

Rationale for Suggested Changes

Page 1

The advance practice language needs to be moved to 65-1130. Some of the wording could limit RN/LPN practice.

Page 2

Lines 1-17 – Move to 65-1130.

Lines 15-17 and 34-36 Repetitious

Definitions of patient, primary care, consultation, treatment and collaborative relationship language are not needed. These are understood definitions. If used, move to 65-1130. If “Treatment” is used use the same language as at the top of the page for “initiating of a therapeutic regimen” (executing a health care plan).

Why is this needed?

Page 3

Lines 1-8 – Not needed. If used, move to 65-1130

Lines 31-33 – Limits the board’s authority. The board already has the authority so delete the language.

Page 4

Lines 13-17 – Case Law the board cannot delegate authority to another entity. The board is unable to look at every one of these certifications. This would be too labor intensive.

Lines 24-28 – Better language to define the role of the board. Look at other state language.

Line 41 – Add “as prescribed by the rules and regs of the board”

Page 5

Lines 18-31 – Address time frame. Board does not support current language of “1200 hours or one year, whichever is less”

Line 22 – Add and written protocol after collaborative relationship

Lines 31-35 – Do not need.

Warning on Lines 39-43 –Medical Society will probably have issues with. Board has no problem with the language.

Page 6

Lines 1-5 – The board does not want this liability. Norm will have statutory language on this.

Line 13 – Change word registration to licensure

Lines 28-33 – Add language to address those in transition to practice as related to prescribing drugs.

Page 12

Lines 11-18 – Address person in transition to practice as related to prescribing drugs.

HOUSE BILL No. 2251

By Committee on Health and Human Services

2-6

1 AN ACT concerning advanced practice registered nurses; amending
2 K.S.A. 2012 Supp. 65-468, 65-1113, 65-1130 and 65-1626 and
3 repealing the existing sections.
4

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

6 Section 1. K.S.A. 2012 Supp. 65-1113 is hereby amended to read as
7 follows: 65-1113. When used in this act and the act of which this section is
8 amendatory:

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

10 (b) "Diagnosis" in the context of nursing practice means that
11 identification of and discrimination between physical and psychosocial
12 signs and symptoms essential to effective execution and management of
13 the nursing regimen and shall be construed, *with the exception of an*
14 *advanced practice registered nurse*, as distinct from a medical diagnosis.

15 (c) "Treatment" means the selection and performance of those
16 therapeutic measures essential to effective execution and management of
17 the nursing regimen, and any prescribed medical regimen.

18 (d) *Practice of nursing.* (1) The practice of professional nursing as
19 performed by a registered professional nurse for compensation or
20 gratuitously, except as permitted by K.S.A. 65-1124, and amendments
21 thereto, means the process in which substantial specialized knowledge
22 derived from the biological, physical, and behavioral sciences is applied
23 to: the care, diagnosis, treatment, counsel and health teaching of persons
24 who are experiencing changes in the normal health processes or who
25 require assistance in the maintenance of health or the prevention or
26 management of illness, injury or infirmity; administration, supervision or
27 teaching of the process as defined in this section; and the execution of the
28 medical regimen as prescribed by a person licensed to practice medicine
29 and surgery ~~or~~, a person licensed to practice dentistry *or by a person*
30 *licensed to practice as an advanced practice registered nurse.* (2) The
31 practice of nursing as a licensed practical nurse means the performance for
32 compensation or gratuitously, except as permitted by K.S.A. 65-1124, and
33 any amendments thereto, of tasks and responsibilities defined in part (1) of
34 this subsection (d) which tasks and responsibilities are based on acceptable
35 educational preparation within the framework of supportive and restorative
36 care under the direction of a registered professional nurse, a person

Place Advance
practice language
to 65-1130

1 licensed to practice medicine and surgery or, a person licensed to practice
 2 dentistry or by a person licensed to practice as an advanced practice
 3 registered nurse. (3) The practice of nursing as an advanced practice
 4 registered nurse means the performance for compensation or gratuitously,
 5 except as permitted by K.S.A. 65-1124, and amendments thereto, the
 6 process in which advanced knowledge derived from the biological,
 7 physical and behavioral sciences is applied to direct and indirect care,
 8 including creating, diagnosing, managing, treating, prescribing and
 9 executing a health care plan; administering pharmacologic and non-
 10 pharmacologic interventions; counseling and health teaching of persons
 11 who are experiencing changes in the normal health processes or who
 12 require assistance in the maintenance of health; or the prevention or
 13 management of illness, injury or infirmity; administration, supervising or
 14 teaching of the process as defined in this section and within the advanced
 15 practice registered nurse's role. Within the role of the advanced practice
 16 registered nurse, the advanced practice registered nurse may serve as a
 17 primary care provider of a health care team.

