

# Kansas Register

Vol. 40, No. 22

June 3, 2021

Pages 973-1044



**In this issue ...**

**Page**

**Rates**

**Pooled Money Investment Board**  
 Notice of Investment Rates ..... 975

**Notices**

**Kansas Water Authority**  
 Notice of Meeting..... 975

**Kansas Children’s Cabinet and Trust Fund**  
 Notice of Meeting..... 975

**North Central Regional Planning Commission**  
 Notice to Bidders for Plate Carriers, Armor Components, and Rifle Plates..... 975

**Frontier Ag, Inc.**  
 Notice to Bidders for Ruleton rail yard construction project ..... 975  
 Notice to Bidders for Rexford rail yard construction project ..... 976

**City of Lenexa, Kansas**  
 Notice to Bidders for K-7 and Prairie Star Parkway Interchange Project ..... 976  
 Notice to Bidders for Lichtenauer Drive and Santa Fe Trail Drive Street  
 Lighting Projects..... 977

**Board of Regents Universities**  
 Notice to Bidders..... 978

**Kansas Department of Administration – Office of Procurement and Contracts**  
 Notice to Bidders for State Purchases ..... 978

**Kansas Department of Health and Environment**  
 Notice Concerning Proposed Air Quality Construction Permit ..... 978  
 Notice Concerning Water Pollution Control Permits and Applications ..... 979

**Kansas Department of Transportation**  
 Notice of Public Auction ..... 981  
 Notice to Consulting Firms for Design Services..... 981  
 Notices to Consulting Firms for Construction Inspection Projects ..... 982-983  
 Notice to Consulting Firms for I-70/K-18 Interchange Improvement Project..... 984  
 Notice to Consulting Firms for US-77 Pavement Replacement Project ..... 986

**Kansas Department for Aging and Disability Services**  
**Kansas Department of Health and Environment – Division of Health Care Finance**  
 Notice of Final Nursing Facility Medicaid Rates for State Fiscal Year 2022..... 988

**Kansas Department for Aging and Disability Services**  
 Request for Applications for the Kansas Prevention Collaborative-Community  
 Initiative Substance Abuse Prevention Planning Grant (Corrected) ..... 1000

**Bonds**

**City of Erie, Kansas**  
 Notice of Intent to Seek Private Placement General Obligation Bonds ..... 1010

**City of Lindsborg, Kansas**  
 Notice of Intent to Seek Private Placement General Obligation Bonds ..... 1010

**Legislative Branch**

**Legislative Administrative Services**  
 Legislative Bills and Resolutions Introduced May 26 ..... 1010

**New State Laws**

**Substitute for Senate Bill 238**, concerning health and healthcare; relating to health professions; requiring medical oversight of emergency medical services operators by medical directors or physicians; prescribing powers, duties and functions of the state board of pharmacy; providing for confidentiality of investigations, inspections and audits; requirements for the exhibition of titles and prescription orders; establishing fees on out-of-state facilities; defining telepharmacy and requiring rules and regulations to be adopted for oversight and administration thereof ..... 1010

*Cover Artwork: Mushroom Rock, Ellsworth County  
 Photo by Todd Caywood*

The Kansas Register (USPS 0662-190) is an official publication of the state of Kansas, published by authority of K.S.A. 75-430. The Kansas Register is published weekly and a cumulative index is published annually by the Kansas Secretary of State. One-year subscriptions are \$80 (Kansas residents must include applicable state and local sales tax). Single copies, if available, may be purchased for \$2. **Periodicals postage paid at Topeka, Kansas.**

**POSTMASTER:** Send change of address form to Kansas Register, Secretary of State, 1st Floor, Memorial Hall, 120 SW 10th Ave., Topeka, KS 66612-1594.

© Kansas Secretary of State 2020. Reproduction of the publication in its entirety or for commercial purposes is prohibited without prior permission. Official enactments of the Kansas Legislature and proposed and adopted administrative regulations of state agencies may be reproduced in any form without permission.

Hard copy subscription information and current and back issues of the Kansas Register (PDF Format) can be found at the following link: <http://www.sos.ks.gov/publications/kansas-register.html>.

**Register Office:**  
 1st Floor, Memorial Hall  
 785-368-8095  
[kansasregister@ks.gov](mailto:kansasregister@ks.gov)



**Published by**  
 Scott Schwab  
 Secretary of State  
 1st Floor, Memorial Hall  
 120 SW 10th Ave.  
 Topeka, KS 66612-1594  
 785-296-4564  
[www.sos.ks.gov](http://www.sos.ks.gov)

**House Bill 2158**, concerning health and welfare; providing for the safety and wellbeing of children and vulnerable persons; establishing the joint committee on child welfare system oversight; relating to the state child death review board; relating to the confidentiality of records; exceptions thereto; requiring visual observation of a child in investigations of child abuse or neglect; adding an exemption from the child care assistance 20-hour-per-week work requirement; permitting the secretary to provide exemptions from family foster home license requirements; relating to the department of health and environment, division of public health; powers, duties and functions of the advisory committee on trauma and the statewide trauma system regional council; continuing in existence the authority to conduct closed session meetings and keep records privileged ..... 1023

**Regulations**

**Kansas State Fire Marshal**  
 Temporary Administrative Regulations ..... 1034

**Index to administrative regulations** ..... 1041

**State of Kansas**

**Pooled Money Investment Board**

**Notice of Investment Rates**

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 12-1675(b)(c)(d) and K.S.A. 12-1675a(g).

**Effective 5-31-21 through 6-6-21**

Term	Rate
1-89 days	0.06%
3 months	0.01%
6 months	0.01%
12 months	0.04%
18 months	0.09%
2 years	0.13%

Scott Miller  
 Director of Investments

Doc. No. 049184

**State of Kansas**

**Water Authority**

**Notice of Meeting**

The Kansas Water Authority (KWA) will have their meeting by webinar at 9:00 a.m. Wednesday, June 9, 2021. For additional meeting information or how to access the meeting, visit the Kansas Water Office website calendar at [www.kwo.ks.gov](http://www.kwo.ks.gov) or call 785-296-3185.

Katie Patterson-Ingels  
 Communications Director

Doc. No. 049188

**State of Kansas**

**Children’s Cabinet and Trust Fund**

**Notice of Meeting**

The Kansas Children’s Cabinet and Trust Fund board will be conducting its quarterly board meeting from 9:00 a.m. to 12:00 p.m. Friday, June 4, 2021, via Zoom. Infor-

mation about the meeting and a copy of the agenda can be found at [www.kschildrenscabinet.org](http://www.kschildrenscabinet.org). Any questions can be sent to [dadegbore@ksde.org](mailto:dadegbore@ksde.org).

Melissa Rooker  
 Executive Director

Doc. No. 049187

(Published in the Kansas Register June 3, 2021.)

**North Central Regional Planning Commission**

**Notice to Bidders**

Request for bids for plate carriers, armor components, and rifle plates will be accepted by the North Central Regional Planning Commission (NCRPC) until 10:00 a.m. Friday, June 18, 2021, at 109 N. Mill St., Beloit, KS 67420, at which time they will be publicly opened and read aloud at the same address. Copies of the Request for Bid and project specifications can be accessed by going to <http://procurement.ncrpc.org/HS/projects.html> or by contacting the NCRPC at 785-738-2218 or [hlscoordinator@ncrpc.org](mailto:hlscoordinator@ncrpc.org). This action is being taken on behalf of the South Central Kansas Regional Homeland Security Council. Estimated project value exceeds \$25,000.

Lisa Peters  
 Homeland Security Coordinator  
 Assistant Executive Director

Doc. No. 049190

(Published in the Kansas Register June 3, 2021.)

**Frontier Ag, Inc.**

**Notice to Bidders**

Frontier Ag, Inc. of Ruleton, Kansas is currently seeking bidders for a rail yard construction project at their facility in Ruleton, Kansas. Interested bidders must contact Stan Remington with Frontier Ag, Inc. at [sremington@frontieraginc.com](mailto:sremington@frontieraginc.com) to request a bid package for the upcoming project. The bid package will include bid docu-  
*(continued)*

ments, plans, and specifications. Bidders are required to be AVETTA-certified before a submitted bid will be accepted. Bid packages for the project are expected to be sent to all interested bidders on or about June 10, 2021.

The work consists of the following major items: approximately 9,400 track feet of new rail construction, four turnouts, and all necessary civil/earthwork to construct a suitable railbed per the construction documents. This project is the recipient of a KDOT State Rail Service Improvement Fund program grant and the contract for work will be directly with Frontier Ag, Inc., which reserves the right to reject any or all bids. Questions regarding the project should be directed to Stan Remington or Larame Cline with ASM Engineering Consultants at [lcline@asm4.com](mailto:lcline@asm4.com).

Stan Remington  
Chief Operating Officer

Doc. No. 049194

(Published in the Kansas Register June 3, 2021.)

## Frontier Ag, Inc.

### Notice to Bidders

Frontier Ag, Inc. of Rexford, Kansas is currently seeking bidders for a rail yard construction project at their facility in Rexford, Kansas. Interested bidders must contact Stan Remington with Frontier Ag, Inc. at [sremington@frontieraginc.com](mailto:sremington@frontieraginc.com) to request a bid package for the upcoming project. The bid package will include bid documents, plans, and specifications. Bidders are required to be AVETTA-certified before a submitted bid will be accepted. Bid packages for the project are expected to be sent to all interested bidders on or about June 10, 2021.

The work consists of the following major items: 8,000 track feet of new rail construction, one turnout, and all necessary civil/earthwork to construct a suitable railbed per the construction documents. This project is the recipient of a KDOT State Rail Service Improvement Fund program grant and the contract for work will be directly with Frontier Ag, Inc., which reserves the right to reject any or all bids. Questions regarding the project should be directed to Stan Remington or Larame Cline with ASM Engineering Consultants at [lcline@asm4.com](mailto:lcline@asm4.com).

Stan Remington  
Chief Operating Officer

Doc. No. 049195

(Published in the Kansas Register June 3, 2021.)

## City of Lenexa, Kansas

### Notice to Bidders

Sealed bids for K-7 and Prairie Star Parkway Interchange Project (KDOT: 7-46 KA-6027-01) will be accepted by the City of Lenexa, Kansas at the Community Development Department, Lenexa City Hall, 17101 W. 87th St. Pkwy., Lenexa, KS 66219 until 1:00 p.m. (CST) June 17, 2021, at which time bids will be publicly opened and read aloud at the Lenexa City Hall. Any bid received after the designated closing time will not be considered and will be returned unopened.

All bids shall be submitted to the Community Development Department Customer Service Staff (Main Level) in sealed envelopes addressed to the City of Lenexa, Kansas, Attn: City Clerk, and marked "Bid for: K-7 and Prairie Star Parkway Interchange Project – KDOT: 7-46 KA-6027-01." Copies of plans, specifications, bidding documents, and other contract documents are on file at Drexel Technologies, Inc., 10840 W. 86th St., Lenexa, KS 66214.

Bidders desiring contract documents for use in preparing bids may obtain a set of such documents at the address above. Plans and specifications may be downloaded from the Drexel Technologies, Inc. website at <http://planroom.drexeltech.com/>.

Each bidder will be responsible for ensuring that it has received any and all addenda issued by city in accordance with IB-10 of the instructions to bidders.

Contractors should read and be fully familiar with all contract documents including addenda before submitting a bid. In submitting a bid, the bidder warrants that it has read the contract documents and is fully familiar therewith and that it has visited the site of the work to fully inform itself as to all existing conditions and limitations and shall include in its bid a sum to cover the cost of all items of the work as specified in the contract documents.

No oral telegraphic, telephonic proposals or alterations will be considered. Facsimile transmissions will not be accepted.

The following items must be included in the sealed envelope with the bid:

- a. Bid form;
- b. 5% bid security—bid bond, cashier's check, or certified check (see below); and
- c. Acknowledgment of addenda issued by city.

Each bidder shall file with its bid a bid bond, a cashier's check, or a certified check drawn on an acceptable bank, made payable to the City of Lenexa, Kansas, in an amount equal to five percent (5%) of the total bid, which shall be retained by the City of Lenexa, Kansas until a contract for the project has been executed. Bid bonds will be returned to the bidders, with the exception of the best and lowest and second best and second lowest responsible bidders, within twenty-one (21) days after their bids are rejected. The bid deposit of the lowest and the second lowest responsible bidders will be returned when the performance bond, maintenance bond, and statutory bond, each in an amount equal to 100% of the contract amount; required insurance certificates and other required documents shall have been furnished and the contract documents have been executed by the successful bidder.

In the event the low bidder is unable to execute the contract, for whatever reason, within the time provided in the Notice of Award, the city may annul the Notice of Award and the bid deposit may be forfeited and the city shall exercise its legal prerogatives, including, but not limited to, enforcement of its rights as to the bid security or specific performance.

The city reserves the right to accept or reject any and all bids and to waive any technicalities or irregularities

therein. Bids may be modified or withdrawn by written request of the bidder received in the office of city clerk, prior to the time and date for bid opening.

From and after the release of this notice, any party intending to bid on the above referenced project, including their officers, employees, agents, or contractors are specifically prohibited from communicating with any elected or appointed official of the city, directly or indirectly, with regard to the award of the contract for the project listed above, except as specifically authorized by the Instructions to Bidders. Any such unauthorized communication may result in the automatic disqualification of such bidder.

All bidders agree that rejection shall create no liability on the part of the city because of such rejection, and the filing of any bid in response to this notice shall constitute an agreement of the bidder to these conditions.

Jennifer Martin  
City Clerk

Doc. No. 049124

(Published in the Kansas Register June 3, 2021.)

## City of Lenexa, Kansas

### Notice to Bidders

Sealed bids for Old Town Area 2 – Lichtenauer Drive Street Lighting Project CDBG and Old Town Area 2 – Santa Fe Trail Drive Street Lighting Project CDBG will be accepted by the City of Lenexa, Kansas at the Community Development Department, Lenexa City Hall, 17101 W. 87th St. Pkwy., Lenexa, KS 66219 until 1:00 p.m. (CST) June 29, 2021, at which time bids will be publicly opened and read aloud at the Lenexa City Hall. Any bid received after the designated closing time will not be considered and will be returned unopened.

This bid opening consists of two separate contract lettings which shall be read individually but will be awarded to the lowest, qualified, combined bid. Bids submitted on only one project will not be considered.

Bidders desiring to bid on the two projects shall submit bid documents to the Community Development Department Customer Service Staff (Main Level) in separate sealed envelopes addressed to the City of Lenexa, Kansas, Attn: City Clerk. One envelope shall contain the bid for the Old Town Area 2 – Lichtenauer Drive Street Lighting CDBG project and shall be marked “Bid for: Old Town Area 2 – Lichtenauer Drive Street Lighting CDBG Project.” The second envelope shall contain the bid for the Old Town Area 2 – Santa Fe Trail Drive Street Lighting CDBG Project and shall be marked “Bid for: Old Town Area 2 – Santa Fe Trail Drive Street Lighting CDBG Project.” Copies of plans, specifications, bidding documents and other contract documents are on file at Drexel Technologies, Inc., 10840 W. 86th St., Lenexa, KS 66214.

Bidders desiring contract documents for use in preparing bids may obtain a set of such documents at the address above. Plans and specifications may be downloaded from the Drexel Technologies, Inc. website at <http://planroom.drexeltech.com/>. Note: Davis Bacon Wage Rates apply to this project.

Each bidder will be responsible for ensuring that it has received any and all addenda issued by the city in accordance with IB-10 of the instructions to bidders.

Contractors should read and be fully familiar with all contract documents including addenda before submitting a bid. In submitting a bid, the bidder warrants that it has read the contract documents and is fully familiar therewith and that it has visited the site of the work to fully inform itself as to all existing conditions and limitations and shall include in its bid a sum to cover the cost of all items of the work as specified in the contract documents.

No oral telegraphic, telephonic proposals or alterations will be considered. Facsimile transmissions will not be accepted.

The following items must be included in the sealed envelope with the bid:

- a. Bid form;
- b. 5% bid security—bid bond, cashier’s check or certified check (see below); and
- c. Acknowledgment of addenda issued by the city.

Each bidder shall file with its bid a bid bond, a cashier’s check or a certified check drawn on an acceptable bank, made payable to the City of Lenexa, Kansas, in an amount equal to five percent (5%) of the total bid, which shall be retained by the City of Lenexa, Kansas until a contract for the project has been executed. Bid bonds will be returned to the bidders, with the exception of the best and lowest and second best and second lowest responsible bidders, within twenty-one (21) days after their bids are rejected. The bid deposit of the lowest and the second lowest responsible bidders will be returned when the performance bond, maintenance bond and statutory bond, each in an amount equal to 100% of the contract amount; required insurance certificates and other required documents shall have been furnished and the contract documents have been executed by the successful bidder.

In the event the low bidder is unable to execute the contract, for whatever reason, within the time provided in the Notice of Award, the city may annul the Notice of Award and the bid deposit may be forfeited and the city shall exercise its legal prerogatives, including, but not limited to, enforcement of its rights as to the bid security or specific performance.

The city reserves the right to accept or reject any and all bids and to waive any technicalities or irregularities therein. Bids may be modified or withdrawn by written request of the bidder received in the office of the city clerk, prior to the time and date for bid opening.

From and after the release of this notice, any party intending to bid on the above referenced project, including their officers, employees, agents, or contractors are specifically prohibited from communicating with any elected or appointed official of the city, directly or indirectly, with regard to the award of the contract for the project listed above, except as specifically authorized by the Instructions to Bidders. Any such unauthorized communication may result in the automatic disqualification of such bidder.

(continued)

All bidders agree that rejection shall create no liability on the part of the city because of such rejection, and the filing of any bid in response to this notice shall constitute an agreement of the bidder to these conditions.

Jennifer Martin  
City Clerk

Doc. No. 049199

## State of Kansas

### Board of Regents Universities

#### Notice to Bidders

The universities of the Kansas Board of Regents encourage interested vendors to visit the various universities' purchasing offices' websites for a listing of all transactions, including construction projects, for which the universities' purchasing offices, or one of the consortia commonly utilized by the universities, are seeking information, competitive bids, or proposals. The referenced construction projects may include project delivery construction procurement act projects pursuant to K.S.A. 76-7,125 et seq.

**Emporia State University** – Bid postings: <https://www.emporia.edu/about-emporia-state-university/business-office/purchasing/>. Additional contact info: phone: 620-341-5134, fax: 620-341-6770, email: [purchaseorders@emporia.edu](mailto:purchaseorders@emporia.edu). Mailing address: Emporia State University Purchasing, Campus Box 4021, 1 Kellogg Circle, Emporia, KS 66801.

**Fort Hays State University** – Electronic bid postings: <http://www.fhsu.edu/purchasing/bids/>. Additional contact info: phone: 785- 628-4251, fax: 785-628-4046, email: [purchasing@fhsu.edu](mailto:purchasing@fhsu.edu). Mailing address: Fort Hays State University Purchasing Office, 601 Park St., Sheridan Hall 318, Hays, KS 67601.

**Kansas State University** – Bid postings: <https://www.k-state.edu/purchasing/rfq>. Due to Covid-19, Kansas State University will not be accepting paper bids until further notice. Division of Financial Services/Purchasing, 2323 Anderson Ave., Kansas State University, Manhattan, KS 66506. Additional contact info: phone: 785-532-6214, fax: 785-532-5577, email: [kspurch@k-state.edu](mailto:kspurch@k-state.edu).

**Pittsburg State University** – Bid postings: <https://www.pittstate.edu/office/purchasing/>. Additional contact info: phone: 620-235-4169, email: [bstefanoni@pittstate.edu](mailto:bstefanoni@pittstate.edu). Mailing address: Pittsburg State University, Purchasing Office, 1701 S. Broadway, Pittsburg, KS 66762.

**University of Kansas** – Electronic bid postings: <http://www.procurement.ku.edu/>. Due to Covid-19, the University of Kansas will not be accepting paper bids until further notice. KU Purchasing Services, 1246 W. Campus Road, Room 30, Lawrence, KS 66045. Additional contact info: phone: 785-864-5800, fax: 785-864-3454, email: [purchasing@ku.edu](mailto:purchasing@ku.edu).

**University of Kansas Medical Center** – Bid postings: <http://www.kumc.edu/finance/purchasing/bid-opportunities.html>. Additional contact info: phone: 913-588-1117. Mailing address: University of Kansas Medical Center, Purchasing Department, Mail Stop 2034, 3901 Rainbow Blvd., Kansas City, KS 66160.

**Wichita State University** – Bid postings: <http://www.wichita.edu/purchasing>. Additional contact info: phone: 316-978-3080, fax: 316-978-3738, email: [purchasing.office@wichita.edu](mailto:purchasing.office@wichita.edu). Mailing address: Wichita State University, Office of Purchasing, 1845 Fairmount Ave., Campus Box 38, Wichita, KS 67260-0038.

Debbie Redeker  
Chair of Regents Purchasing Group  
Purchasing Director  
Emporia State University

Doc. No. 048393

## State of Kansas

### Department of Administration Office of Procurement and Contracts

#### Notice to Bidders

Sealed bids for items listed will be received by the Director of Procurement and Contracts until 2:00 p.m. on the date indicated. For more information, call 785-296-2376:

06/14/2021 EVT0008079 ITS Device Maintenance

The above referenced bid documents can be downloaded at the following website:

<http://admin.ks.gov/offices/procurement-and-contracts/bid-solicitations>

Additional files may be located at the following website (please monitor this website on a regular basis for any changes/addenda):

<http://admin.ks.gov/offices/procurement-and-contracts/additional-files-for-bid-solicitations>

#### There are No Bids Under this website Closing in this Week's Ad

Information regarding prequalification, projects, and bid documents can be obtained at 785-296-8899 or <http://admin.ks.gov/offices/ofpm/dcc>.

Richard Beattie, Director  
Office of Procurement and Contracts

Doc. No. 049203

## State of Kansas

### Department of Health and Environment

#### Notice Concerning Proposed Kansas Air Quality Construction Permit

Notice is hereby given that the Kansas Department of Health and Environment (KDHE) is soliciting comments regarding a proposed air quality construction permit. Smithfield Packaged Meats Corp. has applied for an air quality construction permit in accordance with the provisions of K.A.R. 28-19-300. Emissions of CO, PM, PM<sub>10</sub>, PM<sub>2.5</sub>, VOC, NO<sub>x</sub>, SO<sub>2</sub>, HAPs were evaluated during the permit review process.

Smithfield Packaged Meats Corp., 1920 Lacy Dr., Junction City, KS 67441, owns and operates a smoked meats facility located at 1920 Lacy Dr., Junction City, Geary County, KS 67441, at which they will take the facility wide CO PTE limit to below PSD major source thresholds.

A copy of the proposed permit, permit application, all supporting documentation, and all information relied upon during the permit application review process are available for public review from the date of publication during normal business hours at the KDHE, Bureau of Air (BOA), 1000 SW Jackson, Suite 310, Topeka, KS 66612-1366 and at the North Central District Office, 2501 Market Pl., Suite D, Salina, KS 67401. To obtain or review the proposed permit and supporting documentation, contact Rumela Bhadra, 785-296-6024, at the central office of the KDHE or Josh Webb, 785-515-6706, at the North Central District Office. The standard departmental cost will be assessed for any copies requested. The proposed permit, accompanied with supporting information, is available, free of charge, at the KDHE BOA Public Notice website at <http://www.kdheks.gov/bar/publicnotice.html>.

Please direct written comments or questions regarding the proposed permit to Rumela Bhadra, KDHE, BOA, 1000 SW Jackson, Suite 310, Topeka, KS 66612-1366. In order to be considered in formulating a final permit decision, written comments must be received no later than 12:00 p.m. Monday, July 5, 2021.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Rumela Bhadra, KDHE, BOA, 1000 SW Jackson, Suite 310, Topeka, KS 66612-1366, no later than 12:00 p.m. Monday, July 5, 2021 in order for the Secretary of Health and Environment to consider the request.

Lee A. Norman, M.D.  
Secretary

Doc. No. 049204

**State of Kansas**

**Department of Health and Environment**

**Notice Concerning Kansas/Federal Water Pollution Control Permits and Applications**

In accordance with Kansas Administrative Regulations 28-16-57a through 63, 28-18-1 through 17, 28-18a-1 through 31 and 33, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, various draft water pollution control documents (permits, notices to revoke and reissue, notices to terminate) have been prepared and/or permit applications have been received for discharges to waters of the United States and the state of Kansas for the class of discharges described below.

The proposed actions concerning the draft documents are based on staff review, applying the appropriate standards, regulations, and effluent limitations of the state of Kansas and the Environmental Protection Agency. The final action will result in a Federal National Pollutant Discharge Elimination System Authorization and/or a Kansas Water Pollution Control permit being issued, subject to certain conditions, revocation, and reissuance of the designated permit or termination of the designated permit.

**Public Notice No. KS-AG-21-195/201**

**Pending Permits for Confined Feeding Facilities**

Name and Address of Applicant	Legal Description	Receiving Water
Sliding K Ranch Valentine Klenda 1729 310th Lincolnville, KS 66858	NW/4 of Section 2 T18S, R03E Marion County	Neosho River Basin

Kansas Permit No. A-NEMN-B019

The proposed action is to reissue an existing state permit for an existing facility for 290 head (116 animal units) of swine more than 55 pounds, 330 head (33 animal units) of swine 55 pounds or less, 200 head (200 animal units) of cattle more than 700 pounds, 200 head (100 animal units) of cattle 700 pounds or less, and 2,500 head (7.5 animal units) of laying hens on a dry litter system, for a total of 456.5 animal units. There will be no change in the operation. The permitted number of animal units have reduced from the previous permit.

Name and Address of Applicant	Legal Description	Receiving Water
Lyle Busenitz 843 N. Holly Rd. Peabody, KS 66866	SE/4 of Section 29 T21S, R02E Marion County	Neosho River Basin

Kansas Permit No. A-NEMN-B018

The proposed action is to reissue an existing state permit for an existing facility for 600 head (600 animal units) of beef cattle weighing more than 700 pounds. There will be no change in the operation or permitted number of animal units from the previous permit.

Name and Address of Applicant	Legal Description	Receiving Water
Cow Camp Ranch, LLC Jean C. Brunner Trust 3553 Upland Rd. Lost Springs, KS 66859	NE/4 of Section 9 T17S, R04E Marion County	Smoky Hill River Basin

Kansas Permit No. A-SHMN-B003

The proposed action is to reissue an existing state permit for an existing facility for 999 head (999 animal units) of cattle weighing greater than 700 pounds. There will be no change in the operation or permitted number of animal units from the previous permit.

Name and Address of Applicant	Legal Description	Receiving Water
Intervet dba Merck Animal Health 3550 W. 91st De Soto, KS 66018	SW/4 of Section 29 and NW/4 of Section 32 T12S, R22E Johnson County	Kansas River Basin

Kansas Permit No. A-KSJO-B001

The proposed action is to reissue an existing state permit for an existing facility for 575 head (230 animal units) of swine weighing more than 55 pounds and 350 head (350 animal units) of cattle weighing greater than 700 pounds, 40 head (4 animal units) of sheep/lambs/goats, 250 head (500 animal units) of horses and 150 dogs/100 cats. The facility total maximum animal unit capacity of 1,084 animal units may be reached with any combination of animal types while not exceeding the maximum animal type animal unit capacity and total facility animal unit capacity of 1,084 animal units. There will be no change in the operation or permitted number of animal units from the previous permit.

Name and Address of Applicant	Legal Description	Receiving Water
Houserman Truck Wash Terry Nelson 1304 W. Fox Rd. Long Island, KS 67647	E/2 of Section 10 T02S, R21W Norton County	Upper Republican River Basin

(continued)

Kansa Permit No. A-URNT-T001

The proposed action is to reissue an existing state permit for an existing facility for that serves a private truck wash utilized for animal wastes. There will be no change in the operation from the previous permit.

Name and Address of Applicant	Legal Description	Receiving Water
Double B&S Cattle Company 10320 Wrangler Rd. Fowler, KS 67844	SW/4 of Section 15 NW/4 of Section 22 T29S, R26W Ford County	Cimarron River Basin

Kansas Permit No. A-CIFO-C001  
Federal Permit No. KS0115100

The proposed action is to approve an update to the Nutrient Management Plan (NMP) received for this existing facility currently permitted 3,000 head (3,000 animal units) of cattle weighing greater than 700 pounds. The facility's NMP was updated to include a change in the application rate limitations. The application rate limitations for NE22 and NW22 have become less restrictive than the previous NMP. There are no changes to the permit or in the permitted number of animal units. Only the updated portion of the Nutrient Management Plan is subject to comment. This facility has an approved Nutrient Management Plan on file with KDHE.

Name and Address of Applicant	Legal Description	Receiving Water
HRC Feedyard #5 5503 E Rd. 210 Scott City, KS 67871	W/2 of Section 24 T17S, R32W Scott County	Smoky Hill River Basin

Kansas Permit No. A-SHSC-C012  
Federal Permit No. KS0086886

The proposed action is to approve an update to the Nutrient Management Plan (NMP) received for this existing facility currently permitted for 20,000 head (20,000 animal units) of cattle weighing greater than 700 pounds. The facility's NMP was updated to include the application rate limitations for three fields. The application rate limitation for NE 24 became less restrictive than the previous NMP. There are no changes to the permit or in the permitted number of animal units. Only the updated portion of the Nutrient Management Plan is subject to comment. This facility has an approved Nutrient Management Plan on file with KDHE.

**Public Notice No. KS-AG-R-21-015/016**

Per Kansas Statutes Annotated 65-171d, the following registrations have been received for a proposed facility:

Name and Address of Registrant	Legal Description	County
Joshua Mueller 315 S. Halstead Halstead, KS 67056	NE/4 of Section 22 T23S, R02W	Harvey
Name and Address of Registrant	Legal Description	County
Josh Mueller 315 S. Halstead Halstead, KS 67056	NE/4 of Section 18 T23S, R02W	Harvey

**Public Notice No. KS-EG-21-003/004**

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for the use of the well(s) described below within the State of Kansas.

**Name and Address of Applicant**

Mid-Continent Fractionation & Storage, LLC  
839 Kiowa Rd.  
McPherson, KS 67460

Permit No. KS-01-159-008

Legal Description: S26, R7W, T19S, Rice County, Kansas

**Well Number**

DW#2

**Location**

Latitude N: 38.369581"  
Longitude W: -98.069843"

Facility Description: The proposed action is to reissue an existing Class I Injection Well permit for the facility listed above. Injection of non-hazardous liquid waste consisting of waste brines from the underground hydrocarbon storage operation brine. Injection is made into the Arbuckle group through open hole from a depth of 3,684 to 4,184 feet. Disposal will be by means of gravity flow; wellhead pressure will not be allowed. The maximum rate of injection will be 1,250,000 gallons per day. All construction, monitoring, and operation of these wells shall meet the requirements that apply to Class III Injection wells under the Kansas UIC Regulations, K.A.R. 28-46-1 through 28-46-45 and other requirements of KDHE.

**Name and Address of Applicant**

Mid-Continent Fractionation & Storage, LLC  
839 Kiowa Rd.  
McPherson, KS 67460

Permit No. KS-01-159-009

Legal Description: S26, R7W, T19S, Rice County, Kansas

**Well Number**

DW#3

**Location**

Latitude N: 38.369584"  
Longitude W: -98.064741"

Facility Description: The proposed action is to reissue an existing Class I Injection Well permit for the facility listed above. Injection of non-hazardous liquid waste consisting of waste brines from the underground hydrocarbon storage operation brine. Injection is made into the Arbuckle group through open hole from a depth of 3,680 to 4,200 feet. Disposal will be by means of gravity flow; wellhead pressure will not be allowed. The maximum rate of injection will be 1,250,000 gallons per day. All construction, monitoring, and operation of these wells shall meet the requirements that apply to Class III Injection wells under the Kansas UIC Regulations, K.A.R. 28-46-1 through 28-46-45 and other requirements of KDHE.

Persons wishing to comment on or object to the draft documents and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment (KDHE) if they wish to have the comments or objections considered in the decision-making process. All written comments regarding the draft documents, application or registration notices received on or before July 3, 2021, will be considered in the formulation of the final determination regarding this public notice. Please refer to the appropriate Kansas document number (KS-AG-21-195/201, KS-AG-R-21-015/016, KS-EG-21-003/004) and name of the applicant/permittee when preparing comments.

All comments received will be responded to at the time the Secretary of Health and Environment issues a determination regarding final agency action on each draft document/application. If response to any draft document/application indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). A request for public hearing

must be submitted in writing and shall state the nature of the issues proposed to be raised during the hearing.

Comments or objections for agricultural related draft documents, permit applications, registrations or actions should be submitted to the attention of Matthew Steele Ph.D., P.E., Section Chief, Livestock Waste Management Section at the KDHE, Bureau of Environmental Field Services (BEFS), 1000 SW Jackson, Suite 430, Topeka, KS 66612. Comments or objections for all other proposed permits or actions should be sent to Michael Beezhold at the KDHE, Bureau of Water, 1000 SW Jackson St., Suite 420, Topeka, KS 66612.

All draft documents/applications and the supporting information including any comments received are on file and may be inspected at the offices of the KDHE. For agricultural related draft documents or applications an appointment can be scheduled, or copies requested by contacting Rachel Hammond, BEFS, Livestock Waste Management Section at 1000 SW Jackson St., Suite 430, Topeka, KS 66612, telephone 785-296-0076 or email at [kdhe.feedlots@ks.gov](mailto:kdhe.feedlots@ks.gov). For all other proposed permits or actions an appointment can be scheduled, or copies requested by contacting Christopher Zwiener, Bureau of Water, 1000 SW Jackson St., Suite 420, Topeka, KS 66612, telephone 785-296-3056 or email at [Christopher.Zwiener@ks.gov](mailto:Christopher.Zwiener@ks.gov). These documents are available upon request at the copying cost assessed by KDHE. Application information and components of plans and specifications for all new and expanding swine facilities are available at <http://www.kdheks.gov/feedlots>. Division of Environment offices are open from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

Lee A. Norman, M.D.  
Secretary

Doc. No. 049196

**State of Kansas**

**Department of Transportation**

**Notice of Public Auction**

The Secretary of Transportation of the State of Kansas will offer for sale at public auction the following parcel:

**Tract 3369-4 & 5**  
**47.04 acres +/-, Johnson Co., SE Quadrant I-35 & Homestead Lane**  
**Project: 35-46 KA-1109-02**

This is a tract of land in the West Half of Section 10, Township 15 South, Range 22 East, approximately two miles east of Edgerton, Kansas. Complete legal description available on request.

Sale will be conducted at an alternate location located at 26310 W. 174th St., Gardner Kansas at 11:00 a.m. Wednesday, June 23, 2021. Inspection of property will take place at any time. The minimum acceptable bid is \$142,000.

**Terms of Sale**

Payment of \$10,000 is due at the time of the sale. The balance of the purchase price must be paid on or before 12:00 p.m. Friday, July 23, 2021. Successful bidder will receive a Bill of Sale on the day of the sale and a Quit

Claim Deed after balance is paid. If the balance of the purchase price is not paid on or before 12:00 p.m. Friday, July 23, 2021, the down payment will be forfeited to the seller. For additional terms and information contact the Bureau of Right of Way, at 1-877-461-6817. Seller reserves the right to reject any and all bids. Not responsible for accidents.

**Sold Subject to the Following**

Tract will be sold subject to the easement for the right of ingress and egress, reconstruction and maintenance of all existing utilities and appurtenances thereto, as well as the following restrictive covenant:

*Grantees, for their heirs and assigns, do hereby covenant and agree, said covenant to run with the land, that the land conveyed herein shall not be used for billboards, signboards, or other outdoor advertising purposes. The prospective buyer is encouraged to research the chain of title of the tract.*

The Kansas Department of Transportation (KDOT) makes no representations concerning the condition, value, or suitability of use for this property or the improvements, attachments, fixtures, apparatuses, and appliances thereof, if any. The property and said improvements, etc. will be sold in the present as is condition, without warranties or guarantees of any kind.

KDOT ensures the acceptance of any bid pursuant to this notice will be without discrimination on the grounds of sex, race, color, religion, physical handicap, or national origin.

Julie Lorenz  
Secretary

Doc. No. 049193

**State of Kansas**

**Department of Transportation**

**Notice to Consulting Firms**

The Kansas Department of Transportation (KDOT) is seeking qualified consulting engineering firm(s) for the project listed below. Interested consulting firms must: (a) be prequalified by KDOT or otherwise demonstrate qualification in the following category: Category 163 – Congestion Management/ITS. A PDF must be emailed to David Lutgen, P.E., Contracts Engineer at [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov). Responses are to be limited to eight pages, the subject line of the reply email and the file name must read "KA-6179-01 RFP – Firm Name." Request for Proposals (RFPs) must be received by 12:00 p.m. June 5, 2021 for the consulting firm to be considered.

If a firm is not currently prequalified by KDOT a response may still be submitted. Firms not prequalified must also provide documentation that demonstrates the firm is qualified for each specified category listed in this notice for the project. Firms may use the KDOT prequalification form to provide this documentation. KDOT 1050 Prequalification category definitions (Blue Book) can be found at <http://www.ksdot.org/descons.asp>. All firms doing business with KDOT must be registered and in good standing under the laws of the State of Kansas at the time of contracting and must comply with applicable state and federal laws, rules, and regulations.

(continued)

### Scope of Services to be Performed

KDOT plans to install approximately seven miles of conduit and fiber along US-54 in Wichita, Kansas between West Street and Armour Street, and to connect the new fiber to approximately 17 existing ITS devices. Preliminary DGN design plans have already been created for the project and will be provided by KDOT. Please provide a scope of services/proposal to perform the following tasks:

1. Project management
2. Pre-Design: Including kick-off and biweekly coordination meetings, field review, utility coordination, and engineer's estimate.
3. Prepare 95% plans by October 15, 2021 (final date to be determined after award): including base mapping, quality control review, incorporation of KDOT ITS specifications, traffic control plans, and preliminary cost estimates.
4. Prepare final plans one month after 95% submittal: incorporate KDOT design comments, finalize plans sheets, and cost estimates.

### Anticipated Schedule for Subsequent Events

RFPs are due by 12:00 p.m. (CST) June 11, 2021. Evaluation and ranking of technical proposals on or about June 25, 2021 after which time all firms that submitted will be notified of the ranking. Negotiations with the most highly ranked firm to commence on or about July 7, 2021. Agreement in place and in effect August 2, 2021. RFPs are to be delivered via email to [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov).

### Instructions for Proposal

No costs shall be contained in the RFP. The RFP must not exceed eight (8) pages total to address the pertinent topics. Please use the following naming convention for submittal... KA-6179-01 RFP – Firm Name. RFPs submitted will consist of the proposal and a completed and signed Special Attachment No. 7 ("Certificate of Final Indirect Costs"), a completed and signed Special Attachment No. 8 ("Tax Clearance Certificate"), and a completed and signed Special Attachment No. 10 ("Policy Regarding Sexual Harassment"). Subconsultants will need to complete these attachments as well. All these forms are attached to the original email announcement.

RFPs shall describe any processes or procedures, including best practices, that will be used to perform tasks and to produce deliverables described above under "Scope of Services to be Performed." Also, include items such as:

- Project manager/engineer in charge
- History of projects with similar tasks
- Availability of staff to meet schedule without overtime
- Familiarity with KDOT standards and content
- Any subconsultant and their role (if any) that will be performing services on the project

### Evaluation Factors

RFPs will be evaluated based on the factors listed below, evenly weighted, to rank the most qualified firm in order of preference as first, second, third, etc. Evaluation factors: 1) the quality and completeness of the response; 2) qualifications and experience of consultant design

personnel/manager proposed for services; 3) proposed project approach; 4) availability to respond to the work; and 5) past performance history for similar projects/services for KDOT. The highest ranked firm will be asked to enter into negotiations with KDOT for an agreement. In the event KDOT cannot reach agreement with the ranked firm, it will terminate negotiations with such firm and commence negotiations with the next highest ranked firm, and so on, until either agreement is reached for a satisfactory scope of services for a fair and reasonable price, or KDOT decides to pursue other alternatives.

### Exhibits to this RFP

- Special Attachment No. 7 ("Certificate of Final Indirect Costs")
- Special Attachment No. 8 ("Tax Clearance Certificate")
- Special Attachment No. 10 ("Policy Regarding Sexual Harassment")

### Contract Terms and Conditions

A standard KDOT agreement for engineering and technical services will be used for this project. Special Attachments for the Kansas "Tax Clearance Certificate," the "Certification of Final Indirect Costs," and the Special Attachment No. 10 ("Policy Regarding Sexual Harassment") will also eventually become attachments to the contract.

Questions about this RFP shall be sent by email to KDOT at [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov).

Calvin E. Reed, P.E. Director  
Division of Engineering and Design

Doc. No. 049179

## State of Kansas

### Department of Transportation

#### Notice to Consulting Firms

#### Background and Purpose of Project

The Kansas Department of Transportation (KDOT) is seeking a consultant to provide construction inspection services for project 59-23 KA-5794-01. Project 59-23 KA-5794-01 is guardrail end terminal updates on US-59 in Douglas County. The project location is from 300 feet south of the N1200 Road intersection north approximately 0.6 miles.

#### Schedule/Deadlines

Request for Proposals (RFPs) are due on or before 12:00 p.m. (CST) June 18, 2021, to be delivered via email to [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov). Evaluation and ranking of submissions will occur on or about July 7, 2021, after which time all firms that submitted will be notified of the ranking. Negotiations with the most highly ranked firm to commence on or about July 28, 2021. An agreement should be in place on or about September 1, 2021. Project may be built in 2021 or in 2022. The project early start date is October 18, 2021 and latest start is April 5, 2022.

#### Scope of Services to be Performed

The project manager/inspectors must be capable inspecting the whole project, which includes guardrail installation, grading, traffic control, CMS or AASHTOWare data entry, all Project records, all project paperwork, and

final paperwork, etc. Project records and paperwork including but not limited to: diary, pay quantities, certifications, sample identifications, change orders, pay estimates, monitoring subcontractor payments, and monitoring contractor's payrolls, etc. Records and paperwork must be submitted accurately and timely. Anticipated staffing needs: provide project management and all inspectors as needed to ensure inspection and material testing for this project are done correctly. The number of required inspectors will fluctuate throughout the project depending on the contractor's schedule and how they pursue the work. Submit the name and information of the project manager. Construction is anticipated to be completed in 25-working days plus ten cleanup days. Provide all the equipment necessary to inspect and test materials.

### Instructions for Proposal

No costs shall be contained in the RFP. The RFP must not exceed four (4) pages total (including any cover letter, index, etc.) and 2MB to address the pertinent topics. RFPs submitted will consist of the technical proposal and a completed and signed Special Attachment No. 7 ("Certificate of Final Indirect Costs"), a completed and signed Special Attachment No. 8 ("Tax Clearance Certificate"), and a signed Special Attachment No. 10 ("Policy Regarding Sexual Harassment"). Completed Special Attachments do not count against the four-page technical proposal submission. All these forms are attached to the original email announcement.

RFPs shall indicate the consultant's ability to meet the project inspection needs described above. RFPs shall describe any processes or procedures, including best practices, that will be used to perform tasks and to produce the desired results described above under "Scope of Services to be Performed." The RFP shall also include items such as:

- Project manager
- History of providing inspection services on similar projects
- Availability of staff
- Familiarity with KDOT standards and specifications
- Any subconsultant and their role in performing the services on the project
- Names, certifications, and experience of all inspectors that will be assigned to the project
- Anticipated time to close out project paperwork

### Evaluation Factors

RFPs will be evaluated based on the factors listed below, evenly weighted, to rank the most qualified firm in order of preference as first, second, third, etc. Evaluation factors include:

1. How the consultant plans to meet the fluctuating inspection needs of the project;
2. Employee names (project manager), certifications, and qualifications proposed for services;
3. Past performance history on similar projects (list project numbers) for KDOT;
4. Anticipated time to close out project paperwork;
5. Proximity of inspectors to project;
6. Types of direct expenses anticipated (lodging, mileage, etc.).

The highest ranked firm will be asked to enter into negotiations with KDOT for an agreement. In the event KDOT cannot reach agreement with the highest ranked firm, it will terminate negotiations with such firm and commence negotiations with the next highest ranked firm, and so on, until either agreement is reached for a satisfactory scope of services for a fair and reasonable price, or KDOT decides to pursue other alternatives.

### Exhibits to this Technical Proposal Request

- Special Attachment No. 7 ("Certificate of Final Indirect Costs")
- Special Attachment No. 8 ("Tax Clearance Certificate")
- Special Attachment No. 10 ("Policy Regarding Sexual Harassment")

### Contract Terms and Conditions

A standard KDOT project inspection agreement will be used for this project. Current rate factors will be used for compensation, and Special Attachments for the Kansas "Tax Clearance Certificate," the "Certificate of Final Indirect Costs," and the "Policy Regarding Sexual Harassment" will become attachments to the contract.

Questions about this request for proposals shall be sent via email to [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov).

David Lutgen, P.E.  
Division of Engineering and Design

Doc. No. 049197

## State of Kansas

## Department of Transportation

### Notice to Consulting Firms

#### Background and Purpose of Project

The Kansas Department of Transportation (KDOT) is seeking a consultant to provide construction inspection services for project 4-89 KA-5795-01. Project 4-89 KA-5795-01 is guardrail end terminal updates in eastern Shawnee County. The project location includes K-4, US-24, and US-40 in eastern Shawnee County.

#### Schedule/Deadlines

Request for Proposals (RFPs) are due on or before 12:00 p.m. (CST) June 18, 2021, to be delivered via email to [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov). Evaluation and ranking of submissions will occur on or about July 7, 2021, after which time all firms that submitted will be notified of the ranking. Negotiations with the most highly ranked firm to commence on or about July 28, 2021. An agreement should be in place on or about September 1, 2021. Project may be built in 2021 or in 2022. The Project early start date is October 18, 2021 and latest start is April 5, 2022.

#### Scope of Services to be Performed

The project manager/inspectors must be capable inspecting the whole project, which includes guardrail installation, grading, traffic control, CMS or AASHTOWare data entry, all project records, all project paperwork, and final paperwork, etc. Project records and paperwork including but not limited to: diary, pay quantities, certifications, sample identifications, change orders, pay estimates, monitoring subcontractor payments, and monitoring contractor's payrolls, etc. Records and paperwork

*(continued)*

work must be submitted accurately and timely. Anticipated staffing needs: provide project management and all inspectors as needed to ensure inspection and material testing for this project are done correctly. The number of required inspectors will fluctuate throughout the project depending on the contractor's schedule and how they pursue the work. Submit the name and information of the project manager. Construction is anticipated to be completed in 90-working days plus 20 cleanup days. Provide all the equipment necessary to inspect and test materials.

