

SENATE BILL No. 2

By Senators Steffen, Straub, Thompson and Tyson

11-22

1 AN ACT concerning public health; relating to responses to infectious or
2 contagious disease by certain public and private entities; prohibiting
3 certain acts by business entities, governmental entities or public
4 officials based upon a person's vaccination status or possession of an
5 immunity passport; access to services, goods, facilities and
6 opportunities; proceedings under the revised Kansas code for care of
7 children; proceedings related to legal custody, residency and parenting
8 time of a child under the Kansas family law code; access to healthcare
9 services and prohibiting discrimination in rendering healthcare
10 services; ensuring a right to in-person visitation at medical care
11 facilities and adult care homes; allowing patients to sign a liability
12 waiver to be prescribed off-label use drugs; prohibiting certain public
13 health orders related to isolation and quarantine, stay-at-home orders,
14 curfews and face masks; providing criminal penalties for an individual
15 who disregards an isolation or quarantine recommendation when great
16 bodily harm to another person or death of another person results from
17 such act; clarifying eligibility for benefits under the employment
18 security law related to an employee's unwillingness to receive a
19 vaccination; modifying the Kansas act against discrimination to define
20 unlawful employment practices related to vaccination status or
21 possession of an immunity passport; limiting state of disaster
22 emergency powers of the governor related to stay-at-home orders,
23 curfews and face masks; relating to childhood immunizations required
24 for attendance at a child care facility or school; powers of the secretary
25 of health and environment and local health officers; isolation or
26 quarantine recommendations; amending K.S.A. 38-2269, 44-706, 44-
27 1002, 44-1009, 65-129, 65-129b, 65-129c, 65-129d, 65-508, 65-1637
28 and 72-6262 and K.S.A. 2021 Supp. 21-5424, 23-3201, 48-925, 65-
29 101, 65-201, 65-202, 65-1120 and 65-2836 and repealing the existing
30 sections.

31

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

33

34 New Section 1. As used in sections 1 through 4, and amendments
35 thereto:

36

(a) "Business entity" means any person or group of persons
performing or engaging in any activity, enterprise, profession or

1 occupation for gain, benefit, advantage or livelihood, whether for-profit or
2 not-for-profit. "Business entity" includes, but is not limited to:

3 (1) Self-employed individuals, business entities filing articles of
4 incorporation, partnerships, limited partnerships, limited liability
5 companies, foreign corporations, foreign limited partnerships, foreign
6 limited liability companies authorized to transact business in this state,
7 business trusts and any business entity that registers with the secretary of
8 state; and

9 (2) any business entity that possesses a business license, permit,
10 certificate, approval, registration, charter or similar form of authorization
11 issued by the state, any business entity that is exempt by law from
12 obtaining such a business license and any business entity that is operating
13 unlawfully without such a business license.

14 (b) "Immunity passport" means a document, digital record or
15 software application indicating that a person is immune to a disease, either
16 through vaccination or infection and recovery.

17 (c) "Ticket issuer" means an individual or entity providing tickets to
18 an entertainment event including, but not limited to:

19 (1) The operator of the venue where the entertainment event occurs;

20 (2) the sponsor or promoter of an entertainment event;

21 (3) a sports team participating in an entertainment event or a league
22 whose teams are participating in an entertainment event;

23 (4) a theater company, musical group or similar participant in an
24 entertainment event; or

25 (5) an agent of any individual or entity described in paragraphs (1)
26 through (4).

27 (d) "Vaccination status" means an indication of whether a person has
28 received one or more doses of a vaccine.

29 New Sec. 2. (a) Notwithstanding any provision of law to the contrary,
30 it shall be unlawful for:

31 (1) A business entity to refuse to provide any service, product,
32 admission to a venue or transportation to a person based on such person's
33 vaccination status or whether such person has an immunity passport;

34 (2) a ticket issuer to penalize, discriminate against or deny access to
35 an entertainment event to a ticket holder based on such ticket holder's
36 vaccination status or whether such ticket holder has an immunity passport;

37 (3) a business entity, governmental entity or public official to refuse,
38 withhold from or deny to a person any local or state services, goods,
39 facilities, advantages, privileges, licensing, educational opportunities,
40 healthcare access or employment opportunities based on such person's
41 vaccination status or whether such person has an immunity passport;

42 (4) a governmental entity or public official to require a person to
43 receive a vaccination or an immunity passport;

1 (5) a governmental entity or public official to provide any special
2 privilege, financial benefit or other incentive to a person for receiving a
3 vaccination or an immunity passport;

4 (6) an employer to refuse employment to a person, to bar a person
5 from employment or to discriminate against a person in compensation or
6 in a term, condition or privilege of employment based on such person's
7 vaccination status or whether such person has an immunity passport; or

8 (7) a public accommodation to exclude, limit, segregate, refuse to
9 serve or otherwise discriminate against a person based on such person's
10 vaccination status or whether such person has an immunity passport.

11 (b) (1) Violation of any provision of this section is a severity level 7,
12 nonperson felony.

13 (2) Upon a finding that a business entity or ticket issuer violated this
14 section, the court shall order the suspension of all licenses issued by the
15 state or any political subdivision of the state that are held by the business
16 entity or ticket issuer for at least 30 days, but not more than one year.

17 New Sec. 3. (a) No order shall be issued pursuant to K.S.A. 38-2242,
18 38-2243 or 38-2244, and amendments thereto, if the sole basis for the
19 threat to the child's safety or welfare is related to the vaccination status of
20 the child or an individual who resides with the child.

21 (b) The provisions of this section shall be a part of and supplemental
22 to the revised Kansas code for care of children.

23 New Sec. 4. No medical care facility, as defined in K.S.A. 65-425,
24 and amendments thereto, or person licensed, registered, certified or
25 otherwise authorized to practice a profession by the state board of healing
26 arts or the board of nursing pursuant to chapter 65 of the Kansas Statutes
27 Annotated, and amendments thereto, shall decline to render healthcare
28 services or otherwise discriminate in rendering healthcare services to a
29 person based on such person's vaccination status or whether such person
30 has an immunity passport.

31 New Sec. 5. No medical care facility, as defined in K.S.A. 65-425,
32 and amendments thereto, shall take action to prevent a person receiving
33 care at such medical care facility from receiving in-person visitation from
34 the following persons:

35 (a) The agent for healthcare decisions established by a durable power
36 of attorney for healthcare decisions pursuant to K.S.A. 58-625 et seq., and
37 amendments thereto; and

38 (b) (1) the spouse of such person receiving care;

39 (2) if the person receiving care does not have a spouse or such spouse
40 is unavailable, then the next of kin of such person receiving care; or

41 (3) if the person receiving care does not have a next of kin or such
42 next of kin is unavailable, then a person designated by such person
43 receiving care.

1 New Sec. 6. No adult care home, as defined in K.S.A. 39-923, and
2 amendments thereto, shall take action to prevent a person receiving care at
3 such adult care home from receiving in-person visitation from the
4 following persons:

5 (a) The agent for healthcare decisions established by a durable power
6 of attorney for healthcare decisions pursuant to K.S.A. 58-625 et seq., and
7 amendments thereto; and

8 (b) (1) the spouse of such person receiving care;

9 (2) if the person receiving care does not have a spouse or such spouse
10 is unavailable, then the next of kin of such person receiving care; or

11 (3) if the person receiving care does not have a next of kin or such
12 next of kin is unavailable, then a person designated by such person
13 receiving care.

14 New Sec. 7. (a) A patient desiring to be prescribed a federal food and
15 drug agency approved drug for an off-label use of such prescription drug
16 may sign, or have a legal representative sign, a liability waiver. The waiver
17 shall relieve the physician from liability for any claims arising out of the
18 act of prescribing such drugs for off-label use.

19 (b) As used in this section, "off-label use" means utilizing a
20 prescription drug for treatment in a manner other than the manner
21 approved by the federal food and drug administration stated on the
22 labeling.

23 (c) Nothing in this section shall relieve a physician of the duty to
24 receive consent from a patient or the patient's legal representative before
25 assisting in the care or treatment of such patient.

26 New Sec. 8. (a) Notwithstanding any provision of law to the contrary,
27 a governmental entity or public official shall not:

28 (1) Order or otherwise impose upon a United States citizen any
29 period of isolation or quarantine based on an epidemic or other public
30 health reason;

31 (2) order or otherwise require that a United States citizen remain at
32 home based on an epidemic or other public health reason;

33 (3) order or otherwise impose upon a United States citizen any
34 curfew based on an epidemic or other public health reason; or

35 (4) order or otherwise require that a United States citizen wear a face
36 mask based on an epidemic or other public health reason.

37 (b) A governmental entity or public official may recommend that a
38 United States citizen take an action described in subsection (a).

39 New Sec. 9. The provisions of this act are severable. If any portion of
40 the act is declared unconstitutional or invalid, or the application of any
41 portion of the act to any person or circumstance is held unconstitutional or
42 invalid, the invalidity shall not affect other portions of the act that can be
43 given effect without the invalid portion or application, and the

1 applicability of such other portions of the act to any person or
2 circumstance shall remain valid and enforceable.

3 Sec. 10. K.S.A. 2021 Supp. 21-5424 is hereby amended to read as
4 follows: 21-5424. (a) It is unlawful for an individual, who knows
5 oneself to be infected with a life threatening communicable disease, to:

6 (1) Engage in sexual intercourse or sodomy with another individual
7 with the intent to expose that individual to that life threatening
8 communicable disease;

9 (2) sell or donate one's own blood, blood products, semen, tissue,
10 organs or other body fluids with the intent to expose the recipient to a life
11 threatening communicable disease; or

12 (3) share with another individual a hypodermic needle, syringe, or
13 both, for the introduction of drugs or any other substance into, or for the
14 withdrawal of blood or body fluids from, the other individual's body with
15 the intent to expose another person to a life threatening communicable
16 disease.

17 (b) *It is unlawful for an individual to disregard a recommendation*
18 *from a governmental entity or public official that such individual go to*
19 *and remain in isolation or quarantine based on an epidemic or other*
20 *public health reason when:*

21 (1) *A governmental entity or public official communicated the*
22 *recommendation to the individual in accordance with K.S.A. 65-129c, and*
23 *amendments thereto; and*

24 (2) *great bodily harm to another person or death of another person*
25 *results from such individual's disregard of the recommendation.*

26 (c) Violation of this section is a severity level 7, person felony.

27 ~~(d)~~ (d) As used in this section:

28 (1) "Sexual intercourse" shall not include penetration by any object
29 other than the male sex organ; and

30 (2) "sodomy" shall not include the penetration of the anal opening by
31 any object other than the male sex organ.

32 Sec. 11. K.S.A. 23-3201 is hereby amended to read as follows: 23-
33 3201. (a) The court shall determine legal custody, residency and parenting
34 time of a child in accordance with the best interests of the child.

35 (b) *The court shall not consider the vaccination status, as defined in*
36 *section 1, and amendments thereto, of any parent or child when*
37 *determining the legal custody, residency or parenting time of a child.*

38 Sec. 12. K.S.A. 38-2269 is hereby amended to read as follows: 38-
39 2269. (a) When the child has been adjudicated to be a child in need of
40 care, the court may terminate parental rights or appoint a permanent
41 custodian when the court finds by clear and convincing evidence that the
42 parent is unfit by reason of conduct or condition which renders the parent
43 unable to care properly for a child and the conduct or condition is unlikely

1 to change in the foreseeable future.

2 (b) In making a determination of unfitness the court shall consider,
3 but is not limited to, the following, if applicable:

4 (1) Emotional illness, mental illness, mental deficiency or physical
5 disability of the parent, of such duration or nature as to render the parent
6 unable to care for the ongoing physical, mental and emotional needs of the
7 child;

8 (2) conduct toward a child of a physically, emotionally or sexually
9 cruel or abusive nature;

10 (3) the use of intoxicating liquors or narcotic or dangerous drugs of
11 such duration or nature as to render the parent unable to care for the
12 ongoing physical, mental or emotional needs of the child;

13 (4) physical, mental or emotional abuse or neglect or sexual abuse of
14 a child;

15 (5) conviction of a felony and imprisonment;

16 (6) unexplained injury or death of another child or stepchild of the
17 parent or any child in the care of the parent at the time of injury or death;

18 (7) failure of reasonable efforts made by appropriate public or private
19 agencies to rehabilitate the family;

20 (8) lack of effort on the part of the parent to adjust the parent's
21 circumstances, conduct or conditions to meet the needs of the child; and

22 (9) whether, as a result of the actions or inactions attributable to the
23 parent and one or more of the factors listed in subsection (c) apply, the
24 child has been in the custody of the secretary and placed with neither
25 parent for 15 of the most recent 22 months beginning 60 days after the
26 date on which a child in the secretary's custody was removed from the
27 child's home.

28 (c) In addition to the foregoing, when a child is not in the physical
29 custody of a parent, the court, shall consider, but is not limited to, the
30 following:

31 (1) Failure to assure care of the child in the parental home when able
32 to do so;

33 (2) failure to maintain regular visitation, contact or communication
34 with the child or with the custodian of the child;

35 (3) failure to carry out a reasonable plan approved by the court
36 directed toward the integration of the child into a parental home; and

37 (4) failure to pay a reasonable portion of the cost of substitute
38 physical care and maintenance based on ability to pay.

39 In making the above determination, the court may disregard incidental
40 visitations, contacts, communications or contributions.

41 (d) A finding of unfitness may be made as provided in this section if
42 the court finds that the parents have abandoned the child, the custody of
43 the child was surrendered pursuant to K.S.A. 38-2282, and amendments

1 thereto, or the child was left under such circumstances that the identity of
2 the parents is unknown and cannot be ascertained, despite diligent
3 searching, and the parents have not come forward to claim the child within
4 three months after the child is found.

5 (e) If a person is convicted of a felony in which sexual intercourse
6 occurred, or if a juvenile is adjudicated a juvenile offender because of an
7 act which, if committed by an adult, would be a felony in which sexual
8 intercourse occurred, and as a result of the sexual intercourse, a child is
9 conceived, a finding of unfitness may be made.

10 (f) The existence of any one of the above factors standing alone may,
11 but does not necessarily, establish grounds for termination of parental
12 rights.

13 (g) *The court shall not consider the vaccination status, as defined in*
14 *section 1, and amendments thereto, of any parent or child when making a*
15 *determination of unfitness.*

16 ~~(g)~~(h) (1) If the court makes a finding of unfitness, the court shall
17 consider whether termination of parental rights as requested in the petition
18 or motion is in the best interests of the child. In making the determination,
19 the court shall give primary consideration to the physical, mental and
20 emotional health of the child. If the physical, mental or emotional needs of
21 the child would best be served by termination of parental rights, the court
22 shall so order. A termination of parental rights under the code shall not
23 terminate the right of a child to inherit from or through a parent. Upon
24 such termination all rights of the parent to such child, including, such
25 parent's right to inherit from or through such child, shall cease.

