

HOUSE BILL No. 2048

By Committee on Federal and State Affairs

1-12

Proposed Amendments to
House Bill No. 2048
House Committee on Judiciary
Re: Board of Healing Arts
Prepared by: Jason Thompson
Office of Revisor of Statutes

1 AN ACT concerning the governmental response to the COVID-19
2 pandemic in Kansas; providing certain relief related to health, welfare,
3 property and economic security during this public health emergency;
4 relating to the state of disaster emergency; powers of the governor and
5 executive officers; providing certain limitations and restrictions;
6 authorizing the temporary sale of alcoholic liquor for consumption off
7 of certain licensed premises; relating to changes in eligibility for
8 benefits under the employment security law in response to the COVID-
9 19 public health emergency; authorizing the expanded use of
10 telemedicine in response to the COVID-19 public health emergency
11 and imposing requirements related thereto; suspending certain
12 requirements related to medical care facilities and expiring such
13 provisions; providing for temporary suspension of certain healthcare
14 professional licensing and practice requirements; delegation and
15 supervision requirements; conditions of licensure and renewal and
16 reinstatement of licensure; relating to limitations on business liability
17 associated with the COVID-19 public health emergency; amending
18 K.S.A. 2019 Supp. 48-925, as amended by section 34 of chapter 1 of
19 the 2020 Special Session Laws of Kansas and 48-925, as amended by
20 section 34 of chapter 1 of the 2020 Special Session Laws of Kansas, as
21 amended by section 5 of this act, and K.S.A. 2020 Supp. 41-2653, 44-
22 705, 48-924, 48-924b, 48-925a, 48-963, 48-965, 48-966 and 60-5504
23 and repealing the existing sections.
24

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

26 Section 1. K.S.A. 2020 Supp. 41-2653 is hereby amended to read as
27 follows: 41-2653. (a) In addition to the rights of a licensee pursuant to
28 provisions of K.S.A. 41-2637, 41-2641 or 41-2642, and amendments
29 thereto, a class A club license, class B club license or drinking
30 establishment license shall allow the licensee to allow legal patrons of the
31 club or drinking establishment to remove from the licensed premises one
32 or more opened containers of alcoholic liquor, subject to the following
33 conditions:

- 34 (1) It must be legal for the licensee to sell the alcoholic liquor in its
35 original container;
36 (2) the alcoholic liquor must be in its original container;

1 (g) This section shall expire on ~~January 26~~ *December 31, 2021*.

2 Sec. 9. K.S.A. 2020 Supp. 48-965 is hereby amended to read as

3 follows: 48-965. (a) Notwithstanding any statute to the contrary, the state

4 board of healing arts may grant a temporary emergency license to practice

5 any profession licensed, certified, registered or regulated by the board to

6 an applicant with qualifications the board deems sufficient to protect

7 public safety and welfare within the scope of professional practice

8 authorized by the temporary emergency license for the purpose of

9 preparing for, responding to or mitigating any effect of COVID-19.

10 (b) This section shall expire on ~~January 26~~ *December 31, 2021*.

11 Sec. 10. K.S.A. 2020 Supp. 48-966 is hereby amended to read as

12 follows: 48-966. (a) Notwithstanding the provisions of K.S.A. 65-28a08

13 and 65-28a09, and amendments thereto, or any other statute to the

14 contrary, a licensed physician assistant may provide healthcare services

15 appropriate to such physician assistant's education, training and experience

16 within a designated healthcare facility at which the physician assistant is

17 employed or contracted to work as necessary to support the facility's

18 response to the COVID-19 pandemic without a written agreement with a

19 supervising physician. Such physician assistant shall not be liable in any

20 criminal prosecution, civil action or administrative proceeding arising out

21 of such physician assistant's lack of written agreement with a supervising

22 physician.

23 (b) Notwithstanding the provisions of K.S.A. 65-1130, and

24 amendments thereto, or any other statute to the contrary, a licensed

25 advanced practice registered nurse may provide healthcare services

26 appropriate to such advanced practice registered nurse's education, training

27 and experience within a designated healthcare facility at which the

28 advanced practice registered nurse is employed or contracted to work as

29 necessary to support the facility's response to the COVID-19 pandemic

30 without direction and supervision from a responsible physician. Such

31 advanced practice registered nurse shall not be liable in any criminal

32 prosecution, civil action or administrative proceeding arising out of such

33 advanced practice registered nurse's lack of direction and supervision from

34 a responsible physician.

