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green underline denotes added text
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Session of 2010

HOUSE BILL No. 2447

By Committee on Health and Human Services

1-14

AN ACT relating to nursing; concerning advanced practice nursing; amending K.S.A. 65-1113, 65-1114, 65-1118, 65-1120, 65-1122, 65-1130, 65-1131, 65-1133, 65-1154 and 65-1163 and K.S.A. 2009 Supp. 65-1132, 65-1626 and 65-4101 and repealing the existing sections; also repealing K.S.A. 2009 Supp. 65-1626d.

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

Section 1. K.S.A. 65-1113 is hereby amended to read as follows:

65-1113. When used in this act and the act of which this section is amendatory:

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

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

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

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

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

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

(g) "Advanced practice registered nurse ~~practitioner~~" or "~~ARNP~~" "APRN" means a professional nurse who holds a ~~certificate of qualification license~~ from the board to function as a professional nurse in an expanded advanced role, and this ~~expanded advanced~~ role shall be defined by rules and regulations adopted by the board in accordance with K.S.A. 65-1130, and amendments thereto.

(h) Whenever the term "advanced registered nurse practitioner" is referred to or designated in a statute, contract or other document such reference or designation shall be deemed to mean "advanced practice registered nurse" unless the context otherwise indicates a different meaning.

Sec. 2. K.S.A. 65-1114 is hereby amended to read as follows:

65-1114. (a) It shall be unlawful for any person:

(1) To practice or to offer to practice professional nursing in this state; or

(2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a registered professional nurse; or

(3) to practice or offer to practice practical nursing in this state; or

(4) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is a licensed practical nurse, unless such person has been duly licensed under the provisions of this act.

(b) It shall be unlawful for any person:

(1) To practice or offer to practice as an advanced practice registered nurse ~~practitioner~~ in this state; or

(2) to use any title, abbreviation, letters, figures, sign, card or device to indicate that any person is an advanced practice registered nurse ~~practitioner~~, unless such person has been duly issued a ~~certificate of qualification license~~ as an advanced practice registered nurse ~~practitioner~~ under the Kansas nurse practice act.

Sec. 3. K.S.A. 65-1118 is hereby amended to read as follows:

65-1118. (a) The board shall collect in advance fees provided for in this act as fixed by the board, but not exceeding:

Application for license -- professional nurse	\$75
Application for license -- practical nurse	50
Application for biennial renewal of license -- professional nurse and practical nurse ..	60
Application for reinstatement of license	70
Application for reinstatement of licenses with temporary permit	100
Certified copy of license	25
Duplicate of license	25
Inactive license	20
Application for certificate of qualification license -- advanced <u>practice</u> registered nurse practitioner	50
Application for certificate of qualification license with temporary permit -- advanced <u>practice</u> registered nurse practitioner	100
Application for renewal of certificate of qualification license -- advanced <u>practice</u> registered nurse practitioner	60
Application for reinstatement of certificate of qualification license -- advanced <u>practice</u>	

registered nurse practitioner	75
Application for authorization -- registered nurse anesthetist	75
Application for authorization with temporary authorization -- registered nurse anesthetist	110
Application for biennial renewal of authorization -- registered nurse anesthetist	60
Application for reinstatement of authorization -- registered nurse anesthetist	75
Application for reinstatement of authorization with temporary authorization -- registered nurse anesthetist	100
Verification of license to another state	30
Application for exempt license -- professional and practical nurse	50
Application for biennial renewal of exempt license -- professional and practical nurse	50
Application for exempt certification <u>license</u> -- advanced <u>practice</u> registered nurse practitioner	50
Application for biennial renewal of exempt certificate <u>license</u> -- advanced <u>practice</u> registered nurse practitioner	50

(b) The board may require that fees paid for any examination under the Kansas nurse practice act be paid directly to the examination service by the person taking the examination.

(c) The board shall accept for payment of fees under this section personal checks, certified checks, cashier's checks, money orders or credit cards. The board may designate other methods of payment, but shall not refuse payment in the form of a personal check. The board may impose additional fees and recover any costs incurred by reason of payments made by personal checks with insufficient funds and payments made by credit cards.

