{As Amended by House Committee of the Whole}

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2390

By Committee on Health and Human Services

2-9

AN ACT concerning drugs; relating to drug overdoses; enacting the Kansas overdose fatality review board act; establishing the Kansas overdose fatality review board; providing for membership and duties thereof; requiring the secretary of health and environment to study drug overdose death cases; providing for the confidentiality of acquired and related records; **providing criminal penalties for the unauthorized disclosure of such records;** relating to crimes involving controlled substances; excluding materials used to detect the presence of fentanyl, ketamine**{, flunitrazepam}** or gamma hydroxybutyric acid from the definition of drug paraphernalia; clarifying who may be protected from liability for administering an emergency opioid antagonist; amending K.S.A. 2022 Supp. 21-5701 and 65-16,127 and repealing the existing sections; also repealing K.S.A. 2022 Supp. 21-5701b.

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

New Section 1. (a) Sections 1 through 3, and amendments thereto, shall be known and may be cited as the Kansas overdose fatality review board act.

(b) As used in the Kansas overdose fatality review board act:

(1) "Data" means all facts, information, records of interviews, written reports, statements, notes or memorandums secured in connection with an authorized medical research study.

(2) "Department" means, unless the context indicates otherwise, the department of health and environment.

(3) "Drug" means a substance that produces a physiological effect when ingested or otherwise introduced into the human body. "Drug" includes illicit and legal substances.

(4) "Institutional review board" means the department of health and environment institutional review board responsible for reviewing, approving, modifying, rejecting and monitoring research involving human research subjects recruited to participate in research activities conducted under the department of health and environment or using data from the department as required by title 45, part 46 and title 21, part 56 of the code of federal regulations.

(5) "Overdose" means injury to the body that happens when one or more drugs are taken in excessive amounts. "Overdose" includes fatal and nonfatal injuries.

(6) "Overdose fatality review" means a process in which a multidisciplinary team performs a series of individual overdose fatality reviews to identify system gaps and community-specific overdose prevention and intervention strategies.

(7) "Secretary" means, unless the context indicates otherwise, the secretary of health and environment.

(8) "Substance use disorder" means a pattern of use of alcohol or other drugs leading to clinical or functional impairment as defined in the American psychiatric association's diagnostic and statistical manual.

(9) "Substance use disorder treatment provider" means any individual or entity that:

(A) Is licensed, registered or certified within Kansas to treat substance use disorders; or

(B) has a drug addiction treatment act of 2000 waiver from the United States drug enforcement administration to treat individuals with substance use disorder using medications approved by the United States food and drug administration for such indication.

New Sec. 2. (a) There is established the Kansas overdose fatality review board to review information and data related to drug overdose fatalities in Kansas and to make recommendations regarding evidence-based strategies to prevent or mitigate the consequences of drug overdose. The board shall be established prior to January 1, 2025.

(b) The secretary of health and environment shall oversee the board. The board shall consist of the following members:

(1) The secretary of health and environment, or the secretary's designee, who shall serve as chairperson of the board and whose duties shall be established by the board;

(2) the director of the department of health and environment's bureau of health promotion, or the director's designee;

(3) the director of the department's bureau of epidemiology and public health informatics, or the director's designee;

(4) the department's program manager for drug overdose prevention initiatives;

(5) the department's program abstractor for the state unintentional drug overdose reporting system;

(6) the department's state health officer;

(7) one member appointed by each of the following agencies**, boards** or officials to represent the appointing agency**, board** or official:

(A) Attorney general;

(B) director of the Kansas bureau of investigation;

