

## HOUSE BILL No. 2447

By Committee on Health and Human Services

1-14

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9 AN ACT relating to nursing; concerning advanced practice nursing;  
10 amending K.S.A. 65-1113, 65-1114, 65-1118, 65-1120, 65-1122, 65-  
11 1130, 65-1131, 65-1133, 65-1154 and 65-1163 and K.S.A. 2009 Supp.  
12 65-1132, 65-1626 and 65-4101 and repealing the existing sections; also  
13 repealing K.S.A. 2009 Supp. 65-1626d.  
14

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

16 Section 1. K.S.A. 65-1113 is hereby amended to read as follows: 65-  
17 1113. When used in this act and the act of which this section is  
18 amendatory:

19 (a) “Board” means the board of nursing.

20 (b) “Diagnosis” in the context of nursing practice means that iden-  
21 tification of and discrimination between physical and psychosocial signs  
22 and symptoms essential to effective execution and management of the  
23 nursing regimen and shall be construed, *with the exception of an ad-  
24 vanced practice registered nurse*, as distinct from a medical diagnosis.

25 (c) “Treatment” means the selection and performance of those ther-  
26 apeutic measures essential to effective execution and management of the  
27 nursing regimen, and any prescribed medical regimen.

28 (d) *Practice of nursing.* (1) The practice of professional nursing as  
29 performed by a registered professional nurse for compensation or gra-  
30 tuitously, except as permitted by K.S.A. 65-1124 and amendments  
31 thereto, means the process in which substantial specialized knowledge  
32 derived from the biological, physical, and behavioral sciences is applied  
33 to: the care, diagnosis, treatment, counsel and health teaching of persons  
34 who are experiencing changes in the normal health processes or who  
35 require assistance in the maintenance of health or the prevention or man-  
36 agement of illness, injury or infirmity; administration, supervision or  
37 teaching of the process as defined in this section; and the execution of  
38 the medical regimen as prescribed by a person licensed to practice med-  
39 icine and surgery or a person licensed to practice dentistry *or an advanced  
40 practice registered nurse.* (2) The practice of nursing as a licensed prac-  
41 tical nurse means the performance for compensation or gratuitously, ex-  
42 cept as permitted by K.S.A. 65-1124 and any amendments thereto, of  
43 tasks and responsibilities defined in part (1) of this subsection (d) which

1 tasks and responsibilities are based on acceptable educational preparation  
2 within the framework of supportive and restorative care under the direc-  
3 tion of a registered professional nurse, a person licensed to practice med-  
4 icine and surgery or a person licensed to practice dentistry *or an advanced*  
5 *practice registered nurse.*

6 (e) A “professional nurse” means a person who is licensed to practice  
7 professional nursing as defined in part (1) of subsection (d) of this section.

8 (f) A “practical nurse” means a person who is licensed to practice  
9 practical nursing as defined in part (2) of subsection (d) of this section.

10 (g) “Advanced *practice* registered nurse ~~practitioner~~” or “~~ARNP~~”  
11 “~~APRN~~” means a professional nurse who holds a ~~certificate of qualifi-~~  
12 ~~cation~~ *license* from the board to function as a professional nurse in an ~~ex-~~  
13 ~~panded~~ *advanced* role, and this ~~expanded~~ *advanced* role shall be defined  
14 by rules and regulations adopted by the board in accordance with K.S.A.  
15 65-1130, *and amendments thereto.*

16 (h) *Whenever the term “advanced registered nurse practitioner” is*  
17 *referred to or designated in a statute, contract or other document such*  
18 *reference or designation shall be deemed to mean “advanced practice reg-*  
19 *istered nurse” unless the context otherwise indicates a different meaning.*

20 Sec. 2. K.S.A. 65-1114 is hereby amended to read as follows: 65-  
21 1114. (a) It shall be unlawful for any person:

22 (1) To practice or to offer to practice professional nursing in this state;  
23 or

24 (2) to use any title, abbreviation, letters, figures, sign, card or device  
25 to indicate that any person is a registered professional nurse; or

26 (3) to practice or offer to practice practical nursing in this state; or

27 (4) to use any title, abbreviation, letters, figures, sign, card or device  
28 to indicate that any person is a licensed practical nurse, unless such person  
29 has been duly licensed under the provisions of this act.

30 (b) It shall be unlawful for any person:

31 (1) To practice or offer to practice as an advanced *practice* registered  
32 nurse ~~practitioner~~ in this state; or

33 (2) to use any title, abbreviation, letters, figures, sign, card or device  
34 to indicate that any person is an advanced *practice* registered nurse ~~prac-~~  
35 ~~titioner~~, unless such person has been duly issued a ~~certificate of qualifi-~~  
36 ~~cation~~ *license* as an advanced *practice* registered nurse ~~practitioner~~ under  
37 the Kansas nurse practice act.

38 Sec. 3. K.S.A. 65-1118 is hereby amended to read as follows: 65-  
39 1118. (a) The board shall collect in advance fees provided for in this act  
40 as fixed by the board, but not exceeding:

41 Application for license—professional nurse ..... \$75  
42 Application for license—practical nurse ..... 50  
43 Application for biennial renewal of license—professional nurse and practical nurse .. 60

1 Application for reinstatement of license ..... 70

2 Application for reinstatement of licenses with temporary permit ..... 100

3 Certified copy of license ..... 25

4 Duplicate of license ..... 25

5 Inactive license ..... 20

6 Application for ~~certificate of qualification license~~—advanced *practice* registered nurse ~~prac-~~

7 ~~titioner~~ ..... 50

8 Application for ~~certificate of qualification license~~ with temporary permit—advanced *practice*

9 registered nurse ~~practitioner~~ ..... 100

10 Application for renewal of ~~certificate of qualification license~~—advanced *practice* registered

11 nurse ~~practitioner~~ ..... 60

12 Application for reinstatement of ~~certificate of qualification license~~—advanced *practice* reg-

13 istered nurse ~~practitioner~~ ..... 75

14 Application for authorization—registered nurse anesthetist ..... 75

15 Application for authorization with temporary authorization—registered nurse anesthetist

16 ..... 110

17 Application for biennial renewal of authorization—registered nurse anesthetist ..... 60

18 Application for reinstatement of authorization—registered nurse anesthetist ..... 75

19 Application for reinstatement of authorization with temporary authorization—registered

20 nurse anesthetist ..... 100

21 Verification of license to another state ..... 30

22 Application for exempt license—professional and practical nurse ..... 50

23 Application for biennial renewal of exempt license—professional and practical nurse

24 ..... 50

25 Application for exempt ~~certification license~~—advanced *practice* registered nurse ~~practitioner~~

26 ..... 50

27 Application for biennial renewal of exempt ~~certificate license~~—advanced *practice* registered

28 nurse ~~practitioner~~ ..... 50

29 (b) The board may require that fees paid for any examination under

30 the Kansas nurse practice act be paid directly to the examination service

31 by the person taking the examination.

32 (c) The board shall accept for payment of fees under this section

33 personal checks, certified checks, cashier’s checks, money orders or credit

34 cards. The board may designate other methods of payment, but shall not

35 refuse payment in the form of a personal check. The board may impose

36 additional fees and recover any costs incurred by reason of payments

37 made by personal checks with insufficient funds and payments made by

38 credit cards.

