

As Amended by House Committee

Session of 2019

HOUSE BILL No. 2066

By Committee on Health and Human Services

1-23

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

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

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

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

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

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

28 (d) *Practice of nursing.* (1) The practice of professional nursing as
29 performed by a registered professional nurse for compensation or
30 gratuitously, 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
36 management of illness, injury or infirmity; administration, supervision or

1 teaching of the process as defined in this section; and the execution of the
2 ~~medical treatment~~ regimen as prescribed by a person licensed to practice
3 medicine and surgery ~~or~~, a person licensed to practice dentistry *or a*
4 *person licensed to practice advanced practice registered nursing.*

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

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

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

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

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

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

42 (i) "Collaboration" means the process in which two or more
43 healthcare professionals work together to meet the healthcare needs of a

1 *patient, as warranted by the patient.*

2 (j) *"Consultation" means the process in which an advanced practice*
3 *registered nurse who maintains primary management responsibility for a*
4 *patient's care seeks advice or opinion of a physician or another member of*
5 *the healthcare team.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 authorized by a responsible physician.

2 (3) In order to prescribe controlled substances, the advanced practice
3 registered nurse shall: ~~(1)~~

4 (A) Register with the federal drug enforcement administration; and
5 ~~(2)~~

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

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

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

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

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

43 (g) An advanced practice registered nurse certified in the role of

1 certified nurse-midwife and engaging in the independent practice of
2 midwifery under the independent practice of midwifery act with respect to
3 prescribing drugs shall be subject to the provisions of the independent
4 practice of midwifery act and shall not be subject to the provisions of this
5 section.

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

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

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

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

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

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

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

43 **(A) "Full practice" means the full extent of practice authorized**

1 under the Kansas nurse practice act, and rules and regulations
2 adopted thereunder, without a written protocol with a responsible
3 physician or a collaborative relationship with a physician.

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

6 Sec. 3. K.S.A. 65-4101 is hereby amended to read as follows: 65-
7 4101. As used in this act: (a) "Administer" means the direct application of
8 a controlled substance, whether by injection, inhalation, ingestion or any
9 other means, to the body of a patient or research subject by:

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

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

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

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

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

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

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

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

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

34 (B) the substance has a stimulant, depressant or hallucinogenic effect
35 on the central nervous system substantially similar to the stimulant,
36 depressant or hallucinogenic effect on the central nervous system of a
37 controlled substance included in the schedules designated in K.S.A. 65-
38 4105 or 65-4107, and amendments thereto; or

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

1 4105 or 65-4107, and amendments thereto.

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

3 (A) A controlled substance;

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

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

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

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

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

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

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

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

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

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

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

43 (q) "Immediate precursor" means a substance ~~which~~ *that* the board

1 has found to be and by rule and regulation designates as being the
2 principal compound commonly used or produced primarily for use and
3 ~~which~~ *that* is an immediate chemical intermediary used or likely to be used
4 in the manufacture of a controlled substance, the control of which is
5 necessary to prevent, curtail or limit manufacture.

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

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

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

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

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

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

34 (x) "Intermediary" means any technology system that receives and
35 transmits an electronic prescription between the prescriber and the
36 pharmacy.

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

38 (z) "Manufacture" means the production, preparation, propagation,
39 compounding, conversion or processing of a controlled substance either
40 directly or indirectly or by extraction from substances of natural origin or
41 independently by means of chemical synthesis or by a combination of
42 extraction and chemical synthesis and includes any packaging or
43 repackaging of the substance or labeling or relabeling of its container,

1 except that this term does not include the preparation or compounding of a
2 controlled substance by an individual for the individual's own lawful use
3 or the preparation, compounding, packaging or labeling of a controlled
4 substance:

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

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

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

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

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

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

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

42 (2) any salt, compound, isomer, derivative or preparation thereof
43 ~~which~~ that is chemically equivalent or identical with any of the substances

1 referred to in paragraph (1) but not including the isoquinoline alkaloids of
2 opium;

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

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

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

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

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

21 (hh) "Pharmacist" means any natural person licensed under K.S.A.
22 65-1625 et seq., and amendments thereto, to practice pharmacy.

