

HOUSE BILL No. 2339

By Committee on Health and Human Services

2-14

1 AN ACT concerning health and healthcare; relating to the practice of
2 naturopathy; licensure and regulation of naturopathic doctors; scope of
3 practice; amending K.S.A. 65-1626, 65-4101, 65-7202, 65-7207, 65-
4 7208, 65-7209, 65-7210, 65-7214 and 65-7215 and repealing the
5 existing sections; also repealing K.S.A. 65-7212.
6

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

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

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

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

19 (3) prescribe, recommend or administer: (A) Food, food extracts,
20 vitamins, minerals, enzymes, whole gland thyroid, botanicals,
21 homeopathic preparations, nonprescription drugs, plant substances that are
22 not designated as prescription drugs or controlled substances under the
23 pharmacy act of the state of Kansas or the unified controlled substances
24 act, topical drugs as defined in K.S.A. 65-7202, and amendments thereto;
25 (B) human cellular and tissue-based products that are not regulated as
26 drugs; (C) healthcare and nutritional counseling, including fertility
27 counseling; (D) dietary therapy, naturopathic physical applications, barrier
28 contraceptive devices and intrauterine insemination; (E) non-diagnostic
29 ultrasound guided therapy, (F) substances that are authorized for
30 intradermal, subcutaneous, intramuscular, intravenous, ligamentous,
31 tendinous, periarticular, and intra-articular administration, including
32 proliferative therapy, as authorized in a written protocol agreed upon
33 between a responsible physician and a naturopathic doctor as provided by
34 the naturopathic doctor licensure act; (G) biofeedback and neurofeedback
35 therapies; and (H) durable medical equipment related to naturopathic
36 practice authorized by the naturopathic doctor licensure act and when

1 authorized in a written protocol agreed upon between a responsible
2 physician and a naturopathic doctor as provided by the naturopathic doctor
3 licensure act;

4 (4) perform minor office procedures and naturopathic acupuncture;

5 (5) utilize routes of administration that include oral, nasal, topical,
6 auricular, ocular, rectal, vaginal, transdermal, intradermal, subcutaneous,
7 intramuscular and intravenous; and

8 (6) utilize ultrasound guidance in the performance of services
9 authorized by the naturopathic doctor licensure act.

10 (b) A naturopathic doctor shall not perform surgery, obstetrics,
11 administer ionizing radiation, administer, conduct or interpret the results of
12 diagnostic imaging studies, or prescribe, dispense or administer any
13 controlled substances as defined in K.S.A. 65-4101, and amendments
14 thereto, or any prescription-only drugs except those authorized by a
15 protocol with a responsible physician.

16 (c) This section shall be a part of and supplemental to the
17 naturopathic doctor licensure act.

18 New Sec. 2. (a) A naturopathic doctor may prescribe drugs or medical
19 devices pursuant to a written protocol as authorized by a responsible
20 physician.

21 (b) Each written protocol shall be signed and dated by the physician
22 and naturopathic doctor, shall contain a precise and detailed medical plan
23 of care for each classification of disease or injury for which the
24 naturopathic doctor is authorized to prescribe and shall specify all drugs
25 and medical devices that may be prescribed by the naturopathic doctor. A
26 written protocol shall be in effect for a period not to exceed one year from
27 the date of its adoption and may be extended for additional one-year
28 periods by agreement of the responsible physician and the naturopathic
29 doctor.

30 (c) Each prescription order by a naturopathic doctor shall be in
31 writing, including an electronically recorded and transmitted
32 communication. The order shall include the name, address and telephone
33 number of the responsible physician.

34 (d) A naturopathic doctor shall not prescribe a drug or device for
35 which the naturopathic doctor lacks adequate education, training and
36 experience to safely manage the medical regimen.

37 (e) A naturopathic doctor shall register with the United States drug
38 enforcement administration in order to prescribe controlled substances.

39 (f) This section shall be a part of and supplemental to the naturopathic
40 doctor licensure act.

41 New Sec. 3. (a) The practice of naturopathy shall not be construed to
42 include the following persons:

43 (1) Persons whose professional services are performed under the

1 supervision or by order of or referral from a naturopathic doctor licensed
2 under the naturopathic doctor licensure act;

3 (2) persons licensed to engage in the practice of naturopathic
4 medicine in another state, territory or the District of Columbia when called
5 into this state in consultation with a naturopathic doctor licensed in this
6 state; and

7 (3) practitioners of the healing arts licensed under the Kansas healing
8 arts act and practicing their professions or persons performing services
9 pursuant to the delegation of a licensee under K.S.A. 65-2872(g), and
10 amendments thereto.

11 (b) Nothing in the naturopathic doctor licensure act shall be construed
12 to restrict any person licensed or regulated by the state of Kansas from
13 engaging in the profession or practice for which they are licensed or
14 regulated.

15 (c) This section shall be a part of and supplemental to the
16 naturopathic doctor licensure act.

17 New Sec. 4. (a) Every naturopathic doctor shall maintain a record for
18 each patient for whom a professional service is rendered, including
19 documentation of dates of professional services, pertinent and significant
20 information regarding the patient's condition, examinations and testing, all
21 findings and results, diagnosis and treatment performed or recommended,
22 patient progress and all patient records received from other providers.

