

HOUSE BILL No. 2182

By Committee on Aging and Long Term Care

2-7

1 AN ACT concerning ~~pharmacy; the pharmacy audit integrity act and~~
2 ~~health care; enacting the health care freedom act; relating to~~ the
3 ~~unused medication act; relating to mail service pharmacies; amending~~
4 ~~K.S.A. 2010 Supp. 65-1669 and 65-1671 and repealing the existing~~
5 ~~section sections; [health care; amending K.S.A. 16-1602 and K.S.A.~~
6 ~~2010 Supp 65-1669, 65-1671, 65-1901, 65-1902, 65-1905, 65-1912,~~
7 ~~65-2901, 65-2913 and 74-7507 and section 2, section 4, section 7,~~
8 ~~section 8, section 9, and section 10 of chapter 45 of the 2010 Session~~
9 ~~Laws of Kansas and repealing the existing sections; also repealing~~
10 ~~K.S.A. 65-1734, 65-4970, 65-4972, and 65-4973 and K.S.A. 2010~~
11 ~~Supp. 65-3228, 65-4971 and 65-4974.]~~
12

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

14 *[New Sec. 1. Sections 1 through 6, and amendments thereto, shall be*
15 *known and may be cited as the pharmacy audit integrity act.*

16 *Sec. 2. As used in this act, “pharmacy benefits manager” or “PBM”*
17 *means a person, business or other entity that performs pharmacy*
18 *benefits management. The term includes a person or entity acting for a*
19 *PBM in contractual or employment relationship in the performance of*
20 *pharmacy benefits management for a managed care company, not-for-*
21 *profit hospital or medical service organization, insurance company,*
22 *third-party payor or health program administered by the state board of*
23 *pharmacy.*

24 *New Sec. 3. (a) The entity conducting the audit shall follow the*
25 *following procedures:*

26 *(1) An entity conducting an on-site audit must give the pharmacy*
27 *at least seven days written notice before conducting an initial audit;*

28 *(2) an audit that involves clinical or professional judgment must*
29 *be conducted by or in consultation with a licensed pharmacist;*

30 *(3) the period covered by the audit may not exceed two years*
31 *from the date that the claim was submitted to or adjudicated by the*
32 *entity;*

33 *(4) the pharmacy may request an extension not to exceed seven*

1 *days from the date of an originally scheduled on-site audit;*

2 *(5) the pharmacy may use the records of a hospital, physician or*
3 *other authorized practitioner to validate the pharmacy record;*

4 *(6) any legal prescription, in compliance with the requirements*
5 *of the state board of pharmacy, may be used to validate claims in*
6 *connection with prescriptions, refills or changes in prescriptions;*

7 *(7) each pharmacy shall be audited under the same standards*
8 *and parameters as other similarly situated pharmacies; and*

9 *(8) the entity conducting the audit must establish a written*
10 *appeals process.*

11 *(b) The entity conducting the audit shall also comply with the*
12 *following requirements:*

13 *(1) A finding of overpayment or underpayment must be based on*
14 *the actual overpayment or underpayment and not a projection based on*
15 *the number of patients served having a similar diagnosis or on the*
16 *number of similar orders or refills for similar drugs;*

17 *(2) the entity conducting the audit shall not use extrapolation in*
18 *calculating the recoupments or penalties for audits, unless required by*
19 *state or federal contracts;*

20 *(3) the auditing company or agent may not receive payment*
21 *based on a percentage of the amount recovered, unless required by*
22 *contracts; and*

23 *(4) interest may not accrue during the audit period.*

24 *New Sec. 4. (a) Any preliminary audit report must be delivered to*
25 *the pharmacy within 60 days after the conclusion of the audit. Any*
26 *pharmacy shall be allowed at least 30 days following receipt of the*
27 *preliminary audit to provide documentation to address any discrepancy*
28 *found in the audit. Any final audit report shall be delivered to the*
29 *pharmacy within 120 days after receipt of the preliminary audit report or*
30 *final appeal, whichever is later.*

31 *(b) Recoupment of any disputed funds or repayment of funds to the*
32 *entity by the pharmacy, if permitted pursuant to contracts, shall occur, to*
33 *the extent demonstrated or documented in the pharmacy audit findings,*
34 *after final internal disposition of the audit including the appeals process.*
35 *If the identified discrepancy for an individual audit exceeds \$20,000, any*
36 *future payments to the pharmacy may be withheld pending finalization*
37 *of the audit. Unless otherwise required by the federal or state law, any*
38 *audit information may not be shared. Auditors shall only have access to*
39 *previous audit reports on a particular pharmacy conducted by that same*
40 *entity.*

41 *New Sec. 5. Any auditing entity, upon request of the plan sponsor,*
42 *shall provide a copy of the final report, including the disclosure of any*
43 *money recouped in the audit. The pharmacy may provide a copy of the*

1 *report to the commissioner of insurance, provided such report shall not*
2 *contain any personally identifiable health information in violation of the*
3 *provisions of the health insurance portability and accountability act of*
4 *1996 (Pub. L. No. 104-191).*

5 *New Sec. 6. This act shall apply to contracts between an auditing*
6 *entity and a pharmacy entered into, extended or renewed on or after the*
7 *effective date of this act. This act shall not apply to any audit, review or*
8 *investigation that is initiated based upon suspected or alleged fraud,*
9 *willful misrepresentation or abuse.]*

10 *[New Sec. 7. (a) A resident of this state has the right to purchase*
11 *health insurance or refuse to purchase health insurance. The*
12 *government shall not interfere with a resident's right to purchase health*
13 *insurance or with a resident's right to refuse to purchase health*
14 *insurance.*

15 *(b) A resident of this state has the right to enter into a private contract*
16 *with health care providers for lawful health care services. The*
17 *government shall not interfere with a resident's right to purchase lawful*
18 *health care services.*

19 *(c) A person or employer may pay directly for lawful health care*
20 *services and shall not be required to pay penalties or fines for paying*
21 *directly for lawful health care services. A health care provider may*
22 *accept direct payment for lawful health care services and shall not be*
23 *required to pay penalties or fines for accepting direct payment from a*
24 *person or employer for lawful health care services.*

25 *(d) No state agency, board, commission or any other governmental*
26 *entity shall require an agreement to participate in medicare, medicaid or*
27 *any other insurance plan, health care system or health information*
28 *technology or benefit exchange as a condition for original application or*
29 *renewal of license, registration or certification for a health care*
30 *provider.*

31 *(e) No state agency, board, commission or any other governmental*
32 *entity shall prohibit participation in a health information organization*
33 *for any health information technology or benefit exchange purposes by*
34 *a health care provider based on whether such health care provider*
35 *participates in medicare, medicaid or any other insurance plans or*
36 *health care systems.*

37 *(f) The government shall not enact a law that would restrict these*
38 *rights or that would impose a form of punishment for exercising these*
39 *rights. No provision of this section shall render a resident of this state*
40 *liable for any punishment, penalty, assessment, fee or fine as a result of*
41 *such resident's failure to procure or obtain health insurance coverage or*
42 *participate in any health care system or plan.*

43 *(g) As used in this section:*

1 (1) *“Direct payment or pay directly” means payment for lawful*
2 *health care services without a public or private third party, not including*
3 *an employer, paying for any portion of the service.*

4 (2) *“Health care provider” shall have the meaning provided in*
5 *K.S.A. 40-3401, and amendments thereto.*

6 (3) *“Health care system” means any public or private entity whose*
7 *function or purpose is the management of, processing of, enrollment of*
8 *individuals for or payment for, in full or in part, health care services or*
9 *health care data or health care information for its participants.*

10 (4) *“Lawful health care services” means any health-related service*
11 *or treatment to the extent that the service or treatment is permitted or not*
12 *prohibited by law or regulation that may be provided by persons or*
13 *businesses otherwise permitted to offer such services.*

14 (5) *“Penalties or fines” means any civil or criminal penalty or fine,*
15 *tax, salary or wage withholding or surcharge or any named fee with a*
16 *similar effect established by law or rule by a government established,*
17 *created or controlled agency that is used to punish or discourage the*
18 *exercise of rights protected under this section.*

19 (h) *This section shall be known and may be cited as the health care*
20 *freedom act.]*

21 ~~Section 1.~~ *[Sec. 8.]* K.S.A. 2010 Supp. 65-1669 is hereby amended to
22 read as follows: 65-1669. As used in the utilization of unused medications
23 act:

24 (a) "Adult care home" has the same meaning as such term is defined
25 in K.S.A. 39-923, and amendments thereto.

26 (b) "Community mental health center" has the same meaning as such
27 term is defined in K.S.A. 75-3307c, and amendments thereto.

28 (c) "Donating entities" means adult care homes, mail service
29 pharmacies and medical care facilities who elect to participate in the
30 program.

31 (d) "Drug" has the same meaning as such term is defined in K.S.A.
32 65-1626, and amendments thereto.

33 (e) "Federally qualified health center" means a center which meets
34 the requirements for federal funding under 42 U.S.C. ~~§section~~ 1396d(1)
35 of the public health service act, *and amendments thereto*, and which has been
36 designated as a "federally qualified health center" by the federal
37 government.

38 (f) "Indigent health care clinic" has the same meaning as such term is
39 defined in K.S.A. 75-6102, and amendments thereto.

40 (g) "Mail service pharmacy" means a licensed Kansas pharmacy
41 ~~located within the state~~ that ships, mails or delivers by any lawful means a
42 lawfully dispensed medication in tamper-resistant packaging to residents
43 of this state or another state.

1 (h) "Medical care facility" has the same meaning as such term is
2 defined in K.S.A. 65-425, and amendments thereto.

3 (i) "Medically indigent" has the same meaning as such term is
4 defined in K.S.A. 75-6102, and amendments thereto.

5 (j) "Medication" means a prescription drug or drug as defined by this
6 section.

7 (k) "Mid-level practitioner" has the same meaning as such term is
8 defined in K.S.A. 65-1626, and amendments thereto.

9 (l) "Practitioner" has the same meaning as such term is defined in
10 K.S.A. 65-1626, and amendments thereto.

11 (m) "Prescription drug" means a drug which may be dispensed only
12 upon prescription of a practitioner or mid-level practitioner authorized by
13 law and which is approved for safety and effectiveness as a prescription
14 drug under section 505 or 507 of the federal food, drug and cosmetic act
15 (52 Stat. 1040 (1938), 21 U.S.C.A., ~~section~~ § 301), *and amendments*
16 *thereto*.

17 (n) "Qualifying center or clinic" means an indigent health care clinic,
18 federally qualified health center or community mental health center.

19 **Sec. ~~2~~ [9.] K.S.A. 2010 Supp. 65-1671 is hereby amended to read**
20 **as follows: 65-1671. The following criteria shall be used in accepting**
21 **unused medications for use under the utilization of unused**
22 **medications act:**

23 (a) **The medications shall have come from a controlled storage**
24 **unit of a donating entity;**

25 (b) **only medications in their original or pharmacist sealed unit**
26 **dose packaging or hermetically sealed by the pharmacy in tamper**
27 **evident packaging, unit of use or sealed, unused injectables shall be**
28 **accepted and dispensed pursuant to the utilization of unused**
29 **medications act;**

30 (c) **expired medications shall not be accepted;**

31 (d) **a medication shall not be accepted or dispensed if the person**
32 **accepting or dispensing the medication has reason to believe that the**
33 **medication is adulterated;**

34 (e) **no controlled substances shall be accepted; and**

35 (f) **subject to the limitation specified in this section, unused**
36 **medications dispensed for purposes of a medical assistance program**
37 **or drug product donation program may be accepted and dispensed**
38 **under the utilization of unused medications act.**

39 *[New Sec. 10. Sections 10 through 26, and amendments thereto,*
40 *shall be known and may be cited as the perfusion practice act.*

41 *New Sec. 11. As used in sections 10 through 26, and amendments*
42 *thereto:*

43 (a) *"Act" means the perfusion practice act.*

1 (b) *"Board" means the state board of healing arts.*

2 (c) *"Council" means the perfusion council.*

3 (d) *"Extracorporeal circulation" means the diversion of a patient's*
4 *blood through a heart-lung machine or a similar device that assumes the*
5 *functions of the patient's heart, lungs, kidney, liver, or other organs.*

6 (e) *"Perfusion" means the functions necessary for the support,*
7 *treatment, measurement, or supplementation of the cardiovascular,*
8 *circulatory, respiratory systems or other organs, or a combination of*
9 *those activities, and to ensure the safe management of physiologic*
10 *functions by monitoring and analyzing the parameters of the systems*
11 *under an order and under the supervision of a person licensed to*
12 *practice medicine and surgery, including:*