35 (c) Notwithstanding the provisions of K.S.A. 65-1158, and

36 amendments thereto, or any other statute to the contrary, a registered nurse

37 anesthetist may provide healthcare services appropriate to such registered

38 nurse anesthetist's education, training and experience within a designated

39 healthcare facility at which the registered nurse anesthetist is employed or

40 contracted to work as necessary to support the facility's response to the

41 COVID-19 pandemic without direction and supervision from a physician.

42 Such registered nurse anesthetist shall not be liable in any criminal

43 prosecution, civil action or administrative proceeding arising out of such

Notwithstanding any statute to the contrary, an applicant may practice in Kansas pursuant to a temporary emergency license upon submission of a non-resident health care provider certification form to the Kansas health care stabilization fund and without paying the surcharge required by K.S.A. 40-3404, and amendments thereto.

(c)

1 registered nurse anesthetist's lack of direction and supervision from a
2 physician.

3 (d) Notwithstanding the provisions of K.S.A. 65-1113, and
4 amendments thereto, or any other statute to the contrary:

5 (1) A registered professional nurse or licensed practical nurse may
6 order the collection of throat or nasopharyngeal swab specimens from
7 individuals suspected of being infected by COVID-19 for purposes of
8 testing; and

9 (2) a licensed practical nurse may provide healthcare services
10 appropriate to such licensed practical nurse's education, training and
11 experience within a designated healthcare facility at which the licensed
12 practical nurse is employed or contracted to work as necessary to support
13 the facility's response to the COVID-19 pandemic without direction from a
14 registered professional nurse. Such licensed practical nurse shall not be
15 liable in any criminal prosecution, civil action or administrative
16 proceeding arising out of such licensed practical nurse's lack of
17 supervision from a registered professional nurse.

18 (e) Notwithstanding the provisions of K.S.A. 65-1626a, and
19 amendments thereto, or any other statute to the contrary, a licensed
20 pharmacist may provide care for routine health maintenance, chronic
21 disease states or similar conditions appropriate to such pharmacist's
22 education, training and experience within a designated healthcare facility
23 at which the pharmacist is employed or contracted to work as necessary to
24 support the facility's response to the COVID-19 pandemic without a
25 collaborative practice agreement with a physician. Such pharmacist shall
26 not be liable in any criminal prosecution, civil action or administrative
27 proceeding arising out of such pharmacist's lack of collaborative practice
28 agreement with a physician.

29 (f) Notwithstanding the provisions of K.S.A. 65-1115, 65-1116 and
30 65-1117, and amendments thereto, or any other statute to the contrary, a
31 registered professional nurse or licensed practical nurse who holds a
32 license that is exempt or inactive or whose license has lapsed within the
33 past five years from the effective date of this act may provide healthcare
34 services appropriate to the nurse's education, training and experience. Such
35 registered professional nurse or licensed practical nurse shall not be liable
36 in any criminal prosecution, civil action or administrative proceeding
37 arising out of such nurse's exempt, inactive or lapsed license.

38 (g) Notwithstanding any other provision of law to the contrary, a
39 designated healthcare facility may, as necessary to support the facility's
40 response to the COVID-19 pandemic:

41 (1) Allow a student who is enrolled in a program to become a
42 licensed, registered or certified healthcare professional to volunteer for
43 work within such facility in roles that are appropriate to such student's

1 education, training and experience;

2 (2) allow a licensed, registered or certified healthcare professional or
3 emergency medical personnel who is serving in the military in any duty
4 status to volunteer or work within such facility in roles that are appropriate
5 to such military service member's education, training and experience; and

6 (3) allow a medical student, physical therapist or emergency medical
7 services provider to volunteer or work within such facility as a respiratory
8 therapist extender under the supervision of a physician, respiratory
9 therapist or advanced practice registered nurse. Such respiratory therapist
10 extender may assist respiratory therapists and other healthcare
11 professionals in the operation of ventilators and related devices and may
12 provide other healthcare services appropriate to such respiratory therapist
13 extender's education, training and experience, as determined by the facility
14 in consultation with such facility's medical leadership.