18 (e) A "professional nurse" means a person who is licensed to practice
 19 professional nursing as defined in part (1) of subsection (d) of this section.

20 (f) A "practical nurse" means a person who is licensed to practice
 21 practical nursing as defined in part (2) of subsection (d) of this section.

22 (g) "Advanced practice registered nurse" or "APRN" means a
 23 professional nurse who holds a license from the board to function as a
 24 professional nurse in an advanced role, and this advanced role shall be
 25 defined by rules and regulations adopted by the board in accordance with
 26 K.S.A. 65-1130, and amendments thereto.

27 (h) "Patient" means, when used in conjunction with the practice of an
 28 advanced practice registered nurse, a recipient of care, which may be an
 29 individual, family, group or community.

30 (i) "Primary care" means the provision of integrated, accessible
 31 health care services by health care providers who are accountable for
 32 addressing a majority of personal health care needs, developing a
 33 sustained partnership with patients and practicing in the context of family
 34 and community. Within the role of the advanced practice registered nurse,
 35 the advanced practice registered nurse may serve as a primary care
 36 provider and lead health care teams.

37 (j) "Consultation" means, when used in conjunction with the practice
 38 of an advanced practice registered nurse, the discussion with another
 39 health care professional for the purpose of obtaining information, advice
 40 or direction in order to provide enhanced health care.

41 (k) "Treatment" means, when used in conjunction with the practice of
 42 an advanced practice registered nurse, the planning, diagnosing, ordering
 43 and initiating of a therapeutic regimen; including, but not limited to,

65-1130

Repetitions of 15-17

Don't need -
If used to
65-1130

Why do
we need?

use same language
executing the health care plan
(a)

1 pharmacologic and non-pharmacologic interventions. This also includes
2 prescribing medical devices and equipment, nutrition, diagnostic and
3 supportive services including, but not limited to, home health care,
4 hospice, physical and occupational therapy.

5 (l) "Collaborative relationship" means the cooperative working
6 relationship of an advanced practice registered nurse with another
7 licensed health care professional in the planning and provision of health
8 care, each responsible for their particular area of expertise.

9 Sec. 2. K.S.A. 2012 Supp. 65-1130 is hereby amended to read as
10 follows: 65-1130. (a) No professional nurse shall announce or represent to
11 the public that such person is an advanced practice registered nurse unless
12 such professional nurse has complied with requirements established by the
13 board and holds a valid license as an advanced practice registered nurse in
14 accordance with the provisions of this section.

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

22 (c) The board shall adopt rules and regulations applicable to advanced
23 practice registered nurses which:

24 (1) Establish roles and identify titles and abbreviations of advanced
25 practice registered nurses which are consistent with *advanced* nursing
26 practice specialties recognized by the nursing profession.

27 (2) Establish education and qualifications necessary for licensure for
28 each role of advanced practice registered nurse established by the board at
29 a level adequate to assure the competent performance by advanced
30 practice registered nurses of functions and procedures which advanced
31 practice registered nurses are authorized to perform including, but not
32 limited to, pharmacology education requirements as may be necessary to
33 protect the public health and safety. Advanced practice registered nursing
34 is based on knowledge and skills acquired in basic nursing education,
35 licensure as a registered nurse and graduation from or completion of a
36 master's or higher degree in one of the advanced practice registered nurse
37 roles approved by the board of nursing.

38 (3) Define the role of advanced practice registered nurses and
39 establish limitations and restrictions on such role. The board shall adopt a
40 definition of the role under this subsection (c)(3) which is consistent with
41 the education and qualifications required to obtain a license as an
42 advanced practice registered nurse, which protects the public from persons
43 performing functions and procedures as advanced practice registered

As before,
if needed to
65-1130

Limits board's authority
Board already has the authority
so leave this out.

1 nurses for which they lack adequate education and qualifications and
 2 which authorizes advanced practice registered nurses to perform acts
 3 generally recognized by the profession of nursing as capable of being
 4 performed, in a manner consistent with the public health and safety, by
 5 persons with postbasic education in nursing. In defining such role the
 6 board shall consider: (A) The education required for a licensure as an
 7 advanced practice registered nurse; (B) the type of nursing practice and
 8 preparation in specialized advanced practice skills involved in each role of
 9 advanced practice registered nurse established by the board; (C) the scope
 10 and limitations of advanced practice nursing prescribed by national
 11 advanced practice organizations; and (D) acts recognized by the nursing
 12 profession as appropriate to be performed by persons with postbasic
 13 education in nursing; and (E) the certifying standards established by a
 14 national organization whose certifying standards are approved by the
 15 board as equal to or greater than the corresponding standards established
 16 under this act for obtaining authorization to practice as an advanced
 17 practice registered nurse in the specific role.

