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

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

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

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

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

43 (www) "Valid prescription order" means a prescription that is issued

1 for a legitimate medical purpose by an individual prescriber licensed by
2 law to administer and prescribe drugs and acting in the usual course of
3 such prescriber's professional practice. A prescription issued solely on the
4 basis of an internet-based questionnaire or consultation without an
5 appropriate prescriber-patient relationship is not a valid prescription order.

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

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

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

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

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

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

26 (4) the distribution of a prescription drug or an offer to distribute a
27 prescription drug among hospitals or other health care entities under
28 common control;

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

33 (6) the purchase or other acquisition by a dispenser, hospital or other
34 health care entity for use by such dispenser, hospital or other health care
35 entity;

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

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

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

42 (10) the distribution of a drug or an offer to distribute a drug by an
43 authorized repackager that has taken ownership or possession of the drug

1 and repacks it in accordance with section 582(e) of the federal food, drug
2 and cosmetic act;

3 (11) saleable drug returns when conducted by a dispenser;

4 (12) the distribution of minimal quantities of drugs by licensed retail
5 pharmacies to licensed practitioners for office use;

6 (13) the distribution of a collection of finished medical devices,
7 including a product or biological product in accordance with 21 U.S.C. §
8 353(e)(4)(M);

9 (14) the distribution of an intravenous drug that, by its formulation, is
10 intended for the replenishment of fluids and electrolytes, including
11 sodium, chloride and potassium, or calories, including dextrose and amino
12 acids;

13 (15) the distribution of an intravenous drug used to maintain the
14 equilibrium of water and minerals in the body, such as dialysis solutions;

15 (16) the distribution of a drug that is intended for irrigation, or sterile
16 water, whether intended for such purposes or for injection;

17 (17) the distribution of medical gas;

18 (18) facilitating the distribution of a product by providing solely
19 administrative services, including processing of orders and payments;

20 (19) the transfer of a product by a hospital or other health care entity,
21 or by a wholesale distributor or manufacturer operating under the direction
22 of a hospital or other health care entity, to a repackager described in
23 section 581(16)(B) and registered under section 510 of the food, drug and
24 cosmetic act for the purpose of repackaging the drug for use by that
25 hospital or other health care entity, or other health care entities under
26 common control, if ownership of the drug remains with the hospital or
27 other health care entity at all times; or

28 (20) the sale or transfer from a retail pharmacy of expired, damaged,
29 returned or recalled prescription drugs to the original manufacturer,
30 originating wholesale distributor or to a third-party returns processor in
31 accordance with the board's rules and regulations.

32 Sec. 7. K.S.A. 2020 Supp. 65-4101 is hereby amended to read as
33 follows: 65-4101. As used in this act:

34 (a) "Administer" means the direct application of a controlled substance,
35 whether by injection, inhalation, ingestion or any other means, to the body
36 of a patient or research subject by:

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

38 or

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

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

1 warehouseman.

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

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

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

9 (f) "Controlled substance" means any drug, substance or immediate
10 precursor included in any of the schedules designated in K.S.A. 65-4105,
11 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.

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

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

18 (B) the substance has a stimulant, depressant or hallucinogenic effect
19 on the central nervous system substantially similar to the stimulant,
20 depressant or hallucinogenic effect on the central nervous system of a
21 controlled substance included in the schedules designated in K.S.A. 65-
22 4105 or 65-4107, and amendments thereto; or

23 (C) with respect to a particular individual, such individual represents
24 or intends the substance to have a stimulant, depressant or hallucinogenic
25 effect on the central nervous system substantially similar to the stimulant,
26 depressant or hallucinogenic effect on the central nervous system of a
27 controlled substance included in the schedules designated in K.S.A. 65-
28 4105 or 65-4107, and amendments thereto.

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

30 (A) A controlled substance;

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

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

37 (h) "Counterfeit substance" means a controlled substance that, or the
38 container or labeling of which, without authorization bears the trademark,
39 trade name or other identifying mark, imprint, number or device or any
40 likeness thereof of a manufacturer, distributor or dispenser other than the
41 person who in fact manufactured, distributed or dispensed the substance.

42 (i) "Cultivate" means the planting or promotion of growth of five or
43 more plants that contain or can produce controlled substances.

1 (j) "DEA" means the ~~U.S.~~ *United States* department of justice, drug
2 enforcement administration.