### Instructions for Proposal

No costs shall be contained in the RFP. The RFP must not exceed four (4) pages total (including any cover letter, index, etc.) and 2MB to address the pertinent topics. RFPs submitted will consist of the technical proposal and a completed and signed Special Attachment No. 7 ("Certificate of Final Indirect Costs"), a completed and signed Special Attachment No. 8 ("Tax Clearance Certificate"), and a signed Special Attachment No. 10 ("Policy Regarding Sexual Harassment"). Completed Special Attachments do not count against the four-page technical proposal submission. All these forms are attached to the original email announcement.

RFPs shall indicate the consultant's ability to meet the project inspection needs described above. RFPs shall describe any processes or procedures, including best practices, that will be used to perform tasks and to produce the desired results described above under "Scope of Services to be Performed." The RFP shall also include items such as:

- Project manager
- History of providing inspection services on similar projects
- Availability of staff
- Familiarity with KDOT standards and specifications
- Any subconsultant and their role in performing the services on the project
- Names, certifications, and experience of all inspectors that will be assigned to the project
- Anticipated time to close out project paperwork

### Evaluation Factors

RFPs will be evaluated based on the factors listed below, evenly weighted, to rank the most qualified firm in order of preference as first, second, third, etc. Evaluation factors include:

1. How the consultant plans to meet the fluctuating inspection needs of the project;
2. Employee names (project manager), certifications, and qualifications proposed for services;
3. Past performance history on similar projects (list project numbers) for KDOT;
4. Anticipated time to close out project paperwork;
5. Proximity of inspectors to project;
6. Types of direct expenses anticipated (lodging, mileage, etc.).

The highest ranked firm will be asked to enter into negotiations with KDOT for an agreement. In the event KDOT cannot reach agreement with the highest ranked firm, it will terminate negotiations with such firm and

commence negotiations with the next highest ranked firm, and so on, until either agreement is reached for a satisfactory scope of services for a fair and reasonable price, or KDOT decides to pursue other alternatives.

### Exhibits to this Technical Proposal Request

- Special Attachment No. 7 ("Certificate of Final Indirect Costs")
- Special Attachment No. 8 ("Tax Clearance Certificate")
- Special Attachment No. 10 ("Policy Regarding Sexual Harassment")

### Contract Terms and Conditions

A standard KDOT project inspection agreement will be used for this project. Current rate factors will be used for compensation, and Special Attachments for the Kansas "Tax Clearance Certificate," the "Certificate of Final Indirect Costs," and the "Policy Regarding Sexual Harassment" will become attachments to the contract.

Questions about this request for proposals shall be sent via email to [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov).

David Lutgen, P.E.  
Division of Engineering and Design

Doc. No. 049198

## State of Kansas

## Department of Transportation

### Notice to Consulting Firms

The Kansas Department of Transportation (KDOT) is seeking a consulting firm for the project below. Interested consulting firms must be prequalified by KDOT or otherwise demonstrate qualification in category 211 Highway Design – Major Facility and 231 Traffic Study. A PDF (2Mb maximum size) of the response must be emailed to [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov). Proposal responses are limited to six pages; the subject line of the reply email and the pdf file name must read "KA-6018-01 Interchange Improvements\_FIRM NAME." The proposal is required and must be received by noon, 6/11/2021 for the consulting firm to be considered.

If a firm is not currently prequalified by KDOT, a proposal may still be submitted. Firms not prequalified must also provide documentation that demonstrates the firm is qualified for each specified category listed in this notice for the project. Firms may use the KDOT prequalification form to provide this documentation. Forms and KDOT 1050 Prequalification category definitions (Blue Book) can be found at <http://www.ksdot.org/descons.asp>. All firms doing business with KDOT must be registered and in good standing under the laws of the State of Kansas at the time of contracting and must comply with applicable state and federal laws, rules and regulations.

### Background and Scope of Project

The I-70/K-18 Interchange Improvements project in Geary County has been identified in the Eisenhower Legacy Transportation Program Expansion Delivery Pipeline. This project is scheduled for letting in FY 2024 (July 2023 – June 2024). KDOT intends to select the most highly qualified firm to perform professional services associated with the design of this expansion project. A project summary is provided in Table 1.

Available as-built plans, previous studies, and discovery report, along with the guardrail survey guidance can be downloaded at [https://secftp.ksdot.org/public/file/9I037B4PekWRiXkijRs-fw/070-031%20KA-6018-01%20RFP%20Documents\\_1.zip](https://secftp.ksdot.org/public/file/9I037B4PekWRiXkijRs-fw/070-031%20KA-6018-01%20RFP%20Documents_1.zip). Link expires on June 7, 2021 and will not be made available after that.

**Table 1: I-70 and K-18 Interchange Improvements**

Project Number	Route and Scope	Length	Project Termini
070-030 KA-6018-01	I-70/K-18 Geary County Interchange Improvements	1.9 mi	I-70/Henry Dr. Interchange east to I-70/K-18 Interchange
Structures	Structure Scope	BR#	Structure Size (Type)
Includes	No Bridge Scope anticipated; Potential Guardrail connection	Br No. 70-31-13.48 (022)	46'-2 @ 68'-46' (Composite Rolled Beam Spans)

KDOT is seeking consultant services to prepare construction drawings for the I-70/K-18 Interchange Improvements project. A single-lane roundabout is planned at the southern terminal of the I-70/K-18 Interchange to address safety and operational issues due to increasing traffic volumes. Design of an eastbound auxiliary lane between I-70/Henry Dr. and I-70/K-18 will also be required. Additionally, the consultant will need to evaluate the northern terminal of the I-70/K-18 interchange to develop improvements for handling high-speed southbound traffic turning west onto I70. Also included with this project will be full project survey and existing right-of-way survey. The designer shall provide design and plans for horizontal and vertical alignments for auxiliary lanes, sideroads, and entrance locations. The scope of the service may include culvert extensions or replacements, traffic engineering, hydrology/hydraulics, air space studies for the Federal Aviation Administration (FAA), and permitting assistance. Stakeholder engagement support activities and development of a PI Plan are anticipated. In addition to the I-70/K-18 interchange improvements, the selected consultant will be responsible for survey of guardrail and guardrail height measurements along I-70 and under I-70 bridges at K-57 and US-40 Business. A traffic study will also need to be completed for the J Hill Rd./US-40 Business/K-57 intersection consisting of an operational analysis including signal warrant analysis of existing and future traffic to determine if any capacity improvements are required to accommodate future traffic volume. Guardrail survey/measurement and the traffic study will be provided to KDOT in support of the 070-031 KA-6062-01 heavy rehabilitation project and will include no design.

The project scopes include:

- Full survey and existing right-of-way survey
- Perform preliminary design for plans to field check
- Develop final plans
- Provide electronic plan files compliant with KDOT Graphic Standards Manual, including CAD conformance checks and ControlCAD indexed DGN files with ProjectWise attributes
- Provide construction cost estimates bi-annually as well as at each major project milestone
- Guardrail survey and height measurements on I-70 between 1 mile east of the US77/I70 junction east to

the east city limits of Grandview Plaza, on K-57 and Business 40 under I-70 bridges

- Traffic study for J Hill Rd. including a signal warrant analysis of existing and future traffic to determine if additional capacity improvements are necessary to accommodate future traffic volume

**Special Conditions**

PMC

This project is being managed by a Project Manager Consultant (PMC) on behalf of KDOT. The PMC will be the primary contact for the selected firm. The PMC will not be on the KDOT Consultant Selection Committee.

Schedule Reporting

Project schedules will be developed during project negotiation. A basic schedule template, prepared by the PMC, will be reviewed and specific dates will be defined by the consultant in order to achieve the critical milestones. Monthly schedule progress reports and updates will be required throughout the project from the consultants and reviewed with the PMC to track progress for KDOT.

Quality Control

Consultants will be required to provide a Quality Control (QC) plan at project kick-off. QC audits will be conducted by the PMC throughout the project. The audits will check compliance with the consultant’s QC plan.

**Schedule**

This project is scheduled for letting in FY 2024 (July 2023 – June 2024). Therefore, the design activities must be scheduled to deliver complete plans between July 2023 and December 2023. This project may follow an accelerated delivery schedule with some of the submittals required earlier than a typical KDOT design project to meet letting requirements.

**Instructions for Proposal**

The main text of the consultant’s proposal must not exceed six (6) pages (not including the cover letter) to address the topics listed in Table 2 below. The following outline is the expected submittal organization, content, and page length for the technical proposals. Duplication of content in technical proposals is expected.

**Table 2: Proposal Content and Evaluation Factors**

	Content	Pages
<b>Cover Letter</b>		1 page
<b>Overview</b>	<ul style="list-style-type: none"> <li>• Qualifications and Experience                             <ul style="list-style-type: none"> <li>◦ Project manager for the project</li> <li>◦ Names, qualifications, education, training, and expertise of proposed team members</li> </ul> </li> <li>• Past performance on similar projects, including references and contact information</li> <li>• Delivery Process                             <ul style="list-style-type: none"> <li>◦ Approach to schedule</li> <li>◦ Approach to quality control</li> </ul> </li> </ul>	4 pages
<b>Project Approach</b>	Highlight concepts for cost-effective and optimized solutions for the project. Include unique qualifications or experience that may inform the selection of firms.	1-2 pages

(continued)

**Selection Process**

KDOT intends to select the most highly qualified firms to perform professional services associated with the design of this project. No cost or pricing information shall be submitted with the proposal. Proposals including cost or pricing information will not be considered in the selection process to rank proposals. Per standard KDOT Consultant selection process, consultant will be selected from the technical proposal submitted for the Project. Technical proposals will be evaluated based on the factors listed in Table 3 below to select the most qualified firms. All evaluation factors are weighted equally.

**Table 3: Evaluation Factors**

Evaluation Factor
Qualifications and Experience
Past Performance
Delivery Process: Approach to Schedule
Delivery Process: Approach to Quality Control
Project Approach: Unique Qualifications and Solutions
Familiarity with KDOT Design Standards and Project Area

The selected firm will be asked to enter into negotiations with KDOT for an agreement. Negotiations will proceed quickly through scoping, manhour/fee negotiation, and NTP. In the event KDOT cannot reach agreement with the selected firm, it will terminate negotiations and commence negotiations with the next highest ranked firm, and so on, until either agreement is reached for a satisfactory scope of services for a fair and reasonable price, or KDOT decides to pursue other alternatives.

**Contract Terms and Conditions**

A standard KDOT agreement for engineering and technical services will be used for this project. Special Attachments for the Kansas "Tax Clearance Certificate," the "Certification of Final Indirect Costs," and the Special Attachment No. 10 ("Policy Regarding Sexual Harassment") will need to be provided by the selected consultant with the signed work order following negotiations.

The firm's accounting systems must have the following capabilities before the firm may be awarded a contract.

- Valid, reliable, and current costs must be available within the system to support actual costs and pricing data
- Capability to provide a means of measuring the reasonableness of incurred costs
- Capability to identify and accumulate allowable costs by contract or project records which will reconcile with the general ledger
- Ability to provide supporting documentation of actual expenditures for each billing, based on costs

Questions shall be sent by email to KDOT at [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov).

Kris Norton, P.E., PMC Coordinating Engineer  
Division of Program and Project Management

Doc. No. 049178

State of Kansas

**Department of Transportation**

**Notice to Consulting Firms**

The Kansas Department of Transportation (KDOT) is seeking a consulting firm for the project below. Interested consulting firms must be prequalified by KDOT or otherwise demonstrate qualification in category 211 Highway Design – Major Facility. A PDF (2Mb maximum size) of the response must be emailed to [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov). Proposal responses are limited to six pages; the subject line of the reply email and the PDF file name must read "US-77 Pavement Replacement\_FIRM NAME." The proposal is required and must be received by 12:00 p.m. June 25, 2021 for the consulting firm to be considered.

If a firm is not currently prequalified by KDOT, a proposal may still be submitted. Firms not prequalified must also provide documentation that demonstrates the firm is qualified for each specified category listed in this notice for the project. Firms may use the KDOT prequalification form to provide this documentation. Forms and KDOT 1050 Prequalification category definitions (Blue Book) can be found at <http://www.ksdot.org/descons.asp>. All firms doing business with KDOT must be registered and in good standing under the laws of the State of Kansas at the time of contracting and must comply with applicable state and federal laws, rules, and regulations.

**Background and Scope of Project**

The US-77 Pavement Replacement project in Cowley County has been identified in the Eisenhower Legacy Transportation Program Expansion Delivery Pipeline. This project is scheduled for letting in FY 2024 (July 2023 – June 2024). KDOT intends to select the most highly qualified firm to perform professional services associated with the design of this heavy preservation project. A project summary is provided in Table 1.

The following items are available upon request by contacting David Lutgen, P.E. at [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov):

- US-77 as-built plans
- 222nd Road partial cloverleaf interchange progress plans (Shelved at PLNTE)
- Discovery phase report (2015)
- Screening study (2021)

**Table 1: US-77 Pavement Replacement**

Project Number	Route and Scope	Length	Project Termini
077-018 KA-4137-01	US-77 Cowley County Pavement Replacement	8.75 mi	US-77 from Skyline Road in Arkansas City to Walnut River Bridge in Winfield
Structures	Structure Scope	BR#	Structure Size (Type)
SB bridge over BNSF Railroad.	Redecking	Br No. 77-18-14.52 (0007)	60'-80'-60' Steel Welded Plate Girder, Continuous

KDOT is seeking consultant services to prepare construction drawings for the US-77 Pavement Replacement project in Cowley County. The designer shall provide design and plans for horizontal and vertical alignments for mainline, access roads and entrance locations. An offset alignment of US-77 to account for a future par-

tial cloverleaf interchange, located at 222nd Road, will be included in the design. The interchange ramps and bridge span structure for the partial cloverleaf will not be included with the project, however, necessary environmental channel mitigations and RCB culvert extensions/additions associated with the interchange will be included. Also, the consultant will realign D Street to provide better access for truck traffic accessing Strother Field Airport from the south. A relocation of the at-grade railroad spur crossing will be required, as well as the installation of stabilized pull-out shoulders per KDOT Road Design Manual and the closure of 1st Avenue. A new access road to the Strother Field Industrial Park sanitary sewer treatment facility will be required because of the proposed offset alignment and closure of 1st Avenue. This relocation will be within the northeast quadrant of the 222nd Road intersection. The consultant will complete an intersection evaluation at 222nd Road to mitigate major increases in expected number of crashes caused by the 1st Avenue closure. Close coordination with the adjacent 222nd Road bridge replacement project (C 5104-01), located over the BNSF railroad, will be required during design. The scope of the service will also include supplemental survey, culvert extensions and repairs described in past studies and plans, traffic engineering, hydrology/hydraulics, air space clearances for the Federal Aviation Administration (FAA), and permitting assistance. Environmental services will include wetland delineation and permitting, protected species and cultural resources coordination, and Kansas Division of Water Resources floodplain fill and channel change permitting. Stakeholder engagement support activities and development of a PI Plan are anticipated, including a minimum of one public involvement meeting at Strother Field Industrial Park.

The project scope will include the following items:

- Visit the project site location with IKE PMC project team and KDOT District staff.
- Provide additional full survey and existing right-of-way survey from Quail Ridge Road to Walnut River Bridge. Supplemental survey will also include an evaluation and updates of the previous survey completed under project 77-18 KA-2215-01, including Bridge No. 77-18-14.52 (0007).
- Pavement replacement and redecking described in Table 1.
- Realignment of D Street
- Relocation of existing at-grade railroad crossing at Strother Field Industrial Park, including stabilized pull-out shoulders and removal of 1st Avenue at Strother Field.
- Relocation Sanitary Sewer Treatment Facility Access Road
- Recommendation and design of intersection improvements at 222nd Road to accommodate additional traffic from Strother Field Industrial Park, after closure of 1st Avenue near the at-grade railroad spur crossing.
- Perform preliminary design for plans to Materials and Research, scheduled for December 2021.
- Perform preliminary design for plans to Field Check, scheduled for September 2022.

- Develop final plans, scheduled for KDOT fiscal year 2024.
- Provide construction cost estimates bi-annually as well as at every major project milestone.
- Provide electronic plan files compliant with KDOT Graphic Standards Manual, including CAD conformance checks and ControlCAD indexed DGN files with ProjectWise attributes.

**Special Conditions**

PMC

This project is being managed by a Project Manager Consultant (PMC) on behalf of KDOT. The PMC will be the primary contact for the selected firm. The PMC will not be on the KDOT Consultant Selection Committee.

Schedule Reporting

Project schedules will be developed during project negotiation. A basic schedule template, prepared by the PMC, will be reviewed and specific dates will be defined by the consultant to achieve the critical milestones. Monthly schedule progress reports and updates will be required throughout the project from the consultants and reviewed with the PMC to track progress for KDOT.

Quality Control

Consultants will be required to provide a Quality Control (QC) plan at project kick-off. QC audits will be conducted by the PMC throughout the project. The audits will check compliance with the consultant’s QC plan.

**Schedule**

This project is scheduled for letting in FY 2024 (July 2023 – June 2024). Therefore, the design activities must be scheduled to deliver complete plans between December 2023 and March 2024. This project may follow an accelerated delivery schedule with some of the submittals required earlier than a typical KDOT design project to meet letting requirements.

**Instructions for Proposal**

The main text of the consultant’s proposal must not exceed Six (6) pages (not including the cover letter) to address the topics listed in Table 2 below. The following outline is the expected submittal organization, content, and page length for the technical proposals. Duplication of content in technical proposals is expected.

**Table 2: Proposal Content and Evaluation Factors**

	Content	Pages
Cover Letter		1 page
Overview	<ul style="list-style-type: none"> <li>• Qualifications and Experience                             <ul style="list-style-type: none"> <li>◦ Project manager for the project</li> <li>◦ Names, qualifications, education, training, and expertise of proposed team members</li> </ul> </li> <li>• Past Performance on similar projects, including references and contact information</li> <li>• Delivery Process                             <ul style="list-style-type: none"> <li>◦ Approach to Schedule</li> <li>◦ Approach to Quality Control</li> </ul> </li> </ul>	4 pages
Project Approach	Highlight concepts for cost-effective and optimized solutions for the project. Include unique qualifications or experience that may inform the selection of firms.	1-2 pages

(continued)

**Selection Process**

KDOT intends to select the most highly qualified firms to perform professional services associated with the design of this project.

No cost or pricing information shall be submitted with the proposal. Proposals including cost or pricing information will not be considered in the selection process to rank proposals.

Per standard KDOT consultant selection process, consultant will be selected from the technical proposal submitted for the project. Technical proposals will be evaluated based on the factors listed in Table 3 below to select the most qualified firms. All evaluation factors are weighted equally.

Table 3: Evaluation Factors

Evaluation Factor
Qualifications and Experience
Past Performance
Delivery Process: Approach to Schedule
Delivery Process: Approach to Quality Control
Project Approach: Unique Qualifications and Solutions
Familiarity with KDOT Design Standards and Project Area

The selected firm will be asked to enter negotiations with KDOT for an agreement. Negotiations will proceed quickly through scoping, manhour/fee negotiation, and NTP. In the event KDOT cannot reach agreement with the selected firm, it will terminate negotiations and commence negotiations with the next highest ranked firm, and so on, until either agreement is reached for a satisfactory scope of services for a fair and reasonable price, or KDOT decides to pursue other alternatives.

**Contract Terms and Conditions**

A standard KDOT agreement for engineering and technical services will be used for this project. Special Attachments for the Kansas "Tax Clearance Certificate," the "Certification of Final Indirect Costs," and the Special Attachment No. 10 ("Policy Regarding Sexual Harassment") will need to be provided by the selected consultant with the signed work order following negotiations.

The firm's accounting systems must have the following capabilities before the firm may be awarded a contract.

- Valid, reliable, and current costs must be available within the system to support actual costs and pricing data
- Capability to provide a means of measuring the reasonableness of incurred costs
- Capability to identify and accumulate allowable costs by contract or project records which will reconcile with the general ledger
- Ability to provide supporting documentation of actual expenditures for each billing, based on costs

Questions shall be sent by email to KDOT at [kdot.designcontracts@ks.gov](mailto:kdot.designcontracts@ks.gov).

Kris Norton, P.E., PMC Coordinating Engineer  
Division of Program and Project Management

Doc. No. 049202

State of Kansas

**Department for Aging and Disability Services  
Department of Health and Environment  
Division of Health Care Finance**

**Notice of Final Nursing Facility Medicaid Rates  
for State Fiscal Year 2022;**

**Methodology for Calculating Rates,  
and Rate Justifications;**

**Response to Written Comments;**

**Notice of Intent to Amend the Medicaid State Plan**

Under the Medicaid program, 42 U.S.C. 1396 et seq., the State of Kansas pays nursing facilities, nursing facilities for mental health, and hospital long-term care units (hereafter collectively referred to as nursing facilities) a daily rate for care provided to residents who are eligible for Medicaid benefits. The Secretary of Aging and Disability Services administers the nursing facility program, which includes hospital long-term care units, and the nursing facility for mental health program. The Secretary acts on behalf of the Kansas Department of Health and Environment Division of Health Care Finance (DHCF), the single state Medicaid agency.

As required by 42 U.S.C. 1396a(a)(13), as amended by Section 4711 of the Balanced Budget Act of 1997, P.L. No. 105-33, 101 Stat. 251, 507-08 (August 5, 1997), the Secretary of the Kansas Department for Aging and Disability Services (KDADS) is publishing the final Medicaid per diem rates for Medicaid-certified nursing facilities for State Fiscal Year 2022, the methodology underlying the establishment of the nursing facility rates, and the justifications for those rates. KDADS and DHCF are also providing notice of the state's intent to submit amendments to the Medicaid State Plan to the U. S. Department of Health and Human Services' Centers for Medicare and Medicaid Services (CMS) on or before September 30, 2021.

**I. Methodology Used to Calculate Medicaid Per Diem Rates for Nursing Facilities.**

In general, the state uses a prospective, cost-based, facility-specific rate-setting methodology to calculate nursing facility Medicaid per diem rates, including the rates listed in this notice. The state's rate-setting methodology is contained primarily in the following described documents and authorities and in the exhibits, attachments, regulations, or other authorities referenced in them:

A. The following portions of the Kansas Medicaid State Plan maintained by DHCF are being revised:

1. Attachment 4.19D, Part I, Subpart C, Exhibit C-1, inclusive;

The text of the portions of the Medicaid State Plan identified above in section IA.1, but not the documents, authorities and the materials incorporated therein by reference, is reprinted in this notice. The Medicaid State Plan provisions set out in this notice appears in the version which the state currently intends to submit to CMS on or before September 30, 2021. The Medicaid State Plan amendment that the state ultimately submits to CMS may differ from the version contained in this notice.

Copies of the documents and authorities containing the state's rate-setting methodology are available upon

written request. A request for copies will be treated as a request for public records under the Kansas Open Records Act, K.S.A. 45-215 et seq. The state may charge a fee for copies, in accordance with Executive Order 18-05. Written requests for copies should be sent to:

Secretary of Aging and Disability Services  
New England Building, Second Floor  
503 S. Kansas Ave.  
Topeka, KS 66603-3404  
Fax: 785-296-0767

### **A.1 Attachment 4.19D, Part I, Subpart C, Exhibit C-1: Methods and Standards for Establishing Payment Rates for Nursing Facilities**

Under the Medicaid program, the State of Kansas pays nursing facilities (NF), nursing facilities for mental health (NFMH), and hospital long-term care units (hereafter collectively referred to as nursing facilities) a daily rate for care provided to residents who are eligible for Medicaid benefits. The narrative explanation of the nursing facility reimbursement formula is divided into 11 sections. The sections are: Cost Reports, Rate Determination, Quarterly Case Mix Index Calculation, Resident Days, Inflation Factors, Upper Payment Limits, Quarterly Case Mix Rate Adjustment, Real and Personal Property Fee, Incentive Factors, Rate Effective Date, and Retroactive Rate Adjustments.

#### **1) Cost Reports**

The Nursing Facility Financial and Statistical Report (MS2004) is the uniform cost report. It is included in Kansas Administrative Regulation (K.A.R.) 129-10-17. It organizes the commonly incurred business expenses of providers into three reimbursable cost centers (operating, indirect health care, and direct health care). Ownership costs (i.e., mortgage interest, depreciation, lease, and amortization of leasehold improvements) are reported but reimbursed through the real and personal property fee. There is a non-reimbursable/non-resident related cost center so that total operating expenses can be reconciled to the providers' accounting records.

All cost reports are desk reviewed by agency auditors. Adjustments are made, when necessary, to the reported costs in arriving at the allowable historic costs for the rate computations.

#### Calendar Year End Cost Reports

All providers that have operated a facility for 12 or more months on December 31 shall file a calendar year cost report. The requirements for filing the calendar year cost report are found in K.A.R. 129-10-17.

When a non-arms length or related party change of provider takes place or an owner of the real estate assumes the operations from a lessee, the facility will be treated as an ongoing operation. In this situation, the related provider or owner shall be required to file the calendar year end cost report. The new operator or owner is responsible for obtaining the cost report information from the prior operator for the months during the calendar year in which the new operator was not involved in running the facility. The cost report information from the old and new operators shall be combined to prepare a 12-month calendar year end cost report.

#### Projected Cost Reports

The filing of projected cost reports are limited to: 1) newly constructed facilities; 2) existing facilities new to the Medicaid program; or 3) a provider re-entering the Medicaid program that has not actively participated or billed services for 24 months or more. The requirements are found in K.A.R. 129-10-17.

#### **2) Rate Determination**

##### Rates for Existing Nursing Facilities

Medicaid rates for Kansas NFs are determined using a prospective, facility-specific rate-setting system. The rate is determined from the base cost data submitted by the provider. The current base cost data is the combined calendar year cost data from each available report submitted by the current provider during 2017, 2018, and 2019.

If the current provider has not submitted a calendar year report during the base cost data period, the cost data submitted by the previous provider for that same period will be used as the base cost data. Once the provider completes their first 24 months in the program, their first calendar year cost report will become the provider's base cost data.

The allowable expenses are divided into three cost centers. The cost centers are Operating, Indirect Health Care and Direct Health Care. They are defined in K.A.R. 129-10-18.

The allowable historic per diem cost is determined by dividing the allowable resident related expenses in each cost center by resident days. Before determining the per diem cost, each year's cost data is adjusted from the midpoint of that year to March 31, 2020. The resident days and inflation factors used in the rate determination will be explained in greater detail in the following sections.

The inflated allowable historic per diem cost for each cost center is then compared to the cost center upper payment limit. The allowable per diem rate is the lesser of the inflated allowable historic per diem cost in each cost center or the cost center upper payment limit. Each cost center has a separate upper payment limit. If each cost center upper payment limit is exceeded, the allowable per diem rate is the sum of the three cost center upper payment limits. There is also a separate upper payment limit for owner, related party, administrator, and co-administrator compensation. The upper payment limits will be explained in more detail in a separate section.

The case mix of the residents adjusts the Direct Health Care cost center. The reasoning behind a case mix payment system is that the characteristics of the residents in a facility should be considered in determining the payment rate. The idea is that certain resident characteristics can be used to predict future costs to care for residents with those same characteristics. For these reasons, it is desirable to use the case mix classification for each facility in adjusting provider rates.

There are add-ons to the allowable per diem rate. The add-ons consist of the incentive factor, the real and personal property fee, and per diems to cover costs not included in the cost report data. The incentive factor and real and personal property fee are explained in separate sections of this exhibit. The rate components are ex-

*(continued)*

plained in separate subparts of Attachment 4.19D of the State Plan. The add-ons plus the allowable per diem rate equal the total per diem rate.

#### Rates for New Construction and New Facilities (New Enrollment Status)

The per diem rate for newly constructed nursing facilities, or new facilities to the Kansas Medical Assistance program shall be based on a projected cost report submitted in accordance with K.A.R. 129-10-17.

The cost information from the projected cost report and the first historic cost report covering the projected cost report period shall be adjusted to March 31, 2020. This adjustment will be based on the IHS Global Insight, National Skilled Nursing Facility Market Basket Without Capital Index (IHS Index). The IHS indices listed in the latest available quarterly publication will be used to adjust the reported cost data from the midpoint of the cost report period to March 31, 2020. The provider shall remain in new enrollment status until the base data period is reestablished. During this time, the adjusted cost data shall be used to determine all rates for the provider. Any additional factor for inflation that is applied to cost data for established providers shall be applied to the adjusted cost data for each provider in new enrollment status.

#### Rates for Facilities Recognized as a Change of Provider (Change of Provider Status)

The payment rate for the first 24 months of operation shall be based on the base cost data of the previous owner or provider. This base cost data shall include data from each calendar year cost report that was filed by the previous provider from 2017-2019. If base cost data is not available, the most recent calendar year data for the previous provider shall be used. Beginning with the first day of the 25th month of operation the payment rate shall be based on the historical cost data for the first calendar year submitted by the new provider.

All data used to set rates for facilities recognized as a change-of-provider shall be adjusted to March 31, 2020. This adjustment will be based on the IHS Index. The IHS indices listed in the latest available quarterly publication will be used to adjust the reported cost data from the midpoint of the cost report period to March 31, 2020. The provider shall remain in change-of-provider status until the base data period is reestablished. During this time, the adjusted cost data shall be used to determine all rates for the provider. Any additional factor for inflation that is applied to cost data for established providers shall be applied to the adjusted cost data for each provider in change of provider status.

#### Rates for Facilities Re-entering the Program (Re-enrollment Status)

The per diem rate for each provider reentering the Medicaid program shall be determined from a projected cost report if the provider has not actively participated in the program by the submission of any current resident service billings to the program for 24 months or more. The per diem rate for all other providers reentering the program shall be determined from the base cost data filed with the agency or the most recent cost report filed preceding the base cost data period.

All cost data used to set rates for facilities reentering the program shall be adjusted to March 31, 2020. This adjustment will be based on the IHS Index. The IHS indices listed in the latest available quarterly publication will be used to adjust the reported cost data from the midpoint of the cost report period to March 31, 2020. The provider shall remain in reenrollment status until the base data period is reestablished. During this time, the adjusted cost data shall be used to determine all rates for the provider. Any additional factor for inflation that is applied to cost data for established providers shall be applied to the adjusted cost data for each provider in reenrollment status.

#### **3) Quarterly Case Mix Index Calculation**

Providers are required to submit to the agency the uniform assessment instrument, which is the Minimum Data Set (MDS), for each resident in the facility. The MDS assessments are maintained in a computer database.

The Resource Utilization Groups-III (RUG-III) Version 5.20, 34 group, index maximizer model is used as the resident classification system to determine all case-mix indices, using data from the MDS submitted by each facility. Standard Version 5.20 (Set D01) case mix indices developed by the Centers for Medicare and Medicaid Services (CMS) shall be the basis for calculating facility average case mix indices to be used to adjust the Direct Health Care costs in the determination of upper payment limits and rate calculation. Resident assessments that cannot be classified will be assigned the lowest CMI for the State.

Each resident in the facility on the first day of each calendar quarter with a completed and submitted assessment shall be assigned a RUG-III 34 group calculated on the resident's most current assessment available on the first day of each calendar quarter. This RUG-III group shall be translated to the appropriate CMI. From the individual resident case mix indices, three average case mix indices for each Medicaid nursing facility shall be determined four times per year based on the assessment information available on the first day of each calendar quarter.

The facility wide average CMI is the simple average, carried to four decimal places, of all resident case mix indices. The Medicaid-average CMI is the simple average, carried to four decimal places, of all indices for residents, including those receiving hospice services, where Medicaid is known to be a per diem payer source on the first day of the calendar quarter or at any time during the preceding quarter. The private-pay/other average CMI is the simple average, carried to four decimal places, of all indices for residents where neither Medicaid nor Medicare were known to be the payer source on the first day of the calendar quarter or at any time during the preceding quarter. Case mix indices for ventilator-dependent residents for whom additional reimbursement has been determined shall be excluded from the average CMI calculations.

Rates will be adjusted for case mix twice annually using case mix data from the two quarters preceding the rate effective date. The case mix averages used for the rate adjustments will be the simple average of the case mix averages for each quarter. The resident listing cut-off for calculating the average CMIs for each quarter will be the first day of the quarter. The following are the dates

for the resident listings and the rate periods in which the average Medicaid CMI will be used in the semi-annual rate-setting process.

<u>Rate Effective Date:</u>	<u>Cut-Off Dates for Quarterly CMI:</u>
July 1	January 1 and April 1
January 1	July 1 and October 1

The resident listings will be distributed to providers prior to the dates the semi-annual case mix adjusted rates are determined. This will allow the providers time to review the resident listings and make corrections before they are notified of new rates. The cut off schedule may need to be modified in the event accurate resident listings and Medicaid CMI scores cannot be obtained from the MDS database.

**4) Resident Days**

Facilities with 60 beds or less

For facilities with 60 beds or less, the allowable historic per diem costs for all cost centers are determined by dividing the allowable resident related expenses by the actual resident days during the cost report period(s) used to establish the base cost data.

Facilities with more than 60 beds

For facilities with more than 60 beds, the allowable historic per diem costs for the Direct Health Care cost center and for food and utilities in the Indirect Health Care cost center are determined by dividing the allowable resident related expenses by the actual resident days during the cost report period(s) used to establish the base cost data. The allowable historic per diem cost for the Operating and Indirect Health Care Cost Centers less food and utilities is subject to an 85% minimum occupancy rule. For these providers, the greater of the actual resident days for the cost report period(s) used to establish the base cost data or the 85% minimum occupancy based on the number of licensed bed days during the cost report period(s) used to establish the base cost data is used as the total resident days in the rate calculation for the Operating cost center and the Indirect Health Care cost center less food and utilities. All licensed beds are required to be certified to participate in the Medicaid program.

There are two exceptions to the 85% minimum occupancy rule for facilities with more than 60 beds. The first is that it does not apply to a provider who is allowed to file a projected cost report for an interim rate. Both the rates determined from the projected cost report and the historic cost report covering the projected cost report period are based on the actual resident days for the period.

The second exception is for the first cost report filed by a new provider who assumes the rate of the previous provider. If the 85% minimum occupancy rule was applied to the previous provider's rate, it is also applied when the rate is assigned to the new provider. However, when the new provider files a historic cost report for any part of the first 12 months of operation, the rate determined from the cost report will be based on actual days and not be subject to the 85% minimum occupancy rule for the months in the first year of operation. The 85% minimum occupancy rule is then reapplied to the rate when the new provider reports resident days and costs for the 13th month of operation and after.

**5) Inflation Factors**

Inflation will be applied to the allowable reported costs from the calendar year cost report(s) used to determine the base cost data from the midpoint of each cost report period to March 31, 2020. The inflation will be based on the IHS Global Insight, CMS Nursing Home without Capital Market Basket index.

The IHS Global Insight, CMS Nursing Home without Capital Market Basket Indices listed in the latest available quarterly publication will be used to determine the inflation tables for the payment schedules processed during the payment rate period. This may require the use of forecasted factors in the inflation table. The inflation tables will not be revised until the next payment rate period.

The inflation factor will not be applied to the following costs:

1. Owner/Related Party Compensation
2. Interest Expense
3. Real and Personal Property Taxes

**6) Upper Payment Limits**

There are three types of upper payment limits that will be described. One is the owner/related party/administrator/co-administrator limit. The second is the real and personal property fee limit. The last type of limit is an upper payment limit for each cost center. The upper payment limits are in effect during the payment rate period unless otherwise specified by a State Plan amendment.

Owner/Related Party/Administrator/Co-Administrator Limits

Since salaries and other compensation of owners are not subject to the usual market constraints, specific limits are placed on the amounts reported. First, amounts paid to non-working owners and directors are not an allowable cost. Second, owners and related parties who perform resident related services are limited to a salary chart based on the Kansas Civil Service classifications and wages for comparable positions. Owners and related parties who provide resident related services on less than a full-time basis have their compensation limited by the percent of their total work time to a standard work week. A standard work week is defined as 40 hours. The owners and related parties must be professionally qualified to perform services which require licensure or certification.

The compensation paid to owners and related parties shall be allocated to the appropriate cost center for the type of service performed. Each cost center has an expense line for owner/related party compensation. There is also a cost report schedule titled, "Statement of Owners and Related Parties." This schedule requires information concerning the percent of ownership (if over five percent), the time spent in the function, the compensation, and a description of the work performed for each owner and/or related party. Any salaries reported in excess of the Kansas Civil Service based salary chart are transferred to the Operating cost center where the excess is subject to the Owner/Related Party/Administrator/Co-Administrator per diem compensation limit.

Schedule C is an array of non-owner administrator and co-administrator salaries. The schedule includes the calendar year 2019 historic cost reports in the database from

*(continued)*

all active nursing facility providers. The salary information in the array is not adjusted for inflation. The per diem data is calculated using an 85% minimum occupancy level for those providers in operation for more than 12 months with more than 60 beds. Schedule C for the owner/related party/administrator/co-administrator per diem compensation limit is the first schedule run during the rate setting.

Schedule C is used to set the per diem limitation for all non-owner administrator and co-administrator salaries and owner/related party compensation in excess of the civil service-based salary limitation schedule. The per diem limit for a 50-bed or larger home is set at the 90th percentile on all salaries reported for non-owner administrators and co-administrators. A limitation table is then established for facilities with less than 50 beds. This table begins with a reasonable salary per diem for an administrator of a 15-bed or less facility. The per diem limit for a 15-bed or less facility is inflated based on the State of Kansas annual cost of living allowance for classified employees for the rate period. A linear relationship is then established between the compensation of the administrator of the 15-bed facility and the compensation of the administrator of a 50-bed facility. The linear relationship determines the per diem limit for the facilities between 15 and 50 beds.

The per diem limits apply to the non-owner administrators and co-administrators and the compensation paid to owners and related parties who perform an administrative function or consultant type of service. The per diem limit also applies to the salaries in excess of the civil service-based salary chart in other cost centers that are transferred to the operating cost center.

#### Real and Personal Property Fee Limit

The property component of the reimbursement methodology consists of the real and personal property fee that is explained in more detail in a later section. The upper payment limit is 105% of the median determined from a total resident day-weighted array of the property fees in effect April 1, 2021.

#### Cost Center Upper Payment Limits

Schedule B is an array of all per diem costs for each of the three cost centers-Operating, Indirect Health Care, and Direct Health Care. The schedule includes a per diem determined from the base cost data from all active nursing facility providers. Projected cost reports are excluded when calculating the limit.

The per diem expenses for the Operating cost center and the Indirect Health Care cost center less food and utilities are subject to the 85% minimum occupancy for facilities over 60 beds. All previous desk review and field audit adjustments are considered in the per diem expense calculations. The costs are adjusted by the owner/related party/administrator/co-administrator limit.

Prior to the Schedule B arrays, the cost data on certain expense lines is adjusted from the midpoint of the cost report period to March 31, 2020. This will bring the costs reported by the providers to a common point in time for comparisons. The inflation will be based on the IHS Global Insight, CMS Nursing Home Without Capital Market Basket Index.

Certain costs are exempt from the inflation application when setting the upper payment limits. They include owner/related party compensation, interest expense, and real and personal property taxes.

Schedule B is the median compilations. These compilations are needed for setting the upper payment limit for each cost center. The median for each cost center is weighted based on total resident days. The upper payment limits will be set using the following:

Operating	110% of the median
Indirect Health Care	115% of the median
Direct Health Care	130% of the median

#### Direct Health Care Cost Center Limit

The Kansas reimbursement methodology has a component for a case mix payment adjustment. The Direct Health Care cost center rate component and upper payment limit are adjusted by the facility average CMI.

For the purpose of setting the upper payment limit in the Direct Health Care cost center, the facility cost report period CMI and the statewide average CMI will be calculated. The facility cost report period CMI is the resident day-weighted average of the quarterly facility-wide average case mix indices, carried to four decimal places. The quarters used in this average will be the quarters that most closely coincide with the financial and statistical reporting period. For example, a 01/01/20XX-12/31/20XX financial and statistical reporting period would use the facility-wide average case mix indices for quarters beginning 04/01/XX, 07/01/XX, 10/01/XX and 01/01/XY. The statewide average CMI is the resident day-weighted average, carried to four decimal places of the facility cost report period case mix indices for all Medicaid facilities.

The statewide average CMI and facility cost report period CMI are used to set the upper payment limit for the Direct Health Care cost center. The limit is based on all facilities with a historic cost report in the database. There are three steps in establishing the base upper payment limit.

The first step is to normalize each facility's inflated Direct Health Care costs to the statewide average CMI. This is done by dividing the statewide average CMI for the cost report year by the facility's cost report period CMI, then multiplying this answer by the facility's inflated costs. This step is repeated for each cost report year for which data is included in the base cost data.

The second step is to determine per diem costs and array them to determine the median. The per diem cost is determined by dividing the total of each provider's inflated case mix adjusted base direct health care costs by the total days provided during the base cost data period. The median is located using a day-weighted methodology. That is, the median cost is the per diem cost for the facility in the array at which point the cumulative total of all resident days first equals or exceeds half the number of the total resident days for all providers. The facility with the median resident day in the array sets the median inflated direct health care cost. For example, if there are eight million resident days, the facility in the array with the 4 millionth day would set the median.

The final step in calculating the base Direct Health Care upper payment limit is to apply the percentage factor to the median cost. For example, if the median cost is

\$80 and the upper payment limit is based on 130% of the median, then the upper payment limit for the statewide average CMI would be \$104 ( $D=130\% \times \$80$ ).

**7) Quarterly Case Mix Rate Adjustment**

The allowance for the Direct Health Care cost component will be based on the average Medicaid CMI in the facility. The first step in calculating the allowance is to determine the Allowable Direct Health Care Per Diem Cost. This is the lesser of the facility's per diem cost from the base cost data period or the Direct Health Care upper payment limit. Because the direct health care costs were previously adjusted for the statewide average CMI, the Allowable Direct Health Care Per Diem Cost corresponds to the statewide average CMI.

The next step is to determine the Medicaid acuity adjusted allowable Direct Health Care cost. The facility's Medicaid CMI is determined by averaging the facility average Medicaid CMI from the two quarters preceding the rate effective date. The facility's Medicaid CMI is then divided by the statewide average CMI for the cost data period. Finally, this result, is then multiplied by the Allowable Direct Health Care per diem cost. The result is referred to as the Medicaid Acuity Adjustment.

The Medicaid Acuity Adjustment is calculated semi-annually to account for changes in the Medicaid CMI. To illustrate this calculation, take the following situation: The facility's direct health care per diem cost is \$80.00, the Direct Health Care per diem limit is \$104.00, and these are both tied to a statewide average CMI of 1.000, and the facility's current Medicaid CMI is 0.9000. Since the per diem costs are less than the limit the Allowable Direct Health Care Cost is \$80.00, and this is matched with the statewide average CMI of 1.0000. To calculate the Medicaid Acuity Adjustment, first divide the Medicaid CMI by the statewide average CMI, then multiply the result by the Allowable Direct Health Care Cost. In this case that would result in \$72.00 ( $0.9000/1.0000 \times \$80.00$ ). Because the facility's current Medicaid CMI is less than the statewide average CMI the Medicaid Acuity Adjustment moves the direct health care per diem down proportionally. In contrast, if the Medicaid CMI for the next semi-annual adjustment rose to 1.1000, the Medicaid Acuity Adjustment would be \$88.00 ( $1.1000/1.0000 \times \$80.00$ ). Again the Medicaid Acuity Adjustment changes the Allowable Direct Health Care Per Diem Cost to match the current Medicaid CMI.

**8) Real and Personal Property Fee**

The property component of the reimbursement methodology consists of the real and personal property fee (property fee). The property fee is paid in lieu of an allowable cost of mortgage interest, depreciation, lease expense and/or amortization of leasehold improvements. The fee is facility specific and does not change as a result of a change of ownership, change in lease, or with re-enrollment in the Medicaid program. The original property fee was comprised of two components, a property allowance and a property value factor. The differentiation of the fee into these components was eliminated effective July 1, 2002. At that time each facility's fee was re-established based on the sum of the property allowance and value factor. The providers receive the lower of the inflated property fee or the upper payment limit.

For providers re-enrolling in the Kansas Medical Assistance program or providers enrolling for the first time but operating in a facility that was previously enrolled in the program, the property fee shall be the sum of the last effective property allowance and the last effective value factor for that facility. The property fee will be inflated to 12/31/08 and then compared to the upper payment limit. The property fee will be the lower of the facility-specific inflated property fee or the upper payment limit.

Providers entering the Kansas Medical Assistance program for the first time, who are operating in a building for which a fee has not previously been established, shall have a property fee calculated from the ownership costs reported on the cost report. This fee shall include appropriate components for rent or lease expense, interest expense on real estate mortgage, amortization of leasehold improvements, and depreciation on buildings and equipment. The process for calculating the property fee for providers entering the Kansas Medical Assistance program for the first time is explained in greater detail in K.A.R. 129-10-25.

There is a provision for changing the property fee. This is for a rebasing when capital expenditure thresholds are met (\$25,000 for homes under 51 beds and \$50,000 for homes over 50 beds). The original property fee remains constant but the additional factor for the rebasing is added. The property fee rebasing is explained in greater detail in K.A.R. 129-10-25. The rebased property fee is subject to the upper payment limit.

**9) Incentive Factors**

An incentive factor will be awarded to both NF and NF-MH providers that meet certain outcome measures criteria. The criteria for NF and NF-MH providers will be determined separately based on arrays of outcome measures for each provider group.

Nursing Facility Quality and Efficiency Incentive Factor

The Nursing Facility Incentive Factor is a per diem amount determined by four per diem add-ons providers can earn for various outcomes measures. Providers that maintain a case mix adjusted staffing ratio at or above the 75th percentile will earn a \$3.00 per diem add-on. Providers that fall below the 75th percentile staffing ratio but improve their staffing ratio by 10% or more will earn a \$0.50 per diem add-on. Providers that achieve a staff retention rate at or above the 75th percentile will earn a \$2.50 per diem add-on as long as contracted labor costs do not exceed 10% of the provider's total direct health care labor costs. Providers that have a staff retention rate lower than the 75th percentile but that increase their staff retention rate by 10% or more will receive a per diem add-on of \$0.50 as long as contracted labor costs do not exceed 10% of the provider's total direct health care labor costs. Providers that have a Medicaid occupancy percentage of 65% or more will receive a \$0.75 per diem add-on. Finally, providers that maintain quality measures at or above the 75th percentile will earn a \$1.25 per diem add-on. The total of all the per diem add-ons a provider qualifies for will be their incentive factor.