26 (2) If the court terminates parental rights, the court may authorize
27 adoption pursuant to K.S.A. 38-2270, and amendments thereto,
28 appointment of a permanent custodian pursuant to K.S.A. 38-2272, and
29 amendments thereto, or continued permanency planning.

30 (3) If the court does not terminate parental rights, the court may
31 authorize appointment of a permanent custodian pursuant to K.S.A. 38-
32 2272, and amendments thereto, or continued permanency planning.

33 ~~(h)~~(i) If a parent is convicted of an offense as provided in K.S.A. 38-
34 2271(a)(7), and amendments thereto, or is adjudicated a juvenile offender
35 because of an act which if committed by an adult would be an offense as
36 provided in K.S.A. 38-2271(a)(7), and amendments thereto, and if the
37 victim was the other parent of a child, the court may disregard such
38 convicted or adjudicated parent's opinions or wishes in regard to the
39 placement of such child.

40 ~~(i)~~(j) A record shall be made of the proceedings.

41 ~~(j)~~(k) When adoption, proceedings to appoint a permanent custodian
42 or continued permanency planning has been authorized, the person or
43 agency awarded custody of the child shall within 30 days submit a written

1 plan for permanent placement which shall include measurable objectives
2 and time schedules.

3 Sec. 13. K.S.A. 44-706 is hereby amended to read as follows: 44-706.
4 The secretary shall examine whether an individual has separated from
5 employment for each week claimed. The secretary shall apply the
6 provisions of this section to the individual's most recent employment prior
7 to the week claimed. An individual shall be disqualified for benefits:

8 (a) If the individual left work voluntarily without good cause
9 attributable to the work or the employer, subject to the other provisions of
10 this subsection. For purposes of this subsection, "good cause" is cause of
11 such gravity that would impel a reasonable, not supersensitive, individual
12 exercising ordinary common sense to leave employment. Good cause
13 requires a showing of good faith of the individual leaving work, including
14 the presence of a genuine desire to work. Failure to return to work after
15 expiration of approved personal or medical leave, or both, shall be
16 considered a voluntary resignation. After a temporary job assignment,
17 failure of an individual to affirmatively request an additional assignment
18 on the next succeeding workday, if required by the employment
19 agreement, after completion of a given work assignment, shall constitute
20 leaving work voluntarily. The disqualification shall begin the day
21 following the separation and shall continue until after the individual has
22 become reemployed and has had earnings from insured work of at least
23 three times the individual's weekly benefit amount. An individual shall not
24 be disqualified under this subsection if:

25 (1) The individual was forced to leave work because of illness or
26 injury upon the advice of a licensed and practicing health care provider
27 and, upon learning of the necessity for absence, immediately notified the
28 employer thereof, or the employer consented to the absence, and after
29 recovery from the illness or injury, when recovery was certified by a
30 practicing health care provider, the individual returned to the employer and
31 offered to perform services and the individual's regular work or
32 comparable and suitable work was not available. As used in this paragraph
33 "health care provider" means any person licensed by the proper licensing
34 authority of any state to engage in the practice of medicine and surgery,
35 osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

36 (2) the individual left temporary work to return to the regular
37 employer;

38 (3) the individual left work to enlist in the armed forces of the United
39 States, but was rejected or delayed from entry;

40 (4) the spouse of an individual who is a member of the armed forces
41 of the United States who left work because of the voluntary or involuntary
42 transfer of the individual's spouse from one job to another job, which is for
43 the same employer or for a different employer, at a geographic location

1 which makes it unreasonable for the individual to continue work at the
2 individual's job. For the purposes of this provision the term "armed forces"
3 means active duty in the army, navy, marine corps, air force, coast guard or
4 any branch of the military reserves of the United States;

5 (5) the individual left work because of hazardous working conditions;
6 in determining whether or not working conditions are hazardous for an
7 individual, the degree of risk involved to the individual's health, safety and
8 morals, the individual's physical fitness and prior training and the working
9 conditions of workers engaged in the same or similar work for the same
10 and other employers in the locality shall be considered; as used in this
11 paragraph, "hazardous working conditions" means working conditions that
12 could result in a danger to the physical or mental well-being of the
13 individual; each determination as to whether hazardous working
14 conditions exist shall include, but shall not be limited to, a consideration
15 of: (A) The safety measures used or the lack thereof; and (B) the condition
16 of equipment or lack of proper equipment; no work shall be considered
17 hazardous if the working conditions surrounding the individual's work are
18 the same or substantially the same as the working conditions generally
19 prevailing among individuals performing the same or similar work for
20 other employers engaged in the same or similar type of activity;

21 (6) the individual left work to enter training approved under section
22 236(a)(1) of the federal trade act of 1974, provided the work left is not of a
23 substantially equal or higher skill level than the individual's past adversely
24 affected employment, as defined for purposes of the federal trade act of
25 1974, and wages for such work are not less than 80% of the individual's
26 average weekly wage as determined for the purposes of the federal trade
27 act of 1974;

28 (7) the individual left work because of unwelcome harassment of the
29 individual by the employer or another employee of which the employing
30 unit had knowledge and that would impel the average worker to give up
31 such worker's employment;

32 (8) the individual left work to accept better work; each determination
33 as to whether or not the work accepted is better work shall include, but
34 shall not be limited to, consideration of: (A) The rate of pay, the hours of
35 work and the probable permanency of the work left as compared to the
36 work accepted; (B) the cost to the individual of getting to the work left in
37 comparison to the cost of getting to the work accepted; and (C) the
38 distance from the individual's place of residence to the work accepted in
39 comparison to the distance from the individual's residence to the work left;

40 (9) the individual left work as a result of being instructed or requested
41 by the employer, a supervisor or a fellow employee to perform a service or
42 commit an act in the scope of official job duties which is in violation of an
43 ordinance or statute;

1 (10) the individual left work because of a substantial violation of the
2 work agreement by the employing unit and, before the individual left, the
3 individual had exhausted all remedies provided in such agreement for the
4 settlement of disputes before terminating. For the purposes of this
5 paragraph, a demotion based on performance does not constitute a
6 violation of the work agreement;

7 (11) after making reasonable efforts to preserve the work, the
8 individual left work due to a personal emergency of such nature and
9 compelling urgency that it would be contrary to good conscience to
10 impose a disqualification; ~~or~~

11 (12) (A) the individual left work due to circumstances resulting from
12 domestic violence, including:

13 (i) The individual's reasonable fear of future domestic violence at or
14 en route to or from the individual's place of employment;

15 (ii) the individual's need to relocate to another geographic area in
16 order to avoid future domestic violence;

17 (iii) the individual's need to address the physical, psychological and
18 legal impacts of domestic violence;

19 (iv) the individual's need to leave employment as a condition of
20 receiving services or shelter from an agency which provides support
21 services or shelter to victims of domestic violence; or

22 (v) the individual's reasonable belief that termination of employment
23 is necessary to avoid other situations which may cause domestic violence
24 and to provide for the future safety of the individual or the individual's
25 family.

26 (B) An individual may prove the existence of domestic violence by
27 providing one of the following:

28 (i) A restraining order or other documentation of equitable relief by a
29 court of competent jurisdiction;

30 (ii) a police record documenting the abuse;

31 (iii) documentation that the abuser has been convicted of one or more
32 of the offenses enumerated in articles 34 and 35 of chapter 21 of the
33 Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of
34 chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2021 Supp. 21-
35 6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments
36 thereto, where the victim was a family or household member;

37 (iv) medical documentation of the abuse;

38 (v) a statement provided by a counselor, social worker, health care
39 provider, clergy, shelter worker, legal advocate, domestic violence or
40 sexual assault advocate or other professional who has assisted the
41 individual in dealing with the effects of abuse on the individual or the
42 individual's family; or

43 (vi) a sworn statement from the individual attesting to the abuse.

1 (C) No evidence of domestic violence experienced by an individual,
2 including the individual's statement and corroborating evidence, shall be
3 disclosed by the department of labor unless consent for disclosure is given
4 by the individual; *or*

5 (13) *the individual left work due to the employee's unwillingness to*
6 *receive, as a condition of continued employment, a vaccination required*
7 *by a rule or requirement of the employer instituted after the individual was*
8 *hired.*

9 (b) If the individual has been discharged or suspended for misconduct
10 connected with the individual's work. The disqualification shall begin the
11 day following the separation and shall continue until after the individual
12 becomes reemployed and in cases where the disqualification is due to
13 discharge for misconduct has had earnings from insured work of at least
14 three times the individual's determined weekly benefit amount, except that
15 if an individual is discharged for gross misconduct connected with the
16 individual's work, such individual shall be disqualified for benefits until
17 such individual again becomes employed and has had earnings from
18 insured work of at least eight times such individual's determined weekly
19 benefit amount. In addition, all wage credits attributable to the
20 employment from which the individual was discharged for gross
21 misconduct connected with the individual's work shall be canceled. No
22 such cancellation of wage credits shall affect prior payments made as a
23 result of a prior separation.

24 (1) For the purposes of this subsection, "misconduct" is defined as a
25 violation of a duty or obligation reasonably owed the employer as a
26 condition of employment including, but not limited to, a violation of a
27 company rule, including a safety rule, if: (A) The individual knew or
28 should have known about the rule; (B) the rule was lawful and reasonably
29 related to the job; and (C) the rule was fairly and consistently enforced.

30 (2) (A) Failure of the employee to notify the employer of an absence
31 and an individual's leaving work prior to the end of such individual's
32 assigned work period without permission shall be considered prima facie
33 evidence of a violation of a duty or obligation reasonably owed the
34 employer as a condition of employment.

35 (B) For the purposes of this subsection, misconduct shall include, but
36 not be limited to, violation of the employer's reasonable attendance
37 expectations if the facts show:

38 (i) The individual was absent or tardy without good cause;
39 (ii) the individual had knowledge of the employer's attendance
40 expectation; and
41 (iii) the employer gave notice to the individual that future absence or
42 tardiness may or will result in discharge.

43 (C) For the purposes of this subsection, if an employee disputes being

1 absent or tardy without good cause, the employee shall present evidence
2 that a majority of the employee's absences or tardiness were for good
3 cause. If the employee alleges that the employee's repeated absences or
4 tardiness were the result of health related issues, such evidence shall
5 include documentation from a licensed and practicing health care provider
6 as defined in subsection (a)(1).

7 (3) (A) The term "gross misconduct" as used in this subsection shall
8 be construed to mean conduct evincing extreme, willful or wanton
9 misconduct as defined by this subsection. Gross misconduct shall include,
10 but not be limited to: (i) Theft; (ii) fraud; (iii) intentional damage to
11 property; (iv) intentional infliction of personal injury; or (v) any conduct
12 that constitutes a felony.

13 (B) For the purposes of this subsection, the following shall be
14 conclusive evidence of gross misconduct:

15 (i) The use of alcoholic liquor, cereal malt beverage or a
16 nonprescribed controlled substance by an individual while working;

17 (ii) the impairment caused by alcoholic liquor, cereal malt beverage
18 or a nonprescribed controlled substance by an individual while working;

19 (iii) a positive breath alcohol test or a positive chemical test,
20 provided:

21 (a) The test was either:

22 (1) Required by law and was administered pursuant to the drug free
23 workplace act, 41 U.S.C. § 701 et seq.;

24 (2) administered as part of an employee assistance program or other
25 drug or alcohol treatment program in which the employee was
26 participating voluntarily or as a condition of further employment;

27 (3) requested pursuant to a written policy of the employer of which
28 the employee had knowledge and was a required condition of
29 employment;

30 (4) required by law and the test constituted a required condition of
31 employment for the individual's job; or

32 (5) there was reasonable suspicion to believe that the individual used,
33 had possession of, or was impaired by alcoholic liquor, cereal malt
34 beverage or a nonprescribed controlled substance while working;

35 (b) the test sample was collected either:

36 (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et
37 seq.;

38 (2) as prescribed by an employee assistance program or other drug or
39 alcohol treatment program in which the employee was participating
40 voluntarily or as a condition of further employment;

41 (3) as prescribed by the written policy of the employer of which the
42 employee had knowledge and which constituted a required condition of
43 employment;

1 (4) as prescribed by a test which was required by law and which
2 constituted a required condition of employment for the individual's job; or

3 (5) at a time contemporaneous with the events establishing probable
4 cause;

5 (c) the collecting and labeling of a chemical test sample was
6 performed by a licensed health care professional or any other individual
7 certified pursuant to paragraph (b)(3)(A)(iii)(f) or authorized to collect or
8 label test samples by federal or state law, or a federal or state rule or
9 regulation having the force or effect of law, including law enforcement
10 personnel;

11 (d) the chemical test was performed by a laboratory approved by the
12 United States department of health and human services or licensed by the
13 department of health and environment, except that a blood sample may be
14 tested for alcohol content by a laboratory commonly used for that purpose
15 by state law enforcement agencies;

16 (e) the chemical test was confirmed by gas chromatography, gas
17 chromatography-mass spectroscopy or other comparably reliable
18 analytical method, except that no such confirmation is required for a blood
19 alcohol sample or a breath alcohol test;

20 (f) the breath alcohol test was administered by an individual trained
21 to perform breath tests, the breath testing instrument used was certified
22 and operated strictly according to a description provided by the
23 manufacturers and the reliability of the instrument performance was
24 assured by testing with alcohol standards; and

25 (g) the foundation evidence establishes, beyond a reasonable doubt,
26 that the test results were from the sample taken from the individual;

27 (iv) an individual's refusal to submit to a chemical test or breath
28 alcohol test, provided:

29 (a) The test meets the standards of the drug free workplace act, 41
30 U.S.C. § 701 et seq.;

31 (b) the test was administered as part of an employee assistance
32 program or other drug or alcohol treatment program in which the
33 employee was participating voluntarily or as a condition of further
34 employment;

35 (c) the test was otherwise required by law and the test constituted a
36 required condition of employment for the individual's job;

37 (d) the test was requested pursuant to a written policy of the employer
38 of which the employee had knowledge and was a required condition of
39 employment; or

40 (e) there was reasonable suspicion to believe that the individual used,
41 possessed or was impaired by alcoholic liquor, cereal malt beverage or a
42 nonprescribed controlled substance while working;

43 (v) an individual's dilution or other tampering of a chemical test.