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

6 (l) "Dispense" means to deliver a controlled substance to an ultimate
7 user or research subject by or pursuant to the lawful order of a practitioner,
8 including the packaging, labeling or compounding necessary to prepare the
9 substance for that delivery, or pursuant to the prescription of a mid-level
10 practitioner.

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

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

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

17 (p) "Drug" means: (1) Substances recognized as drugs in the official
18 United States pharmacopeia, official homeopathic pharmacopoeia of the
19 United States or official national formulary or any supplement to any of
20 them; (2) substances intended for use in the diagnosis, cure, mitigation,
21 treatment or prevention of disease in human or animals; (3) substances
22 (other than food) intended to affect the structure or any function of the
23 body of human or animals; and (4) substances intended for use as a
24 component of any article specified in paragraph (1), (2) or (3). It does not
25 include devices or their components, parts or accessories.

26 (q) "Immediate precursor" means a substance that the board has
27 found to be and by rule and regulation designates as being the principal
28 compound commonly used or produced primarily for use and that is an
29 immediate chemical intermediary used or likely to be used in the
30 manufacture of a controlled substance, the control of which is necessary to
31 prevent, curtail or limit manufacture.

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

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

39 (t) "Electronic signature" means a confidential personalized digital
40 key, code, number or other method for secure electronic data transmissions
41 that identifies a particular person as the source of the message,
42 authenticates the signatory of the message and indicates the person's
43 approval of the information contained in the transmission.

1 (u) "Electronic transmission" means the transmission of an electronic
2 prescription, formatted as an electronic data file, from a prescriber's
3 electronic prescription application to a pharmacy's computer, where the
4 data file is imported into the pharmacy prescription application.

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

7 (w) "Facsimile transmission" or "fax transmission" means the
8 transmission of a digital image of a prescription from the prescriber or the
9 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
10 is not limited to, transmission of a written prescription between the
11 prescriber's fax machine and the pharmacy's fax machine; transmission of
12 an electronically prepared prescription from the prescriber's electronic
13 prescription application to the pharmacy's fax machine, computer or
14 printer; or transmission of an electronically prepared prescription from the
15 prescriber's fax machine to the pharmacy's fax machine, computer or
16 printer.

17 (x) "Intermediary" means any technology system that receives and
18 transmits an electronic prescription between the prescriber and the
19 pharmacy.

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

21 (z) "Manufacture" means the production, preparation, propagation,
22 compounding, conversion or processing of a controlled substance either
23 directly or indirectly or by extraction from substances of natural origin or
24 independently by means of chemical synthesis or by a combination of
25 extraction and chemical synthesis and includes any packaging or
26 repackaging of the substance or labeling or relabeling of its container,
27 except that this term does not include the preparation or compounding of a
28 controlled substance by an individual for the individual's own lawful use
29 or the preparation, compounding, packaging or labeling of a controlled
30 substance:

31 (1) By a practitioner or the practitioner's agent pursuant to a lawful
32 order of a practitioner as an incident to the practitioner's administering or
33 dispensing of a controlled substance in the course of the practitioner's
34 professional practice; or

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

39 (aa) "Marijuana" means all parts of all varieties of the plant Cannabis
40 whether growing or not, the seeds thereof, the resin extracted from any
41 part of the plant and every compound, manufacture, salt, derivative,
42 mixture or preparation of the plant, its seeds or resin. It does not include:

43 (1) The mature stalks of the plant, fiber produced from the stalks, oil or

1 cake made from the seeds of the plant, any other compound, manufacture,
2 salt, derivative, mixture or preparation of the mature stalks, except the
3 resin extracted therefrom, fiber, oil or cake or the sterilized seed of the
4 plant that is incapable of germination; (2) any substance listed in schedules
5 II through V of the uniform controlled substances act; (3) cannabidiol
6 (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-
7 5-pentyl-1,3-benzenediol); or (4) industrial hemp as defined in K.S.A.
8 2020 Supp. 2-3901, and amendments thereto, when cultivated, produced,
9 possessed or used for activities authorized by the commercial industrial
10 hemp act.

11 (bb) "Medical care facility" ~~shall have the meaning ascribed to that~~
12 ~~term~~ *means the same as defined* in K.S.A. 65-425, and amendments
13 thereto.