Sec. 4. K.S.A. 65-1120 is hereby amended to read as follows:

65-1120. (a) Grounds for disciplinary actions. The board may deny, revoke, limit or suspend any license, certificate of qualification or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse ~~practitioner~~ or as a registered nurse anesthetist that is issued by the board or applied for under this act or may publicly or privately censure a licensee or holder of a certificate of qualification or authorization, if the applicant, licensee or holder of a certificate of qualification or authorization is found after hearing:

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

(2) to have been guilty of a felony or to have been guilty of a misdemeanor involving an illegal drug offense unless the applicant or licensee establishes sufficient rehabilitation to warrant the public trust, except that notwithstanding K.S.A. 74-120 no license, certificate of qualification or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse ~~practitioner~~ or registered nurse anesthetist shall be granted to a person with a felony conviction for a crime against persons as specified in article 34 of chapter 21 of the Kansas Statutes Annotated and acts amendatory thereof or supplemental thereto;

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

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

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

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

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

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to be publicly or privately censured, by a licensing authority of another state, agency of the United States government, territory of the United States or country or to have other disciplinary action taken against the applicant or licensee by a licensing authority of another state, agency of the United States government, territory of the United States or country. A certified copy of the record or order of public or private censure, denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States or country shall constitute prima facie evidence of such a fact for purposes of this paragraph (8); or

(9) to have assisted suicide in violation of K.S.A. 21-3406 and amendments thereto as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty for a felony in violation of K.S.A. 21-3406 and amendments thereto.

(B) A copy of the record of a judgment of contempt of court for violating an injunction issued under K.S.A. 2002 Supp. 60-4404 and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 2002 Supp. 60-4405 and amendments thereto.

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

(c) Witnesses. No person shall be excused from testifying in any proceedings before the board under this act or in any civil proceedings under this act before a court of competent jurisdiction on the ground that such testimony may incriminate the person testifying, but such testimony shall not be used against the person for the prosecution of any crime under the laws of this state except the crime of perjury as defined in K.S.A. 213805 and amendments thereto.

(d) Costs. If final agency action of the board in a proceeding under this section is adverse to the applicant or licensee, the costs of the board's proceedings shall be charged to the applicant or licensee as in ordinary civil actions in the district court, but if the board is the unsuccessful party, the costs shall be paid by the board. Witness fees and costs may be taxed by the board according to the statutes relating to procedure in the district court. All costs accrued by the board, when it is the successful party, and which the attorney general certifies cannot be collected from the applicant or licensee shall be paid from the board of nursing fee fund. All moneys collected following board proceedings shall be credited in full to the board of nursing fee fund.

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

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

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

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

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

Sec. 5. K.S.A. 65-1122 is hereby amended to read as follows:

65-1122. It is a violation of law for any person, firm, corporation or association to:

(a) Sell or fraudulently obtain or furnish any nursing diploma, license, record or certificate of qualification or aid or abet therein;

(b) practice professional nursing, practical nursing or practice as an advanced practice registered nurse ~~practitioner~~, unless duly licensed or certified to do so;

(c) use in connection with such person's name any designation implying that such person is a licensed professional nurse, a licensed practical nurse or an advanced practice registered nurse ~~practitioner~~ unless duly licensed or certified so to practice under the provisions of the Kansas nurse practice act, and such license or certificate is then in full force;

(d) practice professional nursing, practical nursing or as an advanced practice registered nurse ~~practitioner~~ during the time a license or certificate issued under the provisions of the Kansas nurse practice act shall have expired or shall have been suspended or revoked;

(e) represent that a school for nursing is approved for educating either professional nurses or practical nurses, unless such school has been duly approved by the board and such approval is then in full force;

(f) violate any provisions of the Kansas nurse practice act or rules and regulations adopted pursuant to that act; or

(g) represent that a provider of continuing nursing education is approved by the board for educating either professional nurses or practical nurses, unless the provider of continuing nursing education has been approved by the board and the approval is in full force.

Any person who violates this section is guilty of a class B misdemeanor, except that, upon conviction of a second or subsequent violation of this section, such person is guilty of a class A misdemeanor.

Sec. 6. K.S.A. 65-1130 is hereby amended to read as follows:

65-1130. (a) No professional nurse shall announce or represent to the public that such person is an advanced practice registered nurse ~~practitioner~~ unless such professional nurse has complied with requirements established by the board and holds a valid ~~certificate of qualification~~ license as an advanced practice registered nurse ~~practitioner~~ in accordance with the provisions of this section.

(b) The board shall establish standards and requirements for any professional nurse who desires to obtain ~~a certificate of qualification~~ licensure as an advanced practice registered nurse ~~practitioner~~. Such standards and requirements shall include, but not be limited to, standards and requirements relating to the education of advanced practice registered ~~nurse practitioners~~ nurses. The board ~~may shall~~ require ~~that some, but not all, types of advanced registered nurse practitioners hold an academic degree beyond the minimum educational requirement for qualifying for a license to practice as a professional nurse~~ proof of malpractice insurance coverage as specified in rules and regulations of the board. The board may give such examinations and secure such assistance as it deems necessary to determine the qualifications of applicants. The scope of practice of an advanced practice registered nurse includes creating, managing, prescribing and executing a medical regimen, performing acts of advanced assessment, diagnosing, ordering, prescribing and administering of pharmacologic and non-pharmacologic interventions. Advanced practice registered nurses may serve as primary care providers of record.