National Certification

Case law -
 Cannot delegate authority to
 another entity
 Board is unable to look
 @ everyone - too labor
 intensive

18 (d) ~~An advanced practice registered nurse may prescribe drugs~~
 19 ~~pursuant to a written protocol as authorized by a responsible physician.~~
 20 ~~Each written protocol shall contain a precise and detailed medical plan of~~
 21 ~~care for each classification of disease or injury for which the advanced~~
 22 ~~practice registered nurse is authorized to prescribe and shall specify all~~
 23 ~~drugs which may be prescribed by the advanced practice registered nurse.~~
 24 *The board of nursing shall authorize prescribing and ordering authority*
 25 *through the advanced practice registered nurse license. Advanced practice*
 26 *registered nurses are authorized to prescribe, procure and administer*
 27 *legend and controlled substances pursuant to applicable state and federal*
 28 *laws. Any written prescription order written by an advance practice*
 29 *registered nurse shall include the name, address and telephone number of*
 30 *the responsible physician advance practice registered nurse. The advanced*
 31 *practice registered nurse may not dispense drugs, but may request, receive*
 32 *and sign for professional samples and may distribute professional samples*
 33 *to patients pursuant to a written protocol as authorized by a responsible*
 34 *physician. In order to prescribe controlled substances, the advanced*
 35 *practice registered nurse shall (1) register with the federal drug*
 36 *enforcement administration; and (2) notify the board of the name and*
 37 *address of the responsible physician or physicians. In no case shall the*
 38 *scope of authority of the advanced practice registered nurse exceed the*
 39 *normal and customary practice of the responsible physician. notify the*
 40 *board of nursing of the federal drug enforcement administration*
 41 *registration. An advanced practice registered nurse shall comply with the*
 42 *federal drug enforcement administration requirements related to*
 43 *controlled substances. An advanced practice registered nurse certified in*

Language has to be
 changed

Line 41
 as prescribed
 by rules +
 regs of the board

1 the role of registered nurse anesthetist while functioning as a registered
 2 nurse anesthetist under K.S.A. 65-1151 to 65-1164, inclusive, and
 3 amendments thereto, shall be subject to the provisions of K.S.A. 65-1151
 4 to 65-1164, inclusive, and amendments thereto, with respect to drugs and
 5 anesthetic agents and shall not be subject to the provisions of this
 6 subsection. ~~For the purposes of this subsection, "responsible physician"~~
 7 ~~means a person licensed to practice medicine and surgery in Kansas who~~
 8 ~~has accepted responsibility for the protocol and the actions of the advanced~~
 9 ~~practice registered nurse when prescribing drugs.~~

10 (e) *The advanced practice registered nurse is accountable to patients,*
 11 *the nursing profession and the board for complying with the requirements*
 12 *of this act and is responsible for recognizing limits of knowledge and*
 13 *experience, planning for the management of situations beyond the*
 14 *advanced practice registered nurse's expertise and consulting or referring*
 15 *patients to other health care professionals as appropriate. Advanced*
 16 *practice registered nurses may refer patients to health care agencies,*
 17 *health care providers and community resources.*

18 (f) *Any advanced practice registered nurse with less than one year of*
 19 *licensed, active, advanced practice nursing in an initial role shall*
 20 *complete a transition to practice. The advanced practice registered nurse*
 21 *shall complete a transition to practice period of 1,200 hours or one year,*
 22 *whichever is less, while maintaining a collaborative relationship for*
 23 *prescribing medications with either a licensed advanced practice*
 24 *registered nurse with prescriptive authority, a licensed physician or be*
 25 *employed by a clinic or hospital that has a medical director who is a*
 26 *licensed advanced practice registered nurse or licensed physician. The*
 27 *advanced practice registered nurse will be responsible for completing the*
 28 *required documentation for the transition to practice as specified by the*
 29 *board in rules and regulations. The board shall adopt rules and*
 30 *regulations necessary to effectuate the purposes of the transition to*
 31 *practice. ~~Five years after the enactment of the transition to practice, the~~*
 32 *~~board shall do an audit of the transitional requirement to examine whether~~*
 33 *~~it adds meaningful protection to the public. If it finds no added protection,~~*
 34 *~~the board, within the stated rules and regulations, may sunset the~~*
 35 *~~transition requirement.~~*

