

SENATE BILL NO. ____

By

AN ACT concerning health and healthcare; relating to medical marijuana; enacting the medical marijuana regulation act; providing for licensure and regulation of the cultivation, processing, distribution, sale and use of medical marijuana; delegating administrative duties and functions to the secretary of health and environment, secretary of revenue, board of healing arts, board of pharmacy and the director of alcohol and cannabis control; imposing fines and penalties for violations of the act; establishing the medical marijuana registration fund and the medical marijuana business regulation fund; creating the crimes of unlawful storage and unlawful transport of medical marijuana; making exceptions to the crimes of unlawful manufacture and possession of controlled substances; amending K.S.A. 38-2269, 44-501, 44-706, 44-1009, 44-1015, 65-28b08, 79-5201 and 79-5210 and K.S.A. 2021 Supp. 19-101a, 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201 and 65-1120 and repealing the existing sections.

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

New Section 1. The provisions of sections 1 through 48, and amendments thereto, shall be known and may be cited as the medical marijuana regulation act.

New Sec. 2. As used in the medical marijuana regulation act, section 1 et seq., and amendments thereto:

(a) "Academic medical center" means a medical school and its affiliated teaching hospitals and clinics.

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

(c) "Caregiver" means an individual registered pursuant to section 8, and amendments thereto, who may purchase and possess medical marijuana in accordance with section 11, and amendments thereto.

(d) "Cultivator" means a person issued a license pursuant to section 20, and amendments thereto, who may grow and sell medical marijuana in accordance with section 22, and amendments thereto.

(e) "Director" means the director of alcohol and cannabis control.

(f) "Distributor" means a person issued a license pursuant to section 20, and amendments thereto, who may purchase and sell medical marijuana in accordance with section 27, and amendments thereto.

(g) "Electronic cigarette" means the same as defined in K.S.A. 79-3301, and amendments thereto.

(h) "Marijuana" means the same as defined in K.S.A. 65-4101, and amendments thereto.

(i) "Medical marijuana" means marijuana that is cultivated, processed, tested, dispensed, possessed or used for a medical purpose.

(j) "Medical marijuana product" means a product that contains cannabinoids that have been extracted from plant material or the resin therefrom by physical or chemical means and is intended for administration to a registered patient.

(k) "Patient" means an individual registered pursuant to section 8, and amendments thereto, who may purchase and possess medical marijuana in accordance with section 10, and amendments thereto.

(l) "Postsecondary educational institution" means the same as defined in K.S.A. 74-3201b, and amendments thereto.

(m) "Processor" means a person issued a license pursuant to section 20, and amendments thereto, who may purchase, process and sell medical marijuana in accordance with section 26, and amendments thereto.

(n) "Physician" means an individual licensed to practice medicine and surgery in this state and who is certified by the board of healing arts to recommend treatment with medical marijuana pursuant to section 18, and amendments thereto.

(o) "Physician's designee" means:

(1) A registered nurse, licensed practical nurse, respiratory therapist, emergency medical responder, paramedic, dental hygienist, pharmacy technician or pharmacy intern who has registered for access to the program database as an agent of a practitioner or pharmacist to request program data on behalf of the practitioner or pharmacist;

(2) a death investigator who has registered for limited access to the program database as an agent of a medical examiner, coroner or another person authorized under law to investigate or determine causes of death; or

(3) an individual authorized by rules and regulations adopted by the board of healing arts to access the prescription monitoring program database by the board of healing arts in rules and regulations.

(p) "Qualifying medical condition" means any of the following:

(1) Acquired immune deficiency syndrome;

(2) Alzheimer's disease;

(3) amyotrophic lateral sclerosis;

(4) cancer;

(5) chronic traumatic encephalopathy;

(6) epilepsy or another seizure disorder;

(7) fibromyalgia;

(8) glaucoma;

(9) hepatitis C;

(10) multiple sclerosis;

(11) Parkinson's disease;

- (12) positive status for human immunodeficiency virus;
 - (13) post-traumatic stress disorder;
 - (14) sickle cell anemia;
 - (15) spinal cord disease or injury;
 - (16) Tourette's syndrome;
 - (17) traumatic brain injury;
 - (18) ulcerative colitis;
 - (19) any autoimmune disorder;
 - (20) pain that is either chronic and severe or intractable;
 - (21) a debilitating psychiatric disorder that is diagnosed by a physician licensed in this state who is board-certified in the practice of psychiatry, as determined by the board of healing arts;
 - (22) any other chronic, debilitating or terminal condition that, in the professional judgment of a physician licensed in this state, would be a detriment to the patient's mental or physical health if left untreated; or
 - (23) any other disease or condition approved by the secretary of health and environment pursuant to section 15, and amendments thereto.
- (q) "Retail dispensary" means a person issued a license pursuant to section 22, and amendments thereto, who may purchase and sell medical marijuana in accordance with section 28, and amendments thereto.
- (r) "Smoking" means the use of a lighted cigarette, cigar or pipe or otherwise burning marijuana in any other form for the purpose of consuming such marijuana.
- (s) "Tetrahydrocannabinol" means the primary psychoactive cannabinoid in marijuana

formed by decarboxylation of naturally occurring tetrahydrocannabinolic acid that generally takes place by heating.

(t) "Tetrahydrocannabinolic acid" means the dominant cannabinoid that occurs naturally in most varieties of marijuana.

(u) "Tetrahydrocannabinol content" means the sum of the amount of tetrahydrocannabinol and 87.7% of the amount of tetrahydrocannabinolic acid present in the product.

(v) "Vaporization" means the use of an electronic cigarette for the purpose of consuming medical marijuana in which such medical marijuana comes into direct contact with a heating element.

(w) "Veteran" means a person who has:

(1) Served in the army, navy, marine corps, air force, coast guard, space force, any state air or army national guard or any branch of the military reserves of the United States; and

(2) been separated from the branch of service in which the person was honorably discharged or received a general discharge under honorable conditions.

New Sec. 3. (a) No person shall grow, harvest, process, sell, barter, transport, deliver, furnish or otherwise possess any form of marijuana, except as specifically provided in the medical marijuana regulation act or the commercial industrial hemp act, K.S.A. 2021 Supp. 2-3901 et seq., and amendments thereto.

(b) Nothing in the medical marijuana regulation act shall be construed to:

(1) Require a physician to recommend that a patient use medical marijuana to treat a qualifying medical condition;

(2) permit the use, possession or administration of medical marijuana other than as

authorized by this act;

(3) permit the use, possession or administration of medical marijuana on federal land located in this state;

(4) require any public place to accommodate a registered patient's use of medical marijuana;

(5) prohibit any public place from accommodating a registered patient's use of medical marijuana;

(6) authorize any limitation on the number of any licenses awarded under this act to otherwise qualified applicants or authorize any state agency through rules and regulations to effectively limit the number of licenses available to otherwise qualified applicants for any type of license awarded under this act; or

(7) restrict research related to marijuana conducted at a postsecondary educational institution, academic medical center or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

New Sec. 4. (a) There is hereby established the medical marijuana regulation program.

(b) The secretary of health and environment shall administer the program in accordance with the provisions of this act and provide for the registration of patients and caregivers, including the issuance of identification cards to registered patients and caregivers.

(c) The board of healing arts shall administer the program in accordance with the provisions of this act and provide for the certification of physicians authorizing such physicians to recommend medical marijuana as a treatment for patients.

(d) The board of pharmacy shall administer the program in accordance with the provisions of this act and provide for the registration of pharmacist consultants and the

requirements for reporting to the prescription monitoring program.

(e) The director of alcohol and cannabis control shall administer the program in accordance with the provisions of this act and provide for the licensure of cultivators, laboratories, processors, distributors, retail dispensaries and employees thereof.

New Sec. 5. (a) The medical marijuana advisory committee is hereby created in the department of health and environment. The committee shall consist of the following:

(1) Eight members appointed by the governor as follows:

(A) Two members who are practicing pharmacists, at least one of whom supports the use of medical marijuana and at least one of whom is a member of the state board of pharmacy;

(B) two members who are practicing physicians, at least one of whom supports the use of medical marijuana and at least one of whom is a member of the board of healing arts;

(C) one member who represents employers;

(D) one member who represents agriculture;

(E) one member who represents persons involved in the treatment of alcohol and drug addiction; and

(F) one member who engages in academic research on the use or regulation of medical marijuana;

(2) two members appointed by the president of the senate as follows:

(A) One member who represents law enforcement; and

(B) one member who represents caregivers;

(3) one member, who is a nurse, appointed by the minority leader of the senate;

(4) two members appointed by the speaker of the house of representatives as follows:

(A) One member who represents persons involved in mental health treatment; and

- (B) one member who represents patients;
- (5) one member, who represents employees, appointed by the minority leader of the house of representatives; and
- (6) the secretary of health and environment, who shall serve as chairperson.
- (b) The initial appointments to the committee shall be made on or before July 31, 2023.
- (c) Except for the secretary of health and environment, each member of the committee shall serve for a period of two years from the date of appointment. A vacancy shall be filled within 21 days of such vacancy in the same manner as the original appointment.
- (d) Each member of the committee shall be paid compensation, subsistence allowances, mileage and other expenses as provided in K.S.A. 75-3223(e), and amendments thereto.
- (e) The committee shall hold its initial meeting not later than 30 days after the last member of the committee is appointed. The committee may develop and submit to the secretary of health and environment and the director of alcohol and cannabis control any recommendations related to the medical marijuana regulation program and the implementation and enforcement of this act.
- (f) Prior to January 31 of each year, the medical marijuana advisory committee shall provide a report to the legislature detailing any concerns or recommended changes that the committee has for the medical marijuana regulation act.
- (g) The provisions of this section shall expire on July 1, 2028.

New Sec. 6. (a) Except as permitted under subsection (c), the following individuals shall not solicit or accept, directly or indirectly, any gift, gratuity, emolument or employment from any person who is an applicant for any license or is a licensee under the provisions of the medical marijuana regulation act or any officer, agent or employee thereof, or solicit requests

from or recommend, directly or indirectly, to any such person, the appointment of any individual to any place or position:

(1) The secretary of health and environment or any officer, employee or agent of the department of health and environment;

(2) the secretary of revenue, the director of alcohol and cannabis control or any officer, employee or agent of the division of alcohol and cannabis control;

(3) any member of the state board of pharmacy; or

(4) any member of the board of healing arts.

(b) Except as permitted under subsection (c), an applicant for a license or a licensee under the provisions of the medical marijuana regulation act shall not offer any gift, gratuity, emolument or employment to any of the following:

(1) The secretary of health and environment or any officer, employee or agent of the department of health and environment;

(2) the secretary of revenue, the director of alcohol and cannabis control or any officer, employee or agent of the division of alcohol and cannabis control;

(3) any member of the state board of pharmacy; or

(4) any member of the board of healing arts.

(c) The board of healing arts, the state board of pharmacy, the secretary of health and environment and the secretary of revenue may adopt rules and regulations for their respective agencies allowing the acceptance of official hospitality by members of the board of healing arts, the state board of pharmacy or the respective secretary and employees of each such respective agency, subject to any limits as prescribed by such rules and regulations.

(d) If any member of the board of healing arts, the state board of pharmacy, the

secretary of health and environment, the secretary of revenue or any employee of each such respective agency violates any provision of this section, such person shall be removed from such person's office or employment.

(e) Violation of any provision of this section is a severity level 7, nonperson felony.

(f) Nothing in this section shall be construed to prohibit the prosecution and punishment of any person for any other crime in the Kansas criminal code.

New Sec. 7. All actions taken by the board of healing arts, the state board of pharmacy, the secretary of health and environment or the director of alcohol and cannabis control under the medical marijuana regulation act shall be in accordance with the Kansas administrative procedure act and reviewable in accordance with the Kansas judicial review act.

New Sec. 8. (a) A patient seeking to use medical marijuana or a caregiver seeking to assist a patient in the use or administration of medical marijuana shall apply to the department of health and environment for registration. The physician who is treating the patient, or such physician's designee, shall submit the application on the patient's or caregiver's behalf in such form and manner as prescribed by the secretary of health and environment.

(b) The application for registration shall include the following:

(1) A statement from the physician certifying that:

(A) A bona fide physician-patient relationship exists between the physician and patient;

(B) the patient has been diagnosed with a qualifying medical condition;

(C) the physician, or such physician's designee, has requested from the prescription monitoring program database a report of information related to the patient that covers at least the 12 months immediately preceding the date of the report;

(D) the physician has informed the patient of the risks and benefits of medical

marijuana as it pertains to the patient's qualifying medical condition and medical history; and

(E) the physician has informed the patient that it is the physician's opinion that the benefits of medical marijuana outweigh its risks;

(2) in the case of an application submitted on behalf of a patient, the name or names of one or more caregivers, if any, who will assist the patient in the use or administration of medical marijuana;

(3) in the case of an application submitted on behalf of a caregiver, the name of the patient or patients whom the caregiver seeks to assist in the use or administration of medical marijuana; and

(4) in the case of a patient who is a minor, the name of the patient's parent or legal guardian who has consented to treatment with medical marijuana and who shall be designated as the patient's caregiver.

(c) If the application is complete and meets the requirements of this act and rules and regulations adopted thereunder and the patient or caregiver has paid the required fee, the secretary of health and environment shall register the patient or caregiver and issue to the patient or caregiver an identification card.

(d) (1) A registered caregiver must be at least 21 years of age, except that, if the caregiver is the parent or legal guardian of a patient who is a minor, then the registered caregiver must be at least 18 years of age.

(2) A registered patient may designate up to two registered caregivers. If the patient is a minor, a parent or legal guardian of such patient shall be designated as a registered caregiver for such patient.

(3) A registered caregiver may provide assistance to not more than two registered

patients, unless the secretary approves a greater number of registered patients.

(4) A physician who submits an application on behalf of a patient may not also serve as such patient's registered caregiver.

(e) Any information collected by the department of health and environment pursuant to this section is confidential and not a public record. The department may share information identifying a specific patient with a licensed retail dispensary or any law enforcement agency for the purpose of confirming that such patient has a valid registration. Information that does not identify a person may be released in summary, statistical or aggregate form. The provisions of this subsection shall expire on July 1, 2028, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

(f) The fees for a patient or caregiver registration, or the renewal thereof, shall be set by rules and regulations adopted by the secretary of health and environment in an amount not to exceed:

- (1) Except as specified in paragraph (2), \$50 for a patient registration;
- (2) \$25 for a patient registration if the patient is indigent or is a veteran; and
- (3) \$25 for a caregiver registration.

(g) A registration shall be valid for a period of one year from the date the identification card is issued and may be renewed by submitting a registration renewal application and paying the required fee.

New Sec. 9. The department of health and environment shall assign a unique 24-character identification number to each registered patient and caregiver when issuing an identification card. Licensed retail dispensaries shall obtain verification by the department that a patient or caregiver has a valid registration.

New Sec. 10. (a) A patient registered pursuant to section 8, and amendments thereto, who obtains medical marijuana from a licensed retail dispensary may:

- (1) Use medical marijuana;
- (2) subject to subsection (b), purchase and possess medical marijuana; and
- (3) purchase and possess any paraphernalia or accessories used to administer medical marijuana.

(b) A registered patient may purchase medical marijuana in an amount not to exceed a recommended 30-day supply.

(c) Nothing in this section shall be construed to authorize a registered patient to operate a motor vehicle, watercraft or aircraft while under the influence of medical marijuana.

New Sec. 11. (a) A caregiver registered pursuant to section 8, and amendments thereto, who obtains medical marijuana from a licensed retail dispensary may:

- (1) Subject to subsection (b), purchase and possess medical marijuana on behalf of a registered patient under the caregiver's care;
- (2) assist a registered patient under the caregiver's care in the use or administration of medical marijuana; and
- (3) purchase and possess any paraphernalia or accessories used to administer medical marijuana.

(b) A registered caregiver may purchase medical marijuana on behalf of a registered patient in an amount not to exceed a recommended 30-day supply. If a caregiver provides care to more than one registered patient, the caregiver shall maintain separate inventories of medical marijuana for each patient.

(c) Nothing in this section shall be construed to permit a registered caregiver to

personally use medical marijuana unless the caregiver is also a registered patient.

New Sec. 12. (a) In addition to or in lieu of any other civil or criminal penalty as provided by law, the secretary of health and environment may impose a civil penalty or suspend or revoke a registration upon a finding that the patient or caregiver committed a violation as provided in this section.

(b) Nothing in this act shall be construed to require the secretary to enforce minor violations if the secretary determines that the public interest is adequately served by a notice or warning to the alleged offender.

(c) Upon a finding that a registrant has submitted fraudulent information or otherwise falsified or misrepresented information required to be submitted by such registrant, the secretary may impose a civil fine of not to exceed \$500 for a first offense and may suspend or revoke the individual's registration for a second or subsequent offense.

(d) If the secretary suspends, revokes or refuses to renew any registration issued pursuant to this act and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the secretary may place under seal all medical marijuana owned by or in the possession, custody or control of the affected registrant. Except as provided in this section, the secretary shall not dispose of the sealed medical marijuana until a final order is issued authorizing such disposition. During the pendency of an appeal from any order issued by the secretary, a court may order the secretary to sell medical marijuana that is perishable, and the proceeds of any such sale shall be deposited with the court.

New Sec. 13. (a) There is hereby established the medical marijuana registration fund in the state treasury. The secretary of health and environment shall administer the medical marijuana registration fund and shall remit all moneys collected from the payment of all fees and

finer imposed by the secretary pursuant to the medical marijuana regulation act and any other moneys received by or on behalf of the secretary pursuant to such act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury to the credit of the medical marijuana registration fund. Moneys credited to the medical marijuana registration fund shall only be expended or transferred as provided in this section. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the secretary or the secretary's designee.

(b) Moneys in the medical marijuana registration fund shall be used for the payment or reimbursement of costs related to the regulation and enforcement of the possession and use of medical marijuana by the secretary.

New Sec. 14. (a) On or before January 1, 2024, the secretary of health and environment shall, after consulting with the medical marijuana advisory committee, adopt rules and regulations to administer the medical marijuana regulation program and implement and enforce the provisions of the medical marijuana regulation act. Such rules and regulations shall:

- (1) Establish procedures for registration of patients and caregivers and eligibility requirements for registration, including registration fees;
- (2) establish procedures for the issuance of patient or caregiver identification cards;
- (3) establish a renewal schedule, renewal procedures and renewal fees for registrations;
- (4) subject to the provisions of subsection (b), specify, by form and tetrahydrocannabinol content, a maximum 30-day supply of medical marijuana that may be purchased;

(5) specify the forms or methods of using medical marijuana that are attractive to children; and

(6) establish a program to assist patients who are indigent or who are veterans in obtaining medical marijuana.

(b) Any maximum supply of medical marijuana that may be purchased by a patient or caregiver shall allow at least three ounces of dried, unprocessed medical marijuana or its equivalent as a 30-day supply and allow for exceptions from any such limitation upon submission of a written certification from two independent physicians that there are compelling reasons for the patient or caregiver to purchase greater quantities of medical marijuana.

(c) When adopting rules and regulations under this section, the secretary shall consider standards and procedures that have been found to be best practices relative to the use and regulation of medical marijuana.

New Sec. 15. (a) Any person may submit a petition to the medical marijuana advisory committee requesting that a disease or condition be added as a qualifying medical condition for the purposes of this act. The petition shall be submitted in such form and manner as prescribed by the secretary of health and environment. A petition shall not seek to add a broad category of diseases or conditions, but shall be limited to one disease or condition and shall include a description of such disease or condition.

(b) Upon receipt of a petition, the committee shall review such petition to determine whether to recommend the approval or denial of such disease or condition as an addition to the list of qualifying medical conditions. The committee may consolidate the review of petitions for the same or similar diseases or conditions. In making its determination, the committee shall:

(1) Consult with one or more experts who specialize in the study of the disease or

condition;

(2) review any relevant medical or scientific evidence pertaining to the disease or condition;

(3) consider whether conventional medical therapies are insufficient to treat or alleviate the disease or condition;

(4) review evidence supporting the use of medical marijuana to treat or alleviate the disease or condition; and

(5) review any letters of support provided by physicians with knowledge of the disease or condition, including any letter provided by a physician treating the petitioner.

(c) Upon completion of its review, the committee shall make a recommendation to the secretary of health and environment whether to approve or deny the addition of the disease or condition to the list of qualifying medical conditions. The secretary shall adopt rules and regulations in accordance with the recommendation of the committee.