(C) secretary for aging and disability services;
(D) secretary for children and families;
(E) secretary of corrections;
(F) board of pharmacy;
(G) emergency medical services board;
(H) state board of healing arts; ~~and~~
(I) behavioral sciences regulatory board**; and**
(J) board of nursing;
(8) the following members jointly appointed by the secretary of health and environment and the secretary for aging and disability services:
(A) A physician licensed by the state board of healing arts who has training in psychiatry or the treatment of addiction;
(B) a physician licensed by the state board of healing arts with training in medical toxicology or forensic pathology;
(C) a coroner or medical examiner who is currently serving as a coroner or medical examiner in Kansas;
(D) a person in long-term recovery from a substance use disorder; and
(E) a Kansas-licensed mental health and substance use disorder treatment provider; ~~and~~
(9) **one member appointed by the secretary of health and environment from a list of up to three nominees submitted by the Kansas hospital association; and**
(10) up to five additional members appointed by the secretary of health and environment who are from relevant disciplines, including, but not limited to, federal, state and local governmental agencies, substance use disorder assessment and treatment facilities, law enforcement, healthcare, community-based organizations, spiritual or religious organizations, advocacy groups, department nosologists or county health officers.
(c) Except for the ex officio members described in subsections (b)(1) through (6), each member of the board shall serve for terms of three years.
(d) Each member of the board shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223(e), and amendments thereto.
(e) The board shall develop policies and procedures to be used by the board, including, but not limited to:
(1) Guidelines for institutional review board approval pursuant to title 45, part 46 and title 21, part 56 of the code of federal regulations;
(2) procedures for developing interagency memorandums of understanding;
(3) procedures for data sharing among all agencies involved; and
(4) procedures for investigating drug overdose deaths.

New Sec. 3. (a) The secretary of health and environment shall:

(1) Identify drug overdose death cases;

(2) review autopsy reports, death certificates, medical records and other relevant data;

(3) review interactions with the healthcare system, behavioral health system, social services, educational institutions, children and family services, the criminal justice system and any other systems with which a decedent had contact prior to a drug overdose death;

(4) contact family members and other affected or involved persons to collect additional relevant data;

(5) consult with members of the board to evaluate the records and data collected;

(6) make determinations regarding the preventability of drug overdose death cases;

(7) develop recommendations to prevent drug overdose deaths, including recommendations for changes to statutes, rules and regulations, policies and procedures; and

(8) disseminate findings and recommendations to the governor, legislature, **house of representatives standing committee on health and human services and senate standing committee on public health and welfare or any successor committees thereto,** Kansas prescription drug and opioid advisory committee, local policymakers, healthcare providers and facilities, behavioral health professionals, law enforcement, the general public and other stakeholders as determined by the board.

(b) The secretary of health and environment shall have access to the following identifiable data sources and records therein:

(1) Complete law enforcement investigative information and reports regarding a drug overdose death in Kansas;

(2) any autopsy records and coroner's investigative records regarding a drug overdose death in Kansas;

(3) any medical records regarding a drug overdose death or previous overdoses by a decedent;

(4) emergency medical services records regarding a drug overdose death or previous overdoses by a decedent;

(5) a decedent's controlled substance dispensation records from the prescription monitoring program established by the prescription monitoring program act, K.S.A. 65-1681 et seq., and amendments thereto; and

(6) records, data and reports from any other applicable entity that has provided services to a decedent.

(c) (1) The secretary may apply to the district court for the issuance of, and the district court may issue, a subpoena to compel the production of any relevant data or information requested by the secretary under this

section. Any data or information received by the secretary pursuant to the subpoena shall be confidential and privileged information and not subject to disclosure.

(2) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2028, unless the legislature acts prior to July 1, 2028, to continue such provisions in accordance with K.S.A. 45-229, and amendments thereto.

(d) (1) The following persons shall provide to the secretary reasonable access to all relevant medical records associated with a drug overdose death case under review by the secretary:

(A) Healthcare providers licensed pursuant to chapters 65 and 74 of the Kansas Statutes Annotated, and amendments thereto;

(B) medical care facilities licensed pursuant to article 4 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(C) community mental health center licensed pursuant to article 20 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto;

(D) drug abuse treatment facilities licensed pursuant to article 45 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(E) addiction counselors licensed pursuant to article 66 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto;

(F) substance use disorder centers licensed pursuant to article 5 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto; and

(G) pharmacies licensed pursuant to article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.