The table below summarizes the incentive factor outcomes and per diem add-ons:

*(continued)*

Incentive Outcome	Incentive Add-Ons
CMI adjusted staffing ratio ≥ 75th percentile (5.80), or CMI adjusted staffing < 75th percentile but improved ≥ 10%	\$3.00 \$0.50
Staff retention rate ≥ 75th percentile, 68% Contracted labor < 10% of total direct health care labor costs or Staff retention rate < 75th percentile but increased ≥ 10% Contracted labor < 10% of total direct health care labor costs	\$2.50 \$0.50
Medicaid occupancy ≥ 65%	\$0.75
Quality Measures ≥ 75th percentile (670)	\$1.25
<b>Total Incentive Add-on Available</b>	<b>\$7.50</b>

**The Culture Change/Person-Centered Care Incentive Program**

The Culture Change/Person-Centered Care Incentive Program (PEAK 2.0) includes six different incentive levels to recognize homes that are either pursuing culture change, have made major achievements in the pursuit of culture change, have met minimum competencies in person-centered care, have sustained person-centered care, or are mentoring others in person-centered care.

Each incentive level has a specific pay-for-performance incentive per diem attached to it that homes can earn by meeting defined outcomes. The first three levels (Level 0 – Level 2) are intended to encourage quality improvement for homes that have not yet met the minimum competency requirements for a person-centered care home. Homes can earn the Level 1 and Level 2 incentives simultaneously as they progress toward the minimum competency level.

Level 3 recognizes those homes that have attained a minimum level of core competency in person-centered care. Level 4 and Level 5 are reserved for those homes that have demonstrated sustained person-centered care for multiple years and have gone on to mentor other homes in their pursuit of person-centered care. The table below provides a brief overview of each of the levels.

Level and Per Diem Incentive	Summary of Required Nursing Home Action	Incentive Duration
Level 0 The Foundation \$0.50	Home completes the KCCI evaluation tool according to the application instructions. Home participates in all required activities noted in "The Foundation" timeline and workbook. Homes that do not complete the requirements will be dropped until they enroll to participate in the next fiscal year.	Available beginning July 1 of enrollment year. Incentive granted for one full fiscal year, contingent upon participation.

Level 1 Pursuit of Culture Change \$0.50	Homes should submit the KCCI evaluation tool (annually). Home submits an action plan addressing 4 PEAK 2.0 cores in Domains 1-4. The home self-reports progress on the action planned cores via phone conference with the PEAK team. The home may be selected for a random site visit. The home must participate in the random site visit, if selected, to continue incentive payment. Homes should demonstrate successful completion of 75% of core competencies selected. A home can apply for Levels 1 & 2 in the same year. Homes that do not achieve Level 2 with three consecutive years of participation at Level 1 may return to a Level 0 or sit out for two years depending on KDADS and KSU's recommendation.	Available beginning July 1 of enrollment year. Incentive granted for one full fiscal year.
Level 2 Culture Change Achievement \$1.00	This is a bridge level to acknowledge achievement in Level 1. Homes may receive this level at the same time they are working on other PEAK core areas at Level 1. Homes may receive this incentive for up to 3 years. If Level 3 is not achieved at the end of the third year, homes may start back at Level 0 or 1 depending on KDADS and KSU's recommendation.	Available beginning July 1 following confirmed completion of action plan goals. Incentive is granted for one full fiscal year.
Level 3 Person-Centered Care Home \$2.00	Demonstrates minimum competency as a person-centered care home (see KDADS full criteria). This is confirmed through a combination of the following: Demonstration of success in other levels of the program. Performing successfully on a Level 2 screening call with the KSU PEAK 2.0 team. Passing a full site visit.	Available beginning July 1 following confirmed minimum competency as a person-centered care home. Incentive is granted for one full fiscal year. Renewable bi-annually.
Level 4 Sustained Person-Centered Care Home \$2.50	Homes earn person-centered care home award two consecutive years.	Available beginning July 1 following confirmation of the upkeep of minimum person-centered care competencies. Incentive is granted for two fiscal years. Renewable bi-annually.
Level 5 Person-Centered Care Mentor Home \$3.00	Homes earn sustained person-centered care home award and successfully engage in mentoring activities suggested by KDADS (see KDADS mentoring activities). Mentoring activities should be documented.	Available beginning July 1 following confirmation of mentor home standards. Incentive is granted for two fiscal years. Renewable bi-annually.

Nursing Facility for Mental Health Quality and Efficiency Incentive Factor

The Quality and Efficiency Incentive plan for Nursing Facilities for Mental Health (NFMH) will be established separately from nursing facilities. Nursing Facilities for Mental Health serve people who often do not need the NF level of care on a long-term basis. There is a desire to provide incentive for NFMHs to work cooperatively and in coordination with Community Mental Health Centers to facilitate the return of persons to the community.

The Quality and Efficiency Incentive Factor is a per diem add-on ranging from zero to seven dollars and fifty cents. It is designed to encourage quality care, efficiency and cooperation with discharge planning. The incentive factor is determined by five outcome measures: case-mix adjusted nurse staffing ratio; operating expense; staff turnover rate; staff retention rate; and occupancy rate. Each provider is awarded points based on their outcomes measures and the total points for each provider determine the per diem incentive factor included in the provider's rate calculation.

Providers may earn up to two incentive points for their case mix adjusted nurse staffing ratio. They will receive two points if their case-mix adjusted staffing ratio equals or exceeds 3.88, which is 120% of the statewide NFMH median of 3.23. They will receive one point if the ratio is less than 120% of the NFMH median but greater than or equal to 3.55, which is 110% of the statewide NFMH median. Providers with staffing ratios below 110% of the NFMH median will receive no points for this incentive measure.

NFMH providers may earn one point for low occupancy outcomes measures. If they have total occupancy less than 90% they will earn a point.

NFMH providers may earn one point for low operating expense outcomes measures. The provider will earn one point if the per diem operating expenses are below \$26.11, or 90% of the statewide median of \$29.01.

NFMH providers may earn up to two points for the turnover rate outcomes measure. Providers with direct health care staff turnover equal to or below 41%, the 75th percentile statewide, will earn two points as long as contracted labor costs do not exceed 10% of the provider's total direct health care labor costs. Providers with direct health care staff turnover greater than 41% but equal to or below 75%, the 50th percentile statewide, will earn one point as long as contracted labor costs do not exceed 10% of the provider's total direct health care labor costs.

Finally, NFMH providers may earn up to two points for the retention rate outcomes measure. Providers with staff retention rates at or above 76%, the 75th percentile statewide will earn two points. Providers with staff retention rates below 76% but at or above 67%, the 50th percentile statewide, will earn one point.

The table below summarizes the incentive factor outcomes and points:

Quality/Efficiency Outcome	Incentive Points
CMI adjusted staffing ratio ≥120% (3.88) of NF-MH median (3.23), or	2, or
CMI adjusted staffing ratio between 110% (3.55) and 120%	1
Total occupancy ≤ 90%	1

Operating expenses < \$26.11, 90% of NF-MH median, \$29.01	1
Staff turnover rate ≤ 75th percentile, 41%	2, or
Staff turnover rate ≤ 50th percentile, 75%	1
Contracted labor < 10% of total direct health care labor costs	
Staff retention ≥ 75th percentile, 76%	2, or
Staff retention ≥ 50th percentile, 67%	1
<b>Total Incentive Points Available</b>	<b>8</b>

Schedule E is an array containing the incentive points awarded to each NFMH provider for each quality and efficiency incentive outcome. The total of these points will be used to determine each provider's incentive factor based on the following table.

Total Incentive Points:	Incentive Factor Per Diem:
Tier 1: 6-8 points	\$7.50
Tier 2: 5 points	\$5.00
Tier 3: 4 points	\$2.50
Tier 4: 0-3 points	\$0.00

The survey and certification performance of each NF and NFMH provider will be reviewed quarterly to determine each provider's eligibility for incentive factor payments. In order to qualify for an incentive, factor a home must not have received any health care survey deficiency of scope and severity level "H" or higher during the survey review period. Homes that receive "G" level deficiencies, but no "H" level or higher deficiencies, and that correct the "G" level deficiencies within 30 days of the survey, will be eligible to receive 50% of the calculated incentive factor. Homes that receive no deficiencies higher than scope and severity level "F" will be eligible to receive 100% of the calculated incentive factor. The survey and certification review period will be the 12-month period ending one quarter prior to the incentive eligibility review date. The following table lists the incentive eligibility review dates and corresponding review period end dates.

Incentive Eligibility Effective Date:	Review Period End Date:
July 1	March 31st
October 1	June 30th
January 1	September 30th
April 1	December 31st

**10) Rate Effective Date**

Rate effective dates are determined in accordance with K.A.R. 129-10-19. The rate may be revised for an add-on reimbursement factor (i.e., rebased property fee), desk review adjustment or field audit adjustment.

**11) Retroactive Rate Adjustments**

Retroactive adjustments, as in a retrospective system, are made for the following three conditions:

A retroactive rate adjustment and direct cash settlement is made if the agency determines that the base year cost report data used to determine the prospective payment rate was in error. The prospective payment rate period is adjusted for the corrections.

If a projected cost report is approved to determine an interim rate, a settlement is also made after a historic cost report is filed for the same period.

All settlements are subject to upper payment limits. A provider is considered to be in projection status if they are operating on a projected rate and they are subject to the retroactive rate adjustment.

(continued)

**II. Medicaid Per Diem Rates for Kansas Nursing Facilities**

**A. Cost Center Limitations:** The state establishes the following cost center limitations which are used in setting rates effective July 1, 2021.

Cost Center	Limit Formula	Per Day Limit
Operating	110% of the Median Cost	\$41.43
Indirect Health Care	115% of the Median Cost	\$56.30
Direct Health Care	130% of the Median Cost	\$134.54
Real and Personal Property Fee	105% of the Median Fee	\$10.16

These amounts were determined according to the “Reimbursement Limitations” section. The Direct Health-care Limit is calculated based on a CMI of 1.0419, which is the statewide average.

**B. Case Mix Index:** These final rates are based upon each nursing facility’s Medicaid CMI calculated as the average of the quarterly Medicaid CMI averages with cutoff dates of January 1, 2021 and April 1, 2021. The CMI calculations use the July 1, 2014 Kansas Medicaid/Medikan CMI Table. In Section I.I.C below, each nursing facility’s Medicaid average CMI is listed beside its per diem rate.

**C. Rates:** The following list includes the calculated Medicaid rate for each nursing facility provider currently enrolled in the Medicaid program and the Medicaid case mix index used to determine each rate.

Facility Name	City	Daily Rate	Medicaid CMI
Village Manor	Abilene	210.52	0.9309
Alma Manor	Alma	172.50	0.8522
Life Care Center of Andover	Andover	168.67	1.0659
Victoria Falls SNF	Andover	186.94	1.0234
Anthony Community Care Center	Anthony	171.90	0.9078
Medicalodges Health Care Ctr Arkansas	Arkansas City	181.17	0.9519
Arkansas City Presbyterian Manor	Arkansas City	205.80	1.0633
Arma Operator. LLC	Arma	190.80	1.4226
Medicalodges Atchison	Atchison	230.38	1.1215
Atchison Senior Village	Atchison	230.52	1.0059
Dooley Center	Atchison	218.22	0.7727
Attica Long Term Care	Attica	208.88	0.8334
Good Samaritan Society-Atwood	Atwood	218.57	1.0475
Lake Point Nursing Center	Augusta	183.68	1.0371
Baldwin Healthcare and Rehab Center	Baldwin City	201.50	1.2863
Quaker Hill Manor	Baxter Springs	186.97	0.9494
Catholic Care Center Inc.	Bel Aire	231.28	1.0495
Belleville Healthcare and Rehab Center	Belleville	184.29	1.0981
Mitchell County Hospital LTCU	Beloit	220.26	0.9351
Hilltop Lodge Health and Rehab	Beloit	219.40	1.2187
Bonner Springs Nursing and Rehab Center	Bonner Springs	182.98	1.0824
Hill Top House	Bucklin	232.06	0.9968
Buhler Sunshine Home, Inc.	Buhler	227.07	0.9496
Life Care Center of Burlington	Burlington	169.46	1.1633
Eastridge Nursing Home	Centralia	261.60	1.1660
Heritage Health Care Center	Chanute	181.76	1.1233

Facility Name	City	Daily Rate	Medicaid CMI
Diversicare of Chanute	Chanute	186.52	1.2320
Chapman Valley Manor	Chapman	176.45	0.8285
Cheney Golden Age Home Inc.	Cheney	191.19	0.9755
Cherryvale Care Center	Cherryvale	162.86	0.9008
Chetopa Manor	Chetopa	174.58	0.8096
The Shepherd’s Center	Cimarron	215.66	0.9084
Medicalodges Clay Center	Clay Center	233.45	1.1290
Clay Center Presbyterian Manor	Clay Center	204.54	0.9558
Clearwater Nursing and Rehab	Clearwater	184.95	1.0870
Park Villa Nursing Home	Clyde	182.52	1.0202
Windsor Place	Coffeyville	198.47	1.0709
Medicalodges Coffeyville	Coffeyville	223.29	1.0525
Windsor Place at Iola, LLC	Coffeyville	190.71	1.0202
Colby Operator, LLC	Colby	194.49	1.1678
Prairie Senior Living Complex	Colby	232.75	0.9717
Pioneer Lodge	Coldwater	177.45	0.7655
Medicalodges Columbus	Columbus	211.67	1.0828
Mt Joseph Senior Village, LLC	Concordia	183.87	0.9624
Sunset Home, Inc.	Concordia	193.19	1.0127
Spring View Manor Healthcare & Rehab	Conway Springs	212.84	1.1475
Chase County Care and Rehab	Cottonwood Falls	230.56	1.1360
Diversicare of Council Grove	Council Grove	179.47	1.1539
Hilltop Manor Nursing Center	Cunningham	173.86	0.9662
Westview of Derby	Derby	151.47	0.9266
Derby Health and Rehabilitation	Derby	209.32	1.0292
Hillside Village	DeSoto	192.90	0.9733
Trinity Manor	Dodge City	194.90	1.0366
Sunporch of Dodge City	Dodge City	193.29	0.8348
Manor of the Plains	Dodge City	238.14	1.0832
Downs Care and Rehab	Downs	219.14	1.3682
Anew Healthcare Easton	Easton	179.29	1.0091
Parkway Care and Rehab	Edwardsville	203.22	1.2145
Kaw River Care and Rehab	Edwardsville	236.72	1.2189
Edwardsville Care and Rehab	Edwardsville	185.75	0.8395
Lakepoint Nursing Center-El Dorado	El Dorado	184.52	0.9454
El Dorado Care and Rehab	El Dorado	232.78	1.2274
Morton Co Senior Living Community	Elkhart	197.02	1.0100
Azria Health Woodhaven	Ellinwood	220.52	1.3388
Good Samaritan Society-Ellis	Ellis	186.64	0.9419
Good Sam Society-Ellsworth Village	Ellsworth	187.03	1.0667
Emporia Presbyterian Manor	Emporia	214.60	1.0239
Holiday Resort	Emporia	177.84	1.0588
Flint Hills Care and Rehabilitation Center	Emporia	182.89	1.1610
Enterprise Estates Nursing Center, Inc	Enterprise	172.90	0.9731
Eskridge Care and Rehab	Eskridge	185.20	1.0085
Medicalodges Eudora	Eudora	193.82	1.1067
Eureka Nursing Center	Eureka	177.42	0.9504
Kansas Soldiers’ Home	Fort Dodge	230.14	1.0038
Medicalodges Fort Scott	Fort Scott	190.23	0.9965
Fowler Residential Care	Fowler	226.74	0.8632

Facility Name	City	Daily Rate	Medicaid CMI	Facility Name	City	Daily Rate	Medicaid CMI
Frankfort Community Care Home, Inc.	Frankfort	214.97	1.0828	Kiowa District Manor	Kiowa	222.40	0.9385
Medicalodges Frontenac	Frontenac	184.56	0.9816	Locust Grove Village	Lacrosse	206.00	1.0011
Galena Nursing Home	Galena	195.99	1.2061	High Plains Retirement Village	Lakin	235.97	0.9668
Garden Valley Retirement Village	Garden City	190.29	1.1745	Lansing Care and Rehab	Lansing	225.64	1.2878
Ranch House Senior Living	Garden City	208.38	0.9896	Twin Oaks Health & Rehab	Lansing	216.87	1.1990
Recover Care Meadowbrook Rehab, LLC	Gardner	292.70	1.4066	Diversicare of Larned	Larned	163.16	1.0567
Medicalodges Gardner	Gardner	189.57	0.8982	Lawrence Presbyterian Manor	Lawrence	220.69	0.9568
Anderson County Hospital	Garnett	224.32	0.8828	Brandon Woods at Alvamar	Lawrence	213.13	0.9899
Parkview Heights	Garnett	214.79	0.9930	Pioneer Ridge Retirement Community	Lawrence	202.77	0.9525
Medicalodges Girard	Girard	184.77	0.8663	Medicalodges Leavenworth	Leavenworth	211.40	1.0545
The Nicol Home, Inc.	Glasco	173.16	0.7909	The Healthcare Resort of Leawood	Leawood	270.89	1.4027
Medicalodges Goddard	Goddard	201.96	0.9291	Delmar Gardens of Lenexa	Lenexa	174.63	0.9845
Bethesda Home	Goessel	217.85	0.9107	Lakeview Village	Lenexa	268.16	1.2167
Topside Manor, Inc.	Goodland	206.55	1.0356	Westchester Village of Lenexa	Lenexa	255.02	1.1464
Medicalodges Great Bend	Great Bend	193.74	0.9378	Leonardville Nursing Home	Leonardville	190.34	0.9902
Azria Health Great Bend	Great Bend	209.64	1.0286	Wichita County Health Center	Leoti	268.13	1.2525
Halstead Health and Rehab Center	Halstead	212.89	1.0428	Good Samaritan Society-Liberal	Liberal	194.51	1.0640
Haviland Operator, LLC	Haviland	147.90	0.6733	Wheatridge Park Care Center	Liberal	203.27	1.2093
Good Samaritan Society-Hays	Hays	206.45	1.0486	Lincoln Park Manor, Inc.	Lincoln	205.16	0.8733
Via Christi Village-Hays	Hays	203.19	1.0462	Bethany Home Association	Lindsborg	229.40	1.0131
Diversicare of Haysville	Haysville	181.80	1.2123	Linn Community Nursing Home	Linn	185.09	1.0315
Legacy at Herington	Herington	180.84	1.0117	Sandstone Heights Nursing Home	Little River	256.40	1.1090
Schwalter Villa	Hesston	247.73	0.9939	Logan Manor Community Health Service	Logan	180.73	0.9741
Maple Heights Nursing and Rehab Ctr	Hiawatha	149.53	0.8522	Louisburg Healthcare and Rehab Center	Louisburg	193.76	1.2518
Highland Healthcare and Rehab Center	Highland	191.28	1.1560	Good Samaritan Society-Lyons	Lyons	197.45	0.9414
Dawson Place, Inc.	Hill City	169.03	0.9199	Meadowlark Hills Retirement Community	Manhattan	239.83	1.0010
Salem Home	Hillsboro	209.02	1.0190	Stoneybrook Retirement Community	Manhattan	178.37	0.9572
Parkside Homes, Inc.	Hillsboro	212.23	0.9083	Via Christi Village Manhattan, Inc	Manhattan	207.68	0.9991
Medicalodges Jackson County	Holton	203.90	1.0759	St. Luke Living Center	Marion	198.47	0.8811
Mission Village Living Center	Horton	156.22	0.9824	Riverview Estates, Inc.	Marquette	180.80	0.7899
Sheridan County Hospital	Hoxie	224.95	0.9391	Cambridge Place	Marysville	183.52	1.0467
Pioneer Manor	Hugoton	222.53	0.8182	McPherson Operator, LLC	McPherson	183.53	1.1639
Diversicare of Hutchinson	Hutchinson	200.67	1.2240	The Cedars, Inc.	McPherson	217.45	0.9883
Good Sam Society-Hutchinson Village	Hutchinson	227.42	1.0067	Meade District Hospital, LTCU	Meade	217.15	0.8251
Hutchinson Operator, LLC	Hutchinson	188.86	1.2377	Merriam Gardens Healthcare and Rehab Center	Merriam	228.83	1.2349
Wesley Towers	Hutchinson	251.60	1.0355	Minneapolis Health and Rehabilitation	Minneapolis	176.49	1.1290
Medicalodges Independence	Independence	190.86	0.9380	Minneola District Hospital-LTCU	Minneola	224.50	0.8880
Montgomery Place Nursing Center, LLC	Independence	179.67	0.9858	Bethel Home, Inc.	Montezuma	202.14	0.9454
Pleasant View Home	Inman	208.06	0.9308	Moran Manor	Moran	172.76	1.0500
Stanton County Hospital-LTCU	Johnson	223.94	0.8829	Pine Village	Moundridge	221.05	0.9929
Valley View Senior Life	Junction City	201.66	0.9989	Moundridge Manor, Inc.	Moundridge	208.99	0.8530
Medicalodges Post Acute Care Center	Kansas City	194.81	1.0015	Mt. Hope Nursing Center	Mt. Hope	194.28	1.0156
Riverbend Post Acute Rehabilitation	Kansas City	219.69	1.2103	Villa Maria, Inc.	Mulvane	221.40	1.1062
Lifecare Center of Kansas City	Kansas City	167.79	0.9540	Neodesha Care and Rehab	Neodesha	206.19	1.2909
Providence Place LTCU	Kansas City	247.57	1.0424	Ness County Hospital Dist.#2	Ness City	220.49	0.8708
Ignite Medical Resort	Kansas City	231.22	1.1669				
The Healthcare Resort of Kansas City	Kansas City	239.47	1.2292				
The Wheatlands	Kingman	185.13	0.9424				
Medicalodges Kinsley	Kinsley	231.12	1.1017				

(continued)

Facility Name	City	Daily Rate	Medicaid CMI	Facility Name	City	Daily Rate	Medicaid CMI
Paramount Community Living and Rehab	Newton	220.63	0.9076	Pittsburg Care and Rehab	Pittsburg	210.34	1.1884
Kansas Christian Home	Newton	217.71	0.9915	Medicalodges Pittsburg South	Pittsburg	193.88	1.0192
Newton Presbyterian Manor	Newton	225.18	0.9973	Via Christi Village Pittsburg, Inc.	Pittsburg	218.97	1.1241
Bethel Care Center	North Newton	245.86	1.0400	Rooks County Senior Services, Inc.	Plainville	208.23	1.0613
Andbe Home, Inc.	Norton	189.19	0.9271	Brighton Gardens of Prairie Village	Prairie Village	261.06	1.1825
Anew Healthcare	Nortonville	196.34	1.2043	Grand Plains-Skilled Nursing	Pratt	138.26	1.0539
Logan County Senior Living	Oakley	244.29	1.0313	Pratt Operator, LLC	Pratt	162.63	1.1982
Good Samaritan Society-Decatur Co.	Oberlin	217.23	0.9936	Prairie Sunset Manor	Pretty Prairie	227.77	1.4750
Villa St. Francis Catholic Care Ctr.	Olathe	242.49	1.1962	Protection Valley Manor	Protection	153.83	0.7879
Azria Health at Olathe	Olathe	227.29	1.1979	Gove County Medical Center	Quinter	241.11	1.0126
Good Samaritan Society-Olathe	Olathe	227.92	0.9763	Richmond Healthcare and Rehab Center	Richmond	189.96	1.2695
Evergreen Community of Johnson Count	Olathe	237.04	0.9714	Fountainview Nursing and Rehab Center	Rose Hill	193.61	1.0998
Aberdeen Village, Inc.	Olathe	255.40	1.0911	Rossville Healthcare and Rehab Center	Rossville	191.09	1.2240
Nottingham Health and Rehab	Olathe	240.14	1.1063	Wheatland Nursing and Rehab Center	Russell	170.32	1.0052
The Healthcare Resort of Olathe	Olathe	243.09	1.3182	Russell Regional Hospital	Russell	249.04	1.0314
Onaga Operator, LLC	Onaga	179.53	1.3644	Sabetha Nursing Center	Sabetha	175.99	1.0350
Osage Nursing and Rehab Center	Osage City	175.88	1.0239	Apostolic Christian Home	Sabetha	182.51	0.9286
Life Care Center of Osawatomie	Osawatomie	192.95	1.1880	Smoky Hill Rehabilitation Center	Salina	154.88	0.9669
Parkview Care Center	Osborne	169.79	0.9705	Kenwood View Health and Rehab Center	Salina	187.48	1.3350
Heritage Gardens Health and Rehab	Oskaloosa	227.86	1.0630	Salina Windsor SNF OPCO, LLC	Salina	167.32	0.9463
Oswego Operator, LLC	Oswego	199.45	1.2858	Pinnacle Park Nursing and Rehabilitation	Salina	168.51	1.2610
Rock Creek of Ottawa	Ottawa	214.44	1.3096	Salina Presbyterian Manor	Salina	189.66	0.9350
Brookside Manor	Overbrook	173.30	1.0518	Holiday Resort of Salina	Salina	192.11	1.0049
Brookdale Overland Park	Overland Park	266.20	1.0539	Satanta Dist. Hosp. LTCU	Satanta	222.75	0.9007
Garden Terrace at Overland Park	Overland Park	182.59	1.1492	Park Lane Nursing Home	Scott City	229.67	1.0652
KPC Promise Hospital of Overland Park	Overland Park	257.46	1.5844	Pleasant Valley Manor	Sedan	161.84	0.8697
Overland Park Center for Rehab and HC	Overland Park	258.09	1.2376	Diversicare of Sedgwick	Sedgwick	198.93	1.2202
Villa Saint Joseph	Overland Park	226.93	1.0234	Crestview Nursing and Residential Living	Seneca	175.04	1.0236
Delmar Gardens of Overland Park	Overland Park	208.62	1.0657	Life Care Center of Seneca	Seneca	153.06	1.1012
Overland Park Nursing and Rehab	Overland Park	242.26	1.1706	Wallace County Community Center	Sharon Springs	242.50	1.1332
Indian Creek Health and Rehab	Overland Park	208.41	1.1887	Shawnee Gardens Healthcare and Rehab	Shawnee	190.10	1.3250
Village Shalom, Inc.	Overland Park	245.89	1.0158	Sharon Lane Health and Rehabilitation	Shawnee	205.40	1.1416
Tallgrass Creek, Inc.	Overland Park	220.43	0.8100	Brookdale Rosehill	Shawnee	286.44	1.2292
Shawnee Post Acute Rehab Center	Overland Park	254.85	1.1899	Smith Center Operator, LLC	Smith Center	179.72	1.2633
Stratford Commons Rehab and HCC	Overland Park	259.01	1.1287	Sunporch of Smith County	Smith Center	204.69	0.8130
Colonial Village	Overland Park	246.13	1.1365	Mennonite Friendship Manor, Inc.	South Hutchinson	226.69	1.0044
ML-OP Oxford, LLC	Oxford	196.22	1.0148	Spring Hill Care and Rehab	Spring Hill	227.34	1.2553
Medicalodges Paola	Paola	144.35	0.7079	Cheyenne County Village, Inc.	St. Francis	237.68	1.0203
North Point Skilled Nursing Center	Paola	203.35	1.1594	Leisure Homestead at St. John	St. John	181.87	0.9416
Elmhaven East	Parsons	177.31	0.9718	Community Hospital of Onaga, LTCU	St. Mary's	215.80	0.9684
Parsons Presbyterian Manor	Parsons	224.06	1.0073	Prairie Mission Retirement Village	St. Paul	165.71	1.0187
Good Samaritan Society-Parsons	Parsons	190.98	0.9752	Leisure Homestead at Stafford	Stafford	174.86	0.9533
Peabody Operator, LLC	Peabody	158.66	1.1073				
Access Mental Health	Peabody	151.65	0.6394				
Phillips County Retirement Center	Phillipsburg	204.71	1.0648				

Facility Name	City	Daily Rate	Medicaid CMI
Sterling Village	Sterling	245.35	1.0157
Solomon Valley Manor	Stockton	214.03	1.1369
Legend Healthcare	Tonganoxie	184.53	1.0589
Brewster Health Center	Topeka	237.91	0.9449
Topeka Presbyterian Manor Inc.	Topeka	235.93	1.0050
Legacy on 10th Ave.	Topeka	162.98	0.9966
McCrite Plaza Health Center	Topeka	238.31	1.0882
Rolling Hills Health Center	Topeka	203.48	1.0607
Topeka Center for Rehab and Healthcare	Topeka	206.19	1.4201
Tanglewood Nursing and Rehabilitation	Topeka	172.38	1.1598
Brighton Place West	Topeka	143.60	0.9683
Countryside Health Center	Topeka	109.78	0.7037
Providence Living Center	Topeka	144.30	0.8362
Brighton Place North	Topeka	117.00	0.7061
Aldersgate Village	Topeka	230.89	1.0121
Recover-Care Plaza West Care Center	Topeka	220.81	1.3565
Lexington Park Nursing and Post Acute	Topeka	223.72	0.9398
Top City Healthcare, Inc.	Topeka	235.58	1.3149
Greeley County Hospital, LTCU	Tribune	213.12	0.8661
Western Prairie Senior Living	Ulysses	214.16	0.9843
Valley Health Care Center	Valley Falls	160.57	0.6457
Trego Co. Lemke Memorial LTCU	Wakeeney	222.86	0.8640
Wakefield Care and Rehab	Wakefield	241.40	1.3353
Good Samaritan Society-Valley Vista	Wamego	200.51	0.9670
Wathena Healthcare and Rehab Center	Wathena	193.15	1.3204
Coffey County Hospital	Waverly	219.29	0.9693
Botkin Care and Rehab	Wellington	200.52	1.2500
Sumner Operator, LLC	Wellington	181.30	1.1593
Wellsville Manor	Wellsville	160.96	1.0772
Westy Community Care Home	Westmoreland	177.06	0.9255
Wheat State Manor	Whitewater	189.79	0.8797
Medicalodges Wichita	Wichita	191.99	0.8923
Meridian Rehab and Health Care Center	Wichita	148.26	0.9928
Kansas Masonic Home	Wichita	219.79	1.0030
Homestead Health Center, Inc.	Wichita	250.01	1.0932
Orchard Gardens LLC	Wichita	184.43	1.0830
Wichita Presbyterian Manor	Wichita	222.18	0.9975
Sandpiper Healthcare and Rehab Center	Wichita	164.24	1.2246
Lakepoint Nursing and Rehabilitation	Wichita	191.91	1.1199
Wichita Center for Rehab and Healthcare	Wichita	210.03	1.3397
Legacy at College Hill	Wichita	157.96	0.9578
Seville Operator, LLC	Wichita	191.79	1.2330
Lincoln Care and Rehab	Wichita	230.78	1.3350
The Health Care Center at Larkfield Place	Wichita	240.72	1.1679
Life Care Center of Wichita	Wichita	194.70	1.1304
Family Health and Rehabilitation Center	Wichita	217.89	1.1054
Caritas Center	Wichita	219.45	0.7935

Facility Name	City	Daily Rate	Medicaid CMI
Regent Park Rehab and Healthcare	Wichita	238.22	1.0900
Avita Health and Rehab of Reeds Cove	Wichita	207.77	1.0480
Via Christi Village Ridge	Wichita	230.71	1.0605
Via Christi Village McLean, Inc.	Wichita	222.89	1.2000
Mount St Mary	Wichita	248.99	1.0835
Healthcare Resort of Wichita	Wichita	210.10	1.3017
Wilson Care and Rehab	Wilson	230.09	1.4270
F W Huston Medical Center	Winchester	159.64	0.9009
Winfield Senior Living Community	Winfield	195.60	1.0177
Cumbernauld Village, Inc.	Winfield	230.62	0.9606
Winfield Rest Haven II LLC	Winfield	245.60	1.0625
Kansas Veterans' Home	Winfield	214.62	0.9410
Yates Operator, LLC	Yates Center	182.02	1.3659

**III. Justifications for the Rates**

1. The final rates are calculated according to the rate-setting methodology in the Kansas Medicaid State Plan and pending amendments thereto.
2. The final rates are calculated according to a methodology which satisfies the requirements of K.S.A. 39-708c(x) and the DHCF regulations in K.A.R. Article 129-10 implementing that statute and applicable federal law.
3. The State's analyses project that the rates:
  - a. Would result in payment, in the aggregate of 94.35% of the Medicaid day weighted average inflated allowable nursing facility costs statewide; and
  - b. Would result in a maximum allowable rate of \$292.70 (for a CMI of 1.0419); with the total average allowable cost being \$200.90.
  - c. Average Payment rate July 1, 2021 \$200.90
  - d. Average payment rate July 1, 2020 \$192.00
  - e. Amount of change \$8.90
  - f. Percent of change 4.64%
4. Estimated annual aggregate expenditures in the Medicaid nursing facility services payment program will increase approximately \$8 million.
5. The state estimates that the rates will continue to make quality care and services available under the Medicaid State Plan at least to the extent that care and services are available to the general population in the geographic area. The state's analyses indicate:
  - a. Service providers operating a total of 317 nursing facilities and hospital-based long-term care units (representing 97% of all the licensed nursing facilities and long-term care units in Kansas) participate in the Medicaid program;
  - b. There is at least one Medicaid-certified nursing facility and/or nursing facility for mental health, or Medicaid-certified hospital-based long-term care unit in 99 of the 105 counties in Kansas;
  - c. The statewide average occupancy rate for nursing facilities participating in Medicaid is 77.79%;
  - d. The statewide average Medicaid occupancy rate for participating facilities is 60.15%; and

(continued)

- e. The rates would cover 96.08% of the estimated Medicaid direct health care costs incurred by participating nursing facilities statewide.
- 6. Federal Medicaid regulations at 42 C.F.R. 447.272 impose an aggregate upper payment limit that states may pay for Medicaid nursing facility services. The state’s analysis indicates that the methodology will result in compliance with the federal regulation.
- 7. The Federal fiscal impact for Fee for Service is as follows:

Fee-For-Service Only	Estimated Federal Financial Participation
FFY 2021	\$ 53,000
FFY 2022	\$137,400

**IV. Response to Comments Received**

The state did not receive formal comments to its Proposed Nursing Facility rates published on April 15, 2021 in the Kansas Register.

**V. Notice of Intent to Amend the Medicaid State Plan**

The state intends to submit Medicaid State Plan amendments to CMS on or before September 30, 2021.

Laura Howard  
Secretary

Department for Aging and Disability Services

Sarah Fertig  
Medicaid Director  
Division of Health Care Finance

Doc. No. 049191

**State of Kansas**

**Department for Aging and Disability Services**

**Request for Applications**

(Editor’s Note: This notice was originally published in the May 20, 2021 Kansas Register with incorrect dates for training events. It is being republished with the correct dates.)

The Department for Aging and Disability Services (KDADS), announces the release of a Request for Application (RFA) to qualified applicants to provide services to produce outcomes requested in the goal areas identified within the RFA. Applications will be accepted no later than 2:00 p.m. (CST) June 11, 2021. A complete copy of the RFA with details of important dates and timelines may be found at <https://www.kdads.ks.gov/provider-home/providers/bhs-funding-opportunities> or on Page 2 of the RFA. Additional files may be located at this website throughout the process so please monitor on a regular basis for changes.

**Kansas Prevention Collaborative-Community Initiative (KPCCI) Substance Abuse Prevention Planning Grant-Cohort VI**

**Request for Application Timeline**

Release of Request for Application	May 17, 2021
Questions submitted by Please include questions about the application if you have any	May 31, 2021
Response to Questions Posted	June 3, 2021

Pre-Application Webinar (785-414-8630, 187737044#)	June 4, 2021
Applications Due	June 11, 2021
Awards Announced	No later than June 25, 2021
Grant Phase	July 1, 2021 – June 30, 2022

Submit application and questions to [KDADS.Prevention@ks.gov](mailto:KDADS.Prevention@ks.gov), Cc: [Stephanie.Rhinehart@ks.gov](mailto:Stephanie.Rhinehart@ks.gov), [chris.bush@ks.gov](mailto:chris.bush@ks.gov), and [lindsey.spoonergaldon2@ks.gov](mailto:lindsey.spoonergaldon2@ks.gov).

**Overview**

The Kansas Department for Aging and Disability Services (KDADS), Behavioral Health Services Commission, announces the release of a Request for Applications (RFA) for planning grant (Cohort V) that will allow eligible applicants to engage in a comprehensive community-based strategic plan that will result in community driven strategies to reduce underage drinking, youth marijuana use, health disparities, shared risk and protective factors to produce sustainable systems change.

- Behavioral health disparities pose a significant threat to the most vulnerable populations in our society. Whether manifesting themselves as elevated rates of substance misuse among American Indian/Alaska Natives, high rates of suicide among LGBTQ youth, or reduced access to prevention services among people living in rural areas, these disparities threaten the health and wellness of these populations and of our society as a whole. To overcome systemic barriers that may contribute to disparities, planners must be culturally competent. They must recognize and value cultural differences—such as those in the health beliefs, practices, and linguistic needs of diverse populations. They must develop and deliver prevention programs and practices in ways that ensure members of diverse cultural groups benefit from their efforts.

This Kansas Prevention Collaborative-Community Initiative (KPCCI) is intended to reduce underage drinking, youth marijuana use, health disparities, shared risk and protective factors, produce sustainable systems change, and prevent substance abuse in identified communities and enrich prevention efforts across the state through the implementation and sustainability of evidence-based strategies, culturally competent prevention strategies. Grantees will be supported by each of the Kansas Prevention Collaborative partners. You can find out more about each of these partners at <https://kansaspredventioncollaborative.org/>.

With the use of Substance Abuse Block Grant funds, the Kansas Prevention Collaborative has a primary objective to help communities plan, implement, and evaluate activities that prevent and treat substance abuse. Integration of other identified priority behavioral health areas is encouraged when possible to supplement substance abuse prevention. These funds are intended for the focus of primary prevention efforts directed at individuals not identified to be in need of treatment services.

This initiative will utilize the five steps of the SAMHSA Strategic Prevention Framework (SPF) with focus on steps 1, 2, 3, and 5. The SPF is a community-based approach to

substance abuse prevention that cuts across existing programs and systems. SPF executes a data-driven, five-step process known to promote youth development, reduce risk-taking behaviors, build assets and resilience, and prevent problem behaviors across the life span. The SPF was initiated by SAMHSA and the Center for Substance Abuse Prevention (CSAP). The five steps of the SPF are designed to help states and communities build prevention competencies and infrastructure necessary to implement and sustain effective prevention policies, practices, and programs. An outline of the five-step process of the Strategic Prevention Framework is provided in the link. A general overview of each step is presented below.

Visit <https://www.samhsa.gov/sites/default/files/20190620-samhsa-strategic-prevention-framework-guide.pdf> to learn more about the Strategic Prevention Framework.

#### Step 1: Assessment

- The purpose of this step is to understand local prevention needs based on a careful review of data gathered from a variety of sources. These data help planners to identify and prioritize the substance misuse problems present in their community; clarify the impact these problems have on community members; identify the specific factors that contribute to these problems; assess readiness; and determine the resources required to address those factors. Ultimately, a thorough and inclusive assessment process helps to ensure that substance misuse prevention efforts are appropriate and on target.

#### Step 2: Capacity Building

- In this step, local resources are built and mobilized and the community's readiness to address priority substance misuse problems is determined. In Step 1, planners took stock of what was available in their communities. In Step 2, they ensure the readiness of the community to buy in to the prevention effort and take stock of the resources needed to tackle the problem and produce a positive change. A community needs both human and structural resources to establish and maintain a prevention system that can respond effectively to local problems. It also needs people who have the motivation and willingness—that is, the readiness—to commit local resources to addressing these problems.

#### Step 3: Strategic Planning

- Strategic planning increases the effectiveness of prevention efforts by ensuring that prevention planners select and implement the most appropriate programs and strategies for their communities. In an effective planning process, communities involve diverse stakeholders, replace guesswork and hunches with data driven decisions, and create comprehensive, evidence-based prevention plans to address their priority substance misuse problems.

#### Step 4: Implementation

- In this step, a community's prevention plan is put into action by delivering evidence-based programs and practices as intended. To accomplish this task, planners will need to balance fidelity and adaptation, and establish critical implementation supports.

#### Step 5: Evaluation

- In the SPF, evaluation is about enhancing prevention practice. It is the systematic collection and analysis of information about prevention activities to reduce uncertainty, improve effectiveness, and facilitate decision-making

The SPF is guided by two cross-cutting principles that should be integrated into each of the steps that comprise it:

- **Sustainability** – the capacity of a community to produce and maintain positive prevention outcomes over time. To maintain positive outcomes, communities will want to sustain an effective strategic planning process as well as those programs and practices that produced positive prevention results. Accomplishing these dual tasks requires the participation, resolve, and dedication of diverse community members and a lot of careful planning.
- **Cultural competence** – one of the SPF's two guiding, cross-cutting principles and, as such, should be integrated into each step of the framework's implementation. By considering culture at each step, planners can help to ensure that members of diverse population groups can actively participate in, feel comfortable with, and benefit from prevention practices.

#### I. Purpose

The KPCCI Planning Grant is intended to reduce underage drinking, youth marijuana use, health disparities, shared risk and protective factors, and produce sustainable systems change. Reduce and prevent substance abuse in identified communities and enrich prevention efforts across the state through the implementation and sustainability of evidence-based strategies, culturally competent prevention strategies. The grant is intended for primary prevention only.

Community coalitions that are awarded this grant, will be better prepared to apply for, and secure, other state and national resources to support the implementation and evaluation of their comprehensive plans and efforts to continue work with their communities. KDADS and the Kansas Prevention Collaborative will provide communities with support to make the best use of their efforts throughout the implementation phase.

Utilizing funding and technical assistance, community coalitions will analyze local data that is contributing to substance abuse within their identified geographic area. Resources and technical assistance will be provided to review local assessment profile, logic model, and action plan to address these issues using the five-step SPF process (i.e., assessment, capacity building, planning, implementation, and evaluation). This will also include reviewing plans for sustainability, cultural competence, and evaluation.

#### II. Eligibility

Kansas Department for Aging and Disability Services invites applications from private, nonprofit and/or community organizations.

Eligible applicants and their fiscal agents must be an existing community coalition or task force for at least the

*(continued)*

past six months and may include local government agencies, schools, public universities and colleges, private and/or not-for-profit 501(c)(3) organizations based in the targeted community. Community coalitions shall be defined as a multiple sector partnership, mobilized at the local level to make their communities safer, healthier, and drug-free. Effective community coalitions must possess a stable and effective organizational structure with clearly defined roles, responsibilities, and may include multiple geographic areas or school district boundaries that are efficiently and effectively able to work together (e.g., a rural, multi-county partnership).

Existing Community Defined:

- An established coalition that is already formed and can prove they have existed at least 6 months prior to the RFA release date. We asked that documentation be submitted to demonstrate that you are an existing coalition, providing minutes, names of members, meetings and general functionable activities in place or plans in place for other work, etc. (Only send a copy of minutes for one month prior to December 2020)
- No group can be developed prior to the RFA by collaborating with others to meet the guidelines for the RFA, where no established work has not been done as a coalition earlier than 6 months.

### III. Outcomes/Goal(s)

To reduce underage drinking, youth marijuana use, shared risk and protective factors, produce sustainable systems change, and prevent substance abuse in identified communities and enrich prevention efforts across the state through the implementation and sustainability of evidence-based strategies, culturally competent prevention strategies through the implementation and sustainability of effective, culturally competent and diverse prevention strategies. Implementation grantees will demonstrate progress made toward community assessment and readiness, building capacity, addressing cultural competency, by developing a solid coalition infrastructure to create a comprehensive strategic plan that will make positive change in their community. This will be done by utilizing the Strategic Prevention Framework model. Emphasis will be placed on steps one, two, three and five as planning grantees will not be implementing strategies during this grant phase but preparing for the implementation process.

- Planning recipients are expected to implement some strategies (separate and different from those strategies in Stage 4 Implementation of the SPF). During the planning stage, recipients will increase their capacity/raise community readiness and all other prominent steps leading up to a successful transition to the implementation phase. Recipients will receive guidance, training and technical assistance from a DCCCA specialist, and additional support from the KPC team. The following 4 out of 5 steps are listed below that will utilize in the planning phase (Step 4—not included). As stated above these steps can be viewed in their entirety by accessing the provided link.

### IV. Terms of the Grant

The award is for a 12-month planning year. Grantees successfully completing the planning grant year will be eligible for implementation grant funds, based on performance, budget, and compliance. The awarded planning grantees will enter a binding legal agreement between the Kansas Department for Aging and Disability Services and the awarded recipient. The agreement requires the awarded grantee to comply with specific grant criteria, which includes mandatory trainings, weekly reporting, quarterly reports, monthly fiscal reports, and data collection. Should a community coalition not meet these requirements, they will be placed on high-risk status which could delay expense reimbursement, and/or affect future funding opportunities provided by the Kansas Department for Aging and Disability Services.

#### Transitioning from Planning Grantee to Implementation Grantee

Over the course of the year planning coalitions work will be accessed by the KPC team monthly ensuring that work is being met. Coalitions who are meeting their goals and have met the expectations with approval from the KPC and final decision will be informed that they will proceed to move into year 1 for implementation. The awarded Implementation grantees will enter a binding legal agreement between the Kansas Department for Aging and Disability Services and the awarded recipient. The agreement requires the awarded grantee to comply with specific grant criteria, which includes mandatory trainings, weekly reporting, quarterly reports, monthly fiscal reports, and data collection.

**Note:** *Additional coalition-specific training and technical assistance events, virtually or on site, may be scheduled in coordination with individual coalitions to select ideal dates, times, and locations.*

#### Deliverables and Reporting

- Community coalitions will be required to collect and report relevant National Outcome Measures (NOMs) which is data required for the state to report to the Federal Government.
  - NOMs—The Substance Abuse and Mental Health Services Administration (SAMHSA) has identified ten domains for National Outcome Measures (NOMs). The domains embody meaningful, real-life outcomes for people who are striving to attain and sustain recovery, build resilience, and work, learn, live, and participate fully in their communities. The NOMs matrix represents the beginning of a state-level reporting system that, in turn, will create an accurate and current national picture of substance-abuse and mental-health services.
- To assist the state's compliance with federal and community level evaluation requirements, grantees will participate in the Kansas Communities That Care (KCTC) Student Survey and achieve a 60% participation rate.
- Community coalitions will be expected to assess school district(s) in the area to be served as to whether there is an agreed upon plan for administration

of the KCTC Student Survey. If not, the Community coalition will work with the KPC to develop an Action Plan to increase participation.