23 (b) Every naturopathic doctor shall maintain a patient's record for a
24 minimum of seven years from the date the licensee provided the
25 professional service recorded.

26 (c) This section shall be a part of and supplemental to the
27 naturopathic doctor licensure act.

28 New Sec. 5. (a) If any provision of the naturopathic doctor licensure
29 act or application thereof to any person or circumstance is held invalid,
30 such invalidity shall not affect any other provision or application that can
31 be given effect without the invalid provision or application, and to this end
32 the provisions of the naturopathic doctor licensure act are declared to be
33 severable.

34 (b) This section shall be a part of and supplemental to the
35 naturopathic doctor licensure act.

36 Sec. 6. K.S.A. 65-1626 is hereby amended to read as follows: 65-
37 1626. For the purposes of this act:

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

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

42 (2) the patient or research subject at the direction and in the presence
43 of the practitioner; or

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

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

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

13 (d) "Automated dispensing system" means a robotic or mechanical
14 system controlled by a computer that: (1) Performs operations or activities,
15 other than compounding or administration, relative to the storage,
16 packaging, labeling, dispensing or distribution of drugs; (2) collects,
17 controls and maintains all transaction information; and (3) operates in
18 accordance with the board's rules and regulations.

19 (e) "Biological product" means the same as defined in 42 U.S.C. §
20 262(i), as in effect on January 1, 2017.

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

23 (g) "Brand exchange," in the case of a drug prescribed, means the
24 dispensing of a different drug product of the same dosage form and
25 strength and of the same generic name as the brand name drug product
26 prescribed, and in the case of a biological product prescribed, means the
27 dispensing of an interchangeable biological product.

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

30 (i) "Co-licensed partner" means a person or pharmaceutical
31 manufacturer that has entered into an agreement with another
32 pharmaceutical manufacturer or an affiliate of the manufacturer to engage
33 in a business activity or occupation related to the manufacture or
34 distribution of a product.

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

38 (k) "Compounding" means the combining of components into a
39 compounded preparation under either of the following conditions:

40 (1) As the result of a practitioner's prescription drug order or initiative
41 based on the practitioner-patient-pharmacist relationship in the course of
42 professional practice to meet the specialized medical need of an individual
43 patient of the practitioner that cannot be filled by an FDA-approved drug;

1 or

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

4 Compounding includes the preparation of drugs or devices in
5 anticipation of receiving prescription drug orders based on routine,
6 regularly observed prescribing patterns.

7 Compounding does not include reconstituting any oral or topical drug
8 according to the FDA-approved labeling for the drug or preparing any
9 sterile or nonsterile preparation that is essentially a copy of a commercially
10 available product.

11 (l) "DEA" means the U.S. department of justice, drug enforcement
12 administration.

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

16 (n) "Direct supervision" means the process by which the responsible
17 pharmacist shall observe and direct the activities of a pharmacy student or
18 pharmacy technician to a sufficient degree to assure that all such activities
19 are performed accurately, safely and without risk or harm to patients, and
20 complete the final check before dispensing.

21 (o) "Dispense" or "dispensing" means to deliver prescription
22 medication to the ultimate user or research subject by or pursuant to the
23 lawful order of a practitioner or pursuant to the prescription of a mid-level
24 practitioner.

25 (p) "Dispenser" means:

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

30 (2) a retail pharmacy, hospital pharmacy or group of pharmacies
31 under common ownership and control that do not act as a wholesale
32 distributor, or affiliated warehouses or distribution centers of such entities
33 under common ownership and control that do not act as a wholesale
34 distributor.

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

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

42 (s) "Drop shipment" means the sale, by a manufacturer, repackager or
43 exclusive distributor, of the manufacturer's prescription drug to a

1 wholesale distributor whereby the wholesale distributor takes title but not
2 possession of such prescription drug and the wholesale distributor invoices
3 the dispenser, and the dispenser receives delivery of the prescription drug
4 directly from the manufacturer, repackager, third-party logistics provider
5 or exclusive distributor, of such prescription drug.

6 (t) "Drug" means: (1) Articles recognized in the official United States
7 pharmacopeia, or other such official compendiums of the United States, or
8 official national formulary, or any supplement to any of them; (2) articles
9 intended for use in the diagnosis, cure, mitigation, treatment or prevention
10 of disease in human or other animals; (3) articles, other than food,
11 intended to affect the structure or any function of the body of human or
12 other animals; and (4) articles intended for use as a component of any
13 articles specified in paragraph (1), (2) or (3); but does not include devices
14 or their components, parts or accessories, except that the term "drug" shall
15 not include amygdalin (laetrile) or any livestock remedy, if such livestock
16 remedy had been registered in accordance with the provisions of article 5
17 of chapter 47 of the Kansas Statutes Annotated, prior to its repeal.

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

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

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

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

42 (y) "Electronic transmission" means the transmission of an electronic
43 prescription, formatted as an electronic data file, from a prescriber's

1 electronic prescription application to a pharmacy's computer, where the
2 data file is imported into the pharmacy prescription application.