39 Sec. 4. K.S.A. 65-1120 is hereby amended to read as follows: 65-

40 1120. (a) *Grounds for disciplinary actions.* The board may deny, revoke,

41 limit or suspend any license, certificate of qualification or authorization

42 to practice nursing as a registered professional nurse, as a licensed prac-

43 tical nurse, as an advanced *practice* registered nurse ~~practitioner~~ or as a

1 registered nurse anesthetist that is issued by the board or applied for  
2 under this act or may publicly or privately censure a licensee or holder  
3 of a certificate of qualification or authorization, if the applicant, licensee  
4 or holder of a certificate of qualification or authorization is found after  
5 hearing:

6 (1) To be guilty of fraud or deceit in practicing nursing or in procuring  
7 or attempting to procure a license to practice nursing;

8 (2) to have been guilty of a felony or to have been guilty of a mis-  
9 demeanor involving an illegal drug offense unless the applicant or licensee  
10 establishes sufficient rehabilitation to warrant the public trust, except that  
11 notwithstanding K.S.A. 74-120 no license, certificate of qualification or  
12 authorization to practice nursing as a licensed professional nurse, as a  
13 licensed practical nurse, as an advanced *practice* registered nurse ~~prac-~~  
14 ~~titioner~~ or registered nurse anesthetist shall be granted to a person with  
15 a felony conviction for a crime against persons as specified in article 34  
16 of chapter 21 of the Kansas Statutes Annotated and acts amendatory  
17 thereof or supplemental thereto;

18 (3) to have committed an act of professional incompetency as defined  
19 in subsection (e);

20 (4) to be unable to practice with skill and safety due to current abuse  
21 of drugs or alcohol;

22 (5) to be a person who has been adjudged in need of a guardian or  
23 conservator, or both, under the act for obtaining a guardian or conser-  
24 vator, or both, and who has not been restored to capacity under that act;

25 (6) to be guilty of unprofessional conduct as defined by rules and  
26 regulations of the board;

27 (7) to have willfully or repeatedly violated the provisions of the Kansas  
28 nurse practice act or any rules and regulations adopted pursuant to that  
29 act, including K.S.A. 65-1114 and 65-1122 and amendments thereto;

30 (8) to have a license to practice nursing as a registered nurse or as a  
31 practical nurse denied, revoked, limited or suspended, or to be publicly  
32 or privately censured, by a licensing authority of another state, agency of  
33 the United States government, territory of the United States or country  
34 or to have other disciplinary action taken against the applicant or licensee  
35 by a licensing authority of another state, agency of the United States  
36 government, territory of the United States or country. A certified copy of  
37 the record or order of public or private censure, denial, suspension, lim-  
38 itation, revocation or other disciplinary action of the licensing authority  
39 of another state, agency of the United States government, territory of the  
40 United States or country shall constitute prima facie evidence of such a  
41 fact for purposes of this paragraph (8); or

42 (9) to have assisted suicide in violation of K.S.A. 21-3406 and amend-  
43 ments thereto as established by any of the following:

1 (A) A copy of the record of criminal conviction or plea of guilty for a  
2 felony in violation of K.S.A. 21-3406 and amendments thereto.

3 (B) A copy of the record of a judgment of contempt of court for  
4 violating an injunction issued under K.S.A. 2002 Supp. 60-4404 and  
5 amendments thereto.

6 (C) A copy of the record of a judgment assessing damages under  
7 K.S.A. 2002 Supp. 60-4405 and amendments thereto.

8 (b) *Proceedings.* Upon filing of a sworn complaint with the board  
9 charging a person with having been guilty of any of the unlawful practices  
10 specified in subsection (a), two or more members of the board shall in-  
11 vestigate the charges, or the board may designate and authorize an em-  
12 ployee or employees of the board to conduct an investigation. After in-  
13 vestigation, the board may institute charges. If an investigation, in the  
14 opinion of the board, reveals reasonable grounds for believing the appli-  
15 cant or licensee is guilty of the charges, the board shall fix a time and  
16 place for proceedings, which shall be conducted in accordance with the  
17 provisions of the Kansas administrative procedure act.

18 (c) *Witnesses.* No person shall be excused from testifying in any pro-  
19 ceedings before the board under this act or in any civil proceedings under  
20 this act before a court of competent jurisdiction on the ground that such  
21 testimony may incriminate the person testifying, but such testimony shall  
22 not be used against the person for the prosecution of any crime under  
23 the laws of this state except the crime of perjury as defined in K.S.A. 21-  
24 3805 and amendments thereto.

25 (d) *Costs.* If final agency action of the board in a proceeding under  
26 this section is adverse to the applicant or licensee, the costs of the board's  
27 proceedings shall be charged to the applicant or licensee as in ordinary  
28 civil actions in the district court, but if the board is the unsuccessful party,  
29 the costs shall be paid by the board. Witness fees and costs may be taxed  
30 by the board according to the statutes relating to procedure in the district  
31 court. All costs accrued by the board, when it is the successful party, and  
32 which the attorney general certifies cannot be collected from the appli-  
33 cant or licensee shall be paid from the board of nursing fee fund. All  
34 moneys collected following board proceedings shall be credited in full to  
35 the board of nursing fee fund.

36 (e) *Professional incompetency defined.* As used in this section, "pro-  
37 fessional incompetency" means:

38 (1) One or more instances involving failure to adhere to the appli-  
39 cable standard of care to a degree which constitutes gross negligence, as  
40 determined by the board;

41 (2) repeated instances involving failure to adhere to the applicable  
42 standard of care to a degree which constitutes ordinary negligence, as  
43 determined by the board; or

1 (3) a pattern of practice or other behavior which demonstrates a man-  
2 ifest incapacity or incompetence to practice nursing.

3 (f) *Criminal justice information.* The board upon request shall receive  
4 from the Kansas bureau of investigation such criminal history record in-  
5 formation relating to arrests and criminal convictions as necessary for the  
6 purpose of determining initial and continuing qualifications of licensees  
7 of and applicants for licensure by the board.

8 Sec. 5. K.S.A. 65-1122 is hereby amended to read as follows: 65-  
9 1122. It is a violation of law for any person, firm, corporation or association  
10 to:

11 (a) Sell or fraudulently obtain or furnish any nursing diploma, license,  
12 record or certificate of qualification or aid or abet therein;

13 (b) practice professional nursing, practical nursing or practice as an  
14 advanced *practice* registered nurse ~~practitioner~~, unless duly licensed or  
15 certified to do so;

16 (c) use in connection with such person's name any designation im-  
17 plying that such person is a licensed professional nurse, a licensed prac-  
18 tical nurse or an advanced *practice* registered nurse ~~practitioner~~ unless  
19 duly licensed or certified so to practice under the provisions of the Kansas  
20 nurse practice act, and such license or certificate is then in full force;

21 (d) practice professional nursing, practical nursing or as an advanced  
22 *practice* registered nurse ~~practitioner~~ during the time a license or certifi-  
23 cate issued under the provisions of the Kansas nurse practice act shall  
24 have expired or shall have been suspended or revoked;

25 (e) represent that a school for nursing is approved for educating ei-  
26 ther professional nurses or practical nurses, unless such school has been  
27 duly approved by the board and such approval is then in full force;

28 (f) violate any provisions of the Kansas nurse practice act or rules and  
29 regulations adopted pursuant to that act; or

30 (g) represent that a provider of continuing nursing education is ap-  
31 proved by the board for educating either professional nurses or practical  
32 nurses, unless the provider of continuing nursing education has been  
33 approved by the board and the approval is in full force.

34 Any person who violates this section is guilty of a class B misdemeanor,  
35 except that, upon conviction of a second or subsequent violation of this  
36 section, such person is guilty of a class A misdemeanor.

37 Sec. 6. K.S.A. 65-1130 is hereby amended to read as follows: 65-  
38 1130. (a) No professional nurse shall announce or represent to the public  
39 that such person is an advanced *practice* registered nurse ~~practitioner~~  
40 unless such professional nurse has complied with requirements estab-  
41 lished by the board and holds a valid ~~certificate of qualification~~ *license* as  
42 an advanced *practice* registered nurse ~~practitioner~~ in accordance with the  
43 provisions of this section.

1 (b) The board shall establish standards and requirements for any pro-  
2 fessional nurse who desires to obtain a ~~certificate of qualification~~ *licensure*  
3 as an advanced *practice* registered nurse ~~practitioner~~. Such standards and  
4 requirements shall include, but not be limited to, standards and require-  
5 ments relating to the education of advanced *practice* registered ~~nurse~~  
6 ~~practitioners~~ *nurses*. The board ~~may shall~~ require ~~that some, but not all,~~  
7 ~~types of advanced registered nurse practitioners hold an academic degree~~  
8 ~~beyond the minimum educational requirement for qualifying for a license~~  
9 ~~to practice as a professional nurse~~ *proof of malpractice insurance coverage*  
10 *as specified in rules and regulations of the board*. The board may give  
11 such examinations and secure such assistance as it deems necessary to  
12 determine the qualifications of applicants. *The scope of practice of an*  
13 *advanced practice registered nurse includes creating, managing, prescrib-*  
14 *ing and executing a medical regimen, performing acts of advanced as-*  
15 *essment, diagnosing, ordering, prescribing and administering of phar-*  
16 *macologic and non-pharmacologic interventions. Advanced practice*  
17 *registered nurses may serve as primary care providers of record.*

18 (c) The board shall adopt rules and regulations applicable to advanced  
19 *practice* registered ~~nurse practitioners~~ *nurses* which:

20 (1) Establish ~~categories~~ *roles and identify title and abbreviations* of  
21 advanced *practice* registered ~~nurse practitioners~~ *nurses* which are consis-  
22 tent with nursing practice ~~specialties~~ recognized by the nursing profes-  
23 sion.