(2) Any person providing to the secretary medical records in accordance with this subsection shall not be liable for civil damages or be subject to criminal or disciplinary administrative action for good-faith efforts to provide such records.

(e) (1) Information, records, reports, statements, notes, memorandums or other data collected pursuant to this section:

(A) Shall be privileged and confidential and shall not be admissible as evidence in any action of any kind in any court or before any other tribunal, board, agency or person; and

(B) shall not be exhibited or the contents thereof disclosed in any way, in whole or in part, by any officer or representative of the department or any other person except as may be necessary for the purpose of furthering the investigation of the case to which the information, records, reports, statements, notes, memorandums or other data relate; and

(C) shall not be disclosed in any manner by any person participating in an investigation under this section.

(2) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2028, unless the legislature acts prior to July 1, 2028, to continue such provisions in accordance with K.S.A. 45-229,

and amendments thereto.

(f) (1) All proceedings and activities of the board under the Kansas overdose fatality review board act shall be confidential. Opinions of the board or members of the board formed as a result of such proceedings and activities and any records obtained, created or maintained pursuant to this section, including records of interviews, written reports and statements procured by the secretary or any other person, agency or organization acting jointly or under contract with the department in connection with the requirements of this section shall be confidential and not subject to the provisions of the open records act, K.S.A. 45-215 et seq., and amendments thereto, or the open meetings act, K.S.A. 75-4317 et seq., and amendments thereto, or subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding. Nothing in this section shall be construed to limit or otherwise restrict the right to discover or use in any civil or criminal proceeding any document or record that is available entirely independent of proceedings and activities of the board or members of the board under this section.

(2) The secretary or representatives of the secretary shall not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of an investigation under this section. Nothing in this section shall be construed to prevent the secretary or representatives of the secretary from testifying to information obtained independently of this section or that is public information.

(3) The provisions of this subsection providing for confidentiality of records shall expire on July 1, 2028, unless the legislature acts prior to July 1, 2028, to continue such provisions in accordance with K.S.A. 45-229, and amendments thereto.

(g) Reports of aggregate non-individually identifiable data and non-individually identifiable data that is disaggregated by race and ethnicity, biological sex or age shall be compiled on a routine basis for distribution in an effort to further study the causes and problems associated with drug overdose deaths. Such reports shall be distributed to healthcare providers, medical care facilities and other persons necessary to further the purpose of reducing the drug overdose death rate.

(h) The secretary of health and environment shall receive data acquired in connection with medical research studies conducted for the purpose of reducing morbidity or mortality from drug overdose. Such studies may be conducted by the secretary and staff or with other qualified persons, agencies or organizations. If such a study is conducted using any funding not provided by the state of Kansas, then the source of such funding shall be clearly identified in the study. When authorization to conduct such a study is granted by the secretary, all data voluntarily made available to the secretary in connection with such study shall be treated as

confidential and shall be used solely for the purpose of medical research. Research files and opinions expressed upon the evidence found in such research shall not be admissible as evidence in any action in any court or before any other tribunal, except that statistics or tables resulting from such data shall be admissible and may be received as evidence. This section shall not effect the right of any patient or such patient's guardians, representatives or heirs to require medical care facilities, physicians, other healthcare providers, adult care homes or other persons or agencies to furnish such patient's healthcare records to such patient's guardians, representatives or heirs upon written authorization or the admissibility thereof into evidence.

(i) No employee of the secretary shall interview any patient named in any report described in subsection (h) or any relative of any such patient unless otherwise provided in K.S.A. 65-2422d, and amendments thereto. Nothing in this section shall prohibit publication by the secretary or a duly authorized cooperating person, agency or organization of final reports or statistical compilations derived from morbidity or mortality studies if such reports or compilations do not identify individuals, associations, corporations or institutions that were the subject of such studies and do not reveal sources of information.