13 (1) *The use of extracorporeal circulation, long-term*
14 *cardiopulmonary support techniques including extracorporeal carbon-*
15 *dioxide removal and extracorporeal membrane oxygenation, and*
16 *associated therapeutic and diagnostic technologies;*

17 (2) *counterpulsation, ventricular assistance, autotransfusion, blood*
18 *conservation techniques, myocardial and organ preservation,*
19 *extracorporeal life support, and therapeutic modalities including*
20 *isolated limb perfusion and intra-peritoneal hyperthermic*
21 *chemotherapy;*

22 (3) *the use of techniques involving blood management, advanced*
23 *life support, and other related functions;*

24 (4) *the administration of pharmacological and therapeutic agents,*
25 *blood products and anesthetic agents through the extracorporeal circuit*
26 *as ordered by a person licensed to practice medicine and surgery or*
27 *certified registered nurse anesthetist pursuant to K.S.A. 65-1158, and*
28 *amendments thereto;*

29 (5) *the performance and use of coagulation monitoring and*
30 *analysis, physiologic monitoring and analysis, blood gas and chemistry*
31 *monitoring and analysis, hematologic monitoring and analysis,*
32 *hypothermia, hyperthermia, hemoconcentration and hemodilution and*
33 *hemodialysis; and*

34 (6) *the observation of signs and symptoms related to perfusion*
35 *services, the determination of whether the signs and symptoms exhibit*
36 *abnormal characteristics, and the implementation of appropriate*
37 *reporting, perfusion protocols, or changes in or the initiation of*
38 *emergency procedures.*

39 (f) *"Perfusion protocols" means perfusion related policies and*
40 *protocols developed or approved by a licensed medical care facility or a*
41 *person licensed to practice medicine and surgery through collaboration*
42 *with administrators, licensed perfusionists, and other health care*
43 *professionals.*

1 (g) *"Perfusionist" means a person who practices perfusion as*
2 *defined in this act.*

3 (h) *This section shall take effect on and after July 1, 2012.*

4 *New Sec. 12. (a) On and after July 1, 2012, except as otherwise*
5 *provided in this act, no person shall perform perfusion unless the person*
6 *possesses a valid license issued under this act.*

7 (b) *No person shall depict one's self orally or in writing, expressly*
8 *or by implication, as holder of a license who does not hold a current*
9 *license under this act.*

10 (c) *Only persons licensed under this act as a perfusionist shall be*
11 *entitled to use the title "perfusionist," "licensed perfusionist," or*
12 *"licensed clinical perfusionist," abbreviations thereof, words similar to*
13 *such title or the designated letters "LP" or "LCP."*

14 *New Sec. 13. (a) Nothing in this act is intended to limit, preclude*
15 *or otherwise interfere with the practices of other health care providers*
16 *formally trained and licensed, registered, credentialed or certified by*
17 *appropriate agencies of the state of Kansas from performing duties*
18 *considered appropriate to their recognized scope of practice.*

19 (b) *The following shall be exempt from the requirement of a license*
20 *pursuant to this act:*

21 (1) *A person licensed by another health professional licensing*
22 *board if:*

23 (A) *The person does not represent to the public, directly or*
24 *indirectly, that the person is licensed under this act, and does not use*
25 *any name, title, or designation indicating that the person is licensed*
26 *under this act;*

27 (B) *the person confines the person's acts or practice to the scope of*
28 *practice authorized by the other health professional licensing laws; or*

29 (C) *the person is trained according to the extracorporeal membrane*
30 *oxygenation specialist (ECMO) guidelines of the extracorporeal life*
31 *support organization (ELSO) and operates an extracorporeal membrane*
32 *oxygenation circuit under the supervision of a person licensed to*
33 *practice medicine and surgery;*

34 (2) *a person performing autotransfusion or blood conservation*
35 *techniques under the supervision of a person licensed to practice*
36 *medicine and surgery;*

37 (3) *a student enrolled in an accredited perfusion education*
38 *program if perfusion services performed by the student:*

39 (A) *Are an integral part of the student's course of study; and*

40 (B) *are performed under the direct supervision of a licensed*
41 *perfusionist assigned to supervise the student and who is on duty and*
42 *immediately available in the assigned patient care area;*

43 (4) *health care providers in the United States armed forces, public*

1 *health services, federal facilities and other military service when acting*
2 *in the line of duty in this state; or*

3 *(5) persons rendering assistance in the case of an emergency.*

4 *(c) This section shall take effect on and after July 1, 2012.*

5 *New Sec. 14. (a) An applicant for licensure as a perfusionist shall*
6 *file an application, on forms provided by the board, showing to the*
7 *satisfaction of the board that the applicant meets the following*
8 *requirements:*

9 *(1) At the time of the application is at least 18 years of age;*

10 *(2) has successfully completed a perfusion education program set*
11 *forth in rules and regulations adopted by the board and which contains*
12 *a curriculum no less stringent than the standards of existing*
13 *organizations which approve perfusion programs;*

14 *(3) except as otherwise provided in this act, has successfully passed*
15 *a license examination approved by the board; and*

16 *(4) has paid all fees required for licensure prescribed in this act,*
17 *which shall not be refundable.*

18 *(b) The board may issue a temporary license to an applicant*
19 *seeking licensure as a perfusionist when such applicant meets the*
20 *requirements for licensure or meets all the requirements for licensure*
21 *except examination and pays to the board the temporary license fee as*
22 *required under section 17, and amendments thereto. Such temporary*
23 *license is valid (1) for one year from the date of issuance or (2) until the*
24 *board makes a final determination on the applicant's request for*
25 *licensure. The board may extend a temporary license, upon a majority*
26 *vote of the members of the board, for a period not to exceed one year.*

27 *(c) The board, without examination, may issue a license to a person*
28 *who has been in the active practice of perfusion in some other state,*
29 *territory, the District of Columbia or other country upon certificate of*
30 *the proper licensing authority of that state, territory, District of*
31 *Columbia or other country certifying that the applicant is duly licensed,*
32 *that the applicant's license has never been limited, suspended or*
33 *revoked, that the licensee has never been censured or had other*
34 *disciplinary action taken and that, so far as the records of such authority*
35 *are concerned, the applicant is entitled to its endorsement. The applicant*
36 *shall also present proof satisfactory to the board:*

37 *(1)(A) That the state, territory, District of Columbia or country in*
38 *which the applicant last practiced maintains standards at least equal to*
39 *those maintained by Kansas;*

40 *(B) that the applicant's original license was based upon an*
41 *examination at least equal in quality to the examination required in this*
42 *state and that the passing grade required to obtain such original license*
43 *was comparable to that required in this state;*

1 (C) of the date of the applicant's original and any and all endorsed
2 licenses and the date and place from which any license was attained;

3 (D) that the applicant has been actively engaged in perfusion under
4 such license or licenses since issued, and if not, fix the time when and
5 reason why the applicant was out of practice; and

6 (E) that the applicant holds a current certificate as a certified
7 clinical perfusionist initially issued by the American board of
8 cardiovascular perfusion (ABCP), or its successor, prior to July 1, 2012;
9 or

10 (2) that the applicant has been practicing perfusion as described in
11 this act in a full-time capacity for a period of more than two of the last
12 10 years prior to July 1, 2012.

13 (d) The board, without examination, may issue a license to a person
14 who holds a current certificate as a certified clinical perfusionist initially
15 issued by the American board of cardiovascular perfusion who has been
16 in the active practice of perfusion in Kansas in a full-time capacity for a
17 period of more than two of the last ten years prior to July 1, 2012.

18 (e) An applicant for license by endorsement shall not be granted a
19 license unless such applicant's individual qualifications meet the Kansas
20 requirements.

21 (f) A person whose license has been revoked may make written
22 application to the board requesting reinstatement of the license in a
23 manner prescribed by the board, which application shall be
24 accompanied by the fee provided for in section 17, and amendments
25 thereto.

26 *New Sec. 15. (a) There is hereby created the designation of*
27 *inactive license. The board is authorized to issue an inactive license to*
28 *any licensee who makes written application for such license on a form*
29 *provided by the board and remits the fee for an inactive license*
30 *established pursuant to section 17, and amendments thereto. The board*
31 *may issue an inactive license only to a person who meets all the*
32 *requirements for a license to practice as a perfusionist and who does not*
33 *engage in active practice as a perfusionist in the state of Kansas. An*
34 *inactive license shall not entitle the holder to engage in active practice.*
35 *The provisions of section 16, and amendments thereto, relating to*
36 *expiration, renewal, continuing education and reinstatement of a license*
37 *shall be applicable to an inactive license issued under this subsection.*
38 *Each inactive licensee may apply to engage in active practice by*
39 *presenting a request required by section 14, and amendments thereto.*
40 *The request shall be accompanied by the fee established pursuant to*
41 *section 17, and amendments thereto.*

42 (b) There is hereby created a designation of federally active license.
43 The board is authorized to issue a federally active license to any licensee

1 *who makes a written application for such license on a form provided by*
2 *the board and remits the same fee required for a license established*
3 *under section 17, and amendments thereto. The board may issue a*
4 *federally active license only to a person who meets all the requirements*
5 *for a license to practice as a perfusionist and who practices as a*
6 *perfusionist solely in the course of employment or active duty in the*
7 *United States government or any of its departments, bureaus or*
8 *agencies. The provisions of section 16, and amendments thereto, relating*
9 *to expiration, renewal, continuing education and reinstatement of a*
10 *license shall be applicable to a federally active license issued under this*
11 *subsection. Each federally active licensee may apply to engage in active*
12 *practice by presenting a request required by section 14, and amendments*
13 *thereto.*

14 *(c) This section shall take effect on and after July 1, 2012.*

15 *New Sec. 16. (a) Licenses issued under this act shall expire on the*
16 *date of expiration established by rules and regulations of the board*
17 *unless renewed in the manner prescribed by the board. The request for*
18 *renewal shall be accompanied by the license renewal fee established*
19 *pursuant to section 17, and amendments thereto.*

20 *(b) At least 30 days before the expiration of a licensee's license, the*
21 *board shall notify the licensee of the expiration by mail addressed to the*
22 *licensee's last mailing address as noted upon the office records. If the*
23 *licensee fails to submit an application for renewal on a form provided by*
24 *the board, or fails to pay the renewal fee by the date of expiration, the*
25 *board shall give a second notice to the licensee that the license has*
26 *expired and the license may be renewed only if the application for*
27 *renewal, the renewal fee, and the late renewal fee are received by the*
28 *board within the thirty-day period following the date of expiration and*
29 *that, if both fees are not received within the thirty-day period, the license*
30 *shall be deemed canceled by operation of law and without further*
31 *proceedings.*

32 *(c) The board may require any licensee to submit to a continuing*
33 *education audit and provide to the board evidence of satisfactory*
34 *completion of a program of continuing education required by rules and*
35 *regulations of the board.*

36 *(d) Any license canceled for failure to renew may be reinstated*
37 *upon recommendation of the board. An application for reinstatement*
38 *shall be on a form provided by the board, and shall be accompanied by*
39 *payment of the reinstatement fee and evidence of completion of any*
40 *applicable continuing education requirements. The board may adopt*
41 *rules and regulations establishing appropriate education requirements*
42 *for reinstatement of a license that has been canceled for failure to*
43 *renew.*

1 (e) The board, prior to renewal of a license, shall require the
2 licensee, if in the active practice of perfusion within the state, to submit
3 to the board evidence satisfactory to the board that the licensee is
4 maintaining a policy of professional liability insurance. The board may
5 require any licensee to provide to the board evidence of malpractice
6 insurance as required by rules and regulations of the board during an
7 audit. The board shall fix by rules and regulations the minimum level of
8 coverage for such professional liability insurance.

9 (f) This section shall take effect on and after July 1, 2012.

10 New Sec. 17. (a) The board shall charge and collect in advance
11 fees for perfusionists as established by the board by rules and
12 regulations, not to exceed:

13	Application for licensure.....	\$300
14	Annual renewal of license:	
15	Paper renewal	\$200
16	On-line renewal.....	\$200
17	Late renewal of licensure:	
18	Late paper renewal	\$100
19	Late on-line renewal	\$100
20	Revoked licensure reinstatement.....	\$325
21	Application for inactive license	\$300
22	Renewal of inactive license	\$75
23	Conversion of inactive license to active	\$150
24	Certified copy of license.....	\$25
25	Written verification of license.....	\$25
26	Temporary license	\$75

27 (b) If the examination is not administered by the board, the board
28 may require that fees paid for any examination under the perfusion
29 practice act be paid directly to the examination service by the person
30 taking the examination.

