

SENATE BILL No. 402

By Committee on Public Health and Welfare

2-3

1 AN ACT concerning charitable healthcare providers; relating to continuing
2 education credits for gratuitous care; amending K.S.A. 2015 Supp. 65-
3 2809 and 75-6102 and repealing the existing sections.

4
5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 2015 Supp. 65-2809 is hereby amended to read as
7 follows: 65-2809. (a) The license shall be canceled on the date established
8 by rules and regulations of the board which may provide renewal
9 throughout the year on a continuing basis. In each case in which a license
10 is renewed for a period of time of more or less than 12 months, the board
11 may prorate the amount of the fee established under K.S.A. 65-2852, and
12 amendments thereto. The request for renewal shall be on a form provided
13 by the board and shall be accompanied by the prescribed fee, which shall
14 be paid not later than the renewal date of the license.

15 (b) There is hereby created a designation of an active license. The
16 board is authorized to issue an active license to any licensee who makes
17 written application for such license on a form provided by the board and
18 remits the fee for an active license established pursuant to K.S.A. 65-2852,
19 and amendments thereto. The board shall require every active licensee to
20 submit evidence of satisfactory completion of a program of continuing
21 education required by the board. The requirements for continuing
22 education for licensees of each branch of the healing arts shall be
23 established by rules and regulations adopted by the board.

24 (c) The board, prior to renewal of a license, shall require an active
25 licensee to submit to the board evidence satisfactory to the board that the
26 licensee is maintaining a policy of professional liability insurance as
27 required by K.S.A. 40-3402, and amendments thereto, and has paid the
28 premium surcharges as required by K.S.A. 40-3404, and amendments
29 thereto.

30 (d) At least 30 days before the renewal date of a licensee's license, the
31 board shall notify the licensee of the renewal date by mail addressed to the
32 licensee's last mailing address as noted upon the office records. If the
33 licensee fails to submit the renewal application and pay the renewal fee by
34 the renewal date of the license, the licensee shall be given notice that the
35 licensee has failed to submit the renewal application and pay the renewal
36 fee by the renewal date of the license, that the license will be deemed

1 canceled if not renewed within 30 days following the renewal date, that
2 upon receipt of the renewal application and renewal fee and an additional
3 fee established by rules and regulations of the board not to exceed \$500
4 within the 30-day period the license will not be canceled and that, if both
5 fees are not received within the 30-day period, the license shall be deemed
6 canceled by operation of law and without further proceedings.

7 (e) Any license canceled for failure to renew may be reinstated within
8 two years of cancellation upon recommendation of the board and upon
9 payment of the renewal fees then due and upon proof of compliance with
10 the continuing educational requirements established by the board by rules
11 and regulations. Any person who has not been in the active practice of the
12 branch of the healing arts for which reinstatement is sought or who has not
13 been engaged in a formal educational program during the two years
14 preceding the application for reinstatement may be required to complete
15 such additional testing, training or education as the board may deem
16 necessary to establish the licensee's present ability to practice with
17 reasonable skill and safety.

18 (f) There is hereby created a designation of exempt license. The board
19 is authorized to issue an exempt license to any licensee who makes written
20 application for such license on a form provided by the board and remits the
21 fee for an exempt license established pursuant to K.S.A. 65-2852, and
22 amendments thereto. The board may issue an exempt license to a person
23 who is not regularly engaged in the practice of the healing arts in Kansas
24 and who does not hold oneself out to the public as being professionally
25 engaged in such practice. An exempt license shall entitle the holder to all
26 privileges attendant to the branch of the healing arts for which such license
27 is issued. Each exempt license may be renewed subject to the provisions of
28 this section. Each exempt licensee shall be subject to all provisions of the
29 healing arts act, except as otherwise provided in this subsection-(f). The
30 holder of an exempt license may be required to submit evidence of
31 satisfactory completion of a program of continuing education required by
32 this section. The requirements for continuing education for exempt
33 licensees of each branch of the healing arts shall be established by rules
34 and regulations adopted by the board. Each exempt licensee may apply for
35 an active license to regularly engage in the practice of the appropriate
36 branch of the healing arts upon filing a written application with the board.
37 The request shall be on a form provided by the board and shall be
38 accompanied by the license fee established pursuant to K.S.A. 65-2852,
39 and amendments thereto. For the licensee whose license has been exempt
40 for less than two years, the board shall adopt rules and regulations
41 establishing appropriate continuing education requirements for exempt
42 licensees to become licensed to regularly practice the healing arts within
43 Kansas. Any licensee whose license has been exempt for more than two