(d) Prior to July 1, 2026, and every three years thereafter, the committee shall review all diseases or conditions that have been recommended for approval by the committee and adopted by the secretary of health and environment through rules and regulations to determine if the inclusion of any such diseases or conditions are no longer supported by scientific evidence. The inclusion of any such disease or condition that the committee determines is no longer supported by scientific evidence shall be recommended by the committee to the secretary of health and environment for removal from the list of qualifying medical conditions.

New Sec. 16. On or before January 1, 2024, the department of health and environment shall make a website available for the public to access information regarding patient and caregiver registration under the medical marijuana regulation act.

New Sec. 17. A medical marijuana registry identification card, or its equivalent, that is issued under the laws of another state, district, territory, commonwealth or insular possession of the United States that is verifiable by the jurisdiction of issuance and allows a nonresident patient to purchase and possess medical marijuana for medical purposes shall have the same force and effect as an identification card issued by the secretary pursuant to this act if the nonresident patient has not been residing in this state for more than 180 days.

New Sec. 18. (a) Except as provided in subsection (j), a physician seeking to recommend treatment with medical marijuana shall apply to the board of healing arts for a certificate authorizing such physician to recommend treatment with medical marijuana. The application shall be submitted in such form and manner as prescribed by the board. The board shall grant a certificate to recommend such treatment if the following conditions are satisfied:

(1) The application is complete and meets the requirements established in rules and regulations adopted by the board of healing arts; and

(2) the applicant demonstrates that the applicant does not have an ownership or investment interest in or compensation arrangement with an entity licensed by the director of alcohol and cannabis control under this act or an applicant for such licensure.

(b) (1) Pursuant to rules and regulations adopted by the board of healing arts, a certificate to recommend treatment with medical marijuana shall:

(A) Expire one year from the date of issuance unless renewed in the manner prescribed by the board; and

(B) require an annual fee in an amount not to exceed \$175.

(2) Renewal of a certificate to recommend treatment with medical marijuana shall be conditioned upon the holder's certification of having met the requirements in subsection (a),

paying the required renewal fee and having completed at least two hours of continuing medical education in medical marijuana in accordance with subsection (g).

(c) A physician licensed in this state who holds a certificate to recommend treatment with medical marijuana may recommend that a patient be treated with medical marijuana if:

(1) The patient has been diagnosed with a qualifying medical condition;

(2) an ongoing physician-patient relationship has been established by an initial office visit;

(3) an in-person physical examination of the patient was performed by the physician together with a review of all of the patient's medical records, particularly relating to the medical indication for a tetrahydrocannabinol recommendation; and

(4) the recommending physician or physician's designee reports all medical marijuana recommendations for any patient to the prescription monitoring program in accordance with K.S.A. 65-1683, and amendments thereto.

(d) In the case of a patient who is a minor, the physician may recommend treatment with medical marijuana only after obtaining the consent of the patient's parent or other person authorized to provide consent to such treatment.

(e) When issuing a written recommendation to a patient, a physician shall specify any information required by rules and regulations adopted by the board of healing arts. A written recommendation issued to a patient under this section shall be valid for a period of not more than 90 days. A physician may renew the recommendation for not more than three additional periods of not more than 90 days each. Thereafter, a physician may issue another recommendation to the patient only upon a physical examination of the patient.

(f) Each year a physician holding a certificate to recommend treatment with medical

marijuana shall submit to the board of healing arts a report that describes the physician's observations regarding the effectiveness of medical marijuana in treating the physician's patients during the year covered by the report. When submitting reports, a physician shall not include any information that identifies or would tend to identify any specific patient.

(g) Each year, a physician holding a certificate to recommend treatment with medical marijuana shall complete at least two hours of continuing medical education in the treatment with and use of medical marijuana as approved by the board of healing arts.

(h) A physician shall not issue a recommendation for treatment with medical marijuana for a member of such physician's family or the physician's self, or personally furnish or otherwise administer medical marijuana.

(i) A physician holding a certificate to recommend treatment with medical marijuana shall be immune from civil liability, shall not be subject to professional disciplinary action by the board of healing arts and shall not be subject to criminal prosecution for any of the following actions:

(1) Advising a patient, patient representative or caregiver about the benefits and risks of medical marijuana to treat a qualifying medical condition;

(2) recommending that a patient use medical marijuana to treat or alleviate a qualifying medical condition; or

(3) monitoring a patient's treatment with medical marijuana.

(j) This section shall not apply to a physician who recommends treatment with marijuana or a drug derived from marijuana under any of the following that is approved by an institutional review board or equivalent entity, the United States food and drug administration or the national institutes of health or one of its cooperative groups or centers under the United

States department of health and human services:

- (1) A research protocol;
- (2) a clinical trial;
- (3) an investigational new drug application; or
- (4) an expanded access submission.

New Sec. 19. (a) On or before September 1, 2023, the board of healing arts shall adopt rules and regulations to implement and enforce the provisions of section 18, and amendments thereto. Such rules and regulations shall include:

- (1) The procedures and fees for applying for a certificate to recommend treatment with medical marijuana;
- (2) the conditions for eligibility for a certificate to recommend treatment with medical marijuana;
- (3) the schedule, fees and procedures for renewing such certificate;
- (4) the reasons for which a certificate may be suspended or revoked;
- (5) the standards under which a certificate suspension may be lifted; and
- (6) the minimum standards of care when recommending treatment with medical marijuana.

(b) The board of healing arts shall approve one or more continuing medical education courses of study that assist physicians holding certificates to recommend treatment with medical marijuana in diagnosing and treating qualifying medical conditions with medical marijuana.

New Sec. 20. (a) Any person who seeks to cultivate, conduct laboratory testing of, process, distribute or sell at retail medical marijuana, medical marijuana concentrate or medical marijuana products shall submit an application for the appropriate license to the director in such

form and manner as prescribed by the director. A separate license application shall be submitted for each location to be operated by the licensee.

(b) The director shall issue a license to an applicant if:

(1) The criminal history record check conducted pursuant to section 43, and amendments thereto, with respect to the applicant demonstrates that the applicant is not disqualified from holding a license pursuant to section 21, and amendments thereto;

(2) the applicant is not applying for a laboratory license and demonstrates that such applicant does not:

(A) Have an ownership or investment interest in or compensation arrangement with a licensed laboratory or an applicant for such license; or

(B) share any corporate officers or employees with a licensed laboratory or an applicant for such license;

(3) the applicant demonstrates that such applicant will not violate the provisions of section 41, and amendments thereto;

(4) the applicant demonstrates that such applicant will comply with the provisions of section 42, and amendments thereto;

(5) the applicant has submitted a tax clearance certificate issued by the department of revenue; and

(6) the applicant meets all other licensure eligibility conditions established in rules and regulations adopted by the secretary of revenue and has paid all required fees.

(c) The director may issue the following licenses:

(1) Cultivator license;

(2) laboratory license;

- (3) processor license;
- (4) distributor license: and
- (5) retail dispensary license.

(d) All licenses issued under this section shall be valid for a period of two years from the date such license is issued.

(e) A license may be renewed by submitting a license renewal application and paying the required fee.

New Sec. 21. (a) All cultivator, laboratory, processor, distributor and retail dispensary licenses issued pursuant to section 20, and amendments thereto, shall only be issued to a person:

- (1) Who is a citizen of the United States;
- (2) who has not been convicted of a felony under the laws of this state, any other state or the United States, except for any felony that has been expunged from such person's record and such expungement occurred at least 10 years prior to the date the application for licensure is submitted;
- (3) who has not had a license revoked for cause under the provisions of this act or has not had any license issued under the medical marijuana laws of any state revoked for cause, except that a license may be issued to a person whose license was revoked for the conviction of a misdemeanor at any time after the lapse of 10 years following the date of the revocation;
- (4) who has not been convicted of being the keeper of or is keeping any property, whether real or personal, where sexual relations are being sold or offered for sale by a person who is 18 years of age or older or has not forfeited bond to appear in court to answer charges of being a keeper of any such property;
- (5) who has not been convicted of being a proprietor of a gambling house, pandering or

any other crime opposed to decency and morality or has not forfeited bond to appear in court to answer charges for any of those crimes;

(6) who is at least 18 years of age;

(7) who, other than as a member of the governing body of a city or county, does not appoint or supervise any law enforcement officer, is not a law enforcement officer or is not an employee of the director;

(8) who does not intend to carry on the business authorized by the license as an agent of another;

(9) who, at the time of application for renewal of any license issued under this act, would be eligible for the license upon a first application, except as provided by paragraph (11);

(10) who owns the premises for which a license is sought or, at the time of application, has a written lease thereon;

(11) whose spouse would be eligible to receive a license under this act, except that:

(A) A spouse's ineligibility due to citizenship or age shall not disqualify a person from licensure;

(B) a spouse's ineligibility due to conviction of a felony or other crime shall only disqualify a person from licensure if such felony or other crime was committed while the person's spouse held a license issued under this act; and

(C) a spouse's ineligibility shall not apply in determining eligibility for renewal of a license;

(12) who has been a resident of this state for at least two years immediately preceding the date of the application for licensure. If an individual licensee ceases to be a resident of this state at any time after the license is issued, then the license shall be forfeited; and

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(13) who has not been found to have held an undisclosed beneficial interest in any license issued pursuant to this act that was obtained by means of fraud or any false statement made on the application for such license.

(b) If the applicant is not an individual, then the license shall only be issued to a business entity formed in this state and registered with the secretary of state. No license shall be issued to a publicly traded corporation. Such entity shall submit the following to the director along with the application for licensure:

(1) A certificate of good standing;

(2) a copy of such entity's bylaws, operating agreement or other document providing for the governance of such entity; and

(3) a certified document indicating:

(A) Each individual who holds an ownership interest in such entity and each individual who holds an ownership interest in any business entity that holds an ownership interest in the applicant;

(B) the percentage of ownership interest of each such individual or business entity; and

(C) the residential address of each such individual.

(c) All individuals holding an ownership interest in a business entity applying for a license shall satisfy the requirements for licensure under subsections (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(7), (a)(8), (a)(9) and (a)(13).

(d) No license shall be issued to a business entity if less than 75% of the total equity or similar ownership interest in such entity is owned by individuals who have been residents of this state for at least two years immediately preceding the date of the application. A license shall be forfeited if, for more than 90 consecutive days, less than 75% of the total equity or similar

ownership interest in such entity is owned by individuals who are residents of this state at any time after the license is issued.

(f) All business entities holding a license shall notify the director of any change in such entity's registration status with the secretary of state, any amendment of such entity's governing documents and any change in ownership, including the names and addresses of the individuals whose ownership interest changed within 30 days after such change occurs.

(g) Any transfer of a license shall be reported to and approved by the director. The director shall not approve any transfer of a license to any individual or business entity that does not satisfy the requirements of this section at the time of the transfer.

(h) Any compensation, fee, expense or similarly characterized nonequity payment that is contingent on or otherwise determined in a manner that factors in profits, sales, revenue or cash flow of any kind relating to a licensee's operation, including, but not limited to, profit-based consulting fees and percentage rent payments is prohibited. Any licensee that enters into an agreement for any prohibited compensation, fee, expense or payment shall forfeit such entity's license to the director. Such prohibited compensation, fee, expense or payment:

(1) Includes any distribution that is made by a licensee to one or more individuals or other entities residing or domiciled outside this state that hold an equity or similar ownership interest in the licensee if such distribution is greater than 25% of the total distributed amount; and

(2) does not include payments of fixed amounts that are determined prior to the commencement of applicable services.

(i) For purposes of this section:

(1) The term "business entity" includes for-profit corporations, limited liability

companies, partnerships, limited partnerships, limited liability partnerships and trusts.

(2) If the applicant is a trust, then references to individual ownership interests in the trust shall mean any grantor, beneficiary or trustee of such trust.

New Sec. 22. (a) A cultivator licensee may cultivate medical marijuana in a building designated by the licensee that complies with the provisions of section 42, and amendments thereto. A cultivator may deliver or sell medical marijuana to one or more licensed cultivators, processors, distributors or retail dispensaries. A cultivator shall maintain at least that amount of square feet of marijuana cultivation as established by the secretary of revenue, but shall not maintain in the aggregate more than 50,000 square feet of marijuana cultivation.

(b) Subject to subsection (a), at the time the licensee applies for renewal of a cultivator license, a licensee may submit an application to the director for approval of an expansion of such licensee's cultivation area. Expansion approval applications shall be submitted in such form and manner as prescribed by the director and shall include an expansion plan that shall include the following:

(1) Specifications for the expansion or alteration that demonstrate compliance with section 42, and amendments thereto, and all applicable zoning ordinances, building codes and any other state and local laws and rules and regulations adopted thereunder;

(2) a proposed timeline for completion of the expansion that, if approved, will become a mandatory condition; and

(3) a history of compliance with the medical marijuana regulation act and all rules and regulations adopted thereunder, including a history of enforcement actions and sanctions issued by the director or any law enforcement agency against the licensee.

(c) (1) Unless authorized by this act, a cultivator shall not transfer or sell medical

marijuana and a processor shall not transfer, sell or process into a concentrate or medical marijuana product any medical marijuana, medical marijuana concentrate or medical marijuana product unless samples from each harvest batch or production batch from which that medical marijuana, medical marijuana concentrate or medical marijuana product was derived has been tested by a licensed laboratory for contaminants and has passed all contaminant tests required by this act.

(2) A licensed cultivator may transfer medical marijuana that has failed testing for quality control to a licensed processor only for the purposes of decontamination or remediation and only in accordance with the provisions of this act.

(d) A cultivator shall employ only those individuals who hold an employee license issued pursuant to section 29, and amendments thereto, and have completed the training requirements established by rules and regulations adopted by the secretary of revenue.

(e) A cultivator shall not cultivate medical marijuana for personal, family or household use or on any public land.

New Sec. 23. (a) Prior to January 1, 2024, the director shall contract with an operational private laboratory for the purpose of conducting compliance and quality assurance testing of licensed cultivators, laboratories and processors in an effort to provide public safety and ensure that quality medical marijuana, medical marijuana concentrate and medical marijuana products are available to registered patients.

(b) A laboratory under contract with the director for compliance and quality assurance testing shall not:

- (1) Conduct any other commercial medical marijuana testing in this state; or
- (2) employ, or be owned by any individual:

(A) Who has a direct or indirect financial interest in any entity holding a license issued pursuant to section 20, and amendments thereto;

(B) whose spouse, parent, child, spouse of a child, sibling or spouse of a sibling has a pending application for a license issued pursuant to section 20, and amendments thereto; or

(C) who is a member of the board of directors of any entity holding a license issued pursuant to section 20, and amendments thereto.

(c) A laboratory under contract with the director for compliance and quality assurance shall be accessible and utilized for any medical marijuana testing needs by any regulatory agency within the state, including, but not limited to, the department of health and environment, the Kansas bureau of investigation and the state fire marshal.

New Sec. 24. (a) The director shall propose rules and regulations as necessary to develop acceptable testing and research practices in consultation with the compliance and quality assurance testing laboratory contracted with pursuant to section 23, and amendments thereto, including, but not limited to, testing, standards, quality control analysis, equipment certification and calibration and chemical identification and substances used in bona fide research methods. After the hearing on proposed rules and regulations has been held as required by law, the director shall submit any such proposed rules and regulations to the secretary of revenue who, if the secretary approves it, shall adopt such rules and regulations.

(b) The director shall recommend rules and regulations for laboratory testing performed under this act concerning:

(1) The cleanliness and orderliness of the premises of a licensed laboratory and the establishing of licensed laboratories in secured locations;

(2) the inspection, cleaning and maintenance of any equipment or utensils used for the

analysis of test samples;

(3) testing procedures and standards for cannabinoid and terpenoid potency and safe levels of contaminants and appropriate remediation and validation procedures;

(4) controlled access areas for storage of medical marijuana, medical marijuana concentrate and medical marijuana product test samples, waste and reference standards;

(5) the establishment by the laboratory of a system, including computer systems to be utilized by the laboratory, to retain and maintain all required records, including business records, and processes to ensure results are reported in a timely and accurate manner;

(6) the possession, storage and use by the laboratory of reagents, solutions and reference standards;

(7) a certificate of analysis for each lot of reference standard;

(8) the transport and disposal of unused medical marijuana, medical marijuana concentrate and medical marijuana product and waste;

(9) the mandatory use by a laboratory of an inventory tracking system to ensure all test harvest and production batches or samples containing medical marijuana, medical marijuana concentrate or medical marijuana products are identified and tracked from the point such substances are transferred from an entity holding a license issued pursuant to section 20, and amendments thereto, or a registered patient or caregiver through the point of transfer, destruction or disposal. The inventory tracking system reporting shall include the results of any tests that are conducted;

(10) the employment of laboratory personnel;

(11) a written standard operating procedure manual to be maintained and updated by the laboratory;

(12) the successful participation in a proficiency testing program approved by the director for conducting testing required by section 25, and amendments thereto, in order to obtain and maintain certification;

(13) the establishment of and adherence to a quality assurance and quality control program to ensure sufficient monitoring of laboratory processes and the quality of results reported;

(14) the immediate recall of medical marijuana, medical marijuana concentrate or medical marijuana products that test above allowable thresholds or are otherwise determined to be unsafe;

(15) the establishment by the laboratory of a system to document the complete chain of custody for samples from receipt through disposal; and

(16) any other aspect of laboratory testing of medical marijuana, medical marijuana concentrate or medical marijuana product deemed necessary by the director.

New Sec. 25. (a) (1) The issuance of a laboratory license shall be contingent upon a successful on-site inspection, participation in proficiency testing and ongoing compliance with the requirements of this act. The laboratory premises specified in the license application shall be inspected prior to initial licensure and not more than six times annually by an inspector approved by the director.

(2) On and after January 1, 2024, accreditation by the national environmental laboratory accreditation program, ANSI national accreditation board or another accrediting body approved by the director shall be required for licensure and renewal of licensure of a laboratory license.

(b) No ownership interest in a licensed laboratory shall be held by a person who has a

direct or indirect beneficial ownership interest in any licensed cultivator, processor, distributor or retail dispensary. A licensed laboratory shall establish policies to prevent the existence of or the appearance of undue commercial, financial or other influences that diminish, or have the effect of diminishing the public confidence in the competency, impartiality and integrity of the testing processes or results of such laboratory. Such policies shall prohibit employees, owners or agents of a laboratory who participate in any aspect of the analysis and results of a sample from improperly influencing the testing process, manipulating data or benefiting from any ongoing financial, employment, personal or business relationship with the licensed entity that submitted the sample for testing.

(c) A licensed laboratory shall retain all results of laboratory tests conducted on medical marijuana, medical marijuana concentrate or marijuana products for a period of at least two years and shall promptly provide the director access to such results and the underlying data. The director shall also have access to the laboratory premises and any material or information requested by the director to determine compliance with the requirements of this act.

(d) A licensed laboratory shall establish standards, policies and procedures for laboratory testing procedures in accordance with rules and regulations adopted by the secretary of revenue. Samples from each harvest batch or product batch, as appropriate, of medical marijuana, medical marijuana concentrate and medical marijuana product shall be tested for each of the following categories:

- (1) Microbials;
- (2) mycotoxins;
- (3) residual solvents;
- (4) pesticides;

- (5) tetrahydrocannabinol and other cannabinoid potency;
- (6) terpenoid potency type and concentration;
- (7) moisture content;
- (8) homogeneity; and
- (9) heavy metals.

(e) (1) A licensee may accept test samples of medical marijuana, medical marijuana concentrate or medical marijuana product from any of the following for testing and research purposes only, including the provision of testing services for samples submitted for product development:

(A) Any entity holding a license issued pursuant to section 20, and amendments thereto; or

(B) any entity designated in section 45, and amendments thereto.

(2) A licensee may accept test samples of medical marijuana, medical marijuana concentrate and medical marijuana products from an individual person for testing if such person is:

(A) A registered patient or caregiver and such person provides the laboratory with the individual's registration identification and a valid photo identification; or

(B) a participant in an approved clinical or observational study conducted by a any entity designated in section 45, and amendments thereto.

(3) A licensee may transfer samples to another licensed laboratory for testing. All laboratory reports provided to or by an entity holding a license issued pursuant to section 20, and amendments thereto, or to a patient or caregiver shall identify the licensed laboratory that performed the testing of the sample that is submitted. A licensee may utilize a licensed distributor

to transport samples for testing from the licensed premises requesting testing services and the licensed laboratory performing testing services.