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

5 (aa) "Exclusive distributor" means the wholesale distributor that
6 directly purchased the product from the manufacturer and is the sole
7 distributor of that manufacturer's product to a subsequent repackager,
8 wholesale distributor or dispenser.

9 (bb) "FDA" means the U.S. department of health and human services,
10 food and drug administration.

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

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

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

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

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

31 (B) residents of a juvenile detention facility, as defined by the revised
32 Kansas code for care of children and the revised Kansas juvenile justice
33 code;

34 (C) students of a public or private university or college, a community
35 college or any other institution of higher learning that is located in Kansas;

36 (D) employees of a business or other employer; or

37 (E) persons receiving inpatient hospice services.

38 (2) "Institutional drug room" does not include:

39 (A) Any registered pharmacy;

40 (B) any office of a practitioner; or

41 (C) a location where no prescription-only drugs are dispensed and no
42 prescription-only drugs other than individual prescriptions are stored or
43 administered.

1 (gg) "Interchangeable biological product" means a biological product
2 that the FDA has:

3 (1) Licensed and determined meets the standards for
4 "interchangeability" as defined in 42 U.S.C. § 262(k), as in effect on
5 January 1, 2017; or

6 (2) determined to be therapeutically equivalent as set forth in the
7 latest edition or supplement to the FDA's approved drug products with
8 therapeutic equivalence evaluations.

9 (hh) "Intermediary" means any technology system that receives and
10 transmits an electronic prescription between the prescriber and the
11 pharmacy.

12 (ii) "Intracompany transaction" means any transaction or transfer
13 between any division, subsidiary, parent or affiliated or related company
14 under common ownership or control of a corporate entity, or any
15 transaction or transfer between co-licensed partners.

16 (jj) "Label" means a display of written, printed or graphic matter
17 upon the immediate container of any drug.

18 (kk) "Labeling" means the process of preparing and affixing a label to
19 any drug container, exclusive of the labeling by a manufacturer, packer or
20 distributor of a non-prescription drug or commercially packaged legend
21 drug.

22 (ll) "Long-term care facility" means "nursing facility," as defined in
23 K.S.A. 39-923, and amendments thereto.

24 (mm) "Medical care facility" means the same as defined in K.S.A.
25 65-425, and amendments thereto, except that the term also includes
26 facilities licensed under the provisions of K.S.A. 2018 Supp. 39-2001 et
27 seq., and amendments thereto, except community mental health centers
28 and facilities for people with intellectual disability.

29 (nn) "Manufacture" means the production, preparation, propagation,
30 compounding, conversion or processing of a drug either directly or
31 indirectly by extraction from substances of natural origin, independently
32 by means of chemical or biological synthesis or by a combination of
33 extraction and chemical or biological synthesis or the packaging or
34 repackaging of the drug or labeling or relabeling of its container, except
35 that this term does not include the preparation or compounding of a drug
36 by an individual for the individual's own use or the preparation,
37 compounding, packaging or labeling of a drug by:

38 (1) A practitioner or a practitioner's authorized agent incident to such
39 practitioner's administering or dispensing of a drug in the course of the
40 practitioner's professional practice;

41 (2) a practitioner, by a practitioner's authorized agent or under a
42 practitioner's supervision for the purpose of, or as an incident to, research,
43 teaching or chemical analysis and not for sale; or

1 (3) a pharmacist or the pharmacist's authorized agent acting under the
2 direct supervision of the pharmacist for the purpose of, or incident to, the
3 dispensing of a drug by the pharmacist.

4 (oo) "Manufacturer" means:

5 (1) A person that holds an application approved under section 505 of
6 the federal food, drug and cosmetic act or a license issued under section
7 351 of the federal public health service act for such drug or, if such drug is
8 not the subject of an approved application or license, the person who
9 manufactured the drug;

10 (2) a co-licensed partner of the person described in paragraph (1) that
11 obtains the drug directly from a person described in paragraph (1) or (3);
12 or

13 (3) an affiliate of a person described in paragraph (1) or (2) that
14 receives the product directly from a person described in paragraph (1) or
15 (2).

16 (pp) "Mid-level practitioner" means a certified nurse-midwife
17 engaging in the independent practice of midwifery under the independent
18 practice of midwifery act, an advanced practice registered nurse issued a
19 license pursuant to K.S.A. 65-1131, and amendments thereto, who has
20 authority to prescribe drugs pursuant to a written protocol with a
21 responsible physician under K.S.A. 65-1130, and amendments thereto, *a*
22 *naturopathic doctor licensed under the naturopathic doctor licensure act*
23 *who has authority to prescribe drugs pursuant to a written protocol with a*
24 *responsible physician under section 2, and amendments thereto*, or a
25 physician assistant licensed pursuant to the physician assistant licensure
26 act who has authority to prescribe drugs pursuant to a written agreement
27 with a supervising physician under K.S.A. 65-28a08, and amendments
28 thereto.

29 (qq) "Nonresident pharmacy" means a pharmacy located outside of
30 Kansas.