24 (2) Establish education and qualifications necessary for ~~certification~~  
25 *licensure* for each ~~category~~ *role* of advanced *practice* registered nurse  
26 ~~practitioner~~ established by the board at a level adequate to assure the  
27 competent performance by advanced *practice* registered ~~nurse practi-~~  
28 ~~tioners~~ *nurses* of functions and procedures which advanced *practice* reg-  
29 istered ~~nurse practitioners~~ *nurses* are authorized to perform. *Advanced*  
30 *practice registered nursing is based on knowledge and skills acquired in*  
31 *basic nursing education, licensure as a registered nurse, and graduation*  
32 *from or completion of a masters or higher degree in one of the advanced*  
33 *practice registered nurse roles approved by the board of nursing.*

34 (3) Define the role of advanced *practice* registered ~~nurse practition-~~  
35 ~~ers~~ *nurses* and establish limitations and restrictions on such role. The  
36 board shall adopt a definition of the role under this subsection (c)(3)  
37 which is consistent with the education and qualifications required to ob-  
38 tain a ~~certificate of qualification~~ *license* as an advanced *practice* registered  
39 nurse ~~practitioner~~, which protects the public from persons performing  
40 functions and procedures as advanced *practice* registered ~~nurse practi-~~  
41 ~~tioners~~ *nurses* for which they lack adequate education and qualifications  
42 and which authorizes advanced *practice* registered ~~nurse practitioners~~  
43 *nurses* to perform acts generally recognized by the profession of nursing

1 as capable of being performed, in a manner consistent with the public  
2 health and safety, by persons with postbasic education in nursing. In de-  
3 fining such role the board shall consider: (A) The education required for  
4 ~~a certificate of qualification~~ licensure as an advanced *practice* registered  
5 nurse practitioner; (B) the type of nursing practice and preparation in  
6 ~~specialized~~ practitioner skills involved in each ~~category~~ *role* of advanced  
7 *practice* registered nurse practitioner established by the board; (C) the  
8 scope ~~and limitations~~ of *advanced practice* of nursing ~~specialties and lim-~~  
9 ~~itations thereon~~ prescribed by national *advanced practice* organizations  
10 ~~which certify nursing specialties~~; and (D) acts recognized by the nursing  
11 profession as appropriate to be performed by persons with postbasic ed-  
12 ucation in nursing.

13 ~~(d) An advanced registered nurse practitioner may prescribe drugs~~  
14 ~~pursuant to a written protocol as authorized by a responsible physician.~~  
15 ~~Each written protocol shall contain a precise and detailed medical plan~~  
16 ~~of care for each classification of disease or injury for which the advanced~~  
17 ~~registered nurse practitioner is authorized to prescribe and shall specify~~  
18 ~~all drugs which may be prescribed by the advanced registered nurse prac-~~  
19 ~~titioner. Any written prescription order shall include the name, address~~  
20 ~~and telephone number of the responsible physician. The advanced reg-~~  
21 ~~istered nurse practitioner may not dispense drugs, but may request, re-~~  
22 ~~ceive and sign for professional samples and may distribute professional~~  
23 ~~samples to patients pursuant to a written protocol as authorized by a~~  
24 ~~responsible physician. In order to prescribe controlled substances, the~~  
25 ~~advanced registered nurse practitioner shall (1) register with the federal~~  
26 ~~drug enforcement administration, and (2) notify the board of the name~~  
27 ~~and address of the responsible physician or physicians. In no case shall~~  
28 ~~the scope of authority of the advanced registered nurse practitioner ex-~~  
29 ~~ceed the normal and customary practice of the responsible physician. An~~  
30 ~~advanced registered nurse practitioner certified in the category of regis-~~  
31 ~~tered nurse anesthetist while functioning as a registered nurse anesthetist~~  
32 ~~under K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto,~~  
33 ~~shall be subject to the provisions of K.S.A. 65-1151 to 65-1164, inclusive,~~  
34 ~~and amendments thereto, with respect to drugs and anesthetic agents and~~  
35 ~~shall not be subject to the provisions of this subsection. For the purposes~~  
36 ~~of this subsection, "responsible physician" means a person licensed to~~  
37 ~~practice medicine and surgery in Kansas who has accepted responsibility~~  
38 ~~for the protocol and the actions of the advanced registered nurse prac-~~  
39 ~~titioner when prescribing drugs.~~

40 ~~—(e) As used in this section, "drug" means those articles and substances~~  
41 ~~defined as drugs in K.S.A. 65-1626 and 65-4101 and amendments thereto.~~  
42

43 *(d) Advanced practice registered nurses are licensed independent*

1 *practitioners who shall practice within the roles established by the board.*  
2 *Each advanced practice registered nurse is accountable to consumers, the*  
3 *nursing profession and the board for complying with the requirements of*  
4 *this act and the quality of advanced nursing care rendered; for recogniz-*  
5 *ing limits of knowledge and experience, planning for the management of*  
6 *situations beyond the advanced practice registered nurse's expertise; and*  
7 *for consulting with or referring patients to other health care providers as*  
8 *appropriate.*

9 *(e) A person registered to practice as an advanced registered nurse*  
10 *practitioner immediately prior to the effective date of this act shall be*  
11 *deemed to be licensed to practice as an advanced practice registered nurse*  
12 *under this act, and such person shall not be required to file an original*  
13 *application for licensure under this act. Any application for registration*  
14 *filed which has not been granted prior to the effective date of this act,*  
15 *shall be processed as an application for licensure under this act.*

16 Sec. 7. K.S.A. 65-1131 is hereby amended to read as follows: 65-  
17 1131. (a) (1) *Certification. Licensure.* Upon application to the board by  
18 any professional nurse in this state and upon satisfaction of the standards  
19 and requirements established by the board under K.S.A. 65-1130 and  
20 amendments thereto, the board may issue a ~~certificate of qualification~~  
21 *license* to such applicant authorizing the applicant to perform the duties  
22 of an advanced *practice* registered nurse ~~practitioner~~ as defined by the  
23 board under K.S.A. 65-1130, and amendments thereto.

24 (2) The board may issue a ~~certificate~~ *license* to practice nursing as an  
25 advanced *practice* registered nurse ~~practitioner~~ to an applicant who has  
26 been duly licensed or certified as an advanced *practice* registered nurse  
27 ~~practitioner~~ under the laws of another state or territory if, in the opinion  
28 of the board, the applicant meets the qualifications required of an ad-  
29 vanced *practice* registered nurse ~~practitioner~~ in this state. Verification of  
30 the applicant's licensure or certification status shall be required from the  
31 original state of licensure or certification.

32 (3) An application to the board for a ~~certificate of qualification~~ *license*,  
33 for a ~~certificate of qualification~~ *license* with temporary permit, for renewal  
34 of a ~~certificate of qualification~~ *license* and for reinstatement of a ~~certificate~~  
35 ~~of qualification~~ *license* shall be upon such form and contain such infor-  
36 mation as the board may require and shall be accompanied by a fee, to  
37 be established by rules and regulations adopted by the board, to assist in  
38 defraying the expenses in connection with the issuance of ~~certificates of~~  
39 ~~qualification~~ *licenses* as advanced *practice* registered nurse ~~practitioners~~  
40 *nurses*, in an amount fixed by the board under K.S.A. 65-1118, and  
41 amendments thereto.

42 (4) An application for initial ~~certification~~ *licensure* or endorsement  
43 will be held awaiting completion of meeting qualifications for a time pe-

1 riod specified in rules and regulations.

2 (5) The executive administrator of the board shall remit all moneys  
3 received pursuant to this section to the state treasurer as provided by  
4 K.S.A. 74-1108, and amendments thereto.

5 (b) The board may grant a one-time temporary permit to practice as  
6 an advanced *practice* registered nurse practitioner for a period of not  
7 more than 180 days pending completion of the application for a ~~certificate~~  
8 ~~of qualification license~~.