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

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

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

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

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

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

42 (oo) "Readily retrievable" means that records kept by automatic data
43 processing applications or other electronic or mechanized recordkeeping

1 systems can be separated out from all other records within a reasonable
2 time not to exceed 48 hours of a request from the board or other authorized
3 agent or that hard-copy records are kept on which certain items are
4 asterisked, redlined or in some other manner visually identifiable apart
5 from other items appearing on the records.

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

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

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

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

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

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

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

23 (f) (1) "Healthcare provider" means a person licensed to practice
24 any branch of the healing arts by the state board of healing arts, a
25 person who holds a temporary permit to practice any branch of the
26 healing arts issued by the state board of healing arts, a person engaged
27 in a postgraduate training program approved by the state board of
28 healing arts, a medical care facility licensed by the state of Kansas, a
29 podiatrist licensed by the state board of healing arts, a health
30 maintenance organization issued a certificate of authority by the
31 commissioner, an optometrist licensed by the board of examiners in
32 optometry, a pharmacist licensed by the state board of pharmacy, a
33 licensed professional nurse who is authorized to practice as a
34 registered nurse anesthetist, a licensed professional nurse who has
35 been granted a temporary authorization to practice nurse anesthesia
36 under K.S.A. 65-1153, and amendments thereto, a professional
37 corporation organized pursuant to the professional corporation law of
38 Kansas by persons who are authorized by such law to form such a
39 corporation and who are healthcare providers as defined by this
40 subsection, a Kansas limited liability company organized for the
41 purpose of rendering professional services by its members who are
42 healthcare providers as defined by this subsection and who are legally
43 authorized to render the professional services for which the limited

1 liability company is organized, a partnership of persons who are
 2 healthcare providers under this subsection, a Kansas not-for-profit
 3 corporation organized for the purpose of rendering professional
 4 services by persons who are healthcare providers as defined by this
 5 subsection, a nonprofit corporation organized to administer the
 6 graduate medical education programs of community hospitals or
 7 medical care facilities affiliated with the university of Kansas school of
 8 medicine, a dentist certified by the state board of healing arts to
 9 administer anesthetics under K.S.A. 65-2899, and amendments
 10 thereto, a psychiatric hospital licensed prior to January 1, 1988, and
 11 continuously thereafter under K.S.A. 2015 Supp. 75-3307b, prior to its
 12 repeal, and K.S.A. 2018 Supp. 39-2001 et seq., and amendments
 13 thereto, ~~or~~ a mental health center or mental health clinic licensed by
 14 the state of Kansas. ~~On and after January 1, 2015, "healthcare provider"~~
 15 ~~also means~~, a physician assistant licensed by the state board of healing
 16 arts, a licensed advanced practice registered nurse who is authorized
 17 by the board of nursing to practice as an advanced practice registered
 18 nurse in the classification of a nurse-midwife, a licensed advanced
 19 practice registered nurse who has been granted a temporary
 20 authorization by the board of nursing to practice as an advanced
 21 practice registered nurse in the classification of a nurse-midwife, a
 22 nursing facility licensed by the state of Kansas, an assisted living
 23 facility licensed by the state of Kansas ~~or~~, a residential healthcare
 24 facility licensed by the state of Kansas ~~or~~ an advanced practice
 25 registered nurse licensed by the board of nursing.

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

1 its departments, bureaus or agencies or who provides professional
2 services as a charitable healthcare provider as defined under K.S.A.
3 75-6102, and amendments thereto; or (I) an advanced practice
4 registered nurse: (i) Holding an inactive license issued by the board of
5 nursing; (ii) practicing solely in employment for which the advanced
6 practice registered nurse is covered under the federal tort claims act or
7 the Kansas tort claims act; (iii) practicing solely as a charitable
8 healthcare provider in accordance with K.S.A. 75-6102, and amendments
9 thereto; or (iv) practicing solely while serving on active duty in the
10 military service of the United States.