(j) Any person who knowingly discloses any information or record made or kept confidential pursuant to the Kansas overdose fatality review board act shall be guilty of a class A nonperson misdemeanor.

Sec. 4. K.S.A. 2022 Supp. 21-5701 is hereby amended to read as follows: 21-5701. As used in K.S.A. 2022 Supp. 21-5701 through 21-5717, and amendments thereto:

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

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

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

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

(C) with respect to a particular individual, such individual represents or intends the substance to have a stimulant, depressant or hallucinogenic

effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107, and amendments thereto.

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

(A) A controlled substance;

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

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

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

(d) "Distribute" means the actual, constructive or attempted transfer from one person to another of some item whether or not there is an agency relationship. "Distribute" includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. "Distribute" does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act or otherwise authorized by law.

(e) (1) "Drug" means:

(A) Substances recognized as drugs in the official United States pharmacopeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;

(B) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in humans or animals;

(C) substances, other than food, intended to affect the structure or any function of the body of humans or animals; and

(D) substances intended for use as a component of any article specified in subparagraph (A), (B) or (C).

(2) "Drug" does not include devices or their components, parts or accessories.

(f) *(1)* "Drug paraphernalia" means all equipment and materials of any kind that are used, or primarily intended or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance and in violation of this act.

(2) "Drug paraphernalia" ~~shall include~~ *includes*, but is not limited to:

~~(1)~~*(A)* Kits used or intended for use in planting, propagating,

cultivating, growing or harvesting any species of plant that is a controlled substance or from which a controlled substance can be derived;

~~(2)~~*(B)* kits used or intended for use in manufacturing, compounding, converting, producing, processing or preparing controlled substances;

~~(3)~~*(C)* isomerization devices used or intended for use in increasing the potency of any species of plant that is a controlled substance;

~~(4)~~*(D)* testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;

~~(5)~~*(E)* scales and balances used or intended for use in weighing or measuring controlled substances;

~~(6)~~*(F)* diluents and adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose and lactose that are used or intended for use in cutting controlled substances;

~~(7)~~*(G)* separation gins and sifters used or intended for use in removing twigs and seeds from or otherwise cleaning or refining marijuana;

~~(8)~~*(H)* blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;

~~(9)~~*(I)* capsules, balloons, envelopes, bags and other containers used or intended for use in packaging small quantities of controlled substances;

~~(10)~~*(J)* containers and other objects used or intended for use in storing or concealing controlled substances;

~~(11)~~*(K)* hypodermic syringes, needles and other objects used or intended for use in parenterally injecting controlled substances into the human body; *or*

~~(12)~~*(L)* objects used or primarily intended or designed for use in ingesting, inhaling or otherwise introducing marijuana, cocaine, hashish, hashish oil, phencyclidine (PCP), methamphetamine or amphetamine into the human body, such as:

~~(A)~~*(i)* Metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;

~~(B)~~*(ii)* water pipes, bongs or smoking pipes designed to draw smoke through water or another cooling device;

~~(C)~~*(iii)* carburetion pipes, glass or other ~~heat resistant~~ *heat-resistant* tubes or any other device used, intended to be used or designed to be used to cause vaporization of a controlled substance for inhalation;

~~(D)~~*(iv)* smoking and carburetion masks;

~~(E)~~*(v)* roach clips, objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand;

~~(F)~~*(vi)* miniature cocaine spoons and cocaine vials;

~~(G)~~*(vii)* chamber smoking pipes;

~~(H)~~*(viii)* carburetor smoking pipes;
~~(I)~~*(ix)* electric smoking pipes;
~~(J)~~*(x)* air-driven smoking pipes;
~~(K)~~*(xi)* chillums;
~~(L)~~*(xii)* bongs;
~~(M)~~*(xiii)* ice pipes or chillers;
~~(N)~~*(xiv)* any smoking pipe manufactured to disguise its intended purpose;
~~(O)~~*(xv)* wired cigarette papers; or
~~(P)~~*(xvi)* cocaine freebase kits.