1 (C) For purposes of this subsection:

2 (i) "Alcohol concentration" means the number of grams of alcohol
3 per 210 liters of breath;

4 (ii) "alcoholic liquor" means the same as provided in K.S.A. 41-102,
5 and amendments thereto;

6 (iii) "cereal malt beverage" means the same as provided in K.S.A. 41-
7 2701, and amendments thereto;

8 (iv) "chemical test" includes, but is not limited to, tests of urine,
9 blood or saliva;

10 (v) "controlled substance" means the same as provided in K.S.A.
11 2021 Supp. 21-5701, and amendments thereto;

12 (vi) "required by law" means required by a federal or state law, a
13 federal or state rule or regulation having the force and effect of law, a
14 county resolution or municipal ordinance, or a policy relating to public
15 safety adopted in an open meeting by the governing body of any special
16 district or other local governmental entity;

17 (vii) "positive breath test" means a test result showing an alcohol
18 concentration of 0.04 or greater, or the levels listed in 49 C.F.R. part 40, if
19 applicable, unless the test was administered as part of an employee
20 assistance program or other drug or alcohol treatment program in which
21 the employee was participating voluntarily or as a condition of further
22 employment, in which case "positive chemical test" shall mean a test result
23 showing an alcohol concentration at or above the levels provided for in the
24 assistance or treatment program;

25 (viii) "positive chemical test" means a chemical result showing a
26 concentration at or above the levels listed in K.S.A. 44-501, and
27 amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or
28 abuse listed therein, unless the test was administered as part of an
29 employee assistance program or other drug or alcohol treatment program
30 in which the employee was participating voluntarily or as a condition of
31 further employment, in which case "positive chemical test" means a
32 chemical result showing a concentration at or above the levels provided for
33 in the assistance or treatment program.

34 (4) An individual shall not be disqualified under this subsection if the
35 individual is discharged under the following circumstances:

36 (A) The employer discharged the individual after learning the
37 individual was seeking other work or when the individual gave notice of
38 future intent to quit, except that the individual shall be disqualified after
39 the time at which such individual intended to quit and any individual who
40 commits misconduct after such individual gives notice to such individual's
41 intent to quit shall be disqualified;

42 (B) the individual was making a good-faith effort to do the assigned
43 work but was discharged due to:

- 1 (i) Inefficiency;
- 2 (ii) unsatisfactory performance due to inability, incapacity or lack of
3 training or experience;
- 4 (iii) isolated instances of ordinary negligence or inadvertence;
- 5 (iv) ~~good-faith~~ *good faith* errors in judgment or discretion; or
- 6 (v) unsatisfactory work or conduct due to circumstances beyond the
7 individual's control; ~~or~~
- 8 (C) the individual's refusal to perform work in excess of the contract
9 of hire; *or*
- 10 (D) *the employer discharged the individual for refusal to comply with*
11 *a rule or requirement of the employer, instituted after the individual was*
12 *hired, requiring a vaccination.*
- 13 (c) If the individual has failed, without good cause, to either apply for
14 suitable work when so directed by the employment office of the secretary
15 of labor, or to accept suitable work when offered to the individual by the
16 employment office, the secretary of labor, or an employer, such
17 disqualification shall begin with the week in which such failure occurred
18 and shall continue until the individual becomes reemployed and has had
19 earnings from insured work of at least three times such individual's
20 determined weekly benefit amount. In determining whether or not any
21 person is suitable for an individual, the secretary of labor, or a person or
22 persons designated by the secretary, shall consider the degree of risk
23 involved to health, safety and morals, physical fitness and prior training,
24 experience and prior earnings, length of unemployment and prospects for
25 securing local work in the individual's customary occupation or work for
26 which the individual is reasonably fitted by training or experience, and the
27 distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible
28 individual shall not be disqualified for refusing an offer of suitable
29 employment, or failing to apply for suitable employment when notified by
30 an employment office, or for leaving the individual's most recent work
31 accepted during approved training, including training approved under
32 section 236(a)(1) of the trade act of 1974, if the acceptance of or applying
33 for suitable employment or continuing such work would require the
34 individual to terminate approved training and no work shall be deemed
35 suitable and benefits shall not be denied under this act to any otherwise
36 eligible individual for refusing to accept new work under any of the
37 following conditions: (1) If the position offered is vacant due directly to a
38 strike, lockout or other labor dispute; (2) if the remuneration, hours or
39 other conditions of the work offered are substantially less favorable to the
40 individual than those prevailing for similar work in the locality; (3) if as a
41 condition of being employed, the individual would be required to join or to
42 resign from or refrain from joining any labor organization; ~~and~~ (4) if the
43

1 individual left employment as a result of domestic violence, and the
2 position offered does not reasonably accommodate the individual's
3 physical, psychological, safety, or legal needs relating to such domestic
4 violence; *and (5) if the position offered would require the individual to*
5 *comply with a rule or requirement of the employer requiring a*
6 *vaccination, and the individual would refuse to comply.*

7 (d) For any week with respect to which the secretary of labor, or a
8 person or persons designated by the secretary, finds that the individual's
9 unemployment is due to a stoppage of work which exists because of a
10 labor dispute or there would have been a work stoppage had normal
11 operations not been maintained with other personnel previously and
12 currently employed by the same employer at the factory, establishment or
13 other premises at which the individual is or was last employed, except that
14 this subsection (d) shall not apply if it is shown to the satisfaction of the
15 secretary of labor, or a person or persons designated by the secretary, that:

16 (1) The individual is not participating in or financing or directly interested
17 in the labor dispute which caused the stoppage of work; and (2) the
18 individual does not belong to a grade or class of workers of which,
19 immediately before the commencement of the stoppage, there were
20 members employed at the premises at which the stoppage occurs any of
21 whom are participating in or financing or directly interested in the dispute.
22 If in any case separate branches of work which are commonly conducted
23 as separate businesses in separate premises are conducted in separate
24 departments of the same premises, each such department shall, for the
25 purpose of this subsection be deemed to be a separate factory,
26 establishment or other premises. For the purposes of this subsection,
27 failure or refusal to cross a picket line or refusal for any reason during the
28 continuance of such labor dispute to accept the individual's available and
29 customary work at the factory, establishment or other premises where the
30 individual is or was last employed shall be considered as participation and
31 interest in the labor dispute.

32 (e) For any week with respect to which or a part of which the
33 individual has received or is seeking unemployment benefits under the
34 unemployment compensation law of any other state or of the United
35 States, except that if the appropriate agency of such other state or the
36 United States finally determines that the individual is not entitled to such
37 unemployment benefits, this disqualification shall not apply.

38 (f) For any week with respect to which the individual is entitled to
39 receive any unemployment allowance or compensation granted by the
40 United States under an act of congress to ex-service men and women in
41 recognition of former service with the military or naval services of the
42 United States.

43 (g) If the individual, or another in such individual's behalf with the

1 knowledge of the individual, has knowingly made a false statement or
2 representation, or has knowingly failed to disclose a material fact to obtain
3 or increase benefits under this act or any other unemployment
4 compensation law administered by the secretary of labor, unless the
5 individual has repaid the full amount of the overpayment as determined by
6 the secretary or the secretary's designee, including, but not limited to, the
7 total amount of money erroneously paid as benefits or unlawfully
8 obtained, interest, penalties and any other costs or fees provided by law. If
9 the individual has made such repayment, the individual shall be
10 disqualified for a period of one year for the first occurrence or five years
11 for any subsequent occurrence, beginning with the first day following the
12 date the department of labor confirmed the individual has successfully
13 repaid the full amount of the overpayment. In addition to the penalties set
14 forth in K.S.A. 44-719, and amendments thereto, an individual who has
15 knowingly made a false statement or representation or who has knowingly
16 failed to disclose a material fact to obtain or increase benefits under this
17 act or any other unemployment compensation law administered by the
18 secretary of labor shall be liable for a penalty in the amount equal to 25%
19 of the amount of benefits unlawfully received. Notwithstanding any other
20 provision of law, such penalty shall be deposited into the employment
21 security trust fund. No person who is a victim of identify theft shall be
22 subject to the provisions of this subsection. The secretary shall investigate
23 all cases of an alleged false statement or representation or failure to
24 disclose a material fact to ensure no victim of identity theft is disqualified,
25 required to repay or subject to any penalty as provided by this subsection
26 as a result of identity theft.

27 (h) For any week with respect to which the individual is receiving
28 compensation for temporary total disability or permanent total disability
29 under the workmen's compensation law of any state or under a similar law
30 of the United States.

31 (i) For any week of unemployment on the basis of service in an
32 instructional, research or principal administrative capacity for an
33 educational institution as defined in K.S.A. 44-703(v), and amendments
34 thereto, if such week begins during the period between two successive
35 academic years or terms or, when an agreement provides instead for a
36 similar period between two regular but not successive terms during such
37 period or during a period of paid sabbatical leave provided for in the
38 individual's contract, if the individual performs such services in the first of
39 such academic years or terms and there is a contract or a reasonable
40 assurance that such individual will perform services in any such capacity
41 for any educational institution in the second of such academic years or
42 terms.

43 (j) For any week of unemployment on the basis of service in any

1 capacity other than service in an instructional, research, or administrative
2 capacity in an educational institution, as defined in K.S.A. 44-703(v), and
3 amendments thereto, if such week begins during the period between two
4 successive academic years or terms if the individual performs such
5 services in the first of such academic years or terms and there is a
6 reasonable assurance that the individual will perform such services in the
7 second of such academic years or terms, except that if benefits are denied
8 to the individual under this subsection and the individual was not offered
9 an opportunity to perform such services for the educational institution for
10 the second of such academic years or terms, such individual shall be
11 entitled to a retroactive payment of benefits for each week for which the
12 individual filed a timely claim for benefits and for which benefits were
13 denied solely by reason of this subsection.

14 (k) For any week of unemployment on the basis of service in any
15 capacity for an educational institution as defined in K.S.A. 44-703(v), and
16 amendments thereto, if such week begins during an established and
17 customary vacation period or holiday recess, if the individual performs
18 services in the period immediately before such vacation period or holiday
19 recess and there is a reasonable assurance that such individual will perform
20 such services in the period immediately following such vacation period or
21 holiday recess.

22 (l) For any week of unemployment on the basis of any services,
23 substantially all of which consist of participating in sports or athletic
24 events or training or preparing to so participate, if such week begins during
25 the period between two successive sport seasons or similar period if such
26 individual performed services in the first of such seasons or similar periods
27 and there is a reasonable assurance that such individual will perform such
28 services in the later of such seasons or similar periods.

29 (m) For any week on the basis of services performed by an alien
30 unless such alien is an individual who was lawfully admitted for
31 permanent residence at the time such services were performed, was
32 lawfully present for purposes of performing such services, or was
33 permanently residing in the United States under color of law at the time
34 such services were performed, including an alien who was lawfully present
35 in the United States as a result of the application of the provisions of
36 section 212(d)(5) of the federal immigration and nationality act. Any data
37 or information required of individuals applying for benefits to determine
38 whether benefits are not payable to them because of their alien status shall
39 be uniformly required from all applicants for benefits. In the case of an
40 individual whose application for benefits would otherwise be approved, no
41 determination that benefits to such individual are not payable because of
42 such individual's alien status shall be made except upon a preponderance
43 of the evidence.

1 (n) For any week in which an individual is receiving a governmental
2 or other pension, retirement or retired pay, annuity or other similar
3 periodic payment under a plan maintained by a base period employer and
4 to which the entire contributions were provided by such employer, except
5 that: (1) If the entire contributions to such plan were provided by the base
6 period employer but such individual's weekly benefit amount exceeds such
7 governmental or other pension, retirement or retired pay, annuity or other
8 similar periodic payment attributable to such week, the weekly benefit
9 amount payable to the individual shall be reduced, but not below zero, by
10 an amount equal to the amount of such pension, retirement or retired pay,
11 annuity or other similar periodic payment which is attributable to such
12 week; or (2) if only a portion of contributions to such plan were provided
13 by the base period employer, the weekly benefit amount payable to such
14 individual for such week shall be reduced, but not below zero, by the
15 prorated weekly amount of the pension, retirement or retired pay, annuity
16 or other similar periodic payment after deduction of that portion of the
17 pension, retirement or retired pay, annuity or other similar periodic
18 payment that is directly attributable to the percentage of the contributions
19 made to the plan by such individual; or (3) if the entire contributions to the
20 plan were provided by such individual, or by the individual and an
21 employer, or any person or organization, who is not a base period
22 employer, no reduction in the weekly benefit amount payable to the
23 individual for such week shall be made under this subsection; or (4)
24 whatever portion of contributions to such plan were provided by the base
25 period employer, if the services performed for the employer by such
26 individual during the base period, or remuneration received for the
27 services, did not affect the individual's eligibility for, or increased the
28 amount of, such pension, retirement or retired pay, annuity or other similar
29 periodic payment, no reduction in the weekly benefit amount payable to
30 the individual for such week shall be made under this subsection. No
31 reduction shall be made for payments made under the social security act or
32 railroad retirement act of 1974.

33 (o) For any week of unemployment on the basis of services
34 performed in any capacity and under any of the circumstances described in
35 subsection (i), (j) or (k) that an individual performed in an educational
36 institution while in the employ of an educational service agency. For the
37 purposes of this subsection, the term "educational service agency" means a
38 governmental agency or entity which is established and operated
39 exclusively for the purpose of providing such services to one or more
40 educational institutions.

41 (p) For any week of unemployment on the basis of service as a school
42 bus or other motor vehicle driver employed by a private contractor to
43 transport pupils, students and school personnel to or from school-related

1 functions or activities for an educational institution, as defined in K.S.A.
2 44-703(v), and amendments thereto, if such week begins during the period
3 between two successive academic years or during a similar period between
4 two regular terms, whether or not successive, if the individual has a
5 contract or contracts, or a reasonable assurance thereof, to perform
6 services in any such capacity with a private contractor for any educational
7 institution for both such academic years or both such terms. An individual
8 shall not be disqualified for benefits as provided in this subsection for any
9 week of unemployment on the basis of service as a bus or other motor
10 vehicle driver employed by a private contractor to transport persons to or
11 from nonschool-related functions or activities.

12 (q) For any week of unemployment on the basis of services
13 performed by the individual in any capacity and under any of the
14 circumstances described in subsection (i), (j), (k) or (o) which are provided
15 to or on behalf of an educational institution, as defined in K.S.A. 44-
16 703(v), and amendments thereto, while the individual is in the employ of
17 an employer which is a governmental entity, Indian tribe or any employer
18 described in section 501(c)(3) of the federal internal revenue code of 1986
19 which is exempt from income under section 501(a) of the code.