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

19 (h) "Insurer" means any corporation, association, reciprocal
20 exchange, inter-insurer and any other legal entity authorized to write
21 bodily injury or property damage liability insurance in this state,
22 including workers compensation and automobile liability insurance,
23 pursuant to the provisions of the acts contained in article 9, 11, 12 or
24 16 of chapter 40 of the Kansas Statutes Annotated, and amendments
25 thereto.

26 (i) "Plan" means the operating and administrative rules and
27 procedures developed by insurers and rating organizations or the
28 commissioner to make professional liability insurance available to
29 healthcare providers.

30 (j) "Professional liability insurance" means insurance providing
31 coverage for legal liability arising out of the performance of
32 professional services rendered or that should have been rendered by a
33 healthcare provider.

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

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

40 (m) "Medical care facility" means the same when used in the
41 healthcare provider insurance availability act as defined in K.S.A. 65-
42 425, and amendments thereto, except that as used in the healthcare
43 provider insurance availability act such term, as it relates to insurance

1 coverage under the healthcare provider insurance availability act, also
2 includes any director, trustee, officer or administrator of a medical
3 care facility.

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

11 (o) "Mental health clinic" means a mental health clinic licensed
12 by the state of Kansas under K.S.A. 2018 Supp. 39-2001 et seq., and
13 amendments thereto, except that as used in the healthcare provider
14 insurance availability act such term, as it relates to insurance coverage
15 under the healthcare provider insurance availability act, also includes
16 any director, trustee, officer or administrator of a mental health clinic.

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

20 (q) "State psychiatric hospital" means Larned state hospital,
21 Osawatomic state hospital and Rainbow mental health facility.

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

23 (1) A person engaged in a postgraduate training program
24 approved by the state board of healing arts who is employed by and is
25 studying at the university of Kansas medical center only when such
26 person is engaged in medical activities that do not include
27 extracurricular, extra-institutional medical service for which such
28 person receives extra compensation and that have not been approved
29 by the dean of the school of medicine and the executive vice-chancellor
30 of the university of Kansas medical center. Persons engaged in
31 residency training shall be considered resident healthcare providers
32 for purposes of K.S.A. 40-3401 et seq., and amendments thereto; and

33 (2) a person engaged in a postgraduate training program
34 approved by the state board of healing arts who is employed by a
35 nonprofit corporation organized to administer the graduate medical
36 education programs of community hospitals or medical care facilities
37 affiliated with the university of Kansas school of medicine or who is
38 employed by an affiliate of the university of Kansas school of medicine
39 as defined in K.S.A. 76-367, and amendments thereto, only when such
40 person is engaged in medical activities that do not include
41 extracurricular, extra-institutional medical service for which such
42 person receives extra compensation and that have not been approved
43 by the chief operating officer of the nonprofit corporation or the chief

1 operating officer of the affiliate and the executive vice-chancellor of
2 the university of Kansas medical center.

3 (s) "Full-time physician faculty employed by the university of
4 Kansas medical center" means a person licensed to practice medicine
5 and surgery who holds a full-time appointment at the university of
6 Kansas medical center when such person is providing healthcare. A
7 person licensed to practice medicine and surgery who holds a full-time
8 appointment at the university of Kansas medical center may also be
9 employed part-time by the United States department of veterans
10 affairs if such employment is approved by the executive vice-
11 chancellor of the university of Kansas medical center.

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

15 (u) "Board" means the board of governors created by K.S.A. 40-
16 3403, and amendments thereto.

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

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

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

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

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

29 ~~Sec. 4.~~ 5. K.S.A. 65-1130 and 65-4101 ~~and~~, K.S.A. 2017 Supp. 65-
30 1113, as amended by section 2 of chapter 42 of the 2018 Session Laws of
31 Kansas, **and K.S.A. 2018 Supp. 40-3401** are hereby repealed.

32 ~~Sec. 5.~~ 6. This act shall take effect and be in force from and after July
33 1, 2020, and its publication in the statute book.