(f) A licensee shall employ only those individuals who hold an employee license issued pursuant to section 29, and amendments thereto, and have completed the training requirements established by rules and regulations adopted by the secretary of revenue.

New Sec. 26. (a) A processor licensee may:

(1) Obtain medical marijuana from one or more licensed cultivators or processors;

(2) subject to subsection (b), process medical marijuana obtained from one or more licensed cultivators into a form described in section 30, and amendments thereto; and

(3) deliver or sell processed medical marijuana, medical marijuana concentrate and medical marijuana products to one or more licensed processors, distributors or retail dispensaries.

(b) When packaging medical marijuana, medical marijuana concentrate and medical marijuana products, a licensed processor shall comply with any packaging and labeling requirements established by rules and regulations adopted by the secretary of revenue.

(c) A processor shall employ only those individuals who hold an employee license issued pursuant to section 29, and amendments thereto, and have completed the training requirements established by rules and regulations adopted by the secretary of revenue.

New Sec. 27. (a) A distributor licensee may:

(1) Purchase at wholesale medical marijuana, medical marijuana concentrate and medical marijuana products from one or more licensed cultivators or processors;

(2) store medical marijuana, medical marijuana concentrate and medical marijuana products obtained from one or more licensed processors in a form described in section 30, and

amendments thereto; and

(3) deliver, package or sell medical marijuana and medical marijuana products in a form described in section 30, and amendments thereto, to one or more licensed retail dispensaries.

(b) When storing or selling medical marijuana, a licensed distributor shall comply with any packaging and labeling requirements established by rules and regulations adopted by the secretary of revenue.

(c) A distributor shall employ only those individuals who hold an employee license issued pursuant to section 29, and amendments thereto, and have completed the training requirements established by rules and regulations adopted by the secretary of revenue.

New Sec. 28. (a) A retail dispensary licensee may obtain medical marijuana and medical marijuana products from one or more licensed cultivators, processors or distributors and may dispense or sell medical marijuana and medical marijuana products in accordance with subsection (b).

(b) When dispensing or selling medical marijuana and medical marijuana products, a retail dispensary shall:

(1) Dispense or sell medical marijuana and medical marijuana products only to a person who provides the licensee with a current, valid patient or caregiver identification card and only in accordance with a written recommendation issued by a physician;

(2) report to the prescription monitoring program the information required by K.S.A. 65-1683, and amendments thereto, and rules and regulations adopted by the state board of pharmacy pursuant to section 37, and amendments thereto; and

(3) comply with any packaging and labeling requirements established by rules and

regulations adopted by the secretary of revenue, including, but not limited to, labeling medical marijuana and medical marijuana products with the following information:

(A) The name and address of the licensed cultivator or processor that produced the medical marijuana or medical marijuana product and the retail dispensary;

(B) the name of the patient and caregiver, if any;

(C) the name of the physician who recommended treatment with medical marijuana;

(D) the directions for use, if any, as recommended by the physician;

(E) the health warning as specified in rules and regulations adopted by the secretary of health and environment;

(F) the date on which the medical marijuana or medical marijuana product was dispensed; and

(G) the quantity, strength, kind or form of medical marijuana contained in the package.

(c) A retail dispensary shall employ only those individuals who hold an employee license issued pursuant to section 29, and amendments thereto, and have completed the training requirements established by rules and regulations adopted by the secretary of revenue.

(d) A retail dispensary shall designate a pharmacist consultant who is a pharmacist licensed in this state and registered as a pharmacist consultant pursuant to section 38, and amendments thereto.

(e) A retail dispensary shall not make public any information received or collected by such licensee that identifies or would tend to identify any specific patient.

New Sec. 29. (a) Each individual who seeks to be employed by a person holding a license issued pursuant to section 20, and amendments thereto, shall submit an application for an employee license to the director in such form and manner as prescribed by the director. The

director shall issue a license to an applicant if all of the following conditions are met:

(1) The criminal history record check conducted pursuant to section 43, and amendments thereto, with respect to the applicant demonstrates that the applicant is not disqualified from holding a license pursuant to section 20, and amendments thereto; and

(2) the applicant meets all other licensure eligibility conditions established in rules and regulations adopted by the secretary of revenue and has paid all required fees.

(b) An employee license shall be valid for a period of two years from the date such license is issued and may be renewed by submitting a license renewal application and paying the required fee.

(c) A license issued pursuant to this section shall not be associated with a specific licensed cultivator, laboratory, processor, distributor or retail dispensary. The holder of an employee license may be employed by any such licensee.

New Sec. 30. (a) Only the following forms of medical marijuana may be dispensed under the medical marijuana regulation act:

(1) Oils;

(2) tinctures;

(3) plant material;

(4) edibles;

(5) patches; or

(6) any other form approved by the secretary of revenue under section 31, and amendments thereto.

(b) The smoking, combustion or vaporization of medical marijuana is prohibited.

(c) Any form or method of using medical marijuana that is considered attractive to

children is prohibited.

(d) Plant material shall have a tetrahydrocannabinol content of not more than 35% in its final, dispensed form.

(e) No form of medical marijuana shall be dispensed from a vending machine or through electronic commerce.

New Sec. 31. (a) Any person may submit a petition to the director requesting that a form or method of using medical marijuana be approved for the purposes of section 30, and amendments thereto. The petition shall be submitted in such form and manner as prescribed by the director.

(b) Upon receipt of a petition, the director shall review such petition to determine whether to recommend approval of the form or method of using medical marijuana described in the petition. The director may consolidate the review of petitions for the same or similar forms or methods. The director shall consult with the medical marijuana advisory committee and review any relevant scientific evidence when reviewing a petition. The director shall recommend to the secretary of revenue whether to approve or deny the proposed form or method of using medical marijuana. The secretary shall approve or deny such proposed form or method. The secretary's decision shall be final.

(c) Any petition for a proposed form or method of using medical marijuana that is substantially the same as a petition that was denied by the secretary during the immediately preceding 12 months shall be rejected without recommendation to the secretary.

New Sec. 32. (a) The fees for licenses issued by the director pursuant to this act shall be set by rules and regulations adopted by the secretary of revenue in accordance with this section.

(b) The fees for a cultivator license shall be in an amount not to exceed:

(1) \$20,000 for a cultivator license application or application for the renewal thereof;
and

(2) \$4,000 per square foot of area where marijuana is cultivated on the licensed premises for a cultivator license or the renewal thereof.

(c) The fees for a laboratory license shall be in an amount not to exceed:

(1) \$4,000 for a laboratory license application or application for the renewal thereof;
and

(2) \$36,000 for a laboratory license or the renewal thereof.

(d) The fees for a processor license shall be in an amount not to exceed:

(1) \$20,000 for a processor license application or application for the renewal thereof;
and

(2) \$180,000 for a processor license or the renewal thereof.

(e) The fees for a distributor license shall be in an amount not to exceed:

(1) \$20,000 for a distributor license application or application for the renewal thereof;
and

(2) \$80,000 for a distributor license or the renewal thereof.

(f) The fees for a retail dispensary license shall be in an amount not to exceed:

(1) \$20,000 for a retail dispensary license application or application for the renewal thereof; and

(2) \$80,000 for a retail dispensary license or the renewal thereof.

(g) The fee for an employee license shall be in an amount not to exceed \$100.

(h) All fees imposed pursuant to subsections (b), (c), (d), (e) and (f) shall not be refundable, except that if a licensee pays the full amount of the license fee upon application and

is prevented from operating under such license in accordance with the provisions of this act for the entire second year of the license term, a refund shall be made of one-half of the license fee paid by such licensee. The secretary of revenue shall adopt rules and regulations that provide for the authorization of refunds of one-half of the license fee paid when the licensee does not use such license for the entire second year of the license term as a result of the cancellation of the license upon the request of the licensee for voluntary reasons.

New Sec. 33. The director may refuse to issue or renew a license, or may revoke or suspend a license if the applicant has:

(a) Failed to comply with any provision of the medical marijuana regulation act or any rules and regulations adopted thereunder;

(b) falsified or misrepresented any information submitted to the director in order to obtain a license;

(c) failed to adhere to any acknowledgment, verification or other representation made to the director when applying for a license; or

(d) failed to submit or disclose information requested by the director.

New Sec. 34. (a) In addition to or in lieu of any other civil or criminal penalty as provided by law, the director may impose a civil penalty or suspend or revoke a license upon a finding that the licensee committed a violation as provided in this section.

(b) (1) Upon a finding that a licensee has submitted fraudulent information or otherwise falsified or misrepresented information required to be submitted by such licensee, the director may impose a civil fine not to exceed \$5,000 for a first offense and may suspend or revoke such licensee's license for a second or subsequent offense.

(2) (A) Except as provided in paragraph (B), upon a finding that a licensee has

cultivated, tested, processed, sold, transferred or otherwise distributed medical marijuana in violation of this act, the director may impose a civil fine not to exceed \$5,000 for a first offense and may suspend or revoke such licensee's license for a second or subsequent offense.

(B) Upon a finding that a retail dispensary licensee has knowingly disclosed patient information to any individual, the director shall impose a civil fine of \$5,000 and revoke such licensee's license.

(c) The director may require any licensee to submit a sample of medical marijuana, medical marijuana concentrate or medical marijuana product to a laboratory upon demand.

(d) If the director suspends, revokes or refuses to renew any license issued pursuant to this act and determines that there is clear and convincing evidence of a danger of immediate and serious harm to any person, the director may place under seal all medical marijuana owned by or in the possession, custody or control of the affected license holder. Except as provided in this section, the director shall not dispose of the sealed medical marijuana until a final order is issued authorizing such disposition. During the pendency of an appeal from any order by the director, a court may order the director to sell medical marijuana that is perishable, and the proceeds of any such sale shall be deposited with the court.

New Sec. 35. (a) There is hereby established the medical marijuana business regulation fund in the state treasury. The director of alcohol and cannabis control shall administer the medical marijuana business regulation fund and shall remit all moneys collected from the payment by licensees of all fees and fines imposed by the director pursuant to the medical marijuana regulation act and any other moneys received by or on behalf of the director pursuant to such act to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the

entire amount in the state treasury to the credit of the medical marijuana business regulation fund. Moneys credited to the medical marijuana business regulation fund shall only be expended or transferred as provided in this section. Expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the director or the director's designee.

(b) Moneys in the medical marijuana business regulation fund shall be used for the payment or reimbursement of costs related to the regulation and enforcement of the cultivation, testing, distributing, possession, processing and sale of medical marijuana by the division of alcohol and cannabis control.

New Sec. 36. (a) On or before January 1, 2024, the director shall propose rules and regulations to administer the medical marijuana regulation program and implement and enforce the provisions of the medical marijuana regulation act. The secretary of revenue shall, after consulting with the medical marijuana advisory committee, adopt rules and regulations to administer the medical marijuana regulation program and implement and enforce the provisions of this act. Such rules and regulations shall:

- (1) Establish application procedures and fees for licenses issued under section 20 and 29, and amendments thereto;
- (2) specify the conditions for eligibility for licensure;
- (3) establish a license renewal schedule, renewal procedures and renewal fees;
- (4) establish standards and procedures for the testing of medical marijuana by a licensed laboratory;
- (5) establish official packaging and labeling requirements that designate the package as Kansas medical marijuana, include the information required under section 28, and amendments

thereto, and ensure the packaging is tamper-proof;

(6) specify licensed premises security requirements in accordance with section 42, and amendments thereto; and

(7) establish training requirements for employees of licensed cultivators, laboratories, processors, distributors and retail dispensaries.

(b) When adopting rules and regulations, the secretary shall consider standards and procedures that have been found to be best practices relative to the use and regulation of medical marijuana.

New Sec. 37. (a) On or before January 1, 2024, the state board of pharmacy shall adopt rules and regulations establishing the requirements for:

(1) Retail dispensary reports to the prescription monitoring program database, including, but not limited to, the:

(A) Methods of transmission;

(B) nationally recognized telecommunications format to be used;

(C) frequency of such reports; and

(D) procedures for the maintenance of information submitted to or received from the prescription monitoring program to ensure such information is treated as confidential and is subject to the requirements of K.S.A. 65-1685 and 65-1687, and amendments thereto; and

(2) pharmacists to register as pharmacist consultants.

(b) Every September 15, December 15, March 15 and June 15, the state board of pharmacy shall certify to the director of accounts and reports the amount of moneys expended for operation and maintenance of the Kansas prescription drug monitoring program that is attributable to this act. Upon receipt of each such certification, or as soon thereafter as moneys

are available, the director of accounts and reports shall transfer the amount certified from the medical marijuana business regulation fund to the state board of pharmacy fee fund.

New Sec. 38. (a) Any pharmacist who seeks to operate as a pharmacist consultant for a retail dispensary shall register with the state board of pharmacy in accordance with rules and regulations adopted by the board.

(b) In operating as a pharmacist consultant for a retail dispensary, such pharmacist shall:

(1) Not charge a fee for such pharmacist's services that exceeds 1% of the gross annual receipts of such retail dispensary;

(2) audit each recommendation for use of medical marijuana, verify that any medical marijuana dispensed to a patient or caregiver is in accordance with such recommendation and ensure that each such recommendation is reported to the prescription monitoring program in accordance with K.S.A. 65-1683, and amendments thereto, and rules and regulations adopted by the state board of pharmacy;

(3) develop and provide training to retail dispensary employees at least once every 12 months that:

(A) Establishes guidelines for providing information to registered patients related to risks, benefits and side effects associated with medical marijuana;

(B) explains how to identify the signs and symptoms of substance abuse;

(C) establishes guidelines for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and

(D) assists in the development and implementation of review and improvement processes for patient education and support provided by the retail dispensary;

- (4) provide oversight for the development and dissemination of:
 - (A) Education materials for qualifying patients and designated caregivers that include:
 - (i) Information about possible side effects and contraindications of medical marijuana;
 - (ii) guidelines for notifying the physician who provided the written recommendation for medical marijuana if side effects or contraindications occur;
 - (iii) a description of the potential effects of differing strengths of medical marijuana strains and products;
 - (iv) information about potential drug-to-drug interactions, including interactions with alcohol, prescription drugs, nonprescription drugs and supplements;
 - (v) techniques for the use of medical marijuana, medical marijuana products and paraphernalia for the use of medical marijuana; and
 - (vi) information about different methods, forms and routes of medical marijuana administration;
 - (B) systems for documentation by a registered patient or designated caregiver of the symptoms of a registered patient that includes a logbook, rating scale for pain and symptoms and guidelines for a patient's self-assessment; and
 - (C) policies and procedures for refusing to provide medical marijuana to an individual who appears to be impaired or abusing medical marijuana; and
- (5) be accessible by the retail dispensary through:
 - (A) Telephonic means at all times during operating hours; and
 - (B) telephone or video conference for a patient consultation during operating hours.

New Sec. 39. (a) The director shall establish and maintain an electronic database to monitor medical marijuana from its seed source through its cultivation, testing, processing,

distribution and dispensing giving preference to systems that include tracking each plant beginning with the plant's in vitro genetic origination data. The director may contract with a separate entity to establish and maintain all or any portion of the electronic database on behalf of the division of alcohol and cannabis control.

(b) The electronic database shall allow for information regarding medical marijuana to be updated instantaneously. Any licensed cultivator, laboratory, processor, distributor or retail dispensary shall submit such information to the director as the director determines is necessary for maintaining the electronic database.

(c) The director, any employee of the division, any entity under contract with the director and any employee or agent thereof shall not make public any information reported to or collected by the director under this section that identifies or would tend to identify any specific patient. Such information shall be kept confidential to protect the privacy of the patient. The provisions of this subsection shall expire on July 1, 2028, unless the legislature reviews and reenacts such provisions in accordance with K.S.A. 45-229, and amendments thereto, prior to July 1, 2028.

New Sec. 40. (a) There shall be no direct or indirect cooperative advertising between or among two or more licensed cultivators, retail dispensaries or physicians, or any combination thereof, where such advertising has the purpose or effect of steering or influencing patient or caregiver choice with regard to the selection of a physician, retail dispensary or source of medical marijuana.

(b) All advertisements for medical marijuana or medical marijuana products that make a statement relating to side effects, contraindications and effectiveness shall present a true statement of such information. When applicable, advertisements broadcast through media,

including, but not limited to, radio, television or any other electronic media, shall include such information in the audio or audio and visual parts of the broadcast. False or misleading information in any part of the advertisement shall not be corrected by the inclusion of a true statement in another, distinct part of the advertisement.

(c) An advertisement is false or otherwise misleading if such advertisement:

(1) Contains a representation or suggestion that a medical marijuana brand or product is better, more effective, useful in a broader range of conditions or patients or safer than other drugs or treatments, including other medical marijuana brands or products, unless such a claim has been demonstrated by substantial evidence or substantial clinical experience;

(2) contains favorable information or opinions about a medical marijuana brand or product previously regarded as valid but that have been rendered invalid by contrary and more recent credible information;

(3) uses a quote or paraphrase out of context or without citing conflicting information from the same source to convey a false or misleading idea;

(4) cites or refers to a study on individuals without a qualifying medical condition without disclosing that the subjects were not suffering from a qualifying medical condition;

(5) uses data favorable to a medical marijuana product derived from patients treated with a product or dosages different from those approved in this state;

(6) contains favorable information or conclusions from a study that is inadequate in design, scope or conduct to furnish significant support for such information or conclusions; or

(7) fails to provide adequate emphasis for the fact that two or more facing pages are part of the same advertisement when only one page contains information relating to side effects, consequences and contraindications.

(d) An advertisement for medical marijuana or medical marijuana products shall not contain any:

(1) Statement that is false or misleading in any material particular or is otherwise in violation of the Kansas consumer protection act;

(2) statement that falsely disparages a competitor's products;

(3) statement, design or representation, picture or illustration that:

(A) Is obscene or indecent;

(B) encourages or represents the recreational use of marijuana or the use of medical marijuana for a condition other than a qualifying medical condition;

(C) relates to the safety or efficacy of medical marijuana unless supported by substantial evidence or substantial clinical data; or

(D) portrays anyone under 18 years of age or contains the use of a figure, symbol or language that is customarily associated with anyone under 18 years of age;

(4) offer of a prize or award to a registered patient, caregiver or physician related to the purchase of medical marijuana; or

(5) statement that indicates or implies that the product or entity in the advertisement has been approved or endorsed by the secretary of health and environment, the director, the state of Kansas or any person or entity associated with the state.

(e) No advertisement shall be broadcast or otherwise disseminated if the submitter of the advertisement has received information that has not been widely publicized in medical literature that the use of the medical marijuana product may cause fatalities or serious harm.

(f) The director may:

(1) Require a specific disclosure be made in an advertisement in a clear and

conspicuous manner, if the secretary determines that such advertisement would be false or misleading without such a disclosure; or

(2) make recommendations with respect to changes to such advertisement that are:

(A) Necessary to protect the public health, safety and welfare; or

(B) consistent with dispensing information for the medical marijuana or medical marijuana product that is the subject of such advertisement.

(g) A retail dispensary shall not:

(1) Advertise medical marijuana brand names or utilize graphics related to marijuana or paraphernalia on the exterior of the building or grounds of the licensed premises of such retail dispensary; or

(2) display any medical marijuana or paraphernalia so as to be clearly visible from the exterior of such retail dispensary.

(h) Medical marijuana shall not be advertised for sale by any cultivator, processor or distributor, except that such licensees may make a price list available to a retail dispensary.

New Sec. 41. (a) Except as provided as otherwise provided, no cultivator, laboratory, processor, distributor or retail dispensary shall be located within 1,000 feet of the boundaries of a parcel of real estate having situated on it a school, religious organization, public library or public park. If the relocation of a cultivator, laboratory, processor, distributor or retail dispensary results in such licensee being located within 1,000 feet of the boundaries of a parcel of real estate having situated on it a school, religious organization, public library or public park, the director shall revoke the license of such cultivator, laboratory, processor, distributor or retail dispensary.

(b) (1) The director shall not revoke the license of a cultivator, laboratory, processor, distributor or retail dispensary if such licensee existed at a location prior to the establishment of a

school, religious organization, public library or public park that is located on real estate that is within 1,000 feet of such licensee.

(2) Any applicant for a license may petition for and receive an exemption from the provisions of this section upon approval by the director, provided the proposed licensed premises:

(A) Has an industrial zoning classification; and

(B) is located not less than 500 feet of the boundaries of a parcel of real estate having situated on it a school, religious organization, public library or public park.