36 (g) *Advanced practice registered nurses may prescribe and order*
 37 *medical devices and equipment, treatments, nutrition, diagnostic and*
 38 *supportive devices.*

39 (h) *When a provision of law or rule and regulation requires a*
 40 *signature, certification, stamp, verification, affidavit or endorsement by a*
 41 *physician, that requirement may be fulfilled by a licensed advanced*
 42 *practice registered nurse working within the scope of practice of such*
 43 *nurse's respective role.*

Need to address new
graduate
+ written protocol

Do not need

Will probably cause
the Medical Society to
have issues with

1 (i) The advanced practice registered nurse shall provide proof of
2 malpractice insurance coverage at time of licensure and renewal of
3 license. The board may exempt or establish lesser liability insurance
4 requirements for advanced practice registered nurses as written in rules
5 and regulations.

Board does not want this liability

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

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

licensure

15 Sec. 3. K.S.A. 2012 Supp. 65-468 is hereby amended to read as
16 follows: 65-468. As used in K.S.A. 65-468 to 65-474, inclusive, and
17 amendments thereto:

18 (a) "Health care provider" means any person licensed or otherwise
19 authorized by law to provide health care services in this state or a
20 professional corporation organized pursuant to the professional
21 corporation law of Kansas by persons who are authorized by law to form
22 such corporation and who are health care providers as defined by this
23 subsection, or an officer, employee or agent thereof, acting in the course
24 and scope of employment or agency.

25 (b) "Member" means any hospital, emergency medical service, local
26 health department, home health agency, adult care home, medical clinic,
27 mental health center or clinic or nonemergency transportation system.

28 (c) "Mid-level practitioner" means an advanced practice registered
29 nurse who is licensed pursuant to K.S.A. 65-1131, and amendments
30 thereto, and who has authority to prescribe drugs under K.S.A. 65-1130,
31 and amendments thereto, or a physician assistant or advanced practice
32 registered nurse who has entered into a written protocol with a rural health
33 network physician.

Need to add language to address those in transition to practice

34 (d) "Physician" means a person licensed to practice medicine and
35 surgery.

36 (e) "Rural health network" means an alliance of members including at
37 least one critical access hospital and at least one other hospital which has
38 developed a comprehensive plan submitted to and approved by the
39 secretary of health and environment regarding patient referral and transfer;
40 the provision of emergency and nonemergency transportation among
41 members; the development of a network-wide emergency services plan;
42 and the development of a plan for sharing patient information and services
43 between hospital members concerning medical staff credentialing, risk

1 management, quality assurance and peer review.

2 (f) "Critical access hospital" means a member of a rural health
3 network which makes available twenty-four hour emergency care services;
4 provides not more than 25 acute care inpatient beds or in the case of a
5 facility with an approved swing-bed agreement a combined total of
6 extended care and acute care beds that does not exceed 25 beds; provides
7 acute inpatient care for a period that does not exceed, on an annual average
8 basis, 96 hours per patient; and provides nursing services under the
9 direction of a licensed professional nurse and continuous licensed
10 professional nursing services for not less than 24 hours of every day when
11 any bed is occupied or the facility is open to provide services for patients
12 unless an exemption is granted by the licensing agency pursuant to rules
13 and regulations. The critical access hospital may provide any services
14 otherwise required to be provided by a full-time, on-site dietician,
15 pharmacist, laboratory technician, medical technologist and radiological
16 technologist on a part-time, off-site basis under written agreements or
17 arrangements with one or more providers or suppliers recognized under
18 medicare. The critical access hospital may provide inpatient services by a
19 physician assistant, advanced practice registered nurse or a clinical nurse
20 specialist subject to the oversight of a physician who need not be present
21 in the facility. In addition to the facility's 25 acute beds or swing beds, or
22 both, the critical access hospital may have a psychiatric unit or a
23 rehabilitation unit, or both. Each unit shall not exceed 10 beds and neither
24 unit will count toward the 25-bed limit, nor will these units be subject to
25 the average 96-hour length of stay restriction.

26 (g) "Hospital" means a hospital other than a critical access hospital
27 which has entered into a written agreement with at least one critical access
28 hospital to form a rural health network and to provide medical or
29 administrative supporting services within the limit of the hospital's
30 capabilities.