(c) The board shall adopt rules and regulations applicable to advanced practice registered ~~nurse practitioners~~ nurses which:

(1) Establish ~~categories~~ roles and identify title and abbreviations of advanced practice registered ~~nurse practitioners~~ nurses which are consistent with nursing practice ~~specialties~~ recognized by the nursing profession.

(2) Establish education and qualifications necessary for ~~certification licensure~~ for each ~~category role~~ of advanced practice registered nurse ~~practitioner~~ established by the board at a level adequate to assure the competent performance by advanced practice registered ~~nurse practitioners~~ nurses of functions and procedures which advanced practice registered ~~nurse practitioners~~ nurses are authorized to perform. Advanced practice registered nursing is based on knowledge and skills acquired in basic nursing education, licensure as a registered nurse, and graduation from or completion of a masters or higher degree in one of the advanced practice registered nurse roles approved by the board of nursing.

(3) Define the role of advanced practice registered ~~nurse practitioners~~ nurses and establish limitations and restrictions on such role. The board shall adopt a definition of the role under this subsection (c)(3) which is consistent with the education and qualifications required to obtain a ~~certificate of qualification license~~ as an advanced practice registered nurse ~~practitioner~~, which protects the public from persons performing functions and procedures as advanced practice registered ~~nurse practitioners~~ nurses for which they lack adequate education and qualifications and which authorizes advanced practice registered ~~nurse practitioners~~ nurses to perform acts generally recognized by the profession of nursing as capable of being performed, in a manner consistent with the public health and safety, by persons with postbasic education in nursing. In defining such role the board shall consider: (A) The education required for a ~~certificate of qualification licensure~~ as an advanced practice registered nurse ~~practitioner~~; (B) the type of nursing practice and preparation in ~~specialized~~ practitioner skills involved in each ~~category role~~ of advanced practice registered nurse ~~practitioner~~ established by the board; (C) the scope and limitations of advanced practice of nursing specialties and limitations thereon prescribed by national advanced practice organizations ~~which certify nursing specialties~~; and (D) acts recognized by the nursing profession as appropriate to be performed by persons with postbasic education in nursing.

~~(d) An advanced registered nurse practitioner may prescribe drugs pursuant to a written protocol as authorized by a responsible physician. Each written protocol shall contain a precise and detailed medical plan of care for each classification of disease or injury for which the advanced registered nurse practitioner is authorized to prescribe and shall specify all drugs which may be prescribed by the advanced registered nurse practitioner. Any written prescription order shall include the name, address and telephone number of the responsible physician. The advanced registered nurse practitioner may not dispense drugs, but may request, receive and sign for professional samples and may distribute professional samples to patients pursuant to a written protocol as authorized by a responsible physician. In order to prescribe controlled substances, the advanced registered nurse practitioner shall (1) register with the federal drug enforcement administration; and (2) notify the board of the name and address of the responsible physician or physicians. In no case shall the scope of authority of the advanced registered nurse practitioner exceed the normal and customary practice of the responsible physician. An advanced registered nurse practitioner certified in the category of registered nurse anesthetist while functioning as a registered nurse anesthetist under K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto, shall be subject to the provisions of K.S.A. 65-1151 to 65-1164, inclusive, and amendments thereto, with respect to drugs and anesthetic agents and shall not be subject to the provisions of this subsection. For the purposes of this subsection, "responsible physician" means a person licensed to practice medicine and surgery in Kansas who has accepted responsibility for the protocol and the actions of the advanced registered nurse practitioner when prescribing drugs.~~

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

(d) Advanced practice registered nurses are licensed independent practitioners who shall practice within the roles established by the board. Each advanced practice registered nurse is accountable to consumers, the nursing profession and the board for complying with the requirements of this act and the quality of advanced nursing care rendered; for recognizing limits of knowledge and experience, planning for the management of situations beyond the advanced practice registered nurse's expertise; and for consulting with or referring patients to other health care providers as appropriate.

(e) A person registered to practice as an advanced registered nurse practitioner immediately prior to the effective date of this act shall be deemed to be licensed to practice as an advanced practice registered nurse under this act, and such person shall not be required to file an original application for licensure under this act. Any application for registration filed which has not been granted prior to the effective date of this act, shall be processed as an application for licensure under this act.

Sec. 7. K.S.A. 65-1131 is hereby amended to read as follows:

65-1131. (a) (1) Certification. Licensure. Upon application to the board by any professional nurse in this state and upon satisfaction of the standards and requirements established by the board under K.S.A. 65-1130 and amendments thereto, the board may issue a ~~certificate of qualification license~~ to such applicant authorizing the applicant to perform the duties of an advanced practice registered nurse ~~practitioner~~ as defined by the board under K.S.A. 65-1130, and amendments thereto.