31 New Sec. 18. The board shall remit all moneys received by or for
32 the board from fees, charges or penalties to the state treasurer in
33 accordance with the provisions of K.S.A. 75-4215, and amendments
34 thereto. Upon receipt of each such remittance, the state treasurer shall
35 deposit the entire amount in the state treasury. Twenty percent of such
36 amount shall be credited to the state general fund and the balance shall
37 be credited to the healing arts fee fund. All expenditures from the
38 healing arts fee fund shall be made in accordance with appropriation
39 acts upon warrants of the director of accounts and reports issued
40 pursuant to vouchers approved by the president of the board or by a
41 person or persons designated by the president.

42 New Sec. 19. (a) There is established the perfusion council to
43 assist the state board of healing arts in carrying out the provisions of

1 *this act. The council shall consist of five members, all citizens and*
2 *residents of the state of Kansas appointed as follows: The board shall*
3 *appoint one member who is a person licensed to practice medicine and*
4 *surgery and one member who is a member of the state board of healing*
5 *arts. Members appointed by the board shall serve at the pleasure of the*
6 *board. The governor shall appoint three perfusionists who have at least*
7 *three years experience in perfusion preceding the appointment and are*
8 *actively engaged, in this state, in the practice of perfusion or the*
9 *teaching of perfusion. At least two of the governor's appointments shall*
10 *be made from a list of four nominees submitted by the Kansas practicing*
11 *perfusionist society.*

12 *(b) The members appointed by the governor shall be appointed for*
13 *terms of four years except that of the members first appointed, one shall*
14 *be appointed for a term of two years, one for a term of three years, and*
15 *one for a term of four years, with successor members appointed for four*
16 *years and to serve until a successor member is appointed. If a vacancy*
17 *occurs on the council, the appointing authority of the position which has*
18 *become vacant shall appoint a person of like qualifications to fill the*
19 *vacant position for the unexpired term.*

20 *(c) Perfusionists initially appointed to the council must be eligible*
21 *for licensure under section 14, and amendments thereto. On and after*
22 *October 1, 2012, new appointees shall be licensed under the provisions*
23 *of this act.*

24 *(d) The council shall meet at least once each year at a time and*
25 *place of its choosing and at such other times as may be necessary on the*
26 *chairperson's call or on the request of a majority of the council's*
27 *members.*

28 *(e) A majority of the council constitutes a quorum. No action may*
29 *be taken by the council except by affirmative vote of the majority of the*
30 *members present and voting.*

31 *(f) Members of the council attending meetings of the council, or a*
32 *subcommittee of the council, shall be paid mileage provided in*
33 *subsection (c) of K.S.A. 75-3223, and amendments thereto, from the*
34 *healing arts fee fund.*

35 *New Sec. 20. The perfusion council shall advise the board*
36 *regarding:*

37 *(a) Examination, licensing and other fees;*

38 *(b) rules and regulations to be adopted to carry out the provisions*
39 *of this act;*

40 *(c) subject areas to be covered during the educational program and*
41 *on the licensure examination;*

42 *(d) the number of yearly continuing education hours required to*
43 *maintain active licensure;*

1 (e) *changes and new requirements taking place in the area of*
2 *perfusion; and*

3 (f) *such other duties and responsibilities as the board may assign.*

4 *New Sec. 21. The board, with the advice and assistance of the*
5 *perfusion council, shall:*

6 (a) *Pass upon the qualifications of all applicants for examination*
7 *and licensing, contract for examinations, determine the applicants who*
8 *successfully pass the examination, duly license and regulate such*
9 *applicants and keep a roster of all individuals licensed;*

10 (b) *adopt rules and regulations as may be necessary to administer*
11 *the provisions of this act and prescribe forms which shall be issued in*
12 *the administration of this act;*

13 (c) *establish standards for approval of an educational course of*
14 *study and clinical experience, criteria for continuing education,*
15 *procedures for the examination of applicants; and*

16 (d) *establish standards of professional conduct; procedure for the*
17 *discipline of licensees and keep a record of all proceedings.*

18 *New Sec. 22. (a) The license of a perfusionist may be limited,*
19 *suspended or revoked, or the licensee may be censured, reprimanded,*
20 *placed on probation, fined pursuant to K.S.A. 65-2863a, and*
21 *amendments thereto, assessed costs incurred by the board in conducting*
22 *any proceeding in which such licensee is the unsuccessful party or*
23 *otherwise sanctioned by the board or an application for licensure or*
24 *reinstatement of licensure may be denied if it is found that the licensee*
25 *or applicant:*

26 (1) *Has committed an act of fraud or deceit in the procurement or*
27 *holding of a license;*

28 (2) *has been convicted of a felony or class A misdemeanor in a*
29 *court of competent jurisdiction, either within or outside of this state,*
30 *unless the conviction has been reversed and the holder of the license*
31 *discharged or acquitted or if the holder has been pardoned with full*
32 *restoration of civil rights in which case the license shall be restored;*

33 (3) *is addicted to or has distributed intoxicating liquors or drugs for*
34 *other than lawful purposes;*

35 (4) *is found to be mentally or physically incapacitated to such a*
36 *degree that in the opinion of the board continued practice by the licensee*
37 *would constitute a danger to the public's health and safety;*

38 (5) *has aided and abetted a person who is not a licensee under this*
39 *act or is not otherwise authorized to perform the duties of a license*
40 *holder;*

41 (6) *has had a license to practice perfusion revoked, suspended or*
42 *limited, has been censured or has had other disciplinary action taken, or*
43 *an application for a license denied, by the proper licensing authority of*

1 *another state, territory, District of Columbia, or other country, a certified*
2 *copy of the record of an action of the other jurisdiction being conclusive*
3 *evidence thereof;*

4 *(7) has violated any provision of this act, or rules and regulations*
5 *promulgated by the board or any lawful order or directive of the board*
6 *previously entered by the board;*

7 *(8) has committed an act of unprofessional conduct under criteria*
8 *which the board may establish by rules and regulations; or*

9 *(9) is, or has been, found guilty of incompetence or negligence*
10 *while performing as a license holder.*

11 *(b) The denial, refusal to renew, suspension, limitation, probation*
12 *or revocation of a license or other sanction may be ordered by the board*
13 *upon a finding of a violation of this act. All administrative proceedings*
14 *conducted pursuant to this act shall be in accordance with the provisions*
15 *of the Kansas administrative procedure act and shall be reviewable in*
16 *accordance with the Kansas judicial review act.*

17 *(c) A person whose license is suspended shall not engage in any*
18 *conduct or activity in violation of the order by which the license was*
19 *suspended.*

20 *(d) This section shall take effect on and after July 1, 2012.*

21 *New Sec. 23. (a) The board shall have jurisdiction of proceedings*
22 *to take disciplinary action against any licensee practicing under this act.*
23 *Any such action shall be taken in accordance with the provisions of the*
24 *Kansas administrative procedure act.*

25 *(b) Either before or after formal charges have been filed, the board*
26 *and the licensee may enter into a stipulation which shall be binding*
27 *upon the board and the licensee entering into such stipulation, and the*
28 *board may enter its findings of fact and enforcement order based upon*
29 *such stipulation without the necessity of filing any formal charges or*
30 *holding hearings in the case. An enforcement order based upon a*
31 *stipulation may order any disciplinary action against the licensee*
32 *entering into such stipulation.*

33 *(c) The board may temporarily suspend or temporarily limit the*
34 *license of any licensee in accordance with the emergency adjudicative*
35 *proceedings under the Kansas administrative procedure act if the board*
36 *determines that there is cause to believe that grounds exist for*
37 *disciplinary action against the licensee and that the licensee's*
38 *continuation in practice would constitute an imminent danger to the*
39 *public health and safety.*

40 *New Sec. 24. (a) Nothing in the perfusion practice act or in the*
41 *provisions of chapter 40 of the Kansas Statutes Annotated, and*
42 *amendments thereto, shall be construed to require that any individual,*
43 *group or blanket policy of accident and sickness, medical or surgical*

1 *expense insurance coverage or any provision of a policy, contract, plan*
2 *or agreement for medical service issued on or after the effective date of*
3 *this act, reimburse or indemnify a person licensed under the perfusion*
4 *practice act for services provided as a perfusionist.*

5 *(b) This section shall take effect on and after July 1, 2012.*

6 *New Sec. 25. (a) When it appears that any person is violating any*
7 *provision of this act, the board may bring an action in the name of the*
8 *state in a court of competent jurisdiction for an injunction against such*
9 *violation without regard as to whether proceedings have been or may be*
10 *instituted before the board or whether criminal proceedings have been*
11 *or may be instituted.*

12 *(b) This section shall take effect on and after July 1, 2012.*

13 *New Sec. 26. On and after July 1, 2012, any violation of this act*
14 *shall constitute a class B misdemeanor.*

15 *Sec. 27. K.S.A. 2010 Supp. 74-7507 is hereby amended to read as*
16 *follows: 74-7507. (a) The behavioral sciences regulatory board shall*
17 *have the following powers, duties and functions:*

18 *(1) Recommend to the appropriate district or county attorneys*
19 *prosecution for violations of this act, the licensure of psychologists act of*
20 *the state of Kansas, the professional counselors licensure act, K.S.A. 65-*
21 *6301 to 65-6320, inclusive, and amendments thereto, K.S.A 74-5361 to*
22 *74-5374, inclusive, and K.S.A. 2010 Supp. 74-5375, and amendments*
23 *thereto, the marriage and family therapists licensure act or the alcohol*
24 *and other drug abuse counselor registration act;*

25 *(2) compile and publish annually a list of the names and addresses*
26 *of all persons who are licensed under this act, are licensed under the*
27 *licensure of psychologists act of the state of Kansas, are licensed under*
28 *the professional counselors licensure act, are licensed under K.S.A. 65-*
29 *6301 to 65-6320, inclusive, and amendments thereto, are licensed under*
30 *K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2010 Supp. 74-5375,*
31 *and amendments thereto, are licensed under the marriage and family*
32 *therapists licensure act or are registered under the alcohol and other*
33 *drug abuse counselor registration act;*

34 *(3) prescribe the form and contents of examinations required under*
35 *this act, the licensure of psychologists act of the state of Kansas, the*
36 *professional counselors licensure act, K.S.A. 65-6301 to 65-6320,*
37 *inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374,*
38 *inclusive, and K.S.A. 2010 Supp. 74-5375, and amendments thereto, the*
39 *marriage and family therapists licensure act or the alcohol and other*
40 *drug abuse counselor registration act;*

41 *(4) enter into contracts necessary to administer this act, the*
42 *licensure of psychologists act of the state of Kansas, the professional*
43 *counselors licensure act, K.S.A. 65-6301 to 65-6320, inclusive, and*

1 *amendments thereto, K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A.*
2 *2010 Supp. 74-5375, and amendments thereto, the marriage and family*
3 *therapists licensure act or the alcohol and other drug abuse counselor*
4 *registration act;*

5 (5) *adopt an official seal;*

6 (6) *adopt and enforce rules and regulations for professional*
7 *conduct of persons licensed under the licensure of psychologists act of*
8 *the state of Kansas, licensed under the professional counselors licensure*
9 *act, licensed under K.S.A. 65-6301 to 65-6320, inclusive, and*
10 *amendments thereto, licensed under K.S.A. 74-5361 to 74-5374,*
11 *inclusive, and K.S.A. 2010 Supp. 74-5375, and amendments thereto,*
12 *licensed under the marriage and family therapists licensure act or*
13 *registered under the alcohol and other drug abuse counselor registration*
14 *act;*

15 (7) *adopt and enforce rules and regulations establishing*
16 *requirements for the continuing education of persons licensed under the*
17 *licensure of psychologists act of the state of Kansas, licensed under the*
18 *professional counselors licensure act, licensed under K.S.A. 65-6301 to*
19 *65-6320, inclusive, and amendments thereto, licensed under K.S.A. 74-*
20 *5361 to 74-5374, inclusive, and K.S.A. 2010 Supp. 74-5375, and*
21 *amendments thereto, licensed under the marriage and family therapists*
22 *licensure act or registered under the alcohol and other drug abuse*
23 *counselor registration act;*

24 (8) *adopt rules and regulations establishing classes of social work*
25 *specialties which will be recognized for licensure under K.S.A. 65-6301*
26 *to 65-6318, inclusive, and amendments thereto;*