20 (r) For any week in which an individual is registered at and attending
21 an established school, training facility or other educational institution, or is
22 on vacation during or between two successive academic years or terms. An
23 individual shall not be disqualified for benefits as provided in this
24 subsection provided:

25 (1) The individual was engaged in full-time employment concurrent
26 with the individual's school attendance;

27 (2) the individual is attending approved training as defined in K.S.A.
28 44-703(s), and amendments thereto; or

29 (3) the individual is attending evening, weekend or limited day time
30 classes, which would not affect availability for work, and is otherwise
31 eligible under K.S.A. 44-705(c), and amendments thereto.

32 (s) For any week with respect to which an individual is receiving or
33 has received remuneration in the form of a back pay award or settlement.
34 The remuneration shall be allocated to the week or weeks in the manner as
35 specified in the award or agreement, or in the absence of such specificity
36 in the award or agreement, such remuneration shall be allocated to the
37 week or weeks in which such remuneration, in the judgment of the
38 secretary, would have been paid.

39 (1) For any such weeks that an individual receives remuneration in
40 the form of a back pay award or settlement, an overpayment will be
41 established in the amount of unemployment benefits paid and shall be
42 collected from the claimant.

43 (2) If an employer chooses to withhold from a back pay award or

1 settlement, amounts paid to a claimant while they claimed unemployment
2 benefits, such employer shall pay the department the amount withheld.
3 With respect to such amount, the secretary shall have available all of the
4 collection remedies authorized or provided in K.S.A. 44-717, and
5 amendments thereto.

6 (t) (1) Any applicant for or recipient of unemployment benefits who
7 tests positive for unlawful use of a controlled substance or controlled
8 substance analog shall be required to complete a substance abuse treatment
9 program approved by the secretary of labor, secretary of commerce or
10 secretary for children and families, and a job skills program approved by
11 the secretary of labor, secretary of commerce or the secretary for children
12 and families. Subject to applicable federal laws, any applicant for or
13 recipient of unemployment benefits who fails to complete or refuses to
14 participate in the substance abuse treatment program or job skills program
15 as required under this subsection shall be ineligible to receive
16 unemployment benefits until completion of such substance abuse
17 treatment and job skills programs. Upon completion of both substance
18 abuse treatment and job skills programs, such applicant for or recipient of
19 unemployment benefits may be subject to periodic drug screening, as
20 determined by the secretary of labor. Upon a second positive test for
21 unlawful use of a controlled substance or controlled substance analog, an
22 applicant for or recipient of unemployment benefits shall be ordered to
23 complete again a substance abuse treatment program and job skills
24 program, and shall be terminated from unemployment benefits for a period
25 of 12 months, or until such applicant for or recipient of unemployment
26 benefits completes both substance abuse treatment and job skills programs,
27 whichever is later. Upon a third positive test for unlawful use of a
28 controlled substance or controlled substance analog, an applicant for or a
29 recipient of unemployment benefits shall be terminated from receiving
30 unemployment benefits, subject to applicable federal law.

31 (2) Any individual who has been discharged or refused employment
32 for failing a preemployment drug screen required by an employer may
33 request that the drug screening specimen be sent to a different drug testing
34 facility for an additional drug screening. Any such individual who requests
35 an additional drug screening at a different drug testing facility shall be
36 required to pay the cost of drug screening.

37 (u) If the individual was found not to have a disqualifying
38 adjudication or conviction under K.S.A. 39-970 or 65-5117, and
39 amendments thereto, was hired and then was subsequently convicted of a
40 disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments
41 thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and
42 amendments thereto. The disqualification shall begin the day following the
43 separation and shall continue until after the individual becomes

1 reemployed and has had earnings from insured work of at least three times
2 the individual's determined weekly benefit amount.

3 (v) Notwithstanding the provisions of any subsection, an individual
4 shall not be disqualified for such week of part-time employment in a
5 substitute capacity for an educational institution if such individual's most
6 recent employment prior to the individual's benefit year begin date was for
7 a non-educational institution and such individual demonstrates application
8 for work in such individual's customary occupation or for work for which
9 the individual is reasonably fitted by training or experience.

10 Sec. 14. K.S.A. 44-1002 is hereby amended to read as follows: 44-
11 1002. When used in this act:

12 (a) "Person" includes one or more individuals, partnerships,
13 associations, organizations, corporations, legal representatives, trustees,
14 trustees in bankruptcy or receivers.

15 (b) "Employer" includes any person in this state employing four or
16 more persons and any person acting directly or indirectly for an employer,
17 labor organizations, nonsectarian corporations, organizations engaged in
18 social service work and the state of Kansas and all political and municipal
19 subdivisions thereof, but shall not include a nonprofit fraternal or social
20 association or corporation.

21 (c) "Employee" does not include any individual employed by such
22 individual's parents, spouse or child or in the domestic service of any
23 person.

24 (d) "Labor organization" includes any organization which exists for
25 the purpose, in whole or in part, of collective bargaining, of dealing with
26 employers concerning grievances, terms or conditions of employment or
27 of other mutual aid or protection in relation to employment.

28 (e) "Employment agency" includes any person or governmental
29 agency undertaking, with or without compensation, to procure
30 opportunities to work or to procure, recruit, refer or place employees.

31 (f) "Commission" means the Kansas human rights commission
32 created by this act.

33 (g) "Unlawful employment practice" includes only those unlawful
34 practices and acts specified in K.S.A. 44-1009, and amendments thereto,
35 and includes segregate or separate.

36 (h) "Public accommodations" means any person who caters or offers
37 goods, services, facilities and accommodations to the public. Public
38 accommodations include, but are not limited to, any lodging establishment
39 or food service establishment, as defined by K.S.A. 36-501, and
40 amendments thereto; any bar, tavern, barbershop, beauty parlor, theater,
41 skating rink, bowling alley, billiard parlor, amusement park, recreation
42 park, swimming pool, lake, gymnasium, mortuary or cemetery which is
43 open to the public; or any public transportation facility. Public

1 accommodations do not include a religious or nonprofit fraternal or social
2 association or corporation.

3 (i) "Unlawful discriminatory practice" means: (1) Any discrimination
4 against persons, by reason of their race, religion, color, sex, disability,
5 national origin or ancestry:

6 (A) In any place of public accommodations; or

7 (B) in the full and equal use and enjoyment of the services, facilities,
8 privileges and advantages of any institution, department or agency of the
9 state of Kansas or any political subdivision or municipality thereof; and

10 (2) any discrimination against persons in regard to membership in a
11 nonprofit recreational or social association or corporation by reason of
12 race, religion, sex, color, disability, national origin or ancestry if such
13 association or corporation has 100 or more members and: (A) Provides
14 regular meal service; and (B) receives payment for dues, fees, use of
15 space, use of facility, services, meals or beverages, directly or indirectly,
16 from or on behalf of nonmembers.

17 This term shall not apply to a religious or private fraternal and
18 benevolent association or corporation.

19 (j) "Disability" means, with respect to an individual:

20 (1) A physical or mental impairment that substantially limits one or
21 more of the major life activities of such individual;

22 (2) a record of such an impairment; or

23 (3) being regarded as having such an impairment.

24 Disability does not include current, illegal use of a controlled substance
25 as defined in section 102 of the federal controlled substance act (21 U.S.C.
26 § 802), in housing discrimination. In employment and public
27 accommodation discrimination, "disability" does not include an individual
28 who is currently engaging in the illegal use of drugs where possession or
29 distribution of such drugs is unlawful under the controlled substance act
30 (21 U.S.C. § 812), when the covered entity acts on the basis of such use.

31 (k) (1) "Reasonable accommodation" means:

32 (A) Making existing facilities used by employees readily accessible
33 to and usable by individuals with disabilities; and

34 (B) job restructuring; part-time or modified work schedules;
35 reassignment to a vacant position; acquisition or modification of
36 equipment or devices; appropriate adjustment or modifications of
37 examinations, training materials or policies; provision of qualified readers
38 or interpreters; and other similar accommodations for individuals with
39 disabilities.

40 (2) A reasonable accommodation or a reasonable modification to
41 policies, practices or procedures need not be provided to an individual who
42 meets the definition of disability in K.S.A. 44-1002(j)(3), and amendments
43 thereto.

1 (l) "Regarded as having such an impairment" means the absence of a
2 physical or mental impairment but regarding or treating an individual as
3 though such an impairment exists. An individual meets the requirement of
4 "being regarded as having such an impairment" if the individual
5 establishes that such individual has been subjected to an action prohibited
6 under this act because of an actual or perceived physical or mental
7 impairment whether or not the impairment limits or is perceived to limit a
8 major life activity. Subsection (j)(3) shall not apply to impairments that are
9 transitory or minor. A transitory impairment is an impairment with an
10 actual or expected duration of six months or less.

11 (m) "Major life activities" means:

12 (1) Major life activities include, but are not limited to, caring for
13 oneself, performing manual tasks, seeing, hearing, eating, sleeping,
14 walking, standing, lifting, bending, speaking, breathing, learning, reading,
15 concentrating, thinking, communicating, and working.

16 (2) It also includes the operation of a major bodily function,
17 including, but not limited to, functions of the immune system, normal cell
18 growth, digestive, bowel, bladder, neurological, brain, respiratory,
19 circulatory, endocrine and reproductive functions.

20 (n) "Genetic screening or testing" means a laboratory test of a
21 person's genes or chromosomes for abnormalities, defects or deficiencies,
22 including carrier status, that are linked to physical or mental disorders or
23 impairments, or that indicate a susceptibility to illness, disease or other
24 disorders, whether physical or mental, which test is a direct test for
25 abnormalities, defects or deficiencies, and not an indirect manifestation of
26 genetic disorders.

27 (o) *"Immunity passport" means a document, digital record or*
28 *software application indicating that a person is immune to a disease,*
29 *either through vaccination or infection and recovery.*

30 (p) *"Vaccination status" means an indication of whether a person has*
31 *received one or more doses of a vaccine.*

32 Sec. 15. K.S.A. 44-1009 is hereby amended to read as follows: 44-
33 1009. (a) It shall be an unlawful employment practice:

34 (1) For an employer, because of the race, religion, color, sex,
35 disability, national origin or ancestry of any person to refuse to hire or
36 employ such person to bar or discharge such person from employment or
37 to otherwise discriminate against such person in compensation or in terms,
38 conditions or privileges of employment; to limit, segregate, separate,
39 classify or make any distinction in regards to employees; or to follow any
40 employment procedure or practice which, in fact, results in discrimination,
41 segregation or separation without a valid business necessity.

42 (2) For a labor organization, because of the race, religion, color, sex,
43 disability, national origin or ancestry of any person, to exclude or to expel

1 from its membership such person or to discriminate in any way against any
2 of its members or against any employer or any person employed by an
3 employer.

4 (3) For any employer, employment agency or labor organization to
5 print or circulate or cause to be printed or circulated any statement,
6 advertisement or publication, or to use any form of application for
7 employment or membership or to make any inquiry in connection with
8 prospective employment or membership, which expresses, directly or
9 indirectly, any limitation, specification or discrimination as to race,
10 religion, color, sex, disability, national origin or ancestry, or any intent to
11 make any such limitation, specification or discrimination, unless based on
12 a bona fide occupational qualification.

13 (4) For any employer, employment agency or labor organization to
14 discharge, expel or otherwise discriminate against any person because such
15 person has opposed any practices or acts forbidden under this act or
16 because such person has filed a complaint, testified or assisted in any
17 proceeding under this act.

18 (5) For an employment agency to refuse to list and properly classify
19 for employment or to refuse to refer any person for employment or
20 otherwise discriminate against any person because of such person's race,
21 religion, color, sex, disability, national origin or ancestry; or to comply
22 with a request from an employer for a referral of applicants for
23 employment if the request expresses, either directly or indirectly, any
24 limitation, specification or discrimination as to race, religion, color, sex,
25 disability, national origin or ancestry.

26 (6) For an employer, labor organization, employment agency, or
27 school which provides, coordinates or controls apprenticeship, on-the-job,
28 or other training or retraining program, to maintain a practice of
29 discrimination, segregation or separation because of race, religion, color,
30 sex, disability, national origin or ancestry, in admission, hiring,
31 assignments, upgrading, transfers, promotion, layoff, dismissal,
32 apprenticeship or other training or retraining program, or in any other
33 terms, conditions or privileges of employment, membership,
34 apprenticeship or training; or to follow any policy or procedure which, in
35 fact, results in such practices without a valid business motive.

36 (7) For any person, whether an employer or an employee or not, to
37 aid, abet, incite, compel or coerce the doing of any of the acts forbidden
38 under this act, or attempt to do so.

39 (8) For an employer, labor organization, employment agency or joint
40 labor-management committee to: (A) Limit, segregate or classify a job
41 applicant or employee in a way that adversely affects the opportunities or
42 status of such applicant or employee because of the disability of such
43 applicant or employee; (B) participate in a contractual or other

1 arrangement or relationship, including a relationship with an employment
2 or referral agency, labor union, an organization providing fringe benefits to
3 an employee or an organization providing training and apprenticeship
4 programs that has the effect of subjecting a qualified applicant or
5 employee with a disability to the discrimination prohibited by this act; (C)
6 utilize standards criteria, or methods of administration that have the effect
7 of discrimination on the basis of disability or that perpetuate the
8 discrimination of others who are subject to common administrative
9 control; (D) exclude or otherwise deny equal jobs or benefits to a qualified
10 individual because of the known disability of an individual with whom the
11 qualified individual is known to have a relationship or association; (E) not
12 make reasonable accommodations to the known physical or mental
13 limitations of an otherwise qualified individual with a disability who is an
14 applicant or employee, unless such employer, labor organization,
15 employment agency or joint labor-management committee can
16 demonstrate that the accommodation would impose an undue hardship on
17 the operation of the business thereof; (F) deny employment opportunities
18 to a job applicant or employee who is an otherwise qualified individual
19 with a disability, if such denial is based on the need to make reasonable
20 accommodation to the physical or mental impairments of the employee or
21 applicant; (G) use qualification standards, employment tests or other
22 selection criteria that screen out or tend to screen out an individual with a
23 disability or a class of individuals with disabilities unless the standard, test
24 or other selection criteria, as used, is shown to be job-related for the
25 position in question and is consistent with business necessity; or (H) fail to
26 select and administer tests concerning employment in the most effective
27 manner to ensure that, when such test is administered to a job applicant or
28 employee who has a disability that impairs sensory, manual or speaking
29 skills, the test results accurately reflect the skills, aptitude or whatever
30 other factor of such applicant or employee that such test purports to
31 measure, rather than reflecting the impaired sensory, manual or speaking
32 skills of such employee or applicant—(, except where such skills are the
33 factors that the test purports to measure).

34 (9) For any employer to:

35 (A) Seek to obtain, to obtain or to use genetic screening or testing
36 information of an employee or a prospective employee to distinguish
37 between or discriminate against or restrict any right or benefit otherwise
38 due or available to an employee or a prospective employee; or

39 (B) subject, directly or indirectly, any employee or prospective
40 employee to any genetic screening or test.