(2) The board may issue a ~~certificate~~ license to practice nursing as an advanced practice registered nurse ~~practitioner~~ to an applicant who has been duly licensed or certified as an advanced practice registered nurse ~~practitioner~~ under the laws of another state or territory if, in the opinion of the board, the applicant meets the qualifications required of an advanced practice registered nurse ~~practitioner~~ in this state. Verification of the applicant's licensure or certification status shall be required from the original state of licensure or certification.

(3) An application to the board for a ~~certificate of qualification license~~, for a ~~certificate of qualification license~~ with temporary permit, for renewal of a ~~certificate of qualification license~~ and for reinstatement of a ~~certificate of qualification license~~ shall be upon such form and contain such information as the board may require and shall be accompanied by a fee, to be established by rules and regulations adopted by the board, to assist in defraying the expenses in connection with the issuance of ~~certificates of qualification licenses~~ as advanced practice registered ~~nurse practitioners~~ nurses, in an amount fixed by the board under K.S.A. 65-1118, and amendments thereto.

(4) An application for initial ~~certification licensure~~ or endorsement will be held awaiting completion of meeting qualifications for a time period specified in rules and regulations.

(5) The executive administrator of the board shall remit all moneys received pursuant to this section to the state treasurer as provided by K.S.A. 74-1108, and amendments thereto.

(b) The board may grant a one-time temporary permit to practice as an advanced practice registered nurse ~~practitioner~~ for a period of not more than 180 days pending completion of the application for a ~~certificate of qualification license~~.

(c) Exempt certificate license. The board may issue an exempt ~~certificate~~ license to any advanced practice registered nurse ~~practitioner~~ as defined in rules and regulations who makes written application for such ~~certificate license~~ on a form provided by the board, who remits a fee as established pursuant to K.S.A. 65-1118, and amendments thereto, and who is not regularly engaged ~~in~~ as an advanced practice registered nurse ~~practice~~ in Kansas but volunteers advanced registered nursing services or is a charitable health care provider as defined by K.S.A. 75-6102, and amendments thereto. Each exempt advanced practice registered nurse ~~practitioner~~ shall be subject to all provisions of the nurse practice act. Each exempt license may be renewed biennially subject to the provisions of this section. To convert an exempt ~~certificate license~~ to an active ~~certificate license~~, the exempt advanced practice registered nurse ~~practitioner~~ shall meet all the requirements of subsection (a) or K.S.A. 65-1132, and amendments thereto. The board shall have authority to write rules and regulations to carry out the provisions of this section.

Sec. 8. K.S.A. 2009 Supp. 65-1132 is hereby amended to read as follows:

65-1132. (a) All ~~certificates of qualification licenses~~ issued under the provisions of this act, whether initial or renewal, shall expire every two years. The expiration date shall be established by rules and regulations of the board. The board shall send a notice for renewal of a ~~certificate of qualification license~~ to every advanced practice registered nurse ~~practitioner~~ at least 60 days prior to the expiration date of such person's license. Every person who desires to renew such ~~certificate of qualification license~~ shall file with the board, on or before the date of expiration of such ~~certificate of qualification license~~, a renewal application ~~together with~~, the prescribed biennial renewal fee evidence

of completion of continuing education in the advanced practice registered nurse role and evidence of malpractice insurance as specified in rules and regulations by the board. Upon receipt of such application and payment of any applicable fee, and upon being satisfied that the applicant for renewal of a ~~certificate of qualification license~~ meets the requirements established by the board under K.S.A. 65-1130, and amendments thereto, in effect at the time of initial qualification of the applicant, the board shall verify the accuracy of the application and grant a renewal ~~certificate of qualification license~~.

(b) Any person who fails to secure a renewal ~~certificate of qualification license~~ prior to the expiration of the ~~certificate of qualification license~~ may secure a reinstatement of such lapsed ~~certificate of qualification license~~ by making application therefor on a form provided by the board, upon furnishing proof that the applicant is competent and qualified to act as an advanced ~~practice~~ registered nurse ~~practitioner~~ and upon satisfying all of the requirements for reinstatement including payment to the board of a reinstatement fee as established by the board.

Sec. 9. K.S.A. 65-1133 is hereby amended to read as follows:

65-1133. (a) An approved educational ~~and training~~ program for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ is a program conducted in Kansas which has been approved by the board as meeting the standards and the rules and regulations of the board. An institution desiring to conduct an educational ~~and training~~ program for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ shall apply to the board for approval and submit satisfactory proof that it is prepared to and will maintain the standards and the required curriculum for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ as prescribed by this act and by the rules and regulations of the board. Applications shall be made in writing on forms supplied by the board and shall be submitted to the board together with the application fee fixed by the board. The approval of an educational program for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ shall not exceed 10 years after the granting of such approval by the board. An institution desiring to continue to conduct an approved educational program for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ shall apply to the board for the renewal of approval and submit satisfactory proof that it will maintain the standards and the required curriculum for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ as prescribed by this act and by the rules and regulations of the board. Applications for renewal of approval shall be made in writing on forms supplied by the board. Each program shall submit annually to the board an annual fee fixed by the board's rules and regulations to maintain the approved status.