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

35 (ss) "Person" means individual, corporation, government,
36 governmental subdivision or agency, partnership, association or any other
37 legal entity.

38 (tt) "Pharmacist" means any natural person licensed under this act to
39 practice pharmacy.

40 (uu) "Pharmacist-in-charge" means the pharmacist who is responsible
41 to the board for a registered establishment's compliance with the laws and
42 regulations of this state pertaining to the practice of pharmacy,
43 manufacturing of drugs and the distribution of drugs. The pharmacist-in-

1 charge shall supervise such establishment on a full-time or a part-time
2 basis and perform such other duties relating to supervision of a registered
3 establishment as may be prescribed by the board by rules and regulations.
4 Nothing in this definition shall relieve other pharmacists or persons from
5 their responsibility to comply with state and federal laws and regulations.

6 (vv) "Pharmacist intern" means: (1) A student currently enrolled in an
7 accredited pharmacy program; (2) a graduate of an accredited pharmacy
8 program serving an internship; or (3) a graduate of a pharmacy program
9 located outside of the United States that is not accredited and who has
10 successfully passed equivalency examinations approved by the board.

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

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

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

33 (zz) "Practitioner" means a person licensed to practice medicine and
34 surgery, dentist, podiatrist, veterinarian, optometrist or scientific
35 investigator or other person authorized by law to use a prescription-only
36 drug in teaching or chemical analysis or to conduct research with respect
37 to a prescription-only drug.

38 (aaa) "Preceptor" means a licensed pharmacist who possesses at least
39 two years' experience as a pharmacist and who supervises students
40 obtaining the pharmaceutical experience required by law as a condition to
41 taking the examination for licensure as a pharmacist.

42 (bbb) "Prescriber" means a practitioner or a mid-level practitioner.

43 (ccc) "Prescription" or "prescription order" means: (1) An order to be

1 filled by a pharmacist for prescription medication issued and signed by a
2 prescriber in the authorized course of such prescriber's professional
3 practice; or (2) an order transmitted to a pharmacist through word of
4 mouth, note, telephone or other means of communication directed by such
5 prescriber, regardless of whether the communication is oral, electronic,
6 facsimile or in printed form.

7 (ddd) "Prescription medication" means any drug, including label and
8 container according to context, that is dispensed pursuant to a prescription
9 order.

10 (eee) "Prescription-only drug" means any drug whether intended for
11 use by human or animal, required by federal or state law, including 21
12 U.S.C. § 353, to be dispensed only pursuant to a written or oral
13 prescription or order of a practitioner or is restricted to use by practitioners
14 only.

15 (fff) "Probation" means the practice or operation under a temporary
16 license, registration or permit or a conditional license, registration or
17 permit of a business or profession for which a license, registration or
18 permit is granted by the board under the provisions of the pharmacy act of
19 the state of Kansas requiring certain actions to be accomplished or certain
20 actions not to occur before a regular license, registration or permit is
21 issued.

22 (ggg) "Product" means the same as defined by part H of the federal
23 drug supply chain security act, 21 U.S.C. § 351 et seq. and 21 U.S.C. §
24 360eee.

25 (hhh) "Professional incompetency" means:

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

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

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

34 (iii) "Readily retrievable" means that records kept by automatic data
35 processing applications or other electronic or mechanized record-keeping
36 systems can be separated out from all other records within a reasonable
37 time not to exceed 48 hours of a request from the board or other authorized
38 agent or that hard-copy records are kept on which certain items are
39 asterisked, redlined or in some other manner visually identifiable apart
40 from other items appearing on the records.

41 (jjj) "Repackage" means changing the container, wrapper, quantity or
42 label of a drug to further the distribution of the drug.

43 (lll) "Repackager" means a person who owns or operates a facility

1 that repackages.

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

9 (nnn) "Return" means providing product to the authorized immediate
10 trading partner from whom such product was purchased or received, or to
11 a returns processor or reverse logistics provider for handling of such
12 product.

13 (ooo) "Returns processor" or "reverse logistics provider" means a
14 person who owns or operates an establishment that disposes of or
15 otherwise processes saleable or nonsaleable products received from an
16 authorized trading partner such that the product may be processed for
17 credit to the purchaser, manufacturer or seller or disposed of for no further
18 distribution.

19 (ppp) "Secretary" means the executive secretary of the board.

20 (qqq) "Third-party logistics provider" means an entity that provides
21 or coordinates warehousing or other logistic services of a product in
22 interstate commerce on behalf of a manufacturer, wholesale distributor or
23 dispenser, but does not take ownership of the product or have
24 responsibility to direct the sale or disposition of the product.

25 (rrr) "Trading partner" means:

26 (1) A manufacturer, repackager, wholesale distributor or dispenser
27 from whom a manufacturer, repackager, wholesale distributor or dispenser
28 accepts direct ownership of a product or to whom a manufacturer,
29 repackager, wholesale distributor or dispenser transfers direct ownership of
30 a product; or

31 (2) a third-party logistics provider from whom a manufacturer,
32 repackager, wholesale distributor or dispenser accepts direct possession of
33 a product or to whom a manufacturer, repackager, wholesale distributor or
34 dispenser transfers direct possession of a product.