31 Sec. 4. K.S.A. 2012 Supp. 65-1626 is hereby amended to read as
32 follows: 65-1626. For the purposes of this act:

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

36 (1) A practitioner or pursuant to the lawful direction of a practitioner;
37 (2) the patient or research subject at the direction and in the presence
38 of the practitioner; or

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

41 (b) "Agent" means an authorized person who acts on behalf of or at
42 the direction of a manufacturer, distributor or dispenser but shall not
43 include a common carrier, public warehouseman or employee of the carrier

1 or warehouseman when acting in the usual and lawful course of the
2 carrier's or warehouseman's business.

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

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

19 (e) "Board" means the state board of pharmacy created by K.S.A. 74-
20 1603, and amendments thereto.

21 (f) "Brand exchange" means the dispensing of a different drug
22 product of the same dosage form and strength and of the same generic
23 name as the brand name drug product prescribed.

24 (g) "Brand name" means the registered trademark name given to a
25 drug product by its manufacturer, labeler or distributor.

26 (h) "Chain pharmacy warehouse" means a permanent physical
27 location for drugs or devices, or both, that acts as a central warehouse and
28 performs intracompany sales or transfers of prescription drugs or devices
29 to chain pharmacies that have the same ownership or control. Chain
30 pharmacy warehouses must be registered as wholesale distributors.

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

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

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

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

1 pharmacy technician to a sufficient degree to assure that all such activities
2 are performed accurately, safely and without risk or harm to patients, and
3 complete the final check before dispensing.

4 (m) "Dispense" means to deliver prescription medication to the
5 ultimate user or research subject by or pursuant to the lawful order of a
6 practitioner or pursuant to the prescription of a mid-level practitioner.

7 (n) "Dispenser" means a practitioner or pharmacist who dispenses
8 prescription medication.

9 (o) "Distribute" means to deliver, other than by administering or
10 dispensing, any drug.

11 (p) "Distributor" means a person who distributes a drug.

12 (q) "Drop shipment" means the sale, by a manufacturer, that
13 manufacturer's co-licensee, that manufacturer's third party logistics
14 provider, or that manufacturer's exclusive distributor, of the manufacturer's
15 prescription drug, to a wholesale distributor whereby the wholesale
16 distributor takes title but not possession of such prescription drug and the
17 wholesale distributor invoices the pharmacy, the chain pharmacy
18 warehouse, or other designated person authorized by law to dispense or
19 administer such prescription drug, and the pharmacy, the chain pharmacy
20 warehouse, or other designated person authorized by law to dispense or
21 administer such prescription drug receives delivery of the prescription
22 drug directly from the manufacturer, that manufacturer's co-licensee, that
23 manufacturer's third party logistics provider, or that manufacturer's
24 exclusive distributor, of such prescription drug. Drop shipment shall be
25 part of the "normal distribution channel."

26 (r) "Drug" means: (1) Articles recognized in the official United States
27 pharmacopoeia, or other such official compendiums of the United States,
28 or official national formulary, or any supplement of any of them; (2)
29 articles intended for use in the diagnosis, cure, mitigation, treatment or
30 prevention of disease in man or other animals; (3) articles, other than food,
31 intended to affect the structure or any function of the body of man or other
32 animals; and (4) articles intended for use as a component of any articles
33 specified in clause (1), (2) or (3) of this subsection; but does not include
34 devices or their components, parts or accessories, except that the term
35 "drug" shall not include amygdalin (laetrile) or any livestock remedy, if
36 such livestock remedy had been registered in accordance with the
37 provisions of article 5 of chapter 47 of the Kansas Statutes Annotated,
38 prior to its repeal.

39 (s) "Durable medical equipment" means technologically sophisticated
40 medical devices that may be used in a residence, including the following:
41 (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory
42 disease management devices; (4) continuous positive airway pressure
43 (CPAP) devices; (5) electronic and computerized wheelchairs and seating

1 systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator
2 (TENS) units; (8) low air loss cutaneous pressure management devices; (9)
3 sequential compression devices; (10) feeding pumps; (11) home
4 phototherapy devices; (12) infusion delivery devices; (13) distribution of
5 medical gases to end users for human consumption; (14) hospital beds;
6 (15) nebulizers; or (16) other similar equipment determined by the board
7 in rules and regulations adopted by the board.

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

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

15 (v) "Electronic signature" means a confidential personalized digital
16 key, code, number or other method for secure electronic data transmissions
17 which identifies a particular person as the source of the message,
18 authenticates the signatory of the message and indicates the person's
19 approval of the information contained in the transmission.

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

24 (x) "Electronically prepared prescription" means a prescription that is
25 generated using an electronic prescription application.