(b) A program to qualify as an approved educational program for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ must be conducted in the state of Kansas, and the school conducting the program must apply to the board and submit evidence that: (1) It is prepared to carry out the curriculum prescribed by rules and regulations of the board; and (2) it is prepared to meet such other standards as shall be established by law and the rules and regulations of the board.

(c) The board shall prepare and maintain a list of programs which qualify as approved educational programs for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ whose graduates, if they have the other necessary qualifications provided in this act, shall be eligible to apply for ~~certificates of qualification licensure~~ as advanced ~~practice~~ registered ~~nurse practitioners nurses~~. A survey of the institution or school applying for approval of an educational program for advanced ~~practice~~ registered ~~nurse practitioners nurses~~ shall be made by an authorized employee of the board or members of the board, who shall submit a written report of the survey to the board. If, in the opinion of the board, the requirements as prescribed by the board in its rules and regulations for approval are met, it shall so approve the program. The board shall resurvey approved programs on a periodic basis as determined by rules and regulations. If the board determines that any approved program is not maintaining the standards required by this act and by rules and regulations prescribed by the board, notice thereof in writing, specifying the failures of such program, shall be given. A program which fails to correct such conditions to the satisfaction of the board within a reasonable time shall be removed from the list of approved programs until such time as the program shall comply with such standards. All approved programs shall maintain accurate and current records showing in full the theoretical and practical courses given to each student.

(d) The board may accept nationally accredited ~~advance~~ ~~advanced practice~~ registered nurse ~~practitioner~~ programs as defined in rule and regulation:

(1) Advanced ~~practice~~ registered nurse ~~practitioner~~ programs which have received accreditation from a board recognized national nursing accreditation agency shall file evidence of initial accreditation

with the board, and thereafter shall file all reports from the accreditation agency and any notice of any change in school accreditation status.

(2) Advanced practice registered nurse ~~practitioner~~ programs holding approval based upon national accreditation are also responsible for complying with all other requirements as determined by rules and regulations of the board.

(3) The board may grant approval to an advanced practice registered nurse ~~practitioner~~ program with national accreditation for a continuing period not to exceed 10 years.

Sec. 10. K.S.A. 65-1154 is hereby amended to read as follows:

65-1154. Upon application to the board by any licensed professional nurse in this state and upon satisfaction of the standards and requirements established under this act and K.S.A. 65-1130 and amendments thereto, the board shall grant an authorization to the applicant to perform the duties of a registered nurse anesthetist and be ~~certified~~ licensed as an advanced practice registered nurse ~~practitioner~~. An application to the board for an authorization, for an authorization with temporary authorization, for biennial renewal of authorization, for reinstatement of authorization and for reinstatement of authorization with temporary authorization shall be upon such form and contain such information as the board may require and shall be accompanied by a fee to assist in defraying the expenses in connection with the administration of the provisions of this act. The fee shall be fixed by rules and regulations adopted by the board in an amount fixed by the board under K.S.A. 65-1118, and amendments thereto. There shall be no fee assessed for the initial, renewal or reinstatement of the advanced practice registered nurse ~~practitioner~~ certificate license as long as the registered nurse anesthetist maintains authorization. The executive administrator of the board shall remit all moneys received to the state treasurer as provided by K.S.A. 74-1108, and amendments thereto.

Sec. 11. K.S.A. 65-1163 is hereby amended to read as follows:

65-1163. Nothing in this act shall:

(a) Prohibit administration of a drug by a duly licensed professional nurse, licensed practical nurse or other duly authorized person for the alleviation of pain, including administration of local anesthetics;

(b) apply to the practice of anesthesia by a person licensed to practice medicine and surgery, a licensed dentist or a licensed podiatrist;

(c) prohibit the practice of nurse anesthesia by students enrolled in approved courses of study in the administration of anesthesia or analgesic as a part of such course of study;

(d) apply to the administration of a pudendal block by a person who holds a valid ~~certificate of qualification~~ license as an advanced practice registered nurse ~~practitioner~~ in the category of nurse-midwife;

(e) apply to the administration by a licensed professional nurse of an anesthetic, other than general anesthesia, for a dental operation under the direct supervision of a licensed dentist or for a dental operation under the direct supervision of a person licensed to practice medicine and surgery;

(f) prohibit the practice by any registered nurse anesthetist who is employed by the United States government or in any bureau, division or agency thereof, while in the discharge of official duties; or

(g) prohibit a registered professional nurse from administering general anesthetic agents to a patient on ventilator maintenance in critical care units when under the direction of a person licensed to practice medicine and surgery or a person licensed to practice dentistry.