27 (9) *adopt rules and regulations establishing procedures for*
28 *examination of candidates for licensure under the licensure of*
29 *psychologists act of the state of Kansas, for licensure under the*
30 *professional counselors licensure act, for licensure under K.S.A. 65-*
31 *6301 to 65-6320, inclusive, and amendments thereto, for licensure under*
32 *K.S.A. 74-5361 to 74-5374, inclusive, and K.S.A. 2010 Supp. 74-5375,*
33 *and amendments thereto, for licensure under the marriage and family*
34 *therapists licensure act, for registration under the alcohol and other*
35 *drug abuse counselor registration act and for issuance of such*
36 *certificates and such licenses;*

37 (10) *adopt rules and regulations as may be necessary for the*
38 *administration of this act, the licensure of psychologists act of the state*
39 *of Kansas, the professional counselors licensure act, K.S.A. 65-6301 to*
40 *65-6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374,*
41 *inclusive, and K.S.A. 2010 Supp. 74-5375, and amendments thereto, the*
42 *marriage and family therapists licensure act and the alcohol and other*
43 *drug abuse counselor registration act and to carry out the purposes*

1 *thereof;*

2 *(11) appoint an executive director and other employees as provided*
3 *in K.S.A. 74-7501 and amendments thereto; and*

4 *(12) exercise such other powers and perform such other functions*
5 *and duties as may be prescribed by law.*

6 *(b) The behavioral sciences regulatory board, in addition to any*
7 *other penalty, may assess an administrative penalty, after notice and an*
8 *opportunity to be heard, against a licensee or registrant for a violation of*
9 *any of the provisions of the licensure of psychologists act of the state of*
10 *Kansas, the professional counselors licensure act, K.S.A. 65-6301 to 65-*
11 *6320, inclusive, and amendments thereto, K.S.A. 74-5361 to 74-5374,*
12 *inclusive, and K.S.A. 2010 Supp. 74-5375, and amendments thereto, the*
13 *marriage and family therapists licensure act or the alcohol and other*
14 *drug abuse counselor registration act in an amount not to exceed*
15 *\$1,000. All fines assessed and collected under this section shall be*
16 *remitted to the state treasurer in accordance with the provisions of*
17 *K.S.A. 75-4215 and amendments thereto. Upon receipt of each such*
18 *remittance, the state treasurer shall deposit the entire amount in the*
19 *state treasury to the credit of the state general fund.*

20 *(c) If an order of the behavioral sciences regulatory board is*
21 *adverse to a licensee or registrant of the board, the costs shall be*
22 *charged to such person as in ordinary civil actions in the district court in*
23 *an amount not to exceed \$200. The board shall pay any additional costs*
24 *and, if the board is the unsuccessful party, the costs shall be paid by the*
25 *board. Witness fees and costs may be taxed in accordance with statutes*
26 *governing taxation of witness fees and costs in the district court.*

27 *(d) The behavioral sciences regulatory board may, after notice and an*
28 *opportunity to be heard, deny, refuse to renew, suspend, revoke, condition,*
29 *limit, qualify or restrict the license of any applicant or any person licensed*
30 *by the behavioral sciences regulatory board, if: (1) The allegations of*
31 *abuse, neglect or exploitation have been substantiated against a child,*
32 *adult or resident of a care facility by the secretary of the social and*
33 *rehabilitation services, secretary of aging or secretary of health and*
34 *environment in accordance with the provisions in K.S.A. 38-2223 through*
35 *38-2230 and 39-1401 through 39-1443, and amendments thereto;*

36 *(2) the administrative appeal process has been exhausted; and*

37 *(3) the determination of substantiation has become final.*

38 **Sec. 28. Section 2 of chapter 45 of the 2010 Session Laws of Kansas**
39 **is hereby amended to read as follows: Sec. 2. As used in the addictions**
40 **counselor licensure act:**

41 **(a) "Board" means the behavioral sciences regulatory board created**
42 **under K.S.A. 74-7501, and amendments thereto.**

43 **(b) "Addiction counseling" means the utilization of special skills to**

1 *assist persons with addictions, and to assist such persons' families and*
 2 *friends to achieve resolution of addiction through the exploration of the*
 3 *disease and its ramifications, the examination of attitudes and feelings,*
 4 *the consideration of alternative solutions and decision making, as these*
 5 *relate specifically to addiction. Evaluation and assessment, treatment*
 6 *including treatment plan development, ~~ease—management,~~ crisis*
 7 *intervention, referral, record keeping and clinical consultation*
 8 *specifically related to addiction are within the scope of addiction*
 9 *counseling. Additionally, at the clinical level of licensure, addiction*
 10 *counseling includes independent practice ~~limited~~ and ~~to~~ the diagnosis*
 11 *and treatment of substance use disorders.*

12 (c) *"Licensed addiction counselor" means a person who engages in*
 13 *the practice of addiction counseling limited to substance use disorders*
 14 *and who is licensed under this act, except that on and after July 1, 2011,*
 15 *such person shall engage in the practice of addiction counseling only in*
 16 *a state-licensed or certified alcohol and other drug treatment program*
 17 *unless otherwise exempt for licensure under subsection (m) of K.S.A. 59-*
 18 *29b46, and amendments thereto.*

19 (d) *"Licensed clinical addiction counselor" means a person who*
 20 *engages in the independent practice of addiction counseling ~~which~~*
 21 *practice and is limited to the diagnosis and treatment of substance use*
 22 *disorders specified in the edition of the American psychiatric*
 23 *association's diagnostic and statistical manual of mental disorders*
 24 *(DSM) designated by the board by rules and regulations and is licensed*
 25 *under this act.*

26 *Sec. 29. Section 4 of chapter 45 of the 2010 Session Laws of Kansas*
 27 *is hereby amended to read as follows: Sec. 4. (a) An applicant for*
 28 *licensure as an addiction counselor shall furnish evidence that the*
 29 *applicant:*

30 (1) *Has attained the age of 21;*

31 (2)(A) *has completed a baccalaureate degree from an addiction*
 32 *counseling program that is part of a college or university approved by*
 33 *the board; or*

34 (B) *has completed a baccalaureate degree from a college or*
 35 *university approved by the board in a related field that includes a*
 36 *minimum number of semester hours of coursework supporting the*
 37 *diagnosis and treatment of substance use disorders as approved by the*
 38 *board; or*

39 (C) *completed a baccalaureate degree from a college or university*
 40 *approved by the board in a related field with additional work in*
 41 *addiction counseling from a college or university approved by the board,*
 42 *and such degree program and the additional work includes the course*
 43 *work requirements provided in paragraph (a)(2)(B) of this subsection;*

1 *or*

2 *(D) is currently licensed in Kansas as a licensed psychologist,*
3 *licensed master social worker, licensed professional counselor, licensed*
4 *marriage and family therapist or licensed ~~masters~~master's level*
5 *psychologist;*

6 *(3) has passed an examination approved by the board;*

7 *(4) has satisfied the board that the applicant is a person who merits*
8 *the public trust; and*

9 *(5) each applicant has paid the application fee established by the*
10 *board under section 12 of chapter 45 of the 2010 Session Laws of Kansas,*
11 *and amendments thereto.*

12 *(b)(1) Applications for licensure as a clinical addiction counselor*
13 *shall be made to the board on a form and in the manner prescribed by*
14 *the board. Each applicant shall furnish evidence satisfactory to the*
15 *board that the applicant:*

16 *(A) Is licensed by the board as a licensed addiction counselor or*
17 *meets all requirements for licensure as an addiction counselor; and*

18 *(i) has completed a master's degree from an addiction counseling*
19 *program that is part of a college or university approved by the board; or*

20 *(ii) has completed a master's degree from a college or university*
21 *approved by the board in a related field that includes a minimum*
22 *number of semester hours of coursework supporting the diagnosis and*
23 *treatment of substance use disorders as approved by the board; or*

24 *(iii) has completed a master's degree from a college or university*
25 *approved by the board in a related field with additional work in*
26 *addiction counseling from a college or university approved by the board*
27 *and such degree program and the additional work includes the course*
28 *work requirements provided in paragraph (b)(2)(B) of this subsection;*
29 *and or*

30 *(iv) has completed a master's degree in a related field and is licensed*
31 *as an addiction counselor; and*

32 *(B) has completed not less than two years of postgraduate*
33 *supervised professional experience in accordance with a clinical*
34 *supervision plan approved by the board of not less than 4,000 hours of*
35 *supervised professional experience including at least 1,500 hours of*
36 *direct client contact conducting substance abuse assessments and*
37 *treatment with individuals, couples, families or groups and not less than*
38 *150 hours of clinical supervision, including not less than 50 hours of*
39 *person-to-person individual supervision, integrating diagnosis and*
40 *treatment of substance use disorders with use of the diagnostic and*
41 *statistical manual of mental disorders of the American psychiatric*
42 *association, except that one-half ½ of the requirement of this paragraph*
43 *(B) may be waived for persons with a doctoral degree in addiction*

1 *counseling or a related field acceptable to the board; and*

2 *(C) has passed an examination approved by the board; and*

3 *(D) has paid the application fee fixed under section 12 of chapter 45*
4 *of the 2010 Session Laws of Kansas, and amendments thereto.*

5 *(2) A person who was registered by the behavioral sciences*
6 *regulatory board as an alcohol and other drug counselor or credentialed*
7 *by the department of social and rehabilitation services as an alcohol and*
8 *drug credentialed counselor or credentialed by the Kansas association of*
9 *addiction professionals as an alcohol and other drug abuse counselor in*
10 *Kansas at any time prior to the effective date of this act, who has been*
11 *actively engaged in the practice of addiction counseling in Kansas as a*
12 *registered—*~~who was registered in Kansas as an alcohol and other drug~~
13 *counselor, an alcohol and drug credentialed counselor or a credentialed*
14 *alcohol and other drug abuse counselor within three years prior to the*
15 *effective date of this act and whose last registration or credential in*
16 *Kansas prior to the effective date of this act was not suspended or*
17 *revoked, upon application to the board, payment of fees and completion*
18 *of applicable continuing education requirements, shall be licensed as a*
19 *licensed addiction counselor by providing demonstration acceptable to*
20 *the board of competence to perform the duties of an addiction counselor.*

21 *(3) Any person who was registered by the behavioral sciences*
22 *regulatory board as an alcohol and other drug counselor or credentialed*
23 *by the department of social and rehabilitation services as an alcohol and*
24 *drug credentialed counselor or credentialed by the Kansas association of*
25 *addiction professionals as an alcohol and other drug abuse counselor in*
26 *Kansas at any time prior to the effective date of this act, and who is also*
27 *licensed to practice independently as a mental health practitioner or*
28 *person licensed to practice medicine and surgery, and who has been*
29 *actively engaged in the practice of addiction counseling in Kansas as a*
30 *registered or credentialed—*~~was registered or credentialed in Kansas as an~~
31 *alcohol and other drug counselor within three years prior to the effective*
32 *date of this act and whose last registration or credential in Kansas prior*
33 *to the effective date of this act was not suspended or revoked, upon*
34 *application to the board, payment of fees and completion of applicable*
35 *continuing education requirements, shall be licensed as a licensed*
36 *clinical addiction counselor and may engage in the independent practice*
37 *of addiction counseling and is authorized to diagnose and treat*
38 *substance use disorders specified in the edition of the diagnostic and*
39 *statistical manual of mental disorders of the American psychiatric*
40 *association designated by the board by rules and regulations.*

41 *(4) Any person who was credentialed by the department of social and*
42 *rehabilitation services as an alcohol and drug counselor and has been*
43 *actively engaged in the practice, supervision or administration of*

1 ~~addiction counseling in Kansas for not less than 10-four years providing~~
2 ~~demonstration acceptable to the board of competence to perform the duties~~
3 ~~of a licensed clinical addiction counselor and was credentialed by the~~
4 ~~Kansas association of addiction professionals as an alcohol and other drug~~
5 ~~abuse counselor level II or III in Kansas at any time prior to the effective~~
6 ~~date of this act, or and holds a master's degree in a related field and~~
7 ~~whose last registration or credential in Kansas prior to the effective date~~
8 ~~of this act was not suspended or revoked, upon application to the board,~~
9 ~~payment of fees and completion of applicable continuing education~~
10 ~~requirements, shall be licensed as a clinical addiction counselor and may~~
11 ~~engage in the independent practice of addiction counseling and is~~
12 ~~authorized to diagnose and treat substance use disorders specified in the~~
13 ~~edition of the diagnostic and statistical manual of mental disorders of the~~
14 ~~American psychiatric association designated by the board by rules and~~
15 ~~regulations.~~