- Community coalitions will participate in evaluation and sense making, as directed, through documentation in the Community Check Box which will be submitted weekly on Fridays at the end of business or 5:00 p.m.
  - **CCB documentation** – The community check box is a tool for coalitions to document their activities they are doing in the community. Upon receiving ongoing training in the CCB where coalitions will learn how to document, it will be expected each week that coalitions are documenting their community activities-where this is reviewed by the KPC to ensure documentation is being entered in the CCB.
  - **Identifying population with BH Disparities** – Coalitions will use data to identify additional gaps of at least one ‘at risk’ population within their community and implement prevention strategies to reduce risk among the identified at risk population taking into account diversity and health disparities with the intended goal to take a deeper dive into identifying populations of other diversities and ethnic backgrounds.
- Community coalitions will be required to submit quarterly reports and monthly budget reports as specified in the Notification of Award.

- Designated coalition members must demonstrate an ability to participate in all required training and technical assistance provided by the Kansas Prevention Collaborative. Training may be offered virtually or face to face. Funds may be used to assist with travel to and from these events. (see section IV)

**V. Overview of Grant Awards**

Planning grants will be \$15,050 per community for one-year grantees. Number of awards will be based on funds available.

**KPCCI Planning Grantees Training Dates**

General Overview of Trainings

Trainings are scheduled throughout the year facilitated by the KPC Team members assigned to the training event to help coalitions to accomplish their goals expected in their grant deliverables. The training is mandatory where we ask at least one person from the coalition to be present, but strongly suggest two members to be present if possible. Dates, times, and locations are subject to change due to many contributing factors such as weather, and other unforeseen circumstances. Coalitions will be notified in a timely manner of any changes.

- Grantees will be expected to attend 4 days of SAPTS training
- Dates will be provided after award announcement

Quarter time periods for trainings are the following:

1st Quarter 2021	July 1, 2021 through September 30, 2021
2nd Quarter 2021	October 1, 2021 through December 31, 2021
3rd Quarter 2022	January 1, 2022 through March 31, 2022
4th Quarter 2022	April 1, 2022 through June 30, 2022

**KPCCI Planning–Cohort VI Grantees (Dates TBD)**

Training Event	Date	Time	Location
Substance Abuse Prevention Skills Training (SAPST)	August 2021	8/20 – 8:30 a.m. – 4:00 p.m. 8/21 – 8:30 a.m. – 4:30 p.m. 8/22 – 8:30 a.m. – 4:00 p.m. 8/23 – 8:30 a.m. – 1:30 p.m.	TBD
Behavioral Health Disparities and Cultural Competence (All Grantees)	1st quarter	10:00 a.m. – 4:00 p.m.	TBD
Fidelity	1st quarter	10:00 a.m. – 11:30 a.m.	
Community Check Box Training	TBD	Grantees with individual times	TBD
Sense-making Documentation Review Event	TBD	TBD	TBD
Community Check Box Training	3rd quarter	TBD	TBD
Sustainability	3rd quarter	Recording available online to listen at any time	TBD
Tri-Ethnic Readiness Assessment Training	Recording available online, Due by	Recording available online to listen at any time	TBD

**Note:** Additional coalition-specific training and technical assistance events, virtually or on site, may be scheduled in coordination with individual coalitions to select ideal dates, times, and locations.

(continued)

**Grant Deliverables/Key Components:**

SPF Step	Milestone/Key Product	Supports
Step 1: Assessment	<ul style="list-style-type: none"> <li>• Completion of community needs assessment                             <ul style="list-style-type: none"> <li>◦ data will be provided by KPC</li> <li>◦ local community data (optional)</li> <li>◦ other data sources (optional)</li> </ul> </li> <li>• Cultural competence assessment</li> <li>• Components of logic model</li> <li>• Identify target area and target populations considering diversity and health disparities.</li> </ul>	<ul style="list-style-type: none"> <li>• Data</li> <li>• Technical Assistance</li> <li>• Learning Events</li> </ul>
Step 2: Capacity	<ul style="list-style-type: none"> <li>• Assess Coalition and Describe Readiness and Capacity</li> <li>• Demonstrate participation of 12 key sectors and/or plan for recruiting representatives</li> <li>• Mission and Vision Statement</li> <li>• Clear organizational structure with formalized leadership</li> <li>• Build capacity for evaluation</li> </ul>	
Step 3: Planning	<ul style="list-style-type: none"> <li>• Memoranda of understanding with school districts for the Kansas Communities That Care (KCTC) survey participation</li> <li>• Complete logic model and action plans</li> <li>• Selection of evidence-based strategies tied to identified needs</li> </ul>	
Step 5: Evaluation (plan development)	<ul style="list-style-type: none"> <li>• Timeline for evaluation</li> <li>• Monthly use of community checkbox to document steps of planning</li> </ul>	

Although all five steps of the Strategic Prevention Framework will be implemented, grantees will not be expected to place emphasis on Step Four: Implementation during the planning process.

Community Coalitions will be required to engage in a multidisciplinary partnership committed to collaboratively work through each of the five steps of the SPF process identified community. To ensure diverse representation within SPF community coalitions, KDADS has elected to align the SPF award process with the 12-key community sectors required through the national Drug-Free Communities Support Program. This approach ensures the involvement of representatives from key community organizations and institutions who provide varying perspectives and interests in substance abuse prevention and related consequences.

Alignment with federal grant program requirements prepare Kansas communities to obtain additional resources to support and sustain local efforts. The 12 sector representatives required as member participants in each community coalition funded through the KPC are provided in Figure 2.

Figure 2 12-Key Community Sectors as Identified in the Drug-Free Communities Support Program
<ol style="list-style-type: none"> <li>1. Youth (18 or younger)</li> <li>2. Parents</li> <li>3. Business</li> <li>4. Media</li> <li>5. School</li> <li>6. Youth-serving organizations</li> <li>7. Law-enforcement agencies</li> <li>8. Religious or Fraternal organizations</li> <li>9. Healthcare Professionals (i.e. doctors, nurses, substance abuse treatment providers)</li> <li>10. State, Local, or Tribal Government entities</li> <li>11. Civic or volunteer groups</li> <li>12. Other organizations involved in reducing substance abuse</li> </ol>

**Community Plan**

Each community will submit a comprehensive plan to address targeted substance use, shared risk and protective factors, diversity, and health disparities which includes a broad array of prevention strategies directed at individuals not identified to be in need of treatment.

Each community’s plan will be required to contain at a minimum the following components: All of the components below are important, however as recipients move through phase 2 each step will be assessed, reviewed by your DCCCA specialist and supported by the KPC team ensuring each step is met with the goal to move to the next step before the implementation year 2 phase. The 8 components are in alignment of what you recipients are expected to fulfill in their deliverables:

- Demographics
- Staffing patterns/organizing structures
- Logic model to address underage drinking and/or youth marijuana use, health disparities, low perceived risk of harm from substance use, and other prioritized risk/protective factors
- Action plans for evidence-based strategies
- Cultural competency assessment and integration into action plan
- Evaluation plan
- Capacity development plan
- Sustainability plan

Upon successful completion of this Planning Grant, grantees will then be eligible for a continuation award contingent upon budget, compliance and performance. Continued funding will allow communities to continue execute strategies identified in their plans and evaluate outcomes.

**VI. Notification of Grant Awards**

Awarded grantees will be notified via email no later than June 12, 2020. The Kansas Prevention Collaborative partners will work closely with each of the grantees to initiate the planning process. Community mobilizers will be required to participate in the learning events (virtual and/or in-person as determined). In addition, technical

assistance will be provided throughout the planning process. Community plans and supporting documents will be expected to be completed and approved by the Kansas Prevention Collaborative.

### Training/Technical Assistance Support

Each community coalition will receive substantial support from the Kansas Prevention Collaborative partners.

- KDADS prevention team will provide support to the grantees regarding compliance and fiscal management.
- Grantees will receive community support from DCCCA specialists who will provide guidance on training and technical assistance.
- Grantees will receive support from Greenbush with data and evaluation tools.
- Grantees will receive support and training from KU on the reporting and documenting community activities.
- Grantees will receive support with communication through the KPC from WSU, that include training events, workshops, etc.

The Kansas Prevention Collaborative partners will assist with tools and resources to ensure a successful outcome. Grantees will also have additional opportunities to attend training events to strengthen their coalition. While it is not required, it is encouraged to budget travel to PreventionWorKS meetings that are held quarterly. In addition, several online tools and resources are available to grantees to provide assistance with the completion of project milestones and work documents.

### Kansas Prevention Collaborative Resources

PreventionWorKS is a statewide Behavioral Health Prevention Coalition led by members of local community coalitions. One of the goals of PreventionWorKS is to connect coalitions across the state in a way that allows them to be resources and supports to one another. Participation in PreventionWorKS is strongly encouraged. This statewide coalition provides an opportunity for local coalitions to connect, share successes and lessons learned to strengthen statewide efforts. This coalition of coalitions is led by a steering committee comprised of community coalition members and other professionals. This peer led committee incorporates local level needs into the resources provided during these quarterly events.

Prevention TalkS is a monthly podcast that is offered and led by experts who address a variety of topics around Behavioral Health issues and other factors associated to prevention and promotion. These are not mandatory but strongly recommended to attend some throughout the year.

The annual Kansas Prevention Conference will be held on October 21-22, 2021, with the pre-conference being held on the 20th in Wichita, Kansas. Scholarships will be made possible to grantees who would like to attend the conference.

## VII. Application Instructions

### Submission Information

Those interested in applying shall submit any questions regarding the RFA prior to May 31, 2021 via email to [KDADS.Prevention@ks.gov](mailto:KDADS.Prevention@ks.gov).

Applications and required documents shall be submitted via email by 5:00 p.m. (CST) June 11, 2021. The application must be arranged in the order indicated in the "Application Checklist." Applications must include all the components described in this section. Failure to submit an application that contains all the specified information may negatively affect the review of the application.

Applicants are required to be registered with SAM.gov (System Award Management) and hold a DUNS number at time of submission. This is a unique nine-digit identification number provided by Dun & Bradstreet. It may be obtained at no cost at the following website: <https://fedgov.dnb.com/webform/pages/CCRSearch.jsp> or by calling 866-705-5711. Verification of the DUNS number must be submitted as part of the funding proposal.

### Application and Required Documentation

- Completed Applicant Information - (Attachment A) This is a standard form used for submission of proposals and related information. The Application page must be signed by an official authorized to sign.
- 501(c)(3) Verification as appropriate
- Current list of board members
- Budget Worksheet - (Attachment B) outlining how funds will be allocated. (*These are estimates and can be revised if awarded*) The Budget Worksheet and justification should thoroughly and clearly describe every category of expenses listed.
- Program Narrative - The program narrative must include the following sections:
  - Community Description (20 points)
  - Community Capacity for Collaboration and Planning (20 points)
  - Cultural Competency (20 points)
  - Organizational Description (20 points)
- Tax Clearance Certificate

All applicants must submit a "Tax Clearance." This is a comprehensive tax account review to determine and ensure that the account is compliant with all primary Kansas Tax Laws administered by the Kansas Department of Revenue, Director of Taxation. Information pertaining to a Tax Clearance is subject to change(s), which may arise as a result of a State Tax Audit, Federal Revenue Agent Report, or other lawful adjustment(s). This may take up to 24 hours to obtain. This is not the same as an entity being tax-exempt. **Do Not Submit Your Tax-Exempt Certificate.**

To obtain a Tax Clearance Certificate, you must:

- Go to <http://www.ksrevenue.org/taxclearance.html> to request a Tax Clearance Certificate
- Return to the website the following working day to see if KDOR will issue the certificate
- If issued an official certificate, print it or save and attach it to your signed renewal document
- If denied a certificate, contact the Kansas Department of Revenue, Director of Taxation about why a certificate wasn't issued

(continued)

- It may take up to 24 hours to obtain the certificate/tax clearance and are only valid for 30 days
- **Please note this is not the same as tax-exempt status**

**Program Narrative (No template provided)**

**Instructions**

The narrative should describe the target community and the coalition’s capability to engage in comprehensive community-based strategic planning that will result in a plan to address substance use disorder as it relates to prevention efforts and identifying shared risk and protective factors, diversity and health disparities that will produce sustainable systems change. The following guidance outlines the elements the narrative requests.

Please use 12-point font and standard 1-inch margins. Headings for each section (1-4) should be clearly labeled. Applicants should clearly and comprehensively respond to each bullet within each of the sections described below.

**1. Community Description**

- Describe and define the community/geographical area served by the coalition that will be targeted by the efforts of this award.
- Describe the challenges that address underage alcohol, marijuana use and/or ATOD presents in your community.
- List the coalition membership by sector in Figure 2.

**2. Community Capacity, Readiness, Mobilization, and Planning Efforts**

Coalitions identified staff is required to dedicate their time for the entire work and expected to fulfill the requirements of the RFA. It is important that those identified who will be contributing part time efforts to this project that they manage out time to complete the deliverables.

- Describe the coalition’s capacity to engage in community organizing.
  - Describe the ability to build on partnerships during the planning process.
  - Who will participate in the planning process, how or what role?
- Discuss your community coalition’s experience utilizing data to inform the decision making;
  - Describe any community needs assessment that has been done.
  - Describe both the readiness and capacity of your coalition to begin the planning phase.
- Discuss what activities have been implemented to increase readiness and capacity, discuss how the capacity and readiness for implementation will be increased during the planning phase.
- Describe the community mobilization that was required for the coalition to apply for this funding opportunity.
- Describe the coalition’s experience working with grants and with strategic planning.

- Discuss any anticipated challenges or barriers and describe how those may be addressed.
- List any coalition needs for training or technical assistance.

**3. Cultural Competency and Sustainability**

- Briefly describe the community’s culture and its diversity.
- Describe how your community coalition represents the cultural groups in your community and what changes are needed to ensure cultural competence and diverse engagement.
- Describe what will be required to improve cultural competency during the Implementation phase.
- Discuss how long your coalition has been involved in prevention and what other sources of funding your community provides to the coalition’s prevention efforts.

**4. Organizational Description**

- If the coalition is not the fiscal agency for this application, please identify the fiscal agent and their role in project.
- Describe how the community coalition intends to structure its staffing and resources to ensure completion of all planning deliverables, including how the coalition plans to address any challenges, barriers, etc.
- Describe experience and capability in ensuring compliance with grant requirements including fiscal and progress reporting.

**VIII. Selection Process**

Applications will be evaluated according to the demonstrable capacity of the community coalition to create and implement a plan that produces community change. The community coalition must articulate its understanding of the challenges posed in addressing community- level factors related to underage drinking and/or marijuana use as well as shared risk and protective factors. Selection will also be given to those who demonstrate the willingness to support this grant and all key players involved. The quality and strength of the application narrative will also be considered. Grant applications will be reviewed based upon the following criteria.

APPLICATION COMPONENT	Points Possible
<b>Applicant Information and Required Documentation (Attachment A)</b>	<b>5</b>
<ul style="list-style-type: none"> <li>• 501(c)(3) Verification as appropriate</li> <li>• List of Board Members and a Board Member Conflict of Interest Statement if a 501(c)(3)</li> </ul>	
<b>Budget Worksheet (Attachment B)</b>	<b>15</b>
<b>Narrative</b>	<b>80</b>
<i>Community Description</i>	20
<i>Community Capacity for Collaboration and Planning</i>	20
<i>Cultural Competency</i>	20
<i>Organizational Description</i>	20
<b>TOTAL</b>	<b>100</b>

**Application Checklist**

The following sections must be submitted in this order, in a combined PDF format (*one complete document*):

- \_\_\_ Applicant Information (Attachment A)
- \_\_\_ 501(c)(3) verification as appropriate (Applicant provides)
- \_\_\_ List of Board Members (Applicant provides)
- \_\_\_ Budget Justification Worksheet (Attachment B)
- \_\_\_ Project Narrative (Applicant provides)
- \_\_\_ Tax Clearance Certificate (Applicant provides)

*Kansas Department for Aging and Disability Services views KPCCI community grant applicants and grantees as learning partners; while specific guidance, consultation, and de-*

*liverables have been identified by federal and state partners, much will be learned as community leaders engage in building sustainable capacity within targeted populations to infuse a prevention mindset into multiple disciplines. This will have a direct impact on attitudes, beliefs, and actions related to substance abuse prevention specific to their community. The Kansas Prevention Collaborative is committed to working mutually with community coalitions to provide clarity through email, telephone or in person, as needed. As part of its commitment to lead and foster learning, KDADS will strive to create an environment in which the expertise of community stakeholders is honored and supported through competent supports both face-to-face and virtual settings.*

**Attachment A - Applicant Information**

**A. Applicant Agency**

Name:			
Address:			
City, ST Zip:			
Telephone		Email:	

B. Type of Agency       Public                       Private Non-Profit                       Private Profit

**C. Official Authorized to Sign Application**

Name:			
Address:			
City, ST Zip:			
Telephone		Email:	
Signature			

**D. Project Director**

Name:			
Title:			
Address:			
City, ST Zip:			
Telephone:		Email:	

**E. Fiscal Agent**

Name:			
Title:			
Business:			
Address:			
City, ST Zip:			
Telephone:		Email:	

(continued)

Attachment B

BUDGET WORKSHEET - PLANNING YEAR ONE				
Applicant Name:				
Fiscal Agent Name:				
<b>A. PERSONNEL:</b>				
Position	Name	Annual/Salary/Rate	Level of Effort (hours or %)	Cost
				TOTAL
Justification:				
<b>B. FRINGE BENEFITS: LIST ALL COMPONENTS OF FRINGE BENEFITS AND INDICATE RATES</b>				
Component	Rate	Wage	Cost	
			TOTAL	
Justification:				
<b>C. TRAVEL: EXPLAIN NEED FOR ALL TRAVEL - INCLUDE PREVENTION WORKS AND IN-STATE TRAINING</b>				
Purpose of Travel	Location	Item	Rate/Cost	
			TOTAL	
Justification: Describe the purpose of travel and how costs are determined.				
<b>D. EQUIPMENT: AN ARTICLE OF TANGIBLE, NONEXPENDABLE, PERSONAL PROPERTY HAVING A USEFUL LIFE OF MORE THAN ONE YEAR AND AN ACQUISITION COST OF \$5,000 OR MORE PER UNIT - FEDERAL DEFINITION.</b>				
Item	Cost			
	TOTAL			
Justification:				
<b>E. SUPPLIES:</b>				
Items	Rate	Cost		
		TOTAL		
Justification:				

**F. CONTRACTUAL: THIS INCLUDES ALL SERVICES SECURED TO SUPPORT IMPLEMENTATION AND CAN INCLUDE CONSULTANTS.**

(Consultant) Name	Service	Rate	Cost	Other
			TOTAL	

Justification: Explain the need for each agreement and how they relate to the overall project

**G. OTHER: EXPENSES NOT COVERED IN ANY OF THE PREVIOUS BUDGET CATEGORIES**

Item	Rate	Cost
		TOTAL

Justification: Breakdown costs into cost/unit: i.e. cost/square foot. Explain the use of each item requested.

**H. DIRECT REQUEST (A-H)**

**Total Request: \$**

**I. INDIRECT COST: (10% MAX)**

**Total Request: \$**

Justification: Provide rationale and indicate percentage of total award being expended on indirect costs:

**BUDGET SUMMARY:**

Category	Request
A. Personnel	
B. Fringe	
C. Travel	
D. Equipment	
E. Supplies	
F. Contractual	
G. Other	
H. Direct Request	
I. Indirect Costs (10% max)	
J. Match (10%)	
<b>Total Projected Costs</b>	

Laura Howard  
Secretary

(Published in the Kansas Register June 3, 2021.)

**City of Erie, Kansas****Notice of Intent to Seek Private Placement  
General Obligation Bonds, Series 2021**

Notice is hereby given that the City of Erie, Kansas (the "Issuer") proposes to seek a private placement of the above-referenced bonds (the "Bonds"). The maximum aggregate principal amount of the Bonds shall not exceed \$480,000. The proposed sale of the Bonds is in all respects subject to approval of a bond purchase agreement between the Issuer and the purchaser of the Bonds and the adoption of a resolution by the governing body authorizing the issuance of the Bonds and the execution of various documents necessary to deliver the Bonds.

Dated May 24, 2021.

Cindy Lero  
Clerk

Doc. No. 049189

(Published in the Kansas Register June 3, 2021.)

**City of Lindsborg, Kansas****Notice Of Intent to Seek Private Placement  
General Obligation Bonds, Series 2021**

Notice is hereby given that the City of Lindsborg, Kansas (the "Issuer") proposes to seek a private placement of the above-referenced bonds (the "Bonds"). The maximum aggregate principal amount of the Bonds shall not exceed \$2,000,000. The proposed sale of the Bonds is in all respects subject to approval of a bond purchase agreement between the Issuer and the purchaser of the Bonds and the passage of an ordinance and adoption of a resolution by the governing body authorizing the issuance of the Bonds and the execution of various documents necessary to deliver the Bonds.

Dated April 5, 2021.

Roxie Sjogren  
Clerk

Doc. No. 049192

**State of Kansas****Legislative Administrative Services****Legislative Bills and Resolutions Introduced**

The following numbers and titles of bills and resolutions were introduced May 26 during the 2021 session of the Kansas Legislature. Full text of bills, bill tracking, and other information may be accessed at <http://www.kslegislature.org/li/>.

**House Resolutions**

**HR 6018**, A RESOLUTION condemning the recent attacks on the State of Israel, by Representatives Croft, Anderson, Barker, Bergkamp, Bergquist, Blex, Borjon, Carlson, Carpenter, Carpenter, Clark, Corbet, Delperdang, Dodson, Ellis, Eplee, Esau, Estes, Fairchild, Finch, Francis, Garber, Hawkins, Helmer, Highland, Hoffman, Hoheisel, Howe, Humphries, Jacobs, Johnson, Johnson, Kelly, Kessler, Landwehr, Lee-Hahn, Lynn, Mason, Minnix, Moser, Murphy, Neely, Newland, Owens, Patton, Penn, Proctor, Proehl, Rahjes, Resman, Rhiley, Ryckman, Samsel,

Sanders, Schreiber, Seiwert, Smith, Smith, Sutton, Tarwater, Thomas, Toplikar, Waggoner, Wasinger, Wheeler and Williams.

**Senate Concurrent Resolutions**

**SCR 1616**, A CONCURRENT RESOLUTION urging the Governor of the State of Kansas to end Federal Pandemic Unemployment Compensation to ensure that businesses do not have to compete with the federal government in attempts to fill thousands of open positions, by Senators Masterson and Wilborn.

Doc. No. 049205

**State of Kansas****Secretary of State****Certification of New State Laws**

I, Scott Schwab, Secretary of State of the State of Kansas, do hereby certify that each of the following bills is a correct copy of the original enrolled bill now on file in my office.

Scott Schwab  
Secretary of State

(Published in the Kansas Register June 3, 2021.)

**Substitute for Senate Bill No. 238**

AN ACT concerning health and healthcare; relating to health professions; requiring medical oversight of emergency medical services operators by medical directors or physicians; prescribing powers, duties and functions of the state board of pharmacy; providing for confidentiality of investigations, inspections and audits; requirements for the exhibition of titles and prescription orders; establishing fees on out-of-state facilities; defining telepharmacy and requiring rules and regulations to be adopted for oversight and administration thereof; amending K.S.A. 65-636, 65-1627, 65-1631, 65-1637, 65-1643, 65-1645, 65-1656, 65-1657 and 65-1658 and K.S.A. 2020 Supp. 65-1626, 65-6112, 65-6124 and 65-6126 and repealing the existing sections.

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

New Section 1. (a) Any complaint, investigation, report, record or other information relating to a complaint or investigation that is received, obtained or maintained by the board shall be confidential and shall not be disclosed by the board or its employees in a manner that identifies or enables identification of the person who is the subject or source of the information, except the information may be disclosed:

(1) In any proceeding conducted by the board under the law or in an appeal of an order of the board entered in a proceeding, or to any party to a proceeding or appeal or the party's attorney;

(2) to the person who is the subject of the information or to any person or entity when requested by the person who is the subject of the information, but the board may require disclosure in such a manner that will prevent identification of any other person who is the subject or source of the information; or

(3) to a state or federal licensing, regulatory or enforcement agency with jurisdiction over the subject of the information or to an agency with jurisdiction over acts or conduct similar to acts or conduct that would constitute grounds for action under this act. Any confidential complaint or report, record or other information disclosed by the board as authorized by this section shall not be disclosed by the receiving agency except as otherwise authorized by law.

(b) Except as provided in subsection (a), no applicant, registrant or individual shall have access to any complaint, investigation, report, record or information concerning a complaint or investigation in progress until the investigation and any enforcement action is completed. This section shall not be construed to authorize the release of records, reports or other information that are subject to other specific state or federal laws concerning their disclosure.

(c) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 2. (a) (1) As a condition of probation or other disciplinary action under K.S.A. 65-1627 or 65-1657, and amendments thereto, the board may require that a licensee or registrant be subject to additional compliance inspections or audits and pay the actual costs of such inspections and audits.

(2) If a licensee or registrant fails to comply with a board order regarding the costs of additional inspections and audits, the board may impose additional disciplinary action against the licensee or registrant for failure to comply with a lawful order of the board under K.S.A. 65-1627, and amendments thereto.

(b) Actual costs under this section include, but are not limited to:

- (1) Salaries and wages;
- (2) travel, mileage and lodging;
- (3) subsistence allowances;
- (4) document storage, shipping and handling; or
- (5) other expenses deemed reasonable and necessary by the board.

(c) All moneys assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto, and deposited in the state treasury to the credit of the state board of pharmacy fee fund.

(d) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 3. (a) As used in this section:

(1) "Telepharmacy" means the practice of pharmacy by a pharmacist located in Kansas using telecommunications or other automations and technologies to deliver personalized, electronically documented, real-time pharmaceutical care to patients or their agents, who are located at sites other than where the pharmacist is located, including prescription dispensing and counseling and to oversee and supervise telepharmacy outlet operations.

(2) "Telepharmacy outlet" means a pharmacy site located in Kansas that:

- (A) Is registered as a pharmacy under the act;
- (B) is owned by the managing pharmacy;
- (C) is connected via computer link, video link and audio link or other functionally equivalent telecommunications equipment with a supervising pharmacy located in Kansas; and

(D) has a pharmacy technician on site who performs activities under the electronic supervision of a pharmacist located in Kansas.

(b) A pharmacist shall be in attendance at the telepharmacy outlet by connecting to the telepharmacy outlet via computer link, video link and audio link or other functionally equivalent telecommunications equipment and shall be available to consult with and assist the pharmacy technician in performing activities.

(c) Not later than January 1, 2023, the board shall adopt rules and regulations necessary to specify additional criteria for a managing pharmacy and telepharmacy outlet under this section, including, but not limited to:

- (1) Application requirements;
- (2) structural, security, technology and equipment requirements;
- (3) staffing, training and electronic supervision requirements;
- (4) inventory record keeping and storage requirements;
- (5) labeling requirements;
- (6) establishment of policies and procedures;
- (7) the number of telepharmacy outlets that may be operated by a supervising pharmacy;
- (8) use of automated dispensing machines; and
- (9) criteria for requesting exemptions or waivers from the requirements set forth in rules and regulations adopted under this subsection.

(d) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

New Sec. 4. (a) The board shall require an applicant for registration as a manufacturer or virtual manufacturer under K.S.A. 65-1643, and amendments thereto, or an applicant for renewal of such a registration, to provide the following information:

- (1) The name, full business address and telephone number of the applicant;
- (2) all trade or business names used by the applicant;
- (3) all addresses, telephone numbers and the names of contact individuals for all facilities used by the applicant for the storage, handling and distribution of prescription drugs or devices;
- (4) the type of ownership or operation of the applicant;

(5) the name of the owner or operator of the applicant, including:

- (A) If an individual, the name of the individual;
- (B) if a partnership, the name of each partner and the name of the partnership;

(C) if a corporation, the name and title of each corporate officer and director of the corporation and the name of the state of incorporation; or

(D) if a sole proprietorship, the full name of the sole proprietor and the name of the business entity; and

(6) any other information as the board deems appropriate.

Changes in any information in this subsection shall be submitted to the board in a form and manner prescribed by the board.

(b) In reviewing the qualifications for applicants for initial registration or renewal of registration as a manufacturer or virtual manufacturer, the board shall consider the following factors:

(1) Any convictions of the applicant under any federal, state or local laws relating to drug samples, manufacture of drugs or devices, wholesale or retail drug distribution or distribution of controlled substances;

(2) any felony convictions of the applicant under federal or state laws;

(3) the applicant's past experience in the manufacture or distribution of prescription drugs including controlled substances;

(4) the furnishing by the applicant of false or fraudulent material in any application made in connection with drug manufacturing or distribution;

(5) discipline, censure, warning, suspension or revocation by federal, state or local government of any license or registration currently or previously held by the applicant for the manufacture or distribution of any drugs including controlled substances;

(6) compliance with registration requirements under previously granted registrations, if any;

(7) compliance with requirements to maintain or make available to the board or to the federal, state or local law enforcement officials those records required by the federal food, drug and cosmetic act, and rules and regulations adopted pursuant thereto; and

(8) any other factors or qualifications deemed by the board to be relevant to and consistent with the public health and safety.

(c) After consideration of the qualifications for applicants for registration as a manufacturer or virtual manufacturer, the board may deny an initial application for registration or application for renewal of a registration if the board determines that the granting of such registration would not be in the public interest. The authority of the board under this subsection to deny a registration as a manufacturer or virtual manufacturer shall be in addition to the authority of the board under K.S.A. 65-1627(f) and 65-1645(e), and amendments thereto.

(d) The board by rules and regulations shall require that personnel employed by persons registered as a manufacturer or virtual manufacturer have appropriate education or experience to assume responsibility for positions related to compliance with state registration requirements.

(e) The board by rules and regulations may implement this section to conform to any requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq., in effect on July 1, 2021.

(f) Each facility that manufactures drugs or devices shall undergo an inspection by the board or a third party recognized by the board prior to initial registration and periodically thereafter in accordance with a schedule to be determined by the board but not less than once every three years. The board shall adopt rules and regulations not later than July 1, 2022, to establish standards and requirements for the issuance and maintenance of a manufacturer and virtual manufacturer registration, including inspections.

(g) The board may register a manufacturer or virtual manufacturer that is licensed or registered under the laws of another state if:

(1) The requirements of that state are deemed by the board to be substantially equivalent to the requirements of this state; or

(2) the applicant is inspected by a third party recognized and approved by the board.

(h) The board by rule and regulation shall establish standards and requirements for the issuance and maintenance of a manufacturer and virtual manufacturer registration, including, but not limited to, requirements regarding the following:

(1) An application and renewal fee;

(2) a surety bond;

(3) registration and periodic inspections;

(continued)

- (4) certification of a designated representative;
  - (5) designation of a registered agent;
  - (6) storage of drugs and devices;
  - (7) handling, transportation and shipment of drugs and devices;
  - (8) security;
  - (9) examination of drugs and devices and treatment of those found to be unacceptable as defined by the board;
  - (10) due diligence regarding other trading partners;
  - (11) creation and maintenance of records, including transaction records;
  - (12) procedures for operation; and
  - (13) procedures for compliance with the requirements of the federal drug supply chain security act, 21 U.S.C. § 351 et seq.
- (i) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 5. K.S.A. 65-636 is hereby amended to read as follows: 65-636. It shall be unlawful for any ~~person~~, *individual* who is not legally licensed as a pharmacist by the state board of pharmacy; or any ~~person~~ *individual*, firm or corporation who does not have in continuous employ, at each place of business, a pharmacist licensed by the state board of pharmacy, to take, use or exhibit the title "drugstore," "pharmacy" or "apothecary" or any combination of such titles, or any title or description of like import, or any other term designed to take the place of such title, *if such title is being used in the context of health, medical or pharmaceutical care and the individual, firm or corporation has not provided a disclaimer sufficient to notify consumers that a pharmacist is not employed.*

Sec. 6. K.S.A. 2020 Supp. 65-1626 is hereby amended to read as follows: 65-1626. ~~For the purposes of this act~~ *As used in the pharmacy act of the state of Kansas:*

(a) "Address" means, with respect to prescriptions, the physical address where a patient resides, including street address, city and state.

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

- (1) A practitioner or pursuant to the lawful direction of a practitioner;
- (2) the patient or research subject at the direction and in the presence of the practitioner; or
- (3) a pharmacist as authorized in K.S.A. 65-1635a or K.S.A.2020 Supp. 65-16,129, and amendments thereto.

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

(c) "Application service provider" means an entity that sells electronic prescription or pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

(d) "Automated dispensing system" means a robotic or mechanical system controlled by a computer that: (1) Performs operations or activities, other than compounding or administration, relative to the storage, packaging, labeling, dispensing or distribution of drugs; (2) collects, controls and maintains all transaction information; and (3) operates in accordance with the board's rules and regulations.

(e) "Biological product" means the same as defined in 42 U.S.C. § 262(i), as in effect on January 1, 2017.

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

(g) "Brand exchange," in the case of a drug prescribed, means the dispensing of a different drug product of the same dosage form and strength and of the same generic name as the brand name drug product prescribed, and in the case of a biological product prescribed, means the dispensing of an interchangeable biological product.

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

(i) "Co-licensed partner" means a person or pharmaceutical manufacturer that has entered into an agreement with another pharmaceutical manufacturer or an affiliate of the manufacturer to engage in a business activity or occupation related to the manufacture or distribution of a product.

(j) "Common carrier" means any person who undertakes, whether directly or by any other arrangement, to transport property, including drugs, for compensation.

(k) (1) "Compounding" means the combining of components into a compounded preparation under either of the following conditions:

(H)(A) As the result of a practitioner's prescription drug order or initiative based on the practitioner-patient-pharmacist relationship in the course of professional practice to meet the specialized medical need of an individual patient of the practitioner that cannot be filled by an FDA-approved drug; or

(Z)(B) for the purpose of, or incidental to, research, teaching or chemical analysis, and not for sale or dispensing.

(2) Compounding includes the preparation of drugs or devices in anticipation of receiving prescription drug orders based on routine, regularly observed prescribing patterns.

(3) Compounding does not include reconstituting any ~~oral or topical mixed drug~~ according to the FDA-approved labeling for the drug ~~or preparing any sterile or nonsterile preparation that is essentially a copy of a commercially available product.~~

(l) "Current good manufacturing practices" or "CGMP" means the requirements for ensuring that drugs and drug products are consistently manufactured, repackaged, produced, stored and dispensed in accordance with 21 C.F.R. §§ 207, 210 and 211.

(m) "DEA" means the ~~U.S.~~ *United States* department of justice, drug enforcement administration.

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

(o) "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent or other similar or related article, including a component part or accessory that:

(1) (A) Is recognized in the official national formulary, or the United States pharmacopoeia, or any supplement thereof;

(B) is intended for use in the diagnosis of disease or other conditions;

(C) is used for the cure, mitigation, treatment or prevention of disease in human or other animals; or

(D) is intended to affect the structure or any function of the body of human or other animals; and

(2) (A) does not achieve its primary intended purposes through chemical action within or on the body of human or other animals; and

(B) is not dependent upon being metabolized for the achievement of any of its primary intended purposes.

(n)(p) "Direct supervision" means the process by which the responsible pharmacist shall observe and direct the activities of a ~~pharmacy student pharmacist intern or pharmacy technician to a sufficient degree to assure that all such activities are performed accurately, safely and without risk or harm to patients, be readily and immediately available at all time activities are performed, provide personal assistance, direction and approval throughout the time the activities are performed and complete the final check before dispensing.~~

(o)(q) "Dispense" or "dispensing" means to deliver prescription medication to the ultimate user or research subject by or pursuant to the lawful order of a practitioner or pursuant to the prescription of a mid-level practitioner, including, but not limited to, delivering prescription medication to a patient by mail, common carrier, personal delivery or third-party delivery to any location requested by the patient.

(p)(r) "Dispenser" means:

(1) A practitioner or pharmacist who dispenses prescription ~~medication, drugs or devices~~ or a physician assistant who has authority to dispense prescription-only drugs in accordance with K.S.A. 65-28a08(b), and amendments thereto; or

(2) a retail pharmacy, hospital pharmacy or group of pharmacies under common ownership and control that do not act as a wholesale distributor, ~~or affiliated warehouses or distribution centers of such entities under common ownership and control that do not act as a wholesale distributor.~~

(q)(s) "Distribute" or "distribution" means to deliver, offer to deliver, sell, offer to sell, purchase, trade, transfer, broker, give away, handle, store or receive, other than by administering or dispensing, any product, but does not include dispensing a product pursuant to a prescription executed in accordance with 21 U.S.C. § 353 or the dispensing of a product approved under 21 U.S.C. § 360b.

(r)(t) "Distributor" means a person or entity that distributes a drug or device.

(u) "Diversion" means the transfer of a controlled substance from a lawful to an unlawful channel of distribution or use.

(s)(v) "Drop shipment" means the sale, by a manufacturer, repackager or exclusive distributor, of the manufacturer's prescription drug to a wholesale distributor whereby the wholesale distributor takes

title but not possession of such prescription drug and the wholesale distributor invoices the dispenser, and the dispenser receives delivery of the prescription drug directly from the manufacturer, repackager, third-party logistics provider or exclusive distributor, of such prescription drug.

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

(tt)(x) "Durable medical equipment" means equipment that: (1) Provides therapeutic benefits or enables an individual to perform certain tasks that the individual is unable to otherwise undertake due to certain medical conditions or illnesses; (2) is primarily and customarily used to serve a medical purpose; (3) generally is not useful to a person in the absence of an illness or injury; (4) can withstand repeated use; (5) is appropriate for use in the home, long-term care facility or medical care facility, but may be transported to other locations to allow the individual to complete instrumental activities of daily living that are more complex tasks required for independent living; and (6) may include devices and medical supplies or other similar equipment determined by the board in rules and regulations adopted by the board.

(tv)(y) "Electronic prescription" means an electronically prepared prescription that is authorized and transmitted from the prescriber to the pharmacy by means of electronic transmission.

(tw)(z) "Electronic prescription application" means software that is used to create electronic prescriptions and that is intended to be installed on the prescriber's computers and servers where access and records are controlled by the prescriber.

(tx)(aa) "Electronic signature" means a confidential personalized digital key, code, number or other method for secure electronic data transmissions that identifies a particular person as the source of the message, authenticates the signatory of the message and indicates the person's approval of the information contained in the transmission.

(ty)(bb) "Electronic transmission" means the transmission of an electronic prescription, formatted as an electronic data file, from a prescriber's electronic prescription application to a pharmacy's computer, where the data file is imported into the pharmacy prescription application.

(tz)(cc) "Electronically prepared prescription" means a prescription that is generated using an electronic prescription application.

(aa)(dd) "Exclusive distributor" means the wholesale distributor that directly purchased the product from the manufacturer and is the sole distributor of that manufacturer's product to a subsequent repackager, wholesale distributor or dispenser.

(bb)(ee) "FDA" means the U.S. United States department of health and human services, food and drug administration.

(cc)(ff) "Facsimile transmission" or "fax transmission" means the transmission of a digital image of a prescription from the prescriber or the prescriber's agent to the pharmacy. "Facsimile transmission" includes, but is not limited to, transmission of a written prescription between the prescriber's fax machine and the pharmacy's fax machine; transmission of an electronically prepared prescription from the prescriber's electronic prescription application to the pharmacy's fax machine, computer or printer; or transmission of an electronically prepared prescription from the prescriber's fax machine to the pharmacy's fax machine, computer or printer.

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

(ee)(hh) "Health care entity" means any person that provides diagnostic, medical, surgical or dental treatment or rehabilitative care but does not include any retail pharmacy or wholesale distributor.

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

- (A) Inmates of a jail or correctional institution or facility;
- (B) residents of a *juvenile correctional facility* or juvenile detention facility, as defined by the revised Kansas code for care of children and

the revised Kansas juvenile justice code in K.S.A. 2020 Supp. 38-2302, and amendments thereto;

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

- (D) employees of a business or other employer; or
- (E) persons receiving inpatient hospice services.

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

- (A) Any registered pharmacy;
- (B) any office of a practitioner; or
- (C) a location where no prescription-only drugs are dispensed and no prescription-only drugs other than individual prescriptions are stored or administered.

(gg)(jj) "Interchangeable biological product" means a biological product that the FDA has:

(1) ~~Licensed and determined meets identified in the "purple book: lists of licensed biological products with reference product exclusivity and biosimilarity or interchangeability evaluations" as meeting the standards for "interchangeability" as defined in 42 U.S.C. § 262(k), as in effect on January 1, 2017; or~~

(2) ~~determined to be therapeutically equivalent as set forth in the latest edition or supplement to the FDA's approved drug products with therapeutic equivalence evaluations.~~

(hh) ~~"Intermediary" means any technology system that receives and transmits an electronic prescription between the prescriber and the pharmacy.~~

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

(jj)(ll) "Label" means a display of written, printed or graphic matter upon the immediate container of any drug.

(kk)(mm) "Labeling" means the process of preparing and affixing a label to any drug container, exclusive of the labeling by a manufacturer, packer or distributor of a non-prescription drug or commercially packaged legend drug.

(ll)(nn) "Long-term care facility" means "nursing facility," as defined in K.S.A. 39-923, and amendments thereto.

(mm)(oo) "Medical care facility" means the same as defined in K.S.A. 65-425, and amendments thereto, except that the term also includes facilities licensed under the provisions of K.S.A. 2019 Supp. 39-2001 et seq., and amendments thereto, except community mental health centers and facilities for people with intellectual disability psychiatric hospitals and psychiatric residential treatment facilities as defined by K.S.A. 2020 Supp. 39-2002, and amendments thereto.

(nn)(pp) "Manufacture" means the production, preparation, propagation, compounding, conversion or processing of a drug either directly or indirectly by extraction from substances of natural origin, independently by means of chemical or biological synthesis or by a combination of extraction and chemical or biological synthesis or the packaging or repackaging of the drug or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a drug by an individual for the individual's own use or the preparation, compounding, packaging or labeling of a drug by:

(1) A practitioner or a practitioner's authorized agent incident to such practitioner's administering or dispensing of a drug in the course of the practitioner's professional practice;

(2) a practitioner, by a practitioner's authorized agent or under a practitioner's supervision for the purpose of, or as an incident to, research, teaching or chemical analysis and not for sale; or

(3) a pharmacist or the pharmacist's authorized agent acting under the direct supervision of the pharmacist for the purpose of, or incident to, the dispensing of a drug by the pharmacist.

(oo)(qq) "Manufacturer" means:

(1) A person that holds an application approved under section 505 of the federal food, drug and cosmetic act or a license issued under section 351 of the federal public health service act for such drug or, if such drug is not the subject of an approved application or license, the person who manufactured the drug;

(2) a co-licensed partner of the person described in paragraph (1) that obtains the drug directly from a person described in paragraph (1) or (3); or

(3) an affiliate of a person described in paragraph (1) or (2) that receives the product directly from a person described in paragraph (1) or (2).

(continued)

~~(pp)(rr)~~ “Medication order” means an order by a prescriber for a registered patient of a Kansas licensed medical care facility a written or oral order by a prescriber or the prescriber’s authorized agent for administration of a drug or device to a patient in a Kansas licensed medical care facility or in a Kansas licensed nursing facility or nursing facility for mental health, as such terms are defined by K.S.A. 39-923, and amendments thereto.

~~(qq)(ss)~~ “Mid-level practitioner” means a certified nurse-midwife engaging in the independent practice of midwifery under the independent practice of midwifery act, an advanced practice registered nurse issued a license pursuant to K.S.A. 65-1131, and amendments thereto, who has authority to prescribe drugs pursuant to a written protocol with a responsible physician under K.S.A. 65-1130, and amendments thereto, or a physician assistant licensed pursuant to the physician assistant licensure act who has authority to prescribe drugs pursuant to a written agreement with a supervising physician under K.S.A. 65-28a08, and amendments thereto.

~~(rr)(tt)~~ “Nonresident pharmacy” means a pharmacy located outside of Kansas.

~~(ss)(uu)~~ “Outsourcing facility” or “virtual outsourcing facility” means a facility at one geographic location or address that is engaged in the compounding of sterile drugs and has registered with the FDA as an outsourcing facility pursuant to 21 U.S.C. § 353b.

~~(tt)(vv)~~ “Person” means individual, corporation, government, governmental subdivision or agency, partnership, association or any other legal entity.

~~(uu)(ww)~~ “Pharmacist” means any natural person licensed under this act to practice pharmacy.

~~(vv)(xx)~~ “Pharmacist-in-charge” means the pharmacist who is responsible to the board for a registered establishment’s compliance with the laws and regulations of this state pertaining to the practice of pharmacy, manufacturing of drugs and the distribution of drugs. The pharmacist-in-charge shall supervise such establishment on a full-time or a part-time basis and perform such other duties relating to supervision of a registered establishment as may be prescribed by the board by rules and regulations. Nothing in this definition shall relieve other pharmacists or persons from their responsibility to comply with state and federal laws and regulations.

~~(ww)(yy)~~ “Pharmacist intern” or “intern” means: (1) A student currently enrolled in and in good standing with an accredited pharmacy program; (2) a graduate of an accredited pharmacy program serving an internship; or (3) a graduate of a pharmacy program located outside of the United States that is not accredited and who has successfully passed equivalency examinations approved by the board.

~~(xx)(zz)~~ “Pharmacy,” “drugstore” or “apothecary” means premises, laboratory, area or other place, including any electronic medium: (1) Where drugs are offered for sale where the profession of pharmacy is practiced and where prescriptions are compounded and dispensed; (2) that has displayed upon it or within it the words “pharmacist,” “pharmaceutical chemist,” “pharmacy,” “apothecary,” “drugstore,” “drug-gist,” “drugs,” “drug sundries” or any of these words or combinations of these words or words of similar import either in English or in any language or on any sign containing any of these words as used in the context of health, medical or pharmaceutical care or services; or (3) where the characteristic symbols of pharmacy or the characteristic prescription sign “Rx” may be exhibited in the context of health, medical or pharmaceutical care or services. As used in this subsection, premises refers only to the portion of any building or structure leased, used or controlled by the licensee in the conduct of the business registered by the board at the address for which the registration was issued.

~~(yy)(aaa)~~ “Pharmacy prescription application” means software that is used to process prescription information, is and is either installed on a pharmacy’s computers or servers and is controlled by the pharmacy or is maintained on the servers of an entity that sells electronic pharmacy prescription applications as a hosted service where the entity controls access to the application and maintains the software and records on its server.

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

~~(aaa)(ccc)~~ “Practitioner” means a person licensed to practice medicine and surgery, dentist, podiatrist, veterinarian, optometrist or scientific investigator or other person authorized by law to use a prescription-only drug in teaching or chemical analysis or to conduct research with respect to a prescription-only drug.