35 (sss) "Transaction" means the transfer of product between persons in
36 which a change of ownership occurs.

37 (ttt) "Unprofessional conduct" means:

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

39 (2) intentional adulteration or mislabeling of any drug, medicine,
40 chemical or poison;

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

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

1 (5) unlawful possession of drugs and unlawful diversion of drugs to
2 others;

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

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

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

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

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

12 (uuu) "Vaccination protocol" means a written protocol, agreed to by a
13 pharmacist and a person licensed to practice medicine and surgery by the
14 state board of healing arts, that establishes procedures and recordkeeping
15 and reporting requirements for administering a vaccine by the pharmacist
16 for a period of time specified therein, not to exceed two years.

17 (vvv) "Valid prescription order" means a prescription that is issued
18 for a legitimate medical purpose by an individual prescriber licensed by
19 law to administer and prescribe drugs and acting in the usual course of
20 such prescriber's professional practice. A prescription issued solely on the
21 basis of an internet-based questionnaire or consultation without an
22 appropriate prescriber-patient relationship is not a valid prescription order.

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

27 (xxx) "Wholesale distributor" means any person engaged in
28 wholesale distribution of prescription drugs, other than a manufacturer, co-
29 licensed partner, third-party logistics provider or repackager.

30 (yyy) "Wholesale distribution" means the distribution or receipt of
31 prescription drugs to or by persons other than consumers or patients, in
32 which a change of ownership occurs. Wholesale distribution does not
33 include:

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

35 (2) the distribution of a prescription drug or an offer to distribute a
36 prescription drug for emergency medical reasons, including a public health
37 emergency declaration pursuant to section 319 of the public health service
38 act, except that, for purposes of this paragraph, a drug shortage not caused
39 by a public health emergency shall not constitute an emergency medical
40 reason;

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

43 (4) the distribution of a prescription drug or an offer to distribute a

- 1 prescription drug among hospitals or other health care entities under
2 common control;
- 3 (5) the distribution of a prescription drug or the offer to distribute a
4 prescription drug by a charitable organization described in 503(c)(3) of the
5 internal revenue code of 1954 to a nonprofit affiliate of the organization to
6 the extent otherwise permitted by law;
- 7 (6) the purchase or other acquisition by a dispenser, hospital or other
8 health care entity for use by such dispenser, hospital or other health care
9 entity;
- 10 (7) the distribution of a drug by the manufacturer of such drug;
- 11 (8) the receipt or transfer of a drug by an authorized third-party
12 logistics provider, provided that such third-party logistics provider does
13 not take ownership of the drug;
- 14 (9) the transport of a drug by a common carrier, provided that the
15 common carrier does not take ownership of the drug;
- 16 (10) the distribution of a drug or an offer to distribute a drug by an
17 authorized repackager that has taken ownership or possession of the drug
18 and repacks it in accordance with section 582(e) of the federal food, drug
19 and cosmetic act;
- 20 (11) saleable drug returns when conducted by a dispenser;
- 21 (12) the distribution of minimal quantities of drugs by licensed retail
22 pharmacies to licensed practitioners for office use;
- 23 (13) the distribution of a collection of finished medical devices,
24 including a product or biological product in accordance with 21 U.S.C. §
25 353(e)(4)(M);
- 26 (14) the distribution of an intravenous drug that, by its formulation, is
27 intended for the replenishment of fluids and electrolytes, including
28 sodium, chloride and potassium, or calories, including dextrose and amino
29 acids;
- 30 (15) the distribution of an intravenous drug used to maintain the
31 equilibrium of water and minerals in the body, such as dialysis solutions;
- 32 (16) the distribution of a drug that is intended for irrigation, or sterile
33 water, whether intended for such purposes or for injection;
- 34 (17) the distribution of medical gas;
- 35 (18) facilitating the distribution of a product by providing solely
36 administrative services, including processing of orders and payments;
- 37 (19) the transfer of a product by a hospital or other health care entity,
38 or by a wholesale distributor or manufacturer operating under the direction
39 of a hospital or other health care entity, to a repackager described in
40 section 581(16)(B) and registered under section 510 of the food, drug and
41 cosmetic act for the purpose of repackaging the drug for use by that
42 hospital or other health care entity, or other health care entities under
43 common control, if ownership of the drug remains with the hospital or

1 other health care entity at all times; or

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

6 Sec. 7. 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, or
11 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 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 the board has

1 found to be and by rule and regulation designates as being the principal
2 compound commonly used or produced primarily for use and which is an
3 immediate chemical intermediary used or likely to be used in the
4 manufacture of a controlled substance, the control of which is necessary to
5 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 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 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, *a*
33 *naturopathic doctor licensed under the naturopathic doctor licensure act*
34 *who has authority to prescribe drugs pursuant to a written protocol with a*
35 *responsible physician under section 2, and amendments thereto*, or a
36 physician assistant licensed under the physician assistant licensure act who
37 has authority to prescribe drugs pursuant to a written agreement with a
38 supervising physician under K.S.A. 65-28a08, and amendments thereto.