16 **(4)(5) On and after July 1, 2011, a licensed addiction counselor may**
17 **shall engage in the practice of addiction counseling within in only a**
18 **state licensed or certified alcohol and other drug treatment program,**
19 **unless otherwise exempt for licensure under subsection (m) of K.S.A. 59-**
20 **29b46, and amendments thereto.**

21 **New Sec. 30. Section 7 of chapter 45 of the 2010 Session Laws of**
22 **Kansas is hereby amended to read as follows: Sec. 7. (a) The board**
23 **may issue a license to an individual who is currently registered, certified**
24 **or licensed to practice addiction counseling in another jurisdiction if the**
25 **board determines that:**

26 **(1) The standards for registration, certification or licensure to**
27 **practice addiction counseling in the other jurisdiction are substantially**
28 **the equivalent of the requirements of the addictions counselor licensure**
29 **act and rules and regulations of the board; and or**

30 **(2) the applicant demonstrates on forms provided by the board**
31 **compliance with the following standards as adopted by the board:**

32 **(A) Continuous registration, certification or licensure to practice**
33 **addiction counseling during the five years immediately preceding the**
34 **application with at least the minimum professional experience as**
35 **established by rules and regulations of the board;**

36 **(B) the absence of disciplinary actions of a serious nature brought**
37 **by a registration, certification or licensing board or agency; and**

38 **(C) completion of a baccalaureate or masters master's degree in**
39 **addiction counseling from a college or university approved by the board**
40 **or completion of a baccalaureate or master's degree in a related field**
41 **that includes all required addiction coursework.**

42 **(b) Applicants for licensure as a clinical addiction counselor shall**
43 **additionally demonstrate competence to diagnose and treat substance**

1 *abuse disorders through meeting the requirements of either paragraph*
2 *(1) or (2) of subsection (a) and at least two of the following areas*
3 *acceptable to the board:*

4 *(1) Either coursework as established by rules and regulations of the*
5 *board or passing a national clinical examination approved by the board;*

6 *(2) three years of clinical practice with demonstrated experience*
7 *supporting diagnosing or treating substance use disorders; or*

8 *(3) attestation from a professional licensed to diagnose and treat*
9 *mental disorders, or substance use disorders, or both, in independent*
10 *practice or licensed to practice medicine and surgery stating that the*
11 *applicant is competent to diagnose and treat substance use disorders.*

12 *(c) An applicant for a license under this section shall pay an*
13 *application fee established by the board under section 12 of chapter 45 of*
14 *the 2010 Session Laws of Kansas, and amendments thereto.*

15 *Sec. 31. Section 8 of chapter 45 of the 2010 Session Laws of Kansas*
16 *is hereby amended to read as follows: Sec. 8. (a) An applicant who*
17 *meets the requirements for licensure pursuant to this act, has paid the*
18 *license fee provided for by section 12 of chapter 45 of the 2010 Session*
19 *Laws of Kansas, and amendments thereto, and has otherwise complied*
20 *with the provisions of this act shall be licensed by the board.*

21 *(b) Licenses issued pursuant to this act shall expire 24 months from*
22 *the date of issuance unless revoked prior to that time. A license may be*
23 *renewed upon application and payment of the fee provided for by section*
24 *12 of chapter 45 of the 2010 Session Laws of Kansas, and amendments*
25 *thereto. The application for renewal shall be accompanied by evidence*
26 *satisfactory to the board that the applicant has completed during the*
27 *previous 24 months the continuing education required by rules and*
28 *regulations of the board. As part of such continuing education, the*
29 *clinical addiction counselor applicant shall complete not less than six*
30 *continuing education hours relating to diagnosis and treatment of*
31 *substance use disorders. ~~and~~ Both the clinical addiction counselor*
32 *applicant and the addiction counselor applicant shall complete not less*
33 *than three continuing education hours of professional ethics.*

34 *(c) A person whose license has been suspended or revoked may*
35 *make written application to the board requesting reinstatement of the*
36 *license upon termination of the period of suspension or revocation in a*
37 *manner prescribed by the board, which application shall be*
38 *accompanied by the fee provided for by section 12 of chapter 45 of the*
39 *2010 Session Laws of Kansas, and amendments thereto.*

40 *Sec. 32. Section 9 of chapter 45 of the 2010 Session Laws of Kansas*
41 *is hereby amended to read as follows: Sec. 9. The board may refuse to*
42 *grant licensure to, or may suspend, revoke, condition, limit, qualify or*
43 *restrict the licensure issued under this act of any individual who the*

1 *board, after the opportunity for a hearing, determines:*

2 *(a) Is incompetent to practice addiction counseling, or is found to*
3 *engage in the practice of addiction counseling in a manner harmful or*
4 *dangerous to a client or to the public;*

5 *(b) is convicted by a court of competent jurisdiction of a felony,*
6 *misdemeanor crimes against persons or substantiation of abuse against*
7 *a child, adult or resident of a care facility, even if not practice related;*

8 *(c) has violated a provision of the addictions counselor licensure*
9 *act or one or more of the rules and regulations of the board;*

10 *(d) has obtained or attempted to obtain a license or license renewal*
11 *by bribery or fraudulent representation;*

12 *(e) has knowingly made a false statement on a form required by the*
13 *board for license or license renewal;*

14 *(f) has failed to obtain continuing education credits required by*
15 *rules and regulations of the board;*

16 *(g) has been found guilty of unprofessional conduct as defined by*
17 *rules and regulations established by the board; or*

18 *(h) has had a registration, license or certificate as an addiction*
19 *counselor revoked, suspended or limited, or has had other disciplinary*
20 *action taken, or an application for registration, license or certificate*
21 *denied, by the proper regulatory authority of another state, territory,*
22 *District of Columbia or another country, a certified copy of the record of*
23 *the action of the other jurisdiction being conclusive evidence thereof.*

24 *Sec. 33. Section 10 of chapter 45 of the 2010 Session Laws of*
25 *Kansas is hereby amended to read as follows: Sec. 10. Nothing in the*
26 *addictions counselor licensure act shall be construed:*

27 *(a) To prevent addiction counseling practice by students or interns*
28 *or individuals preparing for the practice of addiction counseling to*
29 *practice under qualified supervision of a professional, recognized and*
30 *approved by the board, in an educational institution or agency so long as*
31 *they are designated by titles such as "student," "trainee," "intern" or*
32 *other titles clearly indicating training status;*

33 *(b) to authorize the practice of psychology, medicine and surgery,*
34 *professional counseling, marriage and family therapy, ~~masters~~ master's*
35 *level psychology or social work or other professions licensed by the*
36 *behavioral sciences regulatory board;*

37 *(c) to apply to the activities and services of a rabbi, priest, minister,*
38 *clergy person or organized ministry of any religious denomination or*
39 *sect, including a Christian-Science practitioner, unless such person or*
40 *individual who is a part of the organized ministry is a licensed addiction*
41 *counselor;*

42 *(d) to apply to the activities and services of qualified members of*
43 *other professional groups including, but not limited to, attorneys,*

1 *physicians, psychologists, ~~masters~~ master's level psychologists, marriage*
2 *and family therapists, professional counselors, or other professions*
3 *licensed by the behavioral sciences regulatory board, registered nurses or*
4 *social workers performing services consistent with the laws of this state,*
5 *their training and the code of ethics of their profession, so long as they*
6 *do not represent themselves as being an addiction counselor; or*

7 *(e) to prevent qualified persons from doing work within the*
8 *standards and ethics of their respective professions and callings*
9 *provided they do not hold themselves out to the public by any title or*
10 *description of services as being an addiction counselor.*

11 *New Sec. 34. (a) This section shall be known and may be cited as*
12 *the school sports head injury prevention act.*

13 *(b) As used in this section:*

14 *(1) "School" means any public or accredited private high school,*
15 *middle school or junior high school.*

16 *(2) "Health care provider" means a person licensed by the state*
17 *board of healing arts to practice medicine and surgery or chiropractic.*

18 *(c) The state board of education, in cooperation with the Kansas*
19 *state high school activities association, shall compile information on the*
20 *nature and risk of concussion and head injury including the dangers*
21 *and risks associated with the continuation of playing or practicing after*
22 *a person suffers a concussion or head injury. Such information shall be*
23 *provided to school districts for distribution to coaches, school athletes*
24 *and the parents or guardians of school athletes.*

25 *(d) A school athlete may not participate in any sport competition or*
26 *practice session unless such athlete and the athlete's parent or guardian*
27 *have signed, and returned to the school, a concussion and head injury*
28 *information release form. A release form shall be signed and returned*
29 *each school year that a student athlete participates in sport competitions*
30 *or practice sessions.*

31 *(e) If a school athlete suffers, or is suspected of having suffered, a*
32 *concussion or head injury during a sport competition or practice*
33 *session, such school athlete immediately shall be removed from the sport*
34 *competition or practice session.*

35 *(f) Any school athlete who has been removed from a sport*
36 *competition or practice session shall not return to competition or*
37 *practice until the athlete is evaluated by a health care provider and the*
38 *health care provider provides such athlete a written clearance to return*
39 *to play or practice. If the health care provider who provides the*
40 *clearance to return to play or practice is not an employee of the school*
41 *district, such health care provider shall not be liable for civil damages*
42 *resulting from any act or omission in the rendering of such care, other*
43 *than acts or omissions constituting gross negligence or willful or wanton*

1 *misconduct.*

2 *New Sec. 35. The Kansas state high school activities association*
3 *and its member high schools, and administrators, principals, coaches,*
4 *teachers and other affiliated with such association and member high*
5 *schools, shall not adopt any rules and regulations or interpret any*
6 *existing rule and regulation in any manner which would prohibit a*
7 *student athlete from training with any Kansas state high school league-*
8 *sponsored sport or competition while the student athlete is participating*
9 *in nonschool swimming athletic training or diving athletic training, or*
10 *both, during the high school sport season and throughout the year if:*

11 *(a) The nonschool swimming athletic training or diving athletic*
12 *training, or both, is under the jurisdiction of and sanctioned by the*
13 *national governing body of the sport, U.S.A. swimming, inc., or U.S.A.*
14 *diving, inc.; and*

15 *(b) the student athlete meets the reasonable and ordinary school-*
16 *established requirements for participation in the student athlete's high*
17 *school swimming program or diving program, or both.*

18 *Sec. 36. K.S.A. 2010 Supp. 65-2901 is hereby amended to read as*
19 *follows: 65-2901. As used in article 29 of chapter 65 of the Kansas*
20 *Statutes Annotated, and acts ~~amendatory of the provisions thereof or~~*
21 *supplemental amendments thereto:*

22 *(a) "Physical therapy" means examining, evaluating and testing*
23 *individuals with mechanical, anatomical, physiological and*
24 *developmental impairments, functional limitations and disabilities or*
25 *other health and movement-related conditions in order to determine a*
26 *diagnosis solely for physical therapy, prognosis, plan of therapeutic*
27 *intervention and to assess the ongoing effects of physical therapy*
28 *intervention. Physical therapy also includes alleviating impairments,*
29 *functional limitations and disabilities by designing, implementing and*
30 *modifying therapeutic interventions that may include, but are not limited*
31 *to, therapeutic exercise; functional training in community or work*
32 *integration or reintegration; manual therapy; therapeutic massage;*
33 *prescription, application and, as appropriate, fabrication of assistive,*
34 *adaptive, orthotic, prosthetic, protective and supportive devices and*
35 *equipment; airway clearance techniques; integumentary protection and*
36 *repair techniques; debridement and wound care; physical agents or*
37 *modalities; mechanical and electrotherapeutic modalities; patient-*
38 *related instruction; reducing the risk of injury, impairments, functional*
39 *limitations and disability, including the promotion and maintenance of*
40 *fitness, health and quality of life in all age populations and engaging in*
41 *administration, consultation, education and research. Physical therapy*
42 *also includes the care and services provided by a physical therapist or a*
43 *physical therapist assistant under the direction and supervision of a*

1 *physical therapist who that is licensed pursuant to article 29 of chapter*
2 *65 of the Kansas Statutes Annotated, and amendments thereto. ~~this act.~~*
3 *Physical therapy does not include the use of roentgen rays and radium*
4 *for diagnostic and therapeutic purposes, the use of electricity for*
5 *surgical purposes, including cauterization, the practice of any branch of*
6 *the healing arts and the making of a medical diagnosis.*