15 ~~(h) Notwithstanding any statute to the contrary, a healthcare
16 professional licensed and in good standing in another state may practice
17 such profession in the state of Kansas. For purposes of this subsection, a
18 license that has been suspended or revoked or a licensee that is subject to
19 pending license-related disciplinary action shall not be considered to be in
20 good standing. Any license that is subject to limitation in another state
21 shall be subject to the same limitation in the state of Kansas. Such
22 healthcare professional shall not be liable in any criminal prosecution, civil
23 action or administrative proceeding arising out of such healthcare
24 professional's lack of licensure in the state of Kansas.~~

25 (i) Notwithstanding any statute to the contrary, a designated
26 healthcare facility may use a qualified volunteer or qualified personnel
27 affiliated with any other designated healthcare facility as if such volunteer
28 or personnel was affiliated with the facility using such volunteer or
29 personnel, subject to any terms and conditions established by the secretary
30 of health and environment.

31 (j) Notwithstanding any statute to the contrary, a healthcare
32 professional may be licensed, certified or registered or may have such
33 license, certification or registration reinstated within five years of lapse or
34 renewed by the applicable licensing agency of the state of Kansas without
35 satisfying the following conditions of licensure, certification or
36 registration:

37 (1) An examination, if such examination's administration has been
38 canceled while the state of disaster emergency proclamation issued by the
39 governor in response to the COVID-19 pandemic is in effect;

40 (2) fingerprinting;

41 (3) continuing education; and

42 (4) payment of a fee.

43 (k) Notwithstanding any statute to the contrary, a professional

In line 15, strike all after "(h)";
strike all in lines 16-24;
redesignate subsections

1 certification in basic life support, advanced cardiac life support or first aid
2 shall remain valid if such professional certification is due to expire or be
3 canceled while the state of disaster emergency proclamation issued by the
4 governor in response to the COVID-19 pandemic is in effect.

5 (l) Notwithstanding any statute to the contrary, fingerprinting of any
6 individual shall not be required as a condition of licensure and certification
7 for any hospital, as defined in K.S.A. 65-425, and amendments thereto,
8 adult care home, county medical care facility or psychiatric hospital.

9 (m) As used in this section:

10 (1) "Appropriate to such professional's education, training and
11 experience," or words of like effect, shall be determined by the designated
12 healthcare facility in consultation with such facility's medical leadership;
13 and

14 (2) "designated healthcare facility" means:

15 (A) Entities listed in K.S.A. 40-3401(f), and amendments thereto;

16 (B) state-owned surgical centers;

17 (C) state-operated hospitals and veterans facilities;

18 (D) entities used as surge capacity by any entity described in
19 subparagraphs (A) through (C);

20 (E) adult care homes; and

21 (F) any other location specifically designated by the governor or the
22 secretary of health and environment to exclusively treat patients for
23 COVID-19.

24 (n) The provisions of this section shall expire on ~~January 26~~
25 *December 31, 2021.*

26 Sec. 11. K.S.A. 2020 Supp. 60-5504 is hereby amended to read as
27 follows: 60-5504. (a) Notwithstanding any other provision of law, a
28 person, or an agent of such person, conducting business in this state shall
29 be immune from liability in a civil action for a COVID-19 claim if such
30 person was acting pursuant to and in substantial compliance with public
31 health directives applicable to the activity giving rise to the cause of action
32 when the cause of action accrued.

33 (b) The provisions of this section shall expire on ~~January 26~~
34 *December 31, 2021.*

35 Sec. 12. K.S.A. 2020 Supp. 41-2653, 44-705, 48-924, 48-924b, 48-
36 925a, 48-963, 48-965, 48-966 and 60-5504 are hereby repealed.

37 Sec. 13. On and after January 26, 2021, K.S.A. 2019 Supp. 48-925, as
38 amended by section 34 of chapter 1 of the 2020 Session Laws of Kansas,
39 is hereby repealed.

40 Sec. 14. On and after June 1, 2021, K.S.A. 2019 Supp. 48-925, as
41 amended by section 34 of chapter 1 of the 2020 Special Session Laws of
42 Kansas, as amended by section 5 of this act, is hereby repealed.

43 Sec. 15. This act shall take effect and be in force from and after its