~~(bbb)(ddd)~~ “Preceptor” means a licensed pharmacist who possesses at least two years’ experience as a pharmacist and who supervises students obtaining the pharmaceutical experience required by law as a condition to taking the examination for licensure as a pharmacist and is responsible for the actions of pharmacist interns obtaining pharmaceutical experience.

~~(ccc)(eee)~~ “Prescriber” means a practitioner or a mid-level practitioner.

~~(ddd)(fff)~~ “Prescription” or “prescription order” means: (1) An order to be filled by a pharmacist for prescription medication issued and signed by a prescriber in the authorized course of such prescriber’s professional practice; or (2) an order transmitted to a pharmacist through word of mouth, note, telephone or other means of communication directed by such prescriber, regardless of whether the communication is oral, electronic, facsimile or in printed form the front and back of a lawful written, electronic or facsimile order from a prescriber or an oral order from a prescriber or the prescriber’s authorized agent that communicates the prescriber’s instructions for a prescription drug or device to be dispensed.

~~(eee)(ggg)~~ “Prescription medication” means any drug, including label and container according to context, that is dispensed pursuant to a prescription order.

~~(fff)(hhh)~~ “Prescription-only drug” means any drug whether intended for use by human or animal, required by federal or state law, including 21 U.S.C. § 353, to be dispensed only pursuant to a written or oral prescription or order of a practitioner or is restricted to use by practitioners only.

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

~~(hhh)(jjj)~~ “Product” means the same as defined by part H of the federal drug supply chain security act, 21 U.S.C. § 351 et seq. and 21 U.S.C. § 360eee.

~~(iii)(lll)~~ “Professional incompetency” means:

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

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

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

~~(jjj)(mmm)~~ “Readily retrievable” or “readily available” means that records kept in hard copy or by automatic data processing applications or other electronic or mechanized record-keeping systems can be separated out from all other records quickly and easily during an inspection or investigation, or within a reasonable time not to exceed 48 hours of a written request from the board or other authorized agent or that hard-copy records are kept on which certain items are asterisked, redlined or in some other manner visually identifiable apart from other items appearing on the records.

~~(lll)(nnn)~~ “Repackage” means changing the container, wrapper, quantity or label of a drug to further the distribution of the drug.

~~(mmm)(ooo)~~ “Repackager” means a person who owns or operates a facility that repackages.

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

~~(ooo)~~ “Return” means providing product to the authorized immediate trading partner from whom such product was purchased or received, or to a returns processor or reverse logistics provider for handling of such product.

~~(ppp)(qqq)~~ “Returns processor” or “reverse logistics provider/Reverse distributor” means a person who owns or operates an establishment that disposes of or otherwise processes saleable or nonsaleable products received from an authorized trading partner such that the product may be processed for credit to the purchaser, manufacturer or seller or disposed of for no further distribution.

~~(qqq)(rrr)~~ “Secretary” means the executive secretary of the board.

(rrr)(sss) "Third-party logistics provider" means an entity that provides or coordinates warehousing or other logistic services of a product in interstate commerce on behalf of a manufacturer, wholesale distributor or dispenser, but does not take ownership of the product or have responsibility to direct the sale or disposition of the product.

(sss)(ttt) "Trading partner" means:

(1) A manufacturer, repackager, wholesale distributor or dispenser from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct ownership of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct ownership of a product; or

(2) a third-party logistics provider from whom a manufacturer, repackager, wholesale distributor or dispenser accepts direct possession of a product or to whom a manufacturer, repackager, wholesale distributor or dispenser transfers direct possession of a product.

(ttt)(uuu) "Transaction" means the transfer of product between persons in which a change of ownership occurs.

(uuu)(vvv) "Unprofessional conduct" means:

(1) Fraud in securing a registration or permit;

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

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

(4) intentionally falsifying or altering records or prescriptions;

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

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

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

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

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

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

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

(www)(xxx) "Valid prescription order" means a prescription that is issued for a legitimate medical purpose by an individual prescriber licensed by law to administer and prescribe drugs and acting in the usual course of such prescriber's professional practice. A prescription issued solely on the basis of an internet-based questionnaire or consultation without an appropriate prescriber-patient relationship is not a valid prescription order.

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

(zzz) "Virtual manufacturer" means an entity that engages in the manufacture of a drug or device for which it:

(1) Owns the new drug application or abbreviated new drug application number, if a prescription drug;

(2) owns the unique device identification number, as available, for a prescription device;

(3) contracts with a contract manufacturing organization for the physical manufacture of the drug or device;

(4) is not involved in the physical manufacture of the drug or device; and

(5) does not store or take physical possession of the drug or device.

(aaa) "Virtual wholesale distributor" means a wholesale distributor that sells, brokers or transfers a drug or device but never physically possesses the product.

(yyy)(bbb) "Wholesale distributor" means any person engaged in wholesale distribution or reverse distribution of prescription drugs or devices, other than a manufacturer, co-licensed partner, or third-party logistics provider or repackager.

(zzz)(ccc) "Wholesale distribution" means the distribution or receipt of prescription drugs or devices to or by persons other than consumers or patients, in which a change of ownership occurs. "Wholesale distribution" does not include:

(1) The dispensing of a prescription drug or device pursuant to a prescription;

(2) the distribution of a prescription drug or device or an offer to distribute a prescription drug or device for emergency medical reasons, including a public health emergency declaration pursuant to section 319 of the public health service act, except that, for purposes of this paragraph, a drug or device shortage not caused by a public health emergency shall not constitute an emergency medical reason;

(3) intracompany distribution of any drug between members of an affiliate or within a manufacturer;

(4) the distribution of a prescription drug or device, or an offer to distribute a prescription drug or device, among hospitals or other health care entities under common control;

(5) the distribution of a prescription drug or device, or the offer to distribute a prescription drug or device, by a charitable organization described in 503 section 501(c)(3) of the internal revenue code of 1954 1986 to a nonprofit affiliate of the organization to the extent otherwise permitted by law;

(6) the purchase or other acquisition by a dispenser, hospital or other health care entity for use by such dispenser, hospital or other health care entity;

(7) the distribution of a drug by the manufacturer of such drug;

(8) the receipt or transfer of a drug by an authorized third-party logistics provider, provided that such third-party logistics provider does not take ownership of the drug;

(9) the transport of a drug by a common carrier, provided that the common carrier does not take ownership of the drug;

(10) the distribution of a drug or an offer to distribute a drug by an authorized repackager that has taken ownership or possession of the drug and repacks it in accordance with section 582(e) of the federal food, drug and cosmetic act;

(11) saleable drug returns when conducted by a dispenser;

(12) the distribution of minimal quantities of drugs by licensed retail pharmacies to licensed practitioners for office use;

(13) the distribution of a collection of finished medical devices, including a product or biological product in accordance with 21 U.S.C. § 353(e)(4)(M);

(14) the distribution of an intravenous drug that, by its formulation, is intended for the replenishment of fluids and electrolytes, including sodium, chloride and potassium, or calories, including dextrose and amino acids;

(15) the distribution of an intravenous drug used to maintain the equilibrium of water and minerals in the body, such as dialysis solutions; or

(16) the distribution of a drug that is intended for irrigation, or sterile water, whether intended for such purposes or for injection;

(17) the distribution of medical gas;

(18) facilitating the distribution of a product by providing solely administrative services, including processing of orders and payments;

(19) the transfer of a product by a hospital or other health care entity, or by a wholesale distributor or manufacturer operating under the direction of a hospital or other health care entity, to a repackager described in section 581(16)(B) and registered under section 510 of the food, drug and cosmetic act for the purpose of repackaging the drug for use by that hospital or other health care entity, or other health care entities under common control, if ownership of the drug remains with the hospital or other health care entity at all times; or

(20) the sale or transfer from a retail pharmacy of expired, damaged, returned or recalled prescription drugs to the original manufacturer, originating wholesale distributor or to a third-party returns processor reverse distributor registered in accordance with the board's rules and regulations.

Sec. 7. K.S.A. 65-1627 is hereby amended to read as follows: 65-1627. (a) The board may deny an application or renewal, limit, condition, revoke, suspend; or place in a probationary status or deny an application or renewal of any the license of any pharmacist upon a finding that:

(1) The licensee has obtained, renewed or reinstated, or attempted to obtain, renew or reinstate, a license by false or fraudulent means, including misrepresentation of a material fact;

(2) the licensee has been convicted of a misdemeanor involving moral turpitude or gross immorality or any felony and the licensee fails to show that the licensee has been sufficiently rehabilitated to warrant the public trust;

(3) the licensee is found by the board to be guilty of unprofessional conduct or professional incompetency;

(4) the licensee is addicted to the liquor or drug habit to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(continued)

(5) the licensee has violated a provision of the federal or state food, drug and cosmetic act, the *federal or state uniform controlled substances act of the state of Kansas*, or any rule and regulation adopted under any such act;

(6) the licensee is found by the board to have filled a prescription not in strict accordance with the directions of the practitioner or a mid-level practitioner;

(7) the licensee is found to be mentally or physically incapacitated to such a degree as to render the licensee unfit to practice the profession of pharmacy;

(8) the licensee has violated any of the provisions of the pharmacy act of the state of Kansas or any rule and regulation adopted by the board pursuant to the provisions of such pharmacy act;

(9) the licensee has failed to comply with the continuing education requirements of the board for license renewal;

(10) the licensee as a ~~pharmacist in charge~~ "pharmacist-in-charge" or consultant pharmacist under the provisions of K.S.A. 65-1648(c) or (d), and amendments thereto, has failed to comply with the requirements of K.S.A. 65-1648(c) or (d), and amendments thereto;

(11) the licensee has knowingly submitted a misleading, deceptive, untrue or fraudulent misrepresentation on a claim form, bill or statement;

(12) the licensee has had a license to practice pharmacy revoked, suspended or limited, has been censured or has had other disciplinary action taken, or voluntarily surrendered the license after formal proceedings have been commenced, or has had an application for license denied, by the proper licensing authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof;

(13) the licensee has self-administered any controlled substance without a practitioner's prescription order or a mid-level practitioner's prescription order; ~~or~~

(14) the licensee has assisted suicide in violation of K.S.A. 21-3406, prior to its repeal, or K.S.A. 2019 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. 2019 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;

(15) the licensee has failed to furnish the board, its investigators or its representatives any information legally requested by the board;

(16) the licensee has violated or failed to comply with any lawful order or directive of the board; ~~or~~

(17) the licensee has violated any of the provisions of the prescription monitoring program act of the state of Kansas or any rule and regulation of the board pursuant to the provisions of the prescription monitoring program act; ~~or~~

(18) ~~the licensee has failed to keep, has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas, the federal or state uniform controlled substances act or rules and regulations adopted by the board.~~

(b) In determining whether or not the licensee has violated subsection (a)(3), (a)(4), (a)(7) or (a)(13), the board upon reasonable suspicion of such violation has authority to compel a licensee to submit to mental or physical examination or drug screen, or any combination thereof, by such persons as the board may designate. To determine whether reasonable suspicion of such violation exists, the investigative information shall be presented to the board as a whole. Information submitted to the board as a whole and all reports, findings and other records shall be confidential and not subject to discovery by or release to any person or entity. The licensee shall submit to the board a release of information authorizing the board to obtain a report of such examination or drug screen, or both. A person affected by this subsection shall be offered, at reasonable intervals, an opportunity to demonstrate that such person can resume the competent practice of pharmacy with reasonable skill and safety to patients. For the purpose of this subsection, every person licensed to practice pharmacy and who shall accept the privilege to practice pharmacy in this state by so practicing or by the making and filing of a renewal application to practice pharmacy in this state shall be deemed to have consented to submit to a mental or physical examination or a drug screen, or any combination thereof, when directed in writing by the board and further to have waived all objections to

the admissibility of the testimony, drug screen or examination report of the person conducting such examination or drug screen, or both, at any proceeding or hearing before the board on the ground that such testimony or examination or drug screen report constitutes a privileged communication. In any proceeding by the board pursuant to the provisions of this subsection, the record of such board proceedings involving the mental and physical examination or drug screen, or any combination thereof, shall not be used in any other administrative or judicial proceeding.

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

(d) The board may suspend, revoke, place in a probationary status or deny ~~a~~ an application or renewal of any retail dealer's permit issued by the board when information in possession of the board discloses that such operations for which the permit was *or may be* issued are not being conducted according to law or the rules and regulations of the board. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act.

(e) The board may *deny an application or renewal, limit, condition, revoke, suspend; or place in a probationary status* ~~or deny a renewal of the registration of a~~ any pharmacy upon a finding that:

(1) Such pharmacy has been operated in such manner that violations of the provisions of the pharmacy act of the state of Kansas or of the rules and regulations of the board have occurred in connection therewith;

(2) the owner, *pharmacy* or any pharmacist employed at such pharmacy is convicted, subsequent to such owner's acquisition of or such employee's employment at such pharmacy, of a violation of the pharmacy act ~~or uniform controlled substances act~~ of the state of Kansas, *the federal or state uniform controlled substances act* or the federal or state food, drug and cosmetic act;

(3) the owner, *pharmacy* or any pharmacist employed by such pharmacy has fraudulently claimed money for pharmaceutical services; ~~or~~

(4) the registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act;

(5) *the registrant has obtained, renewed or attempted to obtain or renew a registration by false or fraudulent means, including misrepresentation of a material fact or falsification of any application;*

(6) *the registrant has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of the pharmacy act of the state of Kansas, federal or state uniform controlled substances act or the federal or state food, drug and cosmetic act;*

(7) *the registrant has failed to keep, has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas, the federal or state uniform controlled substances act or rules and regulations adopted by the board;*

(8) *such pharmacy has been operated in such manner that violations of the provisions of the federal or state food, drug and cosmetic act, the federal or state uniform controlled substances act, or any rule and regulation adopted under any such act have occurred in connection therewith;*

(9) *such pharmacy has been operated in such manner that the violations of the provisions of the prescription monitoring program act of the state of Kansas or any rule and regulation of the board have occurred in connection therewith;*

(10) *the registrant has failed to furnish the board, its investigators or its representatives any information legally requested by the board; or*

(11) *the registrant has violated or failed to comply with any lawful order or directive of the board.*

(f) A registration to manufacture or repackage drugs or devices, to operate as a wholesale distributor, ~~to sell durable medical equipment or to operate as a~~ third-party logistics provider, *outsourcing facility, institutional drug room or automated dispensing system, or to sell durable*

medical equipment, or a registration for the place of business where any such operation is conducted, may be *limited, conditioned, suspended, revoked; or placed in a probationary status or the application for or renewal of such registration may be denied by the board upon a finding that the registrant or the registrant's agent:*

(1) ~~Has materially falsified any application filed pursuant to or required by the pharmacy act of the state of Kansas obtained, renewed or attempted to obtain or renew a registration by false or fraudulent means, including misrepresentation of a material fact or falsification of any application;~~

(2) has been convicted of a felony under any federal or state law relating to the manufacture, *compounding, dispensing or distribution of drugs or devices;*

(3) has had any federal registration for the manufacture, *compounding, dispensing or distribution of drugs or devices suspended, limited, denied, disciplined, censured or revoked;*

(4) has refused to permit the board or its duly authorized agents to inspect the registrant's establishment in accordance with the provisions of ~~K.S.A. 65-1629, and amendments thereto~~ *the pharmacy act of the state of Kansas, the federal or state uniform controlled substances act or the federal or state food, drug and cosmetic act;*

(5) has failed to keep, has failed to file with the board or has falsified records required to be kept or filed by the provisions of the pharmacy act of the state of Kansas ~~or by the board's rules and regulations; or, the federal or state uniform controlled substances act or rules and regulations adopted by the board;~~

(6) has violated the pharmacy act of the state of Kansas or rules and regulations adopted by the state board of pharmacy under the pharmacy act of the state of Kansas, has violated the uniform controlled substances act or rules and regulations adopted by the state board of pharmacy under the uniform controlled substances act, *has violated the federal uniform controlled substances act, has violated the federal or state food, drug and cosmetic act or any rules and regulations adopted under any such act, or has violated a provision of the federal drug supply chain security act or any rule or regulation adopted under such act. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act;*

(7) *the registrant has had a registration revoked, suspended or limited, has been censured or has had other disciplinary action taken, or an application for registration denied, by the proper registering authority of another state, territory, District of Columbia or other country, a certified copy of the record of the action of the other jurisdiction being conclusive evidence thereof. When the board determines that action under this subsection requires the immediate protection of the public interest, the board shall conduct an emergency proceeding in accordance with K.S.A. 77-536, and amendments thereto, under the Kansas administrative procedure act;*

(8) *has failed to furnish the board, its investigators or its representatives any information legally requested by the board; or*

(9) *the registrant has violated or failed to comply with any lawful order or directive of the board.*

(g) Orders under this section, and proceedings thereon, shall be subject to the provisions of the Kansas administrative procedure act.

Sec. 8. K.S.A. 65-1631 is hereby amended to read as follows: 65-1631. (a) It shall be unlawful for any ~~person individual~~ to practice as a pharmacist in this state unless such ~~person individual~~ is licensed by the board as a pharmacist. Except as otherwise provided in subsection (d), every applicant for licensure as a pharmacist shall be at least 18 years of age, shall be a graduate of a school or college of pharmacy or department of a university recognized and approved by the board, shall file proof satisfactory to the board, substantiated by proper affidavits, of a minimum of one year of pharmaceutical experience, acceptable to the board, under the supervision of a preceptor and shall pass an examination approved by the board. Pharmaceutical experience as required in this section shall be under the supervision of a preceptor and shall be predominantly related to the dispensing of prescription medication, compounding prescriptions, preparing pharmaceutical preparations and keeping records and making reports required under state and federal statutes. A school or college of pharmacy or department of a university recognized and approved by the board under this subsection ~~(a)~~ shall have a standard of education not below that of the university of Kansas school of pharmacy. The board shall adopt rules and regulations establishing the criteria ~~which that~~ a school or college of pharmacy or department of a university shall satisfy in meeting the standard of education established under this subsection ~~(a)~~.

(b) All applications for licensure by examination shall be made on a form to be prescribed and furnished by the board. Each application for a new license by examination shall be accompanied by a license fee fixed by the board as provided in K.S.A. 65-1645, and amendments thereto.

(c) The board is authorized to adopt rules and regulations relating to the ~~grades which~~ *score that* an applicant must receive in order to pass the ~~examination examinations~~ *examinations required for licensure. The board shall only accept a passing score on an examination required for licensure from an applicant's first five attempts taking such examination.*

(d) Notwithstanding the preceding provisions of this section, the board may in its discretion license as a pharmacist, without examination, any ~~person individual~~ who is duly registered or licensed by examination in some other state, except that the board may require that such ~~person individual~~ take the ~~law examination~~ *multi-state jurisprudence examination* approved by the board. *The board is authorized to adopt rules and regulations relating to the score that such individual shall be required to receive in order to pass the multi-state jurisprudence examination. The board shall only accept a passing score on an examination required for licensure from an applicant's first five attempts taking such examination. Such person individual shall file proof satisfactory to the board of having the education and training required of applicants for licensure under the provisions of the pharmacy act of this state. Persons Individuals who are registered or licensed as pharmacists by examination in other states shall be required to satisfy only the requirements which that* existed in this state at the time they become registered or licensed in such other states. The provisions of this subsection shall apply only if the state in which the ~~person individual~~ is registered or licensed grants, under like conditions, reciprocal registrations or licenses as pharmacists, without examination, to pharmacists duly licensed by examination in this state. Reciprocal licensure shall not be denied to any applicant otherwise qualified for reciprocal licensure under this section who has met the internship requirements of the state from which the applicant is reciprocating or who has at least one year of practice as a licensed pharmacist. A reciprocal licensure may be denied for any of the reasons set forth in ~~subsections (a)(1) through (a)(13)~~ *subsections (a)(1) through (a)(13), and amendments thereto.*

(e) In the event that an applicant for reciprocal licensure has not been subject to laws requiring continuing education as a condition for renewal of a registration or license, such applicant shall be required to satisfy the board through a competency examination that the applicant has the knowledge and ability to meet Kansas standards for licensure as a pharmacist.

(f) ~~No applicant who has taken the examination for licensure approved by the board and has failed to complete it successfully shall be considered for licensure by reciprocity within one year from the date such applicant sat for the examination.~~

(g) All applicants for reciprocal licensure shall file their applications on a form to be prescribed and furnished by the board and such application shall be accompanied by a reciprocal licensure fee fixed by the board as provided in K.S.A. 65-1645, and amendments thereto. The reciprocal licensure fee established by this section immediately prior to the effective date of this act shall continue in effect until a different reciprocal licensure fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645, and amendments thereto.

~~(h)(g)~~ The board shall take into consideration any felony conviction of such ~~person individual~~, but such conviction shall not automatically operate as a bar to licensure.

~~(h)(h)~~ All applicants for licensure who graduate from a school or college of pharmacy outside the United States or who graduate from a school or college of pharmacy not approved by the board shall submit information to the board, as specified by rules and regulations, and this information shall be accompanied by an evaluation fee fixed by the board as provided in K.S.A. 65-1645, and amendments thereto, ~~which evaluation fee that~~ shall be in addition to any other fee paid by the applicant under the pharmacy act of the state of Kansas. The evaluation fee fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until a different evaluation fee is fixed by the board by rules and regulations as provided in K.S.A. 65-1645, and amendments thereto. The board may contract with investigative agencies, commissions or consultants to assist the board in obtaining information about such schools or colleges of pharmacy. In entering such contracts the authority to approve schools or colleges of pharmacy shall remain solely with the board.

~~(i)(i)~~ All applicants for licensure who graduate from a school or college of pharmacy outside the United States or who are not citizens of

(continued)

the United States shall provide proof to the board that the applicant has a reasonable ability to communicate with the general public in English. The board may require such applicant to take the test of English as a foreign language and to attain the grade for passing such test as established by the board by rules and regulations.

(k)(j) Every registered pharmacist holding a valid registration as a pharmacist in effect on the day preceding the effective date of this act shall be deemed to be a licensed pharmacist under this act, and such ~~person individual~~ shall not be required to file an original application hereunder for a license.

Sec. 9. K.S.A. 65-1637 is hereby amended to read as follows: 65-1637. (a) The pharmacist shall exercise professional judgment regarding the accuracy, validity and authenticity of any prescription order consistent with federal and state laws and rules and regulations. Except as provided in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be provided by law, a pharmacist shall not dispense a prescription drug if the pharmacist, in the exercise of professional judgment, determines that the prescription is not a valid prescription order.

(b) The prescriber may authorize an agent to transmit to the pharmacy a prescription order orally, by facsimile transmission or by electronic transmission, provided that the first and last names of the transmitting agent are included in the order.

(c) (1) A new written or electronically prepared and transmitted prescription order shall be manually or electronically signed by the prescriber. If transmitted by the prescriber's agent, the first and last names of the transmitting agent shall be included in the order.

(2) If the prescription is for a controlled substance and is written or printed from an electronic prescription application, the prescription shall be manually signed by the prescriber prior to delivery of the prescription to the patient or prior to facsimile transmission of the prescription to the pharmacy.

(3) An electronically prepared prescription shall not be electronically transmitted to the pharmacy if the prescription has been printed prior to electronic transmission. An electronically prepared and transmitted prescription that is printed following electronic transmission shall be clearly labeled as a copy, not valid for dispensing.

(4) The board is hereby authorized to conduct pilot projects related to any new technology implementation when deemed necessary and practicable, except that no state moneys shall be expended for such purpose.

(d) An authorization to refill a prescription order or to renew or continue an existing drug therapy may be transmitted to a pharmacist through oral communication, in writing, by facsimile transmission or by electronic transmission initiated by or directed by the prescriber.

(1) If the transmission is completed by the prescriber's agent, and the first and last names of the transmitting agent are included in the order, the prescriber's signature is not required on the fax or alternate electronic transmission.

(2) If the refill order or renewal order differs in any manner from the original order, such as a change of the drug strength, dosage form or directions for use, the prescriber shall sign the order as provided by subsection (c)(1).

(e) Regardless of the means of transmission to a pharmacy, ~~only~~ a pharmacist or a pharmacist intern shall be authorized to receive a new prescription order or a refill or renewal order from a prescriber or transmitting agent. ~~A pharmacist, a pharmacist intern or a registered pharmacy technician may receive a refill or, renewal or order for continuation of therapy that contains no changes from the original prescription from a prescriber or transmitting agent if such registered pharmacy technician's supervising pharmacist has authorized that function.~~

(f) A refill is one or more dispensings of a prescription drug or device that results in the patient's receipt of the quantity authorized by the prescriber for a single fill as indicated on the prescription order.

A prescription for a schedule III, IV or V controlled substance may authorize no more than five refills within six months following the date on which the prescription is issued.

(g) All prescriptions shall be filled or refilled in strict conformity with any directions of the prescriber, except that:

(1) A pharmacist who receives a prescription order for a brand name drug product, ~~excluding a biological product,~~ may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) ~~The prescriber, in the case of a prescription electronically signed by the prescriber, includes the statement indicates "dispense as written" on the prescription or when communicating a prescription by oral order;~~

(B) ~~the prescriber, in the case of a written prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription;~~

(C) ~~the prescriber, in the case of a prescription other than one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated the FDA has determined that a biological product is not an interchangeable biological product for the prescribed biological product; or~~

(D) ~~(C) the federal food and drug administration FDA has determined that a drug product of the same generic name is not bioequivalent to the prescribed brand name prescription medication;~~

(2) a pharmacist may provide up to a three-month supply of a prescription drug that is not a controlled substance or psychotherapeutic drug when a practitioner has written a drug order to be filled with a smaller supply but included sufficient numbers of refills for a three-month supply; or

(3) a pharmacist who receives a prescription order for a biological product may exercise brand exchange with a view toward achieving a lesser cost to the purchaser unless:

(A) ~~The prescriber, in the case of a prescription signed by a prescriber and written on a blank form containing two signature lines, signs the signature line following the statement "dispense as written";~~

(B) ~~the prescriber, in the case of a prescription signed by the prescriber, writes in the prescriber's own handwriting "dispense as written" on the prescription;~~

(C) ~~the prescriber, in the case of a prescription other than the one in writing signed by the prescriber, expressly indicates the prescription is to be dispensed as communicated; or~~

(D) ~~the biological product is not an interchangeable biological product for the prescribed biological product except for a prescription for a controlled substance, a pharmacist may use professional judgment to make the following adaptations to a prescription order if a patient consents, the prescriber has not indicated "dispense as written" on the prescription, the pharmacist documents the adaptation on the patient's prescription record and the pharmacist notifies the prescriber:~~

(A) ~~Change the prescribed quantity if:~~

(i) ~~The prescribed quantity or package size is not commercially available;~~

(ii) ~~the change in quantity is related to a change in dosage form; or~~

(iii) ~~the change extends a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program;~~

(B) ~~change the prescribed dosage form, strength or directions for use if it is in the best interest of the patient and the change achieves the intent of the prescriber; or~~

(C) ~~complete missing information on the prescription order if there is evidence to support the change.~~

(h) A pharmacist who selects an interchangeable biological product shall inform the patient or the patient's representative that an interchangeable biological product has been substituted for the prescribed biological product.

(i) If a prescription order contains a statement that during any particular time the prescription may be refilled at will, there shall be no limitation as to the number of times that such prescription may be refilled, except that it may not be refilled after the expiration of the time specified or one year after the prescription was originally issued, whichever occurs first.

(j) Prescription orders shall be recorded in writing by the pharmacist and the record so made by the pharmacist shall constitute the original prescription to be dispensed by the pharmacist. This record, if telephoned by other than the prescriber, shall bear the full name of the ~~person individual~~ so telephoning. Nothing in this section shall be construed as altering or affecting in any way laws of this state or any federal act requiring a written prescription order.

(k) (1) Except as provided in paragraph (2), no prescription shall be refilled unless authorized by the prescriber either in the original prescription or by oral order that is reduced promptly to writing and filled by the pharmacist.

(2) A pharmacist may refill a prescription order issued on or after the effective date of this act for any prescription drug, except a drug listed on schedule II of the uniform controlled substances act or a narcotic drug listed on any schedule of the uniform controlled substances act, without the prescriber's authorization when all reasonable efforts to contact the prescriber have failed and when, in the pharmacist's professional judgment, continuation of the medication is necessary for the patient's health, safety and welfare. Such prescription refill shall only be in an amount judged by the pharmacist to be sufficient to maintain the patient until the prescriber can be contacted, but in no event shall a refill under this

paragraph be more than a ~~seven-day~~ 30-day supply or one package of the drug. However, if the prescriber states on a prescription that there shall be no emergency refilling of that prescription, then the pharmacist shall not dispense any emergency medication pursuant to that prescription. A pharmacist who refills a prescription order under this paragraph shall contact the prescriber of the prescription order on the next business day subsequent to the refill or as soon thereafter as possible. No pharmacist shall be required to refill any prescription order under this paragraph. A prescriber shall not be subject to liability for any damages resulting from the refilling of a prescription order by a pharmacist under this paragraph unless such damages are occasioned by the gross negligence or willful or wanton acts or omissions by the prescriber.

(l) If any prescription order contains a provision that the prescription may be refilled a specific number of times within or during any particular period, such prescription shall not be refilled except in strict conformity with such requirements.

(m) Any pharmacist who exercises brand exchange and dispenses a less expensive drug product shall not charge the purchaser more than the regular and customary retail price for the dispensed drug.

(n) Except as provided in K.S.A. 65-1635(e), and amendments thereto, and as may otherwise be provided by law, nothing contained in this section shall be construed as preventing a pharmacist from refusing to fill or refill any prescription if, in the pharmacist's professional judgment and discretion, such pharmacist is of the opinion that it should not be filled or refilled.

(o) Within five business days following the dispensing of a biological product, the dispensing pharmacist or the pharmacist's designee shall make an entry of the specific product provided to the patient, including the name of the product and the manufacturer. The communication shall be conveyed by making an entry that is electronically accessible to the prescriber through:

- (1) An ~~inter-operable~~ interoperable electronic medical records system;
- (2) an electronic prescribing technology;
- (3) a pharmacy benefits management system; or
- (4) a pharmacy record.

(p) Entry into an electronic records system as described in subsection (o) shall be presumed to provide notice to the prescriber. Otherwise, the pharmacist shall communicate the biological product dispensed to the prescriber using facsimile, telephone, electronic transmission or other prevailing means, provided that communication shall not be required where:

- (1) There is no FDA-approved interchangeable biological product for the product prescribed; or
- (2) a refill prescription is not changed from the product dispensed on the prior filling of the prescription.

(q) A pharmacist shall maintain a record of any biological product dispensed for at least five years.

(r) The board shall maintain a link on its website to the current lists of all biological products that the FDA has determined to be interchangeable biological products.

Sec. 10. K.S.A. 65-1643 is hereby amended to read as follows: 65-1643. It shall be unlawful:

(a) For any person to operate, maintain, open or establish any pharmacy within this state without first having obtained a registration from the board. Each application for registration of a pharmacy shall indicate the person or persons desiring the registration, including the ~~pharmacist in charge~~ pharmacist-in-charge, as well as the location, including the street name and number, and such other information as may be required by the board to establish the identity and exact location of the pharmacy. The issuance of a registration for any pharmacy shall also have the effect of permitting such pharmacy to operate as a retail dealer without requiring such pharmacy to obtain a retail dealer's permit. On evidence satisfactory to the board: (1) That the pharmacy for which the registration is sought will be conducted in full compliance with the law and the rules and regulations of the board; (2) that the location and appointments of the pharmacy are such that it can be operated and maintained without endangering the public health or safety; and (3) that the pharmacy will be under the supervision of a pharmacist, a registration shall be issued to such persons as the board shall deem qualified to conduct such a pharmacy.

(b) For any person to violate the federal drug supply chain security act, 21 U.S.C. § 351 et seq.

(c) For any person to distribute at wholesale any drugs or devices without first obtaining a registration as a wholesale distributor from the board.

(d) For any person to operate as a third-party logistics provider within this state without having first obtained a registration from the board.

(e) For any person to in any manner distribute or dispense samples of any drugs or devices without first having obtained a permit from the board so to do, and it shall be necessary to obtain permission from the board in every instance where the samples are to be distributed or dispensed. Nothing in this subsection shall be held to regulate or in any manner interfere with the furnishing of samples of drugs to duly licensed practitioners, to mid-level practitioners, to pharmacists or to medical care facilities.

(f) Except as otherwise provided in this subsection, for any person operating a store or place of business to sell, offer for sale or distribute any drugs to the public without first having obtained a registration or permit from the board authorizing such person so to do. No retail dealer who sells 12 or fewer different nonprescription drug products shall be required to obtain a retail dealer's permit under the pharmacy act of the state of Kansas or to pay a retail dealer new permit or permit renewal fee under such act. It shall be lawful for a retail dealer who is the holder of a valid retail dealer's permit issued by the board or for a retail dealer who sells 12 or fewer different nonprescription drug products to sell and distribute nonprescription drugs ~~which~~ that are prepackaged, fully prepared by the manufacturer or distributor for use by the consumer and labeled in accordance with the requirements of the state and federal food, drug and cosmetic acts. Such nonprescription drugs shall not include: (1) A controlled substance; (2) a prescription-only drug; or (3) a drug product intended for human use by hypodermic injection; but such a retail dealer shall not be authorized to display any of the words listed in K.S.A. 65-1626~~(hh)~~(zz), and amendments thereto, for the designation of a pharmacy or drugstore.

(g) For any person to ~~sell any drugs manufactured and sold only in the state of Kansas, unless the label and directions on such drugs shall first have been approved by the board manufacture within this state any drugs or devices except under the personal and immediate supervision of a pharmacist or such other individual as may be approved by the board after an investigation and a determination by the board that such individual is qualified by scientific or technical training or experience to perform such duties of supervision as may be necessary to protect the public health and safety, and no individual shall manufacture any drugs or devices without first obtaining a registration to do so from the board.~~

(h) For any person to operate an institutional drug room without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1637a, and amendments thereto, and any rules and regulations adopted pursuant thereto.

(i) For any person to operate a veterinary medical teaching hospital pharmacy without first having obtained a registration to do so from the board. Such registration shall be subject to the provisions of K.S.A. 65-1662, and amendments thereto, and any rules and regulations adopted pursuant thereto.

(j) For any person to sell or distribute in a pharmacy a controlled substance designated in K.S.A. 65-4113~~(e)(d)~~ or ~~(f)~~ (e), and amendments thereto, unless:

(1) (A) Such controlled substance is sold or distributed by a licensed pharmacist, or by a registered pharmacy technician or a ~~pharmacy~~ pharmacist intern or clerk supervised by a licensed pharmacist;

(B) any ~~person~~ individual purchasing, receiving or otherwise acquiring any such controlled substance produces a valid photo identification showing the date of birth of the ~~person~~ individual and signs a log and enters in the log, or allows the seller to enter in the log, such ~~person's~~ individual's address and the date and time of sale or allows the seller to enter such information into an electronic logging system pursuant to K.S.A. 65-16,102, and amendments thereto. The log or database required by the board shall be available for inspection during regular business hours to the board of pharmacy and any law enforcement officer;

(C) the seller determines that the name entered in the log corresponds to the name provided on such identification and that the date and time entered are correct; and

(D) the seller enters in the log the name of the controlled substance and the quantity sold; or

(2) there is a lawful prescription.

(k) For any pharmacy to allow customers to have direct access to any controlled substance designated in K.S.A. 65-4113~~(e)(d)~~ or ~~(f)~~ (e), and amendments thereto. Such controlled substance shall be placed behind the counter or stored in a locked cabinet that is located in an area of the pharmacy to which customers do not have direct access.

(continued)

(l) A seller who in good faith releases information in a log pursuant to subsection (j) to any law enforcement officer is immune from civil liability for such release unless the release constitutes gross negligence or intentional, wanton or willful misconduct.

(m) For any person to sell or lease or offer for sale or lease durable medical equipment or to supply medical grade oxygen to an end user without first obtaining a registration from the board, in accordance with rules and regulations adopted by the board, except that this subsection shall not apply to:

(1) Sales not made in the regular course of the person's business; or  
 (2) sales by charitable organizations exempt from federal income taxation pursuant to the internal revenue code of 1986, as amended.

(n) For any person to operate as an outsourcing facility within this state, or operate as an outsourcing facility outside of Kansas and ship, mail or deliver drugs into this state, without having first obtained a registration from the board.

(o) For any person to operate an automated dispensing system within this state without having first obtained a registration from the board.

(p) For any person to distribute drugs or devices into Kansas as an out-of-state manufacturer of such drugs or devices without first obtaining a registration as a manufacturer from the board.

Sec. 11. K.S.A. 65-1645 is hereby amended to read as follows: 65-1645. (a) Application for registrations or permits under K.S.A. 65-1643, and amendments thereto, shall be made on a form prescribed and furnished by the board. Applications for registration shall contain such information as may be required by the board in accordance with the provisions of K.S.A. 65-1655, and amendments thereto, and K.S.A. 65-1655a and 65-1655b, and amendments thereto. The application shall be accompanied by the fee prescribed by the board under the provisions of this section. When such application and fees are received by the secretary on or before the due date, such application shall have the effect of temporarily renewing the applicant's registration or permit until actual issuance or denial of the renewal. However, if, at the time of filing, a proceeding is pending before the board that may result in the suspension, probation, revocation or denial of the applicant's registration or permit, the board may declare, by emergency order, that such application for renewal shall not have the effect of temporarily renewing such applicant's registration or permit. Separate applications shall be made and separate registrations or permits issued for each separate place at which where there is carried on any of the operations for which a registration or permit is required by K.S.A. 65-1643, and amendments thereto.

(b) An application for a registration or permit under K.S.A. 65-1643, and amendments thereto, submitted for a facility physically located outside of the state of Kansas shall be accompanied by an additional non-resident fee prescribed by the board by rules and regulations pursuant to this section. Such fee shall not exceed \$350 for a new registration and \$250 for a renewal.

(c) The nonrefundable fees required for the issuing of the licenses, registrations or permits under the pharmacy act of the state of Kansas shall be fixed by the board as herein provided in this section, subject to the following:

(1) Pharmacy, new registration not more than \$150, renewal not more than \$125;  
 (2) pharmacist, new license by examination not more than \$350;  
 (3) pharmacist, reinstatement application fee not more than \$250;  
 (4) pharmacist, biennial renewal fee not more than \$200;  
 (5) pharmacist, evaluation fee not more than \$250;  
 (6) pharmacist, reciprocal licensure fee not more than \$250;  
 (7) pharmacist, penalty fee, not more than \$500;  
 (8) manufacturer, new registration not more than \$500, renewal not more than \$400;

(9) wholesale distributor, new registration not more than \$500, renewal not more than \$400, except that a wholesale distributor dealing exclusively in nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and re-registration not to exceed \$50;

(10) special auction not more than \$50;

(11) samples distribution not more than \$50, renewal not more than \$50;

(12) institutional drug room, new registration not more than \$40, renewal not more than \$35;

(13) retail dealer selling more than 12 different nonprescription drug products, new permit not more than \$12, renewal not more than \$12;

(14) certification of grades for each applicant for examination and registration not more than \$25;

(15) veterinary medical teaching hospital pharmacy, new registration not more than \$40, renewal not more than \$35;

(16) durable medical equipment registration fee, not more than \$300, renewal not more than \$300;

(17) third-party logistics provider, new registration not more than \$500, renewal not more than \$400, except that a third-party logistics provider exclusively providing nonprescription drugs, the manufacturing, distributing or dispensing of which does not require registration under the uniform controlled substances act, shall be assessed a fee for registration and re-registration not to exceed \$50;

(18) outsourcing facility, new registration not more than \$500, renewal not more than \$400;

(19) repackager, new registration not more than \$500, renewal not more than \$400; or

(20) automated dispensing system registration fee, not more than \$40, renewal not more than \$35.

(c)(d) For the purpose of fixing fees, the board may establish classes of retail dealers' permits for retail dealers selling more than 12 different nonprescription drug products, and the board may fix a different fee for each such class of permit.

(d)(e) The board shall determine annually the amount necessary to carry out and enforce the provisions of this act for the next ensuing fiscal year and shall fix by rules and regulations the fees authorized for such year at the sum deemed necessary for such purposes. The fees fixed by the board under this section immediately prior to the effective date of this act shall continue in effect until different fees are fixed by the board by rules and regulations as provided under this section.

(e)(f) The board may deny renewal of any registration or permit required by K.S.A. 65-1643, and amendments thereto, on any ground that would authorize the board to suspend, revoke or place on probation a registration or permit previously granted pursuant to the provisions of K.S.A. 65-1643, and amendments thereto. Registrations and permits issued under the provisions of K.S.A. 65-1643 and 65-1644, and amendments thereto, shall be conspicuously displayed in the place for which the registration or permit was granted. Such registrations or permits shall not be transferable. All such registrations and permits shall expire every year. The expiration date shall be established by rules and regulations adopted by the board. All registrations and permits shall be renewed annually. Notice of renewal of registrations and permits shall be sent by the board to each registrant or permittee at least 30 days prior to expiration of the registration or permit. If application for renewal is not made prior to expiration, the existing registration or permit shall lapse and become null and void on the date of its expiration, and no new registration or permit shall be granted except upon payment of the required renewal fee plus a penalty equal to the renewal fee. Failure of any registrant or permittee to receive such notice of renewal shall not relieve the registrant or permittee from the penalty hereby imposed if the renewal is not made as prescribed.

(f)(g) In each case in which a license of a pharmacist is issued or renewed for a period of time less than two years, the board shall prorate to the nearest whole month the license or renewal fee established pursuant to this section.

(g)(h) The board may require that fees paid for any examination under the pharmacy act of the state of Kansas be paid directly to the examination service by the person taking the examination.

Sec. 12. K.S.A. 65-1656 is hereby amended to read as follows: 65-1656. (a) Nothing contained in the pharmacy act of the state of Kansas shall prohibit a pharmacist licensed in this state from filling or refilling a valid prescription for prescription drugs not listed in schedule II of the uniform controlled substances act, which that is on file in a pharmacy licensed or registered in any state and has been transferred from one pharmacy to another by any means, including by way of electronic data processing equipment, upon the following conditions and exceptions:

(1) Prior to dispensing pursuant to any such prescription, the dispensing pharmacist shall:

(A) Advise the patient that the prescription file at such other pharmacy must be canceled before the dispensing pharmacist will be able to fill the prescription;

(B) determine that the prescription is valid and on file at such other pharmacy and that such prescription may be filled or refilled, as requested, in accordance with the prescriber's intent expressed on such prescription;

(C) notify the pharmacy where the prescription is on file that the prescription must be canceled;

(D) record the prescription order, the name of the pharmacy at which the prescription was on file, the prescription number, the name of the drug and the original amount dispensed, the date of original dispensing and the number of remaining authorized refills. Ensure records and notifications are in compliance with rules and regulations adopted by the board; and

(E)(B) obtain the consent of the prescriber to the refilling of the prescription when the prescription, in the professional judgment of the dispensing pharmacist, so requires. Any interference with the professional judgment of the dispensing pharmacist by any other licensed pharmacist, agents of the licensed pharmacist or employees shall be grounds for revocation or suspension of the registration issued to the pharmacy.

(2) Upon receipt of a request for the transfer of a prescription information set forth in subsection (a)(1)(D) record, if the requested pharmacist is satisfied in the professional judgment of the pharmacist that such request is valid and legal, the requested pharmacist pharmacy shall:

(A) Provide such information accurately and completely;

(B) record on the prescription the name of the requesting pharmacy and pharmacist and the date of request. Ensure records and notifications are made in compliance with rules and regulations adopted by the board; and

(C) cancel the prescription on file. No further prescription transfer shall be given or medication dispensed pursuant to such original prescription provide information in a timely manner to avoid interruption in the medication therapy of the patient.

(3) In the event that, after the information set forth in subsection (a)(1)(D) has been provided, a prescription is not dispensed by the requesting pharmacist, then such pharmacist shall provide notice of this fact to the pharmacy from which such information was obtained, such notice shall then cancel the prescription in the same manner as set forth in subsection (a)(2)(C).

(4) When filling or refilling a valid prescription on file in another state, the dispensing pharmacist shall be required to follow all the requirements of Kansas law which that apply to the dispensing of prescription drugs. If anything in Kansas law prevents the filling or refilling of the original prescription it shall be unlawful to dispense pursuant to this section.

(5)(4) In addition to any other requirement of this section, the transfer of original prescription information for a controlled substance listed in schedules III, IV and V for the purposes of refill dispensing shall be made in accordance with the requirements of section 1306.25 of chapter 21 of the code of federal regulations 21 C.F.R. § 1306.25.

(b) Two or more pharmacies may establish and use a common electronic file to maintain required dispensing information. Pharmacies using such a common electronic file are not required to physically transfer prescriptions or information for dispensing purposes between or among pharmacies participating in the same common prescription file, except that any such common file must contain complete and adequate records of such prescription and refill dispensed as required by the pharmacy act of the state of Kansas.

(c) The board may formulate adopt such rules and regulations, not inconsistent with law, as may be necessary to carry out the purposes of and to enforce the provisions of this section except that the board shall not impose greater requirements on either common electronic files or a hard copy record system.

(d) Drugs shall in no event be dispensed more frequently or in larger amounts than the prescriber ordered without direct prescriber authorization by way of a new prescription order. Nothing in this section shall prevent a pharmacy from forwarding to another pharmacy an original, unfilled prescription for a noncontrolled substance or electronically forwarding an original, unfilled, electronic prescription for a controlled substance, at the request of the patient, in compliance with the provisions of the federal or state uniform controlled substances act.

(e) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 13. K.S.A. 65-1657 is hereby amended to read as follows: 65-1657. (a) No nonresident pharmacy shall ship, mail or deliver, in any manner, prescription drugs or devices to a patient, patient's agent or prescriber's office in this state unless registered under this section as a nonresident pharmacy. Applications for a nonresident pharmacy registration under this section shall be made on a form furnished by the board. A nonresident pharmacy registration shall be granted for a period of one year upon compliance by the nonresident pharmacy with the

provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the registration fee established under K.S.A. 65-1645, and amendments thereto, for a pharmacy registration. A nonresident pharmacy registration shall be renewed annually on forms provided by the board, upon compliance by the nonresident pharmacy with the provisions of this section and rules and regulations adopted pursuant to this section and upon payment of the renewal fee established under K.S.A. 65-1645, and amendments thereto, for the renewal of a pharmacy registration.