7 *(b) "Physical therapist" means a person who is licensed to practice*
8 *physical therapy pursuant to article 29 of chapter 65 of the Kansas*
9 *Statutes Annotated, and amendments thereto. ~~this act.~~ Any person who*
10 *successfully meets the requirements of K.S.A. 65-2906, and amendments*
11 *thereto, shall be known and designated as a physical therapist and may*
12 *designate or describe oneself, as appropriate, as a physical therapist,*
13 *physiotherapist, licensed physical therapist, doctor of physical therapy,*
14 *abbreviations thereof, or words similar thereto or use of the designated*
15 *letters P.T., Ph. T., M.P.T., D.P.T. or L.P.T. Nothing in this section shall be*
16 *construed to prohibit physical therapists licensed under K.S.A. 2010 Supp.*
17 *65-2906 and 65-2909, and amendments thereto, from listing or using in*
18 *conjunction with their name any letters, words, abbreviations or other*
19 *insignia to designate any educational degrees, certifications or credentials*
20 *recognized by the board which such licensee has earned. Each licensee*
21 *when using the letters or term "Dr." or "Doctor" in conjunction with such*
22 *licensee's professional practice, whether in any written or oral*
23 *communication, shall identify oneself as a "physical therapist" or "doctor*
24 *of physical therapy."*

25 *(c) "Physical therapist assistant" means a person who is certified*
26 *pursuant to article 29 of chapter 65 of the Kansas Statutes Annotated, and*
27 *amendments thereto, ~~this act~~ and who works under the direction of a*
28 *physical therapist, and who assists the physical therapist in selected*
29 *components of physical therapy intervention. Any person who*
30 *successfully meets the requirements of K.S.A. 65-2906, and amendments*
31 *thereto, shall be known and designated as a physical therapist assistant,*
32 *and may designate or describe oneself as a physical therapist assistant,*
33 *certified physical therapist assistant, abbreviations thereof, or words*
34 *similar thereto or use of the designated letters P.T.A., C.P.T.A. or P.T.*
35 *Asst. Nothing in this section shall be construed to prohibit physical*
36 *therapist assistants certified under K.S.A. 2010 Supp. 65-2906 and 65-*
37 *2909, and amendments thereto, from listing or using in conjunction with*
38 *their name any letters, words, abbreviations or other insignia to designate*
39 *any educational degrees, certifications or credentials which such physical*
40 *therapist assistant has earned.*

41 *(d) "Board" means the state board of healing arts.*

42 *(e) "Council" means the physical therapy advisory council.*

43 *(f) "Physician" means a person licensed to practice medicine and*

1 *surgery.*

2 **Sec. 37. K.S.A. 2010 Supp. 65-2913 is hereby amended to read as**
 3 **follows: 65-2913. (a) It shall be unlawful for any person who is not**
 4 **licensed under this article 29 of chapter 65 of the Kansas Statutes**
 5 **Annotated, and amendments thereto, ~~act~~ as a physical therapist or whose**
 6 **license has been suspended or revoked in any manner to represent**
 7 **oneself as a physical therapist or to use in connection with such person's**
 8 **name the words physical therapist, physiotherapist, ~~or~~ licensed physical**
 9 **therapist or doctor of physical therapy or use the abbreviations P.T., Ph.**
 10 **T., M.P.T., D.P.T. or L.P.T., or any other letters, words, abbreviations or**
 11 **insignia, indicating or implying that such person is a physical therapist.**
 12 **A violation of this subsection shall constitute a class B nonperson**
 13 **misdemeanor. Nothing in this section shall be construed to prohibit**
 14 **physical therapists licensed under K.S.A. 2010 Supp. 65-2906 and 65-**
 15 **2909, and amendments thereto, from listing or using in conjunction with**
 16 **their name any letters, words, abbreviations or other insignia to designate**
 17 **any educational degrees, certifications or credentials recognized by the**
 18 **board which such licensee has earned. Each licensee when using the**
 19 **letters or term "Dr." or "Doctor" in conjunction with such licensee's**
 20 **professional practice, whether in any written or oral communication, shall**
 21 **identify oneself as a "physical therapist" or "doctor of physical therapy."**

22 **(b) Any person who, in any manner, represents oneself as a physical**
 23 **therapist assistant, or who uses in connection with such person's name**
 24 **the words or letters physical therapist assistant, certified physical**
 25 **therapist assistant, P.T.A., C.P.T.A. or P.T. Asst., or any other letters,**
 26 **words, abbreviations or insignia, indicating or implying that such person**
 27 **is a physical therapist assistant, without a valid existing certificate as a**
 28 **physical therapist assistant issued to such person pursuant to article 29**
 29 **of chapter 65 of the Kansas Statutes Annotated, and amendments**
 30 **thereto ~~the provisions of this act,~~ shall be guilty of a class B nonperson**
 31 **misdemeanor. Nothing in this section shall be construed to prohibit**
 32 **physical therapist assistants certified under K.S.A. 2010 Supp. 65-2906**
 33 **and 65-2909, and amendments thereto, from listing or using in**
 34 **conjunction with their name any letters, words, abbreviations or other**
 35 **insignia to designate any educational degrees, certifications or credentials**
 36 **which such physical therapist assistant has earned.**

37 **(c) Nothing in this act is intended to limit, preclude or otherwise**
 38 **interfere with the practices of other health care providers formally**
 39 **trained and practicing their profession. The provisions of article 29 of**
 40 **chapter 65 of the Kansas Statutes Annotated, and ~~acts amendatory~~**
 41 **~~thereof or supplemental~~ amendments thereto, shall not apply to the**
 42 **following individuals so long as they do not hold themselves out in a**
 43 **manner prohibited under subsection (a) or (b) of this section:**

- 1 (1) *Persons rendering assistance in the case of an emergency;*
- 2 (2) *members of any church practicing their religious tenets;*
- 3 (3) *persons whose services are performed pursuant to the delegation*
4 *of and under the supervision of a physical therapist who is licensed*
5 *under this act;*
- 6 (4) *health care providers in the United States armed forces, public*
7 *health services, federal facilities and coast guard or other military*
8 *service when acting in the line of duty in this state;*
- 9 (5) *licensees under the healing arts act, and practicing their*
10 *professions, when licensed and practicing in accordance with the*
11 *provisions of law or persons performing services pursuant to the*
12 *delegation of a licensee under subsection (g) of K.S.A. 65-2872, and*
13 *amendments thereto;*
- 14 (6) *dentists practicing their professions, when licensed and practicing*
15 *in accordance with the provisions of law;*
- 16 (7) *nurses practicing their professions, when licensed and*
17 *practicing in accordance with the provisions of law or persons*
18 *performing services pursuant to the delegation of a licensed nurse under*
19 *subsection (m) of K.S.A. 65-1124, and amendments thereto;*
- 20 (8) *health care providers who have been formally trained and are*
21 *practicing in accordance with their training or have received specific*
22 *training in one or more functions included in this act pursuant to*
23 *established educational protocols or both;*
- 24 (9) *students while in actual attendance in an accredited health care*
25 *educational program and under the supervision of a qualified*
26 *instructor;*
- 27 (10) *self-care by a patient or gratuitous care by a friend or family*
28 *member;*
- 29 (11) *optometrists practicing their profession when licensed and*
30 *practicing in accordance with the provisions of article 15 of chapter 65*
31 *of the Kansas Statutes Annotated, and amendments thereto;*
- 32 (12) *podiatrists practicing their profession when licensed and*
33 *practicing in accordance with the provisions of article 20 of chapter 65*
34 *of the Kansas Statutes Annotated, and amendments thereto;*
- 35 (13) *occupational therapists practicing their profession when licensed*
36 *and practicing in accordance with the occupational therapy practice act*
37 *and occupational therapy assistants practicing their profession when*
38 *licensed and practicing in accordance with the occupational therapy*
39 *practice act;*
- 40 (14) *respiratory therapists practicing their profession when licensed*
41 *and practicing in accordance with the respiratory therapy practice act;*
- 42 (15) *physician assistants practicing their profession when licensed*
43 *and practicing in accordance with the physician assistant licensure act;*

1 (16) *persons practicing corrective therapy in accordance with their*
2 *training in corrective therapy;*

3 (17) *athletic trainers practicing their profession when licensed and*
4 *practicing in accordance with the athletic trainers licensure act;*

5 (18) *persons who massage for the purpose of relaxation, muscle*
6 *conditioning or figure improvement, so long as no drugs are used and*
7 *such persons do not hold themselves out to be physicians or healers;*

8 (19) *barbers practicing their profession when licensed and practicing*
9 *in accordance with the provisions of article 18 of chapter 65 of the*
10 *Kansas Statutes Annotated, and amendments thereto;*

11 (20) *cosmetologists practicing their profession when licensed and*
12 *practicing in accordance with the provisions of article 19 of chapter 65*
13 *of the Kansas Statutes Annotated, and amendments thereto;*

14 (21) *attendants practicing their profession when certified and*
15 *practicing in accordance with the provisions of article 61 of chapter 65*
16 *of the Kansas Statutes Annotated, and amendments thereto; and*

17 (22) *naturopathic doctors practicing their profession when licensed*
18 *and practicing in accordance with the naturopathic doctor licensure act.*

19 (d) *Any patient monitoring, assessment or other procedures designed*
20 *to evaluate the effectiveness of prescribed physical therapy must be*
21 *performed by or pursuant to the delegation of a licensed physical*
22 *therapist or other health care provider.*

23 (e) *Nothing in this act shall be construed to permit the practice of*
24 *medicine and surgery. No statute granting authority to licensees of the*
25 *state board of healing arts shall be construed to confer authority upon*
26 *physical therapists to engage in any activity not conferred by article 29*
27 *of chapter 65 of the Kansas Statutes Annotated, and amendments thereto.*
28 ~~*this act.*~~

29 *New Sec. 38. Section 38 through 55, and amendments thereto, shall*
30 *be known and may be cited as the Kansas health information technology*
31 *and exchange act.*

32 *New Sec. 39. As used in the Kansas health information technology*
33 *and exchange act:*

34 (a) *“Act” means the Kansas health information technology and*
35 *exchange act.*

36 (b) *“Approved HIO” means a health information organization*
37 *operating in the state which has been approved by the corporation.*

38 (c) *“Corporation” means the Kansas health information exchange,*
39 *inc., created by executive order 10-06.*

40 (d) *“Covered entity” means a health care provider, a health care*
41 *component of a hybrid entity, a health plan or a health care*
42 *clearinghouse.*

43 (e) *“DPOA-HC” means the person to whom a durable power of*

1 *attorney for health care decisions has been granted by an individual in*
2 *accordance with K.S.A. 58-625 et seq., and amendments thereto.*

3 *(f) “Health care clearinghouse” means a health care clearinghouse,*
4 *as that term is defined by the HIPAA privacy rule, doing business within*
5 *the state.*

6 *(g) “Health care provider” means a health care provider, as that*
7 *term is defined by the HIPAA privacy rule, that furnishes health care to*
8 *individuals in the state.*

9 *(h) “Health information organization” means any entity operating*
10 *in the state which (1) maintains technical infrastructure for the*
11 *electronic movement of health information among covered entities, and*
12 *(2) promulgates and enforces policies governing participation in such*
13 *health information exchange.*

14 *(i) “Health information technology” means an information*
15 *processing application using computer hardware and software for the*
16 *storage, retrieval, use and disclosure of health information for*
17 *communication, decision-making, quality, safety and efficiency of health*
18 *care. “Health information technology” includes, but is not limited to:*
19 *(1) An electronic health record; (2) a personal health record; (3) health*
20 *information exchange; (4) electronic order entry; and (5) electronic*
21 *decision support.*

22 *(j) “Health plan” means a health plan, as that term is defined by*
23 *the HIPAA privacy rule, doing business within the state.*

24 *(k) “HIPAA privacy rule” means the privacy rule of the*
25 *administrative simplification subtitle of the health insurance portability*
26 *and accountability act of 1996 (Pub. L. No. 104-191) contained in 45*
27 *C.F.R. part 160 and 45 C.F.R. part 164, subparts A and E, as amended*
28 *from time to time. As used in the act, the following terms shall be*
29 *defined using the definitions set forth in the HIPAA privacy rule: (a)*
30 *Designated record set; (b) disclosure; (c) electronic protected health*
31 *information; (d) health care; (e) health care clearinghouse; (f) health*
32 *care provider; (g) health information; (h) hybrid entity; (i) individual;*
33 *(j) individually identifiable health information; (k) protected health*
34 *information; (l) public health authority; and (m) use.*