9 (c) ~~Exempt certificate license~~. The board may issue an exempt ~~certif-~~  
10 ~~icate license~~ to any advanced *practice* registered nurse practitioner as  
11 defined in rules and regulations who makes written application for such  
12 ~~certificate license~~ on a form provided by the board, who remits a fee as  
13 established pursuant to K.S.A. 65-1118, and amendments thereto, and  
14 who is not regularly engaged ~~in~~ as an advanced *practice* registered nurse  
15 ~~practice~~ in Kansas but volunteers advanced registered nursing services or  
16 is a charitable health care provider as defined by K.S.A. 75-6102, and  
17 amendments thereto. Each exempt advanced *practice* registered nurse  
18 ~~practitioner~~ shall be subject to all provisions of the nurse practice act.  
19 Each exempt license may be renewed biennially subject to the provisions  
20 of this section. To convert an exempt ~~certificate license~~ to an active ~~cer-~~  
21 ~~tificate license~~, the exempt advanced *practice* registered nurse ~~practi-~~  
22 ~~tioner~~ shall meet all the requirements of subsection (a) or K.S.A. 65-1132,  
23 and amendments thereto. The board shall have authority to write rules  
24 and regulations to carry out the provisions of this section.

25 Sec. 8. K.S.A. 2009 Supp. 65-1132 is hereby amended to read as  
26 follows: 65-1132. (a) All ~~certificates of qualification licenses~~ issued under  
27 the provisions of this act, whether initial or renewal, shall expire every  
28 two years. The expiration date shall be established by rules and regula-  
29 tions of the board. The board shall send a notice for renewal of a ~~certif-~~  
30 ~~icate of qualification license~~ to every advanced *practice* registered nurse  
31 ~~practitioner~~ at least 60 days prior to the expiration date of such person's  
32 license. Every person who desires to renew such ~~certificate of qualifica-~~  
33 ~~tion license~~ shall file with the board, on or before the date of expiration  
34 of such ~~certificate of qualification license~~, a renewal application together  
35 with, the prescribed biennial renewal fee, *evidence of completion of con-*  
36 *tinuing education in the advanced practice registered nurse role and ev-*  
37 *idence of malpractice insurance as specified in rules and regulations by*  
38 *the board*. Upon receipt of such application and payment of any appli-  
39 cable fee, and upon being satisfied that the applicant for renewal of a  
40 ~~certificate of qualification license~~ meets the requirements established by  
41 the board under K.S.A. 65-1130, and amendments thereto, in effect at  
42 the time of initial qualification of the applicant, the board shall verify the  
43 accuracy of the application and grant a renewal ~~certificate of qualification~~

1 *license.*

2 (b) Any person who fails to secure a renewal ~~certificate of qualifica-~~  
3 ~~tion license~~ prior to the expiration of the ~~certificate of qualification license~~  
4 may secure a reinstatement of such lapsed ~~certificate of qualification li-~~  
5 ~~cence~~ by making application therefor on a form provided by the board,  
6 upon furnishing proof that the applicant is competent and qualified to  
7 act as an advanced *practice* registered nurse ~~practitioner~~ and upon sat-  
8 isfying all of the requirements for reinstatement including payment to the  
9 board of a reinstatement fee as established by the board.

10 Sec. 9. K.S.A. 65-1133 is hereby amended to read as follows: 65-  
11 1133. (a) An approved educational ~~and training~~ program for advanced  
12 *practice* registered ~~nurse practitioners~~ *nurses* is a program conducted in  
13 Kansas which has been approved by the board as meeting the standards  
14 and the rules and regulations of the board. An institution desiring to  
15 conduct an educational ~~and training~~ program for advanced *practice* reg-  
16 istered ~~nurse practitioners~~ *nurses* shall apply to the board for approval  
17 and submit satisfactory proof that it is prepared to and will maintain the  
18 standards and the required curriculum for advanced *practice* registered  
19 ~~nurse practitioners~~ *nurses* as prescribed by this act and by the rules and  
20 regulations of the board. Applications shall be made in writing on forms  
21 supplied by the board and shall be submitted to the board together with  
22 the application fee fixed by the board. The approval of an educational  
23 program for advanced *practice* registered ~~nurse practitioners~~ *nurses* shall  
24 not exceed 10 years after the granting of such approval by the board. An  
25 institution desiring to continue to conduct an approved educational pro-  
26 gram for advanced *practice* registered ~~nurse practitioners~~ *nurses* shall  
27 apply to the board for the renewal of approval and submit satisfactory  
28 proof that it will maintain the standards and the required curriculum for  
29 advanced *practice* registered ~~nurse practitioners~~ *nurses* as prescribed by  
30 this act and by the rules and regulations of the board. Applications for  
31 renewal of approval shall be made in writing on forms supplied by the  
32 board. Each program shall submit annually to the board an annual fee  
33 fixed by the board's rules and regulations to maintain the approved status.

34 (b) A program to qualify as an approved educational program for  
35 advanced *practice* registered ~~nurse practitioners~~ *nurses* must be con-  
36 ducted in the state of Kansas, and the school conducting the program  
37 must apply to the board and submit evidence that: (1) It is prepared to  
38 carry out the curriculum prescribed by rules and regulations of the board;  
39 and (2) it is prepared to meet such other standards as shall be established  
40 by law and the rules and regulations of the board.

41 (c) The board shall prepare and maintain a list of programs which  
42 qualify as approved educational programs for advanced *practice* regis-  
43 tered ~~nurse practitioners~~ *nurses* whose graduates, if they have the other

1 necessary qualifications provided in this act, shall be eligible to apply for  
2 ~~certificates of qualification licensure~~ as advanced *practice* registered nurse  
3 ~~practitioners nurses~~. A survey of the institution or school applying for  
4 approval of an educational program for advanced *practice* registered  
5 ~~nurse practitioners nurses~~ shall be made by an authorized employee of  
6 the board or members of the board, who shall submit a written report of  
7 the survey to the board. If, in the opinion of the board, the requirements  
8 as prescribed by the board in its rules and regulations for approval are  
9 met, it shall so approve the program. The board shall resurvey approved  
10 programs on a periodic basis as determined by rules and regulations. If  
11 the board determines that any approved program is not maintaining the  
12 standards required by this act and by rules and regulations prescribed by  
13 the board, notice thereof in writing, specifying the failures of such pro-  
14 gram, shall be given. A program which fails to correct such conditions to  
15 the satisfaction of the board within a reasonable time shall be removed  
16 from the list of approved programs until such time as the program shall  
17 comply with such standards. All approved programs shall maintain ac-  
18 curate and current records showing in full the theoretical and practical  
19 courses given to each student.

20 (d) The board may accept nationally accredited ~~advance~~ *advanced*  
21 *practice* registered nurse ~~practitioner~~ programs as defined in rule and  
22 regulation:

23 (1) Advanced *practice* registered nurse ~~practitioner~~ programs which  
24 have received accreditation from a board recognized national nursing ac-  
25 creditation agency shall file evidence of initial accreditation with the  
26 board, and thereafter shall file all reports from the accreditation agency  
27 and any notice of any change in school accreditation status.

28 (2) Advanced *practice* registered nurse ~~practitioner~~ programs holding  
29 approval based upon national accreditation are also responsible for com-  
30 plying with all other requirements as determined by rules and regulations  
31 of the board.

32 (3) The board may grant approval to an advanced *practice* registered  
33 nurse ~~practitioner~~ program with national accreditation for a continuing  
34 period not to exceed 10 years.

35 Sec. 10. K.S.A. 65-1154 is hereby amended to read as follows: 65-  
36 1154. Upon application to the board by any licensed professional nurse  
37 in this state and upon satisfaction of the standards and requirements es-  
38 tablished under this act and K.S.A. 65-1130 and amendments thereto, the  
39 board shall grant an authorization to the applicant to perform the duties  
40 of a registered nurse anesthetist and be ~~certified~~ *licensed* as an advanced  
41 *practice* registered nurse ~~practitioner~~. An application to the board for an  
42 authorization, for an authorization with temporary authorization, for bi-  
43 ennial renewal of authorization, for reinstatement of authorization and

1 for reinstatement of authorization with temporary authorization shall be  
2 upon such form and contain such information as the board may require  
3 and shall be accompanied by a fee to assist in defraying the expenses in  
4 connection with the administration of the provisions of this act. The fee  
5 shall be fixed by rules and regulations adopted by the board in an amount  
6 fixed by the board under K.S.A. 65-1118, and amendments thereto. There  
7 shall be no fee assessed for the initial, renewal or reinstatement of the  
8 advanced *practice* registered nurse ~~practitioner certificate~~ *license* as long  
9 as the registered nurse anesthetist maintains authorization. The executive  
10 administrator of the board shall remit all moneys received to the state  
11 treasurer as provided by K.S.A. 74-1108, and amendments thereto.