1 years and who has not been in the active practice of the healing arts or
2 engaged in a formal educational program since the license has been
3 exempt may be required to complete such additional testing, training or
4 education as the board may deem necessary to establish the licensee's
5 present ability to practice with reasonable skill and safety. Nothing in this
6 subsection~~(f)~~ shall be construed to prohibit a person holding an exempt
7 license from serving as a coroner or as a paid employee of: (1) A local
8 health department as defined by K.S.A. 65-241, and amendments thereto;
9 or (2) an indigent health care clinic as defined by K.S.A. 75-6102, and
10 amendments thereto.

11 (g) There is hereby created a designation of inactive license. The
12 board is authorized to issue an inactive license to any licensee who makes
13 written application for such license on a form provided by the board and
14 remits the fee for an inactive license established pursuant to K.S.A. 65-
15 2852, and amendments thereto. The board may issue an inactive license
16 only to a person who is not regularly engaged in the practice of the healing
17 arts in Kansas, who does not hold oneself out to the public as being
18 professionally engaged in such practice and who meets the definition of
19 inactive health care provider as defined in K.S.A. 40-3401, and
20 amendments thereto. An inactive license shall not entitle the holder to
21 practice the healing arts in this state. Each inactive license may be renewed
22 subject to the provisions of this section. Each inactive licensee shall be
23 subject to all provisions of the healing arts act, except as otherwise
24 provided in this subsection~~(g)~~. The holder of an inactive license shall not
25 be required to submit evidence of satisfactory completion of a program of
26 continuing education required by K.S.A. 65-2809, and amendments
27 thereto. Each inactive licensee may apply for an active license upon filing
28 a written application with the board. The request shall be on a form
29 provided by the board and shall be accompanied by the license fee
30 established pursuant to K.S.A. 65-2852, and amendments thereto. For
31 those licensees whose license has been inactive for less than two years, the
32 board shall adopt rules and regulations establishing appropriate continuing
33 education requirements for inactive licensees to become licensed to
34 regularly practice the healing arts within Kansas. Any licensee whose
35 license has been inactive for more than two years and who has not been in
36 the active practice of the healing arts or engaged in a formal education
37 program since the licensee has been inactive may be required to complete
38 such additional testing, training or education as the board may deem
39 necessary to establish the licensee's present ability to practice with
40 reasonable skill and safety.

41 (h) (1) There is hereby created a designation of federally active
42 license. The board is authorized to issue a federally active license to any
43 licensee who makes written application for such license on a form

1 provided by the board and remits the same fee required for a license
2 established under K.S.A. 65-2852, and amendments thereto. The board
3 may issue a federally active license only to a person who meets all the
4 requirements for a license to practice the healing arts in Kansas and who
5 practices that branch of the healing arts solely in the course of employment
6 or active duty in the United States government or any of its departments,
7 bureaus or agencies. A person issued a federally active license may engage
8 in limited practice outside of the course of federal employment consistent
9 with the scope of practice of exempt licensees under subsection (f), except
10 that the scope of practice of a federally active licensee shall be limited to
11 the following: (A) Performing administrative functions, including peer
12 review, disability determinations, utilization review and expert opinions;
13 (B) providing direct patient care services gratuitously or providing
14 supervision, direction or consultation for no compensation except that
15 nothing in this ~~subsection (h)(1)(B)~~ *subparagraph* shall prohibit a person
16 licensed to practice the healing arts issued a federally active license from
17 receiving payment for subsistence allowances or actual and necessary
18 expenses incurred in providing such services; and (C) rendering
19 professional services as a charitable health care provider as defined in
20 K.S.A. 75-6102, and amendments thereto.

21 (2) The provisions of subsections (a), (b), (d) and (e) of this section
22 relating to continuing education, cancellation, renewal and reinstatement
23 of a license shall be applicable to a federally active license issued under
24 this subsection.

25 (3) A person who practices under a federally active license shall not
26 be deemed to be rendering professional service as a health care provider in
27 this state for purposes of K.S.A. 40-3402, and amendments thereto.

28 (j) (1) There is hereby created the designation of reentry active
29 license. The board is authorized to issue a reentry active license to any
30 licensee who makes written application for such license on a form
31 provided by the board and remits the fee for a reentry active license. The
32 board may issue a reentry active license with requirements as the board
33 may deem necessary to establish the licensee's present ability to practice
34 with reasonable skill and safety to a person who has not regularly engaged
35 in the practice of the healing arts for at least two years, but who meets all
36 the qualifications for licensure. The requirements for issuance,
37 maintenance and scope of practice for a reentry active license shall be
38 established by rules and regulations adopted by the board.