(3) "Drug paraphernalia" ~~shall~~ *does* not include*:*

(A) Any products, chemicals or materials described in K.S.A. 2022 Supp. 21-5709(a), and amendments thereto*; or*

*(B) any materials used or intended for use to test a substance for the presence of fentanyl, a fentanyl analog, ketamine***, {flunitrazepam}** *or gamma hydroxybutyric acid*.

(g) "Immediate precursor" means a substance that the state board of pharmacy has found to be and by rules and regulations designates as being the principal compound commonly used or produced primarily for use and that is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(h) "Isomer" means all enantiomers and diastereomers.

(i) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis. "Manufacture" does not include:

(1) The preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance:

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

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

(2) the addition of diluents or adulterants, including, but not limited to, quinine hydrochloride, mannitol, mannite, dextrose or lactose that are intended for use in cutting a controlled substance.

(j) "Marijuana" means all parts of all varieties of the plant Cannabis

whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. "Marijuana" does not include:

(1) The mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil or cake or the sterilized seed of the plant that is incapable of germination;

(2) any substance listed in schedules II through V of the uniform controlled substances act;

(3) drug products approved by the United States food and drug administration as of the effective date of this act;

(4) cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol); or

(5) industrial hemp as defined in K.S.A. 2-3901, and amendments thereto, when cultivated, produced, possessed or used for activities authorized by the commercial industrial hemp act.

(k) "Minor" means a person under 18 years of age.

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

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

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

(3) opium poppy and poppy straw;

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

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

(n) "Opium poppy" means the plant of the species Papaver

somniferum l. except its seeds.

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

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

(q) ~~"Possession" means having joint or exclusive control over an item with knowledge of and intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control.~~

~~(r)~~ "School property" means property upon which is located a structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of ~~pupils~~ *students* enrolled in kindergarten or any of the grades one through 12. This definition shall not be construed as requiring that school be in session or that classes are actually being held at the time of the offense or that children must be present within the structure or on the property during the time of any alleged criminal act. If the structure or property meets the above definition, the actual use of that structure or property at the time alleged shall not be a defense to the crime charged or the sentence imposed.

~~(s)~~*(r)* "Simulated controlled substance" means any product that identifies itself by a common name or slang term associated with a controlled substance and that indicates on its label or accompanying promotional material that the product simulates the effect of a controlled substance.

Sec. 5. K.S.A. 2022 Supp. 65-16,127 is hereby amended to read as follows: 65-16,127. (a) As used in this section:

(1) "Bystander" means a family member, friend, caregiver or other person in a position to assist a person who the family member, friend, caregiver or other person believes, in good faith, to be experiencing an opioid overdose.

(2) "Emergency opioid antagonist" means any drug that inhibits the effects of opioids and that is approved by the United States food and drug administration for the treatment of an opioid overdose.

(3) "First responder" includes any emergency medical service provider, as defined by K.S.A. 65-6112, and amendments thereto, any law enforcement officer, as defined by K.S.A. 22-2202, and amendments thereto, and any actual member of any organized fire department, whether regular or volunteer.

(4) "First responder agency" includes, but is not limited to, any law enforcement agency, fire department or criminal forensic laboratory of any city, county or the state of Kansas.

(5) "Opioid antagonist protocol" means the protocol established by the state board of pharmacy pursuant to subsection (b).

(6) "Opioid overdose" means an acute condition including, but not limited to, extreme physical illness, decreased level of consciousness, respiratory depression, coma, mania or death, resulting from the consumption or use of an opioid or another substance with which an opioid was combined, or that a layperson would reasonably believe to be resulting from the consumption or use of an opioid or another substance with which an opioid was combined, and for which medical assistance is required.

(7) "Patient" means a person believed to be at risk of experiencing an opioid overdose.

(8) "School nurse" means a professional nurse licensed by the board of nursing and employed by a school district to perform nursing procedures in a school setting.