12 Sec. 11. K.S.A. 65-1163 is hereby amended to read as follows: 65-  
13 1163. Nothing in this act shall:

14 (a) Prohibit administration of a drug by a duly licensed professional  
15 nurse, licensed practical nurse or other duly authorized person for the  
16 alleviation of pain, including administration of local anesthetics;

17 (b) apply to the practice of anesthesia by a person licensed to practice  
18 medicine and surgery, a licensed dentist or a licensed podiatrist;

19 (c) prohibit the practice of nurse anesthesia by students enrolled in  
20 approved courses of study in the administration of anesthesia or analgesic  
21 as a part of such course of study;

22 (d) apply to the administration of a pudendal block by a person who  
23 holds a valid ~~certificate of qualification~~ *license* as an advanced *practice*  
24 registered nurse ~~practitioner~~ in the category of nurse-midwife;

25 (e) apply to the administration by a licensed professional nurse of an  
26 anesthetic, other than general anesthesia, for a dental operation under  
27 the direct supervision of a licensed dentist or for a dental operation under  
28 the direct supervision of a person licensed to practice medicine and sur-  
29 gery;

30 (f) prohibit the practice by any registered nurse anesthetist who is  
31 employed by the United States government or in any bureau, division or  
32 agency thereof, while in the discharge of official duties; or

33 (g) prohibit a registered professional nurse from administering gener-  
34 eral anesthetic agents to a patient on ventilator maintenance in critical  
35 care units when under the direction of a person licensed to practice med-  
36 icine and surgery or a person licensed to practice dentistry.

37 Sec. 12. K.S.A. 2009 Supp. 65-1626 is hereby amended to read as  
38 follows: 65-1626. For the purposes of this act:

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

- 42 (1) A practitioner or pursuant to the lawful direction of a practitioner;
- 43 (2) the patient or research subject at the direction and in the presence

1 of the practitioner; or

2 (3) a pharmacist as authorized in K.S.A. 65-1635a and amendments  
3 thereto.

4 (b) "Agent" means an authorized person who acts on behalf of or at  
5 the direction of a manufacturer, distributor or dispenser but shall not  
6 include a common carrier, public warehouseman or employee of the car-  
7 rier or warehouseman when acting in the usual and lawful course of the  
8 carrier's or warehouseman's business.

9 (c) "Authorized distributor of record" means a wholesale distributor  
10 with whom a manufacturer has established an ongoing relationship to  
11 distribute the manufacturer's prescription drug. An ongoing relationship  
12 is deemed to exist between such wholesale distributor and a manufacturer  
13 when the wholesale distributor, including any affiliated group of the  
14 wholesale distributor, as defined in section 1504 of the internal revenue  
15 code, complies with any one of the following: (1) The wholesale distrib-  
16 utor has a written agreement currently in effect with the manufacturer  
17 evidencing such ongoing relationship; and (2) the wholesale distributor is  
18 listed on the manufacturer's current list of authorized distributors of rec-  
19 ord, which is updated by the manufacturer on no less than a monthly  
20 basis.

21 (d) "Board" means the state board of pharmacy created by K.S.A. 74-  
22 1603 and amendments thereto.

23 (e) "Brand exchange" means the dispensing of a different drug prod-  
24 uct of the same dosage form and strength and of the same generic name  
25 than the brand name drug product prescribed.

26 (f) "Brand name" means the registered trademark name given to a  
27 drug product by its manufacturer, labeler or distributor.

28 (g) "Chain pharmacy warehouse" means a permanent physical loca-  
29 tion for drugs or devices, or both, that act as a central warehouse and  
30 perform intracompany sales or transfers of prescription drugs or devices  
31 to chain pharmacies that have the same ownership or control. Chain phar-  
32 macy warehouses must be registered as wholesale distributors.

33 (h) "Co-licensee" means a pharmaceutical manufacturer that has en-  
34 tered into an agreement with another pharmaceutical manufacturer to  
35 engage in a business activity or occupation related to the manufacture or  
36 distribution of a prescription drug and the national drug code on the drug  
37 product label shall be used to determine the identity of the drug manu-  
38 facturer.

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

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

- 1 or pharmacy technician to a sufficient degree to assure that all such ac-  
2 tivities are performed accurately, safely and without risk or harm to pa-  
3 tients, and complete the final check before dispensing.
- 4 (k) “Dispense” means to deliver prescription medication to the ulti-  
5 mate user or research subject by or pursuant to the lawful order of a  
6 practitioner or pursuant to the prescription of a mid-level practitioner.
- 7 (l) “Dispenser” means a practitioner or pharmacist who dispenses  
8 prescription medication.
- 9 (m) “Distribute” means to deliver, other than by administering or  
10 dispensing, any drug.
- 11 (n) “Distributor” means a person who distributes a drug.
- 12 (o) “Drop shipment” means the sale, by a manufacturer, that man-  
13 ufacturer’s co-licensee, that manufacturer’s third party logistics provider,  
14 or that manufacturer’s exclusive distributor, of the manufacturer’s pre-  
15 scription drug, to a wholesale distributor whereby the wholesale distrib-  
16 utor takes title but not possession of such prescription drug and the  
17 wholesale distributor invoices the pharmacy, the chain pharmacy ware-  
18 ouse, or other designated person authorized by law to dispense or ad-  
19 minister such prescription drug, and the pharmacy, the chain pharmacy  
20 warehouse, or other designated person authorized by law to dispense or  
21 administer such prescription drug receives delivery of the prescription  
22 drug directly from the manufacturer, that manufacturer’s co-licensee, that  
23 manufacturer’s third party logistics provider, or that manufacturer’s ex-  
24 clusive distributor, of such prescription drug. Drop shipment shall be part  
25 of the “normal distribution channel”.
- 26 (p) “Drug” means: (1) Articles recognized in the official United States  
27 pharmacopoeia, or other such official compendiums of the United States,  
28 or official national formulary, or any supplement of any of them; (2) ar-  
29 ticles intended for use in the diagnosis, cure, mitigation, treatment or  
30 prevention of disease in man or other animals; (3) articles, other than  
31 food, intended to affect the structure or any function of the body of man  
32 or other animals; and (4) articles intended for use as a component of any  
33 articles specified in clause (1), (2) or (3) of this subsection; but does not  
34 include devices or their components, parts or accessories, except that the  
35 term “drug” shall not include amygdalin (laetrile) or any livestock remedy,  
36 if such livestock remedy had been registered in accordance with the pro-  
37 visions of article 5 of chapter 47 of the Kansas Statutes Annotated prior  
38 to its repeal.
- 39 (q) “Durable medical equipment” means technologically sophisti-  
40 cated medical devices that may be used in a residence, including the  
41 following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) res-  
42 piratory disease management devices; (4) continuous positive airway pres-  
43 sure (CPAP) devices; (5) electronic and computerized wheelchairs and

- 1 seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve  
2 stimulator (TENS) units; (8) low air loss cutaneous pressure management  
3 devices; (9) sequential compression devices; (10) feeding pumps; (11)  
4 home phototherapy devices; (12) infusion delivery devices; (13) distri-  
5 bution of medical gases to end users for human consumption; (14) hos-  
6 pital beds; (15) nebulizers; (16) other similar equipment determined by  
7 the board in rules and regulations adopted by the board.
- 8 (r) “Exclusive distributor” means any entity that: (1) Contracts with  
9 a manufacturer to provide or coordinate warehousing, wholesale distri-  
10 bution or other services on behalf of a manufacturer and who takes title  
11 to that manufacturer’s prescription drug, but who does not have general  
12 responsibility to direct the sale or disposition of the manufacturer’s pre-  
13 scription drug; (2) is registered as a wholesale distributor under the phar-  
14 macy act of the state of Kansas; and (3) to be considered part of the  
15 normal distribution channel, must be an authorized distributor of record.
- 16 (s) “Electronic transmission” means transmission of information in  
17 electronic form or the transmission of the exact visual image of a docu-  
18 ment by way of electronic equipment.
- 19 (t) “Generic name” means the established chemical name or official  
20 name of a drug or drug product.
- 21 (u) (1) “Institutional drug room” means any location where prescrip-  
22 tion-only drugs are stored and from which prescription-only drugs are  
23 administered or dispensed and which is maintained or operated for the  
24 purpose of providing the drug needs of:
- 25 (A) Inmates of a jail or correctional institution or facility;  
26 (B) residents of a juvenile detention facility, as defined by the revised  
27 Kansas code for care of children and the revised Kansas juvenile justice  
28 code;  
29 (C) students of a public or private university or college, a community  
30 college or any other institution of higher learning which is located in  
31 Kansas;  
32 (D) employees of a business or other employer; or  
33 (E) persons receiving inpatient hospice services.
- 34 (2) “Institutional drug room” does not include:  
35 (A) Any registered pharmacy;  
36 (B) any office of a practitioner; or  
37 (C) a location where no prescription-only drugs are dispensed and no  
38 prescription-only drugs other than individual prescriptions are stored or  
39 administered.
- 40 (v) “Intracompany transaction” means any transaction or transfer be-  
41 tween any division, subsidiary, parent or affiliated or related company  
42 under common ownership or control of a corporate entity, or any trans-  
43 action or transfer between co-licensees of a co-licensed product.