41 (10) For any employer to:

42 (A) Seek to obtain, to obtain or to use the vaccination status of an
43 employee or prospective employee to distinguish between or discriminate

1 *against or restrict any right or benefit otherwise due or available to an*
2 *employee or a prospective employee; or*

3 *(B) require, directly or indirectly, any employee or prospective*
4 *employee to receive a vaccination or an immunity passport.*

5 (b) It shall not be an unlawful employment practice to fill vacancies
6 in such way as to eliminate or reduce imbalance with respect to race,
7 religion, color, sex, disability, national origin or ancestry.

8 (c) It shall be an unlawful discriminatory practice:

9 (1) For any person, as defined herein being the owner, operator,
10 lessee, manager, agent or employee of any place of public accommodation
11 to refuse, deny or make a distinction, directly or indirectly, in offering its
12 goods, services, facilities, and accommodations to any person as covered
13 by this act because of race, religion, color, sex, disability, national origin or
14 ancestry, except where a distinction because of sex is necessary because of
15 the intrinsic nature of such accommodation.

16 (2) For any person, whether or not specifically enjoined from
17 discriminating under any provisions of this act, to aid, abet, incite, compel
18 or coerce the doing of any of the acts forbidden under this act, or to
19 attempt to do so.

20 (3) For any person, to refuse, deny, make a distinction, directly or
21 indirectly, or discriminate in any way against persons because of the race,
22 religion, color, sex, disability, national origin or ancestry of such persons
23 in the full and equal use and enjoyment of the services, facilities,
24 privileges and advantages of any institution, department or agency of the
25 state of Kansas or any political subdivision or municipality thereof.

26 Sec. 16. K.S.A. 2021 Supp. 48-925 is hereby amended to read as
27 follows: 48-925. (a) During any state of disaster emergency declared under
28 K.S.A. 48-924, and amendments thereto, the governor shall be
29 commander-in-chief of the organized and unorganized militia and of all
30 other forces available for emergency duty. To the greatest extent
31 practicable, the governor shall delegate or assign command authority by
32 prior arrangement, embodied in appropriate executive orders or in rules
33 and regulations of the adjutant general, but nothing shall restrict the
34 authority of the governor to do so by executive orders issued at the time of
35 a disaster.

36 (b) Under the provisions of this act and for the implementation of this
37 act, the governor may issue executive orders to exercise the powers
38 conferred by subsection (c) that have the force and effect of law during the
39 period of a state of disaster emergency declared under K.S.A. 48-924(b),
40 and amendments thereto, or as provided in K.S.A. 2021 Supp. 48-924b,
41 and amendments thereto. The chairperson of the legislative coordinating
42 council shall call a meeting of the council to occur within 24 hours of the
43 issuance of an executive order issued pursuant to this section for the

1 purposes of reviewing such order. Such executive orders shall be null and
2 void after the period of a state of disaster emergency has ended. Such
3 executive orders may be revoked at any time by concurrent resolution of
4 the legislature or, when the legislature is not in session or is adjourned
5 during session for three or more days, such orders may be revoked by the
6 legislative coordinating council with the affirmative vote of five members
7 thereof.

8 (c) Except as provided in K.S.A. 2021 Supp. 48-924b, and
9 amendments thereto, during a state of disaster emergency declared under
10 K.S.A. 48-924, and amendments thereto, in addition to any other powers
11 conferred upon the governor by law and subject to the provisions of
12 subsections (d) and (e), the governor may:

13 (1) Suspend the provisions of any regulatory statute prescribing the
14 procedures for conduct of state business, or the orders or rules and
15 regulations of any state agency which implements such statute, if strict
16 compliance with the provisions of such statute, order or rule and regulation
17 would prevent, hinder or delay in any way necessary action in coping with
18 the disaster;

19 (2) utilize all available resources of the state government and of each
20 political subdivision as reasonably necessary to cope with the disaster;

21 (3) transfer the supervision, personnel or functions of state
22 departments and agencies or units thereof for the purpose of performing or
23 facilitating emergency management activities;

24 (4) subject to any applicable requirements for compensation under
25 K.S.A. 48-933, and amendments thereto, commandeer or utilize any
26 private property if the governor finds such action necessary to cope with
27 the disaster;

28 (5) direct and compel the evacuation of all or part of the population
29 from any area of the state stricken or threatened by a disaster, if the
30 governor deems this action necessary for the preservation of life or other
31 disaster mitigation, response or recovery;

32 (6) prescribe routes, modes of transportation and destinations in
33 connection with such evacuation;

34 (7) control ingress and egress of persons and animals to and from a
35 disaster area, the movement of persons and animals within the area and the
36 occupancy by persons and animals of premises therein;

37 (8) suspend or limit the sale, dispensing or transportation of alcoholic
38 beverages, explosives and combustibles;

39 (9) make provision for the availability and use of temporary
40 emergency housing;

41 (10) require and direct the cooperation and assistance of state and
42 local governmental agencies and officials; and

43 (11) perform and exercise such other functions, powers and duties in

1 conformity with the constitution and the bill of rights of the state of
2 Kansas and with the statutes of the state of Kansas, except any regulatory
3 statute specifically suspended under the authority of subsection (c)(1), as
4 are necessary to promote and secure the safety and protection of the
5 civilian population.

6 (d) The governor shall not have the power or authority to limit or
7 otherwise restrict the sale, purchase, transfer, ownership, storage, carrying
8 or transporting of firearms or ammunition, or any component or
9 combination thereof, including any components or combination thereof
10 used in the manufacture of firearms or ammunition, or seize or authorize
11 the seizure of any firearms or ammunition, or any component or
12 combination thereto, except as otherwise permitted by state or federal law
13 pursuant to subsection (c)(8) or any other executive authority.

14 (e) The governor shall not have the power under the provisions of the
15 Kansas emergency management act or the provisions of any other law to:

16 (1) Alter or modify any provisions of the election laws of the state
17 including, but not limited to, the method by which elections are conducted
18 or the timing of such elections;

19 (2) *order or otherwise impose upon a United States citizen any*
20 *period of isolation or quarantine based on an epidemic or other public*
21 *health reason;*

22 (3) *order or otherwise require that a United States citizen remain at*
23 *home based on an epidemic or other public health reason;*

24 (4) *order or otherwise impose upon a United States citizen any*
25 *curfew based on an epidemic or other public health reason; or*

26 (5) *order or otherwise require that a United States citizen wear a face*
27 *mask based on an epidemic or other public health reason.*

28 (f) The governor shall exercise the powers conferred by subsection
29 (c) by issuance of executive orders under subsection (b). Each executive
30 order issued pursuant to the authority granted by subsection (b) shall
31 specify the provision or provisions of subsection (c) by specific reference
32 to each paragraph of subsection (c) that confers the power under which the
33 executive order was issued. The adjutant general, subject to the direction
34 of the governor, shall administer such executive orders.

35 (g) (1) Any party aggrieved by an executive order issued pursuant to
36 this section that has the effect of substantially burdening or inhibiting the
37 gathering or movement of individuals or the operation of any religious,
38 civic, business or commercial activity, whether for-profit or not-for-profit,
39 may file a civil action in the district court of the county in which such
40 party resides or in the district court of Shawnee county, Kansas, within 30
41 days after the issuance of such executive order. Notwithstanding any order
42 issued pursuant to K.S.A. 2021 Supp. 20-172(a), and amendments thereto,
43 the court shall conduct a hearing within 72 hours after receipt of a petition

1 in any such action. The court shall grant the request for relief unless the
2 court finds such executive order is narrowly tailored to respond to the state
3 of disaster emergency and uses the least restrictive means to achieve such
4 purpose. The court shall issue an order on such petition within seven days
5 after the hearing is conducted. If the court does not issue an order on such
6 petition within seven days, the relief requested in the petition shall be
7 granted.

8 (2) Relief under this section shall not include a stay or injunction
9 concerning the contested executive order that applies beyond the county in
10 which the petition was filed.

11 (3) The supreme court may adopt emergency rules of procedure to
12 facilitate the efficient adjudication of any hearing requested under this
13 subsection, including, but not limited to, rules for consolidation of similar
14 hearings.

15 (h) (1) The board of county commissioners of any county may issue
16 an order relating to public health that includes provisions that are less
17 stringent than the provisions of an executive order effective statewide
18 issued by the governor. Any board of county commissioners issuing such
19 an order must make the following findings and include such findings in the
20 order:

21 (A) The board has consulted with the local health officer or other
22 local health officials regarding the governor's executive order;

23 (B) following such consultation, implementation of the full scope of
24 the provisions in the governor's executive order are not necessary to
25 protect the public health and safety of the county; and

26 (C) all other relevant findings to support the board's decision.

27 (2) If the board of county commissioners of a county issues an order
28 pursuant to paragraph (1), such order shall operate in the county in lieu of
29 the governor's executive order.

30 Sec. 17. K.S.A. 2021 Supp. 65-101 is hereby amended to read as
31 follows: 65-101. (a) *Except as provided in sections 2 and 8, and*
32 *amendments thereto*, the secretary of health and environment shall exercise
33 general supervision of the health of the people of the state and may:

34 (1) Where authorized by any other statute, require reports from
35 appropriate persons relating to the health of the people of the state so a
36 determination of the causes of sickness and death among the people of the
37 state may be made through the use of these reports and other records;

38 (2) investigate the causes of disease, including especially, epidemics
39 and endemics, the causes of mortality and effects of locality, employments,
40 conditions, food, water supply, habits and other circumstances affecting
41 the health of the people of this state and the causes of sickness and death;

42 (3) advise other offices and agencies of government concerning
43 location, drainage, water supply, disposal of excreta and heating and

1 ventilation of public buildings;

2 (4) make sanitary inspection and survey of such places and localities
3 as the secretary deems advisable;

4 (5) take action to prevent the introduction of infectious or contagious
5 disease into this state and to prevent the spread of infectious or contagious
6 disease within this state;

7 (6) provide public health outreach services to the people of the state
8 including educational and other activities designed to increase the
9 individual's awareness and appropriate use of public and other preventive
10 health services.

11 (b) The secretary of health and environment may adopt rules and
12 regulations necessary to carry out the provisions of subsection (a). In
13 addition to other remedies provided by law, the secretary is authorized to
14 apply to the district court, and such court shall have jurisdiction upon a
15 hearing and for cause shown to grant a temporary or permanent injunction
16 to compel compliance with such rules and regulations.

17 (c) In the event of a state of disaster emergency declared by the
18 governor pursuant to K.S.A. 48-924, and amendments thereto, or a state of
19 local disaster emergency declared pursuant to K.S.A. 48-932, and
20 amendments thereto, the legislature may revoke an order issued by the
21 secretary to take action related to such disaster emergency as provided in
22 this subsection. Such order may be revoked at any time by concurrent
23 resolution of the legislature or, when the legislature is not in session or is
24 adjourned during session for three or more days, such order may be
25 revoked by the legislative coordinating council with the affirmative vote of
26 five members thereof.

27 Sec. 18. K.S.A. 65-129 is hereby amended to read as follows: 65-129.
28 Any person violating, refusing or neglecting to obey any of the rules and
29 regulations adopted by the secretary of health and environment for the
30 prevention, suppression and control of infectious or contagious diseases, ~~or~~
31 ~~who leaves any isolation area of a hospital or other quarantined area~~
32 ~~without the consent of the local health officer having jurisdiction, or who~~
33 ~~evades or breaks quarantine~~ or knowingly ~~conceals~~ *concealing* a case of
34 infectious or contagious disease shall be guilty of a class C misdemeanor.

35 Sec. 19. K.S.A. 65-129b is hereby amended to read as follows: 65-
36 129b. ~~(a)~~ Notwithstanding the provisions of K.S.A. 65-119, 65-122, 65-
37 123, 65-126 and 65-128, and amendments thereto, and any rules or
38 regulations adopted thereunder, in investigating actual or potential
39 exposures to an infectious or contagious disease that is potentially life-
40 threatening, the local health officer or the secretary:

41 ~~(+)(A)(a)~~ *May issue an order requiring a recommendation advising*
42 *an individual who the local health officer or the secretary has reason to*
43 *believe has been exposed to an infectious or contagious disease to seek*

1 appropriate and necessary evaluation and treatment;

2 ~~(B)~~(b) when the local health officer or the secretary determines that it
3 is medically necessary and reasonable to prevent or reduce the spread of
4 the disease or outbreak believed to have been caused by the exposure to an
5 infectious or contagious disease, ~~may order~~ *issue a recommendation*
6 *advising* an individual or group of individuals to go to and remain in
7 places of isolation or quarantine until the local health officer or the
8 secretary determines that the individual no longer poses a substantial risk
9 of transmitting the disease or condition to the public;

10 ~~(C)~~(c) if a competent individual of 18 years of age or older or an
11 emancipated minor refuses vaccination, medical examination, treatment or
12 testing under this section, ~~may require~~ *issue a recommendation advising*
13 the individual to go to and remain in a place of isolation or quarantine until
14 the local health officer or the secretary determines that the individual no
15 longer poses a substantial risk of transmitting the disease or condition to
16 the public; and

17 ~~(D)~~(d) if, on behalf of a minor child or ward, a parent or guardian
18 refuses vaccination, medical examination, treatment or testing under this
19 section, ~~may require~~ *issue a recommendation advising* the minor child or
20 ward to go to and remain in a place of isolation or quarantine and must
21 allow the parent or guardian to accompany the minor child or ward until
22 the local health officer or the secretary determines that the minor child or
23 ward no longer poses a substantial risk of transmitting the disease or
24 condition to the public; ~~and~~

25 ~~(2) may order any sheriff, deputy sheriff or other law enforcement~~
26 ~~officer of the state or any subdivision to assist in the execution or~~
27 ~~enforcement of any order issued under this section.~~

28 Sec. 20. K.S.A. 65-129c is hereby amended to read as follows: 65-
29 129c. (a) If the local health officer or the secretary ~~requires~~ *issues a*
30 *recommendation advising* an individual or a group of individuals to go to
31 and remain in places of isolation or quarantine under K.S.A. 65-129b, and
32 amendments thereto, the local health officer or the secretary shall ~~issue an~~
33 ~~order~~ *the recommendation* to the individual or group of individuals.

34 (b) The ~~order~~ *recommendation* shall specify:

35 (1) The identity of the individual or group of individuals subject to
36 isolation or quarantine;

37 (2) the premises subject to isolation or quarantine;

38 (3) the date and time at which isolation or quarantine commences;

39 (4) the suspected infectious or contagious disease causing the
40 outbreak or disease, if known;

41 (5) the basis upon which isolation or quarantine is justified; and

42 (6) the availability of a hearing to contest the ~~order~~ *recommendation*.