Sec. 12. K.S.A. 2009 Supp. 65-1626 is hereby amended to read as follows:

65-1626. For the purposes of this act:

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

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a and amendments thereto.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser but shall not include a common carrier, public warehouseman or employee of the carrier or warehouseman when acting in the usual and lawful course of the carrier's or warehouseman's business.

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

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

(e) "Brand exchange" means the dispensing of a different drug product of the same dosage form and strength and of the same generic name than the brand name drug product prescribed.

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

(g) "Chain pharmacy warehouse" means a permanent physical location for drugs or devices, or both, that act as a central warehouse and perform intracompany sales or transfers of prescription drugs or devices to chain pharmacies that have the same ownership or control. Chain pharmacy warehouses must be registered as wholesale distributors.

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

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

(j) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a pharmacy student or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, and complete the final check before dispensing.

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

(l) "Dispenser" means a practitioner or pharmacist who dispenses prescription medication.

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

(n) "Distributor" means a person who distributes a drug.

(o) "Drop shipment" means the sale, by a manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of the manufacturer's prescription drug, to a wholesale distributor whereby the wholesale distributor takes title but not possession of such prescription drug and the wholesale distributor invoices the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug, and the pharmacy, the chain pharmacy warehouse, or other designated person authorized by law to dispense or administer such prescription drug receives delivery of the prescription drug directly from the manufacturer, that manufacturer's co-licensee, that manufacturer's third party logistics provider, or that manufacturer's exclusive distributor, of such prescription drug. Drop shipment shall be part of the "normal distribution channel".

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

(q) "Durable medical equipment" means technologically sophisticated medical devices that may be used in a residence, including the following: (1) Oxygen and oxygen delivery system; (2) ventilators; (3) respiratory disease management devices; (4) continuous positive airway pressure (CPAP) devices; (5) electronic and computerized wheelchairs and seating systems; (6) apnea monitors; (7) transcutaneous electrical nerve stimulator (TENS) units; (8) low air loss cutaneous pressure management devices; (9) sequential compression devices; (10) feeding pumps; (11) home phototherapy devices; (12) infusion delivery devices; (13) distribution of medical gases to end users for human consumption; (14) hospital beds; (15) nebulizers; (16) other similar equipment determined by the board in rules and regulations adopted by the board.

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

(s) "Electronic transmission" means transmission of information in electronic form or the transmission of the exact visual image of a document by way of electronic equipment.

(t) "Generic name" means the established chemical name or official name of a drug or drug product.

(u) (1) "Institutional drug room" means any location where prescription-only drugs are stored and from which prescription-only drugs are administered or dispensed and which is maintained or operated for the purpose of providing the drug needs of:

(A) Inmates of a jail or correctional institution or facility;

(B) residents of a juvenile detention facility, as defined by the revised Kansas code for care of children and the revised Kansas juvenile justice code;

(C) students of a public or private university or college, a community college or any other institution of higher learning which is located in Kansas;

(D) employees of a business or other employer; or

(E) persons receiving inpatient hospice services.

(2) "Institutional drug room" does not include:

(A) Any registered pharmacy;

(B) any office of a practitioner; or

(C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(v) "Intracompany transaction" means any transaction or transfer between any division, subsidiary, parent or affiliated or related company under common ownership or control of a corporate entity, or any transaction or transfer between co-licensees of a co-licensed product.

(w) "Medical care facility" shall have the meaning provided in K.S.A. 65-425 and amendments thereto, except that the term shall also include facilities licensed under the provisions of K.S.A. 75-3307b and amendments thereto except community mental health centers and facilities for the mentally retarded.

(x) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the drug or labeling or relabeling of its container, except that this term shall not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by: (1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice; (2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or (3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

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

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

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

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

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

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

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

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

(cc) "Pharmacist in charge" means the pharmacist who is responsible to the board for a registered establishment's compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist in charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and

regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

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

(ee) "Pharmacy student" means an individual, registered with the board of pharmacy, enrolled in an accredited school of pharmacy.

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

(gg) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

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

(ii) "Prescription" means, according to the context, either a prescription order or a prescription medication.

(jj) "Prescription medication" means any drug, including label and container according to context, which is dispensed pursuant to a prescription order.

(kk) "Prescription-only drug" means any drug whether intended for use by man or animal, required by federal or state law (including 21 United States Code section 353, as amended) to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

(ll) "Prescription order" means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a practitioner or a mid-level practitioner in the authorized course of professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such practitioner or mid-level practitioner.