(b) As conditions for the granting of a registration and for the renewal of a registration for a nonresident pharmacy, the nonresident pharmacy shall comply with the following:

(1) Provide information to the board to indicate the person or persons applying for the registration, the location of the pharmacy from which the prescription drugs will be dispensed, the names and titles of all principal owners and corporate officers, if any, and the names of all pharmacists dispensing prescription drugs to residents of Kansas;

(2) be registered and in good standing in the state in which such pharmacy is located;

(3) maintain, in readily retrievable form, records of prescription drugs dispensed to Kansas patients;

(4) supply upon request, all information needed by the board to carry out the board's responsibilities under this section and rules and regulations adopted pursuant to this section;

(5) maintain pharmacy hours that permit the timely dispensing of drugs to Kansas patients and provide reasonable access for the patients to consult with a licensed pharmacist about such patients' medications;

(6) provide toll-free telephone communication consultation between a Kansas patient and a pharmacist at the pharmacy who has access to the patient's records, and ensure that the telephone number(s) number will be placed upon the label affixed to each prescription drug container dispensed in Kansas; and

(7) provide to the board such other information as the board may reasonably request to administer the provisions of this section.

(c) When any nonresident pharmacy fails to supply requested information to the board or fails to respond to proper inquiry of the board, after receiving notice by certified mail, the board may assess a civil fine in accordance with the provisions in K.S.A. 65-1658, and amendments thereto:

(d) Each nonresident pharmacy shall comply with the following unless compliance would be in conflict with specific laws or rules and regulations of the state in which the pharmacy is located:

(1) All statutory and regulatory requirements of Kansas for controlled substances, including those that are different from federal law;

(2) labeling of all prescriptions dispensed, to include, but not be limited to, identification of the product and quantity dispensed;

(3) all the statutory and regulatory requirements of Kansas for dispensing prescriptions in accordance with the quantities indicated by the prescriber; and

(4) the Kansas law regarding the maintenance and use of the patient medication profile record system.

(e)(d) In addition to subsection (d) the requirements of subsection (c), each nonresident pharmacy shall comply with all the statutory and regulatory requirements of Kansas regarding drug product selection laws whether or not such compliance would be in conflict with specific laws or rules and regulations of the state in which the pharmacy is located, except that compliance which that constitutes only a minor conflict with specific laws or rules and regulations of the state in which the pharmacy is located would not be required under this subsection.

(f)(e) Each nonresident pharmacy shall develop and provide the board with a policy and procedure manual that sets forth:

(1) Normal delivery protocols and times;

(2) the procedure to be followed if the patient's medication is not available at the nonresident pharmacy, or if delivery will be delayed beyond the normal delivery time;

(3) the procedure to be followed upon receipt of a prescription for an acute illness, which. Such policy shall include a procedure for delivery of the medication to the patient from the nonresident pharmacy at the earliest possible time, or an alternative that assures the patient the opportunity to obtain the medication at the earliest possible time; and

(4) the procedure to be followed when the nonresident pharmacy is advised that the patient's medication has not been received within the normal delivery time and that the patient is out of medication and requires interim dosage until mailed prescription drugs become available.

(continued)

(g) Except in emergencies that constitute an immediate threat to the public health and require prompt action by the board, the board may file a complaint against any nonresident pharmacy that violates any provision of this section. This complaint shall be filed with the regulatory or licensing agency of the state in which the nonresident pharmacy is located. If the regulatory or licensing agency of the state in which the nonresident pharmacy is located fails to resolve the violation complained of within a reasonable time, not less than 180 days from the date that the complaint is filed, disciplinary proceedings may be initiated by the board. The board also may initiate disciplinary actions against a nonresident pharmacy if the regulatory or licensing agency of the state in which the nonresident pharmacy is located lacks or fails to exercise jurisdiction.

(f) The board may limit, condition, revoke, suspend or place in a probationary status a registration or deny an application for issuance or renewal of any registration on any ground that would authorize the board to take action against the registration of a pharmacy under K.S.A. 65-1627, and amendments thereto.

(h)(g) The board shall adopt rules and regulations that make exceptions to the requirement of registration by a nonresident pharmacy when the out-of-state pharmacy supplies lawful refills to a patient from a prescription that was originally filled and delivered to a patient within the state in which the nonresident pharmacy is located, or when the prescriptions being mailed into the state of Kansas by a nonresident pharmacy occurs only in isolated transactions. In determining whether the prescriptions being mailed into the state of Kansas by a nonresident pharmacy are isolated transactions, the board shall consider whether the pharmacy has promoted its services in this state and whether the pharmacy has a contract with any employer or organization to provide pharmacy services to employees or other beneficiaries in this state.

(h)(h) It is unlawful for any nonresident pharmacy which that is not registered under this act to advertise its services in this state, or for any person who is a resident of this state to advertise the pharmacy services of a nonresident pharmacy which that has not registered with the board, with the knowledge that the advertisement will or is likely to induce members of the public in this state to use the pharmacy to fill prescriptions.

(i)(i) Upon request of the board, the attorney general may bring an action in a court of competent jurisdiction for injunctive relief to restrain a violation of the provisions of this section or any rules and regulations adopted by the board under authority of this section. The remedy provided under this subsection shall be in addition to any other remedy provided under this section or under the pharmacy act of the state of Kansas.

(k)(j) The board may adopt rules and regulations as necessary and as are consistent with this section to carry out the provisions of this section.

(l) The executive secretary of the board shall remit all moneys received from fees under this section 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 manner specified under K.S.A. 74-1609, and amendments thereto.

(m)(k) A violation of this section is a severity level 10, nonperson felony.

(n)(l) This section shall be a part of and supplemental to the pharmacy act of the state of Kansas.

Sec. 14. K.S.A. 65-1658 is hereby amended to read as follows: 65-1658. The state board of pharmacy, in addition to any other penalty prescribed under the pharmacy act of the state of Kansas, may assess a civil fine, after notice and an opportunity to be heard in accordance with the Kansas administrative procedure act, against any licensee or registrant under subsections (a), (c), (d) and (e) of K.S.A. 65-1627(a), (c), (d), (e) and (f), 65-1643, 65-1657, 65-1663 and 65-1676, and amendments thereto, for violation of the pharmacy act of the state of Kansas or, rules and regulations of the state board of pharmacy adopted under the pharmacy act of the state of Kansas or for violation of the federal or state uniform controlled substances act or rules and regulations of the state board of pharmacy adopted under the federal or state uniform controlled substances act; or for violation of the federal or state food, drug and cosmetic act or any rules and regulations adopted under any such act in an amount not to exceed \$5,000 for each violation. All fines assessed and collected under this section shall be remitted to the state treasurer in accordance with the provisions of K.S.A. 75-4215, and amendments thereto. Of the amount so remitted, an amount equal to the board's actual costs related to the case in which the fine was assessed, as certified

by the president of the board to the state treasurer, shall be, credited to the state board of pharmacy fee fund, and the balance shall be credited to the state general fund.

Sec. 15. K.S.A. 2020 Supp. 65-6112 is hereby amended to read as follows: 65-6112. As used in this act article 61 of chapter 65 of the Kansas Statutes Annotated, and amendments thereto:

(a) "Administrator" means the executive director of the emergency medical services board.

(b) "Advanced emergency medical technician" means a person who holds an advanced emergency medical technician certificate issued pursuant to this act.

(c) "Advanced practice registered nurse" means an advanced practice registered nurse as defined in K.S.A. 65-1113, and amendments thereto.

(d) "Ambulance" means any privately or publicly owned motor vehicle, airplane or helicopter designed, constructed, prepared, staffed and equipped for use in transporting and providing emergency care for individuals who are ill or injured.

(e) "Ambulance service" means any organization operated for the purpose of transporting sick or injured persons to or from a place where medical care is furnished, whether or not such persons may be in need of emergency or medical care in transit.

(f) "Board" means the emergency medical services board established pursuant to K.S.A. 65-6102, and amendments thereto.

(g) "Emergency medical service" means the effective and coordinated delivery of such care as may be required by an emergency that includes the care and transportation of individuals by ambulance services and the performance of authorized emergency care by a physician, advanced practice registered nurse, professional nurse, a licensed physician assistant or emergency medical service provider.

(h) "Emergency medical service provider" means an emergency medical responder, advanced emergency medical technician, emergency medical technician or paramedic certified by the emergency medical services board.

(i) "Emergency medical technician" means a person who holds an emergency medical technician certificate issued pursuant to this act.

(j) "Emergency medical responder" means a person who holds an emergency medical responder certificate issued pursuant to this act.

(k) "Hospital" means a hospital as defined by K.S.A. 65-425, and amendments thereto.

(l) "Instructor-coordinator" means a person who is certified under this act to teach or coordinate both initial certification and continuing education classes.

(m) "Medical director" means a physician.

(n) "Medical oversight" means to review, approve and implement medical protocols and to approve and monitor the activities, competency and education of emergency medical service providers.

(o) "Medical protocols" mean written guidelines that authorize emergency medical service providers to perform certain medical procedures prior to contacting a physician, physician assistant authorized by a physician, advanced practice registered nurse authorized by a physician or professional nurse authorized by a physician. The medical protocols shall be approved by a county medical society or the medical staff of a hospital to which the ambulance service primarily transports patients, or if neither of the above are able or available to approve the medical protocols, then the medical protocols shall be submitted to the medical advisory council for approval.

(p)(p) "Municipality" means any city, county, township, fire district or ambulance service district.

(q)(q) "Nonemergency transportation" means the care and transport of a sick or injured person under a foreseen combination of circumstances calling for continuing care of such person. As used in this subsection, transportation includes performance of the authorized level of services of the emergency medical service provider whether within or outside the vehicle as part of such transportation services.

(r)(r) "Operator" means a person or municipality who has a permit to operate an ambulance service in the state of Kansas.

(s)(s) "Paramedic" means a person who holds a paramedic certificate issued pursuant to this act.

(t)(t) "Person" means an individual, a partnership, an association, a joint-stock company or a corporation.

(u)(u) "Physician" means a person licensed by the state board of healing arts to practice medicine and surgery.

(v)(v) "Physician assistant" means a physician assistant as defined in K.S.A. 65-28a02, and amendments thereto.

(v)(w) "Professional nurse" means a licensed professional nurse as defined by K.S.A. 65-1113, and amendments thereto.

(w)(x) "Sponsoring organization" means any professional association, accredited postsecondary educational institution, ambulance service that holds a permit to operate in this state, fire department, other officially organized public safety agency, hospital, corporation, governmental entity or emergency medical services regional council, as approved by the executive director, to offer initial courses of instruction or continuing education programs.

Sec. 16. K.S.A. 2020 Supp. 65-6124 is hereby amended to read as follows: 65-6124. (a) No physician, physician assistant, advanced practice registered nurse or licensed professional nurse; who gives emergency instructions to an emergency medical service provider ~~as defined by K.S.A. 65-6112, and amendments thereto;~~ during an emergency; shall be liable for any civil damages as a result of issuing the instructions, except such damages that may result from gross negligence in giving such instructions.

(b) No emergency medical service provider ~~as defined by K.S.A. 65-6112, and amendments thereto;~~ who renders emergency care during an emergency pursuant to instructions given by a physician, ~~the supervising physician for a~~ physician assistant, advanced practice registered nurse or licensed professional nurse shall be liable for civil damages as a result of implementing such instructions, except such damages that may result from gross negligence or by willful or wanton acts or omissions on the part of such emergency medical service provider ~~as defined by K.S.A. 65-6112, and amendments thereto.~~

(c) No person certified as an instructor-coordinator shall be liable for any civil damages that may result from such instructor-coordinator's course of instruction, except such damages that may result from gross negligence or by willful or wanton acts or omissions on the part of the instructor-coordinator.

(d) No medical director who ~~reviews, approves and monitors the activities of emergency medical service providers~~ provides medical oversight shall be liable for any civil damages as a result of such ~~review, approval or monitoring~~ medical oversight, except such damages that may result from gross negligence in the provision of such ~~review, approval or monitoring~~ medical oversight.

Sec. 17. K.S.A. 2020 Supp. 65-6126 is hereby amended to read as follows: 65-6126. (a) ~~Except as provided in subsection (b), each emergency medical service operator shall have designate a medical director appointed by the operator of the service to review and implement medical protocols, approve and monitor the activities, competency and education of the emergency medical service providers to provide medical oversight.~~

(b) The board may approve an alternative procedure for medical oversight by a physician if no medical director is available to be designated by the operator.

Sec. 18. K.S.A. 65-636, 65-1627, 65-1631, 65-1637, 65-1643, 65-1645, 65-1656, 65-1657 and 65-1658 and K.S.A. 2020 Supp. 65-1626, 65-6112, 65-6124 and 65-6126 are hereby repealed.

Sec. 19. This act shall take effect and be in force from and after its publication in the Kansas register.

Doc. No. 049200

(Published in the Kansas Register June 3, 2021.)

## House Bill No. 2158

AN ACT concerning health and welfare; providing for the safety and wellbeing of children and vulnerable persons; establishing the joint committee on child welfare system oversight; relating to the state child death review board; relating to the confidentiality of records; exceptions thereto; requiring visual observation of a child in investigations of child abuse or neglect; adding an exemption from the child care assistance 20-hour-per-week work requirement; permitting the secretary to provide exemptions from family foster home license requirements; relating to the department of health and environment, division of public health; powers, duties and functions of the advisory committee on trauma and the statewide trauma system regional council; continuing in existence the authority to conduct closed session meetings and keep records privileged; amending K.S.A. 65-516, 75-5664 and 75-5665 and K.S.A. 2020 Supp. 22a-243, 38-2226 and 39-709 and repealing the existing sections.

WHEREAS, The amendments made to the provisions of K.S.A. 2020 Supp. 38-2226 by this act shall be known as Adrian's Law.

Now, therefore:

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

New Section 1. (a) There is hereby established the joint committee on child welfare system oversight. The joint committee shall review:

(1) Data on child maltreatment and demographic trends impacting the child welfare system;

(2) the duties, responsibilities and contributions of the Kansas department for children and families, the Kansas department for aging and disability services, the department of health and environment, the department of corrections, law enforcement and the judicial branch that comprise and impact the child welfare system;

(3) the programs, services and benefits offered directly or through grants or contracts by the Kansas department for children and families, the Kansas department for aging and disability services, the department of health and environment and the judicial branch that impact children and families at risk of becoming involved or who are involved in the child welfare system, including:

(A) Child maltreatment prevention;

(B) investigations of child maltreatment;

(C) in-home family services, including services offered through federal prevention and family preservation funding; and

(D) foster care, reintegration and adoption services;

(4) trends, performance outcomes, activities and improvement plans related to the federal child and family services reviews;

(5) reports from child welfare-related groups, including, but not limited to, citizen review panels, the Kansas supreme court permanency planning task force, the Kansas children's cabinet and any interim study committees or work groups authorized by the Kansas legislature;

(6) implementation of the 2019 child welfare system task force report recommendations, including top-tier recommendations related to the child welfare workforce, data technology, access to behavioral healthcare for high-risk youth and implementation of the federal family first prevention services act;

(7) reports on concerns received from the Kansas department for children and families child welfare ombudsman or customer service department or similar office;

(8) opportunities for Kansas to strengthen the child welfare system through evidence-based interventions and services for children and families;

(9) data and trends on family foster home licenses issued pursuant to K.S.A. 65-516(b), and amendments thereto;

(10) the exception to state child death review board confidentiality for city or county entities with the express purpose of providing local review of child deaths pursuant to K.S.A. 2020 Supp. 22a-243, and amendments thereto; and

(11) any other topic the joint committee deems appropriate.

(b) The joint committee shall consist of 13 members of the legislature appointed as follows:

(1) Two members of the house of representatives standing committee on children and seniors appointed by the speaker of the house of representatives;

(2) one member of the house of representatives standing committee on children and seniors appointed by the minority leader of the house of representatives;

(3) two members of the senate standing committee on public health and welfare appointed by the president of the senate;

(4) one member of the senate standing committee on public health and welfare appointed by the minority leader of the senate;

(5) two members of the house of representatives appointed by the speaker of the house of representatives;

(6) one member of the house of representatives appointed by the minority leader of the house of representatives;

(7) two members of the senate appointed by the president of the senate;

(8) one member of the senate appointed by the minority leader of the senate; and

(9) one member of the house of representatives appointed by the majority leader of the house of representatives.

(c) Members shall be appointed for terms coinciding with the legislative terms for which such members are elected or appointed. All members appointed to fill vacancies in the membership of the joint committee and all members appointed to succeed members appointed

(continued)

ed to the membership on the joint committee shall be appointed in the manner provided for the original appointment of the member succeeded.

(d) (1) Within 30 days of the effective date of this section, the first chairperson of the joint committee shall be appointed by the president of the senate from among the members of the joint committee appointed by the president of the senate. The chairperson and vice-chairperson of the joint committee shall alternate annually between the members appointed by the president of the senate and the speaker of the house of representatives.

(2) The speaker of the house of representatives shall designate a representative member to be the chairperson or the vice-chairperson of the joint committee as provided in this section. The president of the senate shall designate a senator member to be the chairperson or the vice-chairperson of the joint committee as provided in this section. The ranking minority member shall be from the same chamber as the chairperson. The minority leader of the senate shall designate a senator member to be the ranking minority member of the joint committee as provided in this section. The minority leader of the house of representatives shall designate a representative member to be the ranking minority member of the joint committee as provided in this section.

(e) The members originally appointed as members of the joint committee shall meet upon the call of the chairperson on or after January 1, 2021. Thereafter, the joint committee shall meet at least once during each of the first and second calendar quarters when the legislature is in regular session and at least once during each of the third and fourth calendar quarters, on the call of the chairperson, but not to exceed six meetings in a calendar year.

(f) Seven members of the joint committee shall constitute a quorum.

(g) At the beginning of each regular session of the legislature, the joint committee shall submit to the president of the senate, the speaker of the house of representatives, the house standing committee on children and seniors and the senate standing committee on public health and welfare a written report that shall include recommended changes to current laws, rules and regulations and policies regarding the safety and well-being of children in the child welfare system in the state of Kansas.

(h) Members of the joint committee shall be paid compensation, amounts for travel expenses and subsistence expenses or allowances as provided in K.S.A. 75-3212, and amendments thereto, for attendance at any meeting of the joint committee or any subcommittee meeting authorized by the committee.

(i) In accordance with K.S.A. 46-1204, and amendments thereto, the legislative coordinating council may provide for such professional services as may be requested by the joint committee.

(j) The joint committee may make recommendations and introduce legislation as it deems necessary in performing its functions.

Sec. 2. K.S.A. 2020 Supp. 22a-243 is hereby amended to read as follows: 22a-243. (a) There is hereby established a state child death review board, which shall be composed of:

(1) One member appointed by each of the following officers to represent the officer's agency: The attorney general, the director of the Kansas bureau of investigation, the secretary for children and families, the secretary of health and environment and the commissioner of education;

(2) three members appointed by the state board of healing arts, one of whom shall be a district coroner and two of whom shall be physicians licensed to practice medicine and surgery, one specializing in pathology and the other specializing in pediatrics;

(3) one person appointed by the attorney general to represent advocacy groups which that focus attention on child abuse awareness and prevention; and

(4) one county or district attorney appointed by the Kansas county and district attorneys association.

(b) The chairperson of the state review board shall be the member appointed by the attorney general to represent the office of the attorney general.

(c) The state child death review board shall be within the office of the attorney general as a part thereof. All budgeting, purchasing and related management functions of the board shall be administered under the direction and supervision of the attorney general. All vouchers for expenditures and all payrolls of the board shall be approved by the chairperson of the board and by the attorney general. The state review board shall establish and maintain an office in Topeka.

(d) The state review board shall meet at least annually to review all reports submitted to the board. The chairperson of the state review board may call a special meeting of the board at any time to review any report of a child death.

(e) Within the limits of appropriations therefor, the state review board shall appoint an executive director who shall be in the unclassified service of the Kansas civil service act and shall receive an annual salary fixed by the state review board.

(f) Within the limits of appropriations therefor, the state review board may employ other persons who shall be in the classified service of the Kansas civil service act.

(g) Members of the state review board shall not receive compensation, subsistence allowances, mileage and expenses as provided by K.S.A. 75-3223, and amendments thereto, for attending meetings or subcommittee meetings of the board.

(h) The state review board shall develop a protocol to be used by the state review board. The protocol shall include written guidelines for coroners to use in identifying any suspicious deaths, procedures to be used by the board in investigating child deaths, methods to ensure coordination and cooperation among all agencies involved in child deaths and procedures for facilitating prosecution of perpetrators when it appears the cause of a child's death was from abuse or neglect. The protocol shall be adopted by the state review board by rules and regulations.

(i) The state review board shall submit an annual report to the governor and the legislature on or before October 1 of each year, commencing October 1993. Such report shall include the findings of the board regarding reports of child deaths, the board's analysis and the board's recommendations for improving child protection, including recommendations for modifying statutes, rules and regulations, policies and procedures.

(j) Information acquired by, and records of, the state review board shall be confidential, shall not be disclosed and shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding, except that such information and records may be disclosed to any member of the legislature or any legislative committee which has legislative responsibility of the enabling or appropriating legislation, carrying out such member's or committee's official functions. The legislative committee, in accordance with K.S.A. 75-4319, and amendments thereto, shall recess for a closed or executive meeting to receive and discuss information received by the committee pursuant to this subsection the state review board or the board's designee may disclose such information and records to:

(1) Any member of the legislature or a legislative committee that has legislative responsibility of the enabling or appropriating legislation, if such member or committee is carrying out the official functions of such member or committee, and if any such committee recesses into a closed or executive meeting pursuant to K.S.A. 75-4319(a), and amendments thereto, and has taken appropriate steps to preserve its privacy;

(2) any person or entity contracting with the state review board, if the board has determined that disclosure of such information and records is essential for completion of the contract, and the board has taken appropriate steps to preserve confidentiality;

(3) any person or entity, if the information and records being disclosed are statistics or conclusions of the state review board of the same type included in its annual report pursuant to subsection (i);

(4) any law enforcement agency of the state or any political subdivision thereof, if the state review board determines that the information and records being disclosed were not previously available to such law enforcement agency for the investigation of the cause of the child's death; and:

(A) The board determines that the cause of the child's death was from abuse or neglect; or

(B) the board does not determine that the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in K.S.A. 2020 Supp. 21-2501a, and amendments thereto, of abuse or neglect involving the death of a child;

(5) any county or district attorney, if the state review board determines that the information and records being disclosed were not previously available to such county or district attorney for the prosecution of any crimes related to the cause of the child's death; and:

(A) The board determines that the cause of the child's death was from abuse or neglect; or

(B) the board does not determine that the child's death was from abuse or neglect and has knowledge of a law enforcement investigation based on an official offense report as required in K.S.A. 2020 Supp. 21-2501a, and amendments thereto, of abuse or neglect involving the death of a child;

(6) (A) any entity established by a city or county for the express purpose of providing a local review of child deaths if the information and records being disclosed are related to a child's death in an instance when:

- (i) Such death occurred in such city or county; or
- (ii) such child was a resident of such city or county;

(B) the provisions of this paragraph shall expire on July 1, 2026, unless the legislature reviews and reenacts such provisions prior to July 1, 2026; and

(C) the joint committee on child welfare system oversight shall review the provisions of this paragraph pursuant to section 1, and amendments thereto;

(7) any licensing body as defined by K.S.A. 74-146, and amendments thereto, if:

(A) The information and records being disclosed are related to a disciplinary complaint against a person licensed by such licensing body;

(B) any member of the state review board is under a professional obligation to make a disciplinary complaint against a person licensed by such licensing body; or

(C) a person licensed by such licensing body may have caused or contributed to the child's death; and

(8) a governmental agency or an organization that has a federalwide assurance (FWA) for the protection of human subjects in good standing with the United States department of health and human services officer for human research protections, if:

(A) The agency or organization provides documentation that an institutional review board designated in the FWA has reviewed the organization's research proposal;

(B) personally identifiable information is redacted from the disclosure;

(C) the disclosure is only for the purpose of health or education; and

(D) the agency or organization requires all persons granted access to the disclosed information and records to sign a confidentiality agreement prior to receipt of the disclosed information and records.

(k) The state review board may adopt rules and regulations as necessary to carry out the provisions of K.S.A. 22a-241 through 22a-244, and amendments thereto.

Sec. 3. K.S.A. 2020 Supp. 38-2226 is hereby amended to read as follows: 38-2226. (a) *Investigation for child abuse or neglect.* The secretary and law enforcement officers shall have the duty to receive and investigate reports of child abuse or neglect for the purpose of determining whether the report is valid and whether action is required to protect a child. Any person or agency which maintains records relating to the involved child which are relevant to any investigation conducted by the secretary or law enforcement agency under this code shall provide the secretary or law enforcement agency with the necessary records to assist in investigations. In order to provide such records, the person or agency maintaining the records shall receive from the secretary or law enforcement: (1) A written request for information; and (2) a written notice that the investigation is being conducted by the secretary or law enforcement. If the secretary and such officers determine that no action is necessary to protect the child but that a criminal prosecution should be considered, such law enforcement officers shall make a report of the case to the appropriate law enforcement agency.

(b) *Joint investigations.* When a report of child abuse or neglect indicates: (1) That there is serious physical harm to, serious deterioration of or sexual abuse of the child; and (2) that action may be required to protect the child, the investigation shall be conducted as a joint effort between the secretary and the appropriate law enforcement agency or agencies, with a free exchange of information between them pursuant to K.S.A. 2020 Supp. 38-2210, and amendments thereto. If a statement of a suspect is obtained by either agency, a copy of the statement shall be provided to the other.

(c) *Investigation of certain cases.* Suspected child abuse or neglect which occurs in an institution operated by the Kansas department of corrections shall be investigated by the attorney general or secretary of corrections. Any suspected child abuse or neglect in an institution operated by the Kansas department for aging and disability services, or by persons employed by the Kansas department for aging and disability services or the Kansas department for children and families, or of children of persons employed by either department, shall be investigated by the appropriate law enforcement agency.

(d) *Coordination of investigations by county or district attorney.* If a dispute develops between agencies investigating a reported case of child abuse or neglect, the appropriate county or district attorney shall take charge of, direct and coordinate the investigation.

(e) *Investigations concerning certain facilities.* Any investigation involving a facility subject to licensing or regulation by the secretary of health and environment shall be promptly reported to the state secretary of health and environment.

(f) *Cooperation between agencies.* Law enforcement agencies and the secretary shall assist each other in taking action which is necessary to protect a child regardless of which agency conducted the initial investigation.

(g) *Cooperation between school personnel and investigative agencies.* (1) Educational institutions, the secretary and law enforcement agencies shall cooperate with each other in the investigation of reports of suspected child abuse or neglect. The secretary and law enforcement agencies shall have access to a child in a setting designated by school personnel on the premises of an educational institution. Attendance at an interview conducted on such premises shall be at the discretion of the agency conducting the interview, giving consideration to the best interests of the child. To the extent that safety and practical considerations allow, law enforcement officers on such premises for the purpose of investigating a report of suspected child abuse or neglect shall not be in uniform.

(2) The secretary or a law enforcement officer may request the presence of school personnel during an interview if the secretary or officer determines that the presence of such person might provide comfort to the child or facilitate the investigation.

(h) *Visual observation required.* As part of any investigation conducted pursuant to this section, the secretary, or the secretary's designee, or the law enforcement agency, or such agency's designee, that is conducting the investigation shall visually observe the child who is the alleged victim of abuse or neglect. In the case of a joint investigation conducted pursuant to subsection (b), the secretary and the investigating law enforcement agency, or the designees of the secretary and such agency, shall both visually observe the child who is the alleged victim of abuse or neglect. All investigation reports shall include the date, time and location of any visual observation of a child that is required by this subsection.

Sec. 4. K.S.A. 2020 Supp. 39-709 is hereby amended to read as follows: 39-709. (a) *General eligibility requirements for assistance for which federal moneys are expended.* Subject to the additional requirements below, assistance in accordance with plans under which federal moneys are expended may be granted to any needy person who:

(1) Has insufficient income or resources to provide a reasonable subsistence compatible with decency and health. Where a husband and wife or cohabiting partners are living together, the combined income or resources of both shall be considered in determining the eligibility of either or both for such assistance unless otherwise prohibited by law. The secretary, in determining need of any applicant for or recipient of assistance shall not take into account the financial responsibility of any individual for any applicant or recipient of assistance unless such applicant or recipient is such individual's spouse, cohabiting partner or such individual's minor child or minor stepchild if the stepchild is living with such individual. The secretary in determining need of an individual may provide such income and resource exemptions as may be permitted by federal law. For purposes of eligibility for temporary assistance for needy families, for food assistance and for any other assistance provided through the Kansas department for children and families under which federal moneys are expended, the secretary for children and families shall consider one motor vehicle owned by the applicant for assistance, regardless of the value of such vehicle, as exempt personal property and shall consider any equity in any boat, personal water craft, recreational vehicle, recreational off-highway vehicle or all-terrain vehicle, as defined by K.S.A. 8-126, and amendments thereto, or any additional motor vehicle owned by the applicant for assistance to be a nonexempt resource of the applicant for assistance except that any additional motor vehicle used by the applicant, the applicant's spouse or the applicant's cohabiting partner for the primary purpose of earning income may be considered as exempt personal property in the secretary's discretion.

(2) Is a citizen of the United States or is an alien lawfully admitted to the United States and who is residing in the state of Kansas.

(b) *Temporary assistance for needy families.* Assistance may be granted under this act to any dependent child, or relative, subject to the general eligibility requirements as set out in subsection (a), who resides in the state of Kansas or whose parent or other relative with whom the child is living resides in the state of Kansas. Such assistance shall be known as temporary assistance for needy families. Where the husband and wife or cohabiting partners are living together, both shall register for work under the program requirements for temporary assistance for needy families in accordance with criteria and guidelines prescribed by rules and regulations of the secretary.

(continued)

(1) As used in this subsection, “family group” or “household” means the applicant or recipient for TANF, child care subsidy or employment services and all individuals living together in which there is a relationship of legal responsibility or a qualifying caretaker relationship. This will include a cohabiting boyfriend or girlfriend living with the person legally responsible for the child. The family group shall not be eligible for TANF if the family group contains at least one adult member who has received TANF, including the federal TANF assistance received in any other state, for 24 calendar months beginning on and after October 1, 1996, unless the secretary determines a hardship exists and grants an extension allowing receipt of TANF until the 36-month limit is reached. No extension beyond 36 months shall be granted. Hardship provisions for a recipient include:

(A) Is a caretaker of a disabled family member living in the household;

(B) has a disability which precludes employment on a long-term basis or requires substantial rehabilitation;

(C) needs a time limit extension to overcome the effects of domestic violence/sexual assault;

(D) is involved with prevention and protection services (PPS) and has an open social service plan; or

(E) is determined by the 24<sup>th</sup> month to have an extreme hardship other than what is designated in criteria listed in subparagraphs (A) through (D). This determination will be made by the executive review team.

(2) All adults applying for TANF shall be required to complete a work program assessment as specified by the Kansas department for children and families, including those who have been disqualified for or denied TANF due to non-cooperation, drug testing requirements or fraud. Adults who are not otherwise eligible for TANF, such as ineligible aliens, relative/non-relative caretakers and adults receiving supplemental security income are not required to complete the assessment process. During the application processing period, applicants must complete at least one module or its equivalent of the work program assessment to be considered eligible for TANF benefits, unless good cause is found to be exempt from the requirements. Good cause exemptions shall only include:

(A) The applicant can document an existing certification verifying completion of the work program assessment;

(B) the applicant has a valid offer of employment or is employed a minimum of 20 hours a week;

(C) the applicant is a parenting teen without a GED or high school diploma;

(D) the applicant is enrolled in job corps;

(E) the applicant is working with a refugee social services agency; or

(F) the applicant has completed the work program assessment within the last 12 months.

(3) The department for children and families shall maintain a sufficient level of dedicated work program staff to enable the agency to conduct work program case management services to TANF recipients in a timely manner and in full accordance with state law and agency policy.

(4) TANF mandatory work program applicants and recipients shall participate in work components that lead to competitive, integrated employment. Components are defined by the federal government as being either primary or secondary. In order to meet federal work participation requirements, households need to meet at least 30 hours of participation per week, at least 20 hours of which need to be primary and at least 10 hours may be secondary components in one parent households where the youngest child is six years of age or older. Participation hours shall be 55 hours in two parent households (35 hours per week if child care is not used). The maximum assignment is 40 hours per week per individual. For two parent families to meet the federal work participation rate both parents must participate in a combined total of 55 hours per week, 50 hours of which must be in primary components, or one or both parents could be assigned a combined total of 35 hours per week (30 hours of which must be primary components) if department for children and families paid child care is not received by the family. Single parent families with a child under age six meet the federal participation requirement if the parent is engaged in work or work activities for at least 20 hours per week in a primary work component. The following components meet federal definitions of primary hours of participation: Full or part-time employment, apprenticeship, work study, self-employment, job corps, subsidized employment, work experience sites, on-the-job training, supervised community service, vocational education, job search and job readiness. Secondary compo-

nents include: Job skills training, education directly related to employment such as adult basic education and English as a second language, and completion of a high school diploma or GED.

(5) A parent or other adult caretaker personally providing care for a child under the age of three months in their TANF household is exempt from work participation activities until the month the child turns three months of age. Such three-month limitation shall not apply to a parent or other adult caretaker who is personally providing care for a child born significantly premature, with serious medical conditions or with a disability as defined by the secretary, in consultation with the secretary of health and environment, and adopted in the rules and regulations. The three-month period is defined as two consecutive months starting with the month after childbirth. The exemption for caring for a child under three months cannot be claimed:

(A) By either parent when two parents are in the home and the household meets the two-parent definition for federal reporting purposes;

(B) by one parent or caretaker when the other parent or caretaker is in the home, and available, capable and suitable to provide care and the household does not meet the two-parent definition for federal reporting purposes;

(C) by a person age 19 or younger when such person is pregnant or a parent of a child in the home and the person does not possess a high school diploma or its equivalent. Such person shall become exempt the month such person turns age 20; or

(D) by any person assigned to a work participation activity for substance use disorders.

(6) TANF work experience placements shall be reviewed after 90 days and are limited to six months per 24-month lifetime limit. A client’s progress shall be reviewed prior to each new placement regardless of the length of time they are at the work experience site.

(7) TANF participants with disabilities shall engage in required employment activities to the maximum extent consistent with their abilities. TANF participants shall provide current documentation by a qualified medical practitioner that details the abilities to engage in employment and any limitations in work activities along with the expected duration of such limitations. Disability is defined as a physical or mental impairment constituting or resulting in a substantial impediment to employment for such individual.

(8) Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for TANF benefits based on non-cooperation with work programs shall be as follows:

(A) For a first penalty, three months and full cooperation with work program activities;

(B) for a second penalty, six months and full cooperation with work program activities;

(C) for a third penalty, one year and full cooperation with work program activities; and

(D) for a fourth or subsequent penalty, 10 years.

(9) Individuals that have not cooperated with TANF work programs shall be ineligible to participate in the food assistance program. The comparable penalty shall be applied to only the individual in the food assistance program who failed to comply with the TANF work requirement. The agency shall impose the same penalty to the member of the household who failed to comply with TANF requirements. The penalty periods are three months, six months, one year, or 10 years.

(10) Non-cooperation is the failure of the applicant or recipient to comply with all requirements provided in state and federal law, federal and state rules and regulations and agency policy. The period of ineligibility for child care subsidy or TANF benefits based on parents’ non-cooperation with child support services shall be as follows:

(A) For the first penalty, three months and cooperation with child support services prior to regaining eligibility;

(B) for a second penalty, six months and cooperation with child support services prior to regaining eligibility;

(C) for a third penalty, one year and cooperation with child support services prior to regaining eligibility; and

(D) for a fourth penalty, 10 years.

(11) Individuals that have not cooperated without good cause with child support services shall be ineligible to participate in the food assistance program. The period of disqualification ends once it has been determined that such individual is cooperating with child support services.

(12) (A) Any individual who is found to have committed fraud or is found guilty of the crime of theft pursuant to K.S.A. 39-720, and amend-

ments thereto, and K.S.A. 2020 Supp. 21-5801, and amendments thereto, in either the TANF or child care program shall render all adults in the family unit ineligible for TANF assistance. Adults in the household who were determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and K.S.A. 2020 Supp. 21-5801, and amendments thereto, shall render themselves and all adult household members ineligible for their lifetime for TANF, even if fraud was committed in only one program. Households who have been determined to have committed fraud or were convicted of the crime of theft pursuant to K.S.A. 39-720, and amendments thereto, and K.S.A. 2020 Supp. 21-5801, and amendments thereto, shall be required to name a protective payee as approved by the secretary or the secretary's designee to administer TANF benefits or food assistance on behalf of the children. No adult in a household may have access to the TANF cash assistance benefit.

(B) Any individual that has failed to cooperate with a fraud investigation shall be ineligible to participate in the TANF cash assistance program and the child care subsidy program until the department for children and families determines that such individual is cooperating with the fraud investigation. The department for children and families shall maintain a sufficient level of fraud investigative staff to enable the department to conduct fraud investigations in a timely manner and in full accordance with state law and department rules and regulations or policies.

(13) (A) Food assistance shall not be provided to any person convicted of a felony offense occurring on or after July 1, 2015, which includes as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog. For food assistance, the individual shall be permanently disqualified if they have been convicted of a state or federal felony offense occurring on or after July 1, 2015, involving possession or use of a controlled substance or controlled substance analog.

(B) Notwithstanding the provisions of subparagraph (A), an individual shall be eligible for food assistance if the individual enrolls in and participates in a drug treatment program approved by the secretary, submits to and passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

An individual's failure to submit to testing or failure to successfully pass a drug test shall result in ineligibility for food assistance until a drug test is successfully passed. Failure to successfully complete a drug treatment program shall result in ineligibility for food assistance until a drug treatment plan approved by the secretary is successfully completed, the individual passes a drug test and agrees to submit to drug testing if requested by the department pursuant to a drug testing plan.

(C) The provisions of subparagraph (B) shall not apply to any individual who has been convicted for a second or subsequent felony offense as provided in subparagraph (A).

(14) No TANF cash assistance shall be used to purchase alcohol, cigarettes, tobacco products, lottery tickets, concert tickets, professional or collegiate sporting event tickets or tickets for other entertainment events intended for the general public or sexually oriented adult materials. No TANF cash assistance shall be used in any retail liquor store, casino, gaming establishment, jewelry store, tattoo parlor, massage parlor, body piercing parlor, spa, nail salon, lingerie shop, tobacco paraphernalia store, vapor cigarette store, psychic or fortune telling business, bail bond company, video arcade, movie theater, swimming pool, cruise ship, theme park, dog or horse racing facility, parimutuel facility, or sexually oriented business or any retail establishment which provides adult-oriented entertainment in which performers disrobe or perform in an unclothed state for entertainment, or in any business or retail establishment where minors under age 18 are not permitted. No TANF cash assistance shall be used for purchases at points of sale outside the state of Kansas.

(15) (A) The secretary for children and families shall place a photograph of the recipient, if agreed to by such recipient of public assistance, on any Kansas benefits card issued by the Kansas department for children and families that the recipient uses in obtaining food, cash or any other services. When a recipient of public assistance is a minor or otherwise incapacitated individual, a parent or legal guardian of such recipient may have a photograph of such parent or legal guardian placed on the card.

(B) Any Kansas benefits card with a photograph of a recipient shall be valid for voting purposes as a public assistance identification card in accordance with the provisions of K.S.A. 25-2908, and amendments thereto.

(C) As used in this paragraph and its subparagraphs, "Kansas benefits card" means any card issued to provide food assistance, cash assistance or child care assistance, including, but not limited to, the vision card, EBT card and Kansas benefits card.

(D) The Kansas department for children and families shall monitor all recipient requests for a Kansas benefits card replacement and, upon the fourth such request in a 12-month period, send a notice alerting the recipient that the recipient's account is being monitored for potential suspicious activity. If a recipient makes an additional request for replacement subsequent to such notice, the department shall refer the investigation to the department's fraud investigation unit.

(16) The secretary for children and families shall adopt rules and regulations:

(A) In determining eligibility for the child care subsidy program, including an income of a cohabiting partner in a child care household; and

(B) in determining and maintaining eligibility for non-TANF child care, requiring that all included adults shall be employed a minimum of 20 hours per week or more as defined by the secretary or meet the following specific qualifying exemptions:

(i) Adults who are not capable of meeting the requirement due to a documented physical or mental condition;

(ii) adults who are former TANF recipients who need child care for employment after their TANF case has closed and earned income is a factor in the closure in the two months immediately following TANF closure;

(iii) adult parents included in a case in which the only child receiving benefits is the child of a minor parent who is working on completion of high school or obtaining a GED;

(iv) adults who are participants in a food assistance employment and training program; or

(v) adults who are participants in an early head start child care partnership program and are working or in school or training; or

(vi) adults who are caretakers of a child in custody of the secretary in out-of-home placement needing child care.

The department for children and families shall provide child care for the pursuit of any degree or certification if the occupation has at least an average job outlook listed in the occupational outlook of the U.S. department of labor, bureau of labor statistics. For occupations with less than an average job outlook, educational plans shall require approval of the secretary or secretary's designee. Child care may also be approved if the student provides verification of a specific job offer that will be available to such student upon completion of the program. Child care for post-secondary education shall be allowed for a lifetime maximum of 24 months per adult. The 24 months may not have to be consecutive. Students shall be engaged in paid employment for a minimum of 15 hours per week. In a two-parent adult household, child care would not be allowed if both parents are adults and attending a formal education or training program at the same time. The household may choose which one of the parents is participating as a post-secondary student. The other parent shall meet another approvable criteria for child care subsidy.

(17) (A) The secretary for children and families is prohibited from requesting or implementing a waiver or program from the U.S. department of agriculture for the time limited assistance provisions for able-bodied adults aged 18 through 49 without dependents in a household under the food assistance program. The time on food assistance for able-bodied adults aged 18 through 49 without dependents in the household shall be limited to three months in a 36-month period if such adults are not meeting the requirements imposed by the U.S. department of agriculture that they must work for at least 20 hours per week or participate in a federally approved work program or its equivalent.

(B) Each food assistance household member who is not otherwise exempt from the following work requirements shall: Register for work; participate in an employment and training program, if assigned to such a program by the department; accept a suitable employment offer; and not voluntarily quit a job of at least 30 hours per week.

(C) Any recipient who has not complied with the work requirements under subparagraph (B) shall be ineligible to participate in the food assistance program for the following time period and until the recipient complies with such work requirements:

(i) For a first penalty, three months;

(ii) for a second penalty, six months; and

(iii) for a third penalty and any subsequent penalty, one year.

(18) Eligibility for the food assistance program shall be limited to those individuals who are citizens or who meet qualified non-citizen

(continued)

status as determined by U.S. department of agriculture. Non-citizen individuals who are unable or unwilling to provide qualifying immigrant documentation, as defined by the U.S. department of agriculture, residing within a household shall not be included when determining the household's size for the purposes of assigning a benefit level to the household for food assistance or comparing the household's monthly income with the income eligibility standards. The gross non-exempt earned and unearned income and resources of disqualified individuals shall be counted in its entirety as available to the remaining household members.

(19) The secretary for children and families shall not enact the state option from the U.S. department of agriculture for broad-based categorical eligibility for households applying for food assistance according to the provisions of 7 C.F.R. § 273.2(j)(2)(ii).

(20) No federal or state funds shall be used for television, radio or billboard advertisements that are designed to promote food assistance benefits and enrollment. No federal or state funding shall be used for any agreements with foreign governments designed to promote food assistance.

(21) (A) The secretary for children and families shall not apply gross income standards for food assistance higher than the standards specified in 7 U.S.C. § 2015(c) unless expressly required by federal law. Categorical eligibility exempting households from such gross income standards requirements shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(B) The secretary for children and families shall not apply resource limits standards for food assistance that are higher than the standards specified in 7 U.S.C. § 2015(g)(1) unless expressly required by federal law. Categorical eligibility exempting households from such resource limits shall not be granted for any non-cash, in-kind or other benefit unless expressly required by federal law.

(c) (1) On and after January 1, 2017, the department for children and families shall conduct an electronic check for any false information provided on an application for TANF and other benefits programs administered by the department. For TANF cash assistance, food assistance and the child care subsidy program, the department shall verify the identity of all adults in the assistance household.

(2) The department of administration shall provide monthly to the Kansas department for children and families the social security numbers or alternate taxpayer identification numbers of all persons who claim a Kansas lottery prize in excess of \$5,000 during the reported month. The Kansas department for children and families shall verify if individuals with such winnings are receiving TANF cash assistance, food assistance or assistance under the child care subsidy program and take appropriate action. The Kansas department for children and families shall use data received under this subsection solely, and for no other purpose, to determine if any recipient's eligibility for benefits has been affected by lottery prize winnings. The Kansas department for children and families shall not publicly disclose the identity of any lottery prize winner, including recipients who are determined to have illegally received benefits.

(d) *Temporary assistance for needy families; assignment of support rights and limited power of attorney.* By applying for or receiving temporary assistance for needy families such applicant or recipient shall be deemed to have assigned to the secretary on behalf of the state any accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. In any case in which an order for child support has been established and the legal custodian and obligee under the order surrenders physical custody of the child to a caretaker relative without obtaining a modification of legal custody and support rights on behalf of the child are assigned pursuant to this section, the surrenderer of physical custody and the assignment shall transfer, by operation of law, the child's support rights under the order to the secretary on behalf of the state. Such assignment shall be of all accrued, present or future rights to support of the child surrendered to the caretaker relative. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant, recipient or obligee. By applying for or receiving temporary assistance for needy families, or by surrendering physical custody of a child to a caretaker relative who is an applicant or recipient of such assistance on the child's behalf, the applicant, recipient or obligee is also deemed to have appointed the secretary, or the secretary's designee, as an attorney-in-fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments

received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full.

(e) *Requirements for medical assistance for which federal moneys or state moneys or both are expended.* (1) When the secretary has adopted a medical care plan under which federal moneys or state moneys or both are expended, medical assistance in accordance with such plan shall be granted to any person who is a citizen of the United States or who is an alien lawfully admitted to the United States and who is residing in the state of Kansas, whose resources and income do not exceed the levels prescribed by the secretary. In determining the need of an individual, the secretary may provide for income and resource exemptions and protected income and resource levels. Resources from inheritance shall be counted. A disclaimer of an inheritance pursuant to K.S.A. 59-2291, and amendments thereto, shall constitute a transfer of resources. The secretary shall exempt principal and interest held in irrevocable trust pursuant to K.S.A. 16-303(c), and amendments thereto, from the eligibility requirements of applicants for and recipients of medical assistance. Such assistance shall be known as medical assistance.