35 *(l) “Incapacitated adult” means a person whose ability to receive and*
36 *evaluate relevant health care information or to effectively communicate*
37 *personal health care decisions, or both, notwithstanding the use of*
38 *assistive technologies or other supports, is impaired such that the*
39 *person, in the opinion of the health care provider presently providing*
40 *examination or treatment for the individual, lacks the capacity to*
41 *reasonably weigh the risks and benefits of the provision of health care or*
42 *to effectively communicate personal health care decisions. No person*
43 *who is being treated by prayer in the practice of the religion of any*

1 *church which teaches reliance on spiritual means alone through prayer*
2 *for healing shall be determined to be an incapacitated adult under the*
3 *act for that reason alone.*

4 (m) *“Interoperability” means the capacity of two or more information*
5 *systems to exchange information or data in an accurate, effective, secure*
6 *and consistent manner.*

7 (n) *“Minor” means any person under age 18 unless: (1) Such*
8 *person is 16 or older and is, or has been, married; or (2) a court of*
9 *proper jurisdiction has conferred rights of majority upon such person.*

10 (o) *“Participation agreement” means a written agreement between*
11 *a covered entity and an approved HIO concerning the covered entity’s*
12 *participation in the approved HIO on terms consistent with section 16 of*
13 *this act.*

14 (p) *“Personal representative” means the person who has the legal*
15 *authority to act on behalf of an individual for one of the purposes listed*
16 *in section 46 of this act.*

17 (q) *“Secretary” means the secretary of the department of health and*
18 *environment.*

19 (r) *“Standard authorization form” means the standard*
20 *authorization form developed and promulgated by the secretary*
21 *pursuant to section 6 of this act.*

22 (s) *“State” means the state of Kansas.*

23 (t) *“State agency” means the department of health and*
24 *environment; the Kansas health policy authority; the department of*
25 *social and rehabilitation services; the department on aging; the*
26 *department of corrections; the office of the attorney general; the*
27 *insurance department; those state boards responsible for licensing and*
28 *disciplining health care providers; other state regulatory bodies; and any*
29 *county or municipal government or instrumentality thereof, including*
30 *local boards of health and local health officers, but not including any*
31 *community mental health center as defined by K.S.A. 75-3307e, and*
32 *amendments thereto.*

33 (u) *“State law” means any Kansas statute; regulation promulgated*
34 *by a state agency; directive, opinion, or guidance issued by a state*
35 *agency; opinion issued by any state or municipal court; or any opinion*
36 *issued by the attorney general.*

37 *New Sec. 40. It is the purpose of this act to harmonize state law*
38 *with the HIPAA privacy rule with respect to individual access to*
39 *protected health information, proper safeguarding of protected health*
40 *information, and the use and disclosure of protected health information*
41 *for purposes of facilitating the development and use of health*
42 *information technology and health information exchange.*

43 *New Sec. 41. (a) A covered entity shall provide an individual or*

1 *such individual's personal representative with access to the individual's*
2 *protected health information maintained by the covered entity in a*
3 *designated record set in compliance with 45 C.F.R. 164.524.*

4 *(b) A covered entity shall implement and maintain appropriate*
5 *administrative, technical and physical safeguards to protect the privacy*
6 *of protected health information in a manner consistent with 45 C.F.R.*
7 *164.530(c).*

8 *New Sec. 42. (a) No covered entity shall use or disclose protected*
9 *health information except as follows:*

10 *(1) Use and disclosure of protected health information consistent*
11 *with an authorization that satisfies the requirements of 45 C.F.R.*
12 *164.508;*

13 *(2) use and disclosure of protected health information without an*
14 *authorization as permitted under 45 C.F.R. 164.502, 164.506, 164.508,*
15 *164.510 and 164.512; or*

16 *(3) use and disclosure of protected health information as required*
17 *under 45 C.F.R. 164.502.*

18 *(b) Notwithstanding the provisions of subsection (a), no covered*
19 *entity shall disclose an individual's protected health information to a*
20 *health information organization for any purpose without an*
21 *authorization that satisfies the requirements of 45 C.F.R. 164.508, unless*
22 *such covered entity:*

23 *(1) Is a party to a current participation agreement with an approved*
24 *HIO at the time the disclosure is made;*

25 *(2) discloses the individual's protected health information to that*
26 *approved HIO in a manner consistent with the approved HIO's*
27 *established procedures;*

28 *(3) prior to the disclosure, has furnished to the individual, or such*
29 *individual's personal representative, whose information is to be*
30 *disclosed to the approved HIO, the notice required under section 53 of*
31 *this act; and*

32 *(4) restricts disclosure to the approved HIO of any protected health*
33 *information concerning the individual that is the subject of a written*
34 *request delivered to the covered entity by the individual, or such*
35 *individual's personal representative, for reasonable restrictions on*
36 *disclosure of all or any specified categories of the individual's protected*
37 *health information, as defined pursuant to section 53 of this act,*
38 *following the covered entity's receipt of such written request.*

39 *(c) Notwithstanding the provisions of subsections (a) and (b), a*
40 *covered entity that uses or discloses protected health information in*
41 *compliance with this section shall be immune from any civil or criminal*
42 *liability or any adverse administrative action arising out of or relating to*
43 *such use or disclosure.*

1 *New Sec. 43. (a) No later than six months following the effective*
2 *date of this act, the secretary shall develop and adopt by rules and*
3 *regulations a standard authorization form for the use and disclosure of*
4 *protected health information consistent with the requirements of 45*
5 *C.F.R. 164.508.*

6 *(b) Any person or entity in possession, custody or control of any*
7 *protected health information which is the subject of a properly*
8 *completed standard authorization form shall accept such form as valid*
9 *authorization for the disclosure of such protected health information to*
10 *the person or entity identified in such standard authorization form.*
11 *Notwithstanding any other provisions, a person or entity is not precluded*
12 *from accepting or relying upon any document which satisfies the*
13 *requirements of 45 C.F.R. 164.508, as valid authorization for the use or*
14 *disclosure of protected health information.*

15 *New Sec. 44. (a) Notwithstanding any other provision of this act, a*
16 *covered entity may condition the furnishing of copies of an individual's*
17 *protected health information in paper or electronic form to the*
18 *individual, the individual's personal representative, or any other person*
19 *or entity authorized by law to obtain or reproduce such information,*
20 *upon the payment of charges to be established and updated by the*
21 *secretary, except no provider shall condition the furnishing of copies to*
22 *another provider needed for that provider's treatment of an individual*
23 *on payment of such fee. This section shall not apply to disclosures by a*
24 *covered entity to an approved HIO, or by an approved HIO to a covered*
25 *entity.*

26 *New Sec. 45. (a) Any provision of state law regarding the*
27 *confidentiality, privacy, security or privileged status of any protected*
28 *health information which may be contrary to, inconsistent with or more*
29 *restrictive than the rules set forth in this act shall be superseded by the*
30 *rules set forth in this act, except that: (1) Nothing in this act shall limit*
31 *or restrict the effect and application of the peer review statute, K.S.A. 65-*
32 *4915, and amendments thereto; the risk management statute, K.S.A. 65-*
33 *4921, and amendments thereto; or the statutory physician-patient*
34 *privilege, K.S.A. 60-427, and amendments thereto; and (2) nothing in*
35 *this act shall supersede the provisions of any state law relating to the*
36 *confidentiality, privacy, security or privileged status of protected health*
37 *information in the possession or custody of any state agency.*

38 *(b) Nothing in this act shall limit or restrict the ability of any state*
39 *agency to require the disclosure of protected health information by any*
40 *person or entity pursuant to law.*

41 *New Sec. 46. It is the purpose of this act to identify the person who*
42 *qualifies as a personal representative to act on behalf of an individual*
43 *for any of the following purposes:*

1 (1) *Consent to treatment and for the provision of health care to an*
2 *individual by a health care provider;*

3 (2) *consent for autopsy of a decedent's body or part;*

4 (3) *disposition of a decedent's remains including burial, cremation*
5 *or entombment;*

6 (4) *consent for anatomical gift of decedent's body or part;*

7 (5) *Informed consent for an individual's participation in a research*
8 *protocol in accordance with the provisions of 21 C.F.R. 56.101 et seq.,*
9 *and 45 C.F.R. 46.101 et seq.;*

10 (6) *an individual's exercise of individual rights under the HIPAA*
11 *privacy rule in accordance with 45 C.F.R. 164.520 to 164.528;*

12 (7) *an individual's authorization for use or disclosure of that*
13 *individual's protected health information in accordance with 45 C.F.R.*
14 *164.502 to 164.514;*

15 (8) *an individual's exercise of individual rights with respect to*
16 *inclusion of protected health information within an approved HIO in*
17 *accordance with section 16 of this act; or*

18 (9) *an individual's exercise of patient rights in accordance with any*
19 *other state or federal statute or regulation, including, but not limited to,*
20 *42 C.F.R. 482.13 and 45 C.F.R. 635, but only to the extent such statute*
21 *or regulation does not otherwise identify a personal representative for*
22 *such purpose.*

23 *New Sec. 47. (a) When any person or entity requires a personal*
24 *representative to act on behalf of an incapacitated adult or deceased*
25 *individual for one of the purposes listed in section 46 of this act, such*
26 *person or entity shall first make a reasonable inquiry as to whether a*
27 *DPOA-HC or a legal guardian has been designated or appointed for*
28 *such incapacitated adult or deceased individual.*

29 (b) *If no DPOA-HC or legal guardian has been designated or*
30 *appointed or such DPOA-HC or legal guardian is incompetent or*
31 *unavailable at the time, the person or entity requiring a personal*
32 *representative to act on behalf of an incapacitated adult or deceased*
33 *individual for one of the purposes listed in section 9 of this act shall*
34 *make a reasonable inquiry as to the availability of another individual to*
35 *serve as the personal representative, in the following priority, provided*
36 *such person is competent and available at the time:*

37 (1) *The incapacitated adult's or deceased individual's spouse;*

38 (2) *any adult son or daughter of the incapacitated adult or deceased*
39 *individual;*

40 (3) *either parent of the incapacitated adult or deceased individual;*

41 (4) *any adult brother or sister of the incapacitated adult or deceased*
42 *individual;*

43 (5) *any adult grandchild of the incapacitated adult or deceased*

1 *individual; or*

2 *(6) a close friend of the incapacitated adult or deceased individual.*

3 *(c) Where there are multiple personal representatives at the same*
4 *priority level in the hierarchy, it shall be the responsibility of those*
5 *personal representatives to make reasonable efforts to reach a consensus*
6 *as to their decision on behalf of the patient. If two or more personal*
7 *representatives who are in the same category and have equal priority*
8 *disagree about the matter at issue, a majority of the available persons in*
9 *that category shall control, unless, in the case of an incapacitated adult,*
10 *the minority initiates guardianship proceedings in accordance with*
11 *K.S.A. 59-3050 et seq., and amendments thereto. No health care*
12 *provider or other person or entity shall be required to seek appointment*
13 *of a legal guardian on behalf of an incapacitated adult for any purpose*
14 *listed in section 46 of this act.*

15 *(d) In the event a person of a higher priority to an individual's*
16 *identified personal representative becomes available and is willing to*
17 *serve the individual's personal representative for one of the purposes*
18 *listed in section 46 of this act, the person with higher priority shall be*
19 *identified as the individual's personal representative. In the event a*
20 *person in a higher, a lower, or the same priority level or a health care*
21 *provider seeks to challenge the priority of an individual's recognized*
22 *personal representative, the challenging party may initiate guardianship*
23 *proceedings in accordance with the K.S.A. 59-3030 et seq., and*
24 *amendments thereto.*

25 *(e) A personal representative's authority to act on behalf of an*
26 *incapacitated adult shall extend only so long as the adult is*
27 *incapacitated. Upon gaining capacity, the individual shall have the sole*
28 *authority to act for any of the purposes listed in section 46 of this act.*

29 *New Sec. 48. (a) The person with the authority to consent to the*
30 *provision of health care to a minor by a health care provider also shall*
31 *have the authority to act as that minor's personal representative with*
32 *respect to any other purpose listed in section 49 of this act as it relates to*
33 *the provision of such health care.*

34 *(b) If no parent or legal guardian of a minor with authority to*
35 *consent to the provision of health care by a health care provider to that*
36 *minor is available by any means, personally, telephonically or*
37 *electronically or competent to provide such consent, the person or entity*
38 *requiring a personal representative for a minor for one of the purposes*
39 *listed in section 46 of this act shall make a reasonable inquiry as to the*
40 *availability of another person to act as the minor's personal*
41 *representative, in the following priority, provided such person is*
42 *competent and available at the time:*

43 *(1) Any person designated in writing by such parent or legal*

1 *guardian to consent for the provision of health care by a health care*
2 *provider for the minor;*