43 (c) (1) Except as provided in paragraph (2) ~~of subsection (e)~~, the

1 ~~order recommendation~~ shall be in writing and given to the individual or
2 group of individuals prior to the individual or group of individuals being
3 ~~required~~ *advised* to go to and remain in places of isolation and quarantine.

4 (2) (A) If the local health officer or the secretary determines that the
5 notice required under paragraph (1) ~~of subsection (c)~~ is impractical
6 because of the number of individuals or geographical areas affected, the
7 local health officer or the secretary shall ensure that the affected
8 individuals are fully informed of the ~~order recommendation~~ using the best
9 possible means available.

10 (B) If the ~~order recommendation~~ applies to a group of individuals and
11 it is impractical to provide written individual copies under paragraph (1) ~~of~~
12 ~~subsection (c)~~, the written ~~order recommendation~~ may be posted in a
13 conspicuous place in the isolation or quarantine premises.

14 (d) (1) An individual or group of individuals ~~isolated or quarantined~~
15 *subject to a recommendation* under this section may request a hearing in
16 district court contesting the isolation or quarantine, as provided in article
17 15 of chapter 60 of the Kansas Statutes Annotated, *and amendments*
18 *thereto*, but the provisions of this section shall apply to any ~~order~~
19 ~~recommendation~~ issued under K.S.A. ~~65-129a to 65-129b through 65-~~
20 ~~129d, inclusive,~~ and amendments thereto, notwithstanding any conflicting
21 provisions contained in that article.

22 (2) A request for a hearing may not stay or enjoin an isolation or
23 quarantine ~~order recommendation~~.

24 (3) Upon receipt of a request under this subsection ~~(d)~~, the court shall
25 conduct a hearing within 72 hours after receipt of the request.

26 (4) (A) In any proceedings brought for relief under this subsection
27 ~~(d)~~, the court may extend the time for a hearing upon a showing by the
28 local health officer or the secretary or other designated official that
29 extraordinary circumstances exist that justify the extension.

30 (B) In granting or denying an extension, the court shall consider the
31 rights of the affected individual, the protection of the public health, the
32 severity of the health emergency and the availability, if necessary, of
33 witnesses and evidence.

34 (C) (i) The court shall grant the request for relief unless the court
35 determines that the isolation or quarantine ~~order recommendation~~ is
36 necessary and reasonable to prevent or reduce the spread of the disease or
37 outbreak believed to have been caused by the exposure to an infectious or
38 contagious disease.

39 (ii) If feasible, in making a determination under this ~~paragraph (C)~~
40 *subparagraph*, the court may consider the means of transmission, the
41 degree of contagion, and, to the extent possible, the degree of public
42 exposure to the disease.

43 (5) An order of the court authorizing the isolation or quarantine

1 issued under this section shall:

2 (A) Identify the isolated or quarantined individual or group of
3 individuals by name or shared characteristics;

4 (B) specify factual findings warranting isolation or quarantine; and

5 (C) except as provided in ~~paragraph (2)~~ of subsection (c)(2), be in
6 writing and given to the individual or group of individuals.

7 (6) If the court determines that the notice required in ~~paragraph (C)~~ of
8 subsection (d)(5) is impractical because of the number of individuals or
9 geographical areas affected, the court shall ensure that the affected
10 individuals are fully informed of the order using the best possible means
11 available.

12 (7) An order of the court authorizing isolation or quarantine shall be
13 effective for a period not to exceed 30 days. The court shall base its
14 decision on the standards provided under this section.

15 (8) In the event that an individual cannot personally appear before the
16 court, proceedings may be conducted:

17 (A) By an individual's authorized representative; and

18 (B) through any means that allows other individuals to fully
19 participate.

20 (9) In any proceedings brought under this section, the court may
21 order the consolidation of individual claims into group claims where:

22 (A) The number of individuals involved or affected is so large as to
23 render individual participation impractical;

24 (B) there are questions of law or fact common to the individual
25 claims or rights to be determined;

26 (C) the group claims or rights to be determined are typical of the
27 affected individual's claims or rights; and

28 (D) the entire group will be adequately represented in the
29 consolidation.

30 (10) The court shall appoint counsel to represent individuals or a
31 group of individuals who are not otherwise represented by counsel.

32 (11) The supreme court of Kansas may develop emergency rules of
33 procedure to facilitate the efficient adjudication of any proceedings
34 brought under this section.

35 Sec. 21. K.S.A. 65-129d is hereby amended to read as follows: 65-
36 129d. It shall be unlawful for any public or private employer to discharge
37 an employee solely because the employee or an immediate family member
38 of the employee is under ~~an order~~ a *recommendation* of isolation or
39 quarantine. The violation of this section is punishable as a violation of
40 K.S.A. 65-129, and amendments thereto.

41 Sec. 22. K.S.A. 2021 Supp. 65-201 is hereby amended to read as
42 follows: 65-201. (a) The board of county commissioners of each county
43 shall act as the county board of health for the county. Each county board

1 shall appoint a person licensed to practice medicine and surgery,
2 preference being given to persons who have training in public health, who
3 shall serve as the local health officer and who shall act in an advisory
4 capacity to the county board of health. The appointing authority of city-
5 county, county or multicounty health units with less than 100,000
6 population may appoint a qualified local health program administrator as
7 the local health officer if a person licensed to practice medicine and
8 surgery or person licensed to practice dentistry is designated as a
9 consultant to direct the administrator on program and related medical and
10 professional matters. The local health officer or local health program
11 administrator shall hold office at the pleasure of the board.

12 (b) (1) Except as provided in paragraph (2), any ~~order~~
13 ~~recommendation~~ issued by the local health officer, including ~~orders~~
14 ~~recommendations~~ issued as a result of an executive order of the governor,
15 may be reviewed, ~~amended or revoked~~ by the board of county
16 commissioners of the county affected by such ~~order recommendation~~ at a
17 meeting of the board. ~~Any order reviewed or amended by the board shall~~
18 ~~include an expiration date set by the board and may be amended or~~
19 ~~revoked at an earlier date by a majority vote of the board.~~

20 (2) *Except as provided in sections 2 and 8, and amendments thereto,*
21 if a local health officer determines it is necessary to issue ~~an order~~
22 ~~mandating the wearing of face masks,~~ a *recommendation* limiting the size
23 of gatherings of individuals, curtailing the operation of business,
24 controlling the movement of the population of the county or limiting
25 religious gatherings, the local health officer shall propose such ~~an order~~ a
26 *recommendation* to the board of county commissioners. At the next
27 regularly scheduled meeting of the board or at a special meeting of the
28 board, the board shall review such ~~proposed order recommendation~~ and
29 may take any action related to the ~~proposed order recommendation~~ the
30 board determines is necessary. The ~~order recommendation~~ shall become
31 effective if approved by the board or, if the board is unable to meet, if
32 approved by the chairperson of the board or the vice chairperson of the
33 board in the chairperson's absence or disability.

34 (c) The board of county commissioners in any county having a
35 population of less than 15,000 may contract with the governing body of
36 any hospital located in such county for the purpose of authorizing such
37 governing body of the hospital to supply services to a county board of
38 health.

39 (d) (1) Any party aggrieved by ~~an order~~ a *recommendation* issued
40 pursuant to subsection (b)(2) may file a civil action in the district court of
41 the county in which the ~~order recommendation~~ was issued within 30 days
42 after such ~~order recommendation~~ is issued. Notwithstanding any order
43 issued pursuant to K.S.A. 2021 Supp. 20-172(a), and amendments thereto,

1 the court shall conduct a hearing within 72 hours after receipt of a petition
2 in any such action. The court shall grant the request for relief unless the
3 court finds such ~~order~~ *recommendation* is narrowly tailored to the purpose
4 stated in the ~~order~~ *recommendation* and uses the least restrictive means to
5 achieve such purpose. The court shall issue an order on such petition
6 within seven days after the hearing is conducted. If the court does not issue
7 an order on such petition within seven days, the relief requested in the
8 petition shall be granted.

9 (2) Relief under this section shall not include a stay or injunction
10 concerning the contested action that applies beyond the county in which
11 the action was taken.

12 (3) The supreme court may adopt emergency rules of procedure to
13 facilitate the efficient adjudication of any hearing requested under this
14 subsection, including, but not limited to, rules for consolidation of similar
15 hearings.

16 Sec. 23. K.S.A. 2021 Supp. 65-202 is hereby amended to read as
17 follows: 65-202. (a) (1) The local health officer in each county throughout
18 the state, immediately after such officer's appointment, shall take the same
19 oath of office prescribed by law for the county officers, shall give bond of
20 \$500 conditioned for the faithful performance of the officer's duties, shall
21 keep an accurate record of all the transactions of such office, shall turn
22 over to the successor in office or to the county or joint board of health
23 selecting such officer, on the expiration of such officer's term of office, all
24 records, documents and other articles belonging to the office and shall
25 faithfully account to *the* board of county commissioners and to the county
26 and state for all moneys coming into the office. Such officer shall notify
27 the secretary of health and environment of such officer's appointment and
28 qualification, and provide the secretary with such officer's contact
29 information.

30 (2) Such officer shall receive and distribute without delay in the
31 county all forms from the secretary of health and environment to the
32 rightful persons, all returns from persons licensed to practice medicine and
33 surgery, assessors and local boards to said secretary, shall keep an accurate
34 record of all of the transactions of such office and shall turn over all
35 records and documents kept by such officer, the successor in office, or to
36 the county or joint board electing such officer, on the expiration of the
37 term of office.

38 (3) The local health officer shall upon the opening of the fall term of
39 school, make a sanitary inspection of each school building and grounds,
40 and shall make such additional inspections as are necessary to protect the
41 public health of the students of the school.

42 (e)(b) (1) ~~Such~~ *The local health* officer shall make an investigation of
43 each case of smallpox, diphtheria, typhoid fever, scarlet fever, acute

1 anterior poliomyelitis (infantile paralysis), epidemic cerebro-spinal
2 meningitis and such other acute infectious, contagious or communicable
3 diseases as may be required, and, *except as provided in sections 2 and 8,*
4 *and amendments thereto*, shall: (A) Use all known measures to prevent the
5 spread of any such infectious, contagious or communicable disease; and
6 shall (B) perform such other duties as this act, the county or joint board,
7 board of health or the secretary of health and environment may require.

8 (2) Any ~~order~~ *recommendation* issued by the local health officer,
9 including ~~orders~~ *recommendations* issued as a result of an executive order
10 of the governor, on behalf of a county regarding the remediation of any
11 infectious, *contagious or communicable* disease may be reviewed,
12 ~~amended or revoked~~ by the board of county commissioners of any county
13 affected by such ~~order~~ *recommendation* in the manner provided by K.S.A.
14 65-201(b), and amendments thereto.

15 (c) Such officer shall receive compensation as set by the board and
16 with the approval of the board of health may employ a skilled professional
17 nurse and other additional personnel whenever deemed necessary for the
18 protection of the public health.

19 (d) For any failure or neglect of the local health officer to perform
20 any of the duties prescribed in this act, the officer may be removed from
21 office by the county board of health. In addition to removal from office,
22 for any failure or neglect to perform any of the duties prescribed by this
23 act, the local health officer shall be deemed guilty of ~~a~~ *an unclassified*
24 misdemeanor and, upon conviction, be fined not less \$10 nor more than
25 \$100 for each and every offense.

26 Sec. 24. K.S.A. 65-508 is hereby amended to read as follows: 65-508.

27 (a) Any maternity center or child care facility subject to the provisions of
28 this act shall:

29 (1) Be properly heated, plumbed, lighted and ventilated;

30 (2) have plumbing, water and sewerage systems ~~which~~ *that* conform
31 to all applicable state and local laws; and

32 (3) be operated with strict regard to the health, safety and welfare of
33 any woman or child.

34 (b) Every maternity center or child care facility shall furnish or cause
35 to be furnished for the use of each resident and employee individual towel,
36 wash cloth, comb and individual drinking cup or sanitary bubbling
37 fountain, and toothbrushes for all other than infants, and shall keep or
38 require such articles to be kept at all times in a clean and sanitary
39 condition. Every maternity center or child care facility shall comply with
40 all applicable fire codes and rules and regulations of the state fire marshal.

41 (c) (1) The secretary of health and environment with the cooperation
42 of the secretary for children and families shall develop and adopt rules and
43 regulations for the operation and maintenance of maternity centers and

1 child care facilities. The rules and regulations for operating and
2 maintaining maternity centers and child care facilities shall be designed to
3 promote the health, safety and welfare of any woman or child served in
4 such facilities by ensuring safe and adequate physical surroundings,
5 healthful food, adequate handwashing, safe storage of toxic substances and
6 hazardous chemicals, sanitary diapering and toileting, home sanitation,
7 supervision and care of the residents by capable, qualified persons of
8 sufficient number, after-hour care, an adequate program of activities and
9 services, sudden infant death syndrome and safe sleep practices training,
10 prohibition on corporal punishment, crib safety, protection from electrical
11 hazards, protection from swimming pools and other water sources, fire
12 drills, emergency plans, safety of outdoor playground surfaces, door locks,
13 safety gates and transportation and such appropriate parental participation
14 as may be feasible under the circumstances. Boarding schools are excluded
15 from requirements regarding the number of qualified persons who must
16 supervise and provide care to residents.

17 (2) Rules and regulations developed under this subsection shall
18 include provisions for the competent supervision and care of children in
19 day care facilities. For purposes of such rules and regulations, competent
20 supervision as this term relates to children less than five years of age
21 includes, but is not limited to, direction of activities, adequate oversight
22 including sight or sound monitoring, or both, physical proximity to
23 children, diapering and toileting practices; and for all children, competent
24 supervision includes, but is not limited to, planning and supervision of
25 daily activities, safe sleep practices, including, but not limited to, visual or
26 sound monitoring, periodic checking, emergency response procedures and
27 drills, illness and injury response procedures, food service preparation and
28 sanitation, playground supervision, pool and water safety practices.

29 (d) In addition to any rules and regulations adopted under this section
30 for safe sleep practices, child care facilities shall ensure that all of the
31 following requirements are met for children under 12 months of age:

32 (1) A child shall only be placed to sleep on a surface and in an area
33 that has been approved for use as such by the secretary of health and
34 environment;

35 (2) the sleep surface shall be free from soft or loose bedding,
36 including, but not limited to, blankets, bumpers and pillows; and

37 (3) the sleep surface shall be free from toys, including mobiles and
38 other types of play equipment or devices.

39 (e) Child care facilities shall ensure that children over 12 months of
40 age only be placed to sleep on a surface and in an area that has been
41 approved for use as such by the secretary of health and environment.