(2) For the purposes of medical assistance eligibility determinations on or after July 1, 2004, if an applicant or recipient owns property in joint tenancy with some other party and the applicant or recipient of medical assistance has restricted or conditioned their interest in such property to a specific and discrete property interest less than 100%, then such designation will cause the full value of the property to be considered an available resource to the applicant or recipient. Medical assistance eligibility for receipt of benefits under the title XIX of the social security act, commonly known as medicaid, shall not be expanded, as provided for in the patient protection and affordable care act, public law 111-148, 124 stat. 119, and the health care and education reconciliation act of 2010, public law 111-152, 124 stat. 1029, unless the legislature expressly consents to, and approves of, the expansion of medicaid services by an act of the legislature.

(3) (A) Resources from trusts shall be considered when determining eligibility of a trust beneficiary for medical assistance. Medical assistance is to be secondary to all resources, including trusts, that may be available to an applicant or recipient of medical assistance.

(B) If a trust has discretionary language, the trust shall be considered to be an available resource to the extent, using the full extent of discretion, the trustee may make any of the income or principal available to the applicant or recipient of medical assistance. Any such discretionary trust shall be considered an available resource unless: (i) At the time of creation or amendment of the trust, the trust states a clear intent that the trust is supplemental to public assistance; and (ii) the trust: (a) Is funded from resources of a person who, at the time of such funding, owed no duty of support to the applicant or recipient of medical assistance; or (b) is funded not more than nominally from resources of a person while that person owed a duty of support to the applicant or recipient of medical assistance.

(C) For the purposes of this paragraph, "public assistance" includes, but is not limited to, medicaid, medical assistance or title XIX of the social security act.

(4) (A) When an applicant or recipient of medical assistance is a party to a contract, agreement or accord for personal services being provided by a nonlicensed individual or provider and such contract, agreement or accord involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits, or other related issues, any moneys paid under such contract, agreement or accord shall be considered to be an available resource unless the following restrictions are met: (i) The contract, agreement or accord must be in writing and executed prior to any services being provided; (ii) the moneys paid are in direct relationship with the fair market value of such services being provided by similarly situated and trained nonlicensed individuals; (iii) if no similarly situated nonlicensed individuals or situations can be found, the value of services will be based on federal hourly minimum wage standards; (iv) such individual providing the services will report all receipts of moneys as income to the appropriate state and federal governmental revenue agencies; (v) any amounts due under such contract, agreement or accord shall be paid after the services are rendered; (vi) the applicant or recipient shall have the power to revoke the contract, agreement or accord; and (vii) upon the death of the applicant or recipient, the contract, agreement or accord ceases.

(B) When an applicant or recipient of medical assistance is a party to a written contract for personal services being provided by a licensed health professional or facility and such contract involves health and welfare monitoring, pharmacy assistance, case management, communication with medical, health or other professionals, or other activities related to home health care, long term care, medical assistance benefits or other related issues, any moneys paid in advance of receipt of services for such contracts shall be considered to be an available resource.

(5) Any trust may be amended if such amendment is permitted by the Kansas uniform trust code.

(f) *Eligibility for medical assistance of resident receiving medical care outside state.* A person who is receiving medical care including long-term care outside of Kansas whose health would be endangered by the postponement of medical care until return to the state or by travel to return to Kansas, may be determined eligible for medical assistance if such individual is a resident of Kansas and all other eligibility factors are met. Persons who are receiving medical care on an ongoing basis in a long-term medical care facility in a state other than Kansas and who do not return to a care facility in Kansas when they are able to do so, shall no longer be eligible to receive assistance in Kansas unless such medical care is not available in a comparable facility or program providing such medical care in Kansas. For persons who are minors or who are under guardianship, the actions of the parent or guardian shall be deemed to be the actions of the child or ward in determining whether or not the person is remaining outside the state voluntarily.

(g) *Medical assistance; assignment of rights to medical support and limited power of attorney; recovery from estates of deceased recipients.* (1) (A) Except as otherwise provided in K.S.A. 39-786 and 39-787, and amendments thereto, or as otherwise authorized on and after September 30, 1989, under section 303 of the federal medicare catastrophic coverage act of 1988, whichever is applicable, by applying for or receiving medical assistance under a medical care plan in which federal funds are expended, any accrued, present or future rights to support and any rights to payment for medical care from a third party of an applicant or recipient and any other family member for whom the applicant is applying shall be deemed to have been assigned to the secretary on behalf of the state. The assignment shall automatically become effective upon the date of approval for such assistance without the requirement that any document be signed by the applicant or recipient. By applying for or receiving medical assistance the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments, representing payments received by the secretary in on behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for assistance and shall remain in effect until the assignment has been terminated in full. The assignment of any rights to payment for medical care from a third party under this subsection shall not prohibit a health care provider from directly billing an insurance carrier for services rendered if the provider has not submitted a claim covering such services to the secretary for payment. Support amounts collected on behalf of persons whose rights to support are assigned to the secretary only under this subsection and no other shall be distributed pursuant to K.S.A. 39-756(d), and amendments thereto, except that any amounts designated as medical support shall be retained by the secretary for repayment of the unreimbursed portion of assistance.

(B) Notwithstanding the provisions of subparagraph (A), the secretary of health and environment, or the secretary's designee, is hereby authorized to and shall exercise any of the powers specified in subparagraph (A) in relation to performance of such secretary's duties pertaining to medical subrogation, estate recovery or any other duties assigned to such secretary in article 74 of chapter 75 of the Kansas Statutes Annotated, and amendments thereto.

(2) The amount of any medical assistance paid after June 30, 1992, under the provisions of subsection (e) is: (A) A claim against the property or any interest therein belonging to and a part of the estate of any deceased recipient or, if there is no estate, the estate of the surviving spouse, if any, shall be charged for such medical assistance paid to either or both; and (B) a claim against any funds of such recipient or spouse in any account under K.S.A. 9-1215, 17-2263 or 17-2264, and amendments thereto. There shall be no recovery of medical assistance correctly paid to or on behalf of an individual under subsection (e) ex-

cept after the death of the surviving spouse of the individual, if any, and only at a time when the individual has no surviving child who is under 21 years of age or is blind or permanently and totally disabled. Transfers of real or personal property by recipients of medical assistance without adequate consideration are voidable and may be set aside. Except where there is a surviving spouse, or a surviving child who is under 21 years of age or is blind or permanently and totally disabled, the amount of any medical assistance paid under subsection (e) is a claim against the estate in any guardianship or conservatorship proceeding. The monetary value of any benefits received by the recipient of such medical assistance under long-term care insurance, as defined by K.S.A. 40-2227, and amendments thereto, shall be a credit against the amount of the claim provided for such medical assistance under this subsection. The secretary of health and environment is authorized to enforce each claim provided for under this subsection. The secretary of health and environment shall not be required to pursue every claim, but is granted discretion to determine which claims to pursue. All moneys received by the secretary of health and environment from claims under this subsection shall be deposited in the social welfare fund. The secretary of health and environment may adopt rules and regulations for the implementation and administration of the medical assistance recovery program under this subsection.

(3) By applying for or receiving medical assistance under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, such individual or such individual's agent, fiduciary, guardian, conservator, representative payee or other person acting on behalf of the individual consents to the following definitions of estate and the results therefrom:

(A) If an individual receives any medical assistance before July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim is limited to the individual's probatable estate as defined by applicable law; and

(B) if an individual receives any medical assistance on or after July 1, 2004, pursuant to article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, which forms the basis for a claim under paragraph (2), such claim shall apply to the individual's medical assistance estate. The medical assistance estate is defined as including all real and personal property and other assets in which the deceased individual had any legal title or interest immediately before or at the time of death to the extent of that interest or title. The medical assistance estate includes, without limitation assets conveyed to a survivor, heir or assign of the deceased recipient through joint tenancy, tenancy in common, survivorship, transfer-on-death deed, payable-on-death contract, life estate, trust, annuities or similar arrangement.

(4) The secretary of health and environment or the secretary's designee is authorized to file and enforce a lien against the real property of a recipient of medical assistance in certain situations, subject to all prior liens of record and transfers for value to a bona fide purchaser of record. The lien must be filed in the office of the register of deeds of the county where the real property is located within one year from the date of death of the recipient and must contain the legal description of all real property in the county subject to the lien.

(A) After the death of a recipient of medical assistance, the secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by such recipient.

(B) The secretary of health and environment or the secretary's designee may place a lien on any interest in real property owned by a recipient of medical assistance during the lifetime of such recipient. Such lien may be filed only after notice and an opportunity for a hearing has been given. Such lien may be enforced only upon competent medical testimony that the recipient cannot reasonably be expected to be discharged and returned home. A six-month period of compensated inpatient care at a nursing home or other medical institution shall constitute a determination by the department of health and environment that the recipient cannot reasonably be expected to be discharged and returned home. To return home means the recipient leaves the nursing or medical facility and resides in the home on which the lien has been placed for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. The amount of the lien shall be for the amount of assistance paid by the department of health and environment until the time of the filing of the lien and for any amount paid thereafter for such medical assistance to the recipient. After the lien is filed against any real property owned by the recipient, such lien will be dissolved if the recipient is discharged, returns home

(continued)

and resides upon the real property to which the lien is attached for a continuous period of at least 90 days without being readmitted as an inpatient to a nursing or medical facility. If the recipient is readmitted as an inpatient to a nursing or medical facility for a continuous period of less than 90 days, another continuous period of at least 90 days shall be completed prior to dissolution of the lien.

(5) The lien filed by the secretary of health and environment or the secretary's designee for medical assistance correctly received may be enforced before or after the death of the recipient by the filing of an action to foreclose such lien in the Kansas district court or through an estate probate court action in the county where the real property of the recipient is located. However, it may be enforced only:

- (A) After the death of the surviving spouse of the recipient;
- (B) when there is no child of the recipient, natural or adopted, who is 20 years of age or less residing in the home;
- (C) when there is no adult child of the recipient, natural or adopted, who is blind or disabled residing in the home; or
- (D) when no brother or sister of the recipient is lawfully residing in the home, who has resided there for at least one year immediately before the date of the recipient's admission to the nursing or medical facility, and has resided there on a continuous basis since that time.

(6) The lien remains on the property even after a transfer of the title by conveyance, sale, succession, inheritance or will unless one of the following events occur:

- (A) The lien is satisfied. The recipient, the heirs, personal representative or assigns of the recipient may discharge such lien at any time by paying the amount of the lien to the secretary of health and environment or the secretary's designee;
- (B) the lien is terminated by foreclosure of prior lien of record or settlement action taken in lieu of foreclosure; or
- (C) the value of the real property is consumed by the lien, at which time the secretary of health and environment or the secretary's designee may force the sale for the real property to satisfy the lien.

(7) If the secretary for aging and disability services or the secretary of health and environment, or both, or such secretary's designee has not filed an action to foreclose the lien in the Kansas district court in the county where the real property is located within 10 years from the date of the filing of the lien, then the lien shall become dormant, and shall cease to operate as a lien on the real estate of the recipient. Such dormant lien may be revived in the same manner as a dormant judgment lien is revived under K.S.A. 60-2403 et seq., and amendments thereto.

(8) Within seven days of receipt of notice by the secretary for children and families or the secretary's designee of the death of a recipient of medical assistance under this subsection, the secretary for children and families or the secretary's designee shall give notice of such recipient's death to the secretary of health and environment or the secretary's designee.

(9) All rules and regulations adopted on and after July 1, 2013, and prior to July 1, 2014, to implement this subsection shall continue to be effective and shall be deemed to be duly adopted rules and regulations of the secretary of health and environment until revised, amended, revoked or nullified pursuant to law.

(h) *Placement under the revised Kansas code for care of children or revised Kansas juvenile justice code; assignment of support rights and limited power of attorney.* In any case in which the secretary for children and families pays for the expenses of care and custody of a child pursuant to K.S.A. 2020 Supp. 38-2201 et seq. or 38-2301 et seq., and amendments thereto, including the expenses of any foster care placement, an assignment of all past, present and future support rights of the child in custody possessed by either parent or other person entitled to receive support payments for the child is, by operation of law, conveyed to the secretary. Such assignment shall become effective upon placement of a child in the custody of the secretary or upon payment of the expenses of care and custody of a child by the secretary without the requirement that any document be signed by the parent or other person entitled to receive support payments for the child. When the secretary pays for the expenses of care and custody of a child or a child is placed in the custody of the secretary, the parent or other person entitled to receive support payments for the child is also deemed to have appointed the secretary, or the secretary's designee, as attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary on behalf of the child. This limited power of attorney shall be effective from the date the assignment to support rights becomes effective and shall remain in effect until the assignment of support rights has been terminated in full.

(i) No person who voluntarily quits employment or who is fired from employment due to gross misconduct as defined by rules and regulations of the secretary or who is a fugitive from justice by reason of a felony conviction or charge or violation of a condition of probation or parole imposed under federal or state law shall be eligible to receive public assistance benefits in this state. Any recipient of public assistance who fails to timely comply with monthly reporting requirements under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary by rules and regulations.

(j) If the applicant or recipient of temporary assistance for needy families is a mother of the dependent child, as a condition of the mother's eligibility for temporary assistance for needy families the mother shall identify by name and, if known, by current address the father of the dependent child except that the secretary may adopt by rules and regulations exceptions to this requirement in cases of undue hardship. Any recipient of temporary assistance for needy families who fails to cooperate with requirements relating to child support services under criteria and guidelines prescribed by rules and regulations of the secretary shall be subject to a penalty established by the secretary.

(k) By applying for or receiving child care benefits or food assistance, the applicant or recipient shall be deemed to have assigned, pursuant to K.S.A. 39-756, and amendments thereto, to the secretary on behalf of the state only accrued, present or future rights to support from any other person such applicant may have in such person's own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid. The assignment of support rights shall automatically become effective upon the date of approval for or receipt of such aid without the requirement that any document be signed by the applicant or recipient. By applying for or receiving child care benefits or food assistance, the applicant or recipient is also deemed to have appointed the secretary, or the secretary's designee, as an attorney in fact to perform the specific act of negotiating and endorsing all drafts, checks, money orders or other negotiable instruments representing support payments received by the secretary in behalf of any person applying for, receiving or having received such assistance. This limited power of attorney shall be effective from the date the secretary approves the application for aid and shall remain in effect until the assignment of support rights has been terminated in full. An applicant or recipient who has assigned support rights to the secretary pursuant to this subsection shall cooperate in establishing and enforcing support obligations to the same extent required of applicants for or recipients of temporary assistance for needy families.

(l) (1) A program of drug screening for applicants for cash assistance as a condition of eligibility for cash assistance and persons receiving cash assistance as a condition of continued receipt of cash assistance shall be established, subject to applicable federal law, by the secretary for children and families on and before January 1, 2014. Under such program of drug screening, the secretary for children and families shall order a drug screening of an applicant for or a recipient of cash assistance at any time when reasonable suspicion exists that such applicant for or recipient of cash assistance is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, an applicant's or recipient's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the applicant or recipient indicating unlawful use of a controlled substance or controlled substance analog.

(2) Any applicant for or recipient of cash assistance whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any applicant for or recipient of cash assistance who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such applicant or recipient who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(3) Any applicant for or recipient of cash assistance who tests positive for unlawful use of a controlled substance or controlled substance analog shall be required to complete a substance abuse treatment pro-

gram approved by the secretary for children and families, secretary of labor or secretary of commerce, and a job skills program approved by the secretary for children and families, secretary of labor or secretary of commerce. Subject to applicable federal laws, any applicant for or recipient of cash assistance 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 cash assistance 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 cash assistance may be subject to periodic drug screening, as determined by the secretary for children and families. Upon a second positive test for unlawful use of a controlled substance or controlled substance analog, a recipient of cash assistance shall be ordered to complete again a substance abuse treatment program and job skills program, and shall be terminated from cash assistance for a period of 12 months, or until such recipient of cash assistance 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, a recipient of cash assistance shall be terminated from cash assistance, subject to applicable federal law.

(4) If an applicant for or recipient of cash assistance is ineligible for or terminated from cash assistance as a result of a positive test for unlawful use of a controlled substance or controlled substance analog, and such applicant for or recipient of cash assistance is the parent or legal guardian of a minor child, an appropriate protective payee shall be designated to receive cash assistance on behalf of such child. Such parent or legal guardian of the minor child may choose to designate an individual to receive cash assistance for such parent's or legal guardian's minor child, as approved by the secretary for children and families. Prior to the designated individual receiving any cash assistance, the secretary for children and families shall review whether reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog.

(A) In addition, any individual designated to receive cash assistance on behalf of an eligible minor child shall be subject to drug screening at any time when reasonable suspicion exists that such designated individual is unlawfully using a controlled substance or controlled substance analog. The secretary for children and families may use any information obtained by the secretary for children and families to determine whether such reasonable suspicion exists, including, but not limited to, the designated individual's demeanor, missed appointments and arrest or other police records, previous employment or application for employment in an occupation or industry that regularly conducts drug screening, termination from previous employment due to unlawful use of a controlled substance or controlled substance analog or prior drug screening records of the designated individual indicating unlawful use of a controlled substance or controlled substance analog.

(B) Any designated individual whose drug screening results in a positive test may request that the drug screening specimen be sent to a different drug testing facility for an additional drug screening. Any designated individual who requests an additional drug screening at a different drug testing facility shall be required to pay the cost of drug screening. Such designated individual who took the additional drug screening and who tested negative for unlawful use of a controlled substance and controlled substance analog shall be reimbursed for the cost of such additional drug screening.

(C) Upon any positive test for unlawful use of a controlled substance or controlled substance analog, the designated individual shall not receive cash assistance on behalf of the parent's or legal guardian's minor child, and another designated individual shall be selected by the secretary for children and families to receive cash assistance on behalf of such parent's or legal guardian's minor child.

(5) If a person has been convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after July 1, 2013, such person shall thereby become forever ineligible to receive any cash assistance under this subsection unless such conviction is the person's first conviction. First-time offenders convicted under federal or state law of any offense which is classified as a felony by the law of the jurisdiction and which has as an element of such offense the manufacture, cultivation, distribution, possession or use of a controlled substance or controlled substance analog, and the date of conviction is on or after

July 1, 2013, such person shall become ineligible to receive cash assistance for five years from the date of conviction.

(6) Except for hearings before the Kansas department for children and families or, the results of any drug screening administered as part of the drug screening program authorized by this subsection shall be confidential and shall not be disclosed publicly.

(7) The secretary for children and families may adopt such rules and regulations as are necessary to carry out the provisions of this subsection.

(8) Any authority granted to the secretary for children and families under this subsection shall be in addition to any other penalties prescribed by law.

(9) As used in this subsection:

(A) "Cash assistance" means cash assistance provided to individuals under the provisions of article 7 of chapter 39 of the Kansas Statutes Annotated, and amendments thereto, and any rules and regulations adopted pursuant to such statutes.

(B) "Controlled substance" means the same as in K.S.A. 2020 Supp. 21-5701, and amendments thereto, and 21 U.S.C. § 802.

(C) "Controlled substance analog" means the same as in K.S.A. 2020 Supp. 21-5701, and amendments thereto.

Sec. 5. K.S.A. 65-516 is hereby amended to read as follows: 65-516. (a) No person shall knowingly maintain a child care facility if there resides, works or regularly volunteers any person who in this state or in other states or the federal government:

(1) (A) Has been convicted of a crime that is classified as a person felony under the Kansas criminal code;

(B) has been convicted of a felony under K.S.A. 2010 Supp. 21-36a01 through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or any felony violation of any provision of the uniform controlled substances act prior to July 1, 2009;

(C) has been convicted of any act that is described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or been convicted of an attempt under K.S.A. 21-3301, prior to its repeal, or K.S.A. 2020 Supp. 21-5301, and amendments thereto, to commit any such act or been convicted of conspiracy under K.S.A. 21-3302, prior to its repeal, or K.S.A. 2020 Supp. 21-5302, and amendments thereto, to commit such act, or similar statutes of any other state or the federal government;

(D) has been convicted of any act that is described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2020 Supp. 21-6401, and amendments thereto, or similar statutes of any other state or the federal government; or

(E) has been convicted of any act that is described in K.S.A. 21-3718 or 21-3719, prior to their repeal, or K.S.A. 2020 Supp. 21-5812, and amendments thereto, or similar statutes of any other state or the federal government;

(2) *except as provided in subsection (b)*, has been adjudicated a juvenile offender because of having committed an act that if done by an adult would constitute the commission of a felony and that is a crime against persons, is any act described in articles 34, 35 or 36 of chapter 21 of the Kansas Statutes Annotated, prior to their repeal, or article 54, 55 or 56 of chapter 21 of the Kansas Statutes Annotated, or K.S.A. 2020 Supp. 21-6104, 21-6325, 21-6326, 21-6418 through 21-6422 or 21-6424, and amendments thereto, or similar statutes of any other state or the federal government, or is any act described in K.S.A. 21-4301 or 21-4301a, prior to their repeal, or K.S.A. 2020 Supp. 21-6401, and amendments thereto, or similar statutes of any other state or the federal government;

(3) has been convicted or adjudicated of a crime that requires registration as a sex offender under the Kansas offender registration act, K.S.A. 22-4901 et seq., and amendments thereto, as a sex offender in any other state or as a sex offender on the national sex offender registry;

(4) has committed an act of physical, mental or emotional abuse or neglect or sexual abuse and who is listed in the child abuse and neglect registry maintained by the Kansas department for children and families pursuant to K.S.A. 2020 Supp. 38-2226, and amendments thereto, or any similar child abuse and neglect registries maintained by any other state or the federal government and:

(A) The person has failed to successfully complete a corrective action plan that had been deemed appropriate and approved by the

(continued)

Kansas department for children and families or requirements of similar entities in any other state or the federal government; or

(B) the record has not been expunged pursuant to rules and regulations adopted by the secretary for children and families or similar entities in any other state or the federal government;

(5) has had a child removed from home based on a court order pursuant to K.S.A. 2020 Supp. 38-2251, and amendments thereto, in this state, or a court order in any other state based upon a similar statute that finds the child to be deprived or a child in need of care based on a finding of physical, mental or emotional abuse or neglect or sexual abuse and the child has not been returned to the home or the child reaches majority before being returned to the home and the person has failed to satisfactorily complete a corrective action plan approved by the department of health and environment;

(6) has had parental rights terminated pursuant to the Kansas juvenile code or K.S.A. 2020 Supp. 38-2266 through 38-2270, and amendments thereto, or a similar statute of other states;

(7) has signed a diversion agreement pursuant to K.S.A. 22-2906 et seq., and amendments thereto, or an immediate intervention agreement pursuant to K.S.A. 2020 Supp. 38-2346, and amendments thereto, involving a charge of child abuse or a sexual offense; or

(8) has an infectious or contagious disease.

(b) *If the secretary determines there is no safety concern, the secretary may license a family foster home, as defined in K.S.A. 38-134, and amendments thereto, when a person who has been adjudicated as a juvenile offender for an offense described in subsection (a)(2):*

(1) *Was a child in the custody of the secretary and placed with such family foster home by the secretary;*

(2) *is 18 years of age or older;*

(3) (A) *maintains residence at such family foster home; or*

(B) *has been legally adopted by any person who resides at such family foster home; and*

(4) *six months have passed since the date of adjudication.*

(b)(c) No person shall maintain a child care facility if such person has been found to be a person in need of a guardian or a conservator, or both, as provided in K.S.A. 59-3050 through 59-3095, and amendments thereto.

(e)(d) Any person who resides in a child care facility and who has been found to be in need of a guardian or a conservator, or both, shall be counted in the total number of children allowed in care.

(e)(e) In accordance with the provisions of this subsection, the secretary of health and environment shall have access to any court orders or adjudications of any court of record, any records of such orders or adjudications, criminal history record information including, but not limited to, diversion agreements, in the possession of the Kansas bureau of investigation and any report of investigations as authorized by K.S.A. 2020 Supp. 38-2226, and amendments thereto, in the possession of the Kansas department for children and families or court of this state concerning persons working, regularly volunteering or residing in a child care facility. The secretary shall have access to these records for the purpose of determining whether or not the home meets the requirements of K.S.A. 59-2132, 65-503, 65-508 and 65-516, and amendments thereto.

(e)(f) In accordance with the provisions of this subsection, the secretary is authorized to conduct national criminal history record checks to determine criminal history on persons residing, working or regularly volunteering in a child care facility. In order to conduct a national criminal history check the secretary shall require fingerprinting for identification and determination of criminal history. The secretary shall submit the fingerprints to the Kansas bureau of investigation and to the federal bureau of investigation and receive a reply to enable the secretary to verify the identity of such person and whether such person has been convicted of any crime that would prohibit such person from residing, working or regularly volunteering in a child care facility. The secretary is authorized to use information obtained from the national criminal history record check to determine such person's fitness to reside, work or regularly volunteer in a child care facility.

(f)(g) Local and state law enforcement officers and agencies shall assist the secretary in taking and processing fingerprints of persons residing, working or regularly volunteering in a child care facility and shall release all records of adult convictions and nonconvictions and adult convictions or adjudications of another state or country to the department.

(g)(h) (1) The secretary shall adopt rules and regulations on or before January 1, 2019, to fix a fee for fingerprinting persons residing, working or regularly volunteering in a child care facility, as may be

required by the department to reimburse the department for the cost of the fingerprinting.

(2) The secretary shall remit all moneys received from the fees established under this section 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 child care criminal background and fingerprinting fund.

(h)(i) The child care criminal background and fingerprinting fund is hereby created in the state treasury to be administered by the secretary of health and environment. All moneys credited to the child care criminal background and fingerprinting fund shall be used to pay local and state law enforcement officers and agencies for the processing of fingerprints and criminal history background checks for the department. All expenditures from the child care criminal background and fingerprinting 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 by a person designated by the secretary.

(h)(j) The secretary shall notify the child care applicant or licensee, within seven days by certified mail with return receipt requested, when the result of the national criminal history record check or other appropriate review reveals unfitness specified in subsections (a)(1) through (8) with regard to the person who is the subject of the review.

(h)(k) No child care facility or the employees thereof, shall be liable for civil damages to any person refused employment or discharged from employment by reason of such facility's or home's compliance with the provisions of this section if such home acts in good faith to comply with this section.

(h)(l) For the purpose of subsection (a)(3), a person listed in the child abuse and neglect central registry shall not be prohibited from residing, working or volunteering in a child care facility unless such person has:

(1) Had an opportunity to be interviewed and present information during the investigation of the alleged act of abuse or neglect; and

(2) been given notice of the agency decision and an opportunity to appeal such decision to the secretary and to the courts pursuant to the Kansas judicial review act.

(h)(m) In regard to Kansas issued criminal history records:

(1) The secretary of health and environment shall provide in writing information available to the secretary to each child placement agency requesting information under this section, including the information provided by the Kansas bureau of investigation pursuant to this section, for the purpose of assessing the fitness of persons living, working or regularly volunteering in a family foster home under the child placement agency's sponsorship.

(2) The child placement agency is considered to be a governmental entity and the designee of the secretary of health and environment for the purposes of obtaining, using and disseminating information obtained under this section.

(3) The information shall be provided to the child placement agency regardless of whether the information discloses that the subject of the request has been convicted of any offense.

(4) Whenever the information available to the secretary reveals that the subject of the request has no criminal history on record, the secretary shall provide notice thereof in writing to each child placement agency requesting information under this section.

(5) Any staff person of a child placement agency who receives information under this subsection shall keep such information confidential, except that the staff person may disclose such information on a need-to-know basis to:

(A) The person who is the subject of the request for information;

(B) the applicant or operator of the family foster home in which the person lives, works or regularly volunteers;

(C) the department of health and environment;

(D) the Kansas department for children and families;

(E) the department of corrections; and

(F) the courts.

(6) A violation of the provisions of ~~subsection (h)(5)~~ paragraph (5) shall be an unclassified misdemeanor punishable by a fine of \$100 for each violation.

(h)(n) No person shall maintain a day care facility unless such person is a high school graduate or the equivalent thereof, except where extraordinary circumstances exist, the secretary of health and environment may exercise discretion to make exceptions to this requirement. The provisions of this subsection shall not apply to any person who

was maintaining a day care facility on the day immediately prior to July 1, 2010, or who had an application for an initial license or the renewal of an existing license pending on July 1, 2010.

Sec. 6. K.S.A. 75-5664 is hereby amended to read as follows: 75-5664. (a) There is hereby established an advisory committee on trauma. The advisory committee on trauma shall be advisory to the secretary of health and environment and shall be within the division of public health of the department of health and environment as a part thereof.

(b) ~~On July 1, 2001, the advisory committee on trauma in existence immediately prior to July 1, 2001, is hereby abolished and a new advisory committee on trauma is created in accordance with this section. The terms of all members of the advisory committee on trauma in existence prior to July 1, 2001, are hereby terminated. On and after July 1, 2001,~~ The advisory committee on trauma shall be composed of 24 members representing both rural and urban areas of the state appointed as follows:

(1) Two members shall be persons licensed to practice medicine and surgery appointed by the governor. At least 30 days prior to the expiration of terms described in this section, for each member to be appointed under this section, the Kansas medical society shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(2) One member shall be licensed to practice osteopathic medicine appointed by the governor. At least 30 days prior to the expiration of the term of the member appointed under this section, the Kansas association of osteopathic medicine shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(3) Three members shall be representatives of hospitals appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas hospital association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(4) Two members shall be licensed professional nurses specializing in trauma care or emergency nursing appointed by the governor. At least 30 days before the expiration of terms described in this section, for each member to be appointed under this section, the Kansas state nurses association shall submit to the governor a list of three names of persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(5) Two members shall be emergency medical service providers as defined in K.S.A. 65-6112, and amendments thereto, who are on the roster of an ambulance service permitted by the board of emergency medical services. At least 30 days prior to the expiration of one of these positions, the Kansas emergency medical services association shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board. For the other member appointed under this section, at least 30 days prior to the expiration of the term of such member, the Kansas emergency medical technician association shall submit a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making appointments to the board under this paragraph.

(6) Two members shall be administrators of ambulance services, one rural and one urban, appointed by the governor. At least 30 days prior to the expiration of the terms of such members, the Kansas emergency medical services association and Kansas emergency medical technician association in consultation shall submit to the governor a list of four persons of recognized ability and qualification. The governor shall consider such list of persons in making this appointment to the board under this paragraph.

(7) Six members shall be representatives of regional trauma councils, one per council, appointed by the governor. At least 30 days prior to the expiration of one of these positions, the relevant regional trauma council shall submit to the governor a list of three persons of recognized ability and qualification. The governor shall consider such list of persons in making these appointments to the board.

(8) The secretary of health and environment or the secretary's designee of an appropriately qualified person shall be an ex officio representative of the department of health and environment.

(9) The chairperson of the emergency medical services board or the chairperson's designee shall be an ex officio member.

(10) ~~Four legislators selected as follows shall be members:~~ The chairperson and ranking minority member or their designees of the committee on health and human services of the house of representatives; and the chairperson and ranking minority member or their designees from the committee on public health and welfare of the senate shall be members.

(c) All members shall be residents of the state of Kansas. Particular attention shall be given so that rural and urban interests and geography are balanced in representation. Organizations that submit lists of names to be considered for appointment by the governor under this section shall insure that names of people who reside in both rural and urban areas of the state are among those submitted. At least one person from each congressional district shall be among the members. Of the members appointed under ~~subsection~~ *subsections* (b)(1) through (b)(7): Six shall be appointed to initial terms of two years; six shall be appointed to initial terms of three years; and six shall be appointed to initial terms of four years. Thereafter members shall serve terms of four years and until a successor is appointed and qualified. In the case of a vacancy in the membership of the advisory committee, the vacancy shall be filled for the unexpired term in like manner as that provided in subsection (b).

(d) The advisory committee shall meet quarterly and at the call of the chairperson or at the request of a majority of the members. At the first meeting of the advisory committee after July 1 each year, the members shall elect a chairperson and vice-chairperson who shall serve for terms of one year. The vice-chairperson shall exercise all of the powers of the chairperson in the absence of the chairperson.

(e) The advisory committee shall be advisory to the secretary of health and environment on all matters relating to the implementation and administration of this act.

(f) (1) Any meeting of the advisory committee or any part of a meeting of the advisory committee during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. The advisory committee and officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) The advisory committee or an officer thereof may advise, report to and discuss activities, information and findings of the committee that relate to incidents of trauma injury or trauma care with the secretary of health and environment as provided in subsections (a) and (e) without waiver of the privilege provided by this subsection and K.S.A. 65-4915, and amendments thereto, and the records and findings of such committee or officer that are privileged under this subsection and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection and K.S.A. 65-4915, and amendments thereto, ~~prior to July 1, 2021.~~

~~(3) The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.~~

(g) Members of the advisory committee attending meetings of the advisory committee or attending a subcommittee of the advisory committee or other authorized meeting of the advisory committee shall not be paid compensation but shall be paid amounts provided in K.S.A. 75-3223(e), and amendments thereto.

Sec. 7. K.S.A. 75-5665 is hereby amended to read as follows: 75-5665. (a) The secretary of health and environment, after consultation with and consideration of recommendations from the advisory committee, shall:

(1) ~~Develop~~ *Adopt* rules and regulations necessary to carry out the provisions of this act, including fixing, charging and collecting fees from trauma facilities to recover all or part of the expenses incurred in the designation of trauma facilities pursuant to ~~subsection (f) paragraph (6);~~

(2) develop a statewide trauma system plan including the establishment of regional trauma councils, using the 2001 Kansas EMS-Trauma Systems Plan study as a guide and not more restrictive than state law. The secretary shall ensure that each council consist of at least six members. Members of the councils shall consist of persons chosen for their expertise in and commitment to emergency medical and trauma services. Such members shall be chosen from the region and include prehospital personnel, physicians, nurses and hospital personnel in-

(continued)

involved with the emergency medical and trauma services and a representative of a county health department. The plan should:

- (A) Maximize local and regional control over decisions relating to trauma care;
  - (B) minimize bureaucracy;
  - (C) adequately protect the confidentiality of proprietary and personal health information;
  - (D) promote cost effectiveness;
  - (E) encourage participation by groups affected by the system;
  - (F) emphasize medical direction and involvement at all levels of the system;
  - (G) rely on accurate data as the basis for system planning and development; and
  - (H) facilitate education of health care providers in trauma care;
- (3) plan, develop and administer a trauma registry to collect and analyze data on incidence, severity and causes of trauma and other pertinent information ~~which that~~ may be used to support the secretary's decision-making and identify needs for improved trauma care;
- (4) provide all technical assistance to the regional councils as necessary to implement the provisions of this act;
- (5) collect data elements for the trauma registry that are consistent with the recommendations of the American college of surgeons committee on trauma and centers for disease control;
- (6) designate trauma facilities by level of trauma care capabilities after considering the American college of surgeons committee on trauma standards and other states' standards except that trauma level designations shall not be based on criteria that place practice limitations on registered nurse anesthetists ~~which are~~ not required by state law;
- (7) develop a phased-in implementation schedule for each component of the trauma system, including the trauma registry, ~~which that~~ considers the additional burden placed on the emergency medical and trauma providers;
- (8) develop standard reports to be utilized by the regional trauma councils and those who report data to the registry in performing their functions;
- (9) assess the fiscal impact on all components of the trauma system, and thereafter recommend other funding sources for the trauma system and trauma registry;
- (10) prepare and submit an annual budget in accordance with the provisions of this act. Such budget shall include costs for the provision of technical assistance to the regional trauma councils and the cost of developing and maintaining the trauma registry and analyzing and reporting on the data collected; and
- (11) enter into contracts as deemed necessary to carry out the duties and functions of the secretary under this act.

(b) (1) Any meeting of a regional trauma council or any part of a meeting of such a council during which a review of incidents of trauma injury or trauma care takes place shall be conducted in closed session. A regional trauma council and the officers thereof when acting in their official capacity in considering incidents of trauma injury or trauma care shall constitute a peer review committee and peer review officers for all purposes of K.S.A. 65-4915, and amendments thereto.

(2) A regional trauma council or an officer thereof may advise, report to and discuss activities, information and findings of the council ~~which that~~ relate to incidents of trauma injury or trauma care with the secretary of health and environment and make reports as provided in this section without waiver of the privilege provided by this subsection and K.S.A. 65-4915, and amendments thereto, and the records and findings of such council or officer ~~which that~~ are privileged under this subsection and K.S.A. 65-4915, and amendments thereto, shall remain privileged as provided by this subsection and K.S.A. 65-4915, and amendments thereto.

(3) ~~The provisions of this subsection shall expire on July 1, 2021, unless the legislature reviews and reenacts this provision prior to July 1, 2021.~~

Sec. 8. K.S.A. 65-516, 75-5664 and 75-5665 and K.S.A. 2020 Supp. 22a-243, 38-2226 and 39-709 are hereby repealed.

Sec. 9. This act shall take effect and be in force from and after its publication in the Kansas register.

Doc. No. 049201

## State of Kansas

### State Fire Marshal

#### Temporary Administrative Regulations

#### Article 26.—COMMERCIAL INDUSTRIAL HEMP PROCESSING

**22-26-1. Definitions.** As used in this article of the state fire marshal's regulations, each of the following terms shall have the meaning specified in this regulation:

(a) "Act" means the commercial industrial hemp act, K.S.A. 2020 Supp. 2-3901 et seq. and amendments thereto.

(b) "Allowable THC content" means the legal level of THC concentration allowed under state and federal law.

(c) "Batch" means a quantity of hemp, by-products, intermediate substances, or seeds acquired on the same date from the same source.

(d) "Batch identification number" means a unique, sequential number that is assigned to each batch and corresponds to a record identifying the source of the material acquired and the date of acquisition.

(e) "By-product" means the spent biomass after the extraction of cannabinoids.

(f) "CBD" means cannabidiol.

(g) "Certificate of analysis" means a document from the Kansas department of agriculture or an independent testing laboratory stating the results of laboratory testing of a sample of hemp, by-products, intermediate substances, seeds, hemp waste, or finished products.

(h) "Devalue" means to destroy the ability of a seed to germinate under otherwise acceptable growing conditions.

(i) "Finished product" means a product that has no greater than the allowable THC content and is made by processing industrial hemp or an intermediate substance into a form suitable for lawful sale, including cannabinoids, cloth, cordage, fiber, food, fuel, paint, paper, particleboard, plastics, seed meal, and seed oil.

(j) "Hemp" means industrial hemp.

(k) "Hemp waste" means the materials resulting from hemp processing that contain THC and cannot be further processed into a finished product.

(l) "Industrial hemp" has the meaning specified in K.S.A. 2020 Supp. 2-3901, and amendments thereto.

(m) "Intermediate substance" means a substance resulting from the extraction of cannabinoids that contains greater than the allowable THC content and is subject to further processing to yield finished products and hemp waste.

(n) "KBI" means Kansas bureau of investigation.

(o) "Lot" means the quantity of hemp, by-products, intermediate substances, or seeds processed in one operation or in one continuous or semicontinuous process or cycle. A lot could consist of a single batch or batches from multiple producers.

(p) "Person" has the meaning specified in K.S.A. 2020 Supp. 2-3901, and amendments thereto.

(q) "Premises" means a hemp processing facility, the immediately surrounding areas controlled by a processor, waste receptacles, associated buildings, and parking areas.

(r) "Processor" means a person registered as a hemp processor in Kansas.

(s) "Producer" means a person lawfully engaged in the cultivation or production of industrial hemp for commercial purposes, whether inside or outside Kansas.

(t) "Stop sale, use, or removal order" means an administrative order of the state fire marshal to a processor restraining the sale, use, disposition, and movement of hemp, by-products, intermediate substances, finished products, and hemp waste in a hemp processing facility or otherwise in the processor's possession.

(u) "THC concentration" means the combined percentage of delta-9 tetrahydrocannabinol and its optical isomers, their salts and acids, and salts of their acids, reported as free THC and measured on a dry-weight basis for any part of the plant *Cannabis sativa L.* and on a percentage-by-weight basis in intermediate substances, by-products, hemp waste, or other materials resulting from the processing of industrial hemp.

(v) "Treated hemp waste" means hemp waste that has been treated as required by K.S.A. 2020 Supp. 2-3909, and amendments thereto, and this article of the state fire marshal's regulations to render the hemp waste unusable and unrecognizable.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-2. Hemp processor registration; renewal.** (a) No person shall process industrial hemp in Kansas without a valid registration issued by the state fire marshal or a valid research processor license issued by the secretary of the Kansas department of agriculture.

(b) Each individual wanting to register as a hemp processor shall submit an application on a form provided by the state fire marshal, which shall include the following information:

- (1) Full legal name;
- (2) telephone number;
- (3) electronic-mail address;
- (4) residential mailing address;
- (5) date of birth; and
- (6) any other identifying information required by the state fire marshal.

(c) If the applicant is not an individual, the applicant shall designate one or more individuals to be responsible for all activities relating to hemp processing and submit an application on a form provided by the state fire marshal, which shall include the information required in subsection (b) for the applicant and for the following individuals:

- (1) Each officer, proprietor, or partner of the entity; and
- (2) each owner of more than a 10 percent interest in the processing operations.

(d) The application shall also include the following:

(1) The street address, or a legal description, and the global positioning system coordinates of any premises that will serve as a part of the applicant's processing operations;

(2) a brief description of the industrial hemp processing methods that will be used, activities that will be undertaken, and finished products planned for production;

(3) a policies and procedures manual, as specified in K.A.R. 22-26-5, for approval by the state fire marshal;

(4) a code footprint meeting the requirements of K.A.R. 22-1-7; and

(5) any other relevant information required by the state fire marshal.

(e) The application shall also include the information required in subsection (b) for the following persons:

(1) Each owner of land, structures, and buildings where any processing activities or storage of hemp will be conducted; and

(2) each owner of each motor vehicle that will be used to distribute or transport hemp or intermediate substances from the premises.

(f) Each applicant shall be fingerprinted and submit to a criminal history record check, and each processor shall ensure that each individual wanting to engage in the extraction of cannabinoids or the disposal of hemp waste is fingerprinted and submits to a criminal history record check.

(g) Each registration shall expire annually on June 30. Each renewal application shall be submitted on or before June 1.

(h) The annual registration fees shall be as follows:

(1) \$1,000 for each processor that performs the extraction of cannabinoids or processes extracted cannabinoids, or both; and

(2) \$500 for each processor that does not perform the extraction of cannabinoids and does not process extracted cannabinoids.

Each fee shall be nonrefundable.

(i) No registration shall be approved for hemp processing activities in or within an area zoned for residential use or within one-quarter mile of any public or private K-12 school or public recreational area, except with the state fire marshal's written permission.

(j) Acceptance of a hemp processor registration shall constitute a grant of authority by the processor allowing the state fire marshal to provide the registration number, full legal name of the processor, and descriptions of all locations and facilities identified for processing industrial hemp, including any later modifications, to the United States drug enforcement agency, the KBI, the sheriff of the county where the premises are located, and any other law enforcement agency.

(k) A registration issued pursuant to this article of the state fire marshal's regulations shall not relieve the processor from the responsibility to obtain any other registrations, licenses, or permits required by law.

(l) An application may be denied by the state fire marshal for any lawful reason, including any of the reasons stated in K.A.R. 22-26-3.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-3. Compliance with laws; denial, revocation, or conditioning of a registration; appeals.** (a) Each processor shall comply with all local, state, and federal laws and regulations related to industrial hemp and with the act

(continued)

and the implementing regulations. Each processor shall be responsible for the actions of its employees, contractors, and agents in their performance of any activities relating to the acquisition, possession, sale, distribution, processing, or transportation of hemp, by-products, intermediate substances, seeds, finished products, and hemp waste.

(b) Each of the following shall constitute a basis for the state fire marshal to deny an initial or renewal application or to impose conditions on a registration, revoke a registration, or deny future applications:

(1) Knowingly providing any false, misleading, or incorrect information on the registration application or to the state fire marshal;

(2) failure to provide any information that the state fire marshal requests;

(3) failure to cooperate with the state fire marshal or law enforcement agencies in administration and enforcement of the act and the implementing regulations;

(4) failure to maintain or submit any forms or reports as required;

(5) violation of any provision of the act or the implementing regulations;

(6) revocation of a registration, license, permit, or certificate to practice in the hemp industry by the state fire marshal, the Kansas department of agriculture, the United States department of agriculture, another state, or any Indian nation or U.S. territory within the three years preceding the application;

(7) any conviction related to growing, cultivating, processing, or distributing hemp or marijuana;

(8) failure to ensure that fingerprint-based criminal history record checks are conducted as required by the act or the implementing regulations;

(9) conviction of an individual applicant, or an officer, proprietor, or partner of the applicant entity or an owner of more than a 10 percent interest in the processing operations, within the preceding 10 years of a felony or Class A misdemeanor violation involving homicide, assault, domestic violence, or battery, or offenses that are substantially similar to these offenses under the laws of another jurisdiction or federal law, or the unlawful use, possession, or distribution of drugs;

(10) conviction of an individual applicant, or an officer, proprietor, or partner of the applicant entity or an owner of more than a 10 percent interest in the processing operations, within the preceding five years of a felony or Class A misdemeanor violation involving fraud, theft, or misappropriation of another person's money or property, or offenses that are substantially similar to these offenses under the laws of another jurisdiction or federal law; and

(11) allowing any individual to engage in any processing or transportation of hemp, by-products, intermediate substances, seeds, or hemp waste if the individual has been convicted of any of the crimes listed in paragraph (9) or (10) of this subsection.

(c) If a processor's Kansas registration is revoked, the person shall not be eligible to apply for a hemp processor registration for three years.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective,

T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-4. Adopted codes and standards.** (a) Each processor shall ensure compliance with the national fire protection association (NFPA) codes and standards adopted in this regulation.

(b) The following NFPA codes and standards are hereby adopted by reference, except as specified in this subsection, with the modifications specified in subsections (c) and (d):

(1) The following chapters, or portions of chapters, from NFPA 1, 2018 edition:

(A) In chapter 6, the following portions of section 6.1:

(i) Subsection 6.1.1.1;

(ii) subsection 6.1.12.1;

(iii) subsection 6.1.13.1; and

(iv) subsections 6.1.14 through 6.1.14.4.6;

(B) chapter 13, except for the following:

(i) Subsection 13.1.1.1;

(ii) subsections 13.2.2.4 and 13.2.2.4.1;

(iii) subsections 13.2.2.5 and 13.2.2.5.1;

(iv) subsection 13.3.2.3;

(v) subsections 13.3.2.7 through 13.3.2.24.2;

(vi) subsections 13.3.2.26 through 13.3.2.26.2.3;

(vii) subsection 13.3.2.28;

(viii) subsection 13.3.2.29;

(ix) subsection 13.3.3.5.1.2.2;

(x) subsections 13.6.2.6.1 and 13.6.2.6.2;

(xi) subsections 13.7.1.8.8 and 13.7.1.8.9;

(xii) subsection 13.7.1.9.5.4;

(xiii) subsections 13.7.2.3 through 13.7.2.26.4; and

(xiv) subsections 13.7.2.29 through 13.7.2.29.2.2.2;

(C) chapter 38, except for the following:

(i) Subsection 38.2;

(ii) subsections 38.5 through 38.5.2; and

(iii) subsections 38.5.4 through 38.5.4.3.4;

(D) chapter 54; and

(E) chapter 66, except for the following:

(i) Subsection 66.1.5; and

(ii) subsections 66.27.11 through 66.27.11.4;

(2) NFPA 12, 2015 edition, except chapter 9;

(3) NFPA 45, 2015 edition, except chapter 12;

(4) NFPA 58, 2017 edition, except for the following:

(A) Chapter 9;

(B) chapter 10;

(C) chapter 12; and

(D) chapter 14;

(5) NFPA 90A, 2018 edition;

(6) NFPA 91, 2015 edition;

(7) NFPA 701, 2015 edition;

(8) NFPA 704, 2017 edition; and

(9) NFPA 2001, 2015 edition, except chapter 8.