(c) This section shall not apply to research related to marijuana conducted at a postsecondary educational institution, academic medical center or private research and development organization as part of a research protocol approved by an institutional review board or equivalent entity.

(d) A county may prohibit the operation of retail dispensaries in such county by adoption of a resolution. Any retail dispensary that is lawfully operating at the time such resolution is adopted shall be permitted to continue operating in such county and shall not be denied renewal of any license based upon the adoption of such resolution.

(e) As used in this section:

(1) "Public library" means any library established pursuant to article 12 of chapter 12 of the Kansas Statutes Annotated, and amendments thereto, and any other library that serves the general public and is funded in whole, or in part, from moneys derived from tax levies;

(2) "public park" means any park or other outdoor recreational area or facility, including, but not limited to, parks, open spaces, trails, swimming pools, playgrounds and playing courts and fields, established by the state, or any political subdivision thereof;

(3) "religious organization" means any organization, church, body of communicants or group, gathered in common membership for mutual support and edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place owned by such entity and such religious organization maintains an established place of worship within this state and has a regular schedule of services or meetings at least on a weekly basis and has been determined to be organized and created as a bona fide religious organization; and

(4) "school" means any public or private preschool, elementary, middle or high school or other attendance center for kindergarten or any of the grades one through 12.

New Sec. 42. (a) The licensed premises for any license issued pursuant to section 20, and amendments thereto, shall be equipped with security equipment and measures to prevent unauthorized access to restricted areas of the premises and the theft, diversion or inversion of medical marijuana, medical marijuana concentrate or medical marijuana products.

(b) The licensee of a licensed premises shall install and maintain the following security equipment for the licensed premises:

(1) Exterior lighting sufficient to illuminate the exterior and perimeter of the licensed premises so as to facilitate surveillance of the premises;

(2) electronic video monitoring in accordance with subsection (c);

(3) controlled access to restricted access areas of the premises by means of electronic card access systems, biometric identification systems or similar systems that:

(A) Provide for the automatic locking of all external access doors in the event of power loss; and

(B) records access information by date, time and identity of the individual accessing restricted access area and maintains such information for at least one year;

(4) if windows are visible in any restricted access area, such windows shall be secured at all times to prevent opening or other access to the restricted access area via such windows; and

(5) alarm systems that provide:

(A) Immediate, automatic notification of local law enforcement agencies of any unauthorized breach of the security of the premises; and

(B) manual, silent alarms at each point-of-sale, reception area, vault and electronic monitoring station that provides for the immediate, automatic notification of local law enforcement agencies of any unauthorized breach of the security of the premises

(c) Any electronic video monitoring system installed and maintained by a licensee shall:

(1) Include coverage of:

(A) All entrances to the premises, including all windows and entrances to restricted access areas;

(B) the exterior and perimeter of the premises;

(C) each point-of-sale location;

(D) all vaults or safes; and

(E) all medical marijuana, medical marijuana concentrate and medical marijuana products where cultivated, processed or disposed of as waste;

(2) store all video recordings for at least 60 days in a secure location on or off the premises or through a secure service or network that provided on-demand access to such recordings. All such recordings shall be made available to the director upon request and at the expense of the licensee;

(3) accurately display the date and time of all recorded events in a manner that does not

obstruct the recorded view; and

(4) be installed in a manner that will prevent the video monitoring equipment from being obstructed, tampered with or disabled.

(d) (1) Each licensee shall notify the director of any malfunction in security equipment within 24 hours after such malfunction is discovered, and shall make reasonable efforts to repair such malfunctioning security equipment within 72 hours after such discovery.

(2) If the malfunctioning equipment is the electronic video monitoring system, a licensee shall provide for alternative video monitoring or other security measures until the malfunction can be repaired. If other security measures are used, the licensee shall notify the director of the use of such measures and when the electronic video monitoring system has been repaired.

(3) Each licensee shall maintain a record of all security equipment malfunctions and repairs for each licensed premises. Each record of a malfunction shall be maintained for one year from the date of the last entry for such malfunction. Such record shall include the following:

- (A) Date, time and nature of each malfunction;
- (B) date and method of repair;
- (C) reason for the delay, if any, in making a repair;
- (D) use of alternative security measures, if any; and
- (E) date and time of communications with the director.

(e) Each licensee shall establish policies and procedures for the security of the licensed premises. Such policies and procedures shall include:

- (1) Controlling access to all restricted access areas;
- (2) verifying the identity of individuals authorized to be in restricted access areas and

individuals authorized to conduct inventory control activities;

(3) Limiting the amount of money available in the premises and notifying any person entering the premises that there is a minimum amount of money available, including by posting signage;

(4) use of electronic video monitoring systems;

(5) use of alarm systems, including the use of manual, silent alarms; and

(6) communications with local law enforcement agencies regarding unauthorized security breaches and the employment and identity of any armed security personnel by the licensee.

(f) Each licensee shall employ a security manager. A security manager shall be responsible for:

(1) Conducting semiannual audits of the security equipment and measures utilized on the licensed premises to ensure compliance with policies and procedures and to identify any security issues;

(2) training employees upon employment and at least annually thereafter on security measures, emergency response and theft prevention; and

(3) evaluating the credentials of any contractor, including any contractor providing any security equipment or measures, who intends to provide services at the licensed premises prior to such contractor accessing the premises.

(g) Each licensee shall ensure that the security manager for a licensed premises and any contractor providing security services for such licensed premises and any employees of such contractor providing such services have completed training in security equipment and measures. Such training shall include:

- (1) Prevention of theft, diversion and inversion of medical marijuana;
- (2) emergency response procedures;
- (3) appropriate use of force;
- (4) preservation of a crime scene;
- (5) controlling access to restricted access areas of the premises;
- (6) at least eight hours of training in providing security services on the premises; and
- (7) at least eight hours of attendance in a course on providing security services.

(h) As used in this section, the term "restricted access entrance" means an entrance that is restricted to the public and requires a key, keycard, code, biometric identification system or similar device to allow entry to authorized personnel.

New Sec. 43. Each applicant for a cultivator, laboratory, processor, distributor or retail dispensary license shall require each owner, director, officer and agent of such applicant to be fingerprinted and to submit to a state and national criminal history record check. Each applicant for an employee licensee shall be fingerprinted and submit to a state and national criminal history record check. The director is authorized to submit the fingerprints to the Kansas bureau of investigation and the federal bureau of investigation for a state and national criminal history record check. The director shall use the information obtained from fingerprinting and the state and national criminal history record check for purposes of verifying the identification of the applicant and any owner, director, officer and agent thereof, if any, and for making a determination of the qualifications of the applicant for licensure. The Kansas bureau of investigation may charge a reasonable fee to the applicant for fingerprinting and conducting a criminal history record check.

New Sec. 44. (a) A financial institution that provides financial services to any

cultivator, laboratory, processor, distributor or retail dispensary shall be exempt from any criminal law of this state an element of which may be proven by substantiating that a person provides financial services to a person who possesses, delivers or manufactures medical marijuana or medical marijuana products, including any of the offenses specified in article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any attempt, conspiracy or solicitation specified in article 53 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, if the cultivator, laboratory, processor, distributor or retail dispensary is in compliance with the provisions of this act and all applicable tax laws of this state.

(b) (1) Upon the request of a financial institution, the director shall provide to the financial institution the following information:

(A) Whether a person with whom the financial institution is seeking to do business is a licensed cultivator, laboratory, processor, distributor or retail dispensary;

(B) the name of any other business or individual affiliated with such person;

(C) an unredacted copy of such person's application for a license, and any supporting documentation, that was submitted by such person;

(D) information relating to sales and volume of product sold by such person, if applicable;

(E) whether such person is in compliance with the provisions of this act; and

(F) any past or pending violations of the medical marijuana regulation act or any rules and regulations adopted thereunder committed by such person, and any penalty imposed on such person for such violation.

(2) The director may charge a financial institution a reasonable fee to cover the administrative cost of providing information requested under this section.

(c) Information received by a financial institution under subsection (b) is confidential. Except as otherwise permitted by any other state or federal law, a financial institution shall not make the information available to any person other than the customer to whom the information applies and any trustee, conservator, guardian, personal representative or agent of such customer.

(d) As used in this section:

(1) "Financial institution" means any bank, trust company, savings bank, credit union or savings and loan association or any other financial institution regulated by the state of Kansas, any agency of the United States or other state with an office in Kansas; and

(2) "financial services" means services that a financial institution is authorized to provide under chapter nine or article 22 of chapter 17 of the Kansas Statutes Annotated, and amendments thereto, as applicable.

New Sec. 45. Nothing in this act authorizes the director to oversee or limit research conducted at a postsecondary educational institution, academic medical center or private research and development organization that is related to marijuana and is approved by an agency, board, center, department or institute of the United States government, including any of the following:

- (a) The agency for health care research and quality;
- (b) the national institutes of health;
- (c) the national academy of sciences;
- (d) the centers for medicare and medicaid services;
- (e) the United States department of defense;
- (f) the centers for disease control and prevention;
- (g) the United States department of veterans affairs;
- (h) the drug enforcement administration;

- (i) the food and drug administration; and
- (j) any board recognized by the national institutes of health for the purpose of evaluating the medical value of health care services.

New Sec. 46. No provisions of the medical marijuana regulation act shall be construed to:

(a) Require an employer to permit or accommodate the use, consumption, possession, transfer, display, distribution, transportation, sale or growing of marijuana or any conduct otherwise allowed by this act in any workplace or on the employer's property;

(b) prohibit a person, employer, corporation or any other entity that occupies, owns or controls a property from prohibiting or otherwise regulating the use, consumption, possession, transfer, display, distribution, transportation, sale or growing of marijuana on such property;

(c) require any government medical assistance program, a private health insurer or a workers' compensation carrier or self-insured employer providing workers' compensation benefits to reimburse a person for costs associated with the use of medical marijuana;

(d) affect the ability of an employer to implement policies to promote workplace health and safety by restricting the use of marijuana by employees;

(e) prohibit an employer from:

(1) Establishing and enforcing a drug testing policy, drug-free workplace policy or zero-tolerance drug policy;

(2) disciplining an employee for a violation of a workplace drug policy or for working while under the influence of marijuana; or

(3) including a provision in any contract that prohibits the use of marijuana; or

(f) prevent an employer from, because of a person's violation of a workplace drug

policy or because that person was working while under the influence of marijuana:

- (1) Refusing to hire;
- (2) discharging;
- (3) disciplining; or
- (4) otherwise taking an adverse employment action against a person with respect to

hiring decisions, tenure, terms, conditions or privileges of employment.

New Sec. 47. The secretary of revenue, in consultation with the secretary of health and environment, may enter into one or more intergovernmental agreements with any of the Prairie Band Potawatomi Nation, the Iowa Tribe of Kansas and Nebraska, the Sac and Fox Nation of Missouri in Kansas and Nebraska and the Kickapoo Tribe in Kansas to provide for a free market exchange between entities engaged in the business of medical marijuana licensed by any such tribal government and licensed cultivators, laboratories, processors, distributors and retail dispensaries. Such agreement shall provide that the applicable tribal regulatory authority agrees to meet or exceed the substantive standards of the medical marijuana regulation act and any rules and regulations adopted pursuant thereto concerning the regulation of licensing and testing with respect to medical marijuana activity.

New Sec. 48. The provisions of the medical marijuana regulation act, section 1 et seq., and amendments thereto, are hereby declared to be severable. If any part or provision of the medical marijuana regulation act is held to be void, invalid or unconstitutional, such part or provision shall not affect or impair any of the remaining parts or provisions of the medical marijuana regulation act, and any such remaining provisions shall continue in full force and effect.

New Sec. 49. (a) It shall be unlawful to store or otherwise leave medical marijuana or a

medical marijuana product where it is readily accessible to a child under 18 years of age. Such conduct shall be unlawful with no requirement of a culpable mental state.

(b) Violation of this section is a class A person misdemeanor.

(c) This section shall not apply to any person who stores or otherwise leaves medical marijuana or a medical marijuana product where it is readily accessible to a child under 18 years of age if:

(1) Such child is a patient registered pursuant to section 8, and amendments thereto; and

(2) such medical marijuana or medical marijuana product is not readily accessible to any child under 18 years of age other than the child described in paragraph (1).

(d) As used in this section:

(1) "Medical marijuana" and "medical marijuana product" means the same as such terms are defined in section 2, and amendments thereto; and

(2) "readily accessible" means the medical marijuana or medical marijuana product is not stored in a locked container that restricts entry to such container solely to individuals who are over 18 years of age or who are registered patients pursuant to section 8, and amendments thereto.

(e) This section shall be a part of and supplemental to the Kansas criminal code.

New Sec. 50. (a) No person shall transport medical marijuana or medical marijuana products in any vehicle upon a highway or street unless such medical marijuana or medical marijuana product is in:

(1) The original, sealed packaging in accordance with any packaging requirements of the secretary of revenue adopted in rules and regulations, and the seal of which has not been broken and any other means of closure has not been removed; and

(2) (A) a locked rear trunk or rear compartment or any locked outside compartment of the vehicle that is not accessible to any person in the vehicle while it is in motion. If a vehicle is not equipped with such a trunk or compartment, then such medical marijuana or medical marijuana products shall be placed behind the last upright seat or in an area not normally occupied by the driver or a passenger of the vehicle while it is in motion; or

(B) the exclusive possession of a passenger in a vehicle that is a recreational vehicle, as defined by K.S.A. 75-1212, and amendments thereto, or a bus, as defined by K.S.A. 8-1406, and amendments thereto, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.

(b) Violation of this section is a class C nonperson misdemeanor.

(c) As used in this section, the terms "medical marijuana" and "medical marijuana product" mean the same as those terms are defined in section 2, and amendments thereto.

(d) This section shall be a part of and supplemental to the Kansas criminal code.

New Sec. 51. (a) The division of alcoholic beverage control is hereby renamed the division of alcohol and cannabis control.

(b) The division of alcohol and cannabis control and the director of the division of alcohol and cannabis control shall be the successor in every way to the powers, duties and functions of the division of alcoholic beverage control and the director of the division of alcoholic beverage control in which the same were vested prior to July 1, 2023. Every act performed in the exercise of such powers, duties and functions by or under the authority of the division of alcohol and cannabis control or the director of the division of alcohol and cannabis control shall be deemed to have the same force and effect as if performed by the division of alcoholic beverage control or the director of the division of alcoholic beverage control in which

such powers, duties and functions were vested prior to July 1, 2023.

(c) Whenever the division of alcoholic beverage control, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the division of alcoholic beverage control, such reference or designation shall be deemed to apply to the division of alcohol and cannabis control.

(d) Whenever the director of the division of alcoholic beverage control, or words of like effect, are referred to or designated by a statute, contract or other document, and such reference or designation is in regard to any function, power or duty of the director of the division of alcoholic beverage control, such reference or designation shall be deemed to apply to the director of alcohol and cannabis control.

(e) All rules and regulations, orders and directives of the director of the division of alcoholic beverage control that are in effect on July 1, 2023, shall continue to be effective and shall be deemed to be rules and regulations, orders and directives of the director of the division of alcohol and cannabis control until revised, amended, revoked or nullified pursuant to law.

New Sec. 52. (a) No law enforcement officer shall enforce any violations of 18 U.S.C. § 922(g)(3) if the substance involved in such violation is medical marijuana and such person is a registered patient pursuant to the medical marijuana regulation act, section 1 et seq., and amendments thereto, whose possession is authorized by such act.

(b) As used in this section:

(1) "Law enforcement officer" means the same as defined in K.S.A. 74-5602, and amendments thereto; and

(2) "medical marijuana" means the same as defined in section 2, and amendments

thereto.

New Sec. 53. (a) Subject to the provisions of K.S.A. 44-1018, and amendments thereto, it shall be unlawful for any person:

(1) To refuse to sell or rent after the making of a bona fide offer, to fail to transmit a bona fide offer or refuse to negotiate in good faith for the sale or rental of, or otherwise make unavailable or deny, real property to any person because such person consumes medical marijuana in accordance with section 10, and amendments thereto;

(2) to discriminate against any person in the terms, conditions or privileges of sale or rental of real property, or in the provision of services or facilities in connection therewith, because such person consumes medical marijuana in accordance with section 10, and amendments thereto; and

(3) to discriminate against any person in such person's use or occupancy of real property because such person associates with another person who consumes medical marijuana in accordance with section 10, and amendments thereto.

(b) (1) It shall be unlawful for any person or other entity whose business includes engaging in real estate related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because such person or any person associated with such person in connection with any real estate related transaction consumes medical marijuana in accordance with section 10, and amendments thereto.

(2) Nothing in this subsection prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than an individual's consumption of medical marijuana in accordance with section 10, and amendments thereto.

(3) As used in this subsection, "real estate related transaction" means the same as

defined in K.S.A. 44-1017, and amendments thereto.

(c) It shall be unlawful to coerce, intimidate, threaten or interfere with any person in the exercise or enjoyment of, or on account of such person's having exercised or enjoyed, or on account of such person's having aided or encouraged any other person in the exercise or enjoyment of, any right granted or protected by subsection (a) or (b).

(d) Nothing in this section shall be construed to prohibit a person from taking any action necessary to procure or retain any monetary benefit provided under federal law, or any rules and regulations adopted thereunder, or to obtain or maintain any license, certificate, registration or other legal status issued or bestowed under federal law, or any rules and regulations adopted thereunder.

(e) The provisions of this section shall be a part of and supplement to the Kansas act against discrimination.

New Sec. 54. (a) A covered entity, solely on the basis that an individual consumes medical marijuana in accordance with section 10, and amendments thereto, shall not:

- (1) Consider such individual ineligible to receive an anatomical gift or organ transplant;
- (2) deny medical and other services related to organ transplantation, including evaluation, surgery, counseling and post-transplantation treatment and services;
- (3) refuse to refer the individual to a transplant center or a related specialist for the purpose of evaluation or receipt of an organ transplant;
- (4) refuse to place such individual on an organ transplant waiting list; or
- (5) place such individual at a lower-priority position on an organ transplant waiting list than the position at which such individual would have been placed if not for such individual's consumption of medical marijuana.

(b) A covered entity may take into account an individual's consumption of medical marijuana when making treatment or coverage recommendations or decisions, solely to the extent that such consumption has been found by a physician, following an individualized evaluation of the individual, to be medically significant to the provision of the anatomical gift.

(c) Nothing in this section shall be construed to require a covered entity to make a referral or recommendation for or perform a medically inappropriate organ transplant.

(d) As used in this section, the terms "anatomical gift," "covered entity" and "organ transplant" mean the same as those terms are defined in K.S.A. 65-3276, and amendments thereto.

New Sec. 55. (a) No order shall be issued pursuant to K.S.A. 38-2242, 38-2243 or 38-2244, and amendments thereto, if the sole basis for the threat to the child's safety or welfare is that the child resides with an individual who consumes medical marijuana in accordance with section 10, and amendments thereto, or the child consumes medical marijuana in accordance with section 10, and amendments thereto.

(b) The provisions of this section shall be a part of and supplemental to the revised Kansas code for care of children.

New Sec. 56. (a) Notwithstanding the provisions of K.S.A. 65-2836, and amendments thereto, the board shall not revoke, suspend or limit a physician's license, publicly censure a physician or place a physician's license under probationary conditions upon any of the following:

(1) The physician has:

(A) Advised a patient about the possible benefits and risks of using medical marijuana;

(B) advised the patient that using medical marijuana may mitigate the patient's symptoms; or

(C) submitted an application on behalf of a patient or caregiver for registration as a patient or caregiver under section 8, and amendments thereto; or

(2) the physician is a registered patient or caregiver pursuant to section 8, and amendments thereto, possesses or has possessed or uses or has used medical marijuana in accordance with the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto.

(b) As used in this section, the term "medical marijuana" means the same as defined in section 2, and amendments thereto.

New Sec. 57. (a) Notwithstanding the provisions of K.S.A. 65-28a05, and amendments thereto, the board shall not revoke, suspend or limit a physician assistant's license, publicly or privately censure a physician assistant or deny an application for a license or for reinstatement of a license upon any of the following:

(1) The physician assistant has:

(A) Advised a patient about the possible benefits and risks of using medical marijuana;

or

(B) advised the patient that using medical marijuana may mitigate the patient's symptoms; or

(2) the physician assistant is a registered patient or caregiver pursuant to section 8, and amendments thereto, possesses or has possessed or uses or has used medical marijuana in accordance with the Kansas medical marijuana regulation act, section 1 et seq., and amendments thereto.