42 (f) The secretary of health and environment may exercise discretion
43 to make exceptions to requirements in subsections (d) and (e) where

1 special health needs exist.

2 (g) Each child cared for in a child care facility, including children of
3 the person maintaining the facility, shall be required to have current such
4 immunizations ~~as the secretary of health and environment considers~~
5 ~~necessary as specified in subsection (h)~~. The person maintaining a child
6 care facility shall maintain a record of each child's immunizations and
7 shall provide to the secretary of health and environment such information
8 relating thereto, in accordance with rules and regulations of the secretary,
9 but the person maintaining a child care facility shall not have such person's
10 license revoked solely for the failure to have or to maintain the
11 immunization records required by this subsection.

12 (h) *Except as provided in subsections (i) and (j), the following*
13 *immunizations are required for each child cared for in a child care facility*
14 *pursuant to subsection (g):*

- 15 (1) *Diphtheria;*
- 16 (2) *hepatitis A;*
- 17 (3) *hepatitis B;*
- 18 (4) *measles (rubeola);*
- 19 (5) *meningitis;*
- 20 (6) *mumps;*
- 21 (7) *pertussis (whooping cough);*
- 22 (8) *poliomyelitis;*
- 23 (9) *rubella (German measles);*
- 24 (10) *tetanus; and*
- 25 (11) *varicella (chicken pox).*

26 (i) *The secretary may deem any immunization specified in subsection*
27 *(h) as no longer required if the secretary determines that such*
28 *immunization is not necessary or is unsafe.*

29 (j) The immunization requirement of subsection (g) shall not apply if
30 one of the following is obtained:

31 (1) Certification from a licensed physician stating that the physical
32 condition of the child is such that immunization would endanger the child's
33 life or health; or

34 (2) a written statement signed by a parent or guardian that the
35 *requirement would violate sincerely held religious beliefs of the parent or*
36 *guardian* ~~is an adherent of a religious denomination whose teachings are~~
37 ~~opposed to immunizations.~~

38 (k) *The person maintaining a child care facility shall grant an*
39 *exemption requested in accordance with subsection (j) based on sincerely*
40 *held religious beliefs without inquiring into the sincerity of the request.*

41 (l) *As used in this section, "religious beliefs" includes, but is not*
42 *limited to, theistic and non-theistic moral and ethical beliefs as to what is*
43 *right and wrong that are sincerely held with the strength of traditional*

1 *religious views.*

2 Sec. 25. K.S.A. 2021 Supp. 65-1120 is hereby amended to read as
3 follows: 65-1120. (a) *Grounds for disciplinary actions.* The board may
4 deny, revoke, limit or suspend any license or authorization to practice
5 nursing as a registered professional nurse, as a licensed practical nurse, as
6 an advanced practice registered nurse or as a registered nurse anesthetist
7 that is issued by the board or applied for under this act, or may require the
8 licensee to attend a specific number of hours of continuing education in
9 addition to any hours the licensee may already be required to attend or
10 may publicly or privately censure a licensee or holder of a temporary
11 permit or authorization, if the applicant, licensee or holder of a temporary
12 permit or authorization is found after hearing:

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

15 (2) to have been guilty of a felony or to have been guilty of a
16 misdemeanor involving an illegal drug offense unless the applicant or
17 licensee establishes sufficient rehabilitation to warrant the public trust,
18 except that notwithstanding K.S.A. 74-120, and amendments thereto, no
19 license or authorization to practice nursing as a licensed professional
20 nurse, as a licensed practical nurse, as an advanced practice registered
21 nurse or registered nurse anesthetist shall be granted to a person with a
22 felony conviction for a crime against persons as specified in article 34 of
23 chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article
24 54 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2021 Supp.
25 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

26 (3) ~~has to have~~ been convicted or found guilty or has entered into an
27 agreed disposition of a misdemeanor offense related to the practice of
28 nursing as determined on a case-by-case basis;

29 (4) to have committed an act of professional incompetency as defined
30 in subsection (e);

31 (5) to be unable to practice with skill and safety due to current abuse
32 of drugs or alcohol;

33 (6) to be a person who has been adjudged in need of a guardian or
34 conservator, or both, under the act for obtaining a guardian or conservator,
35 or both, and who has not been restored to capacity under that act;

36 (7) to be guilty of unprofessional conduct as defined by rules and
37 regulations of the board;

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

41 (9) to have a license to practice nursing as a registered nurse or as a
42 practical nurse denied, revoked, limited or suspended, or to be publicly or
43 privately censured, by a licensing authority of another state, agency of the

1 United States government, territory of the United States or country or to
2 have other disciplinary action taken against the applicant or licensee by a
3 licensing authority of another state, agency of the United States
4 government, territory of the United States or country. A certified copy of
5 the record or order of public or private censure, denial, suspension,
6 limitation, revocation or other disciplinary action of the licensing authority
7 of another state, agency of the United States government, territory of the
8 United States or country shall constitute prima facie evidence of such a
9 fact for purposes of this paragraph ~~(9)~~; ~~or~~

10 (10) to have assisted suicide in violation of K.S.A. 21-3406, prior to
11 its repeal, or K.S.A. 2021 Supp. 21-5407, and amendments thereto, as
12 established by any of the following:

13 (A) A copy of the record of criminal conviction or plea of guilty for a
14 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2021
15 Supp. 21-5407, and amendments thereto;

16 (B) a copy of the record of a judgment of contempt of court for
17 violating an injunction issued under K.S.A. 2021 Supp. 60-4404, and
18 amendments thereto; *or*

19 (C) a copy of the record of a judgment assessing damages under
20 K.S.A. 2021 Supp. 60-4405, and amendments thereto; *or*

21 *(11) to have declined to render healthcare services or otherwise*
22 *discriminated in rendering healthcare services to a person in violation of*
23 *section 4, and amendments thereto.*

24 (b) *Proceedings.* Upon filing of a sworn complaint with the board
25 charging a person with having been guilty of any of the unlawful practices
26 specified in subsection (a), two or more members of the board shall
27 investigate the charges, or the board may designate and authorize an
28 employee or employees of the board to conduct an investigation. After
29 investigation, the board may institute charges. If an investigation, in the
30 opinion of the board, reveals reasonable grounds for believing the
31 applicant or licensee is guilty of the charges, the board shall fix a time and
32 place for proceedings, which shall be conducted in accordance with the
33 provisions of the Kansas administrative procedure act.

34 (c) *Witnesses.* No person shall be excused from testifying in any
35 proceedings before the board under this act or in any civil proceedings
36 under this act before a court of competent jurisdiction on the ground that
37 such testimony may incriminate the person testifying, but such testimony
38 shall not be used against the person for the prosecution of any crime under
39 the laws of this state except the crime of perjury as defined in K.S.A. 2021
40 Supp. 21-5903, and amendments thereto.

41 (d) *Costs.* If final agency action of the board in a proceeding under
42 this section is adverse to the applicant or licensee, the costs of the board's
43 proceedings shall be charged to the applicant or licensee as in ordinary

1 civil actions in the district court, but if the board is the unsuccessful party,
2 the costs shall be paid by the board. Witness fees and costs may be taxed
3 by the board according to the statutes relating to procedure in the district
4 court. All costs accrued by the board, when it is the successful party, and
5 which the attorney general certifies cannot be collected from the applicant
6 or licensee shall be paid from the board of nursing fee fund. All moneys
7 collected following board proceedings shall be credited in full to the board
8 of nursing fee fund.

9 (e) *Professional incompetency defined.* As used in this section,
10 "professional incompetency" means:

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

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

17 (3) a pattern of practice or other behavior which demonstrates a
18 manifest incapacity or incompetence to practice nursing.

19 (f) *Criminal justice information.* The board upon request shall receive
20 from the Kansas bureau of investigation such criminal history record
21 information relating to arrests and criminal convictions as necessary for
22 the purpose of determining initial and continuing qualifications of
23 licensees of and applicants for licensure by the board.

24 Sec. 26. K.S.A. 65-1637 is hereby amended to read as follows: 65-
25 1637. (a) The pharmacist shall exercise professional judgment regarding
26 the accuracy, validity and authenticity of any prescription order consistent
27 with federal and state laws and rules and regulations. Except as provided
28 in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be
29 provided by law, a pharmacist shall not dispense a prescription drug if the
30 pharmacist, in the exercise of professional judgment, determines that the
31 prescription is not a valid prescription order.

32 (b) The prescriber may authorize an agent to transmit to the pharmacy
33 a prescription order orally, by facsimile transmission or by electronic
34 transmission, provided that the first and last names of the transmitting
35 agent are included in the order.

36 (c) (1) A new written or electronically prepared and transmitted
37 prescription order shall be manually or electronically signed by the
38 prescriber. If transmitted by the prescriber's agent, the first and last names
39 of the transmitting agent shall be included in the order.

40 (2) If the prescription is for a controlled substance and is written or
41 printed from an electronic prescription application, the prescription shall
42 be manually signed by the prescriber prior to delivery of the prescription
43 to the patient or prior to facsimile transmission of the prescription to the

1 pharmacy.

2 (3) An electronically prepared prescription shall not be electronically
3 transmitted to the pharmacy if the prescription has been printed prior to
4 electronic transmission. An electronically prepared and transmitted
5 prescription that is printed following electronic transmission shall be
6 clearly labeled as a copy, not valid for dispensing.

7 (4) The board is hereby authorized to conduct pilot projects related to
8 any new technology implementation when deemed necessary and
9 practicable, except that no state moneys shall be expended for such
10 purpose.

11 (d) An authorization to refill a prescription order or to renew or
12 continue an existing drug therapy may be transmitted to a pharmacist
13 through oral communication, in writing, by facsimile transmission or by
14 electronic transmission initiated by or directed by the prescriber.

15 (1) If the transmission is completed by the prescriber's agent, and the
16 first and last names of the transmitting agent are included in the order, the
17 prescriber's signature is not required on the fax or alternate electronic
18 transmission.

19 (2) If the refill order or renewal order differs in any manner from the
20 original order, such as a change of the drug strength, dosage form or
21 directions for use, the prescriber shall sign the order as provided by
22 subsection (c)(1).

23 (e) Regardless of the means of transmission to a pharmacy, only a
24 pharmacist or a pharmacist intern shall be authorized to receive a new
25 prescription order from a prescriber or transmitting agent. A pharmacist, a
26 pharmacist intern or a registered pharmacy technician may receive a refill
27 or renewal order from a prescriber or transmitting agent if such registered
28 pharmacy technician's supervising pharmacist has authorized that function.

29 (f) (1) A refill is one or more dispensings of a prescription drug or
30 device that results in the patient's receipt of the quantity authorized by the
31 prescriber for a single fill as indicated on the prescription order.

32 (2) A prescription for a schedule III, IV or V controlled substance
33 may authorize no more than five refills within six months following the
34 date on which the prescription is issued.

35 (g) All prescriptions shall be filled or refilled in strict conformity with
36 any directions of the prescriber, except that:

37 (1) A pharmacist who receives a prescription order for a brand name
38 drug product, excluding a biological product, may exercise brand
39 exchange with a view toward achieving a lesser cost to the purchaser
40 unless:

41 (A) The prescriber, in the case of a prescription electronically signed
42 by the prescriber, includes the statement "dispense as written" on the
43 prescription;

1 (B) the prescriber, in the case of a written prescription signed by the
2 prescriber, writes in the prescriber's own handwriting "dispense as written"
3 on the prescription;

4 (C) the prescriber, in the case of a prescription other than one in
5 writing signed by the prescriber, expressly indicates the prescription is to
6 be dispensed as communicated; or

7 (D) the federal food and drug administration has determined that a
8 drug product of the same generic name is not bioequivalent to the
9 prescribed brand name prescription medication;

10 (2) a pharmacist may provide up to a three-month supply of a
11 prescription drug that is not a controlled substance or psychotherapeutic
12 drug when a practitioner has written a drug order to be filled with a
13 smaller supply but included sufficient numbers of refills for a three-month
14 supply; or

15 (3) a pharmacist who receives a prescription order for a biological
16 product may exercise brand exchange with a view toward achieving a
17 lesser cost to the purchaser unless:

18 (A) The prescriber, in the case of a prescription signed by a prescriber
19 and written on a blank form containing two signature lines, signs the
20 signature line following the statement "dispense as written";

21 (B) the prescriber, in the case of a prescription signed by the
22 prescriber, writes in the prescriber's own handwriting "dispense as written"
23 on the prescription;

24 (C) the prescriber, in the case of a prescription other than the one in
25 writing signed by the prescriber, expressly indicates the prescription is to
26 be dispensed as communicated; or

27 (D) the biological product is not an interchangeable biological
28 product for the prescribed biological product.

29 (h) A pharmacist who selects an interchangeable biological product
30 shall inform the patient or the patient's representative that an
31 interchangeable biological product has been substituted for the prescribed
32 biological product.

33 (i) If a prescription order contains a statement that during any
34 particular time the prescription may be refilled at will, there shall be no
35 limitation as to the number of times that such prescription may be refilled,
36 except that it may not be refilled after the expiration of the time specified
37 or one year after the prescription was originally issued, whichever occurs
38 first.

39 (j) Prescription orders shall be recorded in writing by the pharmacist
40 and the record so made by the pharmacist shall constitute the original
41 prescription to be dispensed by the pharmacist. This record, if telephoned
42 by other than the prescriber, shall bear the full name of the person so
43 telephoning. Nothing in this section shall be construed as altering or

1 affecting in any way laws of this state or any federal act requiring a written
2 prescription order.

3 (k) (1) Except as provided in paragraph (2), no prescription shall be
4 refilled unless authorized by the prescriber either in the original
5 prescription or by oral order that is reduced promptly to writing and filled
6 by the pharmacist.

7 (2) A pharmacist may refill a prescription order issued on or after the
8 effective date of this act for any prescription drug, except a drug listed on
9 schedule II of the uniform controlled substances act or a narcotic drug
10 listed on any schedule of the uniform controlled substances act, without
11 the prescriber's authorization when all reasonable efforts to contact the
12 prescriber have failed and when, in the pharmacist's professional
13 judgment, continuation of the medication is necessary for the patient's
14 health, safety and welfare. Such prescription refill shall only be in an
15 amount judged by the pharmacist to be sufficient to maintain the patient
16 until the prescriber can be contacted, but in no event shall a refill under
17 this paragraph be more than a seven-day supply or one package of the
18 drug. However, if the prescriber states on a prescription that there shall be
19 no emergency refilling of that prescription, then the pharmacist shall not
20 dispense any emergency medication pursuant to that prescription. A
21 pharmacist who refills a prescription order under this paragraph shall
22 contact the prescriber of the prescription order on the next business day
23 subsequent to the refill or as soon thereafter as possible. No pharmacist
24 shall be required to refill any prescription order under this paragraph. A
25 prescriber shall not be subject to liability for any damages resulting from
26 the refilling of a prescription order by a pharmacist under this paragraph
27 unless such damages are occasioned by the gross negligence or willful or
28 wanton acts or omissions by the prescriber.