(c) The following modifications shall be made to all NFPA codes and standards adopted in this regulation:

(1) All material before the first chapter shall be excluded from adoption.

(2) All appendices and annexes shall be excluded from adoption unless otherwise specified.

(3) Chapter 2, "referenced publications," shall be excluded from adoption.

(4) The last sentence of section 3.1 shall be excluded from adoption.

(5) All indexes and all material after the indexes shall be excluded from adoption.

(6) Each reference to “authority having jurisdiction” or “AHJ” shall be replaced with “the state fire marshal or designee,” except when the context indicates that the term is referring to a local fire department or local law enforcement agency.

(d) The following modifications shall be made to chapter 38 of NFPA 1:

(1) Each reference to “marijuana” shall be replaced with “industrial hemp.”

(2) In section 38.3, “Chapter 13” shall be replaced with “NFPA 10, NFPA 3, NFPA 17, NFPA 70, and NFPA 72, which are adopted in article 1 of the state fire marshal’s regulations.”

(3) In subsection 38.4, the phrase “Chapter 14” shall be replaced with “Chapter 7 of NFPA 101, which is adopted in article 1 of the state fire marshal’s regulations.”

(4) In subsection 38.5.3.1, the phrase “Sections 12.5 and 12.6” shall be replaced with “chapter 8 of the international building code, which is adopted in K.A.R. 22-1-3.”

(5) In subsection 38.6.1.5.2.3, the phrase “69.2.1” shall be replaced with “NFPA 58, which is adopted in K.A.R. 22-8-13.”

(6) In subsection 38.6.2.2.2, the phrase “or the mechanical code” shall be deleted.

(7) In subsection 38.7, the phrase “69.3.5, 69.4.2, and NFPA 58” shall be replaced with “NFPA 58, which is adopted in K.A.R. 22-8-13.”

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5, and K.S.A. 2020 Supp. 31-133; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-5. Policies and procedures manual.** Each processor shall establish, maintain, and adhere to written policies and procedures for the processing, security, storage, inventory, distribution, and transportation of hemp, by-products, intermediate substances, seeds, finished products, and hemp waste. These policies and procedures shall be specified in a manual that includes the following topics:

(a) Ensuring that all of the hemp and intermediate substances in every stage of processing and distribution are used and stored in such a manner as to prevent diversion, theft, or loss and are accessible only to the minimum number of authorized personnel essential for efficient operation;

(b) ensuring that hemp waste is kept in a secure location in such a manner as to prevent diversion, theft, or loss and is accessible only to the minimum number of authorized personnel essential for hemp waste storage and disposal; and

(c) indicating the methods of disposal of hemp waste that will be used.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-6. Processing records.** (a) For each lot, each processor shall make a processing record that shall include the following:

(1) The date of processing;

(2) the batch identification number of each batch processed in the lot;

(3) the method used for processing and the type and name of any solvent or other compounds used in the processing of the lot;

(4) the weight of the lot processed;

(5) the weight of by-products and of intermediate substances from the lot that are not further processed;

(6) the weight and types of finished products; and

(7) the weight of hemp waste from the lot and the method of disposal.

(b) Each processor shall make or obtain, as applicable, and retain a copy of each document required by K.A.R. 22-26-10 concerning the acquisition of hemp, by-products, intermediate substances, or seeds.

(c) Each processor shall retain every document, record, and report required by this regulation for three years and make these materials available to the state fire marshal upon request.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-7. Access to records and property.** (a) Acceptance of a hemp processor registration shall constitute a grant of consent to allow the state fire marshal, or designee, complete, unrestricted, and immediate access to the records, premises, motor vehicles on the premises, and motor vehicles used in the transportation of hemp or intermediate substances to determine compliance with the act and the implementing regulations. Access shall be granted at reasonable times, whether the processor is present or not, without interference or obstruction, with or without cause, and with or without advance notice.

(b) Each processor shall sign, and shall require each employee to sign, a form provided by the state fire marshal granting consent for the state fire marshal or designee to search the processor’s or employee’s vehicle, person, or personal effects while on the premises whenever an inventory discrepancy is detected or there is reason to believe that the processor or employee is in possession of hemp, intermediate substances, by-products, seeds, or hemp waste for a purpose other than the activities authorized by the act.

(c) If a processor denies the state fire marshal, or designee, the access required by subsection (a), any court of competent jurisdiction may issue a search warrant authorizing access to the records, premises, or motor vehicles, upon application and showing of cause by the state fire marshal.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-8. Facilities.** (a) Each hemp processing facility shall be inspected by the state fire marshal before the issuance of a hemp processor registration. A hemp proces-

(continued)

sor registration shall be valid only for the facility that was inspected at the time of registration.

Each hemp processing facility and premises shall continue to be subject to inspection by the state fire marshal, pursuant to K.S.A. 31-139 and amendments thereto.

(b) Each processor shall ensure that the hemp processing facility complies with the national codes and standards adopted in K.A.R. 22-26-4.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5, K.S.A. 2020 Supp. 31-133, and K.S.A. 2020 Supp. 31-136; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-9. Security measures; reportable events; recordkeeping.** (a) Each processor shall keep all equipment and areas used for the processing of hemp, intermediate substances, or hemp waste securely locked and protected from entry by unauthorized individuals.

(b) Each processor shall store all hemp, intermediate substances, and hemp waste in an approved manner consistent with K.A.R. 22-26-5.

(c) Each hemp processing facility shall have adequate alarm and video surveillance security systems to prevent and detect diversion, theft, or loss of hemp, intermediate substances, or hemp waste, including the following:

(1) A perimeter alarm with motion detector providing coverage of all facility entrances and exits, rooms with exterior windows, roof hatches, skylights, and storage rooms; and

(2) a video surveillance system.

(d) The video surveillance system shall have video cameras in operation 24 hours each day, directed at and recording all areas that are used to contain hemp, intermediate substances, or hemp waste and all points of entry and exit. These cameras shall be angled to capture a clear and certain identification of any person within view. The date and time shall be embedded on all surveillance recordings without obscuring the picture.

(e) Each processor shall make available the video camera recordings for immediate viewing by the state fire marshal or law enforcement upon request.

(f) All alarm and video surveillance systems shall be designed to operate during power outages.

(g) All alarm and video surveillance systems shall be inspected at least annually by the vendors.

(h) Each processor shall notify the state fire marshal of any failure of the security alarm system or surveillance system due to a loss of electrical power or mechanical malfunction that is expected to last longer than eight hours and shall describe any corrective measures taken.

(i) Each processor shall maintain the following records:

(1) Surveillance video camera recordings, for at least the preceding 30 days;

(2) annual inspections of the alarm and video surveillance systems, for three years; and

(3) records of any occurrence that is reportable under this regulation, for three years after the occurrence.

(j) Each processor shall immediately notify the state fire marshal of any interaction of the processor, or its employees, contractors, or agents, with law enforcement that is related to participation in the hemp processing

industry. This requirement shall also apply to any contact with law enforcement related to a criminal charge or criminal investigation involving any of the offenses listed in K.A.R. 22-26-3(b)(9) or (10) or offenses in another jurisdiction that are substantially similar to the listed offenses. The processor shall provide a written follow-up statement summarizing the interaction and its outcome to the state fire marshal within three calendar days of the interaction.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-10. Acquisition of hemp, by-products, intermediate substances, or seeds for processing.** (a) Each processor shall obtain hemp, by-products, intermediate substances, or seeds only from legal sources.

(b) Each processor shall accept hemp, by-products, intermediate substances, or seeds only if the material is accompanied by a harvest certificate, a certificate of analysis, or a similar document and by a signed bill of lading that includes the weight of the material transferred, the date of the transfer, and the following information:

(1) The name, address, and registration, permit, or license number of the producer of the hemp;

(2) the name, address, and registration, permit, or license number of the person from whom the processor acquired the hemp, by-products, intermediate substances, or seeds; and

(3) the name, address, and registration, permit, or license number of any prior processor.

(c) Each processor shall assign a batch identification number to each batch at the time of acquisition.

(d) Each processor shall retain the records required by this regulation for at least three years and shall make the records available to the state fire marshal upon request.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-11. Inventory control; reports.** (a) Each processor shall conduct an inventory each week and create an inventory report that shall include the locations and weights of each of the following materials:

(1) The hemp, by-products, intermediate substances, seeds, finished products, hemp waste, and treated hemp waste on hand at the start of the week;

(2) the hemp, by-products, intermediate substances, and seeds received;

(3) the hemp, by-products, intermediate substances, and seeds processed, identified by batch identification numbers;

(4) the finished products produced;

(5) the hemp, by-products, seeds, finished products, and intermediate substances shipped from the facility;

(6) the hemp waste produced from processing activities;

(7) the hemp waste treated;

(8) the hemp waste disposed of; and

(9) the hemp, by-products, intermediate substances, seeds, finished products, hemp waste, and treated hemp waste on hand at the end of the week.

(b) Each processor shall notify the state fire marshal immediately upon discovering any inventory discrepancies, diversion, theft, or loss of any hemp, by-products, intermediate substances, or hemp waste or of any loss or unauthorized alteration of records related to hemp processing or business activities, including inventory, security, employment, and transportation. The processor shall submit to the state fire marshal a signed report detailing the location and circumstances of the event, the type and amount of material involved, and an accurate inventory.

(c) Each processor shall maintain the records required by this regulation for at least three years.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-12. Disposal of hemp waste.** (a) For any hemp waste that is required by K.S.A. 2020 Supp. 2-3909 and amendments thereto to be rendered unusable and unrecognizable, the processor shall incorporate the hemp waste into one or more of the following nonconsumable solid waste materials, such that the resulting mixture is less than 50 percent hemp waste:

- (1) Paper waste materials;
- (2) cardboard waste materials;
- (3) food waste materials;
- (4) yard waste materials;
- (5) soil or other growth media; or
- (6) other materials approved by the state fire marshal.

(b) Each processor shall maintain and make available to the state fire marshal upon request a separate record of every disposal. The record shall contain the following:

- (1) The date and time of disposal;
- (2) the disposal method and procedures followed;
- (3) the volume and weight of the approved material used to render the hemp waste unusable;
- (4) the reason for disposal;
- (5) the volume and weight of hemp waste disposed of and the batch identification number of each batch from which the hemp waste was produced; and
- (6) the name, title, and signature of each person involved in the disposal.

(c) Any processor may use any other method approved by the state fire marshal for rendering hemp waste unusable and unrecognizable.

(d) No processor shall allow hemp waste that is required by K.S.A. 2020 Supp. 2-3909, and amendments thereto, to be rendered unusable and unrecognizable to leave the premises before the hemp waste is treated as required in subsections (a) and (c).

(e) Each processor shall dispose of all hazardous waste pursuant to K.S.A. 2020 Supp. 2-3909, and amendments thereto.

This regulation shall become effective on May 28, 2021. (Authorized by K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5, and K.S.A.

2020 Supp. 2-3909; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-13. Transportation.** (a) Each processor that sells, trades, barter, gives away, or otherwise transfers any hemp, intermediate substances, by-products, seeds, or finished products to any other person shall ensure that the materials are accompanied by the following:

- (1) A harvest certificate, a certificate of analysis, or a similar document from the producer; and
- (2) a signed bill of lading that includes the following:
  - (A) The processor's registration number;
  - (B) the total weight of hemp, intermediate substances, by-products, seeds, or finished products transferred;
  - (C) the date of the transfer; and
  - (D) the name and other requested identifiers of the person acquiring the materials.

If the processor received these materials from a prior processor, the processor shall include a signed bill of lading from the prior processor.

(b) No processor, or contractor, employee, or agent of a processor, shall take from the premises or possess any hemp, intermediate substances, by-products, seeds, finished products, or hemp waste unless the individual's possession is for activities authorized by the act and is in accordance with state and federal law and this article of the state fire marshal's regulations.

(c) Any individual in possession of hemp, intermediate substances, seeds that have not been devitalized, or hemp waste without a valid hemp producer's license, a valid processor's registration, or an appropriate signed bill of lading or a similar document from the producer and any prior processor may be presumed to have gained possession of the material in violation of the act and the implementing regulations.

(d) Each processor shall comply with the act and the implementing regulations and with all local, state, and federal laws, regulations, and ordinances related to the possession and transportation of hemp, intermediate substances, by-products, seeds, finished products, and hemp waste.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-14. Chain of custody for transportation of intermediate substances.** (a) No material having greater than the allowable THC content shall leave a hemp processing facility.

(b) Each processor shall package all intermediate substances leaving a hemp processing facility in a container that is sealed with tamper-evident tape. The processor shall take a digital photo of the seals on the containers after sealing the containers and again after placing the containers in the transport vehicle.

(c) The doors of the cargo area of the transport vehicle shall be closed with a lock and a metal tamperproof seal, or other fastener approved by the state fire marshal, that can be removed only by cutting. The processor shall take a digital photo of the fastener on the doors after securing the doors.

(continued)

(d) When intermediate substances leave a hemp processing facility, the processor shall record the following information on a form provided by the state fire marshal:

- (1) Number of containers in the shipment;
- (2) batch identification numbers for the intermediate substances in each container;
- (3) weight of each container;
- (4) date and time of transfer;
- (5) name and driver's license or state-issued identification card number of each individual in the transport vehicle;
- (6) signature of each individual in the transport vehicle; and
- (7) delivery address, recipient name, and any other identifying information about the recipient required by the state fire marshal.

(e) A copy of the form specified in subsection (d) shall be retained by the driver and shall be shown to any law enforcement officer upon demand, to demonstrate that the driver is authorized to transport intermediate substances.

(f) Upon delivery of the intermediate substances, each individual in the transport vehicle shall sign the form, record the date, time, and place of delivery, and record the name and title of the person taking delivery and any other identifying information requested by the state fire marshal.

(g) The recipient shall record the date and time of delivery, take a digital photo of the fastener on the doors, and take an inventory of the containers inside. The recipient shall take a digital photo of each seal and inspect each container and seal for any indication of tampering.

(1) If the fastener, a container, or a seal shows any sign of tampering, the recipient shall take possession of the delivery and shall immediately notify the processor and the state fire marshal.

(2) If the recipient detects no tampering, the recipient shall sign the delivery form acknowledging that both the fastener and each seal and container were intact upon delivery.

(h) Within three days of receipt, the recipient shall submit the information and photos required by this regulation to the state fire marshal in the manner specified by the state fire marshal. The recipient shall retain the originals for three years.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-15. Stop sale, use, or removal order; cease and desist.** (a) For the purpose of allowing the state fire marshal to inventory and sample materials on the premises and review the inventory and security records whenever there is reason to believe that hemp, intermediate substances, by-products, seeds, finished products, or hemp waste is being produced, sold, or distributed in violation of the act or any implementing regulations, a stop sale, use, or removal order may be issued. No hemp, intermediate substances, by-products, seeds, finished products, or hemp waste shall be processed, sold, distributed, used, or relocated within or removed from the premises until the stop sale, use, or removal order is revoked in writing by the state fire marshal. No stop sale, use, or removal order shall be valid for more than seven days.

(b) A cease and desist order may be issued or a criminal complaint may be filed, pursuant to K.S.A. 31-139 and amendments thereto, for any violation of the Kansas fire prevention code.

This regulation shall become effective on May 28, 2021. (Authorized by K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5, and K.S.A. 2020 Supp. 31-133; implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5, and K.S.A. 31-139; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

**22-26-16. Testing.** (a) Each processor shall allow the state fire marshal or designee to inspect and take samples of any hemp, intermediate substances, by-products, seeds, or finished products on the premises to determine compliance with the act and implementing regulations.

(b) When requested by the state fire marshal, a processor shall provide a representative sample of any material specified in subsection (a) to a testing laboratory acceptable to the state fire marshal.

(c)(1) If testing is done pursuant to subsection (a) or (b), a certificate of analysis from the testing laboratory shall be provided directly to the state fire marshal.

(2) If testing is done at the processor's request, the processor shall retain a copy of the certificate of analysis for at least three years and shall make this copy available to the state fire marshal upon request.

This regulation shall become effective on May 28, 2021. (Authorized by and implementing K.S.A. 2020 Supp. 2-3907, as amended by 2021 HB 2244, sec. 5; effective, T-22-1-28-21, Jan. 28, 2021; effective, T-22-5-26-21, May 28, 2021.)

Doug Jorgenson  
State Fire Marshal

Doc. No. 049185

**INDEX TO ADMINISTRATIVE REGULATIONS**

This index lists in numerical order the new, amended, and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the 2009 Volumes of the *Kansas Administrative Regulations* and the 2020 Supplement of the *Kansas Administrative Regulations*. Regulations can also be found at [http://www.sos.ks.gov/pubs/pubs\\_kar.aspx](http://www.sos.ks.gov/pubs/pubs_kar.aspx).

**AGENCY 4: DEPARTMENT OF AGRICULTURE**

Reg. No.	Action	Register
4-8-13	Amended	V. 40, p. 320
4-8-14a	Amended	V. 40, p. 320
4-8-27	Amended	V. 40, p. 320
4-8-28	Amended	V. 40, p. 320
4-8-29	Amended	V. 40, p. 320
4-8-30	Amended	V. 40, p. 320
4-8-31	Amended	V. 40, p. 320
4-8-32	Amended	V. 40, p. 320
4-8-33	Amended	V. 40, p. 320
4-8-34	Amended	V. 40, p. 321
4-8-35	Amended	V. 40, p. 321
4-8-36	Amended	V. 40, p. 321
4-8-37	Amended	V. 40, p. 321
4-8-38	Amended	V. 40, p. 321
4-8-39	Amended	V. 40, p. 321
4-8-40	Amended	V. 40, p. 321
4-8-41	Revoked	V. 40, p. 321
4-8-42	Revoked	V. 40, p. 321
4-8-43	Revoked	V. 40, p. 321
4-8-44	New	V. 40, p. 321
4-8-45	New	V. 40, p. 322
4-8-46	New	V. 40, p. 322
4-8-47	New	V. 40, p. 322
4-8-48	New	V. 40, p. 322
4-34-1	Amended	V. 40, p. 191
4-34-22	New	V. 39, p. 1578
4-34-23	New	V. 39, p. 1579
4-34-24	New	V. 39, p. 1580
4-34-25	New	V. 39, p. 1581
4-34-26	New	V. 39, p. 1581
4-34-27	New	V. 39, p. 1581
4-34-28	New	V. 39, p. 1582
4-34-29	New	V. 39, p. 1582
4-34-30	New	V. 39, p. 1583

**AGENCY 7: SECRETARY OF STATE**

Reg. No.	Action	Register
7-48-1	New	V. 40, p. 263

**AGENCY 9: DEPARTMENT OF AGRICULTURE—DIVISION OF ANIMAL HEALTH**

Reg. No.	Action	Register
9-2-35	New	V. 39, p. 1358
9-3-9	Amended	V. 39, p. 1359

**AGENCY 10: KANSAS BUREAU OF INVESTIGATION**

Reg. No.	Action	Register
10-24-1	New (T)	V. 39, p. 732
10-24-1	New	V. 39, p. 1074
10-24-2	New (T)	V. 39, p. 732
10-24-2	New	V.39, p. 1074

10-24-3	New (T)	V. 39, p. 732
10-24-3	New	V. 39, p. 1075

**AGENCY 11: DEPARTMENT OF AGRICULTURE—DIVISION OF CONSERVATION**

Reg. No.	Action	Register
11-9-5	Amended	V. 40, p. 427

**AGENCY 16: ATTORNEY GENERAL**

Reg. No.	Action	Register
16-14-1	Amended	V. 39, p. 1155
16-14-10	Amended	V. 39, p. 1155
16-14-11	Amended	V. 39, p. 1155
16-19-1	New	V. 39, p. 208
16-19-2	New	V. 39, p. 208
16-19-3	New	V. 39, p. 208
16-20-1	New (T)	V. 39, p. 462
16-20-1	New	V. 39, p. 1075

**AGENCY 17: OFFICE OF THE STATE BANK COMMISSIONER**

Reg. No.	Action	Register
17-23-9	Revoked	V. 39, p. 146

**AGENCY 21: HUMAN RIGHTS COMMISSION**

Reg. No.	Action	Register
21-40-10	Revoked	V. 40, p. 265
21-41-1	Revoked	V. 40, p. 265
21-41-2	Amended	V. 40, p. 265
21-41-3	Amended	V. 40, p. 265
21-41-4	Revoked	V. 40, p. 265
21-41-6	Amended	V. 40, p. 265
21-41-8	Amended	V. 40, p. 265
21-41-10	Amended	V. 40, p. 265
21-41-11	Revoked	V. 40, p. 265

**AGENCY 22: STATE FIRE MARSHAL**

Reg. No.	Action	Register
22-26-1	New (T)	V. 40, p. 161
22-26-2	New (T)	V. 40, p. 162
22-26-3	New (T)	V. 40, p. 163
22-26-4	New (T)	V. 40, p. 163
22-26-5	New (T)	V. 40, p. 164
22-26-6	New (T)	V. 40, p. 164
22-26-7	New (T)	V. 40, p. 164
22-26-8	New (T)	V. 40, p. 164
22-26-9	New (T)	V. 40, p. 164
22-26-10	New (T)	V. 40, p. 165
22-26-11	New (T)	V. 40, p. 165
22-26-12	New (T)	V. 40, p. 165
22-26-13	New (T)	V. 40, p. 166
22-26-14	New (T)	V. 40, p. 166
22-26-15	New (T)	V. 40, p. 167
22-26-16	New (T)	V. 40, p. 167

**AGENCY 26: DEPARTMENT FOR AGING AND DISABILITY SERVICES**

Reg. No.	Action	Register
26-38-1	New	V. 39, p. 1155
26-38-2	New	V. 39, p. 1156
26-38-3	New	V. 39, p. 1157
26-38-4	New	V. 39, p. 1157
26-38-5	New	V. 39, p. 1157
26-38-6	New	V. 39, p. 1158
26-38-7	New	V. 39, p. 1158
26-38-8	New	V. 39, p. 1159
26-38-9	New	V. 39, p. 1160
26-38-10	New	V. 39, p. 1160
26-38-11	New	V. 39, p. 1160

**AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT**

Reg. No.	Action	Register
28-1-40	New (T)	V. 39, p. 1018

28-1-40	New	V. 39, p. 1384
28-1-41	New (T)	V. 39, p. 1018
28-1-41	New	V. 39, p. 1384
28-1-42	New (T)	V. 39, p. 1018
28-1-42	New	V. 39, p. 1384
28-1-43	New (T)	V. 39, p. 1018
28-1-43	New	V. 39, p. 1385
28-1-44	New (T)	V. 39, p. 1019
28-1-44	New	V. 39, p. 1385
28-15-52	Amended	V. 39, p. 171
28-15-53	Amended	V. 39, p. 171
28-19-719	Revoked	V. 39, p. 1459
28-19-720	Amended	V. 39, p. 1459
28-24-1	Amended	V. 39, p. 336
28-24-2	Amended	V. 39, p. 336
28-24-3	Amended	V. 39, p. 336
28-24-4	Amended	V. 39, p. 337
28-24-5	Amended	V. 39, p. 337
28-24-6	Amended	V. 39, p. 337
28-24-7	Amended	V. 39, p. 337
28-24-8	Amended	V. 39, p. 337
28-24-9	Amended	V. 39, p. 337
28-24-10	Amended	V. 39, p. 338
28-24-11	Amended	V. 39, p. 338
28-24-12	Amended	V. 39, p. 338
28-24-13	Amended	V. 39, p. 339
28-24-14	Amended	V. 39, p. 339
28-38-18	Revoked	V. 39, p. 1160
28-38-19	Revoked	V. 39, p. 1160
28-38-20	Revoked	V. 39, p. 1160
28-38-21	Revoked	V. 39, p. 1160
28-38-22	Revoked	V. 39, p. 1161
28-38-23	Revoked	V. 39, p. 1161
28-38-26	Revoked	V. 39, p. 1161
28-38-28	Revoked	V. 39, p. 1161
28-38-29	Revoked	V. 39, p. 1161
28-38-30	Revoked	V. 39, p. 1161
28-44-12	Amended	V. 39, p. 819
28-44-13	Amended	V. 39, p. 819
28-44-14	Amended	V. 39, p. 819
28-44-15	Amended	V. 39, p. 820
28-44-16	Amended	V. 39, p. 820
28-44-17	Amended	V. 39, p. 820
28-44-18	Amended	V. 39, p. 821
28-44-19	Amended	V. 39, p. 821
28-44-20	Amended	V. 39, p. 821
28-44-21	Amended	V. 39, p. 821
28-44-22	Amended	V. 39, p. 822
28-44-23	Amended	V. 39, p. 822
28-44-24	Amended	V. 39, p. 822
28-44-25	Amended	V. 39, p. 822
28-44-26	Amended	V. 39, p. 823
28-44-27	Amended	V. 39, p. 823
28-44-28	Revoked	V. 39, p. 824
28-44-29	Amended	V. 39, p. 824
28-44-30	New	V. 39, p. 825
28-44-31	New	V. 39, p. 825
28-65-1	Amended	V. 40, p. 318
28-65-2	Amended	V. 40, p. 318
28-65-3	Amended	V. 40, p. 318
28-65-4	Amended	V. 40, p. 319

**AGENCY 36: KANSAS DEPARTMENT OF TRANSPORTATION**

Reg. No.	Action	Register
36-45-1	New (T)	V. 39, p. 1104
36-45-1	New	V. 39, p. 1490
36-45-2	New (T)	V. 39, p. 1105
36-45-2	New	V. 39, p. 1491
36-45-3	New (T)	V. 39, p. 1105
36-45-3	New	V. 39, p. 1491
36-45-3	New (T)	V. 39, p. 1106
36-45-4	New	V. 39, p. 1491
36-45-5	New (T)	V. 39, p. 1106
36-45-5	New	V. 39, p. 1492
36-45-6	New (T)	V. 39, p. 1106

36-45-6	New	V. 39, p. 1492
36-45-7	New (T)	V. 39, p. 1106
36-45-7	New	V. 39, p. 1492
36-45-8	New (T)	V. 39, p. 1107
36-45-8	New	V. 39, p. 1493
36-45-10	New (T)	V. 39, p. 1108
36-45-10	New	V. 39, p. 1494

**AGENCY 40: INSURANCE DEPARTMENT**

Reg. No.	Action	Register
40-1-28	Amended	V. 40, p. 191
40-1-52	New	V. 40, p. 191

**AGENCY 60: BOARD OF NURSING**

Reg. No.	Action	Register
60-11-116	Amended	V. 39, p. 1021
60-11-119	Amended	V. 39, p. 1022
60-13-110	Amended	V. 39, p. 1022
60-16-101	Amended	V. 39, p. 12
60-16-103	Amended	V. 39, p. 12
60-16-104	Amended	V. 39, p. 13

**AGENCY 61: BOARD OF BARBERING**

Reg. No.	Action	Register
61-4-3	New	V. 40, p. 161

**AGENCY 66: BOARD OF TECHNICAL PROFESSIONS**

Reg. No.	Action	Register
66-6-1	Amended	V. 39, p. 1425
66-6-10	Amended	V. 39, p. 1426
66-7-1	Amended	V. 39, p. 1427
66-8-3	Amended	V. 39, p. 1427
66-8-4	Amended	V. 39, p. 1427
66-9-5	Amended	V. 39, p. 1427
66-10-4	Amended	V. 39, p. 1427
66-10-9	Amended	V. 39, p. 1428
66-10-10b	Amended	V. 39, p. 1428
66-10-10c	New	V. 39, p. 1428
66-10-12	Amended	V. 39, p. 1428
66-10-13	Amended	V. 39, p. 1429
66-11-5	Amended	V. 39, p. 1429
66-12-1	Amended	V. 40, p. 670
66-14-1	Amended	V. 39, p. 1429
66-14-2	Amended	V. 39, p. 1430
66-14-3	Amended	V. 39, p. 1430
66-14-5	Amended	V. 39, p. 1430
66-14-6	Amended	V. 39, p. 1431
66-14-7	Amended	V. 39, p. 1431
66-14-8	Amended	V. 39, p. 1431
66-14-9	Amended	V. 39, p. 1431
66-14-10	Revoked	V. 39, p. 1431
66-14-11	Revoked	V. 39, p. 1431
66-14-12	Amended	V. 39, p. 1431
66-15-1	New	V. 39, p. 14

**AGENCY 68: BOARD OF PHARMACY**

Reg. No.	Action	Register
68-2-5	Amended	V. 39, p. 105
68-5-16	Amended	V. 39, p. 106

**AGENCY 69: BOARD OF COSMETOLOGY**

Reg. No.	Action	Register
69-3-8	Amended (T)	V. 39, p. 1186
69-3-8	Amended	V. 39, p. 1583

**AGENCY 70: BOARD OF VETERINARY EXAMINERS**

Reg. No.	Action	Register
70-5-1	Amended	V. 39, p. 1495

**AGENCY 74: BOARD OF ACCOUNTANCY**

Reg. No.	Action	Register
74-1-3	Amended	V. 38, p. 1337

**AGENCY 82: STATE CORPORATION COMMISSION**

Reg. No.	Action	Register
82-4-3a	Amended (T)	V. 39, p. 1188
82-4-3a	Amended	V. 39, p. 1608
82-4-30a	Amended (T)	V. 39, p. 1383
82-4-30a	Amended	V. 40, p. 160

**AGENCY 86: REAL ESTATE COMMISSION**

Reg. No.	Action	Register
86-1-10	Amended	V. 39, p. 54
86-1-11	Amended	V. 39, p. 55
86-1-12	Amended	V. 39, p. 56
86-1-13	Revoked	V. 39, p. 56
86-1-16	Revoked	V. 39, p. 56
86-1-17	Amended	V. 39, p. 56
86-1-18	Revoked	V. 39, p. 56
86-3-6a	Revoked	V. 39, p. 56
86-3-7	Amended	V. 39, p. 56
86-3-10	Amended	V. 40, p. 497
86-3-18	Amended	V. 40, 497
86-3-20	Revoked	V. 39, p. 57
86-3-21	Revoked	V. 40, p. 498
86-3-22	Amended	V. 40, p. 498

**AGENCY 88: BOARD OF REGENTS**

Reg. No.	Action	Register
88-10-1	Revoked	V. 39, p. 1270
88-10-2	Revoked	V. 39, p. 1270
88-10-3	Revoked	V. 39, p. 1270
88-10-4	Revoked	V. 39, p. 1270
88-10-5	Revoked	V. 39, p. 1270
88-10-6	Revoked	V. 39, p. 1270
88-10-7	Revoked	V. 39, p. 1270
88-10-8	Revoked	V. 39, p. 1270
88-10-10	Revoked	V. 39, p. 1270
88-10-12	Revoked	V. 39, p. 1270
88-11-1	Revoked	V. 39, p. 1270
88-11-2	Revoked	V. 39, p. 1270
88-11-3	Revoked	V. 39, p. 1270
88-11-4	Revoked	V. 39, p. 1270
88-11-5	Revoked	V. 39, p. 1270
88-11-6	Revoked	V. 39, p. 1270
88-11-7	Revoked	V. 39, p. 1270
88-11-8	Revoked	V. 39, p. 1270
88-11-9	Revoked	V. 39, p. 1270
88-11-11	Revoked	V. 39, p. 1270
88-11-12	Revoked	V. 39, p. 1270
88-25-1	New	V. 39, p. 748
88-25-2	New	V. 39, p. 748
88-25-3	New	V. 39, p. 748
88-25-4	New	V. 39, p. 748
88-25-5	New	V. 39, p. 748
88-29-1	Revoked	V. 39, p. 1215
88-29-3	Amended	V. 39, p. 1215
88-29-11	Revoked	V. 39, p. 1216
88-29-12	Amended	V. 39, p. 1216
88-29-13	Amended	V. 39, p. 1216
88-29-14	Amended	V. 39, p. 1218
88-29-15	Amended	V. 39, p. 1218
88-29-16	Amended	V. 39, p. 1219
88-29-17	Amended	V. 39, p. 1220
88-29-18	Revoked	V. 39, p. 1221
88-29-19	Revoked	V. 39, p. 1221
88-29a-1	Amended	V. 39, p. 1221
88-29a-5	Amended	V. 39, p. 1223
88-29a-6	Amended	V. 39, p. 1223
88-29a-7	Amended	V. 39, p. 1223
88-29a-7a	Amended	V. 39, p. 1224

88-29a-9	Amended	V. 39, p. 1224
88-29a-10	Amended	V. 39, p. 1225
88-29a-11	Amended	V. 39, p. 1227
88-29a-18	Amended	V. 39, p. 1228
88-29a-19	Amended	V. 39, p. 1229
88-29b-1	Amended	V. 39, p. 1229
88-29b-3	Amended	V. 39, p. 1231
88-29b-5	Amended	V. 39, p. 1231
88-29b-6	Amended	V. 39, p. 1232
88-29b-7	Amended	V. 39, p. 1233
88-29b-7a	Amended	V. 39, p. 1234
88-29b-9	Amended	V. 39, p. 1234
88-29b-10	Amended	V. 39, p. 1235
88-29c-1	Amended	V. 39, p. 1236
88-29c-5	Amended	V. 39, p. 1238
88-29c-7	Amended	V. 39, p. 1238
88-29c-9	Amended	V. 39, p. 1238
88-29c-10	Amended	V. 39, p. 1239
88-29d-1	Amended	V. 39, p. 1240
88-29d-5	Amended	V. 39, p. 1241
88-29d-7	Amended	V. 39, p. 1242
88-29d-9	Amended	V. 39, p. 1242
88-29d-10	Amended	V. 39, p. 1243
88-30-1	Amended (T)	V. 39, p. 890
88-30-1	Amended	V. 39, p. 1269
88-30-2	Amended	V. 39, p. 1270

**AGENCY 92: DEPARTMENT OF REVENUE**

Reg. No.	Action	Register
92-19-47	Revoked	V. 40, p. 290
92-19-67	Revoked	V. 40, p. 290

**AGENCY 100: BOARD OF HEALING ARTS**

Reg. No.	Action	Register
100-6-2	Amended	V. 40, p. 571
100-6-2a	New	V. 40, p. 290
100-7-1	Amended	V. 39, p. 1359
100-8-3	New	V. 40, p. 572
100-15-4	Amended	V. 40, p. 572
100-15-5	Amended	V. 40, p. 573
100-76-6	Amended	V. 39, p. 1360
100-78-1	New (T)	V. 39, p. 250
100-78-1	New	V. 39, p. 570
100-78-2	New (T)	V. 39, p. 250
100-78-2	New	V. 39, p. 570

**AGENCY 105: BOARD OF INDIGENTS' DEFENSE SERVICES**

Reg. No.	Action	Register
105-5-2	Amended	V. 39, p. 252
105-5-3	Amended	V. 39, p. 252
105-5-6	Amended	V. 39, p. 252
105-5-7	Amended	V. 39, p. 252
105-5-8	Amended	V. 39, p. 252

**AGENCY 109: BOARD OF EMERGENCY MEDICAL SERVICES**

Reg. No.	Action	Register
109-3-3	Amended	V. 39, p. 30
109-3-4	Amended	V. 39, p. 31
109-5-1a	Amended	V. 39, p.32
109-11-1a	Amended	V. 39, p.32

**AGENCY 111: KANSAS LOTTERY**

A complete index listing all regulations filed by the Kansas Lottery from 1988 through 2000 can be found in the Vol. 19, No. 52, December 28, 2000 *Kansas Register*. A list of regulations filed from 2001 through 2003 can be found in the Vol. 22, No. 52, December 25, 2003 *Kansas Register*. A list of regulations filed from 2004 through 2005 can be found in the Vol. 24, No. 52, December 29, 2005 *Kansas Register*. A list of regulations filed from 2006 through 2007

can be found in the Vol. 26, No. 52, December 27, 2007 *Kansas Register*. A list of regulations filed from 2008 through November 2009 can be found in the Vol. 28, No. 53, December 31, 2009 *Kansas Register*. A list of regulations filed from December 1, 2009, through December 21, 2011, can be found in the Vol. 30, No. 52, December 29, 2011 *Kansas Register*. A list of regulations filed from December 22, 2011, through November 6, 2013, can be found in the Vol. 32, No. 52, December 26, 2013 *Kansas Register*. A list of regulations filed from November 7, 2013, through December 31, 2015, can be found in the Vol. 34, No. 53, December 31, 2015 *Kansas Register*. A list of regulations filed from 2016 through 2017, can be found in the Vol. 36, No. 52, December 28, 2017 *Kansas Register*. A list of regulations filed from 2018 through 2019, can be found in the Vol. 38, No. 52, December 26, 2019 *Kansas Register*.

Reg. No.	Action	Register
111-2-328	New	V. 39, p. 1460
111-4-3595	New	V. 39, p. 57
111-4-3596	New	V. 39, p. 58
111-4-3597	New	V. 39, p. 59
111-4-3598	New	V. 39, p. 60
111-4-3599	New	V. 39, p. 61
111-4-3600	New	V. 39, p. 63
111-4-3601	New	V. 39, p. 532
111-4-3602	New	V. 39, p. 533
111-4-3603	New	V. 39, p. 570
111-4-3604	New	V. 39, p. 572
111-4-3605	New	V. 39, p. 573
111-4-3606	New	V. 39, p. 574
111-4-3607	New	V. 39, p. 576
111-4-3608	New	V. 39, p. 621
111-4-3609	New	V. 39, p. 623
111-4-3610	New	V. 39, p. 624
111-4-3611	New	V. 39, p. 854
111-4-3612	New	V. 39, p. 855
111-4-3613	New	V. 39, p. 856
111-4-3614	New	V. 39, p. 858
111-4-3615	New	V. 39, p. 859
111-4-3616	New	V. 39, p. 860
111-4-3617	New	V. 39, p. 861
111-4-3618	New	V. 39, p. 862
111-4-3619	New	V. 39, p. 862
111-4-3620	New	V. 39, p. 864
111-4-3621	New	V. 39, p. 865
111-4-3623	New	V. 39, p. 866
111-4-3624	New	V. 39, p. 891
111-4-3625	New	V. 39, p. 892
111-4-3626	New	V. 39, p. 893
111-4-3627	New	V. 39, p. 894
111-4-3628	New	V. 39, p. 896
111-4-3629	New	V. 39, p. 897
111-4-3630	New	V. 39, p. 900
111-4-3631	New	V. 39, p. 1076
111-4-3632	New	V. 39, p. 1077
111-4-3633	New	V. 39, p. 1109
111-4-3634	New	V. 39, p. 1109
111-4-3635	New	V. 39, p. 1110
111-4-3636	New	V. 39, p. 1111
111-4-3637	New	V. 39, p. 1113
111-4-3638	New	V. 39, p. 1114
111-4-3639	New	V. 39, p. 1333
111-4-3640	New	V. 39, p. 1334
111-4-3641	New	V. 39, p. 1335
111-4-3642	New	V. 39, p. 1336
111-4-3643	New	V. 39, p. 1404
111-4-3644	New	V. 39, p. 1460
111-4-3645	New	V. 39, p. 1462
111-4-3646	New	V. 39, p. 1463

111-4-3647	New	V. 39, p. 1465
111-4-3648	New	V. 39, p. 1466
111-4-3649	New	V. 40, p. 40
111-4-3650	New	V. 40, p. 41
111-4-3651	New	V. 40, p. 192
111-4-3652	New	V. 40, p. 193
111-4-3653	New	V. 40, p. 194
111-4-3654	New	V. 40, p. 196
111-4-3655	New	V. 40, p. 197
111-4-3656	New	V. 40, p. 199
111-4-3657	New	V. 40, p. 427
111-4-3658	New	V. 40, p. 573
111-4-3659	New	V. 40, p. 575
111-4-3660	New	V. 40, p. 576
111-4-3661	New	V. 40, p. 920
111-4-3662	New	V. 40, p. 921
111-5-22	Amended	V. 40, p. 922
111-5-24	Amended	V. 40, p. 922
111-5-223	Amended	V. 40, p. 428
111-5-245	New	V. 39, p. 577
111-5-246	New	V. 40, p. 429
111-9-223	New	V. 39, p. 625
111-9-224	New	V. 39, p. 867
111-9-225	New	V. 40, p. 578
111-9-226	New	V. 40, p. 923
111-9-227	New	V. 40, p. 923
111-9-228	New	V. 40, p. 924
111-15-1	Amended	V. 39, p. 1405
111-15-3	Amended	V. 39, p. 1080
111-15-4	Amended	V. 39, p. 1081
111-15-5	Amended	V. 39, p. 1081
111-15-6	Amended	V. 39, p. 1081
111-15-10	Amended	V. 39, p. 1082
111-19-72	Amended	V. 39, p. 64
111-19-73	New	V. 39, p. 64
111-19-74	New	V. 39, p. 65
111-19-75	New	V. 39, p. 65
111-19-76	New	V. 39, p. 74
111-19-77	New	V. 39, p. 578
111-19-78	New	V. 39, p. 579
111-19-79	New	V. 39, p. 580
111-19-80	New	V. 39, p. 626
111-19-81	New	V. 39, p. 626
111-19-82	New	V. 39, p. 868
111-19-83	New	V. 39, p. 868
111-19-84	New	V. 39, p. 868
111-19-85	New	V. 39, p. 869
111-19-86	New	V. 39, p. 870
111-19-87	New	V. 39, p. 901
111-19-88	New	V. 39, p. 901
111-19-89	New	V. 39, p. 1082
111-19-90	New	V. 39, p. 1115
111-19-91	New	V. 39, p. 1116
111-19-92	New	V. 39, p. 1116
111-19-93	New	V. 39, p. 1337
111-19-94	New	V. 39, p. 1405
111-19-95	New	V. 39, p. 1405
111-19-96	New	V. 39, p. 1406
111-19-97	New	V. 40, p. 42
111-19-98	New	V. 40, p. 43
111-19-99	New	V. 40, p. 44
111-19-100	New	V. 40, p. 200
111-19-101	New	V. 40, p. 430
111-19-102	New	V. 40, p. 578
111-19-103	New	V. 40, p. 579
111-301-3	Amended	V. 40, p. 925
111-301-4	Amended	V. 39, p. 534
111-301-5	Amended	V. 40, p. 925
111-301-6	Amended	V. 40, p. 926
111-301-43	Amended	V. 39, p. 537
111-301-60	Amended	V. 39, p. 66
111-301-62	Amended	V. 39, p. 67
111-301-64	Amended	V. 39, p. 538

111-301-66	Amended	V. 39, p. 538
111-301-72	New	V. 39, p. 1338
111-301-73	New	V. 39, p. 1338
111-301-74	Amended	V. 40, p. 928
111-301-75	Amended	V. 40, p. 928
111-301-76	Amended	V. 40, p. 928
111-302-4	Amended	V. 39, p. 68
111-302-5	Amended	V. 39, p. 1082
111-305-5	Amended	V. 39, p. 539
111-305-6	Amended	V. 39, p. 539
111-401-253	New	V. 39, p. 69
111-401-254	New	V. 39, p. 69
111-401-255	New	V. 39, p. 71
111-501-44	Amended	V. 40, p. 929
111-501-45	Amended	V. 40, p. 932
111-501-71	Amended	V. 39, p. 1340
111-501-81	Amended	V. 39, p. 1340
111-501-105	Amended	V. 40, p. 430
111-501-107	Amended	V. 40, p. 431
111-501-108	Amended	V. 40, p. 431
111-501-109	Amended	V. 40, p. 431
111-501-149	New	V. 39, p. 72
111-501-150	New	V. 39, p. 72
111-501-151	New	V. 39, p. 73
111-501-152	New	V. 39, p. 73
111-501-153	New	V. 39, p. 74
111-601-4	Amended	V. 39, p. 1117
111-601-6	Amended	V. 39, p. 1117
111-601-35	Amended	V. 40, p. 580

**AGENCY 112: KANSAS RACING AND GAMING COMMISSION**

Reg. No.	Action	Register
112-105-1	Amended	V. 39, p. 251

**AGENCY 115: DEPARTMENT OF WILDLIFE, PARKS AND TOURISM**

Reg. No.	Action	Register
115-1-1	Amended	V. 40, p. 498
115-2-1	Amended	V. 39, p. 1525
115-3-2	Amended	V. 40, p. 721
115-4-2	Amended	V. 39, p. 617
115-4-4	Amended	V. 39, p. 618
115-4-4a	Amended	V. 39, p. 1527
115-4-6	Amended	V. 40, p. 500
115-5-1	Amended	V. 39, p. 1103
115-6-1	Amended	V. 39, p. 1103
115-7-3	Amended	V. 39, p. 1528
115-7-10	Amended	V. 39, p. 1528
115-9-6	Amended	V. 40, p. 721
115-14-12	Amended	V. 39, p. 1271
115-14-13	Amended	V. 39, p. 1273
115-14-14	Amended	V. 39, p. 1275
115-18-7	Revoked	V. 39, p. 1528
115-18-10	Amended	V. 39, p. 1528
115-18-12	Amended	V. 39, p. 1529
115-18-13	Revoked	V. 40, p. 721

**AGENCY 117: REAL ESTATE APPRAISAL BOARD**

Reg. No.	Action	Register
117-8-3	Amended	V. 40, p. 920

**AGENCY 129: DEPARTMENT OF HEALTH AND ENVIRONMENT— DIVISION OF HEALTH CARE FINANCE**

Reg. No.	Action	Register
129-6-103	Amended	V. 39, p. 1557
129-9-9	New (T)	V. 39, p. 647
129-9-9	New	V. 39, p. 1019
129-10-31	Amended	V. 39, p. 800

**Kansas Register  
Secretary of State  
1st Floor, Memorial Hall  
120 SW 10th Ave.  
Topeka, KS 66612-1594**

---