- 1 (w) “Medical care facility” shall have the meaning provided in K.S.A.  
2 65-425 and amendments thereto, except that the term shall also include  
3 facilities licensed under the provisions of K.S.A. 75-3307b and amend-  
4 ments thereto except community mental health centers and facilities for  
5 the mentally retarded.
- 6 (x) “Manufacture” means the production, preparation, propagation,  
7 compounding, conversion or processing of a drug either directly or in-  
8 directly by extraction from substances of natural origin, independently by  
9 means of chemical synthesis or by a combination of extraction and chem-  
10 ical synthesis and includes any packaging or repackaging of the drug or  
11 labeling or relabeling of its container, except that this term shall not in-  
12 clude the preparation or compounding of a drug by an individual for the  
13 individual’s own use or the preparation, compounding, packaging or la-  
14 beling of a drug by: (1) A practitioner or a practitioner’s authorized agent  
15 incident to such practitioner’s administering or dispensing of a drug in  
16 the course of the practitioner’s professional practice; (2) a practitioner,  
17 by a practitioner’s authorized agent or under a practitioner’s supervision  
18 for the purpose of, or as an incident to, research, teaching or chemical  
19 analysis and not for sale; or (3) a pharmacist or the pharmacist’s author-  
20 ized agent acting under the direct supervision of the pharmacist for the  
21 purpose of, or incident to, the dispensing of a drug by the pharmacist.
- 22 (y) “Manufacturer” means a person licensed or approved by the FDA  
23 to engage in the manufacture of drugs and devices.
- 24 (z) “Normal distribution channel” means a chain of custody for a  
25 prescription-only drug that goes from a manufacturer of the prescription-  
26 only drug, from that manufacturer to that manufacturer’s co-licensed  
27 partner, from that manufacturer to that manufacturer’s third-party logis-  
28 tics provider, or from that manufacturer to that manufacturer’s exclusive  
29 distributor, directly or by drop shipment, to:
- 30 (1) A pharmacy to a patient or to other designated persons authorized  
31 by law to dispense or administer such drug to a patient;
- 32 (2) a wholesale distributor to a pharmacy to a patient or other des-  
33 igned persons authorized by law to dispense or administer such drug to  
34 a patient;
- 35 (3) a wholesale distributor to a chain pharmacy warehouse to that  
36 chain pharmacy warehouse’s intracompany pharmacy to a patient or other  
37 designated persons authorized by law to dispense or administer such drug  
38 to a patient; or
- 39 (4) a chain pharmacy warehouse to the chain pharmacy warehouse’s  
40 intracompany pharmacy to a patient or other designated persons author-  
41 ized by law to dispense or administer such drug to a patient.
- 42 (aa) “Person” means individual, corporation, government, govern-  
43 mental subdivision or agency, partnership, association or any other legal

1 entity.

2 (bb) “Pharmacist” means any natural person licensed under this act  
3 to practice pharmacy.

4 (cc) “Pharmacist in charge” means the pharmacist who is responsible  
5 to the board for a registered establishment’s compliance with the laws  
6 and regulations of this state pertaining to the practice of pharmacy, man-  
7 ufacturing of drugs and the distribution of drugs. The pharmacist in  
8 charge shall supervise such establishment on a full-time or a part-time  
9 basis and perform such other duties relating to supervision of a registered  
10 establishment as may be prescribed by the board by rules and regulations.  
11 Nothing in this definition shall relieve other pharmacists or persons from  
12 their responsibility to comply with state and federal laws and regulations.

13 (dd) “Pharmacy,” “drug store” or “apothecary” means premises, lab-  
14 oratory, area or other place: (1) Where drugs are offered for sale where  
15 the profession of pharmacy is practiced and where prescriptions are com-  
16 pounded and dispensed; or (2) which has displayed upon it or within it  
17 the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apoth-  
18 ecary,” “drugstore,” “druggist,” “drugs,” “drug sundries” or any of these  
19 words or combinations of these words or words of similar import either  
20 in English or any sign containing any of these words; or (3) where the  
21 characteristic symbols of pharmacy or the characteristic prescription sign  
22 “Rx” may be exhibited. As used in this subsection, premises refers only  
23 to the portion of any building or structure leased, used or controlled by  
24 the licensee in the conduct of the business registered by the board at the  
25 address for which the registration was issued.

26 (ee) “Pharmacy student” means an individual, registered with the  
27 board of pharmacy, enrolled in an accredited school of pharmacy.

28 (ff) “Pharmacy technician” means an individual who, under the direct  
29 supervision and control of a pharmacist, may perform packaging, manip-  
30 ulative, repetitive or other nondiscretionary tasks related to the processing  
31 of a prescription or medication order and who assists the pharmacist in  
32 the performance of pharmacy related duties, but who does not perform  
33 duties restricted to a pharmacist.

34 (gg) “Practitioner” means a person licensed to practice medicine and  
35 surgery, dentist, podiatrist, veterinarian, optometrist licensed under the  
36 optometry law as a therapeutic licensee or diagnostic and therapeutic  
37 licensee, or scientific investigator or other person authorized by law to  
38 use a prescription-only drug in teaching or chemical analysis or to conduct  
39 research with respect to a prescription-only drug.

40 (hh) “Preceptor” means a licensed pharmacist who possesses at least  
41 two years’ experience as a pharmacist and who supervises students ob-  
42 taining the pharmaceutical experience required by law as a condition to  
43 taking the examination for licensure as a pharmacist.

- 1 (ii) “Prescription” means, according to the context, either a prescrip-  
2 tion order or a prescription medication.
- 3 (jj) “Prescription medication” means any drug, including label and  
4 container according to context, which is dispensed pursuant to a prescrip-  
5 tion order.
- 6 (kk) “Prescription-only drug” means any drug whether intended for  
7 use by man or animal, required by federal or state law (including 21  
8 United States Code section 353, as amended) to be dispensed only pur-  
9 suant to a written or oral prescription or order of a practitioner or is  
10 restricted to use by practitioners only.
- 11 (ll) “Prescription order” means: (1) An order to be filled by a phar-  
12 macist for prescription medication issued and signed by a practitioner or  
13 a mid-level practitioner in the authorized course of professional practice;  
14 or (2) an order transmitted to a pharmacist through word of mouth, note,  
15 telephone or other means of communication directed by such practitioner  
16 or mid-level practitioner.
- 17 (mm) “Probation” means the practice or operation under a tempo-  
18 rary license, registration or permit or a conditional license, registration  
19 or permit of a business or profession for which a license, registration or  
20 permit is granted by the board under the provisions of the pharmacy act  
21 of the state of Kansas requiring certain actions to be accomplished or  
22 certain actions not to occur before a regular license, registration or permit  
23 is issued.
- 24 (nn) “Professional incompetency” means:  
25 (1) One or more instances involving failure to adhere to the appli-  
26 cable standard of pharmaceutical care to a degree which constitutes gross  
27 negligence, as determined by the board;  
28 (2) repeated instances involving failure to adhere to the applicable  
29 standard of pharmaceutical care to a degree which constitutes ordinary  
30 negligence, as determined by the board; or  
31 (3) a pattern of pharmacy practice or other behavior which demon-  
32 strates a manifest incapacity or incompetence to practice pharmacy.
- 33 (oo) “Retail dealer” means a person selling at retail nonprescription  
34 drugs which are prepackaged, fully prepared by the manufacturer or dis-  
35 tributor for use by the consumer and labeled in accordance with the  
36 requirements of the state and federal food, drug and cosmetic acts. Such  
37 nonprescription drugs shall not include: (1) A controlled substance; (2) a  
38 prescription-only drug; or (3) a drug intended for human use by hypo-  
39 dermic injection.
- 40 (pp) “Secretary” means the executive secretary of the board.
- 41 (qq) “Third party logistics provider” means an entity that: (1) Pro-  
42 vides or coordinates warehousing, distribution or other services on behalf  
43 of a manufacturer, but does not take title to the prescription drug or have