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

43 (1) Opium and opiate and any salt, compound, derivative or

1 preparation of opium or opiate;

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

6 (3) opium poppy and poppy straw;

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

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

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

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

24 (hh) "Pharmacist" means any natural person licensed under K.S.A.
25 65-1625 et seq., and amendments thereto, to practice pharmacy.

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

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

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

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

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

43 (nn) "Production" includes the manufacture, planting, cultivation,

1 growing or harvesting of a controlled substance.

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

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

13 Sec. 8. K.S.A. 65-7202 is hereby amended to read as follows: 65-
14 7202. As used in ~~K.S.A. 65-7201 to 65-7218, inclusive, and amendments~~
15 ~~thereto~~ *the naturopathic doctor licensure act*:

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

18 (b) "Naturopathic medicine," or "naturopathy" means a system of
19 health care practiced by naturopathic doctors for the prevention, diagnosis
20 and treatment of human health conditions, injuries and diseases, that uses
21 education, natural medicines and therapies to support and stimulate the
22 individual's intrinsic self-healing processes, ~~and includes prescribing,~~
23 ~~recommending or administering: (1) Food, food extracts, vitamins,~~
24 ~~minerals, enzymes, whole gland thyroid, botanicals, homeopathic~~
25 ~~preparations, nonprescription drugs, plant substances that are not~~
26 ~~designated as prescription drugs or controlled substances, topical drugs as~~
27 ~~defined in subsection (i) of this section, and amendments thereto; (2)~~
28 ~~health care counseling, nutritional counseling and dietary therapy,~~
29 ~~naturopathic physical applications, barrier contraceptive devices; (3)~~
30 ~~substances on the naturopathic formulary which are authorized for~~
31 ~~intramuscular or intravenous administration pursuant to a written protocol~~
32 ~~entered into with a physician who has entered into a written protocol with~~
33 ~~a naturopathic doctor licensed under this act; (4) noninvasive physical~~
34 ~~examinations, venipuncture to obtain blood for clinical laboratory tests and~~
35 ~~orofacial examinations, excluding endoscopies; (5) minor office~~
36 ~~procedures; and (6) naturopathic acupuncture. A naturopathic doctor may~~
37 ~~not perform surgery, obstetrics, administer ionizing radiation, or prescribe,~~
38 ~~dispense or administer any controlled substances as defined in K.S.A. 65-~~
39 ~~4101, and amendments thereto, or any prescription only drugs except~~
40 ~~those listed on the naturopathic formulary adopted by the board pursuant~~
41 ~~to this act.~~

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

43 (d) "Approved naturopathic medical college" means a college and

1 program granting the degree of doctor of naturopathy or naturopathic
2 medicine that has been approved by the board under this act and which
3 college and program requires at a minimum a four-year, full-time resident
4 program of academic and clinical study.

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

8 (f) "Naturopathic acupuncture" means the insertion of fine metal
9 needles through the skin at specific points on or near the surface of the
10 body with or without the palpation of specific points on the body and with
11 or without the application of electric current or heat to the needles or skin
12 or both to treat human disease and impairment and to relieve pain.

13 (g) "Minor office procedures" means care incidental to superficial
14 lacerations and abrasions, superficial lesions and the removal of foreign
15 bodies located in the superficial tissues, except eyes, ~~and not involving~~
16 ~~blood vessels, tendons, ligaments or nerves.~~ "Minor office procedures"
17 includes use of antiseptics, but shall not include the suturing, repairing,
18 alteration or removal of tissue or the use of general or spinal anesthesia.
19 Minor office procedures does not include anesthetics or surgery.

20 (h) "Naturopathic physical applications" means the therapeutic use by
21 naturopathic doctors of the actions or devices of electrical muscle
22 stimulation, galvanic, diathermy, ultrasound, ~~ultraviolet~~ light, *heat, air,*
23 *constitutional and contrast hydrotheraphy,* naturopathic musculoskeletal
24 technique and therapeutic exercise *and treatments taught in any*
25 *naturopathic medical college that are not otherwise prohibited by the*
26 *naturopathic doctor licensure act.*

27 (i) "Topical drugs" means topical analgesics, antiseptics, scabicides,
28 antifungals and antibacterials but does not include prescription only drugs.
29 *"Topical drugs" include prescription- only drugs if authorized by a written*
30 *protocol with a responsible physician as provided in the naturopathic*
31 *doctor licensure act.*

32 (j) "Physician" means a person licensed to practice medicine and
33 surgery *by the state board of healing arts.*

34 (k) "Written protocol" means a formal written agreement between a
35 naturopathic doctor licensed under this act and a person licensed to
36 practice medicine and surgery *by the state board of healing arts.* Any
37 licensee of the board entering into a written protocol with a licensed
38 naturopathic doctor shall notify the board in writing of such relationship
39 by providing such information as the board may require.