39 (2) The provisions of subsections (a), (b) and (d) of this section
40 relating to continuing education, cancellation and renewal of a license
41 shall be applicable to a reentry active license issued under this subsection.

42 (k) *A charitable healthcare provider in Kansas who has signed an*
43 *agreement to provide gratuitous services pursuant to K.S.A. 75-6102 and*

1 75-6120, and amendments thereto, may fulfill one hour of continuing
2 education credit by the performance of one hour of gratuitous services to
3 eligible low income patients up to a maximum of eight continuing
4 education credits per licensure period.

5 (l) The board shall provide a measurement report annually, starting
6 on January 15, 2017, to the senate committee on public health and welfare
7 and the house committee on health and human services detailing by
8 profession the number of gratuitous continuing education units used,
9 compared to the number of continuous education units required.

10 Sec. 2. K.S.A. 2015 Supp. 75-6102 is hereby amended to read as
11 follows: 75-6102. As used in K.S.A. 75-6101 through 75-6118, and
12 amendments thereto, unless the context clearly requires otherwise:

13 (a) "State" means the state of Kansas and any department or branch of
14 state government, or any agency, authority, institution or other
15 instrumentality thereof.

16 (b) "Municipality" means any county, township, city, school district
17 or other political or taxing subdivision of the state, or any agency,
18 authority, institution or other instrumentality thereof.

19 (c) "Governmental entity" means state or municipality.

20 (d) (1) "Employee" means: (A) Any officer, employee, servant or
21 member of a board, commission, committee, division, department, branch
22 or council of a governmental entity, including elected or appointed
23 officials and persons acting on behalf or in service of a governmental
24 entity in any official capacity, whether with or without compensation and a
25 charitable health care provider;

26 (B) any steward or racing judge appointed pursuant to K.S.A. 74-
27 8818, and amendments thereto, regardless of whether the services of such
28 steward or racing judge are rendered pursuant to contract as an
29 independent contractor;

30 (C) employees of the United States marshal's service engaged in the
31 transportation of inmates on behalf of the secretary of corrections;

32 (D) a person who is an employee of a nonprofit independent
33 contractor, other than a municipality, under contract to provide educational
34 or vocational training to inmates in the custody of the secretary of
35 corrections and who is engaged in providing such service in an institution
36 under the control of the secretary of corrections provided that such
37 employee does not otherwise have coverage for such acts and omissions
38 within the scope of their employment through a liability insurance contract
39 of such independent contractor;

40 (E) a person who is an employee or volunteer of a nonprofit program,
41 other than a municipality, who has contracted with the commissioner of
42 juvenile justice or with another nonprofit program that has contracted with
43 the secretary of corrections to provide a juvenile justice program for

1 juvenile offenders in a judicial district provided that such employee or
2 volunteer does not otherwise have coverage for such acts and omissions
3 within the scope of their employment or volunteer activities through a
4 liability insurance contract of such nonprofit program;

5 (F) a person who contracts with the Kansas guardianship program to
6 provide services as a court-appointed guardian or conservator;

7 (G) an employee of an indigent health care clinic;

8 (H) former employees for acts and omissions within the scope of their
9 employment during their former employment with the governmental
10 entity;

11 (I) any member of a regional medical emergency response team,
12 created under the provisions of K.S.A. 48-928, and amendments thereto, in
13 connection with authorized training or upon activation for an emergency
14 response;

15 (J) any member of a regional search and rescue team or regional
16 hazardous materials response team contracting with the state fire marshal
17 pursuant to K.S.A. 31-133, and amendments thereto, or K.S.A. 2015 Supp.
18 75-1518, and amendments thereto, in connection with authorized training
19 or upon activation for an emergency response; and

20 (K) medical students enrolled at the university of Kansas medical
21 center who are in clinical training, on or after July 1, 2008, at the
22 university of Kansas medical center or at another health care institution.

23 (2) "Employee" does not include: (A) An individual or entity for
24 actions within the scope of K.S.A. 60-3614, and amendments thereto; or

25 (B) any independent contractor under contract with a governmental
26 entity except those contractors specifically listed in ~~paragraph (1) of this~~
27 subsection (d)(1).