- 1 general responsibility to direct the prescription drug's sale or disposition;  
2 (2) is registered as a wholesale distributor under the pharmacy act of the  
3 state of Kansas; and (3) to be considered part of the normal distribution  
4 channel, must also be an authorized distributor of record.
- 5 (rr) "Unprofessional conduct" means:
- 6 (1) Fraud in securing a registration or permit;  
7 (2) intentional adulteration or mislabeling of any drug, medicine,  
8 chemical or poison;  
9 (3) causing any drug, medicine, chemical or poison to be adulterated  
10 or mislabeled, knowing the same to be adulterated or mislabeled;  
11 (4) intentionally falsifying or altering records or prescriptions;  
12 (5) unlawful possession of drugs and unlawful diversion of drugs to  
13 others;  
14 (6) willful betrayal of confidential information under K.S.A. 65-1654  
15 and amendments thereto;  
16 (7) conduct likely to deceive, defraud or harm the public;  
17 (8) making a false or misleading statement regarding the licensee's  
18 professional practice or the efficacy or value of a drug;  
19 (9) commission of any act of sexual abuse, misconduct or exploitation  
20 related to the licensee's professional practice; or  
21 (10) performing unnecessary tests, examinations or services which  
22 have no legitimate pharmaceutical purpose.
- 23 (ss) "Mid-level practitioner" means an advanced *practice* registered  
24 nurse ~~practitioner~~ issued a ~~certificate of qualification~~ *license* pursuant to  
25 K.S.A. 65-1131, and amendments thereto, who has authority to prescribe  
26 drugs ~~pursuant to a written protocol with a responsible physician~~ under  
27 K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed  
28 pursuant to the physician assistant licensure act who has authority to pre-  
29 scribe drugs pursuant to a written protocol with a responsible physician  
30 under K.S.A. 65-28a08, and amendments thereto.
- 31 (tt) "Vaccination protocol" means a written protocol, agreed to by a  
32 pharmacist and a person licensed to practice medicine and surgery by the  
33 state board of healing arts, which establishes procedures and recordkeep-  
34 ing and reporting requirements for administering a vaccine by the phar-  
35 macist for a period of time specified therein, not to exceed two years.
- 36 (uu) "Veterinary medical teaching hospital pharmacy" means any lo-  
37 cation where prescription-only drugs are stored as part of an accredited  
38 college of veterinary medicine and from which prescription-only drugs  
39 are distributed for use in treatment of or administration to a non-human.
- 40 (vv) "Wholesale distributor" means any person engaged in wholesale  
41 distribution of prescription drugs or devices in or into the state, including,  
42 but not limited to, manufacturers, repackagers, own-label distributors,  
43 private-label distributors, jobbers, brokers, warehouses, including man-

1 manufacturers' and distributors' warehouses, co-licensees, exclusive distrib-  
2 utors, third party logistics providers, chain pharmacy warehouses that con-  
3 duct wholesale distributions, and wholesale drug warehouses,  
4 independent wholesale drug traders and retail pharmacies that conduct  
5 wholesale distributions. Wholesale distributor shall not include persons  
6 engaged in the sale of durable medical equipment to consumers or pa-  
7 tients.

8 (ww) "Wholesale distribution" means the distribution of prescription  
9 drugs or devices by wholesale distributors to persons other than consum-  
10 ers or patients, and includes the transfer of prescription drugs by a phar-  
11 macy to another pharmacy if the total number of units of transferred  
12 drugs during a twelve-month period does not exceed 5% of the total  
13 number of all units dispensed by the pharmacy during the immediately  
14 preceding twelve-month period. Wholesale distribution does not include:  
15 (1) The sale, purchase or trade of a prescription drug or device, an offer  
16 to sell, purchase or trade a prescription drug or device or the dispensing  
17 of a prescription drug or device pursuant to a prescription; (2) the sale,  
18 purchase or trade of a prescription drug or device or an offer to sell,  
19 purchase or trade a prescription drug or device for emergency medical  
20 reasons; (3) intracompany transactions, as defined in this section, unless  
21 in violation of own use provisions; (4) the sale, purchase or trade of a  
22 prescription drug or device or an offer to sell, purchase or trade a pre-  
23 scription drug or device among hospitals, chain pharmacy warehouses,  
24 pharmacies or other health care entities that are under common control;  
25 (5) the sale, purchase or trade of a prescription drug or device or the  
26 offer to sell, purchase or trade a prescription drug or device by a chari-  
27 table organization described in 503 (c)(3) of the internal revenue code of  
28 1954 to a nonprofit affiliate of the organization to the extent otherwise  
29 permitted by law; (6) the purchase or other acquisition by a hospital or  
30 other similar health care entity that is a member of a group purchasing  
31 organization of a prescription drug or device for its own use from the  
32 group purchasing organization or from other hospitals or similar health  
33 care entities that are members of these organizations; (7) the transfer of  
34 prescription drugs or devices between pharmacies pursuant to a central-  
35 ized prescription processing agreement; (8) the sale, purchase or trade of  
36 blood and blood components intended for transfusion; (9) the return of  
37 recalled, expired, damaged or otherwise non-salable prescription drugs,  
38 when conducted by a hospital, health care entity, pharmacy, chain phar-  
39 macy warehouse or charitable institution in accordance with the board's  
40 rules and regulations; (10) the sale, transfer, merger or consolidation of  
41 all or part of the business of a retail pharmacy or pharmacies from or with  
42 another retail pharmacy or pharmacies, whether accomplished as a pur-  
43 chase and sale of stock or business assets, in accordance with the board's

1 rules and regulations; (11) the distribution of drug samples by manufac-  
2 turers' and authorized distributors' representatives; (12) the sale of min-  
3 imal quantities of drugs by retail pharmacies to licensed practitioners for  
4 office use; or (13) the sale or transfer from a retail pharmacy or chain  
5 pharmacy warehouse of expired, damaged, returned or recalled prescrip-  
6 tion drugs to the original manufacturer, originating wholesale distributor  
7 or to a third party returns processor in accordance with the board's rules  
8 and regulations.

9 Sec. 13. K.S.A. 2009 Supp. 65-4101 is hereby amended to read as  
10 follows: 65-4101. As used in this act: (a) "Administer" means the direct  
11 application of a controlled substance, whether by injection, inhalation,  
12 ingestion or any other means, to the body of a patient or research subject  
13 by: (1) A practitioner or pursuant to the lawful direction of a practitioner;  
14 or

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

17 (b) "Agent" means an authorized person who acts on behalf of or at  
18 the direction of a manufacturer, distributor or dispenser. It does not in-  
19 clude a common carrier, public warehouseman or employee of the carrier  
20 or warehouseman.

21 (c) "Board" means the state board of pharmacy.

22 (d) "Bureau" means the bureau of narcotics and dangerous drugs,  
23 United States department of justice, or its successor agency.

24 (e) "Controlled substance" means any drug, substance or immediate  
25 precursor included in any of the schedules designated in K.S.A. 65-4105,  
26 65-4107, 65-4109, 65-4111 and 65-4113, and amendments to these sec-  
27 tions.

28 (f) "Counterfeit substance" means a controlled substance which, or  
29 the container or labeling of which, without authorization bears the trade-  
30 mark, trade name or other identifying mark, imprint, number or device  
31 or any likeness thereof of a manufacturer, distributor or dispenser other  
32 than the person who in fact manufactured, distributed or dispensed the  
33 substance.

34 (g) "Deliver" or "delivery" means the actual, constructive or at-  
35 tempted transfer from one person to another of a controlled substance,  
36 whether or not there is an agency relationship.