14 (cc) "Mid-level practitioner" means a certified nurse-midwife
15 engaging in the independent practice of midwifery under the independent
16 practice of midwifery act, an advanced practice registered nurse issued a
17 license pursuant to K.S.A. 65-1131, and amendments thereto, who has
18 authority to prescribe drugs pursuant to a written protocol with a
19 responsible physician under K.S.A. 65-1130, and amendments thereto, or a
20 physician assistant licensed under the physician assistant licensure act who
21 has authority to prescribe drugs pursuant to a written agreement with a
22 supervising physician under K.S.A. 65-28a08, and amendments thereto.

23 (dd) "Narcotic drug" means any of the following whether produced
24 directly or indirectly by extraction from substances of vegetable origin or
25 independently by means of chemical synthesis or by a combination of
26 extraction and chemical synthesis:

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

29 (2) any salt, compound, isomer, derivative or preparation thereof that
30 is chemically equivalent or identical with any of the substances referred to
31 in paragraph (1) but not including the isoquinoline alkaloids of opium;

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

33 (4) coca leaves and any salt, compound, derivative or preparation of
34 coca leaves, and any salt, compound, isomer, derivative or preparation
35 thereof that is chemically equivalent or identical with any of these
36 substances, but not including decocainized coca leaves or extractions of
37 coca leaves that do not contain cocaine or ecgonine.

38 (ee) "Opiate" means any substance having an addiction-forming or
39 addiction-sustaining liability similar to morphine or being capable of
40 conversion into a drug having addiction-forming or addiction-sustaining
41 liability. It does not include, unless specifically designated as controlled
42 under K.S.A. 65-4102, and amendments thereto, the dextrorotatory isomer
43 of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does

1 include its racemic and levorotatory forms.

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

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

7 (hh) "Pharmacist" means any natural person licensed under K.S.A.
8 65-1625 et seq., and amendments thereto, to practice pharmacy.

9 (ii) "Pharmacist intern" means: (1) A student currently enrolled in an
10 accredited pharmacy program; (2) a graduate of an accredited pharmacy
11 program serving such person's internship; or (3) a graduate of a pharmacy
12 program located outside of the United States that is not accredited and who
13 had successfully passed equivalency examinations approved by the board.

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

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

19 (ll) "Practitioner" means a person licensed to practice medicine and
20 surgery, dentist, podiatrist, veterinarian, optometrist, *naturopathic doctor*
21 or scientific investigator or other person authorized by law to use a
22 controlled substance in teaching or chemical analysis or to conduct
23 research with respect to a controlled substance.

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

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

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

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

38 Sec. 8. K.S.A. 65-7201 is hereby amended to read as follows: 65-
39 7201. K.S.A. 65-7201 ~~to~~ through 65-7218, ~~inclusive and amendments~~
40 *thereto, and sections 1 through 5*, and amendments thereto, shall be known
41 and may be cited as the naturopathic doctor licensure act.

42 Sec. 9. K.S.A. 2020 Supp. 65-7202 is hereby amended to read as
43 follows: 65-7202. As used in ~~K.S.A. 65-7201 through 65-7218, and~~

1 ~~amendments thereto~~ *the naturopathic doctor licensure act*:

2 (a) "Naturopathic doctor" means a doctor of naturopathic medicine
3 who is authorized and licensed pursuant to this act.

4 (b)~~(1)~~ "Naturopathic medicine," or "naturopathy" means a system of
5 health care practiced by naturopathic doctors for the prevention, diagnosis
6 and treatment of human health conditions, injuries and diseases, that uses
7 education, natural medicines and therapies to support and stimulate the
8 individual's intrinsic self-healing processes, ~~and includes: (A) Prescribing,~~
9 ~~recommending or administering: (i) Food, food extracts, vitamins,~~
10 ~~minerals, enzymes, whole gland thyroid, botanicals, homeopathic~~
11 ~~preparations, nonprescription drugs, plant substances that are not~~
12 ~~designated as prescription drugs or controlled substances, topical drugs as~~
13 ~~defined in subsection (i); (ii) health care counseling, nutritional counseling~~
14 ~~and dietary therapy, naturopathic physical applications, barrier~~
15 ~~contraceptive devices; (iii) substances on the naturopathic formulary that~~
16 ~~are authorized for intramuscular or intravenous administration pursuant to~~
17 ~~a written protocol entered into with a physician who has entered into a~~
18 ~~written protocol with a naturopathic doctor licensed under the naturopathic~~
19 ~~doctor licensure act; (iv) noninvasive physical examinations, venipuncture~~
20 ~~to obtain blood for clinical laboratory tests and orofacial examinations,~~
21 ~~excluding endoscopies; (v) minor office procedures; and (vi) naturopathic~~
22 ~~acupuncture; and (B) ordering diagnostic imaging studies, including, but~~
23 ~~not limited to, x-ray, ultrasound, mammogram, bone densitometry,~~
24 ~~computed tomography, magnetic resonance imaging and~~
25 ~~electrocardiograms, except that naturopathic doctors shall refer patients to~~
26 ~~an appropriately licensed and qualified healthcare professional to conduct~~
27 ~~diagnostic imaging studies and interpret the results of such studies.~~