(b) As used in this section, the term "medical marijuana" means the same as defined in section 2, and amendments thereto.

New Sec. 58. (a) Notwithstanding any other provision of law, any person, board, commission or similar body that determines the qualifications of individuals for licensure, certification or registration shall not disqualify an individual from licensure, certification or registration solely because such individual consumes medical marijuana in accordance with section 10, and amendments thereto.

(b) The provisions of this section shall not apply to the:

- (1) Kansas commission on peace officers' standards and training;
- (2) Kansas highway patrol;
- (3) office of the attorney general;
- (4) department of health and environment; or
- (5) division of alcohol and cannabis control.

Sec. 59. K.S.A. 2021 Supp. 19-101a is hereby amended to read as follows: 19-101a.(a) The board of county commissioners may transact all county business and perform all powers of local legislation and administration it deems appropriate, subject only to the following limitations, restrictions or prohibitions:

- (1) Counties shall be subject to all acts of the legislature which apply uniformly to all counties.
- (2) Counties may not affect the courts located therein.
- (3) Counties shall be subject to acts of the legislature prescribing limits of indebtedness.
- (4) In the exercise of powers of local legislation and administration authorized under provisions of this section, the home rule power conferred on cities to determine their local affairs and government shall not be superseded or impaired without the consent of the governing body of each city within a county which may be affected.

(5) Counties may not legislate on social welfare administered under state law enacted pursuant to or in conformity with public law No. 271 – 74th congress, or amendments thereof.

(6) Counties shall be subject to all acts of the legislature concerning elections, election commissioners and officers and their duties as such officers and the election of county officers.

(7) Counties shall be subject to the limitations and prohibitions imposed under K.S.A. 12-187 through 12-195, and amendments thereto, prescribing limitations upon the levy of retailers' sales taxes by counties.

(8) Counties may not exempt from or effect changes in statutes made nonuniform in application solely by reason of authorizing exceptions for counties having adopted a charter for county government.

(9) No county may levy ad valorem taxes under the authority of this section upon real property located within any redevelopment project area established under the authority of K.S.A. 12-1772, and amendments thereto, unless the resolution authorizing the same specifically authorized a portion of the proceeds of such levy to be used to pay the principal of and interest upon bonds issued by a city under the authority of K.S.A. 12-1774, and amendments thereto.

(10) Counties shall have no power under this section to exempt from any statute authorizing or requiring the levy of taxes and providing substitute and additional provisions on the same subject, unless the resolution authorizing the same specifically provides for a portion of the proceeds of such levy to be used to pay a portion of the principal and interest on bonds issued by cities under the authority of K.S.A. 12-1774, and amendments thereto.

(11) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4601 through 19-4625, and amendments thereto.

(12) Except as otherwise specifically authorized by K.S.A. 12-1,101 through 12-1,109,

and amendments thereto, counties may not levy and collect taxes on incomes from whatever source derived.

(13) Counties may not exempt from or effect changes in K.S.A. 19-430, and amendments thereto.

(14) Counties may not exempt from or effect changes in K.S.A. 19-302, 19-502b, 19-503, 19-805 or 19-1202, and amendments thereto.

(15) Counties may not exempt from or effect changes in K.S.A. 19-15,139, 19-15,140 and 19-15,141, and amendments thereto.

(16) Counties may not exempt from or effect changes in the provisions of K.S.A. 12-1223, 12-1225, 12-1225a, 12-1225b, 12-1225c and 12-1226, and amendments thereto, or the provisions of K.S.A. 12-1260 through 12-1270 and 12-1276, and amendments thereto.

(17) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-211, and amendments thereto.

(18) Counties may not exempt from or effect changes in the provisions of K.S.A. 19-4001 through 19-4015, and amendments thereto.

(19) Counties may not regulate the production or drilling of any oil or gas well in any manner which would result in the duplication of regulation by the state corporation commission and the Kansas department of health and environment pursuant to chapter 55 and chapter 65 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant thereto. Counties may not require any license or permit for the drilling or production of oil and gas wells. Counties may not impose any fee or charge for the drilling or production of any oil or gas well.

(20) Counties may not exempt from or effect changes in K.S.A. 79-41a04, and

amendments thereto.

(21) Counties may not exempt from or effect changes in K.S.A. 79-1611, and amendments thereto.

(22) Counties may not exempt from or effect changes in K.S.A. 79-1494, and amendments thereto.

(23) Counties may not exempt from or effect changes in K.S.A. 19-202(b), and amendments thereto.

(24) Counties may not exempt from or effect changes in K.S.A. 19-204(b), and amendments thereto.

(25) Counties may not levy or impose an excise, severance or any other tax in the nature of an excise tax upon the physical severance and production of any mineral or other material from the earth or water.

(26) Counties may not exempt from or effect changes in K.S.A. 79-2017 or 79-2101, and amendments thereto.

(27) Counties may not exempt from or effect changes in K.S.A. 2-3302, 2-3305, 2-3307, 2-3318, 17-5904, 17-5908, 47-1219, 65-171d, 65-1,178 through 65-1,199, 65-3001 through 65-3028, and amendments thereto.

(28) Counties may not exempt from or effect changes in K.S.A. 80-121, and amendments thereto.

(29) Counties may not exempt from or effect changes in K.S.A. 19-228, and amendments thereto.

(30) Counties may not exempt from or effect changes in the Kansas 911 act.

(31) Counties may not exempt from or effect changes in K.S.A. 26-601, and

amendments thereto.

(32) (A) Counties may not exempt from or effect changes in the Kansas liquor control act except as provided by paragraph (B).

(B) Counties may adopt resolutions which are not in conflict with the Kansas liquor control act.

(33) (A) Counties may not exempt from or effect changes in the Kansas cereal malt beverage act except as provided by paragraph (B).

(B) Counties may adopt resolutions which are not in conflict with the Kansas cereal malt beverage act.

(34) Counties may not exempt from or effect changes in the Kansas lottery act.

(35) Counties may not exempt from or effect changes in the Kansas expanded lottery act.

(36) Counties may neither exempt from nor effect changes to the eminent domain procedure act.

(37) Any county granted authority pursuant to the provisions of K.S.A. 19-5001 through 19-5005, and amendments thereto, shall be subject to the limitations and prohibitions imposed under K.S.A. 19-5001 through 19-5005, and amendments thereto.

(38) Except as otherwise specifically authorized by K.S.A. 19-5001 through 19-5005, and amendments thereto, counties may not exercise any authority granted pursuant to K.S.A. 19-5001 through 19-5005, and amendments thereto, including the imposition or levy of any retailers' sales tax.

(39) Counties may not exempt from or effect changes in K.S.A. 65-201 and 65-202, and amendments thereto.

(40) Except as provided in section 41, and amendments thereto, may not exempt from or effect changes in the medical marijuana regulation act, section 1 et seq., and amendments thereto.

(b) Counties shall apply the powers of local legislation granted in subsection (a) by resolution of the board of county commissioners. If no statutory authority exists for such local legislation other than that set forth in subsection (a) and the local legislation proposed under the authority of such subsection is not contrary to any act of the legislature, such local legislation shall become effective upon passage of a resolution of the board and publication in the official county newspaper. If the legislation proposed by the board under authority of subsection (a) is contrary to an act of the legislature which is applicable to the particular county but not uniformly applicable to all counties, such legislation shall become effective by passage of a charter resolution in the manner provided in K.S.A. 19-101b, and amendments thereto.

(c) Any resolution adopted by a county ~~which~~ that conflicts with the restrictions in subsection (a) is null and void.

Sec. 60. K.S.A. 2021 Supp. 21-5703 is hereby amended to read as follows: 21-5703. (a) It shall be unlawful for any person to manufacture any controlled substance or controlled substance analog.

(b) Violation or attempted violation of subsection (a) is a:

(1) Drug severity level 2 felony, except as provided in subsections (b)(2) and (b)(3);

(2) drug severity level 1 felony if:

(A) The controlled substance is not methamphetamine, as defined by ~~subsection (d)(3)~~ ~~or (f)(1) of~~ K.S.A. 65-4107 (d)(3) or (f)(1), and amendments thereto, or an analog thereof; and

(B) the offender has a prior conviction for unlawful manufacturing of a controlled

substance under this section, K.S.A. 65-4159, prior to its repeal, K.S.A. 2010 Supp. 21-36a03, prior to its transfer, or a substantially similar offense from another jurisdiction and the substance was not methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, in any such prior conviction; and

(3) drug severity level 1 felony if the controlled substance is methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof.

(c) The provisions of ~~subsection (d) of~~ K.S.A. 2021 Supp. 21-5301(d), and amendments thereto, shall not apply to a violation of attempting to unlawfully manufacture any controlled substance or controlled substance analog pursuant to this section.

(d) For persons arrested and charged under this section, bail shall be at least \$50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision, or the defendant agrees to participate in a licensed or certified drug treatment program.

(e) The sentence of a person who violates this section shall not be subject to statutory provisions for suspended sentence, community service work or probation.

(f) The sentence of a person who violates this section, K.S.A. 65-4159, prior to its repeal or K.S.A. 2010 Supp. 21-36a03, prior to its transfer, shall not be reduced because these sections prohibit conduct identical to that prohibited by K.S.A. 65-4161 or 65-4163, prior to their repeal, K.S.A. 2010 Supp. 21-36a05, prior to its transfer, or K.S.A. 2021 Supp. 21-5705, and amendments thereto.

(g) The provisions of this section shall not apply to a cultivator or processor licensed by

the director of alcohol and cannabis control pursuant to section 20, and amendments thereto, that is producing medical marijuana, as defined in section 2, and amendments thereto, when used for acts authorized by the medical marijuana regulation act, section 1 et seq., and amendments thereto.

Sec. 61. K.S.A. 2021 Supp. 21-5705 is hereby amended to read as follows: 21-5705. (a) It shall be unlawful for any person to distribute or possess with the intent to distribute any of the following controlled substances or controlled substance analogs thereof:

(1) Opiates, opium or narcotic drugs, or any stimulant designated in ~~subsection (d)(1), (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and amendments thereto;

(2) any depressant designated in ~~subsection (e) of~~ K.S.A. 65-4105(e), ~~subsection (e) of~~ K.S.A. 65-4107(e), ~~subsection (b) or (c) of~~ K.S.A. 65-4109(b) or (c) or ~~subsection (b) of~~ K.S.A. 65-4111(b), and amendments thereto;

(3) any stimulant designated in ~~subsection (f) of~~ K.S.A. 65-4105(f), ~~subsection (d)(2), (d)(4), (d)(5) or (f)(2) of~~ K.S.A. 65-4107(d)(2), (d)(4), (d)(5) or (f)(2) or ~~subsection (e) of~~ K.S.A. 65-4109(e), and amendments thereto;

(4) any hallucinogenic drug designated in ~~subsection (d) of~~ K.S.A. 65-4105(d), ~~subsection (g) of~~ K.S.A. 65-4107(g) or ~~subsection (g) of~~ K.S.A. 65-4109(g), and amendments thereto;

(5) any substance designated in ~~subsection (g) of~~ K.S.A. 65-4105(g) and ~~subsection (e), (d), (e), (f) or (g) of~~ K.S.A. 65-4111(c), (d), (e), (f) or (g), and amendments thereto;

(6) any anabolic steroids as defined in ~~subsection (f) of~~ K.S.A. 65-4109(f), and amendments thereto; or

(7) any substance designated in ~~subsection (h) of~~ K.S.A. 65-4105(h), and amendments

thereto.

(b) It shall be unlawful for any person to distribute or possess with the intent to distribute a controlled substance or a controlled substance analog designated in K.S.A. 65-4113, and amendments thereto.

(c) It shall be unlawful for any person to cultivate any controlled substance or controlled substance analog listed in subsection (a).

(d) (1) Except as provided further, violation of subsection (a) is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 3.5 grams;

(B) drug severity level 3 felony if the quantity of the material was at least 3.5 grams but less than 100 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 100 grams but less than 1 kilogram; and

(D) drug severity level 1 felony if the quantity of the material was 1 kilogram or more.

(2) Violation of subsection (a) with respect to material containing any quantity of marijuana, or an analog thereof, is a:

(A) Drug severity level 4 felony if the quantity of the material was less than 25 grams;

(B) drug severity level 3 felony if the quantity of the material was at least 25 grams but less than 450 grams;

(C) drug severity level 2 felony if the quantity of the material was at least 450 grams but less than 30 kilograms; and

(D) drug severity level 1 felony if the quantity of the material was 30 kilograms or more.

(3) Violation of subsection (a) with respect to material containing any quantity of

heroin, as defined by ~~subsection (e)(1) of~~ K.S.A. 65-4105(c)(1), and amendments thereto, or methamphetamine, as defined by ~~subsection (d)(3) or (f)(1) of~~ K.S.A. 65-4107(d)(3) or (f)(1), and amendments thereto, or an analog thereof, is a:

- (A) Drug severity level 4 felony if the quantity of the material was less than 1 gram;
 - (B) drug severity level 3 felony if the quantity of the material was at least 1 gram but less than 3.5 grams;
 - (C) drug severity level 2 felony if the quantity of the material was at least 3.5 grams but less than 100 grams; and
 - (D) drug severity level 1 felony if the quantity of the material was 100 grams or more.
- (4) Violation of subsection (a) with respect to material containing any quantity of a controlled substance designated in K.S.A. 65-4105, 65-4107, 65-4109 or 65-4111, and amendments thereto, or an analog thereof, distributed by dosage unit, is a:

- (A) Drug severity level 4 felony if the number of dosage units was fewer than 10;
 - (B) drug severity level 3 felony if the number of dosage units was at least 10 but less than 100;
 - (C) drug severity level 2 felony if the number of dosage units was at least 100 but less than 1,000; and
 - (D) drug severity level 1 felony if the number of dosage units was 1,000 or more.
- (5) For any violation of subsection (a), the severity level of the offense shall be increased one level if the controlled substance or controlled substance analog was distributed or possessed with the intent to distribute on or within 1,000 feet of any school property.

(6) Violation of subsection (b) is a:

- (A) Class A person misdemeanor, except as provided in ~~subsection (d)(6)(B)~~

[subparagraph \(B\)](#); and

(B) nondrug severity level 7, person felony if the substance was distributed to or possessed with the intent to distribute to a minor.

(7) Violation of subsection (c) is a:

(A) Drug severity level 3 felony if the number of plants cultivated was more than 4 but fewer than 50;

(B) drug severity level 2 felony if the number of plants cultivated was at least 50 but fewer than 100; and

(C) drug severity level 1 felony if the number of plants cultivated was 100 or more.

(e) In any prosecution under this section, there shall be a rebuttable presumption of an intent to distribute if any person possesses the following quantities of controlled substances or analogs thereof:

(1) 450 grams or more of marijuana;

(2) 3.5 grams or more of heroin or methamphetamine;

(3) 100 dosage units or more containing a controlled substance; or

(4) 100 grams or more of any other controlled substance.

(f) It shall not be a defense to charges arising under this section that the defendant:

(1) Was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog;

(2) did not know the quantity of the controlled substance or controlled substance analog; or

(3) did not know the specific controlled substance or controlled substance analog contained in the material that was distributed or possessed with the intent to distribute.

(g) The provisions of subsections (a)(4) and (a)(5) shall not apply to any cultivator, laboratory, processor, distributor or retail dispensary licensed by the director of alcohol and cannabis control pursuant to section 20, and amendments thereto, or any employee or agent thereof, that is growing, testing, processing, distributing, dispensing or selling medical marijuana for purposes authorized by and doing so in accordance with the medical marijuana regulation act, section 1 et seq., and amendments thereto.

(h) As used in this section:

(1) "Material" means the total amount of any substance, including a compound or a mixture, ~~which that~~ contains any quantity of a controlled substance or controlled substance analog.

(2) "Dosage unit" means a controlled substance or controlled substance analog distributed or possessed with the intent to distribute as a discrete unit, including but not limited to, one pill, one capsule or one microdot, and not distributed by weight.

(A) For steroids, or controlled substances in liquid solution legally manufactured for prescription use, or an analog thereof, "dosage unit" means the smallest medically approved dosage unit, as determined by the label, materials provided by the manufacturer, a prescribing authority, licensed health care professional or other qualified health authority.

(B) For illegally manufactured controlled substances in liquid solution, or controlled substances in liquid products not intended for ingestion by human beings, or an analog thereof, "dosage unit" means 10 milligrams, including the liquid carrier medium, except as provided in ~~subsection (g)(2)(C)~~ subparagraph (C).

(C) For lysergic acid diethylamide (LSD) in liquid form, or an analog thereof, a dosage unit is defined as 0.4 milligrams, including the liquid medium.

(3) "Medical marijuana" means the same as defined in section 2, and amendments thereto.

Sec. 62. K.S.A. 2021 Supp. 21-5706 is hereby amended to read as follows: 21-5706. (a) It shall be unlawful for any person to possess any opiates, opium or narcotic drugs, or any stimulant designated in K.S.A. 65-4107(d)(1), (d)(3) or (f)(1), and amendments thereto, or a controlled substance analog thereof.

(b) It shall be unlawful for any person to possess any of the following controlled substances or controlled substance analogs thereof:

(1) Any depressant designated in K.S.A. 65-4105(e), 65-4107(e), 65-4109(b) or (c) or 65-4111(b), and amendments thereto;

(2) any stimulant designated in K.S.A. 65-4105(f), 65-4107(d)(2), (d)(4), (d)(5) or (f)(2) or 65-4109(e), and amendments thereto;

(3) any hallucinogenic drug designated in K.S.A. 65-4105(d), 65-4107(g) or 65-4109(g), and amendments thereto;

(4) any substance designated in K.S.A. 65-4105(g) and 65-4111(c), (d), (e), (f) or (g), and amendments thereto;

(5) any anabolic steroids as defined in K.S.A. 65-4109(f), and amendments thereto;

(6) any substance designated in K.S.A. 65-4113, and amendments thereto; or

(7) any substance designated in K.S.A. 65-4105(h), and amendments thereto.

(c) (1) Violation of subsection (a) is a drug severity level 5 felony.

(2) Except as provided in subsection (c)(3):

(A) Violation of subsection (b) is a class A nonperson misdemeanor, except as provided in subparagraph (B); and

(B) violation of subsection (b)(1) through (b)(5) or (b)(7) is a drug severity level 5 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4-methylenedioxymethamphetamine (MDMA), marijuana as designated in K.S.A. 65-4105(d), and amendments thereto, or any substance designated in K.S.A. 65-4105(h), and amendments thereto, or an analog thereof.

(3) If the substance involved is marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and amendments thereto, violation of subsection (b) is a:

(A) Class B nonperson misdemeanor, except as provided in subparagraphs (B)~~and~~, (C) and (D);

(B) class A nonperson misdemeanor if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense;~~and~~

(C) drug severity level 5 felony if that person has two or more prior convictions under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense; and

(D) nonperson misdemeanor punishable by a fine of not to exceed \$400, if that person is not a registered patient or caregiver under the medical marijuana regulation act, section 1 et seq., and amendments thereto, is found in possession of not more than 1.5 ounces of marijuana

and provides a statement from such person's physician recommending the use of medical marijuana to treat such person's symptoms.

~~(d) It shall be an affirmative defense to prosecution under this section arising out of a person's possession of any cannabidiol treatment preparation if the person:~~

~~(1) Has a debilitating medical condition, as defined in K.S.A. 2021 Supp. 65-6235, and amendments thereto, or is the parent or guardian of a minor child who has such debilitating medical condition;~~

~~(2) is possessing a cannabidiol treatment preparation, as defined in K.S.A. 2021 Supp. 65-6235, and amendments thereto, that is being used to treat such debilitating medical condition; and~~

~~(3) has possession of a letter, at all times while the person has possession of the cannabidiol treatment preparation, that:~~

~~(A) Shall be shown to a law enforcement officer on such officer's request;~~

~~(B) is dated within the preceding 15 months and signed by the physician licensed to practice medicine and surgery in Kansas who diagnosed the debilitating medical condition;~~

~~(C) is on such physician's letterhead; and~~

~~(D) identifies the person or the person's minor child as such physician's patient and identifies the patient's debilitating medical condition~~

If the substance involved is medical marijuana, as defined in section 2, and amendments thereto, the provisions of subsections (b) and (c) shall not apply to:

(1) Any person who is registered or licensed pursuant to the medical marijuana regulation act, section 1 et seq., and amendments thereto, and whose possession is authorized by such act; or

(2) any person who is not a resident of this state and who holds a license issued by another jurisdiction authorizing such person to purchase and possess medical marijuana as recognized under section 17, and amendments thereto.