37 (h) "Dispense" means to deliver a controlled substance to an ultimate  
38 user or research subject by or pursuant to the lawful order of a practi-  
39 tioner, including the packaging, labeling or compounding necessary to  
40 prepare the substance for that delivery, or pursuant to the prescription  
41 of a mid-level practitioner.

42 (i) "Dispenser" means a practitioner or pharmacist who dispenses.

43 (j) "Distribute" means to deliver other than by administering or dis-

- 1    pensing a controlled substance.
- 2    (k) “Distributor” means a person who distributes.
- 3    (l) “Drug” means: (1) Substances recognized as drugs in the official  
4    United States pharmacopoeia, official homeopathic pharmacopoeia of the  
5    United States or official national formulary or any supplement to any of  
6    them; (2) substances intended for use in the diagnosis, cure, mitigation,  
7    treatment or prevention of disease in man or animals; (3) substances  
8    (other than food) intended to affect the structure or any function of the  
9    body of man or animals; and (4) substances intended for use as a com-  
10    ponent of any article specified in clause (1), (2) or (3) of this subsection.  
11    It does not include devices or their components, parts or accessories.
- 12    (m) “Immediate precursor” means a substance which the board has  
13    found to be and by rule and regulation designates as being the principal  
14    compound commonly used or produced primarily for use and which is  
15    an immediate chemical intermediary used or likely to be used in the  
16    manufacture of a controlled substance, the control of which is necessary  
17    to prevent, curtail or limit manufacture.
- 18    (n) “Manufacture” means the production, preparation, propagation,  
19    compounding, conversion or processing of a controlled substance either  
20    directly or indirectly or by extraction from substances of natural origin or  
21    independently by means of chemical synthesis or by a combination of  
22    extraction and chemical synthesis and includes any packaging or repack-  
23    aging of the substance or labeling or relabeling of its container, except  
24    that this term does not include the preparation or compounding of a  
25    controlled substance by an individual for the individual’s own lawful use  
26    or the preparation, compounding, packaging or labeling of a controlled  
27    substance: (1) By a practitioner or the practitioner’s agent pursuant to a  
28    lawful order of a practitioner as an incident to the practitioner’s admin-  
29    istering or dispensing of a controlled substance in the course of the prac-  
30    titioner’s professional practice; or  
31    (2) by a practitioner or by the practitioner’s authorized agent under  
32    such practitioner’s supervision for the purpose of or as an incident to  
33    research, teaching or chemical analysis or by a pharmacist or medical care  
34    facility as an incident to dispensing of a controlled substance.
- 35    (o) “Marijuana” means all parts of all varieties of the plant *Cannabis*  
36    whether growing or not, the seeds thereof, the resin extracted from any  
37    part of the plant and every compound, manufacture, salt, derivative, mix-  
38    ture or preparation of the plant, its seeds or resin. It does not include the  
39    mature stalks of the plant, fiber produced from the stalks, oil or cake  
40    made from the seeds of the plant, any other compound, manufacture,  
41    salt, derivative, mixture or preparation of the mature stalks, except the  
42    resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the  
43    plant which is incapable of germination.

- 1 (p) "Narcotic drug" means any of the following whether produced  
2 directly or indirectly by extraction from substances of vegetable origin or  
3 independently by means of chemical synthesis or by a combination of  
4 extraction and chemical synthesis: (1) Opium and opiate and any salt,  
5 compound, derivative or preparation of opium or opiate;  
6 (2) any salt, compound, isomer, derivative or preparation thereof  
7 which is chemically equivalent or identical with any of the substances  
8 referred to in clause (1) but not including the isoquinoline alkaloids of  
9 opium;  
10 (3) opium poppy and poppy straw;  
11 (4) coca leaves and any salt, compound, derivative or preparation of  
12 coca leaves, and any salt, compound, isomer, derivative or preparation  
13 thereof which is chemically equivalent or identical with any of these sub-  
14 stances, but not including decocainized coca leaves or extractions of coca  
15 leaves which do not contain cocaine or ecgonine.
- 16 (q) "Opiate" means any substance having an addiction-forming or  
17 addiction-sustaining liability similar to morphine or being capable of con-  
18 version into a drug having addiction-forming or addiction-sustaining lia-  
19 bility. It does not include, unless specifically designated as controlled  
20 under K.S.A. 65-4102 and amendments thereto, the dextrorotatory iso-  
21 mer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan).  
22 It does include its racemic and levorotatory forms.
- 23 (r) "Opium poppy" means the plant of the species *Papaver somni-*  
24 *ferum l.* except its seeds.
- 25 (s) "Person" means individual, corporation, government, or govern-  
26 mental subdivision or agency, business trust, estate, trust, partnership or  
27 association or any other legal entity.
- 28 (t) "Poppy straw" means all parts, except the seeds, of the opium  
29 poppy, after mowing.
- 30 (u) "Pharmacist" means an individual currently licensed by the board  
31 to practice the profession of pharmacy in this state.
- 32 (v) "Practitioner" means a person licensed to practice medicine and  
33 surgery, dentist, podiatrist, veterinarian, optometrist licensed under the  
34 optometry law as a therapeutic licensee or diagnostic and therapeutic  
35 licensee, or scientific investigator or other person authorized by law to  
36 use a controlled substance in teaching or chemical analysis or to conduct  
37 research with respect to a controlled substance.
- 38 (w) "Production" includes the manufacture, planting, cultivation,  
39 growing or harvesting of a controlled substance.
- 40 (x) "Ultimate user" means a person who lawfully possesses a con-  
41 trolled substance for such person's own use or for the use of a member  
42 of such person's household or for administering to an animal owned by  
43 such person or by a member of such person's household.

- 1 (y) "Isomer" means all enantiomers and diastereomers.
- 2 (z) "Medical care facility" shall have the meaning ascribed to that  
3 term in K.S.A. 65-425 and amendments thereto.
- 4 (aa) "Cultivate" means the planting or promotion of growth of five  
5 or more plants which contain or can produce controlled substances.
- 6 (bb) (1) "Controlled substance analog" means a substance that is in-  
7 tended for human consumption, and:
- 8 (A) The chemical structure of which is substantially similar to the  
9 chemical structure of a controlled substance listed in or added to the  
10 schedules designated in K.S.A. 65-4105 or 65-4107 and amendments  
11 thereto;
- 12 (B) which has a stimulant, depressant or hallucinogenic effect on the  
13 central nervous system substantially similar to the stimulant, depressant  
14 or hallucinogenic effect on the central nervous system of a controlled  
15 substance included in the schedules designated in K.S.A. 65-4105 or 65-  
16 4107 and amendments thereto; or
- 17 (C) with respect to a particular individual, which the individual rep-  
18 represents or intends to have a stimulant, depressant or hallucinogenic effect  
19 on the central nervous system substantially similar to the stimulant, de-  
20 pressant or hallucinogenic effect on the central nervous system of a con-  
21 trolled substance included in the schedules designated in K.S.A. 65-4105  
22 or 65-4107 and amendments thereto.
- 23 (2) "Controlled substance analog" does not include:
- 24 (A) A controlled substance;
- 25 (B) a substance for which there is an approved new drug application;  
26 or
- 27 (C) a substance with respect to which an exemption is in effect for  
28 investigational use by a particular person under section 505 of the federal  
29 food, drug, and cosmetic act (21 U.S.C. 355) to the extent conduct with  
30 respect to the substance is permitted by the exemption.
- 31 (cc) "Mid-level practitioner" means an advanced *practice* registered  
32 nurse ~~practitioner~~ issued a ~~certificate of qualification~~ *license* pursuant to  
33 K.S.A. 65-1131, and amendments thereto, who has authority to prescribe  
34 drugs ~~pursuant to a written protocol with a responsible physician~~ under  
35 K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed  
36 under the physician assistant licensure act who has authority to prescribe  
37 drugs pursuant to a written protocol with a responsible physician under  
38 K.S.A. 65-28a08, and amendments thereto.
- 39 Sec. 14. K.S.A. 65-1113, 65-1114, 65-1118, 65-1120, 65-1122, 65-  
40 1130, 65-1131, 65-1133, 65-1154 and 65-1163 and K.S.A. 2009 Supp. 65-  
41 1132, 65-1626, 65-1626d and 65-4101 are hereby repealed.
- 42 Sec. 15. This act shall take effect and be in force from and after July  
43 1, 2011, and its publication in the statute book.