28 ~~(2) A naturopathic doctor may not perform surgery, obstetrics,~~
29 ~~administer ionizing radiation, or prescribe, dispense or administer any~~
30 ~~controlled substances as defined in K.S.A. 65-4101, and amendments~~
31 ~~thereto, or any prescription-only drugs except those listed on the~~
32 ~~naturopathic formulary adopted by the board pursuant to this act.~~

33 (c) "Board" means the state board of healing arts.

34 (d) "Approved naturopathic medical college" means a college and
35 program granting the degree of doctor of naturopathy or naturopathic
36 medicine that has been approved by the board under this act and which
37 college and program requires at a minimum a *graduate-level*, four-year,
38 full-time resident program of academic and clinical study.

39 (e) "Homeopathic preparations" means substances and drugs prepared
40 according to the official homeopathic pharmacopoeia recognized by the
41 United States food and drug administration.

42 (f) "Naturopathic acupuncture" means the insertion of fine metal
43 needles through the skin at specific points on or near the surface of the

1 body with or without the palpation of specific points on the body and with
2 or without the application of electric current or heat to the needles or skin
3 or both to treat human disease and impairment and to relieve pain.

4 (g) "Minor office procedures" means care ~~incidental to~~ *and treatment*
5 *of superficial tissue*, superficial lacerations ~~and~~, abrasions, ~~superficial and~~
6 lesions ~~and~~, the removal of foreign bodies located in the superficial tissues,
7 ~~except eyes, and not involving blood vessels, tendons, ligaments or nerves~~
8 *not involving the eyes, nerves, veins or arteries extending beyond*
9 *superficial tissue*. "Minor office procedures" includes use of antiseptics,
10 ~~but shall not include the topical anesthesia and local anesthesia, but does~~
11 ~~not include the suturing, repairing, alteration or removal of tissue or the~~
12 ~~use of general or spinal anesthesia. Minor office procedures does not~~
13 ~~include anesthetics or surgery.~~

14 (h) "Naturopathic physical applications" means the therapeutic use by
15 naturopathic doctors of the actions or devices of electrical muscle
16 stimulation, galvanic, diathermy, *electromagnetic energy*, ultrasound,
17 ~~ultraviolet light, constitutional heat, air, hot or cold~~ hydrotherapy,
18 naturopathic musculoskeletal technique ~~and~~, therapeutic exercise *and*
19 *treatments taught in any approved medical college that are not otherwise*
20 *prohibited by this act.*

21 ~~(i) "Topical drugs" means topical analgesics, antiseptics, scabicides,~~
22 ~~antifungals and antibacterials but does not include prescription only drugs.~~

23 ~~(j) "Physician" means a person licensed to practice medicine and~~
24 ~~surgery.~~

25 ~~(k) "Written protocol" means a formal written agreement between a~~
26 ~~naturopathic doctor licensed under this act and a person licensed to~~
27 ~~practice medicine and surgery. Any licensee of the board entering into a~~
28 ~~written protocol with a licensed naturopathic doctor shall notify the board~~
29 ~~in writing of such relationship by providing such information as the board~~
30 ~~may require.~~

31 Sec. 10. K.S.A. 65-7207 is hereby amended to read as follows: 65-
32 7207. ~~(a)~~ The board shall charge and collect in advance fees provided for
33 in this act as fixed by the board by rules and regulations, subject to the
34 following limitations:

35	Application fee, not more than.....	\$200
36	Temporary license fee, not more than.....	\$30
37	License renewal fee, not more than.....	\$150
38	License late renewal additional fee, not more than.....	\$250
39	License reinstatement fee, not more than.....	\$250
40	Certified copy of license, not more than.....	\$30
41	Written verification of license, not more than.....	\$25

42 ~~(b) The board shall charge and collect in advance fees for any~~
43 ~~examination administered by the board under the naturopathic doctor~~

1 licensure act as fixed by the board by rules and regulations in an amount
 2 equal to the cost to the board of the examination. If the examination is not
 3 administered by the board, the board may require that fees paid for any
 4 examination under the naturopathic doctor licensure act be paid directly to
 5 the examination service by the person taking the examination.