(e) It shall not be a defense to charges arising under this section that the defendant was acting in an agency relationship on behalf of any other party in a transaction involving a controlled substance or controlled substance analog.

Sec. 63. K.S.A. 2021 Supp. 21-5707 is hereby amended to read as follows: 21-5707. (a) It shall be unlawful for any person to knowingly or intentionally use any communication facility:

(1) In committing, causing, or facilitating the commission of any felony under K.S.A. 2021 Supp. 21-5703, 21-5705 or 21-5706, and amendments thereto; or

(2) in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any felony under K.S.A. 2021 Supp. 21-5703, 21-5705 or 21-5706, and amendments thereto. Each separate use of a communication facility may be charged as a separate offense under this subsection.

(b) Violation of subsection (a) is a nondrug severity level 8, nonperson felony.

(c) The provisions of this section shall not apply to any person using communication facilities for those activities authorized by the medical marijuana regulation act, section 1 et seq., and amendments thereto.

(d) As used in this section, "communication facility" means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.

Sec. 64. K.S.A. 2021 Supp. 21-5709 is hereby amended to read as follows: 21-5709. (a)

It shall be unlawful for any person to possess ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine, or their salts, isomers or salts of isomers with an intent to use the product to manufacture a controlled substance.

(b) It shall be unlawful for any person to use or possess with intent to use any drug paraphernalia to:

(1) Manufacture, cultivate, plant, propagate, harvest, test, analyze or distribute a controlled substance; or

(2) store, contain, conceal, inject, ingest, inhale or otherwise introduce a controlled substance into the human body.

(c) It shall be unlawful for any person to use or possess with intent to use anhydrous ammonia or pressurized ammonia in a container not approved for that chemical by the Kansas department of agriculture.

(d) It shall be unlawful for any person to purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.

(e) (1) Violation of subsection (a) is a drug severity level 3 felony;

(2) violation of subsection (b)(1) is a:

(A) Drug severity level 5 felony, except as provided in subsection (e)(2)(B); and

(B) class B nonperson misdemeanor if the drug paraphernalia was used to cultivate fewer than five marijuana plants;

(3) violation of subsection (b)(2) is a class B nonperson misdemeanor;

(4) violation of subsection (c) is a drug severity level 5 felony; and

(5) violation of subsection (d) is a class A nonperson misdemeanor.

(f) For persons arrested and charged under subsection (a) or (c), bail shall be at least \$50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to reoffend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(g) The provisions of subsection (b) shall not apply to any person registered or licensed pursuant to the medical marijuana regulation act, section 1 et seq., and amendments thereto, whose possession of such equipment or material is used solely to produce or for the administration of medical marijuana, as defined in section 2, and amendments thereto, in a manner authorized by the medical marijuana regulation act, section 1 et seq., and amendments thereto.

Sec. 65. K.S.A. 2021 Supp. 21-5710 is hereby amended to read as follows: 21-5710. (a) It shall be unlawful for any person to advertise, market, label, distribute or possess with the intent to distribute:

(1) Any product containing ephedrine, pseudoephedrine, red phosphorus, lithium metal, sodium metal, iodine, anhydrous ammonia, pressurized ammonia or phenylpropanolamine or their salts, isomers or salts of isomers if the person knows or reasonably should know that the purchaser will use the product to manufacture a controlled substance or controlled substance analog; or

(2) any product containing ephedrine, pseudoephedrine or phenylpropanolamine, or their salts, isomers or salts of isomers for indication of stimulation, mental alertness, weight loss,

appetite control, energy or other indications not approved pursuant to the pertinent federal over-the-counter drug final monograph or tentative final monograph or approved new drug application.

(b) It shall be unlawful for any person to distribute, possess with the intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know that it will be used to manufacture or distribute a controlled substance or controlled substance analog in violation of K.S.A. 2021 Supp. 21-5701 through 21-5717, and amendments thereto.

(c) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing or under circumstances where one reasonably should know, that it will be used as such in violation of K.S.A. 2021 Supp. 21-5701 through 21-5717, and amendments thereto, except ~~subsection (b) of~~ K.S.A. 2021 Supp. 21-5706**(b)**, and amendments thereto.

(d) It shall be unlawful for any person to distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used as such in violation of ~~subsection (b) of~~ K.S.A. 2021 Supp. 21-5706**(b)**, and amendments thereto.

(e) (1) Violation of subsection (a) is a drug severity level 3 felony;

(2) violation of subsection (b) is a:

(A) Drug severity level 5 felony, except as provided in ~~subsection (e)(2)(B)~~ subparagraph (B); and

(B) drug severity level 4 felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of

any school property;

(3) violation of subsection (c) is a:

(A) Nondrug severity level 9, nonperson felony, except as provided in ~~subsection (e)(3)~~ ~~(B)~~ subparagraph (B); and

(B) drug severity level 5 felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property; and

(4) violation of subsection (d) is a:

(A) Class A nonperson misdemeanor, except as provided in ~~subsection (e)(4)(B)~~ subparagraph (B); and

(B) nondrug severity level 9, nonperson felony if the trier of fact makes a finding that the offender distributed or caused drug paraphernalia to be distributed to a minor or on or within 1,000 feet of any school property.

(f) For persons arrested and charged under subsection (a), bail shall be at least \$50,000 cash or surety, and such person shall not be released upon the person's own recognizance pursuant to K.S.A. 22-2802, and amendments thereto, unless the court determines, on the record, that the defendant is not likely to re-offend, the court imposes pretrial supervision or the defendant agrees to participate in a licensed or certified drug treatment program.

(g) The provisions of subsection (c) shall not apply to any person licensed pursuant to the medical marijuana regulation act, section 1 et seq., and amendments thereto, whose distribution or manufacture is used solely to distribute or produce medical marijuana, as defined in section 2, and amendments thereto, in a manner authorized by the medical marijuana regulation act, section 1 et seq., and amendments thereto.

(h) As used in this section, "or under circumstances where one reasonably should know" that an item will be used in violation of this section, shall include, but not be limited to, the following:

- (1) Actual knowledge from prior experience or statements by customers;
- (2) inappropriate or impractical design for alleged legitimate use;
- (3) receipt of packaging material, advertising information or other manufacturer supplied information regarding the item's use as drug paraphernalia; or
- (4) receipt of a written warning from a law enforcement or prosecutorial agency having jurisdiction that the item has been previously determined to have been designed specifically for use as drug paraphernalia.

Sec. 66. K.S.A. 2021 Supp. 23-3201 is hereby amended to read as follows: 23-3201. (a) The court shall determine legal custody, residency and parenting time of a child in accordance with the best interests of the child.

(b) The court shall not consider the fact that a parent or a child consumes medical marijuana in accordance with section 10, and amendments thereto, when determining the legal custody, residency or parenting time of a child.

Sec. 67. K.S.A. 38-2269 is hereby amended to read as follows: 38-2269. (a) When the child has been adjudicated to be a child in need of care, the court may terminate parental rights or appoint a permanent custodian when the court finds by clear and convincing evidence that the parent is unfit by reason of conduct or condition which renders the parent unable to care properly for a child and the conduct or condition is unlikely to change in the foreseeable future.

(b) In making a determination of unfitness the court shall consider, but is not limited to, the following, if applicable:

(1) Emotional illness, mental illness, mental deficiency or physical disability of the parent, of such duration or nature as to render the parent unable to care for the ongoing physical, mental and emotional needs of the child;

(2) conduct toward a child of a physically, emotionally or sexually cruel or abusive nature;

(3) the use of intoxicating liquors or narcotic or dangerous drugs of such duration or nature as to render the parent unable to care for the ongoing physical, mental or emotional needs of the child, except that the use of medical marijuana in accordance with section 10, and amendments thereto, shall not be considered to render the parent unable to care for the ongoing physical, mental or emotional needs of the child;

(4) physical, mental or emotional abuse or neglect or sexual abuse of a child;

(5) conviction of a felony and imprisonment;

(6) unexplained injury or death of another child or stepchild of the parent or any child in the care of the parent at the time of injury or death;

(7) failure of reasonable efforts made by appropriate public or private agencies to rehabilitate the family;

(8) lack of effort on the part of the parent to adjust the parent's circumstances, conduct or conditions to meet the needs of the child; and

(9) whether, as a result of the actions or inactions attributable to the parent and one or more of the factors listed in subsection (c) apply, the child has been in the custody of the secretary and placed with neither parent for 15 of the most recent 22 months beginning 60 days after the date on which a child in the secretary's custody was removed from the child's home.

(c) In addition to the foregoing, when a child is not in the physical custody of a parent,

the court, shall consider, but is not limited to, the following:

- (1) Failure to assure care of the child in the parental home when able to do so;
- (2) failure to maintain regular visitation, contact or communication with the child or with the custodian of the child;
- (3) failure to carry out a reasonable plan approved by the court directed toward the integration of the child into a parental home; and
- (4) failure to pay a reasonable portion of the cost of substitute physical care and maintenance based on ability to pay.

In making the above determination, the court may disregard incidental visitations, contacts, communications or contributions.

(d) A finding of unfitness may be made as provided in this section if the court finds that the parents have abandoned the child, the custody of the child was surrendered pursuant to K.S.A. 38-2282, and amendments thereto, or the child was left under such circumstances that the identity of the parents is unknown and cannot be ascertained, despite diligent searching, and the parents have not come forward to claim the child within three months after the child is found.

(e) If a person is convicted of a felony in which sexual intercourse occurred, or if a juvenile is adjudicated a juvenile offender because of an act which, if committed by an adult, would be a felony in which sexual intercourse occurred, and as a result of the sexual intercourse, a child is conceived, a finding of unfitness may be made.

(f) The existence of any one of the above factors standing alone may, but does not necessarily, establish grounds for termination of parental rights.

(g) (1) If the court makes a finding of unfitness, the court shall consider whether termination of parental rights as requested in the petition or motion is in the best interests of the

child. In making the determination, the court shall give primary consideration to the physical, mental and emotional health of the child. If the physical, mental or emotional needs of the child would best be served by termination of parental rights, the court shall so order. A termination of parental rights under the code shall not terminate the right of a child to inherit from or through a parent. Upon such termination all rights of the parent to such child, including, such parent's right to inherit from or through such child, shall cease.

(2) If the court terminates parental rights, the court may authorize adoption pursuant to K.S.A. 38-2270, and amendments thereto, appointment of a permanent custodian pursuant to K.S.A. 38-2272, and amendments thereto, or continued permanency planning.

(3) If the court does not terminate parental rights, the court may authorize appointment of a permanent custodian pursuant to K.S.A. 38-2272, and amendments thereto, or continued permanency planning.

(h) If a parent is convicted of an offense as provided in K.S.A. 38-2271(a)(7), and amendments thereto, or is adjudicated a juvenile offender because of an act which if committed by an adult would be an offense as provided in K.S.A. 38-2271(a)(7), and amendments thereto, and if the victim was the other parent of a child, the court may disregard such convicted or adjudicated parent's opinions or wishes in regard to the placement of such child.

(i) A record shall be made of the proceedings.

(j) When adoption, proceedings to appoint a permanent custodian or continued permanency planning has been authorized, the person or agency awarded custody of the child shall within 30 days submit a written plan for permanent placement which shall include measurable objectives and time schedules.

Sec. 68. K.S.A. 44-501 is hereby amended to read as follows: 44-501. (a) (1)

Compensation for an injury shall be disallowed if such injury to the employee results from:

- (A) The employee's deliberate intention to cause such injury;
- (B) the employee's willful failure to use a guard or protection against accident or injury which is required pursuant to any statute and provided for the employee;
- (C) the employee's willful failure to use a reasonable and proper guard and protection voluntarily furnished the employee by the employer;
- (D) the employee's reckless violation of their employer's workplace safety rules or regulations; or
- (E) the employee's voluntary participation in fighting or horseplay with a co-employee for any reason, work related or otherwise.

(2) ~~Subparagraphs (B) and (C) of paragraph (1) of subsection (a)~~ Subsections (a)(1)(B) and (a)(1)(C) shall not apply when it was reasonable under the totality of the circumstances to not use such equipment, or if the employer approved the work engaged in at the time of an accident or injury to be performed without such equipment.

(b) (1) (A) The employer shall not be liable under the workers compensation act where the injury, disability or death was contributed to by the employee's use or consumption of alcohol or any drugs, chemicals or any other compounds or substances, including, but not limited to, any drugs or medications ~~which~~ that are available to the public without a prescription from a health care provider, prescription drugs or medications, any form or type of narcotic drugs, marijuana, stimulants, depressants or hallucinogens.

(B) (i) In the case of drugs or medications which are available to the public without a prescription from a health care provider and prescription drugs or medications, compensation shall not be denied if the employee can show that such drugs or medications were being taken or

used in therapeutic doses and there have been no prior incidences of the employee's impairment on the job as the result of the use of such drugs or medications within the previous 24 months.

(ii) In the case of marijuana or any other form of cannabis, including any cannabis derivatives, compensation shall not be denied if the employee is registered as a patient pursuant to section 8, and amendments thereto, such cannabis or cannabis derivative was used in accordance with the medical marijuana regulation act, section 1 et seq., and amendments thereto, and there has been no prior incidence of the employee's impairment on the job as a result of the use of such cannabis or cannabis derivative within the previous 24 months.

(C) It shall be conclusively presumed that the employee was impaired due to alcohol or drugs if it is shown that, at the time of the injury, the employee had an alcohol concentration of .04 or more, or a GCMS confirmatory test by quantitative analysis showing a concentration at or above the levels shown on the following chart for the drugs of abuse listed:

	Confirmatory test cutoff levels (ng/ml)
Marijuana metabolite ¹	15
Cocaine metabolite ²	150
Opiates:	
Morphine	2000
Codeine	2000
6-Acetylmorphine ⁴	10 ng/ml
Phencyclidine	25
Amphetamines:	
Amphetamine	500

Methamphetamine³ 500

¹ Delta-9-tetrahydrocannabinol-9-carboxylic acid.

² Benzoyllecgonine.

³ Specimen must also contain amphetamine at a concentration greater than or equal to 200 ng/ml.

⁴ Test for 6-AM when morphine concentration exceeds 2,000 ng/ml.

(D) If it is shown that the employee was impaired pursuant to subsection (b)(1)(C) at the time of the injury, there shall be a rebuttable presumption that the accident, injury, disability or death was contributed to by such impairment. The employee may overcome the presumption of contribution by clear and convincing evidence.

(E) An employee's refusal to submit to a chemical test at the request of the employer shall result in the forfeiture of benefits under the workers compensation act if the employer had sufficient cause to suspect the use of alcohol or drugs by the claimant or if the employer's policy clearly authorizes post-injury testing.

(2) The results of a chemical test shall be admissible evidence to prove impairment if the employer establishes that the testing was done under any of the following circumstances:

(A) As a result of an employer mandated drug testing policy, in place in writing prior to the date of accident or injury, requiring any worker to submit to testing for drugs or alcohol;

(B) during an autopsy or in the normal course of medical treatment for reasons related to the health and welfare of the injured worker and not at the direction of the employer;

(C) the worker, prior to the date and time of the accident or injury, gave written consent to the employer that the worker would voluntarily submit to a chemical test for drugs or alcohol following any accident or injury;

(D) the worker voluntarily agrees to submit to a chemical test for drugs or alcohol

following any accident or injury; or

(E) as a result of federal or state law or a federal or state rule or regulation having the force and effect of law requiring a post-injury testing program and such required program was properly implemented at the time of testing.

(3) Notwithstanding subsection (b)(2), the results of a chemical test performed on a sample collected by an employer shall not be admissible evidence to prove impairment unless the following conditions are met:

(A) The test sample was collected within a reasonable time following the accident or injury;

(B) the collecting and labeling of the test sample was performed by or under the supervision of a licensed health care professional;

(C) the test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(D) the test was confirmed by gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample;

(E) the foundation evidence must establish, beyond a reasonable doubt, that the test results were from the sample taken from the employee; and

(F) a split sample sufficient for testing shall be retained and made available to the employee within 48 hours of a positive test.

(c) (1) Except as provided in paragraph (2), compensation shall not be paid in case of

coronary or coronary artery disease or cerebrovascular injury unless it is shown that the exertion of the work necessary to precipitate the disability was more than the employee's usual work in the course of the employee's regular employment.

(2) For events occurring on or after July 1, 2014, in the case of a firefighter as defined by K.S.A. 40-1709(b)(1), and amendments thereto, or a law enforcement officer as defined by K.S.A. 74-5602, and amendments thereto, coronary or coronary artery disease or cerebrovascular injury shall be compensable if:

(A) The injury can be identified as caused by a specific event occurring in the course and scope of employment;

(B) the coronary or cerebrovascular injury occurred within 24 hours of the specific event; and

(C) the specific event was the prevailing factor in causing the coronary or coronary artery disease or cerebrovascular injury.

(d) Except as provided in the workers compensation act, no construction design professional who is retained to perform professional services on a construction project or any employee of a construction design professional who is assisting or representing the construction design professional in the performance of professional services on the site of the construction project, shall be liable for any injury resulting from the employer's failure to comply with safety standards on the construction project for which compensation is recoverable under the workers compensation act, unless responsibility for safety practices is specifically assumed by contract. The immunity provided by this subsection to any construction design professional shall not apply to the negligent preparation of design plans or specifications.

(e) An award of compensation for permanent partial impairment, work disability, or

permanent total disability shall be reduced by the amount of functional impairment determined to be preexisting. Any such reduction shall not apply to temporary total disability, nor shall it apply to compensation for medical treatment.

(1) Where workers compensation benefits have previously been awarded through settlement or judicial or administrative determination in Kansas, the percentage basis of the prior settlement or award shall conclusively establish the amount of functional impairment determined to be preexisting. Where workers compensation benefits have not previously been awarded through settlement or judicial or administrative determination in Kansas, the amount of preexisting functional impairment shall be established by competent evidence.

(2) In all cases, the applicable reduction shall be calculated as follows:

(A) If the preexisting impairment is the result of injury sustained while working for the employer against whom workers compensation benefits are currently being sought, any award of compensation shall be reduced by the current dollar value attributable under the workers compensation act to the percentage of functional impairment determined to be preexisting. The "current dollar value" shall be calculated by multiplying the percentage of preexisting impairment by the compensation rate in effect on the date of the accident or injury against which the reduction will be applied.

(B) In all other cases, the employer against whom benefits are currently being sought shall be entitled to a credit for the percentage of preexisting impairment.

(f) If the employee receives, whether periodically or by lump sum, retirement benefits under the federal social security act or retirement benefits from any other retirement system, program, policy or plan ~~which~~ that is provided by the employer against which the claim is being made, any compensation benefit payments which the employee is eligible to receive under the

workers compensation act for such claim shall be reduced by the weekly equivalent amount of the total amount of all such retirement benefits, less any portion of any such retirement benefit, other than retirement benefits under the federal social security act, that is attributable to payments or contributions made by the employee, but in no event shall the workers compensation benefit be less than the workers compensation benefit payable for the employee's percentage of functional impairment. Where the employee elects to take retirement benefits in a lump sum, the lump sum payment shall be amortized at the rate of 4% per year over the employee's life expectancy to determine the weekly equivalent value of the benefits.