26 (y) "Exclusive distributor" means any entity that: (1) Contracts with a
27 manufacturer to provide or coordinate warehousing, wholesale distribution
28 or other services on behalf of a manufacturer and who takes title to that
29 manufacturer's prescription drug, but who does not have general
30 responsibility to direct the sale or disposition of the manufacturer's
31 prescription drug; (2) is registered as a wholesale distributor under the
32 pharmacy act of the state of Kansas; and (3) to be considered part of the
33 normal distribution channel, must be an authorized distributor of record.

34 (z) "Facsimile transmission" or "fax transmission" means the
35 transmission of a digital image of a prescription from the prescriber or the
36 prescriber's agent to the pharmacy. "Facsimile transmission" includes, but
37 is not limited to, transmission of a written prescription between the
38 prescriber's fax machine and the pharmacy's fax machine; transmission of
39 an electronically prepared prescription from the prescriber's electronic
40 prescription application to the pharmacy's fax machine, computer or
41 printer; or transmission of an electronically prepared prescription from the
42 prescriber's fax machine to the pharmacy's fax machine, computer or
43 printer.

- 1 (aa) "Generic name" means the established chemical name or official
2 name of a drug or drug product.
- 3 (bb) (1) "Institutional drug room" means any location where
4 prescription-only drugs are stored and from which prescription-only drugs
5 are administered or dispensed and which is maintained or operated for the
6 purpose of providing the drug needs of:
- 7 (A) Inmates of a jail or correctional institution or facility;
8 (B) residents of a juvenile detention facility, as defined by the revised
9 Kansas code for care of children and the revised Kansas juvenile justice
10 code;
11 (C) students of a public or private university or college, a community
12 college or any other institution of higher learning which is located in
13 Kansas;
14 (D) employees of a business or other employer; or
15 (E) persons receiving inpatient hospice services.
- 16 (2) "Institutional drug room" does not include:
17 (A) Any registered pharmacy;
18 (B) any office of a practitioner; or
19 (C) a location where no prescription-only drugs are dispensed and no
20 prescription-only drugs other than individual prescriptions are stored or
21 administered.
- 22 (cc) "Intermediary" means any technology system that receives and
23 transmits an electronic prescription between the prescriber and the
24 pharmacy.
- 25 (dd) "Intracompany transaction" means any transaction or transfer
26 between any division, subsidiary, parent or affiliated or related company
27 under common ownership or control of a corporate entity, or any
28 transaction or transfer between co-licensees of a co-licensed product.
- 29 (ee) "Medical care facility" shall have the meaning provided in
30 K.S.A. 65-425, and amendments thereto, except that the term shall also
31 include facilities licensed under the provisions of K.S.A. 75-3307b, and
32 amendments thereto, except community mental health centers and
33 facilities for people with intellectual disability.
- 34 (ff) "Manufacture" means the production, preparation, propagation,
35 compounding, conversion or processing of a drug either directly or
36 indirectly by extraction from substances of natural origin, independently
37 by means of chemical synthesis or by a combination of extraction and
38 chemical synthesis and includes any packaging or repackaging of the drug
39 or labeling or relabeling of its container, except that this term shall not
40 include the preparation or compounding of a drug by an individual for the
41 individual's own use or the preparation, compounding, packaging or
42 labeling of a drug by:
- 43 (1) A practitioner or a practitioner's authorized agent incident to such

1 practitioner's administering or dispensing of a drug in the course of the
2 practitioner's professional practice;

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

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

9 (gg) "Manufacturer" means a person licensed or approved by the
10 FDA to engage in the manufacture of drugs and devices.

11 (hh) "Mid-level practitioner" means an advanced practice registered
12 nurse issued a license pursuant to K.S.A. 65-1131, and amendments
13 thereto, who has authority to prescribe drugs pursuant to a written protocol
14 with a responsible physician under K.S.A. 65-1130, and amendments
15 thereto, or a physician assistant licensed pursuant to the physician assistant
16 licensure act who has authority to prescribe drugs pursuant to a written
17 protocol with a responsible physician under K.S.A. 65-28a08, and
18 amendments thereto.

*Address person
in transition*

19 (ii) "Normal distribution channel" means a chain of custody for a
20 prescription-only drug that goes from a manufacturer of the prescription-
21 only drug, from that manufacturer to that manufacturer's co-licensed
22 partner, from that manufacturer to that manufacturer's third-party logistics
23 provider, or from that manufacturer to that manufacturer's exclusive
24 distributor, directly or by drop shipment, to:

25 (1) A pharmacy to a patient or to other designated persons authorized
26 by law to dispense or administer such drug to a patient;

27 (2) a wholesale distributor to a pharmacy to a patient or other
28 designated persons authorized by law to dispense or administer such drug
29 to a patient;

30 (3) a wholesale distributor to a chain pharmacy warehouse to that
31 chain pharmacy warehouse's intracompany pharmacy to a patient or other
32 designated persons authorized by law to dispense or administer such drug
33 to a patient; or

34 (4) a chain pharmacy warehouse to the chain pharmacy warehouse's
35 intracompany pharmacy to a patient or other designated persons authorized
36 by law to dispense or administer such drug to a patient.