(mm) "Probation" means the practice or operation under a temporary license, registration or permit or a conditional license, registration or permit of a business or profession for which a license, registration or permit is granted by the board under the provisions of the pharmacy act of the state of Kansas requiring certain actions to be accomplished or certain actions not to occur before a regular license, registration or permit is issued.

(nn) "Professional incompetency" means:

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

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

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

(oo) "Retail dealer" means a person selling at retail nonprescription drugs which are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug intended for human use by hypodermic injection.

(pp) "Secretary" means the executive secretary of the board.

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

(rr) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

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

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

(4) intentionally falsifying or altering records or prescriptions;

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

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

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

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

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

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

(ss) "Mid-level practitioner" means an advanced practice registered nurse ~~practitioner~~ issued a ~~certificate of qualification~~ license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs ~~pursuant to a written protocol with a responsible physician~~ under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

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

(uu) "Veterinary medical teaching hospital pharmacy" means any location where prescription-only drugs are stored as part of an accredited college of veterinary medicine and from which prescription-only drugs are distributed for use in treatment of or administration to a non-human.

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

(ww) "Wholesale distribution" means the distribution of prescription drugs or devices by wholesale distributors to persons other than consumers or patients, and includes the transfer of prescription drugs by a pharmacy to another pharmacy if the total number of units of transferred drugs during a twelve-month period does not exceed 5% of the total number of all units dispensed by the pharmacy during the immediately preceding twelve-month period. Wholesale distribution does not include: (1) The sale, purchase or trade of a prescription drug or device, an offer to sell, purchase or trade a prescription drug or device or the dispensing of a prescription drug or device pursuant to a prescription; (2) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device for emergency medical reasons; (3) intracompany transactions, as defined in this section, unless in violation of own use provisions; (4) the sale, purchase or trade of a prescription drug or device or an offer to sell, purchase or trade a prescription drug or device among hospitals, chain pharmacy warehouses, pharmacies or other health care entities that are under common control; (5) the sale, purchase or trade of a prescription drug or device or the offer to sell, purchase or trade a prescription drug or device by a charitable organization described in 503 (c)(3) of the internal revenue code of 1954 to a nonprofit affiliate of the organization to the extent otherwise permitted by law; (6) the purchase or other acquisition by a hospital or other similar health care entity that is a member of a group purchasing organization of a prescription drug or device for its own use from the group purchasing organization or from other hospitals or similar health care entities that are members of these organizations; (7) the transfer of prescription drugs or devices between pharmacies pursuant to a centralized prescription processing agreement; (8) the sale, purchase or trade of blood and blood components intended for transfusion; (9) the return of recalled, expired, damaged or otherwise non-salable prescription drugs, when conducted by a hospital, health care entity, pharmacy, chain pharmacy warehouse or charitable institution in accordance with the board's rules and regulations; (10) the sale, transfer, merger or consolidation of all or part of the business of a retail pharmacy or pharmacies from or with another retail pharmacy or pharmacies, whether accomplished as a purchase and sale of stock or business assets, in accordance with the board's rules and regulations; (11) the distribution of drug samples by manufacturers' and authorized distributors' representatives; (12) the sale of minimal quantities of drugs by retail pharmacies to licensed practitioners for office use; or (13) the sale or transfer from a retail pharmacy or chain pharmacy warehouse of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third party returns processor in accordance with the board's rules and regulations.

Sec. 13. K.S.A. 2009 Supp. 65-4101 is hereby amended to read as follows:

65-4101. As used in this act: (a) "Administer" means the direct application of a controlled substance, whether by injection, inhalation, ingestion or any other means, to the body of a patient or research subject by: (1) A practitioner or pursuant to the lawful direction of a practitioner; or

(2) the patient or research subject at the direction and in the presence of the practitioner.

(b) "Agent" means an authorized person who acts on behalf of or at the direction of a manufacturer, distributor or dispenser. It does not include a common carrier, public warehouseman or employee of the carrier or warehouseman.

(c) "Board" means the state board of pharmacy.

(d) "Bureau" means the bureau of narcotics and dangerous drugs, United States department of justice, or its successor agency.

(e) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments to these sections.

(f) "Counterfeit substance" means a controlled substance which, or the container or labeling of which, without authorization bears the trademark, trade name or other identifying mark, imprint, number or device or any likeness thereof of a manufacturer, distributor or dispenser other than the person who in fact manufactured, distributed or dispensed the substance.

(g) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.

(h) "Dispense" means to deliver a controlled substance to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling or compounding necessary to prepare the substance for that delivery, or pursuant to the prescription of a mid-level practitioner.

(i) "Dispenser" means a practitioner or pharmacist who dispenses.