Sec. 69. K.S.A. 44-706 is hereby amended to read as follows: 44-706. The secretary shall examine whether an individual has separated from employment for each week claimed. The secretary shall apply the provisions of this section to the individual's most recent employment prior to the week claimed. An individual shall be disqualified for benefits:

(a) If the individual left work voluntarily without good cause attributable to the work or the employer, subject to the other provisions of this subsection. For purposes of this subsection, "good cause" is cause of such gravity that would impel a reasonable, not supersensitive, individual exercising ordinary common sense to leave employment. Good cause requires a showing of good faith of the individual leaving work, including the presence of a genuine desire to work. Failure to return to work after expiration of approved personal or medical leave, or both, shall be considered a voluntary resignation. After a temporary job assignment, failure of an individual to affirmatively request an additional assignment on the next succeeding workday, if required by the employment agreement, after completion of a given work assignment, shall constitute leaving work voluntarily. The disqualification shall begin the day following the separation and shall continue until after the individual has become reemployed and has had

earnings from insured work of at least three times the individual's weekly benefit amount. An individual shall not be disqualified under this subsection if:

(1) The individual was forced to leave work because of illness or injury upon the advice of a licensed and practicing health care provider and, upon learning of the necessity for absence, immediately notified the employer thereof, or the employer consented to the absence, and after recovery from the illness or injury, when recovery was certified by a practicing health care provider, the individual returned to the employer and offered to perform services and the individual's regular work or comparable and suitable work was not available. As used in this paragraph "health care provider" means any person licensed by the proper licensing authority of any state to engage in the practice of medicine and surgery, osteopathy, chiropractic, dentistry, optometry, podiatry or psychology;

(2) the individual left temporary work to return to the regular employer;

(3) the individual left work to enlist in the armed forces of the United States, but was rejected or delayed from entry;

(4) the spouse of an individual who is a member of the armed forces of the United States who left work because of the voluntary or involuntary transfer of the individual's spouse from one job to another job, which is for the same employer or for a different employer, at a geographic location which makes it unreasonable for the individual to continue work at the individual's job. For the purposes of this provision the term "armed forces" means active duty in the army, navy, marine corps, air force, coast guard or any branch of the military reserves of the United States;

(5) the individual left work because of hazardous working conditions. In determining whether or not working conditions are hazardous for an individual, the degree of risk involved to

the individual's health, safety and morals, the individual's physical fitness and prior training and the working conditions of workers engaged in the same or similar work for the same and other employers in the locality shall be considered. As used in this paragraph, "hazardous working conditions" means working conditions that could result in a danger to the physical or mental well-being of the individual. Each determination as to whether hazardous working conditions exist shall include, but shall not be limited to, a consideration of: (A) The safety measures used or the lack thereof; and (B) the condition of equipment or lack of proper equipment. No work shall be considered hazardous if the working conditions surrounding the individual's work are the same or substantially the same as the working conditions generally prevailing among individuals performing the same or similar work for other employers engaged in the same or similar type of activity;

(6) the individual left work to enter training approved under section 236(a)(1) of the federal trade act of 1974, provided the work left is not of a substantially equal or higher skill level than the individual's past adversely affected employment, as defined for purposes of the federal trade act of 1974, and wages for such work are not less than 80% of the individual's average weekly wage as determined for the purposes of the federal trade act of 1974;

(7) the individual left work because of unwelcome harassment of the individual by the employer or another employee of which the employing unit had knowledge and that would impel the average worker to give up such worker's employment;

(8) the individual left work to accept better work; each determination as to whether or not the work accepted is better work shall include, but shall not be limited to, consideration of: (A) The rate of pay, the hours of work and the probable permanency of the work left as compared to the work accepted; (B) the cost to the individual of getting to the work left in comparison to

the cost of getting to the work accepted; and (C) the distance from the individual's place of residence to the work accepted in comparison to the distance from the individual's residence to the work left;

(9) the individual left work as a result of being instructed or requested by the employer, a supervisor or a fellow employee to perform a service or commit an act in the scope of official job duties which is in violation of an ordinance or statute;

(10) the individual left work because of a substantial violation of the work agreement by the employing unit and, before the individual left, the individual had exhausted all remedies provided in such agreement for the settlement of disputes before terminating. For the purposes of this paragraph, a demotion based on performance does not constitute a violation of the work agreement;

(11) after making reasonable efforts to preserve the work, the individual left work due to a personal emergency of such nature and compelling urgency that it would be contrary to good conscience to impose a disqualification; or

(12) (A) the individual left work due to circumstances resulting from domestic violence, including:

(i) The individual's reasonable fear of future domestic violence at or en route to or from the individual's place of employment;

(ii) the individual's need to relocate to another geographic area in order to avoid future domestic violence;

(iii) the individual's need to address the physical, psychological and legal impacts of domestic violence;

(iv) the individual's need to leave employment as a condition of receiving services or

shelter from an agency which provides support services or shelter to victims of domestic violence; or

(v) the individual's reasonable belief that termination of employment is necessary to avoid other situations which may cause domestic violence and to provide for the future safety of the individual or the individual's family.

(B) An individual may prove the existence of domestic violence by providing one of the following:

(i) A restraining order or other documentation of equitable relief by a court of competent jurisdiction;

(ii) a police record documenting the abuse;

(iii) documentation that the abuser has been convicted of one or more of the offenses enumerated in articles 34 and 35 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or articles 54 or 55 of chapter 21 of the Kansas Statutes Annotated, [and amendments thereto](#), or K.S.A. 2021 Supp. 21-6104, 21-6325, 21-6326 or 21-6418 through 21-6422, and amendments thereto, where the victim was a family or household member;

(iv) medical documentation of the abuse;

(v) a statement provided by a counselor, social worker, health care provider, clergy, shelter worker, legal advocate, domestic violence or sexual assault advocate or other professional who has assisted the individual in dealing with the effects of abuse on the individual or the individual's family; or

(vi) a sworn statement from the individual attesting to the abuse.

(C) No evidence of domestic violence experienced by an individual, including the individual's statement and corroborating evidence, shall be disclosed by the department of labor

unless consent for disclosure is given by the individual.

(b) If the individual has been discharged or suspended for misconduct connected with the individual's work. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and in cases where the disqualification is due to discharge for misconduct has had earnings from insured work of at least three times the individual's determined weekly benefit amount, except that if an individual is discharged for gross misconduct connected with the individual's work, such individual shall be disqualified for benefits until such individual again becomes employed and has had earnings from insured work of at least eight times such individual's determined weekly benefit amount. In addition, all wage credits attributable to the employment from which the individual was discharged for gross misconduct connected with the individual's work shall be canceled. No such cancellation of wage credits shall affect prior payments made as a result of a prior separation.

(1) (A) For the purposes of this subsection, "misconduct" is defined as a violation of a duty or obligation reasonably owed the employer as a condition of employment including, but not limited to, a violation of a company rule, including a safety rule, if:

~~(A)~~(i) The individual knew or should have known about the rule;

~~(B)~~(ii) the rule was lawful and reasonably related to the job; and

~~(C)~~(iii) the rule was fairly and consistently enforced.

(B) The term "misconduct":

(i) Does not include any violation of a duty, obligation or company rule, if:

(a) The individual is a registered patient pursuant to section 8, and amendments thereto;

and

(b) the basis for the violation is the possession of an identification card issued under

section 8, and amendments thereto, or the possession or use of medical marijuana in accordance with the medical marijuana regulation act, section 1 et seq., and amendments thereto; and

(ii) includes any violation of a duty, obligation or company rule if the individual ingested marijuana in the workplace, worked while under the influence of marijuana or tested positive for a controlled substance.

(2) (A) Failure of the employee to notify the employer of an absence and an individual's leaving work prior to the end of such individual's assigned work period without permission shall be considered prima facie evidence of a violation of a duty or obligation reasonably owed the employer as a condition of employment.

(B) For the purposes of this subsection, misconduct shall include, but not be limited to, violation of the employer's reasonable attendance expectations if the facts show:

(i) The individual was absent or tardy without good cause;

(ii) the individual had knowledge of the employer's attendance expectation; and

(iii) the employer gave notice to the individual that future absence or tardiness may or will result in discharge.

(C) For the purposes of this subsection, if an employee disputes being absent or tardy without good cause, the employee shall present evidence that a majority of the employee's absences or tardiness were for good cause. If the employee alleges that the employee's repeated absences or tardiness were the result of health related issues, such evidence shall include documentation from a licensed and practicing health care provider as defined in subsection (a) (1).

(3) (A) (i) The term "gross misconduct" as used in this subsection shall be construed to mean conduct evincing extreme, willful or wanton misconduct as defined by this subsection.

Gross misconduct shall include, but not be limited to:

- ~~(i)~~(a) Theft;
- ~~(ii)~~(b) fraud;
- ~~(iii)~~(c) intentional damage to property;
- ~~(iv)~~(d) intentional infliction of personal injury; or
- ~~(v)~~(e) any conduct that constitutes a felony.

(ii) The term "gross misconduct":

(a) Does not include any conduct of an individual, if:

(1) The individual is a registered patient pursuant to section 8, and amendments thereto;

and

(2) the basis for such conduct is the possession of an identification card issued under section 8, and amendments thereto, or the possession or use of medical marijuana in accordance with the medical marijuana regulation act, section 1 et seq., and amendments thereto; and

(b) includes any conduct of an individual if the individual ingested marijuana in the workplace, worked while under the influence of marijuana or tested positive for a controlled substance.

(B) For the purposes of this subsection, the following shall be conclusive evidence of gross misconduct:

(i) The use of alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(ii) the impairment caused by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance by an individual while working;

(iii) a positive breath alcohol test or a positive chemical test, provided:

- (a) The test was either:
 - (1) Required by law and was administered pursuant to the drug free workplace act, 41 U.S.C. § 701 et seq.;
 - (2) administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;
 - (3) requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment;
 - (4) required by law and the test constituted a required condition of employment for the individual's job; or
 - (5) there was reasonable suspicion to believe that the individual used, had possession of, or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;
- (b) the test sample was collected either:
 - (1) As prescribed by the drug free workplace act, 41 U.S.C. § 701 et seq.;
 - (2) as prescribed by an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;
 - (3) as prescribed by the written policy of the employer of which the employee had knowledge and which constituted a required condition of employment;
 - (4) as prescribed by a test which was required by law and which constituted a required condition of employment for the individual's job; or
 - (5) at a time contemporaneous with the events establishing probable cause;

(c) the collecting and labeling of a chemical test sample was performed by a licensed health care professional or any other individual certified pursuant to ~~paragraph (b)(3)(A)(iii)(f)~~ [subsection \(b\)\(3\)\(B\)\(iii\)\(f\)](#) or authorized to collect or label test samples by federal or state law, or a federal or state rule or regulation having the force or effect of law, including law enforcement personnel;

(d) the chemical test was performed by a laboratory approved by the United States department of health and human services or licensed by the department of health and environment, except that a blood sample may be tested for alcohol content by a laboratory commonly used for that purpose by state law enforcement agencies;

(e) the chemical test was confirmed by gas chromatography, gas chromatography-mass spectroscopy or other comparably reliable analytical method, except that no such confirmation is required for a blood alcohol sample or a breath alcohol test;

(f) the breath alcohol test was administered by an individual trained to perform breath tests, the breath testing instrument used was certified and operated strictly according to a description provided by the manufacturers and the reliability of the instrument performance was assured by testing with alcohol standards; and

(g) the foundation evidence establishes, beyond a reasonable doubt, that the test results were from the sample taken from the individual;

(iv) an individual's refusal to submit to a chemical test or breath alcohol test, provided:

(a) The test meets the standards of the drug free workplace act, 41 U.S.C. § 701 et seq.;

(b) the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment;

(c) the test was otherwise required by law and the test constituted a required condition of employment for the individual's job;

(d) the test was requested pursuant to a written policy of the employer of which the employee had knowledge and was a required condition of employment; or

(e) there was reasonable suspicion to believe that the individual used, possessed or was impaired by alcoholic liquor, cereal malt beverage or a nonprescribed controlled substance while working;

(v) an individual's dilution or other tampering of a chemical test.

(C) For purposes of this subsection:

(i) "Alcohol concentration" means the number of grams of alcohol per 210 liters of breath;

(ii) "alcoholic liquor" means the same as provided in K.S.A. 41-102, and amendments thereto;

(iii) "cereal malt beverage" means the same as provided in K.S.A. 41-2701, and amendments thereto;

(iv) "chemical test" includes, but is not limited to, tests of urine, blood or saliva;

(v) "controlled substance" means the same as provided in K.S.A. 2021 Supp. 21-5701, and amendments thereto;

(vi) "required by law" means required by a federal or state law, a federal or state rule or regulation having the force and effect of law, a county resolution or municipal ordinance, or a policy relating to public safety adopted in an open meeting by the governing body of any special district or other local governmental entity;

(vii) "positive breath test" means a test result showing an alcohol concentration of 0.04

or greater, or the levels listed in 49 C.F.R. part 40, if applicable, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case "positive chemical test" shall mean a test result showing an alcohol concentration at or above the levels provided for in the assistance or treatment program;

(viii) "positive chemical test" means a chemical result showing a concentration at or above the levels listed in K.S.A. 44-501, and amendments thereto, or 49 C.F.R. part 40, as applicable, for the drugs or abuse listed therein, unless the test was administered as part of an employee assistance program or other drug or alcohol treatment program in which the employee was participating voluntarily or as a condition of further employment, in which case "positive chemical test" means a chemical result showing a concentration at or above the levels provided for in the assistance or treatment program.

(4) An individual shall not be disqualified under this subsection if the individual is discharged under the following circumstances:

(A) The employer discharged the individual after learning the individual was seeking other work or when the individual gave notice of future intent to quit, except that the individual shall be disqualified after the time at which such individual intended to quit and any individual who commits misconduct after such individual gives notice to such individual's intent to quit shall be disqualified;

(B) the individual was making a ~~good faith~~ good faith effort to do the assigned work but was discharged due to:

(i) Inefficiency;

(ii) unsatisfactory performance due to inability, incapacity or lack of training or

experience;

(iii) isolated instances of ordinary negligence or inadvertence;

(iv) ~~good faith~~ good faith errors in judgment or discretion; or

(v) unsatisfactory work or conduct due to circumstances beyond the individual's control; or

(C) the individual's refusal to perform work in excess of the contract of hire.

(c) If the individual has failed, without good cause, to either apply for suitable work when so directed by the employment office of the secretary of labor, or to accept suitable work when offered to the individual by the employment office, the secretary of labor, or an employer, such disqualification shall begin with the week in which such failure occurred and shall continue until the individual becomes reemployed and has had earnings from insured work of at least three times such individual's determined weekly benefit amount. In determining whether or not any work is suitable for an individual, the secretary of labor, or a person or persons designated by the secretary, shall consider the degree of risk involved to health, safety and morals, physical fitness and prior training, experience and prior earnings, length of unemployment and prospects for securing local work in the individual's customary occupation or work for which the individual is reasonably fitted by training or experience, and the distance of the available work from the individual's residence. Notwithstanding any other provisions of this act, an otherwise eligible individual shall not be disqualified for refusing an offer of suitable employment, or failing to apply for suitable employment when notified by an employment office, or for leaving the individual's most recent work accepted during approved training, including training approved under section 236(a)(1) of the trade act of 1974, if the acceptance of or applying for suitable employment or continuing such work would require the individual to terminate approved training

and no work shall be deemed suitable and benefits shall not be denied under this act to any otherwise eligible individual for refusing to accept new work under any of the following conditions:

(1) If the position offered is vacant due directly to a strike, lockout or other labor dispute;

(2) if the remuneration, hours or other conditions of the work offered are substantially less favorable to the individual than those prevailing for similar work in the locality;

(3) if as a condition of being employed, the individual would be required to join or to resign from or refrain from joining any labor organization; and

(4) if the individual left employment as a result of domestic violence, and the position offered does not reasonably accommodate the individual's physical, psychological, safety, or legal needs relating to such domestic violence.

(d) For any week with respect to which the secretary of labor, or a person or persons designated by the secretary, finds that the individual's unemployment is due to a stoppage of work which exists because of a labor dispute or there would have been a work stoppage had normal operations not been maintained with other personnel previously and currently employed by the same employer at the factory, establishment or other premises at which the individual is or was last employed, except that this subsection (d) shall not apply if it is shown to the satisfaction of the secretary of labor, or a person or persons designated by the secretary, that: (1) The individual is not participating in or financing or directly interested in the labor dispute which caused the stoppage of work; and (2) the individual does not belong to a grade or class of workers of which, immediately before the commencement of the stoppage, there were members employed at the premises at which the stoppage occurs any of whom are participating in or

financing or directly interested in the dispute. If in any case separate branches of work which are commonly conducted as separate businesses in separate premises are conducted in separate departments of the same premises, each such department shall, for the purpose of this subsection be deemed to be a separate factory, establishment or other premises. For the purposes of this subsection, failure or refusal to cross a picket line or refusal for any reason during the continuance of such labor dispute to accept the individual's available and customary work at the factory, establishment or other premises where the individual is or was last employed shall be considered as participation and interest in the labor dispute.

(e) For any week with respect to which or a part of which the individual has received or is seeking unemployment benefits under the unemployment compensation law of any other state or of the United States, except that if the appropriate agency of such other state or the United States finally determines that the individual is not entitled to such unemployment benefits, this disqualification shall not apply.

(f) For any week with respect to which the individual is entitled to receive any unemployment allowance or compensation granted by the United States under an act of congress to ex-service men and women in recognition of former service with the military or naval services of the United States.

(g) If the individual, or another in such individual's behalf with the knowledge of the individual, has knowingly made a false statement or representation, or has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor, unless the individual has repaid the full amount of the overpayment as determined by the secretary or the secretary's designee, including, but not limited to, the total amount of money erroneously paid as benefits or unlawfully

obtained, interest, penalties and any other costs or fees provided by law. If the individual has made such repayment, the individual shall be disqualified for a period of one year for the first occurrence or five years for any subsequent occurrence, beginning with the first day following the date the department of labor confirmed the individual has successfully repaid the full amount of the overpayment. In addition to the penalties set forth in K.S.A. 44-719, and amendments thereto, an individual who has knowingly made a false statement or representation or who has knowingly failed to disclose a material fact to obtain or increase benefits under this act or any other unemployment compensation law administered by the secretary of labor shall be liable for a penalty in the amount equal to 25% of the amount of benefits unlawfully received. Notwithstanding any other provision of law, such penalty shall be deposited into the employment security trust fund. No person who is a victim of identify theft shall be subject to the provisions of this subsection. The secretary shall investigate all cases of an alleged false statement or representation or failure to disclose a material fact to ensure no victim of identity theft is disqualified, required to repay or subject to any penalty as provided by this subsection as a result of identity theft.

(h) For any week with respect to which the individual is receiving compensation for temporary total disability or permanent total disability under the workmen's compensation law of any state or under a similar law of the United States.

(i) For any week of unemployment on the basis of service in an instructional, research or principal administrative capacity for an educational institution as defined in K.S.A. 44-703(v), and amendments thereto, if such week begins during the period between two successive academic years or terms or, when an agreement provides instead for a similar period between two regular but not successive terms during such period or during a period of paid sabbatical

leave provided for in the individual's contract, if the individual performs such services in the first of such academic years or terms and there is a contract or a reasonable assurance that such individual will perform services in any such capacity for any educational institution in the second of such academic years or terms.

(j) For any week of unemployment on the basis of service in any capacity other than service in an instructional, research, or administrative capacity in an educational institution, as defined in K.S.A. 44-703(v), and amendments thereto, if such week begins during the period between two successive academic years or terms if the individual performs such services in the first of such academic years or terms and there is a reasonable assurance that the individual will perform such services in the second of such academic years or terms, except that if benefits are denied to the individual under this subsection and the individual was not offered an opportunity to perform such services for the educational institution for the second of such academic years or terms, such individual shall be entitled to a retroactive payment of benefits for each week for which the individual filed a timely claim for benefits and for which benefits were denied solely by reason of this subsection.

(k) For any week of unemployment on the basis of service in any capacity for an educational institution as defined in K.S.A. 44-703(v), and amendments thereto, if such week begins during an established and customary vacation period or holiday recess, if the individual performs services in the period immediately before such vacation period or holiday recess and there is a reasonable assurance that such individual will perform such services in the period immediately following such vacation period or holiday recess.

(l) For any week of unemployment on the basis of any services, substantially all of which consist of participating in sports or athletic events or training or preparing to so

participate, if such week begins during the period between two successive sport seasons or similar period if such individual performed services in the first of such seasons or similar periods and there is a reasonable assurance that such individual will perform such services in the later of such seasons or similar periods.

(m) For any week on the basis of services performed by an alien unless such alien is an individual who was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time such services were performed, including an alien who was lawfully present in the United States as a result of the application of the provisions of section 212(d)(5) of the federal immigration and nationality act. Any data or information required of individuals applying for benefits to determine whether benefits are not payable to them because of their alien status shall be uniformly required from all applicants for benefits. In the case of an individual whose application for benefits would otherwise be approved, no determination that benefits to such individual are not payable because of such individual's alien status shall be made except upon a preponderance of the evidence.