37 (jj) "Person" means individual, corporation, government,
38 governmental subdivision or agency, partnership, association or any other
39 legal entity.

40 (kk) "Pharmacist" means any natural person licensed under this act to
41 practice pharmacy.

42 (ll) "Pharmacist-in-charge" means the pharmacist who is responsible
43 to the board for a registered establishment's compliance with the laws and

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

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

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

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

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

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

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

- 1 (ss) "Prescriber" means a practitioner or a mid-level practitioner.
- 2 (tt) "Prescription" or "prescription order" means: (1) An order to be
3 filled by a pharmacist for prescription medication issued and signed by a
4 prescriber in the authorized course of such prescriber's professional
5 practice; or (2) an order transmitted to a pharmacist through word of
6 mouth, note, telephone or other means of communication directed by such
7 prescriber, regardless of whether the communication is oral, electronic,
8 facsimile or in printed form.
- 9 (uu) "Prescription medication" means any drug, including label and
10 container according to context, which is dispensed pursuant to a
11 prescription order.
- 12 (vv) "Prescription-only drug" means any drug whether intended for
13 use by man or animal, required by federal or state law, including 21 U.S.C.
14 § 353, to be dispensed only pursuant to a written or oral prescription or
15 order of a practitioner or is restricted to use by practitioners only.
- 16 (ww) "Probation" means the practice or operation under a temporary
17 license, registration or permit or a conditional license, registration or
18 permit of a business or profession for which a license, registration or
19 permit is granted by the board under the provisions of the pharmacy act of
20 the state of Kansas requiring certain actions to be accomplished or certain
21 actions not to occur before a regular license, registration or permit is
22 issued.
- 23 (xx) "Professional incompetency" means:
24 (1) One or more instances involving failure to adhere to the
25 applicable standard of pharmaceutical care to a degree which constitutes
26 gross negligence, as determined by the board;
27 (2) repeated instances involving failure to adhere to the applicable
28 standard of pharmaceutical care to a degree which constitutes ordinary
29 negligence, as determined by the board; or
30 (3) a pattern of pharmacy practice or other behavior which
31 demonstrates a manifest incapacity or incompetence to practice pharmacy.
- 32 (yy) "Readily retrievable" means that records kept by automatic data
33 processing applications or other electronic or mechanized record-keeping
34 systems can be separated out from all other records within a reasonable
35 time not to exceed 48 hours of a request from the board or other authorized
36 agent or that hard-copy records are kept on which certain items are
37 asterisked, redlined or in some other manner visually identifiable apart
38 from other items appearing on the records.
- 39 (zz) "Retail dealer" means a person selling at retail nonprescription
40 drugs which are prepackaged, fully prepared by the manufacturer or
41 distributor for use by the consumer and labeled in accordance with the
42 requirements of the state and federal food, drug and cosmetic acts. Such
43 nonprescription drugs shall not include: (1) A controlled substance; (2) a

1 prescription-only drug; or (3) a drug intended for human use by
2 hypodermic injection.

3 (aaa) "Secretary" means the executive secretary of the board.

4 (bbb) "Third party logistics provider" means an entity that: (1)
5 Provides or coordinates warehousing, distribution or other services on
6 behalf of a manufacturer, but does not take title to the prescription drug or
7 have general responsibility to direct the prescription drug's sale or
8 disposition; (2) is registered as a wholesale distributor under the pharmacy
9 act of the state of Kansas; and (3) to be considered part of the normal
10 distribution channel, must also be an authorized distributor of record.

11 (ccc) "Unprofessional conduct" means:

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

13 (2) intentional adulteration or mislabeling of any drug, medicine,
14 chemical or poison;

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

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

18 (5) unlawful possession of drugs and unlawful diversion of drugs to
19 others;

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

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

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

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

27 (10) performing unnecessary tests, examinations or services which
28 have no legitimate pharmaceutical purpose.

29 (ddd) "Vaccination protocol" means a written protocol, agreed to by a
30 pharmacist and a person licensed to practice medicine and surgery by the
31 state board of healing arts, which establishes procedures and
32 recordkeeping and reporting requirements for administering a vaccine by
33 the pharmacist for a period of time specified therein, not to exceed two
34 years.