29 (l) If any prescription order contains a provision that the prescription
30 may be refilled a specific number of times within or during any particular
31 period, such prescription shall not be refilled except in strict conformity
32 with such requirements.

33 (m) Any pharmacist who exercises brand exchange and dispenses a
34 less expensive drug product shall not charge the purchaser more than the
35 regular and customary retail price for the dispensed drug.

36 ~~(n) Except as provided in K.S.A. 65-1635(e), and amendments~~
37 ~~thereto, and as may otherwise be provided by law, nothing contained in~~
38 ~~this section shall be construed as preventing a pharmacist from refusing to~~
39 ~~fill or refill any prescription if, in the pharmacist's professional judgment~~
40 ~~and discretion, such pharmacist is of the opinion that it should not be filled~~
41 ~~or refilled.~~

42 (o) Within five business days following the dispensing of a biological
43 product, the dispensing pharmacist or the pharmacist's designee shall make

1 an entry of the specific product provided to the patient, including the name
2 of the product and the manufacturer. The communication shall be
3 conveyed by making an entry that is electronically accessible to the
4 prescriber through:

- 5 (1) An inter-operable electronic medical records system;
- 6 (2) an electronic prescribing technology;
- 7 (3) a pharmacy benefits management system; or
- 8 (4) a pharmacy record.

9 ~~(p)~~(o) Entry into an electronic records system as described in
10 subsection ~~(p)~~ (n) shall be presumed to provide notice to the prescriber.
11 Otherwise, the pharmacist shall communicate the biological product
12 dispensed to the prescriber using facsimile, telephone, electronic
13 transmission or other prevailing means, provided that communication shall
14 not be required where:

- 15 (1) There is no FDA-approved interchangeable biological product for
16 the product prescribed; or
- 17 (2) a refill prescription is not changed from the product dispensed on
18 the prior filling of the prescription.

19 ~~(q)~~(p) A pharmacist shall maintain a record of any biological product
20 dispensed for at least five years.

21 ~~(q)~~(q) The board shall maintain a link on its website to the current
22 lists of all biological products that the FDA has determined to be
23 interchangeable biological products.

24 Sec. 27. K.S.A. 2021 Supp. 65-2836 is hereby amended to read as
25 follows: 65-2836. A licensee's license may be revoked, suspended or
26 limited, or the licensee may be publicly censured or placed under
27 probationary conditions, or an application for a license or for reinstatement
28 of a license may be denied upon a finding of the existence of any of the
29 following grounds:

30 (a) The licensee has committed fraud or misrepresentation in
31 applying for or securing an original, renewal or reinstated license.

32 (b) The licensee has committed an act of unprofessional or
33 dishonorable conduct or professional incompetency, except that the board
34 may take appropriate disciplinary action or enter into a non-disciplinary
35 resolution when a licensee has engaged in any conduct or professional
36 practice on a single occasion that, if continued, would reasonably be
37 expected to constitute an inability to practice the healing arts with
38 reasonable skill and safety to patients or unprofessional conduct as defined
39 in K.S.A. 65-2837, and amendments thereto.

40 (c) The licensee has been convicted of a felony or class A
41 misdemeanor, or substantially similar offense in another jurisdiction,
42 whether or not related to the practice of the healing arts, or the licensee has
43 been convicted in a special or general court-martial, whether or not related

1 to the practice of the healing arts. The board shall revoke a licensee's
2 license following conviction of a felony or substantially similar offense in
3 another jurisdiction, or following conviction in a general court-martial
4 occurring after July 1, 2000, unless a $\frac{2}{3}$ majority of the board members
5 present and voting determine by clear and convincing evidence that such
6 licensee will not pose a threat to the public in such person's capacity as a
7 licensee and that such person has been sufficiently rehabilitated to warrant
8 the public trust. In the case of a person who has been convicted of a felony
9 or convicted in a general court-martial and who applies for an original
10 license or to reinstate a canceled license, the application for a license shall
11 be denied unless a $\frac{2}{3}$ majority of the board members present and voting on
12 such application determine by clear and convincing evidence that such
13 person will not pose a threat to the public in such person's capacity as a
14 licensee and that such person has been sufficiently rehabilitated to warrant
15 the public trust.

16 (d) The licensee has used fraudulent or false advertisements.

17 (e) The licensee is addicted to or has distributed intoxicating liquors
18 or drugs for any other than lawful purposes.

19 (f) The licensee has willfully or repeatedly violated this act, the
20 pharmacy act of the state of Kansas or the uniform controlled substances
21 act, or any rules and regulations adopted pursuant thereto, or any rules and
22 regulations of the secretary of health and environment that are relevant to
23 the practice of the healing arts.

24 (g) The licensee has unlawfully invaded the field of practice of any
25 branch of the healing arts in which the licensee is not licensed to practice.

26 (h) The licensee has engaged in the practice of the healing arts under
27 a false or assumed name, or the impersonation of another practitioner. The
28 provisions of this subsection relating to an assumed name shall not apply
29 to licensees practicing under a professional corporation, under a business
30 entity that holds a certificate of authorization pursuant to K.S.A. 2021
31 Supp. 65-28,134, and amendments thereto, or under any other legal entity
32 duly authorized to provide such professional services in the state of
33 Kansas.

34 (i) The licensee's ability to practice the healing arts with reasonable
35 skill and safety to patients is impaired by reason of physical or mental
36 illness, or condition or use of alcohol, drugs or controlled substances. All
37 information, reports, findings and other records relating to impairment
38 shall be confidential and not subject to discovery by or release to any
39 person or entity outside of a board proceeding.

40 (j) The licensee has had a license to practice the healing arts revoked,
41 suspended or limited, has been censured or has had other disciplinary
42 action taken, or an application for a license denied, by the proper licensing
43 authority of another state, territory, District of Columbia, or other country.

1 (k) The licensee has violated any lawful rule and regulation
2 promulgated by the board or violated any lawful order or directive of the
3 board previously entered by the board.

4 (l) The licensee has failed to report or reveal the knowledge required
5 to be reported or revealed under K.S.A. 65-28,122, and amendments
6 thereto.

7 (m) The licensee, if licensed to practice medicine and surgery, has
8 failed to inform in writing a patient suffering from any form of
9 abnormality of the breast tissue for which surgery is a recommended form
10 of treatment, of alternative methods of treatment recognized by licensees
11 of the same profession in the same or similar communities as being
12 acceptable under like conditions and circumstances.

13 (n) The licensee has cheated on or attempted to subvert the validity of
14 the examination for a license.

15 (o) The licensee has been found to be mentally ill, disabled, not guilty
16 by reason of insanity, not guilty because the licensee suffers from a mental
17 disease or defect or incompetent to stand trial by a court of competent
18 jurisdiction.

19 (p) The licensee has prescribed, sold, administered, distributed or
20 given a controlled substance to any person for other than medically
21 accepted or lawful purposes.

22 (q) The licensee has violated a federal law or regulation relating to
23 controlled substances.

24 (r) The licensee has failed to furnish the board, or its investigators or
25 representatives, any information legally requested by the board.

26 (s) Sanctions or disciplinary actions have been taken against the
27 licensee by a peer review committee, healthcare facility, a governmental
28 agency or department or a professional association or society for acts or
29 conduct similar to acts or conduct that would constitute grounds for
30 disciplinary action under this section.

31 (t) The licensee has failed to report to the board any adverse action
32 taken against the licensee by another state or licensing jurisdiction, a peer
33 review body, a healthcare facility, a professional association or society, a
34 governmental agency, by a law enforcement agency or a court for acts or
35 conduct similar to acts or conduct that would constitute grounds for
36 disciplinary action under this section.

37 (u) The licensee has surrendered a license or authorization to practice
38 the healing arts in another state or jurisdiction, has surrendered the
39 authority to utilize controlled substances issued by any state or federal
40 agency, has agreed to a limitation to or restriction of privileges at any
41 medical care facility or has surrendered the licensee's membership on any
42 professional staff or in any professional association or society while under
43 investigation for acts or conduct similar to acts or conduct that would

1 constitute grounds for disciplinary action under this section.

2 (v) The licensee has failed to report to the board surrender of the
3 licensee's license or authorization to practice the healing arts in another
4 state or jurisdiction or surrender of the licensee's membership on any
5 professional staff or in any professional association or society while under
6 investigation for acts or conduct similar to acts or conduct that would
7 constitute grounds for disciplinary action under this section.

8 (w) The licensee has an adverse judgment, award or settlement
9 against the licensee resulting from a medical liability claim related to acts
10 or conduct similar to acts or conduct that would constitute grounds for
11 disciplinary action under this section.

12 (x) The licensee has failed to report to the board any adverse
13 judgment, settlement or award against the licensee resulting from a
14 medical malpractice liability claim related to acts or conduct similar to acts
15 or conduct that would constitute grounds for disciplinary action under this
16 section.

17 (y) The licensee has failed to maintain a policy of professional
18 liability insurance as required by K.S.A. 40-3402 or 40-3403a, and
19 amendments thereto.

20 (z) The licensee has failed to pay the premium surcharges as required
21 by K.S.A. 40-3404, and amendments thereto.

22 (aa) The licensee has knowingly submitted any misleading, deceptive,
23 untrue or fraudulent representation on a claim form, bill or statement.

24 (bb) The licensee as the supervising physician for a physician
25 assistant has failed to adequately direct and supervise the physician
26 assistant in accordance with the physician assistant licensure act or rules
27 and regulations adopted under such act.

28 (cc) The licensee has assisted suicide in violation of K.S.A. 21-3406,
29 prior to its repeal, or K.S.A. 2021 Supp. 21-5407, and amendments
30 thereto, as established by any of the following:

31 (1) A copy of the record of criminal conviction or plea of guilty for a
32 felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2021
33 Supp. 21-5407, and amendments thereto.

34 (2) A copy of the record of a judgment of contempt of court for
35 violating an injunction issued under K.S.A. 60-4404, and amendments
36 thereto.

37 (3) A copy of the record of a judgment assessing damages under
38 K.S.A. 60-4405, and amendments thereto.

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

41 (ee) The licensee has knowingly or negligently abandoned medical
42 records.

43 (ff) *The licensee has declined to render healthcare services or*

1 otherwise discriminated in rendering healthcare services to a person in
 2 violation of section 4, and amendments thereto.

3 Sec. 28. K.S.A. 72-6262 is hereby amended to read as follows: 72-
 4 6262. (a) In each school year, every ~~pupil~~ *student* enrolling or enrolled in
 5 any school for the first time in this state, and each child enrolling or
 6 enrolled for the first time in a preschool or day care program operated by a
 7 school, and such other ~~pupils~~ *students* as may be designated by the
 8 secretary, prior to admission to and attendance at school, shall present to
 9 the appropriate school board certification from a physician or local health
 10 department that the ~~pupil~~ *student* has received such tests *deemed necessary*
 11 *by the secretary by such means as are approved by the secretary*, and
 12 ~~inoculations such immunizations as are deemed necessary by the secretary~~
 13 ~~by such means as are approved by the secretary specified in subsection (b).~~

14 ~~Pupils~~ *Students* who have not completed the required ~~inoculations~~
 15 *immunizations* may enroll or remain enrolled while completing the
 16 required ~~inoculations~~ *immunizations* if a physician or local health
 17 department certifies that the ~~pupil~~ *student* has received the most recent,
 18 appropriate ~~inoculations~~ *immunizations* in all required series. Failure to
 19 timely complete all required series shall be deemed non-compliance.

20 (b) *Except as provided in subsections (c) and (d), the following*
 21 *immunizations are required for school attendance pursuant to subsection*
 22 *(a):*

- 23 (1) *Diphtheria;*
- 24 (2) *hepatitis A;*
- 25 (3) *hepatitis B;*
- 26 (4) *measles (rubeola);*
- 27 (5) *meningitis;*
- 28 (6) *mumps;*
- 29 (7) *pertussis (whooping cough);*
- 30 (8) *poliomyelitis;*
- 31 (9) *rubella (German measles);*
- 32 (10) *tetanus; and*
- 33 (11) *varicella (chicken pox).*

34 (c) *The secretary may deem any immunization specified in subsection*
 35 *(b) as no longer required for school attendance if the secretary determines*
 36 *that such immunization is not necessary for school attendance or is*
 37 *unsafe.*

38 (d) As an alternative to the certification required under subsection (a),
 39 a ~~pupil~~ *student* shall present:

- 40 (1) An annual written statement signed by a licensed physician stating
 41 the physical condition of the child to be such that the tests or ~~inoculations~~
 42 *immunizations* would ~~seriously~~ endanger the life or health of the child; or
- 43 (2) a written statement signed by one parent or guardian that the

1 ~~requirement would violate sincerely held religious beliefs of the child is an~~
2 ~~adherent of a religious denomination whose religious teachings are~~
3 ~~opposed to such tests or inoculations.~~

4 (e) *The board of education of a school district shall grant an*
5 *exemption requested in accordance with subsection (d) based on sincerely*
6 *held religious beliefs without inquiring into the sincerity of the request.*

7 (e)(f) On or before May 15 of each school year, the school board of
8 every school affected by this act shall notify the parents or guardians of all
9 known ~~pupils~~ *students* who are enrolled or who will be enrolling in the
10 school of the provisions this act and any policy regarding the
11 implementation of the provisions of this act adopted by the school board.

12 (d)(g) If a ~~pupil~~ *student* transfers from one school to another, the
13 school from which the ~~pupil~~ *student* transfers shall forward with the ~~pupil's~~
14 *student's* transcript the certification or statement showing evidence of
15 compliance with the requirements of this act to the school to which the
16 ~~pupil~~ *student* transfers.

17 (h) *As used in this section, "religious beliefs" includes, but is not*
18 *limited to, theistic and non-theistic moral and ethical beliefs as to what is*
19 *right and wrong that are sincerely held with the strength of traditional*
20 *religious views.*

21 Sec. 29. K.S.A. 38-2269, 44-706, 44-1002, 44-1009, 65-129, 65-
22 129b, 65-129c, 65-129d, 65-508, 65-1637 and 72-6262 and K.S.A. 2021
23 Supp. 21-5424, 23-3201, 48-925, 65-101, 65-201, 65-202, 65-1120 and
24 65-2836 are hereby repealed.

25 Sec. 30. This act shall take effect and be in force from and after its
26 publication in the Kansas register.