28 (e) "Charitable health care provider" means a person licensed by the
29 state board of healing arts as an exempt licensee or a federally active
30 licensee, a person issued a limited permit by the state board of healing arts,
31 a physician assistant licensed by the state board of healing arts, a mental
32 health practitioner licensed by the behavioral sciences regulatory board, an
33 ultrasound technologist currently registered in any area of sonography
34 credentialed through the American registry of radiology technologists, the
35 American registry for diagnostic medical sonography or cardiovascular
36 credentialing international and working under the supervision of a person
37 licensed to practice medicine and surgery, or a health care provider as the
38 term "health care provider" is defined under K.S.A. 65-4921, and
39 amendments thereto, who has entered into an agreement with:

40 (1) The secretary of health and environment under K.S.A. 75-6120,
41 and amendments thereto, who, pursuant to such agreement, gratuitously
42 renders professional services to a person who has provided information
43 which would reasonably lead the health care provider to make the good

1 faith assumption that such person meets the definition of medically
2 indigent person as defined by this section or to a person receiving medical
3 assistance from the programs operated by the department of health and
4 environment, and who is considered an employee of the state of Kansas
5 under K.S.A. 75-6120, and amendments thereto;

6 (2) the secretary of health and environment and who, pursuant to such
7 agreement, gratuitously renders professional services in conducting
8 children's immunization programs administered by the secretary;

9 (3) a local health department or indigent health care clinic, which
10 renders professional services to medically indigent persons or persons
11 receiving medical assistance from the programs operated by the
12 department of health and environment gratuitously or for a fee paid by the
13 local health department or indigent health care clinic to such provider and
14 who is considered an employee of the state of Kansas under K.S.A. 75-
15 6120, and amendments thereto. Professional services rendered by a
16 provider under this paragraph—(3) shall be considered gratuitous
17 notwithstanding fees based on income eligibility guidelines charged by a
18 local health department or indigent health care clinic and notwithstanding
19 any fee paid by the local health department or indigent health care clinic to
20 a provider in accordance with this paragraph—(3); or

21 (4) the secretary of health and environment to provide dentistry
22 services defined by K.S.A. 65-1422 et seq., and amendments thereto, or
23 dental hygienist services defined by K.S.A. 65-1456, and amendments
24 thereto, that are targeted, but are not limited to, medically indigent
25 persons, and are provided on a gratuitous basis: (A) At a location
26 sponsored by a not-for-profit organization that is not the dentist or dental
27 hygienist office location; (B) at the office location of a dentist or dental
28 hygienist provided the care be delivered as part of a program organized by
29 a not-for-profit organization and approved by the secretary of health and
30 environment; or (C) as part of a charitable program organized by the
31 dentist that has been approved by the secretary of health and environment
32 upon a showing that the dentist seeks to treat medically indigent patients
33 on a gratuitous basis, except that such dentistry services and dental
34 hygienist services shall not include "oral and maxillofacial surgery" as
35 defined by K.A.R. 71-2-2, or use sedation or general anesthesia that result
36 in "deep sedation" or "general anesthesia" as defined by K.A.R. 71-5-7.

37 (5) *The secretary of health and environment shall annually, starting*
38 *on January 15, 2017, report to the senate committee on public health and*
39 *welfare and the house committee of health and human services what type*
40 *of charitable health care providers have signed agreements under the act*
41 *and how many are using it to provide gratuitous care.*

42 (f) "Medically indigent person" means a person who lacks resources
43 to pay for medically necessary health care services and who meets the

1 eligibility criteria for qualification as a medically indigent person
2 established by the secretary of health and environment under K.S.A. 75-
3 6120, and amendments thereto.

4 (g) "Indigent health care clinic" means an outpatient medical care
5 clinic operated on a not-for-profit basis which has a contractual agreement
6 in effect with the secretary of health and environment to provide health
7 care services to medically indigent persons.

8 (h) "Local health department" shall have the meaning ascribed to
9 such term under K.S.A. 65-241, and amendments thereto.

10 (i) "Fire control, fire rescue or emergency medical services
11 equipment" means any vehicle, firefighting tool, protective clothing,
12 breathing apparatus and any other supplies, tools or equipment used in
13 firefighting or fire rescue or in the provision of emergency medical
14 services.

15 Sec. 3. K.S.A. 2015 Supp. 65-2809 and 75-6102 are hereby repealed.

16 Sec. 4. This act shall take effect and be in force from and after its
17 publication in the statute book.