40 (l) *"Drug" means non-prescription and prescription-only drugs*
41 *unless otherwise specified by the naturopathic doctor licensure act.*

42 (m) *"Responsible physician" means a person licensed to practice*
43 *medicine and surgery by the state board of healing arts, who has accepted*

1 *responsibility for the protocol and the actions of the naturopathic doctor*
2 *when prescribing drugs or devices and who satisfies the requirements of*
3 *K.S.A. 65-28,127, and amendments thereto.*

4 Sec. 9. K.S.A. 65-7207 is hereby amended to read as follows: 65-
5 7207. ~~(a)~~The board shall charge and collect in advance fees provided for
6 in this act as fixed by the board by rules and regulations, subject to the
7 following limitations:

- 8 Application fee, not more than..... \$200
- 9 Temporary license fee, not more than..... \$30
- 10 License renewal fee, not more than..... \$150
- 11 License late renewal additional fee, not more than..... \$250
- 12 License reinstatement fee, not more than..... \$250
- 13 Certified copy of license, not more than..... \$30
- 14 Written verification of license, not more than..... \$25

15 ~~(b) The board shall charge and collect in advance fees for any~~
16 ~~examination administered by the board under the naturopathic doctor~~
17 ~~licensure act as fixed by the board by rules and regulations in an amount~~
18 ~~equal to the cost to the board of the examination. If the examination is not~~
19 ~~administered by the board, the board may require that fees paid for any~~
20 ~~examination under the naturopathic doctor licensure act be paid directly to~~
21 ~~the examination service by the person taking the examination.~~

22 Sec. 10. K.S.A. 65-7208 is hereby amended to read as follows: 65-
23 7208. (a) The board may deny, refuse to renew, suspend, revoke, *place*
24 *under probationary conditions* or limit a licensee's license or the licensee
25 may be publicly or privately censured ~~where the licensee or applicant for~~
26 ~~licensure has been guilty of unprofessional conduct which has endangered~~
27 ~~or is likely to endanger the health, welfare or safety of the public.~~
28 ~~Unprofessional conduct includes upon a finding of any of the following~~
29 ~~grounds:~~

- 30 (1) ~~Obtaining a~~ *The licensee has obtained a license by means of*
31 *fraud, misrepresentation or concealment of material facts;*
- 32 (2) ~~being guilty of~~ *the licensee has committed an act of*
33 *unprofessional conduct as defined by rules and regulations adopted by the*
34 *board;*
- 35 (3) ~~being~~ *the licensee has been convicted of a felony if the acts for*
36 *which such person was convicted are found by the board to have a direct*
37 *bearing on whether such person should be entrusted to serve the public in*
38 *the capacity of a naturopathic doctor;*
- 39 (4) ~~violating~~ *the licensee has violated any lawful order or rule and*
40 *regulation of the board; and*
- 41 (5) ~~violating~~ *the licensee has violated any provision of this act the*
42 *naturopathic doctor licensure act;*
- 43 (6) *the licensee has an adverse judgment, award or settlement*

1 rendered against the licensee resulting from a professional liability claim
2 related to acts or conduct similar to acts or conduct that would constitute
3 grounds for disciplinary action under this section;

4 (7) the licensee has failed to report to the board any adverse action
5 taken against the licensee by another state or licensing jurisdiction, a
6 healthcare facility, a professional association or society, a governmental
7 agency, a law enforcement agency or a court for acts or conduct similar to
8 acts or conduct that would constitute grounds for disciplinary action
9 under this section; and

10 (8) the licensee has given a worthless check or stopped payment on a
11 debit or credit card for fees or moneys legally due to the board.

12 (b) Such denial, refusal to renew, suspension, revocation, *probation*
13 or limitation of a license or public or private censure of a licensee may be
14 ordered by the board after notice and hearing on the matter in accordance
15 with the provisions of the Kansas administrative procedure act. Upon the
16 end of the period of time established by the board for the revocation of a
17 license, application may be made to the board for reinstatement. The board
18 shall have discretion to accept or reject an application for reinstatement
19 and may hold a hearing to consider such reinstatement. An application for
20 reinstatement of a revoked license shall be accompanied by the license
21 renewal fee and the license reinstatement fee established under K.S.A. 65-
22 7207, and amendments thereto.

23 (c) The board, in addition to any other penalty prescribed in
24 subsection (a), may assess a civil fine, after proper notice and an
25 opportunity to be heard, against a licensee for unprofessional conduct in an
26 amount not to exceed \$5,000 for the first violation, \$10,000 for the second
27 violation and \$15,000 for the third violation and for each subsequent
28 violation. All fines assessed and collected under this section shall be
29 remitted to the state treasurer in accordance with the provisions of K.S.A.
30 75-4215, and amendments thereto. Upon receipt of each such remittance,
31 the state treasurer shall deposit the entire amount in the state treasury to
32 the credit of the state general fund. *Fines collected under this section shall*
33 *be considered administrative fines pursuant to 11 U.S.C. § 523, as in effect*
34 *on July 1, 2019.*

35 Sec. 11. K.S.A. 65-7209 is hereby amended to read as follows: 65-
36 7209. (a) Licenses issued under this act shall ~~expire on the date of~~
37 ~~expiration established by rules and regulations of the board~~ *be canceled on*
38 *January 31 of each year* unless renewed in the manner prescribed by the
39 board. The request for renewal shall be accompanied by the license
40 renewal fee established pursuant to K.S.A. 65-7207, and amendments
41 thereto. The board may establish additional requirements for license
42 renewal ~~which~~ *that* provide evidence of continued competency. The board
43 shall require as a condition for renewal of a license completion of at least

1 25 hours annually of continuing education approved by the board.