(9) "Healthcare provider" means a physician licensed to practice medicine and surgery by the state board of healing arts, a licensed dentist, a mid-level practitioner as defined by K.S.A. 65-1626, and amendments thereto, or any person authorized by law to prescribe medication.

(b) The state board of pharmacy shall issue a statewide opioid antagonist protocol that establishes requirements for a licensed pharmacist to dispense emergency opioid antagonists to a person pursuant to this section. The opioid antagonist protocol shall include procedures to ensure accurate recordkeeping and education of the person to whom the emergency opioid antagonist is furnished, including, but not limited to: Opioid overdose prevention, recognition and response; safe administration of an emergency opioid antagonist; potential side effects or adverse events that may occur as a result of administering an emergency opioid antagonist; a requirement that the administering person immediately contact emergency medical services for a patient; and the availability of drug treatment programs.

(c) A pharmacist may furnish an emergency opioid antagonist to a patient or bystander subject to the requirements of this section, the pharmacy act of the state of Kansas and any rules and regulations adopted by the state board of pharmacy thereunder.

(d) A pharmacist furnishing an emergency opioid antagonist pursuant to this section ~~may~~ *shall* not permit the person to whom the emergency opioid antagonist is furnished to waive any consultation required by this section or any rules and regulations adopted thereunder.

(e) Any first responder, scientist or technician operating under a first responder agency or school nurse is authorized to possess, store and administer emergency opioid antagonists as clinically indicated, provided that all personnel with access to emergency opioid antagonists are trained,

at a minimum, on the following:

(1) Techniques to recognize signs of an opioid overdose;

(2) standards and procedures to store and administer an emergency opioid antagonist;

(3) emergency follow-up procedures, including the requirement to summon emergency ambulance services either immediately before or immediately after administering an emergency opioid antagonist to a patient; and

(4) inventory requirements and reporting any administration of an emergency opioid antagonist to a healthcare provider.

(f) (1) Any first responder agency electing to provide an emergency opioid antagonist to its employees or volunteers for the purpose of administering the emergency opioid antagonist shall procure the services of a physician to serve as physician medical director for the first responder agency's emergency opioid antagonist program.

(2) The first responder agency shall utilize the physician medical director or a licensed pharmacist for the purposes of:

(A) Obtaining a supply of emergency opioid antagonists;

(B) receiving assistance developing necessary policies and procedures that comply with this section and any rules and regulations adopted thereunder;

(C) training personnel; and

(D) coordinating agency activities with local emergency ambulance services and medical directors to provide quality assurance activities.

(g) (1) Any healthcare provider or pharmacist who, in good faith and with reasonable care, prescribes or dispenses an emergency opioid antagonist pursuant to this section shall not, by an act or omission, be subject to civil liability, criminal prosecution or any disciplinary or other adverse action by a professional licensure entity arising from the healthcare provider or pharmacist prescribing or dispensing the emergency opioid antagonist.

(2) Any *first responder, scientist or technician operating under a first responder agency,* patient, bystander~~,~~ *or* school nurse~~, or a first responder, scientist or technician operating under a first responder agency,~~ who, in good faith and with reasonable care, receives and administers an emergency opioid antagonist pursuant to this section to a person experiencing a suspected opioid overdose shall not, by an act or omission, be subject to civil liability or criminal prosecution, unless personal injury results from the gross negligence or willful or wanton misconduct in the administration of the emergency opioid antagonist.

(3) Any first responder agency employing or contracting any person that, in good faith and with reasonable care, administers an emergency opioid antagonist pursuant to this section to a person experiencing a

suspected opioid overdose shall not, by an act or omission, be subject to civil liability, criminal prosecution, any disciplinary or other adverse action by a professional licensure entity or any professional review.

(h) The state board of pharmacy shall adopt rules and regulations as may be necessary to implement the provisions of this section ~~prior to January 1, 2018~~.

(i) This section shall be *a* part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 6. K.S.A. 2022 Supp. 21-5701, 21-5701b and 65-16,127 are hereby repealed.

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