35 (eee) "Valid prescription order" means a prescription that is issued for
36 a legitimate medical purpose by an individual prescriber licensed by law to
37 administer and prescribe drugs and acting in the usual course of such
38 prescriber's professional practice. A prescription issued solely on the basis
39 of an internet-based questionnaire or consultation without an appropriate
40 prescriber-patient relationship is not a valid prescription order.

41 (fff) "Veterinary medical teaching hospital pharmacy" means any
42 location where prescription-only drugs are stored as part of an accredited
43 college of veterinary medicine and from which prescription-only drugs are

1 distributed for use in treatment of or administration to a nonhuman.

2 (ggg) "Wholesale distributor" means any person engaged in
3 wholesale distribution of prescription drugs or devices in or into the state,
4 including, but not limited to, manufacturers, repackagers, own-label
5 distributors, private-label distributors, jobbers, brokers, warehouses,
6 including manufacturers' and distributors' warehouses, co-licensees,
7 exclusive distributors, third party logistics providers, chain pharmacy
8 warehouses that conduct wholesale distributions, and wholesale drug
9 warehouses, independent wholesale drug traders and retail pharmacies that
10 conduct wholesale distributions. Wholesale distributor shall not include
11 persons engaged in the sale of durable medical equipment to consumers or
12 patients.

13 (hhh) "Wholesale distribution" means the distribution of prescription
14 drugs or devices by wholesale distributors to persons other than consumers
15 or patients, and includes the transfer of prescription drugs by a pharmacy
16 to another pharmacy if the total number of units of transferred drugs
17 during a twelve-month period does not exceed 5% of the total number of
18 all units dispensed by the pharmacy during the immediately preceding
19 twelve-month period. Wholesale distribution does not include:

20 (1) The sale, purchase or trade of a prescription drug or device, an
21 offer to sell, purchase or trade a prescription drug or device or the
22 dispensing of a prescription drug or device pursuant to a prescription;

23 (2) the sale, purchase or trade of a prescription drug or device or an
24 offer to sell, purchase or trade a prescription drug or device for emergency
25 medical reasons;

26 (3) intracompany transactions, as defined in this section, unless in
27 violation of own use provisions;

28 (4) the sale, purchase or trade of a prescription drug or device or an
29 offer to sell, purchase or trade a prescription drug or device among
30 hospitals, chain pharmacy warehouses, pharmacies or other health care
31 entities that are under common control;

32 (5) the sale, purchase or trade of a prescription drug or device or the
33 offer to sell, purchase or trade a prescription drug or device by a charitable
34 organization described in 503(c)(3) of the internal revenue code of 1954 to
35 a nonprofit affiliate of the organization to the extent otherwise permitted
36 by law;

37 (6) the purchase or other acquisition by a hospital or other similar
38 health care entity that is a member of a group purchasing organization of a
39 prescription drug or device for its own use from the group purchasing
40 organization or from other hospitals or similar health care entities that are
41 members of these organizations;

42 (7) the transfer of prescription drugs or devices between pharmacies
43 pursuant to a centralized prescription processing agreement;

- 1 (8) the sale, purchase or trade of blood and blood components
2 intended for transfusion;
- 3 (9) the return of recalled, expired, damaged or otherwise non-salable
4 prescription drugs, when conducted by a hospital, health care entity,
5 pharmacy, chain pharmacy warehouse or charitable institution in
6 accordance with the board's rules and regulations;
- 7 (10) the sale, transfer, merger or consolidation of all or part of the
8 business of a retail pharmacy or pharmacies from or with another retail
9 pharmacy or pharmacies, whether accomplished as a purchase and sale of
10 stock or business assets, in accordance with the board's rules and
11 regulations;
- 12 (11) the distribution of drug samples by manufacturers' and
13 authorized distributors' representatives;
- 14 (12) the sale of minimal quantities of drugs by retail pharmacies to
15 licensed practitioners for office use; or
- 16 (13) the sale or transfer from a retail pharmacy or chain pharmacy
17 warehouse of expired, damaged, returned or recalled prescription drugs to
18 the original manufacturer, originating wholesale distributor or to a third
19 party returns processor in accordance with the board's rules and
20 regulations.
- 21 Sec. 5. K.S.A. 2012 Supp. 65-468, 65-1113, 65-1130 and 65-1626 are
22 hereby repealed.
- 23 Sec. 6. This act shall take effect and be in force from and after July 1,
24 2014, and its publication in the statute book.