6 Sec. 11. K.S.A. 65-7208 is hereby amended to read as follows: 65-
 7 7208. (a) The board may deny, refuse to renew, suspend, revoke, *place*
 8 *under probationary conditions* or limit a *licensee's* license or the licensee
 9 may be publicly or privately censured ~~where the licensee or applicant for~~
 10 ~~licensure has been guilty of unprofessional conduct which has endangered~~
 11 ~~or is likely to endanger the health, welfare or safety of the public.~~
 12 ~~Unprofessional conduct includes upon a finding that a licensee has:~~

13 (1) ~~Obtaining~~ *Obtained* a license by means of fraud,
 14 misrepresentation or concealment of material facts;

15 (2) ~~being guilty~~ *committed an act* of unprofessional conduct as
 16 defined by rules and regulations adopted by the board;

17 (3) ~~being~~ *been* convicted of a felony ~~if the acts for which such~~
 18 ~~person was convicted are found by the board to have a direct bearing on~~
 19 ~~whether such person should be entrusted to serve the public in the capacity~~
 20 ~~of a naturopathic doctor;~~

21 (4) ~~violating~~ *violated* any lawful order or rule and regulation of the
 22 board; ~~and~~

23 (5) ~~violating~~ *violated* any provision of ~~this the naturopathic doctor~~
 24 *licensure act;*

25 (6) *an adverse judgment, award or settlement rendered against the*
 26 *licensee resulting from a professional liability claim related to acts or*
 27 *conduct similar to acts or conduct that would constitute grounds for*
 28 *disciplinary action under this section;*

29 (7) *failed to report to the board any adverse action taken against the*
 30 *licensee by another state or licensing jurisdiction, a healthcare facility, a*
 31 *professional association or society, a governmental agency, a law*
 32 *enforcement agency or a court for acts or conduct similar to acts or*
 33 *conduct that would constitute grounds for disciplinary action under this*
 34 *section;*

35 (8) *prescribed or administered a prescription drug or substance,*
 36 *including a controlled substance, in an improper or inappropriate manner,*
 37 *or for other than a valid medical purpose, or not in the course of the*
 38 *licensee's professional practice; and*

39 (9) *given a worthless check or stopped payment on a debit or credit*
 40 *card for fees or moneys legally due to the board.*

41 (b) Such denial, refusal to renew, suspension, revocation, *probation*
 42 *or limitation of a license or public or private censure of a licensee may be*
 43 *ordered by the board after notice and hearing on the matter in accordance*

1 with the provisions of the Kansas administrative procedure act. Upon the
2 end of the period of time established by the board for the revocation of a
3 license, application may be made to the board for reinstatement. The board
4 shall have discretion to accept or reject an application for reinstatement
5 and may hold a hearing to consider such reinstatement. An application for
6 reinstatement of a revoked license shall be accompanied by the license
7 renewal fee and the license reinstatement fee established under K.S.A. 65-
8 7207, and amendments thereto.

9 (c) The board, in addition to any other penalty prescribed in
10 subsection (a), may assess a civil fine, after proper notice and an
11 opportunity to be heard, against a licensee for unprofessional conduct in an
12 amount not to exceed \$5,000 for the first violation, \$10,000 for the second
13 violation and \$15,000 for the third violation and for each subsequent
14 violation. All fines assessed and collected under this section shall be
15 remitted to the state treasurer in accordance with the provisions of K.S.A.
16 75-4215, and amendments thereto. Upon receipt of each such remittance,
17 the state treasurer shall deposit the entire amount in the state treasury to
18 the credit of the state general fund. *Fines collected under this section shall*
19 *be considered administrative fines pursuant to 11 U.S.C. § 523.*

20 Sec. 12. K.S.A. 65-7209 is hereby amended to read as follows: 65-
21 7209. (a) Licenses issued under this act shall ~~expire on the date of~~
22 ~~expiration established by rules and regulations of the board be canceled on~~
23 *January 31 of each year* unless renewed in the manner prescribed by the
24 board. The request for renewal shall be accompanied by the license
25 renewal fee established pursuant to K.S.A. 65-7207, and amendments
26 thereto. The board may establish additional requirements for license
27 renewal ~~which~~ *that* provide evidence of continued competency. The board
28 shall require as a condition for renewal of a license completion of at least
29 25 hours annually of continuing education approved by the board.