(j) "Distribute" means to deliver other than by administering or dispensing a controlled substance.

(k) "Distributor" means a person who distributes.

(l) "Drug" means: (1) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them; (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals; (3) substances (other than food) intended to affect the structure or any function of the body of man or animals; and (4) substances intended for use as a component of any article specified in clause (1), (2) or (3) of this subsection. It does not include devices or their components, parts or accessories.

(m) "Immediate precursor" means a substance which the board has found to be and by rule and regulation designates as being the principal compound commonly used or produced primarily for use and which is an immediate chemical intermediary used or likely to be used in the manufacture of a controlled substance, the control of which is necessary to prevent, curtail or limit manufacture.

(n) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a controlled substance either directly or indirectly or by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for the individual's own lawful use or the preparation, compounding, packaging or labeling of a controlled substance: (1) By a practitioner or the practitioner's agent pursuant to a lawful order of a practitioner as an incident to the practitioner's administering or dispensing of a controlled substance in the course of the practitioner's professional practice; or

(2) by a practitioner or by the practitioner's authorized agent under such practitioner's supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or medical care facility as an incident to dispensing of a controlled substance.

(o) "Marijuana" means all parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination.

(p) "Narcotic drug" means any of the following whether produced directly or indirectly by extraction from substances of vegetable origin or independently by means of chemical synthesis or by a

combination of extraction and chemical synthesis: (1) Opium and opiate and any salt, compound, derivative or preparation of opium or opiate;

(2) any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of the substances referred to in clause (1) but not including the isoquinoline alkaloids of opium;

(3) opium poppy and poppy straw;

(4) coca leaves and any salt, compound, derivative or preparation of coca leaves, and any salt, compound, isomer, derivative or preparation thereof which is chemically equivalent or identical with any of these substances, but not including decocainized coca leaves or extractions of coca leaves which do not contain cocaine or ecgonine.

(q) "Opiate" means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction-forming or addiction-sustaining liability. It does not include, unless specifically designated as controlled under K.S.A. 65-4102 and amendments thereto, the dextrorotatory isomer of 3-methoxy-n-methylmorphinan and its salts (dextromethorphan). It does include its racemic and levorotatory forms.

(r) "Opium poppy" means the plant of the species *Papaver somniferum L.* except its seeds.

(s) "Person" means individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.

(t) "Poppy straw" means all parts, except the seeds, of the opium poppy, after mowing.

(u) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.

(v) "Practitioner" means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist licensed under the optometry law as a therapeutic licensee or diagnostic and therapeutic licensee, or scientific investigator or other person authorized by law to use a controlled substance in teaching or chemical analysis or to conduct research with respect to a controlled substance.

(w) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.

(x) "Ultimate user" means a person who lawfully possesses a controlled substance for such person's own use or for the use of a member of such person's household or for administering to an animal owned by such person or by a member of such person's household.

(y) "Isomer" means all enantiomers and diastereomers.

(z) "Medical care facility" shall have the meaning ascribed to that term in K.S.A. 65-425 and amendments thereto.

(aa) "Cultivate" means the planting or promotion of growth of five or more plants which contain or can produce controlled substances.

(bb) (1) "Controlled substance analog" means a substance that is intended for human consumption, and:

(A) The chemical structure of which is substantially similar to the chemical structure of a controlled substance listed in or added to the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto;

(B) which has a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 654107 and amendments thereto; or

(C) with respect to a particular individual, which the individual represents or intends to have a stimulant, depressant or hallucinogenic effect on the central nervous system substantially similar to the stimulant, depressant or hallucinogenic effect on the central nervous system of a controlled substance included in the schedules designated in K.S.A. 65-4105 or 65-4107 and amendments thereto.

(2) "Controlled substance analog" does not include:

(A) A controlled substance;

(B) a substance for which there is an approved new drug application; or

(C) a substance with respect to which an exemption is in effect for investigational use by a particular person under section 505 of the federal food, drug, and cosmetic act (21 U.S.C. 355) to the extent conduct with respect to the substance is permitted by the exemption.

(cc) "Mid-level practitioner" means an advanced practice registered nurse ~~practitioner~~ issued a ~~certificate of qualification~~ license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs ~~pursuant to a written protocol with a responsible physician~~ under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed under the physician assistant licensure act who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-28a08, and amendments thereto.

Sec. 14. K.S.A. 65-1113, 65-1114, 65-1118, 65-1120, 65-1122, 65-1130, 65-1131, 65-1133, 65-1154 and 65-1163 and K.S.A. 2009 Supp. 65-1132, 65-1626, 65-1626d and 65-4101 are hereby repealed.

Sec. 15. This act shall take effect and be in force from and after July 1, 2011, and its publication in the statute book.

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