(n) For any week in which an individual is receiving a governmental or other pension, retirement or retired pay, annuity or other similar periodic payment under a plan maintained by a base period employer and to which the entire contributions were provided by such employer, except that: (1) If the entire contributions to such plan were provided by the base period employer but such individual's weekly benefit amount exceeds such governmental or other pension, retirement or retired pay, annuity or other similar periodic payment attributable to such week, the weekly benefit amount payable to the individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity or other

similar periodic payment which is attributable to such week;~~or~~ (2) if only a portion of contributions to such plan were provided by the base period employer, the weekly benefit amount payable to such individual for such week shall be reduced, but not below zero, by the prorated weekly amount of the pension, retirement or retired pay, annuity or other similar periodic payment after deduction of that portion of the pension, retirement or retired pay, annuity or other similar periodic payment that is directly attributable to the percentage of the contributions made to the plan by such individual;~~or~~ (3) if the entire contributions to the plan were provided by such individual, or by the individual and an employer, or any person or organization, who is not a base period employer, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection; or (4) whatever portion of contributions to such plan were provided by the base period employer, if the services performed for the employer by such individual during the base period, or remuneration received for the services, did not affect the individual's eligibility for, or increased the amount of, such pension, retirement or retired pay, annuity or other similar periodic payment, no reduction in the weekly benefit amount payable to the individual for such week shall be made under this subsection. No reduction shall be made for payments made under the social security act or railroad retirement act of 1974.

(o) For any week of unemployment on the basis of services performed in any capacity and under any of the circumstances described in subsection (i), (j) or (k) that an individual performed in an educational institution while in the employ of an educational service agency. For the purposes of this subsection, the term "educational service agency" means a governmental agency or entity which is established and operated exclusively for the purpose of providing such services to one or more educational institutions.

(p) For any week of unemployment on the basis of service as a school bus or other motor vehicle driver employed by a private contractor to transport pupils, students and school personnel to or from school-related functions or activities for an educational institution, as defined in K.S.A. 44-703(v), and amendments thereto, if such week begins during the period between two successive academic years or during a similar period between two regular terms, whether or not successive, if the individual has a contract or contracts, or a reasonable assurance thereof, to perform services in any such capacity with a private contractor for any educational institution for both such academic years or both such terms. An individual shall not be disqualified for benefits as provided in this subsection for any week of unemployment on the basis of service as a bus or other motor vehicle driver employed by a private contractor to transport persons to or from nonschool-related functions or activities.

(q) For any week of unemployment on the basis of services performed by the individual in any capacity and under any of the circumstances described in subsection (i), (j), (k) or (o) ~~which~~ that are provided to or on behalf of an educational institution, as defined in K.S.A. 44-703(v), and amendments thereto, while the individual is in the employ of an employer which is a governmental entity, Indian tribe or any employer described in section 501(c)(3) of the federal internal revenue code of 1986 which is exempt from income under section 501(a) of the code.

(r) For any week in which an individual is registered at and attending an established school, training facility or other educational institution, or is on vacation during or between two successive academic years or terms. An individual shall not be disqualified for benefits as provided in this subsection provided:

(1) The individual was engaged in full-time employment concurrent with the individual's school attendance;

(2) the individual is attending approved training as defined in K.S.A. 44-703(s), and amendments thereto; or

(3) the individual is attending evening, weekend or limited day time classes, which would not affect availability for work, and is otherwise eligible under K.S.A. 44-705(c), and amendments thereto.

(s) For any week with respect to which an individual is receiving or has received remuneration in the form of a back pay award or settlement. The remuneration shall be allocated to the week or weeks in the manner as specified in the award or agreement, or in the absence of such specificity in the award or agreement, such remuneration shall be allocated to the week or weeks in which such remuneration, in the judgment of the secretary, would have been paid.

(1) For any such weeks that an individual receives remuneration in the form of a back pay award or settlement, an overpayment will be established in the amount of unemployment benefits paid and shall be collected from the claimant.

(2) If an employer chooses to withhold from a back pay award or settlement, amounts paid to a claimant while they claimed unemployment benefits, such employer shall pay the department the amount withheld. With respect to such amount, the secretary shall have available all of the collection remedies authorized or provided in K.S.A. 44-717, and amendments thereto.

(t) (1) Any applicant for or recipient of unemployment benefits who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment program approved by the secretary of labor, secretary of commerce or secretary for children and families, and a job skills program approved by the secretary of labor, secretary of commerce or the secretary for children and families. Subject to applicable federal laws, any applicant for or recipient of unemployment benefits who fails to

complete or refuses to participate in the substance abuse treatment program or job skills program as required under this subsection shall be ineligible to receive unemployment benefits until completion of such substance abuse treatment and job skills programs. Upon completion of both substance abuse treatment and job skills programs, such applicant for or recipient of unemployment benefits may be subject to periodic drug screening, as determined by the secretary of labor. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or recipient of unemployment benefits shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from unemployment benefits for a period of 12 months, or until such applicant for or recipient of unemployment benefits completes both substance abuse treatment and job skills programs, whichever is later. Upon a third positive test for unlawful use of a controlled substance or controlled substance analog, an applicant for or a recipient of unemployment benefits shall be terminated from receiving unemployment benefits, subject to applicable federal law.

(2) Any individual who has been discharged or refused employment for failing a preemployment drug screen required by an employer may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any such individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening.

(3) The provisions of this subsection shall not apply to any individual who is a registered patient pursuant to section 8, and amendments thereto, for activities authorized by the medical marijuana regulation act, section 1 et seq., and amendments thereto.

(u) If the individual was found not to have a disqualifying adjudication or conviction under K.S.A. 39-970 or 65-5117, and amendments thereto, was hired and then was subsequently

convicted of a disqualifying felony under K.S.A. 39-970 or 65-5117, and amendments thereto, and discharged pursuant to K.S.A. 39-970 or 65-5117, and amendments thereto. The disqualification shall begin the day following the separation and shall continue until after the individual becomes reemployed and has had earnings from insured work of at least three times the individual's determined weekly benefit amount.

(v) Notwithstanding the provisions of any subsection, an individual shall not be disqualified for such week of part-time employment in a substitute capacity for an educational institution if such individual's most recent employment prior to the individual's benefit year begin date was for a non-educational institution and such individual demonstrates application for work in such individual's customary occupation or for work for which the individual is reasonably fitted by training or experience.

Sec. 70. K.S.A. 44-1009 is hereby amended to read as follows: 44-1009. (a) It shall be an unlawful employment practice:

(1) For an employer, because of the race, religion, color, sex, disability, national origin or ancestry of any person to refuse to hire or employ such person to bar or discharge such person from employment or to otherwise discriminate against such person in compensation or in terms, conditions or privileges of employment; to limit, segregate, separate, classify or make any distinction in regards to employees; or to follow any employment procedure or practice which, in fact, results in discrimination, segregation or separation without a valid business necessity.

(2) For a labor organization, because of the race, religion, color, sex, disability, national origin or ancestry of any person, to exclude or to expel from its membership such person or to discriminate in any way against any of its members or against any employer or any person employed by an employer.

(3) For any employer, employment agency or labor organization to print or circulate or cause to be printed or circulated any statement, advertisement or publication, or to use any form of application for employment or membership or to make any inquiry in connection with prospective employment or membership, which expresses, directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry, or any intent to make any such limitation, specification or discrimination, unless based on a bona fide occupational qualification.

(4) For any employer, employment agency or labor organization to discharge, expel or otherwise discriminate against any person because such person has opposed any practices or acts forbidden under this act or because such person has filed a complaint, testified or assisted in any proceeding under this act.

(5) For an employment agency to refuse to list and properly classify for employment or to refuse to refer any person for employment or otherwise discriminate against any person because of such person's race, religion, color, sex, disability, national origin or ancestry; or to comply with a request from an employer for a referral of applicants for employment if the request expresses, either directly or indirectly, any limitation, specification or discrimination as to race, religion, color, sex, disability, national origin or ancestry.

(6) For an employer, labor organization, employment agency, or school which provides, coordinates or controls apprenticeship, on-the-job, or other training or retraining program, to maintain a practice of discrimination, segregation or separation because of race, religion, color, sex, disability, national origin or ancestry, in admission, hiring, assignments, upgrading, transfers, promotion, layoff, dismissal, apprenticeship or other training or retraining program, or in any other terms, conditions or privileges of employment, membership, apprenticeship or

training; or to follow any policy or procedure which, in fact, results in such practices without a valid business motive.

(7) For any person, whether an employer or an employee or not, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or attempt to do so.

(8) For an employer, labor organization, employment agency or joint labor-management committee to:

(A) Limit, segregate or classify a job applicant or employee in a way that adversely affects the opportunities or status of such applicant or employee because of the disability of such applicant or employee;

(B) participate in a contractual or other arrangement or relationship, including a relationship with an employment or referral agency, labor union, an organization providing fringe benefits to an employee or an organization providing training and apprenticeship programs that has the effect of subjecting a qualified applicant or employee with a disability to the discrimination prohibited by this act;

(C) utilize standards criteria, or methods of administration that have the effect of discrimination on the basis of disability or that perpetuate the discrimination of others who are subject to common administrative control;

(D) exclude or otherwise deny equal jobs or benefits to a qualified individual because of the known disability of an individual with whom the qualified individual is known to have a relationship or association;

(E) not make reasonable accommodations to the known physical or mental limitations of an otherwise qualified individual with a disability who is an applicant or employee, unless such employer, labor organization, employment agency or joint labor-management committee

can demonstrate that the accommodation would impose an undue hardship on the operation of the business thereof;

(F) deny employment opportunities to a job applicant or employee who is an otherwise qualified individual with a disability, if such denial is based on the need to make reasonable accommodation to the physical or mental impairments of the employee or applicant;

(G) use qualification standards, employment tests or other selection criteria that screen out or tend to screen out an individual with a disability or a class of individuals with disabilities unless the standard, test or other selection criteria, as used, is shown to be job-related for the position in question and is consistent with business necessity; or

(H) fail to select and administer tests concerning employment in the most effective manner to ensure that, when such test is administered to a job applicant or employee who has a disability that impairs sensory, manual or speaking skills, the test results accurately reflect the skills, aptitude or whatever other factor of such applicant or employee that such test purports to measure, rather than reflecting the impaired sensory, manual or speaking skills of such employee or applicant ~~(except where such skills are the factors that the test purports to measure).~~

(9) For any employer to:

(A) Seek to obtain, to obtain or to use genetic screening or testing information of an employee or a prospective employee to distinguish between or discriminate against or restrict any right or benefit otherwise due or available to an employee or a prospective employee; or

(B) subject, directly or indirectly, any employee or prospective employee to any genetic screening or test.

(10) (A) For an employer, because a person is a registered patient or caregiver pursuant to section 8, and amendments thereto, or possesses or uses medical marijuana in accordance with

the medical marijuana regulation act, section 1 et seq., and amendments thereto, to:

(i) Refuse to hire or employ a person;

(ii) bar or discharge such person from employment; or

(iii) otherwise discriminate against such person in compensation or in terms, conditions or privileges of employment without a valid business necessity.

(B) For a labor organization, because a person is a registered patient or caregiver pursuant to section 8, and amendments thereto, or possesses or uses medical marijuana in accordance with the medical marijuana regulation act, section 1 et seq., and amendments thereto, to exclude or expel such person from its membership.

(C) Nothing in this paragraph shall be construed to prohibit a person from taking any action necessary to procure or retain any monetary benefit provided under federal law, or any rules and regulations adopted thereunder, or to obtain or maintain any license, certificate, registration or other legal status issued or bestowed under federal law, or any rules and regulations adopted thereunder.

(D) Nothing in this paragraph shall be construed to provide a cause of action against an employer for wrongful discharge or discrimination for the unlawful use of marijuana.

(b) It shall not be an unlawful employment practice to fill vacancies in such way as to eliminate or reduce imbalance with respect to race, religion, color, sex, disability, national origin or ancestry.

(c) It shall be an unlawful discriminatory practice:

(1) For any person, as defined herein being the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, and accommodations to any person as

covered by this act because of race, religion, color, sex, disability, national origin or ancestry, except where a distinction because of sex is necessary because of the intrinsic nature of such accommodation.

(2) For any person, whether or not specifically enjoined from discriminating under any provisions of this act, to aid, abet, incite, compel or coerce the doing of any of the acts forbidden under this act, or to attempt to do so.

(3) For any person, to refuse, deny, make a distinction, directly or indirectly, or discriminate in any way against persons because of the race, religion, color, sex, disability, national origin or ancestry of such persons in the full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the state of Kansas or any political subdivision or municipality thereof.

Sec. 71. K.S.A. 44-1015 is hereby amended to read as follows: 44-1015. As used in this act, unless the context otherwise requires:

(a) "Commission" means the Kansas human rights commission.

(b) "Real property" means and includes:

(1) All vacant or unimproved land; and

(2) any building or structure ~~which~~ that is occupied or designed or intended for occupancy, or any building or structure having a portion thereof ~~which~~ that is occupied or designed or intended for occupancy.

(c) "Family" includes a single individual.

(d) "Person" means an individual, corporation, partnership, association, labor organization, legal representative, mutual company, joint-stock company, trust, unincorporated organization, trustee, trustee in bankruptcy, receiver and fiduciary.

(e) "To rent" means to lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(f) "Discriminatory housing practice" means any act that is unlawful under K.S.A. 44-1016, 44-1017 or 44-1026, and amendments thereto, [or section 54, and amendments thereto.](#)

(g) "Person aggrieved" means any person who claims to have been injured by a discriminatory housing practice or believes that such person will be injured by a discriminatory housing practice that is about to occur.

(h) "Disability" ~~has the meaning provided by~~ [means the same as defined in](#) K.S.A. 44-1002, and amendments thereto.

(i) "Familial status" means having one or more individuals less than 18 years of age domiciled with:

- (1) A parent or another person having legal custody of such individual or individuals; or
- (2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

Sec. 72. K.S.A. 2021 Supp. 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 or authorization to practice nursing as a registered professional nurse, as a licensed practical nurse, as an advanced practice registered nurse or as a registered nurse anesthetist that is issued by the board or applied for under this act, or may require the licensee to attend a specific number of hours of continuing education in addition to any hours the licensee may already be required to attend or may publicly or privately censure a licensee or holder of a temporary permit or authorization, if the applicant, licensee or holder of a temporary permit 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, and amendments thereto, no license or authorization to practice nursing as a licensed professional nurse, as a licensed practical nurse, as an advanced practice registered nurse 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, prior to their repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, [and amendments thereto](#), or K.S.A. 2021 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) has been convicted or found guilty or has entered into an agreed disposition of a misdemeanor offense related to the practice of nursing as determined on a case-by-case basis;

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

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

(6) 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;

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

(8) 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;

(9) 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 (9); or

(10) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2021 Supp. 21-5407, 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, prior to its repeal, or K.S.A. 2021 Supp. 21-5407, 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. 2021 Supp. 60-4404, and amendments thereto.

(C) A copy of the record of a judgment assessing damages under K.S.A. 2021 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. 2021 Supp. 21-5903, 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~~ that 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~~ that 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~~ that constitutes ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior ~~which~~ that 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.

(g) *Medical marijuana exemption.* The board shall not deny, revoke, limit or suspend the license of any licensee or publicly or privately censure any licensee for

(1) Any actions as a registered patient or caregiver pursuant to section 8, and amendments thereto, including whether the licensee possesses or has possessed, or uses or has used medical marijuana in accordance with the medical marijuana regulation act, section 1 et seq., and amendments thereto; or

(2) advising a patient about the possible benefits and risks of using medical marijuana, or that using medical marijuana may mitigate the patient's symptoms.

Sec. 73. K.S.A. 65-28b08 is hereby amended to read as follows: 65-28b08. (a) The board may deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife to engage in the independent practice of midwifery that is issued by the board or applied for under this act, or may publicly censure a licensee or holder of a temporary permit or authorization, if the applicant or licensee is found after a hearing:

(1) To be guilty of fraud or deceit while engaging in the independent practice of midwifery or in procuring or attempting to procure a license to engage in the independent

practice of midwifery;

(2) to have been found guilty of a felony or to have been found 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, and amendments thereto, no license or authorization to practice and engage in the independent practice of midwifery 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, prior to its repeal, or article 54 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 2021 Supp. 21-6104, 21-6325, 21-6326 or 21-6418, and amendments thereto;

(3) to have committed an act of professional incompetence as defined in subsection (c);

(4) to be unable to practice the healing arts with reasonable skill and safety by reason of impairment due to physical or mental illness or condition or use of alcohol, drugs or controlled substances. All information, reports, findings and other records relating to impairment shall be confidential and not subject to discovery or release to any person or entity outside of a board proceeding. The provisions of this paragraph providing confidentiality of records shall expire on July 1, 2022, unless the legislature reviews and reenacts such provisions pursuant to K.S.A. 45-229, and amendments thereto, prior to July 1, 2022;

(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;

(8) to have a license to practice nursing as a registered nurse or as a practical nurse denied, revoked, limited or suspended, or to have been 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; or

(9) to have assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2021 Supp. 21-5407, and amendments thereto, as established by any of the following:

(A) A copy of the record of criminal conviction or plea of guilty to a felony in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2021 Supp. 21-5407, 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. 60-4404, and amendments thereto; or

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

(b) 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. 2021 Supp. 21-5903, and amendments thereto.

(c) The board shall not deny, revoke, limit or suspend any license or authorization issued to a certified nurse-midwife or publicly censure a certified nurse-midwife for any of the following:

(1) The certified nurse-midwife has advised a patient about the possible benefits and risks of using medical marijuana, or that using medical marijuana may mitigate the patient's symptoms; or

(2) the certified nurse-midwife is a registered patient or caregiver pursuant to section 8, and amendments thereto, possesses or has possessed, or uses or has used medical marijuana in accordance with the medical marijuana regulation act, section 1 et seq., and amendments thereto.

(d) 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~~ that 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~~ that constitutes ordinary negligence, as determined by the board; or

(3) a pattern of practice or other behavior ~~which~~ that demonstrates a manifest incapacity or incompetence to engage in the independent practice of midwifery.

(d) 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 and applicants for licensure by the board.

~~(e) —The provisions of this section shall become effective on January 1, 2017.~~

Sec. 74. K.S.A. 79-5201 is hereby amended to read as follows: 79-5201. As used in ~~this~~

~~act~~ in article 52 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto:

(a) ~~"Marijuana" means any marijuana, whether real or counterfeit, as defined by K.S.A. 2021 Supp. 21-5701, and amendments thereto, which is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of Kansas;~~

~~(b)~~—"controlled substance" means any drug or substance, whether real or counterfeit, as defined by K.S.A. 2021 Supp. 21-5701, and amendments thereto, ~~which~~ that is held, possessed, transported, transferred, sold or offered to be sold in violation of the laws of Kansas. Such term shall not include marijuana;

~~(e)~~(b) "dealer" means any person who, in violation of Kansas law, manufactures, produces, ships, transports or imports into Kansas or in any manner acquires or possesses more than 28 grams of marijuana, or more than one gram of any controlled substance, or 10 or more dosage units of any controlled substance ~~which~~ that is not sold by weight;

~~(d)~~(c) "domestic marijuana plant" means any cannabis plant at any level of growth ~~which~~ that is harvested or tended, manicured, irrigated, fertilized or where there is other evidence that it has been treated in any other way in an effort to enhance growth;

(d) "marijuana" means any marijuana, whether real or counterfeit, as defined in K.S.A. 2021 Supp. 21-5701, and amendments thereto, that is held, possessed, transported, transferred, sold or offered for sale in violation of the laws of Kansas; and

(e) "medical marijuana" means the same as defined in section 2, and amendments thereto.

Sec. 75. K.S.A. 79-5210 is hereby amended to read as follows: 79-5210. Nothing in this act requires persons registered under article 16 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto, or otherwise lawfully in possession of marijuana, medical marijuana or

a controlled substance to pay the tax required under this act.

Sec. 76. K.S.A. 38-2269, 44-501, 44-706, 44-1009, 44-1015, 65-28b08, 79-5201 and 79-5210 and K.S.A. 2021 Supp. 19-101a, 21-5703, 21-5705, 21-5706, 21-5707, 21-5709, 21-5710, 23-3201 and 65-1120 are hereby repealed.

Sec. 77. This act shall take effect and be in force from and after July 1, 2023 and its publication in the statute book.