3 (2) *any grandparent of the minor;*

4 (3) *any adult brother or sister of the minor;*

5 (4) *any adult aunt or uncle of the minor;*

6 (5) *any adult cousin of the minor; or*

7 (6) *any adult close friend of the minor's parent or legal guardian.*

8 *No person or entity shall seek or rely upon a decision made by a*
9 *personal representative of a minor with respect to treatment and*
10 *provision of health care unless such person or entity reasonably*
11 *determines the delay associated with locating the minor's parent or legal*
12 *guardian would be detrimental to the health or welfare of such minor.*

13 (c) *Upon reaching the age of majority and otherwise becoming*
14 *emancipated, an individual shall gain control over the protected health*
15 *information, including protected health information relating to the*
16 *provision of health care to the individual while such individual was a*
17 *minor. The parent, legal guardian or other person who consented for*
18 *the provision of health care by a health care provider may not access or*
19 *otherwise exercise control over such protected health information once*
20 *the individual reaches the age of majority or otherwise becomes*
21 *emancipated.*

22 (d) *Any person who identifies and relies upon a personal*
23 *representative to act for a minor with respect to one of the purposes*
24 *listed in section 9 of this act in compliance with this provision shall be*
25 *immune from any civil or criminal liability or adverse licensure or*
26 *disciplinary action by a state agency relating to the subject matter of*
27 *such purpose regardless of any other provision of state law.*

28 *New Sec. 49. (a) Nothing herein shall amend or repeal the laws*
29 *related to the Kansas durable power of attorney act for health care*
30 *decisions, K.S.A. 58-625 et seq., and amendments thereto, the Kansas*
31 *natural death act, K.S.A. 65-28,101 et seq., and amendments thereto, or*
32 *the laws related to do-not-resuscitate directives, K.S.A. 65-4941 et seq.,*
33 *and amendments thereto. A personal representative does not have the*
34 *power to revoke any of the following valid advance directives properly*
35 *executed by the individual, regardless of the individual's subsequent*
36 *incapacity:*

37 (1) *A durable power of attorney for health care decisions; or*

38 (2) *a Kansas natural death act declaration.*

39 (b) *Nothing herein shall alter or amend any existing laws related to*
40 *the necessity of obtaining consent for provision of health care by a*
41 *health care provider; informed consent for a research protocol; the*
42 *determination of whether an adult has an impairment or a minor has*
43 *been emancipated; or the circumstances in which a minor may consent*

1 *for the provision of health care by a health care provider on such*
2 *minor's own behalf.*

3 *New Sec. 50. A health care provider may disclose protected health*
4 *information without authorization to any state agency for any public*
5 *health purpose that is permitted or required by law. Nothing in this act*
6 *shall be construed to limit the use, transfer, or disclosure of protected*
7 *health information as required or permitted by any other provision of*
8 *law.*

9 *New Sec. 51. (a) The corporation shall establish and revise, as*
10 *appropriate, standards for approval and operation of statewide and*
11 *regional health information organizations operating in the state as*
12 *approved HIOs including, but not limited to, the following:*

13 *(1) Satisfaction of certification standards for health information*
14 *exchanges promulgated by the federal government;*

15 *(2) adherence to nationally recognized standards for*
16 *interoperability;*

17 *(3) adoption and adherence to rules promulgated by the*
18 *corporation regarding access to and use and disclosure of protected*
19 *health information maintained by or on an approved HIO;*

20 *(4) demonstration of adequate financial resources to sustain*
21 *continued operations in compliance with the standards;*

22 *(5) participation in outreach activities for individuals and covered*
23 *entities;*

24 *(6) conduct of operations in a transparent manner to promote*
25 *consumer confidence;*

26 *(7) implementation of security breach notification procedures; and*

27 *(8) development of procedures for entering into and enforcing the*
28 *terms of participation agreements with covered entities which satisfy the*
29 *requirements established by the corporation pursuant to section 16 of*
30 *this act.*

31 *New Sec. 52. (a) The corporation shall establish and implement:*

32 *(1) A process by which a health information exchange may apply*
33 *for and receive approval by the corporation by demonstrating*
34 *compliance with the standards promulgated by the corporation pursuant*
35 *to section 51 of this act;*

36 *(2) a process by which an approved HIO shall be re-approved on*
37 *appropriate intervals by demonstrating continued compliance with the*
38 *standards promulgated by the corporation pursuant to section 14 of this*
39 *act; and*

40 *(3) a process for the investigation of reported concerns and*
41 *complaints regarding an approved HIO and imposition of appropriate*
42 *remedial and proactive measures to address any identified deficiencies.*

43 *New Sec. 53. (a) The corporation shall establish requirements for*

1 *participation agreements to include the following:*

2 *(1) Specification of procedures for the covered entity to disclose an*
3 *individual's protected health information to the approved HIO;*

4 *(2) specification of procedures for the covered entity to access an*
5 *individual's protected health information from the approved HIO;*

6 *(3) specification of the written notice to be provided by the covered*
7 *entity to any individual, or such individual's personal representative,*
8 *prior to the covered entity's disclosure of the individual's protected*
9 *health information to the approved HIO. Such written notice, which*
10 *may be incorporated into the covered entity's notice of privacy practices*
11 *required under the HIPAA privacy rule, shall include the following that:*

12 *(A) The individual's protected health information will be disclosed*
13 *to the approved HIO to facilitate the provision of health care to the*
14 *individual;*

15 *(B) the approved HIO maintains appropriate safeguards to protect*
16 *the privacy and security of protected health information;*

17 *(C) only authorized individuals may access protected health*
18 *information from the approved HIO;*

19 *(D) the individual, or such individual's personal representative, has*
20 *the right to request in writing that the covered entity: (i) Not disclose any*
21 *of the individual's protected health information to the approved HIO; or*
22 *(ii) not disclose specified categories of the individual's protected health*
23 *information to the approved HIO;*

24 *(E) such restrictions may result in a health care provider not*
25 *having access to information necessary to provide appropriate care for*
26 *the individual;*

27 *(F) the covered entity is required to honor a written request*
28 *delivered to the covered entity by an individual, or such individual's*
29 *representative, not to disclose any of the individual's protected health*
30 *information to an approved HIO; and*

31 *(G) the covered entity is required to honor a written request*
32 *delivered to the covered entity by an individual, or such individual's*
33 *representative, for reasonable restrictions on the disclosure of specified*
34 *categories of the individual's protected health information to an*
35 *approved HIO.*

36 *(4) specification of documentation requirements to demonstrate*
37 *delivery of such notice to an individual, or such individual's personal*
38 *representative, by or on behalf of the covered entity prior to the covered*
39 *entity's disclosure of the individual's protected health information to the*
40 *approved HIO;*

41 *(5) standards for determining the reasonableness of an individual's*
42 *written request, or the written request of such individual's personal*
43 *representative, not to disclose specified categories of the individual's*

1 *protected health information to the approved HIO based on the covered*
2 *entity's technological capabilities; and*

3 *(6) specification of the purposes for which a covered entity may*
4 *access protected health information through the approved HIO.*

5 *New Sec. 54. Any health information organization which is not an*
6 *approved HIO shall not be eligible for any financial support from the*
7 *state, or assistance or support from the state in securing any other*
8 *source of funding.*

9 *New Sec. 55. Notwithstanding any other provision of this act, no*
10 *use or disclosure of protected health information maintained by or on an*
11 *approved HIO shall be made except pursuant to rules adopted by the*
12 *corporation consistent with this act. An approved HIO that uses or*
13 *discloses protected health information in compliance with such rules*
14 *shall be immune from any civil or criminal liability or any adverse*
15 *administrative action arising out of or relating to such use or disclosure.*

16 *Sec. 56. K.S.A. 16-1602 is hereby amended to read as follows: 16-*
17 *1602. In this act:*

18 *(a) "Agreement" means the bargain of the parties in fact, as found*
19 *in their language or inferred from other circumstances and from rules,*
20 *regulations, and procedures given the effect of agreements under laws*
21 *otherwise applicable to a particular transaction.*

22 *(b) "Automated transaction" means a transaction conducted or*
23 *performed, in whole or in part, by electronic means or electronic*
24 *records, in which the acts or records of one or both parties are not*
25 *reviewed by an individual in the ordinary course in forming a contract,*
26 *performing under an existing contract or fulfilling an obligation*
27 *required by the transaction.*

28 *(c) "Computer program" means a set of statements or instructions*
29 *to be used directly or indirectly in an information processing system in*
30 *order to bring about a certain result.*

31 *(d) "Contract" means the total legal obligation resulting from the*
32 *parties' agreement as affected by this act and other applicable law.*

33 *(e) "Digital signature" means a type of electronic signature*
34 *consisting of a transformation of an electronic message using an*
35 *asymmetric crypto system such that a person having the initial message*
36 *and the signer's public key can accurately determine whether:*

37 *(1) The transformation was created using the private key that*
38 *corresponds to the signer's public key; and*

39 *(2) the initial message has not been altered since the*
40 *transformation was made.*

41 *(f) "Electronic" means relating to technology having electrical,*
42 *digital, magnetic, wireless, optical, electromagnetic or similar*
43 *capabilities.*

1 (g) *"Electronic agent" means a computer program or an electronic*
2 *or other automated means used independently to initiate an action or*
3 *respond to electronic records or performances in whole or in part,*
4 *without review or action by an individual.*

5 (h) *"Electronic record" means a record created, generated, sent,*
6 *communicated, received or stored by electronic means.*

7 (i) *"Electronic signature" means an electronic sound, symbol or*
8 *process attached to or logically associated with a record and executed or*
9 *adopted by a person with the intent to sign the record.*

10 (j) *"Governmental agency" means an executive, legislative, or*
11 *judicial agency, department, board, commission, authority, institution or*
12 *instrumentality of the federal government or of a state or of a county,*
13 *municipality or other political subdivision of a state.*

14 (k) *"Information" means data, text, images, sounds, codes,*
15 *computer programs, software, databases or the like.*

16 (l) *"Information processing system" means an electronic system for*
17 *creating, generating, sending, receiving, storing, displaying or*
18 *processing information.*

19 (m) *"Message" means a digital representation of information.*

20 (n) *"Person" means an individual, corporation, business trust,*
21 *estate, trust, partnership, limited liability company, association, joint*
22 *venture, governmental agency, public corporation or any other legal or*
23 *commercial entity.*

24 (o) *"Record" means information that is inscribed on a tangible*
25 *medium or that is stored in an electronic or other medium and is*
26 *retrievable in perceivable form.*

27 (p) *"Registered certification authority" means a person providing*
28 *certification of a digital signature who is, or is certified by, a member of*
29 *the group of certification authorities approved by and registered with the*
30 *secretary.*

31 (q) *"Secretary" means the Kansas secretary of state.*

32 (r) *"Security procedure" means a procedure employed for the*
33 *purpose of verifying that an electronic signature, record or performance*
34 *is that of a specific person or for detecting changes or errors in the*
35 *information in an electronic record. The term includes a procedure that*
36 *requires the use of algorithms or other codes, identifying words or*
37 *numbers, encryption, callback or other acknowledgment procedures.*

38 (s) *"State" means a state of the United States, the District of*
39 *Columbia, Puerto Rico, the United States Virgin Islands or any territory*
40 *or insular possession subject to the jurisdiction of the United States.*

41 ~~(t) "Transaction" means an action or set of actions occurring between~~
42 ~~two or more persons relating to the conduct of business, insurance, health~~
43 ~~care, commercial or governmental affairs.~~

1 *Sec. 57. If any provision or clause of this act or application thereof*
2 *to any person or circumstances is held invalid, such invalidity shall not*
3 *affect other provisions or applications of the act which can be given*
4 *effect without the invalid provision or application, and to this end the*
5 *provisions of this act are declared to be severable.]*

6 ~~Sec. 2, 3, [10.] K.S.A. 2010 Supp. 65-1669 and 65-1671 are is~~
7 ~~hereby repealed.~~

8 *[Sec. 58. K.S.A. 16-1602, 65-1734, 65-4970, 65-4972, and 65-4973*
9 *and K.S.A. 2010 Supp 65-1669, 65-1671, 65-1901, 65-1902, 65-1905, 65-*
10 *1912, 65-2901, 65-2913, 65-3228, 65-4971 and 65-4974 and 74-7507 and*
11 *section 2, section 4, section 7, section 8, section 9, and section 10 of*
12 *chapter 45 of the 2010 Session Laws of Kansas are hereby repealed.]*

13 ~~Sec. 3, 4, [59.]~~ This act shall take effect and be in force from and
14 after its publication in the statute book.

15