30 (b) At least 30 days before the ~~expiration-renewal date~~ of a licensee's
31 license, the board shall notify the licensee of the ~~expiration~~ *renewal date*
32 by mail addressed to the licensee's last mailing address as noted upon the
33 office records. If the licensee fails to *submit the renewal application and*
34 *pay the renewal fee by the* ~~date of expiration~~ *renewal date*, the licensee
35 shall be given a second notice that the ~~license has expired and the license~~
36 ~~may be renewed only if the licensee~~ *licensee has failed to submit the*
37 *renewal application and pay the renewal fee by the renewal date of the*
38 *license and that the license will be canceled if not renewed within 30 days*
39 *following the renewal date. The notice shall also state that if the renewal*
40 *application, the renewal fee and* ~~the~~ *an additional late renewal fee*
41 *established by rules and regulations* are received by the board within the
42 ~~thirty-day~~ *30-day* period following the date of ~~expiration~~ *cancellation, the*
43 *license will not be canceled* and that, if both fees are not received within

1 the ~~thirty-day~~ 30-day period, the license shall be deemed canceled by
2 operation of law without further proceedings ~~for failure to renew~~ and shall
3 be reissued only after the license has been reinstated under subsection (c).

4 (c) Any license canceled for failure to renew ~~as herein provided in~~
5 *this section* may be reinstated upon recommendation of the board ~~and~~
6 ~~upon~~, payment of the license reinstatement fee and ~~upon~~ submitting
7 evidence of satisfactory completion of any applicable continuing education
8 requirements established by the board. The board shall adopt rules and
9 regulations establishing appropriate continuing education requirements for
10 reinstatement of licenses canceled for failure to renew.

11 (d) ~~A person whose license is suspended shall not engage in any~~
12 ~~conduct or activity in violation of the order or judgment by which the~~
13 ~~license was suspended.~~

14 Sec. 13. K.S.A. 65-7214 is hereby amended to read as follows: 65-
15 7214. (a) There is established a naturopathic advisory council to advise the
16 board in carrying out the provisions of this act. The council shall consist of
17 five members, all citizens and residents of the state of Kansas appointed as
18 follows: Three members shall be naturopathic doctors appointed by the
19 state board of healing arts; one member shall be the president of the state
20 board of healing arts or a person designated by the president; and one
21 member appointed by the governor shall be from the public sector who is
22 not engaged, directly or indirectly, in the provision of health services.
23 Insofar as possible persons appointed to the council shall be from different
24 geographic areas. If a vacancy occurs on the council, the appointing
25 authority of the position ~~which~~ *that* has become vacant shall appoint a
26 person of like qualifications to fill the vacant position for the unexpired
27 term, if any. The members of the council appointed by the governor shall
28 be appointed for terms of three years and until a successor is appointed.
29 The members appointed by the state board of healing arts shall serve at the
30 pleasure of the state board of healing arts. If a member is designated by the
31 president of the state board of healing arts, the member shall serve at the
32 pleasure of the president.

33 (b) Members of the council attending meetings of the council, or
34 attending a subcommittee meeting thereof authorized by the council, shall
35 be paid amounts provided in ~~subsection (e) of K.S.A. 75-3223(e)~~, and
36 amendments thereto, from the healing arts fee fund.

37 (e) ~~During the 2003 regular session of the legislature the legislature~~
38 ~~shall consider establishing an alternative health care board composed of~~
39 ~~representatives as may be designated from existing health care regulatory~~
40 ~~agencies, alternative health care providers and members of the general~~
41 ~~public for purposes of advising the legislature on matters relating to~~
42 ~~alternative health care, administering the naturopathic doctor registration~~
43 ~~act and performing such other duties as may be established by law.~~

1 ~~(d) The provisions of this section shall take effect on and after~~
2 ~~January 1, 2003.~~

3 Sec. 14. K.S.A. 65-7201, 65-7207, 65-7208, 65-7209, 65-7212 and
4 65-7214 and K.S.A. 2020 Supp. 65-1626, 65-4101 and 65-7202 are hereby
5 repealed.

6 Sec. 15. This act shall take effect and be in force from and after its
7 publication in the statute book.