2 (b) At least 30 days before the ~~expiration of a renewal date of a~~
3 ~~licensee's~~ license, the board shall notify the licensee of the ~~expiration~~
4 ~~renewal date~~ by mail addressed to the licensee's last mailing address as
5 noted upon the office records. If the licensee fails to *submit the renewal*
6 *application and pay the renewal fee by the date of expiration renewal date,*
7 the licensee shall be given a ~~second notice that the license has expired and~~
8 ~~the license may be renewed only if the license renewal fee and the late~~
9 ~~renewal fee are received~~ *notice that the licensee has failed to submit the*
10 *renewal application and pay the renewal fee by the renewal date of the*
11 *license and that the license will be canceled if not renewed within 30 days*
12 *following the renewal date. The notice shall also state that if the renewal*
13 *application, the renewal fee and an additional late renewal fee established*
14 *by rules and regulations are received* by the board within the thirty-day
15 period following the date of ~~expiration~~ *cancellation, the license will not be*
16 *canceled* and that, if both fees are not received within the thirty-day
17 period, the license shall be deemed canceled by operation of law without
18 further proceedings ~~for failure to renew~~ and shall be reissued only after the
19 license has been reinstated under subsection (c).

20 (c) Any license canceled for failure to renew as herein provided may
21 be reinstated upon recommendation of the board ~~and~~, upon payment of the
22 license reinstatement fee and upon submitting evidence of satisfactory
23 completion of any applicable continuing education requirements
24 established by the board. The board shall adopt rules and regulations
25 establishing appropriate continuing education requirements for
26 reinstatement of licenses canceled for failure to renew.

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

30 Sec. 12. K.S.A. 65-7210 is hereby amended to read as follows: 65-
31 7210. ~~(a)~~ The board shall remit all moneys received by or for it from fees,
32 charges or penalties to the state treasurer in accordance with the provisions
33 of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such
34 remittance, the state treasurer shall deposit the entire amount in the state
35 treasury. Ten percent of each such deposit shall be credited to the state
36 general fund and the balance shall be credited to the healing arts fee fund.
37 All expenditures from such fund shall be made in accordance with
38 appropriation acts upon warrants of the director of accounts and reports
39 issued pursuant to vouchers approved by the president of the board or by a
40 person designated by the president of the board.

41 ~~(b) The provisions of this section shall take effect on and after~~
42 ~~January 1, 2003.~~

43 Sec. 13. K.S.A. 65-7214 is hereby amended to read as follows: 65-

1 7214. (a) There is established a naturopathic advisory council to advise the
2 board in carrying out the provisions of this act. The council shall consist of
3 five members, all citizens and residents of the state of Kansas appointed as
4 follows: Three members shall be naturopathic doctors appointed by the
5 state board of healing arts; one member shall be the president of the state
6 board of healing arts or a person designated by the president; and one
7 member appointed by the governor shall be from the public sector who is
8 not engaged, directly or indirectly, in the provision of health services.
9 Insofar as possible persons appointed to the council shall be from different
10 geographic areas. If a vacancy occurs on the council, the appointing
11 authority of the position ~~which~~ that has become vacant shall appoint a
12 person of like qualifications to fill the vacant position for the unexpired
13 term, if any. The members of the council appointed by the governor shall
14 be appointed for terms of three years and until a successor is appointed.
15 The members appointed by the state board of healing arts shall serve at the
16 pleasure of the state board of healing arts. If a member is designated by the
17 president of the state board of healing arts, the member shall serve at the
18 pleasure of the president.

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

23 ~~(c) During the 2003 regular session of the legislature the legislature
24 shall consider establishing an alternative health care board composed of
25 representatives as may be designated from existing health care regulatory
26 agencies, alternative health care providers and members of the general
27 public for purposes of advising the legislature on matters relating to
28 alternative health care, administering the naturopathic doctor registration
29 act and performing such other duties as may be established by law.~~

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

32 Sec. 14. K.S.A. 65-7215 is hereby amended to read as follows: 65-
33 7215. ~~(a)~~ When it appears to the board that any person is violating any of
34 the provisions of this act, the board may bring an action in the name of the
35 state of Kansas in a court of competent jurisdiction for an injunction
36 against such violation without regard to whether proceedings have been or
37 may be instituted before the board or whether criminal proceedings have
38 been or may be instituted.

39 ~~(b) The provisions of this section shall take effect on and after
40 January 1, 2003.~~

41 Sec. 15. K.S.A. 65-1626, 65-4101, 65-7202, 65-7207, 65-7208, 65-
42 7209, 65-7210, 65-7212, 65-7214 and 65-7215 are hereby repealed.

43 Sec. 16. This act shall take effect and be in force from and after its

